



New South Wales

Firearms Amendment (Prohibited Pistols) Bill 2003

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to reduce the number of pistols in the community and to strengthen controls over access to pistols that are used for the purposes of sport/target shooting. In particular, the Bill:

- (a) restricts the kinds of pistols that may lawfully be used for the purposes of sporting target shooting, and
- (b) imposes additional requirements in relation to sport/target pistol shooters (including the introduction of probationary pistol licences for new licensees), and
- (c) prohibits sport/target pistol shooters from using or possessing pistols fitted with magazines that have a capacity of more than 10 rounds, and
- (d) imposes additional requirements in relation to pistol collectors, and
- (e) makes provision for a compensation scheme in respect of pistols that licensed sport/target pistol shooters and pistol collectors are compelled to surrender, and

- (f) adds pistol magazines with a capacity of more than 10 rounds to the list of prohibited weapons in the *Weapons Prohibition Act 1998*, and
- (g) makes a number of other miscellaneous amendments to the *Firearms Act 1996* and the *Firearms (General) Regulation 1997*.

The Bill generally gives effect to the consolidated resolutions agreed on by the Australasian Police Ministers' Council at the Special Meeting on Firearms (Handguns) on 28 November 2002 and the measures relating to handgun reforms endorsed by the Council of Australian Governments after that meeting.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the amendments to the *Firearms Act 1996* set out in Schedule 1.

Clause 4 is a formal provision that gives effect to the amendments to the *Firearms (General) Regulation 1997* set out in Schedule 2.

Clause 5 is a formal provision that gives effect to the amendments to the Acts and the regulation set out in Schedule 3.

Schedule 1 Amendment of Firearms Act 1996

Schedule 1 [1] and [2] insert definitions of certain terms that are referred to in the Bill, including a definition of *prohibited pistol*.

Schedule 1 [3] provides that category H (sport/target shooting) licence holders will be authorised to possess or use pistols only for the purposes of participating in competitive shooting activities that are approved by the Commissioner of Police. The amendment also provides that such a licence does not authorise the possession or use of a prohibited pistol.

Schedule 1 [4] makes it clear that the authority conferred by a firearms licence of any kind is subject to the provisions of the Act as well as the regulations made under the Act.

Schedule 1 [5] provides that an applicant for a firearms collector licence will be required to provide a written statement by the collectors' society or club of which the applicant is a member confirming that the applicant's collection has a genuine value.

Schedule 1 [6] provides that a category H (sport/target shooting) licence must not be issued to a person unless the person has previously held a probationary pistol licence and the application for the licence is supported by a written statement by the pistol shooting club of which the person is a member confirming that the person has complied with the conditions specified under proposed section 16A. **Schedule 1 [7]** inserts proposed section 16A that will provide for probationary pistol licences and the conditions to which they are subject. **Schedule 1 [12]** provides that the term of a probationary pistol licence will be 12 months. **Schedule 1 [11]** is a consequential amendment.

Schedule 1 [7] also inserts proposed section 16B to enable special category H (sport/target shooting) licences to be issued in relation to certain pistols that have short barrel lengths but only so as to enable the licence holder to participate in such classes of specialised shooting competitions as may be approved by the Commissioner.

Schedule 1 [8] provides that pistols manufactured after 1 January 1946 may be kept by licensed firearm collectors only if certain requirements are complied with. **Schedule 1 [10]** imposes similar requirements on existing firearms collector licences if post-1946 pistols are kept as part of the collection.

Schedule 1 [9] requires any prohibited pistol that is part of a licensed firearms collection to be rendered temporarily inoperable.

Schedule 1 [13] authorises the Commissioner to revoke a firearms licence if the Commissioner is satisfied that the licensee has caused a firearm to be lost or stolen through any negligence or fraud on the part of the licensee.

Schedule 1 [14] provides that a permit to acquire a pistol must not be issued to a person who is the holder of a category H (sport/target shooting) licence unless the person provides a written statement from the person's pistol club confirming that the person has adequate storage arrangements and specifying the shooting activities for which the pistol is required. In the case of probationary pistol licence holders, additional restrictions are imposed in relation to the issuing of permits to acquire pistols.

Schedule 1 [15] creates a new offence for a person who is the holder of a category H (sport/target shooting) licence to possess or use a pistol fitted with a magazine that has a capacity of more than 10 rounds. **Schedule 1 [17]** creates a new offence for a person to possess a barrel for a prohibited pistol unless authorised by a licence or permit to possess the pistol or barrel. **Schedule 1 [16]** is a consequential amendment. **Schedule 1 [25]** provides for the manner in which these new offences may be dealt with.

Schedule 1 [19] creates a new offence of converting a pistol into a prohibited pistol.

Schedule 1 [20] inserts a new section 78 which makes provision for a scheme to compensate licensed pistol shooters and licensed dealers who surrender prohibited pistols and licensed collectors who surrender pistols manufactured after 1946. **Schedule 1 [21]** provides for the regulations to make provision for the payment of compensation for surrendering certain other pistols and items and **Schedule 1 [26]** enables regulations to be made in respect of the compensation payable for surrendering pistols under proposed section 78. **Schedule 1 [27]** is a consequential amendment.

Schedule 1 [22] provides that a health professional (which includes social workers and persons who provide professional counselling services) does not incur any criminal or civil liability if the health professional informs the Commissioner in good faith that a person to whom the health professional has been providing services may pose a threat to public safety if in possession of a firearm. **Schedule 1 [23]** makes a similar provision in relation to pistol and collectors' club officials who disclose information to the Commissioner about their members in accordance with any requirement imposed on the official under the regulations.

Schedule 1 [24] allows the executor or administrator of the estate of a firearms licence holder who has died to retain possession of any firearm that is part of the estate until 6 months after the date of the licensee's death or such time as the firearm is lawfully disposed of (whichever occurs first). **Schedule 1 [18]** is a consequential amendment.

Schedule 1 [28] enables regulations of a savings or transitional nature to be made as a consequence of the proposed Act. **Schedule 1 [29]** contains certain transitional provisions, including provisions making it clear that existing licensed pistol shooters are not authorised to possess or use prohibited pistols when the proposed amendments to section 8 of the Act commence. However, provision is also made to allow licensed pistol shooters who are currently in possession of prohibited pistols to lawfully possess those pistols during the buyback period under proposed section 78.

Schedule 2 Amendment of Firearms (General) Regulation 1997

Schedule 2 [1] enables the Commissioner to issue special permits authorising the possession and use of pistols with a calibre of more than .38 inch (but not more than .45 inch), but that are not otherwise prohibited pistols (ie they do not have short barrel lengths), for the purposes of participating in specialised shooting competitions approved by the Commissioner.

Schedule 2 [4] imposes further conditions on the approval by the Commissioner of pistol clubs and collectors' clubs. These conditions include a requirement that the secretary or other relevant office holder of any such approved club must inform the Commissioner if the secretary or office holder is of the opinion that any member of the club, or any person who has applied to be a member, may pose a threat to public safety if in possession of a firearm.

Schedule 2 [5] imposes requirements as to participation rates for members of approved pistol clubs. **Schedule 2 [2], [3] and [6]** are consequential amendments.

Schedule 2 [7] authorises the Commissioner to disclose information to approved pistol and collectors' clubs about applicants for membership of such clubs.

Schedule 2 [8] provides that the application fee for a probationary pistol licence is \$100.

Schedule 2 [9] is consequential on the amendment made by Schedule 1 [22].

Schedule 2 [10] and [11] provide an exemption from the licensing and registration requirements under the *Firearms Act 1996* in relation to pre-percussion pistols (ie muzzle loading pistols that use black powder) manufactured before 1900.

Schedule 2 [12] provides for a 6-month amnesty to enable the surrender (without compensation) to the police of illegally held firearms.

Schedule 3 Amendment of other legislation

Schedule 3.1 amends the *Criminal Procedure Act 1986* to provide that the indictable offences under proposed sections 51E and 58 (2) of the *Firearms Act 1996* (see Schedule 1 [15] and [17]) are to be dealt with summarily unless the prosecution elects otherwise and to provide that the maximum penalty for such an offence (when dealt with summarily) will be 2 years imprisonment or a fine of 50 penalty units (or both).

Schedule 3.2 amends the *Weapons Prohibition Act 1998* to add pistol magazines with a capacity of more than 10 rounds to the list of prohibited weapons. A permit under the Act will be required to lawfully possess any such magazine. However, during the period of the buyback a temporary exemption from this requirement will apply to licensed pistol shooters who currently possess any such magazine.

Schedule 3.3 amends the *Weapons Prohibition Regulation 1999* to provide an exemption from the requirement to have a permit for a pistol magazine with a capacity of more than 10 rounds for those category H licence holders under the *Firearms Act 1996* who hold such a licence for business or employment purposes.

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No. , 2003

A Bill for

An Act to amend the *Firearms Act 1996* and the *Firearms (General) Regulation 1997* to make further provision in relation to the regulation and control of pistols used for the purposes of sporting target shooting; to provide compensation for surrendering certain pistols; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Firearms Amendment (Prohibited Pistols) Act 2003</i> .	3
2 Commencement	4
This Act commences on a day or days to be appointed by proclamation.	5 6
3 Amendment of Firearms Act 1996 No 46	7
The <i>Firearms Act 1996</i> is amended as set out in Schedule 1.	8
4 Amendment of Firearms (General) Regulation 1997	9
The <i>Firearms (General) Regulation 1997</i> is amended as set out in Schedule 2.	10 11
5 Amendment of other legislation	12
The Acts and the regulation specified in Schedule 3 are amended as set out in that Schedule.	13 14

Schedule 1 Amendment of Firearms Act 1996

(Section 3)

[1] Section 4 Definitions

Insert in alphabetical order in section 4 (1):

barrel length, in relation to a pistol, means:

- (a) in the case of a revolver—the distance from the muzzle of the barrel to the breech end immediately in front of the cylinder, or
- (b) in any other case—the distance from the muzzle of the barrel to the point of the breech face (including the chamber) with the top slide forward and the breech face or bolt in a closed position,

and in either case includes an alteration of such kind as is approved by the Commissioner and that has been permanently attached to the barrel of the pistol.

black powder pistol means a pistol that:

- (a) uses black powder to propel a projectile, and
- (b) is not capable of being loaded with, or of discharging, breech-loaded metallic cartridges.

category H (sport/target shooting) licence means a category H licence that is issued for the purposes of sport/target shooting.*post-1946 pistol* means a pistol manufactured after 1 January 1946.*probationary pistol licence* means a category H (sport/target shooting) licence of the kind referred to in section 16A.*prohibited pistol*—see section 4C.**[2] Section 4C**

Insert after section 4B:

4C Meaning of “prohibited pistol”

- (1) In this Act, *prohibited pistol* means any of the following kinds of pistol:
 - (a) a pistol with a calibre of more than .38 inch,

(b)	a self-loading pistol with a barrel length of less than 120 mm,	1 2
(c)	a revolver with a barrel length of less than 100 mm,	3
	but does not include any such kind of pistol that is a black powder pistol.	4 5
	Note. A prohibited pistol is not a prohibited firearm. Prohibited firearms are listed in Schedule 1 (see definition of prohibited firearm in section 4 (1)).	6 7 8
(2)	For the purposes of this Act, any pistol that would be a prohibited pistol:	9 10
(a)	if it did not have something missing from it, or a defect or obstruction in it, or	11 12
(b)	if it were not for the fact that something has been done to it (being something that, in the opinion of the Commissioner, is not in accordance with the recognised specifications for that pistol),	13 14 15 16
	is taken to be a prohibited pistol.	17
[3]	Section 8 Licence categories and authority conferred by licence	18
	Insert at the end of the matter relating to category H licences in section 8 (1):	19 20
	In the case of a category H (sport/target shooting) licence, the licensee is authorised to possess or use a registered pistol only for the purposes of participating in competitive shooting activities that are approved by the Commissioner.	21 22 23 24
	A category H (sport/target shooting) licence does not authorise the possession or use of a prohibited pistol.	25 26
[4]	Section 8 (3)	27
	Insert “this Act and” after “subject to”.	28
[5]	Section 12 Genuine reasons for having a licence	29
	Omit paragraphs (a) and (b) of the matter relating to the genuine reason of firearms collection in the Table to section 12.	30 31
	Insert instead:	32
(a)	be a current member of a collectors’ society or club approved by the Commissioner in accordance with the regulations, and	33 34 35

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- (b) provide a written statement by that collectors' society or club confirming that the applicant's firearms collection has a genuine commemorative, historical, thematic or financial value.

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[6] Section 16 Category H licences—restrictions on issue

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Insert at the end of the section:

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- (2) The Commissioner must not issue a category H (sport/target shooting) licence (other than a probationary pistol licence) to a person unless:
- (a) the person has previously been issued with a probationary pistol licence, and
- (b) the probationary pistol licence has expired, and
- (c) the application for the category H (sport/target shooting) licence is supported by a written statement by the secretary or other relevant office holder of the pistol shooting club of which the person is a member confirming that the person has complied with the conditions specified in section 16A (2).
- (3) Subsection (2) does not apply in relation to a person if the person has previously held a category H (sport/target shooting) licence.

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[7] Sections 16A and 16B

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Insert after section 16:

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16A Probationary pistol licences

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- (1) A category H (sport/target shooting) licence that is issued to a person who has never held such a licence is to be issued as a probationary pistol licence.
- (2) A probationary pistol licence is subject to the following conditions:
- (a) for the first 6 months of the term of the licence, the licensee must not possess or use a pistol except:
- (i) while on the premises of a pistol shooting club and under the supervision of a person who is the holder of a category H (sport/target shooting) licence that is not a probationary pistol licence, and

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- (ii) in connection with the requirement referred to in paragraph (b), 1
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- (b) the licensee must, by the end of that 6-month period, have completed to the satisfaction of the Commissioner a firearm training and safety training course conducted by the pistol shooting club of which the licensee is a member. 3
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- (3) If: 8
- (a) the holder of a probationary pistol licence applies for a category H (sport/target shooting) licence before the term of the probationary pistol licence expires, and 9
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- (b) the application has not been dealt with by the time the probationary pistol licence expires, 12
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- the authority conferred by the probationary pistol licence continues until such time as the person is notified of the issue of, or refusal of, the category H (sport/target shooting) licence. 14
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- (4) This section does not limit the conditions to which a probationary pistol licence is subject. 18
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- 16B Special provisions relating to category H (sport/target shooting) licences issued for specialised target pistols** 20
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- (1) In this section: 22
- specialised target pistol* means: 23
- (a) a self-loading pistol with a barrel length of less than 120 mm, or 24
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- (b) a revolver with a barrel length of less than 100 mm, 26
- that, in the opinion of the Commissioner, is of a distinctive size or shape and is used in International Shooting Sport Federation competition events, but that is not otherwise a prohibited pistol. 27
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- (2) The Commissioner may issue a category H (sport/target shooting) licence (referred to in this section as a *special pistol licence*) authorising a person to possess and use a specialised target pistol for the purposes only of participating in such classes of specialised shooting competitions as may be approved by the Commissioner. 31
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(3)	For the avoidance of doubt, a special pistol licence is a type of category H (sport/target shooting) licence, and any requirements under this Act or the regulations that apply to or in respect of a category H (sport/target shooting) licence apply to or in respect of a special pistol licence.	1 2 3 4 5
[8]	Section 17C	6
	Insert after section 17B:	7
17C	Special provisions relating to firearms collector licences (post-1946 pistols)	8 9
	The Commissioner may issue a firearms collector licence that authorises a person to possess a post-1946 pistol if:	10 11
(a)	the person produces evidence to the Commissioner that the person has been a member of a collectors' society or club for at least one year, and	12 13 14
(b)	the application for the licence is supported by a written statement by the secretary or other relevant office holder of the collectors' society or club of which the person is a member confirming that the part of the person's firearms collection comprising post-1946 pistols has a genuine commemorative, historical, thematic or financial value.	15 16 17 18 19 20 21
	Note. See also the Table to section 12 which provides that one of the requirements for the genuine reason of firearms collection is that the applicant for the licence must be a current member of an approved collectors' society or club.	22 23 24 25
[9]	Section 20 Firearms collector licences—special conditions	26
	Insert “or that is a prohibited pistol” after “1900” in section 20 (b).	27
[10]	Section 20 (f)	28
	Insert after section 20 (e):	29
(f)	in the case of a licence that was in force immediately before the commencement of this paragraph—a post-1946 pistol can only be kept as part of the collection if:	30 31 32 33
(i)	the licensee has been a member of a collectors' society or club since 20 December 2002, and	34 35

(ii)	the licensee provides the Commissioner with a written statement by the secretary or other relevant office holder of the collectors' society or club of which the licensee is a member confirming that the part of the licensee's firearms collection comprising post-1946 pistols has a genuine commemorative, historical, thematic or financial value.	1 2 3 4 5 6 7 8
[11]	Section 21 Term of licence	9
	Omit "subsection (2)" from section 21 (1). Insert instead "this section".	10
[12]	Section 21 (3)	11
	Insert after section 21 (2):	12
(3)	A probationary pistol licence continues in force from the time it is issued for a period of 12 months unless it is sooner surrendered or revoked or otherwise ceases to be in force.	13 14 15
[13]	Section 24 Revocation of licence	16
	Insert after section 24 (2) (c):	17
(c1)	if the Commissioner is satisfied that the licensee, through any negligence or fraud on the part of the licensee, has caused a firearm to be lost or stolen, or	18 19 20
[14]	Section 31 Permits to acquire firearms	21
	Insert after section 31 (3):	22
(3A)	Without limiting subsection (3), the Commissioner must not issue a permit authorising a person who is the holder of a category H (sport/target shooting) licence (including a probationary pistol licence) to acquire a pistol unless the application for the permit is supported by a written statement by the secretary or other relevant office holder of the pistol shooting club in respect of which the person's genuine reason for having the licence has been established:	23 24 25 26 27 28 29 30
(a)	confirming that the person has adequate storage arrangements (as specified under this Act) in relation to the safe keeping of the pistol, and	31 32 33
(b)	specifying the shooting activities for which the pistol is required.	34 35

(3B)	In the case of a person who is the holder of a probationary pistol licence, and without limiting subsections (3) and (3A), the Commissioner:	1
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(a)	during the initial probationary period referred to in section 16A (2)—must not issue a permit authorising the person to acquire any kind of pistol, and	4
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(b)	during the remainder of the term of the licence—may only issue a total of 2 permits authorising the person to acquire no more than 2 pistols, any one of which (subject to subsection (3C)) is:	7
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	(i) a centrefire pistol, or	11
	(ii) a rimfire pistol with a calibre of no more than .22 inch, or	12
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	(iii) an air pistol with a calibre of no more than .177 inch, or	14
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	(iv) a black powder pistol.	16
(3C)	However, nothing in subsection (3B) (b) authorises the holder of a probationary pistol licence to possess a centrefire pistol and a rimfire pistol at the same time.	17
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[15]	Section 51E	20
	Insert after section 51D:	21
51E	Possession or use of pistols fitted with magazines of more than 10 round capacity	22
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	A person who is the holder of a category H (sport/target shooting) licence must not possess or use a pistol fitted with a magazine that has a capacity of more than 10 rounds.	24
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	Maximum penalty: imprisonment for 14 years.	27
[16]	Section 58 Possession of spare barrels for firearms	28
	Insert “(other than a prohibited pistol)” after “a firearm”.	29

[17] Section 58 (2)	1
Insert at the end of section 58:	2
(2) A person must not possess a barrel for a prohibited pistol unless the person is authorised by a licence or permit to possess the pistol or barrel.	3 4 5
Maximum penalty: imprisonment for 5 years.	6
[18] Section 60 Disposal of firearms by unauthorised persons	7
Insert “(except as provided by section 82A)” after “must” in section 60 (1).	8
[19] Section 63 Converting firearms	9
Insert after section 63 (1):	10
(1A) A person must not, unless authorised to do so by a permit, alter the construction or action of a pistol that is not a prohibited pistol so as to convert it into a prohibited pistol.	11 12 13
Maximum penalty: imprisonment for 10 years.	14
[20] Section 78	15
Omit the section. Insert instead:	16
78 Compensation for surrendering prohibited pistols and post-1946 pistols	17 18
(1) In this section and in section 78A:	19
<i>buyback period</i> means the period starting on the commencement of this section (as substituted by the <i>Firearms Amendment (Prohibited Pistols) Act 2003</i>) and ending 6 months later (or such longer period as may be prescribed by the regulations).	20 21 22 23 24
(2) A person who is the holder of a category H (sport/target shooting) licence that was in force immediately before the start of the buyback period is entitled to be paid compensation by the State for any registered prohibited pistol in the person’s possession if:	25 26 27 28 29
(a) the person was, immediately before the date on which the buyback period starts, authorised by the licence to possess the pistol, and	30 31 32

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- (b) the pistol is surrendered to a police officer or other member of NSW Police during the buyback period. 1
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- (3) A person who is the holder of a firearms dealer licence that was in force immediately before the start of the buyback period is entitled to be paid compensation by the State for any prohibited pistol in the person's possession if the pistol: 3
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- (a) was acquired or ordered by the person before 20 December 2002, and 7
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- (b) is surrendered to a police officer or other member of NSW Police during the buyback period. 9
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- (4) A person who is the holder of a firearms collector licence that was in force immediately before the start of the buyback period is entitled to be paid compensation by the State for any registered post-1946 pistol in the person's possession if: 11
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- (a) the person was, immediately before the date on which the buyback period starts, authorised under this Act or the regulations to possess the pistol as part of the person's firearms collection, and 15
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- (b) the person is unable to comply with section 20 (f), and 19
- (c) the pistol is surrendered to a police officer or other member of NSW Police during the buyback period. 20
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- (5) The amount of compensation payable for surrendering a prohibited pistol or post-1946 pistol under this section is the amount specified in respect of the pistol in the valuation list approved by the Commissioner for the purposes of this section. That list is to be made publicly available in such manner as the Commissioner determines. 22
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- (6) If a person who is entitled to be paid compensation for surrendering a pistol under this section establishes that the approved valuation list does not take into account any modification or other thing that may relate to the true value of the pistol (being a modification or thing that has not been valued in relation to the pistol in accordance with the valuation list), the Commissioner may refer the dispute to an independent pistol evaluation panel constituted by the Commissioner for the purposes of this section. Such a panel is to comprise persons who, in the opinion of the Commissioner, are suitably qualified to assess the value of pistols surrendered under this section. 28
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- (7) The panel is to determine any such valuation dispute referred to it. Any such determination may include a recommendation to the Commissioner as to the value of any modification or other thing that is the subject of the dispute. 1
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- (8) The panel's determination is final and is not subject to any appeal or review. 5
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- (9) Any prohibited pistol or post-1946 pistol that is surrendered under this section is forfeited to the Crown after compensation for the pistol has been paid in accordance with this section. 7
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- (10) The Commissioner is to make arrangements: 11
- (a) for the manner in which prohibited pistols and post-1946 pistols are to be surrendered under this section, and 12
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 - (b) for the manner in which compensation under this section is to be paid, and 15
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 - (c) for the disposal or destruction of, or for otherwise dealing with, pistols that are to be surrendered under this section. 17
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- [21] Section 78A** 20
- Omit section 78A. Insert instead: 21
- 78A Compensation for surrendering other items** 22
- The regulations may make provision for or with respect to the payment of compensation by the State in relation to the surrendering, during the buyback period, of any one or more of the following: 23
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- (a) pistols that are not prohibited pistols, 27
 - (b) post-1946 pistols that the holder of a firearms collector licence is authorised under this Act or the regulations to possess as part of the licensee's firearms collection, 28
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 - (c) firearm parts and accessories in relation to prohibited pistols, 31
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 - (d) pistol magazines with a capacity of more than 10 rounds, 33
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- (e) such other things in relation to prohibited pistols and post-1946 pistols as may be prescribed by the regulations.

[22] Section 79

Omit the section. Insert instead:

79 Disclosure by health professionals of certain information

- (1) If a health professional is of the opinion that a person to whom the health professional has been providing professional services may pose a threat to public safety (or a threat to the person's own safety) if in possession of a firearm, the health professional may inform the Commissioner of that opinion.
- (2) A health professional is not subject to any criminal or civil liability, including liability for breaching any duty of confidentiality, if the health professional informs the Commissioner in good faith of the health professional's opinion referred to in subsection (1).
- (3) In this section:
- health professional* means any of the following persons:
- (a) a medical practitioner, psychologist, nurse or social worker,
- (b) a person who provides professional counselling services,
- (c) a person who is of such other class of health professional as may be prescribed by the regulations.

[23] Section 79A

Insert after section 79:

79A Disclosure of certain information by club officials

The disclosure of any information or other matter by the secretary or other relevant office holder of a pistol club or a collectors' society or club to the Commissioner in accordance with any requirement imposed on the secretary or office holder under the regulations does not, if the disclosure was in good faith, subject the society or club, or the secretary or office holder, to any criminal or civil liability.

[24] Section 82A	1
Insert after section 82:	2
82A Deceased estates	3
(1) The executor or administrator of an estate of a person:	4
(a) who has died, and	5
(b) who was authorised by a licence or permit to possess a firearm,	6
does not commit an offence under section 7 in respect of the possession of the firearm if the executor or administrator retains possession of the firearm for the purposes of disposing of it lawfully.	7
(2) Any such executor or administrator must:	8
(a) notify the Commissioner of the death of the person who possessed the firearm as soon as practicable after the person's death, and	9
(b) while retaining possession of the firearm, comply with the same requirements as to the safe keeping of the firearm that would apply to a person who is authorised by a licence or permit to keep a firearm of that kind.	10
Maximum penalty: 50 penalty units.	11
(3) Subsection (1) ceases to have effect in relation to any such executor or administrator:	12
(a) once the firearm is disposed of lawfully by the executor or administrator, or	13
(b) at the end of the period of 6 months immediately following the death of the person who was authorised to possess the firearm concerned,	14
whichever occurs first.	15
(4) Nothing in this section authorises the use of a firearm.	16
[25] Section 84 Proceedings for offences	17
Insert "51E, 58 (2)," after "51D (1)," in section 84 (2).	18

[26] Section 88 Regulations	1
Omit “prohibited firearms” from section 88 (2) (b).	2
Insert instead “pistols as provided by section 78”.	3
[27] Section 88 (2) (b1)	4
Omit the paragraph.	5
[28] Schedule 3 Savings and transitional provisions	6
Insert after clause 1 (1) (c):	7
(d) the <i>Firearms Amendment (Prohibited Pistols) Act 2003</i> .	8 9
[29] Schedule 3, Part 5	10
Insert after Part 4:	11
Part 5 Provisions consequent on enactment of Firearms Amendment (Prohibited Pistols) Act 2003	12 13 14
19 Existing category H licences issued for sport/target shooting purposes	15 16
(1) A category H licence issued for the genuine reason of sport/target shooting and in force immediately before the commencement of this clause is taken to be a category H (sport/target shooting) licence.	17 18 19 20
(2) Section 8 (as amended by the <i>Firearms Amendment (Prohibited Pistols) Act 2003</i>) extends to a category H licence in force immediately before the commencement of that amendment if the licence was issued for the genuine reason of sport/target shooting.	21 22 23 24 25
(3) Without limiting subclause (1), if the holder of a category H licence issued for the genuine reason of sport/target shooting was, immediately before the commencement of this clause, authorised by that licence to possess and use a specialised target pistol within the meaning of section 16B, the holder is taken to have been issued with a special pistol licence (as referred to in that section) in respect of that pistol.	26 27 28 29 30 31 32

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- 20 Existing firearms collector licences** 1
- Section 20 (b) (as amended by the *Firearms Amendment (Prohibited Pistols) Act 2003*) extends to a firearms collector licence in force immediately before the commencement of this clause. 2
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- 21 Temporary amnesty for possession of prohibited pistols and post-1946 pistols** 6
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- (1) In this clause and in clause 22: 8
- buyback period* means the period referred to in section 78 (as substituted by the *Firearms Amendment (Prohibited Pistols) Act 2003*). 9
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- (2) A person who is the holder of a category H (sport/target shooting) licence does not commit an offence under section 7 in respect of the possession of a prohibited pistol acquired by the person before the buyback period. 12
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- (3) Subclause (2) ceases to have effect in relation to any such person once: 16
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- (a) a police officer or other member of NSW Police makes a determination that the pistol is a prohibited pistol, or 18
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- (b) the buyback period ends, 20
- whichever occurs first. 21
- (4) Subject to the regulations, a person who is the holder of a firearms collector licence does not commit an offence under section 7 in respect of the possession of a post-1946 pistol acquired by the person before the buyback period. 22
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- (5) Subclause (4) ceases to have effect at the end of the buyback period. 26
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- (6) Nothing in this clause authorises a person to use a prohibited pistol or post-1946 pistol. 28
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- 22 Temporary amnesty for possession of pistols fitted with magazines of more than 10 round capacity** 30
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- (1) This clause applies to a pistol fitted with a magazine that has a capacity of more than 10 rounds. 32
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- (2) A person who is the holder of a category H (sport/target shooting) licence does not, during the buyback period, commit an offence under section 51E (as inserted by the *Firearms Amendment (Prohibited Pistols) Act 2003*) in respect of the possession of a pistol to which this clause applies that was acquired by the person before the buyback period.
- (3) Nothing in this clause authorises a person to use a pistol to which this clause applies.

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**Schedule 2 Amendment of Firearms (General)
Regulation 1997**

(Section 4)

[1] Clause 59A

Insert after clause 59:

59A Permit for high calibre pistols used in specially approved shooting competitions

- (1) This clause applies to any pistol with a calibre of more than .38 inch (but not more than .45 inch) but that is not otherwise a prohibited pistol.
- (2) The Commissioner may, on application by a person who is the holder of a category H (sport/target shooting) licence (other than a probationary pistol licence), issue a permit authorising the person to possess and use a pistol to which this clause applies for the purposes only of participating in such classes of specialised shooting competitions as may be approved.
- (3) The Commissioner must not issue a permit to a person under this clause unless the pistol shooting club in respect of which the person's genuine reason for having the category H (sport/target shooting) licence has been established has certified to the Commissioner that the pistol to which the permit relates is required by the person to participate in any such specialised shooting competition.
- (4) In accordance with section 30 (3) of the Act, a permit under this clause:
 - (a) is subject to such conditions as the Commissioner thinks fit to impose, and
 - (b) remains in force for such period as the Commissioner determines at the time the permit is issued (unless it is sooner surrendered or revoked or otherwise ceases to be in force).

[2] Clause 77 Definitions

Insert in alphabetical order:

pistol club means a shooting club that conducts or organises approved pistol shooting competitions.

[3] Clause 80 Conditions of approval of club	1
Omit “the club membership requirements under clause 81 (1)” from clause 80 (2) (b).	2 3
Insert instead “the requirements specified in clause 81”.	4
[4] Clauses 80A and 80B	5
Insert after clause 80:	6
80A Special conditions relating to pistol clubs	7
Without limiting the conditions to which the approval of a pistol club may be subject, any such approval is subject to the following conditions:	8 9 10
(a) the club must not admit a person (<i>the applicant</i>) as a member unless:	11 12
(i) the applicant has submitted 2 character references from persons who are of or above the age of 18 and who have known the applicant for at least 2 years, and	13 14 15 16
(ii) the secretary or other relevant office holder of the club is satisfied that the applicant has submitted the name of any other approved pistol club or shooting club of which the applicant is a member,	17 18 19 20
(b) if the club cancels or suspends the membership of any member, the secretary or other relevant office holder must, within 7 days of the cancellation or suspension, notify the Commissioner that the person’s membership has been cancelled or suspended and advise the Commissioner of the reasons for the cancellation or suspension,	21 22 23 24 25 26 27
(c) the club must ensure that a person whose category H (sport/target shooting) licence has been revoked or suspended does not, while the revocation or suspension remains in force, use a pistol on any shooting range or other premises of the club,	28 29 30 31 32
(d) if the secretary or other relevant office holder of an approved pistol club is of the opinion that any person who is a member of the club, or who has applied to be a member of the club, may pose a threat to public safety	33 34 35 36

(or a threat to the person's own safety) if in possession of a firearm, the secretary or office holder must inform the Commissioner of that opinion.

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80B Special conditions relating to collectors' societies and clubs

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Without limiting the conditions to which the approval of a collectors' society or club may be subject, any such approval is subject to the following conditions:

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- (a) if the society or club cancels or suspends the membership of any member who is the holder of a licence or permit, the secretary or other relevant office holder must, within 7 days of the cancellation or suspension, notify the Commissioner that the person's membership has been cancelled or suspended and advise the Commissioner of the reasons for the cancellation or suspension,
- (b) if the secretary or other relevant office holder of the society or club is of the opinion that any person who is a member of the society or club, or who has applied to be a member of the society or club, is not a fit and proper person to be in possession of a firearm, the secretary or office holder must inform the Commissioner of that opinion.

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[5] Clause 81 Participation requirements for club members

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Omit clause 81 (1) (a). Insert instead:

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- (a) in the case of an approved pistol club—the person must, over each period of 12 months that the licence is in force:
 - (i) participate in at least 6 club organised competitive shooting matches that are held at the club's shooting range, and
 - (ii) for each different kind of pistol that the person possesses for different shooting events, undertake at least 4 club organised shoots,

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[6] Clause 81 (2)

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Omit "any such requirement".

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Insert instead "the requirements under this clause".

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[7] Clause 83	1
Insert after clause 82:	2
83 Disclosure of information by Commissioner	3
(1) The Commissioner is, in relation to an application for membership of an approved club, authorised to disclose to the secretary or other relevant office holder of the club any information as to the following:	4 5 6 7
(a) the pistols that are held by the applicant,	8
(b) any other approved pistol club of which the applicant is a member,	9 10
(c) any other information that, in the opinion of the Commissioner, is relevant to the person's application for membership of the approved club.	11 12 13
(2) In this clause:	14
<i>approved club</i> means an approved pistol club or an approved collectors' society or club.	15 16
[8] Clause 84 Fees	17
Insert after clause 84 (1) (c):	18
(c1) application fee for a probationary pistol licence—\$100,	19
[9] Clause 97 Disclosure by health practitioners of certain information	20 21
Omit the clause.	22
[10] Clause 111 Exemption for certain firearms manufactured before 1900	23 24
Omit clause 111 (1). Insert instead:	25
(1) This clause applies to any firearm manufactured before 1900 that:	26 27
(a) in the case of a firearm other than a pistol—is not capable of discharging breech-loaded metallic cartridges or is a firearm for which ammunition is not, in the opinion of the Commissioner, commercially available, or	28 29 30 31 32
(b) is a pre-percussion pistol.	33

[11] Clause 111 (5)	1
Insert after clause 111 (4):	2
(5) In subclause (1):	3
<i>pre-percussion pistol</i> means a muzzle loading pistol	4
(including a percussion lock pistol that is muzzle loading) that	5
uses black powder to propel a projectile, but does not include	6
any breech loading pistol with a rotating cylinder or any other	7
breech loading pistol that accepts metallic cartridges.	8
[12] Clause 120	9
Insert after clause 119:	10
120 Temporary general amnesty for illegally held firearms that are	11
surrendered to the police	12
(1) In this clause:	13
<i>general amnesty period</i> means the period starting on the	14
commencement of this clause and ending 6 months later.	15
(2) A person is, during the general amnesty period, exempt from	16
the requirement under the Act to hold a licence or permit	17
authorising possession of a firearm if the person:	18
(a) is surrendering the firearm to a member of NSW Police	19
in accordance with such directions as are issued by the	20
Commissioner, or	21
(b) is proceeding to a police station (or other nominated	22
place) for the purpose of surrendering the firearm.	23
(3) Nothing in this clause authorises the use of a firearm.	24

Schedule 3 Amendment of other legislation

(Section 5)

3.1 Criminal Procedure Act 1986 No 209**[1] Section 268 Maximum penalties for Table 2 offences**

Insert “51E, 58 (2),” after “51D (1),” in section 268 (2) (e1) (as renumbered by Schedule 1 [84] to the *Criminal Procedure Amendment (Justices and Local Courts) Act 2001*).

[2] Schedule 1 Indictable offences triable summarily

Insert “51E, 58 (2),” after “51D (1),” in clause 7 of Table 2.

3.2 Weapons Prohibition Act 1998 No 127**[1] Schedule 1 Prohibited weapons**

Insert at the end of clause 4 (4) (d):

, or

(e) a pistol magazine with a capacity of more than 10 rounds.

[2] Schedule 2 Savings and transitional provisions

Omit “this Act.” from clause 1 (1). Insert instead:

the following Acts:

this Act

Firearms Amendment (Prohibited Pistols) Act 2003, to the extent that it amends this Act

[3] Schedule 2, clause 1 (2)

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

[4] Schedule 2, Part 3	1
Insert after Part 2:	2
Part 3 Provisions consequent on enactment of Firearms Amendment (Prohibited Pistols) Act 2003	3 4 5
8 Amnesty for pistol magazines with a capacity of more than 10 rounds	6 7
(1) This clause applies to a prohibited weapon referred to in clause 4 (4) (e) of Schedule 1.	8 9
(2) A person who is the holder of a category H (sport/target shooting) licence under the <i>Firearms Act 1996</i> does not commit an offence under section 7 of this Act in respect of the possession of a prohibited weapon to which this clause applies acquired by the person before the buyback period.	10 11 12 13 14
(3) Subclause (2) ceases to have effect in relation to any such person once the buyback period ends.	15 16
(4) Nothing in this clause authorises a person to use a prohibited weapon to which this clause applies (including fitting the prohibited weapon to a pistol).	17 18 19
(5) In this clause: <i>buyback period</i> has the same meaning as in section 78 of the <i>Firearms Act 1996</i> (as substituted by the <i>Firearms Amendment (Prohibited Pistols) Act 2003</i> .	20 21 22 23
3.3 Weapons Prohibition Regulation 1999	24
[1] Schedule 1 Persons exempt from requirement for permit	25
Omit “clause 4 (4)” from clause 4. Insert instead “clause 4 (4) (a)–(d)”.	26
[2] Schedule 1, clause 4 Possession and use of firearm magazines by certain persons	27 28
Insert at the end of the clause:	29
(2) The holder of a category H licence under the <i>Firearms Act 1996</i> issued for the genuine reason of business or employment is exempt from the requirement under the Act for a permit to	30 31 32

possess or use a prohibited weapon referred to in clause
4 (4) (e) of Schedule 1 to the Act, but:

- (a) only in relation to its use in a registered pistol to which
the licence applies, and
- (b) only in connection with that genuine reason, and
- (c) subject to such restrictions as may be imposed on the
licence by or under the *Firearms Act 1996*.

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