

JAMAICA

No. 26 – 2005

I assent,

[L.S.]

H. F. COOKE,
Governor-General.

13th day of October, 2005.

AN ACT to Amend the Firearms Act.

[The date notified by the Minister
bringing the Act into operation]

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

1. This Act may be cited as the Firearms (Amendment) Act, 2005, and shall be read and construed as one with the Firearms Act (hereinafter referred to as the principal Act) and all amendments thereto and shall come into operation on a date to be appointed by the Minister by notice published in the *Gazette*.

Short title,
construction,
and
commence-
ment.

2. Section 2 of the principal Act is amended by—

- (a) deleting the definition of “appropriate authority”;
- (b) inserting next after the definition of “artillery” the following definition—

Amendment
of section 2
of principal
Act.

“Authority” means the Firearm Licensing Authority established under section 26A;”.

Amendment
of section 4
of principal
Act.

3. Subsection (2) of section 4 of the principal Act is amended—

- (a) in paragraph (b) by deleting the words “one thousand” and substituting therefor the words “two hundred thousand”;
- (b) in paragraph (c) by deleting the words “four hundred” and substituting therefor the words “one hundred thousand”.

Amendment
of section 5
of principal
Act.

4. Subsection (2) of section 5 of the principal Act is amended by deleting the words “four hundred” and substituting therefor the words “one hundred thousand”.

Amendment
of section 9
of principal
Act.

5. Subsection (2) of section 9 of the principal Act is amended—

- (a) in paragraph (b) by deleting the words “two thousand” and substituting therefor the words “five hundred thousand”;
- (b) in paragraph (c) by deleting the words “one thousand” and substituting therefor the words “three hundred thousand”.

Amendment
of section 10
of principal
Act.

6. Subsection (7) of section 10 of the principal Act is amended—

- (a) in paragraph (b) by deleting the words “two thousand” and substituting therefor the words “one million”;
- (b) in paragraph (c) by deleting the words “one thousand” and substituting therefor the words “five hundred thousand”.

Amendment
of section 11
of principal
Act.

7. Subsection (2) of section 11 of the principal Act is amended by deleting the words “two hundred” and substituting therefor the words “one hundred thousand”.

Amendment
of section 12
of principal
Act.

8. Subsection (2) of section 12 of the principal Act is amended—

- (a) in paragraph (a) by deleting the words “one thousand” and substituting therefor the words “five hundred thousand”;
- (b) in paragraph (b) by deleting the words “four hundred” and substituting therefor the words “three hundred thousand”.

9. Subsection (3) of section 14 of the principal Act is amended by deleting the words “two hundred” and substituting therefor the words “three hundred thousand”. Amendment of section 14 of principal Act.
10. Subsection (2) of section 16 of the principal Act is amended by deleting the words “one hundred” and substituting therefor the words “fifty thousand”. Amendment of section 16 of principal Act.
11. Sections 18, 21, 27, 28, 29, 30, 31, 32, 33, 35 and 46 of the principal Act are amended by deleting the words “appropriate authority” and substituting therefor the word “Authority”. Amendment of sections 18, 21, 27 to 33, 35 and 46 of principal Act.
12. Section 20 of the principal Act is amended— Amendment of section 20 of principal Act.
- (a) by deleting from subsection (2)(j) the words “appropriate authority” and substituting therefor the word “Authority”;
 - (b) in subsection (4)—
 - (i) by deleting from paragraph (b) the words “two thousand” and substituting therefor the words “five hundred thousand”;
 - (ii) by deleting from paragraph (c) the words “one thousand” and substituting therefor the words “three hundred thousand”.
13. Subsection (2) of section 21 of the principal Act is amended by inserting next after the words “two hundred” the word “thousand”. Amendment of section 21 of principal Act.
14. Sections 22, 24 and 25 of the principal Act are amended by deleting the words “one thousand” and substituting therefor the words “one million”. Amendment of sections 22, 24 and 25 of principal Act.
15. Section 26 of the principal Act is amended by inserting next after the words “two hundred” the word “thousand”. Amendment of section 26 of principal Act.

Insertion of sections 26A and 26B in principal Act.

16. The principal Act is amended by inserting next after section 26 under the heading “Part V. Licences, Certificates and Permits” the following as sections 26A and 26B—

“Establishment of Authority.

26A.—(1) There is hereby established for the purposes of this Act, a body to be known as the Firearm Licensing Authority.

Third Schedule.

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

Functions of Authority.

26B.—(1) Subject to section 38, the functions of the Authority shall be—

- (a) to receive and consider applications for firearm licences, certificates or permits;
- (b) to grant or renew firearm licences, certificates or permits;
- (c) to revoke any firearm licence, certificate or permit granted under this Act;
- (d) to amend the terms of a firearm licence, certificate or permit;
- (e) to receive and investigate any complaint regarding a breach of a firearm licence, certificate or permit.

(2) The Authority shall have the power to—

- (a) summon witnesses;
 - (b) call for and examine documents;
- and
- (c) do all such other things as it considers necessary or expedient for the purpose of carrying out its functions under this Act.”.

17. Section 35A of the principal Act is amended by deleting the words “appropriate authority” wherever they appear and “five thousand” and substituting therefor the words “Authority” and “one million”, respectively.

Amendment
of section
35A of
principal Act.

18. Section 36 of the principal Act is amended—

Amendment
of section 36
of principal
Act.

(a) in subsection (1) by—

- (i) deleting the words “appropriate authority” and substituting therefor the word “Authority”;
- (ii) deleting from paragraph (a) the word “he” and substituting therefor the words “the Authority”;
- (iii) re-lettering paragraph (b) as paragraph (e) and inserting the following as paragraphs (b), (c) and (d)—

“(b) the holder thereof has been convicted in Jamaica or in any other country for an offence involving—

- (i) the illegal importation or exportation of firearms or ammunition;
 - (ii) the illegal possession or use of a firearm or ammunition;
 - (iii) the use of violence for which a sentence of imprisonment of three months or more was imposed;
- (c) the holder thereof has been convicted of an offence against the Dangerous Drugs Act or any other offence for which a sentence of two years or more was imposed;

- (d) the holder thereof has been convicted of an offence involving—
 - (i) the unlawful discharge of a firearm in a public place;
 - (ii) failure to adequately secure a firearm or ammunition at his place of abode or work or on his person;
 - (iii) the unlawful use of a firearm to threaten violence against another person; or
 - (iv) negligence, resulting in the loss of a firearm or ammunition;
- (b) in subsection (2) by deleting the words—
 - (i) “appropriate authority” and substituting therefor the word “Authority”; and
 - (ii) “he” and “him” and substituting therefor the words “the Authority”, respectively;
- (c) in subsection (3) by deleting the words “appropriate authority” and “two hundred” and substituting therefor the words “Authority” and “two hundred thousand”, respectively.

**Amendment
of section 37
of principal
Act.**

19. Section 37 of the principal Act is amended—

- (a) by deleting the marginal note and substituting therefor the following “Review of decision of Authority”;
- (b) in subsection (1) by—
 - (i) inserting immediately after the words “this section” the words “and section 37A”;
 - (ii) deleting the words “appeal to the Minister against any decision of an appropriate authority” and substituting therefor the words “apply to the

Review Board for the review of a decision of the Authority”;

- (c) in subsection (1A) by—
 - (i) deleting the words “appeals to the Minister” and substituting therefor the words “applies for the review of a decision of the Authority”;
 - (ii) deleting the words “appeal is made” and substituting therefor the words “review is sought”;
 - (iii) deleting the words “that appeal” and substituting therefor the words “the review”;
- (d) by inserting next after subsection (1A) the following as subsection (1B)—

“ (1B) Every person who pursuant to subsection (1) applies for the review of a decision of the Authority shall at the time of making the application pay the prescribed fee”;
- (e) deleting subsections (2) and (4);
- (f) in subsection (3), by deleting the words “any appeal is taken” and substituting therefor the words “an application for review is made”.

20. The principal Act is amended by inserting next after section 37 the following as section 37A—

Insertion of new 37A in principal Act.

“ Review Board. 37A.—(1) For the purpose of a review under section 37, there is hereby established a Review Board consisting of persons appointed by the Minister in accordance with the Fourth Schedule.”

Fourth Schedule.

(2) The Review Board appointed under subsection (1) shall within ninety days of receiving an application for review—

- (a) hear, receive and examine the evidence in the matter under review; and

(b) submit to the Minister, for his determination, a written report of its findings and recommendations.

(3) The Minister upon receipt and consideration of the reports of the Review Board shall give to the Authority such directions as the Minister may think fit.

(4) Where the Review Board fails to comply with subsection (2), the Minister may hear and determine the matter under review.”.

Repeal and replacement of section 38 of principal Act.

21. The principal Act is amended by repealing section 38 and substituting therefor the following—

“Firearm Trans-shipment Permit. 38. The Minister shall be responsible for the grant, amendment or revocation of any Firearm Trans-shipment Permit.”.

Amendment of sections 41 and 41A of principal Act.

22. Sections 41 and 41A of the principal Act are amended by deleting the words “five hundred” and substituting therefor the words “one hundred thousand”.

Amendment of section 42 of principal Act.

23. Section 42 of the principal Act is amended by deleting the words “one thousand” and substituting therefor the words “five hundred thousand”.

Amendment of section 44 of principal Act.

24. Subsection (5) of section 44 of the principal Act is amended by deleting the words “one thousand” and substituting therefor the words “two hundred thousand”.

Amendment of section 45 of principal Act.

25. Subsection (3) of section 45 of the principal Act is amended by deleting the words “two hundred” and substituting therefor the words “two hundred thousand”.

Amendment of section 48 of principal Act.

26. Section 48 of the principal Act is amended—

- (a) by renumbering the section as subsection (1) of section 48;
- (b) by inserting in subsection (1) as renumbered, next after the words “Minister may” the words “, subject to subsection (2)”;
- (c) by inserting the following as subsection (2)—

“ (2) Regulations which relate to any matter falling within the functions of the Authority shall be made after consultation by the Minister with the Authority.”.

27. Section 50 of the principal Act is amended by deleting the words “four hundred” and substituting therefor the words “three hundred thousand”.

Amendment of section 50 of principal Act.

28. The principal Act is amended by inserting next after the Second Schedule the following as the Third and Fourth Schedules.

Insertion of Third and Fourth Schedules.

“

THIRD SCHEDULE

(Section 26A)

*Constitution of Firearm Licensing Authority*Constitution
of Authority.

1. The Authority shall consist of the following persons—
- (a) a person who has retired from the post of—
 - (i) Director of Public Prosecutions; or
 - (ii) Senior Civil Servant;
 - (b) a retired Judge of the Court of Appeal or the Supreme Court;
 - (c) a retired Police Officer not below the rank of Senior Superintendent at the time of retirement; and
 - (d) two other persons who the Minister is satisfied are of high integrity and able to exercise sound judgment in fulfilling their responsibilities under this Act.

Tenure of
Office.

2. The members shall be appointed by the Minister by instrument in writing and shall, subject to the provisions of this Schedule, hold office for a period of three years.

Re-appointment.

3. Every member shall be eligible for re-appointment.

Chairman.

- 4.—(1) The Minister shall appoint one of the members to be chairman of the Authority.

(2) The chairman shall preside at all meetings of the Authority at which he is present, and in the case of the chairman's absence from any meeting, the members present and forming a quorum shall elect one of their number to preside at that meeting.

Acting
appointments.

5. If any member is absent or unable to act, the Minister may appoint any person to act in the place of that member, so, however, that such appointment shall be made in the same manner and from among the same category of persons as would be required in the case of a substantive appointment.

Remuneration
of members.

6. There shall be paid to the members of the Authority such remuneration as the Minister may determine.

Resignation.

- 7.—(1) Any member other than the chairman may, at any time resign his office by instrument in writing addressed to the Minister and transmitted through the chairman and from the date of receipt by the Minister of such instrument, that person shall cease to be a member.

(2) The chairman may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of receipt by the Minister of that instrument.

Filling of vacancies.

8. If any vacancy occurs in the membership of the Authority, such vacancy shall be filled by the appointment of another member, so, however, that such appointment shall be made in the same manner and from the same category of persons as would be required in the case of the original appointment.

Gazetting of Membership.

9. The names of all members of the Authority as first constituted and every change therein, shall be published in the *Gazette*.

Quorum

10. The quorum of the Authority shall be three members.

Funds of Authority.

11. The funds of the Authority shall consist of such funds as may from time to time be placed at their disposition for the purposes of this Act by Parliament, and such other moneys as may be lawfully paid to the Authority.

Staff of Authority.

12. For the due administration of the Authority, the Governor-General shall appoint—

- (a) a Secretary or Chief Executive Officer, as the case may be, who shall be responsible for the day-to-day administration of the Authority; and
- (b) such other officers and agents as may be necessary for the efficient operation of the Authority.

Accounts and Audit.

13.—(1) The Authority shall keep accounts and other records in relation to its activities and shall prepare annually a statement of accounts in a form satisfactory to the Minister and conforming to established accounting principles.

(2) The accounts of the Authority shall be audited annually by the Auditor-General.

Annual reports and estimates.

14.—(1) The Authority shall, within four months after the end of each financial year, or within such longer period as the Minister may in special circumstances approve, cause to be made and shall transmit to the Minister a report dealing generally with the activities of the Authority during the preceding financial year.

(2) The Minister shall cause a copy of the report together with the annual statement of accounts and the Auditor-General's

report thereon to be laid on the Table of the House of Representatives and of the Senate.

(3) The Authority shall, in each financial year, before a date specified by the Minister, submit to the Minister for his approval, estimates of income and expenditure for the ensuing financial year.

(4) For the purposes of this paragraph, "financial year" means the period of twelve months ending on the 31st day of August in each year.

Power of Minister to require returns.

15. The Authority shall furnish the Minister with such returns, accounts and other information as he may require with respect to the activities of the Authority and shall afford him facilities for verifying such information in such manner and at such times as he may reasonably require.

FOURTH SCHEDULE

(Section 37A)

Constitution of the Review Board

Constitution of Review Board.

1. The Review Board shall consist of—

- (a) a person who has served in the post of—
 - (i) Director of Public Prosecutions; or
 - (ii) a senior member of staff of the Office of the Director of Public Prosecutions;
- (b) a person who has served as a Judge of the Court of Appeal or the Supreme Court;
- (c) a person who served as an Officer of the Jamaica Constabulary Force not below the rank of Superintendent.

Tenure of Office.

2. The members shall be appointed by the Minister by instrument in writing and shall, subject to the provisions of this Schedule, hold office for a period of three years.

Re-appointment.

3. Every member shall be eligible for re-appointment.

Chairman.

4.—(1) The Minister shall appoint one of the members to be chairman of the Review Board.

(2) The chairman shall preside at all meetings of the Review Board at which he is present, and in the case of the chairman's absence from any meeting, the members present and forming a quorum shall elect one of their number to preside at that meeting.

Acting appointments.

5. If any member is absent or unable to act, the Minister may appoint any person to act in the place of that member, so, however, that such appointment shall be made in the same manner and from among the same category of persons as would be required in the case of a substantive appointment.

Remuneration of members.

6. There shall be paid to the members of the Review Board such remunerations as the Minister may determine.

Resignation.

7.—(1) Any member other than the chairman may, at any time resign his office by instrument in writing addressed to the Minister and transmitted through the chairman and from the date of receipt by the Minister of such instrument, that person shall cease to be a member.

(2) The chairman may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of receipt by the Minister of that instrument.

Filling of vacancies.

8. If any vacancy occurs in the membership of the Review Board, such vacancy shall be filled by the appointment of another member, so, however, that such appointment shall be made in the same manner and from the same category of persons as would be required in the case of the original appointment.

Gazetting of Membership.

9. The names of all members of the Review Board as first constituted and every change therein, shall be published in the *Gazette*."