

## UNIT IV

### What is the Procedure to obtain a licence for gun or any other arms in India-

The official procedure for obtaining a licence is enumerated in Chapter III of The Arms Act, 1959. Accordingly, the procedure for the grant of licence is laid down under Section 13, The Arms Act, 1959 and The Arms Rules, is as follows:

- Application to Licensing Authority

The first and foremost step is to file for an application in the appropriate (here, within one's territorial limits) licencing authority through a prescribed **Form A-1** (The Arms Rules, 2016), duly filled and payment of the fee, if any.

The **documents** to be furnished along with the application form are:

1. Passport size photographs
2. Proof of address
3. Proof of date of birth
4. Identification proof: Aadhar Card, or PAN, or Voter's ID card. In case of exempted sports persons, shooters identification card issued by the National Rifle Association of India.
5. Medical certificate
6. Any other document required by the authority concerned.

Different **fees**, different conditions and different forms may be prescribed for different types of licences as mentioned in Section 16 of The Arms Act, 1959.

- Report of the officer-in-charge
  - On receipt of an application, the licensing authority shall call for the report of the officer-in-charge of the nearest police station on that application, and such officer shall send his report within the prescribed time.
  - The police, basically checks if there are any past records of any kind of criminal activity; if the address given is authentic or not; verification of other documents.
  - If the officer-in-charge of the nearest police station does not send his report on the application within the prescribed time, the licensing authority may, if it deems fit, make such order, after the expiry of the prescribed time, without further waiting for the report.
  
- Conditions to be fulfilled for the authority to grant the licence.

Although there is hardly any provision in the Act or the Rules specifying any time-frame as such, but if an application for a license for a non-prohibited arm is not disposed of within three months, it will be deemed to have been allowed after the expiry of such a time –frame. This was held in the case of *Ganesh Chandra Bhatt v Distt Magistrate, Almora &Ors.* (AIR 1993 ALL. 291).

### **When can the Licence be refused?**

A licence authority has to record reasons in writing for the refusal to grant a licence to any person. It may refuse to grant a licence if:

1. Any of the above-mentioned conditions are not fulfilled.
2. where such licence is required in respect of any ‘prohibited arms’ or ‘prohibited ammunition’
3. where such licence is required by a person whom the licensing authority has reason to believe:
4. to be prohibited by this Act or by any other law from acquiring, having in his possession or carrying any arms or ammunition, or
5. to be of unsound mind, or

6. to be for any reason unfit for a licence under this Act;
7. where it deems it necessary for the security of the public peace or for public safety to refuse to grant such licence.

### **What is the Duration of a licence?**

Section 15 of The Arms Act, 1959 states that a licence, granted under Section 3 of the Act may continue to be in force for a period of three years, from the date on which it is granted, unless it is revoked before such date. After that, it can be renewed for the same period for which the licence was originally granted and shall be so renewable from time to time, if the licensing authority allows such renewal.

### **Variation, suspension and revocation of licences**

According to Section 17 – license may be varied in following cases-

- The licensing authority may itself vary the conditions subject to which a licence has been granted. In such a case the licence-holder may by notice in writing be required to deliver-up the licence to it within such time as may specified in the notice.
- The licensing authority may, on the application of the holder of a licence, also vary the conditions of the licence except such of them as have been prescribed.

The licensing authority may by order in writing suspend a licence for such period as it thinks fit or revoke a licence, in following cases-

(a) if the licensing authority is satisfied that the holder of the licence is prohibited by this Act or by any other law for the time being in force, from acquiring, or possessing any arms or ammunition, or is of unsound mind, or is for any reason unfit for a licence under this Act; or

(b) if the licensing authority deems it necessary for the security of the public peace or for public safety to suspend or revoke the licence; or

(c) if the licence was obtained by the suppression of material information or on the basis of wrong information provided by the holder of the licence or any other person on his behalf at the time of applying for it; or

(d) if any of the conditions of the licence has been contravened; or

(e) if the holder of the licence has failed to comply with a notice under sub-section (1) requiring him to deliver-up the licence for some variation.

(f) The licensing authority may also revoke a licence on the application of the holder thereof.

- Where the licensing authority makes an order varying a licence or an order suspending or revoking a licence it shall record in writing the reasons therefor and furnish to the holder of the licence on demand a brief statement of the same unless in any case the licensing authority is of the opinion that it will not be in the public interest to furnish such statement.
- The authority to whom the licensing authority is subordinate may by order in writing suspend or revoke a licence on any ground on which it may be suspended or revoked by the licensing authority.
- A court convicting the holder of a licence of any offence under this Act or the rules made thereunder may also suspend or revoke the licence . Provided that if the conviction is set aside on appeal or otherwise, the suspension or revocation shall become void.
- An order of suspension or revocation may also be made by an appellate court or by the High Court when exercising its powers of revision.
- The Central Government may, by order in the Official Gazette, suspend or revoke or direct any licensing authority to suspend or revoke all or any licences granted under this Act throughout India or any part thereof.
- On the suspension or revocation of a licence under this section the holder thereof shall without delay surrender the licence to the authority by whom it has been suspended or revoked or to such other authority as may be specified in this behalf in the order of suspension or revocation.

### **Appeals**

- Any person aggrieved by an order of the licensing authority refusing to grant a licence or varying the conditions of a licence or by an order of the licensing authority or the authority to whom the licensing authority is subordinate, suspending or revoking a licence may prefer an appeal against that order to the appellate authority and within such period as may be prescribed and as computed in accordance with the provisions of the Indian Limitation Act, 1908 (9 of 1908),
- Every appeal under this section shall be made by a petition in writing and shall be accompanied by a brief statement of the reasons for the order appealed against where such statement has been furnished to the appellant and by such fee as may be prescribed.
- The appellate authority shall dispose off the appeal only after giving him a reasonable opportunity of being heard.
- Every order of the appellate authority confirming, modifying or reversing the order appealed against shall be final.
- No appeal shall lie against any order made by, or under the direction of, the Government.
- No appeal shall be admitted if it is preferred after the expiry of the period prescribed unless the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within that period.

### **Prohibition as to possession of notified arms in disturbed areas-**

Sec 24 A of the Arms act provides that, Where the Central Government is satisfied that there is extensive disturbance of public peace and tranquility or imminent danger of such disturbance in any area and that for the prevention of offences involving the use of arms in such area, it is necessary to do so, it may by notification in the Official Gazette-

(a) Specify the limits of such area;

(b) Direct that before the commencement of the period specified in the notification, every person having in his possession in such area any arms of such description as may be specified in the notification, shall deposit the same before such commencement.

*The period so specified shall be a period commencing from a date not earlier than the fourth day after the date of publication of the notification in the Official Gazette.*

(c) Declare that as from the commencement of, and until the expiry of, the period specified in the notification, it shall not be lawful for any person to have in his possession in such area any notified arms;

(d) Authorise any such officer subordinate to the Central Government or a State Government as may be specified in the notification,—

(i) to search at any time during the period specified in the notification any person, premises, animal/vessel/vehicle or other conveyance in, such area or passing through such area if such officer has reason to believe that any notified arms are secreted by such person or in such premises, vehicle etc.

(ii) to seize at any time during the period specified in the notification any notified arms in the possession of any person in such area or discovered through a search and detain the same during the period specified in the notification.

The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), relating to searches and seizures shall apply.

#### **Duration of the prohibition-**

The period specified in a notification shall not, in the first instance, exceed ninety days, but the Central Government may amend such notification to extend such period from time to time by any period not exceeding ninety days at any one time if, in the opinion of that Government, there continues to be in such area such disturbance of public peace and tranquillity or imminent danger thereof and that for the prevention of offences involving the use of arms in such area it is necessary to do so.

**Sec 24 B** prohibits a person from carrying notified arms in or through public places in disturbed areas. The provision are same as that pertaining to Sec 24 A.

### **Licence for import and export of arms-**

According to Sec 10 of the Arms Act, no person shall bring into, or take out of, India by sea, land or air any arms or ammunition unless he holds in this behalf a licence issued in accordance with the provisions of this Act. The exception to the rule is laid down by the provision itself-

(a) a person who is entitled under the Act to have, in his possession any arms or ammunition, may without a licence in this behalf bring into, or take out of, India such arms or ammunition in reasonable quantities for his own private use;

(b) a person being a *bona fide* tourist belonging to any such country as the Central Government may, by notification in the Official Gazette, specify, who is not prohibited by the laws of that country from having in his possession any arms or ammunition, may, without a licence under this section but in accordance with such conditions as may be prescribed, bring with him into India, arms and ammunition in reasonable quantities for use by him.

“tourist” means a person who not being a citizen of India visits India for a period not exceeding six months with no other object than recreation, sight-seeing, or participation in a representative capacity in meetings convened by the Central Government or in international conferences, associations or other bodies.

However, if Commissioner of Customs or any other officer empowered by the Central Government in this behalf has any doubt regarding the applicability of exceptional circumstances to the person claiming to fall under the or as to the reasonableness of the quantities of arms or ammunition in his possession or as to the use to which such arms or ammunition may be put by such person, the Commissioner or the officer, as the case be, may detain the arms or ammunition in the possession of such person until he receives the orders of the Central Government in relation thereto.