

Australian Capital Territory

Firearms Amendment Regulation 2020 (No 2)

Subordinate law SL2020–30

made under the

Firearms Act 1996, s 272 (Regulation-making power)

EXPLANATORY STATEMENT

The object of this Regulation is to temporarily relieve holders of certain firearms licences from requirements to comply with provisions of the *Firearms Regulation 2008* (the Regulation), where their ability to comply with those requirements is affected by the COVID-19 public health emergency.

Under the Regulation, it is a condition of certain firearm licences that:

- if the genuine reason for possessing or using a firearm is sport or target shooting, that each year the licensee gives a written statement from an approved club, to the Firearms Registrar, stating that the licensee is a financial and active member of the club;
- the holder of the licence participates in a certain number of shooting activities or competitions within a 12 month or 6 month period.

The COVID-19 public health emergency is anticipated to limit the capacity of firearms licence holders, to whom these requirements apply, to comply due to:

- restrictions on gatherings affecting the conduct of shooting competitions and other club activities;
- social distancing requirements limiting the number of participants in any competitions and activities which can be conducted;
- individuals who may be unwilling or unable to participate in relevant activities and competitions due to illness or concerns about their vulnerability in these environments.

Under the Regulation, it is also a requirement that holders of certain categories of firearm licences, for business or employment, pass an annual examination in the safe handling and use of the firearm, conducted by an authorised instructor. Corresponding provisions require the registered principal for composite entity licences, for business purposes, to pass an

annual examination in the safe handling and use of the category of firearm they are licenced to use.

The COVID-19 public health emergency is anticipated to limit the capacity of firearms licence holders, to whom these requirements apply, to comply with those requirements due to:

- social distancing requirements;
- individuals who may be unwilling or unable to participate in such examinations – both licence holders and authorised examiners - due to illness or concerns about their vulnerability in these environments.

This Regulation provides that licensees to whom these requirements apply are taken to have complied if their ability to comply is prevented or restricted by a COVID-19 provision.

In the case of requirements to undertake an annual examination in the safe handling of a firearm, the licensee will only be taken to have complied if the relevant compliance period ends during a COVID-19 emergency and they comply with the requirement as soon as practicable after the emergency ends.

A COVID-19 provision is a law of the Commonwealth, or a State or Territory that was made to respond to an emergency declared under a Commonwealth, State or Territory law because of the coronavirus disease 2019.

These amendments recognise the practical implications of the COVID-19 health emergency, including measures to protect health and safety, upon the ability of individuals and organisations to comply with existing regulatory requirements.

They are consistent with similar arrangements put in place in other jurisdictions to address barriers to compliance with particular firearms regulations due to COVID-19.

This Regulation is made under *the Firearms Act 1996* under s 272 (the regulation-making power).

HUMAN RIGHTS IMPLICATIONS

The Regulation does not engage any human rights set out in the *Human Rights Act 2004*.

REGULATORY IMPACT STATEMENT

Section 34 of the *Legislation Act 2001* requires the preparation of a Regulatory Impact Statement where a subordinate law is likely to impose appreciable costs on the community, or a part of the community. Since this regulation does not impose appreciable costs on the community, no such statement is necessary.

NOTES ON CLAUSES

Clause 1 Name of regulation

Clause 1 is a formal provision setting out the name of the Regulation as the *Firearms Amendment Regulation 2020 (No 2)*.

Clause 2 Commencement

Clause 2 provides the commencement date for the Regulation. The regulation commences on the day after its notification day.

Clause 3 Legislation amended

Clause 3 provides that this regulation amends the *Firearms Regulation 2008*.

Clause 4 New part 19

Clause 4 inserts new part 19 – COVID-19 emergency response.

Section 84 provides definitions for part 19 and defines *COVID-19 emergency* and *COVID-19 provision*.

COVID-19 emergency means –

- a) a state of emergency declared under the *Emergencies Act 2004*, section 156 because of the coronavirus disease 2019 (COVID-19); or
- b) an emergency declared under the *Public Health Act 1997*, section 119 (including any extension or further extension) because of the coronavirus disease 2019 (COVID-19).

COVID-19 provision means a provision in a—

- a) law of the Territory that was made to respond to a COVID-19 emergency; or
- b) law of the Commonwealth or a State that was made to respond to an emergency declared under a Commonwealth or State law because of the coronavirus disease 2019 (COVID-19)

A note is provided to clarify that ‘State’ includes the Northern Territory.

Section 85 – Certain requirements do not apply in relation to COVID-19 emergency

Section 85 (1) provides that a licensee is taken to comply with a condition under section 20 of the *Firearms Regulation 2008* in relation to a yearly period mentioned in the section if, during the period, the licensee’s ability to comply with the condition is prevented or restricted by a COVID-19 provision.

Section 20 applies conditions to category C and category H licences if the genuine reason for possessing or using the firearm is sport or target shooting.

It is a condition of these licences that each year the licensee gives a written statement from an approved club, to the Firearms Registrar, stating that the licensee is a financial and active member of the club.

If the genuine reason for possessing or using a prohibited firearm is for the purposes of a shooting competition, it is a condition that each year the licensee takes part in at least 4 clay target competitions organised by a club affiliated with the Australian Clay Target Association.

Section 85(2) provides that licensee is taken to comply with a condition under any of the following provisions in relation to a 12-month or 14-day period mentioned in the provision if the period ends during a COVID-19 emergency and the licensee complies with the condition as soon as practicable after the emergency ends:

- a) section 21 (1) (a);
- b) section 22 (a) and (b);
- c) section 32 (1) (a);
- d) section 33 (a) and (b).

These provisions impose requirements that holders of certain categories of firearm licence, for business or employment, pass an annual examination in the safe handling and use of the firearm, conducted by an authorised instructor. There are also provisions, where an examination is failed for the licence holder to pass the examination within 14 days after the failure.

Section 85 (3) provides that a licensee is taken to comply with a requirement prescribed under section 68 for a 12-month or 6-month period mentioned in the section if, during the period, the licensee's ability to comply with the requirement is prevented or restricted by a COVID-19 provision.

Section 68 requires members of approved hunting clubs to take part in 4 shooting activities of any approved hunting club within each 12 months period. It also requires certain licence holders to participate in minimum numbers of shooting club events or competitions in either a 6 month or 12 month period.

Section 85 (4) provides that subsection (1), (2) or (3) applies to a licensee even if a period of time mentioned in the subsection commenced before the commencement of this part.

Section 86 provides that part 19 expires at the end of a 12-month period during which no COVID-19 emergency has been in force. This recognises that the impacts of COVID-19 emergency measures may continue beyond the end of a declared emergency period.