

**2010**

**LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**FIREARMS AMENDMENT BILL 2010**

**EXPLANATORY STATEMENT**

Circulated by authority of  
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## Firearms Amendment Bill 2010

### Outline

The Firearms Amendment Bill 2010 (the Bill) amends the *Firearms Act 1996*.

The amendment will insert a new section 140A into the *Firearms Act 1996*. Section 140A will allow for the temporary recognition of interstate licences for professional shooters contracted to the Department of Territory and Municipal Services (TAMS) to use Category D firearms in the Territory.

The Firearms Amendment Act 2008 introduced a restriction on issue of category D adult firearms licences (section 26 of the Firearms Amendment Act). The Explanatory Statement for the Firearms Amendment Bill 2008 reflected the policy background for that amendment:

Section 26 will be substantially amended to more specifically incorporate the 1996 APMC resolution regarding category D firearms licences. Currently, a category D firearms licence shall only be issued with the written authority of the Minister. This requirement will not change. However, the Bill explains circumstances when this discretionary authority might be exercised.

A 1996 APMC [Australian Police Ministers Council] resolution stated that a limited class of primary producers should have access to a category D firearm for the purpose of culling large feral and Brucellosis and Tuberculosis Campaign animals. It was agreed that the licence should only be issued where there is a demonstrated need for a category D firearm, e.g. where a Government authority requires the undertaking of specific culling which a relevant area. It was further decided that an applicant must show that no other means of dealing with the problem (including the use of a different category of firearm, or the contracting of a professional shooter) is practicable.

Applicants must also meet accredited professional shooter's qualifications, including safety training requirements, and a licence may only be issued for a nominated period in accordance with the demonstrated need, which must not exceed 12 months. Upon expiry of the nominated period, the firearm is to be returned to the authorities or stored as approved. The resolution stated that only one category D firearm may be issued to each applicant, and the licence shall only authorise use of the firearm within a prescribed geographical location (normally the licensee's property). It was agreed that approval from the Civil Aviation Safety Authority will be required in order to shoot from a helicopter, and the use of Category D firearm for ground culling will only be allowed where airborne culling is not practicable.

This resolution was not reflected in the Act, and has therefore led to a number of inappropriate category D firearm licence applications. The proposed amendments incorporate this APMC resolution into the Act, thereby providing more guidance to applicants, the Registrar and the Minister as to when a category D licence might be granted. It is proposed that ministerial authorisation will still be required and the licence will be subject to any conditions the Minister deems appropriate.

The Bill is consistent with the policy for the use of category D firearms for the control of vertebrate pest animals currently in the Act and extends the circumstances where such firearms may be authorised to interstate licensees conducting vertebrate pest animal control activity when contracted to the Territory.

The Bill does not engage any human right under the *Human Rights Act 2004* (ACT) except for the review of decisions to refuse authorisation under the new clause 140A(3) and to impose a condition under the new clause 140(A).

## Summary of clauses

**1- Name of Act-** this is a technical clause that names the Act. The Act is the *Firearms Amendment Act 2010*.

**2- Commencement-** this clause states that the Act commences on the day after the Act is notified.

**3- Legislation amended-** this is a technical clause that which states that the primary Act being amended is the *Firearms Amendment Act 1996*.

**4- New section 140A-** this clause inserts a new section 140A which allows for the temporary recognition of interstate category D licences for vertebrate pest animal control.

**Section 140A (1)-** this section provides that section 140A applies to an individual who is a resident of another state or territory, holds an interstate licence that corresponds to a category D licence, is employed by or in, or authorised by, a government agency for the purpose of controlling vertebrate pest animals in the ACT and tells the registrar in writing that he or she intends to come to the ACT for the relevant purpose.

**Section 140A (2)-** this section requires that the registrar must authorise the individual to possess or use, for the relevant purpose, a firearm of a kind to which the corresponding local licence applies, for the authorised period.

**Section 140A (3)-** this section authorises the registrar to refuse a request for temporary recognition of an interstate licence if the registrar is not satisfied that the individual has a special need to possess or use a category D firearm and the special need cannot be met any other way. Additionally, if the Minister does not approve the authorisation in writing, the registrar must also refuse the individual's request.

**Section 140A (4)-** provides that the authorisation is subject to compliance with any condition already prescribed by regulation or that the Minister believes on reasonable grounds is in the public interest, stated in the approval.

**Section 140A (5)-** this section defines the “authorised period” to mean a period of 6 months. The period starts on either the day the individual comes to the ACT for the relevant purpose or the day after the day the registrar gives the individual written notice of the authorisation under subsection (2).

**5. Schedule 4, new items 32A and 32B-** under section 260A of the *Firearms Act 1996*, a person can apply to the ACT Civil and Administrative Appeals Tribunal for review of the decisions to refuse to authorisation under the new clause 140A(3) and to impose a condition under the new clause 140A(4).

The availability of this review is in accordance with the right to fair trial provided by section 21 of the *Human Rights Act 2004* (ACT).