

# Paintball Act 2018 No 44

[2018-44]



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.

### Responsible Minister

- Minister for Better Regulation and Fair Trading

For full details of Ministerial responsibilities, see the [Administrative Arrangements \(Minns Ministry—Administration of Acts\) Order 2023](#).

### 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](#).

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# Paintball Act 2018 No 44



New South Wales

An Act to remove the regulation of paintball markers from the *Firearms Act 1996* and to instead establish a separate system of permits for the regulation of paintball markers and of paintball venues; and for other purposes.

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Paintball Act 2018*.

### 2 Commencement

This Act commences on a day or days to be appointed by proclamation.

### 3 Definitions

(1) In this Act—

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

**authorised officer** means a person appointed under Division 2 of Part 6 or a police officer.

**authorised paintball venue** means a paintball venue that is the subject of a paintball venue permit that is in force.

**authorised supplier** means the following—

- (a) the holder of a paintball venue permit,
- (b) the holder of a firearms dealer licence under the *Firearms Act 1996*,
- (c) the holder of a weapons dealer permit under the *Weapons Prohibition Act 1998*.

**close associate**—see section 4.

**Department** means the Department of Customer Service.

**equivalent authorisation** means a permit, licence, certificate, registration or other

authorisation or qualification (however described) that is issued or conferred under the law of another Australian jurisdiction and that authorises the holder to do things similar to the things that a permit authorises a holder to do and includes anything that the regulations prescribe as an equivalent authorisation but does not include anything that the regulations prescribe as not being an equivalent authorisation.

**function** includes a power, authority or duty, and **exercise** a function includes perform a duty.

**grant** a permit includes grant a renewal or restoration of a permit.

**paintball game area** has the meaning given by section 37.

**paintball marker** means a sporting device for use in the sport known as paintball that can propel, or is designed to propel, a paintball by means of any gas or mixture of gases, including air (but not including a gas or mixture of gases generated by an explosive) and is operated or designed for operation by means of a trigger or similar device, but does not include—

- (a) a paintball marker that has been modified to propel something other than a paintball, or
- (b) a paintball marker prescribed by the regulations.

**Note—**

A paintball marker may also be an imitation firearm within the meaning of the [Firearms Act 1996](#). The [Firearms Act 1996](#), section 4D requires the holding of a permit to authorise the possession or use of an imitation firearm. This may mean a person is required to hold a paintball marker permit under this Act and an imitation firearm permit.

**paintball venue** means a place at which the sport known as paintball is played or at which paintball markers are used.

**permit** means a paintball venue permit, a paintball marker permit or an international paintball competitor permit granted under Part 3.

**possession** of a paintball marker includes any case in which a person knowingly—

- (a) has custody of the paintball marker, or
- (b) has the paintball marker in the custody of another person, or
- (c) has the paintball marker in or on any premises whether or not belonging to or occupied by the person.

**premises** includes—

- (a) a building or structure, or

- (b) land or a place (whether enclosed or built on or not), or
- (c) a mobile plant, vehicle, vessel or aircraft.

**Register** means the Register of paintball markers compiled and maintained under Part 7.

**relevant offence** means an offence against any of the following Acts or provisions of Acts or the regulations under those Acts or provisions—

- (a) this Act,
- (b) the *Firearms Act 1996*,
- (c) the *Crimes Act 1900* but only in respect of an offence involving a firearm or offensive weapon or instrument or an offence prescribed by the regulations,
- (d) the *Weapons Prohibition Act 1998*,
- (e) any other Act, or provision of an Act, prescribed by the regulations.

**Secretary** means—

- (a) the Commissioner for Fair Trading, Department of Customer Service, or
- (b) if there is no person employed as Commissioner for Fair Trading—the Secretary of the Department.

**supply** means transfer ownership of, whether by sale, gift, barter, exchange or otherwise, and includes the following—

- (a) offer for supply, receive for supply, have in possession for supply or expose or exhibit for supply,
- (b) conduct negotiations for supply,
- (c) consign or deliver for supply,
- (d) cause or allow supply.

**Tribunal** means the Civil and Administrative Tribunal.

**Note—**

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

- (2) Notes included in this Act do not form part of this Act.

#### **4 Meaning of “close associate”**

- (1) For the purposes of this Act, a person is a **close associate** of an applicant for a



permit or the holder of a permit if the person—

- (a) holds or will hold any relevant financial interest, or is or will be entitled to exercise any relevant power (whether in the person's own right or on behalf of any other person), in the business of the applicant or holder that is or will be carried on under the authority of the permit, and by virtue of that interest or power is or will be able (in the opinion of the Secretary) to exercise a significant influence over or with respect to the management or operation of that business, or
  - (b) holds or will hold any relevant position, whether in the person's own right or on behalf of any other person, in the business of the applicant or holder that is or will be carried on under the authority of the permit, or
  - (c) is or will be engaged as a contractor or employed in the business of the applicant or holder that is or will be carried on under the authority of the permit.
- (2) For the purposes of this section, a financial institution is not a close associate by reason only of having a relevant financial interest in relation to a business.
- (3) The provisions of this section extend to relevant financial interests and relevant powers even if those interests and powers are not payable, exercisable or otherwise enforceable as a matter of law or equity, but are nevertheless payable, exercisable or otherwise enforceable as a matter of fact.
- (4) In this section—

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

- (a) any share in the capital of the business, or
- (b) any entitlement to receive any income derived from the business, or to receive any other financial benefit or financial advantage from the carrying on of the business, whether the entitlement arises at law or in equity or otherwise, or
- (c) any entitlement to receive any rent, profit or other income in connection with the use or occupation of premises on which the business is or is to be carried on (such as, for example, an entitlement of the owner of the premises at which the business is carried on to receive rent as lessor of the premises).

**relevant position** means—

- (a) the position of director, manager or secretary, or
- (b) any other position, however designated, if it is an executive position.

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

- (a) to participate in any directorial, managerial or executive decision, or

(b) to elect or appoint any person to any relevant position.

## **Part 2 Key offences**

### **5 Using paintball marker other than at authorised paintball venue**

- (1) A person must not use a paintball marker other than at an authorised paintball venue.  
Maximum penalty—imprisonment for 2 years or 500 penalty units (or both).
- (2) A person does not commit an offence against this section if—
- (a) the person is authorised by the Secretary to use the paintball marker at a place other than an authorised paintball venue, and
  - (b) the person uses the paintball marker in accordance with the authorisation.
- (3) The regulations may prescribe matters in relation to applications for authorisations including—
- (a) the process for making an application, and
  - (b) application forms approved by the Secretary, and
  - (c) application fees, including the reduction, postponement, waiver or refund of fees, and
  - (d) considerations the Secretary must take into account when deciding whether to approve an application, and
  - (e) the process for applications to the Civil and Administrative Tribunal for an administrative review under the *Administrative Decisions Review Act 1997* of a decision under this Act in relation to an application.

#### **Note—**

For the *Crimes Act 1900*, a reference to a firearm means a firearm within the meaning of the *Firearms Act 1996*, and is taken to include a paintball marker within the meaning of this Act. Consequently, being authorised under the *Firearms Act 1996* to possess a paintball marker satisfies a requirement in the *Crimes Act 1900* that possession of the paintball marker is authorised under the *Firearms Act 1996*. See the *Crimes Act 1900*, section 4(7A).

### **6 Possessing paintball marker without permit other than at authorised paintball venue**

A person must not possess a paintball marker other than at an authorised paintball venue unless the person is authorised to do so by a permit.

Maximum penalty—imprisonment for 12 months or 200 penalty units (or both).

### **7 Purchasing or obtaining paintball marker without permit**

- (1) A person must not purchase (or otherwise obtain possession of) a paintball marker

unless the person is authorised to do so by a permit.

Maximum penalty—imprisonment for 12 months or 200 penalty units (or both).

- (2) This section does not apply to a person who obtains temporary possession of a paintball marker at a paintball venue solely for use at that venue.

### **8 Operating paintball venue without permit**

A person must not operate a paintball venue unless the person is authorised to do so by a permit.

Maximum penalty—imprisonment for 2 years or 1,000 penalty units (or both).

### **9 Unauthorised supply of paintball markers**

- (1) A person must not supply a paintball marker unless—

- (a) the person is an authorised supplier and the supply of the paintball marker is to another authorised supplier or to the holder of a permit under this Act that authorises the holder to purchase the paintball marker, or
- (b) the person is the holder of a permit under this Act that authorises the holder to possess the paintball marker and the supply of the paintball marker is to an authorised supplier, or
- (c) the person is the holder of an authorisation issued under the law of another Australian jurisdiction equivalent to a firearms dealer licence under the *Firearms Act 1996* or a weapons dealer permit under the *Weapons Prohibition Act 1998* and the supply of the paintball marker is to an authorised supplier.

Maximum penalty—imprisonment for 6 months or 200 penalty units (or both).

- (2) This section does not apply to the supply of a paintball marker if the supply is otherwise authorised by a permit.

### **10 Unauthorised disposal of paintball markers**

- (1) A person other than an authorised supplier must not dispose of a paintball marker.

Maximum penalty—imprisonment for 6 months or 200 penalty units (or both).

- (2) This section does not apply to the disposal of a seized paintball marker by an authorised officer or disposal in accordance with an order of the Local Court under section 70.

## **Part 3 Permits**

### **Division 1 Preliminary**

#### **11 Paintball venue permit**

- (1) The Secretary may, by granting a paintball venue permit under this Part, authorise a person to do the following—
  - (a) operate a paintball venue,
  - (b) purchase and possess paintball markers for the purposes of operating that venue,
  - (c) supply paintball markers to persons at that venue solely for the temporary use of the paintball markers at that venue,
  - (d) supply paintball markers to another holder of a paintball venue permit under a paintball marker sharing arrangement that complies with the regulations,
  - (e) anything else prescribed by the regulations.
- (2) Each paintball venue requires a separate paintball venue permit.
- (3) A paintball venue permit is subject to any conditions of the permit.

#### **12 Paintball marker permit**

- (1) The Secretary may, by granting a paintball marker permit under this Part, authorise a natural person to do the following—
  - (a) purchase (or otherwise obtain possession of) 1 or more paintball markers,
  - (b) possess 1 or more paintball markers other than at an authorised paintball venue,
  - (c) anything else prescribed by the regulations.
- (2) A paintball marker permit is subject to any conditions of the permit.

#### **13 International paintball competitor permit**

- (1) The Secretary may, by granting an international paintball competitor permit under this Part, authorise a natural person to do the following—
  - (a) possess, other than at an authorised paintball venue, 1 or more paintball markers that the person brought into the State,
  - (b) anything else prescribed by the regulations.
- (2) An international paintball competitor permit is subject to any conditions of the permit.
- (3) A person is disqualified from holding an international paintball competitor permit

unless the person resides in a country other than Australia and requires the permit to compete in a paintball competition in this State.

#### **14 Grounds for finding a person not suitable to hold a permit**

- (1) A person is not a suitable person to hold a permit if—
  - (a) the person is disqualified under this Act from holding the permit, or
  - (b) the person (including, if the person is a body corporate, a director of the body corporate) is a natural person who is under 18 years of age, or
  - (c) the person (including, if the person is a body corporate, a director of the body corporate) is not a fit and proper person to hold the permit, or
  - (d) the person is a mentally incapacitated person, or
  - (e) the person has not completed any course of training that may be prescribed by the regulations in respect of the particular permit, or
  - (f) the Secretary is of the opinion that the person is not a suitable person to hold the permit.
- (2) The Secretary may form an opinion that a person is not a suitable person to hold a permit in any one or more of the following circumstances—
  - (a) the person (including, if the person is a body corporate, a director of the body corporate) has, within the previous 10 years, been convicted of a relevant offence,
  - (b) the person (including, if the person is a body corporate, a director of the body corporate) is an undischarged bankrupt,
  - (c) the person is a body corporate that is being wound up,
  - (d) the person has contravened a requirement imposed by or under this Act or any other Act or law prescribed by the regulations,
  - (e) an equivalent authorisation of the person has been suspended or cancelled (other than at the person's request) under the law of another Australian jurisdiction,
  - (f) the person is disqualified (other than on the grounds of not residing in that jurisdiction or on the grounds that the person is a body corporate) from holding an equivalent authorisation under the law of another Australian jurisdiction,
  - (g) a close associate of the person who would not be a fit and proper person to hold the permit exercises a significant influence over the person or the operation and management of the person's business,
  - (h) any other circumstances prescribed by the regulations.

## Division 2 Application for permit

### 15 Application for permit

- (1) A person may apply to the Secretary for the grant of a permit.

**Note—**

The definition of **grant** a permit in section 3 (1) includes grant a renewal or restoration of a permit.

- (2) An application must—

- (a) be in an approved form, and
- (b) include or be accompanied by any information or evidence that the Secretary reasonably requires to assess the application.

**Note—**

Part 5A of the *Crimes Act 1900* contains offences relating to the making of false or misleading applications or providing false or misleading information or documents. Those offences have a maximum penalty of imprisonment for 2 years or a fine of \$22,000 (or both).

- (3) The regulations may provide for a fee to be paid for an application for the grant of a permit.
- (4) The Secretary may require the fee to accompany the application.
- (5) If the Secretary considers it necessary to do so, the Secretary may require further documents or information to be provided by the applicant.
- (6) If an application for the grant of a renewal of a permit is duly made to the Secretary before the expiry of a permit, the permit is taken to continue in force until the Secretary notifies the applicant of a decision to grant or refuse the application.

### 16 Secretary may obtain information from third parties

- (1) The Secretary may, by notice in writing, require an applicant or a close associate of the applicant—
- (a) to authorise a person described in the notice—
- (i) to provide such information as is specified in the notice as is relevant to the investigation of the application, or
- (ii) to produce, in accordance with directions in the notice, such records relevant to the investigation of the application as are specified in the notice and to permit examination of the records, the taking of extracts from them and the making of copies of them, or
- (b) to furnish to the Secretary such authorities and consents as the Secretary directs for the purpose of enabling the Secretary to obtain information (including financial

and other confidential information) from other persons concerning the person or close associate.

- (2) If a requirement made under this section is not complied with, the Secretary may refuse to consider the application concerned while the non-compliance continues.
- (3) A person who complies with a requirement of a notice under this section does not on that account incur a liability to another person.

#### **17 Grant or refusal of permit**

- (1) The Secretary may, on application, grant or refuse a permit.
- (2) The Secretary may refuse a permit—
  - (a) if the application for the permit does not comply with any requirement imposed by or under this Act, or
  - (b) on any grounds prescribed by the regulations.
- (3) The Secretary must refuse a permit if the applicant is not a suitable person to hold the permit.
- (4) The Secretary is to give the applicant notice in writing of a decision to grant or refuse a permit.
- (5) If the Secretary fails to give an applicant for a permit notice of a decision to grant or refuse the permit within the period prescribed by the regulations, the Secretary is taken to have refused to grant the permit.

#### **18 Duration of permit**

- (1) A permit remains in force for a period not exceeding 5 years (or 1 year in the case of an international paintball competitor permit) specified by the Secretary in the notice by which a permit is granted, unless sooner cancelled.
- (2) A permit has no effect during any period in which the permit is suspended.

#### **19 Variation of permit**

- (1) The Secretary may, at any time, by notice in writing to the holder of a permit, vary the permit (including any conditions of the permit imposed by the Secretary).
- (2) A variation includes the imposition of new conditions on a permit, the substitution of a condition or the removal or amendment of a condition.
- (3) The regulations may make further provision for the variation of a permit, including—
  - (a) applications for variation, and

- (b) fees for applications for variation.

## **Division 3 Conditions of permit**

### **20 Conditions of a permit**

- (1) A permit is subject to the following conditions—
  - (a) the conditions set out in this Act,
  - (b) any conditions prescribed by the regulations,
  - (c) any conditions imposed by the Secretary.
- (2) The Secretary may impose conditions on a permit—
  - (a) at the time of the grant of a permit, or
  - (b) at any other time by variation of the permit.
- (3) A provision of this Division that authorises a type of condition to be imposed on a permit does not prevent other types of conditions being imposed, or limit the matters that can be provided for by conditions, except where expressly provided for by this Division.

### **21 Compliance with rules**

The conditions of a permit may require the holder of a permit to comply with specified rules of conduct made by the Secretary and published on the NSW legislation website.

### **22 Conditions may provide that authorisation takes effect later**

The conditions of a permit may provide that an authorisation conferred by the permit does not take effect until the end of a specified period or on the happening of a particular event or on the occurrence of a specified state of affairs.

## **Division 4 Suspension or cancellation of a permit**

### **23 Grounds for suspension or cancellation of a permit**

Each of the following constitutes grounds for suspending or cancelling a permit—

- (a) the holder of a permit is not a suitable person to hold the permit,
- (b) the holder of a permit is not entitled to hold the permit,
- (c) the holder of a permit has requested the Secretary to suspend or cancel the permit,
- (d) the permit was granted in error,
- (e) the Secretary has determined to suspend or cancel the permit under Part 5,



- (f) any other grounds prescribed by the regulations.

#### **24 Suspension of a permit**

- (1) The Secretary may, by notice in writing to a holder of a permit, suspend the permit if the Secretary is satisfied that there are grounds for the suspension of the permit.
- (2) Notice of the suspension must specify—
  - (a) the date or time from which suspension takes effect, and
  - (b) the period of suspension, and
  - (c) the grounds for the suspension.

#### **25 Cancellation of a permit**

- (1) The Secretary may, by notice in writing to a holder of a permit, cancel the permit if the Secretary is satisfied that there are grounds for the cancellation of a permit.
- (2) Notice of the cancellation must specify—
  - (a) the date or time from which cancellation takes effect, and
  - (b) the grounds for the cancellation.

#### **26 Suspension or cancellation may be subject to conditions**

- (1) A permit may be suspended or cancelled unconditionally or subject to such conditions as the Secretary imposes.
- (2) Those conditions may include (but are not limited to) any conditions to which the permit was subject immediately before it was suspended or cancelled.
- (3) The Secretary may, by notice in writing given to the former holder of a permit, attach new conditions to, or vary or revoke any existing conditions of, the suspension or cancellation of the permit.

#### **27 Direction regarding paintball markers when permit is suspended or cancelled**

- (1) When suspending or cancelling a permit the Secretary is to direct the holder of the permit as to the action the holder is required to take with respect to any paintball markers in the possession of the holder.
- (2) A direction may specify a time within which the action must be taken.
- (3) A direction may require that a paintball marker be surrendered to an authorised officer.
- (4) A person who fails without reasonable excuse to comply with a direction is guilty of an

offence.

Maximum penalty—imprisonment for 6 months or 200 penalty units (or both).

- (5) A person who is complying with a direction is authorised to do so despite any other provision of this Act.

## **Division 5 Miscellaneous**

### **28 Offence of contravening condition**

- (1) A holder of a permit (including a former holder of a permit) who contravenes any of the following is guilty of an offence—
- (a) a condition of the permit (other than a condition set out in section 33 (1) or 34 (1) or (2)),
  - (b) a condition of a suspension or cancellation of a permit.

Maximum penalty—1,000 penalty units.

- (2) Despite subsection (1), the regulations may prescribe a lesser maximum penalty for contravention of a condition prescribed by the regulations.
- (3) A holder of a permit who contravenes a condition of a permit where the contravention causes any of the following is guilty of an offence—
- (a) a person being injured by the illegal use of a paintball marker,
  - (b) a significant risk to a person's safety by the illegal use (or threatened illegal use) of a paintball marker.

Maximum penalty—imprisonment for 12 months or 20 penalty units (or both).

### **29 Permit not transferable**

A permit is not transferable.

### **30 Offence of lending a permit**

- (1) A holder of a permit must not let out, hire or lend the permit to any other person or permit any other person to use the permit.

Maximum penalty—imprisonment for 6 months or 200 penalty units (or both).

- (2) A court that convicts a person of an offence against this section is to order the cancellation of the permit concerned. The permit is cancelled on the making of the order.

### **31 Review by NCAT**

A person aggrieved by any of the following decisions may apply to the Tribunal for an administrative review under the *Administrative Decisions Review Act 1997* of the decision—

- (a) a decision of the Secretary to refuse to grant a permit,
- (b) a decision of the Secretary to suspend or cancel a permit,
- (c) a decision of the Secretary to refuse an application to vary a permit,
- (d) a decision of the Secretary to impose any condition on a permit, or on the suspension or cancellation of a permit,
- (e) a decision of the Secretary to give a direction when suspending or cancelling a permit,
- (f) a decision of the Secretary to vary a permit.

## **Part 4 Conditions of permits**

### **Division 1 Conditions of all permits**

#### **32 Requirements of Division are conditions of every permit**

Each of the requirements set out in this Division (or set out in regulations made under this Division) is a condition of every permit.

#### **33 Storage of paintball markers**

- (1) Paintball markers must be stored—
  - (a) in an inoperable state (such as by having the gas canister removed), and
  - (b) in a strong lockable metal container that is locked to prevent access to the paintball marker.
- (2) The holder of a permit who contravenes the requirements of subsection (1) is guilty of an offence.

Maximum penalty—imprisonment for 6 months or 200 penalty units (or both).

- (3) The regulations may set out further requirements for or with respect to the storage of paintball markers.

#### **34 Transport of paintball markers**

- (1) Paintball markers must be transported—
  - (a) in an inoperable state (such as by having the gas canister removed), and

(b) in a secure bag or container that conceals the paintball marker and that does not indicate that it contains a paintball marker.

- (2) A paintball marker must not be left unattended when being transported, unless the paintball marker is secured in a locked vehicle.
- (3) The holder of a permit who contravenes the requirements of subsection (1) or (2) is guilty of an offence.

Maximum penalty—50 penalty units.

- (4) The regulations may set out further requirements for or with respect to the transport of paintball markers.

### **35 Maintenance, repair and disposal of paintball markers**

The regulations may set out requirements for or with respect to the maintenance, repair and disposal of paintball markers.

## **Division 2 Conditions of paintball venue permit**

### **36 Requirements of Division are conditions of paintball venue permit**

Each of the requirements set out in this Division (or set out in regulations made under this Division) is a condition of every paintball venue permit.

#### **36A Display of paintball venue permit details**

The holder of a paintball venue permit must display a copy of the permit or the permit number and the name of the permit holder in the following ways—

- (a) in a prominent position at the entry to the paintball venue,
- (b) if the holder of the permit makes information about the venue available on a publicly accessible website maintained by the holder—in a prominent position on the website,
- (c) if the holder of the permit makes information about the venue available on a publicly accessible social media platform—on the social media platform account page for the venue or permit holder.

Maximum penalty—20 penalty units.

#### **36B Use of non-venue paintball markers at paintball venue**

The holder of a paintball venue permit must ensure a person does not use the person's own paintball marker at the paintball venue unless the person's paintball marker permit has been shown to—

- (a) the holder of the paintball venue permit, or

- (b) an employee of the holder of the paintball venue permit.

Maximum penalty—200 penalty units.

### **37 Paintball game area**

- (1) An area of the paintball venue must be clearly designated with signs and boundaries as the area in which the use of paintball markers is permitted (the ***paintball game area***).
- (2) A person must not be permitted to use a paintball marker in an area other than the paintball game area.
- (3) A person must not be permitted to enter a paintball game area at any time during which there is a paintball marker in the area unless the person has protective clothing or equipment (or both) that—
  - (a) is prescribed by the regulations, or
  - (b) if no protective clothing or equipment is prescribed, is adequate to protect the person from injuries that may occur from the use of a paintball marker.

### **38 Minimum age of participants**

- (1) A child under the age of 12 years must not be permitted to possess or use a paintball marker at the paintball venue or enter the paintball game area.
- (2) A child or young person who is 12 years of age or more and under the age of 18 years must not be permitted to possess or use a paintball marker at the paintball venue or enter the paintball game area without the written consent of a person having parental control over the child or young person.

### **39 Insurance**

- (1) The holder of a paintball venue permit must maintain a policy of public liability insurance in an approved form that provides cover for public liability incurred in connection with the operation of the paintball venue, being a policy that provides for cover for an amount of not less than \$10,000,000 or such other amount as may be prescribed by the regulations.
- (2) If children or young persons under 18 years of age are permitted to possess or use a paintball marker at the paintball venue or enter the paintball game area, the insurance policy must cover those children and young persons.
- (3) The holder of a paintball venue permit must not permit a person to use a paintball marker at the paintball venue at any time during which a policy of insurance as required by this section is not in force.

#### **40 Training of staff**

The holder of a paintball venue permit must ensure that all persons employed at the paintball venue undertake any training that may be required by the regulations.

#### **41 Supervision of the use of paintball markers**

- (1) The holder of a paintball venue permit must ensure that any use of paintball markers at the paintball venue is supervised by an employee who holds a paintball marker permit or who satisfies other requirements as may be prescribed by the regulations.
- (2) The regulations may specify the level of supervision required under this section.

### **Division 3 Conditions of paintball marker permit**

#### **41A Requirements of division are conditions of paintball marker permit**

The requirements set out in this division are conditions of every paintball marker permit.

#### **41B Use of own paintball marker at paintball venue**

The holder of a paintball marker permit must not use the holder's own paintball marker at a paintball venue unless the holder shows the permit before entering the venue to—

- (a) the holder of the paintball venue permit, or
- (b) an employee of the holder of the paintball venue permit.

### **Part 5 Disciplinary action against holders of permits**

#### **42 Grounds for taking disciplinary action**

The Secretary may take disciplinary action against the holder of a permit on any one or more of the following grounds—

- (a) the holder has contravened this Act or the regulations, whether or not the holder is prosecuted or convicted for the contravention,
- (b) the holder has contravened a law of this or any other Australian jurisdiction (whether or not the contravention is an offence and whether or not the holder is prosecuted or convicted for the contravention) with respect to any of the following—
  - (i) a permit or an equivalent authorisation,
  - (ii) any other matter prescribed by the regulations,
- (c) the holder has failed to comply with a condition of the permit,
- (d) the holder has wilfully misled or obstructed the Secretary or an authorised officer in the exercise of any function under this Act,

- (e) the holder has engaged in improper or unethical conduct that indicates that the holder is unfit to hold the permit,
- (f) any other ground prescribed by the regulations.

#### **43 Notice to show cause**

- (1) This section applies if the Secretary is of the opinion that there may be grounds for taking disciplinary action under this Part against the holder of a permit.
- (2) The Secretary is to serve a notice in writing on the holder, inviting the holder to show cause why the holder should not be dealt with under this Part.
- (3) The notice must state the grounds on which the holder is required to show cause and must specify the period, being at least 14 days, during which it must be done.
- (4) The holder on whom a notice to show cause has been served may, within the period specified in the notice, make written submissions to the Secretary and provide evidence with respect to the matters to which the notice relates.
- (5) The Secretary may conduct any inquiry or make any investigation with respect to the matters to which the notice relates and the submissions made, if any, and the evidence adduced, if any, by or on behalf of the holder with respect to those matters that the Secretary thinks fit.
- (6) The Secretary must, before determining whether or not to take disciplinary action under this Part against a person, take into consideration any submission made by the person in accordance with this section.
- (7) However, the Secretary may take immediate disciplinary action without taking any steps under this section if the Secretary is of the opinion that it is in the public interest to take immediate action.

#### **44 Disciplinary action that may be taken by Secretary**

- (1) The Secretary may, if satisfied that one or more of the grounds for taking disciplinary action against the holder of a permit has been established, do any one or more of the following—
  - (a) determine to take no further action against the holder,
  - (b) caution or reprimand the holder,
  - (c) impose a condition on the permit, including a condition requiring the holder to undertake specified education or training within a specified time,
  - (d) suspend or cancel the permit in accordance with Part 3,
  - (e) disqualify the holder, either temporarily or permanently, from holding a permit.

- (2) In determining the disciplinary action to take, the Secretary must take into account any other disciplinary action taken against the person under this Part.
- (3) The Secretary is to provide a written statement of a decision made under this section to the person concerned as soon as is reasonably practicable after the decision is made.
- (4) The statement of a decision must specify—
  - (a) the decision that has been made, and
  - (b) if relevant, the date or time on which the decision takes effect, and
  - (c) the grounds for the decision.

#### **45 Review by NCAT**

A person aggrieved by a decision of the Secretary to take disciplinary action under this Part may apply to the Tribunal for an administrative review under the [Administrative Decisions Review Act 1997](#) of the decision.

#### **46 Liability for offences not affected**

- (1) A decision to take disciplinary action against a person under this Part does not affect the liability of the person for any offence against a provision of this or any other Act or of a regulation made under this or any other Act.
- (2) The Secretary is not prevented from taking disciplinary action under this Part merely because the holder of a permit concerned is subject to criminal or civil proceedings that relate to the same matters or incident to which the disciplinary action relates.

## **Part 6 Powers of authorised officers**

### **Division 1 Preliminary**

#### **47 Definitions**

In this Part—

**occupier** of premises means the person who has the management or control of the premises.

**records** includes plans, specifications, maps, reports, books and other documents (whether in writing, in electronic form or otherwise).

**specify** an act, matter or thing, includes—

- (a) describe the act, matter or thing, and
- (b) specify a class of acts, matters or things.



**vessel** means any kind of vessel used in navigation.

#### **48 Purposes for which functions under Part may be exercised**

- (1) An authorised officer may exercise the functions conferred by this Part for any of the following purposes—
  - (a) for the purpose of investigating, monitoring and enforcing compliance with the requirements imposed by or under this Act,
  - (b) for the purpose of obtaining information or records for purposes connected with the administration of this Act,
  - (c) for the purpose of enforcing, administering or executing this Act.
- (2) In this Part, a reference to an **authorised purpose** is a reference to any purpose referred to in subsection (1).

### **Division 2 Authorised officers**

#### **49 Appointment of authorised officers**

The Secretary may appoint any of the following persons as an authorised officer for the purposes of this Part—

- (a) an employee of the Department,
- (b) a person who is an investigator within the meaning of the *Fair Trading Act 1987*,
- (c) a person belonging to a class of persons prescribed by the regulations.

#### **50 Scope of authority**

- (1) An authorisation of a person as an authorised officer may be given generally, or subject to conditions, limitations or restrictions or only for limited purposes.
- (2) If such authorisation is given subject to conditions, limitations or restrictions or only for limited purposes, nothing in this Act authorises or requires the authorised officer to act in contravention of the conditions, limitations or restrictions or for other purposes.

#### **51 Identification**

- (1) Every authorised officer who is not a police officer is to be provided with an identification card as an authorised officer by the Secretary.
- (2) The Secretary may determine not to issue an identification card to an investigator within the meaning of the *Fair Trading Act 1987* who is appointed as an authorised officer and in such a case the person's certificate of identification as an investigator is taken to be the person's identification card as an authorised officer.

- (3) In the course of exercising the functions of an authorised officer under this Act, the officer must, if requested to do so by any person affected by the exercise of any such function, produce to the person the officer's identification card as an authorised officer or, in the case of a police officer, the officer's police identification.

### **Division 3 Information gathering powers**

#### **52 Exercise in conjunction with other powers**

A power conferred by this Division may be exercised whether or not a power of entry under Division 4 is being exercised.

#### **53 Powers of authorised officers to require information and records**

- (1) An authorised officer may, by notice in writing given to a person, direct the person to furnish to the officer such information or records (or both) as he or she may require for an authorised purpose.
- (2) A notice under this Division must specify the manner in which information or records are required to be furnished and a reasonable time by which the information or records are required to be furnished.
- (3) A notice under this Division may only require a person to furnish existing records that are in the person's possession or that are within the person's power to obtain lawfully.
- (4) The person to whom any record is furnished under this Division may take copies of it.
- (5) If any record directed to be furnished under this Division is in electronic, mechanical or other form, the record must be furnished in written form, unless the notice otherwise provides.

#### **54 Power of authorised officers to require answers**

- (1) An authorised officer may direct a person whom the authorised officer suspects on reasonable grounds to have knowledge of matters with respect to which information is reasonably required for an authorised purpose to answer questions with respect to those matters.
- (2) An authorised officer may, by notice in writing, direct a body corporate to nominate, in writing within the time specified in the notice, a director or officer of the body corporate to be the representative of the body corporate for the purpose of answering questions under this section.
- (3) Answers given by a person nominated under subsection (2) bind the body corporate.
- (4) An authorised officer may, by notice in writing, direct a person to attend at a specified place and time to answer questions under this section if attendance at that place is reasonably required in order that the questions can be properly put and answered.

- (5) The place and time at which a person may be directed to attend under subsection (4) is to be a place and time nominated by the authorised officer that is reasonable in the circumstances.

## **55 Recording of evidence**

- (1) An authorised officer may cause any questions and answers to questions given under this Division to be recorded if the officer has informed the person who is to be questioned that the record is to be made.
- (2) A record may be made using sound recording apparatus or audio visual apparatus, or any other method determined by the authorised officer.
- (3) A copy of any such record must be provided by the authorised officer to the person who is questioned as soon as practicable after it is made.
- (4) A record may be made under this section despite the provisions of any other law.

## **Division 4 Entry to premises**

### **56 Powers of authorised officers to enter premises**

- (1) An authorised officer may enter any premises at any reasonable hour in the daytime or at any hour during which business is in progress or is usually carried on at the premises.
- (2) A power to enter premises conferred by this Act authorises entry by foot, vehicle, vessel or aircraft or by any other means.
- (3) Entry to any premises may be effected with or without the authority of a search warrant.
- (4) When exercising a power of entry under this Part, an authorised officer may be accompanied by such assistants as the authorised officer considers necessary.

### **57 Entry into residential premises only with permission or warrant**

This Division does not empower an authorised officer to enter any part of premises used predominantly for residential purposes without the permission of the occupier or the authority of a search warrant.

### **58 Search warrants**

- (1) An authorised officer under this Act may apply to an issuing officer for the issue of a search warrant if the authorised officer believes on reasonable grounds that—
  - (a) a requirement imposed by or under this Act is being or has been contravened at any premises, or

(b) there is, in or on any premises, matter or a thing that is connected with an offence under this Act or the regulations.

(2) An issuing officer to whom such an application is made may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising an authorised officer named in the warrant—

(a) to enter the premises, and

(b) to exercise any function of an authorised officer under this Part.

(3) Division 4 of Part 5 of the *Law Enforcement (Powers and Responsibilities) Act 2002* applies to a search warrant issued under this section.

(4) In this section—

**issuing officer** means an authorised officer within the meaning of the *Law Enforcement (Powers and Responsibilities) Act 2002*.

## 59 Requiring assistance

(1) An authorised officer may direct the owner or occupier of premises, or any person in or on premises (other than a public place), to provide any reasonable assistance that the authorised officer specifies for the purposes of exercising the authorised officer's functions under this Division with respect to those premises.

(2) The direction may be given orally to the person or by notice in writing served on the person.

## 60 Powers that may be exercised on premises

(1) An authorised officer may, at any premises lawfully entered, do anything that in the opinion of the authorised officer is necessary to be done for an authorised purpose, including (but not limited to) the things specified in subsection (2).

(2) An authorised officer may do any or all of the following—

(a) examine and inspect any thing,

(b) take and remove samples of a thing,

(c) make any examinations, inquiries, measurements or tests that the authorised officer considers necessary,

(d) take any photographs or other recordings that the authorised officer considers necessary,

(e) direct a person to produce records for inspection,

(f) examine and inspect any records,

- (g) copy any records,
  - (h) seize any thing that the authorised officer has reasonable grounds for believing is connected with an offence against this Act or the regulations,
  - (i) move any seized thing from the place where it is seized or leave it at the place where it is seized and take reasonable action to restrict access to the thing,
  - (j) direct the occupier of the premises where a thing is seized to retain it at those premises or at another place under the control of the occupier,
  - (k) do anything else authorised by or under this Act.
- (3) The power to examine and inspect any thing includes a power to use reasonable force to break open or otherwise access anything such as a paintball marker storage case containing the thing.
- (4) The power to seize any thing connected with an offence includes a power to seize—
- (a) a thing with respect to which the offence has been committed, and
  - (b) a thing that will afford evidence of the commission of the offence, and
  - (c) a thing that was used for the purpose of committing the offence.
- (5) The power to do a thing under this section includes a power to arrange for that thing to be done.
- (6) A power to do something under this section with respect to a thing may be exercised without the consent of the owner of the thing.
- (7) In this section, a reference to an offence includes a reference to an offence that there are reasonable grounds for believing has been committed.

## **Division 5 Miscellaneous**

### **61 Taking possession of records to be used as evidence**

- (1) If an authorised officer takes possession of any records under this Part for the purpose of obtaining evidence or protecting evidence from destruction, they may be retained by the Secretary until the completion of any proceedings (including proceedings on appeal) in which they may be evidence.
- (2) The person from whom the records are taken must be provided, within a reasonable time after the records are taken, with a copy of the records certified by an authorised officer as a true copy.
- (3) A copy of records provided under this section is, as evidence, of equal validity to the records of which it is certified to be a copy.

## **62 Obstruction of authorised officers**

A person must not obstruct, hinder or interfere with an authorised officer in the exercise of the authorised officer's functions under this Part.

Maximum penalty—

- (a) 500 penalty units in the case of a corporation, or
- (b) 200 penalty units in any other case.

## **63 Failure to comply with direction**

A person must not, without reasonable excuse, fail to comply with a direction of an authorised officer made in accordance with this Part.

Maximum penalty—

- (a) 500 penalty units in the case of a corporation, or
- (b) 200 penalty units in any other case.

## **64 Production of permit**

The holder of a permit must not, without reasonable excuse, fail to produce the permit to an authorised officer on demand by an authorised officer.

Maximum penalty—

- (a) 500 penalty units in the case of a corporations, or
- (b) 200 penalty units in any other case.

# **Part 7 Register of paintball markers**

## **65 Register of paintball markers**

- (1) The Secretary is to cause to be compiled and maintained a Register of paintball markers.
- (2) The Register is to contain—
  - (a) the serial number of each paintball marker (or if the paintball marker has no serial number a description of the paintball marker) and the person in whose name the paintball marker is registered, and
  - (b) particulars of the permit of the person in respect of whom the paintball marker is registered, and
  - (c) such other information as may be required by the regulations to be included in the Register.

- (3) The Register is to be maintained in such form as is prescribed by the regulations.
- (4) Access to the Register is to be provided to the Commissioner of Police.
- (5) The Register is not to be made available for inspection by any member of the public.
- (6) The regulations may make provision with respect to the Register.

**66 Provision of information to Secretary about supply or disposal of paintball markers**

- (1) An authorised supplier who supplies a paintball marker to another person or who is supplied with a paintball marker from a person other than an authorised supplier must within 24 hours (or such other period as may be prescribed by the regulations) after the supply provide the Secretary with the following information—
  - (a) the serial number of the paintball marker (or if the paintball marker has no serial number a description of the paintball marker),
  - (b) the name and address and permit number of the person who supplied the paintball marker,
  - (c) the location and date of the supply,
  - (d) the name and address and permit number of the person to whom the paintball marker was supplied,
  - (e) any other information prescribed by the regulations.

Maximum penalty—200 penalty units.

- (2) This section does not apply to the supply by the holder of a paintball venue permit of a paintball marker to a person at the paintball venue solely for the temporary use of the paintball marker at that venue.
- (3) An authorised supplier who disposes of a paintball marker must within 24 hours (or such other period as may be prescribed by the regulations) after the disposal provide the Secretary with the following information—
  - (a) the serial number of the paintball marker (or if the paintball marker has no serial number a description of the paintball marker),
  - (b) the name and address and permit number of the authorised supplier who disposed of the paintball marker,
  - (c) the location and date of the disposal,
  - (d) any other information prescribed by the regulations.

Maximum penalty—200 penalty units.

(4) The regulations may make provision for or with respect to the form in which any information is to be provided under this section.

(5) In this section—

**permit number** means—

- (a) for the holder of a firearms dealer licence under the *Firearms Act 1996*—the number of the licence, and
- (b) for the holder of a weapons dealer permit under the *Weapons Prohibition Act 1998*—the number of the permit, and
- (c) for the holder of an authorisation issued under the law of another Australian jurisdiction equivalent to a firearms dealer licence or a weapons dealer permit—the number of the authorisation.

## Part 8 Miscellaneous

### 67 Authorisation granted by paintball venue permit extends to certain employees

- (1) The holder of a paintball venue permit may authorise an employee of the holder to do any of the things permitted by the permit on behalf of the holder.
- (2) In any such case the authorisation granted by the permit extends to the employee.
- (3) The holder of a paintball venue permit must not authorise an employee under this section unless the employee holds a paintball marker permit or satisfies other requirements as may be prescribed by the regulations.

### 68 Exchange of information

- (1) The Secretary may enter into an arrangement (***an information sharing arrangement***) with a relevant agency for the purposes of sharing or exchanging any information that is held by the Secretary or the agency.
- (2) The information to which an information sharing arrangement may relate is limited to information that assists in the exercise of the functions of the Secretary under this Act or the regulations or of the relevant agency concerned.
- (3) Under an information sharing arrangement, the Secretary and the relevant agency are, despite any other Act or law of the State, authorised—
  - (a) to request and receive information that is held by the other party to the arrangement, and
  - (b) to disclose that information to the other party.
- (4) In this section—



**relevant agency** means any of the following—

- (a) the NSW Police Force,
- (b) a Public Service agency within the meaning of the *Government Sector Employment Act 2013*,
- (c) a local council,
- (d) any other person or body prescribed by the regulations.

#### **69 Disclosure of criminal intelligence material**

- (1) The Secretary is not, under this or any other Act or law, required to give any reasons for not granting a permit to (or for suspending or cancelling a permit of) a person on the basis of any information provided by the NSW Police Force about the person if the giving of those reasons would disclose any criminal intelligence report or other criminal information provided by the NSW Police Force.
- (2) In determining an application for an administrative review of any decision under this Act, the Tribunal (and any Appeal Panel of the Tribunal in determining any internal appeal against such a review under the *Civil and Administrative Tribunal Act 2013*)—
  - (a) is to ensure that it does not, in the reasons for its decision or otherwise, disclose the existence or content of any criminal intelligence report or other information referred to in subsection (1), and
  - (b) in order to prevent the disclosure of any such report or other information, is to receive evidence and hear argument in the absence of the public, the applicant for the administrative review and the applicant's representative.

#### **70 Disposal of surrendered or seized paintball markers**

The Local Court may, on application by an authorised officer or by any person who claims to be the owner of a paintball marker surrendered to or seized by an authorised officer in accordance with this Act, order that the paintball marker—

- (a) be forfeited to the Crown, or
- (b) be returned to the person claiming to be the owner of the paintball marker, or
- (c) be otherwise disposed of in such manner as the Court thinks fit.

#### **71 Recognition of equivalent authorisations**

- (1) The regulations may recognise an equivalent authorisation as being equivalent to a type of permit under this Act and in any such case the equivalent authorisation is taken to be a permit of that type granted under this Act subject to—
  - (a) any conditions or limitations imposed on the equivalent authorisation under the

laws of the jurisdiction in which it was issued or conferred, and

(b) any conditions applying generally by or under this Act to permits of the type that the equivalent authorisation is taken to be.

(2) The regulations may make further provision for or with respect to the recognition of any such equivalent authorisation including (but not limited to) the duration of a permit that is taken to be in force because of this section and the variation, suspension or cancellation of any such permit.

## 72 Service of documents

(1) A document that is authorised or required by this Act or the regulations to be served on any person may be served by any of the following methods—

(a) in the case of an individual—by personal delivery to the person,

(b) by post to the address specified by the person for the service of documents of that kind,

(c) in the case of an individual who has not specified such an address—by post to the residential or business address of the person last known to the person serving the document,

(d) in the case of a corporation—by post to the registered office or any other office of the corporation or by leaving it at any such office with a person apparently over the age of 16 years,

(e) by email to an email address specified by the person for the service of documents of that kind,

(e1) by other electronic means to an address or location specified by the person for the service of documents of that kind,

(f) by any other method authorised by the regulations for the service of documents of that kind.

(2) Nothing in this section affects the operation of any provision of a law or of the rules of a court authorising a document to be served on a person by any other method.

(3) In this section, **serve** includes give or send.

## 73 Personal liability

(1) A matter or thing done or omitted to be done by the Secretary or an authorised officer or a person acting under the direction of the Secretary or an authorised officer does not, if the matter or thing was done or omitted to be done in good faith for the purpose of exercising a function under this Act, subject the Secretary or authorised officer or person so acting personally to any action, liability, claim or demand.

- (2) However, any such liability attaches instead to the Crown.

#### **74 Penalty notices**

- (1) An authorised officer may issue a penalty notice to a person if it appears to the officer that the person has committed a penalty notice offence.
- (2) A penalty notice offence is an offence against this Act or the regulations that is prescribed by the regulations as a penalty notice offence.
- (3) The *Fines Act 1996* applies to a penalty notice issued under this section.

**Note—**

The *Fines Act 1996* provides that, if a person issued with a penalty notice does not wish to have the matter determined by a court, the person may pay the amount specified in the notice and is not liable to any further proceedings for the alleged offence.

- (4) However, section 22A (1) of the *Fines Act 1996* does not apply in relation to disciplinary action under this Act.
- (5) The amount payable under a penalty notice issued under this section is the amount prescribed for the alleged offence by the regulations (not exceeding the maximum amount of penalty that could be imposed for the offence by a court).
- (6) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.

#### **75 Liability of directors etc for offences by corporation—offences attracting executive liability**

- (1) For the purposes of this section, an **executive liability offence** is an offence against section 28 that is committed by a corporation.
- (2) A person commits an offence against this section if—
- (a) a corporation commits an executive liability offence, and
  - (b) the person is—
    - (i) a director of the corporation, or
    - (ii) an individual who is involved in the management of the corporation and who is in a position to influence the conduct of the corporation in relation to the commission of the executive liability offence, and
  - (c) the person—
    - (i) knows or ought reasonably to know that the executive liability offence (or an offence of the same type) would be or is being committed, and
    - (ii) fails to take all reasonable steps to prevent or stop the commission of that

offence.

Maximum penalty—The maximum penalty for the executive liability offence if committed by an individual.

- (3) The prosecution bears the legal burden of proving the elements of the offence against this section.
- (4) The offence against this section can only be prosecuted by a person who can bring a prosecution for the executive liability offence.
- (5) This section does not affect the liability of the corporation for the executive liability offence, and applies whether or not the corporation is prosecuted for, or convicted of, the executive liability offence.
- (6) This section does not affect the application of any other law relating to the criminal liability of any persons (whether or not directors or other managers of the corporation) who are accessories to the commission of the executive liability offence or are otherwise concerned in, or party to, the commission of the executive liability offence.
- (7) In this section—

**director** has the same meaning as in the *Corporations Act 2001* of the Commonwealth.

**reasonable steps**, in relation to the commission of an executive liability offence, includes, but is not limited to, such action (if any) of the following kinds as is reasonable in all the circumstances—

- (a) action towards—
  - (i) assessing the corporation's compliance with the provision creating the executive liability offence, and
  - (ii) ensuring that the corporation arranged regular professional assessments of its compliance with the provision,
- (b) action towards ensuring that the corporation's employees, agents and contractors are provided with information, training, instruction and supervision appropriate to them to enable them to comply with the provision creating the executive liability offence so far as the provision is relevant to them,
- (c) action towards ensuring that—
  - (i) the plant, equipment and other resources, and
  - (ii) the structures, work systems and other processes,relevant to compliance with the provision creating the executive liability offence

are appropriate in all the circumstances,

- (d) action towards creating and maintaining a corporate culture that does not direct, encourage, tolerate or lead to non-compliance with the provision creating the executive liability offence.

## **76 Nature of proceedings for offences**

Proceedings for an offence under this Act or the regulations are to be dealt with summarily—

- (a) before the Local Court, or
- (b) before the District Court in its summary jurisdiction.

## **77 Evidence**

A certificate signed by the Secretary certifying any one or more of the following—

- (a) that a specified person was or was not, on a day or during a specified period, the holder of a permit,
- (b) that any permit was or was not, on a day or during a specified period, subject to specified conditions,
- (c) that any permit was or was not, on a day or during a specified period, suspended,

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

## **78 Delegation**

The Secretary may delegate the exercise of any function of the Secretary under this Act (other than this power of delegation) to—

- (a) any person employed in the Department, or
- (b) any person, or any class of persons, authorised for the purposes of this section by the regulations.

## **79 Exemptions**

- (1) The regulations may exempt any specified person, premises or thing or class of persons, premises or things from the operation of all or any specified provisions of this Act.
- (2) An exemption may be unconditional or subject to conditions.

## **80 Regulations**

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect

to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

- (1A) Without limiting subsection (1), the regulations may provide for—
- (a) fees payable under this Act or the regulations, and
  - (b) the waiver, reduction, postponement or refund by the Secretary of fees payable or paid under this Act or the regulations.
- (2) Without limiting the circumstances in which a person may be found not to be a fit and proper person for the purposes of this Act, the regulations may specify circumstances in which a person is not a fit and proper person.
- (3) A regulation may create an offence punishable by a penalty not exceeding 50 penalty units.

## **81 Review**

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The review is also to consider, in the light of those policy objectives, whether other Acts, including the *Crimes Act 1900*, continue to deal appropriately with paintball markers.
- (3) The review is to be undertaken as soon as possible after the period of 2 years from the commencement of this Act.
- (4) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 2 years.

## **82 Extraterritorial application**

This Act is intended to have extraterritorial application so far as the legislative powers of the State allow.

# **Schedule 1 Savings, transitional and other provisions**

## **Part 1 General**

### **1 Regulations**

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act or any Act that amends this Act.
- (2) Any such provision has effect despite anything to the contrary in this Schedule. The regulations may make separate savings and transitional provisions or amend this

Schedule to consolidate the savings and transitional provisions.

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

## **Part 2 Provisions consequent on enactment of this Act**

### **2 Definitions**

In this Part—

**commencement day** means the day on which Schedule 2.3 [1] commences.

**existing permit** means an international visitors competition permit (in respect of a paintball gun), a paintball game permit or a paintball gun permit under the [Firearms Regulation 2017](#).

**Firearms Act** means the [Firearms Act 1996](#).

### **3 Existing permits**

- (1) A paintball game permit issued under clause 63 of the [Firearms Regulation 2017](#) and in force immediately before the commencement day is taken on that day to be a paintball venue permit granted under this Act and the premises specified in that permit is the paintball venue to which the paintball venue permit applies.
- (2) A paintball gun permit issued under clause 64 of the [Firearms Regulation 2017](#) and in force immediately before the commencement day is taken on that day to be a paintball marker permit granted under this Act.
- (3) An international visitors competition permit (that authorises the possession of a paintball gun) issued under clause 61 of the [Firearms Regulation 2017](#) and in force immediately before the commencement day is taken on that day to be an international paintball competitor permit granted under this Act in respect of the same paintball marker to which it related before that day.

- (4) An existing permit that is taken, because of this clause, to be a permit granted under this Act continues, unless it is sooner surrendered by the holder or suspended or cancelled under this Act, in force for the unexpired portion of its term plus an additional 12 months.

#### **4 Existing applications**

- (1) An application for an existing permit that was made under the Firearms Act and that was not determined before the commencement day is taken to be an application for a corresponding permit made to the Secretary under this Act and is to be dealt with accordingly subject to the other provisions of this clause.
- (2) Any fee paid under the Firearms Act with respect to the application for the existing permit is taken to have been paid towards the application that is taken to have been made under this Act and any difference between the fee paid and the appropriate fee required to be paid under this Act is to be addressed by requiring the applicant to pay the balance of any underpayment or refunding to the applicant the balance of any overpayment.
- (2A) A course of training undertaken before the commencement day that would have been sufficient for an existing application had that application continued to be determined under the Firearms Act is taken to satisfy any requirement for training required for the issue of the corresponding permit.
- (3) In this clause—
- corresponding permit*** means—
- (a) in the case of an international visitors competition permit (that authorises the possession of a paint-ball gun)—an international paintball competitor permit, and
- (b) in the case of a paint-ball game permit—a paintball venue permit, and
- (c) in the case of a paint-ball gun permit—a paintball marker permit.

#### **5 Appeals and reviews**

- (1) Any appeal made, or review commenced, with respect to an existing permit (or an application for an existing permit) that has not been determined before the commencement day is to be determined as if the amendments made to the Firearms Act and the *Firearms Regulation 2017* by this Act had not been made.
- (2) In such a case, clause 3 applies to the existing permit as in force following any such appeal or review.

#### **6 Information on the Register**

The Commissioner of Police is to provide to the Secretary, for inclusion in the Register of



paintball markers, such information on the Register of Firearms under the Firearms Act as may be prescribed by the regulations.

### **Part 3 Provisions consequent on enactment of [Better Regulation and Customer Service Legislation Amendment \(Bushfire Relief\) Act 2020](#)**

#### **7 Definitions**

In this Part—

**amendment Act** means the [Better Regulation and Customer Service Legislation Amendment \(Bushfire Relief\) Act 2020](#).

**relevant period** means the period—

- (a) starting on 18 July 2019, and
- (b) ending immediately before the commencement of the amendment Act.

#### **8 Waiver, reduction, postponement or refund of fees before commencement**

(1) This clause applies if, during the relevant period, the Secretary waived, reduced, postponed or refunded, in whole or part, a fee payable or paid by a person under this Act or the regulations on the ground the Secretary was satisfied it was appropriate because—

- (a) the person was suffering financial hardship, or
- (b) special circumstances existed.

(2) The waiver, reduction, postponement or refund is taken to have been as valid as if it had happened after the commencement of the amendment Act.

#### **9 Power to waive, reduce, postpone or refund fees applies to events before commencement**

To remove any doubt, the power of the Secretary to waive, reduce, postpone or refund, in whole or part, a fee payable or paid under this Act or the regulations applies in relation to—

- (a) a person who was suffering financial hardship—
  - (i) during the relevant period, or
  - (ii) because of events that happened during the relevant period, or
- (b) special circumstances—
  - (i) that existed during the relevant period, or
  - (ii) that exist because of events that happened during the relevant period.

## **Schedule 2 (Repealed)**