



New South Wales

Firearms Amendment Act 1996 No 135

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Firearms Amendment Act 1996 No 135

Act No 135, 1996

An Act to amend the *Firearms Act 1996* to make further provision with respect to the regulation of firearms; and for related purposes. [Assented to 16 December 1996]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Firearms Amendment Act 1996*.

2 Commencement

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

3 Amendment of Firearms Act 1996 No 46

The *Firearms Act 1996* is amended as set out in Schedule 1.

4 Notes

The matter appearing in brackets in the heading to an item of Schedule 1 is to be treated as a note and does not form part of this Act. The matter is included merely for the purpose of drawing attention (“cf”) to the number of the APMC resolution, or to the provision of the *Firearms Regulation 1990* (“1990 Reg”), on which the amendment is based. The *APMC resolutions* are the further resolutions on national firearms laws passed at the meeting of the Australasian Police Ministers’ Council on 17 July 1996.

Schedule 1 Amendments

(Section 3)

[1] Section 4 Definitions (cf 1990 Reg cl 32)

Insert in alphabetical order in section 4 (1):

club armourer means a person:

- (a) who is a member of a shooting club approved by the Commissioner in accordance with the regulations, and
- (b) who, in the opinion of the Commissioner, is the club armourer for that club.

[2] Section 4 (1) definition of “firearms dealer” (cf 1990 Reg cl 32)

Insert “or in carrying out the person’s duties as a club armourer” after “principal business”.

[3] Section 6 Application of Act (cf APMC 1.9)

Omit section 6 (2) (e).

[4] Section 6 (3)

Omit the subsection. Insert instead:

- (3) A person is not guilty of an offence under section 7 only because of possessing a firearm or firearm part:
 - (a) that is being conveyed or stored in the ordinary course of the person’s duties in the business of a carrier or warehouse operator, or
 - (b) that has been seized by the person, under the authority of any Act or other law, in the course of the person’s duties as an employee or officer of a government agency or public authority, or
 - (c) while acting in the ordinary course of the person’s duties as a member (other than a police officer) of the Police Service.

[5] Section 8 Licence categories and authority conferred by licence

Omit “repeating action, eg pump action,” from the matter relating to category A licences in section 8 (1).

Insert instead “pump action”.

[6] Section 8 (1)

Omit “**occupational**” from the heading to the matter relating to category C licences.

Insert instead “**limited**”.

[7] Section 8 (1)

Omit “repeating action (eg pump action)” from the matter relating to category C licences.

Insert instead “pump action”.

[8] Section 8 (1) (cf APMC 1.12)

Omit “The licensee is authorised” from the matter relating to category C licences.

Insert instead “Authorises the licensee (and any employee of the licensee who is eligible to be issued with a licence and who is authorised by the Commissioner in writing, but only while carrying out duties in connection with the licensee’s farming or grazing activities)”.

[9] Section 8 (1) (cf APMC 1.12)

Insert at the end of the matter relating to category C licences:

However, the number of firearms authorised under this licence category may be increased if a special need for more than one such rifle, or for more than one such shotgun, is established by the licensee to the satisfaction of the Commissioner (for example because of the size of the rural property concerned, or because the licensee is involved with more than one rural property).

[10] Section 8 (1)

Omit “repeating action (eg pump action)” from the matter relating to category D licences.

Insert instead “pump action”.

[11] Section 8 (1)

Omit “such other firearms to which a category C licence applies as may be prescribed by the regulations” from the matter relating to category D licences.

Insert instead “any firearm to which a category C licence applies”.

[12] Section 8 (1) (cf APMC 1.13)

Insert at the end of the matter relating to category D licences:

However, in the case of a licensee who is a person referred to in paragraph (c) of the genuine reason of vertebrate pest animal control, the authority conferred by the licence is restricted as follows:

- (a) the licensee is authorised to possess or use no more than one registered firearm to which the licence applies,
- (b) the licensee is authorised to use the firearm only on the rural property specified in the licence.

[13] Section 8 (1) (cf 1990 Reg cl 32)

Omit .“Authorises” from the matter relating to firearms dealer licences.

Insert instead “In the case of a firearms dealer other than a club armourer, authorises”.

[14] Section 8 (1)

Insert “and who are authorised in writing by the Commissioner” after “a licence” in the matter relating to firearms dealer licences.

[15] Section 8 (1)

Omit “sell ammunition for such” from the matter relating to firearms dealer licences.

Insert instead “possess, manufacture, buy or sell ammunition for those”.

[16] Section 8 (1) (cf 1990 Reg d 32)

Insert at the end of the matter relating to firearms dealer licences:

In the case of a club armourer, authorises the licensee to possess, manufacture, buy, sell, transfer, repair, maintain or test in the licensee’s capacity as a club armourer, and only at the premises specified in the licence, the firearms to which the licence applies, and to possess, manufacture, buy or sell ammunition for those firearms.

The authority conferred by a firearms dealer licence issued to a club armourer is restricted to carrying out the person’s duties as club armourer for the club concerned.

[17] Section 8 (1) (cf APMC 1.10)

Insert after the matter relating to firearms dealer licences:

Firearms collector licence

Firearms to which the licence applies:

- the kinds of firearms specified in the licence.

Any pistol manufactured after 1 January 1946 is excluded from this licence category.

Any prohibited firearm (other than those firearms to which a category C licence or category D licence applies) is excluded from this licence category.

Authority conferred by the licence:

The licensee is authorised to possess the firearms to which the licence applies for the purpose of a firearms collection.

[18] Section 9 Authority conferred by licence—additional matters

Insert “and except as provided by section 17A” after “regulations” in section 9 (2).

[19] Section 9 (3) (cf APMC 1.10)

Omit the subsection. Insert instead:

- (3) A firearms collector licence does not authorise the possession of ammunition for any firearm that is part of the firearms collection to which the licence relates.

[20] Section 11 General restrictions on issue of licences

Omit “is applying for a licence for the first time” from section 11 (3) (b).

Insert instead “has never held a licence (including a firearms licence under a previous Act)”.

[21] Section 11 (3A)

Insert after section 11 (3):

- (3A) Despite subsection (3) (b), the Commissioner may require an applicant for a licence to complete such firearms training and safety courses as are approved by the Commissioner in relation to the category of licence concerned.

[22] Section 11 (6)

Omit “dealers licence”.

Insert instead “dealer licence or where the applicant’s genuine reason is business or employment”.

[23] Section 12 Genuine reasons for having a licence

Omit “prescribed by the regulations” from the matter relating to the genuine reason of sport/target shooting in the Table to section 12. Insert instead “approved by the Commissioner in accordance with the regulations”.

[24] Table to section 12

Insert after paragraph (b) of the matter relating to the genuine reason of recreational hunting/vermin control:

, or

- (c) be a current member of a hunting club approved by the Commissioner in accordance with the regulations.

[25] Table to section 12

Insert “A person does not, so long as the person is authorised to give permission to shoot on rural land, incur any liability merely because the person gives the applicant permission to shoot on the land concerned.” after “the applicant.” in the matter relating to the genuine reason of recreational hunting/vermin control.

[26] Table to section 12 (cf APMC 1.13)

Insert after paragraph (b) of the matter relating to the genuine reason of vertebrate pest animal control:

, or

- (c) a person whose occupation is the business of a primary producer, or who is the owner, lessee or manager of land used for primary production, and who is participating in an authorised campaign conducted by or on behalf of a government agency or public authority to eradicate large feral animals or animals that are affected by brucellosis or tuberculosis.

[27] Table to section 12 (cf APMC 1.10)

Omit the matter relating to the genuine reason of firearms collection.
Insert instead:

Reason: firearms collection

The applicant must:

- (a) demonstrate that the applicant's firearms collection has a genuine commemorative, historical, thematic or financial value, and
- (b) be a current member of a collectors' society or club approved by the Commissioner in accordance with the regulations.

[28] Section 14 Category C licences—restrictions on issue

Omit "The Commissioner".

Insert instead "Except as provided by section 17A, the Commissioner".

[29] Section 15 Category D licences—restrictions on issue
(cf APMC 1.13)

Insert after section 15 (b):

, and

- (c) in the case of a person referred to in paragraph (c) of the genuine reason of vertebrate pest animal control, the person produces evidence to the Commissioner's satisfaction that any such special need cannot be met by any other means (including by the authority conferred by a category A, category B or category C licence, or by engaging the services of a professional contract shooter).

[30] Section 17A

Insert after section 17:

17A Special provisions relating to category C licences issued for clay target shooting purposes

- (1) The Commissioner may issue a category C licence (referred to in this section as a *special category C licence*) authorising possession and use of a self-loading or pump action shotgun for the purposes of participating in recognised clay target shooting competitions.
- (2) The authority conferred by a special category C licence is subject to the following restrictions:
 - (a) the shotgun to which the licence relates must not be loaded at any one time with more than 2 rounds,
 - (b) the shotgun may only be used for shooting at clay targets, and for associated training programs, while on a shooting range that is approved under the regulations.
- (3) An applicant for a special category C licence must be a person who, immediately before 15 November 1996:
 - (a) was in lawful possession of a self-loading or pump action shotgun used for shooting clay targets, and
 - (b) was a member of a shooting club affiliated with the Australian Clay Target Association.
- (4) Alternatively, an applicant must provide, to the Commissioner's satisfaction, a written statement issued on behalf of a shooting club approved by the Commissioner, and which is affiliated with the Australian Clay Target Association, to the effect that the applicant:
 - (a) is a current member of that club, and
 - (b) because of physical reasons such as lack of strength or dexterity, needs to have a self-loading or pump action shotgun in order to participate in clay target shooting competitions.

- (5) A statement under subsection (4) must be supported by such documents as may be required by the Commissioner.
- (6) Without limiting the conditions to which a category C licence is subject, a special category C licence issued under this section is subject to the condition that the licensee must, over any period of 12 months, participate in no less than the number of clay target shooting competitions as prescribed by the regulations.
- (7) For the avoidance of doubt, a special category C licence is a type of category C licence, and any requirements under this Act or regulations that apply to or in respect of a category C licence apply to or in respect of a special category C licence.

[31] Section 18 Form of licence

Omit “dealers” from section 18 (2) (d).
Insert instead “dealer”.

[32] Section 18 (2) (f) (cf APMC 1.1)

Omit the paragraph.

[33] Section 18 (2) (g) (cf APMC 1.1)

Insert “(in the case of a firearms dealer licence)” after “specify”.

[34] Section 20 (cf APMC 1.10)

Omit the section. Insert instead:

20 Special conditions relating to firearms collector licences

Without limiting the conditions to which a firearms collector licence may be subject, any such licence is subject to the following conditions:

- (a) any prohibited firearm (being a firearm to which a category D licence applies) that is part of the collection must be rendered permanently inoperable in a manner prescribed by the regulations,

- (b) any other firearm that is part of the collection, and that was manufactured after 1900, must be rendered temporarily inoperable by removing the bolt or firing mechanism and keeping it separate from the firearm in a locked container of a type approved by the Commissioner, or by using a trigger lock of a type approved by the Commissioner,
- (c) any prohibited firearm (being a firearm to which a category C or category D licence applies) that is part of the collection can only be sold, transferred or otherwise disposed-of
 - (i) to a licensed firearms dealer who is authorised to possess those types of prohibited firearms, or
 - (ii) through a licensed firearms dealer to the holder of a firearms collector licence who is authorised to possess those types of prohibited firearms,
- (d) any prohibited firearm (being a firearm to which a category C licence or category D licence applies) that is intended to be part of the collection can only be bought, or otherwise acquired, from a licensed firearms dealer or through a licensed firearms dealer from the holder of a firearms collector licence,
- (e) any firearm that is part of the collection can only be kept on premises approved by the Commissioner, and must be stored in accordance with the standards prescribed by the regulations for the purposes of this section.

[35] Section 20A (cf APMC 1.13)

Insert before section 21:

20A Special conditions of category D licences issued to primary producers

Without limiting the conditions to which a category D licence may be subject, a category D licence that is

issued to a person referred to in paragraph (c) of the genuine reason of vertebrate pest animal control is subject to the following conditions:

- (a) the licensee must, on the expiry of the period for which the licence is in force, return the firearm to the licensed firearms dealer from whom it was acquired, or otherwise deal with the firearm in accordance with arrangements approved by the Commissioner,
- (b) the licensee can use the firearm only in the circumstances specified in the licence (for example, for airborne culling).

[36] Section 21 Term of licence

Omit “A licence”.

Insert instead “Except as provided by subsection (2), a licence”.

[37] Section 21 (2) (cf APMC 1.13)

Insert at the end of the section:

- (2) A category D licence issued to a person referred to in paragraph (c) of the genuine reason of vertebrate pest animal control continues in force for such period as is specified in the licence (being a period that is no more than 12 months) unless it is sooner surrendered or revoked or otherwise ceases to be in force.

[38] Section 26 Recognition of interstate licences for certain purposes

Insert at the end of the section:

- (2) A person who is a resident of another State or Territory, and is the holder of the equivalent of a category C licence issued under the law in force in that State or Territory, is:
 - (a) in the case of a person whose occupation is the business of a primary producer, or who is the owner, lessee or manager of land used for primary production—exempt from the requirements of

section 7 to be authorised to possess or use a firearm of a kind to which a corresponding category C licence issued in this State applies, but only for the purposes of enabling the person to use the firearm in connection with farming or grazing activities (including the suppression of vertebrate pest animals on the land concerned), or

- (b) in the case of a person who is a professional contract shooter engaged or employed in controlling vertebrate pest animals on rural land—exempt from the requirements of section 7 to be authorised to possess or use a firearm of a kind to which a corresponding category C licence issued in this State applies, but only for the purposes of controlling vertebrate pest animals on rural land, or
- (c) in the case of a person who is participating in a recognised clay target shooting competition—is exempt from the requirements of section 7 to be authorised to possess or use a self-loading or pump action shotgun, but only for the purpose of enabling the person to participate in the competition and only if the person complies with the restrictions set out in section 17A (2).

[39] Section 28 General power to issue permits (cf APMC 1.13)

Omit section 28 (f). Insert instead:

- (f) to authorise the use of a firearm (being a firearm to which a category A, category B or category H licence applies) that is part of a licensed firearms collection in order to test it, or on a special occasion as specified in the permit,
- (g) to authorise the possession or use of firearms in such circumstances as the Commissioner considers appropriate,
- (h) to authorise anything else that is required by this Act or the regulations to be authorised by a permit.

[40] Section 31 Permits to acquire firearms

Insert “(or such longer period as may be approved by the Commissioner in a particular case)” after “30 days” in section 31 (5).

[41] Section 32 Minor’s firearms permits

Insert “or competing in such events as are approved by the Commissioner” after “firearm” in section 32 (5) (b).

[42] Section 32 (5A)

Insert after section 32 (5):

(5A) Despite subsection (5), the Commissioner may issue a minor’s firearms training permit that authorises the person to whom it is issued to possess and use a self-loading or pump action shotgun of a kind to which a category C licence applies, but only:

- (a) under the personal supervision of the holder of a category A, category B or category C licence (or a person authorised by the Commissioner to supervise the use by minors of such firearms), and
- (b) for the purpose of participating in a recognised clay target shooting competition, and
- (c) if the person to whom the permit is issued complies with the restrictions set out in section 17A (2).

The provisions of section 17A (3)–(6) apply to and in respect of any such permit in the same way as those provisions apply to and in respect of a special category C licence as referred to in that section.

[43] Section 32 (8)

Insert after section 32 (7):

- (8) Despite subsection (7), the authority conferred by the permit continues for the period prescribed by the regulations so as to enable an application for a licence or permit to be determined.

[44] Section 36 Unregistered firearms

Omit “the firearm is registered within the period prescribed by the regulations for the purposes of this section” from section 36 (3). Insert instead “an application for registration of the firearm is made within 24 hours after acquiring the firearm”.

[45] Section 43 Firearms dealers must be licensed (cf 1990 Reg cl 32)

Insert “or in carrying out the person’s duties as a club armourer” after “business”.

[46] Section 43

Omit “dealers licence”. Insert instead “dealer licence”.

[47] Section 52 Use of mail for sending firearms and barrels

Insert “or firearm barrel” after “firearm” wherever occurring in section 52 (1)–(5).

[48] Section 52 (6)

Omit the subsection.

[49] Section 53 Use of mail for sending firearms outside this State

Omit “part” wherever occurring. Insert instead “barrel”.

[50] Section 54 Advertising sale of firearms (cf APMC 1.1)

Insert “and the advertisement contains such particulars as may be prescribed by the regulations” after “dealer” in section 54 (b).

[51] Section 56 (cf APMC 1.1)

Omit the section. Insert instead:

56 Commercial transportation of firearms

Any person who is engaged in the business of transporting goods must not transport any firearm unless the firearm is conveyed in accordance with the safety requirements prescribed by the regulations.

Maximum penalty: 50 penalty units.

[52] Section 57 Non-commercial transportation of certain firearms

Omit “who conveys (whether or not in the course of a business)”. Insert instead “(other than a person who is engaged in the business of transporting goods) who conveys”.

[53] Section 65 Sale, purchase and possession of ammunition

Omit “or by the Commissioner in writing” from section 65 (1) (b) and (2) (b) wherever occurring.

[54] Section 65 (1)

Omit “, permit or authorisation”. Insert instead “or permit”.

[55] Section 65 (3) (b)

Omit the paragraph. Insert instead:

(b) is authorised to possess it by a permit.

[56] Section 65 (4)

Insert after section 65 (3):

(4) A person is not guilty of an offence under subsection (3) only because of possessing ammunition that is being conveyed or stored in the ordinary course of the person’s duties in the business of carrier or warehouse operator.

[57] Section 78 Compensation for surrendering prohibited firearms

Omit section 78 (1).

[58] Section 78 (2)

Omit “firearm to which this section applies”. Insert instead “prohibited firearm”.

[59] Section 78 (2)

Insert “or other member of the Police Service” after “police officer”.

[60] Section 78 (2)

Insert “(or such longer period as may be prescribed by the regulations)” after “12 months”.

[61] Section 78A (cf APMC 1.2)

Insert after section 78:

78A Compensation for firearms dealers for loss of business

A licensed firearms dealer is entitled to compensation from the State (out of money to be appropriated by Parliament or otherwise legally available) for any loss of business as determined by the Valuer-General in accordance with such valuation guidelines as are approved by the Commissioner from time to time. The compensation payable is to be determined in accordance with those guidelines.

[62] Section 79 Disclosures by doctors and health practitioners of certain information

Insert “, or other health practitioner of a class prescribed by the regulations,” after “registered medical practitioner” in section 79 (1).

[63] Section 79 (1)

Omit “the medical” wherever occurring. Insert instead “the”.

[64] Section 79 (2)

Omit “medical”.

[65] Section 88 Regulations

Omit “the prohibited firearms to which section 78 applies” from section 88 (2) (b).
Insert instead “prohibited firearms”.

[66] Section 88 (2) (b1) (cf APMC 1.2)

Insert after section 88 (2) (b):

(b1) the compensation for loss of business as provided by section 78A,

[67] Section 88 (2) (f) and (m)

Omit the paragraphs.

[68] Schedule 1 Prohibited firearms

Omit “repeating action, eg pump action,” from item 4.
Insert instead “pump action”.

[69] Schedule 3 Savings and transitional provisions

Insert “and the *Firearms Amendment Act 1996*” after “this Act” in clause 1 (1).

[70] Schedule 3, clause 1 (2)

Omit “this Act”. Insert instead “the Act concerned”.

[71] Schedule 3, heading to Part 2

Insert “and the **Firearms Amendment Act 1996**” after “Act”.

[72] Schedule 3, clause 3 (Amnesty concerning certain firearms that have become prohibited firearms)

Omit “repeating action (eg pump action)” from clause 3 (1) (b).
Insert instead “pump action”.

[73] Schedule 3, clause 4 (Saving of existing licences)

Omit “, an existing licence that authorised the possession or use of a firearm other than a prohibited firearm”.
Insert instead “and to this clause, an existing licence that authorised the possession or use of a firearm”.

[74] Schedule 3, clause 4 (b)

Insert “its term expires during that period or” after “unless”.

[75] Schedule 3, clause 4 (2)–(4)

Insert at the end of clause 4:

- (2) Except as provided by subclauses (3) and (4), nothing in this clause authorises a person, under the authority of any such existing licence, to continue to use a prohibited firearm.
- (3) A person whose occupation is the business of a primary producer, or who is the owner, lessee or manager of land used for primary production, may, during the 12 month period referred to in subclause (1) (b), continue to use (under the authority of an existing licence) a prohibited firearm of a kind to which a category C licence applies.
- (4) A person referred to in paragraph (a) or (b) of the genuine reason of vertebrate pest animal control in the Table to section 12 of this Act may, during the 12 month period referred to in subclause (1) (b), continue to use (under the authority of an existing licence) a prohibited firearm of a kind to which a category D licence applies.

[76] Schedule 3, clause 6

Omit the clause. Insert instead:

6 Permits issued under the Prohibited Weapons Act 1989 in respect of prohibited firearms

- (1) Any permit issued under the *Prohibited Weapons Act 1989* authorising the possession or use of a prohibited firearm and in force immediately before the commencement of this clause:
 - (a) is taken to be a permit of the corresponding kind (as determined by the Commissioner) issued under this Act, and

- (b) continues to authorise the possession of the firearm in respect of which it was issued for the period of 12 months from the commencement of this clause (unless its term expires during that period or it is sooner surrendered or revoked in accordance with this Act).
- (2) However, nothing in this clause authorises the use of any such prohibited firearm.

[Minister's second reading speech made in—
Legislative Assembly on 31 October 1996
Legislative Council on 4 December 1996]