

2013

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

FIREARMS AMENDMENT REGULATION 2013 (No 1)

SL 2013 - 29

EXPLANATORY STATEMENT

**Circulated by the authority of
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Minister for Police and Emergency Services**

FIREARMS AMENDMENT REGULATION 2013 (No 1)

Overview

The *Firearms Regulation 2008* includes a series of important regulatory responsibilities for the registrar of firearms, licensees and permit holders. The *Firearms Amendment Regulation 2013 (No 1)* makes a number of important and consequential changes to the regulatory regime currently in place.

The Firearms Amendment Regulation makes a minor amendment to the *Firearms Act 1996* and a series of amendments to the *Firearms Regulation 2008*.

The Amendment Regulation inserts a new item into schedule 1, providing that the prohibited firearm includes 'a smoothbore shotgun or a rifle including a combination smoothbore shotgun or rifle but not an airgun or an airgun as mentioned at section 250 (2) (c) of the Act that has no stock'. The Legislative Assembly has explicitly authorised this exercise of legislative power through the Firearms Act, section 7 (3) (a).

The Amendment Regulation also:

- inserts 'vertebrate pest animal control' as a genuine reason for a category C licence;
- removes the annual reporting requirement for category A and B licences currently placed on licensees and clubs;
- ensures that people who hold a category A or B licence using club membership to support their licence participate in four club 'shooting' activities per year; and
- prescribes minimum dimensions for firearms, adopting dimensions described in section 250 of the Act dealing with the modification of firearms with authority.

NOTES ON CLAUSES

Part 1 Preliminary

Clause 1 – Name of regulation

This clause states that the name of the regulation is the *Firearms Amendment Regulation 2013 (No 1)*.

Clause 2 – Commencement

This clause states that the regulation, other than section 9, commences on the day after notification.

Section 9 commences on a day fixed by the Minister by written notice. If the provision does not commence within six months of the notification day it automatically commences on the first day after that period.

Clause 3 – Legislation amended

This clause states that the legislation amended is the *Firearms Act 1996* and the *Firearms Regulation 2008*.

Part 2 Firearms Act 1996

Clause 4 – Schedule 1, new item 17A

The Amendment Regulation amends schedule 1 of the Act by inserting a description of a firearm that is ‘a smoothbore shotgun or a rifle including a combination smoothbore shotgun or rifle but not an airgun or an airgun as mentioned at section 250 (2) (c) of the Act that has no stock’. The Legislative Assembly has explicitly authorised this particular exercise of legislative power in section 7 (3) (a) of the Act.

Item 17 of schedule 1 prohibits a firearm that, or part of which, has a dimension less than the minimum dimension prescribed for the firearm or part by the regulation. New 17A ensures that a smoothbore shotgun and rifle or an airgun (as mentioned at section 250 (2) (c) of the Act) that has no stock is also captured.

Unauthorised possession or use of these items becomes liable to the offence in section 42 – ‘Offence – unauthorised possession and use of prohibited firearms’. If a person commits this offence, the following maximum penalties would apply:

- 1-2 prohibited firearms 10 years imprisonment
- 3-9 prohibited firearms 14 years imprisonment
- 10 or more prohibited firearms 20 years imprisonment

These penalties contrast with the offence in section 43 – ‘Offence – unauthorised possession and use of firearms other than prohibited firearms’. This offence carries maximum penalties of 5 years, 7 years and 20 years for possession or use of the same number of firearms.

The increased penalties associated with the unauthorised use of these firearms without stock is appropriate as these firearms, if used illicitly, can have significant adverse consequences.

Part 3 Firearms Regulation 2008

Clause 5 - New section 16A

This clause inserts ‘vertebrate pest animal control’ as a genuine reason for the registrar of firearms to issue a category C licence to an adult under section 64 of the Act.

In some circumstances the use of a category C firearm, such as a semi-automatic, is necessary for timely and effective vertebrate pest animal control. An adult applying for a category C licence will need to produce evidence satisfying the registrar of firearms of the special need to possess or use a category C firearm and that the need cannot be met in any other way.

Furthermore, section 61 and table 61 of the Act require that when applying for a licence for the genuine reason of ‘vertebrate pest animal control’ there must be a nexus between the reason and the person’s occupation, for example a professional contract shooter employed in controlling vertebrate pest animals on rural land. This reflects resolution 3 of the *National Firearms Agreement* (1996).

Clause 6 – Section 17, note

This clause amends the note in section 17 to reflect the inclusion of ‘vertebrate pest animal control’ as a genuine reason for the registrar of firearms to issue a category C licence to an adult under section 64 of the Act.

Clause 7 – Section 20

This clause removes the reporting requirement for category A and B licensees. Previously all licensees had to annually report evidence of their genuine reason for using a firearm. Category A and B licensees, using membership of a club approved for sport or target shooting, were to provide an annual report to the registry. The report confirms that the licensee is a financial and active member of the approved club.

Through consultation with stakeholders including the Firearms Consultative Committee and the ACT Firearms Register it became apparent that this was an unnecessary condition to place on Category A and B licences and clubs as they have to provide each licensee with a written statement stating that they are a financial and active member of the club.

Overall the reporting requirement is an inefficient way to ensure compliance with the genuine reason requirements. The registrar of firearms confirms compliance and scrutinises the activities of approved clubs by assessing applications of club members and by approving shooting clubs for operation in the ACT (section 40 of the Act).

Clause 8 – New section 41(h)

This clause ensures that if the registrar of firearms approves the modification of a firearm under section 250 of the Act the following particulars are included in the register in relation to each registered modified firearm:

- details of the approval, including when it expires under the Act;
- the date the registrar of firearms decides whether the firearm has been modified under the Act (section 251) in accordance with the approval; and
- the registrar of firearms’ decision.

Clause 9 – Table 68, item 1, column 3

This amendment clarifies that a licence holder who is a member of an approved shooting club must take part in at least 4 shooting activities in a 12-month period. This ensures that members participate in a shooting activity, such as competition or shooting practice, rather than attending non-shooting activities at the club to satisfy their participation obligations.

Clause 10 – New section 73A

This clause prescribes minimum dimensions for firearms as required by schedule 1, item 17 of the Act which captures prohibited shortened firearms described as ‘a firearm that, or part of which, has a dimension less than the minimum dimension prescribed for the firearm or part by the regulations’.

The dimensions adopted are based on section 250 of the Act which deals with the modification of firearms.

This clause ensures that a person who is in possession of an unauthorised shortened firearm can be prosecuted under section 42 of the Act (which attracts a maximum penalty of 10 years imprisonment).

A licensed firearm owner may still apply to the registrar of firearms, under section 250 (2), to modify a firearm to dimensions less than those prescribed by this clause.