

ANTIGUA AND BARBUDA



FIREARMS (AMENDMENT) BILL 2017

NO. OF 2017

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BILL FOR THE

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ANTIGUA AND BARBUDA
A BILL FOR THE
FIREARMS (AMENDMENT) ACT 2017
NO. OF 2017

An Act to amend the Firearms Act Cap. 171

Enacted by the Parliament of Antigua and Barbuda as follows:

1. Short Title

This Act may be cited as the Firearms (Amendment) Act 2017.

2. Interpretation

In this Act “principal Act” means the Firearms Cap. 171.

3. Amendment of the principal Act

The principal Act is amended by repealing the words “Governor-General” wherever it appears in the Act and substituting therefor the word “Minister.”

4. Amendment of section 6(3) and 6(4) of the principal Act-Possession with licences only-Saving

(1) Section 6(3) of the principal Act is amended by repealing section 6(3) and substituting therefor the following –

“6(3) Any person who contravenes any of the provisions of this section is guilty of an offence and liable in the case of—

(a) an offence under subsection (1)—

(i) on summary conviction to imprisonment for a term not exceeding two years; or

- (ii) on conviction on indictment to imprisonment for a term not exceeding ten years.
- (b) an offence under subsection (2)—
 - (i) on summary conviction to imprisonment for a term not exceeding two years; or
 - (ii) on conviction on indictment to imprisonment for a term not exceeding twenty-five years.”

(2) Section 6(4) of the principal Act is amended by repealing section 6(4) and substituting therefor the following –

“6(4) In addition to any other offence for which he may be convicted, a restricted person who purchases, acquires or has in his possession a firearm or ammunition contrary to subsection (1) is guilty of an offence and in the case of—

- (a) an offence under subsection (1)—
 - (i) on summary conviction is liable to imprisonment for a term not exceeding two years; or
 - (ii) on conviction on indictment to imprisonment for a term not exceeding ten years.
- (b) an offence under subsection (2)—
 - (i) on summary conviction to imprisonment for a term not exceeding two years; or
 - (ii) on conviction on indictment to imprisonment for a term not exceeding fifteen years.”

5. Amendment of section 8 of the principal Act-Carrying firearm or ammunition in prescribed public places

Section 8 of the principal Act is amended by repealing section 8 and substituting therefor the following –

“A person, other than a Police Officer, a member of the Defence Force or a member of the Armed Force of Her Majesty, in all cases acting in his capacity as such, or any person or class of persons declared by order of the Minister to be exempt from the provisions of this section is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding two years who carries any firearm or ammunition in any public place that is prescribed by the Minister.”

6. Amendment of section 9(1)(a), 9(1)(b), and 9(2)(a) of the principal Act-Offences relating to selling or transferring firearms or ammunition

(1) Section 9(1)(a) of the principal Act is amended by repealing paragraphs (a) and b) and substituting therefor the following –

“9(1)(a) on summary conviction to imprisonment for a term not exceeding two years;
or

(b) on conviction on indictment to imprisonment for a term not exceeding fifteen years.

(2) Section 9(2)(a) of the principal Act is amended by repealing section 9(2)(a) and substituting the following—

9(2)(a) A person is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding two years who sells or transfers a firearm or ammunition to, or repairs, tests or proves any firearm or ammunition for, any other person whom he knows, or has reasonable cause to believe, to be—

(a) a restricted person.”

7. Amendment of section 10(1)(a), 10(1)(b) and 10(2)(b) of the principal Act-Special offence as to possession of firearms in certain circumstances

(1) Section 10(1) of the principal Act is amended by repealing paragraphs (a) and (b) thereof and substituting the following—

“10(1) (a) on summary conviction to imprisonment for a term not exceeding two years; or

(b) on conviction on indictment to imprisonment for a term not

exceeding twenty-five years.

(2) Section 10(2)(b) of the principal Act is amended by repealing paragraph (2)(b) substituting therefor the following—

10(2)(b) the master or any person in control of such ship, vessel, aircraft, vehicle or other means of conveyance, as the case may be, shall be deemed guilty of an offence under subsection (1) and liable to imprisonment for a term not exceeding two years, unless he proves that the firearms or ammunition were in the ship, vessel, aircraft, vehicle or other means of conveyance without his consent, knowledge or connivance and that he exercised all due diligence to prevent the commission of the offence.”

8. Amendment of section 11(1) of the principal Act-Restrictions relating to the discharge of firearms and ammunition

Section 11(1)(a) of the principal Act is amended by repealing sections 11(1)(a) and substituting therefor the following –

“11(1)(a) A person is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding two years who discharges any firearm or ammunition on or within forty yards of any public road or in any public place, except—

(a) in the lawful protection of his person or property or of the person or property of some other person; or”.

9. Amendment of section 14 of the principal Act-Penalty for use of firearms or ammunition in contravention of terms or conditions of licences, &c.

Section 14 of the principal Act is amended by repealing section 14 and substituting therefor the following –

“14. Without prejudice to the foregoing provisions of this Part a person who, being the holder of a licence, certificate or permit, contravenes any of the terms or conditions thereof, is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding one year.”

10. Amendment of section 15(3)(a), 15(3)(b), 15(3)(c) and 15(3)(d) of the principal Act-Prohibition on manufacture &c. of firearm or ammunition

Section 15(3)(a), 15(3)(b), 15(3)(c) and 15(3)(d) of the principal Act is amended by repealing section 15(3)(a), 15(3)(b), 15(3)(c) and 15(3)(d) and substituting therefor the following –

“15(3) A person who contravenes subsection (1) is guilty of an offence and liable in the case of—

- (a) an offence in relation to the manufacture of prohibited weapons on conviction on indictment to imprisonment for a term not exceeding ten years;
- (b) an offence in relation to the manufacture of firearms or ammunition, other than a prohibited weapon—
 - (i) on summary conviction to imprisonment for a term not exceeding two years; or
 - (ii) on conviction on indictment to imprisonment for a term not exceeding five years;
- (c) an offence in relation to paragraph (a) or (b) of subsection (1)—
 - (i) on summary conviction to imprisonment for a term not exceeding one year; or
 - (ii) on conviction on indictment to imprisonment for a term not exceeding five years;
- (d) an offence in relation to paragraph (c)—

- (i) on summary conviction to imprisonment for a term not exceeding two years; or
- (ii) on conviction on indictment to imprisonment for a term not exceeding ten years.”

11. Amendment of section 22(2) of the principal Act-Power to call in firearms and ammunition

Section 22(2) of the principal Act is amended by repealing section 22(2) and substituting therefor the following –

“22(2) A person who fails (within such time as is specified in the Notice) to comply with a Notice under subsection (1) is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding two years.”

12. Amendment of section 24(2) of the principal Act-Special restrictions upon holders of Firearm Dealer’s Licences

Section 24(2) of the principal Act is amended by repealing section 24(2) and substituting therefor the following –

“24(2) A person who contravenes subsection (1) is guilty of an offence and liable on summary conviction to imprisonment, with or without hard labour, for a term not exceeding two years; or on conviction on indictment to imprisonment, with or without hard labour, for a term not exceeding fifteen years.”

13. Amendment of section 32(2) and 32(3) of the principal Act-Restriction on importation, exportation and transhipment of firearms and ammunition

Section 32(2) and 32(3) of the principal Act is amended by repealing section 32(2) and 32(3) and substituting therefor the following –

“32(2) A person who contravenes or aids or abets any other person in contravening subsection (1) is guilty of an offence and liable—

- (a) in the case of an offence relating to a prohibited weapon—

EXPLANATORY MEMORANDUM

This Bill seeks to amend the Firearms Act by revising the existing penalty provisions and introducing more stringent penalties for offenders convicted of offences under the Firearms Act. The current sentencing provision under the Firearms Act provides for an option of a fine or a prison term. Over the years, the statistics gathered by the law enforcement agencies show that a sentence of a fine does not serve as a deterrent to persons with criminal propensities in our society. The term of imprisonment prescribed under the Act is also so low that its impact on firearm offenders is minimal.

The spate of recent crimes of violence committed with firearms in the country is evidence of the ineffectiveness of the existing penalties in preventing the commission of crimes with firearms. Indeed, the evidence further shows that whenever a sentence of a fine is imposed, the convicted offenders find no difficulty in paying the fine instantly or within a short time.

In the prevailing circumstances, the Government has decided to delete the imposition of a fine as an option from the sentencing provision and limit the penalty for offences committed against the Firearm Act to a prison term only.

It is proposed that the Executive functions vested in the Governor-General under sections 2, 7, 8, 17, 37 and 40 should be vested in the Minister responsible for the administration of the Act. Accordingly, these sections have been amended to give effect to this decision.

The Government has therefore decided to do away with the option by repealing the provision for a fine from a sentencing provision and by increasing the term of imprisonment for convicted offenders.

In clause 4, under section 6(3) the penalty of a fine been has been repealed and the term of imprisonment remains the same for a person who violates subsections (1) and (2) in relation to purchases, acquisitions or possession of a firearm or ammunition, without a Firearm User's Licence.

Clause 5 amends section 8 by deleting the sentence of a fine thereby allowing a punishment only of imprisonment. This section 8 penalizes any person who carries any firearm or ammunition in any public place that is prescribed by the Minister other than exempted persons, such as, a Police Officer, a member of the Defence Force or a member of the Armed Forces of Her Majesty; in all cases, while acting in the capacity of the office held by him.

In Clause 6, the penalty of a fine has been deleted and the term of imprisonment is retained. In the case of summary conviction the sentence is two years imprisonment and, in the case of conviction on indictment, a term of imprisonment from ten years to fifteen years is proposed. This section deals with offences of sale or transfers a firearm or ammunition to a person who does not hold or who is not exempted from holding a Firearm User's Licence. Clause 6 also repeals the sentence of a fine and proposes the imposition of a two-year term of imprisonment only on a person convicted of sale or transfers a firearm or ammunition to, or repairs, tests or proves any firearm or ammunition for any other person, knowing or has reasonable cause to believe that the other person is a restricted person, drunk or under the influence of drugs or of unsound mind or under the age of eighteen years.

Clause 7 is amended by repealing the sentence of a fine and substituting therefor, on summary conviction to imprisonment for a term not exceeding two years or on conviction on indictment, to an increased term of twenty-five years, which is an increase of fifteen additional years for any person who has in his possession or under his control any firearm or ammunition with intent to sell or transfer such firearm to any other person for the purpose of the commission of any crime. This clause also covers the circumstances where firearms or ammunition are found in any ship, vessel, aircraft, vehicle or other means of conveyance in Antigua and Barbuda or its territorial sea, for the purposes of the commission of a crime.

In Clause 8, the penalty of a fine has been repealed and has been replaced with imprisonment for a term of two years in respect of offences involving the discharge of firearm or ammunition on or within forty yards of any public road or in any public place, except under special circumstances, such as the lawful protection of his person, property, some other person, or in the lawful shooting of a trespassing animal, with the permission of the Commissioner of Police.

In Clause 9, the sentence of the fine has been deleted and the term of imprisonment has been increased from one year to two years, where a person, being the holder of a licence, certificate or permit, violates any of the terms or conditions of that licence, certificate or permit.

Clause 10 repeals all sentences of a fine and retains the terms sentence of a term of imprisonment only as a penalty for manufacturing firearms or ammunition in Antigua and Barbuda without a Gunsmith's Licence.

Clause 11 repeals the fine of fifty thousand dollars and retains the penalty of a term of imprisonment for failure to comply with the order by the Commissioner of Police, to surrender all firearms or ammunition in his possession.

In Clause 12, the sentence of fine for violation of Firearm Dealer's Licence is repealed and the term of imprisonment, with or without hard labour, is kept and increased; in the case of a summary conviction, to two years and, in the case of conviction on indictment, to fifteen years.

Clause 13 repeals the sentence of a fine in respect of violation of the offences relating to the terms under which importers, exporters and transhippers of firearms are permitted to conduct business under the Firearms Act.