

J. P. Hart Hansen,¹ M.D. and P. E. Nyholm,¹ B.L.

The Legislation of Firearms in Denmark

Until 1918 Denmark had no official regulations concerning import, production, and possession of firearms and ammunition. Former police regulations, however, contained prohibitions against the use of firearms in public places and wherever they might endanger or impede human safety. A limitation in the right to carry arms was also implied in a constitutional provision concerning actions of universal danger.

On 22 November 1918, an Act of Parliament No. 607 dealing with firearms was passed. It contained only two clauses. The first clause stated that it was prohibited to import firearms and ammunition without permission; the second clause contained provisions for a fine considered severe at that time, ranging from 500 Danish Kroner (about \$75.) up to 10 000 Dk. (about \$135.), as well as for imprisonment in certain circumstances. It should be noted that the act says nothing about dealing in or possessing firearms.

The Act of Parliament No. 122 of 28 April 1934, however, mentioned the acquisition and possession of firearms as well as their production, import, and export. Later firearms acts were improvements on the Act of 1934. The act was passed by Parliament after heated discussions. Neither accidental shootings nor gunshot fatalities caused the stormy discussions, but they were related to a campaign against groups of political extremists. The bill was consequently proposed simultaneously with a bill defining the constitutional freedom of assembly. The enactment introduced as a new feature the prohibition against the acquisition and possession of firearms and ammunition with the exception of shotguns, smooth bore guns in caliber .22 and the ammunition for these weapons. According to the new law, persons who had formerly possessed firearms were generally allowed to retain them on application and registration. Recognized rifle associations, such as The Danish Rifle and Athletic League, were exempted from this prohibition. This act was valid until 1946, with additional regulations introduced during the World War II by the army of occupation.

Act No. 398 of 12 July 1946 differed from the former law by also exempting saloon rifles from the prohibition. It included certain amendments, such as the requirement for persons in possession of firearms to notify the police. This provision was enacted because large quantities of firearms were in circulation after the occupation. As the result of firearms airdropped by allied forces and other supplies of guns to the resistance movement, as well as those firearms stolen from the occupation forces, many of Denmark's population were armed.

For political reasons, these firearms which had got into private possession in various ways could not all of a sudden be considered illegal possession. Subsequent regulations referred to these firearms. According to Notification No. 84 of 8 March 1948, firearms

Received for publication 12 July 1972; revised manuscript received 27 Oct. 1972; accepted for publication 31 Oct. 1972.

¹ Secretaries to the Danish Medicolegal Council, Copenhagen, Denmark.

originating from the resistance movement should be delivered to and registered by the Danish Home Guard or the Danish Rifle and Athletic League or delivered to the army or to the police. Furthermore, Circular No. 35 of the Ministry of Justice, dating from 18 March 1958 and concerning the safe keeping of firearms by members of the above mentioned associations, provides that the firearms registered by the member should be delivered to the authorities upon retirement from the association. In practice, the firearm is relinquished when the owner proves lack of interest. It should be added that the Ministry of Defense considers these firearms as its legal possession.

A ministerial notification of 29 December 1951 carried into effect that all officers of the armed forces in possession of firearms acquired in connection with the occupation may continue to possess these weapons, as well as their official pistol, on the sole condition that they have them registered at their unit. This notification has been interpreted to the effect that these officers can buy "private" arms of all sorts and possess them on the above mentioned conditions. This regulation appears to be a weak and incongruous item of the Danish Arms Legislation and the Ministry of Justice has attempted vainly to alter this practice. All officers are obliged, however, to deliver their arms on leaving the service.

Act No. 16 of 20 January 1965 was an approximate repetition of the Act of 1946; saloon rifles were, however, included by the act. Act No. 217 of 31 May 1963 introduced amendments regarding rifles. It declared that "persons who by the enactment of the bill are in possession of non-automatic rifles in caliber not exceeding .22 may continue to possess these . . . but not to carry or use them without permission." The present 1965 act is a codification of the patchwork of the 1963 act.

By virtue of a provision in the present act, a circular was drawn up regarding the permission to acquire and to use a handgun. Formerly permissions had been granted by the Ministry of Justice in each separate case; but at present, these permissions are granted by the local chief constables. The Ministry of Justice, however, acts as a court of appeal in cases of refusal. The Ministry of Justice in cooperation with the Foreign Ministry still grants permission for export of weapons. Guns exported and brought home in connection with competitions and hunting expeditions are exempt.

The prohibition of the law must be interpreted to the effect that in certain cases permission can be granted for the acquisitions and possession of handguns. The permissions are granted at the discretion of the police and the Ministry of Justice. According to normal constitutional practice, such decisions can hardly be brought before a court of justice. The courts will not be inclined to ignore the judgement of the administrative authorities. In other words only citizens who comply with the terms set up by the administration can obtain permission to carry weapons if and when the local authorities find it befitting.

Handguns can be defined as objects meant to be carried and which, by means of a release, are able to actuate accumulated energy, mechanical or chemical power, so that a fixed object is discharged without the gun necessarily resting on the ground or on some other solid foundation during the shooting. Certain boundary cases, for example, submarine harpoon handguns, may cause difficulties of interpretation and thus may be objects of prohibition. According to the definition stated above, harpoon guns are prohibited if they act by actual mechanical power or by chemical energy. However, in the eyes of the authorities, they are considered as handguns with the limitation that harpoon guns must be able to discharge the harpoon with some degree of force at a given rate. From an investigation made by the technical department of the Danish Commissioner of Police, it is quite obvious that certain types possess sufficient force to allow the harpoon, at a short distance, to penetrate approximately 10 cm into dry wood.

Toy weapons have likewise caused problems; and, in practice, the prohibition also includes them if they are able, or by minor alterations can be made, to discharge solid objects "with some degree of force." Airguns are permitted. Imitations of antique guns are prohibited if they are usable.

The second part of the circular reads as follows:

II. Permissions granted to non-tradespeople.

§6. Permission must be granted only to residents in the police district in question and about whose personal conduct, previously and presently no information exist as to prevent granting the application.

§7. It must furthermore be assumed that the applicant has a reasonable interest in obtaining the permission from a legal point of view. Permission to carry handguns will thus for instance be granted to the following groups of cases:

1) To members of rifle corps who have access to shooting grounds in order to obtain practice or to take part in competitions with a weapon of the construction and calibre mentioned in the application. Rifle corps under the Board of the Danish shooting, gymnastics, and sports associations can without permission obtain and possess training weapons and ammunition for the same. The police can grant permission to other rifle corps to obtain and possess training weapons and ammunition provided the shooting grounds of the association in question is permitted to use hand guns of the kind and calibre mentioned in the application and provided the association disposes of guns and ammunition in localities suitable for their safekeeping. Members of the rifle corps can without permission carry and use the guns of the association on the authorized grounds of same.

2) For clubs arranging shooting at the popinjay or target shooting on grounds authorized by the police.

3) For persons in possession of a hunting license. Permission to carry a rifle for hunting is made conditional upon the use of special hunting cartridges and not military ammunition. Sporting guns may be given by the Game Department to participants in shooting grounds. Attention is drawn to the interdict in the Game Act on the use of saloon rifles when shooting hares, other game bigger than these, and pheasants.

4) For persons who can prove to need the arms against noxious animals within the fields of agriculture, forestry, or gardening or for other professional purposes, for instance, veterinary surgeons, butchers, and shooting champions. It should be noted, though, that to annihilate noxious animals, it will frequently be more appropriate to make use of other means than firearms.

5) For museums, public collections and the like.

Piece 2. Beyond this, permission should be granted only in particular cases.

The agricultural associations, in particular, (as well as the arms dealers) are dissatisfied with these regulations as landed estates and dams traditionally possess sporting guns and, at any rate, saloon rifles to fight noxious animals, especially rats, crows, rooks, herons, and gulls. In this connection, it must be remembered that persons of more than 18 years of age still are able to acquire and use shotguns without permission.

A hunting license can be obtained by persons from the age of 16 years; but for two years, the chief constable's permission to acquire and use shotguns is obligatory. It is maintained, however, that crows and particularly rooks are fully aware of the limited range of shotguns.

The following comments can be attached to §7 of the circular:

Explication of §7. 1) and 2)—This applies to members of shooting associations whose permission to possess and use guns (mainly rifles) will be withdrawn if the interest proves

too slight. Arms belonging to members of sports associations must be kept in the homes of the members, and the members have permission to carry them on the way to the shooting grounds and back.

Explication of §7. 4)—Permission to use rifles against noxious animals is granted with extreme reservation. Among other reasons, this is due to the fact that people would be endangered as they move around the farms, nursery grounds, etc. where the fighting against noxious animals takes place; and too, other remedies, such as, traps and poison (also subject to restrictions) often have proved far more effective. The general prohibition is fairly effective for even ammunition is sold only on presentation of a permit. Veterinary surgeons, certain animal keepers, and members of the salvage corps normally obtain permissions to acquire and use stud guns in their profession. These arms are included by the prohibition, with the sole exception of the slaughtering gun in slaughter houses, chiefly because they are easily altered to fire bullets.

Explication of §7. 5)—It should be noted that it is not permitted to own private collections of antique handguns, even if they are made unfit for use, as even a defective gun can be made fit for use without great difficulty. There are frequent applications for such a permit, in all likelihood, because the possession of guns has always exercised a certain fascination for many people. Antique muzzle-loading handguns, however, which according to the customs authorities are antiques or which are meant for decorative purposes can be imported without a special license. Imitations of antique handguns, though, are included in the law as they have not been exposed to wear and tear but, in fact, are fit for use. You can find such guns today, especially in Italy, as excellent imitations of antique firearms; and in the package you find enclosed gunpowder, percussion caps, lead, and molds for bullets.

Explication of Piece 2—In special cases permission has been granted to bank officials to carry a pistol during money transports, to members of expeditions and the like for protection against polar bears in Greenland, to members of scientific expeditions, and navy captains overseas. Permission is not granted to persons who live in remote places or who suffer from a mental illness.

It is impossible to obtain permission to possess and use certain types of firearms, namely submachine guns and machine guns. Pistols in caliber 7.35 or greater are only allowed under very special circumstances. In shooting clubs, a permit can be obtained for target shooting, but only if the applicant has shown real interest for some time.

The general security is the sole object in administration of the present law. A complete avoidance of accidents and crime in connection with firearms will presumably not be possible. Police and customhouse officers, members of shooting clubs, members of the Home Guard, and officers in the armed forces are in legal possession of firearms. Recently, however, the Home Guard decided that members who are under 21 are not allowed to keep arms and ammunition at home; and they are not given pistols and submachine guns when on duty. There are presumably at least 25,000 to 50,000 illegal firearms in Denmark. In the year of 1970, however, about 11,660 firearms were handed over to the authorities in a period of safe-conduct.

Shotguns, which at a short distance are extremely dangerous, are not under control by means of a general prohibition. Shotguns have been used in cases of crime and suicide. However, after the introduction of an obligatory examination before the attainment of a hunting license, a certain technical capability concerning firearms is attained. A shotgun with a sawed-off barrel is regarded as a pistol.

In the present firearms act the following penalty clauses are found: “. . . infringement . . . entails a penalty consisting of a fine or, under aggravating circumstances, imprisonment up to two years. . . .” Illegal possession of arms generally, and quite often, entails penalties consisting of small fines and (since 1970) a few weeks imprisonment. No statistics of infringements of the firearms act are kept.

Summary

A historical review of the very restrictive legislation concerning firearms in Denmark is presented with emphasis on the present regulations. At present it is forbidden to possess and use firearms of any kind, except shotguns and airguns, without special permission which is very seldom given.

Department of Pathology
Finseninstituttet
Strandbonlevarden 49
Copenhagen, Denmark