

# Weapons Prohibition Regulation 1999

[1999-51]



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.

### Authorisation

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File last modified 19 December 2008

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New South Wales

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# Weapons Prohibition Regulation 1999



New South Wales

## Part 1 Preliminary

### 1 Name of Regulation

This Regulation is the *Weapons Prohibition Regulation 1999*.

### 2 Commencement

This Regulation commences on 8 February 1999.

### 3 Definitions

In this Regulation:

**approved** means approved by the Commissioner from time to time.

**the Act** means the *Weapons Prohibition Act 1998*.

### 4 Notes

The explanatory note and table of contents do not form part of this Regulation.

## Part 2 General provisions relating to permits

### 5 Offences that disqualify applicants

For the purposes of section 10 (3) (a) of the Act, the following offences are prescribed offences:

#### (a) Offences relating to firearms or weapons

An offence relating to the possession or use of a firearm, or any other weapon, committed under:

- (i) the law of any Australian jurisdiction, or
- (ii) the law of any overseas jurisdiction (being an offence that, had it been committed in Australia, would be an offence under the law of an Australian jurisdiction).

#### (b) Offences relating to prohibited plants or drugs

An offence in respect of a prohibited plant or drug committed under:

- (i) the law of any Australian jurisdiction, or
- (ii) the law of any overseas jurisdiction (being an offence that, had it been committed in Australia, would be an offence under the law of an Australian jurisdiction).

**(c) Offences involving violence**

An offence committed under the law of any Australian or overseas jurisdiction:

- (i) involving the infliction (or attempted infliction) of actual bodily harm to another person, and
- (ii) in respect of which, either the convicted person has been sentenced to penal servitude or imprisonment for 28 days or more, or a penalty of \$200 or more has been imposed on the person.

**(d) Offences involving organised criminal groups and recruitment**

An offence committed under section 93IK or 351A of the *Crimes Act 1900*.

**6 Application for permit**

- (1) In making an application for a permit (including a duplicate permit), the applicant must do either of the following:
  - (a) send the application to the following address:  
NSW Firearms Registry  
Locked Bag 2000  
Peakhurst 2210
  - (b) lodge the application in such other manner as may be approved.
- (2) An application for a permit must provide the following information:
  - (a) the type, and number, of prohibited weapons proposed to be authorised under the permit,
  - (b) the purpose or purposes for which each such weapon is required,
  - (c) the arrangements for the storage and safe keeping of each such weapon (including particulars of the premises at which each such weapon is to be stored or kept).
- (3) An application for a permit that confers authority on persons (in addition to the permit holder) who are specified in the permit must provide the following information in respect of each additional person proposed to be specified in the permit:
  - (a) full name,

- (b) residential address,
- (c) date of birth,
- (d) employee authority number (if applicable).

#### **7 Notification of change of premises where weapons stored or kept**

A permit holder must, if there is any change in the location of the premises at which the prohibited weapons to which the permit relates are stored or kept, provide the Commissioner with the following information in writing within 7 days after the change of location occurs:

- (a) the address of the new location,
- (b) particulars of the arrangements that have been made by the permit holder for complying with the requirements of the Act and this Regulation in relation to the storage and safe keeping of the prohibited weapons concerned.

Maximum penalty: 50 penalty units.

#### **8 Notification of lost, stolen, destroyed, defaced or mutilated permit**

A person to whom a permit is issued must, within 7 days after becoming aware that the permit has been lost, stolen, destroyed, defaced or mutilated, notify the Commissioner in writing of that occurrence.

Maximum penalty: 20 penalty units.

#### **9 Pending application for subsequent permit**

If a person applies for a subsequent permit before the term of the person's current permit expires (referred to in this clause as the **old permit**), and the application has not been dealt with by the time the old permit expires, the authority conferred by the old permit continues until such time as the person is notified of the issue of, or the refusal of, the subsequent permit.

#### **10 Duplicate permit**

The Commissioner may issue a duplicate permit if satisfied that the permit has been lost, stolen, destroyed, defaced or mutilated.

#### **11 Applicant's understanding of storage and safety requirements**

- (1) The Commissioner must not issue a permit unless the Commissioner is satisfied of the following matters:
  - (a) that the applicant is aware of, and understands, any applicable requirements of the Act and this Regulation in relation to the storage and safe keeping of prohibited weapons,

(b) that the applicant will, if issued with a permit, be able to comply with those requirements.

(2) For the purposes of subclause (1) (b), the Commissioner may order an inspection by a police officer (in accordance with such arrangements as are agreed on by the applicant and the Commissioner) of the proposed storage site for a prohibited weapon. The fee payable for such an inspection is specified in clause 35 (1) (c).

## **12 General conditions of permit**

In accordance with section 14 (3) of the Act, a permit is subject to the following conditions:

- (a) the permit holder must comply with any special requirements that are notified to the permit holder in writing by the Commissioner and that relate to the security, storage and safe keeping of the prohibited weapons to which the permit relates,
- (b) any conveying of a prohibited weapon to which the permit relates must be in accordance with the following safety requirements:
  - (i) the permit holder must take all reasonable precautions to ensure that the prohibited weapon is not lost or stolen while it is being conveyed,
  - (ii) anything designed to be fired or otherwise propelled from a prohibited weapon (for example, an arrow or dart) must be kept separate from the prohibited weapon while it is being conveyed,
  - (iii) if the conveying is by person, or by public transport, the prohibited weapon must be contained in an unobtrusive locked container,
  - (iv) if the conveying is by vehicle other than public transport, the prohibited weapon must be stored in a locked compartment within the vehicle, or in a locked container within or properly secured to the vehicle, and must not be able to be seen while it is being transported,
- (c) any prohibited weapon to which the permit relates that is referred to in clause 2 (1) of Schedule 1 to the Act must be certified, by the holder of a theatrical weapons armourer permit, as having been deactivated (unless the Commissioner otherwise authorises the permit holder in writing).

## **Part 3 Types of general permit**

### **13 Types of general permit**

- (1) For the purposes of section 8 (2) of the Act, the permits referred to in this Part are types of general permit.
- (2) Nothing in this Part limits the types of general permit that may be issued under the

Act.

#### **14 Prohibited weapons—instructor permit**

- (1) The Commissioner may, on application by a person, issue a prohibited weapons—instructor permit that authorises the person to possess and use a prohibited weapon to which the permit relates for the purposes of instructing, training or competing in a sport or recreation specified in the permit.
- (2) The authority conferred by a prohibited weapons—instructor permit also authorises those persons receiving instruction from the permit holder to possess and use a prohibited weapon to which the permit relates for the purposes of receiving instruction or competing in the sport or recreation, but only while under the direct supervision of the permit holder.
- (3) The Commissioner must not issue a prohibited weapons—instructor permit unless:
  - (a) the applicant produces evidence from an approved sporting organisation that verifies, to the Commissioner's satisfaction, that the applicant's ranking in the sport or recreation concerned qualifies the applicant to instruct in that sport or recreation, and
  - (b) the Commissioner is satisfied that:
    - (i) the applicant:
      - (A) is an accredited instructor in the sport or recreation under the Australian Coaching Council's National Coaching Accreditation Scheme or under the instructor's accreditation scheme of the Australian Martial Arts Industry Association, or
      - (B) is a registered training organisation (within the meaning of the [Vocational Education and Training Act 2005](#)) that conducts a prohibited weapons training course that is accredited under that Act, and
    - (ii) it is necessary in the conduct of the applicant's business or employment as such an instructor that he or she possess or use the prohibited weapon for which the permit is sought.
- (4) An application for a prohibited weapons—instructor permit must nominate the premises at which the instruction is to occur.

#### **15 Prohibited weapons—sporting permit**

- (1) The Commissioner may, on application by a person, issue a prohibited weapons—sporting permit that authorises the person to possess and use a prohibited weapon to which the permit relates for the purposes of training or competing in a sport or recreation specified in the permit.



- (2) The Commissioner must not issue a prohibited weapons—sporting permit unless the applicant produces evidence from an approved sporting organisation that verifies, to the Commissioner's satisfaction, that the applicant needs to possess and use the prohibited weapon for which the permit is sought because the applicant's ranking in the sport or recreation concerned requires the applicant to train or compete in the sport or recreation.

#### **16 Prohibited weapons—overseas competitor permit**

- (1) The Commissioner may, on application by or on behalf of a person:
  - (a) who is not a resident of Australia, and
  - (b) who is visiting, or who is intending to visit, New South Wales for the purpose of competing in a competition involving any prohibited weapon,issue a prohibited weapons—overseas competitor permit that authorises the person to possess and use the prohibited weapon for that purpose.
- (2) A prohibited weapons—overseas competitor permit may be issued to a person before the person arrives in New South Wales.
- (3) A prohibited weapons—overseas competitor permit authorises the permit holder to possess and use the prohibited weapon to which the permit relates only for the purpose of competing in the competition and for related purposes that are connected with the competition.
- (4) The Commissioner must not issue a prohibited weapons—overseas competitor permit unless the Commissioner is satisfied that the person to whom the application relates is authorised, under the law of the country in which the person ordinarily resides, to possess and use the type of prohibited weapon for which the permit is sought.

#### **17 Prohibited weapons—production permit**

- (1) The Commissioner may, on application by a person on behalf of a film, television or theatrical production that will involve prohibited weapons, issue the person with a prohibited weapons—production permit that authorises the possession and use of prohibited weapons for the purposes of the production specified in the permit.
- (2) A prohibited weapons—production permit authorises the permit holder to possess and use the prohibited weapons to which the permit relates, but only in connection with the production concerned.
- (3) The authority conferred by a prohibited weapons—production permit also authorises any other person directly involved in the production who:
  - (a) has been nominated by the permit holder, and

- (b) is eligible to be issued with a permit, and
  - (c) is authorised in writing by the Commissioner,  
to possess and use a prohibited weapon to which the permit relates for the purposes of the production concerned, but only while under the direct supervision of the permit holder.
- (4) The requirements referred to in subclause (3) (a)–(c) do not apply if the permit relates only to a prohibited weapon referred to in clause 3 (1) or (2) of Schedule 1 to the Act.
- (5) The Commissioner must not issue a prohibited weapons—production permit unless the Commissioner is satisfied that:
- (a) the production concerned requires the possession or use of the prohibited weapons for which the permit is sought, and
  - (b) the applicant has adequate training in relation to the security and safe handling of the prohibited weapons, and
  - (c) the applicant’s main duty in connection with the production is that of controlling, and being responsible for the security and safe handling of, the prohibited weapons, and
  - (d) adequate security will be maintained over the prohibited weapons at all times, and
  - (e) the permit holder will supervise the possession and use of the prohibited weapons by those persons authorised under subclause (3).
- (6) The holder of a prohibited weapons—production permit must:
- (a) keep in the approved form a register in which particulars of the following matters are kept:
    - (i) the type, and number, of prohibited weapons authorised under the permit,
    - (ii) the name of each person authorised to possess and use any such weapon, and the periods for which each such person had possession or use of the weapon,
    - (iii) the periods for which any such weapon was removed from safe storage, and
  - (b) ensure that the register is kept in a place of safe keeping (not being a place in which any prohibited weapons are kept), and
  - (c) ensure that each entry that is made in the register is maintained for not less than 3 years after it is made, and
  - (d) if requested to do so by a police officer at any time, immediately produce the

register to the officer and allow the officer to inspect, and make copies of any entry contained in, the register.

Maximum penalty: 50 penalty units.

- (7) A prohibited weapons—production permit is subject to the condition that all prohibited weapons to which the permit relates (other than a prohibited weapon referred to in clause 2 (1) of Schedule 1 to the Act) must be maintained in a safe working condition.

### **18 Prohibited weapons—collector permit**

- (1) The Commissioner may, on application by a person, issue a prohibited weapons—collector permit that authorises the person to possess the prohibited weapons to which the permit relates for the purposes of either or both of the following:
- (a) maintaining the weapons as a collection,
  - (b) displaying the weapons for educational, historic or commemorative purposes.
- (2) The Commissioner must not issue a prohibited weapons—collector permit unless:
- (a) the Commissioner is satisfied that:
    - (i) the applicant's collection of prohibited weapons has a genuine commemorative, historical, thematic or financial value, and
    - (ii) the applicant is a current member of a weapon collectors' society or weapon collectors' club, and
  - (b) local police have inspected (in accordance with such arrangements as are agreed on by the applicant and the Commissioner) and approved of the proposed storage site and storage arrangements for the collection of prohibited weapons.
- (3) A prohibited weapons—collector permit is subject to the following conditions:
- (a) any proposed display of any prohibited weapon to which the permit relates must be approved,
  - (b) any such display must be conducted in the approved manner.

### **19 Prohibited weapons—public museum permit**

- (1) The Commissioner may, on application by a person on behalf of a public museum containing a collection of prohibited weapons, issue the person with a prohibited weapons—public museum permit that authorises the possession of the prohibited weapons to which the permit relates.
- (2) The authority conferred by a prohibited weapons—public museum permit authorises:

- (a) the holder of the permit, and
- (b) any other person who:
  - (i) is employed or engaged by the public museum, or who is otherwise involved in the operation of the public museum, and
  - (ii) is specified in the permit, and
  - (iii) is eligible to be issued with a permit,

to use and possess the prohibited weapons to which the permit relates for the purposes of preserving, maintaining and displaying the weapons, but only while on the premises of the public museum or for purposes reasonably connected with the operation of the public museum.

- (3) The Commissioner must not issue a prohibited weapons—public museum permit unless the Commissioner is satisfied that:
  - (a) the public museum’s prohibited weapons collection has a genuine commemorative, historical, thematic or financial value, and
  - (b) local police have inspected (in accordance with such arrangements as are agreed on by the applicant and the Commissioner) the public museum, the prohibited weapons in the collection and the facilities for the storing and safe keeping of those weapons, and have approved of those facilities.
- (4) A prohibited weapons—public museum permit is subject to the following conditions:
  - (a) any prohibited weapon to which the permit relates must be maintained in a safe condition,
  - (b) any proposed display of any prohibited weapon that is to take place away from the public museum must be approved and the display must be conducted in the approved manner.

## **20 Prohibited weapons—re-enactment event permit**

- (1) The Commissioner may, on application by a person on behalf of an historic or commemorative club or society (or other organisation) that proposes to conduct an historical or commemorative re-enactment event or events involving the possession and use of prohibited weapons, issue the person with a prohibited weapons—re-enactment event permit that authorises the club, society or organisation to conduct and supervise the re-enactment event or events specified in the permit.
- (2) The Commissioner must not issue a prohibited weapons—re-enactment event permit unless the Commissioner is satisfied that the historic or commemorative nature of the event concerned requires participants in the event to use and possess the prohibited

weapons specified in the application.

- (3) A prohibited weapons—re-enactment event permit is subject to the following conditions:
  - (a) the permit holder must give local police reasonable notice of the re-enactment event,
  - (b) in conducting and supervising the event, the permit holder must take all reasonable precautions to ensure that any prohibited weapon involved in the event does not come into the possession of a person who is not authorised to possess the weapon,
  - (c) the permit holder must ensure that each person who is to possess or use a prohibited weapon for the purposes of the event holds a prohibited weapons—re-enactment event participant permit for the weapon and the event concerned, and must sight and note each such permit.

## **21 Prohibited weapons—re-enactment event participant permit**

- (1) The Commissioner may, on application by a person directly involved in an historical or commemorative re-enactment event or events, issue the person with a prohibited weapons—re-enactment event participant permit that authorises the person to possess and use a prohibited weapon to which the permit relates for the purposes of participating in the event concerned.
- (2) The Commissioner must not issue a prohibited weapons—re-enactment event participant permit unless the Commissioner is satisfied that:
  - (a) a prohibited weapons—re-enactment event permit has been issued in respect of the event concerned, and
  - (b) the historic or commemorative nature of the event concerned requires the applicant to possess or use a prohibited weapon for which the permit is sought.
- (3) A prohibited weapons—re-enactment event participant permit is subject to the condition that, if the permit relates to a prohibited weapon that operates by the firing or propelling of something with which it is loaded (for example an arrow or dart), the weapon may only be possessed or used for the purposes of the event if it is not loaded with any such thing.

## **22 Prohibited weapons—arms fair principal dealer permit**

- (1) The Commissioner may, on application by a person who proposes to conduct an arms fair that involves displaying, buying or selling prohibited weapons, issue a prohibited weapons—arms fair principal dealer permit that authorises the person to use the premises specified in the permit (the **authorised premises**) for the purposes of conducting and supervising the arms fair.

- (2) The authority conferred by a prohibited weapons—arms fair principal dealer permit also authorises any person who:
- (a) is an employee of the permit holder, and
  - (b) is specified in the permit, and
  - (c) is eligible to be issued with a permit,
- to assist the permit holder in the conducting and supervising of the arms fair.
- (3) The Commissioner must not issue a prohibited weapons—arms fair principal dealer permit unless the Commissioner is satisfied that:
- (a) the applicant is the holder of a weapons dealer permit or theatrical weapons armourer permit, and
  - (b) having regard to the following considerations, the premises nominated by the applicant are suitable to be used for an arms fair:
    - (i) the nature of the activities proposed to be conducted on the premises,
    - (ii) the types of prohibited weapons involved,
    - (iii) whether adequate provision has been made for the safe keeping of the prohibited weapons,
    - (iv) the security of the premises against unauthorised entry.
- (4) A prohibited weapons—arms fair principal dealer permit is subject to the following conditions:
- (a) the permit holder is responsible for the conduct of all persons authorised to display and trade prohibited weapons at the authorised premises,
  - (b) the permit holder must ensure that each participant holds a prohibited weapons—arms fair participant permit for the arms fair concerned, and must sight and note each such permit,
  - (c) the permit holder must ensure that each participant is provided with a code of conduct specifying participants' responsibilities in relation to the supervision and security of the participant's allocated space and stock at the authorised premises,
  - (d) the permit holder must ensure that sufficient security staff and facilities are provided at the authorised premises, and that a satisfactory security program is established and maintained, to enable the monitoring of the conduct of participants and the public and to ensure the security and safe keeping of the prohibited weapons,

- (e) the permit holder must ensure that sufficient security (involving at least one licensed security guard with a phone or radio contact (or both) to a base or to local police (or both)) is provided to ensure the security of any prohibited weapons retained at the authorised premises outside of operating hours,
- (f) the permit holder must ensure that any person leaving the authorised premises with a prohibited weapon is requested to provide proof of their purchase by security staff (or other staff so authorised by the permit holder) stationed at an exit or exits to the authorised premises,
- (g) the permit holder must ensure that all unsupervised exits to the authorised premises are secured,
- (h) the permit holder must ensure that all prohibited weapons are contained in locked display cases or are secured to a display table in such a manner as would reasonably prevent their removal otherwise than by persons authorised to remove them.

### **23 Prohibited weapons—arms fair participant permit**

- (1) The Commissioner may, on application by a person, issue a prohibited weapons—arms fair participant permit that authorises the person to display, buy and sell prohibited weapons to which the permit relates for the purpose of participating in an arms fair conducted at the premises specified in the permit.
- (2) The authority conferred by a prohibited weapons—arms fair participant permit also authorises any person who:
  - (a) is an employee of the permit holder, and
  - (b) is specified in the permit, and
  - (c) is eligible to be issued with a permit,to display, buy and sell a prohibited weapon to which the permit relates for the purpose of assisting the permit holder as a participant at the arms fair.
- (3) The Commissioner must not issue a prohibited weapons—arms fair participant permit unless the Commissioner is satisfied that:
  - (a) the applicant is the holder of a weapons dealer permit or a theatrical weapons armourer permit (or, in the case of an interstate applicant, the holder of an equivalent permit issued under the law in force in the State or Territory in which the person resides), and
  - (b) a prohibited weapons—arms fair principal dealer permit has been issued in respect of the arms fair concerned, and

- (c) the premises authorised by prohibited weapons—arms fair principal dealer permit are suitable for the type of activity the applicant proposes to conduct on them, and
  - (d) the security arrangements for those premises are adequate for any prohibited weapon to which the permit relates, and
  - (e) adequate provision has been made for the storage and safe keeping of any prohibited weapon to which the permit relates and for anything designed to be fired or otherwise propelled (eg an arrow or dart) from any such weapon.
- (4) An application for a prohibited weapons—arms fair participant permit must provide details of any prohibited weapon authorised under the applicant’s weapons dealer permit or theatrical weapons armourer permit.
- (5) A prohibited weapons—arms fair participant permit is subject to the following conditions:
- (a) the permit holder must comply with the code of conduct provided to participants in the arms fair, and with any reasonable direction and instruction given by the organiser of the arms fair or by any authorised employee of the organiser,
  - (b) the permit holder must exercise and maintain close supervision over any prohibited weapon to which the permit relates and anything designed to be fired or otherwise propelled (eg an arrow or dart) from any such weapon,
  - (c) the permit holder must ensure that all prohibited weapons are contained in a locked display case or are secured to a display table in such a manner as would reasonably prevent their removal otherwise than by persons authorised to remove them.

#### **24 Prohibited weapons—RSL club display permit**

- (1) The Commissioner may, on application by the secretary or manager of an RSL club, issue a prohibited weapons—RSL club display permit that authorises the club to possess and display on the club premises a prohibited weapon to which the permit relates.
- (2) The Commissioner must not issue a prohibited weapons—RSL club display permit unless the Commissioner is satisfied that any prohibited weapon for which the permit is sought has been used as a weapon of war.
- (3) A prohibited weapons—RSL club display permit is subject to the condition that the Commissioner must be advised in writing of the acquisition or disposal of any prohibited weapon by the RSL club that occurs during the currency of the permit.
- (4) In this clause, **RSL club** means a club that:



- (a) is affiliated with the Returned and Services League of Australia (New South Wales Branch), and
- (b) is a registered club within the meaning of the *Registered Clubs Act 1976*.

## **25 Prohibited weapons—heirloom permit**

- (1) The Commissioner may, on application by a person who has acquired a prohibited weapon as an heirloom, issue a prohibited weapons—heirloom permit that authorises the person to possess the prohibited weapon.
- (2) The Commissioner must not issue a prohibited weapons—heirloom permit unless the Commissioner is satisfied that the prohibited weapon for which the permit is sought:
  - (a) has been inherited by the applicant, and
  - (b) is of genuine sentimental value to the applicant.

## **26 Prohibited weapons—animal management permit**

- (1) The Commissioner may, on application by a person, issue a prohibited weapons—animal management permit that authorises the person to possess and use a prohibited weapon referred to in clause 2 (8) or (9) of Schedule 1 to the Act for the purpose of managing any animal in the care of the permit holder.
- (2) The authority conferred by a prohibited weapons—animal management permit also authorises any person who:
  - (a) is an employee of the permit holder or who is otherwise engaged in the operation of the practice or organisation of the permit holder, and
  - (b) is specified in the permit, and
  - (c) is eligible to be issued with a permit,to use and possess any such prohibited weapon for the purpose of managing an animal in the care of the permit holder.
- (3) The Commissioner must not issue a prohibited weapons—animal management permit unless the Commissioner is satisfied that:
  - (a) the applicant is:
    - (i) a veterinary practitioner (within the meaning of the *Veterinary Practice Act 2003*), or
    - (ii) a person who is applying on behalf of an organisation whose primary object is or includes responsibility for the management of animals, and
  - (b) the possession and use of any such prohibited weapon is necessary in the conduct

of the applicant's responsibilities for animal management, and a necessary part of the occupation of the person or persons who will be authorised to possess and use the weapon, and

- (c) all persons who are authorised under the permit to possess and use any such prohibited weapon have adequate training in its safe handling and use and are suitably qualified to carry out the functions that involve its possession and use.

## **27 Prohibited weapons—scientific purposes permit**

- (1) The Commissioner may, on application by a person, issue a prohibited weapons—scientific purposes permit that authorises the person to possess and use a prohibited weapon to which the permit relates for the purpose of conducting legitimate scientific research.
- (2) The authority conferred by a prohibited weapons—scientific purposes permit also authorises any person who:
  - (a) is employed to assist the permit holder in the scientific research in respect of which the permit is sought, and
  - (b) is specified in the permit, and
  - (c) is eligible to be issued with a permit,to use and possess a weapon to which the permit relates for the purpose of assisting in the conduct of the scientific research concerned.
- (3) The Commissioner must not issue a prohibited weapons—scientific purposes permit unless the Commissioner is satisfied that:
  - (a) the scientific research in respect of which the permit is sought is legitimate scientific research, and
  - (b) any prohibited weapon for which the permit is sought is necessary in the conduct of that research.

## **Part 4 Weapons dealer permit—special provisions**

### **28 Additional restrictions on issuing permit**

- (1) A weapons dealer permit that authorises a weapons dealer to carry on business at specified premises must not be issued unless the Commissioner is satisfied that:
  - (a) the applicant is carrying on or proposes to carry on the business of a weapons dealer at those premises, and
  - (b) those premises are suitable for carrying on the business of a weapons dealer.

- (2) In considering whether or not the premises are suitable for such purposes, the Commissioner is to have regard to the following:
  - (a) the nature of the activities proposed to be conducted on the premises,
  - (b) the kinds of prohibited weapons to which the permit relates,
  - (c) whether adequate provision has been made for the safe keeping of the prohibited weapons by means of safes or strongrooms or otherwise,
  - (d) the security of the premises against unauthorised entry,
  - (e) in the case of a permit that authorises the testing of prohibited weapons on the premises—whether adequate provision has been made to ensure the safe conduct of such testing.

## **29 Change of premises**

- (1) The holder of a weapons dealer permit must apply to the Commissioner if the holder proposes to change the premises to which the permit relates.
- (2) Any such application is to be made in the approved form and to be accompanied by the fee specified in clause 35 (1) (c) for inspecting the new premises.
- (3) After taking into account the same relevant matters as would have to be considered in assessing an application for a weapons dealer permit, the Commissioner may approve or refuse the application.
- (4) A refusal may be made on any of the grounds on which an application for a weapons dealer permit may be refused.
- (5) If the application is approved, the Commissioner is to impose a new condition on the permit changing the premises at which the business is to be carried on.

## **Part 5 Theatrical weapons armourer permit—special provisions**

### **30 Authority conferred by a permit on persons less than 18 years old**

- (1) A theatrical weapons armourer permit does not operate to confer authority on a person who is less than 18 years old (being a person who is involved in a film, television or theatrical production) to possess and use a prohibited weapon to which the permit relates unless the person is first authorised in writing by the Commissioner to possess and use the weapon concerned.
- (2) Subclause (1) does not apply if the permit concerned relates only to a weapon referred to in clause 3 (1) or (2) of Schedule 1 to the Act.

### **31 Additional restrictions on issuing permit**

- (1) A theatrical weapons armourer permit that authorises a theatrical weapons armourer to carry on business at specified premises must not be issued unless the Commissioner is satisfied that:
  - (a) the applicant is carrying on or proposes to carry on the business of a theatrical weapons armourer at those premises, and
  - (b) those premises are suitable for carrying on the business of a theatrical weapons armourer.
- (2) In considering whether or not the premises are suitable for such purposes, the Commissioner is to have regard to the following:
  - (a) the nature of the activities proposed to be conducted on the premises,
  - (b) the kinds of prohibited weapons to which the permit relates,
  - (c) whether adequate provision has been made for the safe keeping of the prohibited weapons by means of safes or strongrooms or otherwise,
  - (d) the security of the premises against unauthorised entry,
  - (e) in the case of a permit that authorises the testing of prohibited weapons on the premises—whether adequate provision has been made to ensure the safe conduct of such testing.

### **32 Additional conditions of permit**

A theatrical weapons armourer permit is subject to the following conditions:

- (a) any prohibited weapon to which the permit relates must be maintained in a safe condition,
- (b) the permit holder must ensure that any employee who is authorised by the permit to possess and use any prohibited weapon to which the permit relates is properly trained in the safe handling of the weapon and is suitably qualified to carry out the functions of a theatrical armourer.

### **33 Requirement to keep register of prohibited weapons**

The holder of a theatrical weapons armourer permit must:

- (a) keep in the approved form a register in which particulars of the following matters are kept:
  - (i) the type, and number, of prohibited weapons authorised under the permit,
  - (ii) the name of each person authorised to possess and use any such weapon, and the

periods for which each such person had possession or use of the weapon,

(iii) the periods for which any weapon was removed from safe storage, and

- (b) ensure that the register is kept in a place of safe keeping, and
- (c) ensure that each entry that is made in the register is maintained for not less than 3 years after it is made, and
- (d) if requested to do so by a police officer at any time, immediately produce the register to the officer and allow the officer to inspect, and make copies of any entry contained in, the register.

Maximum penalty: 50 penalty units.

### **34 Change of premises**

- (1) If a theatrical weapons armourer permit authorises a theatrical weapons armourer to carry on business at specified premises, the permit holder must apply to the Commissioner if he or she proposes to change the premises.
- (2) Any such application is to be made in the approved form and to be accompanied by the fee specified in clause 35 (1) (c) for inspecting the new premises.
- (3) After taking into account the same relevant matters as would have to be considered in assessing an application for a theatrical weapons armourer permit, the Commissioner may approve or refuse the application.
- (4) A refusal may be made on any of the grounds on which an application for a theatrical weapons armourer permit may be refused.
- (5) If the application is approved, the Commissioner is to impose a new condition on the permit changing the premises at which the business is to be carried on.

## **Part 6 Fees**

### **35 Fees payable for permit**

- (1) The following fees are payable for the matters to which they relate:
  - (a) application fee for an initial or subsequent permit—\$127,
  - (b) application fee for a duplicate permit:
    - (i) \$40—if a photograph is required in accordance with the Act, or
    - (ii) \$25—if no such photograph is required,
  - (c) fee for inspection of premises under clause 11 (2), and clauses 29 and 34 (but only if carried out by a police officer)—\$100,

(d) administration fee for specifying in the permit persons (apart from the permit holder) who are authorised under the permit—\$25.

(2) The Commissioner may refuse to exercise any function in respect of which a fee is specified under this clause until the relevant fee has been paid.

### **36 Exemption, waiver or refund of fees**

The Commissioner may, for such reason as the Commissioner considers sufficient, exempt a person from the requirement to pay a fee in relation to a permit, or waive or wholly or partly refund a fee that would otherwise be payable or has been paid.

## **Part 7 Miscellaneous provisions**

### **37 Notification of lost, stolen or destroyed prohibited weapons**

A person to whom a permit has been issued must, within 24 hours after becoming aware that any prohibited weapon to which the permit relates has been lost, stolen or destroyed, notify the Commissioner in writing of that loss, theft or destruction.

Maximum penalty: 50 penalty units.

### **38 Certificate evidence**

For the purposes of section 48 of the Act, the following offices are prescribed:

- (a) the office of Manager, Firearms Registry, Police Force,
- (b) the office of Senior Police Liaison Officer, Firearms Registry, Police Force,
- (c) the office of any officer acting in either of the above positions, but only while the officer is so acting.

### **39 Persons exempt from requirement for permit**

For the purposes of section 6 (4) of the Act, a person specified in a provision of Schedule 1 is exempt from the requirement under the Act to be authorised by a permit to possess or use a prohibited weapon, but only to the extent and in the circumstances so specified, and only in relation to the prohibited weapon or weapons so specified.

### **40 Temporary amnesty in relation to extendable batons**

- (1) This clause applies to a prohibited weapon referred to in clause 2 (17A) of Schedule 1 to the Act.
- (2) Any person who:
  - (a) acquired a prohibited weapon to which this clause applies before 8 February 1999, and

(b) is not the holder of a permit under the Act authorising the person to possess the weapon,

is exempt from the requirement under the Act to be authorised by a permit to possess the weapon.

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

(4) This clause ceases to have effect on 8 August 1999.

#### **41 Amendment of Schedule 1 to Act**

Schedule 1 (Prohibited weapons) to the Act is amended:

(a) by inserting in clause 2 (17) after the word “other” the word “similar”,

(b) by inserting after clause 2 (17) the following subclause:

(17A) An **extendable or telescopic baton**.

(c) by omitting from clause 4 (1) the words “, or any other anti-ballistic article capable of being” and by inserting instead the words “(or any other similar article) designed for anti-ballistic purposes and to be”.

### **Schedule 1 Persons exempt from requirement for permit**

(Clause 39)

#### **1 Possession and use of explosives and incendiaries by dangerous goods inspectors**

An inspector under the *Explosives Act 2003* is exempt from the requirement under the Act for a permit to possess or use a prohibited weapon referred to in clause 2 (1) of Schedule 1 to the Act, but only when acting in the course of employment as such an inspector.

#### **2 Possession and use of blow guns by National Parks and Wildlife officers and Zoological Parks Board employees**

An officer of the National Parks and Wildlife Service, and an employee of the Zoological Parks Board, are exempt from the requirement under the Act for a permit to possess or use a prohibited weapon referred to in clause 2 (8) or (9) of Schedule 1 to the Act, but only when acting in the course of employment as such an officer or employee.

#### **3 Possession and use of handcuffs and extendable batons by non-police law enforcement and security personnel**

(1) The following persons are exempt from the requirement under the Act for a permit to possess or use a prohibited weapon referred to in clause 2 (17A) or 4 (2) of Schedule 1 to the Act, but only when acting in the course of employment (or in the course of

carrying on business) as such, and only if the Commissioner is satisfied that the person has been trained in the use of the prohibited weapon:

- (a) persons appointed under the *Local Government Act 1993* as:
    - (i) authorised persons for the purpose of enforcing any of the provisions of Part 2 of Chapter 16 of that Act, or
    - (ii) enforcement officers for the purposes of Part 4 of Chapter 16 of that Act,
  - (b) special constables appointed under the *Police Offences Act 1901*,
  - (c) persons employed to carry on a security activity referred to in section 4 (1) (c) (i), (iv) or (v) of the *Security Industry Act 1997* and who hold a class 1A, 1D, 1F or P1F licence under that Act,
  - (d) persons carrying on a security activity referred to in section 4 (1) (j) or (k) of the *Security Industry Act 1997* and who hold a class 2D licence under that Act,
  - (e) Sheriff's officers,
  - (f) correctional service officers engaged in court security and escort duties,
  - (g) fisheries officers appointed under the *Fisheries Management Act 1994*,
  - (h) staff employed by the Police Integrity Commission under the *Police Integrity Commission Act 1996* to carry on security activities within the meaning of the *Security Industry Act 1997*.
- (2) An officer or employee of the Department of Juvenile Justice who is engaged in custodial duties is exempt from the requirement under the Act for a permit to possess or use a prohibited weapon referred to in clause 4 (2) of Schedule 1 to the Act, but only when acting in the course of employment as such an officer or employee, and only if the Commissioner is satisfied that the person has been trained in the use of the prohibited weapon.
- (3) It is a condition of an exemption referred to in this clause that the person to whom the exemption relates must store or keep the prohibited weapon concerned in a safe and secure manner when it is not being used.
- (4) The failure to comply with the condition under subclause (3) is an offence.

Maximum penalty: 50 penalty units.

### **3A Possession and use of capsicum spray by Sheriff's officers**

- (1) A Sheriff's officer is exempt from the requirement under the Act for a permit to possess or use a prohibited weapon referred to in clause 2 (22) (d) of Schedule 1 to the Act, but only when acting in the course of employment as a Sheriff's officer, and



only if the Commissioner is satisfied that the officer has been trained in the use of the prohibited weapon in a manner approved by the Commissioner.

- (2) It is a condition of the exemption referred to in this clause that the person to whom the exemption relates must store or keep the prohibited weapon concerned in a safe and secure manner when it is not being used.
- (3) The failure to comply with the condition under subclause (2) is an offence.

Maximum penalty: 50 penalty units.

#### **4 Possession and use of firearm magazines by certain persons**

- (1) The holder of a category D licence under the *Firearms Act 1996* (as referred to in section 8 of that Act) is exempt from the requirement under the Act for a permit to possess or use a prohibited weapon referred to in clause 4 (4) (a)-(d) of Schedule 1 to the Act, but:
  - (a) only in relation to its use in a registered firearm to which the licence applies, and
  - (b) only for the purpose established by the licensee under that Act as being the genuine reason for possessing or using the firearm, and
  - (c) subject to such restrictions as may be imposed on the licence by or under the *Firearms Act 1996*.
- (2) The holder of a category H licence under the *Firearms Act 1996* issued for the genuine reason of business or employment is exempt from the requirement under the Act for a permit to possess or use a prohibited weapon referred to in clause 4 (4) (e) of Schedule 1 to the Act, but:
  - (a) only in relation to its use in a registered pistol to which the licence applies, and
  - (b) only in connection with that genuine reason, and
  - (c) subject to such restrictions as may be imposed on the licence by or under the *Firearms Act 1996*.

#### **4A Possession and use of brass catchers by persons holding firearms licence**

The holder of a licence or permit under the *Firearms Act 1996* is exempt from the requirement under the Act for a permit to possess or use a prohibited weapon referred to in clause 4 (5) of Schedule 1 to the Act, but only in relation to its use in connection with a firearm to which the licence or permit under the *Firearms Act 1996* applies.

#### **5 Possession of prohibited weapons by off-duty police officers**

- (1) A police officer who is in possession of a service prohibited weapon while the police officer is not on duty as a police officer is exempt from the requirement under the Act

for a permit to possess the weapon, but only if the police officer complies with such guidelines as may be issued by the Commissioner with respect to the off-duty possession of service prohibited weapons by police officers.

(2) In this clause:

**service prohibited weapon** means a prohibited weapon possessed or used by a police officer in his or her capacity as a police officer.

## **6 Exemption for interstate sporting permit holders**

A person who:

- (a) is a resident of another State or Territory, and
- (b) is the holder of the equivalent of a prohibited weapons—sporting permit issued under the law in force in that State or Territory,

is exempt from the requirement under the Act for a permit to possess or use a prohibited weapon to which the equivalent permit (as issued by the other jurisdiction) relates, but only for the purpose of enabling the person to participate in a State or national sporting competition that involves the possession and use of the weapon.

## **7 Exemption for interstate residents moving to this State**

- (1) A resident of another State or a Territory who is the holder of the equivalent of a permit 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 under subclause (1), the person is exempt from the requirement under the Act for a permit to possess or use the prohibited weapon to which the person's interstate permit relates, but only:
  - (a) for a period of 3 months from the time the person notified the Commissioner, or
  - (b) until the person's application for a permit under the Act in respect of that weapon is granted or refused,whichever is sooner.

## **8 Possession and use of laser pointers**

- (1) A person who acquired a laser pointer before 18 July 2008 is exempt from the requirement under the Act for a permit to possess or use the laser pointer until 1 December 2008 or such time as the person acquires such a permit, whichever occurs first.
- (2) Despite subclause (1), a person who is (or has been within an approved period) a

member of an approved astronomical organisation is exempt from the requirement under the Act for a permit to possess or use a laser pointer, but only for the purpose of enabling the person to take part in activities associated with astronomy.

(3) In this clause:

***laser pointer*** means a prohibited weapon referred to in clause 4 (8) of Schedule 1 to the Act.