



**AUSTRALIAN CAPITAL TERRITORY
LEGISLATIVE ASSEMBLY**

FIREARMS BILL 1996

EXPLANATORY MEMORANDUM

**Circulated by the authority of
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ACT GOVERNMENT

FIREARMS BILL 1996

OUTLINE

The underlying principles of the proposed Act are.

- (a) to confirm firearm possession and use as being a privilege that is conditional on the overriding need to ensure public safety;
- (b) to improve public safety by imposing strict controls on the possession and use of firearms, and by promoting the safe and responsible storage and use of firearms; and
- (c) to facilitate a national approach to the control of firearms.

The objects of the proposed Act are as follows:

- (a) to prohibit the possession and use of all automatic and self-loading rifles and shotguns except in special circumstances;
- (b) to establish an integrated licensing and registration scheme for all firearms;
- (c) to require each person who possesses or uses a firearm under the authority of a licence to prove a genuine reason for possessing or using the firearm;
- (d) to provide strict requirements that must be satisfied in relation to licensing of firearms and the acquisition and sales of firearms;
- (e) to ensure that firearms are stored and conveyed in a safe and secure manner, and
- (f) to provide for an amnesty period to enable the surrender of certain prohibited firearms

This Bill replaces the *Weapons Act 1991* with a legislative scheme that gives effect to the resolutions of the Australasian Police Ministers' Council (APMC) of 10 May 1996 and 17 July 1996 concerning firearms prohibition, regulation and control. While giving effect to those resolutions, this Bill maintains the

existing Australian Capital Territory law in such cases where it applies a stricter standard than that required by the Ministers' resolutions

The Bill should be considered in conjunction with the Prohibited Weapons Bill 1996 which strictly controls the possession and use of dangerous weapons other than firearms.

DETAILS OF THE BILL

PART I - PRELIMINARY

Short title and Commencement

Clauses 1 & 2 These clauses specify the name of the proposed Act and provide for the commencement of sections 1 and 2 on the day it is notified in the Gazette and the remaining provisions on a day or days notified in the Gazette or after 6 months

Principles and objects of Act

Clause 3 The principles and objects of the proposed Act are set out (as stated in the above overview).

Interpretation

Clause 4 Certain words and expressions used in the proposed Act are defined. The term "firearm" is widely defined. It means a gun, or other weapon, that is capable of propelling a projectile by means of an explosive, including air guns and blank fire firearms.

Amendment of Schedule 1 list of prohibited firearms

Clause 5 The list of prohibited firearms in Schedule 1 can be added to by the regulations

Application of Act

Clause 6 The proposed Act will bind the Territory but will not apply to police officers, prison officers, military personnel and certain other categories of persons while acting in the ordinary course of their duties

PART II - ADMINISTRATION

Registrar of Firearms

Clause 7 The chief police officer can appoint a police officer who holds the rank of superintendent or above to be the Registrar of Firearms.

Functions of the Registrar and Powers of the Registrar

Clauses 8 & 9 These clauses set out the functions and powers of the Registrar.

Delegation

Clause 10 The Registrar can delegate his or her powers to a police officer who holds a rank of sergeant or above

Acting Registrar

Clause 11 The chief police officer can appoint a person who is a superintendent or above, an acting Registrar.

Reports, recommendations and guidelines

Clause 12 This clause sets out the Registrar's obligations in preparing reports and determining guidelines for security of premises where firearms are kept and determining the guidelines for rendering firearms inoperable.

Amnesty

Clause 13 The Minister can specify an amnesty period for the unauthorised possession or use of firearms

Authorised instructors and members and approved ranges

Clause 14 This clause sets out the minimum requirement before the Registrar may authorise a person to give instruction on the use of firearms or to sell ammunition. It also allows the registrar to approve a shooting range for use in giving instruction

PART III - LICENCES AND PERMITS

Division 1 - Requirement for licence or permit

Offence of unauthorised possession or use of firearms

Clause 15 Prohibits a person from possessing or using a firearm without the appropriate authority.

Division 2 - Licensing scheme

Licence categories and authority to conferred by licence

Clause 16 Sets out the new licence categories, specifies the kinds of firearms to which each licence category applies and the authority that the licence confers.

The firearms referred to in licence category C will be restricted to primary producers, and those referred to in licence category D will be restricted to professional contract shooters and government authorised shooters engaged in controlling feral animals.

Authority conferred by licence - additional matters

Clause 17 The authority conferred by a licence to possess a firearm extends to such things as taking it to a licensed firearms dealer to have it repaired, and provides limits on what a licence can authorise (for example, you cannot possess a prohibited firearm for the purposes of a firearms collection)

Applications for licences

Clause 18 This clause specifies the eligibility criteria for applicants (for example, must be over 18 years of age)

Applications - request for further information etc.

Clause 19 The Registrar can issue a notice requiring further information from an applicant and requiring the firearm to be produced to the Registrar for inspection.

General restrictions on issue of licences

Clause 20 This clause gives the Registrar the power to issue a licence or refuse an application for a licence. The Registrar must be satisfied that the applicant has satisfied the criteria set out in the clause (for example, that the applicant is a fit and proper person). Subclause

5 sets out the factors that must be taken into account when determining that a person is or is not a fit and proper person. The minimum period between an application being lodged and a licence being issued is 28 days

Refusal to grant a licence

Clause 21 This clause specifies grounds for which the Registrar must refuse to issue a licence

Genuine reasons for having a licence

Clause 22 An applicant is required to state and prove a genuine reason for having a firearm as set out in the table before a licence can be issued.

Category B licences - restrictions on issue

Clause 23 A special need must be proven before a licence can be issued for specified higher powered firearms

Category C licences - restrictions on issue

Clause 24 Specified self-loading and repeating action firearms are to be restricted to primary producers who can show a special need that cannot be met by any other means.

Category D licences - restrictions on issue

Clause 25 Written authority from the Minister will be required before a licence can be issued for specified self-loading and repeating action firearms.

Category H licences - restrictions on issue

Clause 26 Pistols will be restricted to people who can show a special need and whose genuine reason is sport or target shooting, business or employment, or firearms collecting

Collectors licence - restrictions on issue

Clause 27 An applicant will be required to prove membership of a collectors club and the commemorative, historical, thematic or investment value of the collection before a collectors licence can be issued.

Heirlooms licence - restrictions on issue

- Clause 28 An heirlooms licence can be issued if the applicant owned the firearm before the proposed Act commenced and has been unable to show a genuine reason or that the firearm is part of a collection. Heirloom licences are limited to permanently inoperable firearms.

Composite entity licence

- Clause 29 The licensee will be authorised to possess a firearm registered on the licence when a category A, category B, category C or category H licence is granted to a partnership, body corporate or government agency.

Temporary licences - internationally protected persons

- Clause 30 A temporary licence can be issued for specified firearms to a member of staff of an internationally protected person.

Proof of special need

- Clause 31 The regulations can specify the sort of evidence of special need that can be produced to satisfy the Registrar.

Form of licence

- Clause 32 This clause provides for the form of a licence to be determined by the Registrar but it must, among other things, have a photo of the licensee and specify the firearms registered on the licence and the licensee's genuine reason/s.

Issue of licences to composite entities

- Clause 33 Licences issued to composite entities will be issued in the name of the composite entity.

Issue of copy of licence

- Clause 34 The Registrar must be notified of lost, stolen or destroyed licences to enable the Registrar to issue a new copy.

Conditions of licence

Clause 35 This clause provides mandatory conditions for all licenses and allows the imposition other conditions that the registrar thinks fit.

Special conditions of licences issued for collection purposes

Clause 36 This clause provides mandatory conditions for collectors' licenses.

Term of licence

Clause 37 The maximum term of a licence is limited to 5 years.

Suspension of licence and Suspension of licence on making of interim domestic violence order

Clauses 38 & 39 These clauses provide the grounds for suspension of a licence.

Cancellation of licence

Clause 40 This clause provides the grounds for revocation of a licence.

Surrender and seizure of firearms when licence suspended or cancelled

Clause 41 Both the licence and the relevant firearm(s) must be surrendered upon suspension or revocation of a licence and authorises police officers to seize firearms that are not surrendered.

Temporary recognition of interstate licences for shooting competition purposes

Clause 42 Interstate licenses can be recognised for limited purposes such as shooting competitions.

Interstate residents moving to the Territory

Clause 43 This clause provides for the recognition of interstate category A and B licenses for 3 months and category C and H licences for 7 days if new Territory residents notify the Registrar of their intention to permanently reside in the Territory.

Division 3 permits**General power to issue permits**

Clause 44 The Registrar can issue permits for specified purposes and in circumstances prescribed by the regulations

General restrictions on issuing permits

Clause 45 The eligibility criteria for permits are similar to the criteria applying to licences

General provisions relating to permits

Clause 46 Permits can be revoked for the same reasons for which a licence can be revoked

Permits to acquire firearms

Clause 47 A permit that authorises persons to acquire firearms is required to purchase a firearm

Minor's firearm permits

Clause 48 This clause enables minors to possess or use firearms under supervision (for training or target shooting purposes).

PART III - REGISTRATION OF FIREARMS***Division 1 - Registration scheme*****Register of firearms, Registration of firearms and Cancellation of registration**

Clauses 49 - 51 These clauses provide a registration scheme for all firearms that will be integrated with the proposed licensing and permit scheme. A Register of Firearms is to be maintained and is to contain particulars of each registered firearm and the person in whose name it is registered, along with particulars of the person's licence or permit. The Register is to be linked to interstate firearms registers. The registration scheme provides for the Registrar to issue a notice of registration to the person in whose name the firearm is registered, and for cancellation of registration on certain grounds

Division 2 - Offences relating to registration**Unregistered firearms**

Clause 52 It will be an offence to sell, purchase, possess or use an unregistered firearm

Requirements relating to registered firearms

Clauses 53 The registered owner of a firearm is required to allow a police officer to inspect it. If a firearm is sold, lost or stolen, the police and the registrar must be notified. If a person acquires a firearm, the registrar must be notified.

Alteration of notice of registration

Clauses 54 It will be an offence to alter a notice of registration

Division 3 - Endorsement of licences**Application of Division**

Clause 55 This Division does not apply to pistols

Application for endorsement

Clause 56 Persons with a category A or B licence can apply to the Registrar to have a firearm that is listed in another person's category A or B licence, endorsed on theirs

Approval of application

Clause 57 The Registrar is required to endorse the applicant's licence if satisfied of the specified criteria.

Endorsement

Clause 58 The Registrar is required to make a specified endorsement on the licence of a dealer or composite entity if the applicant is an employee, and the license of an approved club if the applicant is a member. Otherwise, the Registrar is required to endorse the licence with a description of the firearm

Cancellation of endorsement and Endorsements - notification of change of particulars

Clauses 59 & 60 An endorsement is cancelled when the relevant registration is cancelled. An endorsement based on employment by a dealer or composite entity or

membership of a club is cancelled if the person ceases to be an employee or member. A person ceasing employment or membership must notify the Registrar

PART V - SAFE KEEPING OF FIREARMS

General requirement

Clause 61 Reasonable precautions must be taken to ensure the safe keeping of firearms

Category A and category B license requirements and category C, D and H license requirements

Clauses 62 & 63 This clause specifies the requirements in respect of the different licence categories (for example, prohibited firearms and pistols must be stored in steel safes when not being used)

Seizure of firearms if storage requirements not met

Clause 64 Non-compliance with the safe keeping requirements can result in the seizure of the firearms concerned by the police

PART VI - FIREARMS DEALERS

Firearms dealers required to be licensed

Clause 65 Firearms dealers who carry on a business must be licensed

Restrictions on sale etc. of firearms by dealers

Clause 66 Dealers can only sell firearms to persons who are authorised to have a firearm

Recording of transactions

Clause 67 Firearms dealers must keep records of all their firearms transactions and dealings, and send these records to the Registrar so the Register of Firearms can be updated

Quarterly returns

Clause 68 Firearms dealers are required to provide quarterly returns to the Registrar

Additional requirements for dealers

Clause 69 Firearms dealers are required to comply with a number of other requirements that are designed to ensure the security and responsible safe keeping of firearms

Security of displayed firearms

Clause 70 Firearms dealers must ensure that displayed firearms are reasonably secured and supervised

Interstate transaction between dealers

Clause 71 This clause authorises licensed firearms dealers to purchase firearms from interstate dealers

PART VII - POWERS OF ENTRY, SEARCH AND SEIZURE**Interpretation**

Clause 72 "Offence" is defined as conduct that constitutes, or which is reasonably believed to constitute, an offence against the proposed Act or an offence against another Act where the penalty may be imprisonment for 6 months or more.

Powers of entry, search etc.

Clause 73 To ascertain whether the proposed Act or regulations are being complied with, a police officer can, without a warrant, enter specified premises in specified circumstances and conduct specified searches.

Search of persons, vehicles, vessels - without warrant

Clause 74 A police officer can, without a warrant, stop and search a person, their clothing and property or a vehicle or vessel if the police officer reasonably believes a firearm connected with an offence can be found in the possession of the person or on the vehicle or vessel

Consent to entry and inspection

Clause 75 Before requesting consent, a police officer must inform the occupier that consent can be refused. If the occupier consents, an acknowledgment must be signed to that effect. Failure to produce the acknowledgment in court proceedings is prima facie evidence that consent was not given.

Search warrants

- Clause 76 A magistrate can issue a police officer with a search warrant in specified circumstances

Forfeiture etc. of firearms

- Clause 77 If a prosecution is not started within 60 days, or if a court does not find the alleged offence proved, a seized firearm, ammunition and case must be returned to the owner except in specified circumstances. All seized prohibited firearms are forfeited to the Territory

PART VIII - MISCELLANEOUS OFFENCES**Obstruction of police officers**

- Clause 78 This clause prohibits the hindrance or obstruction of a police officer

Discharge etc. of a firearm - public places etc.

- Clause 79 The possession or discharge of a firearm in a street or a public place or near a street or a public place is prohibited

Discharge of firearm - general

- Clause 80 The discharge a firearm across land without the consent of the lessee, occupier or Registrar (as appropriate), is prohibited except if participating in a club activity on a shooting range

Carriage or use of firearm - disregard for safety

- Clause 81 This clause prohibits the carriage or use of a firearm in a dangerous manner

Buying of firearms

- Clause 82 This clause prohibits a person from buying a firearm without a licence to possess it and a permit to acquire it

Restrictions on sale and purchase of firearms

- Clause 83 This clause in effect prohibits the selling and buying of firearms privately (that is, a person can only buy or sell a firearm through a dealer) It also prohibits people from acquiring firearms during the first 28 days of their license

Use of mail for sending firearms

Clause 84 The sending or receiving of firearms in the Australian Capital Territory through the mail is prohibited

Use of mail for sending firearms outside the Territory

Clause 85 Only licensed firearms dealers are allowed to send firearms interstate through the mail and only if sent to other licensed firearms dealers.

Advertising sale of firearms

Clause 86 Only licensed firearms dealers are allowed to advertise firearms for sale, unless the sale is to be conducted by, or through, a licensed firearms dealer

Means of delivering possession of firearms

Clause 87 Firearms must be delivered in person.

Firearms not to be transported with ammunition

Clause 88 This clause prohibits the transportation of firearms with ammunition.

Transporting prohibited firearms or pistols

Clause 89 This clause prohibits the transportation of prohibited firearms and pistols other than within the prescribed safety requirements.

Possession of spare barrels for firearms

Clause 90 Possession of spare barrels without the authority of a licence or permit is prohibited.

"On-the-spot" inspection of firearms by police

Clause 91 This clause provides for the on-the-spot inspection of firearms by the police.

Disposal of firearms by unauthorised holders

Clause 92 Unauthorised persons are required to surrender firearms that come into their possession

Unsafe firearms

Clause 93 This clause prohibits the sale of unsafe firearms and allows the police to seize unsafe firearms

Shortening firearms

Clause 94 The shortening of firearms (for example, sawn off shotguns) is prohibited

Converting firearms

Clause 95 The conversion of a firearm into a pistol or so as to turn a prohibited firearm into a non-prohibited firearm is prohibited

Restrictions where alcohol or other drugs concerned

Clause 96 The carrying or use of firearms when under the influence of alcohol or other drugs, or the selling or giving of firearms to persons who are under the influence of alcohol or other drugs, is prohibited

Sale and purchase of ammunition

Clause 97 This clause regulates the sale and purchase of ammunition

Possession of ammunition

Clause 98 This clause regulates the possession of ammunition

Modification of firearms

Clause 99 The modification of specified firearms without the written approval of the Minister is prohibited

Approval of modifications

Clause 100 A person who has authority to modify a firearm is required to have the firearm examined by the Registrar so that any necessary alterations to the licence can be made

Defacing or altering identification marks

Clause 101 The altering of serial numbers and other identification marks on firearms is prohibited

Pawning of firearms

Clause 102 The pawning of firearms, firearm parts or ammunition is prohibited

Production of licence or permit on demand

Clause 103 Licensees and permit holders are required to produce their licences or permits when requested by a police officer

Possession of firearm under another license

Clause 104 This clause prohibits the possession of a firearm that is on another person's license without authority

Requirement to notify of change of address

Clause 105 Licensees and permit holders are required to notify the Registrar if they change their address

False or misleading applications

Clause 106 This clause prohibits the making of false or misleading applications for licences or permits.

Misuse of licenses and permits

Clause 107 This clause prohibits the misuse of licences and permits

Altering or falsifying records

Clause 108 Altering or falsifying records required to be kept under the proposed Act is prohibited

Lost, destroyed or stolen firearms

Clause 109 The Registrar must be notified when a firearm is lost, destroyed or stolen

PART IX - FIREARMS PROHIBITION ORDERS**Firearms prohibition orders**

Clause 110 The Registrar can make an order prohibiting a person from possessing firearms if it is not in the public interest for the person to have firearms

Effect of Firearms prohibition order

Clause 111 This clause prohibits the possession of a firearm in contravention of a Firearms prohibition order, and prohibits the sale or transfer of a firearm to another person in the knowledge that the other person is subject to a firearms prohibition order

PART X - REVIEW OF DECISIONS

Review of decisions

Clause 112 This clause provides for applications to be made to the Administrative Appeals Tribunal for review of the specified decisions

Notification of decisions

Clause 113 The Registrar is required to provide notice in writing of specified decisions to relevant people

PART XI MISCELLANEOUS PROVISIONS

Disclosure by doctors of certain information

Clause 114 This clause enables medical practitioners to disclose opinions about patients who are not suitable to have firearms

Disposal of surrendered or seized firearms and disposal of uncollected firearms

Clauses 115 & 116 These clauses deal with the disposal of surrendered, seized and uncollected firearms

Certificates of safety

Clause 117 The Registrar is required to have regard to a licensed dealer's certificate of safety regarding a firearm

Conduct of directors, servants and agents

Clause 118 This clause deals with proving the state of mind of a body corporate or a natural person

Third-party interests - complaints to Registrar

Clause 119 This clause provides for complaints to be made to the Registrar regarding the licences, permits and registration of firearms

Investigations

Clause 120 This clause provides for the Registrar to investigate complaints and, if appropriate, cancel licences

Offences by corporations

Clause 121 This clause deals with offences committed by corporations

Service of notices

Clause 122 Service by post is satisfied if addressed to the last known address of the person

Evidentiary certificates

Clause 123 Specified certificates of evidence are admissible in proceedings.

Power of the Minister to determine fees

Clause 124 The Minister can determine fees for the proposed Act.

Regulations

Clause 125 The Executive can make regulations for the purposes of the proposed Act.

Repeal

Clause 126 This clause provides for the repeal of the Acts specified in Schedule 2.

Review of Act

Clause 127 This clause provides for the proposed Act to be reviewed by the Minister after 3 years.

SCHEDULES

Schedule 1 This Schedule lists the firearms that are prohibited firearms for the purposes of the proposed Act. The list includes machine guns and all self-loading (that is, semi-automatic or rapid fire) rifles and shotguns (regardless of whether they are military style and regardless of their calibre and magazine capacity)

Schedule 2 This Schedule lists the different categories of licenses, the firearms to which each category applies and the authority conferred by each category of license