

Judicial (1895) Department.

ORDINARY PRINTED.

G.O., No 1435

Dated 9th July 1895

INDEXED.

[Despatch Abstract.]

INDIAN ARMS ACT.

Communicating to the Board of Revenue (Separate Revenue),
all District Magistrates, &c. endorsement of the Government of India
forwarding copy of its letter to the Government of Bengal stating that
section 5 of the---has no application to the case of firms merely act-
ing as agents for other parties importing arms for their own use.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

Govt. of {1895} Madras. JUDICIAL.

Issued

Recd.

Encl.

G.O., 9th July 1895, No. 1435.

JULY.

Indian Arms Act.

Communicating to the Board of Revenue (Separate Revenue), all District Magistrates, &c., endorsement of the Government of India forwarding copy of its letter to the Government of Bengal stating that section 5 of the — has no application to the case of firms merely acting as agents for other parties importing arms for their own use.

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

READ—the following paper:—

From J. P. HEWETT, Esq., C.I.E., Officiating Secretary to the Government of India, Home Department (Public), to the Chief Secretary to the Government of Bengal, dated Simla, the 22nd June 1895, No. 973.

I am directed to acknowledge the receipt of your letter, No. 417-J., dated the 24th January last, forwarding a copy of a letter from the Commissioner of Police, Calcutta, in which he explains the nature of the agency business carried on by Messrs. King, Hamilton & Co. and other firms in Calcutta in regard to the supply of arms to their constituents, which formed the subject of your previous letter, No. 4246-J., dated the 14th November 1894. In the particular case which has given rise to the present correspondence, it appears that His Highness the Maharaja of Kuch Behar, who is a personage exempted by Rule I (i) of the rules under the Indian Arms Act, 1878, from all prohibitions and directions contained in sections 13, 14, 15 and 16 of the Act, ordered two magazine rifles for sporting purposes through Messrs. H. S. King & Co., London. The rifles were shipped by Messrs. H. S. King & Co. to Messrs. King, Hamilton & Co., who represent the London firm in Calcutta, and were cleared by the latter to be forwarded to Kuch Behar. The Commissioner of Police is of opinion that, in order to effect such a transaction, Messrs. King, Hamilton & Co. ought to be in possession of a general license in Form VII under Rule VI (ii), *i.e.*, the license contemplated by section 5 of the Act for manufacture, conversion or sale. His Honour the Lieutenant-Governor considers that Messrs. King, Hamilton & Co. ought to take out either such a general license, or, if they prefer it, a separate license for transport in each case in Form II prescribed by Rule VI (2).

2. It appears to the Government of India that section 5 of the Act has no application to the case of firms who, like Messrs. King, Hamilton & Co., merely act as agents for other parties importing arms for their own use. That section provides that "no person shall manufacture, convert or sell, or keep, offer or expose for sale, any arms," &c., except under a license. The expression "keep" refers to keeping for sale, and, as it appears from your last letter that Messrs. King, Hamilton & Co. only act in regard to arms as clearing and forwarding agents and do not import them for sale, no license in Form VII to keep and sell arms is required in their case.

3. Rule VI (5) of the rules issued under the Arms Act requires that a license shall be granted under the orders of the Governor-General in Council for the importation of all rifles or parts of or fittings for rifles except rifles or parts of or fittings for rifles of such quality or in such quantity as may reasonably be held to be intended for *bonâ fide* sporting purposes. Under Rule VI (6) licenses to import other arms have to be granted by the Commissioner of Police at the Presidency towns, and the provisions of Rule VI (5) and (6) render it possible to prevent any but authorised persons from importing arms. The fact that firms such as Messrs. King, Hamilton & Co. do not keep up books under the Act ought not, it appears to the Government of India, to prevent the submission to the Government by the Commissioner of Police of proper

Vide endorsement to the Government of Bengal, No. 1448, dated the 29th August 1894.

returns of arms imported since the latter can be prepared from the registers of licenses issued to import arms. In the present instance a license was accordingly issued to Messrs. King, Hamilton & Co. authorizing the importation of the rifles in question on the 29th August 1894.

These returns have since been supplied

4. The Government of India do not think that a transport license is required when the firm, which has imported under license a weapon for a person exempted from the operation of sections 13, 14, 15 and 16 of the Arms Act, transports it to the person for whom it was imported. But it appears to the Governor-General in Council that the power granted by Rule VI (3) to a person entitled to possess arms or to go armed, to transport a reasonable number for his own private use, requires to be strictly watched in order to prevent the abuse of the privilege. In this view a privileged person who employs agents to import and transport arms should be required to give a special direction in each case to his agents which must be sufficiently clear to identify the particular arms which he desires to be sent to him, and the agents should be required, if necessary, to produce the special authority from the privileged person in each case of transport. In other words, the burden of proof that the transport was effected in compliance with a special order of a privileged client should lie on the transporting agents who are *prima facie* liable to take out a license. The criterion when agents are employed should, in the opinion of the Government of India, be whether the arms to be transported belong to the person transporting them when they reach the hands of the agents. If this is not so, then the exemption provided in Rule VI (3) of the rules cannot be claimed.

No. 974.

Copy forwarded to the Government of Madras for information.

(By order).

SIMLA,
22nd June 1895,

(Signed) H. LUSON,
Offg. Depy. Secy. to the Govt. of India.

ORDER—dated 9th July 1895, No. 1435, Judicial.

Communicated to the Board of Revenue (Separate Revenue), all District Magistrates, the Commissioner of Police, Madras, Messrs. P. Orr and Sons and Oakes and Co., Madras, for information and guidance.

(True Extract.)

Chief Secretary.

To the Board of Revenue (Separate Revenue).
" all District Magistrates.
" the Commissioner of Police, Madras.
" Messrs. P. Orr & Sons.
" Messrs. Oakes & Co.
Copy to the Inspector-General of Police.

Exd. A. Raitt.

CURRENT No. 3134

Arms Act Rules

So 974/95

From, The Govt of India
Home Dept (Public)

No. 974

Dated 22nd June
Recd 1st July } 1895
Ryd 2nd do }
Encl. 7 cc of the 1st

Subrail.

Forwarding for information copy of Home Dept letter no. 473 of date to the Govt of Bengal stating that Sec. 5 of the Indian Arms Act, 1878, has no application to the case of firms, who, like Messrs King, Hamilton & Co., merely act as agents for other parties importing arms for their own use.

US 5/7

So. 834/95

Arms Act Rules

Order of 9th July 1895 No. 1435

Communicated to the Board
Rev. (S.R.), all Dms, the Com^r of Police
Madras, Messrs P. Orr & Sons and Oakes & Co.
Madras, for information & guidance

8-7-95
8/7/95

The Bd of Rev. (S.R.) 20
All Dms 173 dated 20/7/95
The Com^r of Police, Madras
Messrs P. Orr & Sons &
Oakes & Co.
Copy to the Dg. of Police 6

5-7-95

Copy to the arms act file

5-7

(100)

No. 973

FROM

J. P. HEWETT, Esq., C.I.E.,
Offg. Secretary to the Government of India,

TO

THE CHIEF SECRETARY TO THE GOVERNMENT OF BENGAL.

Home Department,
Public.22nd
Simla, the June 1895.

SIR,

I AM directed to acknowledge the receipt of your letter No. 417-J., dated the 24th January last, forwarding a copy of a letter from the Commissioner of Police, Calcutta, in which he explains the nature of the agency business carried on by Messrs. King, Hamilton & Co. and other firms in Calcutta in regard to the supply of arms to their constituents, which formed the subject of your previous letter No. 4246-J., dated the 14th November 1894. In the particular case which has given rise to the present correspondence it appears that His Highness the Maharaja of Kuch Behar, who is a personage exempted by rule 1(1) of the rules under the Indian Arms Act, 1878, from all prohibitions and directions contained in sections 13, 14, 15 and 16 of the Act, ordered two Magazine Rifles for sporting purposes through Messrs. H. S. King & Co., London. The rifles were shipped by Messrs. H. S. King & Co. to Messrs. King, Hamilton & Co., who represent the London firm in Calcutta, and were cleared by the latter to be forwarded to Kuch Behar. The Commissioner of Police is of opinion that, in order to effect such a transaction, Messrs. King, Hamilton & Co. ought to be in possession of a general license in Form VII under rule VI (11), i.e., the license contemplated by section 5 of the Act for manufacture, conversion or sale. His Honour the Lieutenant-Governor considers that Messrs. King, Hamilton & Co. ought to take out either such a general license, or, if they prefer it, a separate license for transport in each case in Form II prescribed by rule VI (2).

2. It appears to the Government of India that section 5 of the Act has no application to the case of firms who, like Messrs. King, Hamilton & Co., merely act as agents for other parties importing arms for their own use. That section provides that "no person shall manufacture, convert or sell, or keep, offer or expose for sale, any arms" &c., except under a license. The expression "keep" refers to keeping for sale, and, as it appears from your last letter that Messrs. King, Hamilton & Co. only act in regard to arms as clearing and forwarding agents and do not import them for sale, no license in Form VII to keep and sell arms is required in their case.

3. Rule VI (5) of the rules issued under the Arms Act requires that a license shall be granted under the orders of the Governor General in Council for the importation of all rifles or parts of or fittings for rifles except rifles or parts of or fittings for rifles of such quality or in such quantity as may reasonably be held to be intended for *bona fide* sporting purposes. Under rule VI (6) licenses to import other arms have to be granted by the Commissioner of Police at the Presidency towns, and the provisions of rule VI (5) and (6) render it possible to prevent any but authorised persons from importing arms. The fact that firms such as Messrs. King, Hamilton & Co. do not keep up books under the Act ought not, it appears to the Government of India, to prevent the submission to the Government by the

Commissioner of Police of proper returns of arms imported since the latter can be prepared from the registers of licenses issued to import arms. In the present instance a license was accordingly issued to Messrs. King, Hamilton & Co. authorizing the importation of the rifles in question on the 29th August 1894.

Vide endorsement to the Government of Bengal No. 1448, dated the 29th August 1894.

4. The Government of India do not think that a transport license is required when the firm, which has imported under license a weapon for a person exempted from the operation of sections 13, 14, 15 and 16 of the Arms Act, transports it to the person for whom it was imported. But it appears to the Governor General in Council that the power granted by rule VI (3) to a person entitled to possess arms or to go armed, to transport a reasonable number for his own private use, requires to be strictly watched in order to prevent the abuse of the privilege. In this view a privileged person, who employs agents to import and transport arms, should be required to give a special direction in each case to his agents which must be sufficiently clear to identify the particular arms which he desires to be sent to him and the agents should be required, if necessary, to produce the special authority from the privileged person in each case of transport. In other words, the burden of proof that the transport was effected in compliance with a special order of a privileged client should lie on the transporting agents who are *prima facie* liable to take out a license. The criterion when agents are employed should, in the opinion of the Government of India, be whether the arms to be transported belong to the person transporting them when they reach the hands of the agents. If this is not so, then the exemption provided in rule VI (3) of the rules cannot be claimed.

I have the honour to be,

SIR,

Your most obedient Servant,

J. P. HEWETT,

Offg. Secretary to the Government of India.

No. 974

COPY forwarded to the Government of Madras
Government of Bombay
Chief Commissioner of Burma for information.

By order,

H. Luson.

Offg. Depy. Secy. to the Govt. of India.

To The Govt. of Madras.

First of July 1895 - P. 143549 July 1895

*Done
20/7/95*

The Collectors of

The District Magistrates of

Anantapur. — 8
North Arcot, Chittoor. — 8
South Arcot, Cuddalore. — 8
Bellary. — 8
South Canara, Mangalore. — 8
Chingleput, Saidapet. — 8
Coimbatore. — 8
Cuddapah. — 8
Ganjam, Chatrapur. — 8
Godavari, Cocanada. — 8
Kistna, Masulipatam. — 8
Kurnool. — 8
~~Madras (when necessary).~~
Madura. — 8
Malabar, Calicut. — 12
Nilgiris, Ootacamund. — 8
Nellore. — 8
Salem. — 8
Tanjore. — 9
Tinnevely. — 8
Trichinopoly. — 8
Vizagapatam. — 8.

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DATED

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