



Western Australia

Firearms Act 1973

**Incorporating the amendments proposed
by the *Firearms Amendment Bill 2021 Pt. 2*
(Bill No. 59-2)**

Firearms Act 1973

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Western Australia

Firearms Act 1973

An Act to make provision for the control and regulation of firearms and ammunition, the licensing of persons possessing, using, dealing with, or manufacturing firearms and ammunition, the repeal of the *Firearms and Guns Act 1931*², and for incidental and other purposes.

Part 1 — Preliminary

[Heading inserted: Firearms Amendment Bill 2021 cl. 4.]

1. Short title

This Act may be cited as the *Firearms Act 1973* ¹.

2. Commencement

This Act shall come into operation on a date to be fixed by proclamation ¹.

[3. Deleted: Firearms Amendment Bill 2021 cl. 5.]

[3. — Omitted under the Reprints Act 1984 s. 7(4)(f).]

4. Terms used

In this Act, unless the context otherwise requires —

ammunition —

(a) means anything made or modified specifically for discharge from a firearm; and

(b) includes the following —

(i) a cartridge, projectile, primer or propellant made or modified specifically for use in manufacturing something described in paragraph (a);

(ii) any other prescribed thing;

but

(c) does not include any of the following —

(i) ammunition rendered inoperative;

(ii) an inert cartridge, dummy round or drill round that does not contain primer, propellant or explosive charge;

(iii) a prescribed paintball pellet;

(iv) a spent primer;

(v) a spent casing, whether or not it can be reused;

(vi) any other prescribed thing;

~~**ammunition** includes anything manufactured specifically as a component of ammunition designed for discharge from a firearm and also includes any primer or propellant manufactured specifically for use in making ammunition designed for~~

~~discharge from a firearm but does not include ammunition rendered inoperative for the purpose of a collector's item;~~

approved means approved by the Commissioner;

carry includes to have on or about one's person;

Commissioner means the Commissioner of Police;

dealer means a person who in the ordinary course of business buys, sells or trades in firearms, major firearm parts ~~firearms~~ or ammunition; and *deal* has a corresponding meaning;

Department means the department of the Public Service principally assisting in the administration of this Act;

Extract of Licence means a Firearms Act Extract of Licence referred to in, and issued under, section 22A;

firearm —

(a) means a device that is made, modified or capable of being modified to discharge or propel a shot, bullet, missile or other projectile, whether or not the device is —

(i) operable or inoperable; or

(ii) assembled or in parts; or

(iii) complete or incomplete;

but

(b) does not include any of the following —

(i) anything that is prescribed in regulations under the *Weapons Act 1999* to be a prohibited weapon or a controlled weapon;

(ii) an industrial tool powered by cartridges containing gun powder, compressed air or other gas, that is made to fix fasteners or plugs or for similar purposes;

(iii) a device made to discharge signal flares;

(iv) a device commonly known as a kiln gun or ring blaster, made specifically for knocking out or down solid materials in kilns, furnaces or cement silos;

(v) a device commonly known as a line thrower, made to establish lines between structures or natural features and powered by compressed air or other compressed gases;

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(vi) a device commonly known as a promotional launcher, made to discharge packaged promotional material among event crowds and powered by compressed air or other compressed gases;

(vii) anything that appears to replicate a firearm but is obviously a child's toy and is not made or modified to discharge a projectile capable of causing physical harm;

(viii) any other prescribed thing;

~~*firearm* includes any lethal firearm and any other weapon of any description from which any shot, bullet, or other missile can be discharged or propelled or which, by any alteration in the construction or fabric thereof, can be made capable of discharging or propelling any shot, bullet or other missile, but does not include anything that is prescribed in regulations under the *Weapons Act 1999* to be a prohibited weapon or a controlled weapon;~~

firearms precursor has the meaning given in section 23AF(1);

firearms prohibition order has the meaning given in section 29A(1);

firearms technology has the meaning given in section 23AG(1);

handgun means a firearm that —

(a) is reasonably capable of being carried or concealed about the person; and

(b) when used, can be aimed and fired or discharged from 1 hand;

~~*handgun* means any lethal firearm and any other weapon of any length of barrel —~~

~~(a) which is reasonably capable of being carried or concealed about the person; and~~

~~(b) which when used can be aimed and fired or discharged from one hand; and~~

~~(c) from which any shot, bullet, or other missile can be discharged or propelled, or which, by any alteration in the construction or fabric thereof can be made capable of discharging or propelling any shot, bullet or other missile;~~

holder, in the context of an approval given under this Act, means the person to whom the approval relates;

major firearm part means any of the following, made or modified for use in a firearm —

- (a) a gas piston, friction assembly, action bar, breech bolt or breech block;
- (b) a frame or chassis, including a frame blank or chassis blank;
- (c) a barrel or barrel blank;
- (d) an assembled trigger mechanism;
- (e) a receiver or slide;
- (f) a magazine;
- (g) a thing that includes at least 1 of the things listed in paragraphs (a) to (f);
- (h) any other prescribed thing;

medical practitioner means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession;

missile means any solid substance or liquid chemical which when discharged or propelled from any weapon from any distance is capable of causing physical injury to persons;

paintball means a game in which players attempt to shoot at one another with prescribed paintball guns using prescribed paintball pellets;

paintball gun means a firearm made or modified ~~designed~~ to discharge or propel paintball pellets;

paintball pellets means pellets —

- (a) consisting primarily of a dye or a similar prescribed substance; and
- (b) made or modified ~~designed~~ to be discharged or propelled from a firearm;

place has the meaning given in the *Criminal Investigation Act 2006* section 3(1);

possession —

- (a) in relation to a firearm, major firearm part, prohibited firearm accessory, sound suppressor, firearms precursor (other than a firearms precursor that is firearms technology) or ammunition — has the meaning given in section 4A; or

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(b) in relation to firearms technology — has the meaning given in section 23AH(2);

~~*possession*, in addition to actual physical possession of a firearm or ammunition, means the custody or control of it, or having and exercising access to it in any place either alone or in common with others;~~

prescribed means prescribed by regulations made under this Act;

prohibited firearm means a firearm, the acquisition, sale, possession or use of which is prohibited by regulations under section 6(1);

prohibited firearm accessory means any of the following —

- (a) a device commonly known as a bump stock, being a stock that is made or modified to allow a self-loading firearm to fire more rapidly than is possible with trigger-finger manipulation alone;
- (b) a device commonly known as a folding stock, being a stock with a mechanism that allows the stock to be folded to reduce the overall length of a firearm;
- (c) a device commonly known as a detachable stock, being a stock that when removed from a firearm allows the firearm to remain capable of being fired or discharged;
- (d) a device commonly known as a chassis carbine kit, that alters a firearm in such a way that the category of firearm to which the firearm belongs under the regulations is altered;
- (e) any other prescribed thing that may be fitted to or used in conjunction with a firearm;

prohibited person means a person in relation to whom a firearms prohibition order is in force;

section means section of this ~~Act~~; ~~Act~~.

sound suppressor —

(a) means a device that is made or modified to be fitted to a firearm to reduce the noise of the firearm firing or discharging; and

(b) includes a device commonly known as a silencer;

thing relevant to an offence has the meaning given in the *Criminal Investigation Act 2006* section 5;

vehicle has the meaning given in the *Criminal Investigation Act 2006* section 3(1).

[Section 4 amended: No. 59 of 1996 s. 4 and 40; No. 18 of 1999 s. 21; No. 69 of 2004 s. 4 and 8(1); No. 22 of 2008 Sch. 3 cl. 20; No. 35 of 2010 s. 64; Firearms Amendment Bill 2021 cl. 6.]

4A. Possession of firearms and other things

A person is in *possession* of a firearm, major firearm part, prohibited firearm accessory, sound suppressor, firearms precursor (other than a firearms precursor that is firearms technology) or ammunition if any of the following circumstances apply —

- (a) the person has actual physical possession of it;
- (b) the person has the custody or control of it, whether directly or remotely;
- (c) the person has and exercises access to it in a place either alone or in common with others;
- (d) the person occupies, or has care, control or management of, a place where it is found;
- (e) the person is in charge of a vehicle where it is found.

[Section 4A inserted: Firearms Amendment Bill 2021 cl. 7.]

5. Administration

- (1) The responsibility for the administration of this Act is vested in the Minister who is required to have regard to the recommendations of the Commissioner but is not bound to give effect to any such recommendation.
- (2) Subject to the Minister, the administration of this Act shall be carried out by the Commissioner.
- (3) The costs and expenses incurred in the administration of this Act shall be defrayed out of moneys to be provided by Parliament for that purpose.
- (4) The provisions of the *Financial Management Act 2006* and the *Auditor General Act 2006* regulating the financial administration, audit and reporting of departments apply to and in respect of the Department and its operations under this Act.

[Section 5 amended: No. 98 of 1985 s. 3; No. 69 of 2004 s. 8(2); No. 77 of 2006 Sch. 1 cl. 66.]

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5A. Delegation of Commissioner's powers~~Delegation of Commissioner's power to give licences, permits and approvals~~

- (1) The regulations may permit prescribed members of the Police Force to perform the Commissioner's functions upon an application being made for the grant of an approval or permit or the issue of a licence under this Act in respect of a firearm or ammunition.
- (2) Sections 58 and 59(1)(a) and (f), (2), and (3) of the *Interpretation Act 1984* apply as if a function that a member of the Police Force may perform under subsection (1) had been delegated to the person by the Commissioner.
- (3) The Commissioner may, by a signed instrument of delegation, delegate to a member of the Police Force, either generally or as otherwise provided in the instrument, any power or duty under this Act, other than —
 - (a) a function the performance of which is permitted by regulations under subsection (1); and
 - (b) this power of delegation.
- (4) The Commissioner may delegate the following powers only to a member of the Police Force who holds the rank of Commander or above —
 - (a) the power under section 29A(1) to make a firearms prohibition order;
 - (b) the power under section 29G(3) to revoke a firearms prohibition order.

[Section 5A inserted: No. 59 of 1996 s. 5(1); amended: Firearms Amendment Bill 2021 cl. 8.]

[5B. Deleted: No. 69 of 2004 s. 9.]

6. Prohibition

- (1) The Governor, on the recommendation of the Commissioner, may make regulations to prohibit the acquisition, sale, possession, or use of any firearm, major firearm part, sound suppressor ~~firearm, silencer or other contrivance of a similar nature,~~ or ammunition, whether licensed under this Act or not, either —
 - (a) absolutely; or

- (b) except upon and subject to such conditions, restrictions, and limitations, for such purpose or purposes, and in such place or places, as the Governor considers desirable in the public interest,

having regard to the especial potentially dangerous nature of that kind of firearm, major firearm part, sound suppressor ~~firearm, contrivance~~ or ammunition and the need to exercise special precautions in relation thereto, or otherwise in the public interest.

- (1a) Notwithstanding that any licence may have been issued, permit granted, or approval given under this Act in relation to any firearm, major firearm part ~~firearm~~ or ammunition of that kind, the Governor, on the recommendation of the Commissioner, may, in relation to any firearm, major firearm part ~~firearm~~ or ammunition which is, because of its nature or characteristics, of a kind requiring the exercise of special precautions and which is named, or falls within a description given in, or is otherwise identified by, those regulations, make regulations —
 - (a) directing that no licence, permit or approval relating thereto shall be issued or given; or
 - (b) directing that no licence, permit or approval relating thereto shall be capable of being renewed after a date specified in the regulations; or
 - (c) otherwise making such provision as may be expedient in relation thereto,

and for the purposes of section 22 the exercise of any power pursuant to those regulations shall not be taken to have been a decision made by or on behalf of the Commissioner.

- (2) Regulations made under subsection (1) may provide penalties for offences against the regulations, and may also provide that any firearm, major firearm part ~~firearm~~ or ammunition relating to any such offence shall be forfeited to the Crown whether or not any person is lawfully entitled to the possession thereof.
- (3) Where no penalty is specifically provided, a person who contravenes a regulation made under subsection (1) commits a crime and is liable, on conviction —
 - (a) for a first offence, to imprisonment for 5 years;

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(b) for a subsequent offence, to imprisonment for 10 years.

Summary conviction penalty for [this subsection for a first offence: imprisonment](#) ~~a first offence: Imprisonment~~ for 3 years or a fine of \$12 000.

[Section 6 amended: No. 35 of 1980 s. 3; No. 70 of 1987 s. 4; No. 59 of 1996 s. 7 and 45; No. 4 of 2004 s. 58; No. 69 of 2004 s. 10; [Firearms Amendment Bill 2021 cl. 9 and 65.](#)]

7. Governor may order delivery of firearms by dealers and manufacturers in cases of emergency

(1) Where the Governor is of opinion that any emergency has arisen, or is likely to arise, [the Governor](#) ~~he~~ may by proclamation declare that all dealers and manufacturers and repairers of firearms in the State, or in any specified portion of the State, having [firearms, major firearm parts](#) ~~firearms~~ or ammunition in their possession —

(a) shall render the same innocuous by a method to be specified in the declaration;

(b) shall deliver the same, or any parts or kinds of the same specified in the declaration, within a time and at a place so specified, to the Commissioner or any specified member of the Police Force, for the purpose of safe keeping.

(2) A person who fails to comply with the requirements of a proclamation made under subsection (1) commits a crime and is liable, on conviction, to imprisonment for 5 years.

Summary conviction [penalty for this subsection: imprisonment](#) ~~penalty: Imprisonment~~ for 18 months or a fine of \$6 000.

[Section 7 amended: No. 70 of 1987 s. 5; No. 59 of 1996 s. 46; No. 4 of 2004 s. 58; [Firearms Amendment Bill 2021 cl. 10, 65 and 66.](#)]

Part 2 — Licences, permits and approvals

[Heading inserted: Firearms Amendment Bill 2021 cl. 11.]

Division 1 — General matters

[Heading inserted: Firearms Amendment Bill 2021 cl. 11.]

8. Exemptions from licensing requirements

- (1) No licence under this Act is required —
- (a) by a person who is the holder of a permit issued under this Act in relation to any matter authorised by that permit;
 - (b) by the Governor;
 - [(c) deleted]*
 - (d) by —
 - (i) a member of the Police Force; or
 - (ii) an employee of the Department, having a firearm, major firearm part ~~firearm~~ or ammunition in their ~~his~~ possession in preparation for, as a consequence of, or for use in, the performance of their ~~his~~ duties;
 - (e) by a member of the armed forces of the Crown, or a member of any other disciplined force specified by the Governor for the purposes of this section by notice in the *Gazette*, having a firearm, major firearm part ~~firearm~~ or ammunition in their ~~his~~ possession for use in the performance of their ~~his~~ duties;
 - (f) by a person permitted to do so under section 16D(4) by a body licensed by the Commissioner under section 16D who has a firearm, major firearm part ~~section 16(2) by a body licensed by the Commissioner under section 16(1)(c) who has a firearm~~ or ammunition in the person's ~~his~~ possession, or carries or uses it, in accordance with that permission;
 - (fa) by a responsible person (as defined in section 33A(3)(b)) or an approved person (as defined in section 33A(3)(c)) who has a firearm, major firearm part or ammunition surrendered under section 33A(1)(b) in their possession, or carries it, in accordance with an approval given by the Commissioner under section 33A(2);

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Division 1 General matters

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- (g) by a person who is an approved commercial carrier or approved warehouseman, or by the servant of any such person, who in the ordinary course of ~~their~~ ~~his~~ trade or business as an approved commercial carrier or approved warehouseman —
- (i) carries, and not by means of a bicycle or motor cycle, unless otherwise approved; or
 - (ii) stores,
a ~~firearm, major firearm part~~ ~~firearm~~ or ammunition for another person;
- (h) in relation to an approved firearm or ammunition for that firearm, by a person who in the ordinary course of ~~their~~ ~~his~~ practice, trade or business uses that firearm for the purpose of dealing a blow to any animal with intent to slaughter it or to render the animal insensible prior to slaughtering;
- (i) by a person who is employed or contracted by, or is a family member (as defined in subsection (2)) of, a primary producer —
- (i) to possess or use for the purpose of destroying vermin, or stock required by that primary producer to be destroyed, on land used by that primary producer for the purposes of primary production, a ~~firearm, major firearm part~~ ~~firearm~~ and ammunition belonging to and held by that primary producer under a licence or permit granted under this Act to the primary producer; or
 - (ii) to possess such a ~~firearm, major firearm part~~ ~~firearm~~ or ammunition while carrying it directly between 2 such pieces of land or directly between such land and any other place where it is authorised by law to be held,
if the use of the ~~firearm, major firearm part~~ ~~firearm~~ and ammunition by that person is expressly authorised by the primary producer;
- (j) by a person who has in ~~their~~ ~~his~~ possession or uses any firearm ~~made or modified~~ ~~designed~~ for signalling or life saving purposes in the course of rescue or attempted rescue operations or in rehearsal or training for such operations, or has in ~~their~~ ~~his~~ possession or uses a ~~major firearm part or~~ ~~ammunition~~ for that firearm;

- (k) by a person who has in their ~~his~~ possession or uses for the purpose of starting races at any athletic or other sporting meeting an approved firearm or ammunition for that firearm belonging to, and held under a licence or permit granted under this Act by, another person with their ~~his~~ permission;
- (l) by a person who, as an employee or partner of the holder of a licence to conduct a shooting gallery, or as a customer of a shooting gallery being conducted pursuant to this Act, handles or uses a firearm or ammunition at that shooting gallery in accordance with the conditions, restrictions and limitations, if any, specified in the licence relating to that shooting gallery;
- (m) by a person who, with the permission of the owner of the firearm on an approved range that is properly constructed and maintained, has in the person's ~~his~~ possession, handles or uses a firearm or ammunition for a firearm that is the property of, or is the property of a member of, an approved club or other approved organisation and is held by that owner under a licence or permit granted under this Act;
- (ma) by a person who, at a venue that is approved and properly constructed and maintained for the playing of paintball, is in possession of, handles or uses a prescribed paintball gun or prescribed paintball pellets —
 - (i) with the permission of the owner of the paintball gun; or
 - (ii) if the owner of the paintball gun is an approved club or other approved organisation, as a member of that club or other organisation;
- ~~(mb) by a person who is in possession of prescribed paintball pellets;~~
- (mc) by a person who is in possession of, or carries, but does not use, an antique mechanism firearm or a major firearm part that forms part of that antique mechanism ~~firearm; firearm;~~
- (n) by a person under the age of 18 years who uses a firearm, not being a handgun, or ammunition for that firearm under the supervision of, and which is the property of, a person who is the holder of a licence or permit under this Act relating to that firearm.

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Part 2 Licences, permits and approvals

Division 1 General matters

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(2) In subsection (1) —

antique mechanism firearm means a muzzle loading firearm (including a percussion lock handgun that is muzzle loading) manufactured before 1900 that uses black powder to propel a shot, bullet, [missile or other projectile](#) ~~or other missile~~ except that it does not include a breech loading firearm, a firearm with revolving chambers or barrels, or a cannon;

approved means approved by the Commissioner either generally by notice in the *Gazette* or specifically by notice in writing;

family member, in relation to a person, means —

- (a) the spouse or de facto partner of the person; or
- (b) a parent, child, brother, or sister, of the person or of the person's spouse or de facto partner; or
- (c) the spouse or de facto partner of a person referred to in paragraph (b).

[Section 8 amended: No. 59 of 1996 s. 8; No. 28 of 2003 s. 59; No. 69 of 2004 s. 5, 8(3) and 11; [Firearms Amendment Bill 2021 cl. 12 and 66.](#)]

9. Licences, permits, approvals not transferable

A licence, permit, or approval issued or granted under this Act is not transferable.

9A. Duration and renewal of licences

(1) The period for which this section provides that a licence is valid is subject to —

- (a) any other provision of this Act; and
- (b) anything endorsed on the licence,

under which the licence ceases to be valid earlier.

(2) An Ammunition Collector's Licence is valid for a period of 5 years from the day on which it was issued or last renewed.

(2a) A Firearm Collector's Licence is valid for a period of 3 years from the day on which it was issued or last ~~renewed unless that day was before the day on which the *Firearms Amendment Act 2004* section 12 came into operation, in which case it is valid for a period of 5 years from the day on which it was issued or last~~ renewed.

(3) Any other licence under this Act is valid for a period of 12 months from the day on which it was issued or last renewed.

- (4) The Commissioner may, on payment of the prescribed fee, renew a licence from time to time for further periods on application made within one month before, or within 12 months after, its expiry.
- (5) Where a licence is renewed on application made within one month before, or within 3 months after, its expiry, it is deemed to have been renewed immediately after its expiry and the renewal is deemed to be a continuation of the licence.
- (6) Where a licence is renewed on application made more than 3 months, but not more than 12 months, after its expiry, the renewal takes effect on and from the day on which it is effected but, for the purpose of determining the day when the renewed licence expires, it is deemed to have been renewed immediately after it previously expired.
- (7) A licence cannot be renewed under this section more than 12 months after its expiry, but the person who held it is not prevented from making an application for a licence under section 18(1).

[Section 9A inserted: No. 59 of 1996 s. 9; amended: No. 69 of 2004 s. 12; [Firearms Amendment Bill 2021 cl. 13.](#)]

Division 2 — Requirements and restrictions

[Heading inserted: [Firearms Amendment Bill 2021 cl. 14.](#)]

10. Minimum age of licensee or permit holder

A licence or permit under this Act cannot be issued to a person under the age of 18 years.

[Section 10 inserted: No. 59 of 1996 s. 10.]

10A. Training courses

Regulations made under section 34 may —

- (a) require that, before a licence under this Act can be issued to an applicant, the applicant is required to have successfully completed a course of training accredited in accordance with the regulations;
- (b) make provision as to the accreditation of, and conducting of, courses referred to in paragraph (a).

[Section 10A inserted: No. 59 of 1996 s. 11.]

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11. Exercise of Commissioner's discretion

- (1) The Commissioner cannot grant an approval or permit or issue a licence under this Act to a person if the Commissioner is of the opinion that —
 - (a) to do so would be contrary to section 11A or regulations under section 11B or 11C; or
 - (b) it is not desirable in the interests of public safety; or
 - (c) the person is not a fit and proper person to hold the approval, permit, or licence.

(1A) The Commissioner cannot grant an approval or permit or issue a licence under this Act to a prohibited person.

- (2) Where the Commissioner is satisfied that a person has a history of, or a tendency towards, violent behaviour, the Commissioner may take it into account in deciding whether that person is a fit and proper person to hold an approval, permit, or licence.
- (3) The Commissioner has a sufficient ground for forming an opinion that a person is not a fit and proper person to hold an approval, permit or licence under this Act if the Commissioner —
 - (a) is satisfied that at any time within the period of 5 years before the person applies for the approval, permit or licence —
 - (i) the person was convicted of an offence involving assault with a weapon; or
 - (ii) the person was convicted of an offence involving violence; or
 - (iii) the person was convicted of any offence against this Act; or
 - (iv) a violence restraining order was made against the person,
whether in this State or in any other place; or
 - (b) is satisfied that the person fails to meet standards of mental or physical fitness that the Commissioner considers to be necessary for the person to hold the approval, permit or licence; or
 - (c) suspects, on the basis of an intelligence report or other information held in relation to the person, that the person is a threat to public safety.

- (4) In subsection (3) —
- violence restraining order*** means a judicial order imposing on the person against whom the order is made restraints on the person's lawful activities and behaviour to prevent the person —
- (a) committing an offence against the person under Part V of *The Criminal Code*, other than Chapters XXXIV and XXXV; or
 - (b) behaving in a manner that could reasonably be expected to cause fear that the person will commit such an offence,
- or a similar order made under the laws of any place other than this State.
- (4a) The Commissioner is not required under this Act or any other Act or law to disclose information relied on under subsection (3)(c) unless the disclosure is required under the *State Administrative Tribunal Act 2004*.
- (5) The Commissioner may form an opinion that a person is a fit and proper person to hold an approval, permit or licence under this Act in a case in which the Commissioner has a sufficient ground under subsection (3) for forming the contrary opinion.
- (6) Subsection (3) does not limit the Commissioner's ability, when forming an opinion as to whether a person is a fit and proper person to hold an approval, permit or licence under this Act, to take into account —
- (a) a conviction or order made outside the period of 5 years referred to in paragraph (a) of that subsection; or
 - (b) anything else that could have been taken into account if that subsection had not been enacted.
- (7) Without limiting the other grounds on which an application may be refused, the Commissioner may refuse an application if satisfied that the applicant has —
- (a) failed to comply with a regulation providing for the manner in which a photograph of the applicant's face is to be supplied for inclusion on an Extract of Licence; or
 - (b) failed to give the Commissioner, when requested in writing by a member of the Police Force to do so, a statement in the prescribed form as to what the applicant has done, or intends to do, to ensure that any firearms or ammunition in the applicant's possession are stored in accordance with this Act; or

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- (c) refused to permit a member of the Police Force to inspect, at a reasonable time, ~~inspect~~ the storage facilities for any firearms or ammunition that the applicant would be entitled to possess, ~~possess, when requested in writing by a member of the Police Force to do so.~~
- (8) Where the Commissioner, in writing, requests an applicant for an approval, permit or licence to supply information, or further information, which the Commissioner considers to be necessary to enable the application to be properly determined, if that information is not supplied —
- (a) within 28 days, or such further period as the Commissioner may approve; and
- (b) in the manner and form requested by the Commissioner,
- the application lapses and the approval, permit, or licence sought cannot be granted or issued.

[Section 11 inserted: No. 59 of 1996 s. 12; amended: No. 69 of 2004 s. 13; [Firearms Amendment Bill 2021 cl. 15.](#)]

11A. Genuine reason required in all cases

- (1) An approval or permit cannot be granted, and a licence cannot be issued, under this Act to a person who, in the Commissioner's opinion, has not been shown to have a genuine reason for acquiring or possessing the firearm, major firearm part, prohibited firearm accessory or ~~firearm or~~ ammunition for which the approval, permit, or licence is sought.
- (2) A person has a genuine reason for acquiring or possessing a firearm, major firearm part, prohibited firearm accessory or ~~firearm or~~ ammunition if and only if —
- (a) it is for use by the person as a member of an approved shooting club and the person is an active and financial member of the club; or
- (b) it is for use by the person as a member of an organisation approved under this paragraph; or
- (c) it is for use in hunting or shooting of a recreational nature on land the owner of which has given written permission for that hunting or shooting; or
- (d) it is required by the person in the course of the person's occupation; or

- (da) in the case of a prescribed paintball gun, it is required by the person to conduct or engage in paintball in accordance with this Act; or
 - (e) it is to form part of a genuine firearm collection or genuine ammunition collection; or
 - (f) it is for another approved purpose.
- (3) A person does not have a genuine reason for acquiring or possessing a [firearm, major firearm part](#) ~~firearm~~ or ammunition of a particular kind unless the Commissioner is satisfied not only as to the person's reason for acquiring or possessing a [firearm, major firearm part](#) ~~firearm~~ or ammunition but also that the particular kind of [firearm, major firearm part](#) ~~firearm~~ or ammunition can be reasonably justified.
- (4) The reasons described in subsection (2)(e) are not genuine reasons for acquiring or possessing a [firearm, major firearm part](#) ~~firearm~~ or ammunition under a licence other than a Firearm Collector's Licence or an Ammunition Collector's Licence.
- (5) Approval cannot be given under subsection (2)(f) to the possession of a firearm or ammunition for the purpose of personal protection.
- (6) Regulations made under section 34 may limit the purposes that may be approved under subsection (2)(f).

[Section 11A inserted: No. 59 of 1996 s. 12; amended: No. 69 of 2004 s. 6 and 14; [Firearms Amendment Bill 2021 cl. 16.](#)]

11B. Genuine need required in some cases

- (1) The regulations may provide that, for prescribed categories of firearms or ammunition, an approval or permit cannot be granted, and a licence cannot be issued, under this Act to a person unless the Commissioner is satisfied that the person has a genuine need to acquire or possess a firearm or ammunition of that category.
- (2) The regulations may make provision as to the circumstances in which a person can or cannot be considered to have a genuine need to acquire or possess a firearm or ammunition of a particular category.

[Section 11B inserted: No. 59 of 1996 s. 12.]

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11C. Other restrictions

The regulations may restrict the grant, issue, or renewal of licences, permits, or approvals under this Act.

[Section 11C inserted: No. 59 of 1996 s. 12.]

12. Unsafe or unserviceable firearms or major firearm parts~~Unsafe or unserviceable firearms~~

- (1) Except as allowed by this section, a licence or permit cannot be issued under this Act to any person in respect of any firearm or major firearm part which in the opinion of the Commissioner is —
 - (a) unsafe; or
 - (b) unserviceable.
- (2) Subsection (1) does not prevent the issue to a dealer of a licence or permit in respect of a firearm for the purpose of enabling it to be tested, repaired, or dismantled for parts.
- (3) Subsection (1) does not prevent the issue of a permit in respect of a firearm for the purpose of enabling it to be conveyed —
 - (a) to a dealer or the holder of a Repairer's Licence; or
 - (b) to any other person authorised to take possession of it.
- (4) Subsection (1)(b) does not prevent the issue to a person of —
 - (a) a Firearm Collector's Licence; or
 - (b) a permit in respect of a firearm that forms or is to form part of a genuine firearm collection.

[Section 12 inserted: No. 59 of 1996 s. 13; amended: Firearms Amendment Bill 2021 cl. 17.]

[13, 14. Deleted: No. 59 of 1996 s. 5(2).]

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[Heading inserted: Firearms Amendment Bill 2021 cl. 18.]

15. Firearm collections

- (1) For the purposes of this Act a firearm or major firearm part can form part of a genuine firearm collection only if, in the opinion of the Commissioner, it has significant commemorative, historical, thematic, or heirloom value.

- (2) The fact that there is only one firearm [or major firearm part](#) in a collection does not prevent it from being a genuine firearm collection for the purposes of this Act.
- (3) For the purposes of this Act, a handgun manufactured after 1946 can form part of a genuine firearm collection only if —
 - (a) it is owned by a person who is, in the opinion of the Commissioner, a student of arms as defined in subsection (4); and
 - (b) the handgun is within the scope of that person’s interest as a student of arms.
- (4) In subsection (3) —

student of arms means a person who can be shown to have a prolonged and genuine interest in the study, preservation, or collection of firearms.
- (5) In considering whether a firearm has significant commemorative value, the Commissioner has to take into account any special significance that the firearm, or any firearm or firearms of the same kind as that firearm or of a related kind, has to a particular event in history.
- (6) In considering whether a firearm has significant historical value, the Commissioner has to take into account any special significance that the firearm, or any firearm or firearms of the same kind as that firearm or of a related kind, has to a particular period in history.
- (7) In considering whether a firearm has significant thematic value, the Commissioner has to take into account any special significance that the firearm, or any firearm or firearms of the same kind as that firearm or of a related kind, has to the development, manufacture, or use of firearms.
- (8) In considering whether a firearm has significant heirloom value to a particular person, the Commissioner has to take into account any special significance that the firearm has because it was owned or possessed by a direct or indirect member of that person’s family.
- (9) In considering whether or not it would be appropriate for a person to obtain, or continue to hold, a Firearm Collector’s Licence, the Commissioner may take into account any information provided about that person by a person or body

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designated under section 15A as an accredited society of collectors.

[Section 15 inserted: No. 59 of 1996 s. 14; amended: No. 69 of 2004 s. 15(1) and (2); [Firearms Amendment Bill 2021 cl. 19.](#)]

15A. Accredited societies of collectors

- (1) The Commissioner may, in writing, designate a person or body, whether incorporated or unincorporated, as an accredited society of collectors for the purposes of this Act.
- (2) For a person or body to be an accredited society of collectors one of its purposes has to be to facilitate the study, preservation, or collection of —
 - (a) handguns in particular; or
 - (b) handguns and other firearms.
- (3) The regulations may specify other requirements for a person or body to be an accredited society of collectors.
- (4) The Commissioner may, by notice in writing given to an accredited society of collectors, cancel its designation as an accredited society of collectors for the purposes of this Act.

[Section 15A inserted: No. 69 of 2004 s. 16.]

15B. Information from accredited society of collectors

- (1) If an accredited society of collectors expels any of its members, it ~~must is required to~~ notify the Commissioner in writing of the expulsion of the member, identifying the member and the reason for the expulsion.
~~Penalty for this subsection: imprisonment~~ ~~Penalty:~~
~~Imprisonment~~ for 2 years or a fine of \$8 000.
- (2) The notification may include information that the Commissioner might consider relevant to the question of whether or not the member who is expelled is a fit and proper person to hold a Firearm Collector's Licence.
- (3) An accredited society of collectors that is requested at any time to do so may provide to the Commissioner any information that the Commissioner might consider relevant to —
 - (a) the question of whether, for the purposes of this Act, a firearm would be, or form part of, a genuine firearm collection; or

- (b) the question of whether a person is a fit and proper person to hold a Firearm Collector's Licence.
- (4) Neither an accredited society of collectors that gives the Commissioner any notification or information under this section nor a person involved in the giving of that notification or information is liable in civil or criminal proceedings because of the giving, or the person's involvement in the giving, of the notification or information in accordance with this section if it was in good faith.

[Section 15B inserted: No. 69 of 2004 s. 16; amended: Firearms Amendment Bill 2021 cl. 20 and 65.]

Division 4 — Categories of licences

[Heading inserted: Firearms Amendment Bill 2021 cl. 21.]

16. Overview of Division

This Division sets out the licences which may be issued under this Act.

[Section 16 inserted: Firearms Amendment Bill 2021 cl. 22.]

16A. Firearm Licence

A Firearm Licence entitles the holder to possess, carry and lawfully use —

- (a) the firearm named and identified in that licence; and
- (b) ammunition for that firearm; and
- (c) any magazine capable of being used with that firearm; and
- (d) any major firearm part forming part of that firearm when that licence was issued; and
- (e) any major firearm part (other than a magazine) that did not form part of that firearm when that licence was issued, but that is approved by the Commissioner, and named and identified in that licence, in accordance with section 16B.

[Section 16A inserted: Firearms Amendment Bill 2021 cl. 22.]

16B. Approval in relation to replacement or additional major firearm parts

- (1) In this section —
major firearm part does not include a magazine.

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(2) The Commissioner may grant the holder of a Firearm Licence approval to possess, carry and lawfully use a major firearm part (the *relevant major firearm part*) for the purpose of —

(a) enabling a major firearm part that the holder is entitled to possess, carry and lawfully use under section 16A, and that has become irreparably damaged or worn, to be replaced with the relevant major firearm part; or

(b) enabling the holder to possess, carry and lawfully use the relevant major firearm part in addition to the major firearm parts that the holder is already entitled to possess, carry and lawfully use under section 16A.

(3) An application for an approval under subsection (2) must be in the approved form.

(4) The Commissioner cannot grant an approval under subsection (2) unless the Commissioner is satisfied that the relevant major firearm part is capable of forming part of a firearm named and identified in the Firearm Licence referred to in that subsection.

(5) If the Commissioner grants an approval under subsection (2), the Firearm Licence referred to in that subsection must be amended by naming and identifying the relevant major firearm part in the Firearm Licence.

[Section 16B inserted: Firearms Amendment Bill 2021 cl. 22.]

16C. Firearm Collector's Licence

A Firearm Collector's Licence entitles the holder to possess, but not to carry or use —

(a) the firearm named and identified in that licence; and

(b) any major firearm part forming part of that firearm when that licence was issued.

[Section 16C inserted: Firearms Amendment Bill 2021 cl. 22.]

16D. Corporate Licence

(1) A Corporate Licence may be issued in the corporate or trading name of any bank, financial institution, Government department, State instrumentality or other organisation (the *holder*) approved by the Commissioner.

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- (2) A Corporate Licence entitles the holder to possess —
- (a) the firearms named and identified in that licence; and
 - (b) ammunition for those firearms; and
 - (c) any magazine capable of being used with any of those firearms; and
 - (d) any major firearm part forming part of any of those firearms when that licence was issued; and
 - (e) any major firearm part (other than a magazine) that did not form part of any of those firearms when that licence was issued, but that is approved by the Commissioner, and named and identified in that licence, in accordance with section 16E.
- (3) Subject to subsection (5), a Corporate Licence authorises the holder to permit any person to whom subsection (4) applies to possess, carry or use, in accordance with terms, restrictions, limitations and conditions applicable to that licence, a thing referred to in subsection (2) either —
- (a) on the premises of the holder; or
 - (b) in the course of carrying out a function approved by the Commissioner and authorised by the holder.
- (4) The holder of a Corporate Licence may permit any of the following to possess, carry or use, in accordance with that licence, a thing referred to in subsection (2) —
- (a) a person who is an employee of the holder;
 - (b) a person who is, in respect to any particular act or omission authorised by the holder —
 - (i) an agent of the holder; or
 - (ii) a person acting at the request of and on behalf of the holder;
 - (c) a person employed in the Public Sector by or under an employing authority, as defined in the *Public Sector Management Act 1994* section 5, who is required or authorised by the holder to act on behalf of the holder with respect to a relevant act or omission.
- (5) If the holder of a Corporate Licence holds a security agent's licence under the *Security and Related Activities (Control) Act 1996*, the Corporate Licence authorises the holder to permit an employee to possess a thing referred to in subsection (2) to the extent only that the employee is authorised to do so by a
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security officer's licence endorsed under section 24, or a permit issued under section 25, of that Act.

[Section 16D inserted: Firearms Amendment Bill 2021 cl. 22.]

16E. Approval for holder of Corporate Licence to possess replacement or additional major firearm parts

(1) In this section —

major firearm part does not include a magazine.

(2) The Commissioner may grant the holder of a Corporate Licence approval to possess a major firearm part (the **relevant major firearm part**) for the purpose of —

(a) enabling a major firearm part that the holder is entitled to possess under section 16D(2), and that has become irreparably damaged or worn, to be replaced with the relevant major firearm part; or

(b) enabling the holder to possess the relevant major firearm part in addition to the major firearm parts that the holder is already entitled to possess under section 16D(2).

(3) An application for an approval under subsection (2) must be in the approved form.

(4) The Commissioner cannot grant an approval under subsection (2) unless the Commissioner is satisfied that the relevant major firearm part is capable of forming part of a firearm named and identified in the Corporate Licence referred to in that subsection.

(5) If the Commissioner grants an approval under subsection (2), the Corporate Licence referred to in that subsection must be amended by naming and identifying the relevant major firearm part in the Corporate Licence.

[Section 16E inserted: Firearms Amendment Bill 2021 cl. 22.]

16F. Dealer's Licence

(1) A Dealer's Licence entitles the holder, on the premises named and identified in that licence, to —

(a) deal in firearms, major firearm parts and ammunition; and

(b) receive firearms for the purpose of their being dismantled for parts; and

- (c) arrange for the repair or servicing of firearms and major firearm parts by the holder of a Repairer's Licence; and
- (d) deal in a prohibited firearm accessory that is the subject of an approval granted by the Commissioner under section 16I(2) and endorsed on that licence under section 16I(6), provided the prohibited firearm accessory is bought from, or sold to, a person who can lawfully possess the prohibited firearm accessory under this Act.

(2) A Dealer's Licence authorises the holder or an employee or partner of the holder to —

- (a) have in their possession, and to carry in the ordinary course of the business of that dealer, a thing referred to in subsection (1); and
- (b) use a thing referred to in subsection (1) for the purpose of testing it or of demonstrating it to a prospective purchaser.

[Section 16F inserted: Firearms Amendment Bill 2021 cl. 22.]

16G. Repairer's Licence

(1) A Repairer's Licence entitles the holder, on the premises named and identified in that licence, to —

- (a) repair firearms or major firearm parts belonging to persons who are authorised by this Act or any other law to possess them; and
- (b) possess ammunition for those firearms; and
- (c) repair a prohibited firearm accessory that is the subject of an approval granted by the Commissioner under section 16I(2) and endorsed on that licence under section 16I(6).

(2) A Repairer's Licence authorises the holder or an employee or partner of the holder to —

- (a) have in their possession, and to carry in the ordinary course of the business of that repairer, a thing referred to in subsection (1); and
- (b) use a thing referred to in subsection (1) for the purpose of testing it.

(3) If an approval granted under section 16J(1) is endorsed on a Repairer's Licence under section 16J(4), the Repairer's Licence authorises the holder or an employee or partner of the holder to

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create, develop and be in possession of firearms technology for the purposes of —

(a) the repair of the firearms or major firearm parts the holder is entitled to repair under subsection (1)(a); and

(b) the repair of a prohibited firearm accessory the holder is entitled to repair under subsection (1)(c).

(4) If an approval granted under section 16J(2) is endorsed on a Repairer's Licence under section 16J(4), the Repairer's Licence authorises the person to whom the approval is granted, for the purposes referred to in subsection (3)(a) and (b) —

(a) to create or develop firearms technology on behalf of the holder of the Repairer's Licence; and

(b) to be in possession of firearms technology so created or developed; and

(c) to disseminate (as defined in section 23AJ(2)), to the holder of the Repairer's Licence firearms technology so created or developed.

[Section 16G inserted: Firearms Amendment Bill 2021 cl. 22.]

16H. Manufacturer's Licence

(1) A Manufacturer's Licence entitles the holder, on the premises named and identified in that licence, to —

(a) manufacture firearms, major firearm parts or ammunition of the kind specified in that licence; and

(b) sell or otherwise dispose of those firearms, major firearm parts and ammunition; and

(c) manufacture a prohibited firearm accessory that is the subject of an approval granted by the Commissioner under section 16I(3) and endorsed on that licence under section 16I(6); and

(d) sell or otherwise dispose of that prohibited firearm accessory to a person who can lawfully possess a prohibited firearm accessory under this Act.

(2) A Manufacturer's Licence authorises the holder or an employee or partner of the holder to —

(a) have in their possession, and to carry in the ordinary course of the business of that manufacturer, a thing referred to in subsection (1); and

(b) use a thing referred to in subsection (1) for the purpose of testing it or of demonstrating it to a prospective purchaser.

(3) If an approval granted under section 16J(1) is endorsed on a Manufacturer's Licence under section 16J(4), the Manufacturer's Licence authorises the holder or an employee or partner of the holder to create, develop and be in possession of firearms technology for the purposes of —

(a) the manufacture of the firearms, major firearm parts or ammunition that the holder is entitled to manufacture under subsection (1)(a); and

(b) the manufacture of any prohibited firearm accessory that the holder is entitled to manufacture under subsection (1)(c).

(4) If an approval granted under section 16J(2) is endorsed on a Manufacturer's Licence under section 16J(4), the Manufacturer's Licence authorises the person to whom the approval is granted, for the purposes referred to in subsection (3)(a) and (b) —

(a) to create or develop firearms technology on behalf of the holder of the Manufacturer's Licence; and

(b) to be in possession of firearms technology so created or developed; and

(c) to disseminate (as defined in section 23AJ(2)), to the holder of the Manufacturer's Licence, firearms technology so created or developed.

[Section 16H inserted: Firearms Amendment Bill 2021 cl. 22.]

16I. Approval for certain licence holders to deal in, repair or manufacture prohibited firearm accessory

(1) The Commissioner may grant the holder of a Dealer's Licence approval to deal in a prohibited firearm accessory.

(2) The Commissioner may grant the holder of a Repairer's Licence approval to repair a prohibited firearm accessory.

(3) The Commissioner may grant the holder of a Manufacturer's Licence approval to manufacture a prohibited firearm accessory.

(4) An approval under subsection (1), (2) or (3) may relate to prohibited firearms accessories generally or to a particular prohibited firearm accessory specified in the approval.

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(5) An application for an approval under subsection (1), (2) or (3) must be in the approved form.

(6) If the Commissioner grants an approval under subsection (1), (2) or (3), the approval must be endorsed on the licence referred to in that subsection.

[Section 16I inserted: Firearms Amendment Bill 2021 cl. 22.]

16J. Approval for certain licence holders and other persons to create, develop and be in possession of firearms technology

(1) The Commissioner may grant the holder of a Repairer's Licence or Manufacturer's Licence approval to create, develop and be in possession of firearms technology.

(2) The Commissioner may grant a person who is nominated by the holder of a Repairer's Licence or Manufacturer's Licence approval —

(a) to create or develop firearms technology on behalf of the holder of the Repairer's Licence or Manufacturer's Licence; and

(b) to be in possession of firearms technology so created or developed; and

(c) to disseminate (as defined in section 23AJ(2)), to the holder of the Repairer's Licence or Manufacturer's Licence, firearms technology so created or developed.

(3) An application for an approval under subsection (1) or (2) must be in the approved form.

(4) If the Commissioner grants an approval under subsection (1) or (2), the approval must be endorsed on the Repairer's Licence or the Manufacturer's Licence (as the case requires).

[Section 16J inserted: Firearms Amendment Bill 2021 cl. 22.]

16K. Shooting Gallery Licence

A Shooting Gallery Licence entitles the holder to conduct a shooting gallery in accordance with the regulations on the premises specified in that licence.

[Section 16K inserted: Firearms Amendment Bill 2021 cl. 22.]

16L. Ammunition Collector's Licence

An Ammunition Collector's Licence entitles the holder to possess and carry, but not to use, ammunition not exceeding such quantity as may be specified in that licence and not being

[of a type prescribed as being ammunition to which such a licence does not apply.](#)

[\[Section 16L inserted: Firearms Amendment Bill 2021 cl. 22.\]](#)

16. Licences

- ~~(1) The licences which may be issued under this Act are~~
- ~~(a) a Firearm Licence, which entitles the holder to possess, carry, and lawfully use the firearm named and identified in that licence, and ammunition for that firearm; and~~
 - ~~(b) a Firearm Collector's Licence, which entitles the holder to possess, but not to carry or use, the firearm named and identified in that licence; and~~
 - ~~(c) a Corporate Licence, which may be issued in the corporate or trading name of any bank, financial institution, Government department, State instrumentality or other organisation approved by the Commissioner and entitles that organisation to possess the firearms named and identified in that licence, together with ammunition therefor, and, subject to section 16A, authorises that organisation to permit any person to whom subsection (2) applies to possess, carry and use any such firearm or ammunition either
 - ~~(i) on the premises of the organisation; or~~
 - ~~(ii) in the course of carrying out a function approved by the Commissioner and authorised by that organisation,~~in accordance with the terms, restrictions, limitations and conditions applicable to that licence; and~~
 - ~~(d) a Dealer's Licence, which entitles the holder to deal in firearms and ammunition on the premises named and identified in that licence, to receive firearms for the purpose of their being dismantled for parts, and to arrange for the repair or servicing of firearms by the holder of a Repairer's Licence, and authorises the holder or an employee or partner of the holder to have in his possession, and to carry in the ordinary course of the business of that dealer, any such firearm or ammunition or to use it for the purpose of testing it or of demonstrating it to a prospective purchaser; and~~
 - ~~(e) a Repairer's Licence, which entitles the holder to~~

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- ~~————— (i) — repair firearms belonging to persons who are authorised by this Act or any other law to possess them; and~~
- ~~————— (ii) — possess ammunition for those firearms,~~
- ~~————— on the premises named and identified in that licence, and authorises the holder or an employee or partner of the holder to have in his possession, and to carry in the ordinary course of the business of that repairer, any such firearm or ammunition and to use any such firearm or ammunition for the purpose of testing it; and~~
- ~~————— (f) — a Manufacturer’s Licence, which entitles the holder to manufacture firearms or ammunition of the kind specified in that licence on the premises named and identified in that licence and to sell and dispose of such firearms and ammunition at those premises, and authorises the holder or an employee or partner of the holder to have in his possession, and to carry in the ordinary course of the business of that manufacturer, any such firearm or ammunition and to use any such firearm or ammunition for the purpose of testing it or of demonstrating it to a prospective purchaser; and~~
- ~~————— (g) — a Shooting Gallery Licence, which entitles the holder to conduct a shooting gallery in accordance with the regulations on the premises specified in that licence; and~~
- ~~————— (h) — an Ammunition Collector’s Licence, which entitles the holder to possess and carry, but not to use, ammunition not exceeding such quantity as may be specified in that licence and not being of a type prescribed as being ammunition to which such a licence does not apply.~~
- ~~————— (2) — An organisation which holds a Corporate Licence may permit a person who is —~~
 - ~~————— (a) — an employee of that organisation; or~~
 - ~~————— (b) — in respect to any particular act or omission authorised by the organisation —~~
 - ~~————— (i) — an agent of the organisation; or~~
 - ~~————— (ii) — a person acting at the request of and on behalf of the organisation;~~
 - ~~————— or~~
 - ~~————— (c) — a person employed in the Public Sector by or under an employing authority, within the meaning of the *Public Sector Management Act 1994*, who is required or~~

~~authorised by the organisation to act on behalf of the
organisation in respect to a relevant act or omission,~~

~~to possess, carry or use a firearm or ammunition in accordance
with that licence.~~

~~[Section 16 amended: No. 59 of 1996 s. 15; No. 27 of 1996
s. 96.]~~

16A. Possession of firearms by security officers

~~A Corporate Licence referred to in section 16(1)(c) authorises
an organisation for which a security agent's licence is held
under the *Security and Related Activities (Control) Act 1996* to
permit an employee to possess a firearm or ammunition to the
extent only that the employee is authorised to do so by a
security officer's licence endorsed under section 24, or a permit
issued under section 25, of that Act.~~

~~[Section 16A inserted: No. 27 of 1996 s. 96; amended: No. 59 of
1996 s. 16; No. 4 of 2008 s. 81.]~~

Division 5 — Categories of permits and other approvals

[Heading inserted: Firearms Amendment Bill 2021 cl. 23.]

17. Temporary permits

- (1) Subject to subsection (3), a permit to possess a [firearm, major
firearm part](#) ~~firearm~~ or ammunition temporarily may be granted
by the Commissioner to a person —
- (a) for the purpose of any test or demonstration of it; or
 - (b) who is an auctioneer, Sheriff or deputy sheriff, bailiff,
executor or other person requiring such possession only
for the purpose of the disposal of that [firearm, major
firearm part](#) ~~firearm~~ or ammunition; or
 - (c) for the purposes of transit; or
 - (d) for the purposes of a guided hunting tour; or
 - (e) in any other case where the Commissioner considers that
it is not in the public interest to require that person to
apply for a licence,

if the Commissioner is satisfied that the [firearm, major firearm
part](#) ~~firearm~~ or ammunition came, or will come, into the
possession of the applicant in a lawful manner.

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- (2) A permit granted under subsection (1) may authorise the use of the [firearm, major firearm part](#) ~~firearm~~ or ammunition in the circumstances specified therein.
- (3) A permit granted under subsection (1) subsists for the period specified therein unless sooner determined by the Commissioner by notice in writing, but shall not be granted for any period in excess of 3 months.
- (4) A permit granted under subsection (1) may be renewed at any time before the expiry date but shall not be renewed in favour of the same person in relation to any particular firearm on more than one occasion in any period of 12 consecutive months.

[Section 17 amended: No. 59 of 2004 s. 141; [Firearms Amendment Bill 2021 cl. 24.](#)]

17A. Interstate group permits

- (1) Subject to this section where the Commissioner receives a written application from any person purporting to reside outside the State and purporting to be a responsible officer of a bona fide shooting club or similar body or sporting organisation conducting occasional shooting contests or activities the Commissioner may, if [the Commissioner](#) ~~he~~ is satisfied that —
 - (a) the members of the club, body or organisation are desirous of participating within this State in any shooting contest or sporting activity; and
 - (b) the members of the club, body or organisation are of good repute,grant to the club, body or organisation an interstate group permit.
- (2) An interstate group permit under this section —
 - (a) shall be in the prescribed form; and
 - (b) shall be issued to the club, body or organisation on whose behalf the application for the permit has been made; and
 - (c) shall set forth —
 - (i) the names and addresses of the persons of the group in respect of whom it is issued; and
 - (ii) the day or days and the occasion or occasions in respect of which it is issued;and

- (d) shall be issued without the payment of a fee.
- (3) An interstate group permit issued under this section shall not be granted for any period in excess of 28 days.
- (4) Sufficient copies of a group permit shall be issued to the applicant to enable the applicant ~~him~~ to furnish each person named in the interstate group permit with a copy of the permit.
- (5) An interstate group permit entitles the persons named in the permit to possess or carry the firearms named and identified in the permit and ammunition for that firearm as if each such person were the holder of a Firearm Licence for the period specified in the permit.

[Section 17A inserted: No. 61 of 1976 s. 2; amended: Firearms Amendment Bill 2021 cl. 66.]

17B. Minister may authorise agriculture inspector to possess, carry and use sound suppressors ~~Minister may authorise agriculture inspector to possess, carry and use silencers~~

- (1) Subject to this section, the Minister may grant authority in writing to an approved agriculture inspector to possess and carry a sound suppressor ~~silencer~~ and to use it in conjunction with a .22 calibre rifle during the period specified in that authority.
- (2) The Minister may at any time revoke an authority.
- (3) An agriculture inspector to whom an authority has been granted —
- (a) shall, when the inspector ~~he~~ requires the use of a sound suppressor ~~silencer~~, obtain one from a member of the Police Force at the police station nearest to the area in which the inspector ~~he~~ proposes to use the sound suppressor ~~silencer~~; and
 - (b) shall comply with such directions as are from time to time given to the inspector ~~him~~ in connection with sound suppressors ~~silencers~~ by a member of the Police Force acting on the instructions of the Commissioner; and
 - (c) shall not use a sound suppressor ~~silencer~~ otherwise than in conjunction with a .22 calibre rifle named and identified in the Corporate Licence referred to in subsection (7) for the purpose of shooting birds that are declared pests under the *Biosecurity and Agriculture Management Act 2007*; and

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- (d) shall take all reasonable precautions to ensure the safekeeping of a sound suppressor ~~silencer~~ possessed, carried or used by the inspector ~~him~~; and
- (e) shall, when not using or about to use a sound suppressor ~~silencer~~, keep the sound suppressor ~~silencer~~ separate from any firearm in conjunction with which it is capable of being used; and
- (f) shall, when the inspector ~~he~~—
- (i) is directed under this subsection to surrender; or
 - (ii) no longer requires the use of, a sound suppressor ~~silencer~~ obtained by the inspector ~~him~~ under this subsection, surrender that sound suppressor ~~silencer~~ to a member of the Police Force at the nearest police station.
- (4) If an agriculture inspector to whom an authority has been granted fails to perform any of the duties imposed on the inspector ~~him~~ by subsection (3) or ceases to be permitted by the Director General to possess, carry or use a .22 calibre rifle under the Corporate Licence referred to in subsection (7), the inspector's ~~his~~ authority is rendered void.
- (5) An authority ceases to be in force on —
- (a) the expiry of the period specified in the authority; or
 - (b) its revocation under subsection (2); or
 - (c) its being rendered void by virtue of subsection (4); or
 - (d) this section ceasing to have effect by virtue of subsection (7),
- whichever is the sooner.
- (6) For the purposes of section 22, neither the approval of an agriculture inspector for the purposes of subsection (1) nor the giving of a direction under subsection (3) shall be taken to be the making of a decision by or on behalf of the Commissioner.
- (7) This section has effect only while the department is the holder of a valid Corporate Licence entitling the department to possess .22 calibre rifles, together with ammunition therefor.
- (8) In this section —
- agriculture inspector*** means an inspector appointed under the *Biosecurity and Agriculture Management Act 2007* section 162;
- authority*** means authority granted under subsection (1);

Corporate Licence means Corporate Licence referred to in [section 16D](#); ~~section 16(1)(c)~~;

department means the department principally assisting in the administration of the *Biosecurity and Agriculture Management Act 2007*.~~2007~~;

~~**silencer** means contrivance commonly known as a silencer, or contrivance of a similar nature.~~

[Section 17B inserted: No. 3 of 1983 s. 2; amended: No. 59 of 1996 s. 17; No. 24 of 2007 s. 30A (as inserted: No. 46 of 2010 s. 59); No. 46 of 2010 s. 69; [Firearms Amendment Bill 2021 cl. 25 and 66.](#)]

Division 6 — Licensing procedure

[Heading inserted: [Firearms Amendment Bill 2021 cl. 26.](#)]

18. Licensing procedure

- (1) A person who wishes to apply for a licence or a permit under this Act, other than an interstate group permit issued under section 17A, shall make application in the prescribed manner, and shall pay the prescribed fee.

[(2), (3) deleted]

- (4) The fee payable on the issue of —
- (a) an Ammunition Collector's Licence that is to remain in force for a period of less than 5 years is the prescribed fee reduced proportionately by one-sixtieth for each month or portion of a month;
 - (aa) a Firearm Collector's Licence that is to remain in force for a period of less than 3 years is the prescribed fee reduced proportionately by one thirty-sixth for each month or portion of a month;
 - (b) a licence of any other kind that is to remain in force for a period of less than 12 months is the prescribed fee reduced proportionately by one-twelfth for each month or portion of a month.
- (4a) Before granting or issuing a licence, permit, or approval to a person under this Act the Commissioner is to ensure that, for the purpose of forming an opinion as to whether the person is a fit and proper person to hold the licence, permit, or approval —
- (a) reference has been made where practicable to relevant criminal records held by the police forces in this State and elsewhere in Australia; and

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- (b) if there is any apparently reliable indication that the person may not meet standards of mental or physical fitness referred to in section 11(3)(b), sufficient evidence has been provided to the Commissioner to satisfy the Commissioner that the person does meet those standards; and
 - (c) if there is any apparently reliable indication that for any other reason the person may not be a fit and proper person to hold the licence, permit, or approval, sufficient evidence has been provided to the Commissioner to satisfy the Commissioner that the person is a fit and proper person to hold the licence, permit, or approval.
- (4b) The evidence that the Commissioner may require before being satisfied that the person meets standards of mental or physical fitness referred to in section 11(3)(b) may include a certificate from a medical practitioner to the effect that the person has been examined and has not been found to have any physical or mental condition that could reasonably result in the person being considered not to be a fit and proper person to hold a licence, permit, or approval under this Act.
- (4c) On being provided with a certificate from a medical practitioner as required under subsection (4b), the Commissioner may request from the medical practitioner any further information that the Commissioner considers to be relevant and nothing prevents the medical practitioner from providing the Commissioner in good faith with further information about the person.
- (4d) Subsection (4c) has effect despite any duty of confidentiality, and the provision of information in good faith as requested under that subsection does not give rise to a criminal or civil action or remedy.
- (5) Before any licence or permit under this Act is issued or renewed the applicant may be required to prove to the satisfaction of the Commissioner that any firearm to which the application relates is capable of complying with the prescribed safety standards and tests applicable thereto.
- (6) If the Commissioner is satisfied that —
 - (a) the requirements of this section have been satisfied; and
 - (b) there are no grounds upon which the application ought to be refused; and
 - (c) in the case of an application for the first issue of a Firearm Licence to a person, a period of at least 28 days

has elapsed since the making of the application and the applicant has, under subsection (6a), confirmed the desire to proceed with the application,

the Commissioner is to enter the prescribed particulars in a Register to be compiled and maintained for the purpose and grant or issue to the applicant a licence, permit or approval ~~issue to the applicant a licence or permit~~ under this Act.

- (6a) An applicant for the first issue of a Firearm Licence may, during the period commencing 28 days after the day on which the application was made and ending a further 28 days after that day, confirm the desire to proceed with the application, and if the applicant does not do so the application lapses and the licence sought cannot be issued.
- (7) The Register compiled for the purposes of this section shall be maintained in the prescribed manner and the licences and permits issued or granted under this Act shall be in the prescribed form.
- (8) Where the Commissioner refuses an application, whether original or by way of renewal, or issues it subject to any restriction, limitation or condition, the Commissioner is to forthwith notify the applicant, in writing, of the reasons for the decision.
- (9) Licences of more than one kind may be issued to the same person in one document, and a licence may relate to more than one firearm.
- (10) Where a licence has been issued to any person and that person applies for an additional licence of the same kind in relation to a further firearm that additional licence may, on presentation of an application for expedited approval accompanied by the prescribed noting fee, be noted on the original licence in any case where the Commissioner is satisfied that the public interest does not require that the applicant should proceed by way of an originating application.
- (10a) The power given by subsection (10) cannot be performed under section 5A by a member of the Police Force unless that member could, under that section, grant the licence for which application was made.
- (11) Where a further firearm is noted on a current licence the licence applies whilst it remains in force to that further firearm.

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(12) Where an applicant for a licence, permit or approval under this Act fails to provide to the Commissioner, on being requested in writing to do so, any information as to —

- (a) any other person who is to be concerned in, or responsible for, the management of any business or premises to which the application relates; or
- (b) any employee or agent of the applicant or any person concerned in, or responsible for, management,

the Commissioner may regard the granting or issuing of the licence, permit or approval to the applicant as not desirable in the public interest.

(13) Where a person who is the holder of a licence, permit or approval under this Act fails to provide to the Commissioner, on being requested in writing to do so, any information as to —

- (a) any other person who is to be, or is, concerned in, or responsible for, the management of any business or premises to which the licence, permit or approval relates; or
- (b) any employee or agent of the holder or any person concerned in, or responsible for, management,

the Commissioner may consider the holder as being no longer a fit and proper person but only after the holder has been given an opportunity to make a submission to the Commissioner under section 20(1a).

[Section 18 amended: No. 61 of 1976 s. 3; No. 59 of 1996 s. 18; No. 69 of 2004 s. 17; [Firearms Amendment Bill 2021 cl. 27.](#)]

Division 7 — Offences in relation to licences, permits and approvals

[Heading inserted: [Firearms Amendment Bill 2021 cl. 28.](#)]

19. Licensing offences

- (1) Any person who —
 - (a) sells, delivers or disposes of; or
 - (b) purchases or otherwise comes into possession of; or
 - (c) is in possession of,

any [firearm, major firearm part or ammunition and is not the holder of a licence or permit under this Act entitling the person to do so commits a crime unless subsection \(1ADA\) or ~~firearm or ammunition and is not the holder of a licence or permit under~~](#)

~~this Act entitling him to do so commits a crime unless subsection~~(1ae) or section 19AA provides otherwise or section 8 applies.

- (1aa) A person who is guilty of a crime under subsection (1) committed in circumstances referred to in subsection (1)(a) is liable, on conviction, to imprisonment for 14 years if at the time of the offence the person was selling 3 or more firearms or major firearm parts without a licence or permit entitling the person to sell any of them.
- (1ab) A person who is guilty of a crime under subsection (1) —
- (a) committed in circumstances where the person was carrying both a firearm or major firearm part that is a subject of the offence and —
 - (i) a prohibited drug or prohibited plant, as defined in the *Misuse of Drugs Act 1981*, when not authorised to be in possession of that drug or plant under that Act; or
 - (ii) an amount of money equal to or greater than the prescribed amount,is liable, on conviction, to imprisonment for 14 years;
 - (b) committed in circumstances where the person was in possession of 3 or more firearms or major firearm parts without a licence or permit entitling the person to be in possession of any of them, is liable, on conviction, to imprisonment for 10 years unless subsection (1aa) applies.
- (1ac) Unless subsection (1aa) or (1ab) applies, a person who is guilty of a crime under subsection (1) committed in relation to a firearm or major firearm part is liable, on conviction, to imprisonment for 7 years if —
- (a) at the time of the offence the offender —
 - (i) had been refused, or was disqualified from holding, a licence or permit referred to in subsection (1); or
 - (ii) had had a licence or permit referred to in subsection (1) revoked,in relation to the firearm or a firearm of the same kind, or the firearm or a firearm of the same kind to which the major firearm part relates; or~~kind, or~~

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(b) the firearm was a handgun or prohibited firearm; or
~~prescribed firearm; or~~

(ba) the major firearm part relates to a handgun or prohibited
firearm; or

(c) at the time of the offence, any number or identification
mark which was on the firearm or major firearm part had
been defaced or removed; or

(d) the firearm or major firearm part had been altered from
the design or characteristics of its original manufacture.

Summary conviction penalty for a crime under subsection (1)
committed in any of the circumstances described in this
~~subsection: imprisonment~~ subsection: Imprisonment for
3 years or a fine of \$12 000.

(1ad) Unless subsection (1aa), (1ab) or (1ac) applies, a person who
commits a crime under subsection (1) is liable, on conviction, to
imprisonment for 5 years.

Summary conviction penalty for a crime under subsection (1):
imprisonment ~~penalty: Imprisonment~~ for 3 years or a fine
of \$12 000.

(1ADA) Subsection (1) does not apply if —

(a) a person is in possession of a firearm, major firearm part
or ammunition in a place or vehicle solely by reason of
section 4A(d) or (e); and

(b) the firearm, major firearm part or ammunition is in the
lawful possession of another person at that time.

(1ae) Subsection (1) does not apply to coming into, or being in,
possession of ammunition under section 30(2) as the agent of a
person to whom it is, or is to be, delivered as soon as is
reasonably practicable.

(1a) For the purposes of applying the penalty provisions of
subsection (1ac)(a), a firearm is of one of the kinds prescribed
for the purposes of that provision by the regulations.

(2) A person who —

(a) sells, delivers, or disposes of a firearm, major firearm
part ~~firearm~~ or ammunition to another person, or
otherwise permits another person to take possession of a
firearm, major firearm part ~~firearm~~ or ammunition; or

- (b) purchases, or otherwise comes into, possession of a firearm, major firearm part ~~firearm~~ or ammunition from another person; or
- (c) permits another person to be in possession of a firearm, major firearm part ~~firearm~~ or ammunition,

commits an offence if the other person is not the holder of a licence or permit under this Act entitling the other person ~~him~~ to possession of it unless it is a disposal of ammunition under section 30(2) or section 8 applies.

Penalty for this subsection:

- (a) if the firearm concerned was a handgun or prohibited firearm, imprisonment for 5 years;
- (b) if the major firearm part concerned relates to a handgun or prohibited firearm, imprisonment for 5 years;
- (c) in any other case, imprisonment for 3 years or a fine of \$12 000.

~~Penalty:~~

- ~~(a) if the firearm concerned was a handgun or a prescribed firearm, imprisonment for 5 years;~~
- ~~(b) in any other case, imprisonment for 3 years or a fine of \$12 000.~~

~~[(3) deleted]~~

~~(4) A person who~~

~~[(a) deleted]~~

~~(b) repairs on behalf of another;~~

~~(c) manufactures,~~

~~or is concerned in repairing or manufacturing, any firearm or ammunition otherwise than in accordance with a licence under this Act authorising him to do so, commits a crime and is liable, on conviction~~

~~(a) in the case of the manufacture of a handgun, to imprisonment for 14 years;~~

~~(b) in any other case, to imprisonment for 5 years.~~

~~Summary conviction penalty except in the case of the manufacture of a handgun: Imprisonment for 2 years or a fine of \$8 000.~~

- (5) A person who conducts, or is concerned in the conducting of, a shooting gallery otherwise than in accordance with a licence

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under this Act authorising the person ~~him~~ to do so commits an offence.

Penalty for this subsection: a fine of ~~Penalty:~~ \$2 000.

[Section 19 amended: No. 54 of 1978 s. 2; No. 70 of 1987 s. 6; No. 59 of 1996 s. 19, 47 and 50(1); No. 50 of 2003 s. 62(2); No. 4 of 2004 s. 58; No. 69 of 2004 s. 18 and 31; Firearms Amendment Bill 2021 cl. 29, 65 and 66.]

19AA. Certain offences of lesser severity

- (1) If a person who has been the holder of a Firearm Licence, Firearm Collector's Licence, or Ammunition Collector's Licence does, while that licence has expired but is still capable of being renewed under section 9A, anything that is an offence under this Act but would not have been an offence if the licence had been renewed immediately after its expiry, that offence is not a crime but is triable summarily and is punishable by a fine of \$2 000 instead of the penalty that would otherwise apply for the offence.
- (2) If a person commits an offence under section 19(1) and the only firearm, major firearm part ~~firearm~~ or ammunition concerned is, or is for, a prescribed paintball gun, that offence is not a crime but is triable summarily and is punishable by a fine of \$2 000 instead of the penalty that would otherwise apply for the offence.

[Section 19AA inserted: No. 69 of 2004 s. 19; amended: No. 8 of 2009 s. 58; Firearms Amendment Bill 2021 cl. 30.]

19A. Infringement notice

- (1) Where a person who has been the holder of a Firearm Licence, Firearm Collector's Licence, or Ammunition Collector's Licence —
 - (a) applies for the renewal of that licence more than 3 months but not more than 12 months after the date on which the licence expired and the renewal is effected; and
 - (b) has been served with a notice referred to in subsection (2); and
 - (c) has paid, within the time specified in the notice, the amount prescribed by way of penalty referred to in subsection (2) and the notice has not been withdrawn

within 28 days after the service of it upon the person
~~him~~,

proceedings shall not be brought against the person for any offence against this Act which was committed by the person ~~him~~ between the date on which the licence expired and the date on which its renewal was effected but which would not have arisen if the licence had been renewed within the time specified in section 9A(5).

- (2) The Commissioner may by notice in the prescribed form notify any person who has failed to renew a licence of a kind specified in subsection (1) after a period of 3 months immediately succeeding the expiry of the person's ~~his~~ licence that an allegation can be made that they have ~~he has~~ contravened section 19(1) and that they ~~he~~ may, if they do ~~he does~~ not wish to be prosecuted for the alleged offence in a court —

- (a) pay to the holder of an office specified in the notice the amount prescribed by way of penalty for the alleged contravention; and
- (b) obtain the renewal of the licence,

within the time specified in the notice, if dealt with under this section.

- (3) A notice referred to in subsection (2) may be served on an alleged offender personally or by posting it to the alleged offender's ~~his~~ address as ascertained from the alleged offender ~~him~~ or pursuant to any inquiry conducted under the direction of the Commissioner.
- (4) A person who receives a notice referred to in subsection (2) may decline to pay the penalty referred to in that subsection and where the person ~~he~~ fails to pay that penalty within the time specified in the notice or within such further time as may in any particular case be allowed, the person ~~he~~ is deemed to have declined to be dealt with under the provisions of subsection (2).
- (5) A notice referred to in subsection (2) may, whether or not the penalty has been paid, be withdrawn, at any time within 28 days after the service of the notice, by the sending of a notice, in the prescribed form, signed by an officer authorised by the Commissioner, to the alleged offender at the alleged offender's ~~his~~ last known place of residence or business, advising the alleged offender ~~him~~ that the notice has been withdrawn.
- (6) The payment of a penalty pursuant to this section shall not constitute a conviction of an offence against this Act and shall

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Division 8 Revocation, cancellation and other matters

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not be regarded as an admission of liability for the purpose of, or in any way affect or prejudice, any civil claim, action or proceeding.

[Section 19A inserted: No. 61 of 1976 s. 4; amended: No. 35 of 1980 s. 4; No. 59 of 1996 s. 20; No. 84 of 2004 s. 80; [Firearms Amendment Bill 2021 cl. 66.](#)]

Division 8 — Revocation, cancellation and other matters

[Heading inserted: [Firearms Amendment Bill 2021 cl. 31.](#)]

20. Revocation, cancellation, refusal to renew and variation

- (1) Where the Commissioner is satisfied —
- (a) that a person who is the holder of a licence, permit or approval under this Act —
 - (i) obtained it by fraud or deception; or
 - (ii) has breached or failed to observe a restriction, limitation or condition to which it is subject; or
 - (iii) could not, because of section 11, be granted the approval or permit or issued the licence, as the case requires, if the person were then applying for it;

or

 - (aa) that harm may be suffered by any person as a result of a person retaining or regaining possession of a [firearm](#), [major firearm part](#), [prohibited firearm accessory](#) ~~firearm~~ or ammunition; or
 - (ab) that a licence or permit was issued, or an approval was given, incorrectly because of an administrative or procedural error; or
 - (ac) that to do so is in the public interest; or
 - (ad) that a person holding or applying for the renewal of a licence, permit or approval has —
 - (i) failed to comply with a regulation providing for the manner in which a photograph of that person's face is to be supplied for inclusion on an Extract of Licence; or
 - (ii) failed to give the Commissioner, when requested in writing by a member of the Police Force to do so, a statement in the prescribed form as to what the person has done to ensure that any firearms

or ammunition in the person's possession are stored in accordance with this Act; or

- (iii) contrary to section 23(9)(e), refused to permit a member of the Police Force to inspect storage facilities;

or

- (b) that a particular firearm is unsafe or unfit for use; or
(c) that a particular place or premises, range or gallery does not comply with the requirements of this Act; or
(d) that the circumstances in which [the Commissioner's](#) ~~his~~ approval under this Act was given in relation to any person or matter no longer prevail,

[the Commissioner](#) ~~he~~ may refuse to renew or may revoke any licence, permit or approval relating thereto or may impose reasonable restrictions, limitations or conditions thereon.

- (1a) Where the Commissioner, in writing, requests a person who is the holder of any licence, permit, or approval to —
- (a) supply information, or further information, that the Commissioner considers to be necessary in order to determine whether or not the holder remains a fit and proper person; or
(b) make a submission to show cause why the power of revocation should not be exercised,

if that information is not supplied, or that submission is not made, to the Commissioner in a form acceptable to the Commissioner within 28 days, or such further period as the Commissioner may approve, the licence, permit or approval may be revoked.

- (2) A restriction, limitation or condition imposed under this Act may be varied from time to time.
(3) The Commissioner shall give notice in writing to the holder, where any licence, permit or approval issued or granted under this Act is revoked or varied, of the reasons for the decision.
(4) Any licence, permit or approval issued or granted under this Act may be cancelled if the holder so requests.

[Section 20 amended: No. 90 of 1994 s. 4; No. 59 of 1996 s. 21; [Firearms Amendment Bill 2021 cl. 32 and 66.](#)]

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21. Restrictions, limitations and conditions

- (1) A licence, permit or approval issued or granted under this Act may be made subject to restrictions, limitations or conditions which shall be —
 - (a) either specified in the licence, permit or document evidencing the approval or, whether imposed at the time of issue or grant or subsequently, specified in a supplementary document; and
 - (b) entered in the Register.
- (2) A person, whether or not the holder of that licence, permit or approval, who commits a breach of, or fails to observe, a restriction, limitation or condition to which a licence, permit or approval issued or granted under this Act was made subject, and who is a person who ought reasonably to have known of the existence of that restriction, limitation or condition, commits an offence.

Penalty for this subsection: imprisonment ~~Penalty:~~

~~Imprisonment~~ for 18 months or a fine of \$6 000.

[Section 21 amended: No. 70 of 1987 s. 7; No. 59 of 1996 s. 22 and 50(3); No. 69 of 2004 s. 20; [Firearms Amendment Bill 2021 cl. 65.](#)]

Division 9 — Conduct of business

[Heading inserted: [Firearms Amendment Bill 2021 cl. 33.](#)]

21A. Supervision and management

- (1) The conduct of business under a Dealer's Licence, a Repairer's Licence or a Manufacturer's Licence is always the responsibility of the holder and is to be personally supervised and managed, on each premises to which the licence applies, by —
 - (a) the holder; or
 - (b) a person appointed as the agent or employee of the holder.
- (2) Where in respect of a business of a kind to which subsection (1) applies —
 - (a) a requirement is made of the holder of the licence under which that business is conducted; or
 - (b) a restriction, limitation or condition applies to that licence; or

- (c) an element of an offence under this Act is an act or omission on the part of the holder of that licence,

and a person is appointed, employed or permitted by the holder to conduct that business on any premises, if that requirement, restriction, limitation or condition is contravened by that person, or such an offence occurs because of an act or omission on the part of that person, that person as well as the holder is liable accordingly, and that person may be prosecuted for an offence either in addition to, or in substitution for, the holder.

- (3) Where, in contravention of any requirement, restriction, limitation or condition to which any licence, permit or approval held by a person under this Act is subject —
- (a) any agent or employee of the holder; or
- (b) any other person acting or purporting to act on behalf of the holder,

does or omits to do any act on the premises to which the licence, permit or approval relates and for which the holder would have been liable under this Act had it been done or omitted by the holder, the holder is deemed also to have done or omitted to do that act and is liable to the same penalty as is prescribed for the contravention.

- (4) The holder of the licence, permit or approval may be proceeded against and convicted under subsection (3) notwithstanding that the person contravening the requirement, restriction, limitation or condition has not been proceeded against or has not been convicted under this Act.

[Section 21A inserted: No. 59 of 1996 s. 23; amended: No. 84 of 2004 s. 80.]

21B. Offences by bodies corporate and partnerships

- (1) Where an offence under this Act is found to have been committed in the course of the business carried on under a Dealer's Licence, a Repairer's Licence or a Manufacturer's Licence by a body corporate, then —
- (a) if the offence is found —
- (i) to have been committed with the consent or connivance of; or

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- (ii) to be attributable to any failure to take all reasonable steps to secure compliance by the body corporate with this Act on the part of, any officer or other person concerned in the management of the body corporate, or any person purporting to act in any such capacity, that person as well as the body corporate is liable accordingly and is deemed to have committed an offence; and
- (b) where the offence was committed by an agent or employee of the body corporate, unless it is proved that —
 - (i) such direction had been given; and
 - (ii) such supervision had been exercised or caused to be exercised,as were reasonably necessary to ensure that an offence against this Act was not committed, the person responsible to the body corporate for the management of any premises in respect of which the offence was committed is deemed to have also committed an offence, and each is liable to the same penalty as is prescribed for the principal offence.
- (2) A person referred to in subsection (1) may, on the request of the prosecutor, be convicted on the proceedings on which the body corporate is convicted if the court is satisfied that the person had reasonable notice that the prosecutor intended to make that request.
- (3) In this section —

officer, in relation to a body corporate, includes a person who is an officer of the body corporate within the meaning of section 9 of the *Corporations Act 2001* of the Commonwealth.
- (4) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with functions of management as if the member were a director of the body corporate.
- (5) Where this Act provides that the holder of a licence, permit or approval commits an offence in specified circumstances —
 - (a) any reference to the holder is a reference to each person who holds the licence, permit or approval; and

- (b) if that licence, permit or approval is held by a person who is a member of a partnership which is directly or indirectly interested in the business conducted under that licence, permit or approval, or the profits or proceeds of the business, each member of the partnership is liable for the offence.

[Section 21B inserted: No. 59 of 1996 s. 23; amended: No. 10 of 2001 s. 220; No. 84 of 2004 s. 80.]

Part 3 — Review of decisions

[Heading inserted: Firearms Amendment Bill 2021 cl. 34.]

22. Reviews by State Administrative Tribunal~~Reviews by SAT~~

(1) In this section —

decision includes a restriction, limitation or condition imposed under this ~~Act~~;~~Act.~~

FPO decision means a decision made by or on behalf the Commissioner under Part 8;

section 24 material, in relation to a decision, means the statement of the reasons for the decision, other documents and other material referred to in, and required to be provided to the State Administrative Tribunal under, the *State Administrative Tribunal Act 2004* section 24.

(2) A person aggrieved by a decision made by or on behalf of the Commissioner may apply to the State Administrative Tribunal for a review of the decision.

(3) In a proceeding for the review of a decision, when the Commissioner provides the section 24 material for the decision to the Tribunal the Commissioner must —

(a) advise the Tribunal if any of the section 24 material is or contains matter (*clause 5 matter*) that the Commissioner considers is exempt under the *Freedom of Information Act 1992* Schedule 1 clause 5; and

(b) sufficiently identify the clause 5 matter.

(4) If, in a proceeding for the review of a decision, the Commissioner identifies clause 5 matter under subsection (3)(b) —

(a) the Attorney General cannot issue a certificate under the *State Administrative Tribunal Act 2004* section 159(2) in relation to the clause 5 matter; and

(b) the Tribunal must comply with the *State Administrative Tribunal Act 2004* sections 34(6) and 160(1) and (2)(a) in relation to the clause 5 matter as if the clause 5 matter were considered by the Tribunal to be protected matter under that Act; and

(c) the Tribunal must comply with the *State Administrative Tribunal Act 2004* sections 77 and 78 in a way that ensures the Tribunal complies with section 160(1) and (2)(a) of that Act in relation to the clause 5 matter; and

(d) despite the *State Administrative Tribunal Act 2004* section 61, the Tribunal must receive any evidence in relation to the clause 5 matter in private and in the absence of any party to the proceeding other than the Commissioner or the Commissioner's representative; and

(e) despite the *State Administrative Tribunal Act 2004* section 62, the clause 5 matter cannot be published.

(5) The *State Administrative Tribunal Act 2004* sections 21, 22, 25(2) and 29(5)(b) do not apply in relation to an FPO decision.

(6) An FPO decision as affirmed or varied by the Tribunal, or a decision that the Tribunal substitutes for an FPO decision, has effect from the date that the Tribunal affirms or varies the FPO decision or substitutes its decision for the FPO decision (as the case requires).

[Section 22 inserted: No. 59 of 1996 s. 24; amended: No. 55 of 2004 s. 369; Firearms Amendment Bill 2021 cl. 35.]

22AA. Appeals and references to Supreme Court under *State Administrative Tribunal Act 2004*

(1) In this section —

clause 5 matter has the meaning given in section 22(3)(a);

Supreme Court proceeding means —

(a) an appeal to the Court of Appeal, or to the Supreme Court, under the *State Administrative Tribunal Act 2004* section 105 from a decision of the State Administrative Tribunal in a proceeding under section 22 of this Act; or

(b) the reference to the Supreme Court under the *State Administrative Tribunal Act 2004* section 59(10)(b) of a question of law arising in a proceeding under section 22 of this Act.

(2) This section applies if —

(a) a document is given by the executive officer of the State Administrative Tribunal to the Supreme Court under the *State Administrative Tribunal Act 2004* section 94(3) for the purposes of a Supreme Court proceeding; and

(b) the document is or contains matter identified by the Commissioner under section 22(3)(b) as clause 5 matter; and

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(c) the court dealing with the Supreme Court proceeding considers that the matter identified by the Commissioner as clause 5 matter cannot properly be considered to be protected matter for the purposes of the *State Administrative Tribunal Act 2004* section 94(5)(a).

(3) The court dealing with the Supreme Court proceeding must —

(a) give the Commissioner the opportunity to withdraw the matter identified by the Commissioner as clause 5 matter from consideration in the Supreme Court proceeding; and

(b) if the matter is withdrawn — prohibit the publication of, or a reference to, the matter.

[Section 22AA inserted: *Firearms Amendment Bill 2021* cl. 36.]

~~[22AA. Deleted: No. 69 of 2004 s. 21(2).]~~

Part 4 — Extracts of Licences

[Heading inserted: Firearms Amendment Bill 2021 cl. 37.]

22A. Firearms Act Extract of Licence

- (1) The Commissioner may cause to be issued, in such form as the Commissioner may approve, a document to be known as a Firearms Act Extract of Licence to identify a person who —
- (a) is exempted by section 8 from the requirement to hold a licence under this Act; or
 - (b) is the holder of a licence granted, permit issued or approval given under this Act; or
 - (c) is an employee authorised, by an organisation to which is issued a Corporate Licence, to possess, carry or use a [firearm, major firearm part](#) ~~firearm~~ or ammunition,
- setting out particulars of the exemption or of the licence, permit, approval or authorisation held by that person.
- (2) Where a person has actual physical possession, or (otherwise than by way of storage) the custody or control, of a [firearm, major firearm part](#) ~~firearm~~, or ammunition for a firearm, to which any exemption, licence, permit, approval or authorisation relates and that person has been issued with an Extract of Licence, that person —
- (a) is required to keep the Extract of Licence in their actual possession at all times except if it is impracticable to do so; and
 - (b) is required, on request, to immediately produce that Extract of Licence for inspection by —
 - (i) a member of the Police Force; or
 - (ii) any person from whom the holder of the Extract of Licence is seeking to obtain services in relation to that [firearm, major firearm part](#) ~~firearm~~ or ammunition.

Penalty for this subsection: a fine of ~~Penalty:~~ \$1 000.

- (3) When seeking to obtain ammunition for a firearm to which the exemption, licence, permit, approval or authorisation in respect to which the Extract of Licence was issued relates, a person to whom an Extract of Licence was issued is required, on request, to produce that Extract of Licence, or cause it to be produced, to the person from whom the ammunition is to be obtained.

Penalty for this subsection: a fine of ~~Penalty:~~ \$1 000.

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- (4) A person does not commit an offence under subsection (2)(b)(i) if the person is not in possession of the Extract of Licence when the request is made and, within 48 hours after being requested to produce the Extract of Licence, the person produces the Extract of Licence for inspection by the officer-in-charge of any police station.
- (5) A person does not commit an offence under subsection (3) if, when requested to produce the Extract of Licence, the person discontinues seeking to obtain the ammunition.
- (6) Regulations made under section 34 may —
 - (a) require that a photograph of the face of the holder be included on the Extract of Licence, and provide for the manner in which that photograph is to be supplied; and
 - (b) require that an applicant for, or for the renewal of, a licence, permit, approval or authorisation under this Act provide evidence of identity in a manner approved by the Commissioner; and
 - (c) provide for the use, and for the issue, expiry, renewal, return and cancellation, of Extracts of Licence; and
 - (d) limit the application of this section to prescribed circumstances, or in relation to any specified case or class of case.

[Section 22A inserted: No. 59 of 1996 s. 41; [amended: Firearms Amendment Bill 2021 cl. 38 and 65.](#)]

22B. Return of Extract of Licence

A person who was —

- (a) the subject of an exemption under section 8 that has ceased to apply; or
- (b) the holder of a licence granted under this Act that has expired and has not been renewed, or that has been cancelled or revoked; or
- (c) the holder of a permit, or approval given, under this Act that has expired, or been determined, cancelled or revoked; or
- (d) authorised, pursuant to a Corporate Licence, to carry or use a [firearm, major firearm part](#) ~~firearm~~ or ammunition and has ceased to be so authorised,

and who was issued with an Extract of Licence in respect of that exemption, licence, permit, approval or authorisation is

required, as soon as is practicable, to deliver to the Commissioner that Extract of Licence.

Penalty: a fine of ~~Penalty:~~ \$1 000.

[Section 22B inserted: No. 59 of 1996 s. 41; amended: Firearms Amendment Bill 2021 cl. 39 and 65.]

22C. Offences relating to Extract of Licence, licences, permits, approvals or authorisations

- (1) A person commits an offence if the person, ~~Any person who,~~ without lawful authority —
- (a) alters an Extract of Licence, licence, permit, approval or authorisation to which this Act applies; or
 - (b) uses, or has in their possession, an Extract of Licence, licence, permit, approval or authorisation to which this Act applies which has, without lawful authority, been altered; or
 - (c) being the holder of an Extract of Licence, licence, permit, approval or authorisation to which this Act applies, parts with possession of it in order that it may be used by any other person otherwise than as the agent of the holder; or
 - (d) uses or attempts to use an Extract of Licence, licence, permit, approval or authorisation to which this Act applies, issued in the name of another, otherwise than as the agent of the holder, to procure possession of any firearm, major firearm part ~~firearm~~ or ammunition or any service to which this Act relates; or
 - (e) fraudulently obtains, or is in possession of, or uses an Extract of Licence, licence, permit, approval or authorisation to which this Act applies; or
 - (f) in relation to any application under this Act in respect of an Extract of Licence, licence, permit, approval or authorisation to which this Act applies, supplies particulars or answers knowing them to be incorrect or misleading, ~~misleading,~~
- ~~commits an offence.~~

Penalty for this subsection: a fine of ~~Penalty:~~ \$ 2 000.

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- (2) For the purposes of subsection (1)(a) and (b) any alteration, addition or erasure made by a member of the Police Force, or any other person exercising a function under this Act, is to be taken to have been made with lawful authority.

[Section 22C inserted: No. 59 of 1996 s. 41; [amended: Firearms Amendment Bill 2021 cl. 40 and 65.](#)]

Part 5 — Offences

[Heading inserted: Firearms Amendment Bill 2021 cl. 41.]

Division 1 — General offences

[Heading inserted: Firearms Amendment Bill 2021 cl. 41.]

23. General offences

- (1) A person who permits possession of any firearm, major firearm part ~~firearm~~ or ammunition to be taken by another person where there are reasonable grounds for believing that the person ~~he~~ knows, or ought to know, that the other person is affected by alcohol or drugs, or alcohol and drugs, or that the other person is of unsound mind, commits an offence.

Penalty for this subsection: imprisonment ~~Penalty:~~
~~Imprisonment~~ for 18 months or a fine of \$6 000.

- (2) A person who uses, carries or is otherwise in actual physical possession of a firearm whilst affected by alcohol or drugs, or alcohol and drugs, commits an offence.

Penalty for this subsection: ~~Penalty:~~

- (a) if the firearm is loaded, imprisonment for 2 years or a fine of ~~\$8 000; \$8 000; or~~
- (b) otherwise, imprisonment for 18 months or a fine of \$6 000.
- (3) Unless the person ~~he~~ holds a licence or permit under this Act entitling the person ~~him~~ to do so or section 8 applies, a person who carries or uses a firearm or major firearm part commits a crime and is liable —

(a) if the firearm concerned was a handgun or prohibited firearm, on conviction, to imprisonment for 7 years; or

(ab) if the major firearm part concerned relates to a handgun or prohibited firearm, on conviction, to imprisonment for 7 years; or

~~(a) if the firearm concerned was a handgun or a prescribed firearm, on conviction, to imprisonment for 7 years; or~~

(b) otherwise, to imprisonment for 4 years or a fine of \$16 000.

Summary conviction penalty for this subsection: ~~penalty:~~

- (a) in a case to which paragraph (a) or (ab) applies, imprisonment ~~applies: Imprisonment~~ for 3 years or a fine of \$12 000;

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- (b) in a case to which paragraph (b) applies,
imprisonment ~~applies: Imprisonment~~ for 2 years or a
fine of \$8 000.

[(4) deleted]

(5) A person who, without lawful excuse, —

- (a) defaces or alters any number or identification mark on a
firearm or major firearm part; or ~~firearm; or~~
- (b) is in possession of a firearm or major firearm part
whereon any number or identification mark, whether or
not a number or mark recorded on the licence or permit
relating thereto, has been altered or defaced; or
- (c) alters a firearm or major firearm part — ~~firearm~~ —
- (i) from the design or characteristics of its original
manufacture; or
- (ii) so that its calibre, character or kind differs from
what it was when any current licence or permit
relating to it was issued,

or is in possession of a firearm or major firearm part that
has been so altered,

commits a crime and is liable —

- (d) if the firearm concerned was a handgun or was modified
in a prescribed manner, on conviction, to imprisonment
for 7 years; or

(da) if the major firearm part concerned relates to a handgun
or was modified in a prescribed manner, on conviction,
to imprisonment for 7 years; or

- (e) otherwise, on conviction to imprisonment for 4 years or
a fine of \$16 000.

Summary conviction penalty for this subsection: ~~penalty:~~

- (a) in a case to which paragraph (d) or (da) applies,
imprisonment ~~applies: Imprisonment~~ for 3 years or a
fine of \$12 000;
- (b) in a case to which paragraph (e) applies,
imprisonment ~~applies: Imprisonment~~ for 2 years or a
fine of \$8 000.

(5a) Subsection (5)(c) does not apply to a paintball gun where the
alteration is in accordance with the manufacturer's design and is
effected by the addition of a commercially produced product

that does not alter the type or velocity of a projectile fired from the gun.

(6) Subject to subsection (7A), a person who uses a sound suppressor commits an offence.

Penalty for this subsection: imprisonment for 7 years.

(7) Subject to subsection (7A), (7B) and (7C), a person who is in possession of a sound suppressor commits an offence.

Penalty for this subsection: imprisonment for 3 years or a fine of \$12 000.

(7A) A person does not commit an offence under subsection (6) or (7) if the person uses or is in possession of (as the case requires) a sound suppressor —

(a) in accordance with an authority which is in force under section 17B; or

(b) in the course of the performance of the person's duties as a member of the Police Force or an employee of the Department; or

(c) in the course of the performance of the person's duties as a member of the armed forces of the Crown or a member of any other disciplined force specified by the Governor for the purposes of this paragraph by notice in the *Gazette*.

(7B) A person does not commit an offence under subsection (7) if the person —

(a) is a responsible person (as defined in section 33A(3)(b)) or an approved person (as defined in section 33A(3)(c)); and

(b) is in possession of a sound suppressor surrendered under section 33A(1)(b) in accordance with an approval given by the Commissioner under section 33A(2).

(7C) A person does not commit an offence under subsection (7) if —

(a) the person is in possession of a sound suppressor in a place or vehicle solely by reason of section 4A(d) or (e); and

(b) the sound suppressor is in the lawful possession of another person at that time.

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~~(6) Subject to subsection (7a), a person who uses a contrivance commonly known as a silencer, or any contrivance of a similar nature, commits an offence.~~

~~Penalty: Imprisonment for 7 years.~~

~~(7) Subject to subsection (7a), a person who is in possession of a contrivance commonly known as a silencer, or any contrivance of a similar nature, commits an offence.~~

~~Penalty: Imprisonment for 3 years or a fine of \$12 000.~~

~~(7a) A person who, being~~

~~(a) a member of the Police Force or an employee of the Department acting in the performance of his duties; or~~

~~(b) the holder of an authority which is in force under section 17B,~~

~~uses or is in possession of, as the case requires, a contrivance referred to in subsection (6) or (7) does not commit an offence under that subsection.~~

(8) Except as provided in subsection (8a), a person who, without lawful excuse, points a firearm at any other person commits an offence.

Penalty for this subsection: imprisonment ~~Penalty:~~
~~Imprisonment~~ for 3 years or a fine of \$12 000.

(8a) A player of a paintball game being conducted in accordance with a licence under this Act does not commit an offence under subsection (8) if the person points a paintball gun, named and identified in that licence, at another person while playing the game.

(9) A person commits an offence if the person ~~who,~~

(a) whilst carrying, or in actual physical possession of, or having the custody or control otherwise than by way of storage of, any firearm, major firearm part ~~firearm~~ or ammunition, fails or omits to take all reasonable precautions to ensure its safe keeping; or

(b) having failed or omitted to take all reasonable precautions to prevent the same, permits a young person under the age of 18 years to have unlawful possession of a firearm or major firearm part; ~~or firearm; or~~

(c) without lawful excuse, discharges any firearm or any shot, bullet, missile or other projectile ~~bullet or other missile~~ from a firearm, onto, from or across any road; or

- (d) being responsible for the storage of any firearm, major firearm part ~~firearm~~ or ammunition, fails —
- (i) to provide and use adequate storage facilities to ensure its safety; or
 - (ii) where prescribed requirements as to security are specified in relation to a firearm, major firearm part ~~firearm~~ or ammunition of a prescribed kind, to ensure that those requirements are observed; or
 - (iii) otherwise, to safeguard it from loss or improper use;

or

- (e) being responsible for the storage of any firearm, major firearm part ~~firearm~~ or ammunition, refuses to permit a member of the Police Force to inspect the storage facilities provided, at a reasonable time ~~time after such an inspection is requested in writing by the member of the Police Force,~~

~~commits an offence.~~

Penalty for this subsection: ~~Penalty:~~

- (a) for a first offence, a fine of \$2 000;
- (b) for a subsequent offence, imprisonment for 12 months or a fine of \$4 000.

(9a) A person commits a crime if the person discharges from any place a firearm, or any shot, bullet, missile or other projectile from a firearm, to the danger of, or in a manner to cause fear to, the public or any person.

Penalty for this subsection: imprisonment for 7 years.

Summary conviction penalty for this subsection: imprisonment for 3 years and a fine of \$36 000.

~~(9a) A person who from any place, discharges any firearm, or any shot, bullet, or other missile from a firearm, to the danger of, or in a manner to cause fear to, the public or any person, commits an offence.~~

~~Penalty: Imprisonment for 3 years or a fine of \$12 000.~~

- (10) A person who, without reasonable excuse, uses a firearm on land belonging to another person without the express or implied consent of the owner or occupier of that land or some person

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apparently authorised to act on behalf of the owner or occupier, commits an offence.

Penalty for this subsection: a fine of ~~Penalty:~~ \$2 000.

- (10a) A person who, without reasonable excuse, carries a firearm or major firearm part, ~~firearm~~, other than on a road open to the public, onto or across land that is used for or in connection with primary production without the express or implied consent of the owner or occupier of that land or some person apparently authorised to act on behalf of the owner or occupier, commits an offence.

Penalty for this subsection: a fine of ~~Penalty:~~ \$2 000.

- (11A) For the purposes of subsections (10) and (10a), the fact that a person uses or carries a firearm or major firearm part for the purposes of an activity authorised under the *Biodiversity Conservation Act 2016* is not a reasonable excuse.

- (11) A person who by act or omission commits any breach of the provisions of this Act for which no penalty is specifically provided commits an offence.

Penalty for this subsection: a fine of ~~Penalty:~~ \$2 000.

- (12) A person must not admit a minor under the age of 16 years to attend a venue where paintball is played unless the minor is accompanied by their ~~his or her~~ parent or guardian.

Penalty for this subsection: a fine of ~~Penalty:~~ \$1 000.

- (13) It is a defence to a charge of an offence against subsection (12) for the person charged to prove that —

- (a) the person charged or that person's employee or agent took all reasonable steps to ensure that a minor was not present in contravention of subsection (12); or
- (b) the person charged or that person's employee or agent believed on reasonable grounds that the minor was 16 years of age or older; or
- (c) the person charged or that person's employee or agent believed on reasonable grounds that the person accompanying the minor was the minor's parent or guardian.

[Section 23 amended: No. 54 of 1978 s. 3; No. 3 of 1983 s. 3; No. 70 of 1987 s. 8; No. 59 of 1996 s. 25, 48 and 50(1), (3), (4) and (5); No. 50 of 2003 s. 62(3); No. 4 of 2004 s. 58; No. 69 of 2004 s. 7, 8(3), 22 and 31; No. 24 of 2016 s. 316; Firearms Amendment Bill 2021 cl. 42, 65 and 66.]

Division 2 — Offences relating to prohibited firearm accessories

[Heading inserted: Firearms Amendment Bill 2021 cl. 43.]

23AA. Acquisition, sale, possession or use of prohibited firearm accessories

(1) In this section —

circumstances of aggravation means circumstances in which —

(a) a prohibited firearm accessory is fitted to a firearm; or

(b) a person has physical possession of a prohibited firearm accessory, together with a firearm —

(i) to which the prohibited firearm accessory may be fitted; or

(ii) in conjunction with which the prohibited firearm accessory may be used.

(2) A person who acquires, sells, is in possession of, or uses a prohibited firearm accessory commits an offence.

Penalty for this subsection: imprisonment for 3 years and a fine of \$36 000.

(3) A person who acquires, sells, is in possession of, or uses a prohibited firearm accessory in circumstances of aggravation commits a crime.

Penalty for this subsection: imprisonment for 7 years.

(4) A person does not commit an offence under subsection (2) or (3) if the person acquires, sells, is in possession of, or uses a prohibited firearm accessory —

(a) in accordance with an approval granted under section 23AB(1); or

(b) in accordance with a licence upon which an approval under section 16I(1), (2) or (3) is endorsed under section 16I(6); or

(c) in the course of the performance of the person's duties as a member of the Police Force or an employee of the Department; or

(d) in the course of the performance of the person's duties as a member of the armed forces of the Crown or a member of any other disciplined force specified by the Governor for the purposes of this paragraph by notice in the *Gazette*.

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(5) A person does not commit an offence under subsection (2) or (3) if the person —

(a) is a responsible person (as defined in section 33A(3)(b)) or an approved person (as defined in section 33A(3)(c)); and

(b) is in possession of a prohibited firearm accessory surrendered under section 33A(1)(b), in accordance with an approval given by the Commissioner under section 33A(2).

(6) A person does not commit an offence under subsection (2) or (3) if —

(a) the person is in possession of a prohibited firearm accessory in a place or vehicle solely by reason of the operation of section 4A(d) or (e); and

(b) the prohibited firearm accessory is in the lawful possession of another person at that time.

[Section 23AA inserted: Firearms Amendment Bill 2021 cl. 43.]

23AB. Approval to acquire, sell, possess or use prohibited firearm accessories

(1) The Commissioner may grant approval to a person, or the persons in a class of person, to acquire, sell, possess or use a prohibited firearm accessory.

(2) An approval under subsection (1) must be in writing.

[Section 23AB inserted: Firearms Amendment Bill 2021 cl. 43.]

Division 3 — Offences relating to manufacture, repair and dealing in firearms and other things

[Heading inserted: Firearms Amendment Bill 2021 cl. 43.]

23AC. Unauthorised manufacture of firearms and other things

(1) A person who manufactures a firearm, major firearm part, prohibited firearm accessory or ammunition commits a crime unless the person is authorised by a licence under this Act to do so.

Penalty for this subsection: imprisonment for 14 years.

(2) This section applies whether or not the firearm, major firearm part, prohibited firearm accessory or ammunition is, or could

form part of, a functioning firearm, major firearm part, prohibited firearm accessory or ammunition.

[Section 23AC inserted: Firearms Amendment Bill 2021 cl. 43.]

23AD. Unauthorised repair of firearms and other things

A person who repairs a firearm, major firearm part or prohibited firearm accessory commits a crime unless the person is authorised by a licence under this Act to do so.

Penalty: imprisonment for 14 years.

[Section 23AD inserted: Firearms Amendment Bill 2021 cl. 43.]

23AE. Unauthorised dealing in firearms and other things

A person who deals in a firearm, major firearm part, prohibited firearm accessory or ammunition commits a crime unless the person is authorised by a licence under this Act to do so.

Penalty: imprisonment for 14 years.

[Section 23AE inserted: Firearms Amendment Bill 2021 cl. 43.]

23AF. Participating in unauthorised manufacture, repair or dealing in firearms and other things

(1) In this section —

firearms activity means —

- (a) the manufacture of a firearm, major firearm part, prohibited firearm accessory or ammunition; or
- (b) the repair of a firearm, major firearm part, prohibited firearm accessory or ammunition; or
- (c) the dealing of a firearm, major firearm part, prohibited firearm accessory or ammunition;

firearms precursor means any of the following —

- (a) firearms technology;
- (b) a thing that —
 - (i) is not programmed, configured or otherwise enabled as referred to in section 23AG(1)(a)(i) or (ii); but
 - (ii) is capable of being so configured, programmed or otherwise enabled;
- (c) a substance or material used, or capable of being used, in a step in the manufacture or repair of a firearm, major

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firearm part, prohibited firearm accessory or ammunition, including fingerprint proof polymers, other polymers, alloys or components;

(d) hand grip moulds or other moulds for manufacturing or repairing a firearm, major firearm part, prohibited firearm accessory or ammunition;

(e) any other prescribed thing used, or capable of being used, in a step in the manufacture or repair of a firearm, major firearm part, prohibited firearm accessory or ammunition.

(2) A person commits a crime if —

(a) the person participates in a firearms activity; and

(b) the firearms activity is not authorised by a licence under this Act.

Penalty for this subsection: imprisonment for 14 years.

(3) For the purposes of subsection (2), a person *participates* in a firearms activity if the person does any of the following for the purposes of the firearms activity —

(a) takes, or participates in, a step, or causes a step to be taken in the firearms activity;

(b) provides or arranges finance for a step in the firearms activity;

(c) provides the place in which a step in the firearms activity is taken, or allows a step in the firearms activity to be taken at a place of which the person is an owner, lessee or occupier or of which the person has care, control or management;

(d) without limiting paragraph (a) — is in possession of, provides or supplies a firearms precursor for a step in the manufacture or repair of a firearm, major firearm part, prohibited firearm accessory or ammunition.

(4) This section applies regardless of whether a firearm, major firearm part, prohibited firearm accessory or ammunition is actually manufactured, repaired or otherwise dealt with.

[Section 23AF inserted: Firearms Amendment Bill 2021 cl. 43.]

Division 4 — Offences relating to firearms technology

[Heading inserted: Firearms Amendment Bill 2021 cl. 43.]

23AG. Firearms technology

(1) Any of the following is *firearms technology* —

(a) a thing that is programmed, configured or otherwise enabled —

(i) to carry out a step in the manufacture or repair of a firearm, major firearm part, prohibited firearm accessory or ammunition; or

(ii) without limiting subparagraph (i), to change an object into a component of a firearm, major firearm part, prohibited firearm accessory or ammunition;

(b) any type of digital or electronic reproduction of a technical drawing of the design of a firearm, major firearm part, prohibited firearm accessory or ammunition;

(c) a plan, drawing, instruction, template or computer program, in digital or electronic form, for the manufacture or repair of a firearm, major firearm part, prohibited firearm accessory or ammunition;

(d) a hard copy of a digital or electronic thing referred to in paragraph (b) or (c).

(2) The reference in subsection (1)(a) to a thing is a reference to any machinery, equipment, object or device, including the following —

(a) a 3D printer or other similar additive manufacturing technology;

(b) a moulding device;

(c) a milling device;

(d) a remote controlled device (for example, a drone);

(e) an electronic firing mechanism;

(f) railgun technology;

(g) any other prescribed thing.

[Section 23AG inserted: Firearms Amendment Bill 2021 cl. 43.]

23AH. Unauthorised possession of firearms technology

(1) A person who is in possession of firearms technology commits a crime unless the person is authorised by a licence under this Act to be in possession of firearms technology.

Penalty for this subsection: imprisonment for 10 years.

Summary conviction penalty for this subsection: imprisonment for 3 years.

(2) For the purposes of subsection (1), a person is in *possession* of firearms technology if —

(a) any of the circumstances referred to in section 4A apply in relation to the person and the firearms technology; or

(b) any of the circumstances referred to in section 4A apply in relation to the person and a computer or other data storage device (a *relevant storage device*) on which the firearms technology is held or contained; or

(c) the person controls or accesses the firearms technology by means of a remote computer or web portal, including a remote computer or web portal that is —

(i) in the control of another person; or

(ii) outside the jurisdiction.

(3) Subsection (1) does not apply if —

(a) a person is in possession of firearms technology in a place or vehicle solely by reason of the circumstances referred to in section 4A(d) or (e) applying in relation to the firearms technology or a relevant storage device; and

(b) the firearms technology is in the lawful possession of another person at that time.

[Section 23AH inserted: Firearms Amendment Bill 2021 cl. 43.]

23AI. Unauthorised creation or development of firearms technology

A person who creates or develops firearms technology commits a crime unless the person is authorised by a licence under this Act to do so.

Penalty: imprisonment for 10 years.

Summary conviction penalty: imprisonment for 3 years.

[Section 23AI inserted: Firearms Amendment Bill 2021 cl. 43.]

23AJ. Unauthorised dissemination of firearms technology

(1) A person who disseminates firearms technology commits a crime unless the person is authorised by a licence under this Act to do so.

Penalty for this subsection: imprisonment for 10 years.

Summary conviction penalty for this subsection: imprisonment for 3 years.

(2) For the purposes of subsection (1), a person *disseminates* firearms technology if the person —

(a) sends, supplies, exhibits, transmits or communicates firearms technology to another person; or

(b) makes firearms technology available for access by electronic or other means by another person; or

(c) enters into an arrangement with another person to do any of the things set out in paragraphs (a) and (b).

[Section 23AJ inserted: Firearms Amendment Bill 2021 cl. 43.]

23AK. Exceptions to s. 23AH, 23AI and 23AJ

(1) A person does not commit an offence under section 23AH, 23AI or 23AJ if the conduct engaged in by the person is in the course of the performance of the person's duties as —

(a) a member of the Police Force or an employee of the Department; or

(b) a member of the armed forces of the Crown or a member of any other disciplined force specified by the Governor for the purposes of this paragraph by notice in the *Gazette*.

(2) A person does not commit an offence under section 23AH, 23AI or 23AJ if the conduct engaged in by the person is necessary for or of assistance in, but did not extend beyond, any of the following —

(a) enforcing or administering a written law or a law of another State, a Territory or the Commonwealth;

(b) monitoring compliance with, or investigating a contravention of, a written law or a law of another State, a Territory or the Commonwealth;

(c) the administration of justice.

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Part 5 Offences

Division 5 Limitation periods

s. 23A

(3) The question of whether a person's conduct is necessary or of assistance in any of the matters outlined in subsection (2)(a), (b) or (c) is a question of fact and the person's motives for engaging in the conduct are irrelevant.

(4) A person does not commit an offence under section 23AH, 23AI or 23AJ if the conduct engaged in by the person —

(a) is necessary for or of assistance in conducting scientific, medical, educational, military or law enforcement research that has been approved by the Commissioner in writing for the purposes of this paragraph; and

(b) does not contravene a condition of that approval.

[Section 23AK inserted: Firearms Amendment Bill 2021 cl. 43.]

Division 5 — Limitation periods

[Heading inserted: Firearms Amendment Bill 2021 cl. 44.]

23A. Limitation periods

A prosecution for an offence against section 19(1) to which section 19AA applies, 19(2), 22C, 23(9)(a), 23(9)(d), 24(6)(b), 30B(1) or 30B(2) may be commenced at any time within 2 years after the date on which the alleged offence was committed.

[Section 23A inserted: No. 59 of 1996 s. 26; amended: No. 69 of 2004 s. 23; No. 84 of 2004 s. 80.]

Part 6 — Disclosure of information under this Act and other matters

[Heading inserted: Firearms Amendment Bill 2021 cl. 45.]

23B. Disclosure by health professionals of certain information

- (1) If a health professional is of the opinion that —
- (a) because of the patient's physical, mental, or emotional condition, it is not in the person's interest or not in the public interest that the person possess any firearm or ammunition to which the patient is believed to have access; or
 - (b) in the case of a medical practitioner or registered nurse, a person is seeking or has sought medical assistance for an injury in the infliction of which a firearm or ammunition is believed to have been involved,

nothing prevents the health professional in good faith from informing the Commissioner of that opinion.

- (2) This section has effect despite any duty of confidentiality, and nothing done by a health professional in good faith in accordance with this section gives rise to a criminal or civil action or remedy.

- (3) In this section —

health professional means —

- (a) a medical practitioner; or
- (b) a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the psychology profession; or
- (c) a registered nurse; or
- (d) a prescribed class of social worker; or
- (e) a prescribed class of professional counsellor;

registered nurse means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the nursing profession whose name is entered on Division 1 of the Register of Nurses kept under that Law as a registered nurse.

[Section 23B inserted: No. 59 of 1996 s. 26; amended: No. 69 of 2004 s. 24; No. 28 of 2005 Sch. 3 cl. 4; No. 50 of 2006 Sch. 3 cl. 8; No. 35 of 2010 s. 65; No. 4 of 2018 s. 110.]

s. 23BA

23BA. Disclosure of certain information by approved club and organisation members

- (1) If an officer of an approved shooting club or approved organisation is of the opinion that —
- (a) a person who is a member of the club or organisation is not a fit and proper person to possess, carry or use a firearm; and
 - (b) the person has a licence under this Act or intends to apply for a licence under this Act or possesses or intends to possess a firearm,

the officer is to communicate to the Commissioner that opinion and the grounds on which it was formed.

- (2) Where a person's application for membership or renewal of membership of an approved shooting club or approved organisation is refused or, following a grant or renewal a person's membership is cancelled, an officer is to notify the Commissioner and give the reasons for that decision.
- (3) A decision made by the Commissioner is not liable to be questioned or annulled by reason only that it was made in full or partial reliance on information provided under subsection (1) or (2) and it is subsequently shown that the information was factually incorrect but, in any such case, the Commissioner must reconsider the decision when so requested by the person affected adversely and the extent to which the decision should, or might, be varied as a result of the correction of those factual errors.
- (4) Nothing done by an officer of an approved organisation or approved shooting club in good faith in accordance with this section gives rise to a criminal or civil action or remedy.
- (5) In this section —
- approved organisation** means an organisation approved under section 11A(2)(b);
- approved shooting club** means a shooting club approved under section 11A(2)(a);
- officer**, in relation to an approved shooting club or approved organisation —
- (a) that is a body corporate which is a corporation as defined in section 57A of the *Corporations Act 2001* of the Commonwealth, has the meaning given to that term in section 82A of that Act; and

- (b) that is not such a body corporate, means any person (by whatever name called) who is concerned in or takes part in the management of the club or organisation,

but does not include an employee of the club or organisation unless the employee is involved in its management.

[Section 23BA inserted: No. 69 of 2004 s. 25.]

23C. Persons concerned in commission of offences

Without limiting section 7 of *The Criminal Code* or section 21A of this Act, a person who by act or omission is in any way directly or indirectly knowingly concerned in the commission of any offence against this Act is deemed to have committed that offence and is punishable accordingly.

[Section 23C inserted: No. 59 of 1996 s. 49.]

[23D. Deleted: No. 4 of 2004 s. 58.]

Part 7 — Enforcement

[Heading inserted: Firearms Amendment Bill 2021 cl. 46.]

Division 1 — General enforcement matters

[Heading inserted: Firearms Amendment Bill 2021 cl. 46.]

24. Powers of police

- (1) A member of the Police Force may demand from any person in possession of a [firearm, major firearm part, prohibited firearm accessory](#) ~~firearm~~ or ammunition —
- (a) the licence or permit under which [the person](#) ~~he~~ is authorised to have such possession; or
 - (b) evidence that [the person](#) ~~he~~ is authorised to have such possession otherwise than under a licence or permit or is exempt under section 8 from the requirement to hold a licence under this Act; and
 - (c) if the licence or permit, or the authorisation or exemption, is such that the person in possession of the [firearm, major firearm part, prohibited firearm accessory](#) ~~firearm~~ or ammunition should also be in possession of an Extract of Licence in respect of that licence, permit, authorisation, or exemption, that Extract of Licence,
- and where no such licence or permit, or no relevant Extract of Licence, is produced or the officer is not satisfied that the possession is otherwise authorised [the officer](#) ~~he~~ may seize and take possession of that [firearm, major firearm part, prohibited firearm accessory](#) ~~firearm~~ or ammunition.
- (2) A member of the Police Force may seize and take possession of any [firearm, major firearm part, prohibited firearm accessory](#) ~~firearm~~ or ammunition that is in the possession of a person, whether or not the person is licensed or otherwise authorised to possess it if, in the opinion of the member of the Police Force —
- (a) possession of it by that person may result in harm being suffered by any person; or
 - (b) that person is not at the time a fit and proper person to be in possession of it.
- (2a) For the purpose of exercising the powers given by subsection (2), a member of the Police Force may enter and search any premises on which, in the opinion of the member of the Police Force, there are reasonable grounds to suspect that any [firearm, major firearm part, prohibited firearm accessory](#)

~~firearm~~ or ammunition may be found in the possession of a person in the circumstances described in that subsection.

- (3) A member of the Police Force may require any person to permit ~~the officer~~ ~~him~~ to examine a firearm or major firearm part in the possession of that person and if, in the opinion of the officer, any such firearm or major firearm part, ~~firearm~~, the possession of which is not authorised under a Firearm Collector's Licence, is unsafe or unserviceable the officer may seize and take possession of it.

(3A) A member of the Police Force who suspects on reasonable grounds that a person is in possession of firearms technology may direct that the person provide a password, device or some other information or thing to enable the member of the Police Force to access the firearms technology.

(3B) A person who refuses or fails without lawful excuse to comply with any direction given by a member of the Police Force under subsection (3A) commits a crime.

Penalty for this subsection: imprisonment for 10 years.

Summary conviction penalty for this subsection: imprisonment for 3 years.

- (4) A member of the Police Force may —
- (a) question any person who is suspected on reasonable grounds of being able to furnish information or evidence relating to an offence or suspected offence under this Act;
 - (b) stop, search, and detain —
 - (i) any person who is suspected on reasonable grounds of having a firearm, major firearm part, prohibited firearm accessory ~~firearm~~ or ammunition in the person's ~~his~~ possession without lawful excuse;
 - (ii) any vehicle or conveyance where there are reasonable grounds to suspect that a firearm, major firearm part, prohibited firearm accessory or ammunition ~~firearm~~ is kept without lawful excuse;
 - (c) arrest any person who is suspected on reasonable grounds of committing an offence under this Act.

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- (5) Any firearm, major firearm part, prohibited firearm accessory ~~firearm~~ or ammunition seized and any person arrested under the provisions of subsection (1) shall be dealt with according to law.
- (6) A person commits an offence if the person ~~who~~ —
- (a) refuses or fails without lawful excuse to answer any question put by a member of the Police Force under this Act;
 - (b) wilfully misleads or wilfully attempts to mislead any member of the Police Force in any particular likely to affect the discharge of the member's ~~his~~ duty under this Act;
 - (c) refuses or fails to produce any licence or permit held by the person ~~him~~ under this Act, or any firearm in respect of which any such licence or permit is issued, or any Extract of Licence issued in respect of any such licence or permit or in respect of any exemption or other authorisation, within reasonable time after demand made by a member of the Police Force. ~~Force;~~

~~commits an offence and is liable on summary conviction to a fine of \$4 000.~~

Penalty for this subsection: a fine of \$4 000.

- (7) The powers given by this section to a member of the Police Force may be exercised without warrant except that the powers given by subsection (2a) can only be exercised without warrant if the member of the Police Force —
- (a) is reasonably of the opinion that —
 - (i) there is an immediate threat of harm being suffered by a person; and
 - (ii) the delay that would be involved in obtaining a warrant would be likely to increase the risk or extent of such harm;
- and
- (b) gives the Commissioner, after the powers are exercised, a written report explaining the reason for that opinion.

(8) The regulations may make provision as to the giving of the report required by subsection (7)(b).

~~(8) The regulations may make provision as to —~~

~~(a) the giving of the report required by subsection (7)(b);~~

~~(b) the steps that are required to be taken after any firearm or ammunition has been seized and taken under subsection (2).~~

- (9) For the purposes of this section the term *firearm* is deemed to include any [sound suppressor](#), ~~silencer, within the meaning of section 17B(8), and any part of a firearm.~~

[Section 24 amended: No. 61 of 1976 s. 5; No. 54 of 1978 s. 4; No. 70 of 1987 s. 9; No. 90 of 1994 s. 5; No. 59 of 1996 s. 27, 42 and 50(2); No. 69 of 2004 s. 31; No. 59 of 2006 s. 73; [Firearms Amendment Bill 2021 cl. 47 and 66.](#)]

25. Constructive possession

- (1) For the purposes of this section the term *firearm* is deemed to include a reference to ammunition therefor.
- (2) Where any [firearm, major firearm part or prohibited firearm accessory](#) ~~firearm~~ is carried in parts by, or is otherwise in the possession of, 2 or more persons each and every one of those persons is deemed to be in possession of the [firearm, major firearm part or prohibited firearm accessory](#). ~~firearm.~~

[Section 25 amended: [Firearms Amendment Bill 2021 cl. 48.](#)]

26. Search warrant

- (1) Where a Justice is satisfied that there are reasonable grounds for suspecting that there is in any place any [firearm, major firearm part, prohibited firearm accessory, ammunition, firearms precursor or sound suppressor](#) ~~firearm or ammunition~~, or any document or other thing —
- (a) with respect to which under any written law an offence, involving any [firearm, major firearm part, prohibited firearm accessory, ammunition, firearms precursor, sound suppressor](#) ~~firearm, ammunition, silencer~~ or other contrivance used in conjunction with a firearm, has been or is suspected, on reasonable grounds, to have been committed; or
- (b) that, there are reasonable grounds for believing —
- (i) will afford evidence as to the commission of any such offence; or
- (ii) is intended to be used for the purpose of committing any such offence,

the Justice may grant to a member of the Police Force a warrant to enter and search such place for any such [firearm, major](#)

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firearm part, prohibited firearm accessory, ammunition, firearms precursor, sound suppressor or other thing, and to seize any such firearm, ammunition or other thing, and to seize any such firearm, ammunition or other thing found.

- (2) Where a Justice is satisfied that there are reasonable grounds to suspect that any firearm, major firearm part, prohibited firearm accessory ~~firearm~~ or ammunition may be found on premises in the possession of a person in the circumstances described in section 24(2), the Justice may grant to a member of the Police Force a warrant to enter and search such premises for the purpose of exercising the powers given by that subsection.

[Section 26 inserted: No. 59 of 1996 s. 28; amended: No. 59 of 2006 s. 73; Firearms Amendment Bill 2021 cl. 49.]

Division 2 — Enforcement powers relating to firearms prohibition orders

[Heading inserted: Firearms Amendment Bill 2021 cl. 50.]

26A. Additional police powers in relation to firearms prohibition orders

The powers conferred by this Division on a member of the Police Force —

- (a) are in addition to, and do not limit, the powers that a member of the Police Force has under Division 1 or any other law; and
- (b) may be exercised by a member of the Police Force without a warrant.

[Section 26A inserted: Firearms Amendment Bill 2021 cl. 50.]

26B. Use of force when exercising powers under this Division

- (1) When exercising a power in this Division, a member of the Police Force may use any force against any person or thing that it is reasonably necessary to use in the circumstances —
- (a) to exercise the power; and
- (b) to overcome any resistance to exercising the power that is offered, or that the person exercising the power suspects on reasonable grounds will be offered, by any person.
- (2) If under subsection (1) a member of the Police Force uses force, the force may be of a kind that causes damage to the property of another person.

(3) Any use of force under subsection (1) against a person is subject to *The Criminal Code* Chapter XXVI.

[Section 26B inserted: Firearms Amendment Bill 2021 cl. 50.]

26C. Entry to and search of places and vehicles in relation to firearms prohibition orders

(1) The powers of a member of the Police Force under this section —

(a) may be exercised only if reasonably required for the purpose of determining whether a prohibited person or any other person has committed an offence under Part 8; and

(b) may be exercised at any time after the service of a firearms prohibition order (including immediately after its service, if the prohibited person has been given an opportunity to surrender all firearms, major firearm parts, prohibited firearm accessories and ammunition in the person's possession).

(2) A member of the Police Force may exercise any of the following powers —

(a) enter and search a place occupied by or under the care, control or management of a prohibited person, including entering and searching a vehicle at the place;

(b) search a vehicle being occupied by or in the charge of a prohibited person, wherever the vehicle is located.

(3) A member of the Police Force who enters or searches a place or a vehicle may do the following —

(a) stop and detain the vehicle being searched for so long as is reasonably necessary to conduct the search;

(b) seize a thing relevant to an offence under this Act.

(4) A member of the Police Force may seize a firearm, major firearm part, prohibited firearm accessory or ammunition under subsection (3)(b) even if a person is authorised under this Act to be in possession of the firearm, major firearm part, prohibited firearm accessory or ammunition.

[Section 26C inserted: Firearms Amendment Bill 2021 cl. 50.]

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s. 26D

26D. Search of persons subject to firearms prohibition orders and certain other persons

(1) The powers of a member of the Police Force under this section may be exercised in relation to a prohibited person —

(a) only if reasonably required for the purpose of determining whether the prohibited person or any other person has committed an offence under Part 8; and

(b) at any time after the service of a firearms prohibition order (including immediately after its service, if the prohibited person has been given an opportunity to surrender all firearms, major firearm parts, prohibited firearm accessories and ammunition in the person's possession).

(2) The powers of a member of the Police Force under this section may be exercised in relation to a person in company with a prohibited person only if the member of the Police Force suspects on reasonable grounds that the person in company or the prohibited person has committed an offence under Part 8.

(3) A member of the Police Force may exercise any of the following powers —

(a) stop and search a prohibited person;

(b) stop and search a person who is in the company of a prohibited person;

(c) search any item, package or thing in the possession of a person who is the subject of a search under this section.

(4) A member of the Police Force who conducts a search of a person under this section may do any of the following —

(a) stop and detain the person being searched for so long as is reasonably necessary to conduct the search;

(b) seize a thing relevant to an offence under this Act —

(i) that is found on the person or in an item, package or thing in the person's possession; or

(ii) that the person is carrying or using.

(5) A member of the Police Force may seize a firearm, major firearm part, prohibited firearm accessory or ammunition under subsection (4)(b) even if a person is authorised under this Act to be in possession of the firearm, major firearm part, prohibited firearm accessory or ammunition.

[Section 26D inserted: Firearms Amendment Bill 2021 cl. 50.]

26E. Seizure of things not immediately surrendered under s. 29I

(1) This section applies if —

(a) a prohibited person —

(i) does not immediately surrender a thing under section 29I(2), (3) or (4); or

(ii) as referred to in section 29I(6), cannot immediately surrender a thing under section 29I(2), (3) or (4) (for example, because the thing is located or stored at a different place);

and

(b) a member of the Police Force suspects on reasonable grounds that the prohibited person is in possession of the thing.

(2) The member of the Police Force may —

(a) enter a place in which the member of the Police Force suspects on reasonable grounds the thing is located or stored; and

(b) search for, and seize, the thing.

(3) This section is in addition to, and does not limit, the other powers conferred by this Division on a member of the Police Force.

[Section 26E inserted: Firearms Amendment Bill 2021 cl. 50.]

[27. Deleted: No. 78 of 1995 s. 46.]

Division 3 — Powers of the court and other matters

[Heading inserted: Firearms Amendment Bill 2021 cl. 51.]

27A. Disqualification by court imposing violence restraining order

(1) A court making a violence restraining order against a person may order that, for a term set by the court or until a court orders to the contrary, the person be disqualified from holding any licence, permit, or approval, or any particular licence, permit, or approval, under this Act.

(2) In subsection (1) —

violence restraining order has the same meaning as it has in section 11(4).

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- (3) If an order under subsection (1) disqualifies a person from holding any licence, permit, or approval already held by the person when the disqualification order is made, the licence, permit, or approval held is, by force of this section, suspended and has no effect for so long as the disqualification order is in force.
- (4) The court is to ensure that details of the restraining order and the disqualification order are made known to the Commissioner as soon as is practicable.

[Section 27A inserted: No. 59 of 1996 s. 29; amended: No. 19 of 1997 s. 84.]

28. Court may order forfeiture on conviction of offender

On the conviction of a person for any offence whatever under any written law, the court may order that any [firearm, major firearm part, prohibited firearm accessory, ammunition, sound suppressor](#) ~~firearm or ammunition, silencer~~ or other thing to which this Act applies relating to the charge shall be forfeited to the Crown, but if it appears to the court that the [thing firearm or ammunition, silencer or other thing to which this Act applies](#) belongs to some other person, who is lawfully entitled to possession and is not guilty of any offence in relation thereto under this Act, the court shall order the [thing firearm or ammunition, silencer or other thing to which this Act applies](#) to be delivered to that other person.

[Section 28 amended: No. 59 of 1996 s. 30; [Firearms Amendment Bill 2021 cl. 52.](#)]

29. Evidence

- (1) In a prosecution for an offence against this Act an averment in the prosecution notice —
 - (a) that a person is, or at a particular time was or was not, the holder of a particular licence or permit, or a particular Extract of Licence, under this Act; or
 - (b) that a person, place, organisation or thing is, or at a particular time was or was not, the subject of a particular approval granted by the Commissioner for a particular purpose under this Act; or
 - (c) that a particular firearm or ammunition is of a particular calibre or kind; or

- (d) that a particular licence, permit or approval issued or granted under this Act was, at a particular time, subject, to a particular restriction, limitation or condition; or
 - (e) that a person named in the prosecution notice is, or at a particular time was —
 - (i) a member of the Police Force acting with the authority of the Commissioner; or
 - (ii) a member of the Police Force to whom a particular function has or had been delegated by the Commissioner;
- or
- (f) that an authorisation or delegation granted by the Commissioner under this Act is, or at a particular time was, subject to a particular condition; or
 - (g) that particular premises were a place to which an approval or a requirement under this Act applies, or at a particular time applied,

is evidence of the matter averred.

- (2) In any proceedings under this Act a document or writing purporting to be, or to be a copy of or extract from, any licence, permit, approval or other document issued under this Act, or provided or produced to the Commissioner or a member of the Police Force in connection with any application or request for information under this Act —
 - (a) is evidence which is admissible, and is to be accepted as to the matter contained in the document in the absence of proof to the contrary; and
 - (b) if it is proved to be an examined copy or extract, purporting to be signed and certified as such by or on behalf of the Commissioner, is for all purposes sufficient evidence of the matter contained in the original without producing the original.

[Section 29 amended: No. 59 of 1996 s. 31 and 43; No. 84 of 2004 s. 80.]

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Part 8 Firearms prohibition orders

Division 1 Making of firearms prohibition order and other matters

s. 29A

Part 8 — Firearms prohibition orders

[Heading inserted: Firearms Amendment Bill 2021 cl. 53.]

Division 1 — Making of firearms prohibition order and other matters

[Heading inserted: Firearms Amendment Bill 2021 cl. 53.]

29A. Commissioner may make firearms prohibition order

(1) The Commissioner may make an order (a ***firearms prohibition order***) against a person if the Commissioner is satisfied that —

- (a) possession of a firearm, major firearm part, prohibited firearm accessory or ammunition by the person would likely result in undue danger to life or property; or
- (b) the person is not a fit and proper person to possess a firearm, major firearm part, prohibited firearm accessory or ammunition; or
- (c) it is otherwise in the public interest to make a firearms prohibition order against the person.

(2) Without limiting the matters to which the Commissioner may have regard in determining whether to make a firearms prohibition order against a person, the Commissioner may have regard to any intelligence report or other information held by the Commissioner in relation to the person.

(3) A firearms prohibition order may be made whether or not the person against whom the order will be made —

- (a) holds or has held a licence, permit or approval under this Act; or
- (b) has had a licence, permit or approval issued under this Act revoked or not renewed; or
- (c) is exempt under section 8 from requiring a licence under this Act; or
- (d) was the subject of a previous firearms prohibition order that has expired or been revoked.

[Section 29A inserted: Firearms Amendment Bill 2021 cl. 53.]

29B. Form and content of firearms prohibition order

- (1) A firearms prohibition order must be in the approved form.
- (2) A firearms prohibition order must specify the following —
 - (a) the name and date of birth of the person against whom the order is made;
 - (b) the date on which the order was made;
 - (c) the provision of this Act that empowers the making of the order;
 - (d) that the order remains in effect for a period of 10 years beginning on the day on which the order is served, unless revoked sooner;
 - (e) the effect of the order, including the conduct prohibited by the order and the powers for enforcing the order under this Part;
 - (f) that if the person against whom the order is made changes their address, the person must notify the Commissioner within 7 days of that change;
 - (g) that the person against whom the order is made may apply to the State Administrative Tribunal under this Act for a review of the decision to make the order;
 - (h) any other prescribed particular.

[Section 29B inserted: Firearms Amendment Bill 2021 cl. 53.]

29C. Service of firearms prohibition order

- (1) The Commissioner must ensure a firearms prohibition order is served on the person against whom the order is made in accordance with subsection (2).
- (2) To serve a firearms prohibition order on the person against whom the order is made, a member of the Police Force must —
 - (a) hand the order to the person; or
 - (b) if the person refuses to accept the order — leave it near the person and orally draw the person's attention to it.

[Section 29C inserted: Firearms Amendment Bill 2021 cl. 53.]

29D. Powers to request particulars and detain for purposes of service

- (1) This section applies if a member of the Police Force suspects on reasonable grounds that someone is a person on whom a

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Part 8 Firearms prohibition orders

Division 1 Making of firearms prohibition order and other matters

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firearms prohibition order is required to be served under section 29C.

(2) The member of the Police Force may do any or all of the following —

(a) direct the person to stop;

(b) direct the person to provide their personal details;

(c) direct the person to remain at a particular place for as long as is reasonably necessary (but no longer than 2 hours) to serve the firearms prohibition order;

(d) direct the person to —

(i) accompany the member of the Police Force to the nearest police station or some other place; and

(ii) remain at the police station or other place for as long as is reasonably necessary (but no longer than 2 hours) to serve the firearms prohibition order.

(3) If a member of the Police Force suspects on reasonable grounds that a personal detail given by a person in response to a direction under subsection (2)(b) is false, the member of the Police Force may direct the person to produce evidence of the correctness of the detail.

(4) If a person refuses or fails to comply with a direction under subsection (2) or (3), the member of the Police Force may do either or both of the following —

(a) detain the person at the place at which the direction is given for as long as is reasonably necessary (but no longer than 2 hours) to serve the notice;

(b) take the person to another place (including a police station) and detain the person at that place for as long as is reasonably necessary (but no longer than 2 hours) to serve the firearms prohibition order.

(5) A person who is directed to remain or is detained at a place, or who is accompanying, or being taken by, a member of the Police Force to a place, under this section when the person is not under arrest is taken to be in lawful custody.

(6) Subsection (7) applies if, following a direction under this section, a person accompanies, or is taken by, a member of the Police Force to a police station or some other place.

Firearms Act 1973

Part 8 Firearms prohibition orders

Division 2 Offences relating to firearms prohibition orders

s. 29G

(3) The certificate must state the full name of the person served.

(4) A certificate under this section is, in the absence of evidence to the contrary, sufficient proof of service of the firearms prohibition order on the person stated to have been served.

[Section 29F inserted: Firearms Amendment Bill 2021 cl. 53.]

29G. Commencement and duration of firearms prohibition order

(1) A firearms prohibition order comes into force when the firearms prohibition order is served on the person against whom it is made under section 29C.

(2) A firearms prohibition order remains in force for a period of 10 years, beginning on the day on which it comes into force, unless the firearms prohibition order is revoked sooner under subsection (3).

(3) The Commissioner may revoke a firearms prohibition order at any time for any or no stated reason.

[Section 29G inserted: Firearms Amendment Bill 2021 cl. 53.]

29H. Revocation of licences, permits, approvals and authorisations of prohibited persons

(1) If a firearms prohibition order comes into force under section 29G(1), all licences, permits, approvals and authorisations under this Act held by the prohibited person are revoked.

(2) The regulations may provide for the reinstatement of a licence, permit, approval or authorisation revoked under subsection (1), or make any other provision necessary or convenient to be made, to deal with the consequences of the setting aside or quashing, by the State Administrative Tribunal or a court, of a decision of the Commissioner under section 29A to make a firearms prohibition order.

[Section 29H inserted: Firearms Amendment Bill 2021 cl. 53.]

Division 2 — Offences relating to firearms prohibition orders

[Heading inserted: Firearms Amendment Bill 2021 cl. 53.]

29I. Failure to surrender firearms and other things when firearms prohibition order served

(1) This section applies if a firearms prohibition order is served under section 29C.

(2) Except as provided in subsection (6), the prohibited person must immediately surrender to the member of the Police Force serving the firearms prohibition order any licence, permit, approval or authorisation under this Act, and any Extract of Licence, that are in the person's possession.

Penalty for this subsection: imprisonment for 5 years and a fine of \$20 000.

(3) Except as provided in subsection (6), the prohibited person must immediately surrender to the member of the Police Force serving the firearms prohibition order any of the following that are in the person's possession —

- (a) a firearm (other than a handgun or prohibited firearm);
- (b) a major firearm part (other than a major firearm part related to a handgun or prohibited firearm);
- (c) a prohibited firearm accessory;
- (d) ammunition.

Penalty for this subsection: imprisonment for 7 years and a fine of \$35 000.

(4) Except as provided in subsection (6), the prohibited person must immediately surrender to the member of the Police Force serving the firearms prohibition order any of the following that are in the person's possession —

- (a) a handgun;
- (b) a prohibited firearm;
- (c) a major firearm part related to a handgun or prohibited firearm.

Penalty for this subsection: imprisonment for 14 years and a fine of \$75 000.

(5) An offence under subsection (2), (3) or (4) is a crime.

(6) If the prohibited person cannot immediately surrender a thing referred to in subsection (2), (3) or (4) (for example, because the thing is located or stored at a different place) —

- (a) those subsections do not apply; and
- (b) the member of the Police Force serving the firearms prohibition order may direct the prohibited person to give, to the member of the Police Force, information about the location of the thing and any other information necessary to enable a member of the Police Force to then locate the thing and seize it in accordance with this Act.

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(7) A prohibited person commits a crime if the prohibited person refuses or fails without lawful excuse to comply with any direction given by a member of the Police Force under subsection (6)(b).

Penalty for this subsection: imprisonment for 10 years and a fine of \$50 000.

[Section 29I inserted: Firearms Amendment Bill 2021 cl. 53.]

29J. Prohibition on prohibited persons acquiring, possessing or using firearms and other things

(1) A prohibited person commits a crime if the person acquires, is in possession of, or uses a firearm (other than a handgun or prohibited firearm), major firearm part (other than a major firearm part related to a handgun or prohibited firearm), prohibited firearm accessory or ammunition.

Penalty for this subsection: imprisonment for 7 years and a fine of \$35 000.

(2) A prohibited person commits a crime if the person acquires, is in possession of, or uses a handgun, prohibited firearm or major firearm part related to a handgun or prohibited firearm.

Penalty for this subsection: imprisonment for 14 years and a fine of \$75 000.

(3) Subsection (4) applies if —

(a) a prohibited person —

(i) cannot immediately surrender a firearm, major firearm part, prohibited firearm accessory or ammunition (the *relevant thing*) under section 29I(3) or (4); but

(ii) gives information to the member of the Police Force serving the firearms prohibition order in compliance with a direction given by the member of the Police Force under section 29I(6)(b);

and

(b) the information given by the prohibited person enables a member of the Police Force to then locate and seize the relevant thing within 24 hours of the firearms prohibition order being served under section 29C.

- (4) If this subsection applies, the prohibited person does not commit an offence under subsection (1) or (2) in relation to possession of the relevant thing at any time before the relevant thing is seized by a member of the Police Force.

[Section 29J inserted: Firearms Amendment Bill 2021 cl. 53.]

29K. Prohibition on prohibited persons entering, or remaining or residing at, certain places

- (1) In this section —

commercial premises means any premises (including premises that are also a residence) —

- (a) *named and identified in a Dealer’s Licence, a Repairer’s Licence or a Manufacturer’s Licence; or*
- (b) *used by an approved warehouseman to store a firearm, major firearm part or ammunition for another person;*

residence means a place used for residential purposes.

- (2) A prohibited person commits a crime if the person enters or remains at any of the following —

- (a) *a place where a firearm, major firearm part, prohibited firearm accessory or ammunition is sold, repaired or manufactured;*
- (b) *a shooting range;*
- (c) *a shooting club;*
- (d) *a firearms collectors club;*
- (e) *a paintball club;*
- (f) *a commercial premises where a firearm, major firearm part, prohibited firearm accessory or ammunition is stored;*
- (g) *a place that is set aside predominantly for activities involving firearms.*

Penalty for this subsection: imprisonment for 10 years and a fine of \$50 000.

- (3) A prohibited person commits a crime if the person resides at a commercial premises where a firearm, major firearm part, prohibited firearm accessory or ammunition is stored.

Penalty for this subsection: imprisonment for 10 years and a fine of \$50 000.

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(4) A prohibited person commits an offence if the person enters or remains at a residence (other than a commercial premises) where a firearm, major firearm part, prohibited firearm accessory or ammunition is stored.

Penalty for this subsection: imprisonment for 12 months and a fine of \$4 000.

(5) A prohibited person commits an offence if the person resides at a residence (other than a commercial premises) where a firearm, major firearm part, prohibited firearm accessory or ammunition is stored.

Penalty for this subsection: imprisonment for 5 years and a fine of \$20 000.

[Section 29K inserted: Firearms Amendment Bill 2021 cl. 53.]

29L. Prohibition on prohibited persons associating with persons in possession of firearms and other things

(1) A prohibited person commits a crime if the person is in company with a person who is in possession of a firearm (other than a handgun or prohibited firearm), major firearm part (other than a major firearm part related to a handgun or prohibited firearm), prohibited firearm accessory or ammunition.

Penalty for this subsection: imprisonment for 7 years and a fine of \$35 000.

(2) A prohibited person commits a crime if the person is in company with a person who is in possession of a handgun, prohibited firearm or major firearm part related to a handgun or prohibited firearm.

Penalty for this subsection: imprisonment for 14 years and a fine of \$75 000.

[Section 29L inserted: Firearms Amendment Bill 2021 cl. 53.]

29M. Prohibition on giving possession of firearms and other things to prohibited persons

(1) A person commits a crime if the person gives to a prohibited person possession of a firearm (other than a handgun or prohibited firearm), a major firearm part (other than a major firearm part related to a handgun or prohibited firearm), a prohibited firearm accessory or ammunition.

Penalty for this subsection: imprisonment for 7 years and a fine of \$35 000.

- (2) A person commits a crime if the person gives to a prohibited person possession of a handgun, a prohibited firearm or a major firearm part related to a handgun or prohibited firearm.

Penalty for this subsection: imprisonment for 14 years and a fine of \$75 000.

[Section 29M inserted: Firearms Amendment Bill 2021 cl. 53.]

29N. Prohibited person to notify change of address

- (1) If a prohibited person changes their address, the person must give the Commissioner notice of their new address not later than 7 days after the change occurs.

Penalty for this subsection: a fine of \$4 000.

- (2) The notice must be given to the Commissioner in the approved manner.

[Section 29N inserted: Firearms Amendment Bill 2021 cl. 53.]

29O. Recognition of firearms prohibition orders of other jurisdictions

- (1) In this section —

corresponding firearms prohibition order means a prescribed order that —

- (a) is made under a law of another State or a Territory containing provisions that substantially correspond to this Part; and
(b) substantially corresponds to a firearms prohibition order.

- (2) If a corresponding firearms prohibition order is in force in relation to a person —

- (a) the person is, for the purposes of this Act, taken to be a prohibited person; and
(b) this Act applies to, and may be enforced in this State against, the person accordingly.

[Section 29O inserted: Firearms Amendment Bill 2021 cl. 53.]

Part 9 — Sale, destruction of firearms and other matters

[Heading inserted: Firearms Amendment Bill 2021 cl. 54.]

30. Ammunition sales

- (1) The holder of a Dealer's Licence may dispose of ammunition to any person who represents ~~themselves himself~~ as being the holder of a licence or permit under this Act entitling the person ~~him~~ to possess a firearm and ammunition or as lawfully possessing a firearm under the provisions of section 8, and who the dealer believes on reasonable grounds to be entitled to possess a firearm suitable for use with that ammunition, or as being the holder of an Ammunition Collector's Licence.
- (2) The holder of a Dealer's Licence may dispose of ammunition to any person apparently over the age of 18 years who represents ~~themselves himself~~ as being, and whom the dealer believes to be, the agent of a person to whom the dealer would be authorised to dispose of ammunition under subsection (1).
- (3) At the time of any transaction authorised under subsection (1) or subsection (2) the dealer shall make an entry in the prescribed manner in the record kept for the purposes of this section and shall cause verification of that transaction to be entered in, or affixed to, the record in the prescribed manner or obtain the signature thereto of the person to whom the ammunition is supplied.
- (4) A person who makes a false representation for the purposes of obtaining ammunition for ~~themselves himself~~ or another person, and any dealer who fails or neglects to comply with the requirements of this section commits an offence.
Penalty for this subsection: a fine of ~~Penalty:~~ \$4 000.
- (5) If ammunition is disposed of by or on behalf of the holder of a Dealer's Licence and the person who disposes of it (in this subsection called the *provider*) does not request the person receiving the ammunition (in this subsection called the *receiver*) to produce —
 - (a) a relevant licence or permit, or evidence of —
 - (i) exemption by section 8; or
 - (ii) a relevant authorisation;and

- (b) an Extract of Licence in respect of that licence, permit, exemption, or authorisation,

and inspect either an Extract of Licence or something referred to in paragraph (a), it is to be presumed in proceedings for an offence against this Act, upon proof that the provider disposed of the ammunition to the receiver, that there were no reasonable grounds to believe that the receiver was a person to whom the dealer would be authorised to dispose of that ammunition under subsection (1), unless the contrary is shown.

[Section 30 amended: No. 54 of 1978 s. 5; No. 70 of 1987 s. 10; No. 59 of 1996 s. 32, 44 and 50(1); No. 69 of 2004 s. 31; Firearms Amendment Bill 2021 cl. 65 and 66.]

30A. Sale and disposal of firearms and major firearm parts~~Sale and disposal of firearms~~

- (1) A person who, except as described in subsection (2), advertises that a firearm or major firearm part is for sale must ensure that the advertisement includes —

(a) in the case of a firearm — the type, make, serial number and calibre of the firearm; or

(b) in the case of a major firearm part —

(i) if the major firearm part has a serial number — that number; and

(ii) any other particulars of the major firearm part that are prescribed.

Penalty for this subsection: a fine of \$2 000.

~~(1) A person who, except as described in subsection (2), advertises that a firearm is for sale is required to ensure that the advertisement includes details of the type, make, serial number, and calibre of the firearm.~~

- (2) The holder of a Dealer's Licence or a Manufacturer's Licence who advertises for sale a firearm or major firearm part to which the licence relates ~~must is required to~~ ensure that the advertisement includes —

(a) the licence number; and

(b) either the business name or such other details as are sufficient to identify the holder of the licence.

Penalty for this subsection: a fine of \$2 000.

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Part 9

Sale, destruction of firearms and other matters

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(3) A person who sends a firearm or major firearm part by post to a destination that is outside the State —

(a) must address the firearm or major firearm part ~~is required to address the firearm~~ to premises at which the business of a dealer may lawfully be carried on; and

(b) must not send ammunition in the package containing the firearm or major firearm part.

~~(b) is not to send ammunition in the package containing the firearm.~~

Penalty for this subsection: a fine of ~~Penalty:~~ \$2 000.

[Section 30A inserted: No. 59 of 1996 s. 33; amended: No. 69 of 2004 s. 31; Firearms Amendment Bill 2021 cl. 55 and 65.]

30B. Loss, theft, destruction, or disposal out of State, to be reported

(1) Where any person entitled under an Act of the State or the Commonwealth to possess a firearm firearm, major firearm part or any ammunition —

(a) loses the firearm, major firearm part ~~firearm~~ or ammunition, whether or not by theft; or

(b) becomes aware that the firearm or major firearm part has been destroyed, otherwise than by the authority of the Commissioner under this Act,

that person must, as soon as is practicable, ~~is required, as soon as is practicable, to~~ report the loss or destruction to the Commissioner.

Penalty for this subsection: a fine of \$2 000.

(2) Where any person entitled under this Act to possess a firearm or major firearm part disposes of that firearm or major firearm part ~~firearm~~ —

(a) in a place outside the State; or

(b) to a destination outside the State,

that person must, as soon as is practicable, report to the Commissioner the details of the firearm or major firearm part ~~is required, as soon as is practicable, to report to the Commissioner the details of the firearm~~ concerned; the manner and date of its disposal; the name, address, and, in the case of a person other than a dealer in firearms, the birth date of any person taking possession of the firearm or major firearm part; ~~firearm;~~ and the number, expiry date and nature of any licence,

permit or other authorisation to possess a firearm held by that person.

Penalty for this subsection: a fine of ~~Penalty:~~ \$2 000.

[Section 30B inserted: No. 59 of 1996 s. 33; amended: No. 69 of 2004 s. 31; Firearms Amendment Bill 2021 cl. 56 and 65.]

31. Records

- (1) The Commissioner shall cause to be compiled and maintained in the prescribed manner a register or registers of all applications made for a licence, permit or approval under this Act specifying whether or not the application was refused, the reasons for any refusal, and such other particulars as are prescribed.
- (2) The holder of a Corporate Licence, a Dealer's Licence, a Repairer's Licence, a Manufacturer's Licence or an Ammunition Collector's Licence shall compile, maintain and furnish records in such manner as is prescribed, all entries therein shall be made at the time of the transaction to which they relate or, in the case of a transaction involving the acquisition of ammunition by a person who is entitled to acquire it as the holder of an Ammunition Collector's Licence, as soon as may be practicable thereafter, and any such record shall be produced for inspection by any member of the Police Force on the member's ~~his~~ request.
- (2a) A person who compiles, maintains, furnishes or produces a record under section 31(2) knowing it to be incorrect or misleading commits an offence.
- (3) A member of the Police Force shall be permitted to check the stock of firearms, major firearm parts ~~firearms~~ and ammunition on any premises in respect of which records are required to be kept under subsection (2), or ammunition held by a person who is the holder of an Ammunition Collector's Licence, and shall be provided with reasonable facilities for examining such firearms, major firearm parts ~~firearms~~ or ammunition.
- (4) A person who contravenes subsection (2), (2a), or (3) commits an offence.

Penalty for this subsection: a fine of ~~Penalty:~~ \$4 000.

[Section 31 amended: No. 59 of 1996 s. 34; No. 69 of 2004 s. 27 and 31; Firearms Amendment Bill 2021 cl. 57, 65 and 66.]

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32. Safe keeping by traders

The holder of a Dealer's Licence, a Repairer's Licence, or a Manufacturer's Licence shall keep all [firearms, major firearm parts](#) ~~firearms~~ and ammunition in a strongroom or otherwise in safe keeping, securely fastened during any period when the premises are not open for trade.

Penalty:

- (a) for a first offence, a fine of \$4 000;
- (b) for a subsequent offence, imprisonment for 2 years or a fine of \$8 000.

[Section 32 amended: No. 59 of 1996 s. 35; No. 69 of 2004 s. 28; [Firearms Amendment Bill 2021 cl. 58.](#)]

33. [Dealing with things in possession of Police Force under this Act](#) ~~Disposal of firearms~~

- (1) Where any [firearm, major firearm part, prohibited firearm accessory](#) ~~firearm~~ or ammunition is in the possession of a member of the Police Force if —
 - (a) the owner cannot be found; or
 - (b) the owner, not being the holder of a licence relating thereto or otherwise lawfully entitled to possession of it, dies; or
 - (c) the owner, not being the holder of a licence relating thereto or otherwise lawfully entitled to possession of it, refuses or fails lawfully to dispose of it within a period of 3 months after notice in writing from the Commissioner, or within such longer period as the Commissioner may by the notice allow, requiring [the owner](#) ~~him~~ to do so,the Commissioner may dispose of that [firearm, major firearm part, prohibited firearm accessory](#) ~~firearm~~ or ammunition in accordance with the regulations by destruction, sale or otherwise.
- (2) Where a [firearm, major firearm part](#) ~~firearm~~ or ammunition is sold by the Commissioner the net proceeds of the sale shall be paid to the owner, if [the owner](#) ~~he~~ is known, but if the owner is not known or if after reasonable inquiry the Commissioner is of the opinion that the owner although known ~~cannot~~ ~~can not~~ be contacted the net proceeds shall be credited to the Consolidated Account.

- (3) On payment of the prescribed fee the Commissioner may, at the request of the owner and in the Commissioner's ~~his~~ absolute discretion, accept any firearm, major firearm part, prohibited firearm accessory ~~firearm~~ or ammunition for safe custody, subject to any prescribed conditions, and — ~~conditions, and~~
- (a) may sue for and recover in any court of competent jurisdiction; or
 - (b) where the fees have not been paid for a period of more than 2 years, may recover from the proceeds of a sale of that firearm, major firearm part, prohibited firearm accessory ~~firearm~~ or ammunition in the prescribed manner,

any fees due and owing in respect of that safe custody and any costs or expenses incurred in effecting such recovery.

- (4) In relation to a firearm, major firearm part, prohibited firearm accessory, ammunition or other thing that is surrendered to, seized by, or that otherwise comes into possession of, a member of the Police Force under this Act, the regulations may —

- (a) provide for the steps that are required to be taken after the thing is acquired; and
- (b) provide for the disposal of the thing.

- (5) Regulations cannot be made under subsection (4)(b) in relation to a firearm, major firearm part, prohibited firearm accessory or ammunition —

- (a) in the circumstances referred to in subsection (1)(a) to (c) and (3)(b); or
- (b) if section 33C(2) applies.

[Section 33 amended: No. 6 of 1993 s. 11; No. 73 of 1994 s. 4; No. 49 of 1996 s. 64; No. 59 of 1996 s. 36; No. 77 of 2006 s. 4; Firearms Amendment Bill 2021 cl. 59 and 66.]

33A. Surrender of things to Commissioner

- (1) A person who is in possession of a firearm, major firearm part, prohibited firearm accessory, sound suppressor or ammunition may surrender it to the Commissioner by bringing it to —
- (a) a police station; or
 - (b) either of the following at an approved location —
 - (i) the responsible person (as defined in subsection (3)(b));

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(ii) an approved person (as defined in subsection (3)(c)).

(2) The Commissioner may approve a location for the purposes of subsection (1)(b) if the location is a premises named and identified in a Dealer's Licence or a Manufacturer's Licence.

(3) The Commissioner's approval must specify the following —

(a) the address of the approved location;

(b) the name of the person (the *responsible person*) who is the holder of the Dealer's Licence or the Manufacturer's Licence for the approved location;

(c) the name of any other person (an *approved person*) to whom a firearm, major firearm part, prohibited firearm accessory, sound suppressor or ammunition may be brought at the approved location;

(d) the storage requirements in relation to any firearm, major firearm part, prohibited firearm accessory, sound suppressor or ammunition that is surrendered at the approved location;

(e) the manner in which any firearm, major firearm part, prohibited firearm accessory, sound suppressor or ammunition that is surrendered at the approved location must be delivered to the Commissioner;

(f) the reporting requirements in relation to any firearm, major firearm part, prohibited firearm accessory, sound suppressor or ammunition that is surrendered at the approved location.

(4) The responsible person must ensure that the requirements referred to in subsection (3)(d) to (f) are complied with.

Penalty for this subsection: imprisonment for 18 months and a fine of \$18 000.

[Section 33A inserted: Firearms Amendment Bill 2021 cl. 60.]

33B. Amnesty for things surrendered to Commissioner

(1) If a person surrenders a firearm, major firearm part, prohibited firearm accessory, sound suppressor or ammunition (the *surrendered thing*) in accordance with section 33A(1), action cannot be taken against the person for an offence —

(a) under section 19(1), 23(7) or 23AA(2) or (3) in respect of the possession of the surrendered thing by the person before it is surrendered; or

(b) under section 23(3) in respect of the carriage of the surrendered thing by the person to the police station or approved location at which it is surrendered.

(2) Nothing in subsection (1) affects the person's liability for any other offence involving the surrendered thing that is committed by the person under this Act or another written law before the thing is surrendered.

[Section 33B inserted: Firearms Amendment Bill 2021 cl. 60.]

33C. Licensing, sale and disposal of surrendered firearms, major firearm parts and ammunition

(1) A person who surrenders a firearm, major firearm part or ammunition under section 33A(1) may, within 14 days of surrendering it, apply under this Act for the necessary licence, permit or approval to acquire, possess or use the firearm, major firearm part or ammunition.

(2) The Commissioner may, in the manner that the Commissioner thinks fit, sell or dispose of a firearm, major firearm part or ammunition surrendered under section 33A(1) if —

(a) the person who surrendered the firearm, major firearm part or ammunition has not made an application under subsection (1) within 14 days of surrendering it; or

(b) the person who surrendered the firearm, major firearm part or ammunition made an application under subsection (1) that was refused, and any subsequent reviews and appeals in relation to that refusal have been finally determined or otherwise disposed of.

(3) The proceeds of the sale of a firearm, major firearm part or ammunition under subsection (2), after deduction of the expenses of and incidental to the sale, must —

(a) if the Commissioner is of the opinion that it is appropriate and practicable to do so — be paid to the person who surrendered it; or

(b) if paragraph (a) does not apply — be credited to the Consolidated Account.

[Section 33C inserted: Firearms Amendment Bill 2021 cl. 60.]

34. Regulations

(1) The Governor may make regulations in regard to any matter or for any purpose for which regulations are prescribed or contemplated by this Act, and may make all such other

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regulations as may in [the Governor's](#) ~~his~~ opinion be necessary or expedient for giving effect to the provisions of this Act, and for the due administration thereof.

(2) Without limiting the general power conferred by subsection (1), the Governor may make regulations for or with respect to all or any of the following matters —

- (a) the application for and the issue, grant, renewal, cancellation or revocation of licences, permits and approvals under this Act; and
- (b) the restrictions, limitations and conditions that may be imposed on any licence, permit or approval; and
- [(c) deleted]*
- (d) the form of registers and records to be kept or furnished under this Act and the particulars to be entered therein; and
- (e) the forms to be used for the purposes of this Act, and the manner of, and the time for, their completion, including a requirement that information supplied be verified by statutory declaration; and
- (ea) enabling the Commissioner to require a holder of a Dealer's Licence to provide to the Commissioner information about any other persons who are involved in the management of, or have a financial interest in, any business conducted under the licence; and
- (f) the classification of firearms and ammunition for the purposes of this Act; and
- (g) making provision for the safe custody and control of [firearms, major firearm parts, prohibited firearm accessories](#) ~~firearms~~ and ammunition by persons entitled to possession and for restricting the amount of ammunition that may be possessed; and
- (ga) the sending or conveyance of [firearms, major firearm parts, prohibited firearm accessories](#) ~~firearms~~ or ammunition; and
- (h) the construction and conduct of shooting galleries and ranges; and
- (i) regulating the conduct of guided hunting tours; and
- (j) any other purpose that the Governor deems necessary for safeguarding the public and the public interest in relation to [firearms, major firearm parts, prohibited firearm accessories](#) ~~firearms~~ and ammunition.

- (3) Regulations made under this Act may —
- (a) be of general or limited application, according to time, place or circumstance;
 - (b) prescribe fees to be paid in relation to the issue, grant, variation or renewal of licences, permits and approvals, the fees that are payable in relation to other matters under this Act, the persons liable, and the method of recovery of amounts not duly paid either by the disposal of the [firearms, major firearm parts, prohibited firearm accessories](#) ~~firearms~~ or ammunition to which they relate or otherwise;
 - (c) impose upon any person or class of person a discretionary authority;
 - (d) provide penalties, not exceeding \$2 000, for the contravention of any regulation.

[Section 34 amended: No. 54 of 1978 s. 6; No. 70 of 1987 s. 11; No. 59 of 1996 s. 37 and 50(1); No. 55 of 2004 s. 370; No. 69 of 2004 s. 29 and 31; [Firearms Amendment Bill 2021 cl. 61 and 66.](#)]

35. Review by Minister

- (1) The Minister must review the operation and effectiveness of the amendments made to this Act by the *Firearms Amendment Act 2021*, and prepare a report based on the review, as soon as practicable after the 5th anniversary of the day on which the *Firearms Amendment Act 2021* section 62 comes into operation.
- (2) The Minister must cause the report to be laid before each House of Parliament as soon as practicable after it is prepared, but not later than 12 months after the 5th anniversary.

[Section 35 inserted: [Firearms Amendment Bill 2021 cl. 62.](#)]

Part 10 — Transitional provisions for *Firearms Amendment Act 2021*

[Heading inserted: Firearms Amendment Bill 2021 cl. 63.]

36. Licences under repealed s. 16

(1) In this section —

commencement day means the day on which the *Firearms Amendment Act 2021* section 22 comes into operation.

(2) A licence specified in column 1 of the Table that is in force immediately before commencement day is taken, on and after commencement day, to be the licence specified opposite it in column 2 of the Table.

Table

<u>Column 1</u>	<u>Column 2</u>
<u>Firearm Licence under s. 16(1)(a)</u>	<u>Firearm Licence under s. 16A</u>
<u>Firearm Collector's Licence under s. 16(1)(b)</u>	<u>Firearm Collector's Licence under s. 16C</u>
<u>Corporate Licence under s. 16(1)(c)</u>	<u>Corporate Licence under s. 16D</u>
<u>Dealer's Licence under s. 16(1)(d)</u>	<u>Dealer's Licence under s. 16F</u>
<u>Repairer's Licence under s. 16(1)(e)</u>	<u>Repairer's Licence under s. 16G</u>
<u>Manufacturer's Licence under s. 16(1)(f)</u>	<u>Manufacturer's Licence under s. 16H</u>
<u>Shooting Gallery Licence under s. 16(1)(g)</u>	<u>Shooting Gallery Licence under s. 16K</u>
<u>Ammunition Collector's Licence under s. 16(1)(h)</u>	<u>Ammunition Collector's Licence under s. 16L</u>

(3) An application for a licence specified in column 1 of the Table to subsection (2) that is not determined before commencement day is taken, on and after commencement day, to be an

application for the licence specified opposite it in column 2 of the Table.

- (4) Nothing in this section affects the period for which a licence in force immediately before commencement day is valid under section 9A.

[Section 36 inserted: Firearms Amendment Bill 2021 cl. 63.]

~~[Schedule 1 omitted under the Reprints Act 1984 s. 7(4)(f).]~~

~~[Schedule 1 deleted: Firearms Amendment Bill 2021 cl. 64.]~~

~~[Schedule 2 deleted: No. 69 of 2004 s. 30.]~~

~~[Schedule 3 deleted: No. 55 of 2004 s. 371.]~~

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Notes

- ¹ This is a compilation of the *Firearms Act 1973* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Firearms Act 1973</i>	36 of 1973	18 Oct 1973	1 Jul 1974 (see s. 2 and <i>Gazette</i> 29 Mar 1974 p. 1027)
<i>Firearms Act Amendment Act 1976</i>	61 of 1976	16 Sep 1976	16 Sep 1976
<i>Firearms Act Amendment Act 1978</i>	54 of 1978	6 Sep 1978	6 Sep 1978
<i>Firearms Amendment Act 1980</i>	35 of 1980	5 Nov 1980	24 Jul 1981 (see s. 2 and <i>Gazette</i> 24 Jul 1981 p. 3060)
Reprint of the <i>Firearms Act 1973</i> approved 22 Apr 1983 (includes amendments listed above)			
<i>Firearms Amendment Act 1983</i>	3 of 1983	1 Aug 1983	1 Aug 1983
<i>Acts Amendment (Financial Administration and Audit) Act 1985</i> s. 3 ³	98 of 1985	4 Dec 1985	1 Jul 1986 (see s. 2 and <i>Gazette</i> 30 Jun 1986 p. 2255)
<i>Firearms Amendment Act 1987</i>	70 of 1987	22 Nov 1987	s. 1 and 2: 22 Nov 1987; Act other than s. 1 and 2: 1 Oct 1989 (see s. 2 and <i>Gazette</i> 29 Sep 1989 p. 3665)
<i>Financial Administration Legislation Amendment Act 1993</i> s. 11	6 of 1993	27 Aug 1993	1 Jul 1993 (see s. 2(1))
<i>Statutes (Repeals and Minor Amendments) Act 1994</i> s. 4	73 of 1994	9 Dec 1994	9 Dec 1994 (see s. 2)
<i>Firearms Amendment Act 1994</i>	90 of 1994	5 Jan 1995	5 Jan 1995 (see s. 2)
<i>Sentencing (Consequential Provisions) Act 1995</i> Pt. 33	78 of 1995	16 Jan 1996	4 Nov 1996 (see s. 2 and <i>Gazette</i> 25 Oct 1996 p. 5632)
<i>Security and Related Activities (Control) Act 1996</i> s. 96	27 of 1996	22 Jul 1996	1 Apr 1997 (see s. 2 and <i>Gazette</i> 27 Mar 1997 p. 1693)
<i>Financial Legislation Amendment Act 1996</i> s. 64	49 of 1996	25 Oct 1996	25 Oct 1996 (see s. 2(1))

Short title	Number and year	Assent	Commencement
<i>Firearms Amendment Act 1996</i> ⁴	59 of 1996	11 Nov 1996	s. 1 and 3: 11 Nov 1996; Act other than s. 1, 3 and 16: 6 Dec 1996 (see s. 3(1) and <i>Gazette</i> 6 Dec 1996 p. 6699); s. 16: 1 Apr 1997 (see s. 3(2)(a) and <i>Gazette</i> 27 Mar 1997 p. 1693)
Reprint of the Firearms Act 1973 as at 22 Jan 1997 (includes amendments listed above except those in the <i>Security and Related Activities (Control) Act 1996</i> and the <i>Firearms Amendment Act 1996</i> s. 16)			
<i>Restraining Orders Act 1997</i> s. 84	19 of 1997	28 Aug 1997	15 Sep 1997 (see s. 2 and <i>Gazette</i> 12 Sep 1997 p. 5149)
<i>Weapons Act 1999</i> s. 21	18 of 1999	16 Jun 1999	1 Sep 1999 (see s. 2(1) and <i>Gazette</i> 31 Aug 1999 p. 4235)
Reprint of the Firearms Act 1973 as at 11 Aug 2000 (includes amendments listed above)			
<i>Corporations (Consequential Amendments) Act 2001</i> s. 220	10 of 2001	28 Jun 2001	15 Jul 2001 (see s. 2 and <i>Gazette</i> 29 Jun 2001 p. 3257 and <i>Cwlth Gazette</i> 13 Jul 2001 No. S285)
<i>Acts Amendment (Equality of Status) Act 2003</i> Pt. 21	28 of 2003	22 May 2003	1 Jul 2003 (see s. 2 and <i>Gazette</i> 30 Jun 2003 p. 2579)
<i>Sentencing Legislation Amendment and Repeal Act 2003</i> s. 62	50 of 2003	9 Jul 2003	15 May 2004 (see s. 2 and <i>Gazette</i> 14 May 2004 p. 1445)
<i>Criminal Code Amendment Act 2004</i> s. 58	4 of 2004	23 Apr 2004	21 May 2004 (see s. 2)
<i>Courts Legislation Amendment and Repeal Act 2004</i> s. 141 ⁵	59 of 2004 (as amended by No. 2 of 2008 s. 77(13))	23 Nov 2004	1 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7128)
<i>State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004</i> Pt. 2 Div. 49 ^{6,7}	55 of 2004	24 Nov 2004	1 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)
<i>Firearms Amendment Act 2004</i> ^{8,9}	69 of 2004 (as amended by No. 8 of 2009 s. 59)	8 Dec 2004	s. 1, 2, 13 and 21: 8 Dec 2004 (see s. 2(3)); Act other than s. 1, 2, 13, 17, 21, 22(4)(a) and 26: 1 Jan 2005 (see s. 2 and <i>Gazette</i> 24 Dec 2004 p. 6265); s. 17: 1 Feb 2005 (see s. 2 and <i>Gazette</i> 24 Dec 2004 p. 6265); s. 22(4)(a) and 26 deleted by No. 8 of 2009 s. 59
<i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004</i> s. 80	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7129 (correction by <i>Gazette</i> 7 Jan 2005 p. 53))

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Short title	Number and year	Assent	Commencement
Reprint 4: The Firearms Act 1973 as at 1 Jul 2005 (includes amendments listed above)			
<i>Psychologists Act 2005</i> Sch. 3 cl. 4	28 of 2005	12 Dec 2005	4 May 2007 (see s. 2 and <i>Gazette</i> 4 May 2007 p. 1963)
<i>Nurses and Midwives Act 2006</i> Sch. 3 cl. 8	50 of 2006	6 Oct 2006	19 Sep 2007 (see s. 2 and <i>Gazette</i> 18 Sep 2007 p. 4711)
<i>Criminal Investigation (Consequential Provisions) Act 2006</i> s. 73	59 of 2006	16 Nov 2006	1 Jul 2007 (see s. 2 and <i>Gazette</i> 22 Jun 2007 p. 2838)
<i>Financial Legislation Amendment and Repeal Act 2006</i> s. 4 and Sch. 1 cl. 66	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2(1) and <i>Gazette</i> 19 Jan 2007 p. 137)
<i>Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007</i> s. 30A ¹⁰	24 of 2007 (as amended by No. 46 of 2010 s. 59)	12 Oct 2007	1 May 2013 (see s. 2(2) and <i>Gazette</i> 5 Feb 2013 p. 823)
<i>Security and Related Activities (Control) Amendment Act 2008</i> s. 81	4 of 2008	2 Apr 2008	13 Dec 2009 (see s. 2(b) and <i>Gazette</i> 4 Dec 2009 p. 4919)
<i>Medical Practitioners Act 2008</i> Sch. 3 cl. 20	22 of 2008	27 May 2008	1 Dec 2008 (see s. 2 and <i>Gazette</i> 25 Nov 2008 p. 4989)
Reprint 5: The Firearms Act 1973 as at 9 Jan 2009 (includes amendments listed above except those in the <i>Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007</i> and the <i>Security and Related Activities (Control) Amendment Act 2008</i>)			
<i>Statutes (Repeals and Miscellaneous Amendments) Act 2009</i> s. 58	8 of 2009	21 May 2009	22 May 2009 (see s. 2(b))
<i>Health Practitioner Regulation National Law (WA) Act 2010</i> Pt. 5 Div. 20	35 of 2010	30 Aug 2010	18 Oct 2010 (see s. 2(b) and <i>Gazette</i> 1 Oct 2010 p. 5075-6)
<i>Agriculture and Related Resources Protection Amendment Act 2010</i> s. 69	46 of 2010	28 Oct 2010	18 Dec 2010 (see s. 2(b) and <i>Gazette</i> 17 Dec 2010 p. 6349)
Reprint 6: The Firearms Act 1973 as at 13 Feb 2015 (includes amendments listed above)			
<i>Biodiversity Conservation Act 2016</i> s. 316	24 of 2016	21 Sep 2016	1 Jan 2019 (see s. 2(b) and <i>Gazette</i> 14 Sep 2018 p. 3305)
<i>Health Practitioner Regulation National Law (WA) Amendment Act 2018</i> s. 110	4 of 2018	19 Apr 2018	1 Dec 2018 (see s. 2(d) and <i>Gazette</i> 13 Nov 2018 p. 4427-8)
Firearms Amendment Bill 2021 Pt. 2	Current Bill No. 59-2		

² The provision in this Act repealing the *Firearms and Guns Act 1931* has been omitted under the *Reprints Act 1984* s. 7(4)(f).

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- ³ The *Acts Amendment (Financial Administration and Audit) Act 1985* s. 4 is a savings and transitional provision that is of no further effect.
- ⁴ The *Firearms Amendment Act 1996* s. 9(2), 10(2), 11(2), 15(2), 39 and 53 are transitional, savings and related provisions that are of no further effect.
- ⁵ The *Courts Legislation Amendment and Repeal Act 2004* Sch. 2 cl. 19 was deleted by the *Criminal Law and Evidence Amendment Act 2008* s. 77(13).
- ⁶ The *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* Pt. 5, the *State Administrative Tribunal Act 2004* s. 167 and 169, and the *State Administrative Tribunal Regulations 2004* r. 28 and 42 deal with certain transitional issues some of which may be relevant for this Act.
- ⁷ The *State Administrative Tribunal Regulations 2004* r. 31 reads as follows:

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- (1) In this regulation —
commencement day means the day on which the *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* Part 2 Division 49 comes into operation.
- (2) If a matter partly or fully heard before the commencement day by a firearms appeals tribunal, as defined in the *Firearms Act 1973* section 22(1) immediately before the commencement day, is transferred to the Tribunal under the Act section 167(4)(b), despite the Act section 39, a person who is a legal practitioner is not to appear as an advocate for, or represent, a party in proceedings before the Tribunal relating to the matter.

- ⁸ The *Firearms Amendment Act 2004* s. 15(3) reads as follows:

- (3) The amendments made by this section do not affect the validity of a licence or permit that a person already holds under the *Firearms Act 1973* on the day on which this section comes into operation, but on or after that day the grant, issue, or renewal of a licence or permit has to be in accordance with that Act as amended by this section.

- ⁹ The *Firearms Amendment Act 2004* s. 22(4)(a) and 26 had not come into operation when they were deleted by the *Statutes (Repeals and Miscellaneous Amendments) Act 2009* s. 59.

- ¹⁰ The *Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007* s. 37 had not come into operation when it was deleted by the *Agriculture and Related Resources Protection Amendment Act 2010* s. 62.