

**THE FIREARMS (AMENDMENT) ACT, 1988****No. 8 of 1988***Date of Assent: 24th August, 1988**Date of Commencement: By Notice***An Act of Parliament to amend the Firearms Act**

ENACTED by the Parliament of Kenya as follows:—

Short title  
and  
commencement.

1. This Act may be cited as the Firearms (Amendment) Act, 1988, and shall come into operation on such date as the Minister may, by notice in the Gazette, appoint.

2. The long title to the Firearms Act, in this Act referred to as the principal Act, is repealed and replaced by the following—

Replacement  
of long title  
to Cap. 114.

An Act of Parliament for regulating, licensing and controlling the manufacture, importation, exportation, transportation, sale, repair, storage, possession and use of firearms, ammunition, airguns and destructive devices and for connected purposes.

3. Section 2 of the principal Act is amended—

Amendment of  
section 2 of  
Cap. 114.

(1) by repealing the definitions of "ammunition" and "firearm" and inserting the following new definitions—

"ammunition" means any cartridge, whether a blank, tracer, explosive, incendiary, gas-diffusing, signalling or any other cartridge of any other kind capable of being discharged from or used with a firearm and includes—

(a) any grenade, bomb or other missile whether explosive or not and whether or not capable of or intended for use with a firearm;

(b) any mine whether for use on land or at sea, depth-charge or other explosive charge;

(c) any other container or thing designed or adapted for use in or as a weapon for the discharge of any noxious liquid, gas or other substance;

(d) any projectile, powder or other charge, primer, fuse or bursting charge forming part of any cartridge or any component part thereof; and

(e) any ammunition or pellets for use in an airgun, air rifle or air pistol;

“firearm” means a lethal barrelled weapon of any description from which any shot, bullet or other missile can be discharged or which can be adapted for the discharge of any shot, bullet or other missile and includes—

(a) a weapon of any description designed or intended to discharge—

(i) any noxious liquid, noxious gas or other noxious substance; or

(ii) an electrical charge which when it strikes any person or animal is of sufficient strength to stun and temporarily disable the person or animal struck (such weapon being commonly known as a “stun gun” or “electronic paralysers”);

(b) any airgun, air rifle, air pistol, pistol, revolver, crossbow, laser gun or any other similar weapon;

(c) the barrel, bolt, chamber, silencer, muffler, flash-guard or any other accessory designed or adapted to diminish the noise or flash caused by firing a weapon and also any other essential component part of any weapon; and

(d) any weapon or other device or apparatus which may be specified by the Minister by order published in the Gazette to be a firearm for the purposes of this Act;

(2) by inserting in proper alphabetical sequence the following new definitions—

“airgun”, “air rifle” and “air pistol” mean respectively a gun, rifle or pistol which discharges missiles by the pressure of air or other gas or by mechanical means which do not use the products of combustion or explosives;

“cartridge” means any case, capsule, shell, pellet or bag of metal, pasteboard or other material, holding a complete charge for a firearm and including in the case of any firearm fired from the shoulder or of any pistol or revolver the projectile discharged therefrom;

“lethal weapon” means a weapon capable of causing death, injury, maiming or any other bodily harm whether or not the weapon is barrelled from which any shot, bolt, bullet, ray, beam, warhead, grenade, gas, liquid or other noxious substance or any other missile can be discharged and includes any prohibited weapon whether or not the same is a lethal weapon;

“prohibited weapon” means—

(a) a firearm which is so designed or adapted that—

(i) when pressure is applied to the trigger missiles continue to be discharged until such pressure is removed or the magazine or belt containing the missiles is empty; or

(ii) for each pressure of the trigger more than one discharge of a missile can take place,

unless such firearm has been modified to the satisfaction of the chief licensing officer so as to ensure that for each pressure of the trigger the discharge of only one missile can take place;

(b) any automatic or semi-automatic self-loading military assault rifle of 7.62 mm or 5.56 mm calibre or of any other calibre from time to time specified by the Minister by notice in the Gazette;

(c) a firearm fitted with or including any device, accessory or attachment which reduces or is designed or adapted to reduce the noise or flash caused by discharging such firearm and includes any such separate device, accessory or attachment;

- (d) any weapon which can be or is designed or adapted to discharge any noxious liquid, gas or other substance unless such weapon, noxious liquid, gas or other substance are of classes or types authorized by the Minister by notice in the Gazette; and
- (e) any firearm or ammunition prescribed or any class or type of firearm or ammunition or any such device, accessory or attachment as is referred to in paragraph (c) prescribed by the Minister by notice in the Gazette.

Amendment of  
section 4 of  
Cap. 114.

4. Section 4 of the principal Act is amended—

- (a) in subsection (2), by repealing the words “and liable to imprisonment for a term not exceeding ten years” appearing after the words “be guilty of an offence”;
- (b) by inserting the following subsection immediately after subsection (2)—
  - (3) Any person who is convicted of an offence under subsection (2) shall—
    - (a) if the firearm concerned is a prohibited weapon of a type specified in paragraph (b) of the definition of that term contained in section 2 or the ammunition is ammunition for use in any such firearm be liable to imprisonment for a term not exceeding fifteen years; or
    - (b) if the firearm is any other type or the ammunition for any weapon not being a prohibited weapon be liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding ten years or to both:

Provided that when the offence for which the person is convicted (not being an offence in relation to a prohibited weapon or to any ammunition therefor) is failure by neglect to renew a firearms certificate such person shall be liable to pay a fine at the rate of two hundred shillings per day for every day or part thereof during

which his default continues but so that no person shall be liable to pay a fine greater than the maximum provided by this subsection and if such fine is not paid then to imprisonment for a term not exceeding two years.

5. Section 7 of the principal Act is amended—

Amendment of  
section 7 of  
Cap. 114.

(a) by adding at the end of subsection (1) the words “or section 6”;

(b) by inserting after subsection (1) the following subsection—

(1A) A police officer or other public officer may—

(a) without a firearm certificate or temporary permit have in his possession and use a Government firearm or Government ammunition, if the firearm or ammunition is issued for the purposes of his duty as such officer except that immediately upon such officer ceasing to be a member of the police force or otherwise in the public service he shall forthwith deliver up any such firearm or ammunition as aforesaid to the proper officer of the Government;

(b) with a firearm certificate but without payment of any fee in respect thereof have in his possession and use a firearm or ammunition lawfully purchased or otherwise acquired by him which is used by him for the purposes of his duty as such officer except that immediately upon such officer ceasing to be a member of the police force or otherwise in the public service the exemption from payment of any fee shall cease and the prescribed fee shall forthwith become payable in relation to such firearm or ammunition.

6. Section 24 of the principal Act is repealed and replaced by the following section—

Replacement  
of section 24  
of Cap. 114.

Application  
of Part.

24. This Part applies to all firearms and ammunition as defined in section 2 and to all other weapons which are capable of being converted into,

or to have the appearance of, lethal weapons, or which can be used or adapted for the discharge of any noxious liquid, gas or other substance, or any missile, projectile or other similar thing but does not apply to any other weapon which is not of a type declared by the Minister, by notice in the Gazette, to be specially or potentially dangerous.

Amendment of  
section 26 of  
Cap. 114.

7. Section 26 of the principal Act is amended—

(a) by inserting in subsection (1) immediately after paragraph (a) thereof the following new paragraph—

(aa) any prohibited weapon of a type specified in paragraph (b) of the definition of that term contained in section 2; or

(b) by adding after the words “similar thing” appearing at the end of paragraph (b) of subsection (1) the words “or of any electrical charge”;

(c) by repealing subsection (2) and inserting the following subsection—

(2) Any person who does any of the things prohibited by subsection (1) shall be guilty of an offence and—

(a) if the firearm concerned falls within any of the categories specified in paragraphs (a), (aa) or (b) of subsection (1) be liable to imprisonment for a term not exceeding ten years; or

(b) if the firearm or ammunition (as the case may be) falls within any of the remaining categories specified in paragraphs (c), (d) or (e) of subsection (1) be liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding ten years or to both.

Insertion of  
new section  
26A in  
Cap. 114.

8. The principal Act is amended by inserting immediately after section 26 the following new section—

Unlawful  
use, etc.,  
of firearms,  
by public  
officers.

26A. (1) Any public officer who—

(a) uses any Government firearm which is in his possession or under his control for any unlawful purposes; or

- (b) disposes of any Government firearm or ammunition to any person who is not under his immediate command without lawful authority; or
- (c) receives otherwise than in the course of and for his lawful duty from any person any ammunition; or
- (d) fails to account fully for all ammunition, issued to and used by him,

shall be guilty of an offence and liable to imprisonment for a term not exceeding ten years and shall, in addition, be automatically dismissed from the public service and, subject to section 113 of the Constitution, forfeit all rights to any pension, gratuity or other payment which may at the date of his conviction have accrued due to him.

(2) Any person who unlawfully supplies by sale, gift, loan or otherwise to any public officer any Government or other firearm or any ammunition shall be guilty of an offence and liable to imprisonment for a term not exceeding ten years and shall, in addition, in the case of a public officer be automatically dismissed from the public service and, subject to section 113 of the Constitution, forfeit all rights to any pension, gratuity or other payment which may at the date of his conviction have accrued due to him.

(3) It shall not be a defence to a charge under this section that the act constituting the offence alleged was carried out by the accused person upon the orders of any other public officer.

(4) The burden of proving that the purpose for which the firearm was used was a lawful purpose or, as the case may be, that the disposal of it shall lie upon the person alleging the same, and

in any proceedings under this section it shall not be necessary for the prosecution to prove the lack of any such purpose or authority.

(5) A sentence of imprisonment in respect of an offence under this section shall be served after the conclusion of any other term of imprisonment passed at the same time for any other offence.

Amendment of  
section 31 of  
Cap. 114.

9. Section 31 of the principal Act is amended—

- (a) by deleting the word “native” from subsection (1);
- (b) by repealing subsection (3) and inserting the following subsection—

(3) For the purposes of this section, “vessel” means a vessel either—

(i) owned by; or

(ii) fitted out by; or

(iii) of which more than half the crew are,

of any country bordering on the Indian Ocean, the Red Sea, the Arabian Gulf or the Gulf of Oman.

Amendment of  
section 34 of  
Cap. 114.

10. Section 34 of the principal Act is amended by replacing subsection (1) with the following new subsection—

(1) If any person makes or attempts to make any use of a firearm or an imitation firearm with intent to commit any criminal offence he shall be guilty of an offence and liable to imprisonment for a term not exceeding fourteen years, and where any person commits any such offence he shall be liable to the penalty provided by this subsection in addition to any penalty to which he may be sentenced for that other offence.

Amendment of  
Second  
Schedule to  
Cap. 114.

11. Form 9 in the Second Schedule is amended by substituting for the words “British nationality” the words “Kenyan nationality”.