

1992—No. 222

PROHIBITED WEAPONS ACT 1989—REGULATION

(Relating to matters arising from the enactment of the Firearms Legislation (Amendment) Act 1992 and to defence sprays)

NEW SOUTH WALES



[Published in Gazette No. 55 of 1 May 1992]

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Prohibited Weapons Act 1989, has been pleased to make the Regulation set forth hereunder.

ROBERT WEBSTER
Minister for Police and Emergency Services.

Commencement

1. This Regulation commences on 1 May 1992.

Amendment of Schedule 1 to the Prohibited Weapons Act 1989

2. Schedule 1 to the Prohibited Weapons Act 1989 is amended by inserting after item (39) the following item:

(40) Anything designed or intended as a defence or anti-personnel spray that is capable of discharging by any means any irritant matter in liquid, powder, gas or chemical form.

Amendment of the Prohibited Weapons Regulation 1990

3. The Prohibited Weapons Regulation 1990 is amended:

- (a) by inserting in the definition of “apprehended violence order” in clause 3 (1) after the word “confirmed” the following words: , and includes the following orders:
 - (a) a protection order under the Domestic Violence (Family Protection) Act 1989 of the State of Queensland;
 - (b) an order under section 99 of the Justices Act 1921 of the State of South Australia;

- (c) a restraint order made under section 106B of the Justices Act 1959 of the State of Tasmania;
- (d) an intervention order under the Crimes (Family Violence) Act 1987 of the State of Victoria;
- (e) an order under section 172 of the Justices Act 1902 of the State of Western Australia;
- (f) a protection order under the Domestic Violence Act 1986 of the Australian Capital Territory;
- (g) an order under Division 8 of Part IV of the Justices Act of the Northern Territory

(b) by inserting in the definition of “interim apprehended violence order” in clause 3 (1) after the words “Crimes Act 1900” the following words:

, and includes the following orders:

- (a) an interim protection order under the Domestic Violence (Family Protection) Act 1989 of the State of Queensland;
- (b) an interim restraint order made under section 106D of the Justices Act 1959 of the State of Tasmania;
- (c) an interim intervention order under the Crimes (Family Violence) Act 1987 of the State of Victoria;
- (d) an interim protection order under the Domestic Violence Act 1986 of the Australian Capital Territory

(c) by omitting from clause 6 the words “Principal Manager” and by inserting instead the word “Director”.

(d) by omitting from clause 6 the words “Police Department” wherever occurring and by inserting instead the words “Police Service”;

(e) by inserting after clause 7 (2) the following subclauses:

(3) A person who applies for a permit to possess and use a prohibited weapon referred to in subclause (2) must endorse, on the application form, the description and serial number of the prohibited weapon.

(4) The holder of a permit of the kind referred to in subclause (2) who acquires a prohibited weapon referred to in that subclause must notify the Commissioner of Police of the description and serial number of the prohibited weapon within 28 days after the acquisition.

Maximum penalty (subclause (4)): 50 penalty units.

(f) by omitting clause 7A and by inserting instead the following clause:

Grounds for refusal and revocation of certain permits

7A. (1) This clause applies to a permit of a kind referred to in clause 7 (2).

(2) The Commissioner must not issue a permit to:

- (a) a person who is subject to an apprehended violence order or who has at any time within 10 years before the application for the permit was made been subject to such an order (other than an order which has been revoked); or
- (b) a person who has not passed a firearms safety awareness course, a firearms safety test or a firearms law knowledge test approved under clause 79 of the Firearms Regulation 1990, as in force at any time.

(3) The Commissioner of Police must not issue a permit unless the Commissioner is satisfied that the applicant intends to possess and use the firearm for which the permit is sought for a reason set out in Column 1 of the Table to this clause and that he or she satisfies the requirements set out opposite the reason in Column 2 of the Table.

(4) This clause does not exhaust the grounds on which the Commissioner of Police may refuse to issue a permit.

(5) The Commissioner of Police must revoke a permit issued to a person who, when making the application for the permit, satisfied the Commissioner that he or she had a genuine reason for possessing and using the firearm concerned and satisfied the requirements set out opposite the reason if, at any later time, the Commissioner is satisfied that the person does not have a genuine reason or does not satisfy the requirements, or both.

TABLE

Column 1		Column 2
No.	Reason	Requirements
1.	Primary production	<p>The applicant must:</p> <ul style="list-style-type: none"> (a) be a person whose principal or only occupation is the business of a primary producer; and (b) be the owner, lessee or manager of land used for primary production; and (c) state that he or she intends to use the firearm solely in connection with farming or grazing activities.
2.	Business or employment	<p>The applicant must demonstrate that it is necessary in the conduct of the applicant's business or employment to possess and use the firearm for which the permit is sought.</p>
3.	Sport/target shooting	<p>The applicant must be:</p> <ul style="list-style-type: none"> (a) a current member of a shooting organisation which is affiliated with the New South Wales Shooting Association Limited, or any other shooting organisation approved by the Commissioner of Police, and which conducts competitions or activities requiring the use of the firearm for which the permit is sought; or (b) a member of a military rifle club approved by the Commissioner of Police which conducts competitions or activities requiring the use of the firearm for which the permit is sought.
4.	Collecting firearms	<p>The applicant must be a current member of not less than 12 months membership of a collectors society approved by the Commissioner of Police, the members of which collect firearms of the kind for which the permit is sought.</p>

Column 1		Column 2
No.	Reason	Requirements
5.	Anunal population control	<p>The applicant must be:</p> <p>(a) a person employed by or within, or authorised by, the Department of Agriculture, a Rural Lands Protection Board, the Wild Dog Destruction Board, the National Parks and Wildlife Service or the Forestry Commission or another body which has duties requiring vertebrate pest control; or</p> <p>(b) an occupier of rural land who needs a firearm of the kind for which the permit is sought to destroy or suppress vertebrate pest animals on the land.</p>

EXPLANATORY NOTE

The objects of this Regulation are to make amendments to the Prohibited Weapons Regulation 1990 arising from the enactment of the Firearms Legislation (Amendment) Act 1992 and to prescribe, as a prohibited weapon, defence or anti-personnel sprays.

The principal amendments arising from the enactment of the Firearms Legislation (Amendment) Act 1992 are:

- to specify grounds on which the Commissioner of Police may refuse to issue, or may revoke, a permit authorising the possession and use of certain firearms which have become prohibited weapons as a consequence of the enactment of that Act
- to specify reasons which are to be taken to be genuine reasons for possessing and using such a firearm
- to prescribe, as apprehended violence orders and interim apprehended violence orders, the corresponding orders of other Australian jurisdictions.