



DELHI STATE RIFLE ASSOCIATION

D-77, PANCHSHEEL ENCLAVE, NEW DELHI-110017
E-mail : delhistaterifleassociation@gmail.com, Website : www.dsra.in

SUB: PROPOSED AMENDMENT TO THE ARMS ACT, 1959

MATTER: COMMENTS AS PER PUBLIC NOTICE DT. 04.11.2019

A. BACKGROUND:

1. Who we are and our role:

We are the Delhi State Rifle Association (DSRA) the State body for NCT of Delhi associated with the National Sports Federation for shooting sports. Our details are available on the website <http://dsra.in>.

The DSRA being an affiliate state association to the National Rifle Association of India (NRAI) organizes and conducts inter-school, district as well as State, Zonal and National level competitions/ championships in shooting sport for the rifle, pistol and shotgun disciplines. In addition to conducting shooting events, the DSRA is also responsible for verification of information, data, participation entries submitted by competitors, who are either its members or members of district / units associated to it, for participation in Zonal as well as National recognised competitions/events.

The DSRA is the affiliated state rifle association as recognized under the provisions of the Arms Rules, 2016. The DSRA falls within the definition of a "dealer" as per definitions 2(19) of Arms Rules, 2016 alongwith Sports Authority of India, NRAI, etc. The DSRA holds a License as provided under Rule 37 of the Arms Rules, 2016 for sports shooting association to acquire and possess arms and ammunitions. Additionally, the DSRA functions as the issuer of the prescribed written authority for carriage of any arms or ammunitions out of state by any borrower for purpose of training or target practice or participation in shooting competition (Rule 36 & 37 of the Arms Rules, 2016). Further, as per Rule 40 (2) of the Arms Rules, 2016 the DSRA is the certifying body for recommending to the licensing authority the category under which sports persons fall i.e. Junior Target Shooter, Aspiring Shooter, Other Shooters and Shooting Clubs, District Rifle Associations, etc. The certification for the sports person is relevant for (a) the purposes of upper limit on the quantity of ammunition under Rule 40(1) of the Arms Rules, 2016; and for the exemption related to possession of arms given to sports persons of different categories i.e. classes of persons under Notification dated 4th August 2014 bearing S.O.1988(E), issued by the Ministry of Home Affairs, Government of India.

2. Exemptions related to possession of arms under the Arms Act, 1959:

2.1 Section 41 of the Arms Act, 1959 empowers the Central Government to exempt any person or class of persons either generally or in relation to such description of arms and ammunitions or exclude any description of arms and ammunitions from the operation of any or all the provisions of the Act. There are basically two categories of exemptions, exemptions relating to licensee or category of fire arms. Exemptions under the Arms Act in relation to acquiring, possession, use, transfer, quantity of permissible ammunition, etc. pertaining to fire arms used in shooting sport has always been there in varied forms. The Central Government has issued notifications starting from 1985 to 2002, 2004, 2007, 2013 and lastly vide S.O. 1988(E), dated 04.08.2014 exempting certain class of persons from





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operation of some of the provisions of the Arms Act. The underlying rationale being graded exemption based on the class of sportspersons. While an Aspiring Shooter (who has achieved the minimum qualifying score/MQS in a state championship organized by the certifying body such as DSRA) is exempted from 1 firearm in addition to the number of weapons (3 i.e. three) which he is entitled to possess as a normal citizen; it ranges to provision of exemption of upto 7 additional weapons subject to overall ceiling of 10 for Renowned Shooters and in the case of Arjuna Awardee in shooting sport there is general exemption on the number and description of arms altogether. For Sportspersons (other than Arjuna Awardees) the categories and description of arms i.e. rifle/pistol or shotgun and their caliber are detailed. The schedule of the notification dated 04.08.2014 giving the exemptions in relation to number of weapons for sportspersons as currently applicable is reproduced below for ready reference:

SCHEDULE Exemptions related to possession of Arms

Sr. No.	Persons or class of persons	Categories/descriptions of arms	Conditions
(1)	(2)	(3)	(4)
1.	Arjuna Awardee	General exemption on the number of arms to be possessed provided that the Arjuna Award is conferred in shooting.	The person must hold a certificate issued by the appropriate certifying body referred to in paragraph 3 of this notification.
2.	International Medalist/ Renowned Shooter	(i) Rifles in calibre .22 Long Rifle (also known as .22 LR); (ii) Center fire Rifles with calibers up to 8mm including all calibers lower than 8mm; (iii) Pistol/ Revolvers of calibre up to and including 9 mm but excluding 9 mm parabellum (9x19 mm); (iv) Shotguns of caliber up to 12 bore/gauge including all calibers lower than 12 bore/gauge.	(1) The total number of weapons exempted shall not exceed seven in addition to the number of weapons he is entitled to possess as a normal citizen as per the provisions of the Act, subject to an overall ceiling of ten weapons. (2) The person must hold a certificate issued by the appropriate certifying body referred to in paragraph 3 of this notification. Note: (a) If a shooter is renowned in one event only, the maximum number of weapons he can possess shall be seven (i.e. four in the exempted category plus three weapons which he can possess as a normal citizen under sub-section 2 of Section 3 of the Act); (b) If a shooter is renowned in more than one event, the maximum number of weapons he can possess shall be ten (i.e. seven in the





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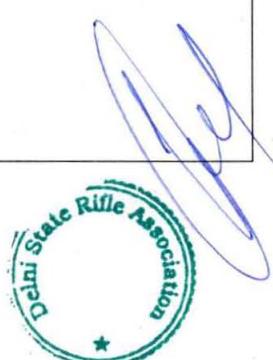
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			exempted category plus three weapons which he can possess as a normal citizen under sub-section 2 of Section 3 of the Act).
3.	Junior Target Shooter	Type of arms used in the event in which the person is a Junior Target Shooter.	<ul style="list-style-type: none"> (1) The exemption is restricted to one weapon of any category in which the person is a Junior Target Shooter. (2) The person must hold a certificate issued by the appropriate certifying body referred to in paragraph 3 of this Notification.
4.	Aspiring Shooter	Type of arms used in the event in which the person is a Aspiring Shooter.	<ul style="list-style-type: none"> (1) The exemption is restricted to one weapon of any category in which the person is an Aspiring Shooter. (2) The person must hold a certificate issued by the appropriate certifying body referred to in paragraph 3 of this notification
5.	National Rifle Association of India (NRAI) / Affiliated State Rifle Association(s) with NRAI / District Rifle Association(s) affiliated with State Rifle Association(s) / All Shooting Clubs affiliated with the State Rifle Association or NRAI / All Shooting Ranges under the Sports Authority of India or the Sports Authority of the State Governments.	<ul style="list-style-type: none"> (i) Rifles in calibre .22 Long Rifle (also known as .22 LR); (ii) Center fire Rifles with calibers up to 8mm including all calibers lower than 8mm; (iii) Pistol/ Revolvers of calibre up to and including 9 mm but excluding 9 mm parabellum (9x19 mm); (iv) Shotguns of caliber up to 12 bore/gauge including all calibers lower than 12 bore/gauge. 	<ul style="list-style-type: none"> (1) No upper limit on the number of Arms, subject to the discretion of the licensing authority based on the recommendations of the certifying body. (2) The entity must hold a certificate issued by the appropriate certifying body referred to in paragraph 3 of this notification.





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2.2 Exemptions subsumed by the Arms Rules, 2016:

The Central Government on 13.07.1962 i.e. on the date of notification of the Arms Act, 1959 itself had also notified a general exemption being GSR 991 dated 13.07.1962 for certain description of Air Guns, Air Rifles and Air Pistols from all regulation and control under the Arms Act. This general exemption has held the field for almost 54 years i.e. from 13.07.1962 till 15.07.2016, when it got subsumed into the Arms Rules, 2016 as notified under GSR 701(E) on 15.07.2016 which were in supersession of the Arms Rules, 1962 except as respects things done before such supersession (thereby providing for grandfather rights or acquired rights). Thus from 15.07.2016 onwards, a license under the Arms Act for fire arms was required to be obtained even for Air guns (air rifles/ air pistols) of any caliber above .177/ 4.5mm or having power exceeding 20 joules, while fire arms being Air guns (Air rifles/ air pistols) of caliber equal to or less than .177/ 4.5mm and not having power in excess of 20 joules, were kept out of licensing.

While the GSR 991 dated 13.07.1962 was subject matter of challenge before the courts of law in its last 8 years i.e. from 2010 to 2018, when finally on 05.02.2018 the Hon'ble Supreme Court did not feel it necessary to adjudicate on the same on noticing that the notification dated 15.07.2016 had also kept air guns of certain joules out of licensing. The challenge to the judgement of the High Court (which quashed the GSR 991 dated 13.07.1962 granting exemptions to certain air guns) by the NRAI was disposed off (and not dismissed) by the Hon'ble Supreme Court while noting the intention of the respondent (People for Animals) to challenge the notification dated 15.07.2016 providing the Arms Rules 2016.

In view of the above, the current state of affairs is that there are hundreds of thousands i.e. lacs of fire arms in the form of Air Guns (Air Rifles and/ or Air Pistols) of the caliber higher than .177/ 4.5mm or power exceeding 20 Joules which were sold, purchased, used, owned and held by citizens across India freely in an unlicensed regime for over 54 years. These air powered fire arms were originally sold by toy stores, sports shops, etc. and generally ownership was transferred by undocumented transactions. Consequently there are lacs of air guns in circulation which would over passage of time in the course of registration and documentation of transfers (sale/ resale/ inheritance/ gifts etc) effected through registered dealers come within the purview of the licensing regime under the Arms Rules 2016. Thus, from 15.07.2016, the Air Gun of the above description (air rifle or air pistol) would require the licensing authority to issue a fire arm license. At present fire arm licenses are divided into prohibited/ restrictive arms and non-prohibited/ permissible arms, and thus these air weapons i.e. those having having muzzle energy exceeding 20 joules or 15 ft. lbs. and/or bore exceeding 0.177" or 4.5 mm, transferred after 15.07.2016 would consume, reduce and affect the quantity of weapons an existing licensee can hold as well as disproportionately and artificially effect the statistics relating to gun ownership and licensing in India.





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Therefore, it is suggested that either the Arms Amendment Act, 2019 itself excludes air weapons even those having muzzle energy exceeding 20 joules or 15 ft. lbs. and/or bore exceeding 0.177" or 4.5 mm, from the definition of firearms, thereby rendering them free from licensing under the Arms Rules, 2016. If the same, is not feasible and the licensing provisions under Arms Rules, 2016 are preferred to be retained then in such circumstances the amendment to Arms Act, 1959 ought to empower the licensing authority for issuing licenses for air weapons as a separate category under firearms where such air weapons (which have been sold in toy shops, sports shops, etc) in an unlicensed and unregulated environment for over 54 years and are numbering in multiple lacs across the country, and such air weapons (upto a certain limit) should not be included in the number of firearms that a licensee is otherwise empowered to hold.

A. PROPOSED AMENDMENT TO ARMS ACT, 1959

3. The Proposal to amend:

The proposal to reduce the number of firearms that a licensee that acquire, use and possess from 3 (three) to 1 (one) has drastic ramifications. While, it is understood and accepted that grant of arms license itself is not a matter of right, but a citizen ought not to be deprived of his valuable property without compensation. Right to property is not a fundamental but a statutory right recognized by law. The state has the power of eminent domain to acquire the property, but the citizen ought to be compensated for such deprivation. Since 1986 i.e. after the ban import of firearms (other than those used in sport through provision of import license to renowned shooters only) the firearms which are other than those used in shooting sport are extremely expensive and valuable property for their licensed owners. The proposal to reduce the number of arms from three to one and thereafter delicense the remaining firearms would result in expropriation by the state of valuable property of its citizens without any compensation. Internationally, there have been instances where the state has delicensed arms of certain descriptions (e.g. automatic weapons) upon declaring them as prohibited, even then such states have provided for a "buyback" from the licensee who were holding the firearms. The essential factor being that while the grant of the license itself may be a privilege, yet the firearm remains a valuable property owned by the licensee.

4. Suggested Amendments in view of above:

The Director Arms, Arms Section/ IS-1 Division, Ministry of Home Affairs, Government of India has vide a Public Notice dated November 4, 2019. On behalf of the DSRA, we request that our comments in the form of Suggested Amendments and Justification (for the suggestions) be kindly taken on record and considered by the Competent Authority.

Sl. No.	Proposed Amendment	Suggested Amendment
2.	Section 3: Licence for acquisition and possession of firearms and Ammunition Number of weapons	





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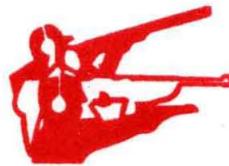
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Existing provision:	Proposed provision:	Suggested provision:
<p>3(2): Notwithstanding anything contained in sub-section (1), no person, other than a person referred to in sub-section (3), shall acquire, have in his possession or carry, at any time, more than three firearms:</p> <p>Provided that a person who has in his possession more firearms than three at the commencement of the Arms (Amendment) Act, 1983, may retain with him any three of such firearms and shall deposit, <u>within ninety days</u> from such commencement, the remaining firearms with the officer-in-charge of the nearest police station or, subject to the conditions prescribed for the purposes of sub-section (1) of section 21, with a licensed dealer or, where such person is a member of the armed forces of the Union, in a unit armoury referred to in that sub-section.</p> <p>(3) Nothing contained in sub-section (2) shall apply to any dealer in firearms or to any member of the rifle club or rifle association licensed or</p>	<p>3(2): Notwithstanding anything contained in sub-section (1), no person, other than a person referred to in sub-section (3), shall acquire, have in his possession or carry, at any time, more than one firearm:</p> <p>Provided that a person who has in his possession more than one firearm at the commencement of the Arms (Amendment) Act, 2019, may retain with him any one of such firearms and shall deposit, <u>within one year</u> from such commencement, the remaining firearms with the officer-in-charge of the nearest police station or, subject to the conditions prescribed for the purposes of sub-section (1) of section 21, with a licensed dealer or, where such person is a member of the armed forces of the Union, in a unit armoury referred to in that subsection, <u>after which it shall be delicensed</u> within further ninety days,</p> <p>Provided further that, the maximum prescribed limit of one firearm shall not be</p>	<p>3(2): Notwithstanding anything contained in sub-section (1), no person, other than a person referred to in sub-section (3), shall acquire, have in his possession or carry, at any time, more than three firearm:</p> <p>Provided that a person who has in his possession more than three firearm at the commencement of the Arms (Amendment) Act, 2019, <u>where such firearm(s) are of the nature of air weapons i.e. air rifle / air pistol having muzzle energy exceeding 20 joules or 15 ft. lbs. and/or bore exceeding 0.177" or 4.5 mm, then such person may retain with him any three of such air weapons, which shall be included in or granted arms licence in separate category of air weapons.</u></p> <p>Provided further that; the maximum prescribed limit of three firearm shall not be breached while granting arms licence on inheritance or heirloom basis <u>separate category for air weapons</u>.</p> <p>(3) Nothing contained in sub-section (2) shall apply to any dealer in firearms or to any member of the rifle club or rifle association licensed or recognized by the Central Government <u>or to sports person duly exempted under Section 41 by the Central Government</u>, using a point 22-bore rifle or an air rifle <u>firearms</u> for target practice.</p>





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	<p>recognized by the Central Government using a point 22 bore rifle or an air rifle for target practice.</p>	<p>breached while granting arms licence on inheritance or heirloom basis.</p> <p>(3) Nothing contained in sub-section (2) shall apply to any dealer in firearms or to any member of the rifle club or rifle association licensed or recognized by the Central Government using a point 22 bore rifle or an air rifle for target practice.</p>	
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Justification

The operative part of the Section 3(2) providing limit for number of weapons remains unchanged at 3 (three).

However, two proviso are suggested to provide for the situation where hundred and thousands of air weapons i.e. air rifle and air pistols purchased by citizens over 54 years have suddenly since 2016 become fire arms requiring licensing. Licensing for such air weapons should be separate category and the normal limit of three firearms should not be applicable for air weapons.

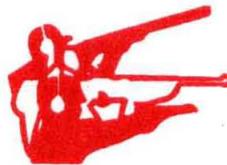
The Exception contained in Subsection (3) of Section 2 in so far it starts with a non-obstante clause was being left unchanged from the existing provision which exempted only "a .22 bore rifle or an air rifle" used for target practice by any member of rifle club or association.

Two changes are suggested here. Firstly, for making the exemption valid not just for members of rifle club/ association but also for shooters/ sports persons who are otherwise exempted by the Central Government under Section 41 of the Arms Act, 1959. Secondly, replacing the limited exemption to only a particular category of weapons i.e. rifles of .22 caliber and air rifles, by a more inclusive definition i.e. firearm, which includes rifles, pistols, shotguns and even air guns.

This would be in harmony with the similar provision under Section 13 which is rightly proposed to be corrected and changed to "firearms".

However, point of concern here is that the language of the exemption notification under Section 41 of the Arms Act 1959 by the Central Government, more particularly the notification dated 04.08.2014 operates in a manner of adding number of exempted weapons to the existing number of weapons that a normal person can possess (under Section 3 of the Arms





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Act). Therefore, the notification dated 04.08.2014 be suitably amended to whereby even if the number of weapons that a normal person can possess under Section 3 is reduced, even then exemption notification ought to ensure that sports person ought not to be prejudiced and their exempted / total number remains unaffected as per their eligibility defined under the exemption notification by Central Government.

6.	Section 13: Grant of licences Firearm for target practice		
	Existing provision: 13(3): The licensing authority shall grant – (a) A licence under section 3 where the licence is required – (i)... (ii) in respect of a point 22-bore rifle or an air rifle to be used for target practice by a member of a rifle club or rifle association licensed or recognized by the Central Government	Proposed provision: 13(3): The licensing authority shall grant – (a) a licence under section 3 where the licence is required – (i)... (ii) in respect of a firearm to be used for target practice by a member of a rifle club or rifle association licensed or recognized by the Central Government;	Suggested provision: 13(3): The licensing authority shall grant – (a) a licence under section 3 where the licence is required – (i)... (ii) in respect of a firearms to be used for target practice by a member of a rifle club or rifle association licensed or recognized by the Central Government;

Justification

It is suggested that the word "a" before firearm is deleted and the word be changed to "firearms" which limits the licensing to sport person or members of rifle club or rifle association for target practice to only one firearm and not firearms; whereas the existing provisions including exemptions under Section 41 as per Notification dated 04.08.2014 empower Central Government through a process of certification based on achievement of sports persons to be granted licenses for multiple firearms dependent upon their level of achievement in the sport.

I submit the comments on behalf of the Delhi State Rifle Association to the proposed amendment of the Arms Act, 1959 for the kind consideration of the competent authorities and the esteemed parliamentarians.



(JASPAL RANA)

Chairman Delhi State Rifle Association
Chief Coach – Junior National Squad Pistol