

Übersetzung durch Ute Reusch in Zusammenarbeit mit dem Sprachendienst des
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Act on the Testing and Licensing of Firearms, Saluting Devices, Devices Using Ammunition for Propulsion, Ammunition and Other Weapons

(Beschussgesetz – BeschG)

Proof Testing Act of 11 October 2002 (Federal Law Gazette I p. 3970, p. 4003), as last
amended by Article 234 of the Ordinance of 19 June 2020 (Federal Law Gazette I p. 1328)
The Act was enacted by the German Bundestag with the consent of the Bundesrat as Article
2 of Act 7133-4/1 of 11 October 2002 (Federal Law Gazette I, p. 3970). Pursuant to Article
19 no. 1 sentence 2 of this Act, it enters into force with effect from 1 April 2003.

Division 1 General provisions

Section 1 Purpose, scope

(1) This Act regulates the testing and licensing of

1. firearms, saluting guns and devices using ammunition or caseless propellants
for propulsion, including their highly stressed components,
2. ammunition and
3. other weapons

for the purpose of protecting users and third parties when they are used as intended.

(2) This Act does not apply to

1. firearms intended to be used to fire ammunition with a charge of less than 15
milligrams in weight,
2. guns modified in accordance with Annex 1 Division 1 Subdivision 1 No. 1.4 to
the Weapons Act (*Waffengesetz – WaffG*) of 11 October 2002 (Federal Law Gazette I, p.
3970), as amended,
3. the storage of the items designated in subsection (1) in sealed customs
warehouses or free zones.

(3) Type licensing is required for

1. non-portable spring guns,
2. other non-portable devices using cased propellants for propulsion and intended for use for technical purposes, though only for their firing mechanism and those parts of the device directly exposed to the pressure of powder gases.

The devices referred to in sentence 1 no. 2 may in addition be subject to individual proof testing.

(4) Unless expressly provided otherwise, the provisions relating to testing and licensing under this Act do not apply to firearms, saluting guns, devices, ammunition and other weapons within the meaning of subsection (1) which are brought into the territorial scope of this Act for

1. the highest federal and *Land* authorities and the Deutsche Bundesbank,
2. the Federal Armed Forces and foreign armed forces stationed in Germany,
3. the Federal Police and *Land* police forces,
4. the customs administration

or are manufactured and assigned to them or their employees by reason of their official duties.

(5) The Federal Government may, by way of a statutory instrument not requiring the consent of the Bundesrat, make a regulation within the meaning of subsection (4) which is applicable to other federal authorities and federal agencies, including their employees by reason of their official duties. The Federal Government may transfer the authorisation within the meaning of sentence 1 to another federal authority by way of a statutory instrument not requiring the consent of the Bundesrat.

(6) The *Land* governments may, by way of a statutory instrument, make a regulation within the meaning of subsection (4) which is applicable to other *Land* authorities and agencies, including their employees by reason of their official duties. The *Land* governments may, by way of a statutory instrument, transfer the authorisation within the meaning of sentence 1 to other *Land* authorities.

Section 2

Proof testing terminology

(1) 'Firearms' within the meaning of this Act means

1. guns using hot gases to propel a projectile through the barrel or
2. devices for firing ammunition or caseless propellants which propel no projectile through the barrel;

(2) 'Highly stressed components' within the meaning of this Act means those components which are exposed to the pressure of gas. In particular, this means

1. the barrel;
 - a) 'exchange barrel' means a barrel for a specific model or system which can be exchanged without subsequent work,
 - b) 'replacement barrel' means a barrel which is machined for a specific weapon to replace the existing barrel but still needs to be fitted in,
 - c) 'insert barrel' means a barrel with no breech which can be inserted into the barrel of a larger calibre weapon;
2. the breech, that is the component which directly closes the chamber, carriage holder or barrel;

3. the chamber or carriage holder, unless it is already a component of the barrel;
 4. in the case of guns and devices within the meaning of section 1 (3) using a flammable liquid or gaseous mixture for propulsion, the combustion chamber and the setup for producing that mixture;
 5. in the case of guns using different propulsion methods and devices within the meaning of section 1 (3), the propulsion mechanism if it is secured to the gun or device;
 6. in the case of short firearms, the handle or other components if they are intended to incorporate the release mechanism;
 7. drums for a specific revolver model which can be exchanged without subsequent work (exchange revolving breech).
- (3) 'Saluting guns' within the meaning of this Act means devices designed solely for the purpose of creating a loud blast which are not firearms or devices for firing ammunition. It also means non-portable devices for ammunition under a statutory instrument issued on the basis of section 14 (1) no. 1.*) 'Gas-operated saluting guns' means saluting guns using certain gases to cause an explosion to create the loud blast.
- (4) 'Shooting devices' within the meaning of this Act means portable devices intended for commercial or technical purposes and using ammunition for propulsion.
- (5) 'In the white' within the meaning of this Act means items once all material-weakening or -alteration work has been completed, with the exception of standard engraving work.
- (6) 'Ammunition' within the meaning of this Act means ammunition under Annex 1 Division 1 Subdivision 3 No. 1 to the Weapons Act as well as ammunition which corresponds to this definition but is intended for use in technical devices as defined in subsection (1) no. 2 or subsection (4).
- (7) Where terminology specific to weapons technology or weapons law is used in this Act, the definitions contained in the Weapons Act, as amended, are definitive, unless otherwise defined in this Act.

Footnote *: Table 5 of the tables of dimensions published in the Federal Gazette No. 38a of 24 February 2000.

Division 2

Testing and licensing

Section 3

Proof testing requirement for firearms and saluting guns

- (1) Whoever manufactures firearms, saluting guns and highly stressed components which can be exchanged without subsequent work or brings them into the territorial scope of this Act is required to have them undergo official proof testing before they are placed on the market. Sentence 1 does not apply to gas-operated saluting guns which have been licensed pursuant to section 7 (1) sentence 1 by virtue of their type and designation. Where a firearm is made up of highly stressed components which have already undergone testing, sentence 1 applies accordingly if individual components require subsequent work so that they can be fitted in or are not proof tested using the proof gas pressure prescribed for that weapon.
- (2) Whoever exchanges, modifies or repairs a highly stressed component of a firearm or saluting gun which has undergone testing in accordance with subsection (1) is required to have the item officially proof tested anew. This does not apply to firearms whose highly stressed components have merely been exchanged without subsequent work if all the highly stressed components were proof tested using the proof gas pressure prescribed for such weapons.

Section 4

Exemptions to the proof testing requirement

(1) The following are exempt from the proof testing requirement:

1. firearms and their highly stressed components if the type is subject to licensing under section 7,
2. guns with a chamber or cartridge holder measuring less than 6 millimetres in diameter and less than 7 millimetres in length, as well as single-use highly stressed components of guns within the meaning of section 2 (2) sentence 2 no. 1 if the type is subject to licensing under section 7 or section 8,
3. firearms which
 - a) are intended for use for testing, measuring or research purposes by scientific institutions and authorities and by weapons or ammunitions manufacturers,
 - b) were manufactured before 1 January 1891 and have not been modified,
 - c) are taken into the territorial scope of this Act
 - aa) temporarily under section 32 (1) sentence 1 of the Weapons Act or
 - bb) for storage in a sealed customs warehouseor
 - d) are brought into the territorial scope of this Act for the authorities referred to in section 1 (4), also in conjunction with (5) or (6), or are manufactured and assigned to them or their employees by reason of their official duties, if proof testing in line with this Act by the competent agency is guaranteed,
4. highly stressed components of firearms within the meaning of section 3 (1) undergoing the manufacturing process and prefabricated highly stressed components and barrel blanks.

(2) The proof testing requirement under section 3 does not apply to firearms and highly stressed components bearing the proof mark of a country with which a mutual recognition agreement on proof marks has been concluded.

(3) (repealed)

(4) (repealed)

Section 5

Proof testing

(1) The proof testing of firearms involves testing whether

1. the firearm's highly stressed components withstand the stress to which they are exposed when the licensed ammunition or designated charge is used (durability),
2. the breech mechanism, safety catch, ignition mechanism and, in the case of semi-automatic guns, the loading mechanism are functioning properly and the weapon can be safely loaded, closed and fired off (operating safety),
3. the dimensions of the chamber or cartridge holder, the headspace, the dimensions of the bridge, land and groove diameter or barrel cross-section in the case of rifled barrels and the internal diameter of the barrel in the case of smoothbore barrels correspond to the nominal sizes laid down in a statutory instrument issued on the basis of section 14 (1) no. 1 (dimensional accuracy) and
4. the weapon bears the mark as required by section 24 (1) and (2) of the Weapons Act of 11 October 2002 (Federal Law Gazette 1, p. 3970) or in compliance with a statutory instrument issued on the basis of section 25 of the Weapons Act.

(2) Smoothbore guns using higher gas pressure (enhanced proof testing) or scrap steel ammunition are to be proof tested upon request.

(3) The proof testing of saluting guns involves testing whether

1. the highly stressed components withstand the stress to which they are exposed when the prescribed charge is used (durability),
2. the breech mechanism and trigger mechanism are functioning properly and the saluting gun can be safely loaded, closed and fired off (operating safety),
3. the bore diameter, length and diameter of the cartridge holder and the channel diameter comply with the provisions of a statutory instrument issued on the basis of section 14 (1) no. 1 (dimensional accuracy),
4. the saluting gun bears the mark prescribed by a statutory instrument issued on the basis of section 14 (1) no. 3 of the Weapons Act.

Section 6

Test mark

(1) Firearms, saluting guns and their highly stressed components are to be assigned the official proof mark if they are at least in the white and the proof testing has given rise to no reservations. Otherwise, they are to be assigned the official return mark. Highly stressed components which can no longer be repaired are to be marked as unserviceable.

(2) In the cases referred to in section 4 (1) no. 3 (d), the items are to be assigned the competent agency's test mark.

Section 7

Licensing of shooting devices, insert barrels and firearms which are not subject to the proof testing requirement, system testing of shooting devices and of the cartridge ammunition to be used in them

(1) Shooting devices, additional units for such devices, gas-operated saluting guns, inserts for smaller ammunition and insert barrels with no breech for ammunition using the highest permissible service gas pressure may only be brought into the territorial scope of this Act or manufactured on a commercial basis as mass-produced items if they have been licensed by the competent agency by virtue of their type and designation. The same applies to firearms

1. whose chamber or cartridge holder is no more than 5 millimetres in diameter and no more than 15 millimetres in length or whose chamber or cartridge holder is less than 6 millimetres in diameter and less than 7 millimetres in length and in which kinetic energy of no more than 7.5 joules is imparted onto the projectile or
2. using single-shot ammunition or a solid or liquid propellant.

In the case of shooting devices intended to use magazine cartridges and in which the gas exerts pressure on a piston which is a component of the device, type licensing includes system testing to determine the suitability of the cartridge ammunition used in the device. Cartridge ammunition for use in devices within the meaning of sentence 3 is to undergo system testing.

(2) Subsection (1) does not apply to shooting devices, insert barrels and firearms bearing the recognised test mark of a country with which a mutual recognition agreement on test marks has been concluded.

(3) The licence is to be refused

1. if the type is not durable, not operationally safe or not dimensionally accurate or
2. in the case of a shooting device within the meaning of subsection (1) sentence 2 no. 1 which can be modified using tools in general use such that the imparted kinetic energy is increased to more than 7.5 joules.

(4) The licence is to be refused for a type of shooting device if

1. it can be used to shoot off licensed fixed ammunition,
2. it is such that persons who are within its danger zone when the shooting device is properly used are more than unavoidably in danger or disturbed,
3. it can be used for targeted firing into an open space contrary to its intended purpose or
4. the applicant furnishes no proof of being in possession of the facilities needed for re-testing purposes.

Section 8

Licensing of alarm, irritant and signal weapons

(1) Guns with a chamber or cartridge holder of no more than 12.5 millimetres in diameter and portable devices within the meaning of section 2 (1) no. 2 with no chamber or cartridge holder which are intended to be used to

1. fire shell ammunition,
2. shoot off irritants or other active substances or
3. shoot off pyrotechnic ammunition

and additional units for such weapons for shooting off pyrotechnic projectiles may only be brought into the territorial scope of this Act or manufactured on a commercial basis if they have been licensed within the territorial scope of this Act by the competent agency by virtue of their type and designation. Where they comply with statutory provisions applicable in another Member State which that Member State has notified to the European Commission as required under Article 4 (2) of Commission Implementing Directive (EU) 2019/69 of 16 January 2019 laying down technical specifications for alarm and signal weapons under Council Directive 91/477/EEC on control of the acquisition and possession of weapons as a measure for the purpose of implementing that Implementing Directive, this is deemed equal to a licence within the meaning of sentence 1.

(2) The licence is to be refused where

1. fixed ammunition can be fired into an open space and the projectiles achieve more than 7.5 joules,
2. preloaded projectiles can be shot off and can be imparted a kinetic energy of more than 7.5 joules,
3. the weapon's gas barrel is less than 7 millimetres in diameter,
4. the effect designated in no. 1 or no. 2 can be achieved using the weapon following conversion using tools in general use,
5. the weapon or additional unit does not meet the technical requirements of its type or
6. fixed ammunition meeting the requirements set in a statutory instrument issued on the basis of section 14 (3) which complies with the tables of dimensions can be loaded into the cartridge holder and then fired from it.

(3) If the gun has a chamber or cartridge holder measuring less than 6 millimetres in diameter and less than 7 millimetres in length, the type licence is also to be refused if, by virtue of its type, it is not durable, not operationally safe or not dimensionally accurate. The same applies to the highly stressed components of small firearms pursuant to section 2 (2) sentence 2 nos. 1 to 3 which are intended for single use.

Section 8a

Testing and licensing of deactivated guns; authorisation to issue statutory instruments

(1) Whoever has rendered a gun inoperable must submit it to the competent authority within two weeks for individual licensing. The documentation relating to its deactivation under the Weapons Act or under a statutory instrument issued on the basis of the Weapons Act is to be included.

(2) The competent authority verifies compliance with the requirements of Annex 1 Division 1 Subdivision 1 No. 1.4 to the Weapons Act. It marks the weapon which has been rendered inoperable and its essential components. Further, it issues the owner with a deactivation certificate in German and English.

(3) The Federal Ministry of the Interior, Building and Community is authorised, by way of a statutory instrument requiring the consent of the Bundesrat, to issue implementing regulations relating to the requirements set out in Annex 1 Tables I to III to Commission Implementing Regulation (EU) 2015/2403 of 15 December 2015 establishing common guidelines on deactivation standards and techniques for ensuring that deactivated firearms are rendered irreversibly inoperable (OJ L 333, 19.12.2015, p. 62), as last amended by Implementing Regulation (EU) 2018/337 (OJ L 65, 8.3.2018, p. 1), and to regulate details concerning the marking of guns which have been rendered inoperable and their essential components and concerning the deactivation certificate.

Section 9

Notification, testing and licensing of other weapons and shell ammunition containing irritants

(1) Whoever plans to manufacture for the first time on a commercial basis a specific model of a gun within the meaning of Annex 1 Division 1 Subdivision 1 No. 1.5.1 to the Weapons Act or plans to bring it into the territorial scope of this Act is required to notify the competent agency thereof in writing two months in advance and to hand it in for testing and licensing. Unless an individual item is being handed in for testing and licensing, a specimen and a photograph, a description of how to use the item and its construction, as well as the materials used or the materials used to make modifications in accordance with Annex 1 Division 1 Subdivision 1 No. 1.5.1 to the Weapons Act, specifying the working technique, must be submitted to the agency in German. The agency informs the National Metrology Institute in writing or electronically of the outcome of the test.

(2) Whoever plans to manufacture for the first time on a commercial basis or bring into the territorial scope of this Act a specific model of

1. a gun subject neither to testing in accordance with section 3, nor to type licensing in accordance with section 7 nor to testing and licensing in accordance with subsection (1),
2. an item within the meaning of Annex 1 Division 1 Subdivision 2 Nos. 1.2.1 and 2.2.1 to the Weapons Act,
3. an item within the meaning of Annex 1 Division 1 Subdivision 2 No. 1.2.2 to the Weapons Act or
4. shell ammunition containing irritants

is required to notify the competent agency thereof in writing two months in advance. Notification must include a sample, a description of how to use the item and its construction. The constituent ingredients used are to be specified.

(3) The notification as required by subsection (2) sentence 1 nos. 1 and 3 must, further, include a declaration by the manufacturer or the manufacturer's authorised representative in the European Union

1. as to whether and how users can alter the weapon's performance,

2. that, in the case of subsection (2) sentence 1 nos. 2 and 3, use of the item is not expected to cause any danger to life.

(4) The competent agency may order the necessary measures in relation to items within the meaning of Annex 1 Division 1 Subdivision 2 Nos. 1.2.1, 1.2.2 and 2.2.1 to the Weapons Act, items designated in section 14 (4) and (6) and projectiles, shell ammunition, materials and other items containing irritants to ensure that these items are not sold or assigned to other persons in any form other than that of the tested sample or contrary to defined requirements. It may verify the information submitted in accordance with subsection (3) or commission other specialised institutes with such verification or partial verification.

(5) Where the devices designated in subsections (1) and (2) are licensed by a governmental agency by virtue of their type and if the type licensing involves the prescribed testing, the type licence takes the place of such testing.

Section 10

Licensing of pyrotechnic ammunition

(1) Pyrotechnic ammunition, including the propulsion mechanism secured to it, may only be brought into the territorial scope of this Act or manufactured on a commercial basis if it has been licensed by the competent authority by virtue of its properties, composition and designation.

(2) Pyrotechnic ammunition licensed in accordance with subsection (1) must bear the legally required marking as well as instructions for use. If the instructions for use cannot be affixed to each individual unit of ammunition, they are to be affixed to the smallest packaging unit.

(3) The licence is to be refused

1. where the protection of users' or third parties' life, health or tangible assets is not guaranteed when the ammunition is used as intended,
2. if the ammunition does not meet the requirements as to its composition, properties, dimensions, maximum service gas pressure and designation pursuant to a statutory instrument issued on the basis of section 14 (2) sentence 1 no. 1,
3. where the ammunition's mode of action, serviceability and reliability does not correspond to the respective state of the art,
4. if the applicant, on account of the available operating facilities or an inadequate quality assurance system, is not in a position to ensure that any reproduced ammunition corresponds, by virtue of its composition and properties, to the licensed sample.

(4) (repealed)

Section 11

Licensing of other ammunition

(1) Ammunition within the meaning of Annex 1 Division 1 Subdivision 3 Nos. 1.1 to 1.3 to the Weapons Act may only be sold on a commercial basis or assigned to other persons if it has been licensed by the competent authority by virtue of its type and designation.

(2) Subsection (1) does not apply to

1. ammunition from countries with which a mutual recognition agreement on test marks has been concluded and whose smallest packing unit bears a test mark issued by one of these countries,
2. ammunition which is intended for scientific institutions, authorities, weapons or ammunition manufacturers, as part of an ammunition collection (section 17 (1) of the Weapons Act) or for such a collection, or is manufactured in small quantities for the commercial importers of ammunition, traders or officially approved experts for testing, measuring or research purposes, or is assigned to them for that purpose.

(3) The licence is to be refused if

1. the applicant or a specialised institute commissioned by the applicant is not in possession of the devices needed to determine the ammunition's dimensions, service gas pressure or comparable values,
2. the applicant or a specialised institute commissioned by the applicant does not have at its disposal the specialist staff needed to operate the testing equipment or
3. ammunition testing reveals that the ammunition's dimensions and gas pressure, the irritants or active substances it contains and its designation do not meet the requirements set in a statutory instrument issued on the basis of section 14 (3).

The licence is not refused as required by sentence 1 nos. 1 and 2 if the applicant has transferred the task of monitoring manufacturing to the competent authority.

Section 12

Assignment and use of items subject to the proof testing or licensing requirement

- (1) Firearms, saluting guns and highly stressed components subject to the proof testing requirement under section 3 may only be assigned to other persons or used for firing if they bear the official proof mark. This does not apply to the assignment of such items to other persons if the competent authority certifies that official testing cannot be conducted.
- (2) Guns, devices, inserts, insert barrels and ammunition subject to testing or licensing under sections 7 to 11 may only be assigned to other persons on a commercial basis if such items bear the prescribed test or licensing mark and, in the case of section 10 (2), if the instructions for use are affixed.

Section 13

Exceptions in individual cases

The authority competent for licensing may, in an individual case, approve exceptions to the testing and licensing requirement under section 7 (1), section 8 (1), section 9 (1), section 10 (1) or section 11 (1) or permit different grounds for refusal under section 7 (3) or (4), section 8 (2) or (3), section 10 (3) nos. 2 to 4 or section 11 (3) sentence 1 no. 3, unless this is contrary to public interests.

Section 14

Authorisations

(1) The Federal Ministry of the Interior, Building and Community is authorised, for the purposes of implementing sections 3, 5 and 6, to issue, by way of a statutory instrument requiring the consent of the Bundesrat, statutory provisions relating to

1. the dimensions of the chamber and cartridge holder, the bridge, land and groove diameter or barrel cross-section, internal diameter of the barrel and headspace (tables of dimensions), maximum permissible service gas pressures, maximum and minimum energies and the designation of the ammunition and propellants,
2. the type and method of proof testing, the items and measuring methods and the procedure for such testing,
3. the form and features of the test marks and how they are to be affixed,
4. the introduction of voluntary proof testing for firearms,
5. the inclusion of other firearms components in proof testing.

(2) The Federal Ministry of the Interior, Building and Community is authorised, by way of a statutory instrument requiring the consent of the Bundesrat, for the purpose of implementing sections 7 to 11

1. to determine which technical requirements are to be made of

- a) the type of firearm or insert barrel as referred to in section 7 (1) or section 8 (2) and (3),
- b) an item within the meaning of section 9 (1) and (2),
- c) the composition, properties, dimensions and maximum service gas pressure of pyrotechnic ammunition within the meaning of section 10 (1) and (3) no. 2 and
- d) the properties of the equipment for testing chamber and cartridge ammunition and propellants within the meaning of section 11 (1)

and which requirements are to be made of the designation of these items,

2. to regulate the type and method of licence testing and the test and licensing procedure,

3. to prescribe

- a) periodic checks for ammunition within the meaning of section 11 (1),
- b) checks of shooting devices and insert barrels

and the procedure for carrying out these checks,

4. to include other firearms or insert barrels in type testing and licensing,

5. to issue statutory provisions in relation to

- a) the obligation to affix a licensing mark, plus its form and features,
- b) the obligation of persons who manufacture ammunition within the meaning of section 11 (1) or who bring it into the territorial scope of this Act to carry out production checks,
- c) the content, conduct, retention and submission of records concerning the checks referred to in letter (b),
- d) the ordering of a check and a ban on the continued selling of
 - aa) licensed ammunition within the meaning of section 11 (1) by the competent authority and
 - bb) licensed firearms, shooting devices, insert barrels and inserts by the National Metrology Institute

if these items do not fulfil the prescribed requirements,

- e) exceptions to the licensing, production checking and periodical checking of propellants within the meaning of section 11 (1), reloaded ammunition, proofing ammunition and types of ammunition which are manufactured or brought into the territorial scope of this Act for particular purposes or specific recipients,
- f) requirements made of the sale and assignment of ammunition designated in letter (e),
- g) the re-testing of shooting devices and saluting guns, the maintenance of the facilities needed to conduct such testing, the affixing of a test mark and its form and features, as well as the inclusion of operating instructions approved by the National Metrology Institute.

Where the statutory instrument concerns shooting devices, it is issued by agreement with the Federal Ministry of Labour and Social Affairs.

(3) The Federal Ministry of the Interior, Building and Community is authorised, by way of a statutory instrument requiring the consent of the Bundesrat, in order to avert dangers to the life or health of individuals, to determine the maximum permissible normal and excess service gas pressures, the minimum gas pressures, the maximum and minimum energies and designations of ammunition and propellants within the meaning of section 11 (1). Ammunition causing serious damage to health on account of its properties which exceeds the damage associated with the general mechanical effect, as well as irritants and active substances causing lasting damage to health may not be licensed.

(4) The Federal Ministry of the Interior, Building and Community is authorised, by way of a statutory instrument requiring the consent of the Bundesrat, in order to avert dangers to the life or health of individuals, to prescribe that, where

1. guns,
2. items produced from the essential components of guns or
3. ammunition,

are brought into the territorial scope of this Act or are manufactured, notification must be given thereof and such notification must include specific documents or samples of the designated items.

(5) The Federal Ministry of the Interior, Building and Community is authorised, by way of a statutory instrument requiring the consent of the Bundesrat, in order to avert dangers to the life or health of individuals, to stipulate that

1. ammunition and projectiles are to be packaged and stored in a specific manner and
2. their components or source materials may only be sold and assigned to other persons under specific conditions.

(6) The Federal Ministry of the Interior, Building and Community is authorised, by way of a statutory instrument requiring the consent of the Bundesrat, in order to avert dangers to the life or health of individuals, to issue statutory provisions concerning

1. items within the meaning of Annex 1 Division 1 Subdivision 2 Nos. 1.2.1, 1.2.2 and 2.2.1 to the Weapons Act and the properties and marking of projectiles, shell ammunition or other items containing irritants and
2. the composition and maximum permissible quantity of irritants within the meaning of Annex 1 Division 1 Subdivision 2 No. 1.2.2 to the Weapons Act

and to determine the agency competent to conduct testing.

Division 3

Other provisions relating to proof testing

Section 15

Proof Testing Council

The Federal Ministry of the Interior, Building and Community is authorised, by way of a statutory instrument requiring the consent of the Bundesrat, to establish a commission (Proof Testing Council) to provide advice on technical issues. The commission is to include representatives of the involved federal and *Land* authorities, representatives of specialised institutes and standardisation bodies, representatives of business – after hearing the leading organisations in the involved business circles – and representatives of other expert associations not pursuing any economic interests.

Section 16 **(repealed)**

Section 17

Obligations to furnish information and special official monitoring powers

(1) Whoever handles items within the meaning of this Act, in particular whoever manufactures and sells such items, is required to provide the competent authority, upon request, with the information necessary to conduct monitoring. Those persons who are obliged to furnish information may refuse to answer any questions if answering them would expose them or one of their family members designated in section 383 (1) nos. 1 to 3 of the Code of Civil Procedure (*Zivilprozessordnung* – ZPO) to the threat of prosecution for a criminal or non-criminal (regulatory) offence.

(2) Those persons who are tasked with conducting monitoring are authorised

1. to enter and inspect, during operating and business hours, those properties, operating facilities and business premises which serve the manufacture or sale of such items,
2. to conduct all the tests necessary in the performance of their tasks, including taking samples,
3. to examine those documents they need in the performance of their tasks and to make photocopies or transcripts thereof.

To avert an imminent danger to public order and safety, the measures referred to in sentence 1 may also be taken in residential premises and at any time of day and night. The operator is obliged to acquiesce to those measures referred to in sentence 1 nos. 1 and 2 and sentence 2 which support those persons tasked with conducting monitoring insofar as this is necessary in the performance of their tasks and to present the necessary business records upon request. The fundamental right to the inviolability of the home (Article 13 of the Basic Law (*Grundgesetz* – GG)) is restricted to that extent.

(3) Where it has justified reason, the competent authority may order that the holder of actual control over an item subject to this Act must present such item for testing within a reasonable period to be determined by the authority.

Section 18

Restrictions as to content, ancillary provisions and orders

(1) Licences and other permits under this Act may be restricted as to content for the protection of the life or health of individuals from the dangers arising when handling items within the meaning of this Act. For the purposes referred to in sentence 1, licences and other permits may be time-limited or have conditions attached; such conditions may be subsequently added, amended or extended.

(2) The competent authority may, in an individual case, issue those orders necessary to put an end to violations of this Act which have been identified or to prevent future violations of this Act or of statutory instruments issued on the basis of this Act. It may, in particular, prohibit, in full or in part, the continued manufacture and the sale of items within the meaning of this Act where

1. a required licence or other permit has not been issued or the manufactured items do not correspond to the licence or other permit issued,
2. there is reason to withdraw or revoke a licence under legislation pertaining to administrative procedure,
3. there has been a violation of ancillary provisions or of conditions within the meaning of subsection (1) or
4. these items give rise to a danger to the life or health of users or third parties.

Section 19

Withdrawal and revocation

- (1) A licence or other permit is to be withdrawn if it subsequently becomes known that it should have been refused.
- (2) A licence or other permit is to be revoked if circumstances subsequently arise which should have resulted in it being refused. A licence or permit may also be revoked in the case of non-compliance with restrictions as to content.
- (3) A licence may further be revoked if the licence holder
 1. manufactures, on a commercial scale, pyrotechnic ammunition which differs as regards the composition or properties specified in the licence, brings it into the territorial scope of this Act, sells it, assigns it to other persons or uses it,
 2. no longer manufactures, on a commercial basis, the licensed pyrotechnical ammunition or no longer sells, assigns to other persons or uses the types of ammunition manufactured or brought into the territorial scope of this Act on the basis of the licence.

Section 20

Competences

- (1) The *Land* governments or the agencies designated by them by way of a statutory instrument may, by way of a statutory instrument, designate the authorities competent to execute this Act, unless federal authorities are competent.
- (2) Each authority referred to in subsection (1) to which an item is presented for proof testing or to which an application for licensing or the carrying out of checks is submitted is competent for the proof testing, licensing of ammunition, checks, orders and bans on ammunition. An application for a periodical check of ammunition is to be submitted to that authority which issued the respective licence.
- (2a) Each authority referred to in subsection (1) to which a deactivated gun is presented is competent for testing and licensing under section 8a.
- (3) The National Metrology Institute is competent for licensing the guns and technical items designated in sections 7 and 8 and for testing the guns and technical items designated in section 9 (4); the notifications referred to in section 9 (2) are also to be made to the National Metrology Institute. The Federal Institute for Materials Research and Testing is competent for testing and licensing the pyrotechnic ammunition designated in section 10 and caseless ammunition without a projectile within the meaning of section 11 (1) in conjunction with Annex 1 Division 1 Subdivision 3 No. 1.3 to the Weapons Act.
- (4) The National Metrology Institute keeps a list of tests and licences, which is, as a rule, to include the following information:
 1. the designation of the item undergoing testing,
 2. the type of testing conducted,
 3. the test and licensing mark issued and
 4. the testing or licensing agency.

Where an agency other than the National Metrology Institute is competent for testing or licensing in accordance with sections 7 to 11, that agency is required to submit to the National Metrology Institute the required notifications regarding the testing conducted and licences issued. The list is to be made available at the National Metrology Institute during office hours. Upon the request of a third party, a copy or duplicate is to be made available to such third party against reimbursement of costs.

Section 21

Non-criminal fines provisions

- (1) A non-criminal (regulatory) offence is deemed to be committed by anyone who, intentionally or negligently,

1. contrary to section 3 (1) sentence 1, also in conjunction with sentence 3, or (2) sentence 1, in each case also in conjunction with a statutory instrument issued on the basis of section 14 (1) no. 5, does not have an item referred to therein officially proof tested or does not do so in good time,
 2. contrary to section 7 (1) sentence 1, also in conjunction with sentence 2, or section 8 (1), in each case also in conjunction with a statutory instrument issued on the basis of section 14 (2) sentence 1 no. 4, or contrary to section 10 (1), brings an item referred to therein into the territorial scope of this Act or manufactures it on a commercial basis,
 - 2a. contrary to section 8a (1) sentence 1, does not present a deactivated gun, or does not do so in good time,
 3. contrary to section 9 (1) sentence 1 or (2) sentence 1, does not give notification, does not do so correctly, fully, in the prescribed manner or in good time,
 4. contrary to section 10 (2) sentence 1, does not affix instructions for use, or does not do so correctly,
 5. contrary to section 11 (1), assigns to other persons or sells on a commercial basis the ammunition referred to therein,
 6. contrary to section 12 (1) sentence 1, assigns one of the items referred to therein or an insert barrel to other persons or, contrary to section 12 (2), assigns an item referred to therein to other persons on a commercial basis,
 7. contrary to section 17 (1) sentence 1, does not furnish information, does not do so correctly, fully or in good time,
 8. contrary to section 17 (2) sentence 3, does not acquiesce to a measure referred to therein, does not support a person referred to therein or does not present a business record, or does not do so in good time,
 9. contravenes an enforceable order within the meaning of section 17 (3),
 10. contravenes an enforceable condition within the meaning of section 18 (1), unless this is already punishable under another provision, or
 11. contravenes a statutory instrument issued in accordance with
 - a) section 14 (2) sentence 1 no. 3 or no. 5 (a), (b), (d), (f) or (g) or
 - b) section 14 (2) sentence 1 no. 5 (c)or contravenes an enforceable order issued on the basis of a statutory instrument, insofar as the statutory instrument refers to this non-criminal fine provision in relation to a specific offence.
- (2) The non-criminal (regulatory) offence may, in the cases set out in subsection (1) no. 3, 4, 7, 8, 9 or 11 (b), be penalised by the imposition of a fine of no more than twenty thousand euros and in all the other cases by the imposition of a fine of no more than fifty thousand euros.
- (3) The administrative authority within the meaning of section 36 (1) no. 1 of the Act on Regulatory Offences (*Gesetz über Ordnungswidrigkeiten* – OWiG) is the authority competent in accordance with section 48 (1) of the Weapons Act.

Division 4

Transitional provisions

Section 22

Transitional provisions

- (1) A licence within the meaning of sections 7 to 11 issued before the entry into force of this Act is deemed to be a licence under this Act in its previous scope.
- (2) A test mark issued or recognised before the entry into force of this Act is deemed to be a test mark within the meaning of this Act.
- (3) Ammunition which corresponds to Annex III to the Third Ordinance on the Weapons Act (*Dritte Verordnung zum Waffengesetz – 3. WaffV*) of 22 December 1976 (Federal Law Gazette I, p. 3770) and which was, by virtue of its type, manufactured or sold within the territorial scope of this Act on 1 January 1981 may no longer be sold or assigned to other persons without a licence since 1 January 1984. Ammunition within the meaning of sentence 1 which was already being traded within the territorial scope of this Act on 1 January 1981 may no longer be sold and assigned to other persons since 1 January 1986. The designated ammunition and its packaging may not bear a licensing mark for which provision is made under a statutory instrument issued on the basis of section 14 (2) sentence 1 no. 5 (a).
- (4) Section 8 (1) applies after 30 June 2004 to additional units for such weapons used to fire off pyrotechnic projectiles.
- (5) It is permissible to handle items already on the market which do not bear the prescribed test mark and which are subject to a testing requirement for the first time under this Act up until no later than 31 December 2003.
- (6) Up until the entry into force of a statutory instrument issued on the basis of this Act, the Third Ordinance on the Weapons Act in the version published on 2 September 1991 (Federal Law Gazette I, p. 1872), as last amended by the Ordinance of 10 January 2000 (Federal Law Gazette I, p. 38), applies accordingly.
- (7) (repealed)
- (8) Testing procedures introduced on the basis of section 9 (1) sentence 1 no. 2 or (5) of this Act, as amended on 11 October 2002 (Federal Law Gazette I, p. 3970), are to be concluded in accordance with the provisions of this Act or are to be converted into testing procedures within the meaning of this Act.
- (9) (repealed)