

SaferAfrica and Saferworld

**Firearms Act, 1991
Part I**

Art. 2 "arms of war" means artillery of all kinds, apparatus for the discharge of all kinds of projectiles explosive or gas-diffusing, flame-throwers, bombs, grenades, machine-guns and rifled small-bore breech-loading weapons, but does not include sporting rifles or personal or other weapons or apparatus not intended for war-like purposes;

Strengthening small arms controls:

An audit of small arms control legislation in the Great Lakes region
and the Horn of Africa

KENYA

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Foreword

THE PROLIFERATION OF SMALL ARMS AND LIGHT WEAPONS is one of the greatest humanitarian challenges. To address it a united and holistic approach is required from governments and civil society. Such an approach is embodied in the 'Nairobi Declaration on the Problem of the Proliferation of Illicit Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa' which was signed in March 2000. Since then progress towards implementing the Declaration has been made and while slower than desired a degree of momentum is now building.

The Nairobi Secretariat, the regional co-ordination body for small arms in the Great Lakes region and the Horn of Africa has been significantly enhanced in 2003. Most signatories to the Nairobi Declaration have established national co-ordination agencies, known as National Focal Points, and other significant progress has been made at the national level in Kenya, Tanzania and Uganda towards the establishment and implementation of National Action Plans for Arms Management and Disarmament.

Many studies of trafficking of small arms for crime or to support conflict show a variety of ways in which legal small arms can be diverted for illegal purposes if there are inadequate legislative controls. International co-operation, the establishment of effective tracing systems and the enforcement of arms embargoes are essential to reduce and combat the illicit trafficking and misuse of small arms.

Strengthening and harmonising legislation on these issues and others is one of the key tasks that states in the sub-region have committed to address in the Nairobi Declaration and other international small arms agreements. A 'Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa' has been developed by the Eastern Africa Police Chiefs Co-operation Committee and was signed by Chiefs of Police in Tanzania in December 2003. It is important that this is now effectively implemented. This will necessitate national and regional reviews of legislation in order to ensure that there are effective common standards of control on small arms in operation across the region.

This comprehensive and accessible study by Saferworld and SaferAfrica will significantly aid states as they address the issue of legislative controls. At the national level the detailed country tables will assist national governments in identifying areas of weakness that must be addressed and existing best practice. While at the regional level, the regional overview and comparative analysis will aid governments to regionally harmonise their national legislation and to develop rigorous and effective minimum standards of control.

Some states have already begun to examine where and how their small arms legislation must be amended while for others this challenge still remains to be tackled. For all countries, however, this report will provide a valuable point of reference for fine-tuning proposed amendments or as a starting point from which to embark on a process of review.

Mr Francis Sang

Co-ordinator

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Introduction

THIS COUNTRY STUDY ON KENYA forms one chapter of a comprehensive study on small arms legislation in the Great Lakes region (GLR) and Horn of Africa (HoA), conducted by Saferworld and SaferAfrica. The report builds on the methodology developed in a similar study conducted on small arms legislation in Southern Africa by Saferworld and SaferAfrica entitled *The Law of the Gun: An Audit of Firearms Control Legislation in the SADC Region*, published in June 2003. This study is intended as a reference document to assist law-makers and others involved in reviewing national small arms legislation.

The full study contains an introductory chapter providing a regional overview of the small arms legislation in nine countries of the GLR and HoA. Each of the following chapters covers one of these nine countries – Burundi, Djibouti, Eritrea, Kenya, Rwanda, Seychelles, Sudan, Tanzania and Uganda.¹ These country chapters should be read alongside the regional, introductory chapter which identifies examples of best practice in the region and certain issues which states should consider when reviewing their national legislation. Each of these country chapters contains two sections – a national overview of existing legislation and a table containing a break down of the legislation. The analysis is broken down into analytical categories and indicates how far the national legislation meets, or falls short of (the level of conformity to), the commitments contained in key regional and international small arms agreements for the states of the GLR and HoA.

The analytical categories are:

- Definitions
- Controls on civilian possession and use
- Record keeping and marking
- Import, export and transit
- Brokering
- Manufacture
- Trade
- Seizure, disposal and enforcement
- Arms embargoes
- State-owned small arms
- Penalties (treated as a separate category in the national overview only)

¹ To date it has not been possible to complete research in the Democratic Republic of Congo (DRC), Ethiopia and Somalia.

The key regional and international small arms agreements are:

- ‘Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organised Crime’ (‘UN Firearms Protocol’);
- ‘United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects’ (‘UN Programme of Action’);
- ‘Bamako Declaration on an African Position on the Illicit Proliferation, Circulation and Trafficking of Small Arms and Light Weapons’ (‘Bamako Declaration’);
- ‘Nairobi Declaration on the Problem of the Proliferation of Illicit Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa’ (‘Nairobi Declaration’);
- ‘Co-ordinated Agenda for Action on the Problem of the Proliferation of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa’ (‘Co-ordinated Agenda for Action’);
- ‘Implementation Plan of the Co-ordinated Agenda for Action on the Problem of the Proliferation of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa’ (‘Implementation Plan’);
- ‘Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa’ (‘Protocol for the GLR and HoA’).

Comment on conformity

Throughout this report, where we talk of ‘conformity’, ‘commitments’, ‘requirements’ or similar terms, we do so with regard to the importance of fully implementing the provisions of these agreements and the need to ratify them and hasten their entry into force. By noting the ‘conformity’ or otherwise of existing national legislation we are not indicating a legal commitment to the UN Firearms Protocol or Protocol for the GLR and HoA, before these are ratified and have entered into force. Full conformity with the provisions of these regional and international agreements is, nonetheless, important in laying the foundations for the effective control of small arms across the GLR and HoA.

The reader should also note, however, that while the regional and international agreements are very important guides to the action that states must take with regard to the review of legislation, in many areas they require a great deal of detailed elaboration to ensure the implementation of a truly effective legal control regime. Where we provide an overview of each country’s small arms legislation and note some of the key absences, these absences refer solely to those instances where the legislation falls short of the requirements of the regional and international agreements. Indeed, where we talk of full conformity to certain provisions, this does not necessarily indicate that the provisions are adequate to ensure that a strong legal control regime, free of any loopholes, exists.²

² The comment that we make on conformity also refers solely to the acts that we have been able to obtain and have included in the tabular analysis. The reader should be aware that other pieces of legislation may exist which contain provisions meeting the requirements of the regional and international agreements.

Scope of the study

The scope of this study is limited to the legal controls that are laid out in the primary piece of national legislation on small arms control, usually the firearms or arms and ammunition act. Provisions relating to the control of small arms are also likely to be contained in some other pieces of legislation. For instance, controls relating to the use of small arms by police officers may be contained in a police act or statute. In some cases, where information has been readily available, this study has included some of these other laws. However, this study has focused on the primary act relating to small arms control in each country. The primary reason for this is that those people responsible for small arms control in the governments of the region, whom we contacted for assistance in collecting the relevant legislation, were in most cases able to provide only the primary piece of small arms legislation. This in itself illustrates the importance of undertaking legislative review in order to draw all the national legislation pertaining to small arms together in one Act, of which all relevant actors are aware.

This study has also been limited to the legislation itself and does not touch on the *de facto* practice of small arms control; how the laws are actually implemented or issues concerning the capacity to enforce legal controls. The existence of legislative controls does not necessarily mean that an effective control system is being enforced. Conversely, the absence of sufficient legal controls does not necessarily preclude the operation of an effective control regime on the ground. Neither of these two scenarios is, however, desirable. Effective small arms legislation *and* effective controls on the ground should be the objective of all states.

Kenya

Overview of existing legislation and conformity to regional and international agreements

Definitions

THE PRIMARY PIECE OF NATIONAL LEGISLATION ON SMALL ARMS CONTROL IN KENYA is the Firearms Act 1991. Controls on small arms are also contained in the Police Act 1970 (revised 1988).

The definitions of firearms and ammunition contained in the Firearms Act 1991, categorising arms and consequently determining the controls that are applicable to different classes of arms, are broad and go beyond those laid out in the Protocol for the GLR and HoA and the UN Firearms Protocol; that is to say that a broader range of arms and ammunition is included in the definitions. Crucially, a separate definition for 'arms of war', covering arms defined as light weapons within the EAPCOO Small Arms Protocol, is provided by the Act. The inclusion of this category enables the enacting of provisions prohibiting their civilian possession and use by civilians, as called for by the Protocol for the GLR and HoA.

Controls on civilian possession and use

The national legislation conforms to most of the provisions of the regional and international agreements:

- Licences are required for the civilian possession of small arms and will not be granted to people whom the licensing officer believes to be unfit to be entrusted with small arms.
- It is an offence to provide false information with a view to obtaining a small arms licence.
- The civilian possession of certain small arms, including automatic and semi-automatic self-loading military assault rifles, is prohibited.
- It is an offence to carry a small arm when drunk or to use a small arm with intent to commit a criminal offence.
- Failure to store small arms safely and securely is an offence and licences will only be granted to people whom the licensing officer believes will keep their small arms safely and in secure custody.
- Small arms can only be relinquished to those possessing a licence entitling them to the receipt of the arms.
- The pawning and pledging of small arms is prohibited.

However, fundamental absences include:

- No competency testing or age restriction for licence applicants.
- No restriction on the number of small arms that may be licensed to any one civilian.
- No total prohibition on the civilian possession and use of all light weapons and automatic and semi-automatic rifles and machine guns.

Record keeping and marking

Limited record keeping and marking provisions exist.

- Licensing officers may refuse to grant licences with regard to unmarked small arms.
- Registers must be maintained of small arms dealers.

However, fundamental absences include:

- No standardised system for the marking of small arms at the time of manufacture, import or export.
- No specification of the information that markings should contain or of where on the small arms markings should be placed.
- No provisions for the centralised registration of all civilian owned small arms.
- No requirement for the keeping of records on civilian owned and manufactured small arms.
- No specification that records should be maintained for not less than ten years.

Import, export and transit

The national legislation conforms to some of the provisions of the regional and international agreements:

- Licences are required for the import, export and transit of small arms and the import and export of certain small arms is prohibited.

However, fundamental absences include:

- No specification of the information to be included on licences.
- No requirement for the use of end-user certificates.
- No system or requirement for the marking of small arms at the time of import.
- No requirement for the keeping of records on the import, export and transit of small arms.

Brokering

There are no controls over brokering.

Manufacture

The national legislation conforms to some of the provisions of the regional and international agreements:

- Small arms should only be manufactured on behalf of the Government and in premises designated for that purpose.

However, fundamental absences include:

- No system or requirement for the marking of small arms at the time of manufacture.
- No requirement for the keeping of records on the manufacture of small arms.

Trade

The national legislation conforms to most of the provisions of the regional and international agreements:

- Small arms dealers must be registered as such and must be in possession of a licence.
- Small arms dealers must maintain a record of transactions.
- Premises used for the trading of small arms must be registered as such, and small arms and ammunition stores must have only one means of entry and two locks, with master keys retained by the Licensing Authority.

However, fundamental absences include:

- No requirement that records be maintained for not less than ten years.
- No prohibition on the pawning and pledging of small arms.

Seizure, disposal and enforcement

The national legislation conforms to some of the provisions of the regional and international agreements:

- There are provisions for the seizure of small arms from individuals who do not have licences for their possession.

- Police and the licensing authorities have the power to inspect small arms stocks and registers.
- Police and the licensing authorities may destroy, sell or otherwise dispose of small arms which are abandoned or in respect of which fees have not been paid for a period exceeding four years.
- The police may destroy or dispose of ammunition that is found in an arms store and believed to be dangerous or ‘imminently likely to become dangerous’.

However, fundamental absences include:

- No controls relating to the re-activation of de-activated small arms.

Arms embargoes

There are no controls relating to the enforcement of arms embargoes.

State-owned small arms

Police officers and persons in the service of the Government and acting in their capacity as such are exempt from some of the provisions of the Firearms Act 1991.

However, the Police Act 1970 (revised 1988), stipulates some controls over the possession and use of small arms by the police.

- Provisions exist for the punishment of police inspectors and subordinate officers who ‘sell, pawn, lose by neglect, make away with or wilfully damage’ any small arms belonging to the government.
- Police officers leaving the force must deliver to the police all arms that were supplied to them as public property.
- There are restrictions on the conditions under which police officers may use arms against another person.
- It is an offence for a police inspector or subordinate officer to discharge weapons without orders or ‘reasonable or lawful cause.’

Penalties

The penalties specified for offences committed under the Firearms Act 1991 range from imprisonment for a term not exceeding six months or a fine not exceeding two thousand shillings for the majority of offences, to imprisonment for a term not exceeding fifteen years for the possession of a prohibited small arm.

How to use the tables

Each table provides a detailed overview of the legislative controls contained in the primary piece of small arms legislation in a country. Where available other regulations, acts and statutes have been referenced.

Column one – analytical category

The first column of the table contains the analytical categories. The table is broken down into ten main analytical categories which are then divided into sub-categories and where appropriate further levels of sub-category(s).

For instance: main category ‘Controls on civilian possession and use’; first sub-category ‘Restrictions and conditions for civilian possession’; second sub-category ‘Personal suitability to possess arms’; third sub-category ‘Age restrictions’.

When using the table the reader should first reference the analytical category and any sub-categories as this dictates the content of columns two, three and four; ‘Regional and international agreements’, ‘National legislation’ and ‘Conformity’, respectively.

Column two – regional and international agreements

The second column provides information on the requirements of the regional and international agreements. Here the information included is a summary of the requirements from each agreement relating to a specific category and sub-category(s). The name of the agreement and the article or section which contains the requirement(s) is included. The reader should cross-reference this summary with the full text of the article or section which appears in the ‘Regional and international agreements’ table in the regional and national overview section of this report. For each article or section referenced the summary includes only information from that article that is directly relevant to the analytical category under consideration. Where the requirements of two or more agreements are similar or identical a summary may be included that refers to more than one agreement. Where no summary is provided for a particular category or sub-category(s) this indicates that there are no relevant requirements in any of the regional and international agreements.

Column three – national legislation

The third column reproduces the exact wording of the national legislation that contains controls relevant to the category and sub-category(s) under consideration. The act and article are referenced. In some cases only part of an article may be reproduced where other parts of the article are not directly relevant to the analytical category under consideration. Where no text is reproduced no relevant controls are contained within the legislation being analysed.

The reader should be aware that any grammatical and typographical errors that may appear in the text of the national legislation are those present in the copies of the legislation obtained by the researchers. In some cases the difficulty in deciphering the legislation caused by such errors is in itself a factor that demands the review and amendment of the legislation.

The text of the Burundi, Djibouti and Rwanda legislation has had to be translated from the original French. There is therefore a risk that mistakes and misinterpretations may have inadvertently occurred. However, our analysis of the legislation has been checked with government experts from each country, so any misinterpretations should not be substantive.

Column four – conformity

The fourth and final column provides a comment on the level of conformity³ of the national legislation (in column three) to the requirements of the regional and international agreements (in column two) for the specific analytical category in question (in column one). A brief outline of how the legislation conforms and does not conform follows this comment on conformity. Comments have only been made for the analytical categories for which there are requirements under the regional and international agreements.

Four levels of conformity have been identified and standard language developed:

- **Level one – language used** ‘The national legislation fully conforms to the regional and international agreements’. The requirements of the regional and international agreements for this category and sub-category(s) are met in full.
- **Level two – language used** ‘The national legislation broadly conforms to the regional and international agreements but falls short in a few key areas’. Here the majority of

³ See section above on ‘Comment on conformity’ for explanation of how use of the term ‘conformity’ refers to the extent to which the commitments of the regional and international agreements have been fulfilled but does not necessarily indicate that the provisions in a given analytical category are sufficient to be considered fully comprehensive.

the requirements of the regional and international agreements are met by the national legislation but a small number are absent (possibly only one).

- **Level three – language used** ‘The national legislation conforms in part to the regional and international agreements. Provisions exist in some areas but a number of gaps are evident’. A few (possibly only one) of the requirements of the regional and international agreements will be present but most are not. The existing legislation falls considerably short of full conformity.
- **Level four – language used** ‘The national legislation does not conform to the regional and international agreements’. No provisions relevant to the requirements of the regional and international agreements are present. The reader should note that for a particular analytical category the requirements of the regional and international agreements may only cover some part of that category. Consequently, provisions within the national legislation for the analytical category under consideration may exist, and are thus reproduced in column three, yet these provisions may in no way meet the specific requirements of the regional and international agreement in this area. Hence a comment indicating no conformity will be used despite some provisions within the particular analytical category being present in the national legislation.

Definitions in Kenya's small arms legislation⁴

Analytical category	Nairobi Declaration	Protocol for the GLR and HoA	UN Firearms Protocol	National Legislation
Firearms		<p>Article 1 "firearms", means</p> <p>(a) any portable barreled weapon that expels, is designed to expel or may be readily converted to expel a shot, bullet or projectile by the action of an explosive, excluding antique firearms or their replicas. Antique firearms and their replicas shall be defined in accordance with domestic law. In no case, however, shall antique firearms include firearms manufactured after 1899;</p> <p>(b) any other weapon or destructive device such as an explosive bomb, incendiary bomb or gas bomb, grenade, rocket launcher, missile, missile system or mine</p>	<p>Article 3 (a) "Firearm" shall mean any portable barrelled weapon that expels, is designed to expel or may be readily converted to expel a shot, bullet or projectile by the action of an explosive, excluding antique firearms or their replicas. Antique firearms and their replicas shall be defined in accordance with domestic law. In no case, however, shall antique firearms include firearms manufactured after 1899;</p>	<p>Firearms Act, 1991 Part I</p> <p>Art. 2 "firearm" means a lethal barrelled weapon of any description from which any shot, bullet or other missile can be discharged or which can be adapted for the discharge of any shot, bullet or other missile and includes</p> <p>(a) a weapon of any description designed or intended to discharge</p> <p>(i) any noxious liquid, noxious gas or other noxious substance; or</p> <p>(ii) an electrical charge which when it strikes any person or animal is of sufficient strength to stun and temporarily disable the person or animal struck (such weapon being commonly known as a "stun gun" or "electronic paralysing");</p> <p>(b) any airgun, air rifle, air pistol, revolver, crossbow, laser gun or any other similar weapon;</p> <p>(c) the barrel, ball, chamber, silencer muffler, flash-guard or any other accessory designed or adapted to diminish the noise or flash caused by firing a weapon and also other essential component part of any weapon; and</p> <p>(d) any weapon or other device or apparatus which may be specified by the Minister by order published in the Gazette to be a firearm for the purposes of this Act;</p> <p>Police Regulations Art. 63</p> <p>In this Part, unless the context otherwise requires –</p> <p>"firearm" means any lethal barrelled weapon, other than artillery, designed for the firing of ammunition and includes barrelled apparatus designed for firing, observing or signalling types of cartridge;</p>
Ammunition		<p>Article 1 "ammunition" means the complete round or its components, including cartridge cases, primers,</p>	<p>Article 3 (c) "Ammunition" shall mean the complete round or its components, including cartridge cases,</p>	<p>Firearms Act, 1991 Part I</p> <p>Art. 2 "ammunition" means any cartridge, whether a blank, tracer,</p>

⁴ Please refer to the explanation contained under 'Use of terms' in the regional and national overview section of this report.

Definitions *continued*

Analytical category	Nairobi Declaration	Protocol for the GLR and HoA	UN Firearms Protocol	National Legislation
		<p>propellant powder, bullets or projectiles, that are used in a small arm or light weapon, provided that those components are themselves subject to authorisation in the respective State Party;</p>	<p>primers, propellant powder, bullets or projectiles, that are used in a firearm, provided that those components are themselves subject to authorization in the respective State Party;</p>	<p>explosive, incendiary, gas-diffusing, signalling or any other cartridge of any other kind capable of being discharged from or used with a firearm and includes</p> <p>(a) any grenade, bomb or other missile whether explosive or not and whether or not capable of or intended for use with a firearm;</p> <p>(b) any mine whether far use on land or at sea, depth-charge or other explosive charge;</p> <p>(c) any other container or thing designed or adapted for use in or as weapon for the discharge of any noxious liquid, gas or other substance;</p> <p>(d) any projectile, powder or other charge, primer, fuse or bursting charge forming part of any cartridge or any component part thereof; and</p> <p>(e) any ammunition or pellets for use in an airgun, air rifle or air pistol;</p> <p>Police Regulations Art. 63</p> <p>“ammunition” means cartridges for small arms, the case of which can be extracted from the small arm after firing, and which is so enclosed as to prevent any explosion in one cartridge being communicated to another cartridge, but does not include tracer, explosive, incendiary, observing or signalling types of cartridges or cartridges containing or designed or adapted to contain any noxious liquid, gas or other thing;</p>
<p>Light Weapons/Arms of War</p>		<p>Article 1</p> <p>“light weapons” shall include the following portable weapons designed for use by several persons as a crew: heavy machine guns, automatic canons, howitzers, mortars of less than 100 mm calibre, grenade launchers, anti-tank weapons and launchers, recoilless guns, shoulder-fired rockets, anti-tank weapons and launchers, and air defense weapons.</p>		<p>Firearms Act, 1991 Part I</p> <p>Art. 2 “arms of war” means artillery of all kinds, apparatus for the discharge of all kinds of projectiles explosive or gas-diffusing, flame-throwers, bombs, grenades, machine-guns and rifled small-bore breech-loading weapons, but does not include sporting rifles or personal or other weapons or apparatus not intended for war-like purposes;</p>

Definitions *continued*

Analytical category	Nairobi Declaration	Protocol for the GLR and HoA	UN Firearms Protocol	National Legislation
Small Arms		<p>Article 1</p> <p>"small arms" are weapons designed for personal use and shall include: light machine guns, sub-machine guns, including machine pistols, fully automatic rifles and assault rifles, and semi-automatic rifles.</p> <p>"small arms" shall also include:</p> <p>– "firearms" , "ammunition" and "other related materials".</p>		
Other Related Materials/Parts and Components		<p>Article 1</p> <p>"other related materials" means any components, parts or replacement parts of a small arm or light weapon, that are essential to its operation.</p>	<p>Article 3</p> <p>(b) "Parts and components" shall mean any element or replacement element specifically designed for a firearm and essential to its operation, including a barrel, frame or receiver, slide or cylinder, bolt or breech block, and any device designed or adapted to diminish the sound caused by firing a firearm;</p>	

Breakdown of Kenya's small arms legislation

Controls on civilian possession and use⁵

Licensing

Analytical category	International and regional agreements	Current national legislative controls	Conformity
Description of licensing process – how firearms licence is obtained	<p>Nairobi Declaration Art. iv and Implementation Plan Art. 3.1, 3.2.1, 3.3</p> <p>Require laws, regulations, standards and prohibitions governing the civilian possession of small arms and light weapons, including home made weapons.</p> <p>Protocol for the GLR and HoA Art. 3</p> <p>(a) Requires the establishment as criminal offences the</p> <p>(iii) illicit possession and misuse of small arms and light weapons</p> <p>(c) (i) Requires the prohibition of unrestricted civilian possession of small arms.</p> <p>Bamako Declaration Art. 3 A (iii)</p> <p>Recommends establishing as a criminal offence the illegal possession of small arms and light weapons.</p> <p>UN Programme of Action II Art. 3</p> <p>Recommends establishing as a criminal offence the illegal possession of small arms and light weapons.</p>	<p>Firearms Act, 1991 Part II Art. 4</p> <p>(1) Subject to this Act, no person shall purchase, acquire, or have in his possession any firearm or ammunition unless he holds a firearm certificate in force at the time.</p> <p>(2) If any person</p> <p>(a) purchases, acquires or has in his possession any firearm or ammunition without holding a firearm certificate in force at the time, or otherwise than as authorized by a certificate, or in the case of ammunition in quantities in excess of those so authorized; or</p> <p>(b) fails to comply with any condition subject to which a firearm certificate is held by him, he shall, subject to this Act be guilty of an offence.</p> <p>Art. 5</p> <p>(1) An application for the grant of a firearm certificate shall be made in the prescribed form to the licensing officer, and shall state such particulars as may be required by that form.</p> <p>Art. 23</p> <p>(1) Any person aggrieved by a refusal of a licensing officer to grant him a firearm certificate under section 5 or to vary or renew a firearm certificate, or by the</p>	<p>The national legislation fully conforms to the regional and international agreements.</p> <p>A licence is required for the possession of firearms.</p> <p>It is an offence to possess a small arm without a licence.</p>

⁵ Please refer to the explanation contained under 'Use of terms' in the regional and national overview section of this report.

Controls on civilian possession and use: **Licensing** *continued*

Analytical category	International and regional agreements	Current national legislative controls	Conformity
		<p>revocation of a firearm certificate. or by a refusal of a licensing officer to grant him a permit under subsection (12) of section 7, or by the revocation of such a permit, or by a refusal of a licensing officer to grant him a permit under subsection (13) of section 7 or to renew such a permit or by the revocation of such a permit, or by the, refusal of a licensing officer to register him as a firearms dealer or by the removal of his name from the register of firearms dealers by a licensing officer, or by the refusal of a licensing officer to enter a place of business in the register of firearms dealers under section 15 or by the removal of any such place of business from the register may appeal to the Minister, whose decision shall be final.</p> <p>(2) An appeal under this section shall be lodged within fourteen days after the date on which the appellant first received notice, whether written or oral, of the decision by which he is aggrieved.</p> <p>(3) On an appeal under this section, the Minister may either dismiss the appeal or give such directions as he may think fit to the licensing officer from whose decision the appeal has been lodged, as respects the firearm certificate, permit or register which is the subject of the appeal.</p>	

Controls on civilian possession and use: **Restrictions and conditions**

Analytical category	International and regional agreements	Current national legislative controls	Conformity
Personal suitability to possess arms <ul style="list-style-type: none"> ■ General conditions 		<p>Firearms Act, 1991 Part II Art. 5</p> <p>(2) The firearm certificate shall be granted by the licensing officer if he is satisfied that the applicant has a good reason for purchasing, acquiring or having in his possession the firearm or ammunition in respect of which the application is made and can be permitted to have in his possession that firearm or ammunition without danger to the public safety or to the peace:</p> <p>Provided that a firearm certificate shall not be granted to a person whom the licensing officer has reason to believe to be prohibited by or under this Act from possessing a firearm, or to be of intemperate habits or unsound mind, or to be for any reason unfitted to be entrusted with such a firearm or who has not satisfied a licensing officer that he will at all times keep the firearm securely and in safe custody and in a safe condition and take all reasonable precautions to ensure that the firearm is not lost or stolen and is not at any time available to any person not lawfully entitled to possess it.</p> <p>(7) A firearm certificate may be revoked by a licensing officer if</p> <p>(a) the licensing officer is satisfied that the holder is prohibited by or under this Act from possessing a firearm to which the firearm certificate relates, or is of intemperate habits or unsound mind or is otherwise unfitted to be entrusted with a firearm; or</p> <p>(b) the holder fails to comply with a notice under subsection (5) requiring him to deliver up the firearm certificate.</p>	
<ul style="list-style-type: none"> ■ Age restrictions 		<p>Firearms Act, 1991 Part III Art. 32</p> <p>(1) No person under the age of twelve years shall have in his possession any firearm or ammunition to which Part II applies, and no person under the age of fourteen years shall have in his possession any firearm or ammunition to which Part 11 applies other than a miniature rifle not exceeding 0.22 calibre or a shotgun the bore of which is not larger than 20 gauge and ammunition suitable therefore, except in circumstances where he is entitled to have possession thereof without holding a firearm certificate by virtue of subsection (8), subsection (9) or subsection HO) of section 7; and no</p>	

Controls on civilian possession and use: *Restrictions and conditions* continued

Analytical category	International and regional agreements	Current national legislative controls	Conformity
		person shall part with the possession of any such firearm or ammunition to any person whom he knows or has reason to believe to be under the age of twelve or fourteen years, as the case may be, except in circumstances where that other person is entitled to have possession thereof.	
■ Competency test	Protocol for the GLR and HoA Art. 3 (c) (viii) Requires provisions for the competency testing of prospective small arms owners.		The national legislation does not conform to the Protocol for the GLR and HoA.
Quantity of weapons	Protocol for the GLR and HoA Art. 3 (c) (ix) Requires a restriction on the number of small arms that may be owned.	Firearms Act, 1991 Part II Art. 5 (3) A firearm certificate granted under this section shall be in the prescribed form, and shall specify the conditions (if any) subject to which it is held, the nature and number of firearms to which it relates and as respects ammunition, the quantities authorized to be purchased and to be held at any one time thereunder.	The national legislation does not conform to the Protocol for the GLR and HoA. Each small arms licence specifies the number of weapons to which it relates, but there is no upper limit specified which indicates how large this number may be.
■ Licensing required for each arm possessed		Firearms Act, 1991 Part II Art. 5 (3) A firearm certificate granted under this section shall be in the prescribed form, and shall specify the conditions (if any) subject to which it is held, the nature and number of firearms to which it relates and as respects ammunition, the quantities authorized to be purchased and to be held at any one time thereunder.	
Quantity of ammunition		Firearms Act, 1991 Part II Art. 5 (3) A firearm certificate granted under this section shall be in the prescribed form, and shall specify the conditions (if any) subject to which it is held, the nature and number of firearms to which it relates and as respects ammunition, the quantities authorized to be purchased and to be held at any one time thereunder.	
Type of weapon	Protocol for the GLR and HoA Art. 3 (c) (ii) and Art. 5 (b) (iii) Requires the total prohibition of the civilian possession and use of all light weapons and automatic and semi-automatic rifles and machine guns.	Firearms Act, 1991 Part I Art. 2 "prohibited weapon" means – (a) a firearm which is so designed or adapted that- (i) when pressure is applied to the trigger missiles continue to be discharged until such pressure is removed or the magazine or belt containing the missiles is empty; or (ii) for each pressure of the trigger more than one discharge of a missile can take place, unless such firearm has been modified to the satisfaction of the chief licensing officer so as to ensure that for each pressure of the trigger the discharge of only one missile can take place; (b) any automatic or semi-automatic self-loading military assault rifle of 7.62 mm or 5.56 mm calibre or of any other calibre from time to time specified by the Minister by notice in the Gazette; (c) a firearm fitted with or including any device, accessory or attachment which reduces or is designed or adapted to reduce the noise or flash caused by discharging such firearm and includes any such separate device, accessory or attachment, (d) any weapon which can be or is designed or adapted to discharge any noxious liquid, gas or other substance unless such weapon, noxious liquid, gas or other	The national legislation does not conform to Protocol for the GLR and HoA. Whilst certain types of automatic, semi-automatic and other weapons are prohibited, the national legislation does not contain a total prohibition on the civilian possession and use of all light weapons and semi-automatic rifles and machine guns.

Controls on civilian possession and use: *Restrictions and conditions* continued

Analytical category	International and regional agreements	Current national legislative controls	Conformity
		<p>substance are of classes or types authorized by the Minister by notice in the Gazette; and</p> <p>(e) any firearm or ammunition prescribed or any class or type of firearm or ammunition or any such device, accessory or attachment as is referred to in paragraph (c) prescribed by the Minister by notice in the Gazette;</p> <p>Police Act, 1970 (rev 1988) Art. 59</p> <p>(1) Any person, not being a police officer, who is found in possession of –</p> <p>(a) any article which has been supplied to a police officer for use in the execution of his duty; or</p> <p>and who fails to account satisfactorily for his possession thereof, shall be guilty of an offence.</p> <p>(2) Any person who, without lawful authority –</p> <p>(a) purchases or receives any article which has been supplied for use in the execution of his duty, or any medal or decoration granted to any police officer for gallantry, service or good conduct; or</p> <p>(b) aids or abets any police officer in selling or disposing of any article, medal or decoration as is referred to in paragraph (a), shall be guilty of an offence.</p>	
Duration of licence and renewal procedure		<p>Firearms Act, 1991 Part II Art. 5</p> <p>(4) A firearm certificate shall, unless previously revoked or cancelled continue in force for one year from the date when it was granted or last renewed but shall be renewable for a further period of one year by a licensing officer, and so on from time to time, and the foregoing provisions of this section shall apply to the renewal of a firearm certificate as they apply to the grant of a firearm certificate.</p> <p>Art. 8</p> <p>(1) Notwithstanding anything contained in any of the foregoing sections of this Act, a licensing officer may refuse to grant, renew or vary a firearm certificate, or to grant a permit under subsection (12) of section 7, unless and until any firearm to which the firearm certificate or permit will, if granted, renewed or varied, relate is produced to him for his inspection and for marking, if necessary in accordance with the requirements of subsection (2) of this section.</p>	
Withholding information or misrepresentation	<p>Protocol for the GLR and HoA Art. 3</p> <p>Prohibits the misrepresentation or withholding of any information given with a view to obtaining any licence or permit.</p>	<p>Firearms Act, 1991 Part II Art. 5</p> <p>(9) If any person makes any statement which he knows to be false for the purpose of procuring, whether for himself or any other person the grant of a firearm certificate under this section or the variation or renewal of a firearm certificate he shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings or to both.</p> <p>Art. 7</p> <p>(15) If any person makes any statement which he knows to be false for the purpose of procuring, whether for himself or any other person, the grant or renewal of a permit under this section, he shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings or to both.</p>	<p>The national legislation fully conforms to the Protocol for the GLR and HoA.</p> <p>It is an offence to provide false information with a view to obtaining a small arms licence.</p>
Exemptions		<p>Firearms Act, 1991 Part II Art. 7</p> <p>(1) The following provisions of this section shall have effect notwithstanding anything in section 4 or section 6</p> <p>(2) A police officer or other public officer may –</p>	

Controls on civilian possession and use: *Restrictions and conditions* continued

Analytical category	International and regional agreements	Current national legislative controls	Conformity
		<p>(a) without a firearm certificate or temporary permit have in his possession and use a Government firearm or Government ammunition, if the firearm or ammunition is issued for the purposes of his duty as such officer except that immediately upon such officer ceasing to be a member of the police force or other-wise in the public service he shall forthwith deliver up any such firearm or ammunition as aforesaid to the proper officer of the Government;</p> <p>(b) with a firearm certificate but without payment of any fee in respect thereof have in his possession and use a firearm or ammunition lawfully purchased or other-wise acquired by him which is used by him for the purposes of his duty as such officer except that immediately upon such officer ceasing to be a mem-ber of the police force or otherwise in the public service the exemption from payment of any fee shall cease and the prescribed fee shall forthwith become payable in relation to such firearm or ammunition.</p> <p>(3) A person carrying on the business of a firearms dealer and registered as such under this Act, or an approved servant of that person, may, without holding a firearm certificate, purchase acquire or have in his possession a fire-arm or ammunition in the ordinary course of that business.</p> <p>(4) A person carrying on the business of an auctioneer, an approved carrier or a bank licensed under section 4 of the Banking Act, or an approved servant of that person, may, without holding a firearm certificate, have in his posses-sion a firearm or ammunition in the ordinary course of that business.</p> <p>(5) A person may, without holding a firearm certificate, have in his possession a slaughtering instrument and ammunition therefore in any abattoir the operation of which is licensed or permitted by or under section 7 of the Kenya Meat Commission Act. if employed in that abattoir.</p> <p>(6) The proprietor of an abattoir such as is referred to in subsection (5) or a person appointed by him to take charge of slaughtering instruments and ammunition therefore for the purpose of storing them in safe custody at that abattoir, may, without holding a firearm certificate have in his possession a slaughtering instrument or ammunition therefore for that purpose.</p> <p>(7) Any person may, without holding a firearm certificate –</p> <p>(a) have in his possession a firearm or ammunition on board a ship, or a signalling apparatus or ammunition therefore on board an aircraft or at an aerodrome as part of the equipment of the ship, aircraft or aerodrome; and</p> <p>(b) remove a signaling apparatus or ammunition therefore being part of the equipment of an aircraft, 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; and</p> <p>(c) if he has obtained from a police officer of or above the rank of Assistant Superintendent or from a licensing officer a permit for the purpose in the prescribed form remove a firearm from or to a ship, or a signalling apparatus from or to an aircraft or aerodrome, to or from such place and for such purpose as may be specified in the permit.</p> <p>(8) A person carrying a firearm or ammunition belonging to another person holding a firearm certificate relating thereto may, without himself holding a firearm certificate, have in his possession that firearm or ammunition under instructions from and for the use of that other person for sporting purposes only.</p> <p>(9) A member of a rifle club, miniature rifle club or cadet unit approved by the Minister under and for the purposes of subsection (2) of section 6 may, without holding a firearm certificate, have in his possession a firearm and ammunition therefore when engaged as a member in, or in connection with drill or target practice.</p>	

Controls on civilian possession and use: *Restrictions and conditions* continued

Analytical category	International and regional agreements	Current national legislative controls	Conformity
		<p>(10) Any person may, without holding a firearm certificate, use a miniature rifle not exceeding 0.22 calibre, and ammunition suitable therefore, at a miniature rifle range or shooting gallery.</p> <p>(11) Any person may, without holding a firearm certificate, have a firearm in his possession at an athletic or other sporting meeting for the purpose of starting races at that meeting.</p> <p>(12) (a) A person who has obtained from a licensing officer a permit for the purpose in the prescribed form may without holding a firearm certificate, have in his possession a firearm and ammunition therefore in accordance with the terms of the permit; but no such permit shall be issued in respect of or be valid for a period exceeding three months.</p> <p>(b) A permit under this subsection shall not be granted to any person in respect of any firearm or ammunition unless the licensing officer is satisfied that that person would, on application, be granted a firearm certificate in respect of the firearm or ammunition.</p> <p>(c) A permit under this subsection may at any time be revoked by a licensing officer if the licensing officer is satisfied that the holder would not, on application, be granted a firearm certificate in respect of the firearm or ammunition.</p> <p>(13) (a) A person who has obtained from a licensing officer a permit for the purpose in the prescribed form may, without himself holding a firearm certificate, acquire other-wise than by way of gift, and have in his possession, in accordance with the terms of the permit, a firearm or ammunition which is of a class or description specified in the permit and which belongs to another person who holds a firearm certificate relating thereto.</p> <p>(b) A permit under this subsection shall not be granted in respect of, or be valid for, a period exceeding one year, but shall be renewable by a licensing officer for a further period not exceeding one year, and so on from time to time.</p> <p>(c) A permit under this subsection shall not be granted or renewed in respect of any class or description of firearms or ammunition unless the licensing officer is satisfied that the applicant or holder, as the case may be, can be permitted to have in his possession any firearm or ammunition of such class or description without danger to the public safety or to the peace, or if the licensing officer has reason to believe that the applicant or holder is prohibited by or under this Act from possessing a firearm or is of intemperate habits of unsound mind, or is for any reason unfitted to be entrusted with any firearm of that class or description.</p> <p>(d) A permit under this subsection may be revoked by a licensing officer, either wholly or in respect of any class or description of firearms or ammunition to which it relates if the licensing officer is satisfied that the holder would not; by reason of the provisions of paragraph (c), be granted, as at the date of revocation, a renewal of the permit, or as the case may be, a renewal thereof in respect of that class or description of firearms or ammunition.</p> <p>(14) When; a licensing officer revokes a permit under subsection (12) or subsection (13), he shall by notice in writing require the holder of the permit to surrender it, and if the holder fails to surrender it within fourteen days from the date of the notice, he shall be guilty of an offence and liable to a fine not exceeding one thousand shillings:</p> <p>Provided that, where an appeal is brought against the revocation, this subsection shall not apply to that revocation unless the appeal is abandoned or dismissed, and shall in that case have effect as if for the reference to the date of the notice there were substituted a reference to the date on which the appeal was abandoned or dismissed.</p>	

Controls on civilian possession and use: *Possession and use*

Analytical category	International and regional agreements	Current national legislative controls	Conformity
<p>Restrictions on application/use of small arms – when, where, how?</p> <p>Some potential cases include:</p> <ul style="list-style-type: none"> ■ resisting arrest ■ injure/endanger person or property ■ handle small arms under influence of drugs/alcohol ■ negligent discharge/use ■ point gun without good cause ■ restrictions on carriage of small arms (when, where (public place), how (holster, concealed etc)) 	<p>Nairobi Declaration Art. iv and Implementation Plan Art. 3.1, 3.2.1, 3.3</p> <p>Require laws, regulations, standards and prohibitions governing the civilian possession of small arms and light weapons, including home made weapons.</p> <p>Protocol for the GLR and HoA Art. 3</p> <p>(a) Requires the establishment as a criminal offence the</p> <p>(iii) illicit possession and misuse of small arms and light weapons</p> <p>(c) (i) Requires the prohibition of unrestricted civilian possession of small arms</p> <p>Bamako Declaration Art. 3 A (iii)</p> <p>Recommends establishing as a criminal offence the illegal possession and use of small arms and light weapons.</p> <p>UN Programme of Action II Art. 3</p> <p>Recommends establishing as a criminal offence the illegal possession of small arms and light weapons.</p>	<p>Firearms Act, 1991 Part III Art. 33</p> <p>Any person who is drunk, or who behaves in a disorderly manner, while carrying a firearm to which Part II applies, shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings or to both.</p> <p>Art. 34</p> <p>(1) If any person makes or attempts to make any use of a firearm or an imitation firearm with intent to commit any criminal offence he shall be guilty of an offence and liable to imprisonment for a term not exceeding fourteen years, and where any person commits any such offence he shall be liable to the penalty provided by this subsection in addition to any penalty to which he may be sentenced for that other offence.</p> <p>(2) A firearm or imitation firearm shall, notwithstanding that it is not loaded or is otherwise incapable of discharging any shot, bullet or other missile, be deemed to be a dangerous weapon or instrument for the purposes of the Penal Code.</p> <p>(3) In this section, “imitation firearm” means anything which has the appearance of being a firearm, whether it is capable of discharging any shot, bullet or other missile or not.</p>	<p>The national legislation fully conforms to the regional and international agreements.</p> <p>Regulations and restrictions exist in regard to the civilian possession, carriage and use of small arms.</p>
<p>Storage and safekeeping conditions</p>	<p>Protocol for the GLR and HoA Art. 3 (c) (viii)</p> <p>Requires provisions for the effective control of small arms and light weapons including the storage thereof.</p>	<p>Firearms Act, 1991 Part II Art. 5</p> <p>(2) The firearm certificate shall be granted by the licensing officer if he is satisfied that the applicant has a good reason for purchasing, acquiring or having in his possession the firearm or ammunition in respect of which the application is made, and can be permitted to have in his possession that firearm or ammunition without danger to the public safety or to the peace:</p> <p>Provided that a firearm certificate shall not be granted to a person whom the licensing officer has reason to believe to be prohibited by or under this Act from possessing a firearm, or to be of intemperate habits or unsound mind, or to be for any reason unfitted to be entrusted with such a firearm. or who has not satisfied a licensing officer that he will at all times keep the firearm securely and in safe custody and in a safe condition and take all reasonable precautions to ensure that the firearm is not lost or stolen and is not at any time available to any person not lawfully entitled to possess it.</p> <p>Art. 18</p> <p>(3) Every person having in his possession any firearm or ammunition shall keep it at all times securely and in safe custody and in a safe condition, and shall take all reasonable precautions to ensure that the firearm or ammunition is not lost or stolen and is not at any time available to any person not lawfully entitled to possess it.</p> <p>(4) Any person who fails to comply with any of the provisions of this section shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding five thousand shillings or to both.</p>	<p>The national legislation fully conforms to the regional and international agreements.</p> <p>Licenses shall only be granted to people who the licensing authorities believe will keep their small arms safely and in secure custody.</p> <p>Failure to store arms securely and in safe custody is an offence.</p>
<p>Restrictions on/ conditions of relinquishing and regaining possession of small arms</p> <ul style="list-style-type: none"> ■ to whom (authorised person, dealer, licence holder, relations) ■ deposit in and retrieval of arms from warehouses 	<p>Protocol for the GLR and HoA Art. 3 (c) (viii)</p> <p>Requires restrictions on owners’ rights to relinquish control, use and possession of small arms.</p>	<p>Firearms Act, 1991 Part II Art. 7</p> <p>(8) A person carrying a firearm or ammunition belonging to another person holding a firearm certificate relating thereto may, without himself holding a firearm certificate, have in his possession that firearm or ammunition under instructions from and for the use of that other person for sporting purposes only.</p>	<p>The national legislation fully conforms to the Protocol for the GLR and HoA.</p> <p>A small arm can only be relinquished to a person who holds a licence authorising him to acquire it and notice must be given of the transaction.</p>

Controls on civilian possession and use: *Possession and use continued*

Analytical category	International and regional agreements	Current national legislative controls	Conformity
		<p>(15) If any person makes any statement which he knows to be false for the purpose of procuring, whether for himself or any other person, the grant or renewal of a permit under this section, he shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings or to both.</p> <p>Art. 16</p> <p>(1) No person shall sell or transfer to any other person in Kenya, other than a registered firearms dealer, any firearm or ammunition unless that other person produces a firearm certificate authorizing him to purchase or acquire it or shows that he is by virtue of this Act entitled to purchase it, or, as the case may be, to acquire it by means of transfer, without holding a certificate:</p> <p>Provided that this subsection shall not prevent a person parting with the possession of a firearm or ammunition, other-wise than in pursuance of a contract of sale or hire or by way of gift or loan, to a person who shows that he is by virtue of this Act entitled to have possession of the firearm or ammunition without holding a firearm certificate.</p> <p>(2) Every person who sells, lets on hire, gives or lends a firearm or ammunition to any other person in Kenya, other than a registered firearms dealer, shall, unless that other person shows that he is by virtue of this Act entitled to purchase or, as the case may be, to hire, accept as a gift or borrow the firearm or ammunition without holding a firearm certificate, comply with any instructions contained in the certificate produced, and in the case of a firearm shall, within forty-eight hours from the transaction, send by registered post notice of the transaction to the licensing officer.</p> <p>Part III</p> <p>Art. 32</p> <p>(1) No person under the age of twelve years shall have in his possession any firearm or ammunition to which Part II applies, and no person under the age of fourteen years shall have in his possession any firearm or ammunition to which Part II applies other than a miniature rifle not exceeding 0.22 calibre or a shotgun the bore of which is not larger than 20 gauge, and ammunition suitable therefore, except in circumstances where he is entitled to have possession thereof without holding a firearm certificate by virtue of subsection (8), subsection (9) or subsection (10) of section 7; and no person shall part with the possession of any such firearm or ammunition to any person whom he knows or has reason to believe to be under the age of twelve or fourteen years, as the case may be, except in circumstances where that other person is entitled to have possession thereof.</p> <p>Police Act, 1970 (rev 1988)</p> <p>Art. 65</p> <p>The Minister may make regulations, not inconsistent with the provisions of this Act, for prescribing anything which by this Act is required to be prescribed, or relating to any of the following matters –</p> <p>(i) the establishment of stores for arms and ammunition deposited by the public and the regulation thereof, including the imposition of fees, the destruction of any ammunition which is or is likely to become dangerous and the destruction, sale or other disposal of any firearm which is abandoned or in respect of which the fees have not been paid for any period exceeding four years.</p> <p>Police Regulations</p> <p>Art. 64</p> <p>There are hereby established the firearm stores specified in the Seventh Schedule, which shall be under the control of the Commissioner.</p>	

Controls on civilian possession and use: *Possession and use continued*

Analytical category	International and regional agreements	Current national legislative controls	Conformity
		<p>Art. 65</p> <p>(1) Subject to the provisions of these Regulations a member of the public may deposit with the officer in charge of a police station, a licensing officer or officer in charge of a firearm store any firearm or ammunition which he is lawfully authorised to possess, for custody in a firearm store:</p> <p>Provided that an officer in charge of a police station, a licensing officer or officer in charge of a firearm store may refuse to accept for custody in a firearm store any gun case, holster, telescopic sight, sling, cleaning rod, cleaning material or other such item which is not an essential component part of a firearm, or ammunition which is not packed in containers to the satisfaction of such officer.</p> <p>(2) Any person who causes an officer in charge of a police station, licensing officer or officer in charge of a firearms store to accept for custody in a firearm store any ammunition, not being ammunition, defined by regulation 63 or any authorized explosive or explosive as defined in section 2 of the Explosives Act, shall be guilty of an offence and liable to a fine not exceeding one thousand shillings.</p> <p>(3) An officer in charge of a firearm store may destroy or cause to be destroyed or dispose of in any manner any ammunition, not being ammunition as defined by regulation 63, or any authorized explosive or explosive as defined in section 2 of the Explosives Act, found in a firearms store and no person shall be entitled to compensation in respect of the destruction or disposal thereof.</p> <p>Art. 67</p> <p>The officer in charge of a firearm store shall, so far as is possible, maintain any firearm in a firearms store in the same condition as it was at the time of deposit and for this purpose he may clean or oil or cause to be cleaned or oiled such firearm.</p> <p>Art. 68</p> <p>Any member of the public who has deposited a firearm of ammunition for custody in a firearm store may, subject to the provisions of regulation 67, repossess himself of such firearm or ammunition on furnishing proof to an officer in charge of a police station, licensing officer or officer in charge of a firearm store that he is authorised under the Firearms Act to possess such firearms or ammunition.</p>	
<ul style="list-style-type: none"> ■ leasing/lending 		<p>Firearms Act, 1991</p> <p>Part II</p> <p>Art. 7</p> <p>(8) A person carrying a firearm or ammunition belonging to another person holding a firearm certificate relating thereto may, without himself holding a firearm certificate, have in his possession that firearm or ammunition under instructions from and for the use of that other person for sporting purposes only.</p> <p>Art. 16</p> <p>(1) No person shall sell or transfer to any other person in Kenya, other than a registered firearms dealer, any firearm or ammunition unless that other person produces a firearm certificate authorizing him to purchase or acquire it or shows that he is by virtue of this Act entitled to purchase it, or, as the case may be, to acquire it by means of transfer, without holding a certificate:</p> <p>Provided that this subsection shall not prevent a person parting with the possession of a firearm or ammunition, other-wise than in pursuance of a contract of sale or hire or by way of gift or loan, to a person who shows that he is by virtue of this Act entitled to have possession of the firearm or ammunition without holding a firearm certificate.</p>	

Controls on civilian possession and use: *Possession and use continued*

Analytical category	International and regional agreements	Current national legislative controls	Conformity
		(2) Every person who sells, lets on hire, gives or lends a firearm or ammunition to any other person in Kenya, other than a registered firearms dealer, shall, unless that other person shows that he is by virtue of this Act entitled to purchase or, as the case may be, to hire, accept as a gift or borrow the firearm or ammunition without holding a firearm certificate, comply with any instructions contained in the certificate produced, and in the case of a firearm shall, within forty-eight hours from the transaction, send by registered post notice of the transaction to the licensing officer.	
<ul style="list-style-type: none"> ■ pawning/pledging 	<p>Protocol for the GLR and HoA Art. 3 (c) (x)</p> <p>Requires provisions prohibiting the pawning and pledging of small arms and light weapons.</p>	<p>Firearms Act, 1991 Part II Art.20</p> <p>(1) No person shall take any firearm or ammunition in pawn from any other person.</p> <p>(2) Any person who contravenes the provisions of this section shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings or to both.</p> <p>Police Act, 1970 (rev 1988) Art. 39</p> <p>Any inspector or subordinate officer who sells, pawns, loses by neglect, makes away with or wilfully or negligently damages any arms, ammunition, accoutrement, uniform or other article of personal issue, or any vehicle or other property committed to his charge belonging to the Government or for which the Government is responsible, may, in addition to or in lieu of any other punishment or penalty, be ordered to make good either partially or wholly the value of such property or the amount of such loss or damage, as the case may be, and the amount of such value or of such loss or damage may be recovered by stoppage from his pay or from any other amount owing to him by the Government.</p>	<p>The national legislation fully conforms to the Protocol for the GLR and HoA.</p> <p>The pawning of weapons is an offence.</p>
<ul style="list-style-type: none"> ■ inheritance/death 			
<ul style="list-style-type: none"> ■ other conditions restrictions on/ conditions of relinquishing and regaining possession of firearms 			
Notifying authorities of altered circumstances (death, loss, theft, change of address, weapon to gunsmith, disposal, destruction etc)		<p>Firearms Act, 1991 Part II Art. 22</p> <p>Any person having possession of a firearm or ammunition, whether or not he holds a firearm certificate therefore or is entitled to have possession thereof without holding a firearm certificate, shall, if the firearm or ammunition is lost, stolen or destroyed, report the loss, theft or destruction as soon as possible after its occurrence to the police officer in charge of the nearest police station, and if he fails to do so, shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine, not exceeding two thousand shillings or to both.</p>	
<p>Other restrictions on possession and use of small arms including:</p> <ul style="list-style-type: none"> ■ carry licence while in possession ■ civilian maintenance, repair, loading 		<p>Firearms Act, 1991 Part II Art. 21</p> <p>(1) No person other than a registered firearms dealer shall convert into a firearm anything which, though having the appearance of being a firearm is so constructed as to be incapable of discharging any missile through the barrel thereof.</p> <p>(2) Any person who contravenes the provisions of this section shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings or to both.</p>	

Controls on civilian possession and use: *Possession and use continued*

Analytical category	International and regional agreements	Current national legislative controls	Conformity
		<p>Art. 16</p> <p>(3) No person shall undertake the repair, test or proof of a firearm or ammunition for any other person in Kenya, other than a registered firearms dealer as such, unless that other person produces or causes to be produced a firearm, certificate authorizing him to have possession of the firearm or ammunition, or shows that he is by virtue of this Act entitled to have possession of the firearm or ammunition without holding such a certificate.</p>	

Controls on civilian possession and use: *Offences/penalties*

Analytical category	International and regional agreements	Current national legislative controls	Conformity
	<p>Protocol for the GLR and HoA Art. 5 (b) (i)</p> <p>Requires the introduction of harmonised, heavy minimum sentences for small arms and light weapons crimes and the carrying of unlicensed small arms and light weapons.</p>	<p>Firearms Act, 1991 Part II Art. 4</p> <p>(2) (b) fails to comply with any condition subject to which a firearm certificate is held by him, he shall, subject to this Act be guilty of an offence.</p> <p>(3) Any person who is convicted of an offence under sub-section (2) shall –</p> <p>(a) if the firearm concerned is a prohibited weapon of a type specified in paragraph (b) of the definition of that term contained in section 2 or the ammunition is ammunition for use in any such firearm be liable to imprisonment for a term not exceeding fifteen years; or</p> <p>(b) if the firearm is any other type or the ammunition for any weapon not being a prohibited weapon be liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding ten years or to both:</p> <p>Provided that when the offence for which the person is convicted (not being an offence in relation to a prohibited weapon or to any ammunition therefore) is failure by neglect to renew a firearms certificate such person shall be liable to pay a fine at the rate of two hundred shillings per day for every day or part thereof during which his default continues but so that no person shall be liable to pay a fine greater than the maximum provided by this subsection and if such fine is not paid then to imprisonment for a term not exceeding two years.</p> <p>Art. 5</p> <p>(8) In any case where a firearm certificate is revoked by a licensing officer, he shall by notice in writing require the holder to surrender the firearm certificate. and if the holder fails to do so within fourteen days from the date of the notice he shall be guilty of an offence and liable to a fine not exceeding one thousand shillings:</p> <p>Provided that, where an appeal is brought against the revocation, this subsection shall not apply to that revocation unless the appeal is abandoned or dismissed and shall in that case have effect as if for the reference to the date of the notice there were substituted a reference to the date on which the appeal was abandoned or dismissed.</p> <p>(9) If any person makes any statement which he knows to be false for the purpose of procuring, whether for himself or any other person, the grant of a firearm certificate under this section. or the variation or renewal of a firearm certificate he shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings or to both.</p> <p>Art. 7</p> <p>(15) If any person makes any statement which he knows to be false for the purpose of procuring, whether for himself or any other person, the grant or renewal of a permit under this section, he shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings or to both.</p>	<p>Implementation of Article 5 (b) (i) will require consultation and agreement on what constitute heavy minimum sentences.</p> <p>The national legislation appears to allow for reasonable heavy sentencing of offenders, although no minimum terms of imprisonment are specified.</p>

Controls on civilian possession and use: *Offences/penalties continued*

Analytical category	International and regional agreements	Current national legislative controls	Conformity
		<p>Art. 16</p> <p>(4) If any person –</p> <p>(a) contravenes any of the provisions of this section; or</p> <p>(b) with a view to purchasing or acquiring, or procuring the repair, test or proof of, a firearm or ammunition produces a false firearm certificate or a firearm certificate in which any false entry has been made or personates a person to whom a firearm certificate has been granted, or makes any false statement, he shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings or to both.</p> <p>Art. 18</p> <p>(4) Any person who fails to comply with any of the provisions of this section shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding five thousand shillings or to both.</p> <p>Art. 20</p> <p>(2) Any person who contravenes the provisions of this section shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings or to both.</p> <p>Art. 21</p> <p>(2) Any person who contravenes the provisions of this section shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings or to both.</p> <p>Art. 22</p> <p>Any person having possession of a firearm or ammunition, whether or not he holds a firearm certificate therefore or is entitled to have possession thereof without holding a firearm certificate, shall, if the firearm or ammunition is lost, stolen or destroyed, report the loss, theft or destruction as soon as possible after its occurrence to the police officer in charge of the nearest police station, and if he fails to do so, shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine, not exceeding two thousand shillings or to both.</p> <p>Part III</p> <p>Art. 32</p> <p>(2) Any person who contravenes any of the provisions of this section shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings or to both.</p> <p>Art. 33</p> <p>Any person who is drunk, or who behaves in a disorderly manner, while carrying a firearm to which Part II applies, shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings or to both.</p> <p>Art. 34</p> <p>(1) If any person makes or attempts to make any use of a firearm or an imitation firearm with intent to commit any criminal offence he shall be guilty of an offence and liable to imprisonment for a term not exceeding fourteen years, and where any person commits any such offence he shall be liable to the penalty provided by this subsection in addition to any penalty to which he may be sentenced for that other offence.</p> <p>Police Regulations</p> <p>Art. 65</p> <p>(2) Any person who causes an officer in charge of a police station, licensing officer or officer in charge of a firearms store to accept for custody in a firearm store any ammunition, not being ammunition, defined by regulation 63 or any authorized explosive or explosive as defined in section 2 of the Explosives Act, shall be guilty of an offence and liable to a fine not exceeding one thousand shillings.</p>	

Record keeping and marking

Marking

Analytical category	International and regional agreements	Current national legislative controls	Conformity
When? (import/export/transit/manufacture etc)	<p>Bamako Declaration Art. 3 A (iv) Recommends establishing at the national level the responsible management of licit arms.</p> <p>Protocol for the GLR and HoA Art. 3 (c) (vi) Requires provisions ensuring the standardised marking and identification of small arms and light weapons at the time of manufacture, import or export.</p> <p>UN Programme of Action Section II Art. 16 Requires the marking and registering of all confiscated, seized or collected small arms prior to their destruction or disposal.</p> <p>UN Firearms Protocol Art. 9 (c) Requires the marking of deactivated firearms with a clearly visible mark attesting to its deactivation.</p>	<p>Firearms Act, 1991 Part II Art. 8 (1) Notwithstanding anything contained in any of the foregoing sections of this Act, a licensing officer may refuse to grant, renew or vary a firearm certificate, or to grant a permit under subsection (12) of section 7, unless and until any firearm to which the firearm certificate or permit will, if granted, renewed or varied, relate is produced to him for his inspection and for marking, if necessary in accordance with the requirements of subsection (2) of this section.</p> <p>(2) No firearm certificate, and no permit under subsection (12) of section 7, shall be granted, or, as the case may be, varied or renewed, in respect of a firearm unless the firearm bears a mark or number of identification or is first marked with such a mark or number by, or under and in accordance with the directions of, the licensing officer.</p>	<p>The national legislation broadly conforms to the regional and international agreements but falls short in one key area.</p> <p>The legislation states that licences will not be granted in cases where the small arm is marked.</p> <p>However, the legislation does not explicitly state that small arms must be marked at the time of manufacture, import or export.</p>
How? ■ stamping/engraving?			
■ where on weapon?	<p>Protocol for the GLR and HoA Art. 7 Requires that the marking should be on the barrel, frame and, where applicable, the slide.</p>		<p>The national legislation does not conform to the Protocol for the GLR and HoA.</p>
■ with what? (unique alpha-numeric symbol/identifying country and manufacturer?)	<p>Protocol for the GLR and HoA Art. 7 (a) Requires the marking at the time of manufacture with a unique marking providing the name of the manufacturer, the country or place of manufacture and the serial number. (b) Requires the marking at the time of import with a simple marking identifying the country and year of import and an individual serial number if it does not have one. (c) Requires the marking of small arms and light weapons in possession of the state with a unique mark.</p> <p>UN Firearms Protocol Art. 8 and UN Programme of Action Section II Art. 7 Require specific provisions for a unique number to be marked on the barrel, frame or slide at the time of manufacture or import. Such information must permit identification of country of manufacture and manufacturer.</p>	<p>Firearms Act, 1991 Part II Art. 8 (2) No firearm certificate, and no permit under subsection (12) of section 7, shall be granted, or, as the case may be, varied or renewed, in respect of a firearm unless the firearm bears a mark or number of identification or is first marked with such a mark or number by, or under and in accordance with the directions of, the licensing officer.</p>	<p>The national legislation conforms in part to the regional and international agreements. Provisions exist in some areas but a number of gaps are evident.</p> <p>Licenses will not be granted with regard to unmarked small arms.</p> <p>However, there is no specification given regarding the time at which the small arms must be marked or the type of information that the marking must contain.</p>

Record keeping and marking: Record keeping

Analytical category	International and regional agreements	Current national legislative controls	Conformity
<p>Description of record keeping specifications:</p> <ul style="list-style-type: none"> ■ what records should be kept? ■ where? ■ how? ■ by whom? 	<p>Protocol for the GLR and HoA Art. 7 (d) and UN Firearms Protocol Art. 7 Require the maintenance of records of markings for not less than ten years of firearms, ammunition and components that are necessary to trace illicitly manufactured or trafficked arms.</p>	<p>Firearms Act, 1991 Part II Art. 13 (1) For the purposes of this Act, the chief licensing officer shall keep in the prescribed form a register of firearms dealers in which, subject as hereinafter provided, he shall cause to be entered the name of every person who applies to be registered as a firearms dealer and furnishes the prescribed particulars:</p>	<p>The national legislation conforms in part to the regional and international agreements. Provisions exist in some areas but a number of gaps are evident.</p>

Record keeping and marking: *Record keeping continued*

Analytical category	International and regional agreements	Current national legislative controls	Conformity
<ul style="list-style-type: none"> ■ for how long? ■ when must authorities be provided with information? 	<p>Protocol for the GLR and HoA Art. 3 (c) (iii) Requires the regulation and centralised registration of all civilian-owned small arms.</p> <p>Art. 7 (d) Requires information held to include appropriate markings and specific details of international transactions of small arms and light weapons.</p> <p>UN Programme of Action Section II Art. 9 Requires ensuring comprehensive and accurate records are kept for as long as possible on the manufacture, holding and transfer of small arms and light weapons. Records should be well maintained and organised to facilitate accurate and prompt information retrieval.</p> <p>Art. 10 Requires provision to ensure responsibility for weapons held and issued by the state and effective measures for tracing such weapons.</p> <p>Art. 17 Requires all bodies authorised to hold small arms to ensure standards and procedures are established regarding: inventory management; and accounting control; and accounting of small arms held or transported by operational units or authorized personnel.</p> <p>Bamako Declaration Art. 3 A (iv) Recommends establishing at the national level the responsible management of licit arms.</p> <p>Co-ordinated Agenda for Action Art. 5.3 Ensure strict accountability and the effective tracing of all weapons owned by the state</p> <p>Art. 5.4 Ensure strict accountability and effective control of all weapons owned by private security companies and dealers.</p>	<p>Provided that –</p> <p>(i) the licensing officer shall not register an applicant who is prohibited from being registered by order of a court made under section 19; and</p> <p>(ii) the licensing officer may refuse to register an applicant if he is satisfied that the applicant cannot be permitted to carry on business as a firearms dealer without danger to the public safety or to the peace.</p> <p>(2) On the registration of an applicant as a firearms dealer there shall be payable such fee as may be prescribed.</p> <p>(3) If the licensing officer, after giving reasonable notice to any person whose name is on the register, is satisfied that that person –</p> <p>(a) is no longer carrying on business as a firearms dealer; or</p> <p>(b) cannot be permitted to continue to carry on business as a firearms dealer without danger to the public safety or to the peace, he shall cause the name of that person to be removed from the register.</p> <p>(4) The licensing officer shall also cause the name of a person to be removed from the register if that person so desires.</p> <p>(5) If any person, for the purpose of procuring the registration of himself or any other person as a firearms dealer, makes any statement which he knows to be false, he shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings or to both.</p> <p>Art. 14</p> <p>(1) The licensing officer shall grant or cause to be granted to any person who is registered as a firearms dealer under section 13 a certificate of registration.</p> <p>(2) On or before the first day of January in each year every person for the time being registered as a firearms dealer shall –</p> <p>(a) surrender to the licensing officer his certificate of registration; and</p> <p>(b) apply in the prescribed form for a new certificate of registration; and</p> <p>(c) pay the fee prescribed, and thereupon the licensing officer shall subject to the provisions of subsection (3) of section 13, grant him a new certificate of registration.</p> <p>(3) If any person to whom this section applies fails to comply with all or any of the requirements of subsection (2) the licensing officer shall by notice in writing require him to comply therewith, and, if he fails to do so within twenty-one days from the date of the notice, or within such further time as the licensing officer may in special circumstances allow shall cause his name to be removed from the register.</p> <p>(4) In any case where a licensing officer causes the name of a firearms dealer to be removed from the register, he shall by notice in writing require the dealer to surrender his certificate of registration, and if the dealer fails to do so within twenty-one days from the date of the notice he shall be guilty of an offence and liable to a fine not exceeding one thousand shillings:</p> <p>Provided that –</p> <p>(i) where an appeal is brought against the removal, this subsection shall not apply to that removal unless the appeal is abandoned or dismissed, and shall in that case have effect as if for the reference to the date of the notice there were substituted a reference to the date on which the appeal was abandoned or dismissed;</p> <p>(ii) until the dealer surrenders his certificate of registration in accordance with the provisions of this subsection, or if he fails so to surrender his certificate until the expiration of the period of twenty-one days, the dealer shall be deemed to be registered as a firearms dealer for the purpose only of disposing of the stock in hand of his business.</p>	<p>Registers are maintained on small arms dealers.</p> <p>However, there are no provisions relating to the centralized registration of all civilian-owned small arms and no requirement for the maintenance of records on small arms markings.</p> <p>Further, there is no specification relating to the length of time for which records must be maintained.</p>

Record keeping and marking: Record keeping *continued*

Analytical category	International and regional agreements	Current national legislative controls	Conformity
		<p>Art. 15</p> <p>(1) The prescribed particulars which a person applying to be registered as a firearms dealer under section 13 is required to furnish shall include particulars of every place of business at which he proposes to carry on business as a firearms dealer, and the licensing officer shall, subject as hereinafter provided enter in the register every such place of business.</p> <p>(2) Every person registered as a firearms dealer who proposes to carry on business as such at any place of business which is not entered in the register shall notify the licensing officer and furnish him with such particulars as may be prescribed, and the licensing officer shall, subject as hereinafter provided, enter that place of business in the register.</p> <p>(3) A licensing officer, if he is satisfied that any place of business notified to him by any person under subsection (1) or subsection (2), or any place entered as the place of business of any person in the register of firearm dealers, is a place at which that person cannot be permitted to carry on business as a firearms dealer without danger to the public safety or to the peace, may refuse to enter that place of business in the register or remove it from the register, as the case may be.</p> <p>(4) If –</p> <p>(a) any person, being a registered firearms dealer, has a place of business which is not entered on the register and carries on business as a firearms dealer at that place; or</p> <p>(b) any person makes any statement which he knows to be false for the purpose of procuring, whether for himself or any other person, the entry of any place of business in the register of firearms dealers, he shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings or to both.</p> <p>Art. 17</p> <p>(1) Every person who by way of trade or business deals in, sells or transfers firearms or ammunition shall provide and keep a register of transactions, and shall enter or cause to be entered therein such particulars as may be prescribed.</p> <p>(2) Every such entry shall be made within twenty-four hours after the transaction to which it relates took place, and, in the case of a sale or transfer, every such person shall at the time of the transaction require the purchaser or transferee to furnish particulars sufficient for identification and shall immediately enter those particulars in the register.</p> <p>(3) Any person to whom this section applies shall, on demand, allow a police officer or licensing officer to enter and inspect all stock in hand, and shall on request by the police officer or licensing officer produce for inspection the register so required to be kept.</p> <p>(5) Nothing in this section shall apply to the sale of firearms or ammunition by auction in accordance with the terms of a permit issued under the proviso to subsection (1) of section 12.</p>	

Record keeping and marking: Offences/penalties

Analytical category	International and regional agreements	Current national legislative controls	Conformity
	<p>UN Firearms Protocol Art. 5 (1) (c) and Protocol for the GLR and HoA Art. 3 (a) (iv)</p> <p>Require provisions that explicitly make it an offence to illegally falsify, obliterate or remove or alter the markings on a firearm.</p> <p>UN Firearms Protocol Art. 5 (2) (a) and (b)</p> <p>Requires provisions relating to interfering with markings for firearms and those acting as accomplices or who organise, direct, aid, abet,</p>	<p>Firearms Act, 1991</p> <p>Part II</p> <p>Art. 17</p> <p>(4) If any person –</p> <p>(a) fails to comply with any of the provisions of this section; or</p> <p>(b) knowingly makes any false entry in a register required to be kept under this section; or</p> <p>(c) knowingly furnishes any false particular of identification of himself or any other person, he shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings or to both.</p>	<p>The national legislation conforms in part to the regional and international agreements. Provisions exist in some areas but a number of gaps are evident.</p> <p>It is an offence to supply false information in relation to the small arms register.</p>

Record keeping and marking: *Offences/penalties continued*

Analytical category	International and regional agreements	Current national legislative controls	Conformity
	facilitate or counsel the commission of such offences.		However, the legislation does not specify that it is an offence to interfere with or remove small arms markings.

Import, export and transit

Licensing

Analytical category	International and regional agreements	Current national legislative controls	Conformity
<p>Description of licensing process:</p> <ul style="list-style-type: none"> ■ licensing/ registration of persons and transactions? ■ competency test of those licensed to import, export or transit arms? ■ duration of licences? ■ offence withhold information? ■ distinction between civilian and commercial transfers? ■ specifications of licence – information to be included on licence? ■ required documentation – end-user certificates etc?) 	<p>Nairobi Declaration Art. iv and Coordinated Agenda for Action Preamble</p> <p>Urge states to have in place adequate laws, regulations and administrative procedures to exercise effective control over the transfer of small arms and light weapons.</p> <p>Coordinated Agenda for Action Art. 3.1, 3.2.2 and Implementation Plan Art. 3.1, 3.2.2</p> <p>Require regulations and standards to govern the import of small arms and light weapons.</p> <p>Protocol for the GLR and HoA Art. 3 (c) (v)</p> <p>Requires standards regarding the import of small arms and light weapons.</p> <p>Art. 10 (a) and (c)</p> <p>Requires an effective system of export and import licensing or authorisation and specifies the specific information that must be included on import and export licences and documentation.</p> <p>UN Firearms Protocol Art. 5 (1) (b) Art. 10 (1), (2) and (3)</p> <p>Requires state parties to adopt legislative measures making the illicit trafficking in firearms illegal.</p> <p>Requires provisions catering for the international transit of firearms.</p> <p>Requires provisions for verifying the issuance of import licences and authority for transit.</p> <p>UN Firearms Protocol Art 5 (1) (b) Art 10 (1), (2) and (3) and Protocol for the GLR and HoA Art. 10 (b)</p> <p>Require provisions outlining the specific detailed information to be included on export and import licences. These should include a minimum of:</p> <ul style="list-style-type: none"> ■ Place and date of issuance ■ Date of expiration ■ Country of export ■ Country of import ■ Final recipient ■ Description and quantity of goods ■ Country of transit, where appropriate. <p>UN Programme of Action Section II Art. 2, Art. 11 and Art. 12</p> <p>Requires provisions catering for the international transit of small arms, including the use of authenticated</p>	<p>Firearms Act, 1991 Part III Art. 27</p> <p>(1) No person shall import or export any firearm or ammunition save under and in accordance with the terms of an import or export permit issued by an authorized officer:</p> <p>Provided that where any firearm or ammunition, not being a firearm or ammunition the importation of which is for the time being prohibited under subsection (2), is imported for the personal use of the owner thereof but without an import permit under this section having been previously obtained authorizing the importation thereof, the importation shall not be deemed to contravene the provisions of this section if the firearm or ammunition on importation is left in customs control until an import permit under this section is obtained in respect of the importation thereof.</p> <p>(2) No person shall import or export any firearm or ammunition, or any firearm or ammunition of a class or type, of which the importation or exportation is for the time being prohibited by the Minister by order published in the Gazette.</p> <p>(4) An authorized officer may, without assigning any reason therefore refuse to grant any import or export permit under this section, and shall refuse to grant any such permit authorizing</p> <p>(a) the importation or exportation of any arms or munitions of war unless the Minister has sanctioned their importation or exportation; or</p> <p>(b) the importation or exportation of any firearm or ammunition of which the importation or exportation is for the time being prohibited under subsection (2).</p> <p>(5) Import and export permits under this section shall be in the prescribed forms, and there shall be payable in respect thereof the prescribed fees.</p> <p>(6) An authorized officer may without assigning any reason therefore, revoke any import or export permit granted under this section at any time before the firearms or ammunition to which it relates have been imported or exported in pursuance thereof.</p> <p>(8) For the purposes of this section, “authorized officer” means a police officer or customs officer authorized by the Commissioner of Police in writing to grant import and export permits under this section or a licensing officer appointed under section 3.</p> <p>(9) In this section, “firearm” includes safety, toy and alarm pistols and rifles which are capable of being converted into, or have the appearance of, lethal barrelled weapons or which can be used or adapted for the discharge of any noxious liquid, gas or similar thing, and “ammunition” means ammunition to which Part 11 applies.</p> <p>Art. 29</p> <p>(1) Subject to subsection (4), no person shall remove or transport, or cause to be removed or transported any firearm or ammunition from one place to another in Kenya, whether for the purpose of export or otherwise, save under and in accordance with a removal permit issued by a licensing officer.</p>	<p>The national legislation broadly conforms to the regional and international agreements but falls short in a few key areas.</p> <p>Licences are required for the import, export and transit of small arms.</p> <p>However, the legislation does not specify the information that must be included on the licences, no mention is made of the need for end-user certificates and there is no requirement that export applications are assessed in a manner consistent with existing responsibilities under international law, nor are there any requirements for the auditing and monitoring of licences.</p>

Import, export and transit: Licensing *continued*

Analytical category	International and regional agreements	Current national legislative controls	Conformity
	<p>end-user certificates, and requires that export applications are assessed in a manner consistent with existing responsibilities under international law.</p> <p>Bamako Declaration Art. 3 A (iii) (vii)</p> <p>Recommends establishing as a criminal offence the illegal trafficking of small arms and light weapons.</p> <p>Requires that states take appropriate measures to control arms transfers by manufacturers, suppliers, traders, brokers, shipping and transit agents</p>	<p>(3) No removal permit shall be issued under this section authorizing the removal or transport of firearms or ammunition by road from one area to another, save with the general or specific authority of the Commissioner of Police.</p> <p>(4) Nothing in this section shall apply to –</p> <p>(a) a person carrying on the business of an approved carrier, or in approved servant of such a person in respect of the removal or transportation of any fire-arms or ammunition in the ordinary course of that business;</p> <p>(b) the holder of a firearm certificate, or of a permit under subsection (11) of section 7, in respect of the carriage with him and in accordance with the terms of the firearm certificate or permit of any firearm or ammunition to which the firearm certificate or permit relates;</p> <p>(c) any person, not being a registered firearms dealer in respect of the carriage with him of any firearm or ammunition which he is entitled by virtue of the provisions of this Act to have in his possession without holding a firearm certificate; or</p> <p>(d) the removal or transport by a registered firearms dealer of any firearm or ammunition in his possession in the ordinary course of his business as such from one of his places of business to another, or from or to his own place of business to or from the place of business of another registered firearms dealer.</p> <p>(5) A permit issued under this section may at any time be revoked by the licensing officer who issued it, and the licensing officer shall not be compelled to assign any reason for revocation.</p> <p>(6) In this section, “firearm” and “ammunition” mean respectively a firearm and ammunition to which Part 11 applies.</p> <p>Art. 30</p> <p>Notwithstanding anything in this Act, a licensing officer may grant with or without conditions, refuse, suspend or revoke transit permits for the importation or exportation, or the removal within or transportation across Kenya, of any firearms or ammunition in transit through Kenya to any place outside Kenya and the importation, exportation, removal, transportation and possession of any such arms or ammunition under and in accordance with the terms of any such transit permit shall be lawful and shall not constitute an offence under this Act.</p>	

Import, export and transit: Marking

Analytical category	International and regional agreements	Current national legislative controls	Conformity
What conditions pertain?	<p>Protocol for the GLR and HoA Art. 3 (c) (vi) and Art. 7 (b)</p> <p>Requires the standardised marking and identification of small arms and light weapons at the time of import, with information that permits the identification of the country and year of import and with an individual serial number if the small arms or light weapon does not bear one at the time of import.</p> <p>Bamako Declaration Art. 3 A (iv)</p> <p>Recommends establishing at the national level the responsible management of licit arms.</p> <p>UN Firearms Protocol Art. 8 and UN Programme of Action Section II Art. 7 and Art. 8</p> <p>Require specific provisions for a unique number to be marked on the barrel, frame or slide at the time of import. Such information must permit identification of country of manufacture and manufacturer.</p>		The national legislation does not conform to the regional and international agreements.

Import, export and transit: *Marking* continued

Analytical category	International and regional agreements	Current national legislative controls	Conformity
	Require provision making it illegal to stockpile, transfer or possess unmarked weapons.		

Import, export and transit: *Restrictions*

Analytical category	International and regional agreements	Current national legislative controls	Conformity
Where can arms be imported/exported (specified points of entry)? How (conditions of carriage)? What arms can be imported/exported/transited?		Firearms Act, 1991 Part III Art. 28 <p>(1) No person shall import any firearm or ammunition save at any one or more places designated for the purpose by the Minister, and all firearms and ammunition imported at any such place shall be detained in customs control pending removal in accordance with the provisions of this section.</p> <p>(2) No person who imports any firearm or ammunition by way of trade or business, or for the purposes of any trade or business, or for any purpose other than his own personal use, shall remove it, or cause it to be removed, from customs control, unless he has first obtained a removal permit under section 29 authorizing the removal thereof from the place at which it is detained in customs control.</p> <p>(3) No person who imports a firearm or ammunition for his own personal use shall remove it or cause it to be removed from customs control unless he has first obtained a firearm certificate or a permit under subsection (11) of section 7 in respect thereof, or unless he is entitled by virtue of this Act to have the firearm or ammunition in his possession without holding a firearm certificate.</p> <p>(5) In this section, "firearm" includes safety, toy and alarm pistols and rifles which are capable of being converted into, or have the appearance of, lethal barrelled weapons, or which can be used or adapted for the discharge of any noxious liquid, gas or similar thing, and "ammunition" means ammunition to which Part II applies.</p>	

Import, export and transit: *Record keeping*

Analytical category	International and regional agreements	Current national legislative controls	Conformity
What records should be kept? What records must be submitted to authorities, and when?	Protocol for the GLR and HoA Art. 7 (d) and UN Firearms Protocol Art. 7 Require the maintenance of records of information on small arms and light weapons for not less than ten years necessary to trace illicitly manufactured or trafficked arms. Protocol for the GLR and HoA Art. 7 (d) Requires information held to include appropriate markings and specific details of international transactions of small arms and light weapons. UN Programme of Action Section II Art. 9 Requires ensuring comprehensive and accurate records are kept for as long as possible on the manufacture, holding and transfer of small arms and light weapons. Records should be well maintained and organised to facilitate accurate and prompt information retrieval.		The national legislation does not conform to the regional and international agreements.

Import, export and transit: *Special conditions*

Analytical category	International and regional agreements	Current national legislative controls	Conformity
Temporary import/export conditions? Conditions for dignitaries, diplomats, tourists or other categories of person?	<p>Protocol for the GLR and HoA Art. 10 (f)</p> <p>Allows states to adopt simplified procedures for the temporary import and export and the transit of small arms for verifiable lawful purposes such as hunting, sport shooting, evaluation, exhibitions or repairs.</p>		The national legislation does not contain any such simplified procedures and therefore applies in full in these instances.

Import, export and transit: *Re-export provisions*

Analytical category	International and regional agreements	Current national legislative controls	Conformity

Import, export and transit: *Offences/penalties*

Analytical category	International and regional agreements	Current national legislative controls	Conformity
	<p>Coordinated Agenda for Action Art. 3.3 and Implementation Plan Art. 3.3</p> <p>Require the establishment as criminal offences under the national law the illicit trafficking in small arms and light weapons, including home made weapons.</p> <p>UN Firearms Protocol Art. 5 (2) (a) and (b)</p> <p>Requires a provisions relating to the illicit trafficking in firearms and those acting as accomplices or who organise, direct, aid, abet, facilitate or counsel the commission of such offences.</p> <p>Protocol for the GLR and HoA Art. 3 (a) (i)</p> <p>Requires the establishment as a criminal offence the illicit trafficking of small arms and light weapons.</p>	<p>Firearms Act, 1991 Part III Art. 27</p> <p>(3) Any person who contravenes any of the provisions of subsections (1) and (2) shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings or to both.</p> <p>(7) Any person who makes any statement which he knows to be false for the purpose of procuring, whether for himself or for any other person, the issue of an import or export permit under this section shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings or to both.</p> <p>Art. 28</p> <p>(4) Any person who contravenes any of the foregoing provisions of this section shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings or to both.</p> <p>Art. 29</p> <p>(2) Any person who contravenes any of the provisions of subsection (1), or who makes any statement which he knows to be false for the purpose of procuring for himself or any other person the issue of a removal permit under this section, shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings or to both.</p>	<p>The national legislation fully conforms to the regional and international agreements.</p> <p>The national legislation contains offences and penalties relating to the import, export and transit of arms.</p>

Brokering***Description of brokering controls***

Analytical category	International and regional agreements	Current national legislative controls	Conformity
	<p>Coordinated Agenda for Action Art. 3.2.3 and Implementation Plan Art. 3.2.3</p> <p>Require regulations for the effective control of brokers, financiers and transporters of small arms and light weapons.</p> <p>Protocol for the GLR and HoA Art. 1</p> <p><i>Definitions</i></p> <p>"broker" is a person who acts:</p> <p>(a) for a commission, advantage or cause, whether pecuniary or otherwise;</p>		The national legislation does not conform to the regional and international agreements.

Brokering: Description of brokering controls *continued*

Analytical category	International and regional agreements	Current national legislative controls	Conformity
	<p>(b) to facilitate the transfer, documentation and/or payment in respect of any transaction relating to the buying or selling of small arms and light weapons; or</p> <p>(c) as an intermediary between any manufacturer, or supplier of, or dealer in small arms and light weapons and any buyer or recipient thereof.</p> <p>“brokering” means acting:</p> <p>(a) for a commission, advantage or cause, whether pecuniary or otherwise;</p> <p>(b) to facilitate the transfer, documentation and/or payment in respect of any transaction relating to the buying or selling of small arms and light weapons; or</p> <p>(c) thereby acting as intermediary between any manufacturer, or supplier of, or dealer in small arms and light weapons and any buyer or recipient thereof.</p> <p>Art. 3 (c) (xii)</p> <p>Requires provisions regulating brokering in the individual State Parties.</p> <p>Art. 11</p> <p>Requires a national system for regulating dealers and brokers of small arms and light weapons, which includes:</p> <p>(ii) registering all brokers operating within their territory;</p> <p>(iii) ensuring all registered brokers seek and obtain authorisation for each individual transaction taking place;</p> <p>(iv) ensuring that all brokering transactions provide full disclosure on import and export licences or authorisation and accompanying documents of the names and locations of all brokers involved in the transaction;</p> <p>(v) licensing, registering and checking regularly and randomly all independent manufacturers, dealers, traders and brokers.</p> <p>Bamako Declaration Art. 3 A (vii) B (iv), UN Firearms Protocol Art. 15 and UN Programme of Action Section II Art. 14</p> <p>Require provisions for the control of brokers, including shipping and transit agents.</p> <p>UN Firearms Protocol Art. 5 (2) (a) and (b) and Art. 14</p> <p>Requires provisions relating to the illicit trafficking in firearms and those acting as accomplices or who organise, direct, aid, abet, facilitate or counsel the commission of such offences.</p> <p>Requires adequate legislation regulating the activities of those who engage in small arms and light weapons brokering.</p>		

Brokering: Offences/penalties

Analytical category	International and regional agreements	Current national legislative controls	Conformity
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Manufacture**Licensing**

Analytical category	International and regional agreements	Current national legislative controls	Conformity
<p>Description of licensing process:</p> <ul style="list-style-type: none"> ■ competency testing of manufacturers? ■ duration of licences? ■ offence to withhold information? ■ specifications of licence – information to be included on licence? ■ distinction made between small arm and ammunition manufacturing? ■ limits on quantities produced? ■ restrictions on types of arms/ammunition produced? 	<p>Co-ordinated Agenda for Action Art. 3.1, 3.2.2, 3.2.3 and Implementation Plan Art. 3.1, 3.2.2, 3.2.3</p> <p>Require minimum standards to govern and regulations regarding the manufacture of small arms and light weapons.</p> <p>Protocol for the GLR and HoA Art. 1</p> <p><i>Definitions</i> “illicit manufacturing” shall mean the manufacturing or assembly of small arms and light weapons: (b) without a licence or authorisation from a competent authority of the State Party where the manufacture or assembly takes place; or</p> <p>Art. 3 (a) (ii) and (c) (iv)</p> <p>Require establishing as a criminal offence illicit manufacturing of small arms and light weapons and establishing controls over the manufacturing of small arms and light weapons.</p> <p>Bamako Declaration Art. 3 A</p> <p>(iii) Recommends establishing as a criminal offence the illicit manufacturing of small arms and light weapons.</p> <p>UN Firearms Protocol Art. 3</p> <p>(d) “Illicit manufacturing” shall mean the manufacturing or assembly of firearms, their parts and components or ammunition:</p> <p>Art. 5 (1) (a)</p> <p>Requires state parties to adopt legislation making the illicit manufacturing of firearms and ammunition a criminal offence.</p> <p>UN Programme of Action II Art. 2</p> <p>Requires establishing adequate laws, regulations and administrative procedures to exercise effective control over the production of small arms</p> <p>Art. 3</p> <p>Recommends establishing as a criminal offence the illegal manufacture of small arms and light weapons.</p>	<p>Firearms Act, 1991 Part II Art. 9</p> <p>(1) No person shall manufacture any firearm or ammunition save on behalf of the Government and at a place established or designated for the purpose by, and in accordance with instructions to be issued by, the Minister.</p> <p>(2) In this section, “manufacture”, in relation to firearms or ammunition, includes the filling refilling and other processing of ammunition, but does not include the repair of firearms or ammunition, or the conversion into a firearm of anything which has the appearance of a firearm but is so constructed as to be incapable of discharging any missile through the barrel thereof or the alteration, or substitution or replacement of any component part of a firearm.</p>	<p>The national legislation conforms in part to the regional and international agreements. Provisions exist in some areas but a number of gaps are evident.</p> <p>Provisions exist regarding the manufacture of small arms but the legislation does not state that licences are required.</p>

Manufacture: Marking

Analytical category	International and regional agreements	Current national legislative controls	Conformity
What conditions pertain?	<p>Protocol for the GLR and HoA Art. 1</p> <p><i>Definitions</i></p> <p>“illicit manufacturing” shall mean the manufacturing or assembly of small arms and light weapons:</p> <p>(c) without marking the small arms and light weapons at the time of manufacture, in accordance with Article 7 of this Protocol.</p> <p>Art. 3 (c) (vi)</p> <p>Requires the standardized marking and identification of small arms and light weapons at the time of manufacture.</p> <p>Art. 7 (a)</p> <p>Requires the marking of each small arm and light weapon at the time of manufacture, with a unique marking providing the name of the manufacturer, the country of place of manufacture and the serial number. The marking should be on the barrel, frame and, where applicable, the slide.</p> <p>Bamako Declaration Art. 3 A (iv)</p> <p>Recommends establishing at the national level the responsible management of licit arms.</p> <p>Protocol for the GLR and HoA Art. 7 (a), UN Firearms Protocol Art. 8 and UN Programme of Action Section II Art. 7</p> <p>The agreements require specific provisions for a unique number to be marked on the barrel, frame or slide at the time of manufacture or import. Such information must permit identification of country of manufacture and manufacturer.</p>	<p>Firearms Act, 1991 Part II Art. 8</p> <p>(1) Notwithstanding anything contained in any of the foregoing sections of this Act, a licensing officer may refuse to grant, renew or vary a firearm certificate, or to grant a permit under subsection (12) of section 7, unless and until any firearm to which the firearm certificate or permit will, if granted, renewed or varied, relate is produced to him for his inspection and for marking, if necessary in accordance with the requirements of subsection (2) of this section.</p> <p>(2) No firearm certificate, and no permit under subsection (12) of section 7, shall be granted, or, as the case may be, varied or renewed, in respect of a firearm unless the firearm bears a mark or number of identification or is first marked with such a mark or number by, or under and in accordance with the directions of, the licensing officer.</p>	<p>The national legislation conforms in part to the regional and international agreements. Provisions exist in some areas but a number of gaps are evident.</p> <p>Small arms licences may be refused in relation to arms which do not bear markings.</p> <p>However, the legislation does not state that small arms must be marked at the time of manufacture and nor does it give details of the information that the markings should contain.</p>

Manufacture: Record keeping

Analytical category	International and regional agreements	Current national legislative controls	Conformity
What records should be kept? What records should be submitted to authorities, and when?	<p>Protocol for the GLR and HoA Art. 7 (d)</p> <p>Requires the maintenance, for not less than ten years, of information in relation to small arms and light weapons that is necessary to trace and identify those small arms and light weapons which are illicitly manufactured and to prevent and detect such activities.</p> <p>UN Programme of Action Section II Art. 9</p> <p>Requires ensuring that accurate records are kept for as long as possible on the manufacture of small arms and light weapons. Records should be maintained and organised to ensure accurate and prompt retrieval of information.</p>		<p>The national legislation does not conform to the regional and international agreements.</p>

Manufacture: Premises

Analytical category	International and regional agreements	Current national legislative controls	Conformity
<p>Registration of premises?</p> <p>Conditions of storage?</p> <p>Restrictions on type of premises and location?</p>	<p>UN Firearms Protocol Art. 11</p> <p>Requires state parties to take appropriate measures to ensure the security of firearms, their parts and components and ammunition to prevent theft, loss and diversion.</p> <p>Protocol for the GLR and HoA Art. 3 (c) (viii)</p> <p>Requires provisions for effective control of small arms and light weapons including storage.</p>	<p>Firearms Act, 1991 Part II Art. 9</p> <p>(1) No person shall manufacture any firearm or ammunition save on behalf of the Government and at a place established or designated for the purpose by, and in accordance with instructions to be issued by, the Minister.</p>	<p>The national legislation broadly conforms to the regional and international agreements but falls short in one key area.</p> <p>Arms should only be manufactured in premises designated for that purpose by the Government.</p> <p>However, there are no details on standards that these premises must meet to ensure the safe storage and security of small arms.</p>

Manufacture: Restrictions on sale/transfer

Analytical category	International and regional agreements	Current national legislative controls	Conformity
<p>To whom can manufacturer transfer arms? What arms can manufacturer transfer? Conditions to be met in transferring arms? What documentation and reporting of transfers is required?</p>	<p>Bamako Declaration Art. 3 A. (vii)</p> <p>Requires that states take appropriate measures to control arms transfers by manufacturers.</p>		<p>The national legislation does not conform to the Bamako Declaration.</p> <p>There are no specific restrictions on the sale or transfer of arms by manufacturers.</p>

Manufacture: Quality control/standards

Analytical category	International and regional agreements	Current national legislative controls	Conformity
<p>Conditions relating to quality of arms/ammunition produced</p>			

Manufacture: Gunsmiths

Analytical category	International and regional agreements	Current national legislative controls	Conformity
<p>Conditions/controls relating to repair and modification</p>		<p>Firearms Act, 1991 Part II Art. 21</p> <p>(1) No person other than a registered firearms dealer shall convert into a firearm anything which, though having the appearance of being a firearm is so constructed as to be incapable of discharging any missile through the barrel thereof.</p> <p>(2) Any person who contravenes the provisions of this section shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings or to both.</p> <p>Art. 16</p> <p>(3) No person shall undertake the repair, test or proof of a firearm or ammunition for any other person in Kenya other than a registered firearms dealer as such, unless that other person produces or causes to be produced a firearm certificate authorizing him to have possession of the firearm or ammunition, or shows that he is by virtue of this Act entitled to have possession of the firearm or ammunition without holding such a certificate.</p>	

Manufacture: Offences/penalties

Analytical category	International and regional agreements	Current national legislative controls	Conformity
	<p>UN Firearms Protocol Art. 5 (2) (a) and (b)</p> <p>Stipulates including provisions relating to the illicit manufacturing of firearms and for those acting as accomplices or who organise, direct, aid, abet, facilitate or counsel the commission of such offences.</p> <p>Protocol for the GLR and HoA Art. 1</p> <p><i>Definitions</i></p> <p>"illicit manufacturing" shall mean the manufacturing or assembly of small arms and light weapons:</p> <p>(a) from parts and components illicitly trafficked;</p> <p>(b) without a licence or authorisation from a competent authority of the State Party where the manufacture or assembly takes place; or</p> <p>(c) without marking the small arms and light weapons at the time of manufacture, in accordance with Article 7 of this Protocol.</p> <p>Art. 3 (a) (ii)</p> <p>Requires establishing as a criminal offence illicit manufacturing of small arms and light weapons.</p>	<p>Firearms Act, 1991 Part II Art. 9</p> <p>(3) If any person contravenes any of the provisions of subsection (1), he shall be guilty of an offence and liable to imprisonment for a term not exceeding five years or to a fine not exceeding ten thousand shillings or to both.</p> <p>Art. 16</p> <p>(4) If any person –</p> <p>(a) contravenes any of the provisions of this section; or</p> <p>(b) with a view to purchasing or acquiring, or procuring the repair, test or proof of, a firearm or ammunition produces a false firearm certificate or a firearm certificate in which any false entry has been made or personates a person to whom a firearm certificate has been granted, or makes any false statement, he shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings or to both.</p> <p>Art. 17</p> <p>(4) If any person –</p> <p>(a) fails to comply with any of the provisions of this section; or</p> <p>(b) knowingly makes any false entry in a register required to be kept under this section; or</p> <p>(c) knowingly furnishes any false particular of identification of himself or any other person,</p> <p>he shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings or to both.</p> <p>Art. 21</p> <p>(2) Any person who contravenes the provisions of this section shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings or to both.</p>	<p>The national legislation broadly conforms to the regional and international agreements but falls short in one key area.</p> <p>It is an offence to manufacture arms or ammunition without government authorisation.</p> <p>However, the legislation does not stipulate as specific offences the organising, aiding, abetting, facilitating, counselling or commissioning of offences.</p>

Trade

Licensing

Analytical category	International and regional agreements	Current national legislative controls	Conformity
<p>Description of licensing process:</p> <ul style="list-style-type: none"> ■ competency testing of those licensed to trade? ■ duration of licences? ■ offence to withhold information? ■ specifications of licence – information to be included on licence? ■ limits on quantities traded? 	<p>Nairobi Declaration Art. iv</p> <p>Urges states to monitor and effectively control all transactions relating to small arms and light weapons to licensed entities.</p> <p>Co-ordinated Agenda for Action Art. 3.1, 3.2.2 and Implementation Plan Art 3.1, 3.2.3</p> <p>Promote minimum standards and regulations for the governing and control of the transfer of small arms and light weapons.</p> <p>Co-ordinated Agenda for Action 3.2.3</p> <p>Requires regulations for the effective control of, traders of small arms and light weapons.</p> <p>Protocol for the GLR and HoA Art. 3 (a) (i)</p> <p>Requires establishing as a criminal offence the illicit trafficking in small arms and light weapons.</p> <p>(c) (v) Requires minimum standards regarding the control and transfer of small arms and light weapons.</p>	<p>Firearms Act, 1991 Part II Art. 12</p> <p>(1) Subject to, this section, no person shall, by way of trade or business –</p> <p>(a) sell, transfer, repair, test or prove; or</p> <p>(b) expose for sale or transfer, or have in his possession for sale, transfer, repair, test or proof, any firearm or ammunition, unless he is registered under this Act as a firearms dealer:</p> <p>Provided that an auctioneer may sell by auction, and have in his possession for sale by auction, a firearm or ammunition without being registered if he has obtained from a licensing officer a permit for that purpose in the prescribed form, and complies with the terms of the permit.</p> <p>Art. 23</p> <p>(1) Any person aggrieved by a refusal of a licensing officer to grant him a firearm certificate under section 5 or to vary or renew a firearm certificate, or by the revocation of a firearm certificate, or by a refusal of a licensing officer to grant him a permit under subsection (12) of section 7, or by the revocation of such a permit, or by a refusal of a licensing officer to grant him a permit under subsection (13) of section 7 or to renew such a permit, or by the revocation of such a permit, or by the, refusal of a licensing officer to register him as a</p>	<p>The national legislation fully conforms to the regional and international agreements.</p> <p>Trading in arms without a dealer's licence is prohibited and the legislation details the procedure by which to gain such a licence.</p>

Trade: Licensing *continued*

Analytical category

International and regional agreements

Current national legislative controls

Conformity

Bamako Declaration Art. 3 A (vii)

Recommends that Member States should take appropriate measures to control arms transfers by traders.

UN Programme of Action II Art. 3

Recommends establishing as a criminal offence the illegal trade in small arms and light weapons.

firearms dealer, or by the removal of his name from the register of firearms dealers by a licensing officer, or by the refusal of a licensing officer to enter a place of business in the register of firearms dealers under section 15 or by the removal of any such place of business from the register, may appeal to the Minister, whose decision shall be final.

(2) An appeal under this section shall be lodged within fourteen days after the date on which the appellant first received notice, whether written or oral, of the decision by which he is aggrieved.

(3) On an appeal under this section, the Minister may either dismiss the appeal or give such directions as he may think fit to the licensing officer from whose decision the appeal has been lodged, as respects the firearm certificate, permit or register which is the subject of the appeal.

Art. 13

(1) For the purposes of this Act, the chief licensing officer shall keep in the prescribed form a register of firearms dealers in which, subject as hereinafter provided, he shall cause to be entered the name of every person who applies to be registered as a firearms dealer and furnishes the prescribed particulars:

Provided that –

(i) the licensing officer shall not register an applicant who is prohibited from being registered by order of a court made under section 19; and

(ii) the licensing officer may refuse to register an applicant if he is satisfied that the applicant cannot be permitted to carry on business as a firearms dealer without danger to the public safety or to the peace.

(2) On the registration of an applicant as a firearms dealer there shall be payable such fee as may be prescribed.

(3) If the licensing officer, after giving reasonable notice to any person whose name is on the register, is satisfied that that person –

(a) is no longer carrying on business as a firearms dealer; or

(b) cannot be permitted to continue to carry on business as a firearms dealer without danger to the public safety or to the peace, he shall cause the name of that person to be removed from the register.

(4) The licensing officer shall also cause the name of a person to be removed from the register if that person so desires.

Art. 14

(1) The licensing officer shall grant or cause to be granted to any person who is registered as a firearms dealer under section 13 a certificate of registration.

(2) On or before the first day of January in each year, every person for the time being registered as a firearms dealer shall –

(a) surrender to the licensing officer his certificate of registration; and

(b) apply in the prescribed form for a new certificate of registration; and

(c) pay the fee prescribed,

and thereupon the licensing officer shall, subject to the provisions of subsection (3) of section 13, grant him a new certificate of registration.

(3) If any person to whom this section applies fails to comply with all or any of the requirements of subsection (2), the licensing officer shall by notice in writing require him to comply therewith, and, if he fails to do so within twenty-one days from the date of the notice, or within such further time as the licensing officer may in special circumstances allow, shall cause his name to be removed from the register.

(4) In any case where a licensing officer causes the name of a firearms dealer to be removed from the register, he shall by notice in writing require the dealer to surrender his certificate of registration, and if the

Trade: Licensing *continued*

Analytical category	International and regional agreements	Current national legislative controls	Conformity
		<p>dealer fails to do so within twenty-one days from the date of the notice he shall be guilty of an offence and liable to a fine not exceeding one thousand shillings:</p> <p>Provided that –</p> <p>(i) where an appeal is brought against the removal, this subsection shall not apply to that removal unless the appeal is abandoned or dismissed, and shall in that case have effect as if for the reference to the date of the notice there were substituted a reference to the date on which the appeal was abandoned or dismissed;</p> <p>(ii) until the dealer surrenders his certificate of registration in accordance with the provisions of this subsection, or if he fails so to surrender his certificate, until the expiration of the period of twenty-one days, the dealer shall be deemed to be registered as a firearms dealer for the purpose only of disposing of the stock in hand of his business.</p>	

Trade: Marking

Analytical category	International and regional agreements	Current national legislative controls	Conformity
What conditions pertain?			

Trade: Record keeping

Analytical category	International and regional agreements	Current national legislative controls	Conformity
<p>What records should be kept?</p> <p>What records should be submitted to authorities?</p>	<p>Protocol for the GLR and HoA Art. 7 (d) and UN Firearms Protocol Art. 7</p> <p>Require the maintenance of records for not less than ten years of firearms, ammunition and components that are necessary to trace illicitly trafficked arms.</p>	<p>Firearms Act, 1991 Part II Art. 17</p> <p>(1) Every person who by way of trade or business deals in, sells or transfers firearms or ammunition shall provide and keep a register of transactions, and shall enter or cause to be entered therein such particulars as may be prescribed.</p> <p>(2) Every such entry shall be made within twenty-four hours after the transaction to which it relates took place, and, in the case of a sale or transfer, every such person shall at the time of the transaction require the purchaser or transferee to furnish particulars sufficient for identification, and shall immediately enter those particulars in the register.</p> <p>(3) Any person to whom this section applies shall, on demand, allow a police officer or licensing officer to enter and inspect all stock in hand, and shall on request by the police officer or licensing officer produce for inspection the register so required to be kept.</p> <p>(5) Nothing in this section shall apply to the sale of firearms or ammunition by auction in accordance with the terms of a permit issued under the proviso to subsection (1) of section 12.</p>	<p>The national legislation broadly conforms to the regional and international agreements but falls short in one key area.</p> <p>The national legislation requires the maintenance of records regarding the trade in small arms and ammunition.</p> <p>However, the national legislation does not state that records must be maintained for not less than ten years.</p>

Trade: Premises

Analytical category	International and regional agreements	Current national legislative controls	Conformity
<p>Registration of premises?</p> <p>Conditions of storage?</p> <p>Restrictions on type of premises and location?</p>	<p>Protocol for the GLR and HoA Art. 3 (c) (viii)</p> <p>Requires provisions for effective control of small arms and light weapons including storage.</p>	<p>Firearms Act, 1991 Part II Art. 15</p> <p>(1) The prescribed particulars which a person applying to be registered as a firearms dealer under section 13 is required to furnish shall include particulars of every place of business at which he proposes to carry on business as a firearms dealer, and the licensing officer shall, subject as hereinafter provided, enter in the register every such place of business.</p> <p>(2) Every person registered as a firearms dealer who proposes to carry on business as such at any place of business which is not entered in the register shall notify the licensing officer and furnish him with such particulars as may be prescribed, and the licensing officer shall, subject as hereinafter provided, enter that place of business in the register.</p>	<p>The national legislation fully conforms to the Protocol for the GLR and HoA.</p> <p>Premises used for the trading of arms must be registered as such and the national legislation specifies standards which these premises must satisfy.</p>

Trade: Premises *continued*

Analytical category	International and regional agreements	Current national legislative controls	Conformity
		<p>(3) A licensing officer, if he is satisfied that any place of business notified to him by any person under subsection (1) or subsection (2), or any place entered as the place of business of any person in the register of firearm dealers, is a place at which that person cannot be permitted to carry on business as a firearms dealer without danger to the public safety or to the peace, may refuse to enter that place of business in the register or remove it from the register, as the case may be.</p> <p>Art. 18</p> <p>(1) Every registered firearms dealer shall maintain at each of his places of business a suitable enclosed store for the safe custody of firearms and ammunition in his possession.</p> <p>(2) Each store shall be, and be maintained constantly, secure to the satisfaction of the licensing officer, and shall have only one means of entry thereto, which shall be provided with two locks, of which master-keys shall be delivered to, and retained by, the licensing officer.</p>	

Trade: Restrictions on sale/transfer

Analytical category	International and regional agreements	Current national legislative controls	Conformity
<p>To whom can a licensed trader transfer arms?</p> <p>What arms can a licensed trader transfer?</p> <p>Conditions to be met in transferring arms?</p> <p>What documentation and reporting of transfers is required?</p>	<p>Bamako Declaration Art. 3 A. (vii)</p> <p>Requires that states take appropriate measures to control arms transfers by traders.</p>	<p>Firearms Act, 1991</p> <p>Part III</p> <p>Art. 26</p> <p>(2) Any person who unlawfully supplies by sale, gift, loan or otherwise to any public officer any Government or other firearm or any ammunition shall be guilty of an offence and liable to imprisonment for a term not exceeding ten years and shall in addition, in the case of a public officer be automatically dismissed from the public service and, subject to section 113 of the Constitution, forfeit all rights to any pension, gratuity or other payment which may at the date of his conviction have accrued due to him.</p> <p>Art. 29</p> <p>(1) Subject to subsection (4), no person shall remove or transport, or cause to be removed or transported any firearm or ammunition from one place to another in Kenya, whether for the purpose of export or otherwise, save under and in accordance with a removal permit issued by a licensing officer.</p> <p>(3) No removal permit shall be issued under this section authorizing the removal or transport of firearms or ammunition by road from one area to another, save with the general or specific authority of the Commissioner of Police.</p> <p>(4) Nothing in this section shall apply to –</p> <p>(a) a person carrying on the business of an approved carrier, or in approved servant of such a person in respect of the removal or transportation of any firearms or ammunition in the ordinary course of that business;</p> <p>(b) the holder of a firearm certificate, or of a permit under subsection (11) of section 7 in respect of the carriage with him and in accordance with the terms of the firearm certificate or permit of any firearm or ammunition to which the firearm certificate or permit relates;</p> <p>(c) any person, not being a registered firearms dealer in respect of the carriage with him of any firearm or ammunition which he is entitled by virtue of the provisions of this Act to have in his possession without holding a firearm certificate; or</p> <p>(d) the removal or transport by a registered firearms dealer of any firearm or ammunition in his possession in the ordinary course of his business as such from one of his places of business to another, or from or to his own place of business to or from the place of business of another registered firearms dealer.</p> <p>(5) A permit issued under this section may at any time be revoked by the licensing officer who issued it, and the licensing officer shall not be compelled to assign any reason for revocation.</p> <p>(6) In this section, “firearm” and “ammunition” mean respectively a firearm and ammunition to which Part 11 applies.</p>	<p>The national legislation conforms in part to the Bamako Declaration. Provisions exist in some areas but a number of gaps are evident.</p> <p>A licence is required for the removal and transport of small arms.</p> <p>However, there are no provisions relating specifically to the transfer of arms, whether by traders or otherwise.</p> <p>Further, small arms dealers are partially exempt from those provisions relating to the removal and transport of arms.</p>

Trade: Quality control/standards

Analytical category	International and regional agreements	Current national legislative controls	Conformity
Conditions relating to quality of arms/ammunition traded			

Trade: Pawning/pledging restrictions

Analytical category	International and regional agreements	Current national legislative controls	Conformity
	<p>Protocol for the GLR and HoA Art. 3 (c) (x)</p> <p>Requires provisions prohibiting the pawning and pledging of small arms and light weapons.</p>		The national legislation does not conform to the Protocol for the GLR and HoA.

Trade: Transfer and possession restrictions

Analytical category	International and regional agreements	Current national legislative controls	Conformity
<p>Restrictions/special conditions for traders for business purposes?</p> <ul style="list-style-type: none"> ■ Eg possessing/transferring arms without a licence in the course of business 		<p>Firearms Act, 1991 Part II Art. 7</p> <p>(3) A person carrying on the business of a firearms dealer and registered as such under this Act, or an approved servant of that person, may, without holding a firearm certificate, purchase acquire or have in his possession a firearm or ammunition in the ordinary course of that business.</p>	

Trade: Offences/penalties

Analytical category	International and regional agreements	Current national legislative controls	Conformity
	<p>UN Firearms Protocol Art. 5 (2) (a) and (b)</p> <p>Requires provisions relating to the illicit trafficking in firearms and for those acting as accomplices or who organise, direct, aid, abet, facilitate or counsel the commission of such offences.</p> <p>Protocol for the GLR and HoA Art. 3 (a) (i)</p> <p>Requires the establishment as a criminal offence the illicit trafficking of small arms and light weapons.</p>	<p>Firearms Act, 1991 Part II Art. 12</p> <p>(2) If any person contravenes any of the provisions of this section, or makes any statement which he knows to be false for the purpose of procuring, whether for himself or for any other person, the grant of a permit under this section, he shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings or to both.</p> <p>Art. 13</p> <p>(5) If any person, for the purpose of procuring the registration of himself or any other person as a firearms dealer, makes any statement which he knows to be false, he shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings or to both.</p> <p>Art. 14</p> <p>(4) In any case where a licensing officer causes the name of a firearms dealer to be removed from the register, he shall by notice in writing require the dealer to surrender his certificate of registration, and if the dealer fails to do so within twenty-one days from the date of the notice he shall be guilty of an offence and liable to a fine not exceeding one thousand shillings: Provided that -</p> <p>(i) where an appeal is brought against the removal, this subsection shall not apply to that removal unless the appeal is abandoned or dismissed, and shall in that case have effect as if for the reference to the date of the notice there were substituted a reference to the date on which the appeal was abandoned or dismissed;</p> <p>(ii) until the dealer surrenders his certificate of registration in accordance with the provisions of this subsection, or, if he fails so to surrender his certificate, until the expiration of the period of twenty-one days, the dealer shall be deemed to be registered as a firearms dealer for the purpose only of disposing of the stock in hand of his business.</p>	<p>The national legislation fully conforms to the regional and international agreements.</p> <p>The national legislation stipulates the following as offences: trading in arms without a licence; providing false information in order to gain a licence; not relinquishing a licence on request; using unlicensed premises; failing to keep a register of transactions.</p>

Trade: Offences/penalties *continued*

Analytical category	International and regional agreements	Current national legislative controls	Conformity
		<p>Art. 15</p> <p>(4) If –</p> <p>(a) any person, being a registered firearms dealer, has a place of business which is not entered on the register and carries on business as a firearms dealer at that place; or</p> <p>(b) any person makes any statement which he knows to be false for the purpose of procuring, whether for himself or any other person, the entry of any place of business in the register of firearms dealers, he shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings or to both.</p> <p>Art. 17</p> <p>(4) If any person –</p> <p>(a) fails to comply with any of the provisions of this section; or</p> <p>(b) knowingly makes any false entry in a register required to be kept under this section; or</p> <p>(c) knowingly furnishes any false particular of identification of himself or any other person, he shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings or to both.</p> <p>Art. 18</p> <p>(4) Any person who fails to comply with any of the provisions of this section shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding five thousand shillings or to both.</p> <p>Art. 19</p> <p>Where a registered firearms dealer is convicted of an offence under this Act. or under any law for the time being in force in Kenya relating to customs in respect of the import or export of firearms or ammunition, the court may order –</p> <p>(a) that the name of the registered firearms dealer be removed from the register; and</p> <p>(b) that neither the dealer nor any person who acquires the business of that dealer, nor any person who took part in the management of the business and was knowingly a party to the offence, shall be registered as a firearms dealer; and</p> <p>(c) that any person who, after the date of the order, knowingly employs in the management or conduct of his business the dealer convicted of the offence, or any person who was knowingly a party to the offence, shall not be registered as a firearms dealer or, if so registered, shall be liable to be removed from the register; and</p> <p>(d) that any stock in hand of the business shall be disposed of by sale or otherwise in accordance with such directions as may be contained in the order:</p> <p>Provided that a person aggrieved by an order made under this section may appeal against the order in the same manner as against the conviction, and the court may suspend the operation of the order pending the appeal.</p> <p>Part III</p> <p>Art. 26</p> <p>(2) Any person who unlawfully supplies by sale, gift, loan or otherwise to any public officer any Government or other firearm or any ammunition shall be guilty of an offence and liable to imprisonment for a term not exceeding ten years and shall in addition, in the case of a public officer be automatically dismissed from the public service and, subject to section 113 of the Constitution, forfeit all rights to any pension, gratuity or other payment which may at the date of his conviction have accrued due to him.</p> <p>(5) A sentence of imprisonment in respect of an offence under this section shall be served after the conclusion of any other term of imprisonment passed at the same time for any other offence.</p>	

Trade: Offences/penalties *continued*

Analytical category	International and regional agreements	Current national legislative controls	Conformity
		<p>Art. 29</p> <p>(2) Any person who contravenes any of the provisions of subsection (1), or who makes any statement which he knows to be false for the purpose of procuring for himself or any other person the issue of a removal permit under this section, shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings or to both.</p>	

Seizure, disposal and enforcement**Seizure, confiscation, forfeiture**

Analytical category	International and regional agreements	Current national legislative controls	Conformity
Description of controls/provisions	<p>Co-ordinated Agenda for Action Art. 3.2.4, Implementation Plan Art. 3 and Protocol for the GLR and HoA Art. 3 (c) (vii)</p> <p>Require provisions for the seizure, confiscation and forfeiture to the State of all small arms manufactured or conveyed in transit and transport without or in contravention of licences, permits or written authority.</p> <p>Protocol for the GLR and HoA Art. 9 (a) and UN Firearms Protocol Art. 6 (1)</p> <p>Require measures to enable the confiscation of small arms and light weapons that have been illicitly manufactured or trafficked.</p>	<p>Firearms Act, 1991</p> <p>Part II</p> <p>Art. 10</p> <p>(1) Any police officer, customs officer or licensing officer may demand from any person whom he believes to be in possession of a firearm or ammunition the production of any firearm certificate or of any permit granted under sub-section (12) or subsection (13) of section 7 at or before such time, at such place and to such police officer, customs officer or licensing officer as he may specify.</p> <p>(2) A demand under this section may be made orally or in writing.</p> <p>(3) If any person upon whom a demand is so made fails to produce any certificate or permit granted to him, or to allow the officer to read it or to show that he is entitled by virtue of this Act to have the firearm or ammunition in his possession without holding a firearm certificate or permit, the officer may seize and detain the firearm or ammunition, and may require that person to declare to him immediately his name and address.</p> <p>Police Act, 1970 (rev 1988)</p> <p>Art. 17</p> <p>(1) It shall be the duty of a police officer to take charge of unclaimed property handed to him by any other person or found by such police officer to be unclaimed, and to furnish an inventory or description thereof to a magistrate having jurisdiction thereof to a magistrate having jurisdiction in the area in which the property is found by, or handed to, him, and shall cause a notice to be posted in a conspicuous place in his court and at such police stations as he considers necessary, describing such property and requiring any person who may have claim thereto to appear and establish such claim within six months from the date of the notice:</p> <p>Provided that –</p> <p>(ii) if the property is a firearm or ammunition the magistrate may order that it shall be disposed of in such manner as the Commissioner may direct.</p> <p>(2) If no owner establishes his claim to the property within six months from the date of such notice, it may be sold in such manner as the magistrate may direct.</p> <p>Art. 47</p> <p>(1) The Minister may, by notice in the Gazette, and in such other manner (if any) that he may direct, declare that any area of Kenya is in a disturbed or dangerous state, or that, by reason of the conduct of the inhabitants of such area or any class or section of such inhabitants, it is expedient to increase the number of police officers in such area.</p> <p>(2) Upon publication of a notice under subsection (1) the Commissioner may –</p> <p>(a) by notice in the Gazette or in such manner as he may consider necessary to bring it to the notice of the persons affected thereby prohibit the possession of arms in the area and order the surrender of all or such arms, by all or such of the inhabitants of the area, as may be specified;</p>	<p>The national legislation broadly conforms to the regional and international agreements but falls short in a few key areas.</p> <p>Arms can be seized by the state from individuals who do not have a licence to possess them.</p> <p>However, there are no provisions providing explicitly for the seizure of manufactured arms.</p>

Seizure, disposal and enforcement: *Seizure, confiscation, forfeiture* continued

Analytical category	International and regional agreements	Current national legislative controls	Conformity
		<p>Provided that any order made under paragraph (a) requiring the surrender of arms shall specify the times and places at which, and the persons to whom, such surrender shall be made, and shall provide for the safe custody of all arms surrendered, and for their return upon revocation or termination of the notice under subsection (1).</p> <p>(3) If any officer, in any area in which all or any arms have been ordered to be surrendered under paragraph (a) of subsection (2), has reasonable cause to believe that the delay which would occur in obtaining a search warrant would, or would tend to, defeat the purposes of this section, he may, without warrant, enter and search any land, premises or place in or upon which he has reason to believe any arms ordered to be surrendered may be found, and may seize any such arms there found:</p> <p>Provided that a police officer entering any land, premises or place under this subsection shall, if required to do so by the occupier thereof, produce to the occupier his certificate of appointment.</p> <p>(4) Any person who fails to comply with an order made by the Commissioner under subsection (2), or who obstructs any police officer in the exercise of his powers under subsection (3), shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding ten thousand shillings or to both, and may be arrested by a police officer without warrant.</p>	

Seizure, disposal and enforcement: *Disposal/destruction*

Analytical category	International and regional agreements	Current national legislative controls	Conformity
Description of controls/provisions	<p>Protocol for the GLR and HoA Art. 8</p> <p>(a) Requires effective programmes for the collection, safe-storage, destruction and responsible disposal of small arms and light weapons rendered surplus, redundant or obsolete, in accordance with domestic laws.</p> <p>(b) requires that small arms and light weapons rendered surplus, redundant or obsolete through the implementation of a peace process, the re-equipment or re-organisation of armed forces and/or other state bodies are securely stored, destroyed or disposed of in a way that prevents them from entering the illicit market or flowing into regions in conflict or any other destination that is not fully consistent with agreed criteria for restraint.</p> <p>UN Programme of Action Section II Art. 16</p> <p>UN Firearms Protocol Art. 6 (2)</p> <p>Specify the need for provisions to ensure the destruction of confiscated, seized or collected firearms where no other form of disposition or use has been officially sanctioned.</p> <p>Bamako Declaration Art. 3 A (iv)</p> <p>Recommends that Member States should develop and implement programmes for the identification and destruction of surplus, obsolete and seized stocks.</p>	<p>Police Act, 1970 (rev 1988) Art. 17</p> <p>(1) It shall be the duty of a police officer to take charge of unclaimed property handed to him by any other person or found by such police officer to be unclaimed, and to furnish an inventory or description thereof to a magistrate having jurisdiction in the area in which the property is found by, or handed to, him, and shall cause a notice to be posted in a conspicuous place in his court and at such police stations as he considers necessary, describing such property and requiring any person who may have claim thereto to appear and establish such claim within six months from the date of the notice:</p> <p>Provided that –</p> <p>(ii) if the property is a firearm or ammunition the magistrate may order that it shall be disposed of in such manner as the Commissioner may direct.</p> <p>(2) If no owner establishes his claim to the property within six months from the date of such notice, it may be sold in such manner as the magistrate may direct.</p> <p>Police Regulations Art. 65</p> <p>(3) An officer in charge of a firearm store may destroy or cause to be destroyed or dispose of in any manner any ammunition, not being ammunition as defined by regulation 63, or any authorized explosive or explosive as defined in section 2 of the Explosives Act, found in a firearms store and no person shall be entitled to compensation in respect of the destruction or disposal thereof.</p> <p>Art. 66</p> <p>The officer in charge of a firearm store may destroy or cause to be destroyed any ammunition deposited for custody in a firearm store which is, in his opinion, dangerous or imminently likely to become dangerous, and no sum of money or other compensation shall be payable to any person in respect of ammunition so destroyed.</p>	<p>The national legislation conforms in part to the regional and international agreements. Provisions exist in some areas but a number of gaps are evident.</p> <p>Provisions exist for the disposal of unclaimed arms and ammunition and any dangerous or unauthorised ammunition in a small arms store.</p> <p>However, no provisions relating to the destruction or disposal of confiscated, seized, obsolete, redundant or surplus stocks of small arms and ammunition.</p>

Seizure, disposal and enforcement: Deactivation

Analytical category	International and regional agreements	Current national legislative controls	Conformity
Description of controls/provisions	<p>UN Firearms Protocol Art. 9</p> <p>Specifies the need for provisions relating to: deactivated firearms; making it an offence to re-activate deactivated firearms; issuing a certificate of deactivation; and stamping deactivated firearms with stamps to that effect.</p>	<p>UN Firearms Protocol Art. 9</p> <p>Specifies the need for provisions relating to: deactivated firearms; making it an offence to re-activate deactivated firearms; issuing a certificate of deactivation; and stamping deactivated firearms with stamps to that effect.</p>	The national legislation does not conform to the UN Firearms Protocol.

Seizure, disposal and enforcement: Inspection/enforcement

Analytical category	International and regional agreements	Current national legislative controls	Conformity
Description of controls/provisions	<p>Protocol for the GLR and HoA Art. 3 (c) (ix)</p> <p>Requires provisions for the monitoring and auditing of licences.</p>	<p>Firearms Act, 1991 Part II Art. 17</p> <p>(3) Any person to whom this section applies shall, on demand, allow a police officer or licensing officer to enter and inspect all stock in hand, and shall on request by the police officer or licensing officer produce for inspection the register so required to be kept.</p> <p>Police Act, 1970 (rev 1988) Art. 25</p> <p>(1) Any police officer in uniform, and any police officer not in uniform, who, on being required to do so, produces his certificate of appointment, may stop and detain any person whom he –</p> <p>(a) sees doing any act or thing; or</p> <p>(b) sees in possession of any thing; or</p> <p>(c) suspects of doing any act or thing or of being in possession of any thing,</p> <p>for which a licence is required under any written law, and may require such person to produce such licence, and may, when in uniform, stop and search any vehicle which he has reasonable grounds for suspecting is being used in the commission of an offence against any written law.</p> <p>(2) Subject to the provisions of any written law, any person who fails to produce such licence when called upon by a police officer so to do may be arrested without warrant unless he gives his name and address and satisfies the police officer that he will duly answer any summons or other proceedings that may be taken against him.</p>	<p>The national legislation fully conforms to the Protocol for the GLR and HoA.</p> <p>Police and the licensing authorities have the power to inspect small arms stocks, registers and licences.</p>

Seizure, disposal and enforcement: Offences/penalties

Analytical category	International and regional agreements	Current national legislative controls	Conformity
		<p>Firearms Act, 1991 Part II Art. 10</p> <p>(4) If any person upon whom a demand is so made fails, without reasonable cause, to produce any certificate or permit granted to him, or to allow the officer to read it, or refuses so to declare his name and address, or fails to give his true name and address, he shall be guilty of an offence and liable to a fine not exceeding one thousand shillings.</p> <p>Art. 17</p> <p>(4) If any person –</p> <p>(a) fails to comply with any of the provisions of this section; or</p> <p>(b) knowingly makes any false entry in a register required to be kept under this section; or</p> <p>(c) knowingly furnishes any false particular of identification of himself or any other person, he shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings or to both.</p>	

Seizure, disposal and enforcement: *Offences/penalties* continued

Analytical category	International and regional agreements	Current national legislative controls	Conformity
		<p>Police Act, 1970 (rev 1988) Art. 47</p> <p>(4) Any person who fails to comply with an order made by the Commissioner under subsection (2), or who obstructs any police officer in the exercise of this powers under subsection (3), shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding ten thousand shillings or to both, and may be arrested by a police officer without warrant.</p>	

Arms embargoes**Overview**

Analytical category	International and regional agreements	Current national legislative controls	Conformity
Relevant provisions	<p>Co-ordinated Agenda for Action Art. 3.4 and Implementation Plan Art. 3.4</p> <p>Require measures to enforce adherence to international sanctions that prohibit the export of weapons to conflict zones and/or countries.</p> <p>Protocol for the GLR and HoA Art. 3 (b)</p> <p>Requires measures to sanction criminally, civilly or administratively under their national law the violation of arms embargoes mandated by the Security Council of the United Nations and/or regional organisations.</p> <p>Bamako Declaration Art. 3 A (vi) and UN Programme of Action Section II Art. 15</p> <p>Requires provisions to prevent the breaching of UN Security Council arms embargoes.</p>		The national legislation does not conform to the regional and international agreements.

Arms embargoes: *Offences/penalties*

Analytical category	International and regional agreements	Current national legislative controls	Conformity
	<p>Protocol for the GLR and HoA Art. 3 (b)</p> <p>Requires measures to sanction criminally, civilly or administratively under their national law the violation of arms embargoes mandated by the Security Council of the United Nations and/or regional organisations.</p>		The national legislation does not conform to the Protocol for the GLR and HoA.

State-owned small arms**Overview**

Analytical category	International and regional agreements	Current national legislative controls	Conformity
General provisions		<p>Firearms Act, 1991 Part III Art. 26</p> <p>(1) No person, other than a person in the service of the Government acting in his capacity as such and authorized in writing in that behalf by the Minister or a person of a class for the time being authorized in that behalf by the Minister by notice in the Gazette, shall sell, transfer, purchase, acquire or have in his possession –</p>	

State-owned small arms: Overview *continued*

Analytical category	International and regional agreements	Current national legislative controls	Conformity
		<p>(a) any firearm which is so designed or adapted that if pressure is applied to the trigger missiles continue to be discharged until the pressure is removed or until the magazine containing the missiles is empty; or</p> <p>(aa) any prohibited weapon of a type specified in paragraph (b) of the definition of that term contained in section 2; or</p> <p>(b) any weapon of whatever description designed or adapted for the discharge of any noxious liquid, gas or similar thing or of any electrical charge;</p> <p>(c) any ammunition containing, or designed or adapted to contain, any such noxious thing; or</p> <p>(d) any firearm or ammunition specified, or of a class or type specified, by the minister by notice in the Gazette; or</p> <p>(e) any accessory or attachment, of a kind specified by the Minister by notice in the Gazette, which is designed or adapted for use with or as part of a firearm.</p> <p>Police Act, 1970 (rev 1988) Art. 48</p> <p>The Commissioner may at any time, if it appears to him to be expedient in the interests of public order and safety so to do, appoint persons to be special police officers for such period and within such area as he may consider necessary, and every such officer shall during the period of his service as a special police officer be deemed to be a police officer.</p> <p>Police Regulations Art. 37</p> <p>All uniforms, arms, accoutrements and equipment issued to any Reserve police officer shall be used for police purposes only, and every Reserve police officer to whom they are issued shall produce them in good condition, fair wear and tear expected, whenever called upon so to do by a police officer senior to him in rank.</p>	

State-owned small arms: Possession and use by state employees

Analytical category	International and regional agreements	Current national legislative controls	Conformity
Licensing requirements? Special conditions? Controls?	<p>Protocol for the GLR and HoA Art. 3</p> <p>(a) Requires the establishment as criminal offences the</p> <p>(iii) illicit possession and misuse of small arms and light weapons</p>	<p>Firearms Act, 1991 Part II Art. 7</p> <p>(1) The following provisions of this section shall have effect notwithstanding anything in section 4 or section 6</p> <p>(2) A police officer or other public officer may –</p> <p>(a) without a firearm certificate or temporary permit have in his possession and use a Government firearm or Government ammunition, if the firearm or ammunition is issued for the purposes of his duty as such officer except that immediately upon such officer ceasing to be a member of the police force or otherwise in the public service he shall forthwith deliver up any such firearm or ammunition as aforesaid to the proper officer of the Government;</p> <p>(b) with a firearm certificate but without payment of any fee in respect thereof have in his possession and use a firearm or ammunition lawfully purchased or otherwise acquired by him which is used by him for the purposes of his duty as such officer except that immediately upon such officer ceasing to be a member of the police force or otherwise in the public service the exemption from payment of any fee shall cease and the prescribed fee shall forthwith become payable in relation to such firearm or ammunition.</p> <p>Police Act, 1970 (rev 1988) Art. 13</p> <p>(1) Every police officer leaving the Force shall forthwith, on ceasing duty as such, deliver to the police officer in charge of the Force at such person's last station of employment in the Force, or to such person as the Commissioner may appoint for the purpose, all uniforms, arms, accoutrements and equipment supplied to him as public property.</p>	The national legislation fully conforms to the Protocol for the GLR and HoA.

State-owned small arms: Possession and use by state employees *continued*

Analytical category	International and regional agreements	Current national legislative controls	Conformity
		<p>(2) Any person who fails to comply with subsection (1), or who returns such property in a damaged condition, the damage not being attributable to the proper discharge of his duties in the Force, shall be guilty of an offence and liable, whether or not any penalty is otherwise imposed, for the cost of replacing such property, or, as the case may require, for the cost of its repair, and such cost shall be recoverable by the Government by deduction from any moneys due to such person, and shall be a debt due from such person to the Government.</p> <p>Art. 28</p> <p>A police officer may use arms against –</p> <p>(a) any person in lawful custody and charged with or convicted of a felony, when such person is escaping or attempting to escape;</p> <p>(b) any person who rescues or attempts to rescue another from lawful custody;</p> <p>(c) any person who by force prevents or attempts to prevent the lawful arrest of himself or of any other person;</p> <p>Provided that arms shall not be used –</p> <p>(i) as authorized in paragraph (a), unless the officer has reasonable ground to believe that he cannot otherwise prevent the escape, and unless he gives warning to such person that he is about to use arms against him and the warning is unheeded;</p> <p>(ii) as authorized in paragraph (b) or paragraph (c), unless the officer has reasonable ground to believe that he or any other person is in danger of grievous bodily harm or that he cannot otherwise prevent the rescue or, as the case may be, effect the arrest.</p> <p>Art. 39</p> <p>Any inspector or subordinate officer who sells, pawns, loses by neglect, makes away with or willfully or negligently damages any arms, ammunition, accoutrement, uniform or other article of personal issue, or any vehicle or other property committed to his charge belonging to the Government or for which the Government is responsible, may, in addition to or in lieu of any other punishment or penalty, be ordered to make good either partially or wholly the value of such property or the amount of such loss or damage, as the case may be, and the amount of such value or of such loss or damage may be recovered by stoppage from his pay or from any other amount owing to him by the Government.</p> <p>Police Regulations</p> <p>Art. 3</p> <p>Any inspector or subordinate officer who –</p> <p>(19) discharges any weapon without orders or without reasonable or lawful cause; or</p> <p>(21) sells, pawns, loses by neglect, makes away with or willfully or negligently damages, or fails to report any loss or damage to, any arm, ammunition, accoutrement, uniform or other article of personal issue or any vehicle or other property committed to his charge belonging to the Government or for which the Government is responsible;</p> <p>shall be guilty of an offence against discipline.</p>	

State-owned small arms: Record keeping and marking

Analytical category	International and regional agreements	Current national legislative controls	Conformity
	<p>Protocol for the GLR and HoA</p> <p>Art. 6 (a) and (b)</p> <p>Requires the establishment and maintenance of complete national inventories of small arms and light weapons held by security forces and other state bodies and strict national accountability of all small arms and light weapons owned and distributed by the state.</p>		The national legislation does not conform to the regional and international agreements.

State-owned small arms: Record keeping *continued*

Analytical category	International and regional agreements	Current national legislative controls	Conformity
	<p>UN Programme of Action Section II Art. 10</p> <p>Requires provision to ensure responsibility for weapons held and issued by the state and effective measures for tracing such weapons.</p> <p>Protocol for the GLR and HoA Art. 7 (a)</p> <p>Requires all small arms and light weapons in the possession of the state to be marked with a unique mark.</p>		

State-owned small arms: Storage

Analytical category	International and regional agreements	Current national legislative controls	Conformity
Stockpile Management	<p>Protocol for the GLR and HoA Art. 6</p> <p>Stipulates that States Parties must maintain secure storage of state-owned small arms and light weapons.</p> <p>UN Programme of Action Section II Art. 17 and 18</p> <p>Requires controls relating to the management and security of state stocks including:</p> <ul style="list-style-type: none"> ■ Appropriate locations for stockpiles ■ Physical security measures ■ Control of access to stocks ■ Inventory management and accounting control ■ Staff training ■ Security accounting and control of firearms relating to operation units ■ Controls on theft and loss <p>Art. 29</p> <p>Encourage States to promote safe, effective stockpile management and security, in particular physical security measures, for small arms and to implement, regional and subregional mechanisms in this regard.</p> <p>Co-ordinated Agenda for Action Art. 5.2 and 5.3</p> <p>Requires the safe storage of arms in possession of the state and strict accountability and the effective tracing of all weapons owned by the state.</p>		The national legislation does not conform to the regional and international agreements.

State-owned small arms: Import, export, transfer, transit

Analytical category	International and regional agreements	Current national legislative controls	Conformity
Documentation required? Licensing/authorisation?	<p>UN Firearms Protocol Art. 8 (c)</p> <p>Requires provision for the unique marking of firearms when transferred from government stocks to permanent civilian use.</p>		The national legislation does not conform to the UN Firearms Protocol.

State-owned small arms: Disposal/destruction

Analytical category	International and regional agreements	Current national legislative controls	Conformity
General conditions Provisions relating to surplus stocks of arms and ammunition?	<p>Protocol for the GLR and HoA Art. 8</p> <p>(a) Requires effective programmes for the collection, safe-storage, destruction and responsible disposal of small arms and light weapons</p>		The national legislation does not conform to the regional and international agreements.

State-owned small arms: Disposal/destruction *continued*

Analytical category	International and regional agreements	Current national legislative controls	Conformity
	<p>rendered surplus, redundant or obsolete, in accordance with domestic laws.</p> <p>(b) requires that small arms and light weapons rendered surplus, redundant or obsolete through the implementation of a peace process, the re-equipment or re-organisation of armed forces and/ or other state bodies are securely stored, destroyed or disposed of in a way that prevents them from entering the illicit market or flowing into regions in conflict or any other destination that is not fully consistent with agreed criteria for restraint.</p> <p>UN Programme of Action Section II Art. 16 and 18</p> <p>Requires that all confiscated, seized or collected SALW are destroyed subject to any legal constraints.</p> <p>Stipulates the need for provisions to regularly review state held stocks, to identify surpluses and have procedures in place for the responsible disposal, preferably through destruction of such surpluses.</p>		

State-owned small arms: Offences/penalties

Analytical category	International and regional agreements	Current national legislative controls	Conformity
		<p>Firearms Act, 1991 Part III Art. 26</p> <p>(2) Any person who does any of the things prohibited by subsection (1) shall be guilty of an offence and -</p> <p>(a) if the firearm concerned fall within any of the categories special in paragraphs (a), (aa) or (b) of subsection (1) be liable to imprisonment for a term not exceeding ten years; or</p> <p>(b) if the firearm or ammunition (as the case may be) falls within any of the remaining categories specified in paragraphs (c), (d) or (e) of subsection (1) be liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding ten years or to both.</p> <p>(3) An authority given under this section shall be subject to such conditions as may be specified therein, and, if any person authorized thereby fails to comply with any such condition, he shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings or to both.</p> <p>(4) The Minister may at any time revoke any individual authority given by him to any person under this section, by notice in writing requiring that person to deliver up the authority to such person as may be specified in the notice within fourteen days from the date of the notice. and if that person fails to comply with that requirement. he shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand shillings, or to both.</p> <p>Part III Art. 26</p> <p>(1) Any public officer who –</p> <p>(a) uses any Government firearm which is in his possession or under his control for any unlawful purposes; or</p> <p>(b) disposes of any Government firearm or ammunition to any person who is not under his immediate command without lawful authority; or</p>	

State-owned small arms: *Offences/penalties* continued

Analytical category	International and regional agreements	Current national legislative controls	Conformity
		<p>(c) receives otherwise than in the course of and for his lawful duty from any person any ammunition; or</p> <p>(d) fails to account fully for all ammunition, issued to and used by him, shall be guilty of an offence and liable to imprisonment for a term not exceeding ten years and shall, in addition, be automatically dismissed from the public service and, subject to section 113 of the Constitution, forfeit all rights to any pension, gratuity or other payment which may at the date of his conviction have accrued due to him.</p> <p>(2) Any person who unlawfully supplies by sale, gift, loan or otherwise to any public officer any Government or other firearm or any ammunition shall be guilty of an offence and liable to imprisonment for a term not exceeding ten years and shall in addition, in the case of a public officer be automatically dismissed from the public service and, subject to section 113 of the Constitution, forfeit all rights to any pension, gratuity or other payment which may at the date of his conviction have accrued due to him.</p> <p>(3) It shall not be a defence to a charge under this section that the act constituting the offence alleged was carried out by the accused person upon the orders of any other public officer.</p> <p>(4) The burden of proving that the purpose for which the firearm was used was a lawful purpose or, as the case may be, that the disposal of the firearm or ammunition was with lawful authority shall lie upon the person alleging the same, and in any proceedings under this section it shall not be necessary for the prosecution to prove the lack of any such purpose or authority.</p> <p>(5) A sentence of imprisonment in respect of an offence under this section shall be served after the conclusion of any other term of imprisonment passed at the same time for any other offence.</p> <p>Police Act, 1970 (rev 1988) Art. 13</p> <p>(2) Any person who fails to comply with subsection (1), or who returns such property in a damaged condition, the damage not being attributable to the proper discharge of his duties in the Force, shall be guilty of an offence and liable, whether or not any penalty is otherwise imposed, for the cost of replacing such property, or, as the case may require, for the cost of its repair, and such cost shall be recoverable by the Government by deduction from any moneys due to such person, and shall be a debt due from such person to the Government.</p>	

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