

1997

**AUSTRALIAN CAPITAL TERRITORY
LEGISLATIVE ASSEMBLY**

Firearms Act 1996

Firearms Regulations No. 13 of 1997

EXPLANATORY MEMORANDUM

**Circulated by the authority of
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Outline

Section 126 of the Firearms Act 1996 provides that the Executive may make regulations for the purposes of the Act and specifies those matters for which the regulations may make provision.

The Firearms Regulations ("the Regulations") support the *Firearms Act 1996* ("the Act"). They provide for matters required or permitted, under the Act, to be prescribed in regulations made under the Act.

The Regulations provide limited exemptions from provisions of the Act in respect of certain firearms, to specified persons or classes of persons. The provision of such exemptions will ensure that the specified individuals and organisations within the ACT, whose legitimate activities are affected by the operation of the Act (for example, members of theatrical or dramatic societies and competitive firearms users) are able to continue to pursue those legitimate recreations, sports and other activities, subject to the conditions imposed in the terms of the relevant exemption.

Revenue/cost implications

The Regulations will have no effect on revenue.

Details of the Regulations are provided in the Attachment.

Attachment

Firearms Regulations

Explanatory Memorandum

PART I - PRELIMINARY

Citation & commencement

Regulations 1 & 2 Specify the title of the Regulations, when made, to be the Firearms Regulations, and provide for the commencement of the Regulations on the same day as the *Firearms Act 1996* ("the Act"), except for the formal sections of the Act which commenced when the Act was gazetted on 20 December 1996.

Interpretation

Regulation 3 Provides for the interpretation of terms used in the Regulations.

Things declared not to be firearms

Regulation 4 The definition of a "firearm" in section 4 (1) of the Act makes provision for the Regulations to declare items not to be firearms.

This regulation declares a number of items as non-firearms, including: those manufactured before 1 January 1900 for which ammunition is not commercially available; several (explosive powered) industrial tools; some experimental, bench-mounted rifles and some captive bolt guns.

PART II - LICENCES

Division 1 - General provisions

Category C licences

Regulation 5 Section 18 (2) of the Act makes provision for the Regulations to authorise the possession or use of a prohibited firearm for the purposes of a shooting competition.

This regulation gives effect to the Australasian Police Ministers' Council resolution to add a restricted class of shooters, namely clay target shooters, to those permitted access to certain category C firearms where specified conditions are fulfilled.

The pre-conditions are:

- possession of a relevant category C firearm and membership of a relevant club on 15 November 1996; or
- an application, supported by an officer of a relevant club, based on a physical impairment which necessitates the use of the relevant category C firearm;

plus the applicant must continue to compete in a minimum of four club competitions per year and the licence is restricted to possession and use for competition training and participation only.

Applications for licences - particulars and documents

Regulation 6 Section 19 (2) (c) of the Act makes provision for the Regulations to prescribe the particulars or documents required to be provided to the Registrar when making application for a licence.

This regulation prescribes a range of particulars depending on the category of licence and purpose for which it is sought.

Government agencies - vertebrate pest animal control

Regulation 7 This regulation prescribes the Department of Urban Services for the purposes of the subsection relating to the control or suppression of vertebrate pest animals.

Category C licences - restriction on issue

Regulation 8 Section 25 (b) of the Act makes provision for the Regulations to prescribe the evidence of a 'special need' of which the Registrar must be satisfied before issuing a category C licence.

This regulation provides, in respect of primary producers, that evidence as to such factors as the size of the potential licensee's property, the number of properties involved or natural circumstances such as the number and potential threat presented by a particular feral/vertebrate pest/s and proximity of the property to residential locations, must be provided for the Registrar's consideration.

Rendering firearm incapable of being fired

Regulation 9 Section 37 (a) of the Act makes provision for the Regulations to specify the manner in which a collection firearm shall be rendered incapable of being fired.

This regulation specifies that, other than category C or category D firearms, a firearm in a collection shall be rendered temporarily inoperable by removal, and separate secure storage, of the bolt or firing pin or, if not feasible, an appropriate trigger lock.

Terms of licences

Regulation 10 In accordance with section 38 of the Act, the period of two years is prescribed for those licences relying on the genuine reason of: vertebrate pest animal control; business or employment; occupational requirements relating to rural purposes; animal welfare; or composite entity.

Division 2 - Conditions of licences**Category A, category B, category C or category H**

Regulation 11 Section 36 (3) of the Act makes provision for the Regulations to prescribe the conditions which may attach to the licence categories.

This regulation requires the licensee to ensure that the Registrar is provided with evidence of financial membership of an approved club and satisfactory completion of the "active member" obligations.

Category H licences for business

Regulation 12 Category H firearm (for business) licensees must satisfy the prescribed conditions that:

- he/she pass a safe handling examination and qualifying shoot each year; and
- provide a biannual report to the Registrar outlining the number of occasions the firearm was carried in connection with the business.

Category H licences for employment

Regulation 13 Category H firearm licences (for employment) will be subject to the following conditions:

- a licensee is required to pass an approved safe handling and use test each 12 months;
- a licensee must pass the safe handling and use examination within three attempts;
- a licensee who fails a safe handling and use test has 14 days to qualify.

Composite Entity licences

Regulation 14 Holders of composite entity licences will be subject to the condition that the licensee shall notify the Registrar within 14 days of the date that an employee, who is required to use or possess a firearm in the course of employment, ceases to be employed by the entity.

Firearms dealer licences

Regulation 15 In accord with sub-section 36 (3) of the Act, a firearm dealer's licence includes the prescribed condition that the licensee only operate at the premises specified in the licence or as otherwise approved by the Registrar.

Club armourers

Regulation 16 In accordance with subsection 36 (3) of the Act, where a firearm dealer's licence has been issued for the purposes of being a club armourer, the licensee is restricted to transactions involving the members of the licensee's approved club or members of an approved club visiting the licensee's club and the licensee will not make a profit from those transactions.

Collectors licences

Regulation 17 Collector's licences are, by virtue of this regulation, subject to the following prescribed conditions:

- a licensee shall not display any part of the collection without a permit;
- a licensee is not permitted to buy or sell any part of the collection except through another licensed collector or firearms dealer.

Heirlooms licences

Regulation 18 Heirlooms licences are, by virtue of this regulation, subject to the following prescribed conditions:

- a licensee is not permitted to possess ammunition for an heirloom unless authorised by the Registrar;
- a licensee shall not display an heirloom without a permit to do so.

Division 3 - Firearms dealer licences

Restrictions on issue

Regulation 19 This Regulation provides that a firearm dealer's licence which authorises a firearm dealer to carry on business at specified premises must not be issued unless the Registrar is satisfied that:

- the applicant is carrying on, or proposes to carry on, the business of a firearm dealer at those premises, and
- the premises are suitable for carrying on the business of a firearm dealer following consideration of -
- the nature of the activities proposed to be conducted on the premises,
- the kinds of firearms to which the licence relates,
- whether adequate provision has been made for the safe keeping of firearms,
- the security of the premises against unauthorised entry, and
- in the case of a licence that authorises the testing of firearms on the premises - whether an efficient bullet recovery box or bullet stop is provided on the premises.

Recording transactions

Regulation 20 Pursuant to subsection 68 (2) (e) of the Act, this regulation prescribes the following particulars which are required to be recorded by firearm dealers arising from transactions involving firearms, or firearm parts, being a purchase, receipt, sale, or transfer:

- the manufacturer;
- the model;
- the firing action;
- the calibre;
- the serial number;
- the date of birth of the person from whom the firearm was acquired or sold;
- in the case of an acquisition of a firearm that is the subject of a licence issued in a State or another Territory—the number and type of the licence;
- if a firearm is modified or repaired by the dealer—a description of the nature of the modification or repair;
- if a firearm is manufactured by the dealer—the date of completion of that manufacture.

Additional requirements for licensed firearm dealers

Regulation 21 Pursuant to subsection 70 (7) of the Act the following requirements with respect to licensed firearm dealers are prescribed:

- where a firearm that is not numbered comes into the possession of a firearm dealer he or she must immediately notify the Registrar of their possession of that firearm (a penalty applies if the regulation is breached);
- upon notice, a licensed firearm dealer must produce any firearm to which the licence applies (other than those to which category A or B licences apply) for annual inspection by a police officer (a penalty applies if the regulation is breached);
- a licensed firearms dealer must, in any advertisement relating to the business of the firearm dealer, display the number of the firearm dealer's licence (a penalty applies if the regulation is breached).

PART III - PERMITS**Theatrical and other productions**

Regulation 22 Section 45 (c) of the Act makes provision for the Regulations to prescribe the circumstances under which the Registrar may issue a permit for the possession or use of firearms.

This regulation provides that a permit authorising the possession or use of a firearm may be issued for theatrical productions where specified conditions are satisfied.

Authorisation of visiting international licensed shooters

Regulation 23 This regulation provides that a permit authorising the possession or use of a firearm may be issued where the Registrar is satisfied that the applicant is a visitor to the Territory and is authorised under the law of the country in which the person ordinarily resides to possess and use the type of firearm for which the permit is sought.

Authorisation of possession and use of tranquilliser firearms

Regulation 24 This regulation provides the Registrar with a capacity to issue a permit, where the Registrar is satisfied that the possession or use of a tranquilliser firearm is a necessary part of the occupation of the person who will be authorised to possess or use it.

Acquisition, possession and use of powerheads

Regulation 25 This regulation allows the Registrar to issue a permit for the acquisition, possession or use of a powerhead for occupational or marine recreational activities. (Powerheads are used by professional fishermen and recreational divers for protection against shark attack.)

Arms fairs

Regulation 26 This regulation permits the Registrar to issue a permit, where the Registrar is satisfied that the premises are suitable, to conduct an arms fair.

Acquisition and possession of war souvenirs

Regulation 27 This regulation enables the Registrar to issue a permit authorising possession of an inoperable firearm which is a souvenir of a war theatre and for which the applicant can demonstrate a real connection.

Prescribed offences

Regulation 28 Section 46 (3) (a) of the Act makes provision for the Regulations to prescribe offences, conviction of which within a ten year period, prior to an application for a permit, whether within the Territory or elsewhere, will prevent the issue of a permit to possess or use a firearm.

This regulation provides that, for the purpose of subsection 46 (3), an indictable offence involving the use of a firearm or actual or threatened violence, is a prescribed offence.

Applications for permit

Regulation 29 Section 47 (1) (a) of the Act makes provision for the Regulations to prescribe the manner in which an application for a permit shall be made.

This regulation prescribes that an application must be lodged personally by the applicant at the ACT Firearms Registry and that the Registrar may refuse to issue a permit unless the applicant provides sufficient proof of his or her identity.

Photograph on permits

Regulation 30 Pursuant to section 47 (2) of the Act, this regulation requires a permit to contain a photograph of the permit holder unless the Registrar determines otherwise.

Minors firearms

Regulation 31 Subsection 49 (2) (a) of the Act makes provision for the Regulations to prescribe the lower age limit for applicants of a minor's firearms permit.

This regulation prescribes the lower age limit of twelve years for the purpose of that subsection.

PART IV - REGISTRATION**Register of firearms**

Regulation 32 Subsection 50 (2) (c) of the Act makes provision for the Regulations to require additional information to be included in the Register of Firearms.

This regulation specifies the following information to be included in the Register of Firearms:

- the information identifying the person in whose name the firearm is registered;
- particulars of the licence or permit for the registered firearm;
- the identifying number of any spare barrel (of a different calibre to the registered firearm) for the firearm;
- the State or Territory where the person is authorised to have possession of the firearm;
- the date of the firearm's acquisition or disposal and the name and address of the person from whom each registered firearm was acquired.

Registration of firearms

Regulation 33 Subsection 51 (7) (b) of the Act makes provision for the Regulations to require the Registrar to record a change in the particulars relating to the person in whose name a firearm is registered.

This regulation requires that the Register of Firearms record any change in such particulars in writing or in such other manner as may be approved by the Registrar.

Unregistered firearms

Regulation 34 Subsection 53 (2) of the Act makes provision for the Regulations to prescribe a period within which a licensed firearms dealer may purchase or possess an unregistered firearm without committing an offence.

This regulation prescribes the period of 7 days.

Requirements relating to registered firearms

Regulation 35 Subsection 54 (1) (b) of the Act makes provision for the Regulations to prescribe the particulars of a firearm's sale, loss or theft, which must, within seven days of that event, be provided to the Registrar.

This regulation prescribes that the particulars required to be provided to the Registrar must be in writing and, where applicable, include:

- the date of the sale and name of the licensed firearms dealer to whom it was sold or the name of the dealer and the name of the purchaser, and their respective licence details; or
- the date and circumstances of the firearm's loss.

In respect of subsection 54 (2) the regulation also provides the following prescribed particulars to be provided by a person (other than firearms dealers) who acquires a firearm:

- the firearm's make, serial number or identifying number as allotted by the Registrar;
- the identifying number of any spare barrel;
- the person's licence or permit to possess number;
- the permit number to acquire the firearm;
- the name and address of the person from whom the firearm was acquired;
- the date of acquisition.

PART V - SAFE KEEPING OF FIREARMS

Division 1 - Security and safe storage

Category A and category B licences

Regulation 36 Subsection 63 (1) (c) of the Act makes provision for the Regulations to prescribe further requirements relating to security and storage of category A and B firearms.

This regulation prescribes that the firing mechanism of the firearm must be removed and stored separately from the firearm wherever possible.

Category C, category D & category H licences

Regulation 37 Subsection 64 (1) (c) of the Act makes provision for the Regulations to prescribe further requirements relating to security and storage of category C, D and H firearms.

This regulation prescribes that a space movement detector similar to microwave, passive infra-red or ultrasonic is to be installed to detect movement in the area where the firearms are stored.

Collectors of firearms - category A and category B firearms

Regulation 38 This regulation prescribes the minimum storage requirement for collectors of category A and category B firearms.

Collectors of firearms - category C, category D and category H firearms

Regulation 39 This regulation prescribes the minimum storage requirement for collectors of category C, category D and category H firearms.

Firearms dealer licences

Regulation 40 This regulation prescribes the minimum firearms storage requirement for firearms dealers.

Division 2 - Displays**Permanent displays**

Regulation 41 This regulation prescribes the security required of a display of firearms where the display is for a period greater than 30 days.

Temporary displays

Regulation 42 This regulation prescribes the security required of a display of firearms where the display is for a period of 30 days or less.

Wall displays

Regulation 43 This regulation prescribes the security required of a wall display of firearms regardless of the period of time intended for the firearm to be on a wall display.

PART VI - EXEMPTIONS

Certain persons

Regulation 44 Subsection 126 (2) (t) of the Act makes provision for the Regulations to prescribe specified persons who would be exempted from specified requirements of the Act.

This regulation exempts the following persons or bodies from the requirements of the Act as specified in the Regulations:

- an inspector under the *Dangerous Goods Act 1984*;
- an officer of the National Parks and Wildlife Service, ACT Parks and Conservation or a research body, meaning the Australian National University or the University of Canberra.

Australian Defence Industries Pty Ltd, officers and employees

Regulation 45 This regulation provides an exemption from the requirements of the Act to the Australian Defence Industries Pty Ltd, its officers and employees whilst performing functions on behalf of Australian Defence Industries Pty Ltd.

Paint pellet guns

Regulation 46 This regulation provides for the Minister, by notice in the *Gazette*, to authorise a body to operate a paint pellet range. It lists the factors required to be considered by the Minister and the conditions which attach to the body receiving the exemption.

Lending for competition

Regulation 47 This regulation exempts a person from the requirements of subsection 36 (2) (b) of the Act if he or she lends a firearm to a person who holds a firearms licence for the purpose of enabling that person to take part, or to continue to take part, in competitions, or activities relating to competitions, in association with an approved club.

PART VII - MISCELLANEOUS

Dimensions of pistols

Regulation 48 The definition of a "pistol" in section 4 (1) of the Act makes provision for the Regulations to prescribe acceptable pistol dimensions.

This regulation prescribes the uppermost acceptable dimensions within which a firearm satisfies the definition of a pistol.

Prescribed shooting organisations

Regulation 49 Section 6 (2) (d) of the Act makes provision for the Regulations to prescribe shooting organisations, officials of which, possessing or using starting pistols, are not guilty of an offence against the Act.

The ACT Athletics Inc., ACT Cross Country Inc., ACT Little Athletics Club Inc., ACT Veterans Athletics Inc., Canberra Yacht Club and Yachting Association of NSW (ACT Zone Committee) and the ACT Gun Dog Society Inc., are prescribed organisations.

Approval of ranges

Regulation 50 This regulation prescribes the period of 2 years as the period during which a range approval provided by the Registrar remains valid.

Restrictions on sale and purchase of firearms

Regulation 51 Subsection 84 (1) (b) of the Act provides for the Regulations to prescribe circumstances in which a firearms dealer may make arrangements for the sale of a , or firearms, on behalf of another person.

This regulation prescribes that the arrangements for selling a firearm through a licensed firearms dealer must be conducted at the licensed firearm dealer's place of business and that the firearms dealer must make the same records in respect of the sale as the dealer would otherwise be required to make for a firearms transaction.

Transporting prohibited firearms or pistols

Regulation 52 Section 90 of the Act makes provision for the Regulations to prescribe safety requirements when transporting firearms or pistols.

This regulation prescribes the following safety requirements when transporting firearms or pistols:

- the firearm must not be loaded while it is being conveyed and it must be kept separate from any ammunition;
- the firearm must be transported in a secure manner and in the control of the licensee.

Shortening firearms

Regulation 53 Pursuant to subsection 95 (2) of the Act this is a formality regulation which prescribes the characteristics referred to at subsection 100 (3) of the Act for the purposes of describing a shortened firearm.

Identification of firearms

Regulation 54 Subsection 126 (1) of the Act allows the Regulations to prescribe the manner of numbering firearms and spare barrels.

This regulation prescribes the method for, and manner of, identifying firearms to be, in the case of a firearm, by stamping or, with the approval of the Registrar, by engraving the number in an exposed position on the firearm or a spare barrel for a firearm.

Government agencies - obligations

Regulation 55 This regulation prescribes the obligations of a government agency arising where a licence or permit is issued to a government agency and that agency employs persons who are authorised by a licence or permit to possess or use firearms for business or employment purposes.

The obligations include ensuring that any firearm required to be kept in safe storage is secured to prevent its removal otherwise than by an authorised employee; and to prevent any firearm in the agency's possession from being in the possession of, or used by, an employee who is not authorised.

Government agencies - employee obligations

Regulation 56 This regulation imposes obligations on the employees of government agencies who are required, in the course of their employment, to possess or use firearms. The regulation obliges an employee who is employed in or by a government agency, at the end of any period of duty, to return any firearm in the employee's possession to his or her employer's store of firearms, unless the Registrar has authorised the person to retain possession of a firearm between periods of duty as an employee.

Registers maintained by employers

Regulation 57 This regulation specifies the information which must be maintained in a register by employers who employ employees having access to firearms in the course of their employment.