

2003

**THE LEGISLATIVE ASSEMBLY FOR
THE AUSTRALIAN CAPITAL TERRITORY**

FIREARMS (COMPENSATION) REGULATIONS 2003

EXPLANATORY STATEMENT

SL2003-28

Circulated by the authority of

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Minister for Police and Emergency Services**

Outline

The *Firearms (Prohibited Pistols) Amendment Act 2003*, which commenced on 1 July 2003, amends the *Firearms Act 1996* (the principal Act) and the Firearms Regulations 1997 (the Firearms Regulations) made under that Act, to give effect to resolutions of the Australasian Police Ministers' Council (APMC), which were endorsed by the Council of Australian Governments (COAG), to place greater restrictions on access to certain types of pistols.

The Firearms (Compensation) Regulations 2003 (the Regulations) modify Part 12 (Transitional provisions) of the principal Act so as to clarify the provisions relating to compensation for surrendered prohibited pistols and related parts and accessories. These provisions have been adopted by all jurisdictions and are derived from the Intergovernmental Agreement Concerning the Accountability and Administrative Procedures for the Handgun Buyback (IGA) which was signed by the Chief Minister, Jon Stanhope MLA on 28 July 2003.

The Regulations also amend the Firearms Regulations to provide a definition of pre-percussion pistol, consistent with that contained in the NSW *Firearms Amendment (Prohibited Pistols) Act 2003* and to declare a pre-percussion pistol not to be a firearm for the purposes of the principal Act. This definition is relevant to collectors of historic firearms who are now required to register all percussion firearms (which are now deemed to be firearms for the purposes of the principal Act).

Formal clauses

Clauses 1, 2, 3 and 4 are formal clauses which, respectively:

- state the name of the amending Regulations;
- provide for the commencement of the amending Regulations on the day after their notification day;
- explain that part 2 of the amending Regulations applies to pistols, and parts and accessories, for which a person is entitled to compensation; and
- provide for the amending Regulations to expire on 1 July 2004.

Clause 5 explains that Part 2 of the amending Regulations modifies Part 12 (Transitional provisions) of the principal Act.

Clause 6 amends section 129 of the principal Act by inserting new definitions relating to the payment of compensation as follows:

accessory does not include a cap, jacket, carry bag, glove, safety glasses or a similar item ie items which are not specific to prohibited pistols.

amnesty period is from 1 July 2003 to 31 December 2003.

major part for a pistol includes a slide, barrel, revolving chamber, trigger assembly, frame and magazine.

National Valuation List is the nationally agreed list of values for pistols and parts and accessories, as amended from time to time and available on the national handgun buyback website.

valuation list is the National Valuation List.

valuation panel is specified in section 140 and is the panel established to value surrendered prohibited pistols and associated parts and accessories.

Clause 7 – Section 135(2) Compensation for surrendered prohibited pistols-licensed pistol shooters

Clause 7 specifies that compensation for surrendered prohibited pistols will be in accordance with the National Valuation List, as defined in Clause 6 above, or, if the list does not apply to a particular pistol, in accordance with the amount assessed by the valuation panel. A person may also request that, even if the list does apply to a pistol, the pistol is valued by the valuation panel, and compensation will be paid in accordance with that valuation.

Clause 8 - Section 135A Compensation for surrendered accessories and major parts-licensed pistol shooters

This a new section which defines ‘related item’ as the major parts and accessories for prohibited pistols and provides for the payment of compensation for related items in accordance with the National Valuation List or with the amount assessed by the valuation panel.

Clause 9 – Section 136 Compensation for licensed firearms dealers- prohibited pistols

This clause modifies section 136 to clarify the payment of compensation to firearm dealers for prohibited pistols, provided these pistols were acquired or ordered before 20 December 2002. Imported pistols will be compensated at 20% of the customs value and other pistols in accordance with the National Valuation List or with the amount assessed by the valuation panel.

- Section 136A Compensation for licensed firearms dealers- other items

This a new section which defines ‘related items’ as the major parts and accessories for prohibited pistols and provides for the payment of compensation to firearm dealers for related items in accordance with the National Valuation List or with the amount assessed by the valuation panel.

Clause 10 – omits section 137(2) which provides for compensation to be paid to a sporting shooter who cannot comply with the new handgun regulations and surrenders all registered pistols and exits the sport for a minimum of five years. This is replaced by sections 137A and 137B as explained below.

Clause 11 – New sections 137A and 137B

Clause 11 inserts new sections 137A and 137B which provide for compensation to be paid, for pistols and for major parts and accessories respectively, to licensed pistol shooters who withdraw from pistol shooting in accordance with section 137 ie for a minimum of five years. Compensation will be paid in accordance with the National Valuation List or with the amount assessed by the valuation panel.

Clause 12 - Section 138(2) Compensation for surrendered post-1946 pistols – licensed collectors not authorised to possess pistols

Clause 12 amends section 138(2) and inserts a new section 138(2A) which provide that compensation will be paid for a post-1946 pistol in accordance with the National Valuation List or with the amount assessed by the valuation panel. The *Firearms (Prohibited Pistols) Amendment Act 2003*, in the table at section 23(4) which sets out the genuine reasons for having a firearms licence, specifies additional requirements for collectors who possess post-1946 pistols such that they may no longer be able to comply with the principal Act and must surrender such pistols.

Clause 13 omits section 139 of the principal Act which specifies that the regulations must provide for the payment of compensation for surrendered parts and accessories. This requirement is addressed in new sections 135A, 136A and 137B as described above.

Clause 14 – Section 140 Valuation panel

Clause 14 substitutes a new section 140 which provides for the establishment of a valuation panel to undertake valuations of surrendered prohibited pistols and associated parts and accessories for the purposes of sections 135, 135A, 136, 136A, 137, 137A, 137B and 138 as described above.

The ACT valuation panel is consistent with that established in NSW and comprises four NSW firearm dealers, a police officer from the AFP Firearms Registry and a police officer experienced in firearms ballistics. The minimum required for a meeting/valuation session is one firearm dealer and one police officer.

The valuation panel, as described above, assesses the value of surrendered pistols which are not included on the national valuation list or for which the owner has requested a separate valuation.

Clause 15 explains that Part 3 amends the Firearms Regulations 1997.

Clause 16 – Regulation 4 Not firearms

Clause 16 clarifies the definition of those firearms which are deemed not to be firearms for the purposes of the principal Act.

The new handgun provisions require all pre-1900 handguns (pistols) which are not classified as pre-percussion handguns to be registered and the owners licensed. The new definition in Regulation 4 is consistent with the definition in the NSW *Firearms Amendment (Prohibited Pistols) Act 2003* and ensures that muzzle loading pistols which use black powder are classified as pre-percussion. This is in accordance with the agreement made by the Council of Australian Governments on 6 December 2002 and clarified in the subsequent letter from the Prime Minister to all Premiers and Chief Ministers dated 2 March 2003.

Regulation 4 will now specify that a pre-percussion pistol, and a firearm other than a percussion pistol manufactured before 1900 for which ammunition is not readily commercially available, are not firearms for the purposes of the principal Act.

Clauses 17 and 18 provide for the renumbering of parts of the Regulations when they are next republished.