

# Firearms Act 1996 No 46

[1996-46]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Does not include amendments by**
  - [Justices Legislation Repeal and Amendment Act 2001 No 121](#) (not commenced)
  - [Law Enforcement \(Powers and Responsibilities\) Act 2002 No 103](#) (not commenced)
  - [Security Industry Amendment Act 2002 No 107](#) (not commenced)

### Authorisation

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New South Wales

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# Firearms Act 1996 No 46



New South Wales

An Act to provide for the regulation, control and registration of firearms; to repeal the *Firearms Act 1989*; to amend the *Prohibited Weapons Act 1989*; and for related purposes.

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Firearms Act 1996*.

### 2 Commencement

- (1) This Act commences on a day or days to be appointed by proclamation.
- (2) Different days may be appointed for the commencement of section 89 for the purpose of repealing different provisions of the *Firearms Act 1989*, or the *Firearms Regulation 1990*, on different days.

### 3 Principles and objects of Act

- (1) The underlying principles of this Act are:
  - (a) to confirm firearm possession and use as being a privilege that is conditional on the overriding need to ensure public safety, and
  - (b) to improve public safety:
    - (i) by imposing strict controls on the possession and use of firearms, and
    - (ii) by promoting the safe and responsible storage and use of firearms, and
  - (c) to facilitate a national approach to the control of firearms.
- (2) The objects of this Act are as follows:
  - (a) to prohibit the possession and use of all automatic and self-loading rifles and shotguns except in special circumstances,
  - (b) to establish an integrated licensing and registration scheme for all firearms,
  - (c) to require each person who possesses or uses a firearm under the authority of a

licence to prove a genuine reason for possessing or using the firearm,

- (d) to provide strict requirements that must be satisfied in relation to licensing of firearms and the acquisition and sales of firearms,
- (e) to ensure that firearms are stored and conveyed in a safe and secure manner,
- (f) to provide for compensation in respect of, and an amnesty period to enable the surrender of, certain prohibited firearms.

#### 4 Definitions (cf 1989 Act s 3, 1990 Reg cl 3)

(1) In this Act:

**acquire** a firearm means purchase, accept or receive, or otherwise take possession of, the firearm, except for the purpose only of repairing it.

**air gun** means a gun that:

- (a) can propel, or is designed to propel, a projectile:
  - (i) by means of any gas or mixture of gases, including air but not including a gas or mixture of gases generated by an explosive, or
  - (ii) by means of a spring, and
- (b) is operated or designed for operation by means of a trigger or similar device.

**ammunition** includes:

- (a) any article consisting of a cartridge case fitted with a primer and a projectile, or
- (b) any article consisting of a cartridge case fitted with a primer and containing a propelling charge and a projectile, or
- (c) blank cartridges, airgun pellets, training cartridges or gas cartridges, or
- (d) any other article prescribed by the regulations for the purposes of this definition.

**apprehended violence order** means:

- (a) an order within the meaning of Part 15A of the [Crimes Act 1900](#) (other than an interim order under that Part), or
- (b) an interim order under that Part that is confirmed, or
- (c) an order or decision under an Act or law of a place other than New South Wales, being an order or decision that is prescribed for the purposes of this definition by the regulations.

**blank fire firearm** means a device that is designed for firing blank cartridges only,



such as a starting pistol.

**close associate**—see section 4B.

**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.

**Commissioner** means the Commissioner of Police.

**exercise** a function includes perform a duty.

**explosive** has the same meaning as in the [Dangerous Goods Act 1975](#).

**firearm** means a gun, or other weapon, that is (or at any time was) capable of propelling a projectile by means of an explosive, and includes a blank fire firearm, or an air gun, but does not include anything declared by the regulations not to be a firearm.

**firearm part** means a barrel, breech, pistol slide, frame, receiver, cylinder, trigger mechanism, operating mechanism or magazine designed as, or reasonably capable of forming, part of a firearm.

**firearms dealer** means a person who, in the course of carrying on a business or in carrying out the person's duties as a club armourer:

- (a) manufactures, purchases, sells, transfers, tests, repairs or converts firearms or firearm parts, and
- (b) possesses firearms or firearm parts for the purpose of doing anything referred to in paragraph (a).

**firearms prohibition order** means an order in force under section 73.

**function** includes a power, authority or duty.

**genuine reason** means a genuine reason as referred to in the Table to section 12.

**interim apprehended violence order** means:

- (a) an interim order made by a court under Part 15A of the [Crimes Act 1900](#), or
- (b) an order or decision under an Act or law of a place other than New South Wales, being an order or decision that is prescribed for the purposes of this definition by the regulations.

**licence** means a licence in force under this Act.

**permit** means a permit in force under this Act.

**pistol** means a firearm that:

- (a) is reasonably capable of being raised and fired by one hand, and
- (b) does not exceed any dimension prescribed by the regulations.

**possession** of a firearm includes any case in which a person knowingly:

- (a) has custody of the firearm, or
- (b) has the firearm in the custody of another person, or
- (c) has the firearm in or on any premises, place, vehicle, vessel or aircraft, whether or not belonging to or occupied by the person.

**Note—**

See also section 4A.

**prohibited firearm** means a firearm described in Schedule 1.

**purchase** includes:

- (a) purchase by wholesale, retail, auction or tender, and
- (b) obtain by barter or exchange, and
- (c) cause or allow anything referred to above.

**Register** means the Register of Firearms referred to in section 33.

**registered** means registered for the time being under this Act.

**sell** includes:

- (a) sell by wholesale, retail, auction or tender, and
- (b) dispose by barter or exchange, and
- (c) sell for profit, and
- (d) offer for sale, receive for sale, have in possession for sale or expose or exhibit for sale, and
- (e) conduct negotiations for sale, and
- (f) consign or deliver for sale, and
- (g) cause or allow anything referred to above.

**test** a firearm or firearm part includes carry out developmental work or research into the manufacture of a firearm or firearm part.

**use** a firearm means fire the firearm or hold it so as to cause a reasonable belief that it will be fired, whether or not it is capable of being fired.

- (2) For the purposes of this Act:
- (a) anything that would be a firearm if it did not have something missing from it, or a defect or obstruction in it, is taken to be a firearm, and
  - (b) any firearm that would be a prohibited firearm:
    - (i) if it did not have something missing from it, or a defect or obstruction in it, or
    - (ii) if it were not for the fact that something has been added to it,is taken to be a prohibited firearm.
- (3) For the purposes of this Act:
- (a) if firearm parts are possessed, or being carried, by 2 or more persons, each of them is taken to be possessing or carrying the firearm, and
  - (b) a person who takes possession of anything under a hire-purchase agreement is taken to have bought it and the person who possessed it immediately before parting with possession is taken to have sold it.
- (4) Notes in the text of this Act (including bracketed matter in the headings to certain provisions) do not form part of the Act.

#### **4A Meaning of “possession” of a firearm—proof of possession**

- (1) Without restricting the meaning of the word **possession**, for the purposes of any proceedings under this Act, a firearm is taken to be in the possession of a person so long as it is in or on any premises owned, leased or occupied by, or in the care, control or management of, the person, unless the court is satisfied that:
- (a) the firearm was placed in or on, or brought into or on to, the premises by or on behalf of a person who was lawfully authorised by or under this Act to possess the firearm, or
  - (b) the person did not know and could not reasonably be expected to have known that the firearm was in or on the premises, or
  - (c) on the evidence before it, the person was not in possession of the firearm.
- (2) In this section, **premises** means any place, vehicle, vessel or aircraft.

#### **4B Meaning of “close associate” of firearms dealer**

- (1) For the purposes of this Act, a person is a **close associate** of an applicant for, or the holder of, a firearms dealer licence if the person:
- (a) holds or will hold any relevant financial interest, or is or will be entitled to exercise any relevant power (whether in his or her own right or on behalf of any other person), in the business of the licence applicant or licence holder, and by virtue of that interest or power is or will be able to exercise a significant influence over or with respect to the conduct of that business, or
  - (b) holds or will hold any relevant position, whether in his or her own right or on behalf of any other person, in the business of the licence applicant or licence holder.

- (2) In this section:

**relevant financial interest**, in relation to a business, means:

- (a) any interest in the capital or assets of the business, or
- (b) any entitlement to receive any income derived from the business, whether the entitlement arises at law or in equity or otherwise.

**relevant position**, in relation to a business, means a position whose holder participates in the management of the business (whether in the capacity of a director, manager or secretary or in any other capacity).

**relevant power** means any power, whether exercisable by voting or otherwise and whether exercisable alone or in association with others:

- (a) to participate in any managerial or executive decision, or
- (b) to elect or appoint any person to any relevant position.

#### **5 Amendment of Schedule 1 list of prohibited firearms** (cf PW Act s 3 (4))

The regulations may amend Schedule 1:

- (a) by adding the name or description of a firearm, or
- (b) by amending a name or description of a prohibited firearm for the purpose of more accurately describing the firearm concerned.

#### **6 Application of Act** (cf 1989 Act s 4, 1990 Reg cl 96A)

- (1) This Act binds the Crown in right of New South Wales and, in so far as the legislative power of Parliament permits, the Crown in all its other capacities (except as provided otherwise by this section).

- (2) A person is not guilty of an offence under this Act or the regulations only because of something done by the person while acting in the ordinary course of the person's duties:
- (a) as a police officer (or as a student police officer enrolled in the New South Wales Police Academy), or
  - (b) as a prison officer employed in the Department of Corrective Services, or
  - (c) as a police officer, or as a prison officer, of the Commonwealth, another State or a Territory, or
  - (d) as a member of the armed forces of the Commonwealth, or of any government that is allied or associated with the Commonwealth in any war or joint military exercise in which the Commonwealth is engaged, or
  - (e) (Repealed)
  - (f) as, or under the authority of, the person in charge of a ship or an aircraft, but only for the purpose of having equipment of or on the ship or aircraft repaired or tested by a person authorised to do so by a licence.
- (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.
- (4) A person who is a member of the Naval Reserve Cadets, the Australian Cadet Corps or the Air Training Corps is not required to be the holder of a licence or permit to authorise the person to possess a firearm, but only while possessing it:
- (a) for the purposes of activities of the Cadets or the Corps of which the person is a member, and
  - (b) in accordance with such guidelines as may be fixed by order of the Commissioner.

## Part 2 Licences and permits

### Division 1 Requirement for licence or permit

#### 7 Offence of unauthorised possession or use of firearms (cf 1989 Act s 5, APMC 3)

- (1) A person must not possess or use a firearm unless the person is authorised to do so by a licence or a permit.

Maximum penalty: imprisonment for 14 years if the firearm concerned is a prohibited firearm or pistol, or imprisonment for 5 years in any other case.

- (2) Without limiting the operation of subsection (1), a person who is the holder of a licence is guilty of an offence under this section if the person:
- (a) uses a firearm for any purpose otherwise than in connection with the purpose established by the person as being the genuine reason for possessing or using the firearm, or
  - (b) contravenes any condition of the licence.

### Division 2 Licensing scheme

#### 8 Licence categories and authority conferred by licence (cf 1989 Act s 21, APMC 1, 3, 4)

- (1) The categories of licences, the firearms to which they apply, and the authority they confer, are as follows:

##### Category A licence

*Firearms to which the licence applies:*

- air rifles
- rimfire rifles (other than self-loading),
- shotguns (other than pump action or self-loading)
- shotgun/rimfire rifle combinations.

All prohibited firearms are excluded from this licence category.

*Authority conferred by the licence:*

The licensee is authorised to possess or use a registered firearm of the kind to which the licence applies, but only for the purpose established by the licensee as being the genuine reason for possessing or using the firearm.

##### Category B licence

*Firearms to which the licence applies:*

- muzzle-loading firearms (other than pistols)

- centre-fire rifles (other than self-loading)
- shotgun/centre-fire rifle combinations.

All prohibited firearms are excluded from this licence category.

*Authority conferred by the licence:*

The licensee is authorised to possess or use a registered firearm of the kind to which the licence applies, but only for the purpose established by the licensee as being the genuine reason for possessing or using the firearm.

**Category C licence (prohibited except for limited purposes)**

*Firearms to which the licence applies:*

- self-loading rimfire rifles with a magazine capacity of no more than 10 rounds
- self-loading shotguns with a magazine capacity of no more than 5 rounds
- pump action shotguns with a magazine capacity of no more than 5 rounds.

Any firearm referred to in item 6, 10 or 11 of Schedule 1 is excluded from this licence category. The regulations may prescribe certain other firearms (whether being of a general class or whether described specifically) that are excluded from this licence category.

*Authority conferred by the licence:*

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) to possess or use:

- (a) no more than one registered self-loading rimfire rifle with a magazine capacity of no more than 10 rounds that is specified in the licence, and
- (b) no more than one registered shotgun to which the licence applies that is specified in the licence,

but only for the purpose established by the licensee as being the genuine reason for possessing or using the firearm.

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).

**Category D licence (prohibited except for official purposes)**

*Firearms to which the licence applies:*

- self-loading centre-fire rifles
- self-loading rimfire rifles with a magazine capacity of more than 10 rounds
- self-loading shotguns with a magazine capacity of more than 5 rounds
- pump action shotguns with a magazine capacity of more than 5 rounds
- any firearm to which a category C licence applies.

Any firearm referred to in item 5, 6, 9, 10 or 11 of Schedule 1 is excluded from this licence category. The regulations may prescribe certain other firearms (whether being of a general class or whether described specifically) that are excluded from this licence category.

*Authority conferred by the licence:*

The licensee is authorised to possess or use a registered firearm to which the licence applies, but only for the purpose established by the licensee as being the genuine reason for possessing or using the firearm.

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.

**Category H licence (pistols)**

*Firearms to which the licence applies:*

- pistols (including blank fire pistols and air pistols).

Prohibited firearms are excluded from this licence category.

*Authority conferred by the licence:*

The licensee is authorised to possess or use a registered pistol, but only for the purpose established by the licensee as being the genuine reason for having the licence.

**Firearms dealer licence**

*Firearms to which the licence applies:*



- the kinds of firearms specified in the licence.

*Authority conferred by the licence:*

In the case of a firearms dealer other than a club armourer, authorises the licensee and (subject to the conditions of the licence and the regulations):

- (a) employees or directors of the corporation specified in the licence, or
- (b) employees of the partnership so specified, or
- (c) employees of the individual so specified,

who are eligible to be issued with a licence and who are authorised in writing by the Commissioner, to possess, manufacture, convert, purchase, sell, transfer, repair, maintain or test, in the course of carrying on the business of a firearms dealer, and only at the premises specified in the licence, any firearm to which the licence applies, and to possess, manufacture, purchase or sell ammunition for those firearms.

In the case of a club armourer, authorises the licensee to possess, manufacture, convert, purchase, 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, purchase 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.

**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.

- (2) The regulations may prescribe sub-categories in respect of category H licences and firearms dealer licences, and specify the authority conferred by each such sub-category.

(3) The authority conferred by a licence is subject to the regulations.

**9 Authority conferred by licence—additional matters** (cf 1989 Act s 21 (2), APMC 1 (b), 3, 4)

(1) A licence that authorises the licensee to have possession of a firearm also authorises the licensee to have possession of the firearm while:

(a) taking it to a licensed firearms dealer for the purpose of:

(i) selling it, or

(ii) having it converted, maintained, tested or repaired and subsequently recovering it from the dealer, and

(b) taking it to a police officer for the purpose of having it inspected and subsequently recovering it from a police officer, and

(c) taking it to a police officer for the purpose of surrendering it.

(2) Subject to the regulations and except as provided by section 17A, a category C or category D licence does not authorise the possession or use of a prohibited firearm for the purposes of any shooting competition.

(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.

**10 Applications for licences** (cf 1989 Act s 23, APMC 4, 5)

(1) An application for a licence must be made in the manner, and be accompanied by the fee, prescribed by the regulations.

(2) An applicant for a licence must:

(a) if the applicant is a natural person, be of or above the age of 18, and

(b) provide proof of the applicant's identity in accordance with the requirements under the *Financial Transaction Reports Act 1988* of the Commonwealth that apply in respect of the opening of a bank account, and

(c) provide such other particulars or documents as may be prescribed by the regulations.

(3) An applicant, at the time of applying for a licence, is to be provided with the following:

(a) information concerning any firearms safety training course that is required by the regulations to be completed by the applicant,

(b) information concerning the firearm storage and safety requirements under this Act.

**Note—**

Only persons of or above the age of 18 can apply for (and be issued with) a licence. However under section 32, minor's firearms permits are available for certain minors (ie persons under 18 but who are of or above the age prescribed by the regulations). These permits authorise minors to possess and use firearms, under the supervision of a licence holder, for the purpose of receiving safe instruction in the use of firearms, and for competing in shooting events in the case of a minor's target pistol permit.

**11 General restrictions on issue of licences** (cf 1989 Act s 25, APMC 4, 5, 6)

- (1) The Commissioner may issue a licence in respect of an application, or refuse any such application.
- (2) A licence must not be issued until after the end of the period of 28 days following the day on which the application is made.
- (3) A licence must not be issued unless:
  - (a) the Commissioner is satisfied that the applicant is a fit and proper person and can be trusted to have possession of firearms without danger to public safety or to the peace, and
  - (b) in the case of a person who has never held a licence (including a firearms licence under a previous Act), the applicant has completed, to the satisfaction of the Commissioner, such firearms training and safety courses as are prescribed by the regulations in respect of the licence concerned, and
  - (c) the Commissioner is satisfied that the storage and safety requirements set out in Part 4 are capable of being met by the applicant, and
  - (d) the Commissioner is satisfied that the person to whom the licence is to be issued is a resident of this State or is about to become a resident of this State.
- (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.
- (4) Without limiting the generality of subsection (3) (a), a licence must not be issued if the Commissioner has reasonable cause to believe that the applicant may not personally exercise continuous and responsible control over firearms because of:
  - (a) the applicant's way of living or domestic circumstances, or
  - (b) any previous attempt by the applicant to commit suicide or cause a self-inflicted injury, or
  - (c) the applicant's intemperate habits or being of unsound mind.
- (5) A licence must not be issued to a person who:

- (a) is under the age of 18, or
  - (b) has, within the period of 10 years before the application for the licence was made, been convicted in New South Wales or elsewhere of an offence prescribed by the regulations, whether or not the offence is an offence under New South Wales law, or
  - (c) is subject to an apprehended violence order or who has, at any time within 10 years before the application for the licence was made, been subject to such an order (other than an order that has been revoked), or
  - (d) is subject to a good behaviour bond, whether entered into in New South Wales or elsewhere, or
  - (e) is subject to a firearms prohibition order.
- (5A) A licence must not be issued to a person if the Commissioner is of the opinion, having regard to any criminal intelligence report or other criminal information held in relation to the person, that:
- (a) the person is a risk to public safety, and
  - (b) the issuing of the licence would be contrary to the public interest.
- (5B) The Commissioner is not, under this or any other Act or law, required to give any reasons for not issuing a licence on the grounds referred to in subsection (5A).
- (6) Except in the case of a firearms dealer licence or where the applicant's genuine reason is business or employment, a licence must not be issued to a person who is not a natural person.
- (7) Despite any other provision of this section, the Commissioner may refuse to issue a licence if the Commissioner considers that issue of the licence would be contrary to the public interest.
- (8) The regulations may provide other mandatory or discretionary grounds for refusing the issue of a licence.

**12 Genuine reasons for having a licence** (cf APMC 3, 1990 Reg cl 22A)

- (1) The Commissioner must not issue a licence that authorises the possession and use of a firearm unless the Commissioner is satisfied that the applicant has a genuine reason for possessing or using the firearm.
- (2) An applicant does not have a genuine reason for possessing or using a firearm if the applicant intends to possess or use the firearm for any of the following reasons:
  - (a) personal protection or the protection of any other person,

(b) the protection of property (other than in circumstances constituting a genuine reason as set out in the Table to this section).

(3) Subsection (2) does not limit the reasons which the Commissioner may be satisfied are not genuine reasons for the purposes of justifying the possession or use of a firearm.

(4) Subject to this Act, an applicant for a licence has a genuine reason for possessing or using a firearm if the applicant:

(a) states that he or she intends to possess or use the firearm for any one or more of the reasons set out in the Table to this section, and

(b) is able to produce evidence to the Commissioner that he or she satisfies the requirements specified in respect of any such reason.

### **Table**

#### *Reason: sport/target shooting*

The applicant must be a current member of a shooting club approved by the Commissioner in accordance with the regulations, and which conducts competitions or activities requiring the use of the firearm for which the licence is sought.

#### *Reason: recreational hunting/vermin control*

The applicant must:

(a) be the owner or occupier of rural land, or

(b) produce proof of permission given by the owner or occupier of rural land, or by an officer of the National Parks and Wildlife Service, the Department of Land and Water Conservation, the Forestry Commission or other authority prescribed by the regulations, to shoot on rural land, or

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

The regulations may provide for the manner and form in which any such permission is to be given, the extent to which it operates, and how it is to be produced as evidence by the applicant. 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.

#### *Reason: primary production*

The applicant must:

(a) be 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

- (b) state that he or she intends to use the firearm solely in connection with farming or grazing activities (including the suppression of vertebrate pest animals on the land concerned).

*Reason: vertebrate pest animal control*

The applicant must be:

- (a) a professional contract shooter engaged or employed in controlling vertebrate pest animals on rural land, or
- (b) a person employed by or in, or authorised by, a government agency prescribed by the regulations that has functions relating to the control or suppression of vertebrate pest animals, 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.

*Reason: business or employment*

The applicant must demonstrate that it is necessary in the conduct of the applicant's business or employment to possess or use the firearm for which the licence is sought.

*Reason: occupational requirements relating to rural purposes*

The applicant must be employed or engaged in a rural occupation that requires the possession or use of the firearm for which the licence is sought.

*Reason: animal welfare*

The applicant must be:

- (a) an officer of the RSPCA or the Animal Welfare League who is a special constable, or
- (b) a veterinary surgeon, or
- (c) a person employed by or within the Department of Agriculture or a Rural Lands Protection Board with responsibilities for animal welfare, or
- (d) an owner, transporter, drover or other handler of animals who may need to destroy animals to avoid suffering.

*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.

**13 Category B licences—restrictions on issue** (cf APMC 3 (c))

Subject to the regulations, the Commissioner must not issue a category B licence to any person unless the person, in addition to establishing a genuine reason for being issued with the licence, produces evidence to the satisfaction of the Commissioner that there is a special need for the person to possess or use a firearm to which licence category B applies.

**14 Category C licences—restrictions on issue** (cf APMC 3 (c))

Except as provided by section 17A, the Commissioner must not issue a category C licence to any person unless:

- (a) the genuine reason established by the person for being issued with the licence is primary production (or such other genuine reason as may be prescribed by the regulations), and
- (b) in addition to establishing any such genuine reason, the person produces evidence to the Commissioner's satisfaction that there is a special need for the person to possess or use a firearm to which licence category C applies, and
- (c) 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 or category B licence).

**15 Category D licences—restrictions on issue** (cf APMC 3 (c))

The Commissioner must not issue a category D licence to any person unless:

- (a) the genuine reason established by the person for being issued with the licence is that of vertebrate pest animal control, and
- (b) in addition to establishing any such genuine reason, the person produces evidence to the Commissioner's satisfaction that there is a special need for the person to possess or use a firearm to which a licence category D applies, 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).

**16 Category H licences—restrictions on issue** (cf APMC 3 (c), 1989 Act s 21 re pistols)

The Commissioner must not issue a category H licence to any person unless:

- (a) the genuine reason established by the person for being issued with the licence is any one or more of the following:
  - (i) sport/target shooting,
  - (ii) business or employment,
  - (iii) firearms collection, and
- (b) in addition to establishing any such genuine reason, the person produces evidence to the Commissioner's satisfaction that there is a special need for the person to possess or use a pistol.

**17 Proof of special need** (cf APMC 3 (c))

The regulations may specify the sort of evidence that may be produced in order to satisfy the Commissioner of a special need for the purposes of sections 13–16. However, nothing in this section is taken to limit the Commissioner's discretion in determining whether any such special need has been demonstrated.

**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.

**17B Firearms dealer licences—restrictions on issue**

The Commissioner must not issue a firearms dealer licence if the Commissioner:

- (a) is of the view that a person who (in the opinion of the Commissioner) is or will be a close associate of the applicant is not a fit and proper person to be a close associate of the holder of a firearms dealer licence, or
- (b) is not satisfied that the applicant is to be the person primarily responsible for the management of the business to be carried on under the authority of the licence.

**18 Form of licence** (cf APMC 4, 1989 Act s 26A, 1990 Reg cll 22B, 23)

- (1) A licence is to be in any one or more forms approved by the Commissioner. The manner and form in which the information referred to in subsection (2) is to be specified in the licence, or recorded, is to be determined by the Commissioner from time to time (including, for example, by way of magnetic strip or other electronic means).
- (2) A licence must:
  - (a) contain a recent photograph of the person to whom it is issued (such photograph being obtained in accordance with arrangements determined by the

Commissioner), and

- (b) bear the signature of the licensee, and
  - (c) specify the licence category, and
  - (d) specify (except in the case of a firearms dealer licence) the registered firearm or firearms to which the licence relates, and
  - (e) specify the genuine reason for which the person was issued with the licence, and
  - (f) (Repealed)
  - (g) specify (in the case of a firearms dealer licence) the premises where the firearm is authorised to be kept, and
  - (h) contain a reference to the requirements under this Act relating to the storage and safe keeping of the firearm, and
  - (i) contain such other detail as may be prescribed by the regulations.
- (3) A person to whom a licence is issued must, immediately after receiving the licence, write the person's usual signature in ink in the space provided for it on the licence (unless the licence already bears the licensee's signature).

Maximum penalty: 20 penalty units.

**19 Conditions of licence** (cf 1989 Act ss 21, 28, APMC 4 (b), 9 (c))

- (1) A licence may be issued by the Commissioner subject to such conditions as the Commissioner thinks fit to impose.
- (2) Without limiting subsection (1), each licence is subject to the following conditions:
  - (a) the licensee must comply with the relevant safe keeping and storage requirements under this Act,
  - (b) the licensee must not permit any other person to possess or use any firearm in the licensee's possession if that other person is not authorised to possess or use the firearm,
  - (c) the licensee must, in accordance with such arrangements as are agreed on by the licensee and the Commissioner, or, in the case of a licensed firearms dealer, at any reasonable time, permit inspection by a police officer (or such other person as may be prescribed by the regulations) of the licensee's facilities in respect of the storage and safe keeping of the firearms in the licensee's possession,
  - (d) the licensee must not possess, at any one time, any amount of ammunition that exceeds the amount (if any) prescribed by the regulations, unless authorised in

writing by the Commissioner,

(e) the licence cannot be transferred to another person.

(3) A licence is subject to such other conditions as may be prescribed by the regulations.

## **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.

## **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).

**21 Term of licence** (cf APMC 4, 1989 Act s 27)

- (1) Except as provided by subsection (2), a licence continues in force from the time it is issued for a period of 5 years (or such shorter period as may be prescribed by the regulations), unless it is sooner surrendered or revoked or otherwise ceases to be in force.
- (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.

**22 Suspension of licence** (cf APMC 6, 1989 Act s 35)

- (1) The Commissioner may, if the Commissioner is satisfied there may be grounds for revoking a licence, suspend the licence by serving personally or by post on the licensee a notice:
  - (a) stating that the licence is suspended and the reasons for suspending it, and
  - (b) requesting that the person provide the Commissioner with reasons why the licence should not be revoked.
- (2) The Commissioner must suspend a licence in accordance with this section if the Commissioner is aware that the licensee has been charged with a domestic violence offence within the meaning of the *Crimes Act 1900* or the Commissioner has reasonable cause to believe that the licensee has committed or has threatened to commit a domestic violence offence within the meaning of that Act.
- (3) A suspended licence does not authorise the possession or use of firearms during the period specified in the notice suspending it.

**23 Suspension of licence on making of interim apprehended violence order** (cf APMC 6, 1989 Act s 35A)

- (1) A licence that authorises a person to possess or use a firearm is automatically suspended on the making of an interim apprehended violence order against the person.
- (2) The licence is suspended until the order is confirmed or revoked.

**24 Revocation of licence** (cf APMC 6, 1989 Act s 36, 1990 Reg cl 27)

- (1) A licence that authorises a person to possess or use a firearm is automatically

revoked if the licensee becomes subject to a firearms prohibition order or an apprehended violence order.

(2) A licence may be revoked:

(a) for any reason for which the licensee would be required to be refused a licence of the same kind, or

(b) if the licensee:

(i) supplied information which was (to the licensee's knowledge) false or misleading in a material particular in, or in connection with, the application for the licence, or

(ii) contravenes any provision of this Act or the regulations, whether or not the licensee has been convicted of an offence for the contravention, or

(iii) contravenes any condition of the licence, or

(c) if the Commissioner is of the opinion that the licensee is no longer a fit and proper person to hold a licence, or

(d) for any other reason prescribed by the regulations.

(3) The Commissioner of Police may revoke a licence by serving personally or by post on the licensee a notice stating that the licence is revoked and the reason for revoking it.

(4) The revocation of a licence by such a notice takes effect when the notice is served or on a later date specified in the notice.

(5) The Commissioner may, by serving a further notice on the holder of a licence, cancel a notice revoking a licence before the notice takes effect.

**25 Surrender and seizure of firearms when licence suspended or revoked** (cf APMC 4 (b), 1989 Act s 38)

(1) If a licence is suspended or revoked, the person to whom it was issued must immediately surrender to a police officer:

(a) any firearm in the person's possession, and

(b) the licence.

Maximum penalty: 50 penalty units or imprisonment for 2 years, or both.

(2) A police officer is authorised to seize any firearm in the possession of a person if that person's licence is suspended or revoked.

**26 Recognition of interstate licences for certain purposes** (cf APMC 4 (c), 1990 Reg cll 93,

93A)

(1) A person who:

- (a) is a resident of another State or Territory, and
- (b) is the holder of the equivalent of a category A, category B or category H licence issued under the law in force in that State or Territory,

is exempt from the requirements of section 7 of this Act to be authorised to possess or use a firearm of a kind to which a corresponding category A, category B or category H licence issued in this State applies, but only for the purpose of enabling the person to participate in a shooting competition approved by the Commissioner (or for such other purposes as may be prescribed by the regulations).

(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).

**27 Interstate residents moving to this State** (cf APMC 4 (d))

- (1) A resident of another State or a Territory who is the holder of the equivalent of a category A or category B licence issued under the law in force in that State or Territory may notify the Commissioner in writing that he or she intends to reside on a permanent basis in this State.
- (2) If the Commissioner is notified in accordance with subsection (1), the equivalent of

the category A or category B licence (as issued by the other jurisdiction) is, subject to any direction of the Commissioner, taken to be the corresponding licence in force in this State for a period of 3 months from the time the person notified the Commissioner or until the person's application for a licence under this Act is granted or refused (whichever is sooner).

- (3) If a resident of another State or a Territory who is the holder of the equivalent of a category C, category D or category H licence notifies the Commissioner in writing that the person intends to reside in this State, the equivalent of the category C, category D or category H licence (as issued by the other jurisdiction) is, subject to any direction of the Commissioner, taken to be the corresponding licence in force in this State for a period of 7 days from the time the person notified the Commissioner.
- (4) After the expiry of any such 7 day period, any person:
- (a) who has duly notified the Commissioner in accordance with subsection (3), and
  - (b) who applied for a licence before the expiry of that period,
- does not, while the person's application for a licence is being determined by the Commissioner, commit an offence under section 7 in respect of the possession of a firearm.

## **Division 3 Permits**

### **28 General power to issue permits** (cf APMC 3 (b), 7, 1990 Reg cl 15)

The Commissioner may issue permits for any one or more of the following purposes:

- (a) to authorise a person to acquire a firearm,
- (b) to authorise the possession or use of firearms by minors in accordance with section 32,
- (c) to authorise the possession or use of firearms in such circumstances as may be prescribed by the regulations (including film or theatrical productions or other artistic purposes),
- (d) to authorise the acquisition, selling or transfer of firearms in such circumstances as may be prescribed by the regulations,
- (e) to authorise the shortening or conversion of firearms,
- (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.

**29 General restrictions on issuing permits** (cf APMC 4 (a), 1990 Reg cl 16)

- (1) A permit must not be issued unless the Commissioner is satisfied that the applicant is a fit and proper person and can be trusted to have possession of firearms without danger to public safety or to the peace.
- (2) Without limiting the generality of subsection (1), a permit must not be issued if the Commissioner has reasonable cause to believe that the applicant may not personally exercise continuous and responsible control over firearms because of:
  - (a) the applicant's way of living or domestic circumstances, or
  - (b) any previous attempt by the applicant to commit suicide or cause a self-inflicted injury, or
  - (c) the applicant's intemperate habits or being of unsound mind.
- (3) Subject to this Division, a permit must not be issued to a person who:
  - (a) is under the age of 18, or
  - (b) has, within the period of 10 years before the application for the permit was made, been convicted in New South Wales or elsewhere of an offence prescribed by the regulations, whether or not the offence is an offence under New South Wales law, or
  - (c) is subject to an apprehended violence order or who has at any time within 10 years before the application for the permit was made been subject to such an order (other than an order which has been revoked), or
  - (d) is subject to a good behaviour bond, whether entered into in New South Wales or elsewhere, or
  - (e) is subject to a firearms prohibition order.
- (3A) A permit must not be issued to a person if the Commissioner is of the opinion, having regard to any criminal intelligence report or other criminal information held in relation to the person, that:
  - (a) the person is a risk to public safety, and
  - (b) the issuing of the permit would be contrary to the public interest.
- (3B) The Commissioner is not, under this or any other Act or law, required to give reasons



for not issuing a permit on the grounds referred to in subsection (3A).

- (4) Despite any other provision of this section, the Commissioner may refuse to issue a permit if the Commissioner considers that issue of the permit would be contrary to the public interest.
- (5) The regulations may provide other mandatory or discretionary grounds for refusing the issue of a permit.

**30 General provisions relating to permits** (cf APMC 4 (a), (b), 1989 Act ss 35, 35A, 36, 38)

- (1) An application for a permit must be made in the prescribed manner and be accompanied by the prescribed fee.
- (2) A permit is to be in a form approved by the Commissioner and contain such detail as may be prescribed by the regulations.
- (3) The regulations may prescribe or provide for the Commissioner to impose or determine:
  - (a) conditions to which a permit is to be subject, and
  - (b) the period for which a permit is to be in force.
- (4) A permit may be suspended or revoked by the Commissioner:
  - (a) for any reason for which a licence may be suspended or revoked under this Act, or
  - (b) for such other reasons as may be prescribed by the regulations.
- (5) The suspension or revocation of a permit takes effect when notice is served on the holder of the permit.
- (6) If a permit is surrendered or revoked, the person to whom it was issued must immediately surrender to a police officer:
  - (a) any firearm in respect of which the permit has been issued, and
  - (b) the permit.

Maximum penalty (subsection (6)): 50 penalty units or imprisonment for 2 years, or both.

- (7) A police officer is authorised to seize any firearm in respect of which a permit has been issued if the permit is suspended or revoked.

**31 Permits to acquire firearms** (cf APMC 7)

- (1) A person who is the holder of a licence or permit may apply to the Commissioner for a permit to acquire a firearm.

- (2) A separate permit to acquire is required in respect of each firearm to be acquired by the holder of a licence or permit.
- (3) The Commissioner must not issue a permit authorising a person to acquire a firearm:
  - (a) unless the person is the holder of a licence or permit authorising the person to use or possess the firearm concerned, and
  - (b) until after the end of the period of 28 days following the day on which the application for the permit is made, and
  - (c) unless the Commissioner is satisfied that the applicant has a good reason for acquiring the firearm concerned.
- (4) If the Commissioner determines that a permit to acquire a firearm is to be issued, it must be issued as soon as practicable after the 28 day period.
- (5) Unless sooner revoked by the Commissioner, a permit to acquire a firearm remains in force from the time it is issued for a period of 30 days (or such longer period as may be approved by the Commissioner in a particular case) or until the firearm to which the permit relates is acquired (whichever is the sooner).

**Note—**

Section 50 provides that a licensed firearms dealer does not need to obtain a permit under this section when buying a firearm.

**32 Minor's firearms permits** (cf APMC 3 (b), 1990 Reg cll 51, 52)

- (1) An application for a minor's firearms permit must be lodged personally by the applicant.
- (2) The applicant must:
  - (a) be of or above the age prescribed by the regulations for the purposes of this section and under the age of 18 years, and
  - (b) have completed a firearms safety training course in accordance with the regulations.
- (3) The application must contain the written consent of a parent or guardian of the applicant to the issue of the permit.
- (4) A minor's firearms permit is to be of one of the following classes:
  - a minor's firearms training permit,
  - a minor's target pistol permit.
- (5) A minor's firearms training permit authorises the person to whom it is issued to

possess and use a firearm (other than a pistol or a prohibited firearm), 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 firearms of the kind concerned), and
- (b) for the purpose of receiving instruction in the safe use of the firearm or competing in such events as are approved by the Commissioner.

(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.

- (6) A minor's target pistol permit authorises the person to whom it is issued to possess and use a target pistol (and no other kind of firearm), but only:
  - (a) under the personal supervision of the holder of a category H licence who is authorised to use a pistol for the purposes of target shooting, and
  - (b) for the purpose of receiving instruction in the safe use of the pistol or competing in such events as are approved by the Commissioner.
- (7) Unless sooner surrendered or revoked, a minor's firearms permit expires on the permit holder's eighteenth birthday.
- (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.

### **Part 3 Registration of firearms**

(cf APMC 2, 1989 Act s 21 re pistols, 1990 Reg cll 80–83)

## **Division 1 Registration scheme**

### **33 Register of Firearms**

- (1) The Commissioner is to cause to be compiled and maintained a Register of Firearms.
- (2) The Register is to contain:
  - (a) such particulars of each registered firearm (including its serial number if any) as are sufficient to identify the firearm and the person in whose name the firearm is registered, and
  - (b) particulars of the licence or permit of the person in respect of whom the firearm is registered, and
  - (c) such other information as may be required by the regulations to be included in the Register.
- (3) The Register is to be maintained in such form as:
  - (a) to enable the Register to be linked to the National Exchange of Police Information (NEPI) scheme, and
  - (b) to enable information in the Register to be accessed by other State and Territory government firearms authorities.
- (4) The Register is not to be made available for inspection by any member of the public.
- (5) The regulations may make provision with respect to the Register.

### **34 Registration of firearms**

- (1) An application for registration of a firearm must be in the manner, and be accompanied by the fee (if any), prescribed by the regulations.
- (2) The Commissioner is to register a firearm that is the subject of an application, except as provided by this section.
- (3) The Commissioner must not register a firearm if the person in whose name the firearm is registered is not the holder of a licence or permit in respect of the firearm.
- (4) In the case of a person who is the holder of a category C licence, no more than one rifle to which the licence applies, and no more than one shotgun to which the licence applies, is to be registered in the name of that person.
- (5) The Commissioner may refuse to register a firearm if any firearm to which the application relates is not first produced for inspection by a member of the Police Service.

- (6) The Commissioner registers a firearm by entering in the Register particulars of the firearm and particulars relating to the person in whose name the firearm is registered.
- (7) If:
- (a) a firearm is registered in accordance with subsection (6), or
  - (b) the Commissioner, in accordance with the regulations, records in the Register a change in the particulars relating to the person in whose name a firearm is registered,
- the Commissioner is to issue a notice of registration to the person in whose name the firearm is registered.
- (8) A registered firearm ceases to be registered if registration of the firearm is cancelled under section 35. However nothing in this subsection prevents the further registration of a firearm after it ceases to be a registered firearm.

### **35 Cancellation of registration**

- (1) The Commissioner may, by notice in writing served on the person in whose name a firearm is registered, cancel the registration of the firearm if:
- (a) had the firearm not been registered, the Commissioner would be required not to register it on the grounds that the person does not hold a licence or permit in respect of the firearm, or
  - (b) the Commissioner is satisfied that the applicant for registration made a statement in or in connection with the application that the applicant knew to be false or misleading in a material particular, or
  - (c) the person in whose name the firearm is registered is convicted of an offence under this Act or the regulations or an offence prescribed by the regulations for the purposes of this section, or
  - (d) the person in whose name the firearm is registered requests the cancellation.
- (2) Cancellation of the registration of a firearm takes effect on the notice being served on the person in whose name the firearm is registered.
- (3) On cancellation of the registration of a firearm, a police officer is authorised to seize the firearm.

## **Division 2 Offences relating to registration**

### **36 Unregistered firearms**

- (1) A person must not sell, purchase, possess or use a firearm that is not registered.

Maximum penalty: imprisonment for 10 years if the firearm concerned is a prohibited firearm or pistol, or imprisonment for 5 years in any other case.

- (2) It is a defence to a prosecution for an offence under this section to prove that the defendant:
  - (a) did not know, or could not reasonably be expected to have known, that the firearm concerned was unregistered, and
  - (b) was not the owner of the firearm at the time of the alleged offence.
- (3) A licensed firearms dealer does not commit an offence under this section of purchasing or possessing an unregistered firearm if an application for registration of the firearm is made within 24 hours after acquiring the firearm.

### **37 Requirements relating to registered firearms**

- (1) The person in whose name a firearm is registered:
  - (a) must produce the firearm for inspection by a police officer at any reasonable time when requested to do so by the officer, and
  - (b) must, if the firearm is sold or lost by, or stolen from, that person, immediately notify a police officer of the sale, loss or theft of the firearm and provide the Commissioner, within 7 days after the firearm is sold, lost or stolen, with particulars of the sale, loss or theft in accordance with the regulations.
- (2) Any person (other than a licensed firearms dealer) who acquires a firearm from another person must provide the Commissioner, within 7 days after the firearm is acquired, with such particulars as may be prescribed by the regulations.

Maximum penalty: 50 penalty units.

### **38 Alteration of notice of registration**

A person must not alter any of the particulars set out in a notice of registration issued under section 34 (7).

Maximum penalty: 50 penalty units or imprisonment for 2 years, or both.

## **Part 4 Safe keeping of firearms**

(cf APMC 8, 1989 Act s 12)

### **39 General requirement**

- (1) A person who possesses a firearm must take all reasonable precautions to ensure:
  - (a) its safe keeping, and

(b) that it is not stolen or lost, and

(c) that it does not come into the possession of a person who is not authorised to possess the firearm.

Maximum penalty: 50 penalty units or imprisonment for 2 years, or both, if it is established beyond reasonable doubt that the firearm concerned was a prohibited firearm or a pistol, or 20 penalty units or imprisonment for 12 months, or both, in any other case.

(2) The regulations may specify the precautions that are taken to be reasonable precautions for the purposes of this section.

#### **40 Category A and category B licence requirements**

(1) The holder of a category A or category B licence must comply with the following requirements in respect of any firearm to which the licence applies:

(a) when any such firearm is not actually being used or carried, it must be stored in a locked receptacle of a type approved by the Commissioner and that is constructed of hard wood or steel and not easily penetrable,

(b) if such a receptacle weighs less than 150 kilograms when empty, it must be fixed in order to prevent its easy removal,

(c) the locks of such a receptacle must be of solid metal and be of a type approved by the Commissioner,

(d) any ammunition for the firearm must be stored in a locked container of a type approved by the Commissioner and that is kept separate from the receptacle containing any such firearm,

(e) such other requirements relating to security and safe storage as may be prescribed by the regulations.

Maximum penalty: 20 penalty units or imprisonment for 12 months, or both.

(2) A licensee does not have to comply with the requirements of this section if the licensee satisfies the Commissioner that the licensee has provided alternative arrangements for the storage of firearms in the licensee's possession that are of a standard not less than the requirements set out in this section.

#### **41 Category C, D and H licence requirements**

(1) The holder of a category C, category D or category H licence must comply with the following requirements in respect of any firearm to which the licence applies:

(a) when any such firearm is not actually being used or carried, it must be stored in a locked steel safe of a type approved by the Commissioner and that cannot be

easily penetrated,

- (b) such a safe must be bolted to the structure of the premises where the firearm is authorised to be kept,
- (c) any ammunition for the firearm must be stored in a locked container of a type approved by the Commissioner and that is kept separate from the safe containing any such firearm,
- (d) such other requirements relating to security and safe storage as may be prescribed by the regulations.

Maximum penalty: 50 penalty units or imprisonment for 2 years, or both.

- (2) A licensee does not have to comply with the requirements of this section if the licensee satisfies the Commissioner that the licensee has provided alternative arrangements for the storage of firearms in the licensee's possession that are of a standard not less than the requirements set out in this section.

#### **42 Seizure of firearms if storage requirements not met**

A police officer must seize any firearm or ammunition that the officer has reasonable grounds to believe is not being kept in accordance with this Part.

### **Part 5 Firearms dealers**

#### **43 Firearms dealers must be licensed**

A person must not:

- (a) carry on activities as a firearms dealer, or
- (b) possess a firearm in the person's capacity as a firearms dealer,

unless authorised to do so by a firearms dealer licence.

Maximum penalty: imprisonment for 7 years.

#### **44 Information about close associates of firearms dealers**

- (1) In an application for a firearms dealer licence, the applicant must give the name and address of each person who is a close associate of the applicant and particulars of the nature of each such person's association with the applicant.
- (2) If a licensed firearms dealer becomes aware that the close associates of the firearms dealer (if any) have changed since the firearms dealer's most recent application for a licence, or declaration under this section, was submitted to the Commissioner, the firearms dealer must submit to the Commissioner within 7 days:
  - (a) a declaration notifying the Commissioner in writing of that fact, and



- (b) the name and address of each person who is a close associate of the firearms dealer and particulars of the nature of each such person's association with the firearms dealer.
- (3) A licensed firearms dealer must, if notice in writing is served on the dealer by the Commissioner, submit to the Commissioner, within such time as is specified in the notice and in the form provided by the Commissioner:
- (a) a declaration that:
    - (i) the firearms dealer (and no other person) is the person primarily responsible for the management of the firearms dealing business that is carried on under the licence, or
    - (ii) another person or other persons (whether instead of or in addition to the licensed firearms dealer) are primarily responsible for the management of that business, and
  - (b) either:
    - (i) a declaration that the close associates of the firearms dealer (if any) have not changed since the most recent application for a licence, or declaration under this section, was submitted to the Commissioner, or
    - (ii) the name and address of each person who is a close associate of the firearms dealer and particulars of the nature of each such person's association with the firearms dealer.
- (4) A person must not, in or in connection with a declaration under this section, make a statement or provide information that the person knows is false or misleading in a material particular.

Maximum penalty: 50 penalty units.

#### **44A Prescribed persons not to be involved in firearms dealing business**

- (1) If a licensed firearms dealer:
- (a) employs a prescribed person in the business that is authorised by the licence, or
  - (b) permits a prescribed person to act as an agent for, or participate in the management of, that business,

the firearms dealer and the prescribed person are each guilty of an offence.

Maximum penalty: imprisonment for 14 years.

- (2) It is a defence for a licensed firearms dealer prosecuted for an offence under subsection (1) if the firearms dealer proves that he or she did not know, and could not

reasonably be expected to have known, that the person employed or permitted to act as an agent for, or to participate in the management of, the firearms dealer's business was in fact a prescribed person.

- (3) In this section, **prescribed person** means a person who:
- (a) has, within the preceding 10 years, had his or her firearms dealer licence revoked by the Commissioner for any reason, or
  - (b) has, within the preceding 10 years, been convicted in New South Wales or elsewhere of an offence prescribed by the regulations for the purposes of this section, whether or not the offence is an offence under New South Wales law, or
  - (c) has, within the preceding 10 years, had his or her application for a licence or permit refused by the Commissioner, or had his or her licence or permit revoked, for either or both of the following reasons:
    - (i) the Commissioner was not satisfied that the person was a fit and proper person and could be trusted to have possession of firearms without danger to public safety or to the peace,
    - (ii) the Commissioner considered that issue of the licence or permit to the person would be contrary to the public interest, or
  - (d) is subject to an apprehended violence order, or
  - (e) is the subject of a good behaviour bond, whether entered into in New South Wales or elsewhere, or
  - (f) is subject to a firearms prohibition order.

**45 Recording of transactions** (cf APMC 9, 1990 Reg cl 35)

- (1) A licensed firearms dealer must ensure that:
- (a) all transactions and dealings concerning firearms or firearm parts to which the firearms dealer's licence applies are recorded in accordance with this section, and
  - (b) each record relating to a transaction or dealing concerning a firearm, a spare barrel for a firearm, a firearm frame or a firearm receiver is, in accordance with the regulations, sent to the Commissioner for inclusion of the particulars in the Register and in order to update the Register.
- (2) Each record must contain the following particulars for each purchase, receipt, sale or transfer of a firearm or firearm part by the dealer concerned from or to the other person dealing with the dealer:
- (a) the name and address of the other person,

- (b) the number of the other person's licence or permit authorising the other person to possess the firearm or firearm part,
  - (c) the number of the other person's permit to acquire the firearm,
  - (d) for each firearm or firearm part that is or has been in the possession of the dealer:
    - (i) the dates of its initial purchase or receipt by the dealer and of its subsequent sale or transfer out of the possession of the dealer, and
    - (ii) the name and address of the person who initially gave possession of it to the dealer, and
    - (iii) when it is sold or transferred out of the possession of the dealer—its make, serial number, calibre, type, action and magazine capacity (if any),
  - (e) such other particulars as may be prescribed by the regulations.
- (3) An entry required to be made in a record concerning the purchase, receipt, sale or transfer of a firearm, firearm frame or firearm receiver must, subject to the regulations, be entered within 24 hours of the transaction concerned.
- (4) A record must be made and kept in the form approved by the Commissioner.
- (5) If a licensed firearms dealer ceases to hold such a licence, the former licensed firearms dealer must provide the Commissioner with a record of all transactions during the 2 years immediately preceding the date on which the licence ceased to be in force.
- (6) A person who is required to ensure a record is kept or to keep a record under this section, must, on demand made by a police officer at any time:
- (a) produce the record to that officer and permit that officer to inspect and make copies of any entries in it, and
  - (b) produce to that officer all firearms and firearm parts in the possession of that person, and
  - (c) furnish to that officer any information in that person's possession with respect to any firearm or firearm part that has been manufactured, purchased or received under the authority of the person's firearms dealer licence, or that the person has in his or her possession or has sold or otherwise transferred or repaired under the authority of the licence.
- (7) Any person making an alteration to an entry in a record required to be kept under this section must do so by interlineation or striking out and not by erasure.

Maximum penalty: 20 penalty units.

**46 Quarterly returns** (cf 1990 Reg cl 35A)

- (1) A licensed firearms dealer must, within 14 days after the end of the months of March, June, September and December in each year, forward a return to the Commissioner which contains the particulars for the preceding quarter that are required to be recorded under section 45 (2).

Maximum penalty: 50 penalty units.

- (2) This section does not prevent a person from forwarding returns at more frequent intervals than this section requires.
- (3) The return is to be in the form approved by the Commissioner.

**47 Additional requirements for dealers** (cf 1990 Reg cl 36)

- (1) A licensed firearms dealer must affix and keep affixed to each firearm in the dealer's possession (other than for the purposes of maintenance or repair) a label showing the entry number for that firearm as entered in the record required to be kept under this Part and the identifying number (if any) of that firearm.
- (2) A licensed firearms dealer must, if notice in writing is served on the dealer by the Commissioner, furnish to the Commissioner, within such time as is specified in the notice and in the form provided by the Commissioner, such particulars relating to the acquisition, disposition or possession by the dealer of any firearms or firearm parts as are required by the notice.
- (3) A licensed firearms dealer must, within 24 hours after becoming aware of the loss, theft or destruction of any firearm or firearm part that was in the possession of the dealer, notify the Commissioner of that loss, theft or destruction in the form approved by the Commissioner for that purpose.
- (4) A licensed firearms dealer must ensure that each record required by this Act to be kept by the dealer is kept in a place of safe keeping on the premises specified in the licence (but not in a place of safe keeping in which firearms are kept).
- (5) A licensed firearms dealer must not take possession of any firearm for the purpose of maintaining or repairing it unless the firearms dealer has sighted both of the following:
  - (a) the licence or permit of the person who is giving possession of the firearm to the dealer,
  - (b) the current notice of registration of the firearm.
- (6) A licensed firearms dealer must not maintain or repair any firearm that is not registered.

Maximum penalty (subsections (1)–(6)): 50 penalty units.

- (7) The regulations may prescribe other requirements with respect to licensed firearms dealers.

**48 Security of displayed firearms** (cf APMC 8, 1990 Reg cl 37)

- (1) A licensed firearms dealer who displays firearms on the dealer's premises must ensure that those firearms are secured in such a manner as would reasonably prevent their removal otherwise than by the dealer or any employee of the dealer.
- (2) A licensed firearms dealer must ensure that any firearm displayed in any part of the premises to which the licence relates:
- (a) is under the immediate supervision and control of the dealer or an employee of the dealer, and
  - (b) is not displayed to the public unless reasonable precautions are taken to prevent it from being stolen.

Maximum penalty: 50 penalty units.

**49 Interstate transactions between dealers** (cf 1990 Reg cl 38)

- (1) Despite any other provision of this Act, a licensed firearms dealer is, for the purposes of any transaction between the dealer and the holder of a corresponding licence outside New South Wales, authorised to purchase a firearm from the holder of that corresponding licence.
- (2) In this section, **corresponding licence** means an instrument that, in the opinion of the Commissioner, is the equivalent of a firearms dealer licence in a place outside New South Wales.

## **Part 6 Miscellaneous offences**

**50 Purchase of firearms** (cf APMC 7, 1989 Act s 6)

A person must not purchase a firearm unless the person is:

- (a) authorised to possess the firearm by a licence or permit, and
- (b) except in the case of a licensed firearms dealer, authorised to acquire the firearm by a permit (or the equivalent of any such permit that is issued under the law of another State or Territory in respect of the firearm concerned).

Maximum penalty: imprisonment for 10 years if the firearm concerned is a prohibited firearm or pistol, or imprisonment for 5 years in any other case.

**50A Unauthorised manufacture of firearms**

- (1) A person who manufactures a firearm is guilty of an offence under this subsection

unless the person is authorised by a licence or permit to manufacture the firearm.

Maximum penalty: imprisonment for 10 years.

- (2) A person who manufactures a prohibited firearm or pistol is guilty of an offence under this subsection unless the person is authorised by a licence or permit to manufacture the prohibited firearm or pistol.

Maximum penalty: imprisonment for 20 years.

- (3) Without limiting the operation of subsection (1) or (2), those subsections apply to a person regardless of whether the firearm concerned was manufactured in the course of carrying on a business.
- (4) If on the trial of a person for an offence under subsection (2) the jury is not satisfied that the accused is guilty of the offence charged but is satisfied on the evidence that the accused is guilty of an offence under subsection (1), it may find the accused not guilty of the offence charged but guilty of an offence under subsection (1), and the accused is liable to punishment accordingly.

- (5) In this section:

**manufacture** a firearm includes assemble a firearm from firearm parts.

## 51 Restrictions on sale of firearms

- (1) A person (**the seller**) must not sell, or knowingly take part in the sale of, a firearm to another person (**the purchaser**) unless:

- (a) the purchaser is authorised to possess the firearm by a licence or permit, and
- (b) the following documents have been produced to, and inspected by, the seller:
- (i) the purchaser's licence or permit, and
- (ii) if the purchaser is not a licensed firearms dealer—the purchaser's permit to acquire the firearm (or the equivalent of any such permit that is issued under the law of another State or Territory in respect of the firearm concerned).

Maximum penalty: imprisonment for 5 years.

- (1A) A person (**the seller**) must not sell, or knowingly take part in the sale of, a prohibited firearm or pistol to another person (**the purchaser**) unless:
- (a) the purchaser is authorised to possess the prohibited firearm or pistol by a licence or permit, and
- (b) the following documents have been produced to, and inspected by, the seller:
- (i) the purchaser's licence or permit, and

- (ii) if the purchaser is not a licensed firearms dealer—the purchaser's permit to acquire the firearm (or the equivalent of any permit that is issued under the law of another State or Territory in respect of the prohibited firearm or pistol concerned).

Maximum penalty: imprisonment for 20 years.

- (2) A person other than a licensed firearms dealer must not sell, or knowingly take part in the sale of, a firearm to a person who is not a licensed firearms dealer unless:
  - (a) the sale has, in accordance with the regulations, been arranged through a licensed firearms dealer, or
  - (b) in any case where a licensed firearms dealer is not (as determined by the regulations) reasonably available—the sale is witnessed by a police officer authorised by the Commissioner.

Maximum penalty: imprisonment for 5 years.

- (2A) A person other than a licensed firearms dealer must not sell, or knowingly take part in the sale of, a prohibited firearm or pistol to a person who is not a licensed firearms dealer unless:
  - (a) the sale has, in accordance with the regulations, been arranged through a licensed firearms dealer, or
  - (b) in any case where a licensed firearms dealer is not (as determined by the regulations) reasonably available—the sale is witnessed by a police officer authorised by the Commissioner.

Maximum penalty: imprisonment for 20 years.

- (3) For the purposes of this section, a person **takes part in** the sale of a firearm if:
  - (a) the person takes, or participates in, any step, or causes any step to be taken, in the process of that sale, or
  - (b) the person provides or arranges finance for any step in that process, or
  - (c) the person provides the premises in which any step in that process is taken, or suffers or permits any step in that process to be taken in premises of which the person is the owner, lessee or occupier or of which the person has the care, control or management.
- (4) If on the trial of a person for an offence under subsection (1A) or (2A) the jury is not satisfied that the accused is guilty of the offence charged but is satisfied on the evidence that the accused is guilty of an offence under subsection (1) or (2), respectively, it may find the accused not guilty of the offence charged but guilty of the

latter offence, and the accused is liable to punishment accordingly.

### **51A Restrictions on purchase of firearms**

- (1) A person (***the purchaser***) must not purchase a firearm from another person (***the seller***) unless:
  - (a) the seller is authorised to possess the firearm by a licence or permit, and
  - (b) the seller's licence or permit has been produced to, and inspected by, the purchaser.
- (2) A person other than a licensed firearms dealer must not purchase a firearm from another person who is not a licensed firearms dealer unless:
  - (a) the sale has been, in accordance with the regulations, arranged through a licensed firearms dealer, or
  - (b) in any case where a licensed firearms dealer is not (as determined by the regulations) reasonably available—the sale is witnessed by a police officer authorised by the Commissioner.

Maximum penalty: imprisonment for 14 years if the firearm concerned is a prohibited firearm or pistol, or imprisonment for 5 years in any other case.

### **51B Selling firearms on an ongoing basis**

- (1) **Offence** A person must not contravene section 51 on 3 or more separate occasions during any period of 30 consecutive days.

Maximum penalty: imprisonment for 20 years.
- (2) **Jury must be satisfied as to same 3 occasions of sale** If, on the trial of a person for an offence under this section, more than 3 occasions of selling a firearm are relied on as evidence of commission of the offence, all the members of the jury must be satisfied as to the same 3 occasions in order to find the person guilty of the offence.
- (3) **Alternative verdict—relevant selling offence** If, on the trial of a person for an offence under this section, the jury is not satisfied that the offence is proven but is satisfied that the person has, in respect of any of the occasions relied on as evidence of commission of the offence under this section, committed a relevant selling offence, the jury may acquit the person of the offence charged and find the person guilty of the relevant selling offence, and the person is liable to punishment accordingly.
- (4) **Double jeopardy provisions** A person who has been convicted of an offence under this section is not liable to be convicted:
  - (a) of a relevant selling offence, or



(b) of a separate offence under this section,

on the same, or substantially the same, facts as those relied on as evidence of commission of the offence in respect of which the person has been convicted.

(5) A person who has been acquitted of an offence under this section is not liable to be convicted:

(a) except as provided by subsection (3)—of a relevant selling offence, or

(b) of a separate offence under this section,

on the same, or substantially the same, facts as those relied on as evidence of commission of the offence in respect of which the person has been acquitted.

(6) A person who has been:

(a) convicted of a relevant selling offence, or

(b) acquitted of a relevant selling offence,

is not liable to be convicted of an offence under this section on the same, or substantially the same, facts as those relied on as evidence of commission of the relevant selling offence.

(7) **Liability for relevant selling offences not affected by offence under this section** Subject to subsections (4) and (5), this section does not:

(a) remove the liability of any person to be convicted of a relevant selling offence, or

(b) affect the punishment that may be imposed for any such offence.

(8) **Definition** In this section, **relevant selling offence** means any offence under this Act (other than under this section) relating to the sale of a firearm.

### **51C Conspiring to commit and aiding etc commission of offence outside New South Wales**

A person must not, in New South Wales:

(a) conspire with another person or persons to commit an offence in any place outside New South Wales, being an offence punishable under the provisions of a law in force in that place that corresponds to a provision of this Act, or

(b) aid, abet, counsel, procure, solicit or incite the commission of an offence in any place outside New South Wales, being an offence punishable under the provisions of a law in force in that place that corresponds to a provision of this Act.

Maximum penalty: the same punishment, pecuniary penalty and forfeiture that the person would be subject to if the offence concerned had been committed in New South Wales.

**51D Unauthorised possession of firearms in aggravated circumstances**

(1) A person who is in possession of more than 3 firearms is guilty of an offence under this subsection if:

- (a) the firearms are not registered, and
- (b) the person is not authorised by a licence or permit to possess the firearms.

Maximum penalty: imprisonment for 10 years.

(2) A person who is in possession of more than 3 firearms any one of which is a prohibited firearm or pistol is guilty of an offence under this subsection if:

- (a) the firearms are not registered, and
- (b) the person is not authorised by a licence or permit to possess the firearms.

Maximum penalty: imprisonment for 20 years.

(3) If on the trial of a person for an offence under subsection (2) the jury is not satisfied that the accused is guilty of the offence charged but is satisfied on the evidence that the accused is guilty of an offence under subsection (1), it may find the accused not guilty of the offence charged but guilty of an offence under subsection (1), and the accused is liable to punishment accordingly.

**52 Use of mail for sending firearms and barrels** (cf 1990 Reg cl 86B)

(1) A person must not send a firearm or firearm barrel by mail to an address in New South Wales.

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

(3) A person must not direct or request another person, whether the other person is within or outside New South Wales when the request is made, to send a firearm or firearm barrel by mail to an address in New South Wales, whether or not the request is made in writing or in connection with the purchase by the person of the firearm or firearm barrel.

(4) A person is taken to have made such a request if the person accepts an offer made by another person within or outside New South Wales to forward a firearm or firearm barrel by mail to an address within New South Wales.

(5) It is a defence to a prosecution under subsection (2) if the defendant proves that the firearm or firearm barrel was sent to the defendant without his or her knowledge or approval.

(6) (Repealed)

Maximum penalty: 50 penalty units.

**53 Use of mail for sending firearms outside this State** (cf APMC 9, 1990 Reg cl 87)

A person must not send a firearm or firearm barrel to another person by mail unless:

- (a) the person sending the firearm or firearm barrel is a licensed firearms dealer, and
- (b) the address to which the firearm or firearm barrel is sent is outside New South Wales, and
- (c) the firearm or firearm barrel is sent by security mail, and
- (d) the other person would not, because of receiving the firearm or firearm barrel or being in possession of it at the place to which it is sent, be guilty of any offence under any law which applies at that place, and
- (e) the other person is a licensed firearms dealer under the law of that other place.

Maximum penalty: 50 penalty units.

**54 Advertising sale of firearms** (cf APMC 10 (a))

A person must not cause an advertisement for the sale of a firearm or firearm part to be published unless:

- (a) the person is a licensed firearms dealer, or
- (b) the proposed sale is to be arranged by or through a licensed firearms dealer and the advertisement contains such particulars as may be prescribed by the regulations.

Maximum penalty: 50 penalty units.

**55 Means of delivering possession of firearms** (cf 1990 Reg cl 86A)

A person may deliver possession of a firearm or firearm part to another person:

- (a) in person only, or
- (b) only by means of another person who appears to the person to be able to ensure the security of the firearm or firearm part during the course of delivery.

Maximum penalty: 50 penalty units.

**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.

**57 Non-commercial transportation of certain firearms** (cf APMC 10 (a))

Any person (other than a person who is engaged in the business of transporting goods) who conveys a prohibited firearm or a pistol must comply with the safety requirements prescribed by the regulations.

Maximum penalty: 50 penalty units.

**58 Possession of spare barrels for firearms** (cf 1989 Act s 9)

A person must not possess a barrel for a firearm unless the person is authorised by a licence or permit to possess the firearm or the barrel.

Maximum penalty: 50 penalty units.

**59 “On-the-spot” inspection of firearms by police** (cf 1989 Act s 10)

(1) A person who is carrying a firearm or possesses a firearm that is within the immediate vicinity of the person must, on the demand of a police officer at any time, produce for inspection by the police officer:

- (a) the firearm, and
- (b) any licence or permit that authorises the person to possess the firearm.

Maximum penalty: 20 penalty units or imprisonment for 12 months, or both.

(2) A person is guilty of an offence under this section only if the police officer, when making the demand, explains to the person that failure to comply with the demand is an offence under this Act.

(3) A person is not guilty of an offence under this section because of failing to produce a licence or permit if the person:

- (a) has a reasonable excuse for not having the licence or permit when the demand is made, and
- (b) produces it, as soon as is practicable (but not more than 6 hours) after the demand for its production is made, to the police officer who made the demand or to another such police officer nominated by the officer.

(4) In this section, **firearm** includes a firearm part.

**60 Disposal of firearms by unauthorised holders** (cf 1989 Act s 11)

(1) A person who comes into possession of a firearm, but is not authorised by or under this Act to possess the firearm, must immediately surrender the firearm to a police officer.

Maximum penalty: 50 penalty units or imprisonment for 12 months, or both.

- (2) A person does not contravene any other provision of this Act just by surrendering a firearm in accordance with this section.

**61 Unsafe firearms** (cf 1989 Act s 13)

- (1) A person must not sell or give possession of a firearm to another person knowing that it is unsafe, except after giving an appropriate warning.

Maximum penalty: 50 penalty units or imprisonment for 2 years, or both.

- (2) A police officer may seize any firearm in the possession of any person if:
  - (a) the firearm is in a public place, and
  - (b) the officer suspects on reasonable grounds that the firearm is unsafe.
- (3) For the purposes of this section, a firearm is to be considered as being unsafe (apart from any other reason for which it may be unsafe) if, because of some mechanical defect or its general condition, it may reasonably be considered to be unsafe.

**62 Shortening firearms** (cf 1989 Act s 14)

- (1) A person must not, unless authorised to do so by a permit:

- (a) shorten any firearm (other than a pistol), or
- (b) possess any such firearm that has been shortened, or
- (c) sell or give possession of any such firearm that has been shortened to another person.

Maximum penalty: imprisonment for 10 years.

- (2) The regulations may provide that certain kinds of firearms are to be considered as having been shortened for the purposes of this section only if they (or specified parts of them) have prescribed characteristics.

**63 Converting firearms** (cf 1989 Act s 15)

- (1) A person must not shorten a firearm so as to convert it into a pistol unless a licence has been issued to the person authorising possession of the pistol.

Maximum penalty: imprisonment for 10 years.

- (2) A person must not, unless authorised to do so by a permit, alter the construction or action of a prohibited firearm so as to convert it into a firearm that is not a prohibited firearm.

Maximum penalty: imprisonment for 10 years.

- (3) A person must not, unless authorised to do so by a permit, alter the construction or

action of a firearm that is not a prohibited firearm so as to convert it into a prohibited firearm.

Maximum penalty: imprisonment for 10 years.

- (4) A person must not provide another person with any information or thing that the person knows, or could reasonably be expected to know, is to be used for the purpose of altering the construction or action of a firearm if the other person is not authorised by a licence or permit to possess a firearm of the kind to which it is capable of being so altered.

Maximum penalty: imprisonment for 10 years.

**64 Restrictions where alcohol or other drugs concerned** (cf 1989 Act s 16)

- (1) A person must not handle or use a firearm while the person is under the influence of alcohol or any other drug.

Maximum penalty: imprisonment for 5 years.

- (2) A person must not sell or give possession of a firearm to another person:

- (a) if the person knows or has reasonable cause to believe that the other person is under the influence of alcohol or any other drug, or
- (b) if the other person's appearance or behaviour is such that the person intending to sell or give possession of the firearm believes or has reasonable cause to believe that the other person is incapable of exercising responsible control over the firearm.

Maximum penalty: imprisonment for 5 years.

**65 Sale, purchase and possession of ammunition** (cf APMC 9 (c), 1989 Act s 17)

- (1) A person must not sell ammunition for any firearm unless:

- (a) the purchaser is the holder of a licence or permit for a firearm which takes that ammunition, or
- (b) the purchaser is authorised to purchase it by a permit, and the seller has seen the licence or permit.

- (2) A person must not purchase ammunition for any firearm unless the person:

- (a) is the holder of a licence or permit for a firearm which takes that ammunition, or
- (b) is authorised to purchase it by a permit,

and the amount of ammunition that is purchased at any one time does not exceed the amount (if any) prescribed by the regulations.

(3) A person must not possess ammunition unless the person:

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

(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 a carrier or warehouse operator.

Maximum penalty: 50 penalty units.

**66 Defacing or altering identification marks** (cf 1989 Act s 18)

A person must not, unless authorised by the Commissioner to do so:

- (a) deface or alter any number, letter or identification mark on any firearm or barrel for a firearm, or
- (b) have possession of any firearm or barrel for a firearm on which any number, letter or identification mark has been defaced or altered.

Maximum penalty: imprisonment for 5 years.

**67 Pawning of firearms prohibited** (cf 1989 Act s 20)

A pawnbroker must not take a firearm, firearm part or ammunition into pawn.

Maximum penalty: 50 penalty units or imprisonment for 2 years, or both.

**68 Licence or permit must be produced on demand** (cf 1989 Act s 37)

(1) A person to whom a licence or permit is issued must, on demand made by a police officer at any time:

- (a) if the person has the licence or permit in his or her immediate possession—produce the licence or permit for inspection by the police officer, or
- (b) if the person does not have the licence or permit in his or her immediate possession—produce it as soon as practicable (but not more than 6 hours) after the demand is made to the police officer who made the demand or to another police officer nominated by the officer, or
- (c) state the person's full name and usual place of residence to the police officer.

Maximum penalty: 50 penalty units.

(2) A person is guilty of an offence under this section only if the police officer, when making the demand, explains to the person that failure to comply with the demand is an offence against this Act.

**69 Requirement to notify change of address** (cf 1990 Reg cl 26)

A licensee or the holder of a permit must, if there is any change in the licensee's or permit holder's place of residence, provide the Commissioner with the particulars of the change of address within 7 days after the change occurs.

Maximum penalty: 50 penalty units.

**70 False or misleading applications** (cf 1989 Act s 44)

A person must not, in or in connection with an application under this Act or the regulations, make a statement or provide information that the person knows is false or misleading in a material particular.

Maximum penalty: imprisonment for 10 years if the application relates to a prohibited firearm or pistol, or imprisonment for 5 years in any other case.

**71 Misuse of licences and permits** (cf 1989 Act s 46)

A person must not:

- (a) falsely represent himself or herself to be the holder of a licence or permit (whether or not it is in force), or
- (b) forge or fraudulently alter a licence or permit (whether or not it is in force), or
- (c) give possession of a licence or permit to another person for the purpose of using it unlawfully, or
- (d) steal a licence or permit, or
- (e) knowingly have possession of a forged, fraudulently altered, borrowed or stolen licence or permit.

Maximum penalty: 50 penalty units or imprisonment for 2 years, or both.

**72 Falsifying or altering records**

- (1) A firearms dealer must not, with intent to deceive, make a false or misleading entry in, or alter, a record required to be made or kept under section 45.

Maximum penalty: imprisonment for 14 years if the record relates to a prohibited firearm or pistol (or part of a prohibited firearm or pistol), or imprisonment for 5 years in any other case.

- (2) A person must not, with intent to deceive, make a false or misleading entry in, or alter, any other record required to be made or kept by or under this Act.

Maximum penalty: 50 penalty units or imprisonment for 2 years, or both.



## Part 6A Use of dogs to detect firearms and explosives

### 72A Definitions

(1) In this Part:

**premises** means any building or structure, vehicle, vessel or aircraft and any place, whether built on or not.

**public place** includes:

- (a) a place (whether or not covered by water), or part of premises, that is open to the public or is used by the public, whether or not on payment of money or other consideration, whether or not the place or part is ordinarily so open or used and whether or not the public to whom it is open consists only of a limited class of persons, and
- (b) a road, or a road related area, within the meaning of the *Road Transport (General) Act 1999*.

**relevant firearm or explosives offence** means an offence under this or any other Act involving the possession or use of a firearm or explosive.

### 72B Part does not confer power of entry or detention

Nothing in this Part confers on a police officer a power:

- (a) to enter any premises that the officer is not otherwise authorised to enter, or
- (b) to detain a person who the officer is not otherwise authorised to detain.

### 72C General authority to use dogs for detecting firearms or explosives

- (1) If a police officer is authorised to search a person for the purpose of detecting a relevant firearms or explosives offence, the officer is entitled to use a dog for that purpose.
- (2) A police officer is, for the purpose of detecting a relevant firearms or explosives offence, entitled to be accompanied by a dog under the officer's control if the officer is entitled to enter, or be in or on, particular premises in the exercise of the officer's functions.
- (3) Neither the State nor a police officer is liable to any action, liability, claim or demand merely because a dog entered, or was in or on, premises as provided by subsection (2).

### 72D General firearms or explosives detection using dogs

- (1) For the purposes of this section, **general firearms or explosives detection** is the

detection or tracking of firearms or explosives, including live or spent ammunition or any residue from a firearm or explosive, in a public place (including in any vehicle in a public place or in the possession of a person who is in a public place).

- (2) A police officer is authorised to use a dog to carry out general firearms or explosives detection without a warrant.
- (3) A police officer carrying out general firearms or explosives detection under this section is to take all reasonable precautions to prevent the dog touching a person.
- (4) A police officer is required to keep a dog under control when the officer is using the dog to carry out general firearms or explosives detection under this section.
- (5) The provisions of this section do not affect the search of a person whom a police officer reasonably suspects is committing a relevant firearms or explosives offence.

#### **72E Monitoring by Ombudsman**

- (1) For the period of 2 years after the commencement of this section, the Ombudsman is to keep under scrutiny the exercise of the powers conferred on police officers by this Part.
- (2) For that purpose, the Ombudsman may require the Commissioner of Police to provide information about the exercise of those powers.
- (3) The Ombudsman must, as soon as practicable after the expiration of that 2-year period, prepare a report on the exercise of those powers and furnish a copy of the report to the Minister and the Commissioner of Police.
- (4) The Minister is to lay (or cause to be laid) a copy of the report before both Houses of Parliament as soon as practicable after the Minister receives the report.
- (5) If a House of Parliament is not sitting when the Minister seeks to lay a report before it, the Minister may present copies of the report to the Clerk of the House concerned.
- (6) The report:
  - (a) is, on presentation and for all purposes, taken to have been laid before the House, and
  - (b) may be printed by authority of the Clerk of the House, and
  - (c) if so printed, is for all purposes taken to be a document published by or under the authority of the House, and
  - (d) is to be recorded:
    - (i) in the case of the Legislative Council, in the Minutes of the Proceedings of the Legislative Council, and

(ii) in the case of the Legislative Assembly, in the Votes and Proceedings of the Legislative Assembly,

on the first sitting day of the House after receipt of the report by the Clerk.

## **Part 7 Firearms prohibition orders**

(cf 1989 Act Part 4)

### **73 Firearms prohibition orders**

- (1) The Commissioner may make an order prohibiting a person from having possession of or using any firearm if, in the opinion of the Commissioner, the person is not fit, in the public interest, to be permitted to have possession of a firearm.
- (2) Without limiting the generality of subsection (1), such an order may be made in respect of any person who had possession of or used a firearm immediately before its being seized under this or any other Act.
- (3) A firearms prohibition order takes effect when it is served personally on the person to whom it is directed.

### **74 Effect of firearms prohibition order**

- (1) A person must not possess or use a firearm in contravention of a firearms prohibition order that is in force.

Maximum penalty: imprisonment for 10 years if the firearm concerned is a prohibited firearm or pistol, or imprisonment for 5 years in any other case.

- (2) Without limiting the generality of subsection (1) and for the purposes only of that subsection, a firearm found in or on any premises is, in the absence of proof to the contrary, taken to be possessed by any person subject to a firearms prohibition order who at the time of the finding or recently to that time was in or on or in occupation of the premises.
- (3) A person must not sell or give possession of a firearm to another person, knowing that the other person is prohibited from possessing firearms by a firearms prohibition order.  
Maximum penalty: imprisonment for 10 years if the firearm concerned is a prohibited firearm or pistol, or imprisonment for 5 years in any other case.
- (4) In this section, **premises** includes any structure, vehicle, vessel or aircraft or any place, whether built on or not.

## **Part 8 Applications to Administrative Decisions Tribunal**

## **75 Review by Administrative Decisions Tribunal of certain decisions**

- (1) A person may apply to the Administrative Decisions Tribunal for a review of any of the following decisions:
  - (a) the refusal of or failure by the Commissioner to issue a licence or permit (other than a permit in respect of a prohibited firearm) to the person,
  - (b) a condition imposed by the Commissioner on a licence or permit issued to the person,
  - (c) the revocation of a licence or permit issued to the person (other than a revocation on the basis that the holder of the licence or permit is subject to a firearms prohibition order or an apprehended violence order),
  - (d) the refusal of or failure by the Commissioner to register a firearm,
  - (e) the cancellation of the registration of a firearm by the Commissioner,
  - (f) a firearms prohibition order made against the person,
  - (g) a decision made under the regulations concerning the person that belongs to a class of decisions prescribed by the regulations for the purposes of this paragraph.
- (2) Despite subsection (1), a regulation referred to in subsection (1) (g) may limit the class of persons who may make an application for a review of a decision referred to in that paragraph.
- (3) A regulation referred to in subsection (1) (g) cannot be made without the concurrence of the Minister administering the *Administrative Decisions Tribunal Act 1997*.
- (4) The following provisions of the *Administrative Decisions Tribunal Act 1997* do not apply to an application to the Administrative Decisions Tribunal for a review of a decision referred to in subsection (1) (a) or (c) that was made on the grounds referred to in section 11 (5A) or 29 (3A):
  - (a) Part 2 of Chapter 5,
  - (b) section 58.
- (5) In determining an application for a review of any such decision, the Administrative Decisions Tribunal:
  - (a) is to ensure that it does not, in the reasons for its decision or otherwise, disclose the existence or content of any criminal intelligence report or other information referred to in section 11 (5A) or 29 (3A), and
  - (b) in order to prevent the disclosure of any such report or other information, is to receive evidence and hear argument in the absence of the public, the applicant for

review and the applicant's representative.

**76, 77 (Repealed)**

**Part 9 Miscellaneous provisions**

**78 Compensation for surrendering prohibited firearms** (cf APMC 11)

- (1) (Repealed)
- (2) Any person who, before the commencement of this section, acquired possession of a prohibited firearm is entitled to compensation from the State (out of money to be appropriated by Parliament or otherwise legally available) if the firearm is surrendered by or on behalf of that person to a police officer or other member of the Police Service during the period of 12 months (or such longer period as may be prescribed by the regulations) starting on the commencement of this section. The compensation payable is to be determined by the regulations.

**Note—**

The money for surrendered firearms is to be supplied by the Commonwealth.

- (3) Any firearm that is surrendered under this section is forfeited to the Crown after compensation for the firearm is paid in accordance with the regulations.
- (4) The Commissioner is to make arrangements:
  - (a) for the manner in which firearms are to be surrendered under this section, and
  - (b) for the disposal or destruction of such firearms (including arrangements ensuring that any surrendered firearms having special historical significance are preserved and dealt with in an appropriate manner).

**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.

**79 Disclosures by doctors and health practitioners of certain information** (cf APMC 4 (a), 6 (c))

- (1) If a registered medical practitioner, or other health practitioner of a class prescribed by the regulations, is of the opinion that a patient is an unsuitable person to be in possession of a firearm:
  - (a) because of the patient's mental condition, or

(b) because the practitioner thinks that the patient might attempt to commit suicide, or would be a threat to public safety, if in possession of a firearm,

nothing prevents the practitioner from informing the Commissioner of that opinion.

(2) This section has effect despite any duty of confidentiality, and any action by a practitioner in accordance with this section does not give rise to any criminal or civil action or remedy.

**80 Disposal of surrendered or seized firearms** (cf 1989 Act s 48)

(1) A Local Court or the Children's Court may, on application by a police officer or by any person who claims to be the owner of a firearm surrendered to or seized by a police officer in accordance with this Act, order that the firearm:

(a) be forfeited to the Crown, or

(b) be returned to the person claiming to be owner of the firearm, or

(c) be otherwise disposed of in such manner as the Court thinks fit.

(2) If a person is found guilty of an offence under Part 4 and a firearm has been seized by a police officer in connection with the offence, the court which makes the finding of guilt is taken to have ordered that the firearm be forfeited to the Crown. A firearm so forfeited may be destroyed.

(3) This section does not apply to any firearm that is surrendered in accordance with section 78.

(4) In this section, **firearm** includes a firearm part or ammunition.

**81 Delegation** (cf 1989 Act s 49)

(1) The Commissioner may delegate to an authorised person any of the Commissioner's functions under this Act or the regulations, other than this power of delegation or the Commissioner's functions under section 11 (5A) or 29 (3A).

(2) A delegate may sub-delegate to an authorised person any of the functions delegated by the Commissioner if the delegate is authorised in writing to do so by the Commissioner.

(3) In this section, **authorised person** means:

(a) a police officer or any other member of the Police Service, or

(b) a public servant, or

(c) any other person prescribed by the regulations.

**82 Liability of parents** (cf 1989 Act s 50)

- (1) If a person under the age of 18 years contravenes any provision of this Act or the regulations, each parent of the person is taken to have contravened the same provision if the parent knowingly authorised or permitted the contravention.
- (2) A parent may be proceeded against and convicted under a provision pursuant to subsection (1) whether or not the parent's child has been proceeded against or convicted under that provision.
- (3) Nothing in this section affects any liability imposed on the parent's child for an offence committed by the child under this Act or the regulations.
- (4) In this section, **parent** includes a guardian.

**83 Offences by corporations** (cf 1989 Act s 51)

- (1) If a corporation contravenes any provision of this Act or the regulations, each person who is a director of the corporation or who is concerned in the management of the corporation is taken to have contravened the same provision if the person knowingly authorised or permitted the contravention.
- (2) A person may be proceeded against and convicted under a provision pursuant to subsection (1) whether or not the corporation has been proceeded against or convicted under that provision.
- (3) Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation under this Act or the regulations.

**84 Proceedings for offences** (cf 1989 Act s 52)

- (1) Except as provided by this section, proceedings for an offence under this Act or the regulations may be disposed of summarily before a Local Court constituted by a Magistrate sitting alone.
- (2) An offence under section 7, 36, 43, 44A, 50, 50A (1), 51 (1) or (2), 51A, 51D (1), 62, 63, 64, 66, 70, 72 (1) or 74 may be prosecuted on indictment. However, Division 3 of Part 2 of the *Criminal Procedure Act 1986* (which relates to the summary disposal of certain indictable offences unless an election is made by the prosecution to proceed on indictment) applies to and in respect of an offence referred to in this subsection.
- (3) An offence under section 50A (2), 51 (1A) or (2A), 51B or 51D (2) is to be prosecuted on indictment only.

**85 Time for laying information** (cf 1989 Act s 53)

An offence under this Act or the regulations may be dealt with in a summary manner before a Local Court if the information was laid within 2 years of the date on which the

offence is alleged to have been committed.

**86 Service of notices** (cf 1989 Act s 54)

Any notice or other instrument required or authorised by this Act or the regulations to be served on a person by post is sufficiently addressed if it is addressed to the last address of the person known to the Commissioner.

**87 Evidence** (cf 1989 Act s 55)

A certificate signed by the Commissioner (or by a person holding an office prescribed by the regulations) certifying any one or more of the following:

- (a) that a specified person was or was not, on a day or during a specified period, the holder of a licence or permit,
- (b) that any licence or permit was or was not, on a day or during a specified period, subject to specified conditions,
- (c) that a specified person was or was not, on a specified day or during a specified period, subject to a firearms prohibition order,
- (d) that a specified firearm was registered or unregistered on a day or during a specified period,
- (e) that a specified person was the person in whose name a firearm was registered on a day or during a specified period,
- (f) that a specified address was, on a specified date, the last address known to the Commissioner of a specified person,

is admissible in any proceedings under this Act and is prima facie evidence of the matters so certified.

**88 Regulations** (cf 1989 Act s 56)

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Without affecting the generality of subsection (1), the regulations may make provision for or with respect to any of the following matters:
  - (a) the acquisition, possession, registration, storage, identification, maintenance, carrying, conveyance, altering, repair, testing and use of firearms,
  - (b) the compensation payable in respect of the surrender of prohibited firearms,
  - (b1) the compensation for loss of business as provided by section 78A,



- (c) firearm safety training courses,
- (d) training and supervision in relation to firearms,
- (e) firearms dealers,
- (f) (Repealed)
- (g) ammunition collectors,
- (h) components of ammunition,
- (i) security guards,
- (j) spear guns,
- (k) pistol clubs, and their members, and pistol ranges,
- (l) clubs and shooting ranges for other firearms,
- (m) (Repealed)
- (n) licences, licence renewals and duplicate licences,
- (o) permits, approvals and authorisations,
- (p) forms, records, notices and returns,
- (q) fees payable under this Act or the regulations,
- (r) exempting persons from specified requirements of this Act or the regulations,
- (s) the circumstances in which a certified copy of a licence or permit may be produced in satisfaction of the requirements of this Act or the regulations instead of an original copy of the licence or permit.

(3) A regulation may create an offence punishable by a penalty not exceeding 50 penalty units.

## **89 Repeal of [Firearms Act 1989](#) and [Firearms Regulation 1990](#)**

The [Firearms Act 1989](#) and the [Firearms Regulation 1990](#) are repealed.

## **90 (Repealed)**

## **91 Savings and transitional provisions**

Schedule 3 has effect.

## **92 Review of Act**

(1) The Minister is to review this Act to determine whether the policy objectives of the Act

remain valid and whether the terms of the Act remain appropriate for securing those objectives.

- (2) The review is to be undertaken as soon as possible after the period of 3 years from the date of assent to this Act.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 3 years.

### **93 Registration of firearm frames and receivers**

- (1) Part 3 of this Act (Registration of firearms) applies to every firearm frame and firearm receiver in the same way as it applies to a firearm.
- (2) However, a firearm frame or firearm receiver is taken to be registered under Part 3 if the frame or receiver forms part of a firearm that is registered under that Part.

## **Schedule 1 Prohibited firearms**

(cf APMC 1, Sch 1 PW Act)

(Section 4 (1))

- 1** Any machine gun, sub-machine gun or other firearm capable of propelling projectiles in rapid succession during one pressure of the trigger.
- 2** Any self-loading rimfire rifle (including any such firearm described elsewhere in this Schedule).
- 3** Any self-loading centre-fire rifle (including any such firearm described elsewhere in this Schedule).
- 4** Any self-loading or pump action shotgun (including any such firearm described elsewhere in this Schedule).
- 5** Any self-loading centre-fire rifle of a kind that is designed or adapted for military purposes.
- 6** Any self-loading shotgun of a kind that is designed or adapted for military purposes.
- 7** Any firearm that substantially duplicates in appearance (regardless of calibre or manner of operation) a firearm referred to in item 1, 5 or 6.
- 8** A firearm, not being a pistol, of the Uberti or Armi-Jager brands, or any similar firearm fitted with a revolving ammunition cylinder (other than a firearm manufactured before 1920).
- 9** A shotgun fitted with or designed to be fitted with a drum magazine of the "Striker 12" assault shotgun type or any similar weapon.
- 10** Any firearm to which there is attached any article or device capable of muffling, reducing or stopping the noise created by firing the firearm.
- 11** A firearm, not being a pistol, fitted with a stock that is specially designed so as to be readily

detachable, or to operate on a swivel, folding or telescopic basis.

- 12** A firearm made up in the form of a stylographic or propelling pen or pencil, capable of being used for the discharge of gas, bullets, shot, dye or pyrotechnic flares.
- 13** A firearm capable of discharging by any means:
- (a) any irritant matter in liquid, powder, gas or chemical form, or
  - (b) any pyrotechnic flare or dye, or
  - (c) any article known as a “paint-ball”.
- 14** A firearm that:
- (a) substantially duplicates in appearance some other article (such as a walking stick, walking cane or key ring), and
  - (b) disguises or conceals the fact that it is a firearm.
- 15** A cannon or other weapon by whatever name known of a type which will expel a projectile by the action of an explosive or other propellant, and which has a barrel with a bore in excess of 10 gauge, not being a firearm of the Very or rocket type designed and intended for use for life saving or distress signalling purposes, an antique muzzle loading firearm, or a rifle or shotgun manufactured before 1920.
- 16** Any firearm which, or part of which, has a dimension less than the minimum dimension prescribed for the firearm or part by the regulations.
- 17** Any imitation or replica of any firearm (including any imitation or replica pistol, blank fire pistol, shortened firearm, machine gun or sub-machine gun) unless it is of a type approved by the Commissioner.
- 18** Any device known as a “powerhead” that can be attached to the end of a spear gun and that is designed to propel a projectile by means of an explosive.

## **Schedule 2 (Repealed)**

## **Schedule 3 Savings and transitional provisions**

(Section 91)

### **Part 1 Preliminary**

#### **1 Savings and transitional regulations**

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act and any of the following Acts:
- (a) the *Firearms Amendment Act 1996*,
  - (b) the *Firearms Amendment (Trafficking) Act 2001*,

(c) the *Firearms Amendment (Public Safety) Act 2002*.

- (2) Any such savings or transitional provision may, if the regulations so provide, take effect on the date of assent to the Act concerned or a later day.
- (3) To the extent to which any such savings or transitional provision takes effect on a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
  - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

## **Part 2 Provisions consequent on the enactment of this Act and the Firearms Amendment Act 1996**

### **2 Definitions**

In this Part:

**existing licence** means a licence:

- (a) that was issued under a provision of the former Act (being a provision that has been repealed by this Act), and
- (b) that was in force immediately before the provision was repealed.

**existing permit** means a permit:

- (a) that was issued under a provision of the *Firearms Regulation 1990* (being a provision that has been repealed by this Act), and
- (b) that was in force immediately before the provision was repealed.

**former Act** means the *Firearms Act 1989*.

### **3 Amnesty concerning certain firearms that have become prohibited firearms (cf APMC 11)**

- (1) This clause applies to the following kinds of prohibited firearms:
  - (a) self-loading rimfire or centre-fire rifles,
  - (b) self-loading or pump action shotguns,
  - (c) such other prohibited firearms as may be prescribed by the regulations.

(2) Subject to the regulations, any person who:

- (a) acquired a firearm to which this clause applies before the commencement of this clause, and
- (b) is not the holder of a licence or permit under this Act authorising the person to possess the firearm,

does not, during the period of 12 months starting on the commencement of this clause, commit an offence under section 7 of this Act in respect of the possession of that firearm.

(3) However, nothing in this clause authorises any such person to use a firearm to which this clause applies without the authority of a licence.

#### **4 Saving of existing licences**

(1) Subject to the regulations and to this clause, an existing licence that authorised the possession or use of a firearm:

- (a) is taken to be a licence of the corresponding kind (as determined by the Commissioner) issued under this Act, and
- (b) continues to authorise the possession or use 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) 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.

#### **5 Saving of existing permits (other than permits under [Prohibited Weapons Act 1989](#))**

Subject to the regulations, an existing permit:

- (a) is taken to be a permit of the corresponding kind (as determined by the

Commissioner) issued under this Act, and

- (b) continues, unless it is sooner surrendered or cancelled, in force for the unexpired portion (if any) of its term or until the end of the period of 12 months starting at the commencement of this clause (whichever is sooner).

## **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.

## **7 Conditions of existing licences and permits**

The conditions to which an existing licence or existing permit is subject are, subject to the regulations, taken to be conditions imposed by the Commissioner under this Act, and any such condition may be changed or revoked in accordance with this Act.

## **8 Requirements of applicants for certain licences**

Subject to the regulations, an applicant for a licence under this Act who has passed a firearms safety awareness course or a firearms safety test approved under clause 79 of the *Firearms Regulation 1990* (as in force immediately before the repeal of that clause by this Act), is not required to complete any firearms training and safety course (as referred to in section 11 (3) (b) of this Act) before being issued with the licence.

## **9 Applications**

Any application made under a repealed provision of the former Act or the *Firearms Regulation 1990* that was not finally determined before the repeal of the provision by this Act is cancelled and does not have any operation with respect to this Act.

## **10 Appeals**

An appeal under Part 5 of the former Act that was pending immediately before the repeal of that Part by this Act is taken to have been made under Part 8 of this Act, except if it relates to a prohibited firearm.

### **11 Saving of current firearms prohibition orders**

A firearms prohibition order that was made under section 39 of the former Act, and in force immediately before the repeal of that section by this Act, is taken to be a firearms prohibition order under this Act.

### **12 References to *Firearms Act 1989***

Except as provided by the regulations, a reference in any instrument (other than this Act or the regulations) to any provision of the *Firearms Act 1989*, or the *Firearms Regulation 1990*, is to be read as a reference to the corresponding provision of this Act, or the regulations made under this Act, respectively.

## **Part 3 Provisions consequent on enactment of *Firearms Amendment (Trafficking) Act 2001***

### **13 Close associates of firearms dealers**

- (1) Section 17B extends to an application for a licence that was made, but not finally determined, before the commencement of that section.
- (2) Section 44 (1), as substituted by the *Firearms Amendment (Trafficking) Act 2001*, does not apply in respect of an application made before the commencement of that subsection.
- (3) Section 44 (2), as substituted by the *Firearms Amendment (Trafficking) Act 2001*, does not apply to the holder of a licence in force at the commencement of that subsection.
- (4) Section 44 (3) extends to the holder of a licence in force at the commencement of that subsection.

### **14 Nature of proceedings for offences**

Section 84 (3) does not apply in respect of an offence committed before the commencement of that subsection.

### **15 Selling firearms on an ongoing basis**

Section 51B does not apply in respect of a sale of a firearm that took place before the commencement of that section.

### **16 Amnesty concerning firearm frames and receivers**

- (1) Subject to the regulations, a person who acquired a firearm frame or receiver before the commencement of this clause that is not registered under Part 3 (as applied by section 93) does not, during the period of 6 months starting on the commencement of this clause, commit an offence under section 36 by possessing, purchasing or selling

the frame or receiver.

- (2) However, subclause (1) only operates in respect of the sale or purchase of an unregistered firearm frame or receiver if:
- (a) the person purchasing the frame or receiver is a licensed firearms dealer, or
  - (b) the transaction has, in accordance with the regulations, been arranged through a licensed firearms dealer, or
  - (c) in any case where a licensed firearms dealer is not (as determined by the regulations) reasonably available, the transaction is witnessed by a police officer authorised by the Commissioner.
- (3) A person who is the holder of a licence or permit and who applies, on or before the expiry of the 6-month period referred to in subclause (1), for the registration of a firearm frame or receiver does not commit an offence under section 36 in respect of the possession of an unregistered firearm frame or receiver that is capable of forming part of a firearm to which the licence or permit relates before the person is notified of the registration or refusal of registration of the firearm or receiver.
- (4) If, after the expiry of the 6-month period referred to in subclause (1), a person who applied for the registration of an unregistered firearm frame or receiver before the expiry of that period is notified that the application has been refused, the person must immediately surrender the frame or receiver to a police officer.

Maximum penalty (subclause (4)): 50 penalty units or imprisonment for 12 months, or both.

- (5) A person does not contravene any other provision of this Act just by surrendering a firearm frame or receiver in accordance with subclause (4).

## **Part 4 Provisions consequent on enactment of [Firearms Amendment \(Public Safety\) Act 2002](#)**

### **17 Restrictions on issuing licences or permits**

The amendments made by Schedule 1 [6] and [9] to the [Firearms Amendment \(Public Safety\) Act 2002](#) extend to an application for a licence or permit made (but not yet determined) before the commencement of those amendments.

### **18 Existing firearms dealer licences**

- (1) This clause applies to a firearms dealer licence that is due to expire on or before 31 December 2002.
- (2) Any such licence continues in force until 30 June 2003 unless it is sooner surrendered or revoked or otherwise ceases to be in force.