



Number 12 of 1990

FIREARMS AND OFFENSIVE WEAPONS ACT 1990

REVISED

Updated to 31 October 2012

This revised Act is an administrative consolidation of the *Firearms and Offensive Weapons Act 1990*. 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

This revision 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* (28/2009), 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), Part II
- *Firearms (Firearms Certificates for Non-Residents) Act 2000* (20/2000), other than s. 4
- *Criminal Justice Act 2006* (26/2006), Part 5 and sch. 1
- *Criminal Justice Act 2007* (29/2007), Part 6
- *Criminal Justice (Miscellaneous Provisions) Act 2009* (28/2009), Part 4

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

- *Criminal Justice (Miscellaneous Provisions) Act 2009* (28/2009)
- *Criminal Justice Act 2007* (29/2007)
- *Criminal Justice Act 2006* (26/2006)
- *Firearms (Firearm Certificates for Non-Residents) Act 2000* (20/2000)
- *Firearms (Temporary Provisions) Act 1998* (32/1998)
- *Firearms Act 1971* (13/1971)
- *Firearms (Proofing) Act 1968* (20/1968)
- *Firearms Act 1964* (1/1964)
- *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 And Offensive Weapons Act 1990 (Offensive Weapons) (Amendment) Order 2009* (S.I. No. 338 of 2009)
- *European Communities (Acquisition and Possession of Weapons and Ammunition) Regulations 1993* (S.I. No. 362 of 1993)
- *Firearms and Offensive Weapons Act 1990 (Offensive Weapons) Order 1991* (S.I. No. 66 of 1991)
- *Firearms and Offensive Weapons Act, 1990 (Part II) (Commencement) Order 1990* (S.I. No. 313 of 1990)

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.



Number 12 of 1990

FIREARMS AND OFFENSIVE WEAPONS ACT 1990

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ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title and commencement.
2. Interpretation.

PART II

AMENDMENTS TO FIREARMS ACTS

3. Collective citation and construction.
4. Extension of Firearms Acts to crossbows and stun guns.
5. Amendment of section 10 of Firearms Act, 1925.
6. Authorisation to hold defective firearm without firearm certificate.
7. Possession, sale, etc., of silencers.
8. Reckless discharge of firearm.
- 8A. Other amendments to Firearms Acts.

PART III

OFFENSIVE WEAPONS

9. Possession of knives and other articles.
- 9A. Possession of a realistic imitation firearm in a public place.
- 9B. Authorisation of use of realistic firearms at specified venues, theatres, etc.
- 9C. Register of dealers in realistic firearms to be kept.
- 9D. Restrictions on import, manufacture and sale of realistic firearms.
- 9E. Removal of names from register of dealers in realistic imitation firearms.

[No. 12.] *Firearms and Offensive Weapons* [1990.]
Act 1990

- 9F. Inspection of stock of dealer in realistic imitation firearms.
- 9G. Powers by order to restrict sale of certain realistic imitation firearms from specific date.
- 9H. Power by order to require certain descriptions of imitation firearms to conform to certain specifications.
- 9I. Tax clearance
- 10. Trespassing with a knife, weapon of offence or other article.
- 11. Production of article capable of inflicting serious injury.
- 12. Power to prohibit manufacture, importation, sale, hire or loan of offensive weapons.
- 12A. Shortening barrel of shot-gun or rifle.
- 13. Forfeiture of weapons and other articles.
- 14. Power of arrest without warrant.
- 15. Search warrants.
- 16. Power of search without warrant.
- 17. Extension of section 8 of Criminal Law Act, 1976.
- 18. Repeal of portion of section 4 of Vagrancy Act, 1824.

ACTS REFERRED TO

Criminal Law Act, 1976	1976, No. 32
Firearms Act, 1925	1925, No. 17
Firearms Act, 1964	1964, No. 1
Firearms (Proofing) Act, 1968	1968, No. 20
Firearms Act, 1971	1971, No. 13
Prevention of Crimes Act, 1871	1871, c. 112
Vagrancy Act, 1824	1824, c. 83



Number 12 of 1990

**FIREARMS AND OFFENSIVE WEAPONS ACT
1990**

REVISED

Updated to 31 October 2012

AN ACT TO AMEND AND EXTEND THE FIREARMS ACTS, 1925 TO 1971, TO CONTROL THE AVAILABILITY AND POSSESSION OF OFFENSIVE WEAPONS AND OTHER ARTICLES AND TO PROVIDE FOR CERTAIN OTHER MATTERS CONNECTED WITH THE MATTERS AFORESAID. [12th June, 1990]

BE IT ENACTED BY THE OIREACTHAS 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 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, 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 collectively cited *Firearms Acts 1925 to 1990* 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. 2, 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.

...

PART I

PRELIMINARY

Short title and commencement.

- 1.—(1)** This Act may be cited as the Firearms and Offensive Weapons Act, 1990.
- (2) This Act (other than *Part II*) shall come into operation on the date of its passing.
- (3) *Part II* of this Act shall come into operation on such day or days as may be fixed therefor by order or orders of the Minister either generally or with reference to any particular provision, and different days may be so fixed for different provisions of that Part.

Annotations

Editorial Notes:

E1 Power pursuant to subs. (3) exercised (1.01.1991) by *Firearms and Offensive Weapons Act 1990 (Part II) (Commencement) Order 1990* (S.I. No. 313 of 1990).

2. The 1st day of January, 1991 is hereby fixed as the day on which Part II of the Firearms and Offensive Weapons Act, 1990 shall come into operation.

Interpretation.

2.—(1) In this Act “the Minister” means the Minister for Justice.

(2) In this Act a reference to a section is a reference to a section of this Act unless it is indicated that reference to some other enactment is intended and a reference to a subsection is a reference to the subsection of the section in which the reference occurs, unless it is indicated that reference to some other section is intended.

(3) A reference in this Act to any enactment shall be construed as a reference to that enactment as amended or adapted by or under any subsequent enactment.

PART II

AMENDMENTS TO FIREARMS ACTS

Collective citation and construction. **3.—**(1) The Firearms Acts, 1925 to 1971, and this Part may be cited together as the Firearms Acts, 1925 to 1990.

(2) The Firearms Acts, 1925 to 1971 (other than the Firearms (Proofing) Act, 1968) and this Part shall be construed together as one.

Extension of Firearms Acts to crossbows and stun guns.

4.—F1[...]

Annotations

Amendments:

F1 Repealed (1.08.2006) by *Criminal Justice Act 2006* (26/2006), s. 63(a), S.I. No. 390 of 2006.

Amendment of section 10 of Firearms Act, 1925.

5.—The Firearms Act, 1925, is hereby amended by the insertion in section 10 after subsection (3) of the following subsection:

“(3A) (a) A person shall not sell, transfer or otherwise dispose of a firearm or ammunition for a firearm to a person who habitually resides, or to a body at an address, in a country that stands prescribed for the time being for the purposes of this section unless the superintendent of the Garda Síochána of the district in which the firearm or ammunition is kept, being satisfied that the transaction is authorised by the competent authorities of that country, also authorises it.

(b) This subsection is without prejudice to the other provisions of this section and to section 16 of this Act but subsection (4) of that section does not apply to a firearm or ammunition for a firearm carried by a person from the State for the purpose of transferring it permanently to such a country as aforesaid.

(c) In this subsection ‘firearm’ does not include a firearm specified in *paragraph (c) or (d) (or in paragraph (f) or (g) so far as either of those paragraphs relates to the said paragraph (c) or (d)) of section 4 (1) of the Firearms and Offensive Weapons Act, 1990.*”.

Authorisation to hold defective firearm without firearm certificate.

6.—(1) The superintendent of the Garda Síochána of a district may grant an authorisation in writing to a person resident in the district, not being a person disentitled under the *Firearms Acts, 1925 to 1990*, to hold a firearm certificate, to have in his possession, without a firearm certificate, a firearm where he is satisfied that the firearm would not be a firearm but for F2[*paragraph (f) of the definition of “firearm” in section 1(1) of the Principal Act*] and that the person has a good reason for wishing to keep it and may be permitted to do so without danger to the public safety or the peace.

(2) The superintendent of the district where the holder of an authorisation under this section resides may, at any time, attach to the authorisation any conditions,

whether as regards safe custody or otherwise, which he considers necessary and may at any time revoke the authorisation.

Annotations

Amendments:

- F2** Substituted (1.08.2006) by *Criminal Justice Act 2006* (26/2006), s. 63(b), S.I. No. 390 of 2006.

Possession, sale,
etc., of silencers.

7.—(1) A person shall be guilty of an offence if he has in his possession or sells or transfers to another person a silencer unless the possession, sale or transfer is authorised in writing by the superintendent of the district in which the first-mentioned person resides.

(2) A superintendent shall not grant an authorisation under this section unless he is satisfied that the person who is to have possession of the silencer or to whom it is to be sold or transferred is the holder of a firearm certificate for a firearm to which the silencer can be fitted and that—

- (a) having regard to all the circumstances, the possession, sale or transfer concerned will not endanger the public safety or the peace, and
- (b) the person has a special need that is, in the opinion of the superintendent, sufficient to justify the granting of the authorisation for the silencer.

(3) The superintendent of the district where the holder of an authorisation under this section resides may, at any time, attach to the authorisation such conditions as he considers necessary for the purpose of preventing danger to the public or to the peace or of ensuring that the silencer is used only to satisfy the special need for which the authorisation was granted.

(4) An authorisation under this section may be granted for such period not exceeding one year as is specified in the authorisation and may be revoked by the superintendent of the district where its holder resides.

(5) A person who contravenes a condition attached to an authorisation under this section shall be guilty of an offence.

(6) A person guilty of an offence under this section shall be liable—

- (a) on summary conviction, to a fine not exceeding F3[€5,000] or to imprisonment for a term not exceeding one year or to both, or
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding F3[7 years] or to both.

(7) This section does not apply in relation to a person specified in paragraph (b), (c) or (d) of subsection (3) of section 2 of the Firearms Act, 1925, or paragraph (a) or (b) of subsection (4) (inserted by the Firearms Act, 1964) of that section.

(8) In this section—

“silencer” means a silencer specified in F4[paragraph (g)(ii) of the definition of “firearm” in section 1(1) of the Principal Act];

“superintendent” means a superintendent of the Garda Síochána.

Annotations**Amendments:**

- F3** Substituted (1.08.2006) by *Firearms and Offensive Weapons Act 1990* (12/1990), s. 8A as inserted by *Criminal Justice Act 2006* (26/2006), s. 64 and sch. 1, S.I. No. 390 of 2006.
- F4** Substituted (1.08.2006) by *Criminal Justice Act 2006* (26/2006), s. 63(c), S.I. No. 390 of 2006.

Editorial Notes:

- E2** Offences under section designated serious offences by *Bail Act 1997* (16/1997), s. 1 and sch. paras. 16(a), 29 and 30 as substituted (18.05.2007) by *Criminal Justice Act 2007* (29/2007), s. 17(b), S.I. No. 236 of 2007.

Reckless discharge of firearm.

8.—A person who discharges a firearm being reckless as to whether any person will be injured or not, shall be guilty of an offence, whether any such injury is caused or not, and shall be liable—

(a) on summary conviction, to a fine not exceeding F5[€5,000] or to imprisonment for a term not exceeding twelve months or to both, or

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding F5[7 years] or to both.

Annotations**Amendments:**

- F5** Substituted (1.08.2006) by *Firearms and Offensive Weapons Act 1990* (12/1990), s. 8A as inserted by *Criminal Justice Act 2006* (26/2006), s. 64 and sch. 1, S.I. No. 390 of 2006.

Editorial Notes:

- E3** Offences under section designated serious offences (4.09.1998) by *Bail Act 1997* (16/1997), s. 1 and sch. paras. 16(b), 29 and 30, S.I. No. 315 of 1998 as substituted (18.05.2007) by *Criminal Justice Act 2007* (29/2007), s. 17(b), S.I. No. 236 of 2007.

F6[Other amendments to Firearms Acts.

8A.— Each provision of the *Firearms Acts 1925 to 2006* specified in Schedule 1 to the *Criminal Justice Act 2006* is amended in the manner specified in the third and fourth columns opposite the mention of that provision in the first column of that Schedule.]

Annotations**Amendments:**

- F6** Inserted (1.08.2006) by *Criminal Justice Act 2006* (26/2006), s. 64, S.I. No. 390 of 2006.

PART III

OFFENSIVE WEAPONS

Possession of knives and other articles.

9.—(1) Subject to *subsections (2) and (3)*, where a person has with him in any public place any knife or any other article which has a blade or which is sharply pointed, he shall be guilty of an offence.

(2) It shall be a defence for a person charged with an offence under *subsection (1)* to prove that he had good reason or lawful authority for having the article with him in a public place.

(3) Without prejudice to the generality of *subsection (2)*, it shall be a defence for a person charged with an offence under *subsection (1)* to prove that he had the article with him for use at work or for a recreational purpose.

(4) Where a person, without lawful authority or reasonable excuse (the onus of proving which shall lie on him), has with him in any public place—

(a) any flick-knife, or

(b) any other article whatsoever made or adapted for use for causing injury to or incapacitating a person,

he shall be guilty of an offence.

(5) Where a person has with him in any public place any article intended by him unlawfully to cause injury to, incapacitate or intimidate any person either in a particular eventuality or otherwise, he shall be guilty of an offence.

(6) In a prosecution for an offence under *subsection (5)*, it shall not be necessary for the prosecution to allege or prove that the intent to cause injury, incapacitate or intimidate was intent to cause injury to, incapacitate or intimidate a particular person; and if, having regard to all the circumstances (including the type of the article alleged to have been intended to cause injury, incapacitate or intimidate, the time of the day or night, and the place), the court (or the jury as the case may be) thinks it reasonable to do so, it may regard possession of the article as sufficient evidence of intent in the absence of any adequate explanation by the accused.

F7[(7) (a) A person guilty of an offence under *subsection (1)* shall be liable—

(i) on summary conviction, to a fine not exceeding €5,000 or to imprisonment for a term not exceeding twelve months or to both, or

(ii) on conviction on indictment, to a fine or to imprisonment for a term not exceeding five years or to both.]

(b) A person guilty of an offence under *subsection (4) or (5)* shall be liable—

(i) on summary conviction, to a fine not exceeding F8[€5,000] or to imprisonment for a term not exceeding twelve months or to both, or

(ii) on conviction on indictment, to a fine or to imprisonment for a term not exceeding five years or to both.

(8) In this section “public place” includes any highway and any other premises or place to which at the material time the public have or are permitted to have access, whether on payment or otherwise, and includes any club premises and any train, vessel or vehicle used for the carriage of persons for reward.

(9) In this section “flick-knife” means a knife—

(a) which has a blade which opens when hand pressure is applied to a button, spring, lever or other device in or attached to the handle, or

(b) which has a blade which is released from the handle or sheath by the force of gravity or the application of centrifugal force and when released is locked in an open position by means of a button, spring, lever or other device.

Annotations**Amendments:**

- F7** Substituted (1.08.2009) by *Criminal Justice (Miscellaneous Provisions) Act 2009* (28/2009), s. 39, S.I. No. 310 of 2009.
- F8** Substituted (1.08.2006) by *Firearms and Offensive Weapons Act 1990* (12/1990), s. 8A as inserted by *Criminal Justice Act 2006* (26/2006), s. 64 and sch. 1, S.I. No. 390 of 2006.

Editorial Notes:

- E4** Offences under section designated serious offences (4.09.1998) by *Bail Act 1997* (16/1997), s. 1 and sch. paras. 16(c), 29 and 30, S.I. No. 315 of 1998 as substituted (18.05.2007) by *Criminal Justice Act 2007* (29/2007), s. 17(b), S.I. No. 236 of 2007.
- E5** Previous affecting provision: amount of fine in subs. (7)(a)(i) substituted (1.08.2006) by *Firearms and Offensive Weapons Act 1990* (12/1990), s. 8A as inserted by *Criminal Justice Act 2006* (26/2006), s. 64 and sch. 1, S.I. No. 390 of 2006; substituted as per F-note above.

F9[Possession of a realistic imitation firearm in a public place.

9A.— (1) Where a person, without lawful authority or reasonable excuse (the onus of proving which shall lie on him or her), has a realistic imitation firearm with him or her in any public place, that person shall be guilty of an offence.

(2) A person guilty of an offence under this section shall be liable:

- (i) on summary conviction to a fine not exceeding €5,000 or to imprisonment for a term not exceeding twelve months or to both, or
- (ii) on conviction on indictment, to a fine or to imprisonment for a term not exceeding five years or to both.

(3) In this section “public place” includes any highway and any other premises or place to which at the material time the public have or are permitted to have access, whether on payment or otherwise, and includes any club premises and any train, vessel or vehicle used for the carriage of persons for reward.

(4) In this section and in sections 9B to 9G “realistic imitation firearm” means a device that appears to the ordinary observer so realistic as to make it indistinguishable from a firearm.]

Annotations**Amendments:**

- F9** Inserted (1.08.2009) by *Criminal Justice (Miscellaneous Provisions) Act 2009* (28/2009), s. 40, S.I. No. 310 of 2009.

F10[Authorisation of use of realistic imitation firearms at specified venues, theatres, etc.

9B.— (1) The Superintendent of any district may authorise in writing the possession, use or carriage of realistic imitation firearms in that district at a specified location during such period, not exceeding one year, as may be specified in the authorisation.

(2) A Superintendent shall not grant an authorisation under this section unless he or she is satisfied having regard to all the circumstances (including the provision made or to be made for the storage of realistic imitation firearms 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 realistic imitation firearms in pursuance of the authorisation will not endanger the public safety or the peace.

(3) Where it is proposed to grant an authorisation under this section in respect of a specified location, the authorisation shall be granted to the person in charge of the specified location 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.

(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 is 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 and shall be liable on summary conviction to a fine of up to €5,000 or up to 12 months imprisonment.]

Annotations

Amendments:

- F10** Inserted (1.08.2009) by *Criminal Justice (Miscellaneous Provisions) Act 2009* (28/2009), s. 40, S.I. No. 310 of 2009.

F11[Register of dealers in realistic imitation firearms to be kept.

9C.— ...]

Annotations

Amendments:

- F11** Inserted by *Criminal Justice (Miscellaneous Provisions) Act 2009* (28/2009), s. 40, not commenced as of 31.10.2012.

Modifications (not altering text):

- C3** Section inserted by *Criminal Justice (Miscellaneous Provisions) Act 2009* (28/2009), s. 40, not commenced as of 31.10.2012.

F11**9C.—** (1) The Minister shall cause a register of dealers in realistic imitation firearms to be established and kept.

(2) Any person who—

- (a) applies, in accordance with the provisions of this section, to be registered in the register of dealers in realistic imitation firearms,
- (b) pays the fee, if any, prescribed by regulations made by the Minister under this section, and
- (c) satisfies the Minister that he or she is immediately about to carry on business as a dealer in realistic imitation firearms in premises suitable for that business,

may be registered in such register, but when considering any such application for registration the Minister shall have regard to the character of the applicant, and generally to the public safety and the preservation of the peace.

(3) The registration of a person in the register of dealers in realistic imitation firearms shall continue in force for a period of 3 years from the date of the registration, unless previously revoked and, if renewed, for a further period of 3 years from the expiration of that period or, as the case may be, of any subsequent such period for which the registration was renewed.

(4) Every registered dealer in realistic imitation firearms shall be entitled to renew his or her registration in the register of dealers in realistic imitation firearms at any time within one month before the expiration of his existing registration or renewal on application therefor in accordance with the provisions of this section and payment of the fee, if any, prescribed by regulations made by the Minister under this section.

(5) Every application for registration in the register of dealers in realistic imitation firearms or for renewal of such registration shall be made to the Minister in the form and manner prescribed by regulations made by the Minister under this section and shall contain the prescribed particulars (if any) so prescribed.

(6) Every person registered in the register of dealers in realistic imitation firearms shall be entitled on such registration and on every renewal thereof to obtain from the Minister a certificate in writing of such registration or renewal.

(7) An application for registration in the register of dealers in realistic firearms dealers or for renewal of such registration shall be refused if granting it would, in the opinion of the Minister, prejudice public safety or security.

(8) The Minister, after consultation with the Commissioner, may by regulations specify minimum standards to be complied with in relation to premises in which a dealer in realistic imitation firearms carries on business or proposes to do so.

(9) The minimum standards shall be determined by reference to—

- (a) the security of the premises,
- (b) the location of the premises,
- (c) their safety,
- (d) their standard of construction,
- (e) window displays, and
- (f) types of merchandise,

and having regard to their use for, as the case may be, the manufacture, repair, testing or sale of imitation firearms.

(10) Applicants for registration or renewal shall satisfy the Minister that their premises comply with the minimum standards specified in any regulations under subsection (8) of this section.

(11) Without prejudice to subsection (2) of this section, the following persons are declared to be disqualified to be registered in the register of dealers in realistic imitation firearms:

- (a) a person under the age of 21 years;
- (b) a person of unsound mind;
- (c) a person who has been sentenced to imprisonment for an offence under the Firearms Acts 1925 to 2009, the Offences Against the State Acts 1939 to 1998 or the Criminal Justice (Terrorist Offences) Act 2005;
- (d) a person who is bound by a recognisance to keep the peace or be of good behaviour, a condition of which is that the person shall not possess, use or carry a firearm or ammunition.

(12) Every regulation made under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House sits after the regulation is laid before it, the regulation shall be annulled accordingly but without prejudice to anything previously done thereunder.]

F12[Restrictions on import, manufacture and sale of realistic imitation firearms. 9D.— ...]

Annotations

Amendments:

F12 Inserted by *Criminal Justice (Miscellaneous Provisions) Act 2009* (28/2009), s. 40, not commenced as of 31.10.2012.

Modifications (not altering text):

C4 Section inserted by *Criminal Justice (Miscellaneous Provisions) Act 2009* (28/2009), s. 40, not commenced as of 31.10.2012.

F12[9D.— (1) On and after the date of commencement of *section 40* of the *Criminal Justice (Miscellaneous Provisions) Act 2009* it is an offence for any person to import, manufacture, sell, repair, test, expose for sale, or have in his possession for sale, repair or test by way of trade or business, any realistic imitation firearm unless such person is registered in the register of dealers in realistic imitation firearms.

(2) On and after the date of commencement of *section 40* of the *Criminal Justice (Miscellaneous Provisions) Act 2009* it is an offence for a person to sell a realistic imitation firearm to a person under the age of 16 years.

(3) A person guilty of an offence under this section shall be liable:

(a) on summary conviction to a fine not exceeding €5,000 or to imprisonment for a term not exceeding twelve months or both, or

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding five years or both.]

F13[Removal of names from register of dealers in realistic imitation firearms. 9E.— ...]

Annotations

Amendments:

F13 Inserted by *Criminal Justice (Miscellaneous Provisions) Act 2009* (28/2009), s. 40, not commenced as of 31.10.2012.

Modifications (not altering text):

C5 Section inserted by *Criminal Justice (Miscellaneous Provisions) Act 2009* (28/2009), s. 40, not commenced as of 31.10.2012.

F13[9E.— (1) The Minister may at the request of any person who is registered in the register of dealers in realistic imitation firearms remove the name of such person from the register.

(2) If and when the Minister is satisfied that any person who is registered in the register of dealers in realistic imitation firearms—

(a) no longer carries on business as a dealer in realistic imitation firearms, or

(b) no longer has a place of business as such dealer in realistic imitation firearms in the State, or

(c) cannot any longer be permitted to carry on such business without danger to the public safety or to the peace, or

(d) has become a person who is declared under section 9C(11) of this Act to be disentitled to be registered in the register of dealers in realistic imitation firearms,

the Minister may remove the name of such person from the register.

(3) A person whose name is removed under this section from the register of dealers in realistic imitation firearms shall, on such removal, forthwith deliver up to the Minister the person's certificate of registration or renewal.

(4) A person who contravenes subsection (3) of this section is guilty of an offence and on summary conviction is liable to a fine not exceeding €3,000.]

F14[Inspection of stock of dealer in realistic imitation firearms. 9F.— ...]

Annotations

Amendments:

F14 Inserted by *Criminal Justice (Miscellaneous Provisions) Act 2009 (28/2009)*, s. 40, not commenced as of 31.10.2012.

Modifications (not altering text):

C6 Section inserted by *Criminal Justice (Miscellaneous Provisions) Act 2009 (28/2009)*, s. 40, not commenced as of 31.10.2012.

F14[9F.— (1) Any member of the Garda Síochána may at all reasonable times enter the premises of any registered dealer in realistic imitation firearms and there inspect any imitation firearms and any materials used in the manufacture, repair or test thereof found on such premises.

(2) Every person who obstructs or impedes any member of the Garda Síochána in the exercise of any of the powers conferred on him by this section shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding €1,000 or imprisonment for a term not exceeding 6 months or both.]

F15[Power by order to restrict sale of certain realistic imitation firearms from specified date. 9G.— ...]

Annotations

Amendments:

F15 Inserted by *Criminal Justice (Miscellaneous Provisions) Act 2009 (28/2009)*, s. 40, not commenced as of 31.10.2012.

Modifications (not altering text):

C7 Section inserted by *Criminal Justice (Miscellaneous Provisions) Act 2009 (28/2009)*, s. 40, not commenced as of 31.10.2012.

F15[9G.— (1) Notwithstanding section 9D(1), the Minister may, if he or she considers that realistic imitation firearms represent a threat to public safety and security, and following consultation

with the Commissioner, by order set a date or dates after which it is an offence for a person to import, manufacture, sell, repair, test, expose for sale or have in his or her possession for sale, repair or testing by way of trade or business any realistic imitation firearm or to do any one or more of the foregoing as may be specified in the order.

(2) Any order made under this section 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 21 days on which that House sits after the order is laid before it, the order shall be annulled accordingly but without prejudice to anything previously done thereunder.

(3) A person guilty of an offence under this section shall be liable:

(a) on summary conviction to a fine not exceeding €5,000 or to imprisonment for a term not exceeding twelve months or both, or

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding five years or both.]

F16[Power by order to require certain descriptions of imitation firearms to conform to certain specifications.

9H.— ...]

Annotations

Amendments:

F16 Inserted by *Criminal Justice (Miscellaneous Provisions) Act 2009 (28/2009)*, s. 40, not commenced as of 31.10.2012.

Modifications (not altering text):

C8 Section inserted by *Criminal Justice (Miscellaneous Provisions) Act 2009 (28/2009)*, s. 40, not commenced as of 31.10.2012.

F16[9H.— (1) The Minister may, if he or she considers that certain imitation firearms represent a threat to public safety and security, and following consultation with the Commissioner, by order set a date or dates after which it is an offence for a person to import, manufacture, sell, repair, test, expose for sale or have in his or her possession for sale, repair or testing by way of trade or business certain descriptions of imitation firearms unless the imitation firearms conform to certain specifications set out in the order.

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

(3) Any order made under this section 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 21 days on which that House sits after the order is laid before it, the order shall be annulled accordingly but without prejudice to anything previously done thereunder.

(4) A person guilty of an offence under this section shall be liable:

(a) on summary conviction to a fine not exceeding €5,000 or to imprisonment for a term not exceeding twelve months or both, or

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding five years or both.]

F17[Tax clearance.

9I.— ...]

Annotations**Amendments:**

- F17** Inserted by *Criminal Justice (Miscellaneous Provisions) Act 2009* (28/2009), s. 40, not commenced as of 31.10.2012.

Modifications (not altering text):

- C9** Section inserted by *Criminal Justice (Miscellaneous Provisions) Act 2009* (28/2009), s. 40, not commenced as of 31.10.2012.

F17[9I.— (1) In this section—

“Act of 1997” means the Taxes Consolidation Act 1997;

“Collector-General” means the Collector-General appointed under section 851 of the Act of 1997;

“tax clearance certificate” means a certificate under section 1095 (as substituted by section 127(b) of the Finance Act 2002) of the Act of 1997.

(2) The Minister shall refuse to register a person in the register of dealers in realistic imitation firearms or renew any such registration in respect of that person if that person is a person in relation to whom a tax clearance certificate is not in force.

(3) The Minister may nevertheless register a person in the register of dealers in realistic imitation firearms or renew any such registration in respect of that person if—

(a) the person has, at least four months before applying for such registration or renewal, applied for a tax clearance certificate and it has been refused and an appeal against the refusal has been made under section 1094(7) of the Act of 1997 but not determined, and

(b) the Minister would, but for subsection (2), have registered that person in the register of dealers in realistic imitation firearms or renewed any such registration in respect of the person.

(4) Where an appeal referred to in subsection (3) is made but is not successful, any registration or renewal of registration under that subsection shall expire 7 days after the appeal is determined or, where appropriate, finally determined.

(5) The Collector-General shall notify the Minister of any appeal against a refusal of an application for a tax clearance certificate and of the determination or, as appropriate, final determination of any such appeal.]

Trespassing with a knife, weapon of offence or other article.

10.—(1) Where a person is on any premises as defined in *subsection (2)* as a trespasser, he shall be guilty of an offence if he has with him—

(a) any knife or other article to which *section 9 (1)* applies, or

(b) any weapon of offence (as defined in *subsection (2)*).

(2) In this section—

“premises” means any building, any part of a building and any land ancillary to a building;

“weapon of offence” means any article made or adapted for use for causing injury to or incapacitating a person, or intended by the person having it with him for such use.

(3) A person guilty of an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding F18[€5,000] or to imprisonment for a term not exceeding twelve months or to both, or

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding five years or to both.

Annotations**Amendments:**

- F18** Substituted (1.08.2006) by *Firearms and Offensive Weapons Act 1990* (12/1990), s. 8A as inserted by *Criminal Justice Act 2006* (26/2006), s. 64 and sch. 1, S.I. No. 390 of 2006.

Editorial Notes:

- E6** Offences under section designated serious offences (4.09.1998) by *Bail Act 1997* (16/1997), s. 1 and sch. paras. 16(d), 29 and 30, S.I. No. 315 of 1998 as substituted (18.05.2007) by *Criminal Justice Act 2007* (29/2007), s. 17(b), S.I. No. 236 of 2007.

Production of article capable of inflicting serious injury.

11.—Where a person, while committing or appearing to be about to commit an offence, or in the course of a dispute or fight, produces in a manner likely unlawfully to intimidate another person any article capable of inflicting serious injury, he shall be guilty of an offence and shall be liable—

(a) on summary conviction, to a fine not exceeding F19[€5,000] or to imprisonment for a term not exceeding twelve months or to both, or

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding five years or to both.

Annotations**Amendments:**

- F19** Substituted (1.08.2006) by *Firearms and Offensive Weapons Act 1990* (12/1990), s. 8A as inserted by *Criminal Justice Act 2006* (26/2006), s. 64 and sch. 1, S.I. No. 390 of 2006.

Editorial Notes:

- E7** Offences under section designated serious offences (4.09.1998) by *Bail Act 1997* (16/1997), s. 1 and sch. paras. 16(e), 29 and 30, S.I. No. 315 of 1998 as substituted (18.05.2007) by *Criminal Justice Act 2007* (29/2007), s. 17(b), S.I. No. 236 of 2007.

Power to prohibit manufacture, importation, sale, hire or loan of offensive weapons.

12.—(1) Any person who—

(a) manufactures, sells or hires, or offers or exposes for sale or hire, or by way of business repairs or modifies, or

(b) has in his possession for the purpose of sale or hire or for the purpose of repair or modification by way of business, or

(c) puts on display, or lends or gives to any other person,

a weapon to which this section applies shall be guilty of an offence.

(2) Where an offence under *subsection (1)* is committed by a body corporate and is proved to have been so committed with the consent or connivance of or to be attributable to any neglect on the part of a director, manager, secretary or other officer of the body corporate, the director, manager, secretary or other officer or any person purporting to act in such capacity shall also be guilty of an offence.

(3) A person guilty of an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding F20[€5,000] or to imprisonment for a term not exceeding twelve months or to both, or

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding F20[7 years] or to both.

(4) The Minister may by order direct that this section shall apply to any description of weapon specified in the order except any firearm subject to the *Firearms Acts, 1925 to 1990*.

(5) The Minister may by order amend or revoke an order made under this section.

(6) The importation of a weapon to which this section applies is hereby prohibited.

(7) Every order made under this section 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 21 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.

Annotations

Amendments:

F20 Substituted (1.08.2006) by *Firearms and Offensive Weapons Act 1990* (12/1990), s. 8A as inserted by *Criminal Justice Act 2006* (26/2006), s. 64 and sch. 1, S.I. No. 390 of 2006.

Editorial Notes:

E8 Power pursuant to section exercised (1.09.2009) by *Firearms And Offensive Weapons Act 1990 (Offensive Weapons) (Amendment) Order 2009* (S.I. No. 338 of 2009), amending S.I. No. 66 of 1991.

E9 Power pursuant to section exercised (1.05.1991) by *Firearms and Offensive Weapons Act 1990 (Offensive Weapons) Order 1991* (S.I. No. 66 of 1991).

E10 Offences under section designated serious offences (4.09.1998) by *Bail Act 1997* (16/1997), s. 1 and sch. paras. 16(f), 29 and 30, S.I. No. 315 of 1998 as substituted (18.05.2007) by *Criminal Justice Act 2007* (29/2007), s. 17(b), S.I. No. 236 of 2007.

F21[Shortening barrel of shot-gun or rifle.

12A.— (1) Subject to subsection (2), a person who shortens the barrel of—

(a) a shot-gun to a length of less than 61 centimetres, or

(b) a rifle to a length of less than 50 centimetres,

is guilty of an offence.

(2) It is not an offence under subsection (1) for a registered firearms dealer to shorten the barrel of a shot-gun or rifle to a length of less than 61 or 50 centimetres respectively if the sole purpose of doing so is to replace a defective part of the barrel with a barrel of not less than 61 or 50 centimetres, as the case may be.

(3) It is an offence for a person to convert into a firearm anything which resembles a firearm but is not capable of discharging a projectile.

(4) Subject to subsection (5), it is an offence to modify a firearm so as to render its reloading mechanism fully automatic or to increase its calibre, irrespective of whether the firearm, as so modified, is a restricted firearm.

(5) Subsection (4) does not apply to a firearm designed and manufactured so as to enable barrels of different calibres to be attached to it.

(6) It is an offence for a person (except a registered firearms dealer) to possess without lawful authority or reasonable excuse—

- (a) a shot-gun the barrel of which is less than 61 centimetres in length,
- (b) a rifle the barrel of which is less than 50 centimetres in length,
- (c) a converted firearm mentioned in subsection (3), or
- (d) a firearm which has been modified as described in subsection (4).

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

- (a) to imprisonment for a term not exceeding 10 years or such shorter term as the court may determine, subject to subsections (9) to (11) of this section or, where subsection (13) 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.

(8) 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*.

(9) 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 (in this section referred to as the "minimum term of imprisonment") as the minimum term of imprisonment to be served by the person.

F22[(9A) The purpose of subsections (10) and (11) 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.]

(10) Subsection (9) 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 of imprisonment unjust in all the circumstances, and for this purpose the court may F22[, subject to subsection (11),] 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.

(11) The court, in considering for the purposes of subsection (10) 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.

(12) Subsections (9) to (11) 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 (13)(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.

(13) 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 or section 26, F22[27] 27A or 27B of the Firearms Act 1964,

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.

(14) Section 27C of the Firearms Act 1964 applies in relation to proceedings for an offence under this section and any minimum term of imprisonment imposed under subsection (9) or (13) in those proceedings.]

Annotations

Amendments:

F21 Inserted (1.11.2006) by *Criminal Justice Act 2006* (26/2006), s. 65, S.I. No. 390 of 2006.

F22 Inserted (18.05.2007) by *Criminal Justice Act 2007* (29/2007), s. 40, S.I. No. 236 of 2007

Editorial Notes:

E11 Offences under section designated serious offences (4.09.1998) by *Bail Act 1997* (16/1997), s. 1 and sch. paras. 16(g), 29 and 30, S.I. No. 315 of 1998 as substituted (18.05.2007) by *Criminal Justice Act 2007* (29/2007), s. 17(b), S.I. No. 236 of 2007.

Forfeiture of weapons and other articles.

13.—(1) Where a person is convicted of an offence under this Part, the court by or before which he is convicted may order any article in respect of which the offence was committed to be forfeited and either destroyed or otherwise disposed of in such manner as the court may determine.

(2) An order under this section shall not take effect until the ordinary time for instituting an appeal against the conviction or order concerned has expired or, where such an appeal is instituted, until it or any further appeal is finally decided or abandoned or the ordinary time for instituting any further appeal has expired.

Power of arrest without warrant.

14.—A member of the Garda Síochána may arrest without warrant any person who is, or whom the member, with reasonable cause, suspects to be, in the act of committing an offence under *section 9, 10 or 11*.

Search warrants.

15.—If a justice of the District Court or a Peace Commissioner is satisfied on the sworn information of a member of the Garda Síochána that there are reasonable grounds for suspecting that an offence under *section 12* has been or is being committed on any premises, he may issue a warrant under his hand authorising a specified member of the Garda Síochána, accompanied by such other members of the Garda Síochána as the member thinks necessary, at any time or times within one month from the date of the issue of the warrant, on production if so requested of

the warrant, to enter, if need be by force, and search the premises specified in the warrant and to seize anything found there that he believes on reasonable grounds may be required to be used in evidence in any proceedings for an offence under *section 12* or an offence under the Customs Acts in relation to the importation into the State of a weapon to which *section 12* applies.

F23[Power of search without warrant.

16.— (1) If a member of the Garda Síochána suspects with reasonable cause that a person has with him or her in any public place (within the meaning of section 9(8)) any article in contravention of section 9 or 9A (inserted by section 40 of the Criminal Justice (Miscellaneous Provisions) Act 2009), he may:

- (a) search the person and, if he or she considers it necessary for that purpose, detain the person for such time as is reasonably necessary for carrying out the search,
- (b) search any vehicle, vessel or aircraft in which he or she suspects that such article may be found and for the purpose of carrying out the search may, if he or she thinks fit, require the person who for the time being is in possession or control of such vehicle, vessel or aircraft to bring it to a stop and when stopped to refrain from moving it, or in case such vehicle, vessel or aircraft is already stationary, to refrain from moving it, or
- (c) seize and detain anything found in the course of a search under this section that appears to him or her to be something that might be required as evidence in proceedings for an offence under section 9 or 9A.

(2) Nothing in this section shall operate to prejudice any powers to search, seize or detain property that may be exercisable by a member of the Garda Síochána apart from this section.]

Annotations

Amendments:

- F23** Substituted (1.08.2009) by *Criminal Law (Miscellaneous Provisions) Act 2009* (28/2009), s. 41, S.I. No. 310 of 2009.

Extension of section 8 of Criminal Law Act, 1976.

17.—Section 8 of the Criminal Law Act, 1976, is hereby amended by the insertion in subsection (1) after paragraph (i) of the following paragraph:

“(j) an offence under *section 12 (1)* of the *Firearms and Offensive Weapons Act, 1990*.”.

Repeal of portion of section 4 of Vagrancy Act, 1824.

18.—Section 4 of the Vagrancy Act, 1824 (as extended to Ireland by section 15 of the Prevention of Crimes Act, 1871), is hereby amended by the deletion of “or being armed with any gun, pistol, hanger, cutlass, bludgeon, or other offensive weapon,” and “and every such gun, pistol, hanger, cutlass, bludgeon, or other offensive weapon,”.