

1996
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Prohibited Weapons Bill 1996

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**SCHEDULE
PROHIBITED WEAPONS**

1996
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(As presented)

(Attorney-General)

Prohibited Weapons Bill 1996

A BILL FOR

An Act to prohibit the possession of certain dangerous weapons and other articles, and for related purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

PART I—PRELIMINARY

Short title

5 1. This Act may be cited as the *Prohibited Weapons Act 1996*.

Commencement

2. (1) Section 1 and this section commence on the day on which this Act is notified in the *Gazette*.

10 (2) The remaining provisions commence on a day, or respective days, fixed by the Minister by notice in the *Gazette*.

(3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

5 Interpretation

3. (1) In this Act, unless the contrary intention appears—

“firearm” has the same meaning as in the *Firearms Act 1996*;

“permit” means a permit in force under Part III;

10 “prohibited article” means any article that is declared by the regulations to be a prohibited article;

“prohibited weapon” means any weapon or thing specified in the Schedule.

(2) For the purposes of this Act—

15 (a) anything that would be a prohibited weapon or prohibited article if it did not have something missing from it, or a defect or obstruction in it, is to be regarded as a prohibited weapon or prohibited article;

20 (b) if parts of a prohibited weapon or prohibited article are in the possession of, or being carried by, 2 or more persons, each of them is to be regarded as possessing or carrying the weapon or article.

(3) For the purposes of this Act, a person is to be taken to have possession of a prohibited weapon or prohibited article if the person knowingly—

25 (a) has custody of the weapon or article;

(b) has the weapon or article in the custody of another person; or

(c) has the weapon or article in or on any premises, place, vehicle vessel or aircraft, whether or not belonging to or occupied by the person.

30 (4) The Executive may make regulations amending the Schedule—

(a) by adding the name or a description of a weapon or article; or

(b) by amending a name or description of a weapon or article for the purpose of more accurately describing the weapon or article concerned.

Application

4. A person is not guilty of an offence against this Act or the regulations only because of something done by the person while acting in the ordinary course of the person's duties as a member of—

- 5 (a) the Australian Federal Police or a police force of a State or another Territory;
- (b) the Defence Force;
- (c) a visiting force within the meaning of the *Defence (Visiting Forces) Act 1963* of the Commonwealth;
- 10 (d) the Australian Cadet Corps established under the *Defence Act 1903* of the Commonwealth;
- (e) a member of the Council of the Australian War Memorial or of the staff of the Memorial who, in the performance of his or her functions and duties in accordance with the *Australian War Memorial Act 1980* of the Commonwealth, has in his or her
- 15 possession a prohibited weapon, forming part of the memorial collection within the meaning of that Act; or
- (f) a member of the Council of the National Museum of Australia or of the staff of the Museum who, in the performance of his or her functions and duties in accordance with the *National Museum of Australia Act 1980* of the Commonwealth, has in his or her
- 20 possession a prohibited weapon forming part of the memorial collection within the meaning of that Act.

PART II—PROHIBITED WEAPONS AND PROHIBITED ARTICLES

Possession or use of prohibited weapons

5. (1) A person shall not possess or use a prohibited weapon unless authorised to do so by a permit or the regulations.

Penalty:

- 30 (a) if the offender is a natural person—100 penalty units or imprisonment for 12 months, or both;
- (b) if the offender is a body corporate—500 penalty units.

(2) In subsection (1)—

35 “use” includes fire or explode and, whether or not the weapon concerned is capable of being fired or exploded, cause a reasonable belief that it will be fired or exploded.

Possession of prohibited articles

6. A person shall not possess or use a prohibited article unless authorised to do so by a permit or the regulations.

Penalty:

- 5 (a) if the offender is a natural person—50 penalty units or imprisonment for 6 months, or both;
- (b) if the offender is a body corporate—250 penalty units.

Inspection of prohibited weapons or articles by police

10 7. (1) A person who possesses a prohibited weapon or prohibited article shall, on demand made by a police officer at any time, produce for inspection by that officer—

- (a) the weapon or article; and
- (b) any permit that authorises the person to possess the weapon or article.

15 Penalty:

- (a) if the offender is a natural person—50 penalty units;
- (b) if the offender is a body corporate—250 penalty units.

20 (2) A person is guilty of an offence against subsection (1) only if the police officer, when making the demand, explains to the person that failure to comply with the demand is an offence against this Act.

(3) In subsection (1), a reference to a prohibited weapon or a prohibited article shall be read as including a reference to a part of a prohibited weapon or a prohibited article.

Delivery to police by unauthorised holders

25 8. (1) A person who—

- (a) comes into possession of a prohibited weapon or a prohibited article, but is not authorised by or under this Act to possess the weapon or article; or
- 30 (b) possesses a prohibited weapon or a prohibited article and ceases to be so authorised to possess the weapon or article;

shall, within 7 days after coming into possession of the weapon or article or ceasing to be so authorised to possess it, deliver the weapon or article to—

- (c) a person who is authorised by a permit to possess it; or
- (d) a police officer.

Penalty:

- (a) if the offender is a natural person—50 penalty units or imprisonment for 6 months, or both;
- (b) if the offender is a body corporate—250 penalty units.

5 (2) A person does not contravene any other provision of this Act just by delivering or surrendering anything in accordance with this section or by accepting its delivery.

PART III—PERMITS

Permits

10 9. (1) The Registrar may issue a permit authorising—

- (a) the possession or the possession and use of a prohibited weapon;
or
- (b) the possession of a prohibited article.

15 (2) The regulations may provide for mandatory or discretionary grounds for refusing the issue of a permit.

(3) A permit may be issued subject to conditions.

(4) The conditions may provide for the expiration of the permit, limit the authority it confers and impose requirements on the person to whom the permit is issued.

20 (5) The Registrar may, for any reason the Registrar considers sufficient, cancel a permit by causing written notice of its cancellation to be served on the person to whom the permit was issued.

(6) A person to whom a permit was issued may surrender the permit for cancellation.

25 Applications—false or misleading particulars

10. A person shall not, in an application for a permit, make a statement or furnish information that is false or misleading in a material particular.

Penalty:

- 30 (a) if the offender is a natural person—50 penalty units or imprisonment for 6 months, or both;
- (b) if the offender is a body corporate—250 penalty units.

Contravention of conditions

11. A person to whom a permit is issued shall not contravene any requirement made by the conditions of a permit.

Penalty:

- 5 (a) if the offender is a natural person—50 penalty units;
(b) if the offender is a body corporate—250 penalty units.

Production of permit

12. (1) A person to whom a permit is issued shall, on demand of a police officer at any time—

- 10 (a) produce the permit for inspection by the police officer if the person has the permit in his or her possession; or
(b) state the person's full name and usual place of residence to the police officer.

Penalty:

- 15 (a) if the offender is a natural person—50 penalty units or imprisonment for 6 months, or both;
(b) if the offender is a body corporate—250 penalty units.

20 (2) A person is guilty of an offence against subsection (1) only if the police officer, when making the demand, explains to the person that failure to comply with the demand is an offence against this Act.

Surrender of cancelled permit

13. If a permit is cancelled or expires, the person to whom it was issued shall within 7 days of that cancellation or expiry, surrender it to the Registrar.

25 Penalty:

- (a) if the offender is a natural person—50 penalty units or imprisonment for 6 months, or both;
(b) if the offender is a body corporate—250 penalty units.

Review of decisions

30 14. (1) Application may be made to the Administrative Appeals Tribunal for a review of a decision of the Registrar—

- (a) refusing to issue a permit under subsection 9 (1); or
(b) cancelling a permit under subsection 9 (5).

(2) Where the Registrar makes a decision of the kind referred to in subsection (1), the Registrar shall cause notice in writing of the decision to be given to the applicant or permit holder, as the case requires.

5 (3) A notice under subsection (2) shall be in accordance with the requirements of the Code of Practice in force under subsection 25B (1) of the *Administrative Appeals Tribunal Act 1989*.

PART IV—MISCELLANEOUS

Information to be supplied

10 15. A person who has possession of a prohibited weapon or prohibited article acquired from another person shall, on demand made by a police officer at any time, inform the police officer of—

- (a) the name and address of the person from whom the weapon or article was acquired; and
- (b) the date on which it was acquired.

15 Penalty:

- (a) if the offender is a natural person—50 penalty units;
- (b) if the offender is a body corporate—250 penalty units.

Disposal of surrendered or seized prohibited weapons or prohibited articles

20 16. (1) A magistrate may, on application by a police officer or by any person who claims to be the owner of a prohibited weapon or prohibited article surrendered to or seized by a police officer in accordance with this Act, order that the weapon or article—

- (a) be forfeited to the Territory;
- 25 (b) be returned to the person claiming to be the owner of the weapon or article; or
- (c) be otherwise disposed of in such manner as the Court thinks fit.

30 (2) If a person is found guilty of an offence under this Act and a weapon or article has been seized by a police officer in connection with the offence, the court which makes the finding of guilt is taken to have ordered that the weapon or article be forfeited to the Territory.

(3) A weapon or article forfeited under subsection (2) may be destroyed.

Evidentiary provisions

35 17. A certificate signed by the Registrar certifying that—

- (a) a specified person was or was not, on a day or during a specified period, the holder of a permit (or of a permit for a specified prohibited weapon or prohibited article);
- (b) a permit was issued subject to specified conditions; or
- 5 (c) an article is or is not of a type for the time being approved by the Registrar for the purposes of paragraph (a) of the definition of “prohibited article” in subsection 3 (1) or for the purposes of item 14 of the Schedule;

is evidence of the matters contained in the certificate.

10 **Regulations**

18. (1) The Executive may make regulations for the purposes of this Act.

(2) The regulations may prescribe a penalty for an offence against the regulations not exceeding—

- 15 (a) in the case of a natural person—10 penalty units; or
- (b) in the case of a body corporate—50 penalty units.

SCHEDULE

Section 3

PROHIBITED WEAPONS

| Item | Description |
|------|--|
| 1 | <p>Any explosive, incendiary, irritant or poison gas—</p> <ul style="list-style-type: none"> (a) bomb; (b) grenade; (c) rocket having a propellant charge of more than 100 grams; (d) missile having an explosive or incendiary charge of more than 7 grams; or (e) mine; <p>or a similar device.</p> |
| 2 | <p>An article being—</p> <ul style="list-style-type: none"> (a) a rimfire magazine with a capacity of more than 15 rounds; (b) a centre-fire self-loading rifle magazine, or shotgun magazine, with a capacity of more than 5 rounds; or (c) a shotgun tubular magazine extension to extend the capacity of a shotgun magazine to more than 5 rounds. |
| 3 | <p>A spear gun having an overall length of less than 45 centimetres.</p> |
| 4 | <p>A crossbow, other than an antique crossbow.</p> |
| 5 | <p>A knife commonly known as a flick knife that has a blade which opens automatically by gravity or centrifugal force or by any pressure applied to a button, spring or device in or attached to the handle of the knife.</p> |
| 6 | <p>A sheath knife that has a sheath which withdraws into its handle by gravity or centrifugal force or if pressure is applied to a button, spring or device attached to or forming part of the sheath, handle or blade of the knife.</p> |
| 7 | <p>A walking stick or walking cane containing a sword.</p> |
| 8 | <p>A riding crop containing a knife or stiletto.</p> |

SCHEDULE—continued

| Item | Description |
|------|---|
| 9 | A device known as a Taser Self Defence Weapon or any similar device. |
| 10 | A device known as an Urban Skinner push dagger or any similar device. |
| 11 | A butterfly knife or any similar device. |
| 12 | A knife commonly known as a star knife or any similar device. |
| 13 | A flame thrower of military design or similar device. |
| 14 | A device known as a Farallon Shark Dart or any similar device which is designed to expel, upon contact, any gas or other substance capable of causing bodily harm and which is reasonably capable of being carried concealed about the person. |
| 15 | <p>A device known as a Saunders “Falcon” Hunting Sling or any other article or device in the nature of a hunting sling, catapult or slingshot which is designed for use with, or a component part of which is, a brace which—</p> <ul style="list-style-type: none"> (a) fits or rests upon the forearm or upon another part of the body of the user; and (b) supports the wrist against the tension of elastic material used to propel a projectile. |
| 16 | An article known as “The Bowen Knife Belt” or any article of similar design capable of concealing or disguising a knife or any like article. |
| 17 | Any article or device of a type commonly known as a knuckle-duster or metal knuckles or any article or device made or adapted for use as such. |
| 18 | A sap glove. |
| 19 | A studded glove. |
| 20 | Any blow-gun capable of projecting a dart. |
| 21 | Any dart capable of being projected from a blow-gun. |
| 22 | A mace or any similar article other than a ceremonial mace made for and used solely as a symbol of authority on ceremonial occasions. |

SCHEDULE—continued

| Item | Description |
|------|---|
| 23 | Any article or device in the form of a flail in which the striking part is armed with spikes or studded with any protruding matter. |
| 24 | A whip the lash of which is comprised wholly or partly of any form of metal. |
| 25 | A cat-o'-nine tails or any similar article or device whether or not it has nine lashes. |
| 26 | An article commonly known as kung fu sticks, otherwise known as a nunchaku, or any similar article. |
| 27 | A side-handled baton or any similar device. |
| 28 | Anything designed or intended as a defence or anti-personnel spray that is capable of discharging by any means any irritant matter (not being an irritant matter referred to in item 29) in liquid, powder, gas or chemical form. |
| 29 | Anything designed or intended as a defence or anti-personnel spray that is capable of discharging by any means any irritant matter comprising or containing any 1 or more of the following substances in liquid, powder, gas or chemical form: <ul style="list-style-type: none">(a) chloroacetophenone, known as CN;(b) orthochlorobenzalmalononitrile, known as CS;(c) dypenylaminechloroarsone, known as DM or Adamsite;(d) oleoresin capsicum, known as OC. |

NOTE

Penalty units

See section 33AA of the *Interpretation Act 1967*.