

## **LEGISLATIVE COUNCIL BRIEF**

Firearms and Ammunition Ordinance  
(Chapter 238)

### **FIREARMS AND AMMUNITION (AMENDMENT) BILL 1999**

### **FIREARMS AND AMMUNITION (AMENDMENT) REGULATION 1999**

## **INTRODUCTION**

At the meeting of the Executive Council on 12 January 1999, the Council ADVISED and the Chief Executive ORDERED that -

- A
- (a) the Firearms and Ammunition (Amendment) Bill 1999, at Annex A, should be introduced into the Legislative Council, to update and tighten the legislation regulating the possession and use of arms and ammunition for recreational or sporting purposes; and
  - (b) the Firearms and Ammunition (Amendment) Regulation 1999, at Annex B, should be approved in principle, and be referred back to Members to be made after the Bill has passed into law.
- B

## **BACKGROUND AND ARGUMENT**

### **General Background**

2. The Firearms and Ammunition Ordinance (the Ordinance)

regulates the possession of, and dealing in, arms and ammunition. When the Ordinance was enacted in 1981, there was comparatively little interest in the use of arms for recreational or sporting purposes, with only two shooting clubs open to members of the public. The use of arms for the shooting sport has been very much left to self-regulation by individual shooting clubs.

3. The use of arms for recreational or sporting purposes in Hong Kong has become more popular over the years. The number of shooting clubs has increased from 13 in 1988 to 20 in October 1998 and the number of licences and written exemptions issued for possession of arms has also increased from 894 in 1988 to 1 793 in October 1998. With the proliferation of shooting clubs, it was considered that the regulation of possession and use of arms should be strengthened. Accordingly, an inter-departmental Working Group, comprising representatives of the then Security Branch, the Police, Customs & Excise Department, Trade Department, Post Office and Civil Engineering Department, was formed in 1995 to review the licensing policy under the Ordinance. The Working Group recommended that the regulation of shooting clubs, arms licences holders, arms dealers, air guns, deactivated firearms and the use of modified firearms for television/film production should be tightened to safeguard public safety.

### **Previous Executive Council Discussion**

4. To implement the Working Group's recommendations, the former Executive Council decided at the meeting on 12 March 1996 that the Firearms and Ammunition (Amendment) Bill 1996 should be introduced into the Legislative Council and that the Firearms and Ammunition (Amendment) Regulation 1996 should be approved in principle and be referred back to Members to be made after the Bill had passed into law. The Bill was introduced into the then Legislative Council on 3 April 1996. It lapsed after the 1996/97 legislative session as the Legislative Council did not have time to scrutinise the Bill. As the Bill did not meet the criterion of being absolutely essential for the smooth transition of Hong Kong, it could not be submitted during the term of the Provisional Legislative Council.

### **New Administrative Measures**

5. Since the lapse of the Firearms and Ammunition (Amendment) Bill 1996, we have implemented, under the existing legislation, a number of the recommendations of the Working Group by administrative measures, as set out below, to tighten the existing licensing procedures and control -

- (a) Applicants for a new possession licence are required to take a test on the knowledge and proficiency in the use of the arms. Applications for the renewal of possession licences have to be made in person to the Police's licensing office where licensees will be interviewed to assess the suitability for renewal. A test will be conducted if necessary.
- (b) The Police have drawn up a set of standard guidelines on deactivation of firearms for arms dealers to comply with in respect of firearms used for decorative purposes.
- (c) Additional conditions have been imposed in the arms dealers licence where appropriate. These include restricting the types of arms and ammunition which the dealers may deal in; and permitting only employees approved by the licensing authority [(i.e. the Commissioner of Police (CP))] to assist the licensees in dealing in arms and ammunition.

## **The Proposals**

6. We propose to implement the following legislative measures, which are basically the same as those contained in the lapsed 1996 Bill -

- (a) A person holding a licence for the possession of arms and ammunition on behalf of a shooting club will be required to be the one who is personally responsible for the management of the club. At present, the licence for a shooting club is held by a responsible officer of the club. However, there is no clear definition of "responsible officer" under the Ordinance. In addition, tighter licence conditions will be imposed to regulate the conduct of shooting clubs in their possession and use of arms and

ammunition and the running of their range, armoury or other facilities to ensure adequate safety standards.

- (b) A member of a shooting club will be required to complete a course on handling of arms before he can use the club's arms and ammunition if he does not himself hold a possession licence for that particular type of arms and ammunition.
- (c) Only a licensee or his approved agent who is so authorised by the CP can instruct others in the use of arms and ammunition. At present, any licensee can give such instructions.
- (d) Licensees will be required to seek the prior approval of the CP for appointing agents to possess or deal in arms and ammunition. This can preclude a person who is ineligible to obtain a possession licence or whose licence has been revoked from possessing and handling arms and ammunition in the capacity of a licensee's agent.
- (e) The CP will be empowered to restrict the quantity of arms and ammunition to be covered in a licence for possession so as to reduce possible threat to public safety resulting from a large number of arms and ammunition being carried in public places or stored at the licensees' premises.
- (f) At present, low-powered air guns with a muzzle energy of not greater than two joules are not defined as arms and hence are not regulated by the Ordinance. To prevent misuse of these guns that could be potentially harmful, discharging them to the danger or annoyance of any person will be made an offence under the Summary Offences Ordinance.
- (g) Under the existing legislation, the CP is empowered to cancel but not to amend licences. To allow the CP the necessary flexibility in regulating the possession of and dealing in arms and ammunition, the CP will be empowered to amend licences.

## **THE BILL**

7. **Clause 2** provides some key definitions, e.g. those for “shooting club”, “responsible officer”, “shooting range”, “range officer”, “approved agent”, “authorized arms instructor” and “armoury”. To strengthen the regulation over shooting clubs, we have define “responsible officer” who holds the possession licence on behalf of a club as the one who holds a senior office of the club or who is personally responsible for the management of the club. In addition , we have included “export” in the definition of “deal in” to cover the dealing activities relating to or in the course of exportation.

8. **Clause 5** requires members of shooting clubs to complete a course of instruction, the contents of which is determined by the CP as provided under **Clause 25**, before they can use the club’s arms and ammunition. **Clause 6** ensures that only authorized arms instructors, whose appointment is approved by the CP, can instruct other persons in the use and handling of arms and ammunition.

9. **Clause 7** requires a licensee to seek the CP’s approval for appointing any person as his agent to possess or deal in arms and ammunition. **Clause 25** empowers the CP to determine the suitability of a person to be appointed as an agent or an arms instructor.

10. **Clause 10** seeks to replace the existing presumption clause relating to the possession of arms, ammunition and imitation firearms as it is inconsistent with the International Covenant on Civil and Political Rights (ICCPR). The new presumption clause is modelled on a similar provision in the Dangerous Drugs Ordinance and is consistent with the ICCPR.

11. **Clause 11** provides that the CP may issue a licence on such terms and conditions as he thinks fit including a restriction on the number and type of arms and the quantity and type of ammunition in the interest of public safety and security.

12. **Clause 12** seeks to enhance the regulation over shooting clubs by empowering the CP to impose additional conditions on the possession licence issued to a responsible officer of a shooting club regarding the conduct of the club and the operation of its facilities,

including the shooting range and armoury. In this regard, **Clauses 23 and 25** empower the CP to determine the criteria for approving a club to operate a shooting range, armoury or other facilities. The CP can also determine the suitability of a person to be appointed as a range officer.

13. **Clause 16** provides that the CP may renew a licence on such conditions as he thinks fit including a restriction on the number and type of arms and the quantity and type of ammunition. **Clause 17** empowers the CP to amend a licence.

14. **Clauses 18 and 19** extend the existing notification and appeal system to cover the applications made under the revised licensing regime.

15. **Clause 27** provides that the CP may specify forms for any purpose in the Ordinance to replace the present “prescribed forms” so that changes can be made when necessary.

16. **Clauses 28 and 29** amend the Summary Offences Ordinance to make it an offence of knowingly or negligently discharging an air gun (with a muzzle energy not greater than two joules) to the danger or annoyance of any person.

17. The existing provisions which are being amended are at Annex C.

C

## **THE REGULATION**

18. The Firearms and Ammunition (Amendment) Regulation 1999 seeks to implement the detailed requirements of the revised licensing regime. These include –

- (a) replacing the prescribed forms by forms specified by the CP (**regulation 3**);
- (b) empowering CP to require applicants for the appointment of approved agents, authorized arms instructors and range officers to undergo tests (**regulation 4A**); and
- (c) setting out the additional requirements that a shooting club

has to fulfil before the responsible officer of the club can obtain a possession licence on behalf of the club (**regulation 4B**).

## **IMPLEMENTATION**

19. The shooting clubs and other licensees affected by the proposals will need sufficient time to prepare for the transition to the new licensing regime. For example, shooting clubs have to arrange for members who do not possess valid possession licences to complete a prescribed course of instruction so as to be qualified for using the arms and ammunition of the club. In addition, to become an authorised arms instructor, a person needs to undergo a test and to obtain the authorisation from the CP. The preparatory work for implementing the above proposals will take about one year to complete. The Amendment Bill and Regulation will come into operation on a day or days appointed by the Secretary for Security by notice in the Gazette.

## **LEGISLATIVE TIMETABLE**

20. The legislative timetable is as follows -

Publication in the Gazette	15 January 1999
First Reading and commencement of Second Reading debate	27 January 1999
Resumption of Second Reading debate, committee stage and Third Reading	to be notified

## **HUMAN RIGHTS IMPLICATIONS**

21. The Department of Justice advises that the proposed legislation is consistent with the human rights provisions of the Basic Law.

## **BINDING EFFECT OF THE LEGISLATION**

22. The amendments in the Bill and Regulation do not affect the current binding effect of the existing provisions of the Ordinance.

## **FINANCIAL AND STAFFING IMPLICATIONS**

23. The proposals will result in extra work for the Police. Three posts at inspector and sergeant level have already been redeployed to cope with the increased workload arising from the implementation of the new administrative measures. Two additional posts, namely a Ballistics Officer and a Station Sergeant, will be required to deal with the additional inspection and licensing requirements. The additional resources required will be absorbed by the Police.

## **PUBLIC CONSULTATION**

24. We issued a consultation paper in January 1996 to all existing shooting clubs, licensed arms dealers and associations in the television/film industry to seek their views on the above proposals. We received a total of 19 submissions, most of which were from the shooting clubs. Most of them support in principle the enhancement of regulation over shooting clubs. However, they are concerned that over-regulation will suffocate the development of shooting sport in Hong Kong. They also disagree with the stringency of some of the proposed licensing conditions, for example, the security requirement of an armoury, the syllabus of the tests for shooting club members, range officers and arms instructors. We will make use of the transitional period for the implementation of the legislation to liaise further with the clubs to ensure that the new licensing conditions are reasonable and practicable.

25. We consulted the previous Legislative Council Panel on Security on 12 February 1996 and Members were generally supportive of the proposed amendments. We have also briefed the Legislative Council Panel on Security on the major legislative proposals on 3 September 1998.

## **PUBLICITY**

26. A press release will be issued on 15 January 1999. A spokesman will be available to handle media enquiries.

## **ENQUIRIES**

27. Any enquiries to this brief should be directed to Ms. Jessie WONG, Assistant Secretary for Security at 2810 2686.

**Security Bureau**  
**14 January 1999**