

# Weapons Prohibition Regulation 2017

[2017-456]



New South Wales

## Status Information

### Currency of version

Current version for 1 July 2021 to date (accessed 26 June 2024 at 12:33)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

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

### Notes—

- **Does not include amendments by**  
[Medicines, Poisons and Therapeutic Goods Act 2022 No 73](#) (not commenced)
- **Staged repeal status**  
This legislation is currently due to be automatically repealed under the [Subordinate Legislation Act 1989](#) on 1 September 2024

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 28 July 2023

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New South Wales

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# Weapons Prohibition Regulation 2017



New South Wales

## Part 1 Preliminary

### 1 Name of Regulation

This Regulation is the *Weapons Prohibition Regulation 2017*.

### 2 Commencement

This Regulation commences on 1 September 2017 and is required to be published on the NSW legislation website.

**Note—**

This Regulation replaces the *Weapons Prohibition Regulation 2009*, which is repealed on 1 September 2017 by section 10 (2) of the *Subordinate Legislation Act 1989*.

### 3 Definitions

(1) In this Regulation—

**fired** from a prohibited weapon includes propelled from a prohibited weapon.

**projectile** includes a bullet, arrow or dart.

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

**Note—**

The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

(2) A reference in this Regulation to a particular type of general permit is a reference to that type of permit as provided by Part 3.

(3) Notes included in this Regulation do not form part of this Regulation.

## Part 2 General provisions relating to permits

### 4 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.

## **5 Offences that disqualify applicants**

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

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

An offence relating to the possession or use of a firearm or any other weapon, or a firearm part or ammunition, 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 drugs etc**

An offence in respect of a prohibited plant or prohibited drug within the meaning of the *Drug Misuse and Trafficking Act 1985* or a prescribed restricted substance within the meaning of the *Poisons and Therapeutic Goods Regulation 2008*, being an offence in respect of which the penalty imposed included any term of imprisonment (whether or not suspended), a community service order, a good behaviour bond or a penalty of \$2,200 or more, and 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 relating to public order or involving assaults against law enforcement officers**

Any of the following—

- (i) an offence under Division 8A of Part 3 of the *Crimes Act 1900*,
- (ii) an offence under Division 1 of Part 3A of the *Crimes Act 1900*,
- (iii) an offence committed elsewhere than in New South Wales that, if committed in New South Wales, would be an offence referred to in subparagraph (i) or (ii),
- (iv) an offence of attempting to commit, threatening to commit or conspiring to commit an offence referred to in subparagraphs (i)-(iii).

**(d) Offences involving violence**

An offence committed under the law of any Australian or overseas jurisdiction, being—

- (i) an offence involving the infliction of actual bodily harm on a person in respect of which the penalty imposed included any term of imprisonment (whether or not suspended), a community service order, a good behaviour bond or a penalty of \$500 or more, or
- (ii) an offence involving kidnapping or abduction, or
- (iii) an offence involving stalking or intimidation, or
- (iv) an offence of attempting to commit, threatening to commit or conspiring to commit an offence referred to in subparagraph (ii) or (iii).

**(e) Offences of a sexual nature**

An offence of a sexual nature, being—

- (i) an offence under Division 10, 10A or 10B of Part 3 of the *Crimes Act 1900*, or
- (ii) an offence under section 38, 38A, 111, 112 or 113 of the *Crimes Act 1900* that has been committed with intent to commit an offence referred to in subparagraph (i), or
- (iii) an offence under Division 15 or 15A of Part 3 of the *Crimes Act 1900*, or
- (iv) an offence under section 11G of the *Summary Offences Act 1988*, or
- (v) an offence committed elsewhere than in New South Wales that, if committed in New South Wales, would be an offence referred to in subparagraphs (i)-(iv), or
- (vi) any other offence that, at the time it was committed, would have been an offence referred to in subparagraphs (i)-(iv), or
- (vii) an offence of attempting to commit, threatening to commit or conspiring to commit an offence referred to in subparagraphs (i)-(vi).

**(f) Offences involving fraud, dishonesty or stealing**

An offence under the law of any Australian or overseas jurisdiction involving fraud, dishonesty or stealing, being an offence in respect of which the penalty imposed included a term of imprisonment (whether or not suspended) for 3 months or more, a community service order for 100 hours or more of community service work, or a good behaviour bond.

**(g) Offences involving robbery**

An offence under the law of any Australian or overseas jurisdiction involving robbery (whether armed or otherwise).

**(h) Offences relating to riot**

An offence under section 93B of the *Crimes Act 1900* or any similar offence 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).

**(i) Offences relating to affray**

An offence under section 93C of the *Crimes Act 1900* or any similar offence 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).

**(j) Offences relating to terrorism**

An offence relating to terrorism, being—

- (i) an offence under Part 6B of the *Crimes Act 1900* or against Part 5.3 of the Criminal Code set out in the Schedule to the *Criminal Code Act 1995* of the Commonwealth, or
- (ii) an offence committed elsewhere than in New South Wales that, if committed in New South Wales, would be an offence referred to in subparagraph (i).

**(k) Offences involving organised criminal groups, consorting and recruitment**

An offence—

- (i) committed under section 93T, 93X or 351A of the *Crimes Act 1900*, or
- (ii) committed elsewhere than in New South Wales that, if committed in New South Wales, would be an offence referred to in subparagraph (i).

**(1A) In subclause (1)—**

- (a) a reference to a good behaviour bond includes a reference to a community correction order or a conditional release order, but only if it was imposed in New



South Wales, and

(b) a reference to a term of imprisonment (whether or not suspended) includes a reference to an intensive correction order, but only if it was imposed in New South Wales.

(2) **Persons subject to good behaviour bonds** For the purposes of section 10 (3) (c) of the Act, the following offences are prescribed in respect of a person subject to a good behaviour bond—

(a) an offence referred to in subclause (1) (a), (c), (e) or (g)–(k),

(b) an offence in respect of a prohibited plant or prohibited drug within the meaning of the *Drug Misuse and Trafficking Act 1985*, or a prescribed restricted substance within the meaning of the *Poisons and Therapeutic Goods Regulation 2008*, committed under—

(i) the law of any Australian jurisdiction, or

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

(c) an offence committed under the law of any Australian or overseas jurisdiction, being—

(i) an offence involving the infliction of actual bodily harm on a person, or

(ii) an offence involving kidnapping or abduction, or

(iii) an offence involving stalking or intimidation, or

(iv) an offence of attempting to commit, threatening to commit or conspiring to commit an offence referred to in subparagraphs (i)–(iii),

(d) an offence under the law of any Australian or overseas jurisdiction involving fraud, dishonesty or stealing.

(3) **Persons subject to community correction orders or conditional release orders** For the purposes of section 10(3)(c) of the Act, the following offences are prescribed in respect of a person subject to a community correction order or a conditional release order—

(a) an offence referred to in subclause (1)(a), (c), (e) or (g)–(k),

(b) an offence in respect of a prohibited plant or prohibited drug within the meaning of the *Drug Misuse and Trafficking Act 1985*, or a prescribed restricted substance within the meaning of the *Poisons and Therapeutic Goods Regulation 2008*,

- (c) an offence involving any of the following—
  - (i) the infliction of actual bodily harm on a person,
  - (ii) kidnapping or abduction,
  - (iii) stalking or intimidation,
  - (iv) fraud, dishonesty or stealing,
- (d) an offence of attempting to commit, threatening to commit or conspiring to commit an offence referred to in paragraph (c)(i)-(iii).

## **6 Additional grounds for refusal of permit**

- (1) A permit must not be issued to a person who is subject to a firearms prohibition order under the *Firearms Act 1996*.
- (2) The Commissioner may refuse to issue a permit to a person if the Commissioner considers that issue of the permit would be contrary to the public interest.

## **7 Application for permit**

- (1) (Repealed)
- (2) For the purposes of section 9(2) of the Act, an application for a permit must be accompanied by the following information—
  - (a) the type, and number, of prohibited weapons proposed to be authorised under the permit,
  - (b) each purpose for which each weapon is required,
  - (c) the arrangements for the storage and safe keeping of each weapon (including particulars of the premises at which each weapon is to be 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).

## **8 Notification of change of premises where weapons 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 kept, provide the Commissioner with the following information in writing (or in such other manner as may be approved) within 14 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.

### **9 Notification of lost, stolen or damaged permit**

A person to whom a permit is issued must, within 14 days after becoming aware that the permit has been lost, stolen, destroyed, defaced or mutilated, notify the Commissioner in writing or in such other manner as may be approved of that occurrence.

Maximum penalty—20 penalty units.

### **10 Pending application for subsequent permit**

- (1) 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.
- (2) If the applicant fails to collect the subsequent permit in accordance with the approved arrangements within 60 days (or such longer period as may be approved in any particular case) of being notified of its issue—
  - (a) the subsequent permit is taken to have been surrendered by the applicant, and
  - (b) any authority conferred by the old permit ceases to have effect.

### **11 Duplicate permit**

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

### **12 Storage and safety requirements**

- (1) The Commissioner must not issue a permit unless 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,

(c) if an inspection is required under subclause (2), the fee payable under clause 14 (1) (c) for such an inspection has been paid.

(2) 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 the prohibited weapon to which the proposed permit will relate.

### **13 General conditions of permit**

For the purposes of section 14 (1) (b) 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) any projectile designed to be fired from the prohibited weapon 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 kept 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 1A (1) of Schedule 1 to the Act must be deactivated and certified, by the holder of a theatrical weapons armourer permit, as having been deactivated, unless the Commissioner otherwise authorises the permit holder in writing.

### **14 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 any provision of this Regulation that provides for such an inspection, but only if carried out by a police officer—\$100,
  - (d) fee for the issue of a replacement permit required by any change to the particulars specified in the permit or the premises to which the permit relates—\$75,
  - (e) 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.
- (3) 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 3 Types of general permit**

#### **15 Types of general permit**

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

#### **16 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) 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 the applicant satisfies the Commissioner that—
- (a) the applicant's ranking in the relevant sport or recreation, as verified by an approved sporting organisation for that sport or recreation, qualifies the applicant

to instruct in that sport or recreation, and

(b) the applicant—

(i) is accredited as an instructor by an approved body, or

(ii) is a registered training organisation (within the meaning of the *National Vocational Education and Training Regulator Act 2011* of the Commonwealth) that conducts a prohibited weapons training course that is accredited under that Act, and

(c) it is necessary for the applicant to possess or use the prohibited weapon for which the permit is sought in order to carry out instruction in the sport or recreation.

(4) An application for a prohibited weapons—instructor permit must nominate the premises at which the instruction is to occur.

### **17 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 use the prohibited weapon to train or compete in the sport or recreation.

### **18 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 and conducted by an approved sporting organisation,

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.

## **19 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) has not in the previous 10 years been convicted of any offence referred to in clause 5 (1), and
  - (c) is authorised by the Commissioner in writing or in such other manner as may be approved,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) 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 police officer and allow the police 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 1A (1) of Schedule 1 to the Act) must be maintained in a safe working condition.

## **20 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) a police officer has 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.

## **21 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) has not in the previous 10 years been convicted of an offence referred to in clause 5 (1),

to possess and use 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 satisfied that—
  - (a) the public museum's prohibited weapons collection has a genuine commemorative, historical, thematic or financial value, and

(b) a police officer has 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 has 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.

## **22 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—

(a) authorises the club, society or organisation to conduct and supervise the re-enactment event or events specified in the permit and to possess the prohibited weapons to which the permit relates for the purposes of those events, and

(b) authorises participants to possess and use the prohibited weapons to which the permit relates for the purposes of participating in those events.

(2) A prohibited weapons—re-enactment event permit also authorises any person who holds a permit that authorises the possession or use of a prohibited weapon to use the prohibited weapon for the purposes of participation in any historical re-enactment event conducted under the authority of the prohibited weapons—re-enactment event permit.

(3) 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 possess and use the prohibited weapons specified in the application.

(4) A prohibited weapons—re-enactment event permit is subject to the following conditions—

(a) the permit holder must notify the police officer in charge of a police station that is nearest to the place at which the relevant historical or commemorative re-enactment event is to take place about the event not more than 7 days before the event takes place,

- (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) if the permit relates to a prohibited weapon that operates by the firing of a projectile with which it is loaded, the weapon may only be possessed or used for the purposes of the event if it is not loaded with any such thing.
- (5) An applicant for a prohibited weapons—re-enactment event permit must provide the Commissioner with the following information—
- (a) the location of the event,
  - (b) the kinds of prohibited weapons that are to be present at the event,
  - (c) the security measures that will be put in place at the event.
- (6) A prohibited weapons—re-enactment event permit may be issued in relation to historical or commemorative re-enactment events held on one or more days or held on a periodic basis.

### 23 Arms fair 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 permit that—
- (a) authorises the person to use the premises specified in the permit (the **authorised premises**) for the purposes of conducting and supervising the arms fair, and
  - (b) authorises any person who—
    - (i) is an employee of the permit holder, and
    - (ii) is specified in the permit, and
    - (iii) has not in the previous 10 years been convicted of an offence referred to in clause 5 (1),to assist the permit holder in the conducting and supervising of the arms fair, and
  - (c) authorises a holder of a prohibited weapons—weapons dealer permit or a prohibited weapons—theatrical weapons armourer permit to display, buy and sell prohibited weapons, to which the holder's permit relates, for the purpose of participating in the arms fair.
- (2) The Commissioner must not issue a prohibited weapons—arms fair permit unless the Commissioner is satisfied that—

- (a) the applicant is the holder of a weapons dealer permit or a 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.
- (3) A prohibited weapons—arms fair 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 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,
  - (c) 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,
  - (d) the permit holder must ensure that sufficient security (involving at least one person who holds a licence that authorises the person to carry out a security activity referred to in section 4 (1) (c) of the [Security Industry Act 1997](#) and who has 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,
  - (e) 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,
  - (f) the permit holder must ensure that all unsupervised exits to the authorised premises are secured,
  - (g) 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.

- (4) The prohibited weapons—weapons dealer permit or prohibited weapons—theatrical weapons armourer permit of a person who participates in the arms fair 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 any projectile designed to be fired from any such weapon.

#### **24 RSL display permit**

- (1) The Commissioner may, on application by the secretary or other relevant office holder of—
  - (a) the RSL, or
  - (b) any club or association that is an affiliated member of the RSL or a member of the RSL and Services Clubs Association Limited,issue a prohibited weapons—RSL display permit that authorises the RSL, club or association to possess and display on its premises a prohibited weapon to which the permit relates.
- (2) The Commissioner must not issue a prohibited weapons—RSL 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 display permit is subject to the condition that the Commissioner must be advised in writing or in such other manner as may be approved of the acquisition or disposal of any prohibited weapon by the RSL, club or association that occurs during the currency of the permit.
- (4) In this clause—

**RSL** means the Returned and Services League of Australia (New South Wales Branch).

#### **25 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.
- (3) A prohibited weapons—heirloom permit cannot be issued to apply to more than one prohibited weapon and a person cannot be issued with more than one prohibited weapons—heirloom permit at any one time.

## **26 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) has not in the previous 10 years been convicted of an offence referred to in clause 5 (1),
- to possess and use 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 student enrolled in a course of study referred to in section 21 (1) (a) of that Act, or
    - (iii) 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 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 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) has not in the previous 10 years been convicted of an offence referred to in clause 5 (1),to possess and use 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.

## **28 Leaving Australia permit**

- (1) The Commissioner may, on application by a person who is about to leave Australia, issue a prohibited weapons—leaving Australia permit that authorises the person to possess a prohibited weapon to which the permit relates.
- (2) The Commissioner must not issue a prohibited weapons—leaving Australia permit unless satisfied that the applicant is about to leave Australia.
- (3) A prohibited weapons—leaving Australia permit is subject to the following conditions—
  - (a) the permit only authorises possession of the prohibited weapon by having the weapon in the custody of an authorised weapons dealer or customs authority,
  - (b) the permit remains in force, unless sooner surrendered or revoked, until the expiration of 7 days from the date of its issue.

- (4) In this clause, **customs authority** means a person exercising functions under the *Customs Act 1901* of the Commonwealth.

## **29 Remote control permit**

- (1) The Commissioner may, on application by a person, issue a prohibited weapons—remote control permit that authorises the person to possess or use by remote control a prohibited weapon to which the permit relates.
- (2) The Commissioner must not issue a prohibited weapons—remote control permit unless the applicant satisfies the Commissioner that the applicant has a special need that justifies the possession or use of a prohibited weapon by remote control.

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

### **30 Additional restrictions in relation to issuing weapons dealer 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 as a genuine commercial enterprise at those premises, and
  - (b) those premises are suitable for carrying on the business of a weapons dealer, and
  - (c) any consent or approval of the local consent authority that is required for the use of the premises for the purposes of the business of a weapons dealer has been granted.
- (2) In considering whether or not 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 prohibited weapons by means of a safe or strongroom 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.

### **31 Requirement for public liability insurance**

An authorised weapons dealer who conducts the business of a weapons dealer at retail premises that are open to the public must obtain and maintain an insurance policy that is



in an approved form and that provides cover for public liability incurred in connection with the carrying on of the business of a weapons dealer, being a policy that provides for cover for an amount of not less than \$10,000,000.

Maximum penalty—50 penalty units.

### 32 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 accompanied by the fee payable under clause 14 (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 issue a replacement permit to give effect to the change of premises to which the permit relates.

### 33 Death of weapons dealer

- (1) Following the death of an authorised weapons dealer (***the dealer***), the person responsible for the dealer's business must—
  - (a) notify a police officer of the death of the dealer as soon as practicable (and in any event within 14 days) after the person becomes the person responsible for the dealer's business, and
  - (b) permit access by a police officer at any reasonable time to the premises on which the dealer's business was carried on (the ***dealer's business premises***), and
  - (c) permit access by a police officer at any reasonable time to any records kept by the dealer for the purposes of the Act and allow the police officer to make copies of any such records, and
  - (d) make any prohibited weapon on the dealer's business premises available for inspection by a police officer at the dealer's business premises at any reasonable time, and
  - (e) comply with any direction of a police officer for ensuring the safe keeping and proper storage in accordance with the Act of any prohibited weapon on the dealer's business premises.

Maximum penalty—50 penalty units.

- (2) The ***person responsible for the dealer's business*** is the executor or administrator of the estate of the dealer or any other person who takes control of the dealer's business or possession of the dealer's business premises following the death of the dealer.
- (3) A person is not required to notify the death of the dealer as required by this clause if another person has notified the death in compliance with this clause.

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

### **34 Authority conferred by permit on person under 18 years**

- (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) of Schedule 1 to the Act.

### **35 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, and
  - (c) if the applicant currently holds a theatrical weapons armourer permit, the applicant can demonstrate that he or she—
    - (i) has been employed as a theatrical weapons armourer or has actively participated in the business of theatrical weapons armory for a significant proportion of the term of that permit, or
    - (ii) has not been able to be so employed or to participate because of illness, redundancy or other reason satisfactory to the Commissioner.
- (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 a safe, strongroom 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.

### **36 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.

### **37 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 such 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.

### **38 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 14 (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 issue a replacement permit to give effect to the change of premises to which the permit relates.

## **Part 6 Approval of clubs**

### **39 Approved clubs for genuine reasons**

A club may be approved under this Part as—

- (a) an historical or commemorative club or society—for the purposes of the genuine reason of historical re-enactment purposes, or
- (b) a collectors' club or society—in relation to the genuine reason of weapons collection.

### **40 Approval of club**

- (1) An application for the Commissioner's approval of a club may be made by the secretary of the club (or other relevant office holder if there is no secretary) by lodging with the Commissioner an application in the approved form, together with—
  - (a) a certificate given by the applicant in the approved form setting out the full name, date of birth and residential address of each member of the club, and
  - (b) a copy of the rules of the club, and
  - (c) such other information and documents as the Commissioner may require.
- (2) The Commissioner may—
  - (a) grant the approval either unconditionally or subject to such conditions as the Commissioner thinks fit, or
  - (b) refuse the application.
- (3) The Commissioner must not grant an approval unless—
  - (a) the club concerned consists of 10 or more active members and has been established for at least 3 months, and

- (b) the Commissioner is satisfied the club has rules that are appropriate, and
- (c) the Commissioner is satisfied that—
  - (i) the club has a genuine and proper constitution, and
  - (ii) the club will conduct its activities with proper regard to the preservation of public safety or the peace, and
  - (iii) the club will conduct regular meetings and activities, and
  - (iv) the club will maintain adequate public liability and member insurance.
- (4) In considering whether to grant an approval, the Commissioner may have regard to any training activities undertaken by the club.
- (5) Despite subclause (3) (a), the Commissioner may, in the case of a club that has at least 5 active members, grant an approval if—
  - (a) the club meets the other criteria for approval under this clause, and
  - (b) the Commissioner is satisfied that, because of the location of the club, the number of active members is appropriate.

#### **41 Revocation of approval of club**

- (1) The Commissioner may revoke an approval of a club for such reason as the Commissioner thinks fit.
- (2) Without limiting subclause (1), the Commissioner may revoke an approval if—
  - (a) the Commissioner is satisfied that the number of active members of the club is less than 10 (or less than 5 in the case of an approval referred to in clause 40 (5)), or
  - (b) the Commissioner is satisfied that the club is not being conducted with proper regard to the preservation of public safety or the peace, or
  - (c) the Commissioner is satisfied that any conditions to which the approval is subject have not been complied with.
- (3) Revocation of an approval takes effect when written notice of it is served personally or by post on the secretary or other relevant office holder of the club concerned.

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

If a member of a club is convicted of an offence referred to in clause 5 (1), the person who is the secretary of the club (or, if there is no secretary, the person who occupies the most senior executive position in the club) must, as soon as practicable after the person is

made aware of that conviction, take such action as is reasonably within the person's capacity to prevent the club member from participating in any activity of the club that involves the possession or use of prohibited weapons.

Maximum penalty—50 penalty units.

#### **43 Conditions of approval of club**

- (1) The conditions of an approval of a club may relate to any of the following matters—
  - (a) the control, administration or management of the club,
  - (b) the membership of the club,
  - (c) the preservation of public safety or the peace.
- (2) Without limiting subclause (1), the approval of a club is subject to the condition that the secretary or other relevant office holder of the club must notify the Commissioner (at the same time as the submission of the relevant annual return) of the particulars of—
  - (a) any change in the membership of the club that involves a member leaving the club or not renewing his or her membership, and
  - (b) any change in the personal details of a club member that has been notified to the secretary or other relevant office holder in accordance with clause 44.
- (3) The Commissioner may—
  - (a) vary or revoke any conditions subject to which an approval has been granted, or
  - (b) attach to any approval additional conditions of the kind referred to in subclause (1).
- (4) Any such variation, revocation or additional condition takes effect when written notice of it is served personally or by post on the secretary or other relevant office holder of the club concerned.

#### **44 Club member must notify change in personal details**

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

Maximum penalty—20 penalty units.

#### **45 Disclosure of information by Commissioner**

The Commissioner is authorised to disclose to the secretary or other relevant office holder

of an approved club, or of any association with which an approved club is affiliated, any information as to the following—

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

## Part 7 Miscellaneous provisions

### 46 Apprehended violence orders and interim apprehended violence orders of other jurisdictions

- (1) For the purposes of the definition of **apprehended violence order** in section 4 (1) of the Act, the following orders or decisions are prescribed—
  - (a1) a federal family violence order under the [Family Law Act 1975 of the Commonwealth](#),
  - (a) an injunction under section 68B(1)(a) or 114(1)(a) of the [Family Law Act 1975](#) of the Commonwealth,
  - (b) a protection order under the *Domestic and Family Violence Protection Act 2012* of Queensland,
  - (c) a restraining order under the *Summary Procedure Act 1921* of South Australia,
  - (d) an intervention order under the *Intervention Orders (Prevention of Abuse) Act 2009* of South Australia,
  - (e) a restraint order under the *Justices Act 1959* of Tasmania or a family violence order (including a police family violence order) under the *Family Violence Act 2004* of Tasmania,
  - (f) a family violence intervention order under the *Family Violence Protection Act 2008* of Victoria,
  - (g) a restraining order under the *Restraining Orders Act 1997* of Western Australia,
  - (h) a protection order under the *Family Violence Act 2016* of the Australian Capital Territory,
  - (i) a domestic violence order under the *Domestic and Family Violence Act* of the Northern Territory.

- (2) For the purposes of the definition of ***interim apprehended violence order*** in section 4 (1) of the Act, the following orders are prescribed—
- (a) a temporary protection order under the *Domestic and Family Violence Protection Act 2012* of Queensland,
  - (b) an interim restraint order under the *Justices Act 1959* of Tasmania or an interim family violence order under the *Family Violence Act 2004* of Tasmania,
  - (c) an interim order under the *Family Violence Protection Act 2008* of Victoria,
  - (d) an interim order under the *Family Violence Act 2016* of the Australian Capital Territory.

#### **47 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 or in such other manner as may be approved of that loss, theft or destruction.

Maximum penalty—50 penalty units.

#### **48 Safe keeping requirement levels**

- (1) **Level 1 requirements** For the purposes of section 32B (1) of the Act, a prohibited weapon referred to in any of the following provisions of Schedule 1 to the Act is prescribed as a prohibited weapon that must comply with a level 1 requirement—
- (a) clause 1,
  - (b) clause 2 (4)–(17A), (19)–(21) or (24),
  - (c) clause 3 (1)–(6),
  - (d) clause 4 (2) or (4)–(8).
- (2) **Level 2 requirements** For the purposes of section 32C (1) of the Act, a prohibited weapon referred to in any of the following provisions of Schedule 1 to the Act is prescribed as a prohibited weapon that must comply with a level 2 requirement—
- (a) clause 2 (18)–(18B), (22) or (23),
  - (b) clause 4 (1) or (3).
- (3) **Level 3 requirements** For the purposes of section 32D (1) of the Act, a prohibited weapon referred to in clause 4 (9) of Schedule 1 to the Act is prescribed as a prohibited weapon that must comply with a level 3 requirement.

**Note—**



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

#### **49 Amnesty for surrender of prohibited weapons**

- (1) A person is exempt from the possession restriction of the Act in respect of a prohibited weapon while in possession of the prohibited weapon at a police station or participating dealer, or while proceeding to a police station or participating dealer, for the purposes of surrendering the prohibited weapon.
- (2) The surrender of a prohibited weapon does not constitute a supply of the prohibited weapon.
- (2A) A participating dealer is exempt from section 24(3) of the Act in respect of a prohibited weapon surrendered to the participating dealer.
- (3) A participating dealer who comes into possession of a prohibited weapon during the amnesty period is exempt from the possession restriction of the Act in respect of the prohibited weapon while complying in respect of the prohibited weapon with any directions of the Commissioner as to how a participating dealer must deal with such a prohibited weapon.
- (3A) An exemption under subclause (2A) or (3) applies only if the participating dealer acquires and possesses the prohibited weapon in good faith for the purposes of this clause.
- (4) This clause does not apply to a person who is subject to a weapons prohibition order, a firearms prohibition order under the [Firearms Act 1996](#), an apprehended violence order or an interim apprehended violence order.
- (5) The Commissioner may publish information and advice about how a person should go about surrendering a prohibited weapon.
- (6) In this clause—

**participating dealer** means—

- (a) an authorised weapons dealer, or
- (b) the holder of a firearms dealer licence under the [Firearms Act 1996](#).

**possession restriction** of the Act means the requirement under section 7 of the Act to hold a permit authorising possession of a prohibited weapon.

**prohibited weapon** includes any part of a prohibited weapon.

**surrender** of a prohibited weapon means the surrender of a prohibited weapon to the Commissioner on behalf of the State.

## 50 Savings

- (1) Any act, matter or thing that, immediately before the repeal of the *Weapons Prohibition Regulation 2009*, had effect under that Regulation, continues to have effect under this Regulation.
- (2) A change (resulting from the making of this Regulation or any subsequent amendment to this Regulation) to the grounds on which the issue of a permit under the Act must be refused does not affect the issue of a permit before the change takes effect.

## 51 Repeal of Schedule 2

- (1) Schedule 2 is repealed on the day that is 12 months after the day on which the *Weapons Prohibition Amendment (COVID-19) Regulation 2020* commences.
- (2) Anything done, or omitted to be done, pursuant to a provision of Schedule 2, or any modification of a period of time by a provision of Schedule 2, remains as legally effective after the repeal of the Schedule as it was before the repeal.

## Schedule 1 Persons exempt from requirement for permit

(Clause 4)

### 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 1A (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 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) a correctional officer within the meaning of the *Crimes (Administration of Sentences) Act 1999* who is engaged in court security and escort duties,
  - (b) a sheriff's officer within the meaning of the *Sheriff Act 2005*,
  - (c) an Officer of Customs within the meaning of the *Customs Act 1901* of the Commonwealth,
  - (d) a fisheries officer within the meaning of the *Fisheries Management Act 1994*,

- (e) a person appointed under the *Local Government Act 1993* as—
    - (i) an authorised person for the purpose of enforcing any of the provisions of Part 2 of Chapter 16 of that Act, or
    - (ii) an enforcement officer for the purposes of section 642 of that Act,
  - (f) an administrative officer (or an administrative employee) within the meaning of the *Police Act 1990*,
  - (g) a person employed in the Office of the Law Enforcement Conduct Commission to carry on security activities within the meaning of the *Security Industry Act 1997*,
  - (h) a person 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 holds a class 1A, 1D or 1F licence under that Act,
  - (i) a person carrying on a security activity referred to in section 4 (1) (j) or (k) of the *Security Industry Act 1997* and who holds a class 2D licence under that Act,
  - (j) an inspector within the meaning of Division 2 of Part 2A of the *Prevention of Cruelty to Animals Act 1979*.
- (2) A person employed in the Department of 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 that employment and only if the Commissioner is satisfied that the person has been trained in the use of the prohibited weapon.
- (2A) A fisheries officer, within the meaning of the *Fisheries Management Act 1994*, is exempt from the requirement under the Act for a permit to possess or use a prohibited weapon referred to in Schedule 1, clause 2(17A) or 4(2) of the Act when exercising a function as an authorised officer under any of the following, but only if the Commissioner is satisfied that the officer has been trained in the use of the prohibited weapon—
- (a) *Biosecurity Act 2015*,
  - (b) *Marine Estate Management Act 2014*,
  - (c) *Marine Safety Act 1998*,
  - (d) *National Parks and Wildlife Act 1974*,
  - (e) *Rock Fishing Safety Act 2016*.

**Note—**

An exemption from the requirement under the Act for a permit to possess or use a prohibited weapon does

not itself authorise the use of the weapon as enforcement powers are conferred and limited by the relevant Act.

(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) Failure to comply with the condition under subclause (3) is an offence.

Maximum penalty—50 penalty units.

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

(1) A sheriff's officer within the meaning of the *Sheriff Act 2005* 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) Failure to comply with the condition under subclause (2) is an offence.

Maximum penalty—50 penalty units.

### **4 Firearm magazines**

(1) The holder of a category D licence 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 (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) If a person who holds a category B licence under the *Firearms Act 1996* (including a special category B licence referred to in Part 10 of Schedule 3 to that Act) is authorised to possess and use a lever action shotgun with a magazine capacity of more than 5 rounds as a result of the shotgun being deemed to be a firearm to which the person's category B licence applies, the person is deemed for the purposes of subclause (1) to be the holder of a category D licence under that Act in respect of the shotgun.

- (3) 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) (f) 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*.
- (4) A person who holds a firearms dealer licence under the *Firearms Act 1996* is exempt from the requirement under the Act for a permit to possess, purchase, sell, manufacture, send or receive a detachable firearm magazine referred to in clause 4 of Schedule 1 to the Act that is designed to be attached to a firearm that the person is authorised by that licence to possess or supply under the *Firearms Act 1996*.

#### **5 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.

#### **6 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.

#### **7 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.

### **8 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 or in such other manner as may be approved 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) until the end of the 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.

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

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 4 (8) of Schedule 1 to the Act—

- (a) a person who is (or has been within an approved period) a member of an approved astronomical organisation, but only for the purpose of enabling the person to take part in activities associated with astronomy,
- (b) a person who is the holder of a licence or permit under the *Firearms Act 1996*, but only in relation to its use in connection with a firearm to which the licence or permit under that Act applies,
- (c) a person employed in Fire and Rescue NSW, or a member of a fire brigade or community fire unit within the meaning of the *Fire and Rescue NSW Act 1989*, but only in relation to the use, in the course of exercising a function under that Act, of a thermal imaging camera that emits a laser beam.

### **10 Exemption for interstate re-enactment participants**

A person who—

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

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 an historical or commemorative re-enactment event for which a prohibited weapons—re-enactment event permit has been issued.

#### **11 Possession and use of body armour vests**

- (1) A sheriff's officer, within the meaning of the *Sheriff Act 2005*, is exempt from the requirement under the Act for a permit to possess or use a prohibited weapon referred to in clause 4 (1) of Schedule 1 to the Act, but only when acting in the course of employment as a sheriff's officer.
- (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) Failure to comply with the condition under subclause (2) is an offence.

Maximum penalty—50 penalty units.

#### **Schedule 2 (Repealed)**