

15/01/97

No. 40 of 1996.

Firearms (Amendment) Act 1996.

Certified on: 20.12.96
Operation: 12.9.98
G74 of 1997 p.1

INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 1996.

Firearms (Amendment) Act 1996.

ARRANGEMENT OF SECTIONS.

1. Compliance with Constitutional requirements.
2. Interpretation (Amendment of Section 2).
"compensation"
3. New Section 5A.

"5A. MORATORIUM ON ISSUE OF LICENCES."
4. New Section 7A.

"7A. MANUFACTURE OF FIREARMS."
5. New Section 7B.

"7B. FORFEITURE OF TOOLS, PREMISES, ETC.,"
6. New Section 27A.

"27A. PROHIBITION OF PISTOLS AND HIGH-POWERED
FIREARMS."
7. Repeal and replacement of heading of Part IX.

"PART IX. - AMMUNITION DEALERS."
8. Repeal and replacement of Section 38.

"38. AMMUNITION DEALERS LICENCES."
9. Application for licences (Amendment of Section 39).

10. Repeal and replacement of Section 40.

"40. REGISTER OF AMMUNITION DEALERS' LICENCES."

11. Revocation of gun dealers licence or ammunition dealers' licence (Amendment of Section 41).
12. Certificate by Registrar *Prima facie* proof (Amendment of Section 42).
13. Repeal of Section 43.
14. Repeal of Section 45.
15. Sale of ammunition by a gun dealer, etc., (Amendment of Section 45A).
16. Repeal of Section 70.
17. Repeal of Section 71.
18. New Section 73A.

"73A. FORFEITURE OF VEHICLES, ETC.,"

19. Exemptions (Amendment of Section 76).
20. Repeal and replacement of Section 79.

"79. AMNESTY."

21. New Section 79A.

**"79A. COMPENSATION TO BE PAID IN CERTAIN
CIRCUMSTANCES ON SURRENDER OF WEAPONS."**

22. New Section 79B.

"79B. POWERS OF POLICE TO CARRY OUT SEARCH AMNESTY."

23. New Part XIII.

**"PART XIII. - PROVISIONS RELATING TO REVOCATION OF
GUN DEALERS' LICENCES.**

"82. APPLICATION OF THIS PART.

"83. INTERPRETATION.

"84. REVOCATION OF GUN DEALERS' LICENCES, ETC.,

**"85. FORMER GUN DEALER MAY DISPOSE OF FIREARMS,
ETC.,**

AND HOLD FIREARMS PENDING DISPOSAL, ETC.,

"86. STATE MAY PURCHASE FIREARMS, ETC.,

**"87. FORMER GUN DEALER TO KEEP RECORDS OF SALE AND
DISPOSAL."**

24. Further amendments in respect of penalties.

SCHEDULE.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 1996.

AN ACT

entitled

Firearms (Amendment) Act 1996,

Being an Act to amend the *Firearms Act* (Chapter 310),

MADE by the National Parliament to come into operation in accordance with a notice in the National Gazette by the Head of State, acting with, and in accordance with, the advice of the Minister.

1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.

This Act, to the extent that it regulates or restricts a right or freedom referred to in Subdivision III.3.C. (*qualified rights*) of the *Constitution*, namely -

- (a) freedom from arbitrary search and entry conferred by Section 44 of the *Constitution*; and
- (b) the right to freedom of employment conferred by Section 48 of the *Constitution*; and
- (c) the right to privacy conferred by Section 49 of the *Constitution*; and
- (d) the right to freedom of information conferred by Section 51 of the *Constitution*,

is a law that is made for the purpose of giving effect to the public interest in public safety, public order and public welfare.

2. INTERPRETATION (AMENDMENT OF SECTION 2).

Section 2 of the Principal Act is amended by inserting after the definition of "bomb" the following new definition:-

"compensation' means compensation paid or payable under Section 79A."

Firearms (Amendment)

3. **NEW SECTION 5A.**

The Principal Act is amended by inserting after Section 5 the following new section:-

"5A. MORATORIUM ON ISSUE OF LICENCES.

(1) The Minister may, by notice in the National Gazette, declare a period of moratorium, during which -

- (a) no licences or licences of a specified type of firearm; or
- (b) no permits or permits of a specified type,

shall be issued.

"(2) A declaration under Subsection (1) shall specify -

- (a) the period during which the moratorium shall apply; and
- (b) the type of licence and/or permit to which it applies.

"(3) During a period of moratorium declared under Subsection (1) no licences or permits of the type referred to in the declaration shall be issued and no application for such licences or permits shall be accepted, notwithstanding any provision of this Act to the contrary.

"(4) A declaration under Subsection (1) does not prevent the transfer or renewal of licences or permits issued before the commencement of the period of moratorium."

4. **NEW SECTION 7A.**

The Principal Act is amended by inserting in Part III after Section 7 the following new section:-

"7A. MANUFACTURE OF FIREARMS.

(1) A person, who manufactures a firearm or part of a firearm, is guilty of an offence.

Penalty: Imprisonment for a term not exceeding five years, it being expressly provided that a fine shall not be imposed instead of imprisonment.

"(2) A person who -

- (a) attempts or conspires to manufacture a firearm; or
- (b) aids, counsels or assists in the manufacture of a firearm,

is guilty of an offence.

Penalty: Imprisonment for a term not exceeding five years, it being expressly provided that a fine shall not be imposed instead of imprisonment."

Firearms (Amendment)

5. NEW SECTION 7B.

The Principal Act is amended by inserting after Section 7A the following new section:-

"7B. FORFEITURE OF TOOLS, PREMISES, ETC.,

(1) In this section, "premises" includes -

- (a) any dwelling house, office, warehouse, shop or store; and
- (b) any building or structure; and
- (c) any factory, garage, workshop or hangar; and
- (d) any pavilion, tent or caravan; and
- (e) any enclosed yard, garden or area; and
- (f) any aircraft, vehicle or vessel,

and any part of such premises.

"(2) Where a court has convicted a person of an offence against Section 7A and the court is satisfied that -

- (a) equipment, tools and/or materials used in the commission of the offence; or
- (b) the premises in or on which the offence was committed,

is or are -

- (c) owned by the person convicted; or
- (d) owned by a person other than the person convicted and the owner was aware that the equipment, tools, materials and/or premises was or were used or to be used or liable to be used in the commission of the offence,

the court may, in addition to any other penalty it imposes in accordance with this Act, order that equipment, tools, materials and/or premises be forfeited to the State.

"(3) Equipment, tools, materials and/or premises forfeited under Subsection (2) become or becomes the property of the State and may be sold or otherwise disposed of by the State."

6. NEW SECTION 27A.

Part VII of the Principal Act is amended by inserting immediately before Section 27 the following new section:-

"27A. PROHIBITION OF PISTOLS AND HIGH-POWERED FIREARMS.

(1) On and from 1 October 1999 -

- (a) the provisions of this Part relating to the licensing of pistols and high-powered firearms shall cease to apply; and

(b) the provisions of Subsection (2) shall apply.

Firearms (Amendment)

(2) On and from 1 October 1999 a person, who owns or has in his possession a pistol or part of a pistol or a high-powered firearm or part of a high-powered firearm, is guilty of an offence.

Penalty: A fine not exceeding K5,000.00 and imprisonment for a term not exceeding five years."

7. REPEAL AND REPLACEMENT OF HEADING OF PART IX.

The Heading of Part IX of the Principal Act is repealed and is replaced with the following:-

"PART IX. - AMMUNITION DEALERS."

8. REPEAL AND REPLACEMENT OF SECTION 38.

Section 38 of the Principal Act is repealed and is replaced with the following:-

"38. AMMUNITION DEALER'S LICENCES.

A person who -

(a) deals in firearms; or

(b) deals in ammunition unless he is the holder of an ammunition dealer's licence,

is guilty of an offence.

Penalty: A fine not exceeding K10,000.00 and imprisonment for a term of not exceeding 10 years."

9. APPLICATION FOR LICENCES (AMENDMENT OF SECTION 39).

Section 39 of the Principal Act is amended -

(a) in Section (1), by repealing the words "gun dealer's licence or"; and

(b) in Subsection (2) -

(i) in Paragraph (d), by repealing the words "gun dealer or"; and

(ii) in Paragraph (f), by repealing the words "firearms and"; and

(c) in Subsection (3) -

(i) by repealing Paragraph (a) and replacing it with the following:-

"(a) that the applicant is a fit and proper person to carry on the trade or business of dealing in firearms"; and

(ii) by repealing Paragraph (c); and

(iii) by repealing Paragraph (e).

Firearms (Amendment)

10. REPEAL AND REPLACEMENT OF SECTION 40.

Section 40 of the Principal Act is repealed and is replaced with the following:-

"40 REGISTER OF AMMUNITION DEALERS' LICENCES.

The Registrar shall keep a Register of Ammunition Dealers Licences in the prescribed form and enter in that Register particulars of every ammunition dealer's licence issued under this Act."

11. REVOCATION OF GUN DEALER'S LICENCE OR AMMUNITION DEALERS' LICENCE (AMENDMENT OF SECTION 41).

Section 41 of the Principal Act is amended -

- (a) in the Heading, by repealing the words "GUN DEALER'S LICENCE OR"; and
- (b) in Subsection (1) -
 - (i) in the introduction, by repealing the words "a gun dealer's licence or " and replacing them with the following:-
"an"; and
 - (ii) in Paragraph (c) by repealing the words "firearms or"; and
- (c) in Subsection (2)(b), by repealing the words "Gun Dealers' Licences and".

12. CERTIFICATE BY REGISTRAR *PRIMA FACIE* PROOF (AMENDMENT OF SECTION 42).

Section 42 of the Principal Act is amended -

- (a) in Paragraph (a), by repealing the words "a gun dealer's licence or" and replacing them with the following:-
"an"; and
- (b) in Paragraph (b), by repealing with words "a gun dealer's licence or" and replacing them with the following:-
"an".

13. REPEAL OF SECTION 43.

Section 43 of the Principal Act is repealed.

14. REPEAL OF SECTION 45.

Section 45 of the Principal Act is repealed.

15. SALE OF AMMUNITION BY A GUN DEALER, ETC., (AMENDMENT OF SECTION 45A).

Section 45A of the Principal Act is amended -

- (a) in Section (1) -
 - (i) by repealing Paragraph (b); and

Firearms (Amendment)

- (ii) by repealing Paragraph (e); and
- (b) in Subsection (2), by repealing Paragraph (b).

16. **REPEAL OF SECTION 70.**

Section 70 of the Principal Act is repealed.

17. **REPEAL OF SECTION 71.**

Section 71 of the Principal Act is repealed.

18. **NEW SECTION 73A.**

The Principal Act is amended by inserting after Section 73 the following new section:-

"73A. FORFEITURE OF VEHICLES, ETC.,

(1) For the purposes of this section -

"vehicle" includes -

- (a) a "motor vehicle" as defined in Section 1 of the *Motor Traffic Act* (Chapter 243); and
- (b) an "aircraft" as defined in Section 3 of the *Civil Aviation Act* (Chapter 239); and
- (c) a "ship" as defined in Section 1(1) of the *Merchant Shipping Act* (Chapter 242);

"vehicle used in the commission of the offence" means a vehicle or any part of a vehicle in which -

- (i) a firearm; or
- (ii) a high-powered firearm; or
- (iii) a pistol; or
- (iv) a machine gun; or
- (v) a bomb; or
- (vi) a silencer; or
- (vii) ammunition,

involved in the offence was transported or located at or about the time of the commission of the offence.

"(2) Where a court has convicted a person of an offence against this Act and the court is satisfied that a vehicle used in the commission of the offence -

- (a) is owned by the person convicted; or
- (b) is owned by a person other than the person convicted and the owner was aware that the vehicle was used or to be used or liable to be used in the commission of an offence,

the court may, in addition to any other penalty it imposes in accordance with this Act in relation to that offence, order that the vehicle be forfeited to the State.

Firearms (Amendment)

"(3) A vehicle forfeited under Subsection (1) becomes the property of the State and may be sold or otherwise disposed of by the State."

19. EXEMPTIONS (AMENDMENT OF SECTION 76).

Section 76(a) of the Principal Act is amended by inserting after Subparagraph (iii) the following:-

"(iv) a member of the Correctional Service,".

20. REPEAL AND REPLACEMENT OF SECTION 79.

Section 79 of the Principal Act is repealed and is replaced with the following:-

"79. AMNESTY.

(1) The Minister may, from time to time, by notice in the National Gazette, declare that where, within the time limited in that notice -

(a) a person surrenders to an officer of the Police -

- (i) a firearm, pistol or high-powered firearm which is unlicensed or of which he is not the licence holder; or
- (ii) ammunition which he is not authorized to have in his possession; or

(b) a person -

- (i) voluntarily declares to a commissioned officer of the Police that he is in possession of an unlicensed firearm or unlicensed pistol; and
- (ii) at the same time makes application for a licence for the firearm or pistol,

that person is not liable to prosecution under this Act arising of his possession of that firearm, pistol or high-powered firearm or ammunition.

"(2) A declaration under Subsection (1) shall specify the area in which the amnesty applies, which area may be the whole country or part of the country.

"(3) Where a person has made an application for a licence for a firearm, pistol or high-powered firearm under Subsection (1) and the application is refused, the firearm, pistol or high-powered firearm is forfeited to the State.

Firearms (Amendment)

"(4) Where a person surrenders a firearm, pistol or high-powered firearm or ammunition to an officer of the Police Force under Subsection (1)

- (a) he is not required to give his name or otherwise identify himself; and
- (b) an officer of the Police Force is not permitted to require that person to give his name or otherwise identify himself; and
- (c) the firearm, pistol or high-powered or ammunition is forfeited to the State.

"(5) Notwithstanding anything in this Act, where a person surrenders a firearm or ammunition under Subsection (1) that person is not liable to prosecution under this Act arising out of his possession of that firearm.

"(6) The State may -

- (a) dispose of any firearm, pistol or high-powered firearm surrendered under Subsection (1) in such manner as it thinks fit; and
- (b) where a firearm, pistol or high-powered firearm surrendered under Subsection (1) is the subject of a licence under this Act and is surrendered by a person other than the licence holder without the consent of the licence holder, may return the firearm, pistol or high-powered firearm to the licence holder."

21. NEW SECTION 79A.

The Principal Act is amended by inserting after Section 79 the following section:-

"79A. COMPENSATION TO BE PAID IN CERTAIN CIRCUMSTANCES ON SURRENDER OF WEAPONS.

(1) Where -

- (a) an amnesty has been declared under Section 79(1); and
- (b) the Head of State, acting on advice, is of the opinion that a person or group or class of persons have been in possession of unlicensed firearms or unlicensed pistols or unlicensed high-powered firearms in exceptional circumstances whereby they possessed such firearms, pistol or high-powered firearms for essential self protection,

the Head of State may, by notice in the National Gazette, declare that compensation will be payable in respect of any such firearm, pistol or high-powered firearm surrendered in accordance with the amnesty.

Firearms (Amendment)

"(2) Compensation under Subsection (1) shall be -
(a) at such rates; and
(b) payable and paid in such manner,
as are prescribed."

22. NEW SECTION 79B.

The Principal Act is amended by inserting after Section 79A the following new section:-

"79B. POWERS OF POLICE TO CARRY OUT SEARCH AFTER AMNESTY.

Where -

(a) an amnesty has been declared under Section 79(1); and
(b) the time limit of the amnesty has expired,
a member of the Police Force may, within the area in which the amnesty applied under Section 79(2), using such force as is reasonably necessary, enter and search premises without a warrant to recover any illegal firearms or to arrest a person suspected of an offence against this Act."

23. NEW PART XIII.

The Principal Act is amended by adding the following new Part:

"PART XIII. PROVISIONS RELATING TO REVOCATION OF GUN DEALERS' LICENCES.

"82. APPLICATION OF THIS PART.

This Part applies, notwithstanding the proceeding provisions of this Act, in respect of the consequences of a revocation of gun dealer's licences under Section 84.

"83. INTERPRETATION.

In this Part -

'former gun dealer' means a person who, immediately before the date specified in a declaration under Section 84, held a gun dealer's licence;
'former dealer's licence' means a gun dealer's licence in force immediately before the date specified in a declaration under Section 84.

"84. REVOCATION OF GUN DEALERS' LICENCES, ETC.,

The Head of State, acting on advice, may, by notice in the National Gazette, declare that, on and from a date specified in the notice -

(a) gun dealers' licences are revoked; and
(b) no further gun dealers' licences shall be issued.

Firearms (Amendment)

"85. FORMER GUN DEALER MAY DISPOSE OF FIREARMS, ETC., AND HOLD FIREARMS PENDING DISPOSAL, ETC.,

During a period of three months commencing on and from the date specified in a declaration under Section 84, a former gun dealer -

- (a) may retain firearms, pistols, high-powered firearms and ammunition held by him in connection with the former gun dealer's licence; and
- (b) shall make arrangements for the sale or disposal of the firearms, pistols, high-powered firearms and ammunition -
 - (i) where feasible, overseas; or
 - (ii) otherwise, to the State in accordance with Section 86.

"86. STATE MAY PURCHASE FIREARMS, ETC.,

(1) Where a former gun dealer shows to the satisfaction of the Registrar that he has made efforts to sell or dispose of his firearms, pistols, high-powered firearms and ammunitions overseas but has been unable to sell or dispose of them or all of them, the State may purchase or otherwise acquire from the former gun dealer firearms, pistols, high-powered firearms and ammunition not sold or disposed of under Section 85(b)(i).

(2) The State may hold, sell or otherwise dispose of firearms, pistols, high-powered firearms and ammunitions purchased or acquired under Section (1) in such manner as is determined by the Head of State, acting on advice.

"87. FORMER GUN DEALER TO KEEP RECORDS OF SALE AND DISPOSAL.

A former gun dealer shall -

- (a) keep records of the persons to whom and the manner in which firearms, pistols, high-powered firearms and ammunition are sold or disposed of by him under Section 85; and
- (b) at such time as is determined by the Registrar, furnish to the Registrar such records and permit the Registrar to make a copy thereof.

Penalty: A fine not exceeding K2,000.00."

24. FURTHER AMENDMENTS IN RESPECT OF PENALTIES.

The Principal Act is further amended in accordance with the Schedule hereto.

Firearms (Amendment)

S C H E D U L E .

Sec. 24.

<u>Provision (in each case the penalty clause)</u>	<u>Amendment</u>
Section 5(2)	(a) Repeal "K600.00" and replace with "K2000.00"; (b) Repeal "six months" and replace with "12 months".
Sections 6, 7, 17, 27(1), 56	In each case - (a) repeal "K400.00" and replace with "K1,500.00"; and (b) repeal "four months" and replace with "six months".
Sections 10, 16, 18, 43, 44(1) 45, 64 and 81(g)	In each case repeal "K200.00" and replace with "K500.00".
Section 24	Repeal "K10.00" and replace with "K50.00".
Section 27(2)	(a) Repeal "K600.00" and replace with "K1000.00"; (b) Repeal "K800.00" and replace with "K1500.00"; (c) Repeal "12 months" and replace with "2 years".
Sections 27(3), 46 and 78	In each case, repeal "K100.00" and replace with "K200.00".
Sections 33(9), 37, 45A(2), 59(1), 59(2) and 65	In each case, repeal "K500.00" and replace with "K1000.00".
Sections 51(1) and 61	In each case - (a) repeal "K500.00" and replace with "K1000.00"; and (b) repeal "three months" and replace "12 months".

Firearms (Amendment)

- Sections 51(2) (a) Repeal "K1000.00" and replace with "K1500.00";
(b) Repeal "six months" and replace with "12 months".
- Section 53 Repeal "K300.00" and replace with "K500.00".
- Section 54 (a) Repeal "K600.00" and replace with "K1000.00";
(b) Repeal "nine months" and replace with "12 months".
- Section 55 Repeal "K1000.00" and replace with "K2000.00".
- Sections 59(3) and (4) (a) Replace "K500.00" and replace with "K10000.00";
(b) Repeal "six months" and replace with "12 months".

I hereby certify that the above is a fair print of the *Firearms (Amendment) Act 1996* which has been made by the National Parliament.

Clerk of the National Parliament.

I hereby certify that *Firearms (Amendment) Act 1996* was made by the National Parliament on 20 November 1996 by an absolute majority in accordance with the Constitution.

Speaker of the National Parliament.