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Declassified E.O. 12356 Section 3.3/NND No.

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ARMS & EXPLOSIVES UNDER ITALIAN LAW
MAY 1944

AGS/35/INT

ARMS AND EXPLOSIVES UNDER IIA/IAN LAW

No	Precis	REMARKS
2	To M.O.I. 31 May 44 asking co-operation in above and that Prefects re-promulgated existing law in unoccupied Italy. Position causing embarrassment to Allied Forces.	
1/1450	From Legal Sub. Commission to Regional Commissioners stating that the Chief Communist has directed that the law relating to the carrying of firearms by Italian Civilians in unoccupied Italy is to be strictly enforced and that full use is to be made of the existing powers in this respect. All Prefects in occupied territory ordered to publish an order (No IA)	dated 18/5/44.
3/4	Note Synopsis of the Italian Law I RMD From Legal S.C. 28 May referring to No IA etc. and asking that No 3 be substituted for copy of Prefectural Order previously sent.	
5	To M.O.I. 30 May 44 referring to No 2 and asking that revised Order be substituted for one previously sent. * Will Your Excellency now be good enough to issue instructions to the Prefects accordingly.	? REPLY.

3455

NEAR HEADQUARTERS
ALLIED CONTROL COMMISSION
INTERIOR SUB COMMISSION
APO 324

ACD/35/Int

30 May 1944

SUBJECT: Arms and Explosives under Italian Law

TO : His Excellency, Dr. S. Aldisio, Minister of the Interior

Your Excellency:

1. I refer to my letter of 21 May on this subject.
2. I am informed that you have suggested certain amendments in the proposed ordinance to which the Chief Legal Officer has agreed; and the Legal Sub-Commission have sent me the enclosed revised ordinance which should be substituted for that annexed to my letter of 21 May.
3. Will Your Excellency now be good enough to issue instructions to the Prefects accordingly.

Encl: as in 2, above

CGH
for *Cast*
E. G. B. SPICKER,
Lt Colonel,
Director,
Interior Sub-Commission.

CGH/3st

3454

1185

REAR HEADQUARTERS
ARMED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APC 394

ACC/1011/10/L.

/rly.
28 MAY 1944.

SUBJECT

Possession of Firearms by Italian civilians.

TO

Regional Commissioners, Regions 1, 2, 3, 6 and 7.

1. Further to letter of this sub-commission reference ACC/1011/10/L of 16 May 44 and to para 2 thereof, please substitute the attached copy of Prefectural Order for the one previously sent.

2. The Ministry of the Interior having pointed out that Article II of the order as originally drafted would have the effect of inflicting hardship on a numerous class of farmers who are already in possession of licences which have been duly controlled and properly renewed, an amendment has been made accordingly.

G. R. L. L.
G. R. L. L.
Colonel,
Chief Legal Officer.

Copies to:

Chief Commissioner,
Executive Commission,
No. 141 (GSIB) - Attn: Col Gibson,
Regions IV, V for info,
Interior Sub-Commission,
Public Safety Sub-Commission.

3

THE PREFECT of the Province of

Considering, the necessity, for reasons of public order, of having an exact knowledge of all arms in the possession of citizens and of forbidding their being carried;

Having consulted with the Quarters of the Province;

Referring to Art. 38 and following of the consolidated text of the Law of Public Security as approved by Royal Decree No. 773 of 18 June 1931 and also Art. 44 and following of the Regulations for the putting into execution of the aforesaid sole Title as approved by Royal Decree No. 635 of 6 May 1940.

ORDERS:

1. That all persons having in their possession fire-arms and all other arms the natural use of which is to inflict personal injury are bound to declare them, irrespectively of any other declaration made heretofore, before the.....to the local office of public security or if there be none to the Carabinieri.

2. Persons contravening the provisions of this order will be punished, under the provisions of Art. 17 of the law of Public Security, by detention for not more than three months or by a fine of not more than two thousand lire.

Those persons who, without licenses, carry arms outside their own homes or the appartenance thereof, shall be punished according to the provisions under Arts. 699 and 700 of the Penal Code.

Dated:

THE PREFECT

3452

IL PREFETTO della Provincia di.....

3421

Ritenuta la necessita', per ragioni di ordine pubblico, di avere esatta conoscenza delle armi in possesso dei cittadini e di vietarne il porto;
Sentito il Questore della Provincia;
Visti gli art. 38 e segg. del T.U. delle leggi di pubblica sicurezza approvato col R.D. 18 giugno 1931 n. 773, nonche' gli art. 44 e segg. del Regolamento per l'esecuzione del detto T.U., approvato con R.D. 6 maggio 1940 n. 635;

ORDINA:

I - Tutti i detentori di armi da sparo e di tutte le altre la cui destinazione naturale e' l'offesa della persona sono obbligati a farne denuncia, indipendentemente da ogni altra denuncia fatta precedentemente, entro il giorno....., all'ufficio locale di pubblica sicurezza o, se questo manchi, al comando dei Reali Carabinieri.

II - I contravventori della presente ordinanza sono puniti, a norma dell'art. 17 della legge di Pubblica Sicurezza, con l'arresto fino a tre mesi o con l'ammenda fino a lire duemila. Coloro che, senza licenza, portino armi fuori della propria abitazione o delle dipendenze di essa, sono puniti a norma degli art. 699 e 700 del Codice Penale.

Data a il

IL PREFETTO

(2)

HEAD HEADQUARTERS
ALLIED CONTROL COMMISSION
INTERIOR SUB COMMISSION
APO 594

AOC/35/INT.

21st May, 1944.

SUBJECT: Arms and Explosives under Italian Law.

TO : His Excellency, The Minister of Interior.

Your Excellency,

1. The Allied Control Commission will be grateful for your co-operation in regard to the above subject.
2. Will you courteously agree to the re-promulgation by all Prefects in unoccupied Italy of the existing law and by the issuing of the text of the enclosed instruction simultaneously to all such Prefects.
3. The position is at the moment causing the Allied Forces embarrassment.

V.
R. G. S. WILSON,
Lt. Colonel,
Director,
Interior Sub-Commission.

Encls.

RMHS/dex.

See page 5.

3451

Interior Sub-Commission

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REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

22 MAY 1944

ACC/4011/10/L.

/rlp.
18 May 1944.

SUBJECT : Possession of firearms by Italian civilians.

TO : Regional Commissioners, Regions I, II, III, VI AND VII.

1. The Chief Commissioner has directed that the law relating to the carrying of firearms by Italian civilians in unoccupied Italy is to be strictly enforced and that full use is to be made of the existing powers in this respect.

2. Accordingly, the Ministry of the Interior has been requested by the Interior Sub-Commission to order all Prefects in unoccupied territory to publish an order, a copy of which with translation is attached which is self-explanatory.

3. For your consideration and information there is also enclosed a synopsis of the Italian law with relation to arms.

C. R. UPJOHN,
Colonel,
Chief Legal Officer.

Copy to: Chief Commissioner,
Executive Commission,
HQ, IAI (CSUB) - Lt. Col. Gibson,
Regions IV, V, VI and VII,
Interior Sub-Commission,
Public Safety Sub-Commission.

3450

1A

IL TRATTO DELLA PROVINCIA DI.....

Ritenuta la necessità, per ragioni di ordine pubblico, di avere esatta conoscenza delle armi in possesso dei cittadini e di vietarne il porto; Sentito il Questore della Provincia; Visti gli art. 38 e 4023. del T.U. della legge di pubblica sicurezza approvato col R.D. 18 giugno 1931 n. 773, nonché gli art. 14 e 5022. del Regolamento per l'esecuzione del detto T. U., approvato con R.D. 6 maggio 1940 n. 635;

ORDINE:

- I - Tutti i detentori di armi da sparo e di tutte le altre la cui detenzione naturale o l'offesa della persona con obblighi a farne denuncia, indipendentemente da ogni altra denuncia fatta precedentemente, entro il giorno....., all'ufficio locale di pubblica sicurezza o, se questo manca, al comando dei Reali Carabinieri.
- II - Tutte le licenze di porto d'armi precedentemente concesse sono revocate dalla data di pubblicazione della presente ordinanza. I contravventori al disposto del n. 1 della presente ordinanza sono puniti, a norma dell'art. 17 della legge di pubblica sicurezza,

CITIZIA:

I - Tutti i contrattori di armi da fuoco e di tutte le altre la cui de-
stinazione naturale e' l'offesa della persona son obbligati a farne
denuncia, indipendentemente da ogni altra denuncia fatta prece-
dentemente, entro il giorno....., all'ufficio locale di
pubblica sicurezza o, se questo manca, al comando dei Reali Car-
abinieri.

II - Tutte le licenze di porto d'armi precedentemente concesse sono re-
vocate dalla data di pubblicazione della presente ordinanza. I
contrattori al di fuori del n. 1 della presente ordinanza sono
puniti, a norma dell'art. 17 della legge di pubblica sicurezza,
con l'arresto fino a tre mesi o con l'ammenda fino a lire duemila.
Coloro che, nonostante la revoca della licenza di cui al n. 2 della
presente ordinanza, portino armi fuori della propria abitazione
o della residenza, senza averne prima la licenza di cui all'art. 699
700 del Codice Penale.

Data a il

IL SINDACO

3449

THE INTEREST of the Province of

Considering the necessity, for reasons of public order, of having an exact knowledge of all arms in the possession of citizens and of forbidding their being carried;

Having consulted with the authorities of the Province;

Referring to Art. 56 and following of the consolidated text of the Law of Public Security as amended by Royal Decree No. 773 of 18 June 1931 and also Art. 44 and following of the Regulations for the putting into execution of the aforesaid title as approved by Royal Decree No. 635 of 6 May 1940.

ORDERS:

1. That all persons having in their possession firearms and all other/ ^{arms} the natural use of which is to inflict personal injury are bound to declare them, irrevocably of any other declaration made heretofore, before the.....to the local office of public security or if there be none to the Carabinieri.

2. That all licenses heretofore granted are revoked as from the date of the publication of this order.

Persons contravening the provisions of Part I of this order will be punished, under the provisions of Art. 11 of the Law of Public Security, by detention for not more than three months or by a fine of not more than two

ORDERS:

1. That all persons having in their possession firearms and all other/ ^{the} natural use of which in to inflict personal injury are bound to declare them, irrespectively of any other declaration made previously, before the.....to the local office of public security or in there be none to the Court of Honor.

2. That all licenses to carry arms heretofore granted are revoked as from the date of the publication of this order.

Persons contravening the provisions of Para 1 of this order will be punished, under the provisions of Art. 24 of the Law of Public Security, by detention for not more than three months or by a fine of not more than two thousand lire.

These persons do, notwithstanding the revocation of licenses under Para. 2 of this order, carry arms outside their own homes or the apartments thereof shall be punished according to the provisions under Arts.

689 and 700 of the Penal Code.

Dated:

THE DIRECTOR

2.

2. All instruments capable of inflicting the carrying of arms or the carrying of arms absolutely or without a justified motive.

As regards para (2) the Law of Public Security in their identified such weapons where by Art. 42 it forbids the carrying of arms with- out a justified motive of self-defense, instruments for hunting or shooting, etc. (i.e., including all such instruments as are capable of being used as in- struments of offense if the operation demands but which have another more common peaceful use as agricultural, domestic, etc. - R.O.P.C. iv p. 280).

Explosive materials and ammunition are to be considered as arms.

2. PARTIAL OFFENSES RELATIVE TO ARMS.

1. Definition. In this connection the word "arms" is defined by Art. 704 of the Code as:

- a. Those specified under para (1) of Art. 585.
- b. Bombs, any machine or case containing explosives, containing or blind- ing.

2. Manufacture and Sale of Arms.

It is an offense without a license:

- (a) to manufacture, transport into the State or export arms (695)
- (b) to offer arms for sale (695)
- (c) to collect arms to offer for the purpose of trade (695)

Penalty for the above offenses: Imprisonment up to one year and fine up to 10,000.

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Any sale of arms to a minor or mentally defective person is absolutely prohibited.

Penalty: Imprisonment up to six months.

3.

A collection of arms for artistic reasons, e.g., a collection of antiquities must nevertheless be licensed (see below), but neglecting to obtain such a license is punishable by fine of Lire 5,000 only.

(d) to hawk arms for sale (696). Penalty: imprisonment up to one year and fine up to Lire 10,000.

The hawking of fire-arms is absolutely forbidden. Other arms may be hawked by license (see below).

3. Possession of arms.

It is an offense:

(e) to hold arms or ammunition without declaring them after an order to that effect has been made by the authorities (697). Penalty: imprisonment up to 4 months and a fine up to Lire 3,000.

(f) for a person knowing that there are arms in the place inhabited by him to neglect to declare the same to the authorities (697). Penalty: fine up to Lire 2,000.

(g) to fail to deliver arms to the authorities when ordered so to do (698). Penalty: imprisonment for not less than 3 months and a fine of not less than Lire 1000.

Note: It is immaterial how or why the defendant came into possession of the arms (R.C.P.C. p. 612).

By Law of Public Security art. 38 any person holding arms or ammunition explosives, etc. must at once declare the same to the authorities. Exceptions are: members of the armed forces; authorized officials; and persons who, in their position have a right to carry a certain type of arm. By art. 39 the prefect may forbid any person to retain the arms that he declares.

(h) to carry arms outside one's house or the apartments thereof without a license if a license is necessary: (699). Penalty: imprisonment up to six months.

If the arm is of a type for which no license is allowed the penalty is imprisonment from six months to one year.

In short: 1. No one can carry arms outside his house without a license (699)
2. Certain categories of persons do not require such licenses (soldiers, judges, carabinieri, Prefetti, etc) (art 38 of Law)
3. Licenses have to be renewed yearly and can be withdrawn at will (Art. Instructions della Legge di P.S. art. 39)

by him to neglect to declare the same to the authorities (697); Penalty: Fine up to lire 2,000.

(c) to fail to deliver arms to the authorities when ordered so to do (698). Penalty: Imprisonment for not less than 3 months and a fine of not less than lire 1000.

Note: It is immaterial how or why the defendant came into possession of the arms (N.E.P.S. p. 612).

By Law of Public Security art. 38 any person holding arms or ammunition explosives, etc. must at once declare the same to the authorities. Exceptions are: members of the armed forces; authorized associations; and persons who from their position have a right to carry a certain type of arms. By art. 39 the prefect may forbid any person to retain the arms that he declares.

(h) to carry arms outside one's house or the apartments thereof without a license if a license is necessary: (699).

Penalty: Imprisonment up to six months.

If the arms are of a type for which no license is allowed the penalty is imprisonment from six months to one year.

In short: 1. No one can carry arms outside his house without a license (699)

2. Certain categories of persons do not require such licenses (soldiers, judges, carabinieri, carabinieri, etc.) (art. 38 of L. 38)

3. License has to be renewed yearly and may be withdrawn at will (idem).

Instructions della Legge 21.1.33. Para 4.2).

4. Possession of arms in one's house is free and those have not to be reported, unless the authorities request it (art. 697).

(h) If the arms are carried by night in an inhabited place or in any place where there is a throng or assembly of people the penalty will be increased.

Note: By art. 42 Law of Public Security no person may carry arms outside his house but the Custody may license the carrying of arms and the Prefetto the carrying of revolvers and pistols. art. 42 also extends the prohibition to arms as defined by art. 585 of the Penal Code (see above "General").

All the above offenses will be aggravated if committed by any person whose license has been taken away or who is not allowed to hold a license.

In any of the foregoing cases the police measures of supervised liberty may be imposed on the offender.

(3) NEGLIGENCE IN CARE OF ARMS.

It is an offense:

(1) to deliver arms to or allow them to be carried by any person under the age of 16 or any person incapable or inexperienced in handling them (702)

(2) to neglect to adopt the necessary precaution to prevent such persons acquiring arms (702).

(3) to carry a loaded gun in a place where there is an assembly or crowd of people (702); Penalty: for any of the above offenses: fine up to Lire 4,000 even if the offender has a license.

(4) to discharge firearms or explosives in a public place or highway without a license (705). Penalty: fine up to Lire 1,000.

If the offense is committed in a place where there is a throng or crowd of people the penalty is imprisonment up to one month.

D. LICENCES WITH REGARD TO ARMS.

Licenses for arms and for dealing in arms are obtainable from the Ministry for the Interior:

(1) through the Prefetto for: (a) Manufacture, storage, import or export of arms of war. (b) for carrying a pistol or revolver (P.S. L. Art. 42).

(2) through the Questor for: (a) Manufacture, import or export of any other arms.

- (b) warehousing or offering for sale
- (c) collection of antiquities.
- (d) handling arms for sale (but not firearms)
- (e) travelling with an armed body guard
- (f) carrying arms outside one's own house.

(3) Local authority of Public Security - discharging or making explosions in public place.

Licenses will not be given to any person who has been convicted of certain offences against the person, violent resistance to authority, etc. or to any other person with previous convictions unless he can satisfy the authorities as to his future conduct. No minor under age may be granted a license except if over the age of 16 and with the consent of his parent or guardian and

If the offense is committed in a place where there is a throng or crowd of people the penalty is imprisonment up to one month.

D. LICENSES WITH REGARD TO ARMS.

Licenses for arms and for dealing in arms are obtainable from the Ministry for the Interior:

- (1) through the Prefetto for: (a) Manufacture, storage, import or export of arms of war. (b) for carrying a pistol or revolver (P.S. L. Act. 42).
- (2) through the Questore for: (a) Manufacture, import or export of any other arms.
 - (b) warehousing or offering for sale
 - (c) collection of antiquities.
 - (d) handling arms for sale (but not firearms)
 - (e) travelling with an armed body guard
 - (f) carrying arms outside one's own house.
- (3) Local authority of Public Security - discharging or making explosions in public place.

Licenses will not be given to any person who has been convicted of certain offences against the person, violent resistance to authority, etc. or to any other person with previous convictions unless he can satisfy the authorities as to his future conduct. No minor under age may be granted a license except if over the age of 16 and with the consent of his parent or guardian and if present in his use may be granted one solely for hunting.

The Prefetto can always revoke all or any licenses as he deems necessary in abnormal times.

E. PARTICULAR DEVICES IN REGARD TO EXPLOSIVES.

It is an offense:

- (1) to manufacture, import, warehouse, offer for sale or transport any explosive material without a license or without carrying out the requisite precautions (173).

Penalty: Imprisonment up to six months and fine up to Lire 2,000.

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(2) to exit to declare to the authorities the holding of explosive materials which are dangerous owing to their quantity or quality (579).
Penalty: Imprisonment up to 4 months and fine up to 140,000.

(3) for any person to fail to declare that in a place inhabited by him there are explosive materials (579). Penalty: Fine up to 140,000.

If (2) and (3) above are in infringement of an order given by authority to hand over explosive within a prescribed period the penalty is imprisonment for 1 month to 1 year or a fine from 140,000 to 140,000.

The penalties for all the above offences are increased if the act is committed by any person who is not allowed to hold a licence or whose licence has been refused or withdrawn.

The licence referred to above is obtained from the Prefetto (Min of Public Security Art. 47).

F. Conclusion.

In view of the existing law as summarized above it should be any to check the number of weapons owned by the inhabitants of areas and removed fully of the weapons and the Prefettura must keep records both of licences issued and also of declarations made in respect of same.

For the purpose of allowing the defect issues during the season a special permit called "licenza di porto del fucile di uso di caccia." But this permit does not take the place of that issued by the Prefettura to carry arms outside one's own house which must be obtained in addition.

NOTE: (a) Figures in brackets after statement of offences indicate the number of the relevant articles of the Penal Code.

(2) N.O.P.C. a Nuovo Codice Penale (Criminal Code) Vol. IV.

(1D)

SUMMARY

Art. No.	OFFENSE	PENALTY	License issued by
695	Unauthorized manufacture of arms	Imprisonment for not more than 1 year and fine of not more than 10,000 lire	Minister of Interior through the Prefetto.
"	Import and export of arms.	Imprisonment for not more than 1 year and fine of not more than 10,000 lire	Minister of Interior through the Prefetto.
"	Offering for sale of arms	Imprisonment for not more than 1 year and fine of not more than 10,000 lire	Minister of Interior through the Prefetto.
"	Collecting for trade of arms	Imprisonment for not more than 1 year and fine of not more than 10,000 lire	Minister of Interior through the Prefetto.
"	Collecting of anti-que arms	Imprisonment for not more than 1 year and fine of not more than 10,000 lire	Minister of Interior through the Prefetto.
"	Banking of arms	Imprisonment for not more than 1 year and fine of not more than 10,000 lire	Minister of Interior through the Prefetto.
697	Failure to declare arms	Imprisonment up to 4 months and fine up to 3,000 lire.	Minister of Interior through the Prefetto.
698	Failure to declare arms held to persons knownledge in his place of habitation.	Fine up to 2000	Minister of Interior through the Prefetto.
699	Failure to declare arms who ordered	Imprisonment for not less than 3 months as fine of not less than 1,000 lire.	Minister of Interior through the Prefetto.
699	Unlawful carrying of arms	Imprisonment up to 6 months	Minister of Interior through the Prefetto.
(a)	of weapons for which no license allowed	Imprisonment for 6 months to 1 yr. Penalties increase in aggravated circumstances	Minister of Interior through the Prefetto.

Others licenses from ques-
tion

- 657 Failure to declare arms
not more than
10,000 lire.
Imprisonment up
to 4 months and
fine up to 3,000
lire.
- 658 Failure to declare arms
held to a persons long-
ledge in his place of
habitation.
Fine up to 2000
- 659 Failure to declare arms
who ordered
Imprisonment for not
less than 3 months
as fine of not less
than 1,000 lire.
- 659 Unlawful carrying of arms
(a) of weapons for which no
license allowed
Imprisonment for
6 months to 1 yr.
Penalties increase
in aggravated
circumstances
Fine up to 1000
- 702 Failure to use proper care
with arms
Fine up to 1000
- 703 Dangerous discharge of fire
arms and explosives
Ditto in crowded place
Imprisonment up to
1 month

Local authority
Public Security
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B. EXPLOSIVES

Art.: No.:	Offence	Penalty	License issued by
671	Unlawful manufacture of and trade in explosives	Imprisonment up to 6 months and fine up to 2000	Prefetto
679	Failure to declare explosive materials	Imprisonment up to 4 months and fine up to 3000	
679	Failure to declare explo- sives known to be in place of own habitation	Fine up to 2000	
679	Intentional or negligent transfer of explosives to other explosives.	Imprisonment for 1 month to 1 yr and fine from L.300 to L.5000.	

NOTESAGGRAVATING CIRCUMSTANCES

In both A and B above in all cases the penalty will be increased if the act is committed by any person prohibited from holding a license or whose licenses have been taken away.

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Declassified E.O. 12356 Section 3.3/NND No.

785021

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