

Dear Sir/ Madam,

The proposal to amend the Arms Act/ Arms Rules again after 55 years is monumental and historic. Citizens, amongst whom are millions of gun owners and arms licence seekers, have voted for the present Government, hoping for progress and objective laws and positive amendments to the Arms Act.

However, the proposed rules have disregarded the need of the ordinary citizen to keep and bear arms for the purpose of self defence which is a god given right and also enshrined in the Constitution (as the right to life) and the Indian Penal Code (as the right to protection of person and property). It is highly discomforting and disturbing for millions of gun owners, shooters and prospective gun owners that even stricter and more anti-citizen proposals have come from a Government run by a party that is progressive and that believes in development and civil liberties.

We would like to note here that this review of the Arms Act/ Rules started out as a direct result of the report on this issue made by the Parliamentary Standing Committee on Home Affairs in June 2011 as well as the demands made by 108 Members of Parliament in their letter to the (then) Prime Minister in October 2011. However it seems that the points raised/ demands made in those two documents have been completely ignored in the (draft) Arms Rules 2015, defeating the very intention of amending the Rules/ Act as well as subverting the objectives of the Act itself.

Allow me to frame the context of this letter with words on this subject by none other than our former Prime Minister, Shri. Atal Bihari Vajpayee ji.

“The right to bear and carry arms is an inviolable and sacred right of every free citizen and though this has not been included in the list of fundamental rights enumerated in the Indian Constitution, the right of self defence accepted and guaranteed by the Indian Penal Code implicitly acknowledges the right to possess arms.

Atal Bihari Vajpayee

New Delhi, the 8th of August, 1959.

Right of Self-defence under the Indian Penal Code

Section 96 to Section 106 of the Indian Penal Code provides the right of self defence/ protection of property to citizens and the restrictions under which this Right can be exercised. In fact while interpreting these sections, the Hon'able Supreme Court of India in it's January 2010 judgement has said, *“nothing is more degrading to the human spirit than to run away in the face of danger”*. The Bench comprising Justices Dalveer Bhandari and A K Ganguly laid down a 10-point guideline on right to self-defence, under which a person cannot be accused of committing a crime even if he inflicted mortal wounds on the aggressor. *“The citizen, as a general rule, are neither expected to run away for safety when faced with grave and imminent danger to their person or property as a result of unlawful aggression, nor are they expected, by use of force, to right the wrong done to them or to punish the wrong doer of commission of offence,”* said Justice Bhandari writing the judgment for the Bench. *“The right of private defence is thus designed to serve a social purpose and deserves to be fostered within the prescribed limits,”* it said.

However, **without the tools with which to protect oneself, this right remains meaningless.** Which is why amongst the objectives of the Arms Bill 1958 (which later became the Arms Act 1959) is written:

“(b) to classify firearms and other prohibited weapons so as to ensure ---

ii. that weapons for self defence are available for all citizens under license unless their antecedents or propensities do not disentitle them for the privilege; and

iii. that firearms required for training purposes and ordinary civilian use are made more easily available on permits;

The whole idea of demanding a review of the Arms Act/ Arms Rules/ Arms Policy was to simplify and make things easier for law-abiding citizens as well as to streamline procedures which are bogging down licensing authorities, limit/ remove discretionary powers reflecting the past 57 years of thousands of judgements in various legal cases initiated by harassed citizens and save the courts from wasting time on what has been severally construed as a right of every law-abiding citizen. Amongst other things, it had been recommended that issuance of licences should be automatic unless the applicant is disentitled from owning a firearm (per Section 9 and/ or Section 14 of the Arms Act), that licences once issued should be valid for the lifetime of the individual (unless revoked due to some infringement), that all licences should be valid throughout the Union of India, etc. Please see the 151st report of the Parliamentary Committee on Home Affairs dated June 2011 (Section 5.4) and the letter to the Prime Minister, signed by 108 Members of Parliament (dated October 2011) for a complete list of suggestions made.

In stead we find that the persons who have drafted these new Arms Rules 2015, have completely ignored all of these suggestions and come up with a new set of rules which will in fact cause even more hardship to applicants, contain unconstitutional provisions which are liable to be struck down in court (causing avoidable embarrassment to the government) and also be hard to implement due to certain provisions which are both technically impossible and of no real benefit at all. Please see below a quick analysis of some of the provisions of these new (draft) Arms Rules 2015 along with some suggestions on how to make them better and more citizen friendly.

Analysis of some of the provisions contained in the (draft) Arms Rules 2015

The objects of the Arms Act are to provide easy and fair access to all Citizens of India the right to Keep and Bear Firearms for Protection, Sport or Display.

RULE 2. (N)

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2. (n) “conversion” of firearm refers to a **temporary or permanent** change of caliber or bore of a firearm and includes replacement or relining or reborring of a barrel having an integral or separate chamber, replacement of cylinder and/or barrel or related parts and change in configuration of action or mechanism of a firearm.

Note –

does not include converting a permissible category firearm into a restricted or prohibited category firearm

Points of concern: The inclusion of the words “temporary or permanent change of caliber” may prohibit use of a large number of modern and even old sporting firearms which come from the manufacturer with multiple barrels and/or chambers/ cylinders of different calibres for use in different types of sporting events/ recreational shooting. The use of each barrel for a specific sport/ use and replacing it with a second or third optional barrel for other sports does not lead to conversion because the main frame of the firearm remains the same. This is how these firearms are built.

So, changing the barrel of a firearm that comes with multiple barrels and calibers may also become illegal under this clause which as of today is legal and is an essential requirement of many sporting firearm. For sportsmen, this is cost saving too because instead of buying two or three different

firearms they can buy just one firearm with optional barrels of different calibers. Even for ordinary citizens, this is a boon as it allows them the flexibility of using cheaper ammunition for practice, etc. **Recommendation:** The words “temporary or permanent change of caliber” may be substituted with “permanent change of calibre”.

RULE 10.

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10. Safe use and storage of firearms – (1) The applicants applying for a licence in Form II, Form III and Form IV shall be required to complete arms and ammunition safety training course from an accredited trainer or an accredited shooting club or association. The training shall include –

Who is an “accredited trainer” and what is an “accredited shooting club or association”?

What will be the process if no “accredited trainer” and/ or “accredited shooting club or association” or any suitable shooting range is present in the city/ town/ tehsil of the applicant?

Points of concern: On the face of it mandatory training of safe handling is an excellent step, however the ground reality is that neither the district towns of India nor the big cities have institutions or trainers who have been recognised or accredited with such responsibility. In fact, most parts of the country do not even have a single shooting club. This alone will be a major deterrent and hindrance to acquiring a licence from an already reluctant licensing authority. Moreover, authorised shooting clubs and state rifle associations that run on subscription from members do not have the equipment or range facilities to train civilians in large numbers. The Govt. cannot impose such rules without providing agencies and infrastructure for the same. It somehow appears this has been not given thought OR has been introduced solely to be used as an excuse for denying licences. This will lead to further corruption and/ or create a “parallel licensing system” wherein if a few institutions/ persons are allowed to be designated as “accredited” they may start charging extortionate fees for the purpose of issuing such certificates.

Recommendation: Application of this rule must be made conditional to the local administration providing adequate infrastructure and personnel for providing such training. Till such time as they are able to do so, this rule must be kept in abeyance. It is suggested that all serving and former military personnel be exempted from this training requirement by virtue of their military experience. Furthermore, all ex-military personnel of the rank of Havildar (sergeant) and above be automatically recognised as “accredited trainers”, this would provide a ready pool of knowledgeable trainers who can be recruited for this purpose as well as provide gainful employment to lakhs of ex-servicemen who have bravely defended our frontiers while in service. It is also suggested that all police ranges be made available to civilians for such training/ general practice on 2 or more designated days every week.

RULE 11. (E) (C)

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11. (e) (c) identification proof – Aadhar Card

Points of concern: Aadhar card cannot be the only recognised ID proof. Following an order by the Supreme Court in a case related to subsidy on domestic LPG there is already uncertainty about the future of Aadhar as the only ID.

Suggestions: Other Govt. recognised ID proofs have to be accepted and given due importance, for e.g. voter ID card, passport, etc.

RULE 11. (E)(E)

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11. (e) (e) safe use and storage of firearms certificate as mentioned in rule 10;

Points of concern: It is not specified who will be the authority in charge and the infrastructure required. Will this be the same as the training certificate issued by the “accredited trainer”? Can one “self-certify” safe storage?

Suggestions: It must be unambiguously stated herein that one can “self-certify” safe storage and the requirement for safe handling certificate must be made conditional to such facilities being locally provided by the local administration, as has also been suggested earlier.

RULE 11 (E)(F)

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11. (e) (f) self attested copies of the educational and professional qualification certificates, if applicable;

Points of concern: This again is restricting an ordinary citizen and making sure he doesn't get an arms licence. Do uneducated people living in rural setups not have the right to defend themselves? This will again create a difference between the ‘haves’ and ‘have-nots’ and create a divide in the society. The Constitution treats all citizens as equals. A firearm is a tool for self defence and should not be a status or class-based privilege because the Right to self defence is a natural Right and also enshrined in the Constitution. There is also a need in the society for professions and trades such as Armed Guards for like banks and business establishments. This leads to employment and contributes to the economy. Most of these positions are held by not-so-educated people but who are highly competent in their trade. This clause will create a shortage of such people as licences will be denied to them. This will lead to social unrest.

Suggestion: This requirement must be removed.

RULE 11 (E) (G)

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11. (e) (g) references in writing of two persons of good social standing recommending the applicant for grant of licence;

Points of concern: Who is supposed to be a person of good social standing? And who is going to decide that? This is Unconstitutional and highly restrictive on an individual to get such recommendations from Politicians and High Ranking Govt. Officials who will certainly be considered in the above category. How does a common man/ ordinary citizen get such letters of recommendation? This is again a policy that will lead to denial of licence. If an uneducated person can hold the highest constitutional office and become the Prime Minister or President of The Country why can't a Citizen of the same country exercise his/ her right to self defence and be trusted to own a firearm? This may further lead to a situation where only people having the right “connections” will be getting arms licenses and the whole purpose of this exercise will be lost.

Suggestion: This requirement must be removed.

RULE 12 (2) & 12 (3)

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12. (2) For grant of a licence for the restricted category of arms or ammunition, the Central

Government in the Ministry of Home Affairs, based on the recommendations of the district magistrate and the concerned State Government accompanied by the police verification report and in addition thereto, a separate verification conducted from its own sources, wherever deemed necessary, may consider the applications –

(a) of those persons who face grave and imminent threat to their lives by reason of –

i) being residents of a geographical area or areas where militants, terrorists or extremists are most active; or

ii) are held to be the prime targets in the eyes of militants, terrorists or extremists; or

iii) are known to be inimical to the aims and objectives of the militants, terrorists or extremists and as such face danger to their lives; or

(b) of those Government officials who by virtue of the office occupied by them or by the nature of duties performed by them and/or in due discharge of their official duty have made themselves targets in the eyes of militants, terrorists or extremists and are vulnerable to militant, terrorist or extremist attacks; or

(c) of those MPs and MLAs including non-officials or private persons, who by virtue of having been closely or actively associated with anti-militant, anti-terrorist or anti-extremist programmes and policies of the Government or by mere reason of their holding views, political or otherwise, not to the liking of the militants, terrorists or extremists, have rendered themselves vulnerable to attack by the militants, terrorists or extremists; or

(d) of the family members or kith & kin of those who by the very nature of their duties or performance (past or present) or positions occupied in the Government (past or present) or even otherwise for known or unknown reasons have been considered vulnerable and have come to be regarded by the militants, terrorists or extremists as fit targets for elimination.

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12. (3) For grant of a licence for the permissible category of arms or ammunition, the licensing authority, based on the recommendations contained in the police verification report and his own assessment, may consider the applications –

(a) of those persons who face grave and imminent threat to their lives and/or property; or

(b) of those persons who by the very nature of the business profession or job carried out by them are exposed to high risk to their lives;

(c) of those Government officials, whether of Central or State Government or Government sector undertakings, who by virtue of the office occupied by them or by the nature of duties performed by them and/or in due discharge of their official duty are exposed to high risk to their lives; or

(d) of those persons who hold position of eminence in the fields of art, sport, medical, legal, accounting or other technical professions and are exposed to high risk; or

(e) of those MPs, MLAs and municipal corporates or members including non-officials or private persons, who by virtue of having been closely or actively associated with programmes and policies of the Government or by mere reason of their holding views, political or otherwise, have rendered themselves exposed to high risk; or

(f) of the family members or kith & kin of those who by the very nature of their duties or performance (past or present) or positions occupied in the Government (past or present) or even otherwise for known or unknown reasons have been exposed to high risk to their lives; or

(g) of those persons who are dedicated sports persons and active members for the last two years, of a shooting club or a rifle association, licensed under these rules and who want to pursue sport shooting for target practice in a structured learning process; or

(h) of those persons whom the licensing authority considers fit for any other reason to be eligible for grant of licence based on the police verification report and on his own risk assessment.

Points of concern: These rules are biased and highly discriminatory towards citizens of the country – this will clearly create a social divide! This proposed policy also provides a watertight safeguard against refusal of licence to the elite of the society ie. politicians, ministers, govt. officials, film

personalities, celebrities in sports and bureaucrats. This sort of negative discrimination is also unconstitutional and liable to be struck down in court.

Question is, how many of these people actually face threats? Do they have to prove it like ordinary citizens applying for licence? How many people from these categories have been killed or attacked in the past 50 years? And, how many of these people do not already enjoy round the clock protection by the police/ other security agencies owing to their official status?

This is clearly in contravention to the ethics and ethos of the Constitution and the tenets and Raison d'etre and the original intent of the Arms Act. It is providing and making easy the licensing procedure for people who already have personal security cover (even for family in some cases) and have never had any difficulty getting a firearm licence.

The policy should be straight forward, hassle free and objective, based on simple prerequisites which are fair and unbiased as opposed to being restrictive in intent and nature to the common citizen and yet clearly make it easy for the elite of the society.

Furthermore, centralising the issuance of restricted category firearms is contrary to our federal structure and also ignores the ground realities of how the Arms Act is to be implemented. It makes no sense that an officer sitting in Delhi will consider a licence based on the report/ recommendation of the licensing authority and the state government. It would seem that the government lacks faith in its own officers properly discharging their duties. While in colonial times the District Magistrate could even issue a licence for prohibited arms like machine guns, does our government not trust the current crop of officers to discharge their duties faithfully and keeping in mind national & social interests? Also, with the new centralised database the central government will always be in a position to monitor issuance of all types of licences, negating the need for such a cumbersome process.

We must start trusting our law abiding citizens and not treat them with Colonial restrictions and mindsets of the Colonial era. Firearms were restricted and impossible to possess as an Indian under the British Rule. In an independent country like India, any effort by the Govt. to treat its citizens as subjects is not only surprising but also sad.

Suggestions: The above rules should be amended to read as follows:-

12. (2) For grant of a licence for the restricted category of arms, the district magistrate on the basis of the police verification report and his own assessment of the applicant's need for the same may issue or deny the licence. Special consideration is to be given to serving or former military, paramilitary and police personnel who have selflessly served the nation. Any denial of an application shall be through a speaking order.

12. (3) For grant of a licence for the permissible category of arms or ammunition, the licensing authority shall issue the same, if based on the police verification report and his own assessment, he finds that the person by whom the license is required is not debarred from obtaining one by any provision of the act. Any denial of an application shall be through a speaking order. Reasons for denial of a licence shall be as follows:-

a) Licence shall be denied to any person

- i. who has not completed the age of twenty-one years, unless he/ she is exempt from this condition by any provision of the Act or Rules or any government order in force at the time, or
- ii. who has been sentenced on conviction of any offence involving violence or moral turpitude to imprisonment for any term at any time during a period of five years after the expiration of the sentences, or

- iii. who has been ordered to execute under Chapter VIII of the Code of Criminal Procedure, 1973 (2 of 1974) a bond for keeping the peace or for good behaviour, at any time during the term of the bond,
- b) where such licence is required by a person whom the licensing authority has reason to believe---
 - i. to be prohibited by this Act or by any other law for the time being in force from acquiring, having in his possession or carrying any arms or ammunition, or
 - ii. to be of unsound mind, or
 - iii. to be for any reason unfit for a licence under this Act.
- c) where the licensing authority deems it necessary for the security of the public peace or for public safety to refuse to grant such licence. However, this provision must be used only in exceptional cases and not be treated as the norm.

RULE 18

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18. Extension of Area Validity of licence – (1) On receipt of an application from a licensee holding a licence in Form III, the licensing authority may extend the area of validity specified in his licence, if he is satisfied about the need of such extension subject to the condition that the licensing authority has the power to grant a licence in relation to the area to which extension is being sought. (2) The application for extending the area validity for whole of India may be granted by the licensing authority as specified in column 5 of Schedule II, for the following category of licensees –

- a) Sitting Union Ministers/Members of Parliament;*
- b) Personnel of Military and Central Armed Police Forces;*
- c) Officers of All-India Services;*
- d) Officers in the Government or Government Sector Undertakings or Public Sector Undertakings with liability to serve anywhere in India;*
- e) Dedicated Sports persons as defined in rule 2(s);*

(3) In other cases, where the nature of business or profession of the applicant requires him to carry a firearm frequently beyond the existing jurisdiction and such a requirement may not be met by the issuance of a journey licence in Form XI of the rules, the application for extending the area validity for whole of India may be granted by the licensing authority as specified in column 5 of Schedule II.

Points of concern: A legally owned firearm is a moveable property of a licensee/ individual. This clause assumes that the threat perception is only limited to locality/ state. Gun owners find this absurd. A criminal can attack a license holder at the latter's house or a thousand miles away from the licensee's area of license validity while he is on tour or on a holiday with his family. A Gun in the hands of a law abiding citizen is a life saving tool and he/ she should be able to carry it throughout the Country free of restrictions. A threat or encounter with crime and criminals can occur anywhere and are mostly encountered while travelling. This discrimination will only lead to citizens being left defenceless and criminals will prey upon them.

It will indeed be an irony when we hear of a man killed by criminals in another state while his gun was lying in his home in Delhi alongside a licence that was valid only in the NCR.

Suggestions: All arms licenses should be issued with All India Validity. In some states there are also arbitrary policies of cancelling All India Validity on existing licenses at time of renewal which must be stopped with immediate effect. The above rule should be changed to read:

18. Extension of Area Validity of licence – The area of validity of all fresh licences should be automatically “ALL INDIA”. In the case of existing licences, their area of validity should automatically be so extended when they come up for renewal or if the licensee applies for the extension prior to renewal. In special cases, where the licensing authority deems it not in public

interest to extend the area of validity of an individual licensee, he shall record the reasons for the same and provide them in writing to the licensee.

RULE 19

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19. Additional Licences for Individuals – (1) The holder of a licence in Form III, for permissible category of firearms as defined in Schedule I, may apply for permitting any two of his close relatives residing with him at the address given in the licence for additional licences to possess, carry or use any of the arms or ammunition covered by his licence for sport, target practice, protection or display subject to the fulfillment of the eligibility conditions under the Act and the rules by the proposed additional licensee.

(2) The criteria laid down in rule 12 shall not be applicable to such an additional licensee under this category provided the police report regarding antecedent verification of the additional licensee does not mention any adverse comments.

(3) The additional licence shall bear a separate licence number and allotted a separate UIN for the additional licensee. However, the additional licensee shall not be allowed to acquire any arms or ammunition on his licence. The arms and ammunition endorsed on the parent licence shall be permitted to be endorsed on the additional licence.

(4) The additional licensee is restrained from possessing any licence in Form III in his individual capacity at the time of making an application for grant of additional licence by the parent licensee. Further, the additional licensee is also restrained from obtaining a licence in his individual capacity during the period he holds an additional licence under this category.

(5) Necessary endorsements shall be made both on the parent and additional licence giving cross reference of the other licence and the arms and ammunition endorsed. The period of validity and the area validity of the additional licence shall be pari-passu with that of the parent licence. The validity of additional licences shall lapse with the parent licence and if in any eventuality the parent licence is suspended, revoked or cancelled, the additional licences shall also be subject to the same legal consequence.

(6) The additional licensee is not permitted to sell or transfer the arms and ammunition endorsed on his licence. In case the holder of an additional licence shifts temporarily or permanently from the premises of the parent licensee, such additional licence will automatically lapse and the person to whom such additional licence was issued, shall be required to return his licence to the licensing authority and the responsibility for furnishing such intimation to the licensing authority, shall be that of the parent licensee.

(7) The parent licensee may request the licensing authority to revoke or cancel the licence of any of the additional licensee by submitting an application along with the original licence and in all such cases, the licensing authority shall revoke or cancel the licence of the additional licensee.

Explanation –

For the purposes of this rule, „close relatives“ mean spouse, son, daughter, brother and sister.

Points of concern: The problem with the above rule is that this is clearly being imposed to restrict individuals to keep and bear arms. The authorities will restrict issuing of fresh licences on the pretext of one family member owning a firearm. What about situations where all members of a family are leading and pursuing professions and careers which do not allow them to be together all the times? The rule is only acceptable if it does not restrict an additional licensee from procuring and possessing individual licenses and firearms while being able to use the firearms in the family for sport or protection if need arises.

Suggestions: Sub-rule 19(4) should be deleted.

RULE 22

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22. *Restriction on the quantity of ammunition – (1) For the purposes of the Act and these rules, quantity of ammunition for the licences granted in Form II, III or IV for all categories of weapons shall be restricted as under –*

Maximum purchasable during a calendar year (per weapon) 100

Maximum to be possessed at any given time (per weapon) 50

(2) The licensing authority with the approval of the state government may allow a higher quantity of ammunition in exceptional cases on merits and on the basis of good and sufficient reasons to be recorded in writing.

(3) The Central Government in the Ministry of Home Affairs may grant exemption from the limits laid down in sub-rule (1) by issuance of a general or special order in this regard.

Points of concern: The quota limit though an increase from the previous amount is still insufficient for a gun owner to practice and hone his marksmanship skills and shoot reasonably well to defend himself. All international defensive shooters shoot around 50 to 100 rounds a month to be able to shoot well and hit targets with accuracy. Kindly mark that this applies to defensive shooters only and not competitive sports shooters.

Suggestions: The limit for a common licensee with a firearm for self defence must be a minimum of 500 cartridges/ rounds of ammunition per year with provisions to import cartridges as personal baggage if the particular bore of cartridge /rounds of ammunition are not manufactured by Indian Ordnance Factory.

RULE 23 (2)

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23. *(2) An application for renewal of a licence for arms or ammunition shall be filed in the form wherein specified and lodged at least 60 days prior to the expiry of the said licence with the licensing authority along with the documents wherein specified. For arms and ammunition deposited under sub-rule (1) of rule 46, the renewal application may be filed either by the depositor, or where it is not practicable to make the application direct, through the dealer or any other person authorized by him in writing in this behalf, while the arms or ammunition continue to be so deposited.*

Points of concern: Few Licensing Authorities have enough infrastructure and manpower to deal with renewals. This will increase their work load and render a licence invalid and directly affect a licensee's privilege to keep and bear arms. This will also lead to harassment of the licensee and corruption in government offices.

Suggestions: The Arms Act Section 15 needs to be amended. In Section 15, sub-section (1) the words "A license under Section 3 shall, unless revoked earlier, continue in force for a period of three years from the date on which it is granted" may be substituted by the following words "A license under Section 3 shall, unless revoked, continue in force for the lifetime of the person."

In case the government feels that it is not feasible to grant licences valid for a lifetime, then at the very least the time between renewals should be kept at a minimum of 10 years and all renewals should be able to be done by paying renewal fees online. As per the law, the Licensing Authority can anyway call upon any Arms Licensee to produce his/ her Arms for inspection at any time, there is no need for periodic renewals for this purpose. Making the licences valid for lifetime or at least ten years and allowing for online renewal will remove a lot of burden and hassle for both the administration as well as Arms Licence holders. Please see next point for more.

RULE 25

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25. Certain licences to be in book form – A licence in Form II, Form III, Form IV or Form V as generated under the UIN of the licensee in NDAL system shall be in a book form serially numbered and strictly as per the formats specified in the rules and in case of individuals shall contain the latest photograph of the licensee:

Provided that the licence books for restricted and permissible category of firearms shall be of dark maroon and navy blue colours respectively to make an apparent distinction:

Provided further that the licensing authorities may get the licence books printed and serially numbered locally and levy fee for providing licence books as specified in Schedule IV.

Points of concern: When the review of the Arms Rules was undertaken and with the current e-Governance thrust of the government, it was hoped that there would be provisions for licences to be issued in the form of “smart cards”. However, the new rules continue with the archaic practice of “booklet” arms licences. When the government has spent crores on the NDAL and plans to spend a lot more additional funds on connecting all Licensing Authorities/ Arms Dealers etc. to the NDAL system, it would make much more sense to issue/ convert all arms licenses to smart cards.

Suggestions: All licences issued under the Act should be in the form of a smart card, with provisions for online renewal/ payment of fees, online application for additional services like request for addition of arms, increase in ammunition quotas etc.

RULE 31

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31. Restrictions on carrying of firearm in public place – (1) No person may carry a firearm in a public place unless the firearm is carried –

(a) in the case of a handgun –

i) in a holster or similar holder designed, manufactured or adapted for the carrying of a handgun and attached to his person; or

ii) in a rucksack or similar holder; or

(b) in the case of another firearm, in a holder designed, manufactured or adapted for the carrying of a firearm.

(2) A firearm contemplated in sub-rule (1) must be completely covered and the person carrying the firearm must be able to exercise effective control over such firearm.

(3) Brandishing, carrying or discharge of firearms in any public place is strictly prohibited.

(4) Violation of any of the restrictions laid down in sub-rule (1) to (3) shall be considered as breach of the conditions of the licence granted liable to revocation of the licence and seizure of the firearm in addition to the punitive provisions under the Arms Act, 1959 and any other applicable laws.

Points of concern: Except in cases involving handguns this rule will severely affect the owners of long guns (shotgun / rifles etc.) to use his firearm for protection in case he is suddenly attacked by criminals. Also, this rule will severely affect private security guards on duty. Furthermore, there are sufficient sections under IPC/ CrPC to restrict any unsafe and aggressive display/ use of all types of arms, there is no benefit served by placing such restrictions on licensed gun owners via the Arms Rules.

Suggestions: This rule must be deleted.

RULE 57 (6)

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57.

(6) Individual rounds of ammunition shall also be marked in order to facilitate their tracing when recovered under illicit circumstances. Information to be marked on individual cartridge cases, shall include –

- a) country of manufacture;*
- b) name of the manufacturer;*
- c) lot or batch number unique to the manufacturer;*
- d) caliber; and*
- e) type*

Points of concern: This sub-rule has clearly been introduced with little thought given to the technical & practical feasibility of implementing this in the real world. It is technically and practically impossible to implement this rule both for domestically manufactured ammunition as well as for imported ammunition.

Suggestions: Sub-rule 57(6) should be deleted.

SCHEDULE I

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Schedule 1

I (b) Restricted Arms

Classification on the basis of nature of firearms

Semi-automatic firearms which cannot be converted into fully automatic firearms and other than those defined in category III(a) and III(c);

Smooth bore guns having barrel of less than 20" in length;

Centrefire rifles of any barrel length (semi-automatic);

Electronic disabling devices having firing range of more than 4.5 meters

Points of concern: In most countries where there is restricted licensing of semi-automatic long arms, .22 rimfire rifles and shotguns are exempt from all such restrictions – due largely to their limited power and range. We are happy to note that under category III(c) .22 rimfire semi-automatic rifles have been exempt from restrictions, unfortunately this exemption has not been extended to category III(d) semi-automatic shotguns.

Suggestions: Semi-automatic shotguns should be removed from the list of restricted arms and included in Category III(d).

I (c) Restricted Arms

Classification on the basis of ammunition used in firearms

Bolt action or semi-automatic rifles of .303" or 7.62 mm or 5.56 mm bore which can chamber and fire service ammunition of .303" or 7.62 mm or 5.56 mm caliber;

Handguns (revolvers and pistols) which can chamber – .38" or .455" rimmed cartridges or service 9 mm (9x19 or 9 mm parabellum) or .45" rimless cartridges.

Points of concern: The reason and logic behind prohibited bores historically has been to keep Service Weapons and Service Ammunition separate and out of the hands of civilians. After local

uprisings, the British prohibited .450 calibre firearms in India and Sudan. The reason was that 577/450 was the service round of the British Army used in the Martini Henry rifles. In India, the Governor General-in-council prohibited the import and possession of .450 calibre rifles and ammunition and when the British switched over to the .303 as their service calibre this too was prohibited. The reason was that the British Colonial masters wanted to ensure that in case of another mutiny by Indian troops, they should not be able to get ammunition for their rifles from the local population. Similarly other service calibre arms and ammunition too were prohibited. This had nothing to do with the .303 being more effective than other rifle calibres allowed to Indians. In fact many of them were in terms of ballistics the equal of if not superior to the .303. Similarly while the anaemic .38-200 a.k.a. .38 S&W, which was and is a service calibre, is considered to be a prohibited bore, a .44 Magnum revolver is considered to be a non Prohibited Bore.

After independence while this practice continued by keeping service calibre firearms in a distinct category. Surprisingly when the Indian army adopted the 7.62x51 as its service calibre, it too was included in the list of Prohibited Bore firearms.

Since there is little or no possibility of a mutiny against an elected government there is no reason to continue with this policy.

Suggestions: Restrictions based on calibres must be done away with once and for all. Category I(c) should be deleted and all calibres may be classified as permissible.

Category III

(f) Air weapons including Air Rifles and Air Guns having muzzle energy exceeding 20 joules or 15 ft-lbs

(g) Firearm Replicas

(i) Paintball markers or paintball guns

(j) Blank-firing firearms

Points of concern: Airguns, non-firing replica guns, paintball guns etc are not Firearms. These should be kept free and out of the realm of the Arms Act. Regulating these will create unending complications for the authorities as well as civilians since there are millions of Airguns in the country. It will be a mammoth task for the authorities to issue licence against them. There is no real threat from airguns and they safely and effectively aid in promoting shooting sports and firearm handling as well as marksmanship. Replicas are decoration pieces and paintball guns are adventure sports equipment. The proposed laws must not be made more complicated and unnecessarily made to include the above mentioned items. This will only lead to headache for the authorities and harassment of the general public.

Suggestions: These should be kept out of all licensing requirements exempt from all sections of the Arms Act.

Category III

(h) Electronic disabling devices having firing range of less than 4.5 meters

Points of concern: Such devices are the favoured non-lethal means of self-defence for millions of women (and men) all across the world. These are rarely (if ever) used by criminals, as they (the criminals) have access to all types of lethal weapons.

Suggestions: They are non-lethal and should be exempt from all licensing requirements and be exempt from all sections of the Arms Act, thus enabling millions of our fellow citizens to have a

safe and cheap means of non-lethal self-defence which can prove useful to them in many types of situations.

CONDITIONS ON LICENCE

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(7) The licensee shall not carry a firearm in a public place unless the firearm is carried –

(a) in the case of a handgun –

i) in a holster or similar holder designed, manufactured or adapted for the carrying of a handgun and attached to his person; or

ii) in a rucksack or similar holder; or

(b) in the case of another firearm, in a holder designed, manufactured or adapted for the carrying of a firearm. Further the firearm must be completely covered and the person carrying the firearm must be able to exercise effective control over such firearm.

(12) The licensee shall submit the application for renewal of licence minimum thirty days prior to expiry of the validity period of his licence with the concerned licensing authority along with the payment of fees as applicable under Schedule IV.

Points of concern: These have been mentioned earlier under the relevant rules along with relevant suggestions.

Suggestions: Condition 7 should be deleted and Conditional 12 should be brought in line with the concept of online payment of fees and online renewal.

FORM FOR APPLICATION FOR LICENCE

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Schedule III

Form A1 (for application of license)

6 Permanent Account No. (PAN)

7 Aadhar Card Number

Points of concern: Since Sub-Section 14 (2) of the Arms Act expressly prohibits denial of licence on the basis of property owned/ or lack thereof requirement of income details via point no. 6 seems ultra vires when read along with the spirit and words of said sub-section of the Arms Act. Concerns regarding treating Aadhar Card No. as the sole proof of Identity have already been covered previously in this letter/ document.

Suggestions: Requirement for PAN Card No. should be deleted or made optional. Government issued ID proofs other than Aadhar Card (like driving licence, voter ID card, passport etc.) should be given equal weightage.

14. (e) the family members of the applicant are aware of his application for an arms licence and have expressed their consent for the same

Points of concern: We live in a democracy and an Adult Citizen needs neither approval nor consent from any other member of the society to live and exercise his choices and privileges. This condemns the ethos and ethics of a democracy and is infringement upon a citizen's rights and freedom. Does an adult citizen of a democracy need consent from his family to marry someone of his choice buy an automobile or property or to vote for a particular political party? This is unacceptable in a democracy. An individual has the right to exercise legal privileges in a democracy,

free from biases of the society, neighbours and even his own family. To even suggest this is an infringement upon individual freedom and choice.

Suggestions: 14(e) should be deleted from the form.

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2. c) *identification proof – Aadhar Card;*

e) *safe use and storage of firearms certificate as mentioned in rule 10;*

f) *self attested copies of the educational and professional qualification certificates, if applicable;*

g) *references in writing of two persons of good social standing recommending the applicant for grant of licence;*

Points of concern: These have already been discussed above and suggestions given regarding all of these points.

h) *medical certificates about mental health and physical fitness in the format appended hereto;*

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7 *Blood Pressure (please specify)*

On the basis of examination, it is certified that the person examined as mentioned in column 1 above –

1. *is in good physical health and is free from any physical deformity.*

Points of concern: Self defence is a basic human right and a gun is a tool to exercise this right. An older and weaker and a physically challenged citizen requires a gun as a force equaliser just as much or, rather more, than an individual with higher level of physical fitness and more strength. Women, the elderly and hemiplegics have just as much right and need to keep and bear arms and use them in self defence as any other citizen. It gives them a fair advantage in an unfair fight against physically stronger adversaries in life threatening situations. The privilege and right to keep a firearm cannot be discriminated on the basis of Age, Sex and Physical deformity or Health Condition of a citizen. Someone in a weaker state has a more compelling reason to keep a firearm for self defence.

Here, we feel compelled to mention that it is the Indian Ordnance Factory that manufactured a special light weight revolver for women and named it ‘Nirbheek’ after the Delhi rape incident rocked the soul of the nation. The revolver was widely advertised by the IOF top brass and hundreds of women applied for licence across the country to buy it. Ironically, none of us have seen the revolver till now nor heard of any of those women getting a licence.

Suggestions: There must be no discriminations made against citizens based on their physical strength/ physical deformities/ poor health. It is understandable if a licence is denied to someone suffering from a mental ailment, which may affect his safe handling of a firearm, in fact Section 14(1)(b)(i)(2) of the Arms Act provides for this. On the other hand, the physically weak and infirm have a far greater need to protect themselves against criminal predators, this is a fact well-established by multiple home invasions of senior citizens across the country.

FEES

All fees have been hiked substantially. This seems to be an attempt to dissuade ordinary citizens from applying for a licence and/ or making renewals a greater financial burden on existing licence holders. Licence fees must be reasonable and affordable to all, not just the financially well off.