



Australian Capital Territory

Prohibited Weapons Act 1996

A1996-75

Republication No 4

Effective: 2 June 2006 – 15 July 2008

Republication date: 2 June 2006

Last amendment made by A2006-23

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Prohibited Weapons Act 1996* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 2 June 2006. It also includes any amendment, repeal or expiry affecting the republished law to 2 June 2006.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

Prohibited Weapons Act 1996

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| 02/06/06 | Effective: 02/06/06-15/07/08 | |

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Australian Capital Territory

Prohibited Weapons Act 1996

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

Part 1 Preliminary

1 Short title

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

3 Interpretation for Act

(1) In this Act:

Note A definition applies except so far as the contrary intention appears (see *Legislation Act 2001*, s 155).

firearm—see the *Firearms Act 1996*.

permit means a permit in force under part 3.

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 schedule 1.

(2) For this Act—

(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; and

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

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

(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.
- (4) The Executive may make regulations amending schedule 1—
 - (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.

4 Application of Act

- (1) A person does not commit an offence against this Act only because of something done by the person in the exercise of the person's functions as a member of—
 - (a) the Australian Federal Police or a police force of a State or another Territory; or
 - (b) the Defence Force; or
 - (c) a visiting force within the meaning of the *Defence (Visiting Forces) Act 1963* (Cwlth); or
 - (d) the Australian Cadet Corps established under the *Defence Act 1903* (Cwlth); or
 - (e) the council of the Australian War Memorial or of the staff of the memorial who, in the exercise of his or her functions and duties in accordance with the *Australian War Memorial Act 1980* (Cwlth), has in his or her possession a prohibited weapon, forming part of the memorial collection within the meaning of that Act; or

- (f) the council of the National Museum of Australia or of the staff of the museum who, in the exercise of his or her functions and duties in accordance with the *National Museum of Australia Act 1980* (Cwlth), has in his or her possession a prohibited weapon forming part of the memorial collection under that Act.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations and permits (see *Legislation Act 2001*, s 104).

- (2) A corrections officer does not commit an offence against this Act only because of something done by the officer in the exercise of the officer's functions.

Note *Corrections officer*, *exercise* and *function* are defined in the Legislation Act, dict, pt 1.

Part 2 Prohibited weapons and prohibited articles

5 Possession or use of prohibited weapons

- (1) A person shall not possess or use a prohibited weapon unless authorised to do so by this Act.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) In subsection (1):

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.

6 Possession of prohibited articles

A person shall not possess or use a prohibited article unless authorised to do so by this Act.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

7 Inspection of prohibited weapons or articles by police

- (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.

Maximum penalty: 50 penalty units.

- (2) A person commits 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* includes a reference to a part of a prohibited weapon or a prohibited article.

8 Delivery to police by unauthorised holders

- (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
 - (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.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (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 3 Permits

9 Permits

- (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.
- (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.
- (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.

11 Contravention of conditions

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

Maximum penalty: 50 penalty units.

12 Production of permit

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

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) A person commits 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.

13 Surrender of cancelled permit

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.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

14 Review of decisions

- (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 section 9 (1); or
 - (b) cancelling a permit under section 9 (5).
- (2) If the registrar makes a decision of the kind referred to in subsection (1), the registrar shall cause written notice of the decision to be given to the applicant or permit holder.
- (3) A notice under subsection (2) shall be in accordance with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).

Part 4 Miscellaneous

15 Information to be supplied

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.

Maximum penalty: 50 penalty units.

16 Disposal of surrendered or seized prohibited weapons or prohibited articles

- (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; or
 - (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.
- (2) If a person is found guilty of an offence against 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.

17 Evidentiary provisions

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); or
- (b) a permit was issued subject to specified conditions; or
- (c) an article is or is not of a type for the time being approved by the registrar for section 3 (1), definition of *prohibited article*, paragraph (a) or for schedule 1, item 14;

is evidence of the matters contained in the certificate.

18 Approved forms

- (1) The Minister may, in writing, approve forms for this Act.
- (2) If the Minister approves a form for a particular purpose, the approved form must be used for that purpose.
- (3) An approved form is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

19 Regulation-making power

- (1) The Executive may make regulations for this Act.

Note Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

- (2) The regulations may prescribe offences for contraventions of the regulations and prescribe maximum penalties of not more than 10 penalty units for offences against the regulations.

Schedule 1 Prohibited weapons

(see s 3)

| column 1 item | column 2 description |
|--------------------------|--|
| 1 | Any explosive, incendiary, irritant or poison gas— <ul style="list-style-type: none">(a) bomb; or(b) grenade; or(c) rocket having a propellant charge of more than 100g; or(d) missile having an explosive or incendiary charge of more than 7g; or(e) mine; or a similar device. |
| 2 | An article being— <ul style="list-style-type: none">(a) a rimfire magazine with a capacity of more than 15 rounds; or(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 | A spear gun having an overall length of less than 45cm. |
| 4 | A crossbow other than a crossbow manufactured before 1 January 1900. |

Schedule 1 Prohibited weapons

| column 1 item | column 2 description |
|--------------------------|--|
| 5 | A knife commonly known as a flick knife that has a blade that 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. |
| 6 | A sheath knife that has a sheath that 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. |
| 7 | A walking stick or walking cane containing a sword. |
| 8 | A riding crop containing a knife or stiletto. |
| 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 that is designed to expel, on contact, any gas or other substance capable of causing bodily harm and that is reasonably capable of being carried concealed about the person. |
| 15 | 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 that is designed for use with, or a component part of which is, a brace that— <p style="margin-left: 40px;">(a) fits or rests on the forearm or on another part of the body of the user; and</p> |

| column 1 item | column 2 description |
|------------------|---|
| | (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 knuckleduster 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 blowgun capable of projecting a dart. |
| 21 | Any dart capable of being projected from a blowgun. |
| 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. |
| 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. |
| R4 02/06/06 | Prohibited Weapons Act 1996 Effective: 02/06/06-15/07/08 |

Schedule 1 Prohibited weapons

| column 1 item | column 2 description |
|--------------------------|---|
| 28 | Anything designed or intended as a defence or antipersonnel 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 antipersonnel 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. |
| 30 | A ballistic knife (other than a ballistic knife that propels a projectile by means of an explosive) or any similar device. |

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

| | |
|---|---|
| am = amended | ord = ordinance |
| amdt = amendment | orig = original |
| ch = chapter | par = paragraph/subparagraph |
| def = definition | pres = present |
| dict = dictionary | prev = previous |
| disallowed = disallowed by the Legislative Assembly | (prev...) = previously |
| div = division | pt = part |
| exp = expires/expired | r = rule/subrule |
| Gaz = gazette | renum = renumbered |
| hdg = heading | reloc = relocated |
| IA = Interpretation Act 1967 | R[X] = Republication No |
| ins = inserted/added | RI = reissue |
| LA = Legislation Act 2001 | s = section/subsection |
| LR = legislation register | sch = schedule |
| LRA = Legislation (Republication) Act 1996 | sdiv = subdivision |
| mod = modified/modification | sub = substituted |
| o = order | SL = Subordinate Law |
| om = omitted/repealed | <u>underlining</u> = whole or part not commenced or to be expired |

Endnotes

3 Legislation history

3 Legislation history

Prohibited Weapons Act 1996 No 75

notified 20 December 1996 (Gaz 1998 No S328)
s 1, s 2 commenced 20 December 1996 (s 2 (1))
remainder commenced 22 May 1997 (s 2 (2) and Gaz 1997 No S140)

as amended by

Prohibited Weapons Regulations 1997 SL No 12

notified 19 May 1997 (Gaz 1997 No S137)
commenced 22 May 1997 (s 2)

Legislation (Consequential Amendments) Act 2001 No 44 pt 301

notified 26 July 2001 (Gaz 2001 No 30)
s 1, s 2 commenced 26 July 2001 (IA s 10B)
pt 301 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

Criminal Code (Theft, Fraud, Bribery and Related Offences)

Amendment Act 2004 A2004-15 sch 2 pt 2.71

notified LR 26 March 2004
s 1, s 2 commenced 26 March 2004 (LA s 75 (1))
sch 2 pt 2.71 commenced 9 April 2004 (s 2 (1))

Sentencing Legislation Amendment Act 2006 A2006-23 sch 1 pt 1.29

notified LR 18 May 2006
s 1, s 2 commenced 18 May 2006 (LA s 75 (1))
sch 1 pt 1.29 commenced 2 June 2006 (s 2 (1) and see Crimes (Sentence Administration) Act 2005 A2005-59 s 2, Crimes (Sentencing) Act 2005 A2005-58, s 2 and LA s 79)

4 Amendment history

Commencement

s 2 om 2001 No 44 amdt 1.3294

Application of Act

s 4 am 2001 No 44 amdt 1.3295, amdt 1.3296; A2006-23
amds 1.272-1.275

Possession or use of prohibited weapons

s 5 am 2001 No 44 amdt 1.3297

Possession of prohibited articles

s 6 am 2001 No 44 amdt 1.3298

Applications—false or misleading particulars

s 10 om A2004-15 amdt 2.148

Approved formss 18 sub 2001 No 44 amdt 1.3299
(4)-(7) exp 12 September 2002 (s 18 (7))**Regulation-making power**

s 19 ins 2001 No 44 amdt 1.3299

Prohibited weaponssch 1 hdg (prev sch hdg) am SL 1997 No 12 reg 15
renum R1 LA**5 Earlier republications**

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised republication are identical.

| Republication No | Amendments to | Republication date |
|------------------|---------------|--------------------|
| 1 | A2001-44 | 18 February 2002 |
| 2 | A2001-44 | 13 September 2002 |
| 3 | A2004-15 | 9 April 2004 |

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