

FIREARMS ACT.

Act No. 43, 1946.

An Act to make further provision as to the possession, use and carrying of firearms and other lethal weapons; for these purposes to amend the Police Offences Act, 1901-1945, the Pistol License Act, 1927-1936, and the Crimes Act, 1900; and for purposes connected therewith. [Assented to, 19th September, 1946.]

George VI.
No. 43, 1946.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Firearms Act, 1946."

Short title
and
citation.

(2) The Police Offences Act, 1901, as amended by subsequent Acts and by this Act, may be cited as the Police Offences Act, 1901-1946.

(3) The Pistol License Act, 1927, as amended by subsequent Acts and by this Act, may be cited as the Pistol License Act, 1927-1946.

2. The Police Offences Act, 1901-1945, is amended—

Amendment
of Act No.
5, 1901.

(a) (i) by inserting in section 41B in the definition of "Firearm" after the words "does not include a" the words "hand grenade";

Sec. 41B.
(Interpre-
tation.)

(ii) by inserting next after the definition of "Firearm" in the same section the following new definition:—

"Hand grenade" includes—

(a) any article or thing whatsoever commonly known as a grenade or bomb by whatever name called and whether a Mills bomb, mortar bomb, or otherwise; and (b)

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(b) any other article or thing whatsoever which is made or used or intended to be used or which is capable of being used as a grenade or bomb, whether or not designed for being so used or whether designed for throwing by hand or for projection by any other means whatsoever, and which is or contains or is intended to contain any explosive within the meaning of the Explosives Act, 1905, or any Act amending or replacing the same, or any hurtful material; and which is reasonably capable of being carried by any person.

Sec. 41cA.
(Penalty on using, carrying or having hand grenade, machine gun or sub-machine gun.)

- (b) (i) by inserting in subsection one of section 41cA before the words "machine gun" the words "hand grenade";
- (ii) by omitting from subsection two of the same section the words "six months or a penalty not exceeding one hundred pounds" and by inserting in lieu thereof the words "twelve months";
- (iii) by inserting in subsection three of the same section before the words "machine gun" wherever occurring the words "hand grenade";

Sec. 41d.
(Firearms, etc., carried in parts.)

- (c) by inserting in subsection two of section 41d before the words "machine gun" wherever occurring the words "hand grenade";

Sec. 41e.
(Seizure of firearms, etc.)

- (d) by inserting in section 41e after the words "air gun" wherever occurring the words "hand grenade";

Sec. 41f.
(Power to search premises.)

- (e) by inserting in section 41f after the words "air gun" wherever occurring the words "hand grenade";

Sec. 41N.
(Illegal possession of firearms, etc.)

- (f) (i) by omitting from section 41N the words "or carries in a public street, highway, or public place a firearm, air gun, machine gun or sub-machine gun" and by inserting in lieu thereof

thereof the words "a firearm, air gun, hand grenade, machine gun or sub-machine gun"; No. 43, 1946.

(ii) by inserting at the end of the same section the following new subsection:—

(2) Any firearm, air gun, hand grenade, machine gun or sub-machine gun found in any vehicle or in any premises shall, in the absence of proof to the contrary, be deemed to be in the possession of any person who—

(a) at the time of finding or recently thereto is or was in such vehicle or in occupation of such premises, as the case may be; and

(b) has been previously convicted of an indictable offence or at the time of finding or recently thereto is or was consorting with criminals or known prostitutes.

(g) by omitting from section 41o the words "or carries in any public street, highway or public place" and by inserting in lieu thereof the words "in any public place"; Sec. 41o.
(Illegal possession of gas pencil, etc.)

(h) by omitting sections 41p and 41q; Secs. 41p & 41q.
(Possession of firearms, etc., in vehicles or rooms, etc.)

(i) (i) by omitting from section 41r the words "in a public place is carrying or has in his possession a" and by inserting in lieu thereof the words "has in his possession in any public place a hand grenade or"; Sec. 41r.
(Search of suspected persons, etc.)

(ii) by inserting in the same section after the words "and any" the words "hand grenade."

3. The Pistol License Act, 1927-1936, is amended:— Amendment of Act No. 10, 1927.

(a) by inserting in section three in the definition of "Pistol" after the words "can be discharged" the words "or could, but for some omission or mechanical defect, be discharged"; Sec. 3.
(Interpretation.)

(b)

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Sec. 4.

(License for purchasing, using, or carrying pistol.)

(b) by omitting paragraphs (a) and (b) of subsection three of section four and by inserting in lieu thereof the following paragraphs:—

(a) Any person who has in his possession any pistol without a pistol license for such pistol shall be liable to a penalty not exceeding one hundred pounds or to imprisonment for a term not exceeding twelve months, or to both such penalty and imprisonment.

(b) (i) Any person who uses or carries any pistol without a pistol license for such pistol shall if such offence be committed after the hour of seven o'clock in the morning and before the hour of seven o'clock in the evening be liable to a penalty not exceeding two hundred pounds or to imprisonment for a term not exceeding twelve months, or to both such penalty and imprisonment.

(ii) Any person who uses or carries any pistol without a pistol license for such pistol shall if such offence be committed after the hour of seven o'clock in the evening and before the hour of seven o'clock in the morning be liable to a penalty not exceeding four hundred pounds or to imprisonment for a term not exceeding two years, or both such penalty and imprisonment.

Amendment of Act No. 40, 1900.

Sec. 1. (Short title and contents of Act.)

New Part IIIA.

4. The Crimes Act, 1900, as amended by subsequent Acts, is amended—

(a) by inserting in section one next after the matter relating to Part III the following new matter:—

PART IIIA.—FIREARMS.—SS. 93A–93H.

(b).

(b) by inserting next after section ninety-three the No. 43, 1946.
following new Part:—

PART IIIA.—FIREARMS.

93A. In this Part of this Act unless the context ^{Definitions.}
or subject-matter otherwise indicates or
requires:—

“Hand grenade” includes—

(a) any article or thing whatsoever
commonly known as a grenade
or bomb by whatever name
called and whether a Mills
bomb, mortar bomb, or other-
wise; and

(b) any other article or thing
whatsoever which is made or
used or intended to be used
or which is capable of being
used as a grenade or bomb,
whether or not designed for
being so used or whether
designed for throwing by hand
or for projection by any other
means whatsoever, and which
is or contains or is intended
to contain any explosive with-
in the meaning of the Explo-
sives Act, 1905, or any Act
amending or replacing the
same, or any hurtful material;
and which is reasonably capable of
being carried by any person.

“Hurtful material” includes any noxious or
irritant liquid, powder, gas, chemical
or substance capable of causing bodily
harm.

“Machine gun” or “sub-machine gun”
means any firearm which is fully auto-
matic in its operation and actuated
by the energy developed when it is being
fired.

“Pistol”

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“Pistol” means any lethal weapon of any length of barrel from which any shot, bullet, or other missile can be discharged, or could, but for some omission or mechanical defect, be discharged, designed for aiming and firing from one hand, and which is reasonably capable of being carried concealed about the person, but does not include a toy pistol or an antique pistol which is kept or sold as a curiosity or ornament.

“Pistol license” means a license issued, and for the time being in force, under the Pistol License Act, 1927, as amended by subsequent Acts.

Using or carrying of unlicensed pistol.

93B. Any person who uses or carries any pistol without a pistol license for such pistol shall be liable to penal servitude for three years.

Possession of hand grenade, machine or sub-machine gun.

93c. Any person who has in his possession any hand grenade, machine gun or sub-machine gun shall be liable to penal servitude for two years, or, if previously convicted of an offence mentioned in section 93G of this Act, to penal servitude for three years.

Carrying of hand grenade, machine or sub-machine gun.

93D. Any person who carries any hand grenade, machine gun or sub-machine gun shall be liable to penal servitude for four years, or, if previously convicted of an offence mentioned in section 93G of this Act, to penal servitude for five years.

Possession of hand grenade, machine gun or sub-machine gun in vehicle.

93E. (1) Any hand grenade, machine gun or sub-machine gun found in any vehicle shall, in the absence of proof to the contrary, be deemed to be in the possession of any person who at the time of the finding or recently thereto is or was in the vehicle.

(2) Any person in whose possession in a vehicle any hand grenade, machine gun or sub-machine gun is or is deemed to be pursuant to subsection one of this section shall be liable

to

to penal servitude for five years, or, if previously convicted of an offence mentioned in section 93G of this Act, to penal servitude for seven years.

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93F. (1) Where the parts of any hand grenade, machine gun or sub-machine gun are found in the possession of two or more persons and such persons at the time of the finding or recently thereto were or had been in association, each and every one of such persons shall be deemed to be in possession of a hand grenade, machine gun or sub-machine gun, as the case may be.

Pistol, hand grenade, etc., in parts.

(2) Where a pistol, hand grenade, machine gun or sub-machine gun is carried in parts by two or more persons, each and every one of such persons shall be deemed to carry a pistol, hand grenade, machine gun or sub-machine gun, as the case may be.

(3) Where the parts of any hand grenade, machine gun or sub-machine gun are found in two or more vehicles, a hand grenade, machine gun or sub-machine gun, as the case may be, shall be deemed to have been found in each and every one of such vehicles.

93G. The offences referred to in sections 93C, 93D and 93E of this Act are—

List of offences referred to in sections 93C-93E.

(a) any offence mentioned in—

- (i) sections 41CA, 41F, 41N and 41O of the Police Offences Act, 1901, as amended by subsequent Acts;
- (ii) section four of the Pistol License Act, 1927, as amended by subsequent Acts;
- (iii) sections 93B, 93C, 93D and 93E of this Act;

- (b) any offence against the law of any other State or country relating to the possession use or carrying of firearms;
- (c) any offence whether committed in the State of New South Wales or elsewhere punishable on indictment by imprisonment or penal servitude for a term of not less than five years.

93H.

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Exemptions
from operation
of
provisions
of this
Part of
Act.

93H. (1) The provisions of this Part of this Act shall not apply to—

- (a) any person in the performance of his duty as a member of the Defence Forces of the Commonwealth, or of the Armed Forces of any Government which is allied or associated with His Majesty in any war in which His Majesty is engaged, or of the police force of the Commonwealth or of this State or any other State or territory of the Commonwealth, or as a Peace Officer under the Peace Officers Act 1925 of the Parliament of the Commonwealth; or
- (b) any person whilst engaged in the manufacture, assembly or handling of any pistol, hand grenade, machine gun or sub-machine gun for or on behalf of the Commonwealth; or
- (c) any person engaged in scientific or experimental work with any hand grenade, machine gun or sub-machine gun in pursuance of an authority in that behalf granted by the Minister administering the Police Offences Act, 1901, as amended by subsequent Acts, and in compliance with the terms and conditions imposed by any such authority.

(2) The provisions of section 93B shall not apply to:—

- (a) any pistol dealer or his servant who carries a pistol in the ordinary course of the trade or business of a pistol dealer or who uses a pistol by way of testing or regulating its strength or quality in a place specially set apart for such purpose; or
- (b) any common carrier or warehouseman or his servant who carries a pistol in the ordinary course of the trade or business of a common carrier or warehouseman; or
- (c)

- (c) any person who uses a pistol in respect of which a license is held by the owner for the purpose of shooting at a shooting gallery which is under the personal supervision of a responsible person in charge thereof; or
 - (d) a person temporarily in the State to whom a permit to carry a pistol has been issued in pursuance of the regulations under the Pistol License Act, 1927, as amended by subsequent Acts, during the currency of the permit; or
 - (e) any person who carries a pistol which is for use solely for or in connection with the conduct of any athletic meeting or sporting event, and from which blank cartridges only are discharged, and in respect of which the prescribed records are kept pursuant to the provisions of the Pistol License Act, 1927, as amended by subsequent Acts.
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