

FIREARMS ORDINANCE, 2020

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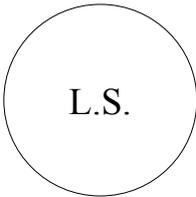
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Dr Philip Rushbrook
Governor of Ascension



**ASCENSION
No. 3 of 2020**

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AN ORDINANCE

to prohibit the importation, possession and use of certain weapons and to control other weapons in Ascension; and for connected or incidental matters.

Enacted by the Governor of Ascension after consultation with the Island Council of Ascension.

**PART 1
PRELIMINARY**

Short title and commencement

- 1.** (1) This Ordinance may be cited as the Firearms Ordinance, 2020, and comes into force on a date or dates fixed by the Governor by order.
- (2) An order under subsection (1) may—
- (a) appoint different dates for different provisions or for different purposes of the same provision; and
 - (b) contain such transitional or consequential provisions as appear to the Governor to be necessary or convenient.

Interpretation

- 2.** In this Ordinance—
“**acquire**” means to hire, accept as a gift, purchase or borrow, and “**acquisition**” is to be construed accordingly;

- “**air weapon**” includes an air rifle, air gun or air pistol, but does not include a paintball marker;
- “**ammunition**” means any missile capable of being used in any firearm, and includes a bomb, grenade or other like missile whether capable of use with a firearm or not;
- “**certificate**” means a certificate granted by the Chief Officer of Police under section 12;
- “**controlled weapon**” means a paintball marker or spear gun;
- “**designated paintball area**” means any area designated by the Governor under regulation 23(1)(f) for the purposes of paintball-related activity;
- “**firearm**” means any lethal barrelled weapon of any description (including a shot gun) from which any shot, bullet or other like missile can be discharged, but does not include a spear gun or a paintball marker;
- “**imitation firearm**” means any article which has the appearance of being a firearm, whether or not it is capable of discharging any shot, bullet or other like missile, but does not include a water pistol or any other article specifically manufactured for use as, and can be clearly identified as, a toy;
- “**land**” includes land covered with water;
- “**paintball marker**” means a barrelled device designed for use in the sport of paintball which uses an expanding gas, such as carbon dioxide (CO₂) or compressed air, to propel frangible, dye-filled balls through the barrel at a muzzle velocity not exceeding 300 feet per second;
- “**premises**” includes land with or without a building or buildings erected on such land and, subject to any applicable law or international Convention relating to aviation, includes an aircraft;
- “**prohibited weapon**” means any firearm (including a shot gun), any readily-convertible firearm, any air weapon and such other weapons as may be prescribed from time to time by regulations made under section 23(1)(g);
- “**public place**” includes any highway and any other premises or place to which at the material time the public have or are permitted to have access, whether on payment or otherwise;
- “**readily convertible**” means capable of converted without any special skill on the part of the person converting it and the work involved in converting it does not require equipment or tools other than such as are in common use by persons carrying out works of construction and maintenance in their own homes;
- “**readily convertible firearm**” means any article which has the appearance of being a firearm and which can be readily convertible into a weapon from which a shot, bullet or other like missile can be discharged;
- “**revolver**” means, in relation to a smooth-bore gun, a gun containing a series of chambers which revolve when the gun is fired;
- “**shot gun**” means a smooth-bore gun (not being an air weapon or paintball marker) which—
- (a) has a barrel not less than 24 inches in length and does not have any barrel with a bore exceeding 2 inches in diameter;
 - (b) either has no magazine or has a non-detachable magazine incapable of holding more than two cartridges; and
 - (c) is not a revolver gun;
- “**spear gun**” means a hand held spear or lance and a hand held weapon designed to discharge a spear or lance whilst underwater;
- “**transfer**” includes letting on hire, giving, lending, or otherwise parting with possession.

Application

3. This Ordinance does not apply to the following persons when respectively acting in the lawful discharge of their duties as such on Ascension:

- (a) any member of the St Helena Police Service;
- (b) any member of Her Majesty's armed forces; or
- (c) any member of the United States armed forces.

PART 2**PROHIBITION AND CONTROL OF WEAPONS AND AMMUNITION****Prohibited and controlled weapons and ammunition**

4. It is an offence for a person to have in his or her possession, import, acquire, manufacture, sell or transfer—

- (a) any prohibited weapon or ammunition;
- (b) any controlled weapon,

otherwise than in accordance with an exemption (including any conditions) granted under this Ordinance.

Maximum penalty for an offence under—

- (a) subsection (1)(a), a fine, or imprisonment for 3 years, or both;
- (b) subsection (1)(b), a fine, or imprisonment for one year, or both.

Exemption for shot guns for slaughtering or humanely destroying animals

5. (1) A person may, with the written permission of the Chief Officer of Police, have in his or her possession a shot gun and ammunition for the purpose of slaughtering any animal intended to be used for human consumption or humanely destroying an animal that is not intended to be used for human consumption.

(2) The Chief Officer of Police may, in his or her discretion, specify in writing when granting permission given under subsection (1), such conditions as he or she considers appropriate in the circumstances for the purpose of securing the shot gun or ammunition or ensuring that it will not endanger the public safety or peace. Such conditions may include, but are not limited to, conditions concerning the storage, possession, use, sale, transfer or disposal of any shot gun and its ammunition.

(3) A person with written permission under subsection (1) who fails to comply with any condition specified in the permission commits an offence.

Maximum penalty: A fine of £300 or imprisonment for 3 months, or both.

(4) The Chief Officer of Police, in his or her discretion, may at any time revoke permission given to a person under subsection (1) by notice in writing requiring the person to deliver up the written permission by a date specified in the notice.

(5) A person who fails without reasonable excuse (which the person must prove) to comply with the requirements of a notice given pursuant to subsection (4) commits an offence. Maximum penalty: A fine of £100.

Exemption for weapons and ammunition of historical interest

6. (1) Subject to subsection (2), the Ascension Island Heritage Society (or any named member of that body) may, with the written permission of the Chief Officer of Police, acquire or have in their possession any article which constitutes a prohibited weapon or controlled weapon or ammunition, and which is of historical interest, for the purposes of its display to members of the public.

(2) In respect of any article referred to in subsection (1) which came into the possession of the Ascension Island Heritage society before 1 January 2020—

- (a) the requirement in subsection (1) to have written permission does not apply, but
- (b) the Chief Officer of Police may, in his or her discretion, specify by notice in writing any such conditions as may be specified under subsection (3).

(3) When granting permission under subsection (1), the Chief Officer of Police may, in his or her discretion, specify in writing such conditions as he or she considers appropriate in the circumstances for the purpose of securing any prohibited or controlled weapon or ammunition article referred to in subsection (1), or for purposes of ensuring that it such article will not endanger the public safety or peace. Such conditions may include, but are not limited to, conditions concerning storage, possession, and use.

(4) A person who fails to comply with any condition specified in a permission granted under subsection (1) or a notice issued under subsection (2) commits an offence. Maximum penalty: A fine of £300 or imprisonment for 3 months, or both.

(5) The Chief Officer of Police, in his or her discretion, may at any time revoke permission given to a person under subsection (1) by notice in writing requiring the person to deliver up the written permission by a date specified in the notice.

(6) A person who fails to comply with the requirements of a notice given pursuant to subsection (5) commits an offence. Maximum penalty: A fine of £100.

Exemption for equipment for ships and aircraft

7. (1) A person may—

- (a) have in his or her possession a firearm or ammunition on board a ship, boat or other sea vessel, as part of the safety equipment thereof; and
- (b) remove such firearm or ammunition from or to the ship, boat or other sea vessel for the purpose of repair or inspection, or after the completion thereof;

(2) A person may—

- (a) have in his or her possession signalling apparatus or ammunition therefor on board an aircraft or at an aerodrome, as part of the equipment of the aircraft or aerodrome; and

- (b) remove such signalling apparatus or ammunition from one aircraft to another at an aerodrome, or from or to an aircraft at an aerodrome to or from a place appointed for the storage thereof in safe custody at that aerodrome, and keep any such apparatus or ammunition at such a place.

Exemption for spear guns

8. (1) A person who holds a spear gun certificate granted under section 12 may have in his or her possession, import or acquire a spear gun, but subject to the conditions specified in the certificate and the restrictions on the possession and use as contained in the Spear Guns Control Ordinance, 2018.

(2) A person referred to in subsection (1) may sell or transfer a spear gun to any other person who holds such a spear gun certificate.

(3) A person may have in his or her possession, import, acquire, manufacture, sell or transfer a spear gun without a certificate referred to in subsection (1), if the spear gun takes the form of either a hand held spear or lance, or a hand held weapon the construction of which is such that discharge of the spear or lance is powered only by the energy of a rubber band or tube held under tension without mechanical assistance.

Exemption for paintball markers

9. (1) A person who holds a paintball marker certificate granted under section 12 may, for the purpose of participating in paintball-related activities within a designated paintball area, import, acquire or have in his or her possession a paintball marker, but subject to the conditions specified in the certificate.

(2) A person referred to in subsection (1) may—

- (a) sell or transfer a paintball marker to any other person who holds such a paintball marker certificate;
- (b) lend or let on hire a paintball marker to any person in accordance with subsection (3), including for fee, gain or reward.

(3) Subject to subsection (5), a person who does not hold a paintball marker certificate may, for the purpose of participating in paintball-related activities, borrow or hire and have in his or her possession a paintball marker but only within a designated paintball area.

(4) A paintball marker must not resemble a conventional firearm.

(5) It is an offence for a person to part with the possession of a paintball marker to a child under the age of 14 years, unless the person—

- (a) does so within a designated paintball area for the purpose of the child's participation in paintball-related activities in that designated paintball area; and
- (b) is satisfied that the child will, for the duration of the relevant paintball-related activities, remain in the designated paintball area and under the supervision of a person aged 21 or over who holds a valid paintball marker certificate.

Maximum penalty: A fine of £200.

(6) If a person has a paintball marker in his or her possession within a designated paintball area, it is an offence for that person to use it for firing any missile beyond the boundaries of that area.

Maximum penalty: A fine of £200.

(7) In proceedings for an offence under subsection (5), it is a defence to prove that the person charged with the offence believed the other person to be 14 years or over, and that reasonable grounds existed for such belief.

Offences relating to possession or use of prohibited and controlled weapons

10. (1) A person who has in his or her possession any prohibited or controlled weapon or ammunition with intent by means thereof to endanger life, or to cause damage to property, or to enable another person to do so, commits an offence triable only on indictment.

Maximum penalty: A fine, or imprisonment for life, or both.

(2) For the purposes of subsection (1) it is immaterial whether or not any life has been endangered or damage caused to any property.

(3) It is an offence for a person to have in his or her possession any prohibited or controlled weapon or imitation firearm with intent by means thereof to cause, or enable another person by means thereof to cause, any person to believe that unlawful violence will be used against him or her or another person.

Maximum penalty: a fine, or imprisonment for 10 years, or both.

(4) A person who makes or attempts to make any use whatsoever of a prohibited or controlled weapon or imitation firearm with intent to prevent, obstruct or resist the lawful arrest or detention of him- or herself or another person, commits an offence triable only on indictment.

Maximum penalty: A fine, or imprisonment for life, or both.

(5) A person who has with him or her a prohibited or controlled weapon or imitation firearm with intent to commit any offence punishable by imprisonment, or to resist arrest, or prevent the arrest of another person, in any case while the person has the prohibited or controlled weapon or imitation firearm in his or her possession, commits an offence triable only on indictment.

Maximum penalty: A fine, or imprisonment for life, or both.

(6) In proceedings for an offence under subsection (4) or (5), proof that the defendant had a prohibited or controlled weapon or imitation firearm with him or her and intended to commit an offence, or to resist or prevent arrest, is sufficient evidence that the person intended to have it with him or her while doing so.

(7) A person in possession of a prohibited or controlled weapon or imitation firearm who—

(a) enters or is in any building or part of a building, or

(b) enters upon or is on any land (other than a building),

as a trespasser and without reasonable excuse (which the person must prove) commits an offence.

Maximum penalty:

For an offence under subsection (7)(a), a fine, or imprisonment for 7 years, or both.

For an offence under subsection (7)(b), a fine of £300 or imprisonment for 3 months, or both.

(8) A person who, without lawful authority or reasonable excuse (which the person must prove) has with him or her in a public place a loaded controlled weapon, an imitation firearm, or any prohibited weapon (whether loaded or not) together with ammunition suitable for use therewith, commits an offence.

Maximum penalty: A fine, or imprisonment for 5 years, or both.

(9) For purposes of subsection (8), a paintball marker is deemed to be loaded if there is ammunition in the chamber or barrel, or in any magazine or other device which is in such a position that the ammunition can be fed into the chamber or barrel by the manual or automatic operation of some part of the gun or weapon.

Conversion of weapons

11. (1) A person who shortens the barrel of a shot gun to a length of less than 24 inches commits an offence.

(2) For purposes of subsection (1), the length of the barrel of a firearm is measured from the muzzle to the point at which the charge is exploded on firing.

Maximum penalty: A fine, or imprisonment for 3 years, or both.

PART 3

SPEAR GUN AND PAINTBALL MARKER CERTIFICATES

Grant and renewal of certificates

12. (1) An application for the grant of a spear gun or paintball marker certificate must be made to the Chief Officer of Police in the prescribed form and must state such particulars as required by the form.

(2) Subject to subsection (3), on receipt of a valid application made in accordance with subsection (1), the Chief Officer of Police may grant or renew a certificate if he or she is satisfied that the applicant can be permitted to possess a spear gun or paintball marker, as the case may be, without danger to the public safety or to the peace.

(3) A certificate must not be granted—

(a) to a person who is under the age of 14 years at the time of making their application; or

(b) to a person who is prohibited from holding a certificate by virtue of an order made under section 20(1)(c).

(4) A certificate granted or renewed pursuant to subsection (2) continues in force for a period of 12 months from the date it was granted or last renewed unless otherwise revoked.

(5) The Chief Officer of Police may, in his or her discretion, specify in a certificate granted under subsection (2) such conditions as he or she considers appropriate in the circumstances. Such conditions may include, but are not limited to, conditions concerning the storage, possession, use, sale, transfer or disposal of any spear gun or paintball marker and its ammunition.

(6) A person aggrieved by—
(a) the refusal of an application for the grant or renewal of a certificate; or
(b) the attachment of any condition to the grant or renewal of a certificate,
may appeal to the Administrator, whose decision is final.

(7) An appeal under subsection (6) must be made in writing within 14 days of the date of the decision, but the Administrator may, in his or her discretion, extend in any case the time for making such an appeal.

(8) An application for the grant or renewal of a certificate may cover more than one spear gun or paintball marker, as the case may be, and an application for renewal may include an application for variation pursuant to section 13(1)(b).

(9) The provisions of the Rehabilitation of Offenders Act 1974 (UK) do not apply to any request for information about past convictions, whether spent or otherwise, in connection with an application for a grant or renewal of a firearms licence or certificate.

Variation and revocation of certificates

13. (1) The Chief Officer of Police may vary the conditions subject to which a spear gun or paintball marker certificate is held—

- (a) at any time by notice in writing to the certificate holder; and
- (b) on the written application of the certificate holder.

(2) The Chief Officer of Police may revoke a spear gun or paintball marker certificate if—

- (a) there are reasonable grounds to suspect that the holder of the certificate has failed or is failing to comply with any provision of this Ordinance or the Spear Guns Control Ordinance, 2018;
- (b) there are reasonable grounds to believe that the holder of the certificate will fail to comply with any provision of this Ordinance or the Spear Guns Control Ordinance, 2018; or
- (c) there are reasonable grounds to suspect that the holder of the certificate can no longer be permitted to possess a spear gun or paintball marker, as the case may be, without danger to the public safety or to the peace.

(3) A person aggrieved by—

- (a) the variation of, or refusal to vary, under subsection (1), the conditions subject to which a certificate is held; or
- (b) the revocation of a certificate under subsection (2),
may appeal to the Administrator in the manner referred to in section 12(6) and (7).

(4) If a certificate is varied under subsection (1)(a), or revoked under subsection (2), the Chief Officer of Police must, by notice in writing, require the holder to surrender the certificate within 7 days:

Provided that if an appeal is made pursuant to subsection (3), this subsection does not apply to that variation or revocation, unless the appeal is withdrawn or dismissed, and then applies with the substitution for the reference to the date on which the appeal was withdrawn or dismissed.

(5) A person who fails without reasonable excuse (which the person must prove) to comply with a requirement under subsection (4) commits an offence.

Maximum Penalty: A fine of £200.

Offences in connection with certificates

14. (1) A person who knowingly or recklessly fails to comply with any condition to which his or her certificate is subject, commits an offence.

Maximum penalty: A fine of £500, imprisonment for six months, or both.

(2) A person who knowingly or recklessly makes a statement false in any material particular for the purpose of procuring, whether for him- or herself or another person, the grant, renewal or variation of a spear gun or paintball marker certificate, as the case may be, commits an offence.

Maximum penalty: A fine of £500 or imprisonment for six months, or both.

(3) A person who, without lawful authority or reasonable excuse (which the person must prove) creates, alters, or destroys a spear gun or paintball marker certificate commits an offence.

Maximum penalty: A fine of £500, or imprisonment for six months, or both.

PART 4

LAW ENFORCEMENT AND PUNISHMENT OF OFFENCES

General powers of entry, search and seizure

15. If there are reasonable grounds for suspecting that an offence under this Ordinance has been, is being, or is about to be committed on any premises, a police officer may—

- (a) enter such premises at any time, if necessary by force, and search the premises and every person found there; and
- (b) seize and detain any prohibited or controlled weapon, imitation firearm or ammunition which the police officer finds on the premises, or on any person found there, which the officer has reasonable grounds for suspecting has been, is being, or is about to be used contrary to any provision of this Ordinance.

Powers of stop and search

16. (1) A police officer may require any person whom he or she has reasonable grounds to suspect—

- (a) of possessing a prohibited weapon or imitation firearm, with or without ammunition, in a public place;

- (b) of possessing a controlled weapon in a public place otherwise than in accordance with an exemption (including any conditions); or
- (c) to be committing or about to commit, elsewhere than in a public place, any offence under this Ordinance,

to hand over any prohibited or controlled weapon, imitation firearm or any ammunition for examination.

(2) For the purposes of the discharge of his or her powers under subsection (1), a police officer may search any person so suspected, and may detain the person for so long as is reasonably necessary for the purpose of so doing:

Provided that no female person is to be searched other than by a female police officer, and no male person is to be searched other than by a male police officer.

(3) If a police officer has reasonable grounds to suspect that there is a prohibited weapon in any vehicle which is in a public place, or that a vehicle is being or is about to be used in the commission of an offence under this Ordinance, the officer may search the vehicle and for that purpose require the person driving or in control of it to stop it.

(4) For the purpose of exercising any of the powers conferred by this section, a police officer may enter any premises, including any private premises, without giving prior notice to the owner or occupier thereof.

(5) A person who fails to comply with any requirement, request, instruction or direction lawfully given by a police officer under this section commits an offence.

Maximum Penalty: A fine of £300 or imprisonment for 3 months, or both.

Production of written permission or certificate

17. (1) A police officer may require from any person whom the officer believes to be in possession of a prohibited or controlled weapon or ammunition to which this Ordinance applies, the production of the written permission or certificate for the prohibited or controlled weapon or ammunition.

(2) If a person fails—

- (a) to produce the written permission or certificate when required to do so under subsection (1);
- (b) to permit the police officer to examine any written permission or certificate produced; or
- (c) to show that the person is entitled by virtue of this Ordinance to have a prohibited or controlled weapon or ammunition in his or her possession without holding a written permission or certificate,

the police officer may seize and detain any prohibited or controlled weapon or ammunition in the possession of that person and may require that person to declare to the officer immediately the person's name and address.

(3) A person required pursuant to subsection (2) to declare his or her name and address who refuses to declare it, or who declares a false name or a false address, commits an offence.

Maximum Penalty: A fine of £300 or imprisonment for 3 months, or both.

Firearms about to be exported

18. (1) A police officer or a customs officer may search for and seize any firearm or ammunition which the officer has reason to believe is about to be unlawfully exported from Ascension, and may board any aircraft, ship, vessel or other conveyance for that purpose.

(2) The master of a ship or pilot of an aircraft, and any other person who has the control or custody of any firearm or ammunition in course of transit for exportation must, on demand by a police officer or a customs officer—

- (a) allow the officer all reasonable facilities for the examination and inspection of the firearm or ammunition; and
- (b) produce all documents in his or her possession relating thereto.

(3) A person who fails to comply with subsection (2), or who otherwise obstructs a police officer or a customs officer lawfully acting in the execution of his or her duty under this section commits an offence.

Maximum Penalty: A fine of £300 or imprisonment for 3 months, or both, for each firearm or parcel of ammunition in respect of which the offence is committed.

Prosecution and punishment of offences

19. (1) Apart from an offence which is declared by this Ordinance to be triable only on indictment—

- (a) an offence under this Ordinance for which the maximum penalty is imprisonment for 3 years or more is triable either on indictment or summarily;
- (b) all other offences are triable summarily only;
- (c) the limits on sentencing in section 17 of the Magistrates' Court (Ascension) Ordinance, 1968, do not apply on a summary conviction under this Ordinance.

(2) If the Magistrates' Court or a judge or a jury is not satisfied that a defendant charged with an offence under this Ordinance is guilty of that offence, but is guilty of another offence under this Ordinance which has not been charged, the defendant may be convicted of that other offence and punished accordingly.

Court's powers on conviction

20. (1) If a person is convicted of an offence under this Ordinance, the court by or before which the person is convicted may—

- (a) make any order as to the forfeiture or disposal of any prohibited or controlled weapon, imitation firearm or ammunition to which the offence relates;
- (b) vary or revoke any extant spear gun or paintball marker certificate that the person holds;
- (c) order that the person be prohibited from being granted a spear gun and / or paintball marker certificate for such period as the court considers fit in all the circumstances of the case.

(2) A police officer may seize and detain any prohibited or controlled weapon, imitation firearm or ammunition, or any spear gun or paintball marker certificate, which could be the subject of an order under subsection (1).

(3) A decision by a court to vary or revoke a spear gun or paintball marker certificate, as the case may be, does not give rise to a right of appeal to the Administrator.

PART 5 MISCELLANEOUS PROVISIONS

Service of notices

21. Any notice required or authorised by this Ordinance to be given to a person may either be delivered personally or sent by post to the person at the person's last known or usual place of abode.

Power of Chief Officer of Police to delegate

22. Without affecting section 7 of the Police Service Ordinance, 1975, or the powers and duties conferred by this Ordinance upon police officers and customs officers, the Chief Officer of Police may delegate to any police officer any of the Chief Officer of Police's powers and duties under this Ordinance.

Regulations

23. (1) The Governor may make regulations for the further and better execution of this Ordinance, and, without limiting that power, such regulations may provide for—

- (a) the information to be supplied and documents to be produced in connection with any application which may be made under this Ordinance for a certificate or other permission, or the variation of it;
- (b) the forms of written permissions and certificates provided for by this Ordinance, the nature of any conditions which may be attached to them, and the variation of such conditions;
- (c) the documents necessary and the procedure to be followed in the pursuance of any right of appeal provided for by this Ordinance, including the determination of the appeal and notification of it;
- (d) the fees to be charged in respect of anything required or permitted to be done under this Ordinance;
- (e) the marking or other means of identification of prohibited or controlled weapons and ammunition in respect of which an exemption under this Ordinance has been granted;
- (f) the designation of premises for the purpose of participation in paintball-related activities;
- (g) the description of further weapons to be prohibited in accordance with section 4 of this Ordinance.

(2) Prior to exercising the power to make regulations under subsection (1)(g), the Governor must consult the Chief Officer of Police.

EXPLANATORY NOTE

(This note does not form part of the Ordinance)

The purpose of this Ordinance is to prohibit the importation, possession and use of most firearms and to regulate other weapons in Ascension. The Ordinance imposes a prohibition on all firearms and ammunitions with the exception of certain shot guns which may be used with the written permission of the Chief Officer of Police for the purposes of slaughtering or humanely destroying animals, and items of historical interest in the possession of the Ascension Island Heritage Society for the purposes of display to the public; there are also exemptions for safety equipment on vessels and aircraft. Specific provision is made for the issue of spear gun certificates following the recent introduction of the Spear Guns Control Ordinance, 2018. There is also provision for the control and use of paintball markers for recreational purposes within specific facilities intended for that purpose.