

**Act Implementing Article 26(2) of the Basic Law (War Weapons Control Act) of April 20, 1961 (1961 Federal Law Gazette I-444)**

**(as amended by Article 2 of the Act of July 6, 1998 Implementing the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction [1998 Federal Law Gazette I-1778])**

Article 26(2) of the Basic Law provides that "Weapons designed for warfare may be manufactured, transported or marketed only with the permission of the Federal Government. Details will be regulated by a Federal Law."

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**Part One: Provisions on Licensing**

Section 1. Definition

(1) For the purposes of this Act, weapons intended for warfare (war weapons) comprise the items, substances and organisms listed in the Annex to this Act (War Weapons List).

(2) The Federal Government is authorized to amend and supplement the War Weapons List, by ordinance requiring the consent of the Bundesrat, in line with the state of the art in the scientific, technological and military fields so that it contains all items, substances or organisms that are suited, either alone, or in conjunction with each other or with other items, substances or organisms, for causing destruction of or harm to persons or property and for serving as a means of using force in armed conflicts between states.

(3) The special provisions of Parts Three and Four and the penal provisions of sections 19 through 21 of this Act shall apply to nuclear weapons as defined in section 17(2), to biological and chemical weapons as defined in the War Weapons List, and to anti-personnel mines as defined in section 18a(2).

Section 2. Production and Marketing

(1) Anyone who intends to have war weapons transported outside and enclosed site within federal territory shall require a licence.

(2) Anyone who intends to acquire actual control of war weapons from or to transfer it to another person shall require a licence.

Section 3. Transport within Federal Territory

(1) Anyone who intends to have war weapons transported outside an enclosed site within federal territory shall require a licence.

(2) Anyone who intends to transport himself outside an enclosed site within federal territory war weapons that he has produced or of which he has acquired actual control shall also require a licence.

(3) War weapons may only be imported, exported, transported through or otherwise brought into or out of Federal territory if a licence has been granted for the requisite transport within the meaning of paragraph (1) or (2) above.

(4) Notwithstanding section 27 of this Act, a general licence may be granted for the transport of war weapons which are loaded or unloaded outside federal territory and are transported through federal territory under customs supervision without change of carrier or by ship via free ports without storage.

#### Section 4. Transport outside Federal Territory

(1) Anyone who intends to transport by ships flying the federal flag or by aircraft entered in the aircraft register of the Federal Republic of Germany war weapons which are loaded and unloaded outside Federal territory and are not transported through federal territory shall require a licence.

(2) A general licence may be granted for the transport of war weapons within the meaning of paragraph (1) above in or to certain regions.

#### Section 4a.2 Foreign Transactions

(1) Anyone who intends to broker a contract on the acquisition or transfer of war weapons located outside federal territory or to show that an opportunity exists for concluding such a contract shall require a licence.

(2) Anyone who intends to conclude a contract on the transfer of war weapons located outside federal territory shall also require a licence.

(3) Paragraphs (1) and (2) above shall not apply if the war weapons are to be imported into or transported through federal territory in the execution of the contract.

#### Section 5. Exemptions

(1) Anyone who acts under the supervision or as an employee of another person shall not require a licence under sections 2 through 4a of this Act. In such cases, the other person alone shall require a licence under sections 2 through 4a of this Act.

(2) Anyone who transports war weapons pursuant to a licence granted under section 3(1) of this Act shall not require a licence under section 2(2) of this Act for the acquisition of actual control of those war weapons from the consignor and for the transfer of actual control to the consignee named in the licence.

(3) A licence under section 2(2) of this Act shall also not be required by anyone who intends—

1. to transfer actual control of war weapons to a person who transports such weapons pursuant to a licence under section 3(1) of this Act or to acquire such control from such person, provided that the consignor and consignee are named in the licence;
2. to transfer actual control of war weapons to the Federal Armed Forces, the customs frontier service, an authority or agency responsible for maintaining law and order or a prison authority or to acquire such control from such body for the purpose of repair or transport of the weapons.

## Section 6. Refusal of a Licence

(1) There shall be no entitlement to the granting of a licence.

(2) A licence may be refused especially if–

1. there is a reason to assume that its granting would militate against the interest of the Federal Republic of Germany in maintaining good relations with other countries;
2. a) the applicant, his legal representative, the body or member of such body authorized to represent a legal person, a shareholder authorized to represent a commercial partnership or the head of an enterprise or plant of the applicant,  
  
b) the person who transports war weapons,  
  
c) the person who transfers actual control of war weapons to or acquires such control from the transporter, is not a German within the meaning of Article 116 of the Basic Law or has his domicile or habitual residence outside federal territory;
3. proof is not furnished of the possession of a licence required under other regulations in connection with the act subject to a licence.

(3) A licence shall be refused if–

1. there is a danger of the war weapons being used for an act detrimental to peace, especially for a war of aggression;
2. there is reason to assume that the granting of the licence would violate international obligations of the Federal Republic of Germany or endanger their fulfillment;
3. there is reason to assume that any of the persons mentioned in paragraph (2), item 2, above does not possess the reliability needed for the intended act.

(4) Other regulations under which a licence is required for acts specified in sections 2 through 4a of this Act shall remain unaffected.

## Section 7. Cancellation of a Licence

- (1) A licence may be cancelled at any time.
- (2) A licence shall be cancelled if any of the reasons for refusal specified in section 6(3) of this Act has subsequently become evident or occurred, unless the reason is eliminated within a period of time to be determined.
- (3) If a licence is cancelled, the licensing authority shall make arrangements for the disposition or use of war weapons. In particular it may direct that, within a reasonable period, the war weapons be rendered unusable or be transferred to a person authorized to acquire them and that proof of this be furnished to the supervisory authority. If the period expires without such action, the war weapons may be seized and confiscated. Section 13(3) shall apply *mutatis mutandis*.

## Section 8. Granting and Cancellation of a General Licence

- (1) A general licence within the meaning of section 3(4) and section 4(2) shall be granted by ordinance.
- (2) A general licence may be cancelled wholly or in part by ordinance, especially if there is reason to assume that the generally licensed transport would militate against the interest of the Federal Republic of Germany in maintaining good relations with other countries.
- (3) A general licence shall be cancelled by ordinance wholly or in part if—
  1. there is a danger of the war weapons transported pursuant to the general licence being used for an act detrimental to peace, especially for a war of aggression;
  2. there is reason to assume that the generally licensed transport would violate international obligations of the Federal Republic of Germany or endanger their fulfillment.
- (4) Ordinances under paragraphs (1) through (3) shall be passed by the Federal Government; they shall not require the consent of the Bundesrat.

## Section 9. Compensation in the Event of Cancellation

- (1) If a licence under section 2, section 3(1), section 4(1) or section 4a of this Act is cancelled wholly or in part, the licensee shall receive adequate pecuniary compensation from the Federal Government. The amount of compensation shall be determined by the expenditure proved by the licensee to have been reasonably incurred. Account shall be taken of other possible uses of the weapons in accordance with the principles of good management. In the event of a dispute over the amount of compensation, recourse shall exist to ordinary courts of law.

(2) The entitlement to pecuniary compensation shall be precluded if the licensee or the persons acting for him under the licence gave cause for canceling the licence through their own fault, especially if–

1. those persons substantially or repeatedly violated the provisions of this Act, the ordinances passed under this Act or the instructions of the licensing or supervisory authority;
2. the licence was cancelled pursuant to section 7(2) in conjunction with section 6(3), item 3, of this Act.

#### Section 10. Substance and Form of a Licence

(1) A licence may be limited in scope or duration and be the subject to conditions.

(2) Time limits and conditions may subsequently be imposed at any time. Section 9 of this Act shall apply *mutatis mutandis*.

(3) A licence shall be granted in writing; it shall contain information on the type and quantity of war weapons. A licence for the production of the war weapons specified in Part B of the War Weapons List may be granted without limitation to a certain quantity, and a licence for the transport of war weapons without limitation to a certain type and quantity.

#### Section 11. Licensing Authorities

(1) The Federal Government shall be responsible for granting and cancelling licences.

(2) The Federal Government is authorized to assign as follows, by ordinance not requiring the consent of the Bundesrat, the power to grant and cancel licenses in the cases defined in section 2, section 3(1) and (2) and section 4a of this Act:

1. for the ambit of the Federal Armed Forces: to the Federal Minister of Defense;
2. for the ambit of the customs frontier service: to the Federal Minister of Defense;
3. for the ambit of the authorities or agencies responsible for maintaining law and order as well as prison authorities: the Federal Minister of the Interior;
4. for all other areas: the Federal Minister of Economics.

(3) The power to grant and cancel licences in the cases defined in section 4(1) of this Act may, by ordinance not requiring the consent of the Bundesrat, be assigned to the Federal Minister of Transport, who shall exercise this power in agreement with the Federal Minister of Foreign Affairs.

(4) The Federal Government is also authorized to enact, by ordinance requiring the consent of the Bundesrat, the requisite regulations detailing the licensing procedure.

(5) The Federal Office for the Protection of the Constitution may be consulted in assessing the reliability of persons under section 6(3), item 3, of this Act.

## **Part Two Provisions on Supervision and Exceptions**

### **Section 12. Duties concerning the Traffic in War Weapons**

(1) Anyone who carries out an act requiring a licence under this Act shall take the necessary measures—

1. to prevent the war weapons from getting lost or being used by unauthorized persons;
2. to ensure that the legal provisions and official instructions for the protection of classified items, facts, knowledge or communications are observed.

(2) Anyone who produces war weapons, has them transported or transports them himself or acquires actual control of them from or transfers such control to another person shall keep a register of war weapons as proof of their whereabouts. This shall not apply in the cases defined in section 5(1) and (2) of this Act and to transport in the cases defined in section 5(3), item 2, of this Act.

(3) Anyone who intends to have war weapons transported shall hand over a copy of the licence upon handing over the weapons for transport.

(4) Anyone who transports war weapons shall carry a copy of the licence, present it automatically to the competent authorities or agencies, particularly to the customs offices at the points of entry and exit, and hand it over on request for examination.

(5) Anyone who is entitled to dispose of war weapons shall report to the competent supervisory authority on the stock of war weapons and any changes therein, specifying the licences granted for this purpose, within the time limits determined by legal provision or by instruction of the competent supervisory authority.

(6) Anyone who—

1. acquires actual control of war weapons as acquirer mortis causa, as finder or in a similar manner,
2. acquires actual control of war weapons as trustee in bankruptcy, official receiver or in a similar manner,
3. relinquishes actual control of war weapons,
4. acquires knowledge of the whereabouts of war weapon of which nobody has actual control, shall notify this without delay to the competent supervisory authority or to an authority or agency responsible for maintaining law and order. In the case of item 1 above, the person acquiring actual control of the war weapons shall, within a period to be determined by the supervisory

authority, render the war weapons unusable or transfer them to a person entitled to acquire them and furnish proof of this to the supervisory authority. The supervisory authority may upon application allow exemptions from the foregoing sentence if this is in the public interest. Such exemptions may be limited in duration and subject to conditions. Time limits and conditions may subsequently be imposed at any time.

(7) The Federal Government is authorized to take the following measures by ordinance requiring the consent of the Bundesrat:

1. enact the regulations needed for the implementation of paragraphs (1) through (6) above;
2. exempt small quantities of war weapons and slight changes in stocks from the duty of keeping a register, reporting and notification (para-graphs [2], [5] and [6] above), provided that public interests are not jeopardized;
3. prescribe labeling of war weapons, indicating the producer or importer.

#### Section 12a. Special Reporting Requirements

(1) The Federal Government is authorized by ordinance requiring the consent of the Bundesrat to order that the import and export of war weapons on Part B of the War Weapons List be reported to the Federal Export Office, in so far as the Federal Government requires this data in order to fulfil international agreements on the communication of information concerning the import and export of war weapons. For the purposes specified in the above sentence, the Federal Export Office is entitled to compare data collected under an ordinance pursuant to the above sentence with other data it has stored.

(2) For the purposes specified in paragraph (1) above, data collected under an ordinance pursuant to paragraph (1) above may be published or communicated in a summarized form without specifying recipients or suppliers to international organizations, or to the German Bundestag for its information. This shall also apply if the data can be identified as referring to the companies concerned in individual cases in so far as the interest in communicating or publishing such data considerably outweighs the interest of the company concerned in keeping it secret.

(3) Reporting requirements shall in scope and detail be limited to what is necessary to serve the purpose stated in paragraph (1) above.

#### Section 13. Seizure and Confiscation

(1) The supervisory authorities and the authorities or agencies responsible for maintaining law and order may seize war weapons—

1. if facts give cause to assume that the person having actual control does not possess the requisite reliability, especially that he will transfer the war weapons to an unauthorized person or use them in an unauthorized manner; or
2. if this is necessary to protect state secrets.

(2) The supervisory authorities may confiscate seized war weapons if this is needed to ward off a threat to law and order and if less stringent measures are inadequate.

(3) If war weapons are confiscated, ownership of them shall pass to the state once the confiscation order is final. Third party rights to the war weapons shall expire. The owner or the possessor of a right in rem shall receive reasonable pecuniary compensation from the Federal Government, taking into account the current market value of the weapons. Compensation shall not be granted if the owner or possessor of a right in rem contributed with at least gross negligence to causing the threat to law and order. In such a case, compensation may be granted if its refusal would be unreasonably severe.

(4) In the event of imminent danger, the Federal Armed Forces may seize war weapons under the conditions specified in paragraph (1) above.

#### Section 14. Supervisory Authorities

(1) The following authorities shall be responsible for supervising the acts requiring a licence under this Act as well as compliance with the duties specified in section 12 of this Act:

1. in the cases defined in section 2, section 3(1) and (2) as well as section 4a of this Act, the Federal Minister of Economics;
2. in the cases defined in section 4 of this Act, the Federal Minister of Transport.

(2) The Federal Minister of Finance and the customs service offices designated by him, shall be responsible for supervising the import or export, transport through or otherwise bringing into or out of federal territory, of war weapons (section 3[3] and [4] of this Act).

(3) To perform their functions, especially to supervise stocks of war weapons and any changes therein, the supervisory authorities (paragraphs [1] and [2] above) may—

1. demand the necessary information;
2. have access to and examine company records and other documents;
3. carry out inspections.

(4) Persons authorized by the supervisory authorities may enter premises where required by their functions. The basic right of privacy of the home embodied in Article 13 of the Basic Law shall be restricted to that extent.

(5) Anyone who requires a licence under sections 2 through 4a of this Act shall provide the necessary information, present company records and other documents for examination and allow entry into premises. The same shall apply to persons on whom the duties specified in section 12 of this Act are incumbent.

(6) A person obliged to supply information may refuse to provide answers to questions which would expose him or any relative specified in section 383(1), items 1 through 3, of the Code of Civil Procedure, to the risk of criminal prosecution or proceedings under the Administrative Offences Act.

(7) The Federal Government is authorized to enact, by ordinance requiring the consent of the Bundesrat, the regulations needed to carry out the supervisory measures allowed under paragraph (3) above and to regulate the procedures applied by the supervisory authorities.

(8) The Federal Minister of Economics is authorized to assign, by ordinance not requiring the consent of the Bundesrat, the supervisory powers accruing to him under paragraph (1) above to the Federal Export Office.

#### Section 15. Federal Armed Forces and other Institutions

(1) Section 2, section 4a and section 12 of this Act shall not apply to the Federal Armed Forces, federal police and the customs frontier service.

(2) The other authorities or agencies responsible for maintaining law and order as well as prison authorities shall not require a licence—

1. for acquiring actual control of war weapons;
  2. for transferring actual control of war weapons to another person for the purpose of repair or transport of such weapons;
  3. for transporting war weapons in the cases defined in section 3(2) of this Act.
- Section 12 of this Act shall not apply to that extent.

(3) Section 4a of this Act shall not apply to authorities or agencies in the exercise of their official responsibilities.

### **Part Three Special Provisions on Nuclear Weapons**

#### Section 16. Nuclear Tasks in the North Atlantic Alliance

To ensure the preparation and implementation of nuclear participation under the North Atlantic Treaty of April 4, 1949 or for a member state, the provisions of this Part and the penal provisions of section 19 and section 21 of this Act shall apply only to nuclear weapons which are not under the control of member states of the said treaty or which are not developed or produced on behalf of such states.

#### Section 17. Prohibition of Nuclear Weapons

(1) Notwithstanding section 15 of this Act, it is forbidden to—

1. develop, produce, or trade in nuclear weapons, to acquire them from or transfer them to another person, to import or export them, to transport them through or otherwise bring them into or out of federal territory, or otherwise exercise actual control over them; or

- 1a. induce another person to commit an act specified in item 1 above; or
2. encourage an act specified in item 1 above.

(2) For the purposes of paragraph (1) above, nuclear weapons are–

1. any weapons which contain, or are especially designed to contain or use, nuclear fuel or radioactive isotopes and which are capable of mass destructions, massive injury or mass poisoning;
2. parts, devices, assemblies or substances especially designed for any weapon described in item 1 above.

Moreover, for the definition of nuclear weapons, sentence 2 of the introduction and section I(c) of Annex II of Protocol No. III to the revised Brussels Treaty of October 23, 1954 shall apply.

#### **Part Four Special Provisions on Biological and Chemical Weapons as well as on Anti-Personnel Mines**

##### Section 18. Prohibition of Biological and Chemical Weapons

It is forbidden to–

1. develop, produce or trade in biological or chemical weapons, to acquire them from or transfer them to another person, to import or export them, to transport them through or otherwise bring them into or out of federal territory, or otherwise to exercise actual control over them;
- 1a. induce another person to commit an act specified in item 1 above; or
2. encourage an act specified in item 1 above.

##### Section 18a. Prohibition of Anti-Personnel Mines

(1) It is forbidden to–

1. use, develop, produce or trade in anti-personnel mines, to acquire them from or transfer them to another person, to import or export them, to transport them through or otherwise bring them into or out of federal territory, or otherwise to exercise actual control over them, in particular to convey, stockpile or retain them;
2. induce another person to commit an act specified in item 1 above; or
3. encourage an act specified in item 1 above.

(2) The definition of anti-personnel mines in Article 2 of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines

and on their Destruction of December 3, 1997 shall apply.

(3) Paragraph (1) shall not apply to acts permitted under the provisions of the Convention referred to in paragraph (2) above.

## **Part Five Penal and Administrative Fine Provisions**

### **Section 19. Penal Provisions on Nuclear Weapons**

(1) A prison sentence between one and five years shall be imposed on anyone who—

1. develops, produces or trades in nuclear weapons as defined in section 17(2) of this Act, acquires them from or transfers them to another person, imports or exports them, transports them through or otherwise brings them into or out of federal territory, or otherwise exercises actual control over them; or
- 1a. induces another person to commit an act specified in item 1 above; or
2. encourages an act specified in item 1 above.

(2) A prison sentence of not less than two years shall be imposed on anyone who—

1. commits an act specified in paragraph (1) above, for gain or as a member of a gang that has been formed for continually committing such criminal offences, with the assistance of another member of the gang; or
2. by committing an act specified in paragraph (1) above
  - a) endangers the security of the Federal Republic of Germany;
  - b) endangers peaceful relations among nations; or
  - c) considerably endangers the foreign relations of the Federal Republic of Germany.

(3) In less serious cases—

1. of the kind specified in paragraph (1) above, the sentence shall be up to three years' imprisonment or a fine;
2. of the kind specified in paragraph (2) above, the sentence shall be between three months and five years' imprisonment.

(4) If the offender acts with negligence in the cases specified in paragraph (1), item 1, above or with gross negligence in the cases specified in paragraph (1), items 1a or 2, above, the sentence shall be up to two years' imprisonment or a fine.

(5) Anyone who—

1. in the cases specified in paragraph (2), item 2, above causes the danger with negligence, or
2. acts with negligence in the cases specified in paragraph (2), item 2, in conjunction with paragraph (1), item 1, above or with gross negligence in the

cases specified in paragraph (2), item 2, in conjunction with paragraph (1), items 1a or 2, above and causes the danger with negligence, shall be punished with a prison sentence of up to three years or with a fine.

(6) Paragraphs (1) through (5) above shall not apply to acts which are suitable and intended for—

1. the destruction of nuclear weapons by the competent authorities; or
2. providing protection against the effects of nuclear weapons or warding off these effects.

#### Section 20. Penal Provisions on Biological and Chemical Weapons

(1) A prison sentence of not less than two years shall be imposed on anyone who—

1. develops, produces or trades in biological or chemical weapons, acquires them from or transfers them to another person, imports or exports them, transports them through or otherwise brings them into or out of federal territory, or otherwise exercises actual control over them; or

- 1a. induces another person to commit an act specified in item 1 above; or

2. encourages an act specified in item 1 above.

(2) In less serious cases of the kind specified in paragraph (1) above, the sentence shall be between three months' and five years' imprisonment.

(3) If the offender acts with negligence in the cases specified in paragraph (1), item 1, above or with gross negligence in the cases specified in paragraph (1), items 1a or 2, above, the sentence shall be up to three years' imprisonment or a fine.

(4) Paragraphs (1) through (3) above shall not apply to acts which are suitable and intended for—

1. the destruction of chemical weapons by the competent authorities; or
2. providing protection against the effects of biological or chemical weapons or warding off these effects.

#### Section 20a. Penal Provisions on Anti-Personnel Mines

(1) A prison sentence between one and five years shall be imposed on anyone who,—

1. contrary to section 18a above, uses, develops, produces or trades in anti-personnel mines, acquires them from or transfers them to another person, imports or exports them, transports them through or otherwise brings them into or out of federal territory, or otherwise exercises actual control over them, in particular, conveys, stockpiles or retains them;

2. induces another person to commit an act specified in item 1 above; or
3. encourages an act specified in item 1 above.

(2) In particularly serious cases the prison sentence shall be not less than one year. A particularly serious case is generally deemed to exist if–

1. the offender commits an act specified in paragraph (1) above for gain; or
2. the act specified in paragraph (1) above involves a large number of anti-personnel mines.

(3) In less serious cases of the kind specified in paragraph (1) above the sentence shall be between three months' and three years' imprisonment.

(4) If the offender acts with negligence in the cases specified in paragraph (1), item 1, above or with gross negligence in the cases specified in paragraph (1), items 2 or 3, above the sentence shall be up to three years' imprisonment or a fine.

#### Section 21. Acts Committed outside the Area of Application of this Act

Notwithstanding the *lex loci delicti*, section 19, paragraph (2), item 2, paragraph (3), item 2, paragraphs (5) and (6), as well as sections 20 and 20a of this Act shall also apply to acts committed outside the area of application of these provisions if the offender is a German.

#### Section 22. Exceptions

Sections 18, 20 and 21 of this Act shall not apply to official acts related to chemical weapons performed by–

1. a member or a civilian employee of a force or of a civilian component pursuant to the Agreement of June 19, 1951 between the Parties to the North Atlantic Treaty Regarding the Status of their Forces; or
2. a German on staffs or in installations established on the basis of the North Atlantic Treaty of April 4, 1949.

#### Section 22a. Other Penal Provisions

(1) A prison sentence of one year up to five years shall be imposed on anyone who–

1. produces war weapons without a licence under section 2(1) of this Act; or
2. acquires from or transfers to another person actual control of war weapons without a licence under section 2(2) of this Act; or
3. has war weapons transported or himself transports them outside an enclosed site within federal territory without a licence under section 3(1) or (2) of this Act; or

4. imports or exports war weapons, transports them through or otherwise brings them into or out of federal territory , without the requisite transport being licensed; or

5. internationally or knowingly transports by ships flying the federal flag or by aircraft entered in the aircraft register of the Federal Republic of Germany such war weapons without a licence under section 4 of this Act as are loaded and unloaded outside federal territory and are not transported through federal territory; or

6. otherwise exercised actual control over war weapons without–

a) the acquisition of actual control being based on a licence under this Act; or

b) notification having been given under section 12(6), item 1, or section 26a of this Act, unless the provisions of the Act on Firearms are applicable to portable firearms under section 6(3) of that Act; or

7. brokers a contract on acquisition or transfer without a licence under section 4a(1) of this Act or shows that an opportunity exists for concluding such a contract or concludes a contract without a licence under section 4a(2) of this Act.

(2) In particularly serious cases, the sentence shall be between one and ten years' imprisonment. A particularly serious case is generally deemed to exist if the offender commits an act specified in paragraph (1), items 1 through 4, 6 or 7, above for gain or as a member of a gang that has been formed for continually committing such offences, with the assistance of another member of the gang.

(3) In less serious cases, the sentence shall be up to three years' imprisonment or a fine.<sup>3</sup>

(4) Anyone who commits with negligence an act specified in paragraph (1). items 1 through 4, 6 or 7, above shall be punished by up to two years' imprisonment or by a fine.

(5) A sentence under paragraph (1), items 3 or 4, above shall not be imposed on anyone who, having imported or otherwise brought war weapons into federal territory, voluntarily and without delay hands them over to a supervisory authority, to the Federal Armed Forces or to an authority or agency responsible for maintaining law and order. If actual control of war weapons is acquired by any authority or agency specified in the foregoing sentence without any effort on the part of the person who imported or otherwise brought them into federal territory, his voluntary and genuine endeavor to hand over the war weapons shall be deemed sufficient.

#### Section 22b. Infringement of Administrative Provisions

(1) An administrative offence shall be deemed to have been committed by anyone who intentionally or negligently–

- 1.4 fails to fulfill a condition under section 10(1) of this Act, does so not in time or incompletely;
2. does not keep a register of war weapons under section 12(2) of this Act, does so incorrectly or incompletely;
3. fails to effect reports under section 12(5) or notifications under section 12(6) of this Act, does so incorrectly, incompletely or not in time or fails to fulfill a condition under the fourth or fifth sentence of section 12(6) of this Act;
- 3a. acts contrary to an ordinance passed under section 12a(1) of this Act in so far as it refers to this administrative fine provision in respect of a particular offence;
4. fails to provide information under section 14(5) of this Act, does so incorrectly, incompletely or not in time;
5. fails to present company records and other documents under section 14(5) of this Act, does so incompletely or not in time;
6. acts contrary to the obligation under section 14(5) of this Act to allow entry into premises.

(2) Such administrative offence shall be punishable by a fine of up to DEM 10,000.5

(3) An administrative offence shall also be deemed to have been committed by anyone who intentionally or negligently fails, contrary to section 12(3) of this Act, to hand over a copy of the licence upon handing over war weapons for transport or, contrary to section 12(4) of this Act, fails to carry a copy of the licence during transport. Such an administrative offence shall be punishable by a fine of up to DEM 1,000.

#### Section 23. Administrative Authorities

Where they are responsible for supervision under section 14(1) and (2) of this Act, the Federal Minister of Economics, the Federal Minister of Transport and the Federal Minister of Finance shall at the same time be administrative authorities within the meaning of section 36(1), item 1, of the Administrative Offences Act. Section 36(3) of the Administrative Offences Act shall apply *mutatis mutandis*.

#### Section 24. Confiscation and Extended Forfeiture

(1) War weapons to which an offence under sections 19, 20, 21 or 22a of this Act relates may be confiscated on behalf of the Federal Government; section 74a of the Penal Code shall apply. Even if the requirements of section 74(2) of the Penal Code are not met, they shall be confiscated where the welfare of the Federal Republic of Germany so requires; this shall also apply if the offender acted without fault.

(2) The duty to pay compensation under section 74f of the Penal Code shall be incumbent on the Federal Government.

(3) In the cases specified under section 19(1) and (2), whereby paragraph (2), item 2, shall also apply in connection with section 21; section 20(1), which shall also apply in connection with section 21; and section 22a(1), section 73d of the Penal Code shall apply if the offender commits an act for gain or as a member of a gang that has been formed for continually committing such offences.

Section 25.  
[Repealed]

## **Part Six Transitional and Final Provisions**

### Section 26. Prior Licences

Licences granted under the provisional licensing procedure pursuant to Article 26(2) of the Basic Law shall be deemed granted under this Act.

### Section 26a. Notification of the Exercise of Actual Control

Anyone who, on the date when accession takes effect, is in actual control of previously acquired war weapons in the territory specified in Article 3 of the Unification Treaty shall notify this to the Federal Office of Economics within two months of accession taking effect, stating the type of weapons, quantity, weapons number or other identification, unless he is exempted from the requirement of a licence for the acquisition of actual control or he has received an order under section 26b of this Act. After expiry of this period, actual control of war weapons that require notification but have not been notified shall no longer be exercised.

### Section 26b. Transitional Provisions for the Territory Specified in Article 3 of the Unification Treaty

(1) An act which requires a licence under this Act and has been started or envisaged in the territory specified in Article 3 of the Unification Treaty before the date when accession takes effect and cannot be deferred may be provisionally licensed. In such cases, the requisite licence shall be applied for within one month of the provisional licence being granted. If the licence is refused, the applicant may be granted reasonable compensation, with section 9 of this Act being applied *mutatis mutandis*, if the refusal of compensation would be unreasonably severe in view of the need to protect confidence in the former legal situation.

(2) Notwithstanding section 27 of this Act, the following shall apply to international agreements concluded by the German Democratic Republic where they concern the supply or repair of war weapons:

1. Where, before the date when accession takes effect, state orders have been placed for 1990 for the production of war weapons or for their export to or import from member states of the Warsaw Treaty, the acts necessary to carry

out those orders and requiring a licence under section 2 or 3 of this Act shall be deemed to have been licensed.

2. In the case of orders under item 1 above concerning states that are not members of the Warsaw Treaty, acts of paragraph (1) above shall apply *mutatis mutandis*.

(3) In the event that the German Democratic Republic passes a law to put this Act into effect, the Federal Minister of Economics is authorized to modify, by ordinance not requiring the consent of the Bundesrat, the provisions of paragraphs (1) and (2) above and of section 26a of this Act in such a way that their purposes are achieved in the light of new legal situation.

#### Section 27. International Treaties

Obligations of the Federal Republic under international treaties shall remain unaffected. To this extent the licences required under Article 26(2) of the Basic Law and under this Act shall be deemed to have been granted.

#### Section 28. Berlin Clause

[Void]

#### Section 29.

(Entry in Force)