



New South Wales

# Weapons Prohibition Amendment Regulation 2010

under the

Weapons Prohibition Act 1998

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Weapons Prohibition Act 1998*.

MICHAEL DALEY, MP  
Minister for Police

## Explanatory note

The object of this Regulation is to amend the *Weapons Prohibition Regulation 2009* as follows:

- (a) to prescribe the particular level of safe keeping requirements that apply to each kind of prohibited weapon under the *Weapons Prohibition Act 1998*,
- (b) to provide for the manner in which the Commissioner of Police may approve historical, commemorative or collectors' weapons clubs or societies,
- (c) to provide that participants in a re-enactment event involving prohibited weapons may use, at the event, any prohibited weapon for which they hold a permit,
- (d) to provide that an applicant for a subsequent permit for a prohibited weapon has 60 days to collect the permit before the authority conferred by it expires,
- (e) to make it clear that it is a condition of a permit for prohibited weapons such as bombs, grenades, rockets, missiles or mines that the weapons must be deactivated,
- (f) to specify the offences that disqualify applicants, if they are subject to a good behaviour bond for such an offence, from getting a prohibited weapons permit.

This Regulation is made under the *Weapons Prohibition Act 1998*, including section 50 (the general regulation-making power).

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## **Weapons Prohibition Amendment Regulation 2010**

under the

Weapons Prohibition Act 1998

### **1 Name of Regulation**

This Regulation is the *Weapons Prohibition Amendment Regulation 2010*.

### **2 Commencement**

This Regulation commences on 9 July 2010 and is required to be published on the NSW legislation website.

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## Schedule 1      Amendment of Weapons Prohibition Regulation 2009

### [1]    Clause 5 Offences that disqualify applicants

Insert at the end of the clause:

- (2) For the purposes of section 10 (3) (c) of the Act, the following offences are prescribed regardless of whether they are committed in New South Wales:
  - (a) an offence referred to in subclause (1) (a), (d) or (f)–(h),
  - (b) an offence in respect of a prohibited plant or prohibited drug within the meaning of the *Drug Misuse and Trafficking Act 1985*, or a prescribed restricted substance within the meaning of the *Poisons and Therapeutic Goods Regulation 2002*, committed under:
    - (i) the law of any Australian jurisdiction, or
    - (ii) the law of any overseas jurisdiction (being an offence that, had it been committed in Australia, would be an offence under the law of an Australian jurisdiction),
  - (c) an offence committed under the law of any Australian or overseas jurisdiction, being:
    - (i) an offence involving the infliction of actual bodily harm upon a person, or
    - (ii) an offence involving kidnapping or abduction, or
    - (iii) an offence involving stalking or intimidation, or
    - (iv) an offence of attempting to commit, threatening to commit or conspiring to commit an offence referred to in subparagraphs (i)–(iii),
  - (d) an offence under the law of any Australian or overseas jurisdiction involving fraud, dishonesty or stealing.

### [2]    Clause 9 Pending application for subsequent permit

Insert at the end of the clause:

- (2) If the applicant fails to collect the subsequent permit in accordance with the approved arrangements within 60 days (or such longer period as may be approved in any particular case) of being notified of its issue:
  - (a) the subsequent permit is taken to have been surrendered by the applicant, and

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- (b) any authority conferred by the old permit ceases to have effect.

**[3] Clause 12 General conditions of permit**

Omit “section 14 (3)”. Insert instead “section 14 (1) (b)”.

**[4] Clause 12 (c)**

Omit the paragraph. Insert instead:

- (c) any prohibited weapon to which the permit relates that is referred to in clause 1A (1) of Schedule 1 to the Act must be:
- (i) deactivated, and
  - (ii) certified, by the holder of a theatrical weapons armourer permit, as having been deactivated,
- unless the Commissioner otherwise authorises the permit holder in writing.

**[5] Clauses 18 (4) and 29 (2)**

Omit “clause 3 (1) or (2)” wherever occurring. Insert instead “clause 3 (1)”.

**[6] Clause 21 Re-enactment event permit**

Insert after clause 21 (1):

- (1A) A prohibited weapons—re-enactment event permit also authorises any person who is the holder of a permit to use any prohibited weapon that the person is authorised to possess or use under a permit for the purposes of participation in any such historical re-enactment event conducted under the authority of the prohibited weapons—re-enactment event permit.

**[7] Part 5A**

Insert after Part 5:

### **Part 5A Approval of clubs**

#### **33A Definitions**

In this Part:

***club*** means:

- (a) in relation to the genuine reason of historical re-enactment purposes—a historical or commemorative club or society, or

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- (b) in relation to the genuine reason of weapons collection—a collectors' club or society,  
that has been established for at least 3 months.

**33B Approval of club**

- (1) An application for the Commissioner's approval of a club may be made by the secretary of the club (or other relevant office holder if there is no secretary) by lodging with the Commissioner an application in the approved form, together with:
- (a) a certificate given by the applicant in the approved form setting out the full name, date of birth and residential address of each member of the club, and
  - (b) a copy of the rules of the club, and
  - (c) such other information and documents as the Commissioner may require.
- (2) The Commissioner may:
- (a) grant the approval either unconditionally or subject to such conditions as the Commissioner thinks fit, or
  - (b) refuse the application.
- (3) The Commissioner must not grant an approval unless:
- (a) the club concerned consists of 10 or more active members, and
  - (b) the Commissioner is satisfied the club has rules that are appropriate, and
  - (c) the Commissioner is satisfied that:
    - (i) the club has a genuine and proper constitution, and
    - (ii) the club will conduct its activities with proper regard to the preservation of public safety or the peace, and
    - (iii) the club will conduct regular meetings and activities, and
    - (iv) the club will maintain adequate public liability and member insurance.
- (4) In considering whether to grant an approval, the Commissioner may have regard to any training activities undertaken by the club.
- (5) Despite subclause (3) (a), the Commissioner may, in the case of a club that has at least 5 active members, grant an approval if:
- (a) the club meets the other criteria for approval under this clause, and

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- (b) the Commissioner is satisfied that, because of the location of the club, the number of active members is appropriate.

### **33C Revocation of approval of club**

- (1) The Commissioner may revoke an approval of a club for such reason as the Commissioner thinks fit.
- (2) Without limiting subclause (1), the Commissioner may revoke an approval if:
  - (a) the Commissioner is satisfied that the number of active members of the club is less than 10 (or less than 5 in the case of an approval referred to in clause 33B (5)), or
  - (b) the Commissioner is satisfied that the club is not being conducted with proper regard to the preservation of public safety or the peace, or
  - (c) the Commissioner is satisfied that any conditions to which the approval is subject have not been complied with.
- (3) Revocation of an approval takes effect when written notice of it is served personally or by post on the secretary or other relevant office holder of the club concerned.

### **33D Members convicted of disqualifying offences not permitted to take part in club activities involving weapons**

If a member of a club is convicted of an offence referred to in clause 5, the person who is the secretary of the club (or, if there is no secretary, the person who occupies the most senior executive position in the club) must, as soon as practicable after the person is made aware of that conviction, take such action as is reasonably within the person's capacity to prevent the club member from participating in any activity of the club that involves the possession or use of prohibited weapons.

Maximum penalty: 50 penalty units.

### **33E Conditions of approval of club**

- (1) The conditions of an approval of a club may relate to any of the following matters:
  - (a) the control, administration or management of the club,
  - (b) the membership of the club,
  - (c) the preservation of public safety or the peace.

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- (2) Without limiting subclause (1), the approval of a club is subject to the condition that the secretary or other relevant office holder of the club must notify the Commissioner (at the same time as the submission of the relevant annual return) of the particulars of:
- (a) any change in the membership of the club that involves a member leaving the club or not renewing his or her membership, and
  - (b) any change in the personal details of a club member that has been notified to the secretary or other relevant office holder in accordance with clause 33F.
- (3) The Commissioner may:
- (a) vary or revoke any conditions subject to which an approval has been granted, or
  - (b) attach to any approval additional conditions of the kind referred to in subclause (1).
- (4) Any such variation, revocation or additional condition takes effect when written notice of it is served personally or by post on the secretary or other relevant office holder of the club concerned.

**33F Club member must notify change in personal details**

A person who is a member of an approved club must notify the secretary or other relevant office holder of the club in writing of any change in the personal details (such as change of name or address) of the person within 14 days of the date of the change.

Maximum penalty: 20 penalty units.

**33G Disclosure of information by Commissioner**

The Commissioner is authorised to disclose to the secretary or other relevant office holder of the club any information as to the following:

- (a) the prohibited weapons that are held by a person who has applied to become a member of the club,
- (b) any other club of which that person is also a member,
- (c) any other information that, in the opinion of the Commissioner, is relevant to the person's application for membership, or the person's continued membership, of the approved club.

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### [8] Clause 35A

Insert after clause 35:

#### 35A Safe keeping requirement levels

(1) **Level 1 requirements**

For the purposes of section 32B (1) of the Act, a prohibited weapon referred to in any of the following provisions of Schedule 1 to the Act is prescribed as a prohibited weapon that must comply with a level 1 requirement:

- (a) clause 1,
- (b) clause 2 (4)–(17A), (19)–(21) or (24),
- (c) clause 3 (1)–(6),
- (d) clause 4 (2)–(8).

(2) **Level 2 requirements**

For the purposes of section 32C (1) of the Act, a prohibited weapon referred to in any of the following provisions of Schedule 1 to the Act is prescribed as a prohibited weapon that must comply with a level 2 requirement:

- (a) clause 2 (18)–(18B), (22) or (23),
- (b) clause 4 (1) or (3).

(3) **Level 3 requirements**

For the purposes of section 32D (1) of the Act, a prohibited weapon referred to in clause 4 (9) of Schedule 1 to the Act is prescribed as a prohibited weapon that must comply with a level 3 requirement.

**Note.** Under section 32D (1) of the Act, military style weapons such as bombs, grenades, rockets, missiles or mines must also comply with a level 3 requirement.