

THE FIREARMS (PROHIBITION, RESTRICTION AND REGULATION)

ACT, 2022

(Act of 2022)

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SCHEDULES.

ABILL

ENTITLED

AN ACT to Repeal and replace the Firearms Act, to provide more particularly for the prohibition, restriction, or regulation (as may be appropriate) of firearms and ammunition, and for connected matters.

[]

BE IT ENACTED by The King's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

PART I—*Preliminary*

1.—(1) This Act may be cited as the Firearms (Prohibition, Restriction and Regulation) Act, 2022, and shall come into operation on a day appointed by the Minister by notice published in the *Gazette*.

Short title
and
commence-
ment.

(2) Different days may be appointed under subsection (1) in respect of different provisions of this Act.

Interpretation. **2.** In this Act—

“acquire” means to—

- (a) accept as a gift;
- (b) borrow;
- (c) receive; or
- (d) come into possession of in any circumstances specified in section 46(1);

“aerodrome” means any area of land or water designed, equipped, set apart, or commonly used for, affording facilities for the landing and departure of aircraft;

“airstrip” means any place, other than a licensed aerodrome, used for the landing or take-off of aircraft;

“ammunition” means any article consisting of a complete cartridge or round, or any component of a cartridge or round, and includes any—

- (a) cartridge case;
- (b) primer;
- (c) propellant; or
- (d) bullet or projectile,

that can be used in a firearm;

“Ammunition Destruction Authorisation” means an authorisation issued by the Minister for an ammunition destruction exercise;

“Antique Firearm” means a firearm manufactured before or during the year 1890, and which is certified pursuant to this Act as being incapable of being discharged;

“Antique Firearm Collector’s Licence” means a licence authorising the holder thereof to purchase, acquire, display and be in possession of firearms or ammunition—

- (a) of a type or category specified in the Licence; and
- (b) manufactured before or during the year 1890,

at such place as may be so specified;

“appointed day”, hereinafter used in or with reference to a provision of this Act, means the day appointed under section 1 in respect of the provision concerned;

“Armourer” means a person authorised by the Minister to maintain, test, proof, modify, alter, deactivate, or destroy, any firearm, or ammunition, that is the property of the Government;

“artillery” means any cannon, howitzer, mortar or flamethrower not commonly in use before the year 1850;

“assorted part”, in relation to a firearm or prohibited weapon, means any item that can be attached to a firearm or prohibited weapon and that increases its usefulness or effectiveness but which is not essential for the ordinary use of that firearm or prohibited weapon;

“Authority” means the Firearm Licensing Authority established under section 20;

“authorised officer” means—

- (a) the Chief Executive Officer of the Authority;
- (b) the Director of the Institute;
- (c) any person designated in writing as an authorised officer for the purposes of this Act, by the Minister;
- (d) the Director-General of the Major Organised Crime and Anti-Corruption Agency or such other officer employed to that Agency and designated

in writing as an authorised officer for the purposes of this Act, by the Director-General of the Major Organised Crime and Anti-Corruption Agency;
or

- (e) any person employed to the Authority or Institute and designated in writing as an authorised officer for the purposes of this Act, by the Chief Executive Officer or by the Director of the Institute;

“automatic firearm” means any firearm designed or adapted so that if pressure is applied to the trigger, projectiles continue to be discharged until pressure is removed from the trigger or the magazine containing the projectiles is empty;

“ballistic signature” includes unique marks left by a specific firearm after ammunition is fired or cycled through the firearm;

“Board” means the Board of Directors of the Authority, established under section 21;

“broker” means any natural or legal person who, in return for a fee, commission, or any other consideration, acts on behalf of others (whether in Jamaica or outside of Jamaica), for the negotiating or arranging of contracts for purchases, sales or other means of transfer, of firearms or ammunition;

“brokering” includes exporting, importing, financing, mediating, purchasing, selling, transferring, transporting, freight-forwarding, supplying and delivering firearms or ammunition, of such type, and at such place, as may be specified in a Firearm Broker’s Licence;

“Circuit Court” includes the High Court Division of the Gun Court and the Circuit Court Division of the Gun Court;

“conventional arms” means battle tanks, armoured combat vehicles, large-calibre artillery systems, combat aircraft, attack helicopters, warships, missiles and missile launchers and small arms and light weapons and their parts and components;

“criminal organization” has the meaning assigned to it in section 2 of the Criminal Justice (Suppression of Criminal Organizations) Act;

“conveyance” includes any vehicle, vessel, aircraft or other means of transport;

“customs officer” means an officer as defined by section 2 of the Customs Act;

“deactivation” means the process of rendering a firearm permanently inoperable so that it can no longer discharge a projectile;

“destruction” means the process of final conversion of firearms, any other category of conventional arms, or ammunition, into an inert or permanently inaccessible state;

“digital blueprint” means any type of digital, or electronic, reproduction of a technical drawing of the design of an object;

“divisional commander” means—

- (a) in respect of a parish which constitutes a single police division, the officer designated by the Commissioner of Police to be the divisional commander in that parish for the purposes of this Act; or
- (b) in respect of a police division of a parish which comprises two or more police divisions, the officer designated by the Commissioner of Police to be the divisional commander in that division for the purposes of this Act;

“firearm”—

- (a) means any—
 - (i) barrelled weapon which discharges or is designed to discharge any shot, bullet or other projectile; or

- (ii) prohibited weapon, unless the context otherwise requires,

and includes any such weapons created as 3D printed weapons or otherwise created through the use of electronic software;

- (b) includes any parts and components of any weapon referred to in paragraph (a); and
- (c) does not include an air rifle, air gun, or air pistol, of a type or calibre prescribed by the Minister;

“Firearm and Toolmark Examiner” means a person who is experienced and competent in—

- (a) the identification, collection, preservation, examination and interpretation of toolmarks, firearms, ammunition, and ammunition related components; or
- (b) the analysis of the sequence of events relating to a shooting incident;

“firearm authorisation” means any form of licence, permit, certificate, or other authorisation, listed in section 57 (application to Authority for certain firearm authorisations) or 67 (application to Minister for certain firearm authorisations);

“Firearm Broker’s Licence” means a licence authorising the holder thereof to undertake brokering activities in relation to firearms or ammunition;

“Firearm Dealer’s Licence” means a licence authorising the holder thereof to buy or sell, at such place as may be specified in the licence, firearms or ammunition of such type as may be so specified;

“Firearm Destruction Authorisation” means an authorisation issued by the Minister for a firearm destruction exercise;

“Firearm Disposal Permit” means a permit granted under section 64 for the transfer or sale of a firearm or ammunition;

“Firearm Export Permit” means a permit authorising the holder to export from Jamaica firearms or ammunition;

“Firearm Import Permit” means a permit authorising the holder of a Firearm Dealer’s Licence to import into Jamaica firearms or ammunition;

“Firearm Manufacturer’s Licence” means a licence authorising the holder thereof to—

- (a) manufacture, in Jamaica, firearms or ammunition; and
- (b) sell, in Jamaica, the firearms or ammunition so manufactured;

“Firearm Shooting Range Licence” means a licence authorising the holder thereof to operate a firearm shooting range;

“firearm shooting range” means a facility, operating pursuant to a Firearms Shooting Range Licence, and—

- (a) managed by at least one supervisor authorised for that purpose, by the Authority; and
- (b) designed for shooting practice for firearms of such type, and at such place, as may be specified in the licence;

“Firearm Trainer’s Licence” means a licence authorising the holder to possess firearms or ammunition, for the purpose of conducting approved training in the safe use and handling of firearms;

“Firearm Transit Permit” means a permit authorising the holder to transport firearms, ammunition or other categories of conventional arms through Jamaica to another country, in circumstances where there is no change in the means of transport through Jamaica to that other country;

“Firearm Trans-shipment Permit” means a permit authorising the holder to transport firearms, ammunition or other categories

of conventional arms through Jamaica to another country, in circumstances where the firearms, ammunition or other categories of conventional arms (as the case may be) are unloaded from one means of transport and reloaded to a different means of transport while in Jamaica;

“Firearm User’s (Business) Licence” means a licence authorising the holder to possess and use firearms or ammunition for the purpose of carrying on a business or commercial operation;

“Firearm User’s (Employee’s) Certificate” means a certificate issued pursuant to section 61;

“Firearm User’s Licence” means a licence authorising the holder to possess such firearm or ammunition as is specified in the licence;

“Firearm User’s Permit” means a permit authorising an individual, not younger than twelve years of age and not twenty-one years of age or older, to possess, and use, a shotgun, air gun or ammunition, with the permission of the principal holder of a Firearm User’s Licence for that shotgun, air rifle or ammunition (as the case may be);

“Firearm User’s (Restricted) Licence” means a licence authorising the holder thereof to—

- (a) possess; and
- (b) use only within an approved controlled area specified in the licence, which may include a firearm shooting range or gun club,

any firearm or ammunition specified in the licence;

“Firearm User’s (Secondary) Certificate” means a certificate authorising any person, who has the written permission of the holder of a Firearm User’s Licence, to be in possession of, and use other than for business purposes, any firearm or ammunition specified in the Certificate;

“Firearm User’s (Special) Certificate” means a certificate granted under section 62;

“Firearm User’s (Special) Permit” means a permit granted under section 63;

“gun club” means a shooting union, association, or other group of persons, who associate for purposes connected with the discharge of firearms or ammunition;

“Gun Club Licence” means a licence authorising the holder thereof to operate a gun club;

“Gunsmith’s Licence” means a licence authorising the holder thereof to—

- (a) test, deactivate, modify, or proof, any firearm or ammunition, in accordance with sections 42 and 43; or
- (b) convert or modify any firearm or ammunition, in accordance with section 44;

“holder”, in relation to a firearm authorisation, means the person to whom the authorisation is granted;

“imitation firearm” means anything which has the appearance of being a firearm, but is not a firearm, whether or not such imitation firearm is capable of discharging a shot, bullet or other projectile;

“Institute” means the Institute of Forensic Science and Legal Medicine;

“Jamaican waters” means Jamaica’s internal waters, territorial sea and archipelagic waters as defined under the Maritime Areas Act;

“manufacture”, in relation to firearms, ammunition or other related materials, means the process of (whether manually or otherwise) assembling the firearms, ammunition or other related materials, from parts and components or any other elements or materials;

“modification”, in relation to firearms or ammunition—

- (a) means any act that results in a difference in the appearance, function or performance of the firearm or ammunition;
- (b) includes alteration and effecting repairs; and
- (c) does not include changing the choke on a shotgun;

“parts and components” means any items or replacement items specifically designed for a firearm and essential to its operation, and includes—

- (a) a barrel, frame or receiver, slide, cylinder, magazine, firing pin, main spring, bolt or breech block;
- (b) any part designed solely or exclusively for converting a semi-automatic to an automatic firearm; and
- (c) any device designed or adapted to diminish the sound caused by firing a firearm;

“prohibited firearm” means—

- (a) any artillery;
- (b) any automatic firearm;
- (c) any rifle of a prescribed calibre;
- (d) any light machine gun or heavy machine gun;
- (e) any sub-machine gun;
- (f) any firearm in respect of which no firearm authorisation is granted under Part V;
- (g) any other type of firearm prescribed by the Minister; or
- (h) any parts and components of any item referred to in any of paragraphs (a) to (g);

“prohibited weapon” means—

- (a) any prohibited firearm;
- (b) any grenade, bomb or other like missile;
- (c) any missile or missile launcher;
- (d) any projectile or rocket manufactured to be discharged from any item referred to in any of paragraphs (b) to (c);
- (e) any imitation of any weapon or device referred to in any of paragraphs (a) to (d);
- (f) any ammunition stockpiled in the quantity referred to in section 6(2)(b) or in a person’s possession in the quantity referred to in section 10(2)(b)(ii);
- (g) such other weapons or devices as may be prescribed by the Minister; or
- (h) any parts and components of an item referred to in any of paragraphs (b) to (g),

“and for the purposes of this definition “missile” means a weapon capable of self-propelled flight, that is designed to deliver an explosive payload;”.

“property” includes real or personal property other than a conveyance;

“Register” means the National Firearms Register established under section 88;

“Registrar” means the person designated to carry out the functions of Registrar under section 89;

“relevant authority” means the Board or the Minister, as the case may be;”

“restricted person” means any person who—

- (a) is a habitual criminal within the meaning of section 54 of the Criminal Justice (Administration) Act; or

- (b) has at any time within the period of five years immediately preceding the event in relation to which the term is used—
- (i) been declared to be a restricted person by a court pursuant to section 55 of this Act, or section 54B of the Criminal Justice (Administration) Act; or
 - (ii) been convicted of an offence involving violence and sentenced therefor to imprisonment for a term exceeding three months;

“Review Panel” means the Review Panel established under section 87;

“security restricted area” means any public place declared under section 50 to be a security restricted area;

“signalling apparatus” means any flare or flare gun from which smoke or a light canister can be discharged;

“slaughtering instrument” means a firearm which is specially designed or adapted for the instantaneous slaughter of animals or for the instantaneous stunning of animals;

“3D printed firearm” means a barrelled weapon which discharges or is designed to discharge any shot, bullet or other projectile and that is mostly produced or manufactured with a 3D printer, or any type of electronic software;

“trade in firearms or ammunition” means any activity for which a Firearm Broker’s Licence or Firearm Dealer’s Licence is required under this Act;

“traffic” in relation to any firearm, ammunition, prohibited weapon, or other categories of conventional arms, means the import, export, transit, trans-shipment, brokering, acquisition, sale, delivery, movement or transfer of the firearm, ammunition, prohibited weapon or other categories of conventional arms, whether within Jamaica or across Jamaica’s border;

“transferring” includes—

- (a) giving;
- (b) lending; or
- (c) parting with possession;

“transit” means the movement of firearms, ammunition or other categories of conventional arms through Jamaica, to another country, where there is no change in their means of transport while in Jamaica;

“trans-shipment” means the movement of firearms, ammunition or other categories of conventional arms through Jamaica to another country, whereby the firearms, ammunition or other categories of conventional arms are unloaded from one means of transport and reloaded to a different means of transport while in Jamaica;

“traveller” means any person who arrives in Jamaica as an officer or member of the crew of, a passenger of, or a stowaway upon, any vessel or aircraft;

“United Nations Charter” means the Charter of the United Nations, done at San Francisco on the 26th day of June, 1945, as amended from time to time in conformity with Article 108 of the United Nations Charter;

“United Nations Security Council” means the Security Council constituted under Chapter V of the United Nations Charter;

“vessel” has the meaning assigned to it in section 2 of the Shipping Act.

3. Whereas the general objective of this Act is to establish a framework which prohibits firearms and ammunition that are illicitly traded, and which regards possession of those prohibited firearms and ammunition as the foundation on which other heinous and violent crimes are committed; and to provide, distinct from that framework, a regime for the regulation of firearms and ammunition that are lawfully acquired and duly registered, the particular objects of this Act are to—

- (a) eliminate the illegal possession, manufacture, trafficking, proliferation and use of prohibited weapons, particularly

through the provision of appropriate penalties which deter such activities;

- (b) provide for, and promote, the effective management and regulation of the firearm industry through the establishment of a robust licensing regime;
- (c) establish standards that are in keeping with internationally recognised norms and best practices for the firearm industry;
- (d) regulate the lawful manufacture, trafficking, possession and use of firearms and ammunition, in the interests of personal and public safety; and
- (e) align the legal framework in respect of firearms and ammunition with Jamaica's international treaty obligations.

Application of Parts II and IV.

4. Unless otherwise specifically provided in this Act, Part II shall not apply to any firearms or ammunition regulated under Part IV, and the provisions of Part IV shall not apply in respect of prohibited weapons.

PART II—Prohibitions in Respect of Firearms and Ammunition

Possession of prohibited weapon.

5.—(1) No person shall possess a prohibited weapon.

(2) A person who contravenes subsection (1) commits a felony and shall on conviction therefor before a Circuit Court be sentenced to imprisonment for such term, of not less than fifteen years nor more than twenty-five years, as the Court considers appropriate.”.

Stockpiling.

6.—(1) No person shall stockpile prohibited weapons.

(2) For the purposes of this Act, a person in possession of, or who causes to be accumulated at any location—

- (a) three or more prohibited weapons; or
- (b) fifty rounds or more of ammunition,

shall be treated as having stockpiled prohibited weapons.

(3) A person who contravenes subsection (1) commits a felony and shall on conviction therefor before a Circuit Court be sentenced to

imprisonment for life and, notwithstanding the provisions of the Parole Act concerning the time within which an offender shall be eligible for parole, upon sentencing a person convicted for a felony under this subsection the Court shall specify a term of imprisonment of not less than twenty years, that the person shall serve before being eligible for parole.

7.—(1) No person shall traffic in any prohibited weapon.

Trafficking
in prohibited
weapon.

(2) A person who contravenes subsection (1) commits a felony and shall on conviction therefor before a Circuit Court be sentenced to imprisonment for life and, notwithstanding the provisions of the Parole Act concerning the time within which an offender shall be eligible for parole, upon sentencing a person convicted for a felony under this subsection the Court shall specify the term of imprisonment, being a term of not less than twenty years, that the person shall serve before being eligible for parole.

8.—(1) A person who possesses any prohibited weapon with the intent to traffic the prohibited weapon commits a felony.

Possession of
prohibited
weapon with
intent to
traffic.

(2) A person who commits an offence under subsection (1) shall on conviction therefor before a Circuit Court be sentenced to imprisonment for life and, notwithstanding the provisions of the Parole Act concerning the time within which an offender shall be eligible for parole, upon sentencing a person convicted for a felony under this subsection the Court shall specify a term of imprisonment of not less than twenty years, that the person shall serve before being eligible for parole.

9.—(1) No person shall manufacture a prohibited weapon.

Manufacture
of prohibited
weapon or
possession of
device
therefor.

(2) A person who contravenes subsection (1) commits a felony and shall on conviction therefor before a Circuit Court be sentenced to imprisonment for life and, notwithstanding the provisions of the Parole Act concerning the time within which an offender shall be eligible for parole, upon sentencing a person convicted for a felony under this subsection the Court shall specify a term of imprisonment of not less than twenty years, that the person shall serve before being eligible for parole.

(3) No person shall possess—

- (a) a digital blueprint of a prohibited weapon; or
- (b) a digital blueprint of any device, with the intent to manufacture a 3D printed firearm that is a prohibited weapon.

(4) A person who contravenes subsection (3) commits a felony and shall on conviction therefor before a Circuit Court be sentenced to imprisonment for life and, notwithstanding the provisions of the Parole Act concerning the time within which an offender shall be eligible for parole, upon sentencing a person convicted for a felony under this subsection the Court shall specify a term of imprisonment of not less than ten years, that the person shall serve before being eligible for parole.

Dealing in prohibited weapon.

10.—(1) No person shall deal in a prohibited weapon.

(2) A person shall be treated as dealing in a prohibited weapon if the person—

- (a) buys or sells any prohibited weapon or conducts any brokering in respect of a prohibited weapon; or
- (b) is in possession of—
 - (i) two or more prohibited weapons; or
 - (ii) twenty rounds or more of ammunition.

(3) A person who contravenes subsection (1) commits a felony and shall on conviction therefor before a Circuit Court be sentenced to imprisonment for life and, notwithstanding the provisions of the Parole Act concerning the time within which an offender shall be eligible for parole, upon sentencing a person convicted for a felony under this subsection the Court shall specify a term of imprisonment of not less than twenty years, that the person shall serve before being eligible for parole.

Prohibition on taking firearms or ammunition in pawn.

11.—(1) A person shall not take in pawn from any person any firearm or ammunition.

(2) Subsection (1) applies to firearms and ammunition that are prohibited weapons and to firearms and ammunition regulated under Part IV.

(3) A person who contravenes subsection (1), commits a felony and shall be liable, on conviction therefor before a Circuit Court, to a fine or to imprisonment for a term not exceeding fifteen years.

12.—(1) No person in Jamaica, and no Jamaican citizen outside of Jamaica, shall, in furtherance of a criminal purpose, be involved (whether directly or indirectly) in any activity that results in the movement of any firearms, ammunition, or other category of conventional arms from a person who is authorised under this Act to possess, use or traffic such firearm, ammunition, or other category of conventional arms (the licit market), to a person who is not so authorised to possess, use or traffic therein (the illicit market). Prohibition on diversion.

(2) A person who contravenes subsection (1) commits a felony and shall be liable, upon conviction therefor before a Circuit Court, to imprisonment for such term, of not less than fifteen years nor more than twenty-five years, as the Court considers appropriate.

(3) For the avoidance of doubt, subsection (1) applies whether or not the firearms, ammunition, or other category of conventional arms, are regulated under Part IV.

13.—(1) No person shall—

- (a) do anything to a firearm, which alters the ballistic signature of the firearm;
 - (b) convert into a firearm anything which is not a firearm; or
 - (c) convert into a prohibited weapon anything which is not a prohibited weapon.
- Prohibition on alteration of ballistic signature, conversion of firearm or prohibited weapon, etc.

(2) A person who contravenes subsection (1) commits a felony and shall, upon conviction therefor before a Circuit Court—

- (a) be liable to, in the case of a contravention of subsection (1) (a) or (b), a fine or imprisonment for such term, of not less than fifteen years, as the Court considers appropriate;
- (b) in the case of a contravention of subsection (1) (c), be sentenced to imprisonment for life and, notwithstanding the provisions of the Parole Act concerning the time within which

an offender shall be eligible for parole, upon sentencing a person convicted for a felony under this subsection the Court shall specify a term of imprisonment of not less than twenty years, that the person shall serve before being eligible for parole.

(3) No person shall possess any assorted part for a prohibited weapon or, without the appropriate firearm authorisation, possess any assorted part for a firearm.

(4) A person who contravenes subsection (3) commits an offence and shall be liable, on conviction therefor before a Parish Court, to a fine not exceeding five million dollars or to imprisonment for a term not exceeding five years.

Use or possession of firearm or imitation firearm in certain circumstances.

14.—(1) No person shall use or attempt to use a firearm or imitation firearm with intent to commit or to aid the commission of a felony or to resist or prevent the lawful apprehension or detention of himself or some other person.

(2) A person who contravenes subsection (1) commits a felony.

(3) A person who—

(a) at the time of committing; or

(b) at the time when that person is apprehended for,

First Schedule.

any offence specified in the First Schedule, has in that person's possession a firearm or imitation firearm commits a felony.

(4) A person who commits a felony under subsection (2) or (3) shall be liable, upon conviction therefor before a Circuit Court, to imprisonment for such term, of not less than twenty years nor more than twenty-five years, as the Court considers appropriate.

(5) It shall be a defence to a charge for a felony under subsection (3), for the person charged to show that that person was at the relevant time in possession of the firearm, or imitation firearm, for a lawful purpose.

(6) On the trial of any person for a felony under subsection (2), if the court is not satisfied that the person is guilty of that felony but

is satisfied that the person is guilty of a felony under subsection (3), the court may find the person guilty of the felony under subsection (3).

(7) This section applies to prohibited weapons, and to firearms and ammunition regulated under Part IV.

15.—(1) A person in possession of any firearm or ammunition with intent by that means to—

Possession of firearm or ammunition with intent to injure or cause damage.

- (a) injure any person or enable any other person to injure a person; or
- (b) cause serious damage to property or enable any other person to cause serious damage to property,

whether or not any injury to a person or damage to property (as the case may be) has been caused, commits a felony.

(2) A person who commits a felony under—

- (a) subsection (1)(a), shall be liable, upon conviction therefor before a Circuit Court to imprisonment for life and, notwithstanding the provisions of the Parole Act concerning the time within which an offender shall be eligible for parole, upon sentencing a person convicted of a felony under subsection (1)(a) the Court shall specify a term of imprisonment of not less than twenty years, that the person shall serve before being eligible for parole; or
- (b) subsection (1)(b), shall be liable upon conviction therefor before a Circuit Court to imprisonment for such term of not less than fifteen years nor more than twenty-five years as the Court considers appropriate.

(3) This section applies to prohibited weapons, and to firearms and ammunition regulated under Part IV.

16.—(1) No person shall remove, alter, modify or in any other manner tamper with any mark referred to in section 29, whether in relation to a firearm regulated under Part IV or any other firearm.

Removal, alteration, etc., of a mark.

(2) A person who contravenes subsection (1), commits a felony and shall be liable—

- (a) on summary conviction therefor before a Parish Court, to a fine not exceeding five million dollars, or to imprisonment for a term not exceeding five years; or

- (b) on conviction therefor before a Circuit Court, to a fine or to imprisonment for a term not exceeding ten years.

Transfer in violation of United Nations Security Council resolution.

17.—(1) No person shall transfer any firearms, ammunition, other category of conventional arms, or any prohibited weapon, if such transfer is in violation of any resolution of the United Nations Security Council made under Chapter VII of the United Nations Charter, in particular in relation to arms embargoes.

(2) A person who contravenes subsection (1) commits a felony and shall be liable upon conviction therefor before a Circuit Court to imprisonment for a term not exceeding twenty years.

(3) This section applies to acts committed—

- (a) by a person in Jamaica; or
- (b) outside of Jamaica by a Jamaican citizen or a company incorporated in Jamaica.

Offence of seeking benefit, *etc.*, through professing to have, or to have access to, firearm.

18.—(1) A person shall not, in order to gain an unlawful benefit or cause apprehension to any person, profess to have, or to have access to, a firearm.

(2) A person who contravenes subsection (1) commits a felony and shall be liable, on conviction therefor before—

- (a) a Parish Court, to imprisonment for a term not exceeding five years; or
- (b) a Circuit Court, to imprisonment for a term not exceeding fifteen years.

(3) This section applies to prohibited firearms and to firearms regulated under Part IV.

Power of Minister to declare firearms amnesty.

19.—(1) The Minister may, by order subject to affirmative resolution, declare a firearms amnesty if the Minister is satisfied that—

- (a) the amnesty may result in a reduction in the number of illegally possessed firearms or ammunition in Jamaica; and
- (b) it is in the public interest to declare the amnesty.

(2) An order under subsection (1) shall specify—

- (a) the period during which persons may apply for the amnesty; and
- (b) the conditions under which the amnesty may be granted.

(3) A person who surrenders a firearm or ammunition in compliance with an order made under this section shall not be prosecuted for having been in possession of that firearm or ammunition (as the case may be) contrary to this Act.

(4) All firearms and ammunition surrendered pursuant to a firearms amnesty under this section shall be disposed of in such manner as shall be prescribed.

PART III—*Firearm Licensing Authority*

20.—(1) There shall be established for the purposes of this Act a body to be known as the Firearm Licensing Authority, which shall be a body corporate to which section 28 of the Interpretation Act applies.

Establishment
of Firearm
Licensing
Authority.

(2) The provisions of the Second Schedule shall have effect as to the constitution of the Authority and otherwise in relation thereto.

Second
Schedule.

(3) The Authority shall be responsible for regulating, in accordance with this Act, the handling of firearms and ammunition, and the importation and exportation of firearms and ammunition into or from Jamaica, and without prejudice to the generality of the foregoing, the functions of the Authority shall include—

- (a) receiving, screening and processing, for consideration by the Board, applications for firearm authorisations;
- (b) receiving and investigating complaints regarding the breach of any term or condition of a firearm authorisation;
- (c) conducting inspections and audits of—
 - (i) licensed firearms and ammunition;
 - (ii) firearm shooting ranges;
 - (iii) firearm dealers;
 - (iv) firearm trainers;

- (v) gunsmiths;
 - (vi) private security organisations; and
 - (vii) any other person who holds a firearm authorisation;
- (d) ensuring compliance with the Government of Jamaica's international obligations under treaties and conventions in respect of the firearms industry, as provided for under this Act or any other relevant law;
 - (e) planning, implementing and monitoring programmes, and providing information, aimed at educating holders of firearm authorisations, and the general public, about firearms and ammunition, for example, in matters such as—
 - (i) the safe use and handling of firearms;
 - (ii) safety rules on firearm shooting ranges;
 - (iii) the importation or exportation of firearms;
 - (f) establishing procedures for the safe keeping, custody and storage of firearms, ammunition and accessories;
 - (g) establishing appropriate measures for effective stockpile management in respect of firearms and ammunition;
 - (h) establishing a register of approved firearm trainers;
 - (i) establishing programmes designed to assess and develop the competence of firearm trainers;
 - (j) establishing and maintaining a register of approved brokers and their activities;
 - (k) causing, in accordance with this Act, the marking of firearms, and maintaining records in relation to such marking;
 - (l) conducting ballistic testing, capturing ballistic signatures in relation to privately-owned firearms, and capturing related information with respect to firearms that are the subject of authorisations granted by the Board;

- (m) establishing procedures for the renewal of firearm authorisations;
- (n) causing to be sent to the Institute, for entry into the Register where appropriate, the returns received pursuant to section 76(7) and the information required to be captured pursuant to section 31(2);
- (o) maintaining records in respect of firearm authorisations, and in respect of reports furnished by firearm dealers relating to the sale of firearms; and
- (p) performing any other functions, in relation to firearms, conferred on the Authority by this Act or any other enactment.

21.—(1) There shall be a Board of Directors of the Authority.

Board of
Directors.
Third
Schedule.

(2) The provisions of the Third Schedule shall have effect as to the constitution of the Board and otherwise in relation thereto.

22.—(1) Subject to the provisions of this Act, the Board shall be responsible for—

Functions and
powers of
Board.

- (a) overseeing the general administration of the Authority;
- (b) in accordance with this Act, considering applications made under section 57 for firearm authorisations, and granting, renewing, suspending, revoking and cancelling such firearm authorisations (as the case may require); and
- (c) carrying out such other functions as are conferred on the Board by this Act.

(2) The Board shall establish policies and procedures to govern the general operations of the Authority and, in particular, shall—

- (a) ensure that the operations of the Authority are, where applicable, in conformity with—
 - (i) the Financial Administration and Audit Act and any Financial Instructions given under that Act;
 - (ii) the Public Bodies Management and Accountability Act;

- (iii) any other law relevant to the management of public bodies; and
 - (iv) any directions given under section 25;
- (b) review, evaluate, approve and monitor the implementation by the Authority of the Authority's –
- (i) corporate policies;
 - (ii) operational, strategic and other corporate plans; and
 - (iii) annual budget proposals and submissions; and
- (c) review, evaluate and approve the financial statements and major expenditure proposals of the Authority.

(3) The Board may give directions to the Chief Executive Officer with regard to the management of the Authority.

(4) In the performance of its functions, the Board shall operate in a manner that maximises the effective and efficient operation of the Authority.

- (5) The Board shall have the power to—
- (a) summon witnesses in respect of any matter related to its functions under this Act;
 - (b) call for and examine documents; and
 - (c) do such other things as the Board considers necessary for the purpose of carrying out its functions under this Act.

(6) The Board may delegate to the Chief Executive Officer any of the Board's functions under this Act, other than the function of granting, suspending or revoking firearm authorisations.

Chief
Executive
Officer.

23.—(1) There shall be a Chief Executive Officer of the Authority who shall—

- (a) be the head of the staff of the Authority;
- (b) advise the Board on any matter relating to the Authority; and

(c) in particular, carry out the functions listed in subsection (3).

(2) Subject to the provisions of the Third Schedule, the Chief Executive Officer shall be appointed by the Board, with the prior written approval of the Minister, on such terms and conditions as the Board thinks fit.

(3) The Chief Executive Officer shall be responsible for the day-to-day management and operation of the Authority, including—

- (a) planning, directing, supervising and coordinating the activities of the Authority;
- (b) supervising and directing the work of the staff of the Authority;
- (c) developing, and submitting to the Board for approval, the programmes, performance targets and service standards of the Authority;
- (d) implementing such of the programmes, performance targets and service standards referred to in paragraph (c) as are approved by the Board;
- (e) providing such administrative support as is required by the Board;
- (f) preparing, controlling and managing the budget of the Authority; and
- (g) preparing, in respect of the Authority, the annual report required under the Public Bodies Management and Accountability Act.

24.—(1) The Chief Executive Officer may in writing delegate the exercise of any function conferred upon the Chief Executive Officer by or under this Act (other than the power of delegation) to such members of the staff of the Authority as the Chief Executive Officer thinks fit.

Delegation of functions of Chief Executive Officer.

(2) A delegation under subsection (1) shall not affect—

- (a) the exercise of the delegated function by the Chief Executive Officer; or

- (b) the responsibility of the Chief Executive Officer in relation to acts of the delegate carried out in the lawful exercise of the delegated function.

(3) Any act done by or in relation to the delegate, pursuant to the delegated function, shall have the same effect as if done by or in relation to the Chief Executive Officer.

(4) For the avoidance of doubt, a delegation under subsection (1) shall, in addition to conferring authority to exercise the delegated function, also subject the delegate to the same obligations as would apply under this Act to the Chief Executive Officer's exercise of such function and, accordingly, the delegate shall be liable for any wrongful act or omission of the delegate occurring in the exercise of that authority.

(5) A delegation, under subsection (1), of any function shall be revocable in writing by the Chief Executive Officer.

Ministerial directions.

25. The Minister may, after consultation with the Chairperson of the Board, give to the Board such directions of a general character, as to the policy to be followed by the Board and by the Authority in the performance of their functions, as appear to the Minister to be necessary in the public interest, and the Board shall give effect to such directions.

Funds of the Authority.

26.—(1) The funds of the Authority shall consist of—

- (a) such fees as may be paid to it;
- (b) such sums as may be provided annually by Parliament for the purposes of this Act; and
- (c) such other sums as may in any manner become payable to, or vest in, the Authority in respect of its functions.

(2) The expenses of the Authority, including the remuneration of members and staff thereof, shall be paid out of the funds and resources of the Authority.

(3) All funds of the Authority not immediately required to be expended for the purpose of meeting any of the obligations or discharging any of the functions of the Authority may be invested in such

securities or other investments as may be approved by the Minister with responsibility for finance.

PART IV—*Restrictions in Respect of Firearms
and Ammunition*

27. The Minister may, after consultation with the Authority, the Institute and the Commissioner of Police, by order published in the *Gazette*, declare the type and calibre of firearms that may be imported or exported.

Declaration of firearms that may be imported or exported.

28.—(1) The Minister shall prescribe the National Firearm Control System, which shall consist of—

National Firearm Control System, and Firearm Control List.

- (a) the procedures for—
 - (i) administering the import, export, transit, trans-shipment and brokering of firearms, ammunition, and other conventional arms; and
 - (ii) processing applications for authorisations for the importation, exportation, transit, trans-shipment and brokering of firearms, ammunition, and other conventional arms; and
- (b) the Firearm Control List, comprising the matters specified in subsection (2).

(2) The Firearm Control List shall include—

- (a) all items and technology prohibited or restricted by any provision of this Act; and
- (b) all parts and components and other items and technology the import, export, transit, trans-shipment or brokering of which the Minister considers it necessary to control for any of the following purposes—
 - (i) to restrict the importation of firearms, ammunition, and any other categories of conventional arms, any prohibited weapons or any items or technology deemed capable of being converted thereto or made useful in the production thereof or otherwise having a strategic nature or value;

- (ii) to ensure that firearms, ammunition, any other categories of conventional arms, any prohibited weapons, and any items or technology deemed capable of being converted thereinto or made useful in the production thereof, will not be made available to any destination where their use might be detrimental to the security of Jamaica.

Marking of
firearms.

29.—(1) A firearm imported into, exported from, transited or transshipped through, or manufactured in, Jamaica shall bear the mark of the manufacturer and a mark identifying, in respect of that firearm—

- (a) the country of manufacture;
- (b) the name of the manufacturer;
- (c) the date of manufacture;
- (d) the serial number;
- (e) the type, make and model; and
- (f) the calibre.

(2) Notwithstanding subsection (1), a firearm imported into Jamaica under this Act may maintain an alternative unique mark permitting ready identification of—

- (a) the country where the firearm was manufactured; and
- (b) the serial number, make and model of the firearm.

(3) The Institute shall mark all firearms owned by the Government of Jamaica in accordance with the guidelines set out in the Government of Jamaica Firearm Marking Standards and the Registrar shall cause the information relating to the firearm to be recorded in the Register.

(4) The Authority shall be responsible for marking all privately-owned firearms delivered up for marking in accordance with this Act, and shall—

- (a) mark them in accordance with the guidelines set out in the Government of Jamaica Firearm Marking Standards; and

- (b) cause the information relating to each such firearm to be transmitted to the Registrar for recording in the Register.

(5) The information referred to in subsections (3) and (4) shall include the following—

- (a) the country of manufacture;
- (b) the country of import;
- (c) the importer and end user as set out in the Government of Jamaica Firearm Marking Standards; and
- (d) the year the firearm was imported.

(6) The Registrar shall cause the information transmitted to the Registrar under subsection (4) to be recorded in the Register.

(7) The Authority may seize any firearm that has not been marked in accordance with this section.

30.—(1) Notwithstanding section 16, the addition or modification of a mark on a firearm may be effected in accordance with subsection (2), and the addition or modification made in accordance with subsection (2) shall not constitute an offence under section 16.

Addition,
modification,
etc., of a
mark.

(2) The addition or modification of a mark on a firearm—

- (a) may be done to correct evident errors in the marking on the firearm and shall only be made by—
 - (i) an authorised officer, or a gunsmith at the direction of the Authority, and the Authority shall forthwith notify the Registrar of the addition or modification (as the case may be); or
 - (ii) an authorised officer, at the direction of the Director of the Institute;
- (b) may be made for the purpose of facilitating the deployment of Government-owned firearms, by an officer of the Institute authorised by the Director of the Institute;
- (c) in the case of a firearm recovered by the police in the course of an investigation, may, with the authorisation of the

Commissioner of Police, be made for evidentiary purposes by a constable acting in the course of his duties, and the Commissioner shall forthwith notify the Registrar of the addition or modification (as the case may be).

(3) Where the Registrar receives a notification under subsection (2)(a)(i) or (b), or directs an addition or modification under subsection (2)(a)(ii), the Registrar shall make such corrections to the information recorded in the Register pursuant to section 29 as may be necessary.

Capture of ballistic signature and other information in relation to firearms.

31.—(1) The Institute shall be the responsible entity for capturing ballistic signatures and other information in relation to firearms that are the property of the Government of Jamaica.

(2) The Authority shall be the responsible entity for capturing ballistic signatures and other information in relation to privately-owned firearms.

(3) The information to be captured under subsections (1) and (2) shall be prescribed by the Minister.

Duty of importer or manufacturer to deliver firearm to be marked, etc.

32.—(1) The holder of a firearm authorisation authorising the holder to—

(a) import a firearm into Jamaica shall, upon importing the firearm; or

(b) manufacture a firearm shall, upon manufacturing the firearm, cause the firearm to be delivered to the Authority, for the affixation of the appropriate mark, and for the recording of information relating to the firearm, pursuant to section 29.

(2) Where a person required under subsection (1) to cause any firearm to be delivered fails to do so, that person commits an offence.

Restriction on trafficking in firearms and ammunition.

33.—(1) No person who is in Jamaica or who is a Jamaican citizen shall knowingly traffic any firearms, ammunition or other category of

conventional arms into or out of Jamaica, or through or across Jamaica to another country, without—

- (a) the appropriate firearm authorisation to do so granted under this Act; and
- (b) in the case of importation or exportation, the appropriate authorisation issued by—
 - (i) the country to which the firearms, ammunition or other category of conventional arms are destined for entry from Jamaica and the country through which the firearms, ammunition or other category of conventional arms are to be transited or trans-shipped; or
 - (ii) the country from which the firearms, ammunition or other category of conventional arms entered Jamaica,

as the case may be.

(2) A person who contravenes subsection (1) commits felony.

(3) A person in possession of any firearms, ammunition, or any other category of conventional arms, with intent to commit a felony under subsection (2), commits a felony.

(4) For the purposes of this Act, a person shall not be held to import any firearms or ammunition into Jamaica merely by reason of such firearms or ammunition being in that person's possession or under that person's control on a vessel within Jamaican waters or on an aircraft flying over Jamaica or Jamaican waters or at an aerodrome or airstrip in Jamaica, unless the person causes or attempts to cause or permits such firearms or ammunition to be landed from such vessel or aircraft in Jamaica otherwise than for the purpose of being delivered to a customs officer in accordance with section 36.

Importing a firearm that does not bear the required mark.

34. A constable, customs officer or authorised officer shall detain any firearm imported into Jamaica that does not bear the mark required under section 29(1) or (2).

Requirement for traveller to declare firearms and ammunition.

35.—(1) Every traveller who disembarks in Jamaica shall make a declaration in the prescribed form, to the Commissioner of Customs, stating whether the traveller has in the traveller's possession or control any firearms or ammunition and, if so, the particulars of the firearms or ammunition (as the case may be).

(2) A traveller commits an offence if the traveller—

- (a) contravenes subsection (1); or
- (b) in any declaration required under subsection (1), makes a statement which the traveller knows to be false or does not believe to be true.

Duty of traveller in respect of declared firearms and ammunition.

36.—(1) A traveller who declares under section 35 that the traveller has any firearms or ammunition in that traveller's possession shall, unless the traveller is the holder of a Firearm Import Permit, either—

- (a) cause the firearms or ammunition (as the case may be) to
 - (i) be retained upon the vessel or aircraft upon which the traveller arrived in Jamaica; and
 - (ii) leave with that traveller, on that vessel or aircraft when it departs Jamaica; or
- (b) deliver the firearms or ammunition (as the case may be) to a customs officer, in a sealed packet, to be dealt with in accordance with section 37.

(2) A traveller who contravenes subsection (1) commits an offence.

Procedure in respect of firearm and ammunition delivered sealed by traveller.

37.—(1) Each firearm or ammunition received pursuant to section 36 by a customs officer shall be retained in the sealed packet in which it is received until either—

- (a) the traveller from whom it was received produces, to a customs officer, a Firearm Import Permit in respect of the

firearm or ammunition or a firearm authorisation authorising the traveller to be in possession of the firearm or ammunition, and pays the appropriate customs duty and tax on the firearm or ammunition, in which event the firearm or ammunition (as the case may be) shall be delivered to the traveller; or

(b) the traveller provides evidence to satisfy the Commissioner of Customs that—

(i) the traveller is authorised, in accordance with this Act, to import the firearm or ammunition into Jamaica, in any case where the traveller intends to import the firearm or ammunition into Jamaica; or

(ii) in any case where the firearm or ammunition is being transited or trans-shipped through Jamaica to another country, the traveller is authorised—

(A) under this Act; and

(B) by the appropriate authority in that country, to import the firearm or ammunition (as the case may be) into that country,

in which event the firearm or ammunition (as the case may be) shall be released to the traveller.

(2) Where the information required under subsection (1) is not produced, the Commissioner of Customs shall cause the firearm or ammunition to be delivered to the police, in such circumstances and, after such period, as may be prescribed, to be forfeited under section 96 or auctioned or destroyed in accordance with section 103.

38.—(1) No person shall, except under and in accordance with a Firearm Manufacturer's Licence granted under Part V—

(a) manufacture any firearms or ammunition; or

Restriction on manufacture of firearms and ammunition.

- (b) possess a device with the intent to manufacture any firearms or ammunition.

(2) A person who contravenes subsection (1) commits a felony.

Restriction on testing, etc. of firearms or ammunition.

39.—(1) No person shall, without the appropriate authorisation to do so granted under Part V, test, deactivate, modify or proof any firearm or ammunition.

(2) A person who contravenes subsection (1) commits an offence.

Restriction on dealing, etc. in firearms and ammunition.

40.—(1) No person shall deal in firearms or ammunition, except under and in accordance with the terms of a Firearm Dealer's Licence or a Firearm Broker's Licence.

(2) A person who contravenes subsection (1) commits a felony.

(3) For the purposes of this section, a person in possession of—

- (a) two or more firearms; or
- (b) twenty or more rounds of ammunition,

without the appropriate firearm authorisation shall be presumed to be in such possession for the purpose of dealing in the firearms or ammunition (as the case may be).

(4) No person within Jamaica shall, except as authorised by a firearm authorisation granted under section 58—

- (a) being the owner, occupier, or person in charge, of any premises, receptacle or conveyance, use the premises, receptacle or conveyance, for—

- (i) the manufacture or storage of any firearm or ammunition; or

- (ii) trafficking in, any firearm or ammunition,

or knowingly permit such premises, receptacle or conveyance to be so used; or

- (b) provide financial or any other type of support to facilitate an activity listed in paragraph (a)(i) or (ii).

(5) A person who contravenes subsection (4) commits a felony.

(6) No person shall transfer any firearms or ammunition to, or accept a transfer of any firearms or ammunition from, an individual whom the person knows or has reasonable cause to believe to be under the age of twenty-one years, except in accordance with a Firearm User's Permit granted to that individual.

(7) A person who contravenes subsection (6) commits an offence.

(8) No person shall purchase or acquire a firearm or ammunition unless—

- (a) the person is the holder of a Firearm Dealer's Licence, Firearm Broker's Licence or a Firearm User's Licence, in respect of the firearm or ammunition; and
- (b) the person from whom the person purchases or acquires the firearm or ammunition is the holder of a Firearm Manufacturer's Licence, Firearm Dealer's Licence, Firearm Broker's Licence or Firearm Disposal Permit in respect of the firearm or ammunition.

(9) No person shall sell or transfer a firearm or ammunition unless—

- (a) the person is the holder of a Firearm Manufacturer's Licence, Firearm Dealer's Licence, Firearm Broker's Licence or Firearm Disposal Permit in respect of the firearm or ammunition; and
- (b) the person to whom that person sells or transfers such firearm or ammunition is the holder of a Firearm User's Licence, Firearm Dealer's Licence, or Firearm Broker's Licence, in respect of the firearm or ammunition.

(10) No person shall, except in accordance with this section, accept the transfer of a firearm or ammunition pursuant to any purchase or acquisition of such firearm or ammunition.

(11) No person shall sell or transfer a firearm or ammunition, to any person, except in accordance with this section.

(12) A person who contravenes subsection (8), (9), (10) or (11) commits an offence.

(13) Subsections (8) and (9), in so far as they relate to the acquisition or transfer of a firearm or ammunition, shall not apply to the possession of a firearm or ammunition by any person mentioned in any of paragraphs (c) to (j) of section 46(1) (exceptions to restriction on possession of firearms, ammunition, etc.) in the circumstances set out in those paragraphs.

Purchase,
acquisition
and delivery
of firearms
and ammuni-
tion.

41.—(1) Where any person (in this section referred to as “the purchaser”) other than the holder of a Firearm Dealer’s Licence or a Firearm Broker’s Licence proposes to purchase or acquire a firearm or ammunition from any other person (in this section referred to as “the vendor”)—

- (a) the vendor and purchaser shall certify to the Board, in writing, the particulars as to—
 - (i) the purchaser’s name and address;
 - (ii) the vendor’s name and address;
- (b) the Board shall notify the purchaser and vendor in writing as to the terms and conditions on the fulfilment of which delivery of the firearm or ammunition will be permitted; and
- (c) the purchaser shall not accept transfer of the firearm or ammunition unless the purchaser is the holder of a firearm authorisation in respect of the firearm or ammunition.

(2) Where the transfer of a firearm or ammunition is effected in contravention of any terms or conditions imposed by the Board pursuant to subsection (1), the purchaser or, as the case may be, the vendor of such firearm or ammunition, commits an offence.

42.—(1) The holder of a Gunsmith's Licence shall not accept delivery of any firearm or ammunition for the purpose of effecting any modification thereto—

Restriction on modification of firearm by gunsmith.

- (a) elsewhere than at the premises in respect of which the holder is licensed as a gunsmith; or
- (b) from any person unless the person produces, or causes to be produced, the appropriate firearm authorisation granted under Part V, in respect of that firearm or ammunition (as the case may be).

(2) The holder of a Gunsmith's Licence shall forthwith enter in the records kept by the holder pursuant to section 76 (records to be maintained by relevant licensee), the particulars of each authorisation produced to that holder pursuant to subsection (1)(b).

(3) The holder of a Gunsmith's Licence, who contravenes subsection (1) or (2), commits an offence.

43.—(1) No holder of a Gunsmith's Licence shall sell, test, deactivate, modify or proof a firearm or ammunition for any person whom the holder knows, or has reasonable cause to believe—

Sale, testing, deactivation, modification and proofing of firearms and ammunition: requirements for holders Gunsmiths Licence.

- (a) is not the holder of a firearm authorisation authorising that person to be in possession of the firearm or ammunition;
- (b) is a restricted person;
- (c) is under the influence of, or is dependent on, any substance which has an intoxicating or narcotic effect; or
- (d) is suffering from a mental disorder as defined in the Mental Health Act.

(2) A person who contravenes subsection (1) commits an offence.

44.—(1) Notwithstanding anything in section 13 (prohibition on alteration of ballistic signature, conversion of firearm or prohibited weapon), the holder of a Gunsmith's Licence may, in accordance with the prior written approval of the Authority, convert or modify firearms or ammunition.

Approval for modification or conversion of firearm, etc.

(2) The Minister shall prescribe the minimum standards for the modification of any firearm or ammunition pursuant to an approval under subsection (1).

(3) The requirement for approval under subsection (1) shall not apply to the holder of a Firearm Manufacturer's Licence operating in accordance with the terms of that licence.

Unauthorised possession of firearm or ammunition.

45.—(1) No person shall be in possession of—

- (a) any firearm or ammunition, without the appropriate firearm authorisation granted under Part V; or
- (b) a firearm that is not marked in accordance with section 29(1) (a) to (f) or 29(2).

(2) A person who contravenes subsection (1) commits an offence.

(3) For the avoidance of doubt, where any firearm or ammunition is carried in parts by two or more persons in company, each such person shall be deemed to be in possession of a firearm or ammunition, within the meaning of this Act.

Exceptions to restriction on possession of firearm, ammunition, etc.

46.—(1) For the purposes of section 45 (unauthorised possession of firearm or ammunition), the following constitute lawful excuse for the possession of a firearm or ammunition (as the case may be) by a person—

- (a) the firearm or ammunition—
 - (i) is the property of the Government of Jamaica and the person is authorised by the Government of Jamaica to be in possession of the firearm or ammunition; and
 - (ii) is in the person's possession while acting within the lawful execution of their duties;
- (b) the firearm or ammunition is a slaughtering instrument and the person is a person—
 - (i) with responsibility for veterinary services authorised by the Ministry with responsibility for

agriculture to be in possession of that slaughtering instrument in the lawful execution of that person's duties; or

- (ii) authorised by the Ministry with responsibility for local government to be in possession of that slaughtering instrument in the lawful execution of that person's duties;
- (c) the person is an Armourer, Firearm and Toolmark Examiner or the holder of any Gunsmith's Licence, in respect of any firearm or ammunition in that person's possession for the purpose of repairing, testing or proofing the firearm or ammunition;
- (d) the person is—
- (i) the personal representative of any estate, of any deceased person who; or
 - (ii) the Trustee in Bankruptcy or liquidator, of any insolvent person who, or of any company in liquidation who,
- before the death, insolvency or liquidation, as the case may be, was the holder of a Firearm User's Licence, Firearm Manufacturer's Licence, Firearm Dealer's Licence, or Firearm Broker's Licence, in respect of any firearm or ammunition forming part of the inventory in the estate, bankruptcy or liquidation;
- (e) the person came into possession of any firearm or ammunition in the capacity of an auctioneer, bailiff or assistant bailiff of a court, or a landlord bailiff;
- (f) the person is an employee or agent of any of the persons referred to in paragraph (d) in respect of any firearm or ammunition entrusted to the employee or agent for transfer, to the owner or to such person who is about to become the owner thereof, in accordance with the provisions of this Act;

- (g) the person is a customs officer, an authorised officer, a constable, an officer designated by the Director-General of the Major Organised Crime and Anti-Corruption Agency under the Major Organised Crime and Anti-Corruption Agency Act, or an investigator of the Independent Commission of Investigations, and is in possession of any firearm or ammunition pursuant to this Act during such period as such firearm or ammunition is allowed to be retained by such officer pursuant to any enactment;
- (h) the person is a member of the Jamaica Combined Cadet Force in possession of the firearm or ammunition in support of the person's training and development as a cadet;
- (i) the person is a person to whom the firearm or ammunition is delivered for storage in accordance with section 79 (temporary storage or custody of firearms or ammunition); or
- (j) the firearm or ammunition forms part of the equipment of any vessel or aircraft or any aerodrome, and the person falls within any category of persons permitted to be in possession thereof.

(2) In the case of subsection (1)(d), (e) and (f), the defence of lawful excuse provided by subsection (1) shall apply to the person only during the period of five days referred to in section 52(1).

Restriction on carrying firearm or ammunition in a public place.

47.—(1) A person shall not carry any firearm or ammunition in any public place unless at the time when the person is carrying such firearm or ammunition the person has in that person's possession the appropriate firearm authorisation, authorising the person to carry the firearm or ammunition in that place.

(2) A person who contravenes subsection (1) commits an offence.

(3) Where a person is unable to produce the appropriate firearm authorisation when so required under subsection (1), but is able

to satisfy a constable as to the person's name, address and identity, and that the person is in fact the holder of a firearm authorisation—

- (a) the constable shall retain the firearm or ammunition (as the case may be) and permit the person to produce the firearm authorisation within twenty-four hours thereafter, at such police station as may be specified by the constable at the time when the firearm authorisation was required to be produced under subsection (1); and
- (b) if the firearm authorisation is produced pursuant to paragraph (a), that person shall not be liable to be convicted of an offence under subsection (2) and the firearm or ammunition (as the case may be) shall be returned to the person.

48.—(1) Where any person carries a firearm in a public place pursuant to a firearm authorisation, authorising that person to carry the firearm in that public place, the person shall conceal the firearm and shall not intentionally expose the firearm, except in the circumstances set out in section 51(1)(a), (b) or (c).

Requirement applicable to person authorised to carry firearm in public place.

(2) A person who contravenes subsection (1) commits an offence.

49.—(1) A person shall not, without the appropriate firearm authorisation, carry, in any area declared under section 50 to be a security restricted area, any firearm or ammunition.

Restriction on carrying firearm, or ammunition, in a security restricted area.

(2) A person who contravenes subsection (1) commits an offence.

50.—(1) The Minister may make an order under subsection (2), if satisfied that any public place is of a sensitive nature or that a medium or high priority security risk would occur if any firearm or ammunition were to be present in that public place.

Declaration of security restricted area.

(2) If satisfied as mentioned in subsection (1), the Minister—

- (a) may by order published in the *Gazette* declare the public place to be a security restricted area where no person shall

carry any firearm or ammunition unless authorised to do so under a Firearm User's (Special) Permit; and

- (b) shall specify the conditions applicable in relation to that security restricted area.

(3) Every order under subsection (2) shall remain in force for such period as shall be specified in the order.

Restriction
on discharge
of firearms.

51.—(1) A person shall not discharge a firearm in any place except—

- (a) in the lawful protection of his person or property or of the person or property of some other person;
- (b) in the lawful shooting of a trespassing animal;
- (c) under the written authorisation of the Authority; or
- (d) as otherwise permitted under any other law.

(2) A person who contravenes subsection (1) commits an offence.

(3) Where a constable or an officer of the Major Organised Crime and Anti-Corruption Agency has reasonable cause to believe that a contravention of subsection (1) has occurred, is occurring, or is about to occur, on any premises, that constable or officer (as the case may be) may without warrant enter the premises and seize any firearms and ammunition found there and which the constable or officer has reasonable cause to believe are being used in the contravention, were used in the contravention, or are about to be used in a contravention, of subsection (1).

Duty to
deliver up
firearms and
ammunition.

52.—(1) Subject to section 54, a person who comes into possession of any firearm or ammunition shall, forthwith, unless the person has the appropriate firearms authorisation in respect thereof, deliver the firearm or ammunition (as the case may be) to—

- (a) the sub-officer in charge of the police station nearest to the place at which the person came into possession of the firearm or ammunition; or

(b) the Authority,

together with a written statement as to the date on which, and the circumstances in which, the person came into possession of the firearm or ammunition.

(2) A person who fails to comply with subsection (1) commits an offence.

(3) Subject to subsection (4), a statement made by a person in response to a requirement imposed on that person under subsection (1) may not be used in evidence against that person in criminal proceedings.

(4) Subsection (3) does not apply—

- (a) on a prosecution for an offence under the Perjury Act; or
- (b) on a prosecution for some other offence where, in giving evidence, the person makes a statement inconsistent with the statement referred to in subsection (3).

(5) A statement may not be used by virtue of subsection (4)(b) against a person unless—

- (a) evidence relating to the statement is adduced; or
- (b) a question relating to the statement is asked, by that person; or
- (c) on that person's behalf, in the proceedings arising out of the prosecution.

53.—(1) The holder of a firearm authorisation in respect of any firearm or ammunition that is lost or stolen shall, forthwith upon discovering the loss or theft, report the loss or theft to the police.

Duty to report loss or theft of firearm ammunition.

(2) A person who, without reasonable excuse, fails to make a report under subsection (1) commits an offence.

54.—(1) A person who comes into possession of any firearm, or ammunition, which is lost or which the person suspects or believes to be stolen, shall—

Duty to report possession, or knowledge of location, of lost or stolen firearm or ammunition.

- (a) forthwith upon coming into such possession, report the matter to the police; and

(b) comply with the duty under section 52 to deliver up the firearm or ammunition (as the case may be).

(2) Where a person who is required to make a report under subsection (1)(a) fails to do so, that person commits an offence.

(3) A person who has knowledge of the place where any firearm or ammunition that is lost or stolen (and has not been recovered in lawful circumstances) is located shall, forthwith upon acquiring that knowledge, report the matter to the police.

(4) Where a person who is required to make a report under subsection (3) fails to do so, that person commits an offence.

Court may declare restricted person.

55. A court before which a person is convicted of an offence under—

- (a) this Act, other than an offence against section 35(2) (failure by traveller to make declaration, or making a false statement in a declaration), 36(2) (failure by traveller to leave or deliver up firearm or ammunition) or 53(2) (failure to report loss or theft of firearm or ammunition); or
- (b) any law in force before the appointed day in respect of the importation, exportation, possession or use in Jamaica of any firearm or ammunition,

may declare that person to be a restricted person for the purposes of this Act.

PART V—*Firearm Authorisations*

Prohibition on grant of firearm authorisation contrary to international obligations.

56. No firearm authorisation shall be granted under this Part if the granting of such authorisation is likely to result in the violation by Jamaica of any of its international treaty obligations relating to firearms, ammunition, or other categories of conventional arms.

Application to Authority for certain firearm authorisations.

57.—(1) An application may be made under this section for any of the following firearm authorisations—

- (a) a Firearm Import Permit;
- (b) a Firearm Export Permit;

- (c) a Firearm Broker's Licence;
- (d) a Firearm Manufacturer's Licence;
- (e) a Firearm Dealer's Licence;
- (f) a Gunsmith's Licence;
- (g) a Firearm Disposal Permit;
- (h) a Firearm User's Licence;
- (i) a Firearm User's (Special) Permit;
- (j) a Firearm User's (Business) Licence;
- (k) a Firearm User's (Employee's) Certificate;
- (l) a Firearm Shooting Range Licence;
- (m) a Gun Club Licence;
- (n) a Firearm Trainer's Licence;
- (o) an Antique Firearm Collector's Licence;
- (p) a Firearm Range Operator's Licence;
- (q) a Firearm User's (Restricted) Licence;
- (r) a Firearm User's (Secondary) Certificate;
- (s) a Firearm User's (Special) Certificate;
- (t) a Firearm User's Permit;
- (u) such other licence, certificate or permit, as the Board may grant with the written approval of the Minister.

(2) Every application made for a firearm authorisation under this section shall—

- (a) be addressed to the Authority;
- (b) be submitted in the prescribed form and manner;
- (c) contain the prescribed particulars;
- (d) be accompanied by the prescribed number (if any) of photographs of the prescribed dimensions of the applicant;
- (e) bear, upon the application, a specimen of the signature of the person in respect of whom the application is made;

- (f) be subject to such fee as may be prescribed in relation thereto, and, where a fee is prescribed, the application shall be accompanied by proof of payment thereof in such form as may be prescribed;
- (g) contain a declaration of truth in such form as shall be prescribed; and
- (h) be accompanied by such other documents as the Board may require, by notice in writing given to the applicant, for the purpose of determining the application.

(3) Any person who knowingly makes a false declaration in any application made under this section commits an offence.

Grant of
firearm
authorisations
by Board.

58.—(1) In relation to any of the firearms listed in subsection (2), the Board may, if it considers it appropriate to do so—

- (a) subject to paragraph (b), grant any firearm authorisation sought on an application under section 57;
- (b) in the case of an application for a Firearm Manufacturer's Licence, recommend under section 60 the grant of the licence, and shall proceed to grant the licence upon being advised of the Minister's approval of the recommendation pursuant to that section.

(2) The firearms referred to in subsection (1) are—

- (a) shotguns;
- (b) revolvers;
- (c) self-loading pistols; and
- (d) rifles not of a type or calibre prescribed by the Minister by order published in the *Gazette*.

(3) No firearm authorisation shall be granted under this section—

- (a) in relation to any prohibited weapon;
- (b) to a person below the age of twenty-one years, unless that person is eligible for a Firearm User's Permit;

- (c) to a restricted person;
- (d) to a person who is charged with, or detained in respect of, an offence involving domestic violence;
- (e) to an applicant who the Board has reasonable cause to believe is unfit to hold the firearm authorisation, and in determining that question, the matters that the Board may have regard to include—
 - (i) whether the person is of intemperate habits;
 - (ii) whether the person is suffering from a mental disorder as defined in section 2 of the Mental Health Act; and
 - (iii) whether the person has a history of—
 - (A) mental health issues;
 - (B) drug or substance abuse; or
 - (C) domestic violence,which would cause the person to be unfit to be entrusted with such firearm or ammunition and the Board may require the applicant to undergo psychometric testing as part of the requirements for determining whether to grant the authorisation;
- (f) unless the Board is satisfied—
 - (i) that the applicant is a person who can be in possession of a firearm or ammunition without danger to any person or to public peace or public safety;
 - (ii) as to the applicant's proficiency in the use and management of the type of firearm in respect of which the application is made;
 - (iii) that the applicant has made adequate provision for the safe keeping of the firearm and ammunition in respect of which the application

is made, having regard to the firearm authorisation applied for; and

- (iv) that the applicant resides or is ordinarily resident in Jamaica, except in the case of an application for a Firearm User's (Special) Certificate;
- (g) in the case of an application for a Firearm Manufacturer's Licence, the Board—
 - (i) is satisfied that the other requirements specified in this section for the grant of the licence are met; and
 - (ii) having recommended pursuant to section 60(1) that the licence be granted, is informed of the Minister's approval of the recommendation;
- (h) where the firearm in respect of which the application is made to the Authority is already in the possession or control of the applicant, unless the applicant has made the firearm available to the Authority for inspection; and
- (i) unless the applicant has paid the appropriate application fee.

(4) The Board shall, within a reasonable time, in writing notify the applicant for a firearm authorisation that may be granted under this section as to whether the firearm authorisation has been granted or refused and—

- (a) in the case of a refusal, the notification shall include the reason for the refusal and, except in the case of an application for a Firearm Manufacturer's Licence, inform the applicant of the right to appeal against the refusal; and
- (b) where an authorisation is granted, issue the authorisation to the holder, in accordance with section 66.

(5) The grant of a firearm authorisation under this section shall be subject to the prescribed terms and conditions and such other terms and conditions (if any) as the Board considers appropriate.

59. The Board shall not grant a Firearm Export Permit unless the Board is satisfied that the application therefor includes evidence that the appropriate authorisation is granted for the importation of the firearm or ammunition (as the case may be) into the country to which the holder intends to export, from Jamaica, that firearm or ammunition.

Grant of
Firearm
Export
Permit.

60.—(1) Where an application for a Firearm Manufacturer's Licence is submitted to the Authority under section 57, the Board shall in writing consult the Commissioner of Police, who shall give the Commissioner's views in writing to the Board, and thereafter, if the Board decides to recommend the approval of the application, submit the recommendation in writing to the Minister, together with the written views of the Commissioner.

Grant of
Firearm
Manufacturer's
licence.

(2) The Minister, on receiving a recommendation under subsection (1), shall—

- (a) if the Minister decides to approve the recommendation, inform the Board of the decision; or
- (b) if the Minister decides not to approve the recommendation, inform the Board of the decision.

61.—(1) Subject to the provisions of this Act, the Board—

- (a) on the application of any person, in accordance with section 57, for a Firearm User's (Employee's) Certificate; and
- (b) with the written consent of the holder of a Firearm User's (Business) Licence in respect of a particular firearm specified in the application,

Grant of
Firearm
User's
(Employees)
Certificate.

may grant the certificate to that person.

(2) A Firearm User's (Employee's) Certificate granted under this section shall authorise the holder to keep, carry and use, in connection with the business of the holder of the Firearm User's (Business) Licence referred to in subsection (1), the particular firearm and ammunition specified in the Certificate.

Grant of
Firearm
User's
(Special)
Certificate.

62.—(1) Upon an application made under section 57, the Board may after consultation with the divisional commander, grant a Firearm User's (Special) Certificate to a specified group or person authorising that group or person (as the case may be) to possess a firearm, or ammunition, for restricted use as specified under subsection (2).

(2) A certificate granted under subsection (1), shall be restricted for use as specified in the certificate, and within the areas specified in the certificate, which may include—

- (a) firearm shooting ranges;
- (b) gun clubs;
- (c) the set of any theatrical, film, or television, production; or
- (d) the location of an athletic meet where the firearm or ammunition is to be used to signal the start of an athletic event.

Grant of
Firearm
User's
(Special)
Permit.

63. On the application of any person who is the holder of a Firearm User's Licence, the Board, in consultation with the Minister, may grant to that person a Firearm User's (Special) Permit authorising that person to carry—

- (a) upon the occasions specified in the permit; and
- (b) during the continuance in force of the permit,

in any security restricted area specified in the permit, the firearm and ammunition in respect of which the person is a holder of a Firearm User's Licence.

Grant of
Firearm
Disposal
Permit.

64.—(1) The Board, on the application of any person who—

- (a) is the owner of any firearm or ammunition;
- (b) is the executor of the estate of a deceased holder of a firearm authorisation, acting with the consent of the person entitled to claim ownership of the firearm under the estate of the deceased and who submits with the application proof in writing of such consent; or

- (c) is acting with the consent of the owner of any firearm or ammunition, and who submits with the application proof in writing of such consent,

may grant to that person a Firearm Disposal Permit authorising the person, within thirty days after the grant of the permit, to transfer or to sell the firearm or ammunition.

(2) A permit granted under this section shall specify the particular firearm or ammunition (as the case may be) in respect of which it is granted.

65. Upon an application made under section 57 for an Antique Firearm Collector's Licence, the Board shall, in order to determine whether the firearm concerned is incapable of being discharged, consult with the Institute or another entity with expertise in firearms, and if the Board is satisfied after such consultation that the firearm is incapable of being discharged, the Board shall—

Grant of
Antique
Firearm
Collector's
Licence.

- (a) so certify; and
- (b) after making the certification, grant the licence to the applicant.

66.—(1) Every firearm authorisation granted by the Board shall—

Form of
firearm
authorisations.

- (a) subject to the provisions of this section, be issued to the holder in the prescribed form;
- (b) contain the prescribed particulars; and
- (c) specify the prescribed terms and conditions, and such other terms and conditions (if any) as are imposed by the Board.

(2) Every Firearm Export Permit issued by the Board shall specify—

- (a) the type of firearm or ammunition, as the case may be, that may be exported under the licence;
- (b) the period during which the firearm or ammunition may be exported;

- (c) the destination to which the firearm or ammunition shall be exported; and
- (d) the manner in which the export shall be transacted.

(3) Every Firearm Import Permit issued by the Board shall specify—

- (a) the firearm or ammunition authorised to be imported;
- (b) the source from which the firearm or ammunition may be imported; and
- (c) the period during which the firearm or ammunition may be imported.

(4) Every Firearm Manufacturer's Licence issued by the Board shall specify—

- (a) the place in Jamaica where the firearm or ammunition, as the case may be, is authorised to be manufactured and stored;
- (b) the type of firearm or ammunition, as the case may be, authorised to be manufactured;
- (c) the place in Jamaica where the firearm or ammunition may be sold.

(5) Every Firearm Shooting Range Licence issued by the Board shall specify—

- (a) the location of the facility at which the shooting range is authorised to operate; and
- (b) the supervisor authorised to manage the facility.

(6) Every Firearm Trainer's Licence issued by the Board shall specify the type or category of firearm and ammunition that the holder is authorised to possess.

(7) Every Firearm User's (Business) Licence issued by the Board shall specify—

- (a) the type or category of firearm or ammunition, as the case may be, that the holder is authorised to possess and use; and

- (b) the business or commercial operation, as the case may be, for which possession and use of the firearm or ammunition is authorised.

(8) Every Firearm User's Licence issued by the Board shall specify the particulars of the firearm or ammunition which the holder is authorised to possess and use.

(9) Every Firearm User's Permit issued by the Board shall specify—

- (a) the type or category of the shotgun, air rifle or ammunition that the holder is authorised to possess and use; and
- (b) the principal holder of the Firearm User's Licence in respect of that shotgun, air rifle or ammunition, as the case may be.

(10) Every Firearm User's (Secondary) Certificate shall specify the firearm or ammunition that the holder thereof is authorised to be in possession of or use, being a firearm or ammunition that is the subject of the relevant Firearm User's Licence.

(11) Every Gunsmith's Licence issued by the Board shall specify—

- (a) the activities authorised to be conducted under the licence; and
- (b) the place at which the activities authorised to be conducted under the licence are to be conducted.

67.—(1) An application may be made to the Minister, under this section, in respect of any of the following firearm authorisations—

- (a) a Firearm Transit Permit;
- (b) a Firearm Trans-shipment Permit;
- (c) a Firearm Destruction Authorisation;
- (d) an Ammunition Destruction Authorisation.

Application to Minister for certain firearm authorisations.

(2) Every application for a firearm authorisation under this section shall be addressed to the Minister and shall—

- (a) be submitted in the prescribed form and manner;
- (b) contain the prescribed particulars;
- (c) be signed by the applicant;
- (d) be accompanied by the receipt for payment of the prescribed application fee; and
- (e) be accompanied by such other documents (if any) as may be prescribed.

(3) An application for a Firearm Transit Permit or a Firearm Trans-shipment Permit shall include evidence of the appropriate authorisation from the country to which the firearms or ammunition are to be transited or trans-shipped, as the case may be, from Jamaica.

(4) Where authorisation is given under this Act for the export, transit or trans-shipment of any firearm, ammunition or other category of conventional arms, from Jamaica to another country, the relevant authority shall provide to the appropriate authority in that other country such information as may be prescribed, which shall include the particulars as to—

- (a) the place and date of issuance of the authorisation;
- (b) the country of export;
- (c) the final recipient;
- (d) the quantity of the firearms, ammunition or other category of conventional arms (as the case may be); and
- (e) if any transit through any other country is intended, the countries of intended transit.

Grant of
firearm
authorisation
by Minister.

68.—(1) On an application made to the Minister for a firearm authorisation under section 67, the Minister may grant the authorisation if the Minister considers it appropriate to do so, and—

- (a) the grant shall be subject to such terms and conditions as the Minister may specify in the authorisation; and

- (b) the Minister shall cause the authorisation to be issued to the holder thereof in such form as may be prescribed.

(2) The Minister may revoke any firearm authorisation granted under this section if the Minister considers it appropriate to do so.

(3) Every firearm authorisation, the grant of which under this Act requires the prior approval of the Minister, shall be subject to such terms and conditions as the Minister may direct to be specified therein.

69.—(1) Where the Authority or any other relevant government organisation applies for a Firearm Destruction Authorisation or Ammunition Destruction Authorisation, the application shall—

Firearm
Destruction
Authorisations
and
Ammunition
Destruction
Authorisations.

- (a) state the particulars of the firearms or ammunition (as the case may be) to be destroyed, including the type, model, calibre and serial number;
- (b) in the case of an application by the Authority, state whether the firearms or ammunition (as the case may be) are in the possession of the Authority in the circumstances listed in section 103(1)(a), (b), (c) or (d).

(2) Where the relevant authorisation is granted, the Authority or other relevant government organisation, as the case may be, shall—

- (a) complete the destruction of the firearms or ammunition (as the case may be) within sixty days after the issue of the authorisation under section 68 in respect thereof; and
- (b) within five days after the destruction, send a report thereon, in the prescribed form, to the Minister.

(3) In this section, “other relevant government organisation” means any ministry, department or agency, of Government, that is engaged in the handling of firearms by virtue of its functions.

70.—(1) A firearm authorisation granted under this Part, other than a permit or certificate, shall, unless otherwise provided by this Act, continue in force for a period not exceeding five years.

Duration of
firearm
authorisations.

(2) A permit or certificate granted under this Part shall continue in force until the activity authorised to be done by the permit or certificate

has been done or until the expiration of the period specified in such permit or certificate, whichever occurs first.

Renewal of
authorisations.

71.—(1) A firearm authorisation granted under this Part, other than a permit or certificate, may be renewed by the Board if—

- (a) the holder of the authorisation makes an application for renewal to the Authority in the prescribed form and manner;
- (b) the prescribed renewal fee is paid;
- (c) the holder is not liable for any fee payable under this Act remaining unpaid at the time of the application for renewal;
- (d) the holder has not breached any of the terms or conditions of the authorisation; and
- (e) the Board is satisfied that—
 - (i) the holder remains a fit and proper person to hold the authorisation; and
 - (ii) all other requirements to be fulfilled by the holder for the grant of the authorisation remain fulfilled.

(2) The duration of a firearm authorisation, on renewal, shall be—

- (a) five years, in the case of a Firearm User’s Licence or a Firearms (Business Licence); and
- (b) in the case of any other firearm authorisation that may be renewed under this section, such period as shall be specified by the Board upon granting the renewal.

(3) Where, pursuant to subsection (1), the Board refuses to renew a firearm authorisation, the Board shall forthwith give written notice of the refusal, including the reason for the refusal, to the applicant.

(4) On receipt of the notice under subsection (3), the holder of the firearm authorisation shall (without prejudice to any appeal that may be made under this Act) forthwith surrender the firearm authorisation to the Authority, together with all firearms and ammunition

in the possession or control of the holder and to which the authorisation relates.

(5) A holder who fails to surrender a firearm authorisation, firearms or ammunition, as required under subsection (4), commits an offence.

72.—(1) The relevant authority may at any time, by notice in writing to the holder of a firearm authorisation, vary the terms and conditions of any firearm authorisation granted by the relevant authority, other than the prescribed terms and conditions. Amendment of terms and conditions of firearm authorisation.

(2) A notice under subsection (1) shall—

- (a) specify the nature of the variation to be made to the terms and conditions; and
- (b) require the holder to deliver the firearm authorisation to the Authority on or before a day specified in the notice (not being less than three days after service of the notice) for the purpose of enabling the variation to be effected.

(3) A person who, without lawful excuse, fails to comply with a notice under this section commits an offence.

(4) The terms and conditions of a firearm authorisation may, on the application of the holder thereof, be varied by the relevant authority if the relevant authority considers it appropriate to do so, and the holder of the firearm authorisation shall deliver the firearm authorisation to the relevant authority for the purpose of enabling the variation to be effected.

(5) Where the terms and conditions of a firearm authorisation are varied under this section, the variation shall take effect on the date that, pursuant to subsection (2) or (4) (as the case may be), the variation is effected on the authorisation.

*Obligations of Holder of Firearm
Authorisation*

73.—(1) The holder of a Firearm (User's) Licence, Firearm User's (Business) Licence or Firearm User's (Restricted) Licence, shall, within Registration of Firearm.

the time specified in subsection (2), submit to the Authority for registration the firearm to which the licence relates.

(2) The firearm shall be submitted under subsection (1) within the period of thirty days immediately preceding each birthday of the licence holder.

(3) If on inspection of a firearm submitted under subsection (1) for registration, the Authority is satisfied that the firearm is in good working condition and has not been altered in any way, and that the holder is a fit and proper person having regard to the matters set out in section 58(3), the Authority may issue a certificate of registration in the form prescribed, upon payment of the prescribed fee.

(4) A certificate issued under subsection (3) shall be valid from the date of issue thereof until the next birthday of the licence holder.

(5) Any holder of a licence to whom subsection (1) applies, who without reasonable excuse contravenes that subsection, commits an offence.

(6) Where a holder is unable to produce the firearm within the period specified in subsection (2) and is able to satisfy the Authority that there is reasonable excuse for the inability—

- (a) the Authority shall permit the holder to produce the firearm within such time as shall be specified by the Authority; and
- (b) if the firearm is produced as specified under paragraph (a), that person shall not be liable to be convicted of an offence under subsection (5).

Duty to
safely store
firearm and
ammunition.

74.—(1) The holder of a firearm authorisation shall ensure that each firearm, and all ammunition, in respect of which the authorisation applies is safely stored, in accordance with such standards as shall be prescribed, so that no other person can gain access to the firearm or ammunition (as the case may be).

(2) A person who contravenes subsection (1) commits an offence.

(3) For the avoidance of doubt, if the loss or theft of a firearm or ammunition is attributable to the negligence of the holder of a firearm authorisation in respect of the firearm or ammunition (as the case may be), the holder contravenes subsection (1).

75.—(1) The holder of a Firearm Manufacturer's Licence, Firearm Broker's Licence or a Firearm Dealer's Licence shall not manufacture or deal in firearms or ammunition at a place other than at the place specified in the licence.

Special restrictions upon holder of Firearm Manufacturer's, Firearm Broker's Licence or Firearm Dealer's Licence.

(2) A person who contravenes subsection (1) commits an offence.

76.—(1) Every relevant licensee (as defined in this section) shall, in accordance with this section, establish and maintain a record of all transactions relating to that licensee's business as a licensee.

Records to be maintained by relevant licensee.

(2) The record referred to in subsection (1), shall be in such form, and shall contain such particulars, as may be prescribed by the Minister after consultation with the Authority.

(3) The particulars required to be recorded under subsection (1) in respect of a transaction shall be made within twenty-four hours after the transaction takes place, and, in the case of a transaction involving a sale or transfer, the relevant licensee shall—

- (a) at the time of the transaction require the purchaser or transferee, as the case may be, to furnish particulars sufficient for identification; and
- (b) immediately enter those particulars into the record.

(4) Where a person ceases to operate as a relevant licensee, the person shall forward all records maintained under this section to the Authority, no later than thirty days after the cessation.

(5) A relevant licensee shall—

- (a) on being requested to do so by a person who is—
 - (i) a constable duly authorised in writing by the divisional commander;

- (ii) an officer of the Authority duly authorised in writing by the Chief Executive Officer of the Authority;
- (iii) a customs officer duly authorised in writing by the Commissioner of Customs; or
- (iv) so authorised in writing by the Minister,

allow that person to enter and inspect the record of transactions required to be kept under subsection (1) and the relevant licensee's inventory of firearms and ammunition; and

- (b) on being requested to do so by any person who is—
 - (i) a member of the Constabulary Force above the rank of Inspector or any constable duly authorised in writing by the divisional commander;
 - (ii) an authorised representative of the Authority;
 - (iii) a customs officer duly authorised in writing by the Commissioner of Customs; or
 - (iv) so authorised in writing by the Minister,

produce to that person for inspection the record required to be maintained under subsection (1).

(6) A person required to be authorised in writing to make a request under subsection (5)(a) or (b) shall show the written authorisation, if requested to do so by the relevant licensee.

(7) A relevant licensee shall make such returns to the Authority in such form, in respect of such periods, at such time, and containing such particulars, as may be prescribed.

(8) A relevant licensee who contravenes this section or knowingly makes any false entry in a record required to be maintained under subsection (1) commits an offence.

(9) Records maintained by a relevant licensee for the purposes of this section shall be retained by the relevant licensee for a period of not less than twenty years.

(10) In this section and section 77, “relevant licensee” means the holder of a Firearm Manufacturer’s Licence, Firearm Dealer’s Licence, Firearm Broker’s Licence, Gun Club Licence, Gunsmith’s Licence or a Firearm Range Operator’s Licence.

77.—(1) Every relevant licensee, shall display prominently and properly affixed to the structure of the premises in respect of which the licence is granted, in such manner as is prescribed by the Authority, the name in full of the relevant licensee, followed by the words “Licensed as a Firearm Manufacturer”, “Licensed as a Firearm Dealer”, “Licensed as a Gunsmith”, “Licensed as a Firearm Broker”, “Licensed as a Gun Club” or “Licensed as a Firearm Range Operator” as the case may be.

Relevant licensee to display notice.

(2) A relevant licensee who contravenes this section commits an offence.

78. Every person who, being the holder of a firearm authorisation, contravenes any of the terms or conditions thereof, commits an offence.

Contravention of terms or conditions of firearm authorisation.

79.—(1) A holder of a firearm authorisation permitting that person to be in possession of a firearm or ammunition, who desires to make an arrangement for the temporary storage or custody of a firearm or ammunition to which the authorisation relates, may arrange for the storage of the firearm or ammunition at such place and under such conditions as may be approved by the Authority, in consultation with the divisional commander, or deliver such firearm or ammunition either to—

Temporary storage or custody firearms ammunition.

- (a) an authorised person at the Authority; or
- (b) the sub-officer in charge of any police station specified in the Fourth Schedule,

for storage at a facility listed in the Fourth Schedule.

Fourth Schedule.

(2) The holder of a firearm authorisation permitting that person to be in possession of a firearm or ammunition shall not make or permit any arrangement for the storage or custody of any firearm, or ammunition, to which the authorisation relates, in circumstances where the arrangement results in that firearm or ammunition being out of the

holder's possession, if that arrangement is not in accordance with subsection (1).

(3) A holder who contravenes subsection (2) commits an offence.

Surrender of licence, firearms and ammunition.

80. The holder of a firearm authorisation permitting that person to be in possession of a firearm or ammunition shall, if the holder—

- (a) wishes to surrender the licence; or
- (b) ceases to operate the business to which the authorisation relates,

surrender the authorisation and deliver all firearms, and all ammunition, to which the authorisation relates, to an employee of the Authority authorised to receive them.

Storage fees, release of firearms and ammunition from storage.

81.—(1) Where a firearm or ammunition is delivered under section 79—

- (a) the firearm or ammunition (as the case may be) shall be released to a person who produces a firearm authorisation granted to that person in respect of the firearm or ammunition (as the case may require); and
- (b) if the firearm or ammunition is not released in accordance with paragraph (a) within twelve months after the date of the delivery or surrender—
 - (i) the owner thereof shall be liable for payment of a storage fee in such sum or at such rate as may be prescribed; and
 - (ii) if the fee is not paid within six months after the expiration of the aforementioned period of twelve months, the firearm or ammunition, or both, as the case may be, shall be forfeited in accordance with section 96.

(2) The fee referred to in subsection (1)(b)(i) shall be payable to the Authority.

82.—(1) Where the Minister, is satisfied that it is necessary for public safety or in the interest of national security, the Minister may by notice in accordance with subsection (2), require the delivery to the Authority, of such firearms and ammunition as may be specified in the notice, subject to such terms and conditions as may be specified in the notice.

Delivery of
firearms and
ammunition
to appro-
priate
authority for
safe keeping.

(2) A notice pursuant to subsection (1) shall be published in the *Gazette* and once in a daily newspaper circulating throughout Jamaica, and upon a notice being so published, any person to whom the notice applies shall, within the time and in the manner set out in the notice, deliver any firearm and ammunition to which the notice relates, to the Authority for safe keeping.

(3) Any person who without lawful excuse fails to comply with the requirements of a notice given pursuant to subsection (1), commits an offence.

(4) Where a constable has reasonable cause to believe that a person is, without lawful excuse, in possession of any firearm or ammunition in contravention of a notice issued under this section, the constable shall, pursuant to a warrant issued by a Justice of the Peace, retrieve the firearm or ammunition (as the case may be) and deliver the firearm or ammunition to the Authority for safekeeping.

(5) If a person commits an offence under subsection (3), the firearm authorisation in respect of the firearms or ammunition concerned in the notification shall forthwith be deemed to be revoked.

*Suspension, Revocation and Cancellation of
Firearm Authorisations*

83.—(1) By notice in accordance with subsection (2), the Board may on its own motion or on a complaint made by any person, suspend, for such reasonable period as the Board considers appropriate but which in any event shall not exceed three months, any firearm authorisation granted by the Board under this Part, if the Board determines that the suspension is necessary—

suspension of
firearm
authorisation.

- (a) for public safety;

- (b) as a result of a complaint made in respect of whether the holder is fit to be entrusted with a firearm or ammunition; or
- (c) for any other cause.

(2) The notice referred to in subsection (1) shall—

- (a) be in the form prescribed, stating that the authorisation is suspended and requiring the holder to surrender the authorisation, and all firearms and ammunition to which the authorisation relates, to the Authority no later than three days after the date of service of the notice;
- (b) be served on the holder of the authorisation;
- (c) specify the reason for the suspension; and
- (d) state the corrective actions (if any) required to be taken by the holder and the time within which those actions must be taken,

and shall take effect upon the date of such service.

(3) Notwithstanding the provisions of this section, the Board shall withdraw a notice of suspension under this section, where the Board is satisfied that the circumstances which led to the suspension are no longer operating.

(4) A person aggrieved by a decision to suspend a firearm authorisation, may apply in writing to the Review Panel under section 86.

Revocation
of firearm
authorisation
by Board.

84.—(1) The Board shall revoke a firearm authorisation if—

- (a) the Board is satisfied that the holder thereof is of intemperate habits or suffering from a mental disorder as defined in section 2 of the Mental Health Act, or is otherwise unfit to be entrusted with such firearm or ammunition as may be mentioned in the firearm authorisation;

- (b) the holder thereof has been convicted in Jamaica or in any other country for an offence involving—
 - (i) a prohibited weapon;
 - (ii) illegal trafficking in firearms or ammunition;
 - (iii) illegal possession or use of a firearm or ammunition;
 - (iv) the use of violence for which a fine or a term of imprisonment was imposed;
 - (v) dangerous drugs for which a sentence of imprisonment for a term of two or more years was imposed; or
 - (vi) negligence, resulting in the loss or theft of a firearm or ammunition;
 - (c) there is reasonable cause to believe that the holder thereof—
 - (i) was involved in the unlawful discharge of a prohibited weapon or any other firearm in a public place;
 - (ii) failed to adequately secure a firearm or ammunition; or
 - (iii) unlawfully used a prohibited weapon or any other firearm to threaten violence against another person; or
 - (d) the holder thereof is convicted of an offence involving domestic violence or is a person against whom a protection order under the Domestic Violence Act has been issued within the period of five years immediately preceding the date on which the order comes to the attention of the Board.
- (2) The Board may revoke a firearm authorisation if the holder thereof—
- (a) is convicted of an offence (other than an offence mentioned in subsection (1)), in Jamaica or in another country;

- (b) is charged with, or detained in respect of, an offence involving domestic violence;
- (c) made a false declaration or provided misleading information in relation to an application to the Board;
- (d) breaches a term or condition of the firearm authorisation; or
- (e) fails to comply with the relevant notice under section 79 (delivery of firearms or ammunition for safekeeping) or 83 (suspension of firearm authorisation), or for such other cause as the Board considers justifies the revocation in the circumstances.

(3) Where the Board revokes a firearm authorisation under this section or where a firearm authorisation is deemed to be revoked under section 79 (temporary storage or custody of firearms or ammunition), the Board shall serve on the holder thereof a notice in writing—

- (a) stating that the firearm authorisation has been revoked, and giving the reasons therefor; and
- (b) requiring the holder to surrender the firearm authorisation, as well as all firearms and ammunition to which the authorisation relates, to the Board, no later than three days after the date of service of the notice.

(4) A holder who, without reasonable excuse, fails to surrender an authorisation, firearm or ammunition in accordance with a requirement under subsection (3), commits an offence.

(5) A person aggrieved by a decision of the Board to revoke a firearm authorisation, may appeal to the Review Panel under section 86.

Circumstances in which firearm authorisation becomes void or may be cancelled.

85.—(1) The relevant authority may, without prejudice to the holder thereof cancel a firearm authorisation granted by the relevant authority under this Part—

- (a) on the request of the holder;
- (b) on the death of the holder;

- (c) where the relevant authority requires any amendment or discovers any error in the issuing of a firearm authorisation and it is necessary to correct the error;
- (d) in the case of an authorisation that may be granted under section 58, if the holder thereof was granted the authorisation contrary to the conditions prescribed under section 58; or
- (e) in such other circumstance as the relevant authority considers appropriate.

(2) The relevant authority shall, where it intends pursuant to subsection (1)(b), (c), (d) or (e), to cancel a firearm authorisation, in writing notify the holder of the firearm authorisation or, in the case of a deceased holder, the legal personal representative of the deceased holder.

(3) In the circumstances referred to in subsection (1)(c), the relevant authority may, where it considers it appropriate to do so, issue to the holder a new firearms authorisation.

PART VI—*Appeals*

86.—(1) An appeal may be made to the Review Panel, within the prescribed time and in the prescribed manner, by a person aggrieved by a decision of the Board—

Appeal to
Review
Panel.

- (a) granting or refusing to grant a firearm authorisation, other than a Firearm Manufacturer's Licence;
- (b) amending or refusing to amend a firearm authorisation;
- (c) suspending or refusing to suspend a firearm authorisation;
or
- (d) revoking or refusing to revoke a firearm authorisation.

(2) The provisions of the Fifth Schedule shall have effect in relation to the constitution of the Review Panel.

Fifth
Schedule.

87.—(1) Upon an appeal under section 86 the Review Panel shall, after hearing the parties in the appeal—

Review
Panel.

- (a) confirm the decision of the Board and issue such directions as the Review Panel considers fit to give thereto;

- (b) refer the matter back to the Board for a fresh decision on the matter having regard to such further information to be taken into account or inquiries required to be made in the circumstances of the case; or
- (c) make such other decision in respect of the matter as the Review Panel considers fit,

and shall in writing, within one hundred and eighty days after the appeal is made, notify the Board and the appellant accordingly.

(2) The time allowed for giving any notification under subsection (1) may be extended if the circumstances so warrant.

PART VII—*National Firearms Register*

National
Firearms
Register.

88.—(1) The Director of the Institute shall, as soon as practicable after the earliest appointed day under section 1, establish, maintain and operate, in accordance with this Act, for and on behalf of the Government of Jamaica, a databank to be known as the National Firearms Register.

- (2) The purposes of the Register shall be for—
 - (a) the storage and retrieval of information relating to firearms and ammunition, including information relating to firearm authorisations;
 - (b) providing information assisting with criminal and other investigations in the administration of justice;
 - (c) compiling statistics relating to firearms and ammunition, including data on firearm ownership;
 - (d) providing information to aid decision-making in the interest of national security and public safety in matters relating to firearms and ammunition;
 - (e) providing information relating to research on firearms and ammunition; and
 - (f) any other purpose specified by the Minister by order.

(3) The Register shall include information in relation to—

- (a) import and export permits;
- (b) transit permits and trans-shipment permits;
- (c) export authorisations and import authorisations of conventional arms;
- (d) all categories of firearms and ammunition authorised in Jamaica;
- (e) the ballistic profile of firearms;
- (f) the physical parameters to be determined by the Firearm and Toolmark Examiners, including—
 - (i) toolmark information; and
 - (ii) any other information on firearms;
- (g) ammunition profiles; and
- (h) any other information prescribed under the Finger Prints Act, the Dangerous Drugs Act, the Evidence Act, the DNA Evidence Act, or the Evidence (Special Measures) Act.

(4) The Minister may by order published in the *Gazette*—

- (a) amend the categories of information referred to in subsection (3); and
- (b) require other entities to maintain any information referred to in subsection (3).

(5) For the purposes of this section, the relevant authority shall cause to be transmitted to the Registrar the information required under this section in relation to firearm authorisations granted by that relevant authority under this Act.

89.—(1) For the purposes of this Act, the Director of the Institute shall carry out the functions of the Registrar.

Functions of
Registrar.

(2) The Registrar shall, in accordance with this Act, carry out the following functions—

- (a) receive, store and retrieve information related to firearms and ammunition;
- (b) keep, maintain and operate the Register;
- (c) establish and maintain policies and procedures for the sound management of the Register;
- (d) ensure the security, integrity and confidentiality of the Register; and
- (e) perform such other functions pertaining to the administration of this Act as may be assigned to the Registrar, from time to time, by the Minister.

(3) In exercise of the functions conferred under subsection (2), the Registrar shall—

- (a) take appropriate steps to store and maintain information in the Register;
- (b) cause searches of the Register to be carried out;
- (c) put in place methods of electronic storage that accurately record firearm information and facilitate easy retrieval of such information; and
- (d) provide information, prepare a report on any analysis, requested by—
 - (i) the Authority;
 - (ii) a court;
 - (iii) a law enforcement agency; or
 - (iv) the Central Authority, being a request that has been approved in accordance with the Mutual Assistance (Criminal Matters) Act,and disclose the report to the requesting entity.

(4) The Registrar shall ensure that in the exercise of the functions conferred under subsection (2), all preparation and disclosure of information pursuant to analysis made under subsection (3) are conducted in a manner that secures against—

- (a) disclosure or use of information in the Register in a manner contrary to this Act, any other law, and any international obligation or commitment; and
- (b) the compromising or obstruction of any investigation in relation to an offence under this Act or any other law.

(5) In this section—

- (a) “foreign law enforcement agency” means any entity (or association of entities) so prescribed for the purposes of this Act, being an entity (or association of entities) having, under the laws of any territory—
 - (i) investigative or prosecutorial functions in relation to criminal offences involving firearms, ammunition or prohibited weapons; or
 - (ii) licensing or registration functions in relation to firearms, ammunition or prohibited weapons;
- (b) “law enforcement agency” means a person or agency having investigative or prosecutorial functions, under the laws of Jamaica, in relation to criminal offences.

(6) Subject to the provisions of this section, the Registrar may, with the approval of the Minister, enter into a memorandum of understanding or other agreement or arrangement with a foreign law enforcement agency, regarding the exchange of information relevant to the investigation or prosecution of any offence involving any prohibited weapon, firearm or ammunition.

(7) Nothing in subsection (6) authorises a disclosure by the Registrar unless—

- (a) the Registrar is satisfied that the foreign law enforcement agency is subject to adequate legal restrictions on further disclosures, including the provision to the Registrar of—
 - (i) an undertaking of confidentiality on the part of the foreign law enforcement agency; or
 - (ii) an undertaking by the foreign law enforcement agency not to disclose the information provided, without the consent of the Registrar; or
- (b) the Registrar is satisfied that the information requested by the foreign law enforcement agency is required for the purposes of that agency's functions, including the conduct of criminal proceedings to enforce laws administered by that agency.

(8) Where, pursuant to a request for the exchange of information, the Registrar in accordance with this section supplies information to a requesting foreign law enforcement agency, the information supplied shall be deemed to be lawfully given under this Act and every person liable to be proceeded against on the ground that such information was unauthorised or unlawfully given, or that the person was otherwise acting illegally or improperly for any such reason only, is hereby acquitted, freed, discharged and indemnified against all persons whatsoever and whomsoever, from liability arising from the supply of that information.

(9) Regulations made under section 106 may make provision with respect to the exchange of information pursuant to this section

PART VIII—*Power of Search, Seizure and to Obtain Information*

90.—(1) Any constable who reasonably suspects that any firearm or ammunition is aboard a conveyance may without warrant—

- (a) stop the conveyance;

Power to stop and search conveyance.

- (b) search the conveyance, the operator thereof and any other person in the conveyance.

(2) Where, pursuant to subsection (1), a constable requests that a conveyance stop, a person commits an offence who—

- (a) being the operator of the conveyance, fails to stop the conveyance when requested to do so by a constable;
- (b) being aboard the conveyance, prevents or intimidates the operator thereof from stopping as requested by a constable; or
- (c) without reasonable excuse, escapes, or attempts to escape, from the conveyance.

91.—(1) A Justice of the Peace, on being satisfied by information on oath that there are reasonable cause to that an offence under this Act has been, is being, or is about to be committed, may grant a search warrant authorising any constable named therein—

Search
Warrants.

- (a) to enter at any time any premises, place or receptacle named in the warrant, including by reasonable force if necessary, and to search the premises, place or receptacle and every person found therein;
- (b) to seize any firearm or ammunition which the constable finds on the premises or in the place or receptacle or on any such person, in respect of which or in connection with which the constable has reasonable cause for suspecting that an offence under this Act has been, is being, or is about to be committed; and
- (c) to retain the firearm or ammunition for so long as may be necessary for the purpose of any investigation in relation to the offence and, where such investigation results in legal proceedings against any person for the offence, until such legal proceedings are finally disposed of.

(2) The constable making the search may arrest without warrant any person found in or on the premises, place or receptacle, whom the constable has reasonable cause to believe has committed an offence under this Act, other than an offence under section 74 (breach of duty to safely store firearm and ammunition).

Power to search and seize conveyance or premises.

92.—(1) If any constable, member of the Jamaica Defence Force acting in furtherance of the Maritime Areas Act or officer of the Major Organised Crime and Anti-Corruption Agency, in the lawful execution of his duties has reasonable cause to suspect that any conveyance or premises is being used, is about to be used or has been used in the commission of any offence under this Act, then that constable or officer (as the case may be)—

- (a) may without a warrant, search the conveyance or premises; and
- (b) if the search reveals evidence that the conveyance, or any item on premises searched under paragraph (a), is being used, is about to be used or has been used for the commission of any offence, shall seize the conveyance or item (as the case may be) and retain it for so long as may be necessary for the purpose of any investigation in relation to the offence and, where such investigation results in legal proceedings against any person for the offence, until such legal proceedings are finally disposed of.

(2) A constable who seizes any item under subsection (1)(b) shall issue to the person appearing to be entitled to possession of the item at the time of the seizure a receipt for the item seized.

Power of constable or authorised officer to require production of firearm authorisation.

93.—(1) A constable, authorised officer of the Authority or authorised officer of the Major Organised Crime and Anti-Corruption Agency, who sees any person carrying any firearm or ammunition in any public place may require that person to produce to the constable or officer (as the case may be), for inspection—

- (a) the firearm or ammunition (as the case may be) and the person's firearm authorisation in respect of the firearm or ammunition; and

- (b) if such place is within any security restricted area, the person's Firearm User's (Special) Permit in respect of the firearm or ammunition.

(2) Where a person required under subsection (1) to produce a firearm authorisation, falls within an exception under section 46(1) (exceptions to restriction on possession of firearm, ammunition, *etc.*), the person shall provide satisfactory evidence of the exemption.

(3) A person who fails to comply, in accordance with subsection (1) or (2), with a requirement made to that person under subsection (1) commits an offence.

(4) Where the person is unable to produce the authorisation required under subsection (1)(a) or (b), but is able to satisfy the constable or authorised officer (as the case may be) as to the person's name, address and identity, and that the person is in fact the holder of a firearm authorisation—

- (a) the constable or authorised officer shall retain the firearm or ammunition (as the case may be) and permit the person to produce the firearm authorisation within twenty-four hours thereafter, at such police station as may be specified by the constable at the time when the firearm authorisation was required to be produced under subsection (1); and
- (b) if the firearm authorisation is produced pursuant to paragraph (a), that person shall not be liable to be convicted of an offence under subsection (3).

94.—(1) Where a constable has reasonable cause to suspect that any person is carrying any firearm or ammunition concealed about their person the constable may—

Powers of constable in respect of concealed firearm.

- (a) ask the person if the person is carrying a firearm or ammunition;

- (b) if the person admits to carrying a firearm or ammunition, require the person to produce—
- (i) the firearm or ammunition;
 - (ii) the person's firearm authorisation in respect thereof; and
 - (iii) if the place in which that person is carrying the firearm or ammunition is a security restricted area, the person's Firearm User's (Special) Permit in relation to the firearm or ammunition.

(2) Where a person required under subsection (1)(b)(ii) to produce a firearm authorisation, falls within an exception under section 46(1) (exceptions to restriction on possession of firearm, ammunition, *etc.*), the person shall provide satisfactory evidence of the exemption.

(3) Where a person fails to comply with a requirement made by a constable to that person under subsection (1), or denies that the person is carrying a firearm concealed about their person, the constable may—

- (a) without a warrant search that person and seize and retain any firearm or ammunition carried by that person, until such time as legal proceedings against that person in respect of any offence in relation to the firearm or ammunition are finally disposed of; and
- (b) require that the person declare to the constable immediately the person's name and address.

(4) Where a person refuses to comply with a requirement made to that person by a constable under subsection (1) or (3)(b), or fails to give the person's true name and address, the person commits an offence and the constable may arrest the person without warrant.

Retention of
firearms and
ammunition.

95.—(1) Where a person is arrested for an offence under this Act or is detained on reasonable suspicion of having committed an offence under this Act, any firearm or ammunition found upon that person at

the time of the arrest or at the time of the person's alleged commission of the offence shall be retained by the police until such time as the person is released or legal proceedings against the person in respect of such offence are finally disposed of.

(2) A constable who takes possession of any firearm or ammunition pursuant to any power under this Act in relation to the commission or prevention of an offence shall issue a receipt in prescribed form to the person from whom the firearm or ammunition was taken and may retain such firearms or ammunition for so long as may be reasonably necessary for the purpose of any investigation in relation thereto, and where such investigation results in legal proceedings against any person for any such offence, until such legal proceedings are finally disposed of.

(3) Where legal proceedings have been instituted against a person in respect of an offence mentioned in subsection (2) and the person is—

- (a) convicted, section 96 (forfeiture of firearms and ammunition) shall apply; or
- (b) acquitted and it is proved that the person is the holder of a firearm authorisation in respect of any firearms or ammunition seized in relation to the offence, the firearms or ammunition (as the case may be) shall be returned to the person.

(4) Where an investigation under subsection (2) concludes and no legal proceedings have been instituted against a person in respect of any offence mentioned in subsection (2), the firearms or ammunition (as the case may be) shall, within fourteen days after the conclusion of the investigation, be returned to the person who is proved to be the holder of a firearm authorisation thereof or, if no holder is proved, shall be transferred to the Authority for disposal in accordance with section 103.

Forfeiture of
firearms and
ammunition.

96.—(1) This section applies to the forfeiture, pursuant to section 95(3)(a), of any firearm or ammunition (other than a prohibited weapon) seized pursuant to this Act or referred to the Director of Public Prosecutions under section 103(2).

(2) On the application of the Director of Public Prosecutions to a Judge of a Parish Court, the Judge may order the forfeiture of a firearm or ammunition if the Judge is satisfied that the requirements under this section have been met.

(3) Where the Director of Public Prosecutions proposes to apply for forfeiture of any firearm or ammunition under subsection (1), the Director of Public Prosecutions shall give to any person, who to the knowledge of the Director of Public Prosecutions was at the time of the seizure the owner of the firearm or ammunition (as the case may be) notice that after the expiration of thirty days from the date of the notice an application will be made under this section for the forfeiture of the firearm or ammunition.

(4) Without prejudice to any other form of service of notification, notification may, for the purposes of subsection (3) be made by publication in a daily newspaper in circulation throughout Jamaica.

(5) Any person having a claim to any firearm or ammunition seized under this Act, may appear before the court on the hearing of the application and show cause why an order for forfeiture should not be granted.

(6) If, upon the application of any person prejudiced by an order made by the court under subsection (2), the court is satisfied that it is just to revoke the order, the court—

- (a) may revoke the order upon such terms and conditions as it considers appropriate; and
- (b) without prejudice to the generality of paragraph (a), may direct that person to pay to the Authority, in respect of storage, maintenance, administrative expenses, security and

insurance of the firearm or ammunition, such sum as is specified by the court, not exceeding one and a half times the value, of the firearm or ammunition.

(7) An application to the court under subsection (6) for the revocation of an order shall be made within thirty days after the date of the order or within such longer time, not exceeding six months, after the date of the order as the court may allow.

PART IX—*Provisions in Respect of Offences*

97.—(1) The Authority may serve a person with a fixed penalty notice if the Authority has reason to believe that the person has committed an offence to which this section applies. ^{Fixed penalties.}

(2) The offences to which this section applies are—

- (a) an offence under section 77(2) (failure to display licence as required) or section 78 (contravention of terms and conditions of firearm authorisation); and
- (b) any other offence prescribed under subsection (10).

(3) A fixed penalty notice under this section is a notice in writing in the prescribed form offering the person on whom it is served the opportunity to discharge any liability to conviction of an offence to which this section applies by payment of a fixed penalty under this section.

(4) A person served with a fixed penalty notice shall not be liable to be convicted of an offence to which this section applies, in respect of which—

- (a) the person pays the fixed penalty in accordance with this section; and
- (b) the requirement in respect of which the offence was committed is complied with,

before the expiration of the thirty days following the date of the fixed penalty notice referred to in subsection (3) or such longer period as

may be specified in the notice, or the date on which proceedings are begun, whichever event last occurs.

(5) Where a person is served with a fixed penalty notice under this section in respect of an offence, proceedings shall not be taken against any person for that offence until the end of the thirty days following the date of the notice or such longer period as may have been specified therein.

(6) In subsections (4) and (5), “proceedings” means any criminal proceedings in respect of the act or omission constituting the offence concerned, and “convicted” shall be construed in like manner.

(7) Payment of a fixed penalty under this section shall be paid to the Collector of Taxes specified pursuant to subsection (10), and in any proceedings a certificate that payment of a fixed penalty was or was not made to the Collector of Taxes by a date specified in the certificate shall, if the certificate purports to be signed by the Collector of Taxes, be admissible as evidence of the facts stated therein.

(8) A notice under subsection (1) shall—

- (a) give such particulars of the offence alleged as are necessary for giving reasonable information of the allegation;
- (b) state —
 - (i) the period (whether thirty days or a longer period) during which, by virtue of subsection (5) proceedings will not be taken for the offence; and
 - (ii) the amount of the fixed penalty and the Collector of Taxes to whom and the address at which it may be paid; and
- (c) require the person, in the event that the fixed penalty is not paid within the period specified pursuant to paragraph (b), to attend before the court having jurisdiction to try the offence to answer the charge on such date as may be specified, being

a date not earlier than ten days after the expiration of the period specified pursuant to paragraph (b), and that requirement shall constitute a summons for the entity to attend court to answer the charge if the fixed penalty is not paid within the period specified pursuant to paragraph (b).

(9) In any proceedings for an offence to which this section applies, no reference shall be made after the conviction of the accused to the giving of any notice under this section or to the payment or non-payment of a fixed penalty thereunder unless in the course of the proceedings or in some document which is before the court in connection with the proceedings, reference is made by or on behalf of the accused to the giving of such a notice, or, as the case may be, to such payment or non-payment.

(10) The Minister may, by order subject to affirmative resolution, make provision as to any matter incidental to the operation of this section, and, in particular, any such order may—

- (a) prescribe—
 - (i) the form of notice under subsection (1), and the Collector of Taxes to whom a fixed penalty is payable;
 - (ii) the nature of the information to be furnished to the Collector of Taxes along with any payment;
 - (iii) the arrangements for the Collector of Taxes to furnish to the Authority information with regard to any payment pursuant to a notice under this section;
 - (iv) the amount of the fixed penalty; and
 - (v) without prejudice to any offence mentioned in subsection (3), any other offences under this Act to which this section shall apply;
- (b) make provision for the cancellation or variation of fixed penalty notices.

Evidence obtained from controlled delivery operations.

98.—(1) In this section—

- (a) “a competent authority” means the Commissioner of Police, the Chief of Defence Staff, the Director-General of the Major Organised Crime and Anti-Corruption Agency, or the Commissioner of Customs;
- (b) “controlled delivery operations” means the technique of allowing—
 - (i) illicit or suspect consignments of firearms, ammunition, prohibited weapons, and other related materials; or
 - (ii) substances substituted for them, to pass out of, through or into Jamaica, with the knowledge and under the supervision of a competent authority, with a view to identifying persons involved in the commission of any offence under this Act.

(2) Evidence obtained by a competent authority through a controlled delivery operation shall be admissible in evidence in proceedings for an offence under this Act.

Circumstances that may be regarded in determining fines and sentences.

99.—(1) In determining the amount of any fine to be imposed in respect of an offence under this Act, a court may have regard to—

- (a) in the case of a body corporate—
 - (i) the nature of the business;
 - (ii) the size of the business concerned, including the level of profit or the total revenue generated by the body corporate;
- (b) the nature of the offence committed;
- (c) whether the offence was committed for the benefit of a criminal organization or was committed for profit; and
- (d) any other factor that the court considers relevant.

(2) In determining the severity of any sentence of imprisonment in respect of which a minimum sentence is specified for an offence under this Act, a court shall have regard to—

- (a) whether the offender has been previously convicted of a firearm related offence; or
- (b) whether the offence for which the offender is convicted is in connection with the commission of an offence under this Act—
 - (i) by a person who is under the age of eighteen years;
 - (ii) in an area declared to be a Zone of Special Operations under the Law Reform (Zones of Special Operations) (Special Security and Community Development Measures) Act; or
 - (iii) in an area in which a declaration of state of public emergency is in force under the Emergency Powers Act.

100. Proceedings against a person under the age of eighteen years, in respect of any offence under this Act alleged to have been committed by that person, shall be dealt with in accordance with the Child Care and Protection Act or the Gun Court Act, as the case may require.

Proceedings in relation to person under the age of eighteen years.

101.—(1) For the avoidance of doubt, a person who aids, abets, conspires in, or procures, the commission of any offence under this Act (whether by financing the commission of the offence or otherwise) shall be liable to be tried and, upon conviction therefor to be punished, in the same manner as may be applicable to the principal offender.

Trial, punishment, proof and records in respect of offences.

(2) The penalties specified in the Sixth Schedule shall have effect in respect of the offences under this Act specified with respect thereto.

Sixth Schedule.

(3) The Minister may by order subject to affirmative resolution amend any monetary penalty specified in Part II or the Sixth Schedule.

(4) In any proceedings against a person for an offence under this Act, the production of a certificate signed by or under the authority of the Director of the Institute or the Chief Executive Officer of the Authority (as the case may require) shall be sufficient evidence of all the facts stated therein, unless the person charged requires that the Signatory be summoned as a witness, in which case the court shall cause the Signatory to attend and give evidence in the same way as any other witness.

(5) Where a person is convicted of an offence under this Act or of an offence against the Customs Act in relation to the import or export of firearms or ammunition, the court concerned shall cause the conviction to be certified to the Board.

(6) Where a provision of this Act provides that a person shall be sentenced to imprisonment for life, that provision shall apply notwithstanding section 44 of the Interpretation Act.

(7) Where an offence under this Act is triable in a Parish Court, the offence shall, unless otherwise specifically provided, be triable summarily.

(8) Unless otherwise specifically provided in this Act, where the penalty provided for an offence against this Act—

- (a) is imprisonment for life, notwithstanding anything in the Parole Act, the court shall specify a term of not less than fifteen years that the offender shall serve before being eligible for parole; or
- (b) prescribes a minimum term of imprisonment, notwithstanding anything in the Parole Act, the court shall specify a term of not less than ten years that the offender shall serve before being eligible for parole.

Obstruction.

102. A person who assaults, obstructs, hinders or resists, or uses any threatening language to, an authorised officer executing any function under this Act commits an offence and shall be liable on summary conviction therefor before a Parish Court to a fine not exceeding one

million dollars or, on default of payment of that fine, to imprisonment for a term not exceeding one year.

PART X—*Miscellaneous*

103.—(1) Where any firearms or ammunition (whether defective or otherwise), other than a prohibited weapon, have been—

Authority
may auction
or destroy
firearms and
ammunition.

- (a) voluntarily surrendered to the Authority;
- (b) seized or recovered by the Authority;
- (c) left in the custody of the Authority beyond the time specified under section 81(1)(b) (storage fees, release of firearms and ammunition);
- (d) transferred to the Authority by—
 - (i) the security forces upon being seized or recovered under this Act or any other enactment;
 - (ii) the Jamaica Customs Agency pursuant to the Customs Act, upon being seized under that Act; or
 - (iii) the Institute; or
- (e) forfeited under this Act, the firearms or ammunition may, subject to the written approval of the Minister, be auctioned or destroyed, as the Authority considers appropriate.

(2) The Authority shall not auction or destroy any firearms or ammunition mentioned in subsection (1) (b) or (d), and concerned in any criminal proceedings, unless a forfeiture order is granted under section 96 in respect of the firearms or ammunition (as the case may be), and shall refer the matter to the Director of Public Prosecutions for the purpose of obtaining the forfeiture order.

(3) Firearms and ammunition in the possession or control of the Authority, and that have been used or alleged to have been used in any criminal activity, shall, as soon as practicable be—

- (a) in the case of firearms, marked;

- (b) securely stored; and
- (c) destroyed, if no longer required for the purposes of any legal proceedings.

(4) Where a prohibited weapon is seized or recovered by an officer in any circumstances under Part VIII, the officer shall make an application for a Firearm Destruction Authorisation or an Ammunition Destruction Authorisation (as the case may require).

(5) In any case where proceedings are brought against a person in connection with an offence concerning a prohibited weapon, the application under subsection (4) shall be made only after those proceedings have been finally disposed of (regardless of whether or not the person is convicted for the offence).

(6) Records of all firearms and ammunition auctioned or destroyed under this section shall be maintained in accordance with section 88 (National Firearms Register).

(7) Subject to subsection (8), the proceeds of sale from an auction conducted under this section shall be applied as determined by the Authority—

- (a) to the expenses associated with carrying out the auction;
- (b) to the original and legitimate owner of the firearm; and
- (c) to the general administration of the Authority.

(8) Subsection (7)(b) shall not apply in respect of firearms, or ammunition, that are forfeited.

(9) The Authority shall, prior to auctioning any firearm or ammunition by virtue of subsection (1), no less than one month before the date of the auction, publish a notice –

- (a) in the *Gazette*; and
- (b) in a newspaper in daily circulation throughout Jamaica,

of the Authority's intention to auction the firearm or ammunition.

Appointment
of valuator.

104. The Authority may appoint a valuator, having expertise in the valuation of firearms and ammunition, to determine the value of any firearm or ammunition, if the Authority considers it appropriate to do so.

105.—(1) Every person having an official duty with, or being employed to, the Authority or the Institute, shall— Confidentiality.

- (a) regard and deal with as secret and confidential all information—
 - (i) stored in the Register; or
 - (ii) received by the Authority or Institute (as the case may be) in connection with any application under this Act and from which a person can be identified; and
- (b) upon assuming such duty or employment, take and subscribe an oath in such form and manner as shall be prescribed.

(2) The obligation of secrecy and confidentiality under subsection (1) shall continue after the official duty or employment (as the case may be) has ended.

(3) Any person to whom information is communicated under this Act shall regard and deal with the information as secret and confidential and shall not disclose the information except as—

- (a) permitted by—
 - (i) the Registrar in writing, in the case of information stored in the Register;
 - (ii) the Authority or Institute (as the case may be) in writing, in the case of information referred to in subsection (1)(a)(ii);
- (b) required by the order of a court;
- (c) required for the purposes of the investigation or prosecution of a criminal offence; or
- (d) otherwise permitted under this Act or any other law.

(4) A person who contravenes subsection (3) commits an offence.

106.—(1) The Minister may, subject to subsection (2), make regulations for the better carrying out of this Act, and in particular, but without prejudice to the generality of the foregoing, for prescribing— Regulations.

- (a) anything required or permitted by this Act to be prescribed;

- (b) the fees payable to the Authority under this Act;
- (c) the form of receipt to be given to a firearm authorisation holder who makes an arrangement for storage under section 79;
- (d) the development of a service standards framework for the Authority in the determination of applications for firearm authorisations, including the appropriate administrative sanctions for failure to adhere to the standards.

(2) Regulations which relate to any matter falling within the functions of the Authority shall be made after consultation by the Minister with the Chairperson of the Board and with the Chief Executive Officer.

Amendment of First, Second, Third or Fifth Schedule by order.

107. The Minister may from time to time by order subject to affirmative resolution, amend the First, Second, Third or Fifth Schedule of this Act.

Minister may exempt person or other entity.

108. The Minister may, by order subject to affirmative resolution, exempt a person or other entity from any provision of this Act for a period specified in the order.

Service of notices.

109. Any notice required or authorised by this Act to be given to any person may be—

- (a) sent by registered post addressed to that person at the person's last known, or usual, place of abode;
- (b) in the case of the holder of, or applicant for, a firearm authorisation, by electronic mail to the electronic mail address provided by the holder or applicant (as the case may be); or
- (c) in the case of the holder of a Firearm Dealer's Licence, Firearm Broker's Licence, Firearm Shooting Range Licence, Firearm Manufacturer's Licence or of a Gunsmith's Licence, delivered to any place or premises in respect of which the licence is granted.

Documents.

110.—(1) A document purporting to be an extract from, or a copy of, any other document kept under this Act and purporting to be certified as such shall, in any court and upon all occasions, be admissible and be

prima facie evidence of the truth of the matters stated in the original document, without the production of the original document.

(2) The information contained in a document referred to in subsection (1) kept for the purposes of this Act, shall be provided to—

- (a) a constable who requires it for the carrying out of that constable's duties;
- (b) any person authorised by the Minister to demand the information; or
- (c) in respect of any information relating to a person accused of an offence under this Act or regulations made under this Act, that person or any person authorised by that person, on payment of the prescribed fee.

(3) For the avoidance of doubt, the provisions of section 105 (confidentiality) shall apply to a document disclosed to any person under this section or under any regulations made under this Act.

(4) An institution or person keeping a document under this Act shall, at the request of a constable, or other person authorised by the Minister, confirm whether certain information corresponds to the information contained in the document, if that constable or other person, on reasonable grounds, requires confirmation of the information.

111. Where any notice, document, firearm or ammunition, or other thing is required to be served on, or delivered to, the Authority under this Act, such service or delivery (as the case may be) shall be effected on the Chief Executive Officer, or such other employee of the Authority authorised in writing by the Chief Executive Officer for that purpose.

Service on, or
delivery to,
the
Authority.

112. With the exception of sections 29 (marking of firearms) and 68 (grant of firearm authorisation by Minister), this Act shall not apply—

Exemptions.

- (a) to any firearm or ammunition the property of the Government of Jamaica, except when such firearm or ammunition is—
 - (i) in the possession of some person other than a person authorised by or on behalf of the Government of Jamaica to be in possession of

such firearm or ammunition in the lawful execution of the last-mentioned person's duties; or

- (ii) used otherwise than in the lawful execution of the person's duties, in the case of a person authorised by or on behalf of the Government of Jamaica to be in possession of the firearm or ammunition;
- (b) to any firearm or ammunition, or signalling apparatus or ammunition therefor, forming part of the equipment of any vessel or aircraft or of any aerodrome at any time when such firearm or ammunition or signalling apparatus or ammunition therefor is on board such vessel or aircraft or at such aerodrome, as the case may be, subject to such conditions as may for the time being be approved by the Minister;
- (c) to any slaughtering instrument the property of a Municipal Corporation or of the Jamaica Society for the Prevention of Cruelty to Animals or of any prescribed person, except when such slaughtering instrument is—
 - (i) in the possession of some person other than—
 - (A) a person authorised by the Municipal Corporation or by the Jamaica Society for the Prevention of Cruelty to Animals, as the case may require, under this section to be in possession of such slaughtering instrument; or
 - (B) a prescribed person; or
 - (ii) being used for a purpose other than for the purpose of slaughtering or stunning animals;
- (d) to any conventional arms, which are the property of the Government of Jamaica;
- (e) to such firearms and ammunition the property of the government of such other country, in such circumstances, and subject to such conditions, as may for the time being be approved by the Minister, and to such persons in respect of their possession thereof as may be so approved.

113. This Act shall be reviewed, after five years from the date of the earliest day appointed under section 1, by a committee of both Houses of Parliament appointed for that purpose.

Review of Act.

114.—(1) The Firearms Act, 1967 (hereinafter referred to as the repealed Act), is repealed.

Repeal of Firearms Act, 1967, and transitional provisions.

(2) The holder of a firearm authorisation granted under the repealed Act, other than a Firearm User's Permit, Firearm User's (Employee's) Certificate or Firearms User's (Secondary) Certificate, shall—

- (a) in respect of any firearm which on the appointed day is in the possession of the holder of the firearm authorisation, other than a Firearm Import Permit, deliver the firearm to be marked in accordance with the requirements of this Act no later than three years after the appointed day;
- (b) in respect of any firearm which on the appointed day is in the possession of the holder of a Firearm Import Permit in respect of the firearm, deliver the firearm to be marked in accordance with the requirements of this Act no later than one year after the appointed day;
- (c) in respect of firearms the property of the Government of Jamaica, where the firearm is in Jamaica on the appointed day, deliver the firearm to be marked in accordance with the requirements of this Act no later than three years after the appointed day; or
- (d) in respect of firearms the property of the Government of Jamaica, where the firearm is imported into Jamaica after the appointed day pursuant to an authorisation granted before the appointed day, deliver the firearm to be marked in accordance with the requirements of this Act no later than three years after the appointed day.

(3) During the relevant period specified under subsection (2), the holder of a firearm authorisation in respect of the firearm concerned, shall not be liable for failure to deliver the firearm to be marked in accordance with the requirements of this Act.

(4) The Institute shall, no later than two years after the appointed day, procure, or cause to be procured, the requisite technology to facilitate the storing of information in accordance with section 88 (National Firearms Register), and any information compiled within that period of two years, shall be deemed to be a part of and for the use specified in the Register.

(5) Subject to the provisions of subsections (6) to (11), on the appointed day, all persons holding permanent appointment to offices under the former entity shall be transferred on secondment to the service of the Authority for a period of six months or such longer period as the Authority may, in special circumstances, approve.

(6) During the period of a person's secondment to the Authority pursuant to subsection (5), the person shall be employed on such terms and conditions as may be approved by the Authority, being terms and conditions that are no less favourable than those enjoyed by that person in that person's office under the former entity immediately before the appointed day.

(7) A person in the public service who is transferred on secondment pursuant to subsection (5) may be deployed in the public service on or before the expiration of the period referred to in subsection (5), on terms and conditions that are no less favourable than those enjoyed by the person in the person's office under the former entity immediately before the appointed day.

(8) All persons who, immediately before the appointed day, held offices under the former entity under a contractual arrangement, shall from that date be deemed to continue to hold, under the Authority, the like or similar offices on the same or no less favourable terms as they held those like or similar offices under the former entity.

(9) A person who has served in an office under the former entity and who would have, but for this Act, been eligible to receive a pension thereunder, shall be paid a pension where such service, together with the person's service under this Act, amount in the aggregate to not less than seven years.

(10) The Authority may, where it is satisfied that it is equitable to do so, make regulations to be given retrospective effect for the purpose of conferring a benefit or removing a disability attaching to any person who may have been entitled to a pension in the circumstances provided for in subsection (9).

(11) In subsections (5) to (9), “the former entity” means the Firearms Licensing Authority established under the repealed Act.

(12) The Minister may, by order subject to affirmative resolution of the House of Representatives, increase any period specified in subsection (2).

115. Notwithstanding the repeal of the repealed Act— Savings.

- (a) the regulations made under the repealed Act, in force immediately before the repeal of that Act, shall in so far as they are not inconsistent with this Act remain in force and effect as if made under this Act and may be amended or revoked accordingly; and
- (b) a reference in any enactment to specific provisions of the repealed Act shall be construed as a reference to the equivalent provisions of this Act.

116. Nothing in this Act shall be construed to affect the provision of assistance under the Mutual Assistance (Criminal Matters) Act. Act not to affect mutual assistance.

117. The enactments specified in the First Column of the Seventh Schedule are amended in the manner specified with respect thereto in the Second Column of that Schedule. Amendment of other enactments. Seventh Schedule.

FIRST SCHEDULE (Sections 14 and 107)

*Offences in Relation to which Possession of a Firearm
Constitutes an Offence under Section 14(3)*

1. Any offence under section 10 of the Child Care and Protection Act (sale or trafficking of children).
2. Any offence under the Criminal Justice (Suppression of Criminal Organizations) Act.
3. An offence under any of the following sections of the Dangerous Drugs Act—
 - (a) 3 (import and export of raw opium and coca leaves);
 - (b) 5 (cultivation of opium or coca leaves), 6 (export or import of prepared opium);
 - (c) 7 (manufacture, selling using, *etc.*, prepared opium);
 - (d) 7A (export or import of ganja);
 - (e) 7B (cultivation, selling or dealing in or transporting ganja); or
 - (f) 8A (cultivating, selling or dealing in or transporting cocaine, *etc.*).
4. An offence under any of the following sections of the Larceny Act—
 - (a) 5 (simple larceny);
 - (b) 6 (larceny of cattle);
 - (c) 7 (killing animals with intent to steal);
 - (d) 13 (praedial larceny);
 - (e) 17 (larceny of postal articles);
 - (f) 18 (larceny in dwelling-houses);
 - (g) 19 (larceny from the person);
 - (h) 20 (larceny from ships, docks, *etc.*);
 - (i) 38 (sacrilege);
 - (j) 39 (burglary);
 - (k) 40 (house-breaking and committing felony);
 - (l) 41 (house-breaking with intent to commit felony);
 - (m) 42(2) (being found by night with certain implements of house-breaking);

- (n) 42(3) (being found by night disguised, etc. with intent to commit felony); or
- (o) 42(4) (being found by night in any building with intent to commit felony).

5. An offence under any of the following sections of the Law Reform (Fraudulent Transactions) (Special Provisions) Act—

- (a) 3 (obtaining property by false pretence, *etc.*);
- (b) 5 (using premises for commission of offence);
- (c) 7 (threatening or intimidating person involved in criminal investigation or trial of an offence);
- (d) 8 (offences relating to theft, forgery, *etc.*, of access device);
- (e) 10 (making, repairing, buying, *etc.*, thing for copying data from an access device or forging or falsifying access device);
- (f) 11 (obtaining a benefit by menace); or
- (g) 12 (conspiring, *etc.*).

6. An offence under any of the following sections of the Malicious Injuries to Property Act—

- (a) 2 (setting fire to church, *etc.*);
- (b) 3 (setting fire to dwelling house or person therein);
- (c) 4 (setting fire to house, outhouse, *etc.*);
- (d) 5 (setting fire to building belonging to railway, port or harbour);
- (e) 6 (setting fire to building of public character);
- (f) 7 (setting fire to thing in or under building);
- (g) 8 (setting fire to other building);
- (h) 9 (attempting to set fire to building or to thing in or against building);
- (i) 10 (destroying or damaging house or person therein by explosion of gunpowder);
- (j) 11 (attempting to destroy building by explosion of gunpowder);
- (k) 12 (demolishing of buildings by rioters);
- (l) 13 (injury to buildings by rioters);
- (m) 15 (injuries to manufactures, *etc.*);

- (n) 16 (injuries to machinery, *etc.*);
- (o) 26 (injuries to bridges, *etc.*);
- (p) 27 (placing wood on railway to obstruct engines, *etc.*);
- (q) 28 (obstructing carriage on railway, *etc.*);
- (r) 29 (destroying electric telegraph, *etc.*); or
- (s) 36 (placing gunpowder near ship with intent to damage, *etc.*).

7. An offence under any of the following sections of the Offences Against the Person Act—

- (a) 22 (unlawful wounding);
- (b) 23 (attempting to choke, *etc.*, in order to commit indictable offence);
- (c) 24 (administering drug with intent to commit indictable offence);
- (d) 31 (placing wood on railway, *etc.*, with intent to endanger safety of passengers);
- (e) 36 (assault with intent to commit felony, or on constable, *etc.*);
- (f) 43 (common and aggravated assaults); or
- (g) 69 (child stealing).

8. Any offence under section 45 of the Road Traffic Act.

9. An offence under any of the following sections of the Sexual Offences Act—

- (a) 3 (rape);
- (b) 4 (grievous sexual assault);
- (c) 5 (marital rape);
- (d) 13 (indecent assault);
- (e) 15 (abduction of child under sixteen);
- (f) 17 (forcible abduction);
- (g) 19(a) (procuring sexual intercourse, *etc.*, by threats or intimidation);
- (h) 20 (abduction of child with intent to have sexual intercourse); or
- (i) 21 (unlawful detention with intent to have sexual intercourse).

10. Any offence under section 7 (participation in activity of terrorist group), 8 (facilitating terrorist activity), 9 (commission of offence for terrorist group), 10

(instructing commission of offence for terrorist group) or 11 (instructing to carry out terrorist activity) of the Terrorism Prevention Act.

11. Any offence under section 4 (trafficking in persons) or 15 (threatening, obstructing, etc., constable) of the Trafficking in Persons (Prevention, Suppression and Punishment) Act.

12. Any offence under the Treason Felony Act.

13. Aiding or abetting the commission of any offence specified in any of the above items, and attempting to commit any such offence other than an offence against section 9 of the Malicious Injuries to Property Act.

SECOND SCHEDULE

(Sections 20, 23
and 107)*Constitution of the Authority*

- Constitution of Authority. 1. The Authority shall be comprised of—
- (a) the Board of Directors;
 - (b) the Chief Executive Officer; and
 - (c) such staff as are appointed pursuant to this Schedule.
- Appointment of staff of Authority. 2. Subject to paragraph 4, the Chief Executive Officer shall appoint such persons to the staff of the Authority as are necessary for the efficient operation of the Authority.
- Salary of the Chief Executive Officer. 3.—(1) Except with the prior written approval of the Minister with responsibility for the public service, given after consultation with the Minister—
- (a) no salary in excess of the prescribed rate shall be assigned to the post of the Chief Executive Officer; and
 - (b) no appointment shall be made to the post of the Chief Executive Officer to which a salary in excess of the prescribed rate is assigned.
- (2) For the purposes of this paragraph, the “prescribed rate” is eight million dollars or such other rate as the Minister with responsibility for the public service, after consultation with the Minister, may prescribe by order published in the *Gazette*.
- Salary of staff of the Authority. 4.—(1) Except with the prior written approval of the Minister with responsibility for the public service, after consultation with the Minister—
- (a) no salary in excess of the prescribed rate shall be assigned to any post; and
 - (b) no appointment shall be made to any post to which a salary in excess of the prescribed rate is assigned.
- (2) For the purposes of this paragraph, the “prescribed rate” is such rate as the Minister with responsibility for the public service, after consultation with the Minister, may prescribe by order published in the *Gazette*.

Benefits for
staff of the
Authority.

5. The Authority may, with approval of the Minister—

- (a) enter into arrangements respecting schemes, whether by way of insurance policies or otherwise; and
- (b) make regulations, for medical benefits, pensions, gratuities and other retiring benefits or disability or death benefits relating to employees of the Authority and such arrangements or regulations may include provisions for the grant of benefits to the dependents and the legal personal representatives of such officers.

Seal and
execution of
documents.

6.—(1) The seal of the Authority shall be—

- (a) kept in the custody of the Chairperson or the Secretary of the Board; and
- (b) authenticated by the signatures of—
 - (i) the Chairperson, or any other member of the Board authorised to act in that behalf by the Board; and
 - (ii) the secretary of the Board.

(2) All documents (other than those required by law to be under seal) made by, and all decisions of the Board may be signified under the hand of the Chairperson, the Secretary of the Board, or any member of the Board authorised to act in that behalf by the Board.

THIRD SCHEDULE

(Sections 21
and 106)*Board of the Authority*

- Constitute of the Board. 1.—(1) The Board shall consist of the following persons appointed by the Minister—
- (a) a retired public officer (who may be a person who has retired from the post of Director of Public Prosecutions);
 - (b) a retired Judge of the Supreme Court or Court of Appeal;
 - (c) a retired officer of the Jamaica Constabulary Force not below the rank of Superintendent at the time of retirement; and
 - (d) two other persons appearing to the Minister to be of high integrity and able to exercise sound judgment in the fulfilment of the responsibilities of a Board member under this Act.
- (2) The membership of the Board shall not include any person who is involved in or otherwise associated with any relevant licensee as defined in section 76, such that the involvement or association could reasonably be expected to create a conflict of interest or a perception that there is a conflict of interest.
- Dis-qualification from membership of Board. 2. A person shall not be eligible to be a Board member if the person—
- (a) is not a citizen of Jamaica;
 - (b) is a public officer; or
 - (c) is the holder of a firearm authorisation, in relation to a firearm shooting range, a firearm dealership, a facility providing training in firearms, a gunsmith business, a private security organisation, or any other business in connection with which a firearm authorisation is granted or required.
- Appointment of Chairperson. 3.—(1) The Chairperson of the Board shall be appointed by the Minister from among the appointed members of the Board.

(2) In the case of the absence or inability of the Chairperson to act at any meeting, the remaining members of the Board shall elect one of their number to chair the meeting.

Office of the Chairperson or member not a public office.

4. The office of the Chairperson or member of the Board shall not be a public office for the purposes of Chapter V of the Constitution of Jamaica.

Gazetting of appointments.

5. The names of all members of the Board as first constituted and every change in the membership thereof shall be published in the *Gazette*.

Eligibility of members.

6.—(1) An individual is eligible to be appointed a member of the Board if that individual—

- (a) is a citizen of Jamaica and is eighteen years of age or older;
- (b) is not a member of either House of Parliament or other public official who holds an appointed or elected office of government (including local government);
- (c) is not the holder of any office in a political party;
- (d) has not at any time been diagnosed as having a mental disorder as defined in the Mental Health Act; and
- (e) is a fit and proper person as described in sub-paragraph (2).

(2) An individual is a fit and proper person for the purposes of sub-paragraph (1)(e), if—

- (a) the individual has not been convicted of an offence—
 - (i) involving fraud, dishonesty or moral turpitude; or
 - (ii) listed in the Second Schedule of the Proceeds of Crime Act, or an offence in another jurisdiction that is similar to any such offence;
- (b) the individual is not a bankrupt within the meaning of section 2 of the Insolvency Act;

- (c) the individual's employment record or any other information, does not give rise to reasonable cause for the belief that the individual engaged in any conduct, involving dishonesty or impropriety, that would interfere with the individual's ability to fulfil the functions of a member of the Board;
- (d) in the opinion of the Minister—
 - (i) the individual is of sound probity and able to exercise competence, diligence and sound judgement in fulfilling the functions of a member of the Board;
 - (ii) the individual possesses the knowledge, skills and experience necessary for the intended functions to be carried out by the individual as a member of the Board; and
 - (iii) the appointment of the individual will not raise any issue of conflict of interest or undue influence.

Remuneration of members. 7. There shall be paid to the members of the Board, such remuneration as the Minister with responsibility for the public service may determine.

Disclosure. 8.—(1) A member of the Board who is directly or indirectly interested in a contract made, or proposed to be made, or in any other matter being considered, by the Board—

- (a) shall as soon as possible after that fact comes to the attention of the member, disclose (either in person or by notice in writing) at a meeting of the Board the nature of the interest; and
- (b) shall not be present during the deliberations, or take part in the decision, of the Board, in respect of the matter.

(2) The disclosure of interest by a member pursuant to this paragraph shall be recorded in the minutes of the meeting at which the disclosure is made.

Tenure. 9.—(1) Subject to the provisions of this Schedule, a member of the Board shall hold office for such period, not exceeding three years, as may be specified in the instrument of appointment.

(2) Every member of the Board shall be eligible for reappointment.

(3) If any vacancy occurs in the membership of the Board, the Minister may appoint any person to act in place of that member, so, however, that such appointment shall be made in the same manner and from among the same category of persons as would be required in the case of an original appointment under paragraph 1 (1), and subject to the provisions of this Schedule, the newly appointed member of the Board shall hold office for the remainder of the period for which the previous member was appointed.

Leave of absence.

10. The Minister may, on the application of any member grant to the member of the Board, leave of absence for any period not exceeding six months and may appoint some other person to act as member during the period of leave of absence so granted.

Resignation.

11.—(1) Any member of the Board, other than the Chairperson, may resign membership of the Board by notice in writing thereof addressed to the Minister and submitted to the Chairperson, who shall transmit the notice to the Minister.

(2) The Chairperson may resign membership of the Board by notice in writing thereof addressed to the Minister.

(3) A resignation under this paragraph shall take effect as from the date of receipt, by the Minister, of the notice thereof.

Revocation of appointment.

12.—The Minister may at any time revoke appointment of a member of the Board if the member—

- (a) is suffering from a mental disorder as defined in the Mental Health Act, or by reason of ill-health is permanently unable to discharge the member's functions as a Board member;
- (b) becomes ineligible to be appointed a member of the Board under paragraph 2 or 6;
- (c) fails to discharge that member's functions as a Board member in a competent manner; or
- (d) engages in any activity that can reasonably be considered prejudicial to the interests of the Authority.

Proceedings
of the
Board.

13.—(1) The Board shall determine the frequency, time and place of its meetings, but shall meet as often as necessary to carry out its functions.

(2) Subject to the provisions of this paragraph, the Board may regulate its own proceedings.

(3) The Chairperson may call a special meeting of the Board at any time, and shall call such a meeting within seven days after receiving a request for that purpose made by any three members of the Board.

(4) The quorum for meetings of the Board shall be three members.

(5) The decisions of the Board shall be by a majority of its members present and voting and, in any case where the voting is equal the person presiding as Chairperson shall have a casting vote.

(6) Where the Board makes a decision concerning any firearm authorisation, any reconsideration of that decision by the Board may only be made with the participation of the members present and voting as were present and voting on the original decision.

(7) A member of the Board who knowingly participates in any decision made in contravention of subparagraph (6) commits an offence and shall be liable upon conviction before a Parish Court to a fine not exceeding three million dollars.

(8) Minutes of each meeting of the Board shall be kept in proper form and shall be confirmed by the Chairperson as soon as is practicable at a subsequent meeting of the Board.

(9) Subject to subparagraph (7), the validity of a decision or proceeding of the Board is not invalidated by any vacancy in the membership of the Board or any defect in the appointment of a member of the Board.

(10) The Board may invite the attendance of any individual at any meeting of the Board, for the purpose of assisting the Board in its deliberations on any matter before it.

(11) An individual who, upon invitation of the Board, attends a Board meeting—

- (a) may take part in the discussions of the Board, but shall not vote in any decision made during such meeting; and

- (b) shall be advised by the presiding Chairperson of the individual's duty of secrecy and confidentiality under this Act.

(12) Nothing in this paragraph precludes a meeting of the Board being conducted by electronic means, and "presence" in relation to the participation of a Board member shall be construed to include participation through electronic means in accordance with arrangements made by the Board in the regulation of its proceedings pursuant to subparagraph (2).

Protection of members. 14.—(1) No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Board in respect of any act done *bona fide* in pursuance or execution or intended execution of the Board's functions under this Act or any other enactment.

(2) Where any member of the Board is exempt from liability by reason only of the provisions of this paragraph, the Authority shall be liable to the extent that it would be if that member were an employee or agent of the Authority.

FOURTH SCHEDULE

(Section 79)

*List of Facilities for Temporary Storage or Custody
of Firearms or Ammunition*

1. Any of the following police stations—

- | | | | | | |
|------|--|-----|-----|-----|-------------------|
| (1) | Kingston (Central) | ... | ... | ... | East Queen Street |
| (2) | Kingston (Eastern) | ... | ... | ... | Elletson Road |
| (3) | Kingston (Western) | ... | ... | ... | Denham Town |
| (4) | St. Andrew (North) | ... | ... | ... | Constant Spring |
| (5) | St. Andrew (Central) | ... | ... | ... | Halfway Tree |
| (6) | St. Andrew (South) | ... | ... | ... | Hunts Bay |
| (7) | Morant Bay | ... | ... | ... | |
| (8) | Port Antonio | ... | ... | ... | |
| (9) | Port Maria | ... | ... | ... | |
| (10) | St. Ann's Bay | ... | ... | ... | |
| (11) | Falmouth | ... | ... | ... | |
| (12) | Montego Bay | ... | ... | ... | Freeport |
| (13) | Lucea | ... | ... | ... | |
| (14) | Savanna-la-Mar | ... | ... | ... | |
| (15) | Black River | ... | ... | ... | |
| (16) | Mandeville | ... | ... | ... | |
| (17) | May Pen | ... | ... | ... | |
| (18) | Spanish Town | ... | ... | ... | |
| (19) | Norman Manley International
Airport | ... | ... | ... | |
| (20) | Sangster International Airport | ... | ... | ... | |
| (21) | National Stadium | ... | ... | ... | |

2. Any of the following offices of the Firearm Licensing Authority—

- (a) Head Office, Kingston;

- (b) Regional Office, Mandeville, Manchester;
- (c) Regional Office, Montego Bay, St. James;
- (d) Regional Office, St. Ann, and any other place as may be designated by the Minister for the purpose of this paragraph by notice published in the *Gazette*.

FIFTH SCHEDULE (Sections 86 and 107)

Constitution of the Review Panel

- | | |
|---|--|
| Constitution of Review Panel. | 1. The Review Panel shall consist of— |
| | (a) a person who has served— |
| | (i) in the post of Director of Public Prosecutions; or |
| | (ii) as a senior member of staff of the Office of the Director of Public Prosecutions; |
| | (b) a person who has served as a Judge of the Court of Appeal or the Supreme Court; and |
| | (c) a person who served as an officer of the Jamaica Constabulary Force not below the rank of Superintendent. |
| Dis-qualification from membership of Panel. | 2. A person shall not be eligible to be a Review Panel member if the person— |
| | (a) is not a citizen of Jamaica; |
| | (b) is a public officer; or |
| | (c) is the holder of a firearm authorisation, in relation to a firearm shooting range, a firearm dealership, a facility providing training in firearms, a gunsmith business, a private security organisation, or any other business in connection with which a firearm authorisation is granted or required. |
| Tenure of Office. | 3. The members shall be appointed by the Minister by instrument in writing and shall subject to the provisions of this Schedule hold office for a period of three years. |
| Re-appointment. | 4. Every member shall be eligible for re-appointment. |
| Chairperson. | 5.—(1) The Minister shall appoint one of the members to be Chairperson of the Review Panel. |
| | (2) The Chairperson shall preside at all meetings of the Review Panel at which he is present. |
| Leave of Absence. | 6. The Minister may, on the application of any member of the Review Panel, grant to the member leave of absence for any period |

not exceeding six months and may appoint some other person to act as member during the period of leave of absence so granted.

- Acting appointments 7. If any member of the Review Panel is absent or unable to act, the Minister may appoint any person to act in the place of that member, so, however, that such appointment shall be made in the same manner and from among the same category of persons as would be required in the case of a substantive appointment.
- Remuneration of members. 8. There shall be paid to the members of the Review Panel such remuneration, by way of salary, honorarium or otherwise, as the Minister with responsibility for finance may determine.
- Resignation. 9.—(1) Any member of the Review Panel other than the Chairperson may, at any time resign his office by instrument in writing addressed to the Minister and transmitted through the Chairperson and from the date of receipt by the Minister of such instrument, that person shall cease to be a member.
- (2) The Chairperson may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of receipt by the Minister of that instrument.
- Revocation of appointment. 10.—The Minister may at any time revoke the appointment of a member of the Review Panel if the member—
- (a) is suffering from a mental disorder as defined in the Mental Health Act, or by reason of ill-health is permanently unable to discharge the member's functions as a Panel member;
 - (b) becomes ineligible to be appointed a member of the Panel under paragraph 2;
 - (c) fails to discharge functions as a member of the Panel in a competent manner; or
 - (d) engages in any activity that can reasonably be considered prejudicial to the interests of the Review Panel.
- Filling of vacancies. 11. If any vacancy occurs in the membership of the Review Panel, such vacancy shall be filled by the appointment of another member, so, however, that such appointment shall be made in the same manner and, from the same category of persons as would be required in the case of the original appointment.

Gazetting of membership. 12. The names of all members of the Review Panel as first constituted and every change therein, shall be published in the *Gazette*.

Disclosure. 13.—(1) A member of the Review Panel who is directly or indirectly interested in any matter being considered by the Panel—

(a) shall as soon as possible after that fact comes to the attention of the member, disclose (either in person or by notice in writing) at a meeting of the Panel the nature of the interest; and

(b) shall not be present during the deliberations, or take part in the decision, of the Panel, in respect of the matter.

(2) The disclosure of interest by a member pursuant to this paragraph shall be recorded in the minutes of the meeting at which the disclosure is made.

Proceedings of the Review Panel. 14.—(1) The Review Panel shall determine the frequency, time and place of its meetings, but shall meet as often as necessary to carry out its functions.

(2) Subject to the provisions of this paragraph, the Review Panel may regulate its own proceedings, and shall publish the rules of its proceedings in respect of the hearing of appeals, and every change with respect thereto, in the *Gazette*.

(3) The Chairperson may call a special meeting of the Review Panel at any time, and shall call such a meeting within seven days after receiving a request for that purpose made by any member of the Panel.

(4) The quorum for meetings of the Review Panel shall consist of the Chairperson and one other member, or, in any case where the Chairperson is unable to attend, a member selected by the Chairperson to preside as the Chairperson at the meeting and one other member.

(5) The decisions of the Review Panel shall be by a majority of its members present and voting.

(6) Minutes of each meeting of the Review Panel shall be kept in proper form and shall be confirmed by the Chairperson as soon as is practicable at a subsequent meeting of the Panel.

(7) The validity of a decision or proceeding of the Review Panel is not invalidated by any vacancy in the membership of the Panel or any defect in the appointment of a member of the Panel.

(8) The Review Panel may invite the attendance of any individual at any meeting of the Panel, for the purpose of assisting the Panel in its deliberations on any matter before it.

(9) An individual who, upon invitation of the Review Panel, attends a meeting of the Panel—

- (a) may take part in the discussions of the Panel, but shall not vote in any decision made during such meeting; and
- (b) shall be advised by the presiding Chairperson of the individual's duty of secrecy and confidentiality.

(10) Nothing in this paragraph precludes a meeting of the Review Panel being conducted by electronic means, and "presence" in relation to the participation of a Panel member shall be construed to include participation through electronic means in accordance with arrangements made by the Review Panel in the regulation of its proceedings pursuant to sub-paragraph (2).

Protection of members. 15.—(1) No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Review Panel in respect of any act done *bona fide* in pursuance or execution or intended execution of the Panel's functions under this Act or any other enactment.

(2) Where any member of the Review Panel is exempt from liability by reason only of the provisions of this paragraph, the Authority shall be liable to the extent that it would be if that member were an employee or agent of the Authority.

SIXTH SCHEDULE

(Section 101)

Penalties for Certain Offences Under this Act

An offence under section—

32 (failure to deliver firearm to be marked, <i>etc.</i>,)	...	...	On summary conviction before a Parish Court, a fine not exceeding five million dollars or imprisonment for a term not exceeding five years.
33(2) (trafficking in firearms or ammunition without authorization)	...	...	On conviction before a Circuit Court, imprisonment for life, and, notwithstanding the provisions of the Parole Act concerning the time within which an offender shall be eligible for parole, upon sentencing a person convicted for a felony under this subsection the Court shall specify a term of imprisonment of not less than fifteen years, that the person shall serve before being eligible for parole.
Protection of members.			
33(3) (possession with intent to traffic in firearm or ammunition)	...	...	On conviction before a Circuit Court, imprisonment for life, and, notwithstanding the provisions of the Parole Act concerning the time within which an offender shall be eligible for parole, upon sentencing a person convicted for a felony under this subsection the Court shall specify a term of imprisonment of not less

			than fifteen years, that the person shall serve before being eligible for parole.
35(2) (failing to declare firearms or ammunition or making false statement in declaration)	...	...	On summary conviction before a Parish Court, a fine not exceeding two million dollars or imprisonment for a term not exceeding two years.
36(2) (failure to comply with procedure in respect of declared firearms or ammunition)	...	...	On summary conviction before a Parish Court, a fine not exceeding two million dollars or imprisonment for a term not exceeding two years.
38(2) (manufacture of firearm or ammunition other than under and in accordance with Firearm Manufacturer's Licence)	...	...	On conviction before a Circuit Court, imprisonment for life.
39(2) (testing, <i>etc.</i> , without authorisation)	...	...	1. On summary conviction before a Parish Court, imprisonment for a term, not exceeding five years. 2. On conviction before a Circuit Court, imprisonment for a term not exceeding fifteen years.
40(2) (illicit dealing)	...	...	1. On conviction before a Circuit Court, imprisonment for life .
40(5) (allowing premises, <i>etc.</i> , to be used for trafficking, <i>etc.</i>)	...	...	On conviction on indictment before a Circuit Court, imprisonment for life .

Penalties for Certain Offences Under this Act

40(7) (acquisition from, or transfer to, person under age of twenty-one years)	...	...	On conviction before a Circuit Court, a fine or imprisonment for a term not exceeding fifteen years.
40(12) (restriction on purchase, acquisition, sale or transfer/ disposal of firearms and ammunition without the requisite authorisation)	...	...	On conviction before a Circuit Court, a fine or imprisonment for a term not exceeding fifteen years.
41(2) (restriction on transfer of firearm or ammunition in contravention of any terms or conditions imposed by the Authority)	...	...	On summary conviction before a Parish Court, a fine not exceeding one million dollars or imprisonment for a term not exceeding one year.
42(3) (accepting delivery of firearm or ammunition contrary to section 42(1) or failing to record particulars as required by section 42(2))	...	...	<p>1. On summary conviction before a Parish Court, a fine not exceeding three million dollars or imprisonment for a term not exceeding three years.</p> <p>2. On conviction before a Circuit Court, a fine or imprisonment for a term not exceeding ten years.</p>
43(2) (sale, testing, modification or proofing of firearm or ammunition contrary to requirements for holders of Gunsmith's Licence)	...	...	<p>1. On summary conviction before a Parish Court, imprisonment for a term not exceeding five years.</p> <p>2. On conviction before a Circuit Court, im-</p>

Penalties for Certain Offences Under this Act

			prisonment for a term not exceeding seven years.
45(2) (unauthorised possession of firearm or ammunition)	...	...	<p>1. On summary conviction before a Parish Court, a fine, not exceeding five million dollars, or imprisonment, for a term not exceeding five years.</p> <p>2. On conviction before a Circuit Court, imprisonment for life.</p>
47(2) (carrying firearm or ammunition in a public place without authorisation)	...	...	On summary conviction before a Parish Court, a fine not exceeding three million dollars or imprisonment for a term not exceeding three years.
48(2) (requirement applicable to person authorised to carry firearm in public place)	...	...	On summary conviction before a Parish Court, a fine not exceeding three million dollars or imprisonment for a term not exceeding three years.
49(2) (carrying firearm or ammunition in a restricted area without authorisation)	...	...	<p>1. On summary conviction before a Parish Court, a fine not exceeding five million dollars or imprisonment for a term not exceeding five years.</p> <p>2. On conviction before a Circuit Court, a fine or imprisonment for a term not exceeding ten years.</p>

Penalties for Certain Offences Under this Act

51 (Restriction on discharge of firearms)	...	...	On summary conviction before a Parish Court, a fine not exceeding three million dollars or to imprisonment for a term not exceeding three years.
52(2) (failure to deliver up firearm or ammunition)	...	...	On summary conviction before a Parish Court, a fine not exceeding three million dollars or imprisonment for a term not exceeding three years.
53(2) (failure to report lost or stolen firearm or ammunition)	...	...	On summary conviction before a Parish Court, a fine not exceeding five million dollars.
54(2) (failure to report possession of lost or stolen firearm or ammunition)	...	...	On summary conviction before a Parish Court, a fine not exceeding three million dollars or imprisonment for a term not exceeding three years.
54(4) (failure to report location of lost or stolen firearm or ammunition)	...	...	On summary conviction before a Parish Court, a fine not exceeding three million dollars or imprisonment for a term not exceeding three years.
57(3) (making false declaration in firearm authorisation application)	...	...	On summary conviction before a Parish Court, a fine not exceeding one million dollars or imprisonment for a term not exceeding one year.
71(5) (failure to surrender licence,	...	...	On summary conviction before a Parish Court, a

Penalties for Certain Offences Under this Act

firearm or ammunition)			fine not exceeding five million dollars or imprisonment for a term not exceeding five years.
72(3) (failure to comply with notice to deliver licence, certificate or permit to the Authority for requisite amendments)	...	...	On summary conviction before a Parish Court, a fine not exceeding one million dollars or imprisonment for a term not exceeding one year.
73(5) (failure to submit firearm for registration)	...	...	On summary conviction before a Parish Court, a fine not exceeding three million dollars or imprisonment for a term not exceeding three years.
74(2) (breach of duty to securely store firearm and ammunition)	...	...	On summary conviction before a Parish Court, a fine not exceeding five million dollars or imprisonment for a term not exceeding five years.
75(2) (manufacturing or dealing in firearms or ammunition at a place other than that specified in a Firearm Manufacturer's Licence, a Firearm Dealer's Licence or a Firearm Broker's Licence)	...	...	1. On summary conviction before a Parish Court, a fine not exceeding three million dollars or imprisonment for a term not exceeding three years; or 2. On conviction before a Circuit Court, a fine, or imprisonment for a term not exceeding ten years.
76(8) (failure to keep records or knowingly making a false entry in record)	...	...	On summary conviction before a Parish Court, a fine not exceeding three million dollars or im-

Penalties for Certain Offences Under this Act

			prisonment for a term not exceeding three years.
77(2) (failure to display notice as required)	...	...	On summary conviction before a Parish Court, a fine not exceeding five hundred thousand dollars or imprisonment for a term not exceeding six months.
78 (contravention of the terms and conditions of firearm authorisation)	...	...	On summary conviction before a Parish Court, a fine not exceeding one million dollars or imprisonment for a term not exceeding one year.
79(3) (failure to properly store firearms and ammunition)	...	...	On summary conviction before a Parish Court, a fine not exceeding one million dollars and in default of payment thereof, imprisonment for a term not exceeding one year.
82(3) (failure to comply with notice to deliver firearm and ammunition to the Authority)	...	...	On summary conviction before a Parish Court, a fine not exceeding five million dollars or imprisonment for a term not exceeding five years.
83(5) (failure to comply with suspension notice)	...	...	On summary conviction before a Parish Court, a fine not exceeding five million dollars or imprisonment for a term not exceeding five years.
84(4) (failure to comply with a revocation notice)	...	...	On summary conviction before a Parish Court, a fine not exceeding five million dollars or im-

Penalties for Certain Offences Under this Act

			prisonment for a term not exceeding five years.
90(2) (failure to comply with a request by a constable to stop and search a conveyance; or intimidating or preventing the driver of a conveyance from stopping at the request of a constable; or escaping or attempting to escape from a conveyance requested to be stopped by a constable)	...	...	On summary conviction before a Parish Court, a fine not exceeding five million dollars or imprisonment for a term not exceeding five years.
93(3) (failure to produce firearm authorisation)	...	...	On summary conviction before a Parish Court, a fine not exceeding three million dollars or imprisonment for a term not exceeding three years.
94 (4) (failure to comply with requirement to produce concealed firearm, etc., or falsely declaring name or address to a constable)	...	...	On summary conviction before a Parish Court, a fine not exceeding three million dollars or imprisonment for a term not exceeding three years.
105(4) (breach of duty of confidentiality)	...	...	On summary conviction before a Parish Court, a fine not exceeding one million dollars or imprisonment for a term not exceeding one year.

SEVENTH SCHEDULE

(Section 117)

Amendments to Other Enactments

First Column	Second Column
— Enactment —	— Amendment —
The Criminal Justice (Administration) Act.	<p>In section 42C—</p> <p>(a) delete the word “or” at the end of paragraph (b);</p> <p>(b) delete the full stop at the end of paragraph (c) and substitute therefor the word “; or”; and</p> <p>(c) insert the following as paragraph (d)—</p> <p style="padding-left: 40px;">“(d) an offence under Part II of the Firearms (Prohibition, Restriction and Regulation) Act.”.</p>
The Explosives (Control of Manufacture) Act.	<p>In section 9, delete all the words appearing after the words “shall be” and substitute therefor the following—</p> <p>“liable therefor, on conviction before—</p> <p>(a) a Parish Court, to a fine not exceeding five million dollars, or to imprisonment for a term not exceeding five years; or</p> <p>(b) a Circuit Court, to a fine, or to imprisonment for such term of not less than five years as the Court considers appropriate”.</p>
The Extradition Act.	<p>1. In section 5, insert the following subsection next after subsection (3)—</p> <p>“ (4) An offence under any of sections 5, 6, 7, 8, 9, 10, 12, 13, 16, 17 or 34 of the Firearms (Prohibition, Restriction and Regulation) Act is an extradition offence for the purposes of</p>

Amendments to Other Enactments, cont'd.

First Column	Second Column		
—————	—————		
Enactment	Amendment		
—————	—————		
	<p>this Act and shall be deemed to be committed within the jurisdiction of any treaty state that appears to a court in Jamaica, having regard to the provisions of the Conventions referred to in Column A of the Schedule, to be appropriate.”.</p> <p>2. In the Schedule, insert the following as item 12 in columns A and B, respectively—</p> <table border="0" style="margin-left: 40px;"> <tr> <td style="vertical-align: top;"> <p>“12. The Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials, adopted by the Organization of American States on November 14, 1997.</p> </td> <td style="vertical-align: top;"> <p>12. In so far as Article IV of that Convention requires.”.</p> </td> </tr> </table>	<p>“12. The Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials, adopted by the Organization of American States on November 14, 1997.</p>	<p>12. In so far as Article IV of that Convention requires.”.</p>
<p>“12. The Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials, adopted by the Organization of American States on November 14, 1997.</p>	<p>12. In so far as Article IV of that Convention requires.”.</p>		
<p>The Forgery Act.</p>	<p>1. Delete section 5(1) and substitute therefor the following—</p> <table border="0" style="margin-left: 40px;"> <tr> <td style="vertical-align: top;"> <p>“Forgery of certain documents with intent to defraud or deceive.</p> </td> <td style="vertical-align: top;"> <p>5.—(1) Forgery of the following documents if committed with intent to defraud or deceive, shall be a felony and on conviction</p> </td> </tr> </table>	<p>“Forgery of certain documents with intent to defraud or deceive.</p>	<p>5.—(1) Forgery of the following documents if committed with intent to defraud or deceive, shall be a felony and on conviction</p>
<p>“Forgery of certain documents with intent to defraud or deceive.</p>	<p>5.—(1) Forgery of the following documents if committed with intent to defraud or deceive, shall be a felony and on conviction</p>		

Amendments to Other Enactments, cont'd.

First Column	Second Column
—	—
Enactment	Amendment
—	—
	before Circuit Court shall be liable to imprisonment for life—
	(a) any document whatsoever having thereupon or affixed thereto the stamp or impression of the Board Seal of Jamaica, the Great Seal of the United Kingdom, Her Majesty's Privy Seal, any Privy Signet of Her Majesty, Her Majesty's Royal Sign Manual, any of Her Majesty's Seals appointed by the twenty-fourth article of the Union between England and Scotland to be kept, used, and continued in Scotland, the Great Seal of Ireland, or the Privy Seal of Ireland;
	(b) a firearm authorisation granted under the Firearms (Prohibition, Restriction and Regulation) Act.”.

2. In section 8(1)—

- (a) delete the full stop at the end of paragraph (b) and substitute therefor a semi-colon; and

Amendments to Other Enactments, cont'd.

First Column

Second Column

 Enactment

 Amendment

(b) insert next after paragraph (b), the following—

“(c) the seal of the Firearm Licensing Authority.”.

3. Insert next after section 9 the following section—

“Forged
firearms
authorisaton.

9A.—(1) Every person who has in his possession or custody any document intended to resemble and pass-off as a firearm authorisation granted under the Firearms (Prohibition, Restriction and Regulation) Act or makes, uses, or knowingly has in custody or possession, any seal, die or other instrument for making such document or for producing in or on such a document any words, figures, letters, marks, lines or devices peculiar to and used in or on any such firearm authorisation commits an offence and shall be punishable on indictment in a Circuit Court by a term of imprisonment not exceeding twenty-five years.

(2) A person shall be deemed to have in his custody or be in possession of a document, seal or die, or

Amendments to Other Enactments, cont'd.

First Column

Second Column

————
Enactment
————

————
Amendment
————

an instrument for making a document, seal or die, if the person—

(a) has such document, seal, die or other instrument, in his personal custody or possession; or

(b) knowingly and wilfully has such document, seal, die or other instrument, in the custody or possession of any other person, in any building, l o d g i n g , apartment, field or other place or c o n v e y a n c e whether open or enclosed or whether occupied by himself or not.”.

The Gun Court Act. In section 2—

(a) delete the definition of “firearm” and substitute therefor the following—

“ “firearm” means a firearm or prohibited weapon, as defined in section 2 of the Firearms (Prohibition, Restriction and Regulation) Act;”;

Amendments to Other Enactments, cont'd.

First Column

Second Column

Enactment

Amendment

- | | |
|--|--|
| <p>_____</p> <p>Enactment</p> <p>_____</p> | <p>_____</p> <p>Amendment</p> <p>_____</p> |
|--|--|
- (b) delete the definition of “firearm offence” and substitute therefor the following—
- “ “firearm offence” means—
- (a) any offence under Part II or the Sixth Schedule of the Firearms (Prohibition, Restriction and Regulation) Act, other than an offence under section 105(4) of that Act; or
- (b) any other offence whatsoever including a firearm and in which the offender’s possession of the firearm is contrary to section 45 of the Firearms (Prohibition, Restriction and Regulation) Act;”.
- The Gunpowder and Explosives Act.
1. In section 3—
- (a) insert immediately before the word “ship” wherever it appears, the word “aircraft;”;
- (b) delete the words “he shall be liable to a penalty of two hundred dollars” and substituting therefor the words “he commits an offence and is liable on conviction before a Parish Court to a fine not exceeding three million dollars or to imprisonment for a term not exceeding three years”.

Amendments to Other Enactments, cont'd.

First Column	Second Column
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Enactment	Amendment
—————	—————
	2. In section 4—
	<ul style="list-style-type: none"> (a) delete the words “under a penalty not exceeding two hundred dollars for each offence,”; (b) renumber the section as section 4(1) and insert the following as subsection (2) of the section— <ul style="list-style-type: none"> “ (2) A person who contravenes subsection (1) commits an offence and shall be liable therefor— <ul style="list-style-type: none"> (a) on summary conviction before a Parish Court, to a fine not exceeding five million dollars or to imprisonment for a term not exceeding five years; or (b) on conviction before a Circuit Court, to a fine, or to imprisonment for life or for such other term of not less than fifteen years as the Court considers appropriate.”.
	3. In section 13, delete all the words appearing after the words “may be forfeited and the person guilty of such breach” and substitute therefor the words “commits an offence and is liable on conviction before a Parish Court to a fine not exceeding one million dollars or to imprisonment for a term not exceeding one year”.

Amendments to Other Enactments, cont'd.

First Column

Second Column

Enactment

Amendment

4. In section 18—

- (a) delete the word “, firearm” wherever it appears;
- (b) delete all the words appearing after the words “contrary to the provisions of this Act,” and substitute therefor the following—

shall—

- (a) on summary conviction therefor before a Parish Court, be liable to a fine not exceeding five million dollars or to imprisonment for a term not exceeding five years; or
- (b) on conviction therefor before a Circuit Court, be liable to a fine, or to imprisonment for such term of not less than fifteen years as the Court considers appropriate.”.

5. Insert next after section 18 the following section—

“Use of
gunpowder
or dangerous
explosive to
maim or
disfigure, *etc.*”

18A. A person who uses gunpowder or a dangerous explosive with intent to maim, disfigure or disable an individual, or to endanger life or cause damage to property, commits an offence and shall be liable on conviction therefor before a Circuit Court to a fine, or to imprisonment for such term of not less than fifteen years as the Court considers appropriate.”.

Amendments to Other Enactments, cont'd.

First Column	Second Column
—————	—————
Enactment	Amendment
—————	—————
	<p>6. In section 19, delete the words “shall be liable to a penalty not exceeding twenty dollars” and substitute therefor the words “commits an offence and is liable, on conviction therefor before a Parish Court, to a fine not exceeding five million dollars or to imprisonment for a term not exceeding five years”.</p> <p>7. Delete section 23 and substitute therefor the following—</p> <p style="margin-left: 40px;">“General Penalty. 23. Where a person commits an offence under this Act for which no penalty is specifically provided, the person shall be liable, on summary conviction therefor before a Parish Court, to a fine not exceeding three million dollars or to imprisonment for a term not exceeding three years.”.</p>
The Larceny Act.	<p>Delete subsection (2) of section 4 and substitute therefor the following—</p> <p style="margin-left: 40px;">(2) In this section, “firearm” and “imitation firearm” have the meanings assigned to them in section 2 of the Firearm Act.</p>
The Offences Against the Person Act.	<p>1. In sections 13, 16 and 17, insert next after the words “hard labour” in each case the words “, and in any case where the offence is committed with the use of a firearm (as defined in section 2 of the Firearms (Prohibition, Restriction and Regulation) Act), the term of imprisonment imposed shall not be less than fifteen years”.</p> <p>2. In section 20(2), delete the word “fifteen” and substitute therefor the word “twenty”.</p>

Amendments to Other Enactments, cont'd.

First Column	Second Column
————— Enactment —————	————— Amendment —————
	3. In sections 29 and 30, insert next after the words “hard labour” in each case the words “, and in any case where the offence is committed with the use of a firearm (as defined in section 2 of the Firearms (Prohibition, Restriction and Regulation) Act), the term of imprisonment imposed shall not be less than fifteen years.
The Parole Act.	Delete paragraph (a) of section 6(4A).
The Pawnbrokers Act.	<p>1. In section 28—</p> <p>(a) delete the word “; or” at the end of paragraphs (a), (b), (c), (d), (f) and (g);</p> <p>(b) renumber paragraph (h) as paragraph (i) and insert the following as paragraph (h)—</p> <p style="padding-left: 40px;">“(h) takes a “firearm” or “ammunition” (as those terms are defined in the Firearms (Prohibition, Restriction and Regulation) Act) in pawn; or”.</p> <p>2. Delete section 34 and substitute therefor the following—</p> <p>“Cessation of licence on conviction.</p> <p style="padding-left: 40px;">34. If a pawnbroker is convicted of—</p> <p style="padding-left: 80px;">(a) any fraud in that pawnbroker’s business;</p> <p style="padding-left: 80px;">(b) receiving stolen goods knowing them to be stolen; or</p> <p style="padding-left: 80px;">(c) an offence under section 28(h),</p>

Amendments to Other Enactments, cont'd.

First Column	Second Column
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Enactment	Amendment
—————	—————
The Plea Negotiations and Agreements Act.	<p style="text-align: right;">the court before which the pawnbroker is convicted may, if the court thinks fit, direct that the licence of that pawnbroker shall cease to have effect, and the licence shall cease accordingly.”.</p> <p>In section 5, insert the following as subsection (2A)—</p> <p>“ (2A) In the case of an offence under Part II of the Firearms (Prohibition, Restriction and Regulation) Act, the obligations specified under subsection (2)(a) (ii) shall include the provision of information that assists the Crown in the prevention, detection or investigation of, or in proceedings relating to, the offence concerned or any other offence.”.</p>
The Proceeds of Crime Act.	<p>In the Second Schedule, delete item 4 and substitute therefor the following—</p> <p>“Prohibited weapons etc., 4. An offence under Part II of the Firearms (Prohibition, Restriction and Regulation) Act.”.</p>
The Public Order Act.	<p>1. In section 29(1), delete paragraphs (a) and (b) and substitute therefor the following—</p> <p>“ (a) if the offence is committed at a political meeting, shall be liable on conviction therefor before—</p> <p style="padding-left: 40px;">(i) a Parish Court, to a fine not exceeding five million dollars or to imprisonment for a term not exceeding five years; or</p>

Amendments to Other Enactments, cont'd.

First Column	Second Column
—————	—————
Enactment	Amendment
—————	—————
	(ii) a Circuit Court, to imprisonment for a term not exceeding ten years;
	(b) in any case not falling within paragraph (a) shall be liable, upon conviction therefor before—
	(i) a Parish Court to a fine not exceeding three million dollars or to imprisonment for a term not exceeding three years; or
	(ii) a Circuit Court, to a fine or to imprisonment for a term not exceeding ten years.”.
	2. In section 30(4), delete all the words appearing after the words “shall be liable on” and substitute therefor the words “summary conviction therefor before a Parish Court, to a fine not exceeding three million dollars or to imprisonment for a term not exceeding three years.”.
The Town and Communities Act.	In section 3(n), delete the words “wantonly discharge any firearms, or”.

Passed in the House of Representatives this 7th day of September, 2022.

M. DALRYMPLE PHILIBERT, MP
Speaker.

Passed in the Senate this 23rd day of September, 2022 with seventeen (17) amendments.

THOMAS TAVARES-FINSON, OJ, CD, KC, JP
President.

On the 27th day of September, 2022 the House of Representatives agreed to the amendments made by the Senate with one (1) further amendment.

M. DALRYMPLE PHILIBERT, MP
Speaker.

MEMORANDUM OF OBJECTS AND REASONS

With 85% of the murders recorded yearly (a murder rate of 46.5 per 100,000) attributed to a firearm, it appears that the proliferation of firearms in Jamaica is a direct catalyst for murders committed. The data indicates that most gun-related crimes are committed using firearms that are outside of the regulated firearms regime – meaning that those firearms that are illicitly trafficked, manufactured or diverted.

Accordingly, it is necessary to establish a framework, dealing with firearms that are illicitly trafficked, manufactured or diverted, that—

- (a) is distinct from firearms that are duly registered by the Firearm Licensing Authority (“the Authority”); and
- (b) targets prohibited weapons, including unregulated firearms, and the activities connected thereto, such as illicit trade, manufacture, stockpiling, possession and use.

In this regard, the proposed framework provides for offences and penalties that are appropriately dissuasive, and commensurate, in respect of prohibited weapons - including mandatory minimum terms of imprisonment for particularly egregious offences.

Additionally, there are a number of operational challenges faced by the Authority, the Jamaica Constabulary Force and the Office of the Director of Public Prosecutions, based on the limitations of the Firearms Act, 1967. The current legislative framework is inadequate to meet the Jamaica’s obligations under the following international instruments—

- (a) the United Nations Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime (A/RES/55/255), (Firearms Protocol or ‘FP’) which Jamaica signed on the 13th day of November, 2001 and ratified on the 29th day of September, 2003;
- (b) the International Instrument to Enable States to Identify and Trace in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons, 2005;
- (c) the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials (CIFTA) signed on 14th November, 1997;
- (d) the United Nations Arms Trade Treaty (ATT) signed on 3rd June, 2013 and ratified on 3rd June, 2014.

When compared against Jamaica's obligation under those instruments, the Firearms Act, 1967, is inadequate in several areas, including in relation to—

- (a) the marking of firearms;
- (b) stockpile management;
- (c) record keeping;
- (d) international transfers and brokering; and
- (e) risk assessment and due diligence activities.

This Bill therefore seeks to give effect to a decision to repeal the Firearms Act, 1967, and to replace it with appropriate legislative provisions, in accordance with the proposed framework to—

- (a) strengthen penalties for offences related to prohibited weapons and prohibited activities;
- (b) address operational challenges faced by the responsible authorities under the Firearms Act, 1967;
- (c) address new threats caused by advancement in technology;
- (d) better address Jamaica's international obligations; and
- (e) consequentially amend certain other enactments.

HORACE CHANG
Minister of National Security.

A BILL

ENTITLED

AN ACT to repeal and replace the Firearms Act, to provide more particularly for the prohibition, restriction, or regulation (as may be appropriate) of firearms and ammunition, and for connected matters.

As passed in the Honourable House of Representatives.

As passed in the Honourable Senate.

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