



Number 1 of 1964

FIREARMS ACT 1964

REVISED

Updated to 31 October 2012

This revised Act is an administrative consolidation of the *Firearms Act 1964*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975 (3/1975)* to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including *Ombudsman (Amendment) Act 2012 (38/2012)*, enacted 31 October 2012, and all statutory instruments up to and including *European Communities (Forest Consent and Assessment) (Amendment) Regulations 2012 (S.I. No. 442 of 2012)*, made 2 November 2012, were considered in the preparation of this revision.

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Introduction

The restatement presents the text of the Act as it has been amended since enactment, and preserves the format in which it was first passed.

Related legislation

Firearms Acts 1925 to 2009: This Act is one of a group of Acts included in this collective citation to be construed together as one (*Criminal Justice (Miscellaneous Provisions) Act 2009*, s. 1(2)). The Acts in the group are:

- *Firearms Act 1925* (17/1925)
- *Firearms Act 1964* (1/1964)
- *Firearms Act 1971* (13/1971)
- *Firearms and Offensive Weapons Act 1990* (12/1990)
- *Firearms (Firearms Certificates for Non-Residents) Act 2000* (20/2000)
- *Criminal Justice Act 2006* (26/2006), Part 5 and Schedule 1
- *Criminal Justice Act 2007* (29/2007), Part 6
- *Criminal Justice (Miscellaneous Provisions) Act 2009* (28/2009), Part 4 (not amended)

The *Firearms (Proofing) Act 1968* (20/1968) is excluded from the collective citation from 14.07.2000 by the *Firearms (Firearms Certificates for Non-Residents) Act 2000*, s. 8(2).

The *Firearms (Temporary Provisions) Act 1998* (32/1998) is excluded from the collective citation from 14.07.2000 by the *Firearms (Temporary Provisions) Act Continuance Order 1999* (S.I. No. 189 of 1999), art. 2.

The *European Communities (European Communities (Acquisition and Possession of Weapons and Ammunition) Regulations 1993* (S.I. No. 362 of 1993), as amended, also deal with firearms.

Annotations

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

An explanation of how to read annotations is available at www.lawreform.ie/annotations.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available. A list of legislative changes to any Act, and to statutory instruments from 2000, may be found in the Legislation Directory at www.irishstatutebook.ie.

Acts which affect or previously affected this revision

- *Property Services (Regulation) Act 2011* (40/2011)
- *Criminal Procedure Act 2010* (27/2010)
- *Criminal Justice (Miscellaneous Provisions) Act 2009* (28/2009)
- *Criminal Justice Act 2007* (29/2007)
- *Criminal Justice Act 2006* (26/2006)
- *Criminal Justice (Terrorist Offences) Act 2005* (2/2005)
- *Criminal Justice (Theft and Fraud Offences) Act 2001* (50/2001)
- *Firearms (Firearm Certificates for Non-Residents) Act 2000* (20/2000)
- *Firearms (Temporary Provisions) Act 1998* (32/1998)
- *Offences Against the State (Amendment) Act 1998* (39/1998)
- *Bail Act 1997* (16/1997)
- *Extradition (Amendment) Act 1994* (6/1994)
- *Firearms and Offensive Weapons Act 1990* (12/1990)
- *Extradition (European Convention on the Suppression of Terrorism) Act 1987* (1/1987)
- *Criminal Justice Act 1984* (22/1984)
- *Criminal Law (Jurisdiction) Act 1976* (14/1976)
- *Wildlife Act 1976* (39/1976)
- *Firearms Act 1971* (13/1971)
- *Firearms (Proofing) Act 1968* (20/1968)
- *Firearms Act 1925* (17/1925)

All Acts up to and including *Ombudsman (Amendment) Act 2012* (38/2012), enacted 31 October 2012, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

- *Firearms (Temporary Provisions) Act Continuance Order 1999* (S.I. No. 189 of 1999)
- *European Communities (Acquisition and Possession of Weapons and Ammunition) Regulations 1993* (S.I. No. 362 of 1993)
- *Firearms (Temporary Custody) Order 1972* (S.I. 187 of 1972)
- *Offences Against the State (Scheduled Offences) Order 1972* (S.I. No. 142 of 1972)

All statutory instruments up to and including *European Communities (Forest Consent and Assessment) (Amendment) Regulations 2012* (S.I. No. 442 of 2012), made 2 November 2012, were considered in the preparation of this revision.



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ARRANGEMENT OF SECTIONS

Section

1. Interpretation.
2. Extension of Principal Act to airguns.
3. Temporary prohibition of game shooting.
4. Temporary custody of firearms by Garda Síochána in interests of public safety.
5. Contravention of orders under sections 3 and 4.
6. Provisions in relation to orders under sections 3 and 4.
7. Disposal of certain firearms and ammunition in the possession of the Garda Síochána.
8. Disposal of firearms in certain circumstances.
9. Renewal of firearm certificate.
10. Period of validity of firearm certificate granted by Minister.
11. Change of firearm to which firearm certificate relates.
12. Limited use of shot-gun.
13. Sale of firearms by auctioneers.
14. Amendment of section 1 of Principal Act.
15. Amendment of section 2 of Principal Act.
16. Amendment of section 3 of Principal Act.
17. Amendment of section 8 of Principal Act.
18. Amendment of section 9 of Principal Act.
19. Amendment of section 10 of Principal Act.
20. Amendment of section 16 of Principal Act.
21. Amendment of section 17 of Principal Act.
22. Amendment of section 21 of Principal Act.
23. Amendment of section 24 of Principal Act.
24. Onus of proof.
25. Extension of sections 23 and 28 of Larceny Act, 1916.

Section

- 26. Possession of firearm while taking vehicle without authority.
- 27. Prohibition of use of firearms to resist arrest or aid escape.
- 27A. Possession of firearm or ammunition in suspicious circumstances.
- 27B. Carrying firearm with criminal intent.
- 27C. Provisions relating to minimum sentences under Firearms Acts 1925 to 2006.
- 28. Repeals.
- 29. Short title and collective citation.

ACTS REFERRED TO

Firearms Act, 1925	1925, No. 17.
Police (Property) Act, 1897	1897, c. 30.
Larceny Act, 1916	1916, c. 50.
Road Traffic Act, 1961	1961, No. 24.
Criminal Justice Act, 1960	1960, No. 27.



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FIREARMS ACT 1964

RESTATEMENT

Updated to 31 October 2012

AN ACT TO AMEND AND EXTEND THE FIREARMS ACT, 1925. [28th January, 1964.]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:—

Annotations

Modifications (not altering text):

- C1** Act included in collective citation and construction (1.08.2009) by *Criminal Justice (Miscellaneous Provisions) Act 2009* (28/2009), s. 1(2), S.I. No. 310 of 2009.

Short title and commencement.

1.— ...

(2) The Firearms Acts 1925 to 2007 and Part 4 may be cited together as the Firearms Acts 1925 to 2009 and shall be construed together as one.

...

Acts included or previously included in the collective citation and construction:

- *Criminal Justice (Miscellaneous Provisions) Act 2009* (28/2009), Part 4 (1.08.2009) by s. 1(2), S.I. No. 310 of 2009
- *Criminal Justice Act 2007* (29/2007), Part 6 (18.05.2007) by s. 1(5), S.I. No. 236 of 2007.
- *Criminal Justice Act 2006* (26/2006), Part 5 and sch. 1 (1.08.2006) by *Criminal Justice Act 2006* (26/2006), s. 1(4), S.I. No. 390 of 2006.
- *Firearms (Firearms Certificates for Non-Residents) Act 2000* (20/2000), other than s. 4 (14.07.2000) by s. 8(2), commenced as per s. 8(3).
- *Firearms (Temporary Provisions) Act 1998* (32/1998), other than s. 2 (13.07.1998) by s. 4(2), commenced on enactment. Duration of Act extended (22.06.1999) by *Firearms (Temporary Provisions) Act Continuance Order 1999* (S.I. No. 189 of 1999), art. 2 and expired on 14.07.2000.
- *Firearms and Offensive Weapons Act 1990* (12/1990), Part II (1.01.1991) by s. 3, S.I. No. 313 of 1990.
- *Firearms Act 1971* (13/1971) (20.07.1971) by s. 7(2) and (3), commenced as per s. 7(4).
- *Firearms (Proofing) Act 1968* (20/1968) (16.04.1969) by s. 14(2), S.I. No. 64 of 1969; excluded from the collective construction (1.01.1991) by *Firearms and Offensive Weapons Act 1990* (12/1990), s. 3(2), S.I. No. 313 of 1990 and excluded from the collective citation (14.07.2000) by *Firearms (Firearm Certificates for Non-Residents) Act 2000* (20/2000), s. 8(2), commenced as per s. 8(3).

- *Firearms Act 1964* (1/1964) (28.01.1964) by s. 29(2), commenced on enactment.
- *Firearms Act 1925* (17/1925) (28.01.1964) by *Firearms Act 1964* (1/1964), s. 29(2), commenced on enactment.

- C2** Application of Act extended and not restricted (9.12.1993) by *European Communities (Acquisition and Possession of Weapons and Ammunition) Regulations 1993* (S.I. No. 362 of 1993), regs. 8 and 13(1).

Provisions of Firearms Acts and other Statutes.

8. The provisions of the Firearms Acts and other relevant statutes, including provisions relating to powers of the Garda Síochána and Customs Officers, shall extend to a European Firearms Pass or other document to which these Regulations relate and a reference in those enactments to a firearm certificate shall, where the context so admits, include reference to any such document.

...

Offences.

13. (1) A person who contravenes any provision of these Regulations shall, without prejudice to any liability under the Firearms Acts, be guilty of an offence under these Regulations.

...

Editorial Notes:

- E1** Previous affecting provisions: definition of firearm extended (1.01.1991) by *Firearms and Offensive Weapons Act 1990* (12/1990), s. 4(1), S.I. No. 313 of 1990. Definition replaced (1.08.2006) by *Firearms Act 1925* (17/1925), s. 1, as inserted (1.08.2006) by *Criminal Justice Act 2006* (26/2006), s. 26, S.I. No. 390 of 2006.
- E2** Offences under collectively cited *Firearms Act 1925 to 1971* designated scheduled offences for the purposes of Part V of the *Offences against the State Act 1939* (No. 13 of 1939) (30.05.1972) by *Offences Against The State (Scheduled Offences) Order 1972* (S.I. No. 142 of 1972).

Interpretation.

1.—(1) In this Act—

F1["the Commissioner" means the Commissioner of the Garda Síochána or a member of the Garda Síochána, or members of a particular rank in the Garda Síochána, not below the rank of superintendent appointed in writing by the Commissioner for the purpose of performing any of the Commissioner's functions under this Act;]

F2["firearm" includes a restricted firearm, unless otherwise provided or the context otherwise requires;]

F1["the Minister" means the Minister for Justice, Equality and Law Reform;]

"the Principal Act" means the Firearms Act, 1925;

"public place" means any place to which the public have access whether as of right or by permission and whether subject to or free of charge;

"Superintendent" means a Superintendent of the Garda Síochána and includes an Inspector of the Garda Síochána acting as a Superintendent.

(2) In this Act and in the Principal Act, references to the Principal Act shall, where the context so requires or permits, be construed as references to that Act as amended by this Act.

(3) This Act shall be construed as one with the Principal Act.

Annotations**Amendments:**

- F1** Substituted (1.08.2006) by *Criminal Justice Act 2006* (26/2006), s. 52(a), S.I. No. 390 of 2006.
- F2** Inserted (1.08.2006) by *Criminal Justice Act 2006* (26/2006), s. 52(b), S.I. No. 390 of 2006.

Extension of Principal Act to airguns.

2.—F3[...]

Annotations**Amendments:**

- F3** Repealed (1.01.1991) by *Firearms and Offensive Weapons Act 1990* (12/1990), s. 4(2)(b), S.I. No. 313 of 1990.

Temporary prohibition of game shooting.

3.—(1) The Minister may, on its being represented to him by the Minister for Lands that it is necessary to do so in the interests of the preservation of F4[protected wild animals or protected wild birds within the meaning of the *Wildlife Act, 1976*,], make an order prohibiting the use or carriage of firearms or of firearms of such class or classes as may be specified in the order in a public place or on any lands either throughout the State or in such area or areas as may be specified in the order during such period, not exceeding one month, as may be specified in the order.

(2) The Minister may by order, made after consultation with the Minister for Lands, amend or revoke an order under this section, including an order under this subsection F5[, but an order under this subsection shall not extend for more than a month a period mentioned in subsection (1) of this section].

(3) An order under this section shall not apply in relation to the use or carriage of firearms by members of the Defence Forces or the Garda Síochána or to the use or carriage of a firearm by a person to whom the Superintendent of any district has granted a permit which is in force to use and carry a firearm for a purpose (other than the shooting of F6[such protected wild animals or wild birds]) specified in the permit in that district during a period specified in the permit, if the firearm is being used and carried in accordance with the terms of the permit.

(4) (a) Whenever an order under subsection (1) of this section is in force in relation to any district, the Superintendent of that district may, in his absolute discretion, grant to any person a permit to use and carry in that district for a purpose (other than the shooting of F6[such protected wild animals or wild birds]) specified in the permit during a period specified in the permit a firearm to the use or carriage of which the order applies.

(b) The Superintendent of any district may revoke a permit granted under this section in relation to that district.

Annotations**Amendments:**

- F4** Substituted (1.06.1977) by *Wildlife Act 1976* (39/1976), s. 65(1)(a), S.I. No. 154 of 1977.
- F5** Inserted (1.06.1977) by *Wildlife Act 1976* (39/1976), s. 65(1)(b), S.I. No. 154 of 1977.

F6 Substituted (1.06.1977) by *Wildlife Act 1976* (39/1976), s. 65(1)(c), S.I. No. 154 of 1977.

Temporary custody of firearms by Garda Síochána in interests of public safety.

4.—(1) The Minister may, if satisfied that it is necessary to do so in the interests of the public safety F7[or public security], make an order requiring every person residing in an area specified in the order and having possession of any firearm or ammunition or of a firearm or ammunition of such class or classes as may be specified in the order to surrender it on or before a date specified in the order to the Garda Síochána.

(2) An order under subsection (1) of this section shall remain in force for such period not exceeding one month as may be specified in the order.

(3) The Minister may by order amend or revoke an order under this section, including an order under this subsection.

(4) Whenever an order under subsection (1) of this section is in force a member of the Garda Síochána may seize a firearm or ammunition to which the order applies found in the area specified in the order after the date on or before which the firearm or ammunition is required by the order to be surrendered to the Garda Síochána and the Garda Síochána may, while the order remains in force, retain possession of any firearm or ammunition seized by or surrendered to them in pursuance of the order.

(5) As soon as may be after the time at which an order under subsection (1) of this section ceases to be in force, the Garda Síochána shall, subject to the provisions of the Principal Act, return any firearms or ammunition surrendered to or seized by them pursuant to the order to the owners thereof.

(6) An order under subsection (1) of this section shall not apply in relation to firearms or ammunition in the possession of members of the Defence Forces or the Garda Síochána.

Annotations

Amendments:

F7 Inserted (9.12.1993) by *European Communities (Acquisition and Possession of Weapons and Ammunition) Regulations 1993* (S.I. No. 362 of 1993), reg. 12(1).

Modifications (not altering text):

C3 Further requirement in relation to application of section provided (9.12.1993) by *European Communities (Acquisition and Possession of Weapons and Ammunition) Regulations 1993* (S.I. No. 362 of 1993), reg. 12(2).

12. (1) ...

(2) An order under that section shall be notified to the Commission of the European Communities.

Editorial Notes:

E3 Power pursuant to section exercised (2.08.1972) by *Firearms (Temporary Custody) Order 1972* (S.I. No. 187 of 1972), expired after one month.

Contravention of orders under sections 3 and 4.

5.—A person who contravenes a provision of an order under section 3 or section 4 of this Act shall be guilty of an offence under the Principal Act.

Provisions in relation to orders under sections 3 and 4.

6.—(1) An order under section 3 or section 4 of this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and if a resolution annulling the order is passed by either such House within the next twenty-one days on which

that House has sat after the order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

(2) Whenever an order is made under section 3 or section 4 of this Act, notice of the making of the order and of its effect shall be published in at least one newspaper circulating in the area or each area to which the order applies.

Disposal of certain firearms and ammunition in the possession of the Garda Síochána.

7.—(1) References in this section to a firearm or ammunition that has come into the possession of the Garda Síochána are references to a firearm or ammunition that has come into the possession of the Garda Síochána before the passing of this Act pursuant to section 6 of the Principal Act or otherwise.

(2) The Commissioner may cause to be published in each daily newspaper published in the State a notice stating that any firearm or ammunition that has come into the possession of the Garda Síochána may be sold or destroyed unless the owner thereof makes claim and establishes his title thereto within the period of three months beginning on the date of the publication of the notice.

(3) Where a notice is published pursuant to subsection (2) of this section—

(a) the Commissioner shall cause to be sent by post to every person of whose address the Garda Síochána are aware and who is believed to be the owner of a firearm or ammunition that has come into the possession of the Garda Síochána a notice stating that the firearm or ammunition may be sold or destroyed unless the person makes claim and establishes his title thereto within the period of three months beginning on the date of the publication of the notice referred to in subsection (2) of this section,

(b) where the address of the person believed to be the owner is unknown or the Commissioner is of opinion that a notice as aforesaid would not be understood by such person, the Commissioner may, at his discretion, cause the notice to be sent by post or otherwise given to any member of the family of such person or to such other person, if any, as he may, in the particular circumstances, think appropriate.

(4) Where a notice is published pursuant to subsection (2) of this section and, in cases where it is appropriate, notice is given pursuant to subsection (3) of this section—

(a) a person who makes claim and establishes his title to a firearm or ammunition that has come into the possession of the Garda Síochána within the period specified in the notice published pursuant to subsection (2) of this section may, subject to the provisions of the Principal Act, cause the firearm or ammunition to be removed from the custody of the Garda Síochána within that period, and

(b) the Commissioner may cause to be sold any firearm or ammunition that has come into the possession of the Garda Síochána and is not claimed and removed from the custody of the Garda Síochána or to which title is not established to the satisfaction of the Commissioner within the period referred to in paragraph (a) of this subsection and shall, as soon as may be, cause the proceeds of the sale to be paid to the owner or, if the owner cannot be ascertained, for the benefit of the Exchequer, and

(c) the Commissioner may cause to be destroyed any firearm or ammunition that has been offered for sale under paragraph (b) of this subsection and has not been sold, if, in the opinion of the Commissioner, the firearm or ammunition is unlikely to be sold if offered for sale again and shall cause to be sent to any person who is believed to be the owner of the firearm or ammunition or (where appropriate) to another person in accordance with paragraph (b) of

subsection (3) of this section a notice informing the person to whom it is sent of such destruction.

Disposal of firearms in certain circumstances.

8.—The following section is hereby substituted for section 6 of the Principal Act:

“When a Superintendent revokes a firearm certificate and the person who is the holder of the certificate has a firearm, with or without ammunition, in his possession in the State at the time of such revocation or where a person has a firearm, with or without ammunition, in his possession in the State but is not the holder of a firearm certificate in respect thereof and such possession is not otherwise authorised under this Act—

- (a) the person shall forthwith deliver the firearm and ammunition (if any) to the Superintendent,
- (b) the Superintendent shall forthwith cause the person to be informed by notice in writing of his right to dispose of the firearm and ammunition (if any) in any manner not contrary to law,
- (c) upon such delivery, the person may dispose of the firearm and ammunition (if any) as aforesaid,
- (d) if the person does not, within three months after the delivery of the firearm and ammunition (if any) to the Superintendent, arrange for its or their disposal in accordance with the provisions of this Act, inform the Superintendent of the arrangements and carry out the arrangements, the Superintendent may send to the person by post to his last known address a notice informing him that unless arrangements of the kind aforesaid are made, communicated to the Superintendent and carried out within one month after the date on which the notice is sent, the firearm and ammunition (if any) will be sold or destroyed,
- (e) if within one month after the date on which the notice aforesaid is sent, arrangements of the kind aforesaid are not made, communicated to the Superintendent and carried out, the Superintendent may cause the firearm and ammunition (if any) to be sold and shall, as soon as may be, cause the proceeds of the sale to be paid to the person,
- (f) the Superintendent may cause to be destroyed any firearm or ammunition that has been offered for sale under paragraph (e) of this section and has not been sold if, in the opinion of the Superintendent, the firearm or ammunition is unlikely to be sold if offered for sale again and shall send to the person by post to his last known address a notice informing him of such destruction,
- (g) where the address of the person is unknown or the Superintendent is of opinion that notices as aforesaid would not be understood by the person, the Superintendent may, at his discretion, send the notices by post or otherwise give them to any member of the family of the person or to such other person, if any, as he may, in the particular circumstances, think appropriate.”

F8[Renewal of firearm certificate.

9.— (1) The Commissioner may from time to time renew a firearm certificate granted by him or her.

(2) The superintendent of the district where the holder of such a certificate resides may from time to time renew such a certificate.

(3) The superintendent of a district where the holder of a firearm certificate resides may from time to time renew a firearm certificate which has been granted by a superintendent.

(4) An inspector or sergeant of the Garda Síochána in the district where the holder of a firearm certificate issued by a superintendent resides may from time to time renew the certificate.

(5) A superintendent, or other member of the Garda Síochána, who is authorised under this section to renew a firearm certificate (“an authorised member”) may refuse to renew it, or vary any conditions to which it is subject under section 4(2)(g) of the Principal Act, only if prior sanction to do so in the particular case has been given by the Commissioner or superintendent, as the case may be.

F9[(6) An application for renewal of a firearm certificate shall be in the prescribed form.]

(7) A renewal of a firearm certificate shall be in the prescribed form.

(8) Before renewing a firearm certificate, an authorised member shall be of opinion that the conditions to which it is subject have been complied with and will continue to be complied with during the period for which the certificate is renewed.

(9) On the renewal of a firearm certificate, an authorised member may, subject to subsection (5) of this section, vary any conditions to which the certificate is subject under section 4(2)(g) of the Principal Act, if of opinion that such a variation is necessary in the interests of public safety or security.]

Annotations

Amendments:

- F8** Substituted (1.08.2006) by *Criminal Justice Act 2006* (26/2006), s. 53, S.I. No. 390 of 2006.
- F9** Substituted (1.08.2009) by *Criminal Justice (Miscellaneous Provisions) Act 2009* (28/2009), s. 37, S.I. No. 310 of 2009.

Editorial Notes:

- E4** Renewal of certificate applied for under this section may in certain circumstances be deemed to be granted under *Wildlife Act 1976* (39/1976), s. 29 as provided (1.06.1977) by that section, S.I. No. 154 of 1977.

Period of validity of firearm certificate granted by Minister. **10.—F10[...]**

Annotations

Amendments:

- F10** Repealed (14.07.2000) by *Firearms (Firearm Certificates for Non-Residents) Act 2000* (20/2000), s. 7(1)(b), commenced as per s. 8(3).

Change of firearm to which firearm certificate relates.

11.—(1) Subject to subsection (3) of this section, the F11[Minister or the Commissioner may substitute for the description of a firearm in a firearm certificate granted by him or her] the description of another firearm and, upon such substitution, the certificate shall have effect in relation to that other firearm and shall not have effect in relation to the first-mentioned firearm.

(2) Subject to subsection (3) of this section, the Superintendent of any district or any member of the Garda Síochána in any district duly authorised to do so by the

Superintendent of that district may substitute for the description of a firearm F12[(other than a restricted firearm)] in a firearm certificate held by a person residing in that district the description of another F12[such] firearm and, upon such substitution, the certificate shall have effect in relation to that other firearm and shall not have effect in relation to the first-mentioned firearm.

(3) A substitution under this section in a firearm certificate shall not be effected unless the rate of excise duty chargeable in respect of a renewal of the certificate after the substitution does not exceed the rate chargeable immediately before such substitution.

Annotations

Amendments:

- F11** Substituted (1.08.2006) by *Criminal Justice Act 2006* (26/2006), s. 54(a), S.I. No. 390 of 2006.
- F12** Inserted (1.08.2006) by *Criminal Justice Act 2006* (26/2006), s. 54(b), S.I. No. 390 of 2006.

Modifications (not altering text):

- C4** Definition of firearm certificate extended (14.07.2000) by *Firearms (Firearm Certificate for Non-Residents) Act 2000* (20/2000), s. 2(16), commenced as per s. 8(3).

Firearm certificates.

2.— ...

(16) References to a firearm certificate in sections 11, 12, 21 and 24 of the Firearms Act, 1964, shall include references to a firearm certificate granted under this Act.

Limited use of shot-gun.

12.—F13[...]

Annotations

Amendments:

- F13** Repealed by *Firearms Act 1925* (17/1925), s. 3(15) as substituted (1.08.2009) by *Criminal Justice Act 2006* (26/2006), s. 30, S.I. No. 309 of 2009, and as substituted in turn (1.08.2009) by *Criminal Justice (Miscellaneous Provisions) Act 2009* (28/2009), s. 43, S.I. No. 310 of 2009.

Editorial Notes:

- E5** Previous affecting provision: definition of firearm certificate extended (14.07.2000) by *Firearms (Firearm Certificate for Non-Residents) Act 2000* (20/2000), s. 2(16), commenced as per s. 8(3).
- E6** Previous affecting provision: words in subs. (1) substituted (1.06.1977) by *Wildlife Act 1976* (39/1976), s. 65(1)(a), S.I. No. 154 of 1977.

Sale of firearms by auctioneers.

13.—(1) Notwithstanding anything contained in section 10 of the Principal Act, an auctioneer who stands authorised under this section may sell, expose for sale and have in his possession for sale, by auction in the ordinary course of his business as an auctioneer, a firearm or ammunition: Provided that in the case of a sale, the firearm or ammunition is not delivered to the purchaser until he produces to the auctioneer a firearm certificate which is in force authorising him to purchase the firearm or ammunition or proves that he is lawfully entitled to have possession of the firearm or ammunition without having a firearm certificate therefor.

(2) The Superintendent of any district may authorise in writing an auctioneer F14[(being the holder of a licence within the meaning of section 2(1) of the Property Services (Regulation) Act 2011, or a relevant authorisation within the meaning of section 82 of that Act, in respect of a service which falls, or substantially falls, as the case requires, within *paragraph (a)* of the definition of ‘property service’ in that first-mentioned section)] in that district to sell, expose for sale and have in his possession for sale, by auction a firearm or ammunition during such period, not exceeding one year, as may be specified in the authorisation.

(3) A Superintendent shall not grant an authorisation under this section to an auctioneer unless he is satisfied, having regard to all the circumstances (including the provision made or to be made for the storage of the firearms and ammunition to which the authorisation, if granted, would relate), that the sale, exposing for sale or possession of firearms or ammunition in pursuance of the authorisation will not endanger the public safety or the peace.

(4) A Superintendent may impose in relation to the grant of an authorisation under this section such conditions (if any) as he considers necessary to prevent danger to the public and, where a condition is imposed, it shall be specified in the authorisation.

(5) An authorisation under this section may be revoked at any time by the Superintendent of the district in which it was granted.

(6) A person who contravenes a condition imposed in relation to the grant of an authorisation under this section shall be guilty of an offence under the Principal Act.

F15[(7) In this section, references to a firearm and ammunition do not include references to a restricted firearm or restricted ammunition.

(8) This section is without prejudice to subsections (4A) to (4G) of section 10 of the Principal Act.]

Annotations

Amendments:

F14 Inserted (6.07.2012) by *Property Services (Regulation) Act 2011* (40/2011), s. 101 and sch. 8 para. 4, S.I. No. 198 of 2012.

F15 Inserted (1.08.2006) by *Criminal Justice Act 2006* (26/2006), s. 55, S.I. No. 390 of 2006.

Amendment of section 1 of Principal Act.

14.—Section 1 of the Principal Act is hereby amended by the insertion after subsection (2) of the following subsection:

“(3) In this Act references to a Superintendent of the Garda Síochána include references to an Inspector of the Garda Síochána acting as a Superintendent.”

Amendment of section 2 of Principal Act.

15.—Section 2 of the Principal Act is hereby amended by—

(a) the insertion in paragraph (g) of subsection (3) after “humane killer” of “or ammunition therefor”, and

(b) the insertion after subsection (3) of the following subsection:

“(4) This section shall not apply to any of the following cases and such cases are accordingly excepted from this section, that is to say:

(a) the possession, use or carriage of a firearm or ammunition by an employee of a registered firearms dealer in the ordinary course of business of the dealer as a firearms dealer,

- (b) the possession or carriage of a firearm or ammunition by an employee of a person engaged in the business of carrying or of warehousing goods for reward in the ordinary course of such business,
- (c) the possession or carriage of a firearm or ammunition for purposes of sale by an auctioneer who stands authorised under section 13 of this Act or by an employee of such an auctioneer in the ordinary course of business as an auctioneer,
- (d) the possession, use or carriage of a firearm or ammunition by a member of a rifle club or other gun club that stands authorised under this section while engaged as such member in a competition or target practice at a range or other place that stands authorised under this section,
- (e) the possession, use or carriage of a firearm (other than a shot-gun) of a calibre not exceeding .23 inches or of ammunition by a person operating a range or shooting gallery in an amusement hall or at a fun fair, carnival or other like event for the purposes of the range or shooting gallery who stands authorised in that behalf under this section or by a person using such range or shooting gallery,
- (f) the possession, use or carriage of a firearm or ammunition by a person taking part in a theatrical performance or rehearsal or in the production of a cinematograph film for the purpose of the performance, rehearsal or production, being a performance, rehearsal or production the person in charge of which stands authorised in that behalf under this section,
- (g) the possession, use or carriage of a firearm or blank ammunition for the purpose of starting athletic races by a person who stands authorised in that behalf under this section,
- (h) the possession, use or carriage of a firearm or blank ammunition provided by the Minister for Defence by a person taking part in a ceremony of any kind for the purposes of the ceremony, being a person who stands authorised in that behalf under this section.

(5) (a) The Superintendent of any district may authorise in writing the possession, use or carriage of firearms or ammunition in that district in any of the circumstances specified in paragraphs (d), (e), (f), (g) or (h) of subsection (4) of this section during such period, not exceeding one year, as may be specified in the authorisation.

- (b) A Superintendent shall not grant an authorisation under this section unless he is satisfied having regard to all the circumstances (including the provision made or to be made for the storage of the firearms and ammunition to which the authorisation (if granted) would relate and the supervision of their use) that the possession, use or carriage, as the case may be, of firearms or ammunition in pursuance of the authorisation will not endanger the public safety or the peace.
- (c) Where it is proposed to grant an authorisation under this section in respect of a rifle or other gun club or a range or other place referred to in paragraph (d) of subsection 4 of this section, the authorisation shall be granted to an officer of the club nominated by the club or to the person in charge of the range or other place as the case may be, and where there is a contravention of a condition imposed in relation to the grant of such an authorisation and the contravention is proved to have been committed with the consent or approval of or to have been facilitated by any neglect on the part of the person to whom the authorisation is granted, that person shall be guilty of an offence under this Act.
- (d) A Superintendent may impose in relation to the grant of an authorisation under this section such conditions (if any) as he considers necessary to

prevent danger to the public and, where a condition is imposed, it shall be specified in the authorisation.

(e) An authorisation under this section may be revoked at any time by the Superintendent of the district in which it is granted.

(f) A person who contravenes a condition imposed in relation to the grant of an authorisation under this section shall be guilty of an offence under this Act”.

Amendment of section 3 of Principal Act.

16.—Section 3 of the Principal Act is hereby amended by—

(a) the substitution of “before the 31st day of July in any year” for “during the month of July” in subsection (3), and

(b) the substitution for subsection (4) of the following subsection—

“(4) Every firearm certificate shall be in the prescribed form and shall operate and be expressed to authorise the person to whom it is granted—

(a) to have in his possession, use and carry the particular firearm described in the certificate, and

(b) to use ammunition in the firearm and to have in his possession at any one time and carry so much ammunition for the firearm as shall be specified in the certificate”.

Amendment of section 8 of Principal Act.

17.—Section 8 of the Principal Act is hereby amended by—

(a) the substitution of “sixteen years” for “fifteen years” in paragraph (a) of subsection (1),

(b) the deletion of paragraphs (d) and (e) of subsection (1) and the insertion of the following paragraphs:

“(d) any person who has been sentenced by any court in the State to penal servitude or to imprisonment for any term which has not expired or has expired within five years previously for a crime in the course of which a firearm was used or a firearm or an imitation firearm was produced for the apparent purpose of intimidating any person or a threat to use a firearm against any person or property was made, and

(e) any person who has been sentenced by any court in the State to penal servitude or to imprisonment for any term of not less than three months which has not expired or has expired within five years previously for a crime consisting of or including an assault on any person, and”.

Amendment of section 9 of Principal Act.

18.—Section 9 of the Principal Act is hereby amended by the deletion in subsection (3) of “the number of registered firearms dealers in the neighbourhood in which the applicant proposes to carry on business”.

Amendment of section 10 of Principal Act.

19.—Section 10 of the Principal Act is hereby amended by—

(a) the substitution of “any person” for “any firearms dealer” and “such person” for “such firearms dealer” in subsection (2), and

(b) the substitution for subsection (4) of the following subsection:

“(4) It shall not be lawful for any registered firearms dealer to return to any person a firearm or ammunition given to the dealer for repair, test or proof unless the person—

- (a) produces a firearm certificate authorising him to have possession of the firearm or ammunition, or
- (b) proves to the satisfaction of the dealer that he is entitled to have possession of the firearm or ammunition without having a firearm certificate therefor, and”.
- (c) the insertion in paragraph (b) of subsection (6) after “letting on hire” of “, giving” and after “hiring” of “, receiving”.

Amendment of section 16 of Principal Act,

20.—Section 16 of the Principal Act is hereby amended by the insertion in subsection (4) before “the firearm” of “or consigning for export”.

Amendment of section 17 of Principal Act.

21.— (1) The restriction imposed by section 17 of the Principal Act on the importation into the State of firearms F16[or ammunition] shall not apply in relation to the importation of a firearm by the holder of a firearm F16[or ammunition] certificate in respect of the firearm which is in force.

(2) The said section 17 is hereby amended by—

- (a) the deletion in subsection (3) of “(not exceeding six months)”, and
- (b) the deletion in subsection (4) of “(not being more than one month)”.

F17[(3) In this section, “ammunition” does not include—

- (a) component parts of ammunition, or
- (b) grenades, bombs and other similar missiles or their component parts.]

Annotations

Amendments:

F16 Inserted (1.08.2006) by *Criminal Justice Act 2006* (26/2006), s. 56(a), S.I. No. 390 of 2006.

F17 Inserted (1.08.2006) by *Criminal Justice Act 2006* (26/2006), s. 56(b), S.I. No. 390 of 2006.

F18 Repealed by *Criminal Justice (Miscellaneous Provisions) Act 2009* (28/2009), s. 38, not commenced as of 31.10.2012.

Modifications (not altering text):

C5 Section repealed by *Criminal Justice (Miscellaneous Provisions) Act 2009* (28/2009), s. 38, not commenced as of 31.10.2012.

21.—F18[...]

C6 Definition of firearm certificate extended (14.07.2000) by *Firearms (Firearm Certificate for Non-Residents) Act 2000* (20/2000), s. 2(16), commenced as per s. 8(3).

Firearm certificates.

2.— ...

(16) References to a firearm certificate in sections 11, 12, 21 and 24 of the Firearms Act, 1964, shall include references to a firearm certificate granted under this Act.

Amendment of section 21 of Principal Act.

22.—Section 21 of the Principal Act is hereby amended by the substitution of the following subsection for subsection (6):

“(6) Where a firearm or ammunition is seized under this section or under section 22 of this Act and a prosecution for an offence under this Act in

relation to the firearm or ammunition is not instituted, the firearm or ammunition shall be—

- (a) returned to the person who is the owner, consignor or consignee thereof, as may be appropriate, or disposed of, subject to the provisions of this Act, in accordance with the directions of such person, or
- (b) made the subject of an application to the District Court under the Police (Property) Act, 1897, and disposed of in accordance with the terms of the order made by the District Court under that Act in relation to the application.”

Amendment of section 24 of Principal Act.

23.—Section 24 of the Principal Act is hereby amended by the substitution of “forty-eight hours” for “twenty-four hours” in subsection (2).

Onus of proof.

24.—(1) Where, in a prosecution for an offence under the Principal Act, the existence or non-existence of a firearm certificate, a licence under section 17 of the Principal Act, an authorisation under section 2 of the Principal Act, a permit under section 3 of this Act or an authorisation under section 13 of this Act is material, it shall not be necessary to prove that the certificate, licence, authorisation or permit does not exist.

(2) Where, in a prosecution for an offence under the Principal Act, possession, use or carriage of a firearm or ammunition by a person is proved, it shall not be necessary to prove that the person was not entitled to have in his possession, use or carry a firearm or ammunition.

Annotations

Modifications (not altering text):

- C7** Definition of firearm certificate extended (14.07.2000) by *Firearms (Firearm Certificate for Non-Residents) Act 2000* (20/2000), s. 2(16), commenced as per s. 8(3).

Firearm certificates.

2.—...

(16) References to a firearm certificate in sections 11, 12, 21 and 24 of the Firearms Act, 1964, shall include references to a firearm certificate granted under this Act.

Extension of sections 23 and 28 of Larceny Act, 1916.

25.—(1) In F19[[section 28](#)] of the Larceny Act, 1916, “offensive weapon” shall include a firearm that is not loaded and an imitation firearm.

(2) In this section and the next two sections “imitation firearm” means anything which is not a firearm but has the appearance of being a firearm.

Annotations

Amendments:

- F19** Substituted (1.06.1976) by *Criminal Law (Jurisdiction) Act 1976* (14/1976), s. 21(6), S.I. No. 112 of 1976.

Editorial Notes:

- E7** *Larceny Act 1916* was repealed (1.08.2002) by *Criminal Justice (Theft and Fraud Offences) Act 2001* (50/2001), s. 3 and sch. 1., S.I. No. 252 of 2002.

F20 [Possession of firearm while taking vehicle without authority.

26.— (1) A person who contravenes subsection (1) of section 112 of the Road Traffic Act 1961 and who at the time of the contravention has with him or her a firearm or imitation firearm is guilty of an offence.

(2) A person guilty of an offence under this section is liable on conviction on indictment—

(a) to imprisonment for a term not exceeding 14 years or such shorter term as the court may determine, subject to subsections (4) to (6) of this section or, where subsection (8) of this section applies, to that subsection, and

(b) at the court's discretion, to a fine of such amount as the court considers appropriate.

(3) The court, in imposing sentence on a person for an offence under this section, may, in particular, have regard to whether the person has a previous conviction for an offence under the *Firearms Acts 1925 to 2006*, the *Offences against the State Acts 1939 to 1998* or the *Criminal Justice (Terrorist Offences) Act 2005*.

(4) Where a person (other than a person under the age of 18 years) is convicted of an offence under this section, the court shall, in imposing sentence, specify a term of imprisonment of not less than 5 years as the minimum term of imprisonment to be served by the person.

F21 [(4A) The purpose of subsections (5) and (6) of this section is to provide that in view of the harm caused to society by the unlawful possession and use of firearms, a court, in imposing sentence on a person (other than a person under the age of 18 years) for an offence under this section, shall specify as the minimum term of imprisonment to be served by the person a term of not less than 5 years, unless the court determines that by reason of exceptional and specific circumstances relating to the offence, or the person convicted of it, it would be unjust in all the circumstances to do so.]

(5) Subsection (4) of this section does not apply where the court is satisfied that there are exceptional and specific circumstances relating to the offence, or to the person convicted of it, which would make the minimum term unjust in all the circumstances, and for this purpose the court may F22[, subject to subsection (6),] have regard to any matters it considers appropriate, including—

(a) whether the person pleaded guilty to the offence and, if so—

(i) the stage at which the intention to plead guilty was indicated, and

(ii) the circumstances in which the indication was given,

and

(b) whether the person materially assisted in the investigation of the offence.

(6) The court, in considering for the purposes of subsection (5) of this section whether a sentence of not less than 5 years imprisonment is unjust in all the circumstances, may have regard, in particular, to—

(a) whether the person convicted of the offence has a previous conviction for an offence under the *Firearms Acts 1925 to 2006*, the *Offences Against the State Acts 1939 to 1998* or the *Criminal Justice (Terrorist Offences) Act 2005*, and

(b) whether the public interest in preventing the unlawful possession or use of firearms would be served by the imposition of a lesser sentence.

(7) Subsections (4) to (6) of this section apply and have effect only in relation to a person convicted of a first offence under this section (other than a person who falls under subsection (8)(b) of this section), and accordingly references in those first-

mentioned subsections to an offence under this section are to be construed as references to a first such offence.

(8) Where a person (except a person under the age of 18 years)—

(a) is convicted of a second or subsequent offence under this section,

(b) is convicted of a first offence under this section and has been convicted of an offence under section 15 of the Principal Act, section 27, 27A or 27B of this Act or section 12A of the Firearms and Offensive Weapons Act 1990,

the court shall, in imposing sentence, specify a term of imprisonment of not less than 5 years as the minimum term of imprisonment to be served by the person.

(9) In proceedings for an offence under this section it is a good defence for the defendant to show that he or she had the firearm or imitation firearm for a lawful purpose when doing the act alleged to constitute the offence under subsection (1) of the said section 112.

(10) Section 27C of this Act applies in relation to proceedings for an offence under this section and any minimum term of imprisonment imposed under subsection (4) or (8) of this section in those proceedings.]

Annotations

Amendments:

F20 Substituted (1.11.2006) by *Criminal Justice Act 2006* (26/2006), s. 57, S.I. No. 390 of 2006.

F21 Inserted (18.05.2007) by *Criminal Justice Act 2007* (29/2007), s. 36(a), S.I. No. 236 of 2007.

F22 Inserted (18.05.2007) by *Criminal Justice Act 2007* (29/2007), s. 36(b), S.I. No. 236 of 2007.

Modifications (not altering text):

C8 Application of section extended to offences committed in Northern Ireland (1.06.1976) by *Criminal Law (Jurisdiction) Act 1976* (14/1976), s. 2 and sch. para. 11(a), S.I. No. 112 of 1976.

Offences committed in Northern Ireland and related offences committed in State.

2.—(1) Where a person does in Northern Ireland an act that, if done in the State, would constitute an offence specified in the Schedule, he shall be guilty of an offence and he shall be liable on conviction on indictment to the penalty to which he would have been liable if he had done the act in the State.

...

SCHEDULE

11. Any offence under the following provisions of the Firearms Act, 1964 —

(a) section 26 (possession of firearm while taking vehicle without authority);

...

Editorial Notes:

E8 Minimum sentence for offences under section committed under certain circumstances provided (18.05.2007) by *Criminal Justice Act 2007* (29/2007), s. 25 and sch. 2 para. 5(a), S.I. No. 236 of 2007.

E9 Power of court to make monitoring and protection orders in relation to offence under this section provided (18.05.2007) by *Criminal Justice Act 2007* (29/2007), s. 26 and sch. 2 para. 5(a), S.I. No. 236 of 2007.

- E10** Offence under section may be an element of terrorist activity as provided (8.07.2005) by *Criminal Justice (Terrorist Offences) Act 2005* (2/2005), s. 4 and sch. 2 part 1 para. 9(d), commenced as per s. 2.
- E11** Offences under section designated serious offences (4.09.1998 and 15.05.2000) by *Bail Act 1997* (16/1997), s. 1 and sch. paras. 15(a), 29 and 30, S.I. No. 315 of 1998 and S.I. No. 118 of 2000.
- E12** Certain offences under section committed outside the State not to be regarded as political offences as provided by *Extradition (European Convention on the Suppression of Terrorism) Act 1987* (1/1987), s. 3(3A) as inserted (22.08.1994) by *Extradition (Amendment) Act 1994* (6/1994), s. 2 and sch. 1 para. 9(a), S.I. No. 220 of 1994.
- E13** Previous affecting provision: subs. (1) amended (1.06.1976) by *Criminal Law (Jurisdiction) Act 1976* (14/1976), s. 21(6)(b), S.I. No. 112 of 1976. Subs. (1) was subsequently amended (1.03.1985) by *Criminal Justice Act 1984* (22/1984), s. 14(2), S.I. No. 17 of 1985. Section substituted as per F-note above.

F23[Prohibition of use of firearms to assist or aid escape.

27.— (1) A person shall not use or produce a firearm or imitation firearm—

(a) for the purpose of or while resisting the arrest of the person or of another person by a member of the Garda Síochána, or

(b) for the purpose of aiding, or in the course of, the escape or rescue of the person or of another person from lawful custody.

(2) A person who contravenes subsection (1) of this section is guilty of an offence and liable on conviction on indictment—

(a) to imprisonment for life or such shorter term as the court may determine, subject to subsections (4) to (6) of this section or, where subsection (8) of this section applies, to that subsection, and

(b) at the court's discretion, to a fine of such amount as the court considers appropriate.

(3) The court, in imposing sentence on a person for an offence under this section, may, in particular, have regard to whether the person has a previous conviction for an offence under the *Firearms Acts 1925 to 2006*, the *Offences against the State Acts 1939 to 1998* or the *Criminal Justice (Terrorist Offences) Act 2005*.

(4) Where a person (other than a person under the age of 18 years) is convicted of an offence under this section, the court shall, in imposing sentence, specify a term of imprisonment of not less than 10 years as the minimum term of imprisonment to be served by the person.

F24[(4A) The purpose of subsections (5) and (6) of this section is to provide that in view of the harm caused to society by the unlawful possession and use of firearms, a court, in imposing sentence on a person (other than a person under the age of 18 years) for an offence under this section, shall specify as the minimum term of imprisonment to be served by the person a term of not less than 10 years, unless the court determines that by reason of exceptional and specific circumstances relating to the offence, or the person convicted of it, it would be unjust in all the circumstances to do so.]

(5) Subsection (4) of this section does not apply where the court is satisfied that there are exceptional and specific circumstances relating to the offence, or to the person convicted of it, which would make the minimum term unjust in all the circumstances, and for this purpose the court may **F25**[, subject to subsection (6),] have regard to any matters it considers appropriate, including—

(a) whether the person pleaded guilty to the offence and, if so—

- (i) the stage at which the intention to plead guilty was indicated, and
- (ii) the circumstances in which the indication was given,

and

- (b) whether the person materially assisted in the investigation of the offence.

(6) The court, in considering for the purposes of subsection (5) of this section whether a sentence of not less than 10 years imprisonment is unjust in all the circumstances, may have regard, in particular, to—

- (a) whether the person convicted of the offence has a previous conviction for an offence under the *Firearms Acts 1925 to 2006*, the *Offences Against the State Acts 1939 to 1998* or the *Criminal Justice (Terrorist Offences) Act 2005*, and
- (b) whether the public interest in preventing the unlawful possession or use of firearms would be served by the imposition of a lesser sentence.

(7) Subsections (4) to (6) of this section apply and have effect only in relation to a person convicted of a first offence under this section (other than a person who falls under subsection (8)(b) of this section), and accordingly references in those first-mentioned subsections to an offence under this section are to be construed as references to a first such offence.

(8) Where a person (except a person under the age of 18 years)—

- (a) is convicted of a second or subsequent offence under this section,
- (b) is convicted of a first offence under this section and has been convicted of an offence under section 15 of the *Principal Act*, section 26, 27A or 27B of this Act or section 12A of the *Firearms and Offensive Weapons Act 1990*,

the court shall, in imposing sentence, specify a term of imprisonment of not less than 10 years as the minimum term of imprisonment to be served by the person.

(9) Section 27C of this Act applies in relation to proceedings for an offence under this section and any minimum term of imprisonment imposed under subsection (4) or (8) of this section in those proceedings.]

Annotations

Amendments:

- F23** Substituted (1.11.2006) by *Criminal Justice Act 2006* (26/2006), s. 58, S.I. No. 390 of 2006.
- F24** Inserted (18.05.2007) by *Criminal Justice Act 2007* (29/2007), s. 37(a), S.I. No. 236 of 2007.
- F25** Inserted (18.05.2007) by *Criminal Justice Act 2007* (29/2007), s. 37(b), S.I. No. 236 of 2007.

Modifications (not altering text):

- C9** Application of section extended (1.06.1976) by *Criminal Law (Jurisdiction) Act 1976* (14/1976), s. 2 and sch. para. 11(b), S.I. No. 112 of 1976.

Offences committed in Northern Ireland and related offences committed in State.

2.—(1) Where a person does in Northern Ireland an act that, if done in the State, would constitute an offence specified in the Schedule, he shall be guilty of an offence and he shall be liable on conviction on indictment to the penalty to which he would have been liable if he had done the act in the State.

SCHEDULE

11. Any offence under the following provisions of the *Firearms Act, 1964* — ...

(b) section 27 (use of firearms to resist arrest or aid escape);

...

Editorial Notes:

- E14** Offences under section designated relevant offences (1.09.2010) by *Criminal Procedure Act 2010* (27/2010), s. 7 and sch. para. 18, S.I. No. 414 of 2010, for purposes of Part 3 of that Act (exceptions to rule against double jeopardy, including application for retrial order (ss. 8-14) and approval of District Court for exercise of certain powers relating to persons acquitted of relevant offences (ss. 15-18)).
- E15** Minimum sentence for offences under section committed under certain circumstances provided (18.05.2007) by *Criminal Justice Act 2007* (29/2007), s. 25 and sch. 2 para. 5(b), S.I. No. 236 of 2007.
- E16** Power of court to make monitoring and protection orders in relation to offence under this section provided (18.05.2007) by *Criminal Justice Act 2007* (29/2007), s. 26 and sch. 2 para. 5(b), S.I. No. 236 of 2007.
- E17** Offence under section may be an element of terrorist activity as provided (8.07.2005) by *Criminal Justice (Terrorist Offences) Act 2005* (2/2005), s. 4 and sch. 2 part 1 para. 9(e), commenced as per s. 2.
- E18** Offences under section designated serious offences (4.09.1998 and 15.05.2000) by *Bail Act 1997* (16/1997), s. 1 and sch. paras. 15(b), 29 and 30, S.I. No. 315 of 1998 and S.I. No. 118 of 2000.
- E19** Certain offences under section committed outside the State not to be regarded as political offences as provided by *Extradition (European Convention on the Suppression of Terrorism) Act 1987* (1/1987), s. 3(3A) as inserted (22.08.1994) by *Extradition (Amendment) Act 1994* (6/1994), s. 2 and sch. 1 para. 9(a), S.I. No. 220 of 1994.
- E20** Previous affecting provision: subs. (2) amended (1.06.1976) by *Criminal Law (Jurisdiction) Act 1976* (14/1976), s. 21(6)(c), S.I. No. 112 of 1976. Subs. (2) subsequently amended (1.03.1985) by *Criminal Justice Act 1984* (22/1984), s. 14(3), S.I. No. 17 of 1985. Section substituted as per F-note above.

F26[Possession of firearm or ammunition in suspicious circumstances.

27A.— (1) It is an offence for a person to possess or control a firearm F27[or ammunition] in circumstances that give rise to a reasonable inference that the person does not possess or control it for a lawful purpose, unless the person possesses or controls it for such a purpose.

(2) A person guilty of an offence under this section is liable on conviction on indictment—

(a) to imprisonment for a term not exceeding 14 years or such shorter term as the court may determine, subject to subsections (4) to (6) of this section or, where subsection (8) of this section applies, to that subsection, and

(b) at the court's discretion, to a fine of such amount as the court considers appropriate.

(3) The court, in imposing sentence on a person for an offence under this section, may, in particular, have regard to whether the person has a previous conviction for an offence under the *Firearms Acts 1925 to 2006*, the *Offences against the State Acts 1939 to 1998* or the *Criminal Justice (Terrorist Offences) Act 2005*.

(4) Where a person (other than a person under the age of 18 years) is convicted of an offence under this section, the court shall, in imposing sentence, specify a term of imprisonment of not less than 5 years as the minimum term of imprisonment to be served by the person.

F28[(4A) The purpose of subsections (5) and (6) of this section is to provide that in view of the harm caused to society by the unlawful possession and use of firearms,

a court, in imposing sentence on a person (other than a person under the age of 18 years) for an offence under this section, shall specify as the minimum term of imprisonment to be served by the person a term of not less than 5 years, unless the court determines that by reason of exceptional and specific circumstances relating to the offence, or the person convicted of it, it would be unjust in all the circumstances to do so.]

(5) Subsection (4) of this section does not apply where the court is satisfied that there are exceptional and specific circumstances relating to the offence, or the person convicted of it, which would make the minimum term unjust in all the circumstances, and for this purpose the court may F29[, subject to subsection (6),] have regard to any matters it considers appropriate, including—

- (a) whether the person pleaded guilty to the offence and, if so—
 - (i) the stage at which the intention to plead guilty was indicated, and
 - (ii) the circumstances in which the indication was given,

and

- (b) whether the person materially assisted in the investigation of the offence.

(6) The court, in considering for the purposes of subsection (5) of this section whether a sentence of not less than 5 years imprisonment is unjust in all the circumstances, may have regard, in particular, to—

- (a) whether the person convicted of the offence has a previous conviction for an offence under the *Firearms Acts 1925 to 2006*, the *Offences Against the State Acts 1939 to 1998* or the *Criminal Justice (Terrorist Offences) Act 2005*, and
- (b) whether the public interest in preventing the unlawful possession or use of firearms would be served by the imposition of a lesser sentence.

(7) Subsections (4) to (6) of this section apply and have effect only in relation to a person convicted of a first offence under this section (other than a person who falls under subsection (8)(b) of this section), and accordingly references in those first-mentioned subsections to an offence under this section are to be construed as references to a first such offence.

(8) Where a person (except a person under the age of 18 years)—

- (a) is convicted of a second or subsequent offence under this section,
- (b) is convicted of a first offence under this section and has been convicted of an offence under section 15 of the *Principal Act*, section 26, 27 or 27B of this Act or section 12A of the *Firearms and Offensive Weapons Act 1990*,

the court shall, in imposing sentence, specify a term of imprisonment of not less than 5 years as the minimum term of imprisonment to be served by the person.

(9) Section 27C of this Act applies in relation to proceedings for an offence under this section and any minimum term of imprisonment imposed under subsection (4) or (8) of this section in those proceedings.

(10) In the application of section 2 of the *Criminal Law (Jurisdiction) Act 1976* to this section, it shall be presumed, unless the contrary is shown, that a purpose that is unlawful in the State is unlawful in Northern Ireland.]

Annotations**Amendments:**

- F26** Substituted (1.11.2006) by *Criminal Justice Act 2006* (26/2006), s. 59, S.I. No. 390 of 2006.
- F27** Inserted (18.05.2007) by *Criminal Justice Act 2007* (29/2007), s. 38(a), S.I. No. 236 of 2007.
- F28** Inserted (18.05.2007) by *Criminal Justice Act 2007* (29/2007), s. 38(b), S.I. No. 236 of 2007.
- F29** Inserted (18.05.2007) by *Criminal Justice Act 2007* (29/2007), s. 38(c), S.I. No. 236 of 2007.

Modifications (not altering text):

- C10** Application of section extended (1.06.1976) by *Criminal Law (Jurisdiction) Act 1976* (14/1976), s. 2 and sch. para 11(c), S.I. No. 112 of 1976.

Offences committed in Northern Ireland and related offences committed in State.

2.—(1) Where a person does in Northern Ireland an act that, if done in the State, would constitute an offence specified in the Schedule, he shall be guilty of an offence and he shall be liable on conviction on indictment to the penalty to which he would have been liable if he had done the act in the State.

SCHEDULE

11. Any offence under the following provisions of the Firearms Act, 1964 — ...
- (c) section 27A (possession of firearm or ammunition in suspicious circumstances);
- ...

Editorial Notes:

- E21** Minimum sentence for offences under section committed under certain circumstances provided (18.05.2007) by *Criminal Justice Act 2007* (29/2007), s. 25 and sch. 2 para. 5(c), S.I. No. 236 of 2007.
- E22** Power of court to make monitoring and protection orders in relation to offence under this section provided (18.05.2007) by *Criminal Justice Act 2007* (29/2007), s. 26 and sch. 2 para. 5(c), S.I. No. 236 of 2007.
- E23** Offences under section designated serious offences (4.09.1998 and 15.05.2000) by *Bail Act 1997* (16/1997), s. 1 and sch. paras. 15(c), 29 and 30, S.I. No. 315 of 1998 and S.I. No. 118 of 2000.
- E24** Offence under section may be an element of terrorist activity as provided (8.07.2005) by *Criminal Justice (Terrorist Offences) Act 2005* (2/2005), s. 4 and sch. 2 part 1 para. 9(f), commenced as per s. 2.
- E25** Previous affecting provision: section inserted (1.06.1976) by *Criminal Law (Jurisdiction) Act 1976* (14/1976), s. 8, S.I. No. 112 of 1976. Subs. (1) amended (1.03.1985) by *Criminal Justice Act 1984* (22/1984), s. 14(4), S.I. No. 17 of 1985. Subs. (1) subsequently amended (3.09.1998) by *Offences Against the State (Amendment) Act 1998* (39/1998), s. 15(2), commenced on enactment. Section substituted as per F-note above.

F30 [Carrying firearm with criminal intent.

27B.— (1) It is an offence for a person to have with him or her a firearm, or an imitation firearm, with intent—

(a) to commit an indictable offence, or

(b) to resist or prevent the arrest of the person or another person,

in either case while the person has the firearm or imitation firearm with him or her.

(2) A person guilty of an offence under this section is liable on conviction on indictment—

(a) to imprisonment for a term not exceeding 14 years or such shorter term as the court may determine, subject to subsections (4) to (6) of this section or, where subsection (8) of this section applies, to that subsection, and

(b) at the court's discretion, to a fine of such amount as the court considers appropriate.

(3) The court, in imposing sentence on a person for an offence under this section, may, in particular, have regard to whether the person has a previous conviction for an offence under the *Firearms Acts 1925 to 2006*, the *Offences against the State Acts 1939 to 1998* or the *Criminal Justice (Terrorist Offences) Act 2005*.

(4) Where a person (other than a person under the age of 18 years) is convicted of an offence under this section, the court shall, in imposing sentence, specify a term of imprisonment of not less than 5 years as the minimum term of imprisonment to be served by the person.

F31[(4A) The purpose of subsections (5) and (6) of this section is to provide that in view of the harm caused to society by the unlawful possession and use of firearms, a court, in imposing sentence on a person (other than a person under the age of 18 years) for an offence under this section, shall specify as the minimum term of imprisonment to be served by the person a term of not less than 5 years, unless the court determines that by reason of exceptional and specific circumstances relating to the offence, or the person convicted of it, it would be unjust in all the circumstances to do so.]

(5) Subsection (4) of this section does not apply where the court is satisfied that there are exceptional and specific circumstances relating to the offence, or the person convicted of it, which would make the minimum term unjust in all the circumstances, and for this purpose the court may F32[, subject to subsection (6),] have regard to any matters it considers appropriate, including—

(a) whether the person pleaded guilty to the offence and, if so—

(i) the stage at which the intention to plead guilty was indicated, and

(ii) the circumstances in which the indication was given,

and

(b) whether the person materially assisted in the investigation of the offence.

(6) The court, in considering for the purposes of subsection (5) of this section whether a sentence of not less than 5 years imprisonment is unjust in all the circumstances, may also have regard, in particular, to—

(a) whether the person convicted of the offence has a previous conviction for an offence under the *Firearms Acts 1925 to 2006*, the *Offences Against the State Acts 1939 to 1998* or the *Criminal Justice (Terrorist Offences) Act 2005*, and

(b) whether the public interest in preventing the unlawful possession or use of firearms would be served by the imposition of a lesser sentence.

(7) Subsections (4) to (6) of this section apply and have effect only in relation to a person convicted of a first offence under this section (other than a person who falls under subsection (8)(b) of this section), and accordingly references in those first-mentioned subsections to an offence under this section are to be construed as references to a first such offence.

(8) Where a person (except a person under the age of 18 years)—

(a) is convicted of a second or subsequent offence under this section,

(b) is convicted of a first offence under this section and has been convicted of an offence under section 15 of the Principal Act, section 26, 27 or 27A of this Act or section 12A of the Firearms and Offensive Weapons Act 1990,

the court shall, in imposing sentence, specify a term of imprisonment of not less than 5 years as the minimum term of imprisonment to be served by the person.

(9) In proceedings for an offence under this section proof that the accused had a firearm or imitation firearm with him or her and intended to commit an indictable offence or to resist or prevent arrest is evidence that the accused intended to have it with him or her while doing so.

(10) Section 27C of this Act applies in relation to proceedings for an offence under this section and any minimum term of imprisonment imposed under subsection (4) or (8) of this section in those proceedings.]

Annotations

Amendments:

- F30** Substituted (1.11.2006) by *Criminal Justice Act 2006* (26/2006), s. 60, S.I. No. 390 of 2006.
- F31** Inserted (18.05.2007) by *Criminal Justice Act 2007* (29/2007), s. 39(a), S.I. No. 236 of 2007.
- F32** Inserted (18.05.2007) by *Criminal Justice Act 2007* (29/2007), s. 39(b), S.I. No. 236 of 2007.

Modifications (not altering text):

- C11** Application of section extended (1.06.1976) by *Criminal Law (Jurisdiction) Act 1976* (14/1976), s. 2 and sch. 1 para. 11(d), S.I. No. 112 of 1976.

Offences committed in Northern Ireland and related offences committed in State.

2.—(1) Where a person does in Northern Ireland an act that, if done in the State, would constitute an offence specified in the Schedule, he shall be guilty of an offence and he shall be liable on conviction on indictment to the penalty to which he would have been liable if he had done the act in the State.

SCHEDULE

11. Any offence under the following provisions of the Firearms Act, 1964 — ...
- (d) section 27B (carrying firearm with criminal intent).

Editorial Notes:

- E26** Minimum sentence for offences under section committed under certain circumstances provided (18.05.2007) by *Criminal Justice Act 2007* (29/2007), s. 25 and sch. 2 para. 5(d), S.I. No. 236 of 2007.
- E27** Power of court to make monitoring order in relation to offence under this section provided (18.05.2007) by *Criminal Justice Act 2007* (29/2007), s. 26 and sch. 2 para. 5(d), S.I. No. 236 of 2007.
- E28** Offences under section designated serious offences (4.09.1998 and 15.05.2000) by *Bail Act 1997* (16/1997), s. 1 and sch. paras. 15(d), 29 and 30, S.I. No. 315 of 1998 and S.I. No. 118 of 2000.
- E29** Offence under section may be an element of terrorist activity as provided (8.07.2005) by *Criminal Justice (Terrorist Offences) Act 2005* (2/2005), s. 4 and sch. 2 part 1 para. 9(g), commenced as per s. 2.
- E30** Certain offences under section committed outside the State not to be regarded as political offences as provided by *Extradition (European Convention on the Suppression of Terrorism) Act 1987* (1/1987), s. 3(3A) as inserted (22.08.1994) by *Extradition (Amendment) Act 1994* (6/1994), s. 2 and sch. 1 para. 9(c), S.I. No. 220 of 1994.

E31 Previous affecting provision: section inserted (1.06.1976) by *Criminal Law (Jurisdiction) Act 1976* (14/1976), s. 9, S.I. No. 112 of 1976. Subs. (1) amended (1.03.1985) by *Criminal Justice Act 1984* (22/1984), s. 14(5), S.I. No. 17 of 1985. Section substituted as per F-note above.

F33 [Provisions relating to minimum sentences under *Firearms Acts 1925 to 2006*.

27C.— (1) In this section, “minimum term of imprisonment” means a term specified by a court under—

- (a) section 15 of the Principal Act,
- (b) section 26, 27, 27A or 27B of this Act, and
- (c) section 12A of the Firearms and Offensive Weapons Act 1990,

less any reduction in the period of imprisonment under subsection (3) of this section.

(2) The power to commute or remit punishment conferred by section 23 of the Criminal Justice Act 1951 does not apply in relation to a minimum term of imprisonment.

(3) The rules or practice whereby prisoners generally may earn remission of sentence by industry and good conduct apply in relation to a person serving such a minimum term.

(4) Any powers conferred by rules made under section 2 of the Criminal Justice Act 1960, as applied by section 4 of the Prisons Act 1970, to release temporarily a person serving a sentence of imprisonment shall not be exercised during a minimum term of imprisonment, unless for grave reason of a humanitarian nature, and any release so granted shall be only of such limited duration as is justified by that reason.]

Annotations

Amendments:

F33 Inserted (1.11.2006) by *Criminal Justice Act 2006* (26/2006), s. 61, S.I. No. 390 of 2006.

Repeals.

28.—(1) Subsection (5) of section 3, section 14 and subsection (2) of section 17 of the Principal Act are hereby repealed.

(2) Where, immediately before the passing of this Act, there was in force an authorisation under section 14 of the Principal Act there shall, upon such passing, be deemed to be in force a firearm certificate relating to the weapon to which the authorisation related granted by a Superintendent.

(3) An occasional licence granted under subsection (2) of section 17 of the Principal Act in relation to a prohibited weapon, and in force immediately before such passing, shall, upon such passing, be deemed to be an occasional licence granted under subsection (4) of the said section 17 in relation to that weapon.

Short title and collective citation.

29.—(1) This Act may be cited as the Firearms Act, 1964.

(2) The Firearms Act, 1925, and this Act may be cited together as the Firearms Acts, 1925 and 1964.