

FIREARMS LEGISLATION (AMENDMENT) ACT 1992 No. 13

NEW SOUTH WALES



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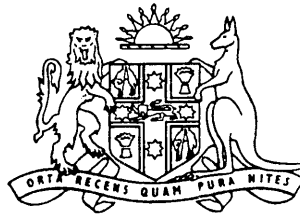
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FIREARMS LEGISLATION (AMENDMENT) ACT 1992 No. 13

NEW SOUTH WALES



Act No. 13, 1992

An Act to amend certain Acts to further regulate firearms and prohibited weapons; and for other purposes. [Assented to 4 April 1992]

Firearms Legislation (Amendment) Act 1992 No. 13

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Firearms Legislation (Amendment) Act 1992.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Amendment of Firearms Act 1989 No. 25

3. The Firearms Act 1989 is amended as set out in Schedule 1.

Amendment of Firearms Regulation 1990

4. The Firearms Regulation 1990 is amended as set out in Schedule 2.

Amendment of Prohibited Weapons Act 1989 No. 26

5. The Prohibited Weapons Act 1989 is amended as set out in Schedule 3.

Amendment of Prohibited Weapons Regulation 1990

6. The Prohibited Weapons Regulation 1990 is amended as set out in Schedule 4.

Amendment of Crimes Act 1900 No. 40

7. The Crimes Act 1900 is amended as set out in Schedule 5.

SCHEDULE 1—AMENDMENT OF FIREARMS ACT 1989

(Sec. 3)

(1) Section 3 (**Definitions**):

(a) Insert in section 3 (1), in alphabetical order:

“**antique pistol**” means a pistol manufactured before 1900:

(a) that is not capable of discharging breech-loaded cartridges; or

SCHEDULE 1—AMENDMENT OF FIREARMS ACT 1989—
continued

- (b) for which, in the opinion of the Commissioner of Police, ammunition is not commercially available;

“apprehended violence order” means:

- (a) an order under section 562B of the Crimes Act 1900 or an order under section 562H of that Act which is confirmed; or
- (b) an order or decision under an Act or law of a place other than New South Wales, being an order or decision which is prescribed for the purposes of this definition by the regulations;

“interim apprehended violence order” means:

- (a) an order under section 562H of the Crimes Act 1900; or
- (b) an order or decision under an Act or law of a place other than New South Wales, being an order or decision which is prescribed for the purposes of this definition by the regulations;

“member of the Police Force” means a member of the Police Service who is a police officer within the meaning of the Police Service Act 1990;

- (b) In the definition of “firearm” in section 3 (1), after “but does not include”, insert “an antique pistol or”.

(2) Section 4 (**Application of Act**):

- (a) From section 4 (4), omit “Australian Cadet Corps”, insert instead “Naval Reserve Cadets, the Australian Cadet Corps or the Air Training Corps”.
- (b) From section 4 (4) (a), omit “that Corps”, insert instead “the Cadets or the Corps of which the person is a member”.

(3) Section 12:

Omit the section, insert instead:

Safe keeping of firearms and ammunition

12. (1) A person who possesses a firearm must take all reasonable precautions to ensure its safe keeping.

(2) A person who possesses a firearm must ensure, except when the firearm:

SCHEDULE 1—AMENDMENT OF FIREARMS ACT 1989—
continued

- (a) is actually in use or about to be used in accordance with the authority of a licence or permit; or
- (b) is being displayed by the holder of a firearms dealer licence or firearms museum licence in accordance with the authority of the licence,

that the firearm and any ammunition for the firearm are stored in secure, locked storage approved, or of a type approved, by the Commissioner of Police.

(3) A firearm (being a firearm from which the bolt or firing mechanism is able to be removed with reasonable facility from the balance of the firearm and not being a pistol) and any ammunition for the firearm are taken to be stored in accordance with subsection (2) if

- (a) the bolt or firing mechanism is removed from the balance of the firearm; and
- (b) the bolt or firing mechanism and the balance of the firearm are stored separately from each other; and
- (c) no ammunition is in the firearm; and
- (d) no ammunition is stored with the firearm.

(4) A member of the Police Force may seize a firearm that is not being kept in accordance with subsection (1) and must seize a firearm (and, as the case may be, the bolt or firing mechanism, the balance of a firearm and any ammunition) that the member is aware is not or are not being kept in accordance with the other provisions of this section.

Maximum penalty on summary conviction (subsection (1) or (2))—50 penalty units or imprisonment for 2 years, or both (if it is established beyond reasonable doubt that the firearm concerned was a pistol) or 20 penalty units or imprisonment for 1 year, or both (if it is not so established).

- (4) Section 17 (**Sale, purchase and possession of ammunition**):
- (a) After “licence” in section 17 (1) (a), insert “for a firearm which takes that ammunition”.
 - (b) After “licence” in section 17 (2) (a), insert “for a firearm which takes that ammunition”.
 - (c) Before the matter relating to the maximum penalty, insert:

SCHEDULE 1—AMENDMENT OF FIREARMS ACT 1989—
continued

(3) A person shall not possess ammunition for a firearm, unless:

- (a) the person is the holder of a licence for a firearm which takes that ammunition; or
- (b) the person is authorised to possess it by a permit.

(5) Section 21 (**Purposes for which licences must be available**), section 22 (**Classes of licences**):

Omit the sections, insert instead:

Types and conditions of licences

21. (1) The types of licences for firearms, the firearms to which they apply, the authority they' confer and the conditions to which they are subject are as set out in the Table to this section.

(2) A licence that authorises its holder to have possession of a firearm at a specified place or for a specified purpose also authorises its holder to have possession of the firearm while:

- (a) taking it to the holder of a firearms dealer licence for the purpose of having it altered, maintained, tested or repaired and subsequently recovering it from that holder; and
- (b) taking it to a member of the Police Force for the purpose of having it inspected and subsequently recovering it from such a member; and
- (c) taking it to such a holder or member for the purpose of surrendering it.

(3) A licence is also subject to any conditions prescribed by the regulations for licences of its type.

TABLE

Business pistol licence

1. Firearms to which the licence applies:
Pistols.
2. Authority conferred by the licence:
Authorises the holder and (subject to the conditions of the licence):

SCHEDULE 1—AMENDMENT OF FIREARMS ACT 1989—
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- (a) employees and officers of the corporation specified on the licence; or
- (b) employees and partners of the partnership so specified; or
- (c) employees of the individual so specified,

who are eligible to be applicants for pistol licences (and who are approved for the time being by the Commissioner of Police for the purpose of having access to and possession of, and using, the pistol or pistols) to possess and use the pistol or pistols specified in current registration certificates issued to the holder, but only for the purpose so specified for each pistol concerned.

3. Conditions:

The licence does not authorise anyone under the age of 18 years to possess or use a pistol.

Government pistol licence

1. Firearms to which the licence applies:

Pistols.

2. Authority conferred by the licence:

Authorises the holder and (subject to the conditions of the licence) officers and employees of the government department, office or authority specified on the licence who are eligible to be applicants for pistol licences (and who are approved for the time being by the Commissioner of Police for the purpose of having access to and possession of, and using, the pistol or pistols) to possess and use the pistol or pistols specified in current registration certificates issued to the holder, but only for the purpose so specified for each pistol concerned.

3. Conditions:

The licence does not authorise anyone under the age of 18 years to possess or use a pistol.

Club pistol licence

1. Firearms to which the licence applies:

Target pistols.

2. Authority conferred by the licence:

**SCHEDULE 1—AMENDMENT OF FIREARMS ACT 1989—
*continued***

Authorises the holder and (subject to the regulations and any conditions of the licence) each member of the approved pistol club that is specified in the conditions of or on the licence to possess and use, for the purpose of target shooting, the target pistol or target pistols specified in current registration certificates issued to the holder.

Target pistol licence

1. Firearms to which the licence applies:
Target pistols.
2. Authority conferred by the licence:
Authorises the holder to possess and use, for the purpose of target shooting, the target pistol or target pistols specified in current registration certificates issued to the holder.
3. Conditions:
The licence does not authorise anyone under the age of 18 years to possess or use a target pistol.

Scientific pistol licence

1. Firearms to which the licence applies:
Pistols.
2. Authority conferred by the licence:
Authorises the holder and employees of any corporation, partnership or individual specified on the licence who are eligible to be applicants for pistol licences to possess and use pistols for the purposes relating to research specified on the licence.

Blank fire pistol licence

1. Firearms to which the licence applies:
Blank fire pistols.
2. Authority conferred by the licence:
Authorises the holder and, with the consent of the holder, other persons to possess and use the pistol or pistols specified in current registration certificates issued to the holder, but only for the purpose so specified for each pistol concerned.
3. Conditions:
 - (a) Only blank ammunition may be used in the pistol to which the licence relates.

SCHEDULE 1—AMENDMENT OF FIREARMS ACT 1989—
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- (b) The pistol must not be used for any purpose other than a purpose notified to the holder by the Commissioner of Police.
- (c) The licensee is not to part with possession of the pistol for more than 24 hours at any one time, except when leaving it with a member of the Police Force or a licensed dealer.

Pistol collector licence

1. Firearms to which the licence applies:
Pistols manufactured before 1946 which are not antique pistols.
2. Authority conferred by the licence:
Authorises the holder to possess, at the premises for the time being notified to the Commissioner of Police for the purpose, the pistol or pistols specified in current registration certificates issued to the holder.

Shooter licence—class 1

1. Firearms to which the licence applies:
Air rifles, rifles, shotguns and rifle/shotgun combinations (but not firearms that are self-loading centre-fire rifles, self-loading shotguns or prohibited weapons).
2. Authority conferred by the licence:
Authorises the holder (and, for the purpose of shooting at an approved movable shooting range, any other person under the personal supervision of the holder) to possess and use, for any lawful purpose, firearms to which the licence applies.
3. Conditions:
The licence does not authorise anyone under the age of 18 years to possess or use a firearm.

Shooter licence—class 2

1. Firearms to which the licence applies:
 - (a) Firearms to which a shooter licence—class 1 applies.
 - (b) Self-loading centre-fire rifles (other than of a kind that are designed or adapted for military purposes) fitted with an integral magazine, or with a detachable magazine, capable of holding no more than 5 rounds

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and self-loading shotguns fitted with an integral magazine, or with a detachable magazine, capable of holding no more than 5 rounds (but not firearms that are prohibited weapons).

2. Authority conferred by the licence:
Authorises the holder to possess and use, for any lawful purpose, firearms to which the licence applies.
3. Conditions:
The licence does not authorise anyone under the age of 18 years to possess or use a firearm.

Firearms dealer licence

1. Firearms to which the licence applies:
Either of the following, as specified on the licence:
 - (a) Pistols.
 - (b) All firearms (except pistols or prohibited weapons).
2. Authority conferred by the licence:
Authorises the holder (and, if such a licence is endorsed as issued on behalf of another person, the other person) and, when acting in the course of their employment, employees of the holder (or of any such other person) when under the immediate supervision of the holder, to possess, use, manufacture, buy, sell, transfer or repair (in the course of carrying on a business), at the premises specified in the conditions of or on the licence:
 - (a) if the licence specifies it was issued for pistols—the pistol or pistols specified in current registration certificates issued to the holder; and
 - (b) if the licence specifies it was issued for other firearms—any firearms (except pistols or prohibited weapons).
3. Conditions:
The licence does not authorise anyone under the age of 18 years to possess, use, manufacture, buy, sell, transfer or repair a pistol.

Firearms museum licence

1. Firearms to which the licence applies:
All firearms (except prohibited weapons).

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continued

2. Authority conferred by the licence:

Authorises the holder to possess, at the premises specified on the licence, any firearms (except prohibited weapons).

(6) Section 25 (**Restrictions on issue of licences—generally**):

- (a) After “a person” in section 25 (1), insert “who it appears to the Commissioner of Police after making such inquiries as are reasonably practicable”.
- (b) From section 25 (1) (a), (b), (c) and (d), omit “who” wherever occurring.
- (c) After section 25 (1) (b), insert:
 - (b1) is subject to an apprehended violence order or who has at any time within 10 years before the application for the licence was made been subject to such an order (other than an order which has been revoked);
- (d) After “satisfied” in section 25 (2) (a), insert “, after making such inquiries as are reasonably practicable,”.
- (e) Omit section 25 (4).

(7) Sections 26, 26A:

Omit section 26, insert instead:

Restrictions on issue of particular licences

26. (1) The Commissioner of Police must not issue a licence that authorises possession and use of a pistol unless the Commissioner is satisfied that the applicant has a genuine reason for possessing and using the pistol.

(2) The Commissioner of Police must not issue a shooter licence—class 1 or a shooter licence—class 2 unless the Commissioner is satisfied that:

- (a) the applicant has a genuine reason for possessing and using a firearm; and
 - (b) the genuine reason justifies the possession and use of a firearm of the kind authorised by the licence concerned.
- (3) The regulations may specify:
- (a) reasons which are to be regarded genuine reasons for the purposes of subsection (1) or (2); and

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- (b) reasons which are not to be regarded genuine reasons for the purposes of subsection (1) or (2); and
- (c) matters which are or are not relevant in determining whether reasons are or are not to be regarded genuine reasons for the purposes of subsection (1) or (2).

Photograph on shooter licence—class 1 and shooter licence—class 2

26A. (1) A shooter licence—class 1 and a shooter licence—class 2 must contain a photograph of the person to whom it is issued.

(2) The photograph is to be obtained in accordance with arrangements approved by the Minister.

(8) Section 27:

Omit the section, insert instead:

Term of licence

27. (1) A licence (other than a shooter licence—class 2) continues in force from the time of its issue for such term, if any, as is specified in the licence, unless the licence is earlier surrendered or revoked or otherwise ceases to be in force.

(2) A shooter licence—class 1 ceases to be in force if, during the last 3 months of each 5-year period of the currency of the licence, the holder does not furnish the Commissioner of Police:

- (a) in accordance with arrangements approved by the Minister—with an up-to-date photograph of the holder; and
- (b) with the holder's current residential address.

The licence ceases to be in force at the expiration of the relevant 5-year period.

(3) A shooter licence—class 2 continues in force for 5 years until the date specified in the licence, unless the licence is earlier surrendered or revoked or otherwise ceases to be in force.

(9) Section 29 (**Purposes for which permits must be available**):

From section 29 (1) (e), omit “or selling”, insert instead “, selling or possessing”.

SCHEDULE 1—AMENDMENT OF FIREARMS ACT 1989—
continued

(10) Section 35 (**Suspension of licence or permit—generally**):

After section 35 (1), insert:

(1A) A prescribed member of the Police Force must suspend a licence in accordance with this section if the member is aware that the holder has been charged with a domestic violence offence within the meaning of the Crimes Act 1900 or the member has reasonable cause to believe that the holder has committed or has threatened to commit a domestic violence offence within the meaning of that Act.

(11) Section 35A:

After section 35, insert:

Suspension of licence or permit on making of interim apprehended violence order

35A. (1) A licence or permit that authorises its holder to possess or use a firearm is suspended on the making of an interim apprehended violence order against the holder.

(2) The licence or permit is suspended until the order is confirmed or revoked.

(12) Section 36 (**Revocation of licence or permit**):

In section 36 (2), after “order”, insert “or an apprehended violence order”.

(13) Section 41 (**Right to appeal**):

In section 41 (1) (c), after “the person”, insert “(other than a revocation under section 36 (2))”.

(14) Section 44 (**False or misleading applications**):

At the end of section 44, insert:

Maximum penalty on conviction on indictment—imprisonment for 10 years (if it is established beyond reasonable doubt that the firearm concerned was a pistol) or imprisonment for 5 years (if it is not so established).

(15) Section 48 (**Disposal of surrendered or seized firearms**):

(a) After section 48 (1), insert:

(1A) If a person is found guilty of an offence under section 12 and a firearm has been seized by a member of the Police Force in connection with the offence, the court which makes

SCHEDULE 1—AMENDMENT OF FIREARMS ACT 1989—
continued

the finding of guilt is taken to have ordered that the firearm be forfeited to the Crown. A firearm so forfeited may be destroyed.

- (b) Before “does not include” in section 48 (2), insert “includes a spare barrel for a firearm, the bolt or firing mechanism of a firearm, the balance of a firearm and ammunition but”.

(16) Schedule 1 (**Savings and transitional provisions**):

- (a) After the heading to Schedule 1, insert:

Part 1—General

Regulations

1. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

This Act

Prohibited Weapons Act 1989

Crimes (Firearms) Amendment Act 1989

Firearms Legislation (Amendment) Act 1992.

(2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later day.

(3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

Part 2—This Act, Prohibited Weapons Act 1989 and Crimes (Firearms) Amendment Act 1989

- (b) Omit clause 11.
- (c) Renumber clauses 1–10 (as in force before the commencement of this amendment) as clauses 2–11, respectively.

SCHEDULE 1—AMENDMENT OF FIREARMS ACT 1989—
continued

- (d) From clause 2 (as renumbered), omit “Schedule”, insert instead “Part”.
- (e) At the end of Schedule 1, insert:

Part 3—Firearms Legislation (Amendment) Act 1992
Amnesty concerning firearms which have become prohibited weapons

12. (1) A person who lawfully acquired possession of a firearm referred to in Item (1A) or (1B) of Schedule 1 to the Prohibited Weapons Act 1989 (as amended by the Firearms Legislation (Amendment) Act 1992) before the commencement of the relevant Item may continue to possess and use, but not sell, the firearm until the expiration of the term specified in the licence or permit relating to the firearm or until 30 June 1994, whichever is the sooner, and is taken to be the holder of a shooter licence—class 2 expressed to have been issued for a term corresponding to the period for which possession and use are authorised by this clause.

(2) A person who lawfully acquires possession of such a firearm after the commencement of the relevant Item may continue to possess the firearm for 1 month after acquiring possession and is not required by this Act or the Prohibited Weapons Act 1989 to hold a licence or permit authorising possession of the firearm during that 1-month period.

Surrender of firearms which have become prohibited weapons

13. (1) A person to whom clause 12 applies who does not possess the firearm concerned in accordance with a licence or permit under this Act or the Prohibited Weapons Act 1989 after the term for which a shooter licence—class 2 is taken to have been issued under clause 12 (1) or after the 1-month period referred to in clause 12 (2) has expired must immediately surrender the firearm to the Commissioner of Police by delivering it to:

- (a) any police station; or
(b) a place nominated by the Commissioner for the purpose.

Maximum penalty: 50 penalty units.

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(2) Nothing in this clause prevents the surrender of a firearm before it is required to be surrendered by this clause.

(3) It is a defence to a prosecution under this clause in respect of a prohibited weapon that is lawfully acquired after the commencement of Item (1A) or (1B) of Schedule 1 to the Prohibited Weapons Act 1989 if the defendant satisfies the court that he or she had not unduly delayed surrendering the firearm to the Commissioner of Police.

(4) The Commissioner of Police is required to destroy a firearm surrendered under this clause.

Waiver of fees

14. If a person who surrenders a firearm under clause 13 applies for a licence or permit under this Act for any other firearm at any time before 30 June 1997, the Commissioner of Police, as compensation towards the value of the firearm surrendered, has a discretion to waive payment of the licence or permit fee.

Shooter licences

15. A shooter licence in force immediately before the commencement of section 21 (as amended by the Firearms Legislation (Amendment) Act 1992), in relation to a firearm which is not a firearm referred to in Item (1A) or (1B) of Schedule 1 to the Prohibited Weapons Act 1989 (as amended by the Firearms Legislation (Amendment) Act 1992), continues to authorise the possession and use, until the expiration of the term specified in the licence, of the firearm in relation to which it was issued, unless the licence is earlier surrendered or revoked or otherwise ceases to be in force.

Requirements of applicants for certain licences and permits

16. An applicant for a shooter licence—class 1 or a shooter licence—class 2 or a permit referred to in clause 7 (2) of the Prohibited Weapons Regulation 1990 (as amended by the Firearms Legislation (Amendment) Act 1992) who has 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, is not required to pass such a course or test in connection with the application.

SCHEDULE 1—AMENDMENT OF FIREARMS ACT 1989—
continued

Retention by primary producers of firearms which have become prohibited weapons

17. (1) A person:

- (a) whose principal or only occupation is the business of a primary producer; and
- (b) who lawfully acquired possession of a firearm referred to in Item (1A) or (1B) of Schedule 1 to the Prohibited Weapons Act 1989 (as amended by the Firearms Legislation (Amendment) Act 1992) before the commencement of the relevant Item; and
- (c) who is not excluded from the application of this clause by the regulations,

may continue to possess and use, but not sell, the firearm until the expiration of the term specified in the licence or permit relating to the firearm or until 30 June 1994, whichever is the sooner, and is taken to be the holder of a shooter licence—class 2 expressed to have been issued for a term corresponding to the period for which possession and use are authorised by this clause.

(2) A person to whom this clause applies is entitled to make an application under Division 1 of Part 3 ~~or~~ a shooter licence—class 2 in respect of the firearm concerned.

(3) The Commissioner of Police is authorised, in accordance with this Act and the regulations, to issue a shooter licence—class 2 to the applicant in respect of the firearm concerned, despite the fact that the firearm is a prohibited weapon.

(4) The Commissioner of Police must issue such a licence if the applicant satisfies the requirements of this Act and the regulations concerning the issue of the licence.

(5) A licence so issued confers the same authority on the holder to possess and use, but not to sell, the firearm concerned as a shooter licence—class 2 confers on the holder of such a licence in relation to a firearm that is not a prohibited weapon, but is subject to the following additional conditions:

- (a) the firearm must be used only for the business of a primary producer;

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continued

- (b) the magazine must be permanently modified so as to hold 5 rounds or less.

Temporary permits for firearms which have become prohibited weapons

18. (1) The Commissioner of Police is authorised, in accordance with the regulations, to issue a permit under Division 2 of Part 3 to a person for the possession and use of a firearm referred to in Item (1A) or (1B) of Schedule 1 to the Prohibited Weapons Act 1989 (as amended by the Firearms Legislation (Amendment) Act 1992) which was lawfully acquired by the person before the commencement of the relevant Item.

(2) The Commissioner of Police must not issue such a permit unless the Commissioner is satisfied that:

- (a) the applicant has a genuine reason for possessing and using the firearm; and
(b) the genuine reason justifies the possession and use of a firearm of the kind authorised by the permit.

(3) The term of such a permit must not exceed 5 years or a term expiring on 30 June 1997, whichever is the shorter.

(4) The Commissioner of Police must issue such a permit if the applicant satisfies the requirements of this Act and the regulations concerning the issue of the permit.

(5) The regulations may specify:

- (a) reasons which are to be regarded genuine reasons for the purposes of this clause; and
(b) reasons which are not to be regarded genuine reasons for the purposes of this clause: and
(c) matters which are or are not relevant in determining whether reasons are or are not to be regarded genuine reasons for the purposes of this clause.

Personal pistol licences

19. The authority of a personal pistol licence in force immediately before the commencement of section 21, as amended by the Firearms Legislation (Amendment) Act 1992, continues until the expiration of the term specified in the licence or until 12 months after that commencement,

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whichever is the sooner, unless the licence is earlier surrendered or revoked or otherwise ceases to be in force.

Saving of certain regulations

20. The repeal of clause 11 of Schedule 1 to this Act by the Firearms Legislation (Amendment) Act 1992 does not repeal any regulations made for the purposes of that clause and in force immediately before the repeal of that clause and any such regulations are taken to have been made for the purposes of clause 1 of Part 1 of Schedule 1 to this Act, as amended by the Firearms Legislation (Amendment) Act 1992.

Future amendment or repeal of regulations

21. The amendments made by the Firearms Legislation (Amendment) Act 1992 to the Firearms Regulation 1990 and the Prohibited Weapons Regulation 1990 do not affect the future amendment or repeal of those Regulations.

Issue of certain interim licences and permits

22. (1) The Commissioner of Police may issue a shooter licence—class 1, a shooter licence—class 2 or a permit referred to in clause 7B of the Prohibited Weapons Regulation 1990 (as amended by the Firearms Legislation (Amendment) Act 1992) which does not contain a photograph of the person to whom it is issued.

(2) A licence or permit issued in accordance with this clause continues in force for such period, not exceeding 6 months, as is specified in the licence or permit, unless the licence or permit is earlier surrendered or revoked or otherwise ceases to be in force.

(3) The authority to issue a licence or permit in accordance with this clause ceases on 31 December 1992 or such earlier date as may be notified to the Commissioner of Police by the Minister.

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1990**

(Sec. 4)

(1) Clause 8 (Where and when appeal to be made):

After clause 8 (b) (i), insert:

- (ia) a government pistol licence—to the Local Court nearest to the head office of the government department, office or authority concerned; or

(2) Part 3, Division 1 (Licences):

Omit the Division.

(3) Clause 19 (How applications are to be made):

- (a) After “written application” in clause 19 (1), insert “which contains such matters as are required by subclause (4) and are relevant to the application but which is otherwise”.

- (b) After clause 19 (1) (a), insert:

- (a1) in the case of an application for a government pistol licence—nearest to the place at which the head office of the government department, office or authority concerned is located; or

- (c) From clause 19 (1) (c), omit “firearms collector licence”, insert instead “pistol collector licence”.

- (d) From clause 19 (1) (f), omit “shooter licence”, insert instead “shooter licence—class 1 or shooter licence—class 2”.

- (e) After clause 19 (3), insert:

- (4) The form of application by a person for his or her first licence of a particular type and the form of application for a shooter licence—class 2 must contain:

- (a) a statement or summary, in a form approved by the Commissioner, of the provisions of the Act concerning the safe storage of firearms and the sanctions which may be imposed for breach of those provisions; and

- (b) an acknowledgment by the applicant that he or she is aware of those provisions.

(4) Clause 22 (Grounds for refusal of licences and permits):

- (a) After “business pistol licence” in clause 22 (2), insert “or government pistol licence”.

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- (b) Omit clause 22 (3).
 - (c) From clause 22 (6), omit “a shooter licence” where firstly occurring, insert instead “a shooter licence—class 1 or a shooter licence—class 2”.
 - (d) From clause 22 (6), omit “a shooter licence” where secondly occurring, insert instead “a shooter licence—class 1 or a shooter licence—class 2, as the case requires,”.
- (5) **Clause 26 (Change of particulars of licence or permit holder):**
After clause 26 (2), insert:
 (3) A holder who is convicted of an offence against this clause for not notifying a change in the holder’s usual residential address and who did not notify the change within 28 days of the date of the change is disqualified from holding a licence or permit for 5 years from the date of the conviction.
- (6) **Clause 28 (Additional restrictions on issue of pistol collector licences):**
From clause 28 (2), omit “that authorises the possession of pistols that are not antique pistols”.
- (7) **Clause 30 (Form of collector’s record):**
Omit “Part”, insert instead “Division”.
- (8) **Clause 35 (Record of firearms):**
After “licence” in clause 35 (2) (c), insert “or permit”.
- (9) **Clause 35A:**
After clause 35, insert:
Quarterly returns
 35A. (1) The holder of a firearms dealer licence must, within 14 days after the end of the months of March, June, September and December in each year, forward a return to the Commissioner which contains the particulars for the preceding quarter that are required to be recorded under clause 35 (2).
 Maximum penalty: 50 penalty units.
 (2) A person who manufactures firearms in New South Wales or who imports firearms into New South Wales and

SCHEDULE 2—AMENDMENT OF FIREARMS REGULATION
1990 —*continued*

who is not the holder of a firearms dealer licence must, within 14 days after the end of the months of March, June, September and December in each year, forward a return to the Commissioner which contains the following particulars in relation to each firearm in the person's possession at any time during the preceding quarter:

- (a) the make, serial number, calibre and type of the firearm;
- (b) the date of manufacture or initial receipt by the person;
- (c) the date of its sale or transfer out of the possession of the person;
- (d) the name and residential address of the person to whom it is sold or transferred;
- (e) the number of the licence or permit authorising the person to whom it is sold or transferred to carry out the transaction or, if that licence or permit is held by a third person, the name and residential address of the third person.

Maximum penalty: 50 penalty units.

(3) This clause does not prevent a person from forwarding returns at more frequent intervals than this clause requires.

(4) The return is to be in the form approved by the Commissioner.

(10) Clauses 42A, 42B:

After clause 42, insert:

Restriction on issue: government pistol licences

42A. The Commissioner is not to issue a government pistol licence unless satisfied that each officer or employee of the government department, office or authority concerned who is intended to have access to, possession of or use of each pistol to which the licence relates would, if he or she were to apply for a pistol licence on his or her own behalf, be granted that licence.

Government pistol licences: change of holder

42B. (1) If an application for a government pistol licence:

- (a) is made by a person in the capacity of the holder of a particular office or position; and

SCHEDULE 2—AMENDMENT OF FIREARMS REGULATION
1990 —*continued*

(b) a government pistol licence is issued pursuant to the application,

the Commissioner is required to endorse on that licence that it is issued to the person in that capacity.

(2) If a government pistol licence has been issued to the holder of a particular office or position in respect of a pistol in his or her capacity as the holder of that office or position, the holder for the time being of that office or position is, for the purposes of this Regulation, taken to be the holder of the licence.

(3) If there is a change in the holder of a government pistol licence because of the operation of this clause, the new holder must, within 14 days after the event that caused the change, lodge with the Commissioner a notice in the form approved by the Commissioner of the occurrence of that event.

Maximum penalty: 10 penalty units.

(4) A government pistol licence may be revoked by the Commissioner if any holder of the licence for the time being is convicted of an offence under subclause (3).

(11) Clause 43 (**Approval of employees etc.**):

After “business pistol licence” in clause 43 (1), insert “or a government pistol licence”.

(12) Clause 44 (**Records**):

After “business pistol licence,”, insert “a government pistol licence,”.

(13) Clause 51 (**Minor’s firearms permit**):

(a) After clause 51 (3), insert:

(3A) The applicant must have completed a firearms safety awareness course referred to in clause 79.

(b) From clause 51 (4) (a), omit “a shooter licence for the firearm”, insert instead “a shooter licence—class 1 or a shooter licence—class 2”.

SCHEDULE 2—AMENDMENT OF FIREARMS REGULATION
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- (c) From clause 51 (6), omit “or a blank fire pistol”, insert instead “, a blank fire pistol, a self-loading centre-fire rifle (other than of a kind that is designed or adapted for military purposes) fitted with an integral magazine, or with a detachable magazine, capable of holding no more than 5 rounds or a self-loading shotgun fitted with an integral magazine, or with a detachable magazine, capable of holding no more than 5 rounds”.
- (14) **Clause 53 (Non-resident shooter permit):**
From clause 53 (3), omit “a shooter licence”, insert instead “a shooter licence—class 1 or a shooter licence—class 2”.
- (15) **Clause 78 (Fees):**
- (a) From clause 78 (5), omit “a shooter licence”, insert instead “a shooter licence—class 1 or a shooter licence—class 2”.
- (b) After “minor’s firearms permit” in clause 78 (6), insert “(other than the firearms safety awareness course fee)”.
- (16) **Clause 80 (Registration certificates):**
- (a) From clause 80 (4) (a), omit “a personal pistol licence, a business pistol licence,”, insert instead “a business pistol licence, a government pistol licence,”.
- (b) From clause 80 (4) (b), omit “firearms collector licence”, insert instead “pistol collector licence”.
- (17) **Clause 84 (Annual inspections of pistols):**
- (a) From clause 84 (1), omit “a personal pistol licence or a business pistol licence”, insert instead “a business pistol licence or a government pistol licence”.
- (b) After “business pistol licence” in clause 84 (2), insert “or a government pistol licence”.
- (c) From clause 84 (3), omit “(other than a pistol collector licence that authorises only the possession of antique pistols)”.

SCHEDULE 2—AMENDMENT OF FIREARMS REGULATION
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- (d) From clause 84 (4), omit “a pistol collector licence that authorises only the possession of antique pistols or of”.

(18) Clauses 86A, 86B:

After clause 86, insert:

Means of delivering possession of firearms

86A. A person may only deliver possession of a firearm to another person:

- (a) in person; or
- (b) by means of a person who appears able to ensure the security of the firearm during the course of delivery.

Maximum penalty: 20 penalty units.

Use of mail for forwarding firearms

86B. (1) A person must not forward a firearm by mail to an address in New South Wales.

Maximum penalty: 20 penalty units.

(2) A person must not receive a firearm by mail at an address in New South Wales.

Maximum penalty: 20 penalty units.

(3) It is a defence to a prosecution under subclause (2) if the defendant satisfies the court that the firearm was forwarded to the person without his or her knowledge or approval.

(19) Clause 88 (**Numbering of pistols and spare barrels**):

- (a) Omit clause 88 (2) (a), (b) and (c), insert instead:

- (a) in the case of a pistol or a blank fire pistol—by stamping or, with the approval of the Commissioner, by engraving the number in an exposed position on the frame of the pistol; or
- (b) in the case of a spare barrel—by stamping or engraving the number on the outer surface,

- (b) Omit clause 88 (4) and (5).

(20) Clause 92 (**Applications for renewal**):

- (a) From clause 92 (1) (b), omit “or has been refused on the ground specified in clause 12A”.

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SCHEDULE 2—AMENDMENT OF FIREARMS REGULATION
1990—*continued*

- (b) After “the issue of” in clause 92 (2), insert “or refusal of”.
- (c) From clause 92 (2), omit “or, in the case of a refusal on the ground specified in clause 12A, 30 April 1992”.
- (21) Clause 95 (**Exemptions relating to government agencies**):
Omit the clause.
- (22) Schedule 1 (**Classes of target pistols**):
Omit paragraph 3 (a).
- (23) Schedule 2 (**Authority conferred by licences**):
Omit the Schedule.
- (24) Schedule 3 (**Prescribed conditions of licences**):
Omit the Schedule.
- (25) Schedule 5 (**Fees**):
- (a) Omit Part 1.
- (b) Omit the heading to Part 2.
- (c) Omit the matter relating to Personal pistol licence.
- (d) After the matter relating to Business pistol licence, insert:
- | | |
|---------------------------|-----|
| Government pistol licence | 500 |
|---------------------------|-----|
- (e) Omit the matter relating to Pistol collector licence, insert instead:
- | | |
|--------------------------|----|
| Pistol collector licence | 50 |
|--------------------------|----|
- (f) After “Shooter licence” insert “—class 1 or shooter licence—class 2”.
- (g) Omit:
- | | |
|--|------------------|
| holder of pistol collector licence not restricted to antique pistols or of firearms dealer licence | 100 (per annum) |
| holder of pistol collector licence restricted to antique pistols | 50 (per 3 years) |

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1990—*continued*

insert instead:

holder of pistol collector licence or firearms dealer licence	100 (per annum)
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- (26) Schedule 6 (**Exemptions relating to government agencies**):
Omit the Schedule.

SCHEDULE 3—AMENDMENT OF PROHIBITED WEAPONS
ACT 1989

(Sec. 5)

- (1) Section 9 (**Permits**):
- (a) Omit “Minister” wherever occurring, insert instead “Commissioner of Police”.
 - (b) After section 9 (1), insert:
 - (1A) The regulations may provide mandatory or discretionary grounds for refusing the issue of a permit.
- (2) Section 10 (**False or misleading applications**):
- At the end of section 10, insert:
- Maximum penalty on conviction on indictment—
imprisonment for 10 years.
- (3) Section 19 (**Evidentiary provisions**):
- At the end of section 19 (b), insert:
- ; G
- (c) that an article is or is not of a type for the time being approved by the Commissioner for the purposes of paragraph (a) of the definition of “prohibited article” in section 3 (1) or for the purposes of Schedule 1 (27),
- (4) Schedule 1 (**Prohibited weapons**):
- (a) After item (1), insert:
 - (1A) A firearm—
 - (a) that is a self-loading centre-fire rifle of a kind that is designed or adapted for military purposes; or

**SCHEDULE 3—AMENDMENT OF PROHIBITED WEAPONS ACT
1989—*continued***

- (b) that substantially duplicates in appearance (regardless of calibre or manner of operation) a firearm referred to in paragraph (a).
- (1B) A firearm—
 - (a) that is—
 - (i) a self-loading centre-fire rifle; or
 - (ii) a self-loading shotgun,
fitted with a magazine capable of holding more than 5 rounds; or
 - (b) that substantially duplicates in appearance (regardless of calibre or manner of operation) a firearm referred to in paragraph (a).
- (b) After item (12), insert:
 - (12A) An article being—
 - (a) a rimfire magazine with a capacity of more than 15 rounds; or
 - (b) a centre-fire self-loading rifle magazine, or shotgun magazine, with a capacity of more than 5 rounds; or
 - (c) a shotgun tubular magazine extension to extend the capacity of a shotgun magazine to more than 5 rounds.

**SCHEDULE 4—AMENDMENT OF PROHIBITED WEAPONS
REGULATION 1990**

(Sec. 6)

(1) Clause 3 (**Definitions**):

Insert in clause 3 (1), in alphabetical order:

“apprehended violence order” means an order under section 562B of the Crimes Act 1900 or an order under section 562H of that Act which is confirmed;

“interim apprehended violence order” means an order under section 562H of the Crimes Act 1900;

(2) Clauses 3, 9 and 12:

Omit “Minister” wherever occurring, insert instead “Commissioner of Police”.

SCHEDULE 4—AMENDMENT OF PROHIBITED WEAPONS
REGULATION 1990—*continued*

(3) Clause 7 (**Applications for permits**):

- (a) Omit “Minister” where firstly occurring, insert instead “Commissioner of Police”.
- (b) Omit “Minister” where secondly occurring, insert instead “Commissioner”.
- (c) At the end of clause 7, insert:
 - (2) Without limiting subclause (1), a person may apply for a permit that will authorise the person to possess and use:
 - (a) a self-loading centre-fire rifle (other than of a kind that is designed or adapted for military purposes) with a detachable magazine capable of holding more than 5 rounds; or
 - (b) a self-loading centre-fire rifle of a kind that is designed or adapted for military purposes.

(4) Clauses 7A, 7B:

After clause 7, insert:

Refusal of permit—apprehended violence order

7A. Without limiting the grounds on which the issue of a permit may be refused, the Commissioner of Police must not issue a permit of a kind referred to in clause 7 (2) to 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).

Photographs on certain permits

7B. (1) A permit that authorises a person to possess and use a prohibited weapon referred to in clause 7 (2) must contain a photograph of the person to whom it is issued.

(2) The photograph is to be obtained in accordance with arrangements approved by the Minister.

(5) Clause 9A:

After clause 9, insert:

Suspension and revocation of permits—apprehended violence orders

9A. (1) This clause applies to a permit of a kind referred to in clause 7 (2).

**SCHEDULE 4—AMENDMENT OF PROHIBITED WEAPONS
REGULATION 1990—*continued***

(2) A permit is suspended on the making of an interim apprehended violence order against the holder.

(3) The permit is suspended until the order is confirmed or revoked.

(4) A permit is revoked on the making of an apprehended violence order against the holder.

(6) Clause 11 (**Lost, stolen or destroyed weapons or articles**):

After “Commissioner”, insert “of Police”.

SCHEDULE 5—AMENDMENT OF CRIMES ACT 1900

(Sec. 7)

(1) Section 93F (**Definition**):

After “Firearms Act 1989”, insert “and includes an antique pistol within the meaning of that Act.”

(2) Section 93H:

Omit the section, insert instead:

Trespassing with or dangerous use of firearm or spear gun

93H. (1) A person who, possessing a firearm, imitation firearm, spear gun or imitation spear gun, enters any building or land (other than a road), unless the person:

(a) is the owner or occupier of the building or land or has the permission of the owner or occupier; or

(b) does so with a reasonable excuse; or

(c) does so for a lawful purpose,

is liable to imprisonment for 5 years.

(2) A person who fires a firearm or spear gun in or into any building or on or on to any land, unless the person:

(a) is the owner or occupier of the building or land or has the permission of the owner or occupier; or

(b) does so with a reasonable excuse; or

(c) does so for a lawful purpose,

is liable to imprisonment for 10 years.

SCHEDULE 5—AMENDMENT OF CRIMES ACT 1900—*continued*

(3) The onus of proving the matters referred to in subsection (1) (a), (b) and (c) and subsection (2) (a), (b) and (c) lies with the defendant.

(3) Section 357H (**Provisions relating to powers of entry under ss. 357F and 357G**):

- (a) From section 357H (1), omit “shall”.
- (b) In section 357H (1) (a), before “take”, insert “is to”.
- (c) After section 357H (1) (a), insert:
 - (a1) must inquire as to the presence of any firearms in the dwelling-house and, if informed that there is a firearm or firearms, must take all such action as is reasonably practicable to search for and to seize the firearm or firearms; and
- (d) In section 357H (1) (b), before “remain”, insert “is to”.

(4) Section 357I:

After section 357H, insert:

Police may enter and search for firearms

357I. (1) If, on inquiry under section 357H (1) (a1), a member of the police force is informed that there is no firearm in the dwelling-house concerned but a member of the police force has reasonable cause to believe that there is a firearm or firearms in the dwelling-house, a member of the police force must apply to an authorised justice for the issue of a search warrant.

(2) A member of the police force who believes on reasonable grounds that:

- (a) a domestic violence offence has recently been or is being committed, or is imminent, or is likely to be committed, otherwise than in a dwelling-house; and
- (b) any of the persons concerned may have a firearm in a dwelling-house,

must apply to an authorised justice for the issue of a search warrant.

(3) An authorised justice to whom an application is made may, if satisfied that there are reasonable grounds for doing

SCHEDULE 5—AMENDMENT OF CRIMES ACT 1900—*continued*

so, issue a search warrant authorising any member of the police force:

- (a) to enter and search the dwelling-house concerned for firearms; and
- (b) to seize any firearms that may be found in the dwelling-house.

(4) Part 3 of the Search Warrants Act 1985 applies to a search warrant issued under this section.

(5) In this section, “**authorised justice**” has the same meaning as in the Search Warrants Act 1985.

(5) Section 358B (**Disposal of seized firearms etc.**):

- (a) From section 358B (2), omit “the prescribed period”, insert instead “90 days after seizure of the article”.
- (b) Omit section 358B (4).

(6) Section 562C (**Making of complaint**):

Omit section 562C (3), insert instead:

(3) Notwithstanding subsection (2), a complaint for an order must be made by a member of the Police Force:

- (a) on behalf of a person against whom the member of the Police Force suspects or believes that a domestic violence offence has recently been or is being committed, or is imminent, or is likely to be committed, unless:
 - (i) the member of the Police Force believes that the person intends to make the complaint; or
 - (ii) the member of the Police Force believes that there is good reason not to make the complaint; or
- (b) if the person for whose protection the order would be made is a child under the age of 18 years at the time of the complaint.

(3A) A member of the Police Force who believes, as referred to in subsection (3) (a) (ii), that there is a good reason not to make the complaint must make a written record of the reason.

SCHEDULE 5—AMENDMENT OF CRIMES ACT 1900—*continued*(7) Section 562D (**Prohibitions and restrictions imposed by orders**):

From section 562D (3), omit “Firearms and Dangerous Weapons Act 1973”, insert instead “Firearms Act 1989 or the Prohibited Weapons Act 1989”.

(8) Section 562N (**Costs**):

After section 562N (2), insert:

(2A) A court shall not award costs against a member of the Police Force who makes a complaint as referred to in section 562C(3).

*[Minister’s second reading speech made in—
Legislative Council on 4 March 1992
Legislative Assembly on 26 March 1992]*