

[Act 1996 No 135]



Firearms Amendment Bill 1996

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Firearms Act 1996* (“the new Act”) for the following purposes:

- to create a separate licence category in respect of firearms collections,
- to extend the authority conferred by a category C licence (ie possession and use by primary producers of self-loading rimfire rifles and self-loading or repeating action shotguns of limited magazine capacity) to the licensee’s authorised employees,
- to enable the number of firearms authorised by a category C licence (ie only one self-loading rimfire rifle and only one self-loading or repeating action shotgun of limited magazine capacity) to be increased if a special need exists, such as in the case of large properties or where the licensee owns more than one rural property,

* Amended in committee—see table at end of volume.

- to provide for primary producers to have limited access to category D type firearms (eg self-loading centre-fire rifles and self-loading or repeating action shotguns of greater magazine capacity) for the purposes of culling large feral animals in special circumstances,
- to provide compensation to firearms dealers for loss of business,
- to make a number of miscellaneous changes (resulting from the public consultation and review process since enactment of the new Act) so as to clarify matters of detail relating to its operation.

Following the enactment of the new Act, further resolutions on national firearms laws were passed at the meeting of the Australasian Police Ministers' Council on 17 July 1996 (the *APMC resolutions*). This Bill implements the APMC resolutions, except for some (such as those relating to heirloom firearms, museums and ammunition collectors) that will be implemented by the proposed *Firearms (General) Regulation 1996*.

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 giving effect to the amendments to the *Firearms Act 1996* set out in Schedule 1.

Clause 4 provides that the bracketed matter in the heading to an item of the Schedule of amendments does not form part of the proposed Act and merely refers to the particular APMC resolution (or other matter) on which the amendment concerned is based.

Schedule 1 Amendments

Authority conferred by category C licence to possess and use certain types of prohibited firearms

Under the new Act, a category C licence authorises the licensee to possess and use no more than one self-loading rimfire rifle and no more than one self-loading or repeating action (eg pump action) shotgun. Such a licence can only be issued if the applicant's proven genuine reason is that of primary

production (ie the applicant must be a primary producer, or the owner, lessee or manager of land used for primary production, and the applicant must state that the firearm is intended to be used solely in connection with farming or grazing activities). The applicant must also show a special need for having such a firearm which cannot be met by other means (including by the use of a category A or category B type firearm).

The following amendments implement APMC resolution 1.12.

Schedule 1 [5] extends the authority conferred by a category C licence to any of the licensee's employees who are authorised by the Commissioner of Police and would otherwise be eligible to be issued with a licence (eg they must be 18 years of age or more and be a-fit and proper person), but only while carrying out duties in connection with the licensee's farming or grazing activities.

Schedule 1 [6] provides that the number of firearms authorised by a category C licence can be increased if the licensee can establish a special need for more firearms (eg because of the size of the licensee's property or because of the number of properties involved).

Access to category D prohibited firearms by primary producers

Under the new Act, a category D licence authorises the licensee to possess and use self-loading centre-fire rifles, self-loading rimfire rifles and self-loading and repeating action shotguns with a greater magazine capacity than that allowed under a category C licence. Such a licence can only be issued if the applicant's proven genuine reason is that of vertebrate pest animal control (ie the applicant must be a professional contract shooter, or an officer of a government agency that has responsibilities for culling vertebrate pest animals).

The following amendments implement APMC resolution 1.13 with respect to the extension of this licence category to primary producers in special circumstances.

Schedule 1 [20] makes the genuine reason of vertebrate pest animal control available to primary producers (this also covers owners of land used for primary production) who are participating in authorised campaigns to eradicate large feral animals or animals affected by major outbreaks of disease.

The Bill provides for a number of limitations on primary producers having access to category D type firearms. **Schedule 1 [8]** provides that a category D licence issued to a primary producer authorises possession of no more than one category D type firearm. **Schedule 1 [22]** provides that the person to whom such a licence is issued must demonstrate that the special need for the firearm cannot be met by other means. **Schedule 1 [27]** provides that such a licence will be subject to special conditions (eg the firearm must be returned after the licence expires). **Schedule 1 [29]** provides that such a licence will be limited to a term that is not to be more than 12 months, and **Schedule 1 [28]** is a consequential amendment.

Schedule 1 [7] is a minor amendment that makes it clear that the types of firearms that are available under a category D licence include the firearms that are available under a category C licence (eg a professional contract shooter issued with a category D licence will be able to use a self-loading rimfire rifle as authorised by a category C licence).

New category of firearms collector licence

The following amendments implement APMC resolutions 1.9 and 1.10.

Schedule 1 [13] provides for an additional category of licence called a firearms collector licence. Such a licence will authorise the holder to possess any firearm (except pistols manufactured after 1 January 1946 and certain types of prohibited firearms) for the genuine reason of a firearms collection.

A firearms collector licence may authorise possession of category C or category D type prohibited firearms, but the amendment made by **Schedule 1 [26]** provides that a firearms collector licence will be subject to special conditions, including the requirement that any category D type prohibited firearm in the collection must be rendered permanently inoperable.

The new Act presently requires all licence applicants to establish a genuine reason for having a firearm. **Schedule 1 [21]** provides that, in relation to the genuine reason of a firearms collection, the applicant will have to prove that he or she is a genuine firearms collector (ie is a member of an approved collectors' club or society) and that the collection is also genuine because of its commemorative, historical, thematic or financial value.

Schedule 1 [14] provides that a firearms collector licence does not authorise the possession of ammunition for firearms that are part of the collection.

However, the proposed *Firearms (General) Regulation 1996* will provide for separate ammunition collector permits in order to authorise the possession of ammunition for collection purposes.

Schedule 1 [3] repeals the provision exempting authorised museums from the requirement to hold a licence under the new Act. The APMC resolutions require private museums that hold firearms collections to be subject to the requirements agreed on for private firearms collectors. Provision will be made under the proposed *Firearms (General) Regulation 1996* to authorise the possession, by way of firearms museum permits, of firearms that are held in public or official museums.

Club armourers and firearms dealers

Schedule 1 [12] provides for firearms dealer licences to be issued to club armourers in order to authorise them to carry out their duties as club armourers. This maintains the current system under the *Firearms Regulation 1990* for club armourers to be treated as firearms dealers. A licence issued to a club armourer confers authority to do things only in relation to the firearms belonging to the members of the club concerned. **Schedule 1 [1]** inserts a definition of *club armourer* (such persons must be members of approved shooting clubs and satisfy the Commissioner that they are club armourers). **Schedule 1 [2], [9], [35] and [54]** make amendments that are consequential on club armourers being treated as licensed firearms dealers, and **Schedule 1 [23] and [36]** correct terminology relating to firearms dealer licences.

Schedule 1 [10] provides that the employees of a licensed firearms dealer who, under the licence can do things in relation to the dealer's business so long as they would be eligible to be issued with a licence, must also be authorised by the Commissioner in order to be able to do those things under the authority of the licence. **Schedule 1 [11]** makes it clear that a licensed firearms dealer is authorised to possess, manufacture and buy, and not just sell, ammunition for the firearms to which the licence relates.

Schedule 1 [34] provides that a licensed firearms dealer does not commit an offence of purchasing or possessing an unregistered firearm if an application is made to register the firearm within 24 hours of acquiring it. This replaces the requirement for the firearm to be registered within a prescribed period.

Compensation for loss of business

The following amendments implement APMC resolution 1.2.

Schedule 1 [49] and [53] provide for compensation to be paid to licensed firearms dealers for loss of business as determined by the Valuer-General in accordance with the Commonwealth's valuation guidelines as approved by the Commissioner. These guidelines provide that compensation for loss of business is to be provided on a "before and after" basis (ie the difference, if any, between the value of the business before and after the new legislation).

The money for compensating firearms dealers for loss of business will, as is the case for existing compensation scheme for surrendering prohibited firearms, be provided by the Commonwealth.

Miscellaneous amendments

Schedule 1 [4] extends the provision under the new Act that exempts carriers and warehouse operators from committing an offence for "technically" possessing firearms that they are transporting or holding for others. The provision will also cover employees of government agencies and public authorities who lawfully seize firearms in the course of their duties, and members of the Police Service other than police officers.

Schedule 1 [15] makes it clear that only licence applicants who have never held a firearms licence (whether under the new Act or a previous Act) will be required to complete the relevant firearms training and safety courses. **Schedule 1 [16]** enables the Commissioner to require any licence applicant to complete training and safety courses in relation to the particular licence category.

Schedule 1 [17] provides that a licence can be issued to a corporation if it is a licence issued for business or employment purposes.

Schedule 1 [18] provides that the Commissioner may approve shooting clubs in connection with the genuine reason of sport/target shooting (this replaces the requirement for such clubs to be prescribed by the regulations).

Schedule 1 [19] provides that, in relation to the genuine reason of recreational hunting/vermin control, membership of an approved hunting club can be produced as evidence of the licence applicant's genuine reason.

Schedule 1 [24] removes, in accordance with APMC resolution 1.1, the requirement that a licence must specify the licensee's current address. It is proposed that the Firearms Register will include the address of the person in whose name a firearm is registered. **Schedule 1 [25]** provides that only firearms dealer licences will specify the premises where the firearms authorised by the licence are to be kept.

Schedule 1 [30] provides for permits to be issued authorising certain firearms in a licensed firearms collection to be fired in special circumstances (this amendment implements APMC resolution 1.10). The amendment also provides (as is the case at present under the *Firearms Regulation 1990*) for permits to be issued authorising the possession or use of firearms in such circumstances as the Commissioner considers appropriate.

Schedule 1 [31] provides that a permit to acquire (which a person must have in order to buy a firearm) can, if approved by the Commissioner in a particular case, remain in force for a longer period than 30 days.

Schedule 1 [32] provides that a minor's firearms training permit (which applies to long arms) authorises the use of a firearm in an approved competition (as is the case at present with a minor's target pistol permit).

Schedule 1 [33] provides that a minor's permit extends for a prescribed period past the holder's eighteenth birthday so as to enable the holder to keep his or her firearm pending the issue of a full licence or permit.

Schedule 1 [37]–[39] provide that the prohibition under the new Act on sending or receiving firearms by mail will apply to firearm barrels rather than to firearm parts generally.

Schedule 1 [40] provides that an advertisement for the sale of a firearm must, if the proposed sale is being arranged by or through a licensed firearms dealer, contain the particulars to be prescribed by the regulations.

Schedule 1 [41] provides that commercial transporters must comply with prescribed safety requirements when conveying firearms (this amendment implements APMC resolution 1.1). **Schedule 1 [42]** clarifies the operation of the provision dealing with the non-commercial transportation of certain firearms.

Schedule 1 [43]–[45] remove the requirement for a person to have the Commissioner's written authority in order to sell, purchase or possess ammunition. The sale, purchase and possession of ammunition will be authorised by a licence or an ammunition collector permit under the regulations.

Schedule 1 [46] exempts carriers and warehouse operators from the offence of possessing ammunition without a licence or permit.

Schedule 1 [47] enables the prohibited firearms to which section 78 of the new Act applies to be surrendered, for compensation purposes, to members of the Police Service other than police officers.

Schedule 1 [48] will enable the regulations to extend the 12 month period (which started on 1 October 1996) during which a person is entitled to be compensated for surrendering a prohibited firearm.

Schedule 1 [50]–[52] will enable the regulations to extend, to certain classes of health practitioners, the provision under the new Act that provides for medical practitioners to inform the Commissioner of their opinions about patients not being suitable to possess firearms.

Schedule 1 [55] and **[56]** enable regulations of a savings or transitional nature to be made as a consequence of the enactment of the proposed Act. **Schedule 1 [57]** is a consequential amendment.

Schedule 1 [58]–[60] provide that an existing licence (being a licence issued under the *Firearms Act 1989* and that is continued under the new Act) does not authorise the use of a prohibited firearm except in limited cases (eg primary producers will be able to continue to use, under the authority of an existing licence, a category C type prohibited firearm during the 12-month transitional period provided under the new Act).

Schedule 1 [61] provides that a permit issued under the *Prohibited Weapons Act 1989* authorising the possession or use of a prohibited firearm is continued under the new Act but only for the purpose of authorising the possession (and not the use) of the firearm during the 12-month transitional period.