

THE FIREARMS (AMENDMENT) BILL, 2010

Arrangement of Clauses

Clause

1. Short title
2. Commencement
3. Act inconsistent with Constitution
4. Interpretation
5. Section 5 amended
6. Section 6 amended
7. Section 8 amended
8. Section 9 amended
9. Section 10 amended
10. Section 11 amended
11. Section 13 amended
12. Section 13A amended
13. Section 14 amended
14. Section 15 amended
15. Section 21B amended
16. Section 22 amended
17. Section 22B repealed and substituted
18. Section 23 amended
19. Section 24 amended
20. Section 25 amended
21. Section 26 amended
22. Section 27 amended
23. Section 28 amended
24. Section 29 amended
25. Section 30 amended
26. Section 31 amended
27. Section 32 amended
28. Section 33 amended
29. Section 34 amended
30. Section 40 amended

No. 8 of 2010

First Session Tenth Parliament Republic of
Trinidad and Tobago

SENATE

BILL

AN ACT to amend the Firearms Act, Chap. 16:01

THE FIREARMS (AMENDMENT) BILL, 2010

Explanatory Note

(These notes form no part of the Bill but are intended only to indicate its general purport)

The Bill seeks to amend the Firearms Act, Chap. 16:01 (“the Act”) to increase the penalties for certain offences involving a firearm or any prohibited weapon, as defined by the Act, by an average of fifty per cent. The Bill would also make unlawful possession of any firearm or ammunition a strict liability offence and make provision for the Chairman of the Firearms Appeal Board to be an attorney-at-law of at least ten years experience. The Bill would be inconsistent with sections 4 and 5 of the Constitution and is therefore required to be passed by a special majority of three-fifths of the members of each House.

Clause 1 provides for the short title.

Clause 2 provides that the Act shall come into operation on Proclamation by the President.

Clause 3 provides that the Act shall have effect though inconsistent with the Constitution.

Clause 4 seeks to provide the interpretation provision.

Clause 5 would repeal section 5(2) of the Act and substitute a provision to make the unlawful possession of any firearm or ammunition a strict liability offence.

Clause 6 seeks to increase the penalty for using or having in his possession a prohibited weapon without the appropriate licence or without lawful authority, and to make a person who is convicted of such an offence for the third time, liable to imprisonment for life.

Clause 7 seeks to increase the penalty for carrying a firearm or ammunition in any public place without lawful authority.

Clause 8 seeks to increase the penalty for selling or transferring a firearm or ammunition to another person without lawful authority, and to make members of the protective services who commit any such offence, liable to imprisonment for twenty years.

Clause 9 seeks to increase the penalty for possession of any firearm or ammunition with intent to sell or transfer for the purpose of committing a crime.

Clause 10 seeks to increase the penalty for discharging a firearm or ammunition on or within forty metres of any public road or in any public place.

Clause 11 seeks to increase the penalty for using a firearm to commit an offence or to resist lawful apprehension or detention.

Clause 12 seeks to increase the penalty for trespassing with a firearm.

Clause 13 seeks to increase the penalty for contravening any term or condition of any licence, certificate or permit granted for the use of a firearm.

Clause 14 seeks to increase the penalty for certain offences relating to the manufacture or assembling of any firearm or ammunition without lawful authority.

Clause 15 would seek to amend the Act to give the Commissioner of Police the discretion to suspend, or to refuse the granting of, a Firearm User's Licence or a Firearm User's (Employee's) Certificate for five years in the case of a person who is convicted of an offence under the Domestic Violence Act.

Clause 16 seeks to increase the penalty for failing to comply with any Notification of the Commissioner of Police which temporarily suspends licences, certificates or permits and which calls for all firearm and ammunition to be surrendered.

Clause 17 would seek to make provision for the Chairman of the Firearms Appeal Board to be an attorney-at-law of at least ten years experience, appointed by the President, instead of the Chairman of the Police Complaints Authority.

Clause 18 seeks to increase the penalty for any holder of a Firearm Dealer's Licence who deals in firearms or ammunition in any place other than the one specified in his licence.

Clause 19 seeks to increase the penalty for any holder of a Gunsmith's Licence who contravenes the terms of his licence.

Clause 20 seeks to increase the penalty for not displaying a Firearm Dealer's Licence or a Gunsmith's Licence in the manner specified in the Act.

Clause 21 seeks to increase the penalty for providing false or misleading information to any licensed dealer, as it relates to the transaction.

Clause 22 seeks to increase the penalty for not complying with orders of any police officer who is exercising his power of search to obtain information as empowered under the Act.

Clause 23 seeks to increase the penalty for failing to comply with the requirements of the Act with respect to the loss or theft of a firearm or ammunition.

Clause 24 seeks to increase the penalty for failing to comply with the orders of any police officer who is exercising his power to stop and search vehicles as empowered under the Act.

Clause 25 seeks to increase the penalty for interfering with any police officer while performing his duties under this Act.

Clause 26 seeks to increase the penalty for importing prohibited weapons in contravention of the Act.

Clause 27 seeks to increase the penalty for the failure to declare any firearm or ammunition when entering Trinidad and Tobago in accordance with the Act.

Clause 28 seeks to increase the penalty for the export of any firearm or ammunition in contravention of the Act.

Clause 29 seeks to increase the penalty for being in possession of a firearm, ammunition, explosive, or offensive weapon when boarding or on board any aircraft or vessel without lawful authority.

Clause 30 seeks to increase the penalty for failure to safely store a firearm out of the reach of children.

BILL

AN ACT to amend the Firearms Act, Chap. 16:01

[, 2010]

WHEREAS it is enacted by section 13(1) of the Preamble Constitution that an Act of Parliament to which that section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5 of the Constitution and, if any Act does so declare, it shall have effect accordingly:

And whereas it is provided in section 13(2) of the Constitution that an Act of Parliament to which that section applies is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three fifths of all the members of that House:

And whereas it is necessary and expedient that the provisions of this Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution.

Enactment	ENACTED by the Parliament of Trinidad and Tobago as follows:
Short title	1. This Act may be cited as the Firearms (Amendment) Act, 2010.
Commencement	2. This Act shall come into operation on such date as is fixed by the President by Proclamation.
Act inconsistent with Constitution	3. This Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution.
Interpretation Chap.16:01	4. In this Act, “the Act” means the Firearms Act.
Section 5 amended	5. Section 5 of the Act is amended by repealing subsection (2) and substituting the following subsection: <p style="margin-left: 40px;">“ (2) In any prosecution for an offence under this Part or Part IV—</p> <p style="margin-left: 80px;">(a) a person who is found with any firearm or ammunition shall, until the contrary is proved, be deemed to be in possession of such firearm or ammunition; or</p> <p style="margin-left: 80px;">(b) a person who occupies, controls, or is in possession of any building, room, vessel, vehicle, aircraft, enclosure or place in or upon which any firearm or ammunition is</p>

found shall be deemed to be in possession of such firearm or ammunition, unless he proves that the firearm or ammunition was there without his knowledge and consent.”.

6. Section 6 of the Act is amended—

Section 6 amended

- (a) in subsection (3)(a)(i), by deleting the words “ten” and “five” and substituting the words “fifteen” and “eight” respectively;
- (b) in subsection (3)(a)(ii), by deleting the word “ten” and substituting the word “fifteen”;
- (c) in subsection (3)(b)(i), by deleting the words “fifty” and “ten” and substituting the words “seventy-five” and “fifteen” respectively;
- (d) in subsection (3)(b)(ii), by deleting the word “fifteen” and substituting the word “twenty”;
- (e) in subsection (4)(a), by deleting the words “fifty” and “ten” and substituting the words “seventy-five” and “fifteen” respectively;
- (f) in subsection (4)(b)(i), by deleting the words “fifty” and “ten” and substituting the words “seventy-five” and “fifteen” respectively;
- (g) in subsection (4)(b)(ii), by deleting the word “twenty” and substituting the word “twenty-five”; and
- (h) by inserting after subsection (4), the following subsection:

“ (5) Notwithstanding subsections (3) and (4), a person who has at least two previous convictions for an offence under subsection (3) or (4) and who is charged with an offence under any of those subsections, shall be tried on indictment and is liable on conviction to imprisonment for life.”.

Section 8 amended **7.** Section 8 of the Act is amended by deleting the words “twenty-five” and “five” and substituting the words “forty” and “eight” respectively.

Section 9 amended **8.** Section 9 of the Act is amended—

(a) in subsection (1)—

(i) in paragraph (a), by deleting the words “fifty” and “five” and substituting the words “seventy-five” and “eight” respectively; and

(ii) in paragraph (b), by deleting the word “ten” and substituting the word “fifteen”;

(b) in subsection (2), in the *chapeau*, by deleting the words “twenty-five” and “seven” and substituting the words “forty” and “ten” respectively; and

(c) by inserting after subsection (3), the following subsection:

“ (4) Notwithstanding subsections (1) and (2), a person specified in section 6(2)(a) to (f) who commits an offence under subsection (1) or (2), is liable on conviction on indictment to imprisonment for twenty years.”.

Section 10 amended **9.** Section 10(1) of the Act is amended in—

(a) paragraph (a), by deleting the words “ten” and “two” and substituting the words “fifteen” and “five” respectively; and

(b) paragraph (b), by deleting the word “ten” and substituting the word “fifteen”.

Section 11 amended **10.** Section 11(1) of the Act is amended by deleting the word “ten” and substituting the word “fifteen”.

11. Section 13(1) of the Act is amended by deleting the word “ten” and substituting the word “fifteen”. Section 13 amended

12. Section 13A(1) of the Act is amended by deleting the words “twenty” and “two” and substituting the words “thirty” and “five” respectively. Section 13A amended

13. Section 14 of the Act is amended by deleting the words “two” and “three” and substituting the words “three” and “six” respectively. Section 14 amended

14. Section 15(3) of the Act is amended in— Section 15 amended

- (a) paragraph (a), by deleting the words “twenty-five” and “fifteen” and substituting the words “forty” and “twenty-five” respectively;
- (b) paragraph (b)(i), by deleting the words “fifty” and “ten” and substituting the words “seventy-five” and “fifteen” respectively;
- (c) paragraph (b)(ii), by deleting the word “twenty” and substituting the word “twenty-five”;
- (d) paragraph (c)(i), by deleting the words “fifty” and “ten” and substituting the words “seventy-five” and “fifteen” respectively;
- (e) paragraph (c)(ii), by deleting the word “fifteen” and substituting the word “twenty-five”;
- (f) paragraph (d)(i), by deleting the words “fifty” and “ten” and substituting the words “seventy-five” and “fifteen” respectively; and
- (g) paragraph (d)(ii), by deleting the word “twenty” and substituting the word “twenty-five”.

- Section 21B amended **15.** Section 21B of the Act is amended—
- (a) in subsection (1), by deleting the word “shall” and substituting the word “may”; and
 - (b) by repealing subsection (2) and substituting the following subsection:
 - “ (2) Where a person is convicted of a domestic violence offence under the Domestic Violence Act, the Commission may refuse to grant that person a Firearm User’s Licence or a Firearm User’s (Employee’s) Certificate for a period of five years from the date of conviction.”.
- Chap. 45:56
- Section 22 amended **16.** Section 22(2) of the Act is amended by deleting the words “two” and “six” and substituting the words “three” and “nine” respectively.
- Section 22B repealed and substituted **17.** Section 22B of the Act is repealed and the following section is substituted:
- “Composition **22B.** The Board shall consist of—
- (a) the chairman who shall have at least ten years experience as an attorney-at-law; and
 - (b) two other members,
- all of whom shall be appointed by the President.”.
- Section 23 amended **18.** Section 23 of the Act is amended by repealing subsection (2) and substituting the following subsection:
- “(2) A person who contravenes subsection (1) is liable –
- (a) on summary conviction to a fine of three thousand dollars or to imprisonment for eighteen months; or
 - (b) on conviction on indictment to a fine of five thousand dollars or to imprisonment for three years.”.

19. Section 24(4) of the Act is amended by deleting the words “one” and “six” and substituting the words “two” and “twelve” respectively. Section 24 amended

20. Section 25(2) of the Act is amended by deleting the words “one hundred dollars or to imprisonment for one month” and substituting the words “five hundred dollars or to imprisonment for six months”. Section 25 amended

21. Section 26(6) of the Act is amended by deleting the words “three” and “two” and substituting the words “five” and “three” respectively. Section 26 amended

22. Section 27(7) of the Act is amended by deleting the words “two” and “one year” and substituting the words “three” and “eighteen months” respectively. Section 27 amended

23. Section 28 of the Act is amended— Section 28 amended

(a) in subsection (1A), by deleting the words “five thousand dollars” and substituting the words “seven thousand, five hundred dollars”;

(b) by repealing subsection (1B); and

(c) in subsection (2) by—

(i) deleting the words “and (1B)”;

(ii) deleting the words “five thousand dollars” and substituting the words “seven thousand dollars or to imprisonment for three years”.

24. Section 29(2) of the Act is amended by deleting the words “five thousand” and “two” and substituting the words “seven thousand” and “three” respectively. Section 29 amended

25. Section 30(5) of the Act is amended by deleting the words “ten” and “four” and substituting the words “fifteen” and “six” respectively. Section 30 amended

Section 31 amended **26.** Section 31 of the Act is amended—

(a) in subsection (2) in—

- (i) paragraph (a)(i), by deleting the words “fifty” and “ten” and substituting the words “seventy-five” and “fifteen” respectively;
- (ii) paragraph (a)(ii), by deleting the word “twenty” and substituting the word “twenty-five”;
- (iii) paragraph (b)(i), by deleting the words “fifty” and “eight” and substituting the words “seventy-five” and “twelve”; and
- (iv) paragraph (b)(ii), by deleting the word “fifteen” and substituting the word “twenty”; and

(b) in subsection (3), by deleting the words “two” and “twelve” and substituting the words “three” and “eighteen” respectively.

Section 32 amended **27.** Section 32(6) of the Act is amended by deleting the words “twenty-five” and “five” and substituting the words “forty” and “eight” respectively.

Section 33 amended **28.** Section 33(5) of the Act is amended by deleting the words “fifty”, “ten”, “one hundred and fifty” and “fifteen” and substituting the words “seventy-five”, “fifteen”, “two hundred and twenty-five” and “twenty” respectively.

Section 34 amended **29.** Section 34(3) of the Act is amended by deleting the words “fifty”, “ten”, “one hundred and fifty” and “fifteen” and substituting the words “seventy-five”, “fifteen”, “two hundred and twenty-five” and “twenty” respectively.

Section 40 amended **30.** Section 40(8) of the Act is amended by deleting the words “ten thousand dollars” and substituting the words “fifteen thousand dollars or to imprisonment for six years”.

Passed in the Senate this day of , 2010.

Clerk of the Senate

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the Senate and at the final vote thereon in the Senate has been supported by the votes of not less than three-fifths of all the members of the Senate, that is to say, by the votes of Senators.

Clerk of the Senate

I confirm the above.

President of the Senate

Passed in the House of Representatives this day of , 2010.

Clerk of the House

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the House of Representatives and at the final vote thereon in the House has been supported by the votes of not less than three-fifths of all the members of the House, that is to say, by the votes of members of the House.

Clerk of the House

I confirm the above.

Speaker

No. 8 of 2010

FIRST SESSION
TENTH PARLIAMENT
REPUBLIC OF
TRINIDAD AND TOBAGO

BILL

AN ACT to amend the Firearms Act,
Chap. 16:01

Received and read the

First time

Second time

Third time