



Australian Capital Territory

# Firearms Amendment Act 2008

A2008-25

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Australian Capital Territory

# Firearms Amendment Act 2008

**A2008-25**

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An Act to amend the *Firearms Act 1996* and the *Prohibited Weapons Act 1996*, and for other purposes

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The Legislative Assembly for the Australian Capital Territory enacts as follows:

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Firearms Amendment Act 2008*.

### 2 Commencement

- (1) This Act (other than a provision mentioned in subsection (2) or (3)) commences on a day fixed by the Minister by written notice.
- (2) Section 76 and section 81 commence on the day after this Act's notification day.
- (3) The following provisions commence 1 year after this Act's notification day:
  - section 71
  - section 72
  - section 82
  - part 4
  - schedule 1, amendments 1.14 and 1.16
  - schedule 2, amendment 2.4.
- (4) The Legislation Act, section 79 (Automatic commencement of postponed law) does not apply to a provision mentioned in subsection (3).

*Note 1* The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

*Note 2* A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see Legislation Act, s 77 (1)).



## Part 2 Firearms Act 1996

### 3 Legislation amended—pt 2

This part amends the *Firearms Act 1996*.

*Note* The Act is also amended in sch 1.

### 4 New sections 2 to 2B and part 1A heading

*insert*

## 2 Dictionary

The dictionary at the end of this Act is part of this Act.

*Note 1* The dictionary at the end of this Act defines certain terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere.

For example, the signpost definition ‘*explosive*—see the *Dangerous Substances Act 2004*, section 73.’ means that the term ‘explosive’ is defined in that section and the definition applies to this Act.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

## 2A Notes

A note included in this Act is explanatory and is not part of this Act.

*Note* See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

## 2B Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

*Note 1 Criminal Code*

The Criminal Code, ch 2 applies to the following offences against this Act (see Code, pt 2.1):

- offences against pt 3 (Firearms licences)
- offences against pt 3C (Permits to acquire firearms)
- offences against pt 4 (Registration of firearms and firearm users)
- s 62 (Offence—failing to comply with storage requirements)
- offences against pt 6 (Firearms dealers) (other than s 70 (1) to (3) and s 71)
- offences against pt 7 (Enforcement)
- offences against pt 8 (Offences) (other than s 80 to s 82, s 85 to s 92, s 94 to s 96, s 97 (1) and (2), s 100, s 101, s 103, s 104 and s 106 to s 109).

The Criminal Code, ch 2 sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg **conduct**, **intention**, **recklessness** and **strict liability**).

*Note 2 Penalty units*

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

## Part 1A Important concepts

**5**        **Definitions for Act**  
**Section 4, definitions of *acquire, airgun, ammunition, approved shooting range, authorised instructor, authorised member, chief police officer, composite entity, dealer's licence, employee, endorsed, firearm, firearm part, firearms dealer, firearms prohibition order, genuine reason, occupier, possession, principal, prohibited firearm and prohibited pistol***

*omit*

**6**        **Section 4, definitions (as amended)**

*relocate to dictionary*

**7**        **Section 4, remainder**

*omit*

**8**        **Sections 4A to 6B**

*substitute*

**4A**       **Meaning of *firearm*—Act**

(1) In this Act:

***firearm***—

- (a) means a gun, or other weapon, that is, or at any time was, capable of propelling a projectile by means of an explosive force, however caused; and
- (b) includes—
  - (i) a blank fire firearm; and
  - (ii) an airgun; and
  - (iii) a paintball marker; and
  - (iv) something declared to be a firearm under section 5; and

(v) a modified item.

(2) However, *firearm* does not include—

- (a) something prescribed by regulation not to be a firearm; or
- (b) something declared not to be a firearm under section 5.

(3) In this section:

*modified item* means something that would be a firearm if—

- (a) it did not have something missing from it, or a defect or obstruction; or
- (b) something had not been added to it.

#### **4AB Meaning of *prohibited firearm*—Act**

(1) In this Act:

*prohibited firearm*—

- (a) means—
  - (i) a firearm described in schedule 1; and
  - (ii) a firearm prescribed by regulation; and
  - (iii) something declared to be a prohibited firearm under section 5; and
- (b) includes a modified firearm.

*Note* A prohibited firearm includes a *prohibited pistol* (see sch 1, items 19 to 21).

(2) However, *prohibited firearm* does not include something declared not to be a prohibited firearm under section 5.

(3) A regulation may amend schedule 1 by—

- (a) adding the name or description of a firearm; or

- (b) amending a name or description of a firearm to more accurately describe the firearm; or
  - (c) omitting the name and description of a firearm.
- (4) In this section:
- modified firearm*** means a firearm that would be a prohibited firearm if—
- (a) it did not have something missing from it, or a defect or obstruction; or
  - (b) something had not been added to it.

#### **4AC Meaning of *acquire*—Act**

- (1) In this Act:
- acquire***, a firearm or ammunition, means—
- (a) buy, accept, receive or otherwise take possession of the firearm or ammunition; but
  - (b) does not include take temporary possession of the firearm.
- (2) In this section:
- temporary possession*** of a firearm—a person takes ***temporary possession*** of a firearm—
- (a) if the person is a licensed firearms dealer who has possession of the firearm to—
    - (i) repair, maintain or test it; or
    - (ii) store it for the person who gave it to the dealer; or
  - (b) if the person is a registered principal for, or registered user of, the firearm and the person has possession of the firearm; or

- (c) if the person is authorised to possess or use the firearm under section 4BD (Authority to possess and use firearms temporarily) and the person has possession of the firearm; or
- (d) if the firearm is a paintball marker, the person is authorised to possess, use or store the paintball marker under section 4BE (Paintball markers—authority to possess, use or store) and the person has possession of the paintball marker; or
- (e) in any other circumstances prescribed by regulation.

#### **4AD Meaning of *dispose*—Act**

In this Act:

*dispose*, of a firearm, means sell, give away or otherwise transfer possession of the firearm.

#### **4B Meaning of *possession*—Act**

- (1) For this Act, a person has *possession* of a firearm if the person—
  - (a) has the firearm on his or her person, including in something carried or worn by the person (*physical possession*); or
  - (b) has the firearm at premises owned, leased or occupied by the person; or
  - (c) otherwise has the care, control or management of the firearm.

##### **Example—*possession***

Simon buys a firearm illegally. He hands it to Penny to look after it for him while he appears in court. Simon still has the care, control or management of the firearm and so has possession of the firearm. Penny holds the firearm and also has possession of the firearm.

*Note 1* **Premises** includes vehicles (see dict).

*Note 2* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) Also, for this Act, a person has *possession* of a firearm if—
- (a) part of the firearm is in the person's possession; and
  - (b) other parts of the firearm are in the possession of 1 or more other people; and
  - (c) at least 1 of the other people is in possession of the other part or parts for an agreed purpose with the person; and
  - (d) the parts would make up the firearm if fitted together.

#### **4BA Evidence of possession—firearms at premises**

- (1) For this Act, a person is not taken to have possession of a firearm only because the firearm is at premises owned, leased or occupied by the person if—
- (a) the person does not know that the firearm is at the premises; or

**Example**

Stuart buys a house from Bob. The house has ducted heating, and the old fireplace cannot be used. Bob owns a firearm but, before moving out, he hides it in a cavity in the house's chimney. Stuart does not know that Bob hid the firearm in the chimney. Stuart does not have possession of the firearm because he does not know that the firearm is in the chimney.

- (b) someone else who is authorised to possess the firearm—
  - (i) is also at the premises; or
  - (ii) has the care, control or management of the firearm; or

**Example—par (b) (i)**

Charlotte is giving Bruce a lift in her car to a shooting range. Bruce is licensed and has his registered firearm with him. Charlotte is not in possession of the firearm because Bruce is authorised to possess the firearm and he is in the car.

**Example—par (b) (ii)**

Isabel and Roy share a house. Roy is licensed and stores his registered firearm in the house. Isabel does not have access to the firearm and has nothing to do with it. Isabel is not in possession of the firearm even when Roy, the person authorised to possess the firearm, is not at the house,

because Roy is the person who has the care, control or management of the firearm.

*Note 1* **Premises** includes vehicles (see dict).

*Note 2* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (c) someone else who is not authorised to possess the firearm has the care, control or management of the firearm; or
  - (d) the trier of fact is otherwise satisfied that the person was not in possession of the firearm.
- (2) To remove any doubt, a defendant to a prosecution for an offence against this Act who wishes to rely on a matter mentioned in subsection (1) has the evidential burden in relation to the matter.

#### **4BB Evidence of possession—care, control or management of firearm**

- (1) To work out whether a person has the care, control or management of a firearm for this Act, each of the following must be considered:
- (a) whether the person knows about the firearm;
  - (b) whether the person can use or dispose of the firearm;
  - (c) whether the person can control or prevent someone else from using or having physical possession of the firearm.
- (2) In this section:
- physical possession*—see section 4B (1) (a).

#### **4BC Taking possession under credit contract**

- (1) For this Act—
- (a) a person who takes possession of a thing under a credit contract is taken to have acquired it; and



(b) the person who possessed the thing immediately before parting with possession is taken to have disposed of it.

(2) In this section:

*credit contract*—see the *Credit Act 1985*, dictionary.

#### **4BD Authority to possess and use firearms temporarily**

(1) A person is authorised to possess or use a firearm if—

(a) the person is a licensee to whom the firearm is lent by someone else (the *lender*) during a shooting or paintball competition; and

(b) the licensee is licensed to use a firearm of the same kind as the firearm lent; and

(c) the lender is a licensee; and

(d) the lender is present while the person to whom the firearm is lent has possession of the firearm.

(2) A person is authorised to possess or use a firearm if—

(a) the person has possession of the firearm on an approved shooting range to receive instruction in the use of the firearm; and

(b) the person is under the immediate supervision of an authorised instructor; and

(c) either—

(i) the firearm is owned by the authorised instructor; or

(ii) the firearm is owned by an approved club, and the authorised instructor is a registered user of the firearm.

(3) A person is authorised to possess or use an airgun if the person—

(a) has possession of it for shooting at a shooting gallery, show, fair or amusement centre; and

- (b) is under the immediate supervision of—
  - (i) the registered owner or a registered user of, or the registered principal for, the airgun; or
  - (ii) for an airgun owned by someone from a State or another Territory who holds a licence or permit (however described) (an *interstate licence*) in force under the law of the State or Territory that authorises the use or possession of the airgun—the owner or someone employed by the owner who holds an interstate licence.
- (4) A person is authorised to possess or use a firearm in any other circumstances prescribed by regulation.

#### **4BE Paintball markers—authority to possess, use or store**

- (1) This section applies in relation to the possession or use of a paintball marker in the ACT at an approved paintball range operated by the paintball range operator for the range.
- (2) The paintball range operator, and an adult employee of the operator, are authorised to possess or use the paintball marker if the possession is in the course of the operation of the paintball range or the employee's employment.
- (3) An adult is authorised to possess or use the paintball marker if—
  - (a) the marker is in the person's possession with the knowledge and approval of the paintball range operator or an adult employee of the operator; and
  - (b) the person is taking part in a paintball activity conducted by the operator.
- (4) A person who is 16 or 17 years old (a *young participant*) is authorised to possess or use the paintball marker if the possession or use is in accordance with—
  - (a) the requirements stated in subsection (3) (a) and (b); and

- (b) the written consent of a responsible person for the young participant.

*Note* A **responsible person** for a young participant is a person with **parental responsibility** for the participant (see dict).

- (5) The paintball range operator is authorised to store, for the holder of a paintball marker licence, a registered paintball marker held under the licence.

*Note* See s 63 (Offence—storage requirements for category A, category B and paintball marker licences).

#### **4BF Meaning of *close associate* of firearms dealer etc—Act**

- (1) For this Act, an entity is a ***close associate*** of a licensed firearms dealer if—
  - (a) the entity—
    - (i) holds or will hold a financial interest, or is or will be entitled to exercise a relevant power, in the dealer's business; and
    - (ii) is able, or will be able, to exercise significant influence in relation to the conduct of the business because of the interest or power; or
  - (b) the entity holds or will hold a relevant position in the dealer's business.

- (2) In this section:

***exercise*** a power includes exercise the power for someone else.

***financial interest***, in relation to a business, means—

- (a) a share in the capital of the business; or
- (b) an entitlement to receive income derived from the business, however the entitlement arises.

***hold*** a position includes hold the position for someone else.

*licensed firearms dealer* includes an applicant for a firearms dealer licence.

*power* means a power exercisable—

- (a) by voting or otherwise; and
- (b) alone or with others.

*relevant position*, in a business, means a position (however described) whose holder takes part in the management of the business.

*relevant power*, in relation to a business, means a power—

- (a) to take part in a directorial, managerial or executive decision for the business; or
- (b) to elect or appoint a person to a relevant position in the business.

#### **4BG Assessing suitability of individuals**

- (1) This section applies if the registrar is deciding an individual's suitability in relation to—
  - (a) an authorisation mentioned in section 14 (b) (Authorised instructors and club members); or
  - (b) an application under this Act; or
  - (c) the cancellation of a licence; or
  - (d) whether the individual is a prohibited person under section 66B (Meaning of *prohibited person* for licensed firearms dealers).

*Note* The registrar must or may decide an individual's suitability in relation to the following applications and licences:

- applications for adult firearms licences (see s 22), firearms dealer licences (see s 30), minors firearms licences (see s 42H) and composite entity firearms licences (see s 42Y);

- cancellation of adult firearms licences (see s 41), minors firearms licences (see s 42R) and composite entity firearms licences (see s 42ZN).
- (2) In making the decision, the registrar—
- (a) must consider any discretionary criteria under section 4BH that apply to the individual; and
  - (b) must—
    - (i) consider whether any of the mandatory criteria under section 4BI are satisfied in relation to the individual; and
    - (ii) if 1 or more criteria are satisfied—decide that the individual is not suitable.

#### **4BH Assessing suitability of individuals—discretionary criteria**

- (1) For section 4BG, the following are the discretionary criteria in relation to an individual:
- (a) whether the registrar believes on reasonable grounds that, because of the individual's physical or mental health, the individual may not handle firearms responsibly;
    - Note 1* Under s 20, the registrar may require the applicant for an adult firearms licence to give the registrar stated further information or documents that the registrar reasonably needs to decide the application. This could include a document that is a consent to the disclosure of personal health information (see s 20 (3)).
    - Note 2* See also s 42F (Minors firearms licences—requirement for further information etc) and s 42W (Composite entity firearms licences—requirement for further information etc).
  - (b) whether, during the 10 years before the day the registrar decides the individual's suitability, the individual has—
    - (i) been released (whether on parole or otherwise) after serving a term of imprisonment or detention; or

- (ii) been subject to a protection order or corresponding order that has been revoked; or
- (iii) been subject to an interim protection order or corresponding order; or
- (iv) been convicted or found guilty of an offence (other than a prescribed offence)—
  - (A) against this Act or a corresponding law; or
  - (B) in the ACT or elsewhere involving violence, drugs, alcohol or weapons; or

*Note* A conviction does not include a spent conviction—see the *Spent Convictions Act 2000*, s 16 (c) (i).

- (v) given an undertaking to a court, in the ACT or elsewhere, to keep the peace or be of good behaviour; or
- (vi) had his or her licence or permit suspended or cancelled;
- (c) whether the registrar believes on reasonable grounds that information held by a law enforcement agency in relation to the individual indicates that it would be contrary to the public interest for the individual to have access to a firearm;

*Note* The Minister may make guidelines about the making of decisions about the public interest under this paragraph (see s 12A).

- (d) any other criteria prescribed by regulation.

(2) In this section:

***law enforcement agency*** means each of the following:

- (a) the Australian Federal Police;
- (b) the police service or force of a State, another Territory or a foreign country;
- (c) the Australian Customs Service;
- (d) the Australian Crime Commission;

- (e) the Commonwealth CrimTrac Agency;
- (f) the New South Wales Independent Commission Against Corruption or a similar entity established under the law of another State or Territory;
- (g) the New South Wales Crime Commission or a similar entity established under the law of another State or Territory;
- (h) an entity prescribed by regulation.

*prescribed offence* means—

- (a) an offence—
  - (i) against this Act or a corresponding law; or
  - (ii) in the ACT or elsewhere involving violence, drugs, alcohol or weapons; and
- (b) an offence punishable by imprisonment for longer than 1 year.

#### **4BI Assessing suitability of individuals—mandatory criteria**

- (1) For section 4BG, the following are the mandatory criteria in relation to an individual:
  - (a) for an application for a licence other than a composite entity firearms licence—the registrar believes on reasonable grounds that the individual may not personally exercise continuous and responsible control over a firearm because of the individual's way of living or domestic circumstances;
  - (b) within the 10 years before the day the registrar decides the individual's suitability, the individual has been—
    - (i) subject to a protection order or corresponding order (other than an order that has been revoked or successfully appealed against); or

*Note* *Successfully appealed against*—see the dictionary.

- (ii) subject to an order under this Act or a corresponding law that prohibits the person from possessing or using a firearm (other than an order that has been successfully appealed against); or
  - (iii) convicted or found guilty of a prescribed offence in the ACT or elsewhere;
  - (c) the individual is not suitable because of a reason prescribed by regulation.
- (2) In this section:  
*prescribed offence*—see section 4BH (2).

#### **4BJ Approval of courses etc by registrar**

- (1) The registrar may approve the following for this Act:
- (a) a firearms training course;
  - (b) a shooting competition;
  - (c) a paintball competition;
  - (d) an event involving firearms.
- (2) An approval under this section is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.

## **Part 1B Operation of Act**

### **4C Government-owned firearms**

For this Act, a firearm owned by the Territory, a State or another Territory for which the head of a government agency is responsible, is taken to be owned by the agency.

*Note* The head of the agency is the principal for the firearm (see s 42U).



#### 4D People responsible for certain actions etc

For this Act—

- (a) a thing done for a composite entity is taken to have been done by the entity; and
- (b) a thing done in relation to a principal or employee of a composite entity is taken to have been done in relation to the entity.

*Note* **Composite entity** and **principal**—see s 42U.

#### 4E People exempt from Act etc

- (1) A person mentioned in schedule 2, part 2.2, column 2 is exempt from this Act in relation to a firearm the person possesses or uses in the circumstances mentioned in column 3 for the person.
- (2) A person mentioned in schedule 2, part 2.3, column 2 does not commit an offence against this Act in relation to a firearm the person possesses or uses in the circumstances mentioned in column 3 for the person.
- (3) A person mentioned in schedule 2, part 2.4, column 2 does not commit an offence against this Act in relation to a firearm in the circumstances mentioned in column 3 for the person.
- (4) To remove any doubt, a defendant to a prosecution for an offence against this Act who wishes to rely on a circumstance mentioned in schedule 2, part 2.2, part 2.3 or part 2.4, column 3 has the evidential burden in relation to the circumstance.
- (5) For this section, a person is **exempt** from, or **does not commit an offence** against, this Act including because of an exception or immunity under a Commonwealth law.

*Note 1* This Act can only bind the Crown in right of the Commonwealth if regulations under the *Australian Capital Territory (Self-Government) Act 1988*, s 28 allow it to do so.

*Note 2* A regulation may also exempt a person from this Act (see s 126 (2) (p)).

## Part 1C Unregulated firearms

### 4G Meaning of *unregulated firearm*—Act

In this Act:

*unregulated firearm*—a thing is an *unregulated firearm* if—

- (a) the thing is designed, made or altered to be used as a firearm; and
- (b) the only practical use of the thing is as a firearm; and
- (c) the thing is not a prohibited firearm; and
- (d) the possession or use of the thing is not authorised under this Act.

### 4H Unregulated firearms—seizure by police

A police officer may seize a thing if the police officer believes on reasonable grounds that the thing is an unregulated firearm and that the seizure is necessary—

- (a) because the thing would pose a risk to the safety of anyone if used; and
- (b) to prevent the thing from being used or concealed, lost or destroyed.

### 4I Unregulated firearms—receipt for seizure

- (1) A police officer who seizes a thing under section 4H must give a receipt for the thing to the person from whom it was seized.
- (2) If, for any reason, it is not practicable to comply with subsection (1), the police officer must leave the receipt, secured conspicuously, at the premises where it was seized (the *place of seizure*).
- (3) The receipt must include the following:
  - (a) a description of the thing seized;

- (b) an explanation of why the thing was seized;
- (c) the police officer's name, and how to contact the officer;
- (d) if the thing is removed from the place of seizure under section 4J—the address of the place to which the thing is removed.

#### **4J Unregulated firearms—examination**

- (1) A police officer who seizes a thing under section 4H (Unregulated firearms—seizure by police) may remove the thing from the premises where it was seized to another place for examination or processing, for not longer than 7 days (the *7-day period*).
- (2) A police officer may apply to the Magistrates Court for an extension of the 7-day period if the officer believes on reasonable grounds that the thing cannot be examined or processed within that time.
- (3) The police officer must, if practicable, give notice of the application to the person from whom the thing was seized, and the person is entitled to be heard on the application.
- (4) The court may order the extension if satisfied on reasonable grounds that the thing cannot be examined or processed within the 7-day period.
- (5) If a thing is moved to another place under this section, the police officer must, if practicable, tell the person from whom the thing was seized (or the person's representative) the results of the examination or processing.

#### **4K Unregulated firearms—access to things seized**

A person who would, apart from the seizure, be entitled to inspect a thing seized under section 4H (Unregulated firearms—seizure by police) may inspect it.

**4L Unregulated firearms—review of decision to seize**

- (1) The registrar must review each seizure under section 4H (Unregulated firearms—seizure by police) and order the return of the thing to the person from whom it was seized if—
  - (a) when seized, the thing was not—
    - (i) an unregulated firearm; or
    - (ii) a prohibited firearm; or
  - (b) within 30 days after the day of seizure, the thing is not a prohibited firearm; or
  - (c) the registrar has no reasonable grounds to believe that the thing is connected with an offence against any of the following:
    - (i) this Act;
    - (ii) the *Prohibited Weapons Act 1996*;
    - (iii) the *Crimes Act 1900*;
    - (iv) the Criminal Code;
    - (v) another law prescribed by regulation.
- (2) If a thing is ordered to be returned under subsection (1) to the person from whom it was seized, but it cannot be returned, the Territory must pay reasonable compensation to the owner of the thing for its loss.
- (3) In this section:

*offence* includes an offence that there are reasonable grounds for believing has been, is being or will be, committed.

**4M Unregulated firearms—forfeiture**

- (1) A thing seized under section 4H (Unregulated firearms—seizure by police) is forfeited to the Territory if there is no requirement under section 4L—

- (a) to return the thing to the person from whom it was seized; or
  - (b) to pay compensation for the thing.
- (2) A thing forfeited to the Territory may be destroyed or otherwise disposed of as the chief executive directs.

## **Part 1D                      Declarations about firearms**

### **5                      Firearms declarations by registrar**

- (1) The registrar may, in accordance with any guidelines under section 12A (Minister's guidelines), do any of the following:
- (a) declare something to be a firearm;
  - (b) declare an unregulated firearm to be a prohibited firearm;
  - (c) declare that something is not a firearm or prohibited firearm.
- (2) A declaration remains in force for 3 months beginning on the day after the day the declaration is notified under the Legislation Act.
- (3) A declaration is a disallowable instrument.

*Note*      A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

- (4) The registrar must also publish the declaration in a daily newspaper circulating in the ACT.

### **6                      Effect of certain declarations**

A person does not commit an offence against this Act in relation to the possession or use of a thing that is the subject of a declaration under section 5 (1) (a) or (b) if the elements of the offence happen less than 2 days after the day the declaration is notified under the Legislation Act.

**9 Section 10**

*substitute*

**10 Delegation by registrar**

The registrar may delegate the registrar's functions under this Act to a police officer.

*Note 1* For the making of delegations and the exercise of delegated functions, see the Legislation Act, pt 19.4.

*Note 2* In particular, the delegation must be in writing (see Legislation Act, s 232).

**10 Section 12**

*substitute*

**12 Reports and recommendations**

The registrar must report to the Minister on any matter referred by the Minister to the registrar for report.

**12A Minister's guidelines**

- (1) The Minister may make guidelines for this Act.
- (2) Without limiting subsection (1), the Minister may make guidelines about the making of the following decisions by the registrar:
  - (a) a decision about the public interest under section 4BH (1) (c) (Assessing suitability of individuals—discretionary criteria);
  - (b) a decision under section 4BJ (Approval of courses etc by registrar);
  - (c) a decision under section 5 (Firearms declarations by registrar);
  - (d) a decision under this Act whether it is in the public interest to—
    - (i) issue a licence; or

- (ii) put a condition on a licence; or
  - (iii) suspend a licence;
- (e) a decision about an authorisation under any of the following sections:
- (i) section 14 (Authorised instructors and club members);
  - (ii) section 36 (1) (e) (Adult firearms licences—conditions);
  - (iii) section 42N (1) (b) (Minors firearms licences—conditions);
  - (iv) section 42ZK (1) (f) (Composite entity firearms licences—conditions);
  - (v) section 42ZQB (1) (e) (Temporary international firearms licences—conditions);
  - (vi) section 98A (Offence—sale of ammunition by licensed firearms dealers);
  - (vii) section 98B (Offence—sale of ammunition by authorised club members);
  - (viii) section 99 (Offence—acquiring ammunition);
  - (ix) section 102 (Offences—defacing, altering and removing identification marks);
- (f) a decision about an approval under any of the following sections:
- (i) section 80 (Discharge etc of firearm—public places etc);
  - (ii) section 81 (1) (b) (Discharge of firearm—general);
  - (iii) section 100 (Modification of firearms).
- (3) The registrar must comply with any guidelines about the making of decisions by the registrar.

- (4) Also, without limiting subsection (1), the Minister may make guidelines about the following:
- (a) the safe storage of firearms on premises;  
*Note* **Premises** includes vehicles (see dict).
  - (b) making firearms inoperable;
  - (c) the operation of shooting ranges;
  - (d) the operation of paintball ranges;
  - (e) the correction of records required to be kept by licensed firearms dealers under this Act.
- (5) A guideline is a disallowable instrument.
- Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

**11** **Amnesty**  
**Section 13 (1)**

*omit*

section 16 (Offence of unauthorised possession or use of firearms)

*substitute*

section 16 (Offence—unauthorised possession or use of prohibited firearms) or section 16AA (Offence—unauthorised possession or use of firearms other than prohibited firearms)



**12 Section 14**

*substitute*

**14 Authorised instructors and club members**

The registrar may, in writing, authorise—

- (a) a licensee to give instruction in the use of firearms if the licensee has completed an approved firearms training course; or
- (b) a member of an approved club to sell ammunition if the registrar is satisfied on reasonable grounds that the member is suitable.

*Note* For when an individual is or is not suitable, see s 4BG.

**13 New section 15A**

*in part 2, insert*

**15A Registrar's approval to possess ammunition as collector**

- (1) A person may apply to the registrar for approval to possess ammunition.

*Note 1* If a form is approved under s 125A for this provision, the form must be used.

*Note 2* A fee may be determined under s 125 for this provision.

- (2) The registrar must approve the application unless prevented from doing so by subsection (3).
- (3) The registrar must not approve the application unless satisfied on reasonable grounds that—
  - (a) the applicant is a collector of ammunition; and
  - (b) the collection of ammunition does not, and will not, consist of more rounds of ammunition that are identical as to the

following than the registrar considers reasonable in the interests of public safety:

- (i) manufacturer;
- (ii) date of manufacture;
- (iii) calibre or type;
- (iv) if the ammunition bears a cartridge headstamp—  
headstamp.

**14 Part 3 and division 3.1 headings**

*substitute*

**Part 3 Firearms licences**

**Division 3.1 Requirement for licence etc**

**15 Section 16**

*substitute*

**16 Offence—unauthorised possession or use of prohibited firearms**

A person commits an offence if the person—

- (a) possesses or uses—
  - (i) 10 or more prohibited firearms; or
  - (ii) 3 or more prohibited firearms, but less than 10 prohibited firearms; or
  - (iii) 1 or 2 prohibited firearms; and

- (b) is not authorised by a licence, permit or otherwise under this Act to possess or use each of the firearms.

Maximum penalty:

- (a) for paragraph (a) (i)—imprisonment for 20 years; or
- (b) for paragraph (a) (ii)—imprisonment for 14 years; or
- (c) for paragraph (a) (iii)—imprisonment for 10 years.

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

**16AA Offence—unauthorised possession or use of firearms other than prohibited firearms**

- (1) A person commits an offence if the person—
- (a) possesses or uses—
    - (i) 10 or more firearms; or
    - (ii) 3 or more firearms, but less than 10 firearms; or
    - (iii) 1 or 2 firearms; and
  - (b) is not authorised by a licence, permit or otherwise under this Act to possess or use each of the firearms.

Maximum penalty:

- (a) for subsection (1) (a) (i)—imprisonment for 20 years; or
- (b) for subsection (1) (a) (ii)—imprisonment for 7 years; or
- (c) for subsection (1) (a) (iii)—imprisonment for 5 years.

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

- (2) In this section:  
*firearm* does not include a prohibited firearm.

**16AB Alternative verdicts—unauthorised possession or use of firearms**

- (1) This section applies if, in a prosecution for an offence against section 16 (Offence—unauthorised possession or use of prohibited firearms), the trier of fact is not satisfied that the defendant committed the offence but is satisfied beyond reasonable doubt that the defendant committed an offence against section 16AA.
- (2) The trier of fact may find the defendant guilty of the offence against section 16AA, but only if the defendant has been given procedural fairness in relation to that finding of guilt.

**16AC Offence—contravention of condition by licensee etc**

- (1) A person commits an offence if the person—
  - (a) possesses or uses a prohibited firearm; and
  - (b) is authorised by a licence or permit to possess or use the firearm; and
  - (c) contravenes a condition of the licence or permit.

Maximum penalty: 1 000 penalty units, imprisonment for 10 years or both.

- (2) A person commits an offence if the person—
  - (a) possesses or uses a firearm (other than a prohibited firearm); and
  - (b) is authorised by a licence or permit to possess or use the firearm; and
  - (c) contravenes a condition of the licence or permit.

Maximum penalty: 500 penalty units, imprisonment for 5 years or both.

- (3) Subsections (1) and (2) do not apply to a condition that the licensee or permit-holder must allow a police officer to enter to inspect facilities if—
- (a) the contravention involved refusing to allow a police officer to enter or inspect facilities; and
  - (b) the refusal was reasonable in all the circumstances.

**16 Division 3.2 heading**

*substitute*

**Division 3.2 Licensing schemes—general**

**16A Definitions of some licences—Act**

In this Act:

*adult firearms licence* means a licence issued to an adult under division 3.2A.

*composite entity firearms licence* means a licence issued to a composite entity under division 3.2C.

*minors firearms licence* means a licence issued to a child under division 3.2B.

*temporary international firearms licence* means a licence issued under division 3.2D.

**16B Offence—notice of lost, stolen and destroyed licences**

A licensee commits an offence if—

- (a) the licence is lost, stolen or destroyed; and
- (b) the licensee knows about the loss, theft or destruction; and

- (c) the licensee fails to tell the registrar about the loss, theft or destruction within 7 days after the day the licensee becomes aware of the loss, theft or destruction.

Maximum penalty: 10 penalty units.

**16C Offence—failing to surrender firearms when licence suspended or cancelled**

A person commits an offence if—

- (a) the person's licence is suspended or cancelled; and
- (b) the person intentionally or negligently fails to surrender any firearm in the person's possession to a police officer—
  - (i) if the police officer is present and asks the person for the firearm, and the person has the firearm—immediately; or
  - (ii) as soon as possible after the day the person is given notice of the suspension or cancellation; or
  - (iii) if a longer time is stated in the notice—within the time stated in the notice.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

**16D Offence—failure to give up suspended or cancelled licence**

A person commits an offence if—

- (a) the person's licence is suspended or cancelled; and
- (b) the person intentionally or negligently fails to give the licence to a police officer—
  - (i) if the police officer is present and asks the person for the licence, and the person has the licence—immediately; or

- (ii) as soon as possible after the day the person is given notice of the suspension or cancellation; or
- (iii) if a longer time is stated in the notice—within the time stated in the notice.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

**16E Police may seize firearms under suspended and cancelled licences**

- (1) A police officer may seize any firearm in a person's possession if a licence held by the person is suspended or cancelled.
- (2) When the suspension of a licence ends, a police officer must return any firearm seized under this section to the licensee if—
  - (a) the licence is in force or has not been further suspended; or
  - (b) possession of the firearm is not otherwise prohibited under this Act.

**16F Licence renewals to be treated as fresh applications**

To remove any doubt, this Act applies to an application for the renewal of a licence as if it were an application for a new licence.

**17 Section 17**

*substitute*

**17 Licence categories, kinds and authority conferred by licence**

- (1) The categories of licences, the kinds of licences, the firearms to which they apply, and the possession or use they authorise, are set out in schedule 3.

- (2) In addition to the firearms mentioned in schedule 3, column 3 that are excluded from category C and D licences, a regulation may prescribe other firearms that are excluded from the category.
- (3) A regulation may prescribe subcategories of category H licences.
- (4) The possession or use authorised by a licence is subject to any regulation.
- (5) The registrar may declare the category of a firearm if—
  - (a) the firearm does not have a category under this Act; or
  - (b) it is not clear to which category the firearm belongs.

*Note* **Category**, of firearm—see the dictionary.

- (6) A declaration is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

- (7) The registrar must also publish the declaration in a daily newspaper published and circulating in the ACT.

## **18 Authority conferred by licence—additional matters**

### **Section 18 (2)**

*substitute*

- (2) A licence (other than a firearms dealer licence or paintball marker licence) that authorises the licensee to use a firearm also authorises the licensee, in accordance with this Act or another territory law, to acquire, possess or use the calibre of ammunition made for use in the firearm.

*Note 1* A licensee must not possess, at any one time, an amount of ammunition that is more than the amount (if any) prescribed by regulation, unless authorised in writing by the registrar (see s 36, s 42N, s 42ZK or s 42ZQB).



*Note 2* A licensee must not acquire ammunition unless the amount of ammunition that is acquired at any one time is not more than the amount (if any) prescribed by regulation (see s 99).

- (2A) Unless a regulation prescribes otherwise, a category C licence does not authorise the possession or use of a prohibited firearm for a shooting competition.

## **19 Sections 19 to 35**

*substitute*

### **Division 3.2A Licensing scheme—adult firearms licences**

#### **19 Adult firearms licences—applications**

- (1) An adult may apply to the registrar for an adult firearms licence.

*Note 1* If a form is approved under s 125A for this provision, the form must be used.

*Note 2* A fee may be determined under s 125 for this provision.

- (2) The application must—
- (a) provide evidence of the applicant's identity in accordance with the requirements under the *Financial Transaction Reports Act 1988* (Cwlth) that apply in relation to the opening of a bank account; and
  - (b) contain the information prescribed by regulation; and
  - (c) be accompanied by the documents prescribed by regulation.

#### **19A Adult firearms licences—registrar to tell applicant about training etc**

On receiving an application for an adult firearms licence, the registrar must give the applicant information about—

- (a) any approved firearms training courses that must be completed by the applicant; and
- (b) the firearm storage and safety requirements under this Act.

**20 Adult firearms licences—requirement for further information etc**

- (1) This section applies to an application for an adult firearms licence.
- (2) The registrar may give the applicant a written notice requiring the applicant to give the registrar stated further information or documents that the registrar reasonably needs to decide the application.
- (3) Without limiting subsection (2), if the registrar believes on reasonable grounds that the applicant's mental health may affect the applicant's ability to handle firearms responsibly, the registrar may ask the applicant to consent to the disclosure to the registrar of personal health information about the applicant from a health record relating to the applicant.

*Note* The *Health Records (Privacy and Access) Act 1997* contains provisions about the consent, access to the information and limitations on the use or disclosure of the information (see s 13A and sch 1, principle 10, cl 2 (c), 7 and 8). In particular, sch 1, principle 10, cl 7 provides that the consent must be in writing and name the health service provider who made the health record.

- (4) If the applicant does not comply with subsection (2) (other than in relation to the consent mentioned in subsection (3)), the registrar may refuse to consider the application further.
- (5) In this section:

***health record***—see the *Health Records (Privacy and Access) Act 1997*, dictionary.

***personal health information***—see the *Health Records (Privacy and Access) Act 1997*, dictionary.

**21 Adult firearms licences—decision**

On an application for an adult firearms licence, the registrar must issue the licence unless prevented from doing so by this Act.

*Note 1* For when the registrar must refuse to issue an adult firearms licence, see s 22 and s 24 to s 30A.

*Note 2* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

**22 Adult firearms licences—refusal**

(1) The registrar must refuse to issue an adult firearms licence to an applicant for the licence unless satisfied on reasonable grounds—

- (a) about the applicant's identity; and
- (b) that the applicant is suitable; and

*Note* For when an individual is or is not suitable, see s 4BG.

- (c) that the applicant has a genuine reason for possessing or using a firearm; and
- (d) that the applicant will comply with part 5 (Safe storage of firearms) in relation to each registered firearm held under the licence; and
- (e) that—
  - (i) the applicant is, or is about to become, a resident of the ACT; or
  - (ii) in accordance with section 23, it would be necessary for the applicant to possess or use the firearm in the lawful course of business or employment in the ACT; and
- (f) that each registered firearm held under the licence will be stored in the ACT.

- (2) The registrar must also refuse to issue the licence if—
- (a) the applicant is not an adult; or
  - (b) for an application other than a renewal—the applicant holds a licence of the category applied for; or
  - (c) for an application for a licence other than a category D licence—the applicant has not completed each approved firearms training course for the category of licence applied for; or
  - (d) for an application for a category D licence—the applicant is not accredited by an entity approved by the registrar; or
  - (e) the registrar believes on reasonable grounds that it would be contrary to the public interest to issue the licence.

*Note* The Minister may make guidelines about the making of a decision whether it is in the public interest to issue a licence (see s 12A).

- (3) The approval of an entity under subsection (2) (d) is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.

## **22A Adult firearms licences—categories**

An adult firearms licence must be issued in 1 of the following categories:

- (a) category A;
- (b) category B;
- (c) category C;
- (d) category D;
- (e) category H;
- (f) collectors;
- (g) heirlooms;

- (h) firearms dealer;
- (i) paintball marker.

## **22B When adult firearms licences may be issued**

The registrar must not issue an adult firearms licence earlier than 28 days after the day the application for the licence is made.

## **23 Adult firearms licences—genuine reasons to possess or use firearms**

- (1) An applicant for an adult firearms licence has a genuine reason to possess or use a firearm if the registrar is satisfied that the applicant intends to possess or use the firearm for 1 or more of the reasons mentioned in table 23, column 2.
- (2) The applicant must produce evidence (including evidence of a kind, if any, mentioned in table 23, column 3) of the requirements mentioned in column 3 in relation to the applicant's genuine reason if asked to do so by the registrar.
- (3) If the applicant does not comply with subsection (2), the registrar may refuse to consider the application further.

**Table 23**

<b>column 1 item</b>	<b>column 2 genuine reason</b>	<b>column 3 requirements</b>
1	sport or target shooting	1.1 For an applicant to whom section 36A (Adult firearms licences—special conditions for category H licences for sport or target shooting) applies—the applicant is a member of an approved shooting club that conducts competitions or activities requiring the use of the

column 1 item	column 2 genuine reason	column 3 requirements
		<p>firearm for which the licence is sought.</p> <p>1.2 For any other applicant—the applicant is an active member of an approved shooting club that conducts competitions or activities requiring the use of the firearm for which the licence is sought.</p>
2	recreational hunting or vermin control on rural land	<p>2.1 For recreational hunting or vermin control on rural land—</p> <p>(a) the applicant has the permission of the owner or occupier of the land to shoot on the land; or</p> <p>(b) the applicant—</p> <p>(i) is an active member of an approved hunting club; and</p> <p>(ii) intends to use the firearm solely to take part in recreational hunting activities conducted by the club; and</p> <p>(iii) proves that the main objects of the club are to conduct recreational hunting activities requiring the</p>

column 1 item	column 2 genuine reason	column 3 requirements
		<p>use of the firearm for which the licence is sought; and</p> <p>(iv) proves that the club has the permission of the owner or occupier of the land to conduct those activities on the land.</p>
		<p>2.2 For recreational hunting or vermin control on land within a reserved area under the <i>Nature Conservation Act 1980</i>—the applicant has the permission of an officer of the ACT Parks and Conservation Service or ACT Forests or another authority prescribed by regulation, to shoot on the land.</p>
3	primary production	<p>The applicant—</p> <p>(a) is a person whose occupation is the business of a primary producer, or who is the owner, lessee or manager of land used for primary production; and</p> <p>(b) intends to use the firearm solely in relation to farming or grazing activities (including the suppression of vertebrate pest animals on the</p>

column 1 item	column 2 genuine reason	column 3 requirements
4	vertebrate pest animal control	<p>land concerned).</p> <p>The applicant is—</p> <ul style="list-style-type: none"> <li>(a) a professional contract shooter employed in controlling vertebrate pest animals on rural land; or</li> <li>(b) a person employed by or in, or authorised by, a government agency prescribed by regulation that has functions relating to the control or suppression of vertebrate pest animals; or</li> <li>(c) a person whose occupation is the business of a primary producer, or who is the owner, lessee, or manager of land used for primary production, and who is taking part in an authorised campaign conducted by or on behalf of a government agency to eradicate large feral animals or animals that are affected by brucellosis or tuberculosis.</li> </ul>
5	business or employment	The applicant needs to possess or use the firearm for which the licence is sought in the conduct of the applicant's business or employment.



column 1 item	column 2 genuine reason	column 3 requirements
6	occupational requirements relating to rural purposes	The applicant is employed in a rural occupation that requires the possession or use of the firearm for which the licence is sought.
7	animal welfare	<p>The applicant is—</p> <ul style="list-style-type: none"> <li>(a) an officer of the Royal Society for the Prevention of Cruelty to Animals; or</li> <li>(b) a veterinary surgeon; or</li> <li>(c) a person employed by or within an administrative unit with responsibility for animal welfare; or</li> <li>(d) an owner, transporter, drover or other handler of animals who may need to destroy an animal to avoid it suffering.</li> </ul>
8	firearms collection	<p>8.1 For a licence that authorises the applicant to collect pistols manufactured after 1946—the applicant proves (by producing written evidence from the approved collectors club of which the applicant is a member) that—</p> <ul style="list-style-type: none"> <li>(a) the applicant has been a member of the club for at least 1 year; and</li> <li>(b) the collection has a thematic structure; and</li> </ul>

column 1 item	column 2 genuine reason	column 3 requirements
		<ul style="list-style-type: none"> <li>(c) the applicant researches or studies firearms; and</li> <li>(d) the members of the club collect firearms of the kind for which the licence is sought; and</li> <li>(e) the licence application is supported by the club.</li> </ul> <p>8.2 For a licence that authorises the applicant to collect any other kind of firearms—</p> <ul style="list-style-type: none"> <li>(a) the applicant is a member of an approved collectors club; and</li> <li>(b) the collection has a genuine historical or thematic structure or a genuine commemorative or investment value; and</li> <li>(c) the members of the club collect firearms of the kind for which the licence is sought; and</li> <li>(d) the licence application is supported by the club.</li> </ul>
9	heirloom possession	The applicant wants to possess a firearm that is an heirloom.

column 1 item	column 2 genuine reason	column 3 requirements
10	paintball activity	The applicant wants to possess or use a paintball marker for paintball activities.

**23A Adult firearms licences—no genuine reason to possess or use firearms**

An applicant for an adult firearms licence does not have a genuine reason to possess or use a firearm if the applicant intends to possess or use the firearm for—

- (a) personal protection or the protection of anyone else; or
- (b) the protection of property (other than in circumstances constituting a reason of a kind mentioned in table 23, column 2).

**24 Adult firearms licences—restriction on issue of category B licences**

Unless a regulation prescribes otherwise, the registrar must not issue a category B licence to an adult unless the adult, in addition to establishing a genuine reason to possess or use a firearm, produces evidence that satisfies the registrar that the adult has a special need to possess or use a firearm to which a category B licence applies.

**25 Adult firearms licences—restriction on issue of category C licences**

The registrar must not issue a category C licence to an adult unless—

- (a) the genuine reason established by the adult to possess or use a firearm is primary production (or another genuine reason prescribed by regulation); and
- (b) the adult produces evidence that satisfies the registrar that—

- (i) the adult has a special need to possess or use a firearm to which a category C licence applies; and
- (ii) the special need cannot be met in any other way (whether by the authority given by a category A or category B licence or otherwise).

**26 Adult firearms licences—restriction on issue of category D licences**

- (1) The registrar must not issue a category D licence to an adult unless—
  - (a) the genuine reason established by the adult to possess or use a firearm is vertebrate pest animal control; and
  - (b) the adult produces evidence that satisfies the registrar that the adult has a special need to possess or use a firearm to which a category D licence applies; and
  - (c) for an adult mentioned in table 23, item 4, column 3, paragraph (c)—the adult produces evidence that satisfies the registrar that the special need cannot be met in any other way (whether by the authority given by a category B or category C licence, by engaging a professional contract shooter or otherwise); and
  - (d) the Minister authorises the issue in writing.
- (2) The Minister's authority may be given on the condition that the licence is issued subject to a stated condition that the Minister believes on reasonable grounds is in the public interest.
- (3) If a guideline mentioned in section 12A (2) (d) (ii) is in force, the guideline applies in relation to subsection (2) as if the Minister were the registrar.

**27 Adult firearms licences—restriction on issue of category H licences**

The registrar must not issue a category H licence to an adult unless—

- (a) the adult has established 1 or more of the following genuine reasons to possess or use a firearm:
  - (i) sport or target shooting;
  - (ii) business or employment;
  - (iii) firearms collection; and
- (b) the adult produces evidence that satisfies the registrar that the adult has a special need to possess or use a pistol; and
- (c) if the adult's only genuine reason to possess or use a firearm is sport or target shooting—the adult gives the registrar written evidence from an approved shooting club of which the adult is a member that the licence application is supported by the club.

**28 Adult firearms licences—restriction on issue of collectors licences**

The registrar must not issue a collectors licence to an adult unless satisfied on reasonable grounds that the adult collects firearms.

**29 Adult firearms licences—restrictions on issue of heirlooms licence**

The registrar must not issue an heirlooms licence to an adult—

- (a) for more than 1 firearm or a matched pair of firearms; and
- (b) unless satisfied on reasonable grounds that the firearm or matched pair is—
  - (i) an heirloom; and
  - (ii) permanently inoperable.

**30 Adult firearms licences—restrictions on issue of firearms dealer licences**

The registrar must not issue a firearms dealer licence to an adult unless satisfied on reasonable grounds that—

- (a) an individual who is, or will be, a close associate of the adult is suitable; and

*Note* For when an individual is or is not suitable, see s 4BG.

- (b) the adult will be the person primarily responsible for the management of the business to be carried on under the licence.

**30A Adult firearms licences—restrictions on issue of paintball marker licences**

The registrar must not issue a paintball marker licence to an adult unless satisfied on reasonable grounds that the adult has taken part in at least 4 paintball competitions.

*Note* Section 4BE (Paintball markers—authority to possess, use or store) provides that an adult is authorised to possess or use a paintball marker without a licence in certain circumstances.

**31 Adult firearms licences—form**

An adult firearms licence must—

- (a) state the licensee's name; and
- (b) contain a recent photograph of the licensee; and
- (c) contain the licensee's signature; and
- (d) state the licence category; and
- (e) for a firearms dealer licence, collectors licence or heirlooms licence—state the category of firearm for which the licence is issued; and
- (f) state the date the licence ends; and

- (g) for a licence other than a firearms dealer licence or paintball marker licence—state the calibre of ammunition the licensee is authorised to acquire or possess; and
- (h) state the genuine reason established by the licensee to possess or use a firearm to which the licence applies; and
- (i) for a category D licence—state the circumstances when the firearm may be used; and
- (j) contain any other particulars prescribed by regulation.

### **32 Adult firearms licences—replacements**

- (1) The registrar may issue a replacement adult firearms licence to the licensee if satisfied on reasonable grounds that the licence (the *original licence*) has been lost, stolen or destroyed.

*Note* A fee may be determined under s 125 for this provision.

- (2) If the registrar issues the replacement licence, the registrar must—
  - (a) record in the register that the original licence has been lost, stolen or destroyed; and
  - (b) not later than 48 hours after making the record, tell all licensed firearms dealers in writing that the original licence has been recorded as lost, stolen or destroyed.

*Note* It is an offence to fail to tell the registrar about a lost, stolen or destroyed licence (see s 16B).

**20 Section 36***substitute***36 Adult firearms licences—conditions**

(1) An adult firearms licence is subject to each of the following conditions:

- (a) the licensee must comply with part 5 (Safe storage of firearms) in relation to each registered firearm held under the licence;
- (b) the licensee must not allow someone else to possess or use a firearm in the licensee's possession if the other person is not authorised to possess or use the firearm;
- (c) the licensee must store each registered firearm held under the licence at the registered premises for the firearm;

*Note* **Registered premises** are premises in the ACT (see dict).

- (d) the licensee must allow a police officer to enter premises to inspect the licensee's facilities for storing firearms in the licensee's possession;

*Note* For a police officer's powers on entry under a licence condition, see s 75B (Powers on entry—condition).

- (e) the licensee must not possess, at any one time, an amount of ammunition that is more than the amount (if any) prescribed by regulation, unless authorised in writing by the registrar;
  - (f) the licence cannot be transferred to someone else;
  - (g) any other condition prescribed by regulation.
- (2) For subsection (1) (d), a police officer may enter premises—
- (a) not more than twice each year, unless the entry is under part 7 (Enforcement); and
  - (b) only if the licensee is present; and



- (c) only between 7 am and 7 pm; and
  - (d) as prescribed by regulation (if any).
- (3) An adult firearms licence is also subject to any condition that the registrar believes on reasonable grounds is in the public interest.

*Note 1* The Minister may make guidelines about the making of a decision whether it is in the public interest to put a condition on a licence (see s 12A).

*Note 2* If the registrar puts a condition on a licence under this section, the registrar must give written notice of the decision to the licensee (see s 114).

### **36AA Adult firearms licences—special conditions of category D licences**

Each category D licence is subject to the following conditions:

- (a) the licensee may use the firearm only in the circumstances stated in the licence;

**Example—stated circumstances**

for airborne culling

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (b) the licensee must—
  - (i) store the firearm with a licensed firearms dealer (other than a club armourer) as soon as practicable after the day the licence ends; or
  - (ii) otherwise deal with the firearm in accordance with arrangements approved by the registrar.

**21 Section 36A**

*omit everything before subsection (2), substitute*

**36A Adult firearms licences—special conditions for category H licences for sport or target shooting**

- (1) This section applies to an adult if the adult—
- (a) is issued with a category H licence (the *new licence*) for the genuine reason of sport or target shooting; and
  - (b) has never held a category H licence before being issued with the new licence.

**22 Section 36A (2) (b)**

*substitute*

- (b) the licensee must complete each approved firearms training course for the licence;

**23 Section 37**

*omit everything before paragraph (a), substitute*

**37 Adult firearms licences—special conditions for collectors licences**

A collectors licence is subject to the following conditions:

**24 Sections 38 to 44**

*substitute*

**38 Adult firearms licences—special conditions for paintball marker licences**

A paintball marker licence is subject to the condition that the licensee must not use a registered paintball marker held under the

licence in the ACT other than at an approved paintball range operated by the paintball range operator for the range.

### **39 Adult firearms licences—period in force**

- (1) An adult firearms licence begins on the day it is issued and remains in force, subject to this Act—
  - (a) for 5 years; or
  - (b) if a shorter period is prescribed by regulation—for the shorter period prescribed; or
  - (c) for a category D licence—until the date (the *end date*) decided by the registrar.
- (2) The end date must not be more than 12 months after the day the licence begins.

#### **Example—s (1)**

An adult firearms licence is issued on 1 January 2009. It ends on 31 December 2013 (at the end of that day).

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

### **40 Adult firearms licences—immediate suspension**

- (1) This section applies if the registrar—
  - (a) is considering whether a ground for cancellation of a licence exists under—
    - (i) section 41 (Adult firearms licences—cancellation generally); or
    - (ii) section 42 (Adult firearms licences—cancellation of category H licences); and

- (b) believes on reasonable grounds that it is in the public interest to suspend the licence until the registrar decides whether to cancel the licence on the ground.

*Note 1* The Minister may make guidelines about the making of a decision whether it is in the public interest to suspend a licence (see s 12A).

*Note 2* If the registrar suspends a licence under this section, the registrar must give written notice of the decision to the licensee (see s 114).

- (2) The registrar's notice of the suspension must—
  - (a) include a statement about the effect of subsections (3) and (4); and
  - (b) state that the licensee may, before the end of a stated period, give the registrar written reasons why the licence should remain in force.

*Note* See s 42A (Adult firearms licences—when suspension or cancellation takes effect).

- (3) The suspension ends when the earliest of the following happens:
  - (a) the registrar gives the licensee a written notice revoking the suspension;
  - (b) if the licence is cancelled under this Act or another territory law, or suspended (the *later suspension*) under another provision of this Act or another territory law—the cancellation or later suspension takes effect;
  - (c) 12 weeks have elapsed after the day the suspension takes effect.
- (4) The licensee is not authorised to possess or use any firearm (not only firearms held under the licence) during the suspension.

**40A Adult firearms licences—mandatory suspension**

- (1) The registrar must suspend an adult firearms licence if the registrar believes on reasonable grounds that the licensee has been charged with, committed or threatened to commit—
- (a) a domestic violence offence; or
  - (b) an offence against a law of a State or another Territory corresponding to a domestic violence offence.

*Note 1* **Domestic violence offence**—see the dictionary.

*Note 2* A licence is automatically suspended under the *Domestic Violence and Protection Orders Act 2001*, s 57 (Firearms and interim orders) if the Magistrates Court makes an interim protection order unless the court orders otherwise. Under that section, the Magistrates Court may also order seizure of the licence, and seizure and detention of firearms and ammunition, for the period of the interim order.

*Note 3* A licence is also automatically suspended under the *Domestic Violence and Protection Orders Act 2001*, s 73 (Firearms and emergency orders) if a judicial officer makes an emergency order. Under that section, the officer may also order seizure of the licence, and seizure and detention of firearms and ammunition, for the period of the emergency order.

*Note 4* If the registrar suspends a licence under this section, the registrar must give written notice of the decision to the licensee (see s 114).

- (2) The registrar's notice of the suspension must—
- (a) include a statement about the effect of subsections (3) and (4); and
  - (b) state that the licensee may, before the end of a stated period, give the registrar written reasons why the licence should remain in force.
- (3) The suspension ends when the earliest of the following happens:
- (a) the registrar gives the licensee a written notice revoking the suspension;

- (b) if the licence is cancelled under this Act or another territory law, or suspended (the *later suspension*) under another provision of this Act or another territory law—the cancellation or later suspension takes effect;
  - (c) 12 weeks have elapsed after the day the suspension takes effect.
- (4) The licensee is not authorised to possess or use any firearm (not only firearms held under the licence) during the suspension.

#### **41 Adult firearms licences—cancellation generally**

- (1) The registrar must cancel an adult firearms licence—
- (a) if, had the licensee been applying for the licence held, the registrar would be required to refuse to issue the licence; or
    - Note* For when the registrar must refuse to issue an adult firearms licence, see s 22 and s 24 to s 30A.
  - (b) if satisfied on reasonable grounds that the licensee—
    - (i) gave information that was (to the licensee’s knowledge) false or misleading in a material particular in relation to the application for the licence; or
    - (ii) has contravened this Act, whether or not the licensee has been convicted of an offence for the contravention; or
      - Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).
    - (iii) has contravened a condition of the licence; or
  - (c) if satisfied on reasonable grounds that the licensee is not suitable; or
    - Note* For when an individual is or is not suitable, see s 4BG.
  - (d) for any other reason prescribed by regulation.

- (2) Subsection (1) (b) (iii) does not apply to a condition that the licensee must allow a police officer to enter premises to inspect facilities if—
- (a) the contravention involved refusing to allow a police officer to enter the premises or inspect the facilities; and
  - (b) the refusal was reasonable in all the circumstances.

*Note 1* If the registrar cancels a licence under this section, the registrar must give written notice of the decision to the licensee (see s 114).

*Note 2* A licence is automatically cancelled under the *Domestic Violence and Protection Orders Act 2001*, s 38 (Firearms and final orders) if the Magistrates Court makes a final protection order unless the court orders otherwise. Under that section, the Magistrates Court may also order seizure of the licence, firearms and ammunition.

#### **42 Adult firearms licences—cancellation of category H licences**

The registrar must cancel a category H licence issued for the genuine reason of sport or target shooting if satisfied on reasonable grounds that the licensee stops being an active member of an approved shooting club.

#### **42A Adult firearms licences—when suspension or cancellation takes effect**

- (1) This section applies if the registrar suspends or cancels a licence under this division.
- (2) The suspension or cancellation takes effect on—
  - (a) the day notice of the suspension or cancellation is given to the licensee; or
  - (b) if the notice of the suspension or cancellation states a later date of effect—the stated date.

*Note* For how documents may be served, see the Legislation Act, pt 19.5.

### **Division 3.2B          Licensing scheme—minors firearms licences**

#### **42D          Children prohibited from owning firearms**

A child must not own a firearm.

#### **42E          Minors firearms licences—applications**

- (1) A child may apply to the registrar for a minors firearms licence if the child—

- (a) is at least the age prescribed by regulation; and

*Note*      A child is under 18 years old (see Legislation Act, dict, pt 1, def *child*).

- (b) has completed each approved firearms training course for the licence; and

- (c) is a member of an approved shooting club.

*Note 1*    If a form is approved under s 125A for this provision, the form must be used.

*Note 2*    A fee may be determined under s 125 for this provision.

- (2) The application must—

- (a) provide evidence of the applicant's identity in accordance with the requirements under the *Financial Transaction Reports Act 1988* (Cwlth) that apply in relation to the opening of a bank account; and

- (b) contain the information prescribed by regulation; and

- (c) be accompanied by the documents prescribed by regulation.

- (3) The applicant must personally lodge the application in the presence of a responsible person for the applicant.



- (4) The application must contain the written consent of a responsible person for the applicant to the issue of the licence.

*Note* A **responsible person** for an applicant is a person with **parental responsibility** for the applicant (see dict).

#### **42F Minors firearms licences—requirement for further information etc**

- (1) This section applies to an application for—
- (a) a minors firearms licence; or
  - (b) an extension under section 42O (Minors firearms licences—period in force).
- (2) The registrar may give the applicant a written notice requiring the applicant to give the registrar stated further information or documents that the registrar reasonably needs to decide the application.
- (3) Without limiting subsection (2), if the registrar believes on reasonable grounds that the applicant's mental health may affect the applicant's ability to handle firearms responsibly, the registrar may ask the applicant to consent to the disclosure to the registrar of personal health information about the applicant from a health record relating to the applicant.

*Note* The *Health Records (Privacy and Access) Act 1997* contains provisions about the consent, access to the information and limitations on the use or disclosure of the information (see s 13A and sch 1, principle 10, cl 2 (c), 7 and 8). In particular, sch 1, principle 10, cl 7 provides that the consent must be in writing and signed by a parent or legally appointed guardian of the applicant, or someone else with parental responsibility for the applicant, and name the health service provider who made the health record.

- (4) If the applicant does not comply with subsection (2) (other than in relation to the consent mentioned in subsection (3)), the registrar may refuse to consider the application further.

(5) In this section:

*health record*—see the *Health Records (Privacy and Access) Act 1997*, dictionary.

*personal health information*—see the *Health Records (Privacy and Access) Act 1997*, dictionary.

#### **42G Minors firearms licences—decision**

On an application for a minors firearms licence, the registrar must issue the licence unless prevented from doing so by this Act.

*Note 1* For when the registrar must refuse to issue a minors firearms licence, see s 42H.

*Note 2* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

#### **42H Minors firearms licences—refusal**

(1) The registrar must refuse to issue a minors firearms licence to an applicant for the licence unless satisfied on reasonable grounds—

- (a) about the applicant's identity; and
- (b) that the applicant is suitable; and

*Note* For when an individual is or is not suitable, see s 4BG.

- (c) that the applicant has a genuine reason for possessing or using a firearm; and

*Note* Genuine reasons for possessing or using firearms for minors firearms licences are dealt with in s 42K.

- (d) that the applicant is, or is about to become, a resident of the ACT; and
- (e) that the application is made in accordance with section 42E.

- (2) The registrar must also refuse to issue the licence if—
- (a) the applicant holds a licence of the category applied for; or
  - (b) the registrar believes on reasonable grounds that it would be contrary to the public interest to issue the licence.

*Note* The Minister may make guidelines about the making of a decision whether it is in the public interest to issue a licence (see s 12A).

#### **42I Minors firearms licences—categories**

A minors firearms licence must be issued in 1 of the following categories:

- (a) category A;
- (b) category B;
- (c) category H.

#### **42J When minors firearms licences may be issued**

The registrar must not issue a minors firearms licence earlier than 28 days after the day the application for the licence is made.

#### **42K Minors firearms licences—genuine reasons to possess or use firearms**

- (1) An applicant for a minors firearms licence has a genuine reason to possess or use a firearm if the applicant wants to take part in—
- (a) firearms training; or
  - (b) target pistol training.
- (2) An applicant for a category A or category B minors firearms licence also has a genuine reason to possess or use a firearm if the applicant wants to receive instruction that is—
- (a) about the safe use of the firearm for primary production; and

- (b) given under the supervision of a person who—
  - (i) is a responsible person for the applicant; and
  - (ii) holds an adult firearms licence of that category under which that use is a genuine reason for the person to hold the licence.

*Note* A *responsible person* for an applicant is a person with *parental responsibility* for the applicant (see dict).

#### **42L Minors firearms licences—form**

A minors firearms licence must—

- (a) state the licensee's name; and
- (b) contain a recent photograph of the licensee; and
- (c) contain the licensee's signature; and
- (d) state that it is a minors firearms licence; and
- (e) state the licence category; and
- (f) state the date the licence ends; and
- (g) state the calibre of ammunition the licensee is authorised to acquire or possess; and
- (h) state the genuine reason established by the licensee to possess or use a firearm to which the licence applies; and
- (i) contain any other particulars prescribed by regulation.

#### **42M Minors firearms licences—replacements**

- (1) The registrar may issue a replacement minors firearms licence to the licensee if satisfied on reasonable grounds that the licence (the *original licence*) has been lost, stolen or destroyed.

*Note* A fee may be determined under s 125 for this provision.

- (2) If the registrar issues the replacement licence, the registrar must—
- (a) record in the register that the original licence has been lost, stolen or destroyed; and
  - (b) not later than 48 hours after making the record, tell all licensed firearms dealers in writing that the original licence has been recorded as lost, stolen or destroyed.

*Note* It is an offence to fail to tell the registrar about a lost, stolen or destroyed licence (see s 16B).

#### **42N Minors firearms licences—conditions**

- (1) A minors firearms licence is subject to each of the following conditions:
- (a) the licensee must not allow someone else to possess or use a firearm in the licensee's possession if the other person is not authorised to possess or use the firearm;
  - (b) the licensee must not possess, at any one time, an amount of ammunition that is more than the amount (if any) prescribed by regulation, unless authorised in writing by the registrar;
  - (c) the licence cannot be transferred to someone else;
  - (d) any other condition prescribed by regulation.
- (2) A minors firearms licence is also subject to any condition that the registrar believes on reasonable grounds is in the public interest.

*Note 1* The Minister may make guidelines about the making of a decision whether it is in the public interest to put a condition on a licence (see s 12A).

*Note 2* If the registrar puts a condition on a licence under this section, the registrar must give written notice of the decision to the licensee (see s 114).

**42O Minors firearms licences—period in force**

- (1) A minors firearms licence begins on the day it is issued and remains in force, subject to this Act, until the day before the licensee's 18th birthday.
- (2) The registrar may extend the period that a minors firearms licence is in force for not longer than 60 days after the day it would otherwise end under subsection (1) if—
  - (a) before the licence ends, the licensee applies for a licence other than a minors firearms licence; and
  - (b) the registrar has not decided whether to issue or refuse to issue the licence applied for; and
  - (c) the registrar is satisfied on reasonable grounds that the extension is necessary to allow the licensee—
    - (i) for a minors firearms licence issued for the genuine reason of firearms training—to continue to receive instruction, or take part in an approved firearms event, that the person began before the person's 18th birthday; or
    - (ii) for a minors firearms licence issued for the genuine reason of target pistol training—to continue to receive instruction, or take part in an approved firearms event, that the person began before the person's 18th birthday.

**42P Minors firearms licences—immediate suspension**

- (1) This section applies if the registrar—
  - (a) is considering whether a ground for cancellation of a licence exists under section 42R (1) (Minors firearms licences—cancellation); and

- (b) believes on reasonable grounds that it is in the public interest to suspend the licence until the registrar decides whether to cancel the licence on the ground.

*Note 1* The Minister may make guidelines about the making of a decision whether it is in the public interest to suspend a licence (see s 12A).

*Note 2* If the registrar suspends a licence under this section, the registrar must give written notice of the decision to the licensee (see s 114).

- (2) The registrar's notice of the suspension must—
  - (a) include a statement about the effect of subsections (3) and (4); and
  - (b) state that the licensee may, before the end of a stated period, give the registrar written reasons why the licence should remain in force.

*Note* See s 42S (Minors firearms licences—when suspension or cancellation takes effect).

- (3) The suspension ends when the earliest of the following happens:
  - (a) the registrar gives the licensee a written notice revoking the suspension;
  - (b) if the licence is cancelled under this Act or another territory law, or suspended (the *later suspension*) under another provision of this Act or another territory law—the cancellation or later suspension takes effect;
  - (c) 12 weeks have elapsed after the day the suspension takes effect.
- (4) The licensee is not authorised to possess or use any firearm (not only firearms held under the licence) during the suspension.

**42Q Minors firearms licences—mandatory suspension**

- (1) The registrar must suspend a minors firearms licence if the registrar believes on reasonable grounds that the licensee has been charged with, committed or threatened to commit—
- (a) a domestic violence offence; or
  - (b) an offence against a law of a State or another Territory corresponding to a domestic violence offence.

*Note 1* **Domestic violence offence**—see the dictionary.

*Note 2* A licence is automatically suspended under the *Domestic Violence and Protection Orders Act 2001*, s 57 (Firearms and interim orders) if the Magistrates Court makes an interim protection order unless the court orders otherwise. Under that section, the Magistrates Court may also order seizure of the licence, and seizure and detention of firearms and ammunition, for the period of the interim order.

*Note 3* A licence is also automatically suspended under the *Domestic Violence and Protection Orders Act 2001*, s 73 (Firearms and emergency orders) if a judicial officer makes an emergency order. Under that section, the officer may also order seizure of the licence, and seizure and detention of firearms and ammunition, for the period of the emergency order.

*Note 4* If the registrar suspends a licence under this section, the registrar must give written notice of the decision to the licensee (see s 114).

- (2) The registrar's notice of the suspension must—
- (a) include a statement about the effect of subsections (3) and (4); and
  - (b) state that the licensee may, before the end of a stated period, give the registrar written reasons why the licence should remain in force.
- (3) The suspension ends when the earliest of the following happens:
- (a) the registrar gives the licensee a written notice revoking the suspension;



- (b) if the licence is cancelled under this Act or another territory law, or suspended (the *later suspension*) under another provision of this Act or another territory law—the cancellation or later suspension takes effect;
  - (c) 12 weeks have elapsed after the day the suspension takes effect.
- (4) The licensee is not authorised to possess or use any firearm (not only firearms held under the licence) during the suspension.

#### **42R Minors firearms licences—cancellation**

The registrar must cancel a minors firearms licence—

- (a) if, had the licensee been applying for the licence held, the registrar would be required to refuse to issue the licence; or

*Note* For when the registrar must refuse to issue a minors firearms licence, see s 42H.

- (b) if satisfied on reasonable grounds that the licensee—

(i) gave information that was (to the licensee’s knowledge) false or misleading in a material particular in relation to the application for the licence; or

(ii) has contravened this Act, whether or not the licensee has been convicted of an offence for the contravention; or

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

(iii) has contravened a condition of the licence; or

- (c) if satisfied on reasonable grounds that the licensee is not suitable; or

*Note* For when an individual is or is not suitable, see s 4BG.

(d) for any other reason prescribed by regulation.

*Note 1* If the registrar cancels a licence under this section, the registrar must give written notice of the decision to the licensee (see s 114).

*Note 2* A licence is automatically cancelled under the *Domestic Violence and Protection Orders Act 2001*, s 38 (Firearms and final orders) if the Magistrates Court makes a final protection order unless the court orders otherwise. Under that section, the Magistrates Court may also order seizure of the licence, firearms and ammunition.

#### **42S Minors firearms licences—when suspension or cancellation takes effect**

- (1) This section applies if the registrar suspends or cancels a licence under this division.
- (2) The suspension or cancellation takes effect on—
  - (a) the day notice of the suspension or cancellation is given to the licensee; or
  - (b) if the notice of the suspension or cancellation states a later date of effect—the stated date.

*Note* For how documents may be served, see the Legislation Act, pt 19.5.

### **Division 3.2C Licensing scheme—composite entity firearms licences**

#### **42U Definitions—Act**

In this Act:

*composite entity* means—

- (a) a corporation; or
- (b) a government agency (other than a corporation).

*principal*, of a composite entity—

- (a) for a corporation—means an executive officer of the corporation; or
- (b) for a government agency—means the head of the agency.

*registered principal*, for a composite entity firearms licence, means the principal named in the licence.

#### **42V Composite entity firearms licences—applications**

- (1) A principal who proposes to be the registered principal of a composite entity may apply for the entity to the registrar for a composite entity firearms licence.

*Note 1* For this Act, something done for a composite entity is taken to have been done by the entity (see s 4D).

*Note 2* If a form is approved under s 125A for this provision, the form must be used.

*Note 3* A fee may be determined under s 125 for this provision.

- (2) The application must—
  - (a) provide evidence of the applicant's identity in accordance with the requirements under the *Financial Transaction Reports Act 1988* (Cwlth) that apply in relation to the opening of a bank account; and
  - (b) provide evidence of the composite entity's identity; and
  - (c) contain the information prescribed by regulation; and
  - (d) be accompanied by the documents prescribed by regulation.

**42W Composite entity firearms licences—requirement for further information etc**

- (1) This section applies to an application for a composite entity firearms licence.
- (2) The registrar may give the principal making the application a written notice requiring the principal to give the registrar stated further information or documents that the registrar reasonably needs to decide the application.
- (3) Without limiting subsection (2), if the registrar believes on reasonable grounds that the principal's mental health may affect the principal's ability to handle firearms responsibly, or make decisions in relation to firearms, the registrar may ask the principal to consent to the disclosure to the registrar of personal health information about the principal from a health record relating to the principal.

*Note* The *Health Records (Privacy and Access) Act 1997* contains provisions about the consent, access to the information and limitations on the use or disclosure of the information (see s 13A and sch 1, principle 10, cl 2 (c), 7 and 8). In particular, sch 1, principle 10, cl 7 provides that the consent must be in writing and name the health service provider who made the health record.

- (4) If the applicant does not comply with subsection (2) (other than in relation to the consent mentioned in subsection (3)), the registrar may refuse to consider the application further.
- (5) In this section:

***health record***—see the *Health Records (Privacy and Access) Act 1997*, dictionary.

***personal health information***—see the *Health Records (Privacy and Access) Act 1997*, dictionary.

**42X Composite entity firearms licences—decision**

On an application for a composite entity firearms licence, the registrar must issue the licence unless prevented from doing so by this Act.

*Note 1* For when the registrar must refuse to issue a composite entity firearms licence, see s 42Y and s 42ZE to s 42ZH.

*Note 2* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

**42Y Composite entity firearms licences—refusal**

(1) On application, the registrar must refuse to issue a composite entity firearms licence unless satisfied on reasonable grounds—

(a) about the identity of the composite entity and the principal making the application; and

(b) that the principal making the application is suitable; and

*Note* For when an individual is or is not suitable, see s 4BG.

(c) that the composite entity has a genuine reason for possessing or using a firearm; and

*Note* See s 42ZC (Composite entity firearms licences—genuine reasons to possess or use firearms).

(d) that the composite entity will comply with part 5 (Safe storage of firearms) in relation to each registered firearm held under the licence; and

(e) that each registered firearm held under the licence will be stored in the ACT.

(2) The registrar must also refuse to issue the licence if—

(a) for an application other than a renewal—the composite entity holds a licence of the category applied for; or

- (b) the registrar believes on reasonable grounds that it would be contrary to the public interest to issue the licence.

*Note* The Minister may make guidelines about the making of a decision whether it is in the public interest to issue a licence (see s 12A).

**42Z Composite entity firearms licences—categories**

A composite entity firearms licence must be issued in 1 of the following categories:

- (a) category A;
- (b) category B;
- (c) category C;
- (d) category D;
- (e) category H.

**42ZA Composite entity firearms licence—principal's name**

A composite entity firearms licence must be issued to the composite entity in the name of the principal who applied for the licence.

**42ZB When composite entity firearms licences may be issued**

The registrar must not issue a composite entity firearms licence earlier than 28 days after the day the application for the licence is made.

**42ZC Composite entity firearms licences—genuine reasons to possess or use firearms**

- (1) A composite entity has a genuine reason to possess or use a firearm if the registrar is satisfied—
  - (a) that the entity carries on business in the ACT as a security organisation; or
  - (b) that—

- (i) the entity—
    - (A) is the owner, lessee or manager of land in the ACT used for primary production; and
    - (B) intends that the firearm be used solely in relation to farming or grazing activities (including the suppression of vertebrate pest animals on the land); and
  - (ii) it is necessary for a person employed in relation to the farming or grazing activities to possess a firearm in the course of employment; or
  - (c) that the entity is an approved club; or
  - (d) that the entity is a government agency and it is necessary for an employee to possess a firearm in the course of employment.
- (2) The principal making the application for the composite entity must produce evidence of the matter mentioned in subsection (1) that applies in relation to the entity if asked to do so by the registrar.
- (3) If the principal does not comply with subsection (2), the registrar may refuse to consider the application further.
- (4) In this section:
- security organisation***—
- (a) means a corporation that—
    - (i) carries on the business of providing—
      - (A) protection for people; or
      - (B) transport or protection for the money or property of people other than the corporation; and
    - (ii) holds a master licence under the *Security Industry Act 2003*; but
  - (b) does not include a bank.

**42ZD Composite entity firearms licences—no genuine reason to possess or use firearms**

A composite entity (other than an approved club) does not have a genuine reason to possess or use a firearm if the entity intends the firearm to be possessed or used for sport or target shooting.

**42ZE Composite entity firearms licences—restriction on issue of category B licences**

Unless a regulation prescribes otherwise, the registrar must not issue a category B composite entity firearms licence unless the composite entity, in addition to establishing a genuine reason to possess or use a firearm, produces evidence that satisfies the registrar that the entity has a special need to possess or use a firearm to which a category B licence applies.

**42ZF Composite entity firearms licences—restriction on issue of category C licences**

The registrar must not issue a category C composite entity firearms licence unless—

- (a) the genuine reason established by the composite entity to possess or use a firearm is primary production (or another genuine reason prescribed by regulation); and
- (b) the entity produces evidence that satisfies the registrar that—
  - (i) the entity has a special need to possess or use a firearm to which a category C licence applies; and
  - (ii) the special need cannot be met in any other way (whether by the authority given by a category A or category B licence or otherwise).



**42ZG Composite entity firearms licences—restriction on issue of category D licences**

The registrar must not issue a category D composite entity firearms licence unless the composite entity is a government agency.

**42ZH Composite entity firearms licences—restriction on issue of category H licences**

The registrar must not issue a category H composite entity firearms licence unless—

- (a) the genuine reason established by the composite entity to possess or use a firearm is carrying on business in the ACT as a security organisation; or
- (b) the entity produces evidence that satisfies the registrar that the entity has a special need to possess or use a pistol; or
- (c) the entity is an approved club and the pistol is to be used for sport or target shooting.

**42ZI Composite entity firearms licences—form**

A composite entity firearms licence must—

- (a) state the names of the composite entity and registered principal; and
- (b) contain a recent photograph of the registered principal; and
- (c) contain the registered principal's signature; and
- (d) state the licence category; and
- (e) state the date the licence ends; and
- (f) state the calibre of ammunition the licence authorises the registered principal and each registered user to acquire or possess; and

- (g) state the genuine reason established by the licensee to possess or use a firearm to which the licence applies; and
- (h) contain any other particulars prescribed by regulation.

**42ZJ Composite entity firearms licences—replacements**

- (1) The registrar may issue a replacement composite entity firearms licence to the licensee if satisfied on reasonable grounds that the licence (the *original licence*) has been lost, stolen or destroyed.

*Note* A fee may be determined under s 125 for this provision.

- (2) If the registrar issues the replacement licence, the registrar must—
  - (a) record in the register that the original licence has been lost, stolen or destroyed; and
  - (b) not later than 48 hours after making the record, tell all licensed firearms dealers in writing that the original licence has been recorded as lost, stolen or destroyed.

*Note* It is an offence to fail to tell the registrar about a lost, stolen or destroyed licence (see s 16B).

**42ZK Composite entity firearms licences—conditions**

- (1) A composite entity firearms licence is subject to each of the following conditions:
  - (a) the licensee must comply with part 5 (Safe storage of firearms) in relation to each registered firearm held under the licence;
  - (b) the licensee must not allow someone to possess or use a firearm in the licensee's possession if the person is not authorised to possess or use the firearm;
  - (c) the licensee must store each registered firearm held under the licence at the registered premises for the firearm;

*Note* **Registered premises** are premises in the ACT (see dict).

- (d) the licensee must store each registered firearm held under the licence so that only the registered principal for, and each registered user of, the firearm have access to it;
- (e) the licensee must allow a police officer to enter premises to inspect the licensee's facilities for storing firearms in the licensee's possession;

*Note* For a police officer's powers on entry under a licence condition, see s 75B (Powers on entry—condition).

- (f) the licensee must not possess, at any one time, an amount of ammunition that is more than the amount (if any) prescribed by regulation, unless authorised in writing by the registrar;
  - (g) the licence cannot be transferred to someone else;
  - (h) any other condition prescribed by regulation.
- (2) For subsection (1) (e), a police officer may enter premises—
- (a) not more than twice each year, unless the entry is under part 7 (Enforcement); and
  - (b) only if the licensee is present; and
  - (c) only between 7 am and 7 pm; and
  - (d) as prescribed by regulation (if any).
- (3) A composite entity firearms licence is also subject to any condition that the registrar believes on reasonable grounds is in the public interest.

*Note 1* The Minister may make guidelines about the making of a decision whether it is in the public interest to put a condition on a licence (see s 12A).

*Note 2* If the registrar puts a condition on a licence under this section, the registrar must give written notice of the decision to the licensee (see s 114).

**42ZL Composite entity firearms licences—period in force**

A composite entity firearms licence begins on the day it is issued and remains in force, subject to this Act—

- (a) for 2 years; or
- (b) if a shorter period is prescribed by regulation—for the shorter period prescribed.

**Example—par (a)**

A composite entity firearms licence is issued on 1 January 2009. It ends on 31 December 2010 (at the end of that day).

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

**42ZM Composite entity firearms licences—immediate suspension**

- (1) This section applies if the registrar—
  - (a) is considering whether a ground for cancellation of a licence exists under section 42ZN (Composite entity firearms licences—cancellation); and
  - (b) believes on reasonable grounds that it is in the public interest to suspend the licence until the registrar decides whether to cancel the licence on the ground.

*Note 1* The Minister may make guidelines about the making of a decision whether it is in the public interest to suspend a licence (see s 12A).

*Note 2* If the registrar suspends a licence under this section, the registrar must give written notice of the decision to the licensee (see s 114).

- (2) The registrar's notice of the suspension must—
  - (a) include a statement about the effect of subsections (3) and (4); and

- (b) state that the licensee may, before the end of a stated period, give the registrar written reasons why the licence should remain in force.

*Note* See s 42ZO (Composite entity firearms licences—when suspension or cancellation takes effect).

- (3) The suspension ends when the earliest of the following happens:
  - (a) the registrar gives the licensee a written notice revoking the suspension;
  - (b) if the licence is cancelled under this Act or another territory law, or suspended (the *later suspension*) under another provision of this Act or another territory law—the cancellation or later suspension takes effect;
  - (c) 12 weeks have elapsed after the day the suspension takes effect.
- (4) The licensee is not authorised to possess or use any firearm (not only firearms held under the licence) during the suspension.

#### **42ZMA Composite entity firearms licences—mandatory suspension**

- (1) The registrar must suspend a composite entity firearms licence if the registrar believes on reasonable grounds that the registered principal has been charged with, committed or threatened to commit—
  - (a) a domestic violence offence; or
  - (b) an offence against a law of a State or another Territory corresponding to a domestic violence offence.

*Note 1* **Domestic violence offence**—see the dictionary.

*Note 2* A licence is automatically suspended under the *Domestic Violence and Protection Orders Act 2001*, s 57 (Firearms and interim orders) if the Magistrates Court makes an interim protection order unless the court orders otherwise. Under that section, the Magistrates Court may also

order seizure of the licence, and seizure and detention of firearms and ammunition, for the period of the interim order.

*Note 3* A licence is also automatically suspended under the *Domestic Violence and Protection Orders Act 2001*, s 73 (Firearms and emergency orders) if a judicial officer makes an emergency order. Under that section, the officer may also order seizure of the licence, and seizure and detention of firearms and ammunition, for the period of the emergency order.

*Note 4* If the registrar suspends a licence under this section, the registrar must give written notice of the decision to the licensee (see s 114).

- (2) The registrar's notice of the suspension must—
  - (a) include a statement about the effect of subsections (3) and (4); and
  - (b) state that the licensee may, before the end of a stated period, give the registrar written reasons why the licence should remain in force.
- (3) The suspension ends when the earliest of the following happens:
  - (a) the registrar gives the licensee a written notice revoking the suspension;
  - (b) if the licence is cancelled under this Act or another territory law, or suspended (the *later suspension*) under another provision of this Act or another territory law—the cancellation or later suspension takes effect;
  - (c) 12 weeks have elapsed after the day the suspension takes effect.
- (4) The licensee is not authorised to possess or use any firearm (not only firearms held under the licence) during the suspension.

**42ZN Composite entity firearms licences—cancellation**

- (1) The registrar must cancel a composite entity firearms licence—
- (a) if, had the registered principal been applying for the licence held, the registrar would be required to refuse to issue the licence; or
- Note* For when the registrar must refuse to issue a composite entity firearms licence, see s 42Y and s 42ZE to s 42ZH.
- (b) if satisfied on reasonable grounds that the principal who made the application for the licence gave information that was (to the principal's knowledge) false or misleading in a material particular in relation to the application; or
  - (c) if satisfied on reasonable grounds that the composite entity has contravened this Act, whether or not the entity has been convicted of an offence for the contravention; or
- Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).
- (d) if satisfied on reasonable grounds that the composite entity has contravened a condition of the licence; or
  - (e) if satisfied on reasonable grounds that the registered principal is not suitable; or
- Note* For when an individual is or is not suitable, see s 4BG.
- (f) for any other reason prescribed by regulation.
- (2) Subsection (1) (d) does not apply to a condition that the licensee must allow a police officer to enter premises to inspect facilities if—
- (a) the contravention involved refusing to allow a police officer to enter the premises or inspect the facilities; and

(b) the refusal was reasonable in all the circumstances.

*Note 1* If the registrar cancels a licence under this section, the registrar must give written notice of the decision to the licensee (see s 114).

*Note 2* A licence is automatically cancelled under the *Domestic Violence and Protection Orders Act 2001*, s 38 (Firearms and final orders) if the Magistrates Court makes a final protection order unless the court orders otherwise. Under that section, the Magistrates Court may also order seizure of the licence, firearms and ammunition.

#### **42ZO Composite entity firearms licences—when suspension or cancellation takes effect**

- (1) This section applies if the registrar suspends or cancels a licence under this division.
- (2) The suspension or cancellation takes effect on—
  - (a) the day notice of the suspension or cancellation is given to the licensee; or
  - (b) if the notice of the suspension or cancellation states a later date of effect—the stated date.

*Note* For how documents may be served, see the Legislation Act, pt 19.5.

### **Division 3.2D Licensing scheme—temporary international firearms licences**

#### **42ZOA Meaning of *foreign firearms licence*—div 3.2D**

In this division:

*foreign firearms licence* means a licence or permit (however described) in force under the law of a foreign country that authorises the use or possession of a firearm.



**42ZP Temporary international firearms licences—applications**

- (1) An adult who holds a foreign firearms licence may apply to the registrar for a temporary international firearms licence.

*Note 1* If a form is approved under s 125A for this provision, the form must be used.

*Note 2* A fee may be determined under s 125 for this provision.

- (2) The application must—
  - (a) contain the information prescribed by regulation; and
  - (b) be accompanied by the documents prescribed by regulation.
- (3) The applicant must produce the applicant's passport, or evidence of the applicant's passport, to the registrar.

**42ZPA Temporary international firearms licences—requirement for further information etc**

- (1) This section applies to an application for a temporary international firearms licence.
- (2) The registrar may give the applicant a written notice requiring the applicant to give the registrar stated further information or documents that the registrar reasonably needs to decide the application.
- (3) If the applicant does not comply with subsection (2), the registrar may refuse to consider the application further.

**42ZPB Temporary international firearms licences—decision**

- (1) On an application for a temporary international firearms licence, the registrar must issue the licence unless prevented from doing so by this Act.

*Note 1* For when the registrar must refuse to issue a temporary international firearms licence, see s 42ZPC.

*Note 2* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

- (2) The licence must be issued in the category that the registrar believes on reasonable grounds best corresponds to the foreign firearms licence held by the applicant.

*Note* A firearm for which a temporary international firearms licence is issued need not be registered (see s 50 (3)).

#### **42ZPC Temporary international firearms licences—refusal**

- (1) The registrar must refuse to issue a temporary international firearms licence to an applicant for the licence unless satisfied on reasonable grounds—
- (a) about the applicant’s identity; and
  - (b) that the applicant is a resident of a foreign country; and
  - (c) that the applicant holds a foreign firearms licence; and
  - (d) that the applicant has a genuine reason for possessing or using a firearm; and
  - (e) that the applicant will comply with part 5 (Safe storage of firearms) in relation to each firearm held under the licence.
- (2) The registrar must also refuse to issue the licence if—
- (a) the applicant is not an adult; or
  - (b) the registrar believes on reasonable grounds that it would be contrary to the public interest to issue the licence.

*Note* The Minister may make guidelines about the making of a decision whether it is in the public interest to issue a licence (see s 12A).

**42ZPD When temporary international firearms licences may be issued**

The registrar must not issue a temporary international firearms licence earlier than 28 days after the day the application for the licence is made.

**42ZQ Temporary international firearms licences—genuine reasons to possess or use firearms**

- (1) An applicant for a temporary international firearms licence—
  - (a) has a genuine reason to possess or use a firearm if the registrar is satisfied that—
    - (i) the applicant is a member of the staff of an internationally protected person, or other declared person, whose duties include the protection of that person while in the ACT; and
    - (ii) the firearm to which the application relates is a pistol of not more than 11.43mm calibre that is not fully automatic or capable of conversion to being fully automatic; or

*Note* A 11.43mm calibre pistol includes a 0.45-inch calibre pistol.
  - (b) has a genuine reason (the *genuine reason of international visitor*) to possess or use a firearm if the registrar is satisfied that—
    - (i) the applicant is a visitor to the ACT; and
    - (ii) for a licence authorising the applicant to take part in an approved shooting or approved paintball competition—the applicant would enter or has entered Australia (within the meaning of the *Migration Act 1958* (Cwlth)) in the ACT.

- (2) The applicant must produce evidence of the matter mentioned in subsection (1) that applies in relation to the applicant if asked to do so by the registrar.
- (3) If the applicant does not comply with subsection (2), the registrar may refuse to consider the application further.
- (4) The Minister may declare a person for subsection (1) (a) (i).
- (5) A declaration is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.

- (6) In this section:

*internationally protected person*—see the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, a copy of which is set out in the *Crimes (Internationally Protected Persons) Act 1976* (Cwlth), schedule.

#### **42ZQA Temporary international firearms licences—form**

A temporary international firearms licence must—

- (a) state the licensee's name and address while in the ACT; and
- (b) contain a recent photograph of the licensee; and
- (c) contain the licensee's signature; and
- (d) state that it is a temporary international firearms licence; and
- (e) state the licence category; and
- (f) state the date the licence ends; and

*Note* The end date must not be more than 3 months after the day the licence begins (see s 42ZR (2)).

- (g) state the particulars prescribed by regulation of the firearm for which the licence is issued; and
- (h) state the calibre of ammunition the licensee is authorised to acquire or possess; and

- (i) state the genuine reason established by the licensee to possess or use a firearm to which the licence applies; and
- (j) for a licence issued for the genuine reason of international visitor—state the purpose for which the firearm may be possessed or used; and
- (k) contain any other particulars prescribed by regulation.

**42ZQB Temporary international firearms licences—conditions**

- (1) A temporary international firearms licence is subject to each of the following conditions:
  - (a) the licensee must produce the licensee's passport to the registrar on request;
  - (b) the licensee must comply with part 5 (Safe storage of firearms) in relation to each firearm held under the licence;
  - (c) the licensee must not allow someone else to possess or use a firearm in the licensee's possession if the other person is not authorised to possess or use the firearm;
  - (d) the licensee must—
    - (i) carry the licence when possessing or using a firearm held under the licence; and
    - (ii) produce the licence to a police officer on request;
  - (e) the licensee must not possess, at any one time, an amount of ammunition that is more than the amount (if any) prescribed by regulation, unless authorised in writing by the registrar;
  - (f) the licence cannot be transferred to someone else;
  - (g) any other condition prescribed by regulation.

- (2) A temporary international firearms licence is also subject to any condition that the registrar believes on reasonable grounds is in the public interest.

*Note 1* The Minister may make guidelines about the making of a decision whether it is in the public interest to put a condition on a licence (see s 12A).

*Note 2* If the registrar puts a condition on a licence under this section, the registrar must give written notice of the decision to the licensee (see s 114).

**42ZR Temporary international firearms licences—period in force**

- (1) A temporary international firearms licence begins on the day it is issued and remains in force, subject to this Act, until the date (the *end date*) decided by the registrar.
- (2) The end date must not be more than 3 months after the day the licence begins.

**42ZRA Temporary international firearms licences—cancellation**

The registrar must cancel a temporary international firearms licence—

- (a) if, had the licensee been applying for the licence held, the registrar would be required to refuse to issue the licence; or

*Note* For when the registrar must refuse to issue a temporary international firearms licence, see s 42ZPC.

- (b) if satisfied on reasonable grounds that the licensee—
- (i) gave information that was (to the licensee's knowledge) false or misleading in a material particular in relation to the application for the licence; or

- (ii) has contravened this Act, whether or not the licensee has been convicted of an offence for the contravention; or

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

- (iii) has contravened a condition of the licence; or

- (c) for any other reason prescribed by regulation.

*Note 1* If the registrar cancels a licence under this section, the registrar must give written notice of the decision to the licensee (see s 114).

*Note 2* A licence is automatically cancelled under the *Domestic Violence and Protection Orders Act 2001*, s 38 (Firearms and final orders) if the Magistrates Court makes a final protection order unless the court orders otherwise. Under that section, the Magistrates Court may also order seizure of the licence, firearms and ammunition.

#### **42ZRB Temporary international firearms licences—when cancellation takes effect**

- (1) This section applies if the registrar cancels a licence under section 42ZRA.
- (2) The cancellation takes effect on—
  - (a) the day notice of the cancellation is given to the licensee; or
  - (b) if the notice of cancellation states a later date of effect—the stated date.

*Note* For how documents may be served, see the Legislation Act, pt 19.5.

## Part 3A Temporary recognition of interstate licences and permits

### 42ZS Definitions—pt 3A

In this part:

*authorised period*, in relation to an individual interstate licensee who arrives in the ACT for a purpose mentioned in this part, means the period of 3 months beginning on the person's arrival day.

*corresponding*—a licence or permit of a particular category issued under this Act (the *local licence*), and an interstate licence of the same category, or that is declared under section 42ZSA to be of a particular category that is the same category, are *corresponding*.

*interstate licence* means a licence or permit (however described) in force under the law of a State or another Territory that authorises the use or possession of a firearm.

*local licence*—see the definition of *corresponding*.

### 42ZSA Temporary recognition of interstate licences—declaration of licence categories

- (1) The registrar may declare that an interstate licence is of a particular category.
- (2) A declaration is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.

### 42ZT Temporary recognition of interstate licences—general

- (1) This section applies to an individual interstate licensee if the individual—
  - (a) is a resident of a State or another Territory and comes to the ACT for—



- (i) the purpose of taking part in an approved shooting or approved paintball competition; or
    - (ii) a purpose prescribed by regulation in relation to the possession or use of a firearm; and
  - (b) holds an interstate licence that corresponds to a category A licence, category B licence, category C licence, category H licence or paintball marker licence.
- (2) For the authorised period, the individual is authorised to possess, or use, for a purpose mentioned in subsection (1) (a), a firearm of a kind to which the corresponding local licence applies.
- (3) However, the authorisation under subsection (2) is subject to compliance with any condition prescribed by regulation.
- (4) This section does not apply to an individual to whom section 42ZU applies.

#### **42ZU Temporary recognition of interstate category C licences**

- (1) This section applies to an individual interstate licensee if the individual—
- (a) is a resident of a State or another Territory and comes to the ACT for the purpose of taking part in an approved shooting competition; and
  - (b) holds an interstate licence that corresponds to a category C licence that authorises the individual to possess or use a firearm for the genuine reason of sport or target shooting.
- (2) For the authorised period, the individual is authorised to possess, or use, for the purpose of taking part in the shooting competition, a firearm of a kind to which the corresponding local licence applies.
- (3) However, the authorisation under subsection (2) is subject to compliance with any condition prescribed by regulation.

**42ZV Interstate residents moving to ACT—category A, B, and paintball marker licences**

- (1) This section applies to an individual who—
  - (a) is a resident of a State or another Territory; and
  - (b) is the holder of an interstate licence that corresponds to a category A licence, category B licence or paintball marker licence; and
  - (c) notifies the registrar in writing that he or she intends to live in the ACT permanently.
- (2) The interstate licence is, subject to any direction of the registrar, taken to be the corresponding local licence until the earlier of the following:
  - (a) the end of the period of 3 months beginning on the day after the day the individual notifies the registrar under subsection (1);
  - (b) if the person applies for a corresponding local licence before the end of the 3-month period—the day the registrar issues, or refuses to issue, the licence to the individual.

**42ZW Interstate residents moving to ACT—category C and H licences**

- (1) This section applies to an individual who—
  - (a) is a resident of a State or another Territory; and
  - (b) is the holder of an interstate licence that corresponds to a category C licence or category H licence; and
  - (c) notifies the registrar in writing that he or she intends to live in the ACT permanently.

- (2) The interstate licence is, subject to any direction of the registrar, taken to be the corresponding local licence until the earlier of the following:
  - (a) the end of the period of 7 days beginning on the day after the day the individual notifies the registrar under subsection (1);
  - (b) if the person applies for a corresponding local licence before the end of the 7-day period—the day the registrar issues, or refuses to issue, the licence to the individual.

**42ZX Temporary recognition of interstate licences for international visitors—shooting or paintball competitions**

- (1) This section applies to an individual if the individual—
  - (a) is a resident of a foreign country; and
  - (b) holds an interstate licence issued by a State or another Territory that authorises the individual to possess or use a firearm for the purpose of taking part in a shooting or paintball competition in the State or Territory; and
  - (c) comes to the ACT for the purpose of taking part in an approved shooting or approved paintball competition.
- (2) For the authorised period, the individual is authorised to possess, or use, for the purpose of taking part in the shooting or paintball competition, the firearm for which the interstate licence is issued.
- (3) However, the authorisation under subsection (2) is subject to compliance with any condition—
  - (a) imposed under the law of the State or Territory that issued the licence (the *interstate condition*); and
  - (b) prescribed by regulation.
- (4) If an interstate condition is inconsistent with a prescribed condition, the interstate condition has no effect to the extent of the inconsistency.

- (5) An interstate condition is taken to be inconsistent with a prescribed condition to the extent that it is capable of operating concurrently with the prescribed condition.

## 25 Division 3.3

*substitute*

### Part 3B Permits generally

#### 43 General power to issue permits

The registrar may issue a permit authorising 1 or more of the following:

- (a) the possession or use of a firearm in the circumstances prescribed by regulation (including for film or theatrical productions);
- (b) the shortening or conversion of a firearm in the circumstances prescribed by regulation;
- (c) anything else that is required by regulation to be authorised by a permit.

### Part 3C Permits to acquire firearms

#### 45 Meaning of *acquirer* and *foreign acquirer*—pt 3C

In this part:

*acquirer*—see section 45A.

*foreign acquirer*—see section 46A.

**45A Permits to acquire—applications**

- (1) A person (the *acquirer*) who is a licensee may apply to the registrar for a permit to acquire a firearm.

*Note 1* If a form is approved under s 125A for this provision, the form must be used.

*Note 2* A fee may be determined under s 125 for this provision.

- (2) The acquirer must have a separate permit for each firearm to be acquired.

**45B Permits to acquire—decision**

On an application for a permit to acquire a firearm, the registrar must issue the permit unless prevented from doing so by this Act.

*Note 1* For when the registrar must refuse to issue a permit to acquire a firearm, see s 46 and s 46A.

*Note 2* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

**46 Permits to acquire—refusal to issue generally**

- (1) The registrar must refuse to issue a permit to acquire a firearm (the *proposed firearm*) unless—
- (a) the acquirer holds a licence authorising the acquirer to possess or use a firearm of the same kind as the proposed firearm; and
  - (b) the registrar is satisfied on reasonable grounds that the acquirer has a good reason for acquiring the firearm.
- (2) The registrar must also refuse to issue a permit to acquire a pistol to the holder of a category H licence issued for the genuine reason of sport or target shooting unless—
- (a) the acquisition is in accordance with the conditions (if any) of the licence; and

- (b) the approved shooting club of which the licensee is a member gives the registrar written advice stating—
  - (i) the competition shooting discipline for which the licensee requires the pistol; and
  - (ii) that the club supports the licensee's application for a permit to acquire the pistol; and
- (c) the registrar is satisfied on reasonable grounds that the licensee will comply with part 5 (Safe storage of firearms) in relation to the pistol.

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

- (3) Subsection (2) (b) (i) does not apply in relation to the issue of a permit to acquire a pistol mentioned in section 36A (3) (Adult firearms licences—special conditions for category H licences for sport or target shooting).
- (4) This section does not apply to an acquirer to whom section 46A applies.

**46A Permits to acquire—refusal to issue to temporary international firearms licensees**

- (1) This section applies to an acquirer (the *foreign acquirer*) who is a resident of a foreign country.
- (2) The registrar must not issue a permit to acquire a firearm (the *proposed firearm*) to the foreign acquirer unless—
  - (a) the acquirer holds a temporary international firearms licence authorising the acquirer to possess or use a firearm of the same kind as the proposed firearm; and
  - (b) the registrar is satisfied on reasonable grounds that the acquirer has a good reason for acquiring the proposed firearm.

**46B When permits to acquire may be issued**

The registrar must not issue a permit to acquire a firearm earlier than 28 days after the day the application for the permit is made.

**47 Permits to acquire—period in force**

- (1) A permit to acquire a firearm begins on the day it is issued and remains in force, subject to this Act, until the earlier of—
  - (a) the end of 30 days after the day the permit is issued; or
  - (b) the day the permit-holder acquires the firearm.
- (2) The registrar may extend the period mentioned in subsection (1) (a) so the permit is in force for not longer than 60 days if—
  - (a) there is a delay in acquiring the firearm to which the permit relates; and
  - (b) the registrar is satisfied on reasonable grounds that the delay is caused by circumstances beyond the permit-holder's control.

**48 Permits to acquire—replacements**

- (1) The registrar may issue a replacement permit to acquire a firearm to the permit-holder if satisfied on reasonable grounds that the permit (the *original permit*) has been lost, stolen or destroyed.

*Note* A fee may be determined under s 125 for this provision.
- (2) If the registrar issues the replacement permit, the registrar must—
  - (a) record in the register that the original permit has been lost, stolen or destroyed; and
  - (b) not later than 48 hours after making the record, tell all licensed firearms dealers in writing that the original permit has been recorded as lost, stolen or destroyed.

**48A Offence—notice of lost, stolen and destroyed permits to acquire**

The holder of a permit to acquire a firearm commits an offence if—

- (a) the permit is lost, stolen or destroyed; and
- (b) the holder knows about the loss, theft or destruction; and
- (c) the holder fails to tell the registrar about the loss, theft or destruction within 7 days after the day the holder becomes aware of the loss, theft or destruction.

Maximum penalty: 10 penalty units.

**48B Permits to acquire—automatic suspension and cancellation**

- (1) A person's permit to acquire a firearm (the *relevant firearm*) is suspended by force of this section if the person's licence or permit (the *relevant suspended licence*) authorising the person to possess or use a firearm of the same kind as the relevant firearm is suspended.
- (2) The suspension of the permit to acquire takes effect on the day the suspension of the relevant suspended licence takes effect.
- (3) The permit to acquire is suspended until the earlier of—
  - (a) the day the permit ceases to be in force; or
  - (b) the day the suspension of the relevant suspended licence ends.
- (4) A person's permit to acquire a firearm (the *relevant firearm*) is cancelled by force of this section if the person's licence or permit (the *relevant cancelled licence*) authorising the person to possess or use a firearm of the same kind as the relevant firearm is cancelled.



- (5) The cancellation of the permit to acquire takes effect on the day the cancellation of the relevant cancelled licence takes effect.

*Note* A regulation may prescribe other reasons for suspending or cancelling a permit (see s 49A).

#### **48C Permits to acquire—cancellation by registrar**

- (1) The registrar must cancel a permit to acquire a firearm—
- (a) if, had the permit-holder been applying for the permit held, the registrar would be required to refuse to issue the permit; or

*Note* For when the registrar must refuse to issue a permit to acquire a firearm, see s 46 and s 46A.

- (b) if satisfied on reasonable grounds that the permit-holder—
- (i) gave information that was (to the holder's knowledge) false or misleading in a material particular in relation to the application for the permit; or
- (ii) has contravened this Act, whether or not the permit-holder has been convicted of an offence for the contravention; or

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

- (iii) has contravened a condition of the permit; or
- (c) for any other reason prescribed by regulation.

*Note* If the registrar cancels a permit under this section, the registrar must give written notice of the decision to the permit-holder (see s 114).

- (2) The cancellation of a permit to acquire a firearm under this section takes effect on—
- (a) the day notice of the cancellation is given to the permit-holder; or

- (b) if the notice of the cancellation states a later date of effect—the stated date.

*Note* For how documents may be served, see the Legislation Act, pt 19.5.

**49 Offence—failing to give up suspended or cancelled permit to acquire**

- (1) A person commits an offence if—
  - (a) the person’s permit to acquire a firearm (the *relevant firearm*) is suspended or cancelled; and
  - (b) the person intentionally or negligently fails to give the permit to a police officer—
    - (i) if the police officer is present and asks the person for the permit, and the person has the permit—immediately; or
    - (ii) if the permit is suspended by force of section 48B (Permits to acquire—automatic suspension and cancellation)—as soon as possible after the day the suspension of the person’s relevant licence takes effect; or
    - (iii) if the permit is cancelled by force of section 48B—as soon as possible after the day the cancellation of the person’s relevant licence takes effect; or
    - (iv) if the permit is cancelled under section 48C (Permits to acquire—cancellation by registrar)—
      - (A) as soon as possible after the day the person is given notice of the cancellation; or
      - (B) if a longer time is stated in the notice—within the time stated in the notice.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

(2) In this section:

*relevant licence*, of a person, means the licence or permit that authorises the person to possess or use a firearm of the same kind as the relevant firearm.

#### **49A Regulations about permits to acquire**

A regulation may make provision in relation to any of the following:

- (a) the way in which an application for a permit to acquire a firearm may or must be made;
- (b) the particulars an application for a permit to acquire a firearm must include;
- (c) the conditions that may be imposed on a permit to acquire a firearm, or to which the permit is subject;
- (d) the reasons for which a permit to acquire a firearm may be suspended or cancelled.

### **26 Part 4**

*substitute*

## **Part 4 Registration of firearms and firearm users**

### **Division 4.1 Interpretation**

#### **49B Meaning of *owner and user particulars*—pt 4**

In this part:

*owner and user particulars*, in relation to a registered firearm, means—

- (a) the name of the registered owner of the firearm; and

- (b) if the registered owner of the firearm is a composite entity—the name of the registered principal; and
- (c) the name of each registered user of the firearm; and
- (d) particulars of the licence or permit of each registered owner or registered user.

## **Division 4.2 Register of firearms**

### **50 Register of firearms**

- (1) The registrar must keep a register of firearms stored in the ACT by licensees and permit-holders.
- (2) The register must be kept in a way that allows—
  - (a) the register to be linked to a national scheme for firearms management or registration prescribed by regulation; and
  - (b) information in the register to be accessed by other State and Territory government entities responsible for administering or enforcing legislation relating to firearms.
- (3) A firearm for which a temporary international firearms licence is issued need not be registered.

### **50A Contents of register**

The register consists of—

- (a) for each registered firearm—
  - (i) the owner and user particulars; and
  - (ii) the address of the premises in the ACT where the firearm—
    - (A) is or is to be stored; or
    - (B) if the registered owner is a licensed firearms dealer—may be available for sale; and

- (iii) any other particulars prescribed by regulation; and
- (b) for each registered user of a registered firearm—
  - (i) if the registered user is employed by a licensed firearms dealer—the dealer’s name; and
  - (ii) if the registered user is employed by a composite entity that holds a category A, category B, category C or category H licence—the composite entity’s name; and
  - (iii) if the registered user is a member of an approved club—the approved club’s name; and
  - (iv) any other particulars prescribed by regulation; and
- (c) any other information required under this Act to be included in the register.

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

### **50B Register not available to public**

The register must not be available for inspection by a member of the public.

### **50C Two-yearly reviews**

- (1) The registrar must, at least once every 2 years, undertake a review of the register to assess the accuracy of information in the register.
- (2) In undertaking the review, the registrar need not check every entry in the register, but may sample the entries either randomly or systematically to assess the accuracy of information.
- (3) The registrar must—
  - (a) prepare a written report stating—
    - (i) when the review was carried out; and

- (ii) the results of the review; and
- (b) not later than 3 months after the day the review is finished, give the report to the chief executive.

### **Division 4.3 Registration of firearms**

#### **51 Firearm registration—application**

- (1) The owner of a firearm may apply to the registrar to register the firearm.

*Note 1* If a form is approved under s 125A for this provision, the form must be used.

*Note 2* A fee may be determined under s 125 for this provision.

- (2) The application must state the address of the premises in the ACT where the firearm—
  - (a) is or is to be stored; or
  - (b) if the registered owner is a licensed firearms dealer—may be available for sale.

#### **51A Firearm registration—request for further information etc**

- (1) This section applies to an application for registration of a firearm.
- (2) The registrar may give the applicant a written notice requiring the applicant to—
  - (a) give the registrar stated further information or documents that the registrar reasonably needs to decide the application; and
  - (b) produce the firearm to the registrar to allow the registrar to—
    - (i) identify the firearm by inspecting it; and
    - (ii) decide if the firearm is safe.

- (3) If the applicant does not comply with subsection (2) (a), the registrar may refuse to consider the application further.

*Note* If the applicant does not produce the firearm, the registrar must refuse to register the firearm (see s 51C (2)).

### **51B Firearm registration—decision**

On an application for registration of a firearm, the registrar must register the firearm unless prevented from doing so by this Act.

*Note 1* For when the registrar must refuse to register a firearm, see s 51C.

*Note 2* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

### **51C Firearm registration—refusal**

- (1) The registrar must refuse to register a firearm unless the person to be the registered owner is the holder of a licence or permit in relation to the firearm.
- (2) Also, if the registrar requires an applicant for registration of a firearm to produce the firearm under section 51A (2) (b), the registrar must refuse to register the firearm if it is not produced as required.

### **51D Firearm registration notice**

- (1) This section applies if the registrar—
- (a) registers a firearm under section 51B; or
  - (b) registers a person as a user of a firearm under section 52BB; or
  - (c) records in the register, as prescribed by regulation, a change in the owner and user particulars for a firearm.
- (2) The registrar must issue a firearm registration notice to the registered owner of the firearm.

- (3) The registrar may also, but need not, issue a firearm registration notice to each registered user of the firearm.
- (4) However, if a registered user of a firearm applies to the registrar for a firearm registration notice for the firearm, the registrar must issue the notice to the user.

*Note 1* If a form is approved under s 125A for this provision, the form must be used.

*Note 2* A fee may be determined under s 125 for this provision.

### **51E End of firearm registration**

The registration of a firearm remains in force unless cancelled under section 52.

### **52 Cancellation of firearm registration**

- (1) The registrar must cancel the registration of a firearm—
  - (a) if the owner of the firearm no longer holds a licence or permit in relation to the firearm; or
  - (b) if satisfied on reasonable grounds that the applicant for registration gave information that was (to the applicant's knowledge) false or misleading in a material particular in relation to the application; or
  - (c) if the owner of the firearm is convicted of—
    - (i) an offence against this Act; or
    - (ii) an offence against the Criminal Code, part 3.4 (False or misleading statements, information and documents) in relation to an application under this Act; or
    - (iii) an offence against the Criminal Code, section 346 (Forgery) in relation to a licence or permit under this Act; or



- (iv) an offence against the Criminal Code, section 361 (Obstructing Territory public official) in relation to a police officer exercising a function under this Act; or
- (v) an offence prescribed by regulation; or
- (d) if the owner of the firearm asks for the cancellation; or
- (e) for any other reason prescribed by regulation.

*Note 1* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

*Note 2* If the registrar cancels the registration of a firearm under this section, the registrar must give written notice of the decision to the owner of the firearm (see s 114).

- (2) The cancellation takes effect on—
  - (a) the day notice of the cancellation is given to the owner of the firearm; or
  - (b) if the notice of the cancellation states a later date of effect—the stated date.

*Note* For how documents may be served, see the Legislation Act, pt 19.5.

## **52A Police may seize firearms if firearm registration cancelled**

A police officer may seize a firearm if the firearm's registration is cancelled.

## **Division 4.4 Registration of firearms users**

### **52B User registration—application**

- (1) This section applies to the holder of 1 or more of the following licences:
  - (a) a category A licence;
  - (b) a category B licence;

- (c) a category C licence;
  - (d) a category H licence;
  - (e) a firearms dealer licence;
  - (f) a paintball marker licence.
- (2) The holder may apply to the registrar for registration as a user of a registered firearm—
- (a) of which someone else is the registered owner; and
  - (b) of the kind the holder is authorised to use by the holder's licence.
- (3) The application must—
- (a) be accompanied by a certified copy of the applicant's licence; and
  - (b) contain the registered owner's written consent to the registration of the applicant as a user of the firearm.

**Example**

Anthony holds a category A licence. Jess is the registered owner of a category A firearm and agrees to let Anthony use her firearm. Anthony may apply to the registrar to be a registered user of Jess's firearm.

*Note 1* If a form is approved under s 125A for this provision, the form must be used.

*Note 2* A fee may be determined under s 125 for this provision.

*Note 3* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

**52BA User registration—request for further information etc**

- (1) This section applies to an application for registration as a user of a firearm.

- (2) The registrar may give the applicant a written notice requiring the applicant to give the registrar stated further information or documents that the registrar reasonably needs to decide the application.
- (3) The registrar may give the registered owner of the firearm a written notice requiring the registered owner to produce the firearm to the registrar to allow the registrar to—
  - (a) identify the firearm by inspecting it; and
  - (b) decide if the firearm is safe.
- (4) If the applicant does not comply with subsection (2), the registrar may refuse to consider the application further.

*Note* If the registered owner does not produce the firearm, the registrar must refuse to register the user (see s 52C (2)).

### **52BB User registration—decision**

On an application for registration as a user of a firearm, the registrar must register the user unless prevented from doing so by this Act.

*Note 1* For when the registrar must refuse to register a person as a user of a firearm, see s 52C.

*Note 2* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

### **52C User registration—refusal**

- (1) On an application for registration as a user of a firearm, the registrar must refuse to register the applicant as a user unless satisfied on reasonable grounds that—
  - (a) the firearm to which the application relates is of a kind suitable for use for the genuine reason established by the applicant for the issue of the applicant's licence; and

- (b) if the applicant is a licensed firearms dealer or composite entity, or an employee or person acting on behalf of a licensed firearms dealer or composite entity—the applicant requires the firearm for the purposes of the dealership or entity.
- (2) Also, if the registrar requires the registered owner of a firearm to produce the firearm under section 52BA (3), the registrar must refuse to register the user if the firearm is not produced as required.

### **52D Effect of registration as user**

- (1) Registration as a user of a firearm authorises the registered user to possess and use the firearm as if the firearm were held under the registered user's licence or permit.
- (2) However, a registered user of a firearm may possess or use the firearm only with the registered owner's permission.
- (3) Also, a registered user is authorised to possess and use a firearm for which a licensed firearms dealer is the registered owner if—
  - (a) the dealer is listed in the register in relation to the user; and
  - (b) the user is employed by the dealer; and
  - (c) the user possesses and uses the firearm in the course of the employment.
- (4) Also, a registered user is authorised to possess and use a category A, category B, category C or category H firearm for which a composite entity is the registered owner if—
  - (a) the composite entity is listed in the register in relation to the user; and
  - (b) the user is employed by the composite entity; and
  - (c) the user possesses and uses the firearm in the course of the employment.

- (5) Also, a registered user is authorised to possess and use a category A, category B or category H firearm for which an approved club is the registered owner if—
- (a) the approved club is listed in the register in relation to the user; and
  - (b) the user is a member of the club; and
  - (c) the user possesses and uses the firearm while on an approved shooting range owned or used by the club, or another approved club, to take part in a competition in, or activities relating to, the use of the firearm.

**52E User registration—period in force**

The registration of a user of a firearm remains in force unless cancelled under this division.

**52F Automatic cancellation of user registration**

- (1) This section applies if the registrar cancels the registration of a firearm under section 52.
- (2) The registration of each registered user of the firearm is cancelled by force of this section on the day the firearm's registration is cancelled.
- (3) The registrar must give each person (other than an excepted person) whose registration as a user of the firearm is cancelled by force of this section a written notice stating—
  - (a) that the person's registration as a user of the firearm is cancelled because the firearm's registration is cancelled; and
  - (b) the date the firearm's registration is cancelled.
- (4) For a firearm for which a composite entity is the registered owner, the registered principal for the firearm must give each excepted person a written notice stating—

(a) that the person's registration as a user of the firearm is cancelled because the firearm's registration is cancelled; and

(b) the date the firearm's registration is cancelled.

(5) In this section:

*excepted person*, in relation to a firearm for which a composite entity is the registered owner, means a person whose registration as a user of the firearm is cancelled by force of this section.

**52G Automatic cancellation of user registration—certain registered users**

(1) This section applies to a person who is a registered user of a firearm if any of the following is the registered owner of the firearm:

(a) a licensed firearms dealer;

(b) a composite entity;

(c) an approved club.

(2) The person's registration as a registered user is cancelled by force of this section if the person stops being—

(a) if the registered owner is a licensed firearms dealer—an employee of the dealer; or

(b) if the registered owner is a composite entity—a principal or employee of the composite entity; or

(c) if the registered owner is an approved club, and the person is not a principal or employee of the club—an active member of the club.

(3) The cancellation takes effect on the day the person stops being the employee, principal or active member.

## Division 4.5                      Offences—registration

### 52H                      Offence—failing to notify event causing cancellation of user registration

- (1) A person commits an offence if—
- (a) the person's registration as a user is cancelled under section 52G; and
  - (b) the person does not, within 7 days after the day the registration is cancelled, tell the registrar in writing about the reason for the cancellation.

Maximum penalty: 10 penalty units.

- (2) The holder of a composite entity licence commits an offence if—
- (a) a person who is an employee of the entity is a registered user of a firearm of which the entity is the registered owner; and
  - (b) the person stops being employed by the entity; and
  - (c) the entity does not, within 7 days after the day the person stops being employed by the entity, tell the registrar in writing about the end of the employment.

Maximum penalty: 10 penalty units.

- (3) A licensed firearms dealer commits an offence if—
- (a) a person who is an employee of the dealer is a registered user of a firearm of which the dealer is the registered owner; and
  - (b) the person stops being employed by the dealer; and
  - (c) the dealer does not, within 7 days after the day the person stops being employed by the dealer, tell the registrar in writing about the end of the employment.

Maximum penalty: 10 penalty units.

**53 Offence—unregistered firearms**

(1) A person must not dispose of or acquire—

- (a) a prohibited firearm that is not registered; or
- (b) any other firearm that is not registered.

Maximum penalty:

- (a) for subsection (1) (a)—1000 penalty units, imprisonment for 10 years or both; or
- (b) for subsection (1) (b)—500 penalty units, imprisonment for 5 years or both.

(2) A person must not possess or use—

- (a) a prohibited firearm that is not registered; or
- (b) any other firearm that is not registered.

Maximum penalty:

- (a) for subsection (2) (a)—1 000 penalty units, imprisonment for 10 years or both; or
- (b) for subsection (2) (b)—500 penalty units, imprisonment for 5 years or both.

(3) Subsection (1), to the extent that it creates an offence of disposing of a firearm that is not registered, and subsection (2), to the extent that it creates an offence of possessing a firearm that is not registered, do not apply in relation to the surrender of a firearm to a police officer.

(4) Also, subsection (1), to the extent that it creates an offence of acquiring a firearm that is not registered, and subsection (2), to the extent that it creates an offence of possessing a firearm that is not registered, do not apply if—

- (a) the person is a licensed firearms dealer; and
- (b) the firearm is registered within the period prescribed by regulation.



- (5) Also, subsections (1) and (2) do not apply to a person if the person—
- (a) did not know, and could not reasonably be expected to have known, that the firearm was not registered; and
  - (b) is not the owner of the firearm.

**54 Offence—requirements relating to registered firearms**

- (1) The registered owner of a firearm must produce the firearm for inspection by a police officer at any reasonable time if asked to do so by the officer.

Maximum penalty: 50 penalty units.

- (2) A person (other than a licensed firearms dealer) who is the registered owner of a firearm commits an offence if the person—
- (a) sells the firearm; and
  - (b) fails to give the registrar the particulars prescribed by regulation in relation to the sale within 7 days after the day the firearm is sold.

Maximum penalty: 50 penalty units.

- (3) A person (other than a licensed firearms dealer) commits an offence if the person—

- (a) acquires a firearm; and
- (b) fails to give the registrar the particulars prescribed by regulation in relation to the acquisition within 7 days after the day the firearm is acquired.

Maximum penalty: 50 penalty units.

*Note* See also s 110 (Offence—lost, stolen or destroyed firearms).

**55 Offence—possessing firearm under another licence**

A licensee must not possess a firearm of which someone else is the registered owner unless—

- (a) the person is the registered principal for, or a registered user of, the firearm; or
- (b) the licensee is otherwise authorised under this Act to possess the firearm.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

**27 Part 5 heading**

*substitute*

**Part 5 Safe storage of firearms**

**28 Section 62**

*substitute*

**62 Offence—failing to comply with storage requirements**

- (1) A person commits an offence if the person—
  - (a) possesses—
    - (i) a prohibited firearm; or
    - (ii) any other firearm; and
  - (b) fails to take all reasonable steps to ensure each of the following:
    - (i) the firearm is stored safely;
    - (ii) the firearm is not lost or stolen;

- (iii) the firearm does not come into the possession of someone who is not authorised to possess the firearm.

Maximum penalty:

- (a) for subsection (1) (a) (i)—imprisonment for 2 years;  
(b) for subsection (1) (a) (ii)—imprisonment for 1 year.
- (2) For a firearm stored in a vehicle, the person who possesses the firearm takes all reasonable steps to ensure it is stored safely if the firearm is stored in the vehicle in accordance with any guidelines under section 12A (Minister’s guidelines).
- (3) Also, a regulation may prescribe what are reasonable steps.

**29** **Category A and B licence requirements**  
**Section 63**

*omit everything before subsection (1) (a), substitute*

**63** **Offence—storage requirements for category A, category B and paintball marker licences**

- (1) The holder of a category A, category B or paintball marker licence must comply with the following requirements in relation to each registered firearm held under the licence:

**30** **Section 63 (1) penalty**

*substitute*

Maximum penalty: imprisonment for 1 year.

**31 Category C, D and H licence requirements  
Section 64**

*omit everything before subsection (1) (a), substitute*

**64 Offence—storage requirements for category C, D and H licences**

- (1) The holder of a category C, category D or category H licence must comply with the following requirements in relation to each registered firearm held under the licence:

**32 Section 64 (1) penalty**

*substitute*

Maximum penalty: imprisonment for 2 years.

**33 Part 6 heading**

*substitute*

**Part 6 Firearms dealers**

**Division 6.1 Interpretation**

**65A Meaning of *prohibited person*—pt 6**

In this part:

*prohibited person*—see section 66B.

**Division 6.2 Licences and licensed firearms dealers**

**34 Sections 66 to 69**

*substitute*

**66 Offence—firearms dealers to be licensed**

A person commits an offence if—

- (a) in carrying on a business, the person—
  - (i) manufactures, acquires, disposes of, repairs, maintains or tests firearms or firearm parts; or
  - (ii) possesses firearms for the purpose of disposing of, or repairing, maintaining or testing, them; or
  - (iii) possesses firearm parts for the purpose of manufacturing firearms; or
  - (iv) stores firearms for someone else; and
- (b) the person is not authorised to do the thing by a firearms dealer licence.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

**66A Information about close associates of certain firearms dealers**

- (1) In an application for a firearms dealer licence, the applicant must give the name and address of each close associate of the applicant and particulars of the kind of association with the applicant.
- (2) If a close associate of a licensed firearms dealer changes after the dealer gives the registrar the most recent application for a licence, or declaration under this section, the dealer must give the registrar not later than 7 days after the day the change happened a written declaration—
  - (a) telling the registrar about the change; and

- (b) stating the name and address of each close associate of the dealer and particulars of the nature of the association with the dealer.
- (3) The registrar may, by written notice given to a licensed firearms dealer, require the dealer to give the registrar within the reasonable time stated in the notice—
- (a) a written declaration that—
    - (i) the dealer (and no one else) is the person primarily responsible for the management of the business authorised by the licence; or
    - (ii) someone else (whether instead of or in addition to the dealer) is primarily responsible for the management of the business; and
  - (b) a written declaration—
    - (i) that the close associates of the dealer (if any) have not changed since the most recent application for a licence, or declaration under this section, was given to the registrar; or
    - (ii) stating the name and address of each close associate of the dealer and particulars of the nature of the association with the dealer.

*Note* The Criminal Code, pt 3.4 includes offences for giving false or misleading statements and giving false or misleading information.

### **66B Meaning of *prohibited person* for licensed firearms dealers**

For this part, an individual is a *prohibited person* for a licensed firearms dealer if the individual—

- (a) does not hold an adult firearms licence; and

(b) is not suitable.

*Note 1* For when an individual is or is not suitable, see s 4BG.

*Note 2* If an individual's licence is suspended, the licensee is not authorised to possess or use any firearm (not only firearms held under the licence) during the suspension (see s 40 and s 40A).

**66C Registrar's statement whether person prohibited—  
application**

(1) A licensed firearms dealer must apply to the registrar for a statement about an individual who has agreed to the making of the application if—

(a) the dealer—

(i) proposes to employ the individual in the business authorised by the licence; or

(ii) proposes to allow the individual to act as an agent for, or take part in the management of, the business; and

(b) the individual does not hold an adult firearms licence.

*Note 1* If a form is approved under s 125A for this provision, the form must be used.

*Note 2* A fee may be determined under s 125 for this provision.

(2) A licensed firearms dealer may apply to the registrar for a statement about an individual who has agreed to the making of the application if—

(a) the dealer—

(i) employs the individual in the business authorised by the licence; or

(ii) allows the individual to act as an agent for, or take part in the management of, the business; and

(b) the individual does not hold an adult firearms licence.

- (3) The application must—
- (a) provide evidence of the individual's identity in accordance with the requirements under the *Financial Transaction Reports Act 1988* (Cwlth) that apply in relation to the opening of a bank account; and
  - (b) contain the information mentioned in section 19 (2) (b) (Adult firearms licences—applications) as if the individual were the applicant; and
  - (c) be accompanied by the documents mentioned in section 19 (2) (c) as if the individual were the applicant.
- (4) Also, the registrar may give the individual a written notice requiring the individual to give the registrar stated further information or documents mentioned in section 20 (Adult firearms licences—requirement for further information etc) as if the individual were the applicant.

**66D Registrar's statement whether person prohibited**

On an application under section 66C, the registrar must give the licensed firearms dealer a statement in relation to the individual stating whether the individual is a prohibited person.

**66E Offence—prohibited person not to be involved in firearms dealing business**

- (1) A licensed firearms dealer commits an offence if the dealer—
- (a) employs a prohibited person in the business authorised by the licence; or
  - (b) allows a prohibited person to act as an agent for, or take part in the management of, the business.

Maximum penalty: imprisonment for 10 years.



- (2) A person commits an offence if—
- (a) the person is a prohibited person; and
  - (b) either—
    - (i) a licensed firearms dealer employs the person in the business authorised by the licence; or
    - (ii) a licensed firearms dealer allows the person to act as an agent for, or take part in the management of, the business.

Maximum penalty: imprisonment for 10 years.

- (3) It is a defence to a prosecution for an offence against subsection (1) if the licensed firearms dealer proves that the dealer did not know, and could not reasonably be expected to have known, that the individual employed or allowed to act as an agent for, or to take part in the management of, the business was a prohibited person.

**67 Offence—restrictions on acquisition and disposal of firearms by firearms dealers**

- (1) A licensed firearms dealer commits an offence if—
- (a) the dealer acquires a firearm from someone (the *disposer*) who is not a licensed firearms dealer; and
  - (b) the disposer—
    - (i) is not authorised by a licence or permit to possess the firearm; or
    - (ii) is authorised by a licence or permit to possess the firearm, but the dealer has not inspected the licence or permit.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) A licensed firearms dealer commits an offence if—
- (a) the dealer disposes of a firearm to someone (the *acquirer*); and
  - (b) any of the following apply:
    - (i) the acquirer is not authorised by a licence or permit to possess the firearm;
    - (ii) the acquirer is authorised by a licence or permit to possess the firearm, but the dealer has not inspected the licence or permit;
    - (iii) the dealer has not inspected the acquirer's permit to acquire the firearm (or the equivalent of a permit to acquire a firearm that is issued under the law of a State or another Territory for the firearm).

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (3) Subsection (2) does not apply in relation to the surrender of a firearm to a police officer.

### **Division 6.3                      Licensed firearms dealers—records and returns**

#### **67A                      Definitions—div 6.3**

In this division:

*acquire*, a firearm, includes—

- (a) take possession of the firearm to repair, maintain or test it; and
- (b) store the firearm.

*dispose*, of a firearm, includes, for a firearm that is repaired, maintained, tested or stored for a person, return the firearm to the person.

**68 Offence—records generally**

A licensed firearms dealer commits an offence if the dealer intentionally or negligently fails to ensure that—

- (a) each acquisition or disposal of a firearm, or firearm part, to which the dealer's licence applies is recorded in accordance with this division; and
- (b) each record relating to a firearm or firearm part is given to the registrar as prescribed by regulation.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

**68AA Acquisition and disposal—records**

- (1) This section applies if a licensed firearms dealer—
  - (a) acquires a firearm or firearm part from someone else; or
  - (b) disposes of a firearm or firearm part to someone else.
- (2) The record of the acquisition or disposal of the firearm or firearm part must contain the following particulars:
  - (a) the name and address of the other person;
  - (b) for a firearm other than a firearm that is temporarily stored—the number of the other person's licence or permit authorising the other person to possess the firearm or firearm part;
  - (c) for a disposal of a firearm (other than the surrender of a firearm to a police officer or a firearm temporarily stored)—the number of the other person's permit to acquire the firearm;
  - (d) for each firearm or firearm part that is or has been in the firearms dealer's possession—
    - (i) the date it was first acquired by the dealer and, if no longer in the dealer's possession, the date of its disposal by the dealer; and

- (ii) the name and address of the person who first gave possession of it to the dealer; and
  - (iii) if it is disposed of by the dealer (other than by return to the person for whom it was stored)—its make, serial number, calibre, type, action and magazine capacity (if any);
- (e) any other particulars prescribed by regulation.
- (3) The record of the acquisition or disposal must be made within 48 hours after the acquisition or disposal, unless a regulation prescribes otherwise.
- (4) The record of the acquisition or disposal must be made and kept in the way approved by the registrar.
- (5) An approval is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.

### **68A Correction of recorded entries**

A correction to an entry in a record required to be kept under this division must—

- (a) preserve the record; and
- (b) show that a correction has been made and the date it was made; and
- (c) be made in accordance with any guidelines under section 12A (Minister's guidelines).

### **68B Offence—inspection of records**

- (1) A licensed firearms dealer commits an offence if the dealer—
  - (a) is required to keep a record, or ensure a record is kept, under this division; and

- (b) fails to do 1 or more of the following when asked by a police officer:
- (i) show the record to the officer and allow the officer to inspect and make copies of any entry in it;
  - (ii) show the officer the firearms and firearm parts in the dealer's possession;
  - (iii) give the officer any information in the dealer's possession about a firearm or firearm part that, under the authority of the dealer's licence—
    - (A) is in the dealer's possession; or
    - (B) has been manufactured or repaired; or
    - (C) has been acquired; or
    - (D) has been disposed of.

Maximum penalty: 50 penalty units.

- (2) An offence against this section is a strict liability offence.

**68C Offence—records of former firearms dealers**

- (1) A person commits an offence if the person—
- (a) stops being a licensed firearms dealer; and
  - (b) not later than 14 days after the day (the *end day*) the person stops being licensed, the person fails to give the registrar all of the person's records as a dealer during the 2 years immediately before the end day.

Maximum penalty: 20 penalty units.

- (2) An offence against this section is a strict liability offence.

**69 Offence—monthly returns**

- (1) Not later than 7 days after the end of each month, a licensed firearms dealer must give the registrar a return for the month that contains the particulars mentioned in section 68AA (2) (Acquisition and disposal—records).
- (2) A licensed firearms dealer commits an offence if the dealer does not take all reasonable steps to give a return in accordance with this section.

Maximum penalty: 10 penalty units.

**35 Section 70 heading**

*substitute*

**70 Additional requirements for firearms dealers****36 Section 70 (4) to (6)**

*substitute*

- (4) A licensed firearms dealer must ensure that each record required to be kept by the dealer under this Act is kept in a safe place on the registered premises for the firearm, other than a place in which firearms are kept under this Act.

Maximum penalty: 50 penalty units.

- (5) A licensed firearms dealer commits an offence if the dealer—
  - (a) takes possession of a firearm from someone else to—
    - (i) repair, maintain or test it; or
    - (ii) store it for the person; and
  - (b) has not inspected—
    - (i) the person's licence or permit in relation to the firearm; and

(ii) the firearm registration notice for the firearm.

Maximum penalty: 50 penalty units.

- (6) Subsection (5) does not apply in relation to—
- (a) a firearm that is temporarily stored; or
  - (b) storage of a firearm mentioned in section 36AA (b) (i) (Adult firearms licences—special conditions of category D licences).
- (6A) A licensed firearms dealer must not store, maintain or repair a firearm that is not registered.

Maximum penalty: 50 penalty units.

- (6B) Subsection (6A) does not apply in relation to a firearm that is temporarily stored.

*Note* See s 93 (Offence—disposal of firearms by unauthorised holders generally) and s 93A (Offence—disposal of inherited firearms).

## **37 Security of displayed firearms**

### **Section 71 (2)**

*omit everything before paragraph (a), substitute*

- (2) A licensed firearms dealer commits an offence if the dealer fails to ensure that each firearm displayed in any part of the registered premises—

**38 Part 7**

*substitute*

**Part 7 Enforcement**

**Division 7.1 Interpretation**

**73 Meaning of *offence*—pt 7**

In this part:

*offence* includes an offence that there are reasonable grounds for believing has been, is being, or will be, committed.

**Division 7.2 Powers of police officers**

**74 Power to enter premises**

- (1) For this Act, a police officer may—
  - (a) at any reasonable time, enter premises that the public is entitled to use or that are open to the public (whether or not on payment); or
  - (b) at any time when the premises of a licensed firearms dealer are open for business, enter the premises; or
  - (c) at any time, enter premises with the occupier's consent; or
  - (d) enter premises in accordance with a licence or permit condition; or
  - (e) enter premises in accordance with a search warrant; or
  - (f) at any time, enter premises if the police officer believes on reasonable grounds that—
    - (i) an offence or a breach of the peace is being or is likely to be committed, or a person has suffered physical injury or



there is imminent danger of injury to a person or damage to property; and

- (ii) it is necessary to enter the premises immediately for the purpose of preventing the commission or repetition of an offence or a breach of the peace or to protect life or property.
- (2) However, subsection (1) (a) and (b) do not authorise entry into a part of premises that is being used only for residential purposes.
- (3) A police officer may, without the consent of the occupier of premises, enter land that is around, or part of, the premises to ask for consent to enter the premises.
- (4) To remove any doubt, a police officer may enter premises under subsection (1) without payment of an entry fee or other charge.
- (5) In this section:

*at any reasonable time* includes at any time when the public is entitled to use the premises, or when the premises are open to or used by the public (whether or not on payment).

#### **74A Production of evidence of identity**

A police officer must not remain at premises entered under this part if the officer does not produce evidence that the officer is a police officer when asked by the occupier.

#### **75 Consent to entry**

- (1) When seeking the consent of an occupier of premises to enter the premises under section 74 (1) (c), a police officer must—
  - (a) produce evidence that he or she is a police officer; and
  - (b) tell the occupier—
    - (i) the purpose of the entry; and

- (ii) that anything found and seized under this part may be used in evidence in court; and
  - (iii) that consent may be refused.
- (2) If the occupier consents, the police officer must ask the occupier to sign a written acknowledgment (an *acknowledgment of consent*)—
  - (a) that the occupier was told—
    - (i) the purpose of the entry; and
    - (ii) that anything found and seized under this part may be used in evidence in court; and
    - (iii) that consent may be refused; and
  - (b) that the occupier consented to the entry; and
  - (c) stating the time and date consent was given.
- (3) If the occupier signs an acknowledgment of consent, the police officer must immediately give a copy to the occupier.
- (4) A court must find that an occupier did not consent to entry to the premises by a police officer under this part if—
  - (a) the question arises in a proceeding in the court whether the occupier consented to the entry; and
  - (b) an acknowledgment of consent is not produced in evidence; and
  - (c) it is not proved that the occupier consented to the entry.

### **75A General powers on entry to premises**

A police officer who enters premises under this part may, for this Act, do 1 or more of the following in relation to the premises or anything at the premises:

- (a) inspect or examine, including inspect, make copies of, or take extracts from, any record required to be kept under part 6

(Firearms dealers), or any other document that the officer believes on reasonable grounds is connected with—

- (i) the acquisition, disposal, possession, repair, maintenance, testing, modification or manufacture of a firearm or firearm part; or
  - (ii) the storage of a firearm;
- (b) test, or remove for testing, any firearm or firearm part that the officer believes on reasonable grounds is not safe or has been modified otherwise than in accordance with this Act or another law in force in the ACT;
  - (c) if the officer believes on reasonable grounds that a firearm at the premises is not safe—direct, in writing, the occupier of the premises, and, if the occupier is not the owner of the firearm, the registered owner, not to use or dispose of the firearm, unless it has been made safe for use and has been inspected, tested and approved by the registrar;
  - (d) take photographs, films, or audio, video or other recordings;
  - (e) require the occupier, or anyone at the premises, to produce any document kept at the premises that the officer believes on reasonable grounds is connected with an offence;
  - (f) require the occupier, or an employee or agent of the occupier, to give the police officer reasonable help to exercise a power under this part.

**Examples—help**

- 1 give information
- 2 answer questions

*Note 1* The Legislation Act, s 170 and s 171 deal with the application of the privilege against selfincrimination and client legal privilege.

*Note 2* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

**75B Powers on entry—condition**

- (1) This section applies if a police officer enters registered premises for a firearm under a condition of a licence or permit.
- (2) The police officer may—
  - (a) inspect any facility for storing firearms at the premises; and
  - (b) test, or remove for testing, any firearm that the officer believes on reasonable grounds is not safe or has been modified otherwise than in accordance with this Act or another law in force in the ACT; and
  - (c) if the officer believes on reasonable grounds that a firearm at the premises is not safe—direct, in writing, the licensee or permit-holder not to use or dispose of the firearm, unless it has been made safe for use and has been inspected, tested and approved by the registrar; and
  - (d) seize a thing if satisfied on reasonable grounds that the thing is connected with an indictable offence.

**75C Offences—noncompliance with directions and requirements**

- (1) A person must take all reasonable steps to comply with a direction given to the person under section 75A (c).

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) A person must take all reasonable steps to comply with a requirement made of the person under section 75A (e) or section 75A (f).

Maximum penalty: 50 penalty units.

**75D Power to seize things**

- (1) A police officer who enters premises under this part with the occupier's consent may seize anything at the premises if—
  - (a) satisfied on reasonable grounds that the thing is connected with an offence against this Act; and
  - (b) seizure of the thing is consistent with the purpose of the entry told to the occupier when seeking the occupier's consent.
- (2) A police officer who enters premises under a warrant under this part may seize anything at the premises that the officer is authorised to seize under the warrant.
- (3) A police officer who enters premises under this part (whether with the occupier's consent, under a warrant or otherwise) may seize anything at the premises if satisfied on reasonable grounds that—
  - (a) the thing is connected with an offence against this Act; and
  - (b) the seizure is necessary to prevent the thing from being—
    - (i) concealed, lost or destroyed; or
    - (ii) used to commit, continue or repeat the offence.
- (4) Also, a police officer who enters premises under this part (whether with the occupier's consent, under a warrant or otherwise) may seize anything at the premises if satisfied on reasonable grounds that the thing is connected with an indictable offence.
- (5) The powers of a police officer under subsections (3) and (4) are additional to any powers of the officer under subsection (1) or (2) or any other territory law.
- (6) A police officer who seizes a thing under this section may—
  - (a) remove the thing from the premises where it was seized (the *place of seizure*) to another place; or
  - (b) leave the thing at the place of seizure but restrict access to it.

- (7) A person commits an offence if—
- (a) the person interferes with a seized thing, or anything containing a seized thing, to which access has been restricted under subsection (6); and
  - (b) the person knows access to the seized thing has been restricted; and
  - (c) the person does not have a police officer's approval to interfere with the thing.

Maximum penalty: 50 penalty units.

- (8) Strict liability applies to subsection (7) (a).

#### **75DA Receipt for things seized**

- (1) As soon as practicable after a police officer seizes a thing under this part, the officer must give a receipt for it to the person from whom it was seized.
- (2) If, for any reason, it is not practicable to comply with subsection (1), the police officer must leave the receipt, secured conspicuously, at the premises where it was seized (the *place of seizure*).
- (3) The receipt must include the following:
  - (a) a description of the thing seized;
  - (b) an explanation of why the thing was seized;
  - (c) the police officer's name, and information about how to contact the officer;
  - (d) if the thing is removed from the place of seizure—the address of the place to which the thing is removed;
  - (e) if a police officer has restricted access to the thing under section 75D (6) (b)—that it is an offence under section 75D (7) to interfere with the thing without a police officer's approval.

## Division 7.3 Search warrants

### 76 Warrants generally

- (1) A police officer may apply to a magistrate for a warrant to enter premises.
- (2) The application must be sworn and state the grounds on which the warrant is sought.

*Note* Swear an oath includes make an affirmation (see Legislation Act, dict, pt 1, def *swear*).

- (3) The magistrate may refuse to consider the application until the police officer gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.
- (4) The magistrate may issue a warrant only if satisfied there are reasonable grounds for suspecting—
  - (a) there is a particular thing (including a firearm) or activity connected with an offence against this Act; and
  - (b) the thing or activity—
    - (i) is, or is being engaged in, at the premises; or
    - (ii) may be, or may be engaged in, at the premises within the next 7 days.
- (5) The magistrate may also issue a warrant only if satisfied there are reasonable grounds for suspecting—
  - (a) there is a firearm that is unsafe to use; and
  - (b) the firearm—
    - (i) is at the premises; or
    - (ii) may be at the premises within the next 7 days.

- (6) The warrant must state—
- (a) that a police officer may, with any necessary assistance and force, enter stated premises and exercise the officer's powers under this part; and
  - (b) the reason for which the warrant is issued; and
  - (c) the things that may be seized under the warrant; and
  - (d) the hours when the premises may be entered; and
  - (e) the date, within 7 days after the day of the warrant's issue, the warrant ends.
- (7) In this section:
- connected*—an activity is *connected* with an offence if—
- (a) the offence has been committed by engaging or not engaging in it; or
  - (b) it will provide evidence of the commission of the offence.

#### **76A Warrants—application made other than in person**

- (1) A police officer may apply for a warrant by phone, fax, radio or other form of communication if the officer considers it necessary because of—
  - (a) urgent circumstances; or
  - (b) other special circumstances.
- (2) Before applying for the warrant, the police officer must prepare an application stating the grounds on which the warrant is sought.
- (3) The police officer may apply for the warrant before the application is sworn.
- (4) If the magistrate issues the warrant, the magistrate must immediately fax a copy to the police officer if it is practicable to do so.



- (5) If it is not practicable to fax a copy to the police officer—
- (a) the magistrate must tell the officer—
    - (i) the date and time the warrant was issued; and
    - (ii) the warrant's terms; and
  - (b) the police officer must complete a form of warrant (the *warrant form*) and write on it—
    - (i) the magistrate's name; and
    - (ii) the date and time the magistrate issued the warrant; and
    - (iii) the warrant's terms.
- (6) The faxed copy of the warrant, or the warrant form properly completed by the police officer, authorises the entry and exercise of the officer's powers under the warrant.
- (7) The police officer must, at the first reasonable opportunity, send to the magistrate—
- (a) the sworn application; and
  - (b) if the officer completed a warrant form—the completed warrant form.
- (8) On receiving the documents, the magistrate must attach them to the warrant.
- (9) A court must find that a power exercised by a police officer was not authorised by a warrant under this section if—
- (a) the question arises in a proceeding in the court whether the exercise of power was authorised by a warrant; and
  - (b) the warrant is not produced in evidence; and
  - (c) it is not proved that the exercise of power was authorised by a warrant under this section.

**76B Search warrants—announcement before entry**

- (1) A police officer must, before anyone enters premises under a search warrant—
  - (a) announce that the officer is authorised to enter the premises; and
  - (b) give anyone at the premises an opportunity to allow entry to the premises; and
  - (c) if the occupier of the premises, or someone else who apparently represents the occupier, is present at the premises—identify himself or herself to the person.
- (2) The police officer is not required to comply with subsection (1) if the officer believes on reasonable grounds that immediate entry to the premises is required to ensure—
  - (a) the safety of anyone (including the officer or any person assisting); or
  - (b) that the effective execution of the warrant is not frustrated.

**76C Details of search warrant to be given to occupier etc**

- (1) If an occupier of premises, or someone else who apparently represents the occupier, is present at the premises while a search warrant is being executed, the police officer or a person assisting must make available to the person—
  - (a) a copy of the warrant or warrant form; and
  - (b) a document setting out the rights and obligations of the person.
- (2) In this section:  
**warrant form**—see section 76A (Warrants—application made other than in person).

**76D Occupier entitled to be present during search etc**

- (1) If an occupier of premises, or someone else who apparently represents the occupier, is present at the premises while a search warrant is being executed, the person is entitled to observe the search being conducted.
- (2) However, the person is not entitled to observe the search if—
  - (a) to do so would impede the search; or
  - (b) the person is under arrest, and allowing the person to observe the search being conducted would interfere with the objectives of the search.
- (3) This section does not prevent 2 or more areas of the premises being searched at the same time.

**Division 7.4 Things seized****77 Access to things seized**

A person who would, apart from the seizure, be entitled to inspect a thing seized under this part may—

- (a) inspect it; and
- (b) if it is a document—take extracts from it or make copies of it.

**77A Return or forfeiture of things seized**

- (1) A thing seized under this part must be returned to its owner, or reasonable compensation must be paid by the Territory to the owner for the loss of the thing, if a prosecution for an offence relating to the thing is not started within 1 year after the day the thing is seized.
- (2) If a prosecution for an offence relating to a thing seized under this part is started within 1 year after the day the thing is seized, and the prosecution is not successful, the thing must be returned to its owner.

- (3) A thing seized under this part is forfeited to the Territory if there is no requirement under this section—
  - (a) to return the thing to the person from whom it was seized; or
  - (b) to pay compensation for the thing.
- (4) A thing forfeited to the Territory may be destroyed or otherwise disposed of as the chief executive directs.

## **Division 7.5                    Enforcement—miscellaneous**

### **78                    Damage etc to be minimised**

- (1) In the exercise, or purported exercise, of a function under this part, a police officer must take all reasonable steps to ensure that the officer causes as little inconvenience, detriment and damage as practicable.
- (2) If a police officer damages anything in the exercise or purported exercise of a function under this part, the officer must give written notice of the particulars of the damage to the person the officer believes on reasonable grounds is the owner of the thing.
- (3) The notice must state that—
  - (a) the person may claim compensation from the Territory if the person suffers loss or expense because of the damage; and
  - (b) compensation may be claimed and ordered in a proceeding for compensation brought in a court of competent jurisdiction; and
  - (c) the court may order the payment of reasonable compensation for the loss or expense only if satisfied it is just to make the order in the circumstances of the particular case.

- (4) If the damage happens at premises entered under this part in the absence of the occupier, the notice may be given by leaving it, secured conspicuously, at the premises.
- (5) In this section:  
*police officer* includes a person assisting the officer under this part.

### **78A Compensation for exercise of enforcement powers**

- (1) A person may claim compensation from the Territory if the person suffers loss or expense because of the exercise, or purported exercise, of a function under this part by a police officer.
- (2) Compensation may be claimed and ordered in a proceeding for—
  - (a) compensation brought in a court of competent jurisdiction; or
  - (b) an offence against this Act brought against the person making the claim for compensation.
- (3) A court may order the payment of reasonable compensation for the loss or expense only if satisfied it is just to make the order in the circumstances of the particular case.
- (4) A regulation may prescribe matters that may, must or must not be taken into account by the court in considering whether it is just to make the order.
- (5) In this section:  
*police officer*—see section 78 (5).

**39 Part 8 heading**

*substitute*

## **Part 8 Offences**

### **79 Offences—trafficking firearms**

- (1) A person commits an offence if the person contravenes a relevant provision on 3 or more separate occasions over a 12-month period.

Maximum penalty: imprisonment for 20 years.

- (2) If, on the trial of a person for an offence against subsection (1), more than 3 occasions are relied on as evidence of the commission of the offence, the trier of fact must be satisfied as to the same 3 occasions in order to find the person guilty of the offence.

#### **Example**

During a 12-month period starting in January, Jonah sells 7 unregistered firearms as follows:

- on 8 January Adam and Beth each buy an unregistered firearm from Jonah (2 occasions);
- on 14 June Jonah sells 3 unregistered firearms to Cate in a single transaction (1 occasion);
- on both 5 and 16 December Jonah sells an unregistered firearm to David (2 occasions).

None of the people involved in the transactions are licensed firearms dealers or authorised by a licence or permit to possess the firearms the subject of the transactions.

Evidence of these transactions forms the basis of 5 separate offences against section 83. Jonah is charged with 1 offence against section 79 (1). In order for Jonah to be convicted of the offence, the trier of fact must be satisfied that Jonah contravened section 83 on at least 3 of the occasions, and be satisfied as to the same 3 occasions.

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) If, on the trial of a person for an offence against subsection (1), the trier of fact is not satisfied that the offence is proven, but is satisfied that the person, in relation to an occasion relied on as evidence of commission of the offence against subsection (1), committed an offence against a relevant provision, the trier of fact may acquit the person of the offence charged and find the person guilty of the offence against the relevant provision.
- (4) To remove any doubt, a person may not be tried for an offence against subsection (1) in relation to the contravention of a relevant provision on an occasion if the person has been convicted or acquitted of the contravention.
- (5) A person commits an offence if the person—
- (a) contravenes a relevant provision; and
  - (b) the contravention is the acquisition or disposal of 4 or more firearms on the same occasion.

Maximum penalty: imprisonment for 20 years.

- (6) In this section:
- relevant provision*** means—
- (a) section 53 (1) (Offence—unregistered firearms); or
  - (b) section 83 (Offence—unlawful disposal of firearms); or
  - (c) section 84 (Offence—unlawful acquisition of firearms).
- (7) To remove any doubt, for subsection (1), the 12-month period must start on or after the day this section commences.
- (8) Subsection (7) and this subsection expire 1 year after the day this section commences.

**40 Sections 83 to 84B**

*substitute*

**82A Offences—operation of shooting ranges**

- (1) A person commits an offence if the person operates a shooting range other than an approved shooting range.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

- (2) A person commits an offence if the person—
- (a) operates an approved shooting range; and
  - (b) is not licensed to operate the shooting range.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

**82B Offences—operation of paintball ranges**

- (1) A person commits an offence if the person operates a paintball range other than an approved paintball range.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

- (2) A person commits an offence if the person—
- (a) operates an approved paintball range; and
  - (b) is not licensed to operate the paintball range.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

**83 Offence—unlawful disposal of firearms**

- (1) A person (the *disposer*) must not dispose of or take part in the disposal of a firearm to someone else (the *acquirer*) unless—



- (a) the acquirer and disposer are each authorised by a licence or permit to possess the firearm; and
- (b) the following documents have been produced to, and inspected by, the disposer:
  - (i) the acquirer's licence or permit;
  - (ii) if the acquirer is not a licensed firearms dealer—
    - (A) the acquirer's permit to acquire the firearm; or
    - (B) a permit (however described) in force under the law of a State or another Territory that authorises the acquisition of the firearm; and
- (c) if neither the acquirer nor disposer is a licensed firearms dealer—the disposal has been arranged through a licensed firearms dealer as prescribed by regulation.

Maximum penalty:

- (a) if the firearm is a prohibited firearm—imprisonment for 10 years; or
  - (b) in any other case—imprisonment for 5 years.
- (2) Subsection (1) does not apply in relation to—
- (a) the surrender of a firearm to a police officer; or
  - (b) a firearm to be temporarily stored by a licensed firearms dealer for a person who has possession of the firearm because of the death of the individual authorised to possess it; or

*Note* See s 93 (Offence—disposal of firearms by unauthorised holders generally).

- (c) a person who inherits a firearm and disposes of it to a licensed firearms dealer.

*Note* See s 93A (Offence—disposal of inherited firearms).

(3) In this section:

**takes part**—a person **takes part** in the disposal of a firearm if the person—

- (a) takes, or takes part in, a step, or causes a step to be taken, in the process of the disposal; or
- (b) provides or arranges finance for a step in the process; or
- (c) provides the premises where a step in the process is taken, or allows a step in the process to be taken at premises of which the person is the owner, lessee or occupier or of which the person has the care, control or management.

#### **84 Offence—unlawful acquisition of firearms**

- (1) A person (the **acquirer**) must not acquire, or take part in the acquisition of, a firearm from someone else (the **disposer**) unless—
- (a) the acquirer and disposer are each authorised by a licence or permit to possess the firearm; and
  - (b) the disposer's licence or permit has been produced to, and inspected by, the acquirer; and
  - (c) if neither the acquirer nor disposer is a licensed firearms dealer—the acquisition has been arranged through a licensed firearms dealer as prescribed by regulation.

Maximum penalty:

- (a) if the firearm is a prohibited firearm—imprisonment for 10 years; or
  - (b) in any other case—imprisonment for 5 years.
- (2) Subsection (1) does not apply in relation to—
- (a) the surrender of a firearm to a police officer; or

- (b) a person who inherits a firearm and disposes of it to a licensed firearms dealer.

*Note* See s 93A (Offence—disposal of inherited firearms).

- (3) In this section:

***takes part***—a person ***takes part*** in the acquisition of a firearm if the person—

- (a) takes, or takes part in, a step, or causes a step to be taken, in the process of the acquisition; or
- (b) provides or arranges finance for a step in the process; or
- (c) provides the premises where a step in the process is taken, or allows a step in the process to be taken at premises of which the person is the owner, lessee or occupier or of which the person has the care, control or management.

#### **84A Offence—unauthorised manufacture of firearms**

- (1) A person commits an offence if the person manufactures, or takes part in the manufacture of, a firearm.

Maximum penalty:

- (a) if the firearm is a prohibited firearm—1 500 penalty units, imprisonment for 20 years or both; or
- (b) if the firearm is not a prohibited firearm—1 000 penalty units, imprisonment for 10 years or both.
- (2) Subsection (1) does not apply to a person if the person is authorised by a firearms dealer licence to manufacture the firearm.
- (3) In this section:
- manufacture***, a firearm, includes assemble a firearm from firearm parts.

*takes part*—a person *takes part* in the manufacture of a firearm if the person—

- (a) takes, or takes part in, a step, or causes a step to be taken, in the process of the manufacture; or
- (b) provides or arranges finance for a step in the process; or
- (c) provides the premises where a step in the process is taken, or allows a step in the process to be taken at premises of which the person is the owner, lessee or occupier or of which the person has the care, control or management.

#### **41 Section 93**

*substitute*

#### **93 Offence—disposal of firearms by unauthorised holders generally**

- (1) A person commits an offence if—
  - (a) the person has possession of a firearm; and
  - (b) the person is not authorised by a licence, permit or otherwise under this Act to possess the firearm; and
  - (c) either—
    - (i) the person fails to surrender the firearm to a police officer; or
    - (ii) if the person has possession of the firearm because of the death of the individual authorised to possess it—the person fails to—
      - (A) give the firearm to a licensed firearm dealer to temporarily store the firearm; and

- (B) give the registrar written notice of the death and the name of the licensed firearms dealer storing the firearm.

Maximum penalty: 50 penalty units.

- (2) Subsection (1) does not apply to a person who inherits a firearm.

### **93A Offence—disposal of inherited firearms**

A person commits an offence if—

- (a) the person inherits a firearm; and
- (b) the person is not authorised by a licence, permit or otherwise under this Act to possess the firearm; and
- (c) the person—
  - (i) applies for a licence or permit in relation to the firearm and does not give the firearm to a licensed firearm dealer to temporarily store; or
  - (ii) does not dispose of the firearm to a licensed firearms dealer; or
  - (iii) does not surrender the firearm to a police officer.

*Note* A firearm is *temporarily stored* by a licensed firearms dealer for a person who inherits the firearm and applies for a licence or permit in relation to the firearm if the dealer stores the firearm until the application is finally decided (including any application to the AAT for review of the decision and any subsequent appeal) (see dict, def *temporarily store*).

Maximum penalty: 50 penalty units.

**42 Restrictions where alcohol or other drugs concerned  
New section 97 (3)**

*insert*

- (3) A person commits an offence if—
- (a) the person occupies, operates or manages a shooting range; and
  - (b) someone else (the *attending person*) possesses, carries or uses a firearm at the shooting range; and
  - (c) either—
    - (i) the person knows, or believes on reasonable grounds, that the attending person—
      - (A) is under the influence of alcohol or a drug; and
      - (B) would not be able to exercise responsible control over the firearm; or
    - (ii) the person believes on reasonable grounds that, because of the attending person's behaviour, the attending person would not be able to exercise responsible control over a firearm; and
  - (d) the person does not take all reasonable steps to ensure that the attending person does not take part in a shooting activity at the range.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

**43 Sections 98 and 99**

*substitute*

**98 Offence—selling ammunition generally**

A person commits an offence if the person—

- (a) is not a licensed firearms dealer or authorised club member; and
- (b) sells ammunition.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

**98A Offence—sale of ammunition by licensed firearms dealers**

A licensed firearms dealer must not sell ammunition to someone else (the *acquirer*) unless—

- (a) the acquirer—
  - (i) holds a licence or permit authorising the acquisition of ammunition of the calibre sold; or
  - (ii) is authorised in writing by the registrar to acquire the ammunition; and
- (b) the dealer has inspected the licence, permit or authorisation; and
- (c) the amount of ammunition the dealer sells to the acquirer at any 1 time is not more than the amount (if any) prescribed by regulation.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

**98B Offence—sale of ammunition by authorised club members**

An authorised club member (the *seller*) of an approved club must not sell ammunition to someone else (the *acquirer*) unless—

- (a) the sale takes place on premises owned or used by the club; and
- (b) the acquirer is at the premises to take part in a competition or activity conducted by or in association with the club; and
- (c) the acquirer—
  - (i) holds a licence or permit authorising the acquisition of ammunition of the calibre sold; or
  - (ii) is authorised in writing by the registrar to acquire the ammunition; and
- (d) the seller has inspected the licence, permit or authorisation; and
- (e) the ammunition can be discharged from a firearm—
  - (i) of which the acquirer is a registered owner, registered principal or registered user; or
  - (ii) being used by the acquirer in a competition or activity conducted by or in association with the club; and
- (f) the amount of ammunition the seller sells to the acquirer at any 1 time is not more than the amount (if any) prescribed by regulation.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.



**98C Offence—selling ammunition to people from outside ACT**

- (1) A licensed firearms dealer must not sell ammunition to a person who lives in a State or another Territory.

Maximum penalty: 50 penalty units.

- (2) Subsection (1) does not apply if the dealer believes on reasonable grounds that the person's possession of the ammunition in the State or other Territory is not prohibited by a law of the State or Territory.

**98D Offence—selling ammunition for starting pistols**

- (1) A licensed firearms dealer must not sell ammunition to a person if the dealer knows or believes on reasonable grounds that the person intends to discharge it from a starting pistol.

Maximum penalty: 50 penalty units.

- (2) Subsection (1) does not apply if—
- (a) the dealer is satisfied on reasonable grounds that the person has an approved reason for requiring the starting pistol; and
  - (b) the ammunition is a blank cartridge.

*Note* **Approved reason**—see the dictionary.

**99 Offence—acquiring ammunition**

- (1) A person commits an offence if—
- (a) the person acquires ammunition; and
  - (b) the person—
    - (i) does not hold a licence or permit authorising the acquisition of ammunition of the calibre sold; or

- (ii) is not authorised in writing by the registrar to acquire the ammunition.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) A person commits an offence if—
  - (a) the person acquires ammunition; and
  - (b) the person—
    - (i) holds a licence or permit authorising the acquisition of ammunition of the calibre sold; or
    - (ii) is authorised in writing by the registrar to acquire the ammunition; and
  - (c) the amount of ammunition the person acquires at any one time is more than the amount (if any) prescribed by regulation.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

### **99A Offence—possessing ammunition generally**

- (1) A person commits an offence if—
  - (a) the person possesses ammunition for a firearm; and
  - (b) the person is not authorised by a licence, permit or otherwise under this Act to possess or acquire the ammunition.

*Note 1* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

*Note 2* A licensee must not possess, at any one time, an amount of ammunition that is more than the amount (if any) prescribed by regulation, unless authorised in writing by the registrar (see s 36, s 42N, s or s 42ZQB).

Maximum penalty: 10 penalty units.

(2) Subsection (1) does not apply during the period ending 28 days after the day any of the following happens:

(a) the licence or permit authorising the possession or acquisition of the ammunition is cancelled, suspended, surrendered or ends;

*Note* Section 18 provides that a licence that authorises the licensee to use a firearm also authorises the licensee, in accordance with this Act or another territory law, to acquire, possess or use the calibre of ammunition made for use in the firearm.

(b) the person is the registered owner, registered principal or a registered user of the firearm, and the firearm is disposed of or destroyed;

(c) the person's registration as owner or user of the firearm is cancelled.

(3) Also, subsection (1) does not apply—

(a) to a person who has an approved reason for requiring a starting pistol, if the ammunition is a blank cartridge for use in a starting pistol; or

(b) in relation to the surrender of ammunition to a police officer.

*Note* **Approved reason**—see the dictionary.

(4) Strict liability applies to subsection (1) (b).

**44 Section 102***substitute***102 Offences—defacing, altering and removing identification marks**

- (1) A person commits an offence if the person defaces, alters or removes a number, letter or other identification mark on a firearm or barrel for a firearm.

Maximum penalty: 500 penalty units, imprisonment for 5 years or both.

- (2) A person commits an offence if the person—
- (a) possesses a firearm or barrel for a firearm on which a number, letter or identification mark has been defaced, altered or removed; and
  - (b) knows that a number, letter or identification mark has been defaced, altered or removed.

Maximum penalty: 500 penalty units, imprisonment for 5 years or both.

- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves that the defendant was authorised in writing by the registrar to deface, alter or remove the number, letter or other identification mark.
- (4) It is a defence to a prosecution for an offence against subsection (2) if the defendant proves that the defendant was authorised in writing by the registrar—
- (a) to deface, alter or remove the number, letter or other identification mark; or
  - (b) to possess the firearm or barrel.

- (5) Subsection (2) does not apply in relation to the surrender of a firearm to a police officer.

**45 Possession of firearm under another licence  
Section 105**

*omit*

**46 Section 110**

*substitute*

**110 Offence—lost, stolen or destroyed firearms**

A person (other than a licensed firearms dealer) commits an offence if—

- (a) the person possesses a firearm; and
- (b) the firearm is lost, stolen or destroyed; and
- (c) the person knows about the loss, theft or destruction; and
- (d) the person fails, within 2 days after the day the person becomes aware of the loss, theft or destruction, to—
  - (i) tell the registrar about the loss, theft or destruction; and
  - (ii) give the registrar particulars of the loss, theft or destruction (if any) prescribed by regulation.

Maximum penalty: 50 penalty units.

*Note* For licensed firearms dealers, see s 70 (3) (Additional requirements for firearms dealers).

**47 Firearms prohibition orders  
Part 9**

*omit*

**48 Sections 113 and 114**

*substitute*

**113 Meaning of reviewable decision—pt 10**

In this part:

*reviewable decision* means a decision of the registrar mentioned in schedule 4, column 3 under a provision of this Act mentioned in schedule 4, column 2 for the decision.

**113A Review of decisions**

Application may be made to the AAT for review of a reviewable decision.

**114 Notice of reviewable decisions**

- (1) If the registrar makes a reviewable decision, the registrar must give a written notice of the decision to each person affected by the decision.
- (2) The notice must be in accordance with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).

**49 Section 116**

*substitute*

**116 Disposal of surrendered or seized firearms**

- (1) This section applies in relation to a firearm surrendered to or seized by a police officer under this Act.
- (2) A police officer or the owner of the firearm may apply to a court for an order that the firearm is—
  - (a) forfeited to the Territory; or

- (b) returned to the owner; or
  - (c) destroyed; or
  - (d) otherwise disposed of.
- (3) The court may make the order it considers appropriate.
- (4) This section is subject to section 77A (Return or forfeiture of things seized).
- (5) In this section:
- firearm* includes a firearm part and ammunition.
- owner*, of a firearm, means a person who is or claims to be the owner of the firearm.

## **50 Offences by corporations Section 122 (1) and note**

### *substitute*

- (1) If a corporation contravenes a provision of this Act, each person who is an executive officer of the corporation is taken to have contravened the same provision if the officer knowingly authorised or allowed the contravention.

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

**51 Section 124***substitute***124 Evidentiary certificates**

- (1) In a proceeding for an offence mentioned in section 52 (1) (c), a certificate signed by the registrar stating the following is evidence of the matter stated:
- (a) at a stated time or during a stated period, a stated person was or was not the holder of a licence or permit;
  - (b) a licence or permit was or was not, on a day or during a stated period, subject to a stated condition;
  - (c) a licence or permit was or was not renewed, or had ended on a stated day;
  - (d) a stated licence or permit issued to a stated person was cancelled on a stated day;
  - (e) a stated licence or permit issued to a stated person was suspended on a stated day or during a stated period;
  - (f) a stated address was, on a stated date, the last address known to the registrar of a stated person;
  - (g) a stated firearm was registered or not registered on a stated day or during a stated period;
  - (h) a stated person was or was not the registered owner of a stated firearm on a stated day or during a stated period;
  - (i) registration of a stated firearm was refused on a stated day;
  - (j) registration of a stated firearm had ended on a stated day;
  - (k) registration of a stated firearm was cancelled on a stated date for a stated reason;



- (l) a stated person was the registered principal for a composite entity firearms licence on a stated day or during a stated period;
- (m) a stated person was a registered user of a stated firearm on a stated day or during a stated period;
- (n) a stated person's registration as the user of a stated firearm had ended on a stated day;
- (o) a stated person's registration as the user of a stated firearm was cancelled on a stated date for a stated reason;
- (p) at a stated time, a stated person was or was not a person to whom—
  - (i) an approval had been given under any of the following:
    - section 80 (Discharge etc of firearm—public places etc);
    - section 81 (1) (b) (Discharge of firearm—general);
    - section 100 (Modification of firearms); or
  - (ii) an authorisation had been given under any of the following:
    - section 36 (Adult firearms licences—conditions);
    - section 42O (Minors firearms licences—conditions);
    - section 42ZK (Composite entity firearms licences—conditions);
    - section 42ZQB (Temporary international firearms licences—conditions);
    - section 98A (1) (a) (ii) (Offence—sale of ammunition by licensed firearms dealers);
    - section 98B (1) (c) (ii) (Offence—sale of ammunition by authorised club members);
    - section 99 (1) (a) (ii) (Offence—acquiring ammunition);

- section 102 (Offences—defacing, altering and removing identification marks);
- (q) at a stated time or during a stated period, a stated person was or was not authorised by a licence or permit.
- (2) A regulation may prescribe that a certificate signed by the registrar stating a prescribed matter is evidence of the matter stated.

**52 Regulation-making power  
Section 126 (2) (a)**

*after*

acquisition,

*insert*

disposal,

**53 Section 126 (2) (b)**

*substitute*

- (aa) the register, including how changes may or must be made to the particulars and information in the register; or
- (b) firearms training courses; or

**54 New section 126 (2) (ja)**

*insert*

- (ja) the approval of paintball ranges and approved paintball ranges;  
or

**55 Section 126 (2) (p)**

*substitute*

- (p) exempting a person from this Act; or

**56 New section 126 (2A) and (2B)**

*insert*

- (2A) A regulation may prescribe the evidence that may or must be produced to the registrar that—
- (a) there is a special need in relation to a licence application; or
  - (b) an applicant's special need cannot be met other than by being issued with a category C or category D licence.
- (2B) A regulation under subsection (2A) does not limit the matters that the registrar may reasonably consider when deciding whether a special need has been established.

**57 Section 128**

*substitute*

**128 Licensing of entities to operate approved shooting ranges**

- (1) A regulation may provide for the licensing of an entity to operate an approved shooting range.
- (2) Without limiting subsection (1), a regulation may—
- (a) make provision in relation to—
    - (i) the issue and refusal to issue a licence to operate an approved shooting range; and
    - (ii) the renewal and refusal to renew a licence to operate an approved shooting range; and
    - (iii) the imposition of conditions on a licence to operate an approved shooting range, or the conditions to which the licence is subject; and
    - (iv) the replacement of and refusal to replace a licence to operate an approved shooting range; and

- (b) make provision in relation to the cancellation, variation and suspension of a licence to operate an approved shooting range; and
- (c) fix a period for which a licence to operate an approved shooting range or renewal remains in force; and
- (d) require the production of information by—
  - (i) an applicant for a licence to operate an approved shooting range or for a renewal or variation of a licence to operate an approved shooting range; and
  - (ii) the holder of a licence to operate an approved shooting range; and
- (e) prescribe the circumstances in which a licence to operate an approved shooting range must be surrendered or returned to the registrar.

## **129 Licensing of entities to operate approved paintball ranges**

- (1) A regulation may provide for the licensing of an entity to operate an approved paintball range.
- (2) Without limiting subsection (1), a regulation may—
  - (a) make provision in relation to—
    - (i) the issue and refusal to issue a licence to operate an approved paintball range; and
    - (ii) the renewal and refusal to renew a licence to operate an approved paintball range; and
    - (iii) the imposition of conditions on a licence to operate an approved paintball range, or the conditions to which the licence is subject; and
    - (iv) the replacement of and refusal to replace a licence to operate an approved paintball range; and

- (b) make provision in relation to the cancellation, variation and suspension of a licence to operate an approved paintball range; and
  - (c) fix a period for which a licence to operate an approved paintball range or renewal remains in force; and
  - (d) require the production of information by—
    - (i) an applicant for a licence to operate an approved paintball range or for a renewal or variation of a licence to operate an approved paintball range; and
    - (ii) the holder of a licence to operate an approved paintball range; and
  - (e) prescribe the circumstances in which a licence to operate an approved paintball range must be surrendered or returned to the registrar.
- (3) Also, a regulation may prescribe the records that must be kept by a paintball range operator in relation to the storage of a paintball marker for someone other than the operator.

**58 New part 20**

*insert*

**Part 20 Transitional****200 Definitions—pt 20**

In this part:

***commencement day*** means the day the *Firearms Amendment Act 2008*, section 4 commences.

***pre-commencement Act*** means this Act as in force immediately before the commencement day.

**201 Pre-commencement Act partnerships**

- (1) This section applies if, immediately before the commencement day, a partnership held a licence (the *original licence*) under the pre-commencement Act.
- (2) Each partner in the partnership is taken to hold an adult firearms licence of the same category as the original licence.
- (3) The adult firearms licence is taken to have been issued to the partner on the day the partnership was issued with the original licence.
- (4) The registrar must—
  - (a) change the register to reflect the effect of subsection (2); and
  - (b) issue each partner with a licence.

**202 Pre-commencement Act—fit and proper**

In this Act:

*suitable*, in relation to the issue, suspension or cancellation of a licence or permit before the commencement day, includes fit and proper.

**203 Pre-commencement Act applications for licences**

- (1) This section applies if, immediately before the commencement day, an entity had applied under the pre-commencement Act for a licence, but the application had not been decided by the registrar.
- (2) However, this section does not apply to an application for a licence on behalf of a partnership under the pre-commencement Act.
- (3) The application is taken to be an application for the kind and category of licence under this Act that the registrar considers appropriate.
- (4) If the application is for a licence under the pre-commencement Act, section 31 (Temporary licences—internationally protected persons),

the application is taken to be an application for a temporary international firearms licence.

- (5) If, because the application was made under the pre-commencement Act, the application does not include something that is required for an application under this Act, the registrar may ask the applicant for the further information or documents.
- (6) If the applicant does not comply with the request, the registrar may refuse to consider the application further.

#### **204 Pre-commencement Act applications for permits**

- (1) This section applies if, immediately before the commencement day, an entity had applied under the pre-commencement Act for a permit, but the application had not been decided by the registrar.
- (2) However, this section does not apply to an application for a permit under the pre-commencement Act if the permit cannot be issued under this Act.
- (3) The application is taken to be an application for the kind of permit under this Act that the registrar considers appropriate.
- (4) If, because the application was made under the pre-commencement Act, the application does not include something that is required for an application under this Act, the registrar may ask the applicant for the further information or documents.
- (5) If the applicant does not comply with the request, the registrar may refuse to consider the application further.

#### **205 Pre-commencement Act licences**

- (1) This section applies if, immediately before the commencement day, an entity held a licence (the *original licence*) under the pre-commencement Act.

- (2) However, this section does not apply to a licence held by—
  - (a) a partnership under the pre-commencement Act; or
  - (b) an individual under the pre-commencement Act, section 31 (Temporary licences—internationally protected persons).
- (3) For a licence held by an individual, the individual is taken to hold an adult firearms licence of the same category as the original licence.
- (4) For a licence held by a composite entity, the composite entity is taken to hold a composite entity licence of the same category as the original licence.
- (5) Any condition to which the original licence was subject under the pre-commencement Act continues to apply but may be amended in accordance with this Act.
- (6) The licence ends when the original licence would have ended under the pre-commencement Act unless it is cancelled.

## **206 Pre-commencement Act minor's firearms permits**

- (1) This section applies if, immediately before the commencement day, a child held a minor's firearms permit under the pre-commencement Act.
- (2) The permit is taken to be a minors firearms licence under this Act.
- (3) Any condition to which the permit was subject under the pre-commencement Act continues to apply but may be amended in accordance with this Act.
- (4) The licence ends when the permit would have ended under the pre-commencement Act unless it is cancelled.



**207 Pre-commencement Act internationally protected people temporary licences**

- (1) This section applies if, immediately before the commencement day, a person held a licence (the *original licence*) under the pre-commencement Act, section 31 (Temporary licences—internationally protected persons).
- (2) The original licence is taken to be a temporary international firearms licence under this Act.
- (3) Any condition to which the original licence was subject under the pre-commencement Act continues to apply but may be amended in accordance with this Act.
- (4) The licence ends when the original licence would have ended under the pre-commencement Act unless it is cancelled.

**208 Pre-commencement Act international visitors temporary permits**

- (1) This section applies if, immediately before the commencement day, a person held a permit under the pre-commencement Act, section 45A (International visitors—issue of temporary permits).
- (2) The permit is taken to be a temporary international firearms licence under this Act.
- (3) Any condition to which the permit was subject under the pre-commencement Act continues to apply but may be amended in accordance with this Act.
- (4) The licence ends when the permit would have ended under the pre-commencement Act unless it is cancelled.

**209 Pre-commencement Act—suspensions**

- (1) This section applies if, immediately before the commencement day, a person's licence or permit under the pre-commencement Act was suspended.

- (2) The person's licence or permit is taken to be suspended until the suspension would have ended under the pre-commencement Act.

**210 Pre-commencement Act—applications for registration of firearm**

- (1) This section applies if, immediately before the commencement day, a person had applied under the pre-commencement Act for registration of a firearm, but the application had not been decided by the registrar.
- (2) The application is taken to be an application for registration under this Act.
- (3) If, because the application was made under the pre-commencement Act, the application does not include something that is required for an application under this Act, the registrar may ask the applicant for the further information.
- (4) If the applicant does not comply with the request, the registrar may refuse to consider the application further.

**211 Pre-commencement Act—register**

- (1) To remove any doubt, the register of firearms under this Act, section 50 (Register of firearms) includes the register of firearms under the pre-commencement Act, section 50 (Register of firearms).
- (2) However, the registrar may ask the owner of a firearm registered under the pre-commencement Act to give the registrar information, or produce a thing to the registrar, that the owner would be required to give or produce if the owner were an applicant for registration of the firearm under this Act.
- (3) If the owner does not comply with the request within 30 days after the day it is made, the registrar may cancel the registration of the firearm.

**212 Pre-commencement Act—endorsement of licences**

- (1) This section applies if, immediately before the commencement day—
  - (a) someone else's firearm is endorsed on a person's licence under the pre-commencement Act, division 4.3 (Endorsement of licences); and
  - (b) the other person's firearm is a registered firearm.
- (2) The person—
  - (a) is taken to be a registered user of the other person's firearm under this Act; and
  - (b) if the person is a person mentioned in the pre-commencement Act, section 59 (a), (b) or (c) (Endorsement)—the person may possess and use the firearm only as mentioned in the section.
- (3) For the purpose of making an entry in the register in relation to the person, the registrar may ask the person to give the registrar information, or produce a thing to the registrar, that the person would be required to give or produce if the person were an applicant for registration as a user of the firearm under this Act.
- (4) If the person does not comply with the request within 30 days after the day it is made, the registrar may cancel the person's registration as a user of the firearm.

**213 Pre-commencement Act certificates**

On or after the commencement day, the registrar may issue a certificate in relation to anything that happened before the commencement day that the registrar could have issued under the pre-commencement Act.

**213A Transitional meaning of *parental responsibility***

- (1) In this Act, until the *Children and Young People Act 2008*, section 15 commences:

*parental responsibility*—see the *Children and Young People Act 1999*, section 17.

- (2) This section has effect despite the dictionary definition of *parental responsibility*.

**214 Transitional regulations**

- (1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of the *Firearms Amendment Act 2008*.
- (2) A regulation may modify this part to make provision in relation to anything that, in the Executive's opinion, is not, or is not adequately or appropriately, dealt with in this part.
- (3) A regulation under subsection (2) has effect despite anything else in this Act or another territory law.

**215 Expiry—pt 20**

- (1) Section 213A and note 2 to the dictionary definition of *parental responsibility* expire on the day the *Children and Young People Act 2008*, section 15 commences.
- (2) This part (other than section 213A) and schedule 4, items 43 and 44, expire 1 year after the commencement day.

**59 Schedule 1, item 4***substitute*

4	a self-loading or pump action shotgun (including a firearm of that kind described elsewhere in this schedule)
---	---

**60 Schedule 1, new item 6A***insert*

6A	a paintball marker that resembles a prohibited firearm
----	--

**61 Schedule 1, item 8***substitute*

8	a firearm (other than a pistol) of the Uberti or Armi-Jager brands, or any similar firearm fitted with a revolving ammunition cylinder (other than a firearm manufactured before 1920)
---	--

**62 Schedule 1, item 11, column 2***after*

fitted with a

*insert*

pistol grip or

**63 Schedule 1, item 13, column 2, paragraph (c)***omit*

**64 Schedule 1, item 14**

*substitute*

14	a firearm that— (a) substantially duplicates in appearance another article (for example, a walking stick, walking cane or key ring); and (b) disguises or conceals the fact that it is a firearm.
----	---

**65 Schedule 1, item 15, column 2**

*after*

in excess of 10 gauge

*insert*

or 19.70mm

**66 Schedule 1, item 17, column 2**

*after*

blank fire pistol,

*insert*

paintball marker,

**67 Schedule 1, new items 19 to 21**

*insert*

19	a pistol of more than 9.65mm calibre <i>Note</i> A 9.65mm calibre pistol includes a 0.38-inch calibre pistol.
20	a semiautomatic pistol with a barrel length of less than 120mm

21	a revolver or single action pistol with a barrel length of less than 100mm
----	--

## 68 Schedule 2

*substitute*

## Schedule 2 Exemptions from Act

(see s 4E)

### Part 2.1 Interpretation—sch 2

#### 2.1 Meaning of *corrections officer*—sch 2

In this schedule:

*corrections officer* includes a person employed by an entity responsible under a law of a State or another Territory for providing correctional services for offenders.

*Note* *Corrections officer*—see the Legislation Act, dict, pt 1.

### Part 2.2 People exempt from Act

column 1 item	column 2 person exempted	column 3 circumstances
1	member of— (a) Australian Federal Police or police service or force of a State or another Territory (b) Defence Force	possessing or using firearm in exercise of person's functions as member

column 1 item	column 2 person exempted	column 3 circumstances
	(c) visiting force within the meaning of the <i>Defence (Visiting Forces) Act 1963</i> (Cwlth)	
	(d) Australian Army Cadets under the <i>Defence Act 1903</i> (Cwlth)	
2	corrections officer	possessing or using firearm in exercise of officer's functions
3	member of Council of Australian War Memorial, or of staff of memorial	possessing firearm if— (a) firearm is part of the memorial collection within the meaning of the <i>Australian War Memorial Act 1980</i> (Cwlth); and (b) possession is in exercise of person's functions under that Act
4	member of Council of National Museum of Australia, or of staff of museum	possessing firearm if— (a) firearm is part of the national historical collection within the meaning of the <i>National Museum of Australia Act 1980</i> (Cwlth); and (b) possession is in exercise of person's functions under that Act



## Part 2.3 No offence for possession or use

column 1 item	column 2 no offence by	column 3 circumstances
1	master or captain, or member of crew, of ship or aircraft	possessing or using firearm if— (a) firearm is required by law to be carried on the ship or aircraft; and (b) possession or use is in exercise of person's functions as master, captain or member
2	sporting organisation prescribed by regulation	possessing or using starting pistol
3	official in sporting competition conducted by sporting organisation prescribed by regulation	possessing or using starting pistol in exercise of functions as official
4	authorised instructor	possessing or using firearm in exercise of functions as instructor— (a) on premises owned or used by approved club; or (b) at approved shooting range

## Part 2.4 No offence

column 1 item	column 2 no offence by	column 3 circumstances
1	person entitled to immunity under—  (a) the <i>Diplomatic Privileges and Immunities Act 1967</i> (Cwlth); or  (b) the <i>Consular Privileges and Immunities Act 1972</i> (Cwlth)	the person has the written approval of the chief of protocol of the Commonwealth department responsible for foreign affairs to possess the firearm

## Schedule 3 Licence categories and authority conferred

(see s 17)

*Note 1* The possession or use of a firearm authorised by a licence is subject to any regulation (see s 17 (4)).

*Note 2* Registered users of firearms are authorised to possess and use registered firearms in the circumstances set out in s 52D (Effect of registration as user).

column 1 item	column 2 category of licence (and kind of licence)	column 3 firearms to which licence applies	column 4 entity authorised by licence	column 5 authority conferred by licence
1	category A (adult firearms licence)	the following firearms, other than prohibited firearms:	licensee who is registered owner	possess or use registered firearm to which licence applies, for purpose established by licensee as genuine reason for possessing or using firearm

**Part 2**

Firearms Act 1996

Section 68

<b>column 1 item</b>	<b>column 2 category of licence (and kind of licence)</b>	<b>column 3 firearms to which licence applies</b>	<b>column 4 entity authorised by licence</b>	<b>column 5 authority conferred by licence</b>
		(a) airguns; (b) rim-fire rifles (other than self-loading); (c) shotguns; (d) shotgun and rim-fire rifle combinations		
2	category B (adult firearms licence)	the following firearms, other than prohibited	licensee who is registered owner	possess or use registered firearm to which licence applies, for purpose established by licensee as genuine

column 1 item	column 2 category of licence (and kind of licence)	column 3 firearms to which licence applies	column 4 entity authorised by licence	column 5 authority conferred by licence
		firearms: (a) muzzle-loading firearms (other than pistols); (b) centre-fire rifles (other than self- loading); (c) shotgun and centre-fire		reason for possessing or using firearm

**Part 2**

Firearms Act 1996

Section 68

column 1 item	column 2 category of licence (and kind of licence)	column 3 firearms to which licence applies	column 4 entity authorised by licence	column 5 authority conferred by licence
3	category C (adult firearms licence)	<p>rifle combinations</p> <p>the following firearms (other than firearms mentioned in sch 1, item 6, 10 or 11):</p> <p>(a) self-loading rim-fire rifles with magazine capacity of</p>	licensee who is registered owner	<p>possess or use, for purpose established by licensee as genuine reason for possessing or using firearm—</p> <p>(a) 1 registered self-loading rim-fire rifle with magazine capacity of not more than 10 rounds; and</p> <p>(b) 1 registered shotgun to which licence applies</p>

column 1 item	column 2 category of licence (and kind of licence)	column 3 firearms to which licence applies	column 4 entity authorised by licence	column 5 authority conferred by licence
		<p>not more than 10 rounds;</p> <p>(b) self-loading shotguns with magazine capacity of not more than 5 rounds;</p> <p>(c) pump action shotguns with magazine capacity of not more than</p>		

**Part 2**

Firearms Act 1996

Section 68

<b>column 1 item</b>	<b>column 2 category of licence (and kind of licence)</b>	<b>column 3 firearms to which licence applies</b>	<b>column 4 entity authorised by licence</b>	<b>column 5 authority conferred by licence</b>
		5 rounds		
4	category D (adult firearms licence)	the following firearms (other than firearms mentioned in sch 1, item 5, 6, 9, 10 or 11):  (a) self-loading centre-fire rifles;  (b) self-loading rim-fire rifles	licensee who is registered owner	possess 1 registered firearm to which licence applies and use only—  (a) for vertebrate pest animal control; and  (b) at place stated in licence



column 1 item	column 2 category of licence (and kind of licence)	column 3 firearms to which licence applies	column 4 entity authorised by licence	column 5 authority conferred by licence
		<p>with magazine capacity of more than 10 rounds;</p> <p>(c) self-loading shotguns with magazine capacity of more than 5 rounds;</p> <p>(d) pump action shotguns with</p>		

**Part 2**

Firearms Act 1996

Section 68

<b>column 1 item</b>	<b>column 2 category of licence (and kind of licence)</b>	<b>column 3 firearms to which licence applies</b>	<b>column 4 entity authorised by licence</b>	<b>column 5 authority conferred by licence</b>
		magazine capacity of more than 5 rounds;  (e) any other firearms to which category C licence applies as prescribed by regulation		

column 1 item	column 2 category of licence (and kind of licence)	column 3 firearms to which licence applies	column 4 entity authorised by licence	column 5 authority conferred by licence
5	category H for other than prohibited pistols (adult firearms licence)	pistols (including blank fire pistols and air pistols) other than prohibited pistols	licensee who is registered owner	possess or use registered pistol to which licence applies, for purpose established by licensee as genuine reason for possessing or using pistol
6	category H for prohibited pistols (adult firearms licence)	prohibited pistols	licensee who is registered owner	as prescribed by regulation, possess or use registered prohibited pistol to which licence applies, for purpose established by licensee as genuine reason for possessing or using pistol

**Part 2**

Firearms Act 1996

Section 68

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<b>column 1 item</b>	<b>column 2 category of licence (and kind of licence)</b>	<b>column 3 firearms to which licence applies</b>	<b>column 4 entity authorised by licence</b>	<b>column 5 authority conferred by licence</b>
7	firearms dealer (adult firearms licence)	the categories of firearms stated in licence	licensee who is registered owner	acquire, dispose of, possess, repair, maintain, test, manufacture, or store, in the course of carrying on the business of a firearms dealer, and at the registered premises, any firearm to which the licence applies, and to acquire or dispose of ammunition for those firearms
8	collectors (adult firearms licence)	the categories of firearms stated in licence	licensee who is registered owner	possess each registered firearm to which licence applies

column 1 item	column 2 category of licence (and kind of licence)	column 3 firearms to which licence applies	column 4 entity authorised by licence	column 5 authority conferred by licence
9	heirlooms (adult firearms licence)	the categories of firearms stated in licence	licensee who is registered owner	possess each registered firearm to which licence applies
10	paintball marker (adult firearms licence)	paintball markers	licensee who is registered owner	possess or use registered paintball marker for purpose established by licensee as genuine reason for possessing or using paintball marker
11	category A (minors firearms licence)	the following firearms, other than prohibited firearms:	licensee	if genuine reason is firearms training—  (a) possess or use registered category A firearm under supervision of holder of category

## Section 68

column 1 item	column 2 category of licence (and kind of licence)	column 3 firearms to which licence applies	column 4 entity authorised by licence	column 5 authority conferred by licence
		(a) airguns; (b) rim-fire rifles (other than self-loading); (c) shotguns; (d) shotgun and rim-fire rifle combinations		A, category B or category C licence or authorised instructor; and (b) possess or use registered category A firearm to receive instruction in the safe use of the firearm or to take part in an approved firearms event
12	category A (minors firearms licence)	the following firearms, other than prohibited firearms:	licensee	possess or use firearm where genuine reason is instruction— (a) about safe use of firearm for

column 1 item	column 2 category of licence (and kind of licence)	column 3 firearms to which licence applies	column 4 entity authorised by licence	column 5 authority conferred by licence
		<ul style="list-style-type: none"> <li>(a) airguns;</li> <li>(b) rim-fire rifles (other than self-loading);</li> <li>(c) shotguns;</li> <li>(d) shotgun and rim-fire rifle combinations</li> </ul>		<ul style="list-style-type: none"> <li>primary production; and</li> <li>(b) given under supervision of a person who— <ul style="list-style-type: none"> <li>(i) is a responsible person for the applicant; and</li> <li>(ii) holds a category A adult firearms licence under which that use is a genuine reason for the person to hold the licence</li> </ul> </li> </ul>

## Section 68

column 1 item	column 2 category of licence (and kind of licence)	column 3 firearms to which licence applies	column 4 entity authorised by licence	column 5 authority conferred by licence
13	category B (minors firearms licence)	the following firearms, other than prohibited firearms:  (a) muzzle- loading firearms (other than pistols);  (b) centre-fire rifles (other than self- loading);	licensee	if genuine reason is firearms training—  (a) possess or use registered category B firearm under supervision of holder of category B or category C licence or authorised instructor; and  (b) possess or use registered category B firearm to receive instruction in the safe use of the firearm or to take part in an approved firearms event



column 1 item	column 2 category of licence (and kind of licence)	column 3 firearms to which licence applies	column 4 entity authorised by licence	column 5 authority conferred by licence
		(c) shotgun and centre-fire rifle combinations		
14	category B (minors firearms licence)	the following firearms, other than prohibited firearms:  (a) muzzle- loading firearms (other than pistols);	licensee	possess or use firearm where genuine reason is instruction—  (a) about safe use of firearm for primary production; and  (b) given under supervision of a person who—  (i) is a responsible person for the applicant; and

## Section 68

column 1 item	column 2 category of licence (and kind of licence)	column 3 firearms to which licence applies	column 4 entity authorised by licence	column 5 authority conferred by licence
		(b) centre-fire rifles (other than self- loading);  (c) shotgun and centre-fire rifle combinations		(ii) holds a category B adult firearms licence under which that use is a genuine reason for the person to hold the licence

column 1 item	column 2 category of licence (and kind of licence)	column 3 firearms to which licence applies	column 4 entity authorised by licence	column 5 authority conferred by licence
15	category H (minors firearms licence)	pistols (including blank fire pistols and air pistols) other than prohibited pistols	licensee	<p>if genuine reason is target pistol training—</p> <p>(a) possess or use registered target pistol under supervision of holder of category H licence who is authorised under the holder's licence to use a pistol for purpose of target shooting; and</p> <p>(b) possess or use registered target pistol to receive instruction in the safe use of the pistol or to take part in an approved firearms event</p>

## Section 68

column 1 item	column 2 category of licence (and kind of licence)	column 3 firearms to which licence applies	column 4 entity authorised by licence	column 5 authority conferred by licence
16	category A, B, C, D or H (composite entity licence)	the category of firearms for which licence is issued	registered principal	possess or use registered firearm to which licence applies for purpose—  (a) if genuine reason for issue of licence is that entity carries on business in ACT as security organisation—of carrying on business as security organisation; or  (b) if genuine reason for issue of licence is as mentioned in s 42ZC (1) (b)—of farming or grazing activities;

column 1 item	column 2 category of licence (and kind of licence)	column 3 firearms to which licence applies	column 4 entity authorised by licence	column 5 authority conferred by licence
				<p>(c) if genuine reason for issue of licence is that entity is approved club—of use in activities of club;</p> <p>(d) if genuine reason for issue of licence is that entity is a government agency—of use in course of employment in government agency.</p> <p>For category C licence, not more than—</p> <p>(a) 1 registered self-loading rim-fire rifle with magazine capacity of not more than 10 rounds; and</p>

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column 1 item	column 2 category of licence (and kind of licence)	column 3 firearms to which licence applies	column 4 entity authorised by licence	column 5 authority conferred by licence
17	temporary international firearms licence	the category of firearms stated in licence	licensee	<p>(b) 1 registered shotgun to which licence applies.</p> <p>possess or use firearm of kind to which licence applies—</p> <p>(a) for purpose established by licensee as genuine reason for possessing or using firearm; and</p> <p>(b) for genuine reason of international visitor—for purpose stated in licence.</p>

column 1 item	column 2 category of licence (and kind of licence)	column 3 firearms to which licence applies	column 4 entity authorised by licence	column 5 authority conferred by licence
				<p>Also, if licence applies to category C firearms, possess or use not more than—</p> <p>(a) 1 registered self-loading rim-fire rifle with magazine capacity of not more than 10 rounds; and</p> <p>(b) 1 registered shotgun to which licence applies.</p>

## Schedule 4 Reviewable decisions

(see s 113)

column 1 item	column 2 Act provision	column 3 reviewable decision
1	4BJ	refusing to approve firearms training course, shooting competition, paintball competition or event involving firearms
2	14	refusing to authorise licensee or member of approved club
3	15	refusing to approve a club, or revoking the approval of a club
4	15A (2)	refusing to approve possession of ammunition by ammunition collector
5	21	refusing to issue or renew adult firearms licence refusing to issue or renew adult firearms licence because Minister has not authorised the issue under s 26
6	26 (2)	issuing category D adult firearms licence subject to condition required by Minister
7	32	refusing to issue replacement adult firearms licence
8	36 (1) (e)	refusing to authorise possession of more than prescribed amount of ammunition
9	36 (3)	putting condition on adult firearms licence
10	39 (1) (c)	end date less than 12 months after day licence begins
11	40, 40A	suspending adult firearms licence
12	41	cancelling adult firearms licence



<b>column 1 item</b>	<b>column 2 Act provision</b>	<b>column 3 reviewable decision</b>
13	42	cancelling category H adult firearms licence issued for genuine reason of sport or target shooting
14	42G	refusing to issue minors firearms licence
15	42M	refusing to issue replacement minors firearms licence
16	42N (1) (b)	refusing to authorise possession of more than prescribed amount of ammunition
17	42N (2)	putting condition on minors firearms licence
18	42O (2)	refusing to extend period minors firearms licence in force
19	42P, 42Q	suspending minors firearms licence
20	42R	cancelling minors firearms licence
21	42X	refusing to issue or renew composite entity firearms licence
22	42ZJ	refusing to issue replacement composite entity firearms licence
23	42ZK (1) (f)	refusing to authorise possession of more than prescribed amount of ammunition
24	42ZK (3)	putting condition on composite entity firearms licence
25	42ZM, 42ZMA	suspending composite entity firearms licence
26	42ZN	cancelling composite entity firearms licence
27	42ZPB	refusing to issue or renew temporary international firearms licence
28	42ZQB (1) (e)	refusing to authorise possession of more than prescribed amount of ammunition
29	42ZQB (2)	putting condition on temporary international firearms licence

<b>column 1 item</b>	<b>column 2 Act provision</b>	<b>column 3 reviewable decision</b>
30	42ZR (1)	end date less than 3 months after day licence begins
31	42ZRA	cancelling temporary international firearms licence
32	42ZV	making direction in relation to interstate licence
33	45B	refusing to issue permit to acquire a firearm
34	47 (2)	refusing to extend period permit to acquire a firearm in force
35	48	refusing to issue replacement permit to acquire a firearm
36	48B	suspending or cancelling permit to acquire a firearm
37	51B	refusing to register firearm
38	52	cancelling registration of firearm
39	52BB	refusing to register user of firearm
40	52G	cancelling registration of user of firearm
41	100 (2)	refusing to approve the modification of a firearm
42	121 (2)	cancelling a licence
43	211 (3)	cancelling registration of firearm
44	212 (4)	cancelling registration of user of firearm

**69 New dictionary**

*insert*

## Dictionary

(see s 2)

*Note 1* The Legislation Act contains definitions and other provisions relevant to this Act.

*Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:

- AAT
- administrative unit
- bank
- chief police officer
- corrections officer
- foreign country
- indictable offence (see s 190)
- Minister (see s 162)
- nurse
- penalty unit (see s 133)
- person
- State
- territory authority
- veterinary surgeon.

***acquire***—

- (a) a firearm or ammunition, for this Act—see section 4AC; and
- (b) a firearm, for division 6.3 (Licensed firearms dealers—records and returns)—see section 67A.

***acquirer***, for part 3C (Permits to acquire firearms)—see section 45.

***adult firearms licence***—see section 16A.

***airgun*** means a firearm, other than a paintball marker, that—

- (a) can propel, or is designed to propel, a projectile by means of—
  - (i) any gas or mixture of gases, including air but not including a gas or mixture of gases generated by an explosive; or
  - (ii) a spring; and
- (b) is operated or designed for operation by means of a trigger or similar device.

***ammunition***—

- (a) includes—
  - (i) a cartridge case fitted with a primer and projectile; and
  - (ii) a cartridge case fitted with a primer that contains a propelling charge and projectile; and
  - (iii) blank cartridges, airgun pellets, training cartridges or gas cartridges; and
  - (iv) anything else prescribed by regulation; but
- (b) does not include—
  - (i) a paintball; or
  - (ii) something prescribed by regulation not to be ammunition.

***approved firearms event*** means an event involving firearms approved by the registrar under section 4BJ (Approval of courses etc by registrar).

***approved firearms training course*** means a firearms training course approved by the registrar under section 4BJ (Approval of courses etc by registrar).

***approved paintball competition*** means a paintball competition approved by the registrar under section 4BJ (Approval of courses etc by registrar).

***approved paintball range*** means a paintball range approved by the registrar as prescribed by regulation.

***approved reason***—a person has an ***approved reason*** for requiring a starting pistol if the person—

- (a) is an individual who is an official in relation to sporting competitions conducted by a prescribed sporting organisation, and the starting pistol is used while the person is acting in that capacity; or
- (b) is a sporting organisation prescribed by regulation.

***approved shooting competition*** means a shooting competition approved by the registrar under section 4BJ (Approval of courses etc by registrar).

***approved shooting range*** means a shooting range approved by the registrar as prescribed by regulation.

***authorised club member*** means a member of an approved club authorised by the registrar under section 14 to sell ammunition.

***authorised instructor*** means a person authorised by the registrar under section 14 to give instruction in the use of firearms.

***authorised period***, in relation to an individual interstate licensee, for part 3A (Temporary recognition of interstate licences and permits)—see section 42ZS.

***buy*** includes—

- (a) buy by wholesale, retail, auction or tender; and
- (b) obtain by barter or exchange.

**category**, of firearm, means a category A firearm, category B firearm, category C firearm, category D firearm or category H firearm.

**category A firearm** means a firearm to which a category A licence applies.

**category B firearm** means a firearm to which a category B licence applies.

**category C firearm** means a firearm to which a category C licence applies.

**category D firearm** means a firearm to which a category D licence applies.

**category H firearm** means a firearm to which a category H licence applies.

**close associate**, of a licensed firearms dealer—see section 4BF.

**composite entity**—see section 42U.

**composite entity firearms licence**—see section 16A.

**connected**—a thing is **connected** with an offence if—

- (a) the offence has been committed in relation to it; or
- (b) it will provide evidence of the commission of the offence; or
- (c) it was used, is being used, or is intended to be used, to commit the offence.

**corrections officer**, for schedule 2 (Exemptions from Act)—see section 2.1.

**corresponding**, for part 3A (Temporary recognition of interstate licences and permits)—see section 42ZS.

**corresponding law** means a law of a State, another Territory or New Zealand corresponding, or substantially corresponding, to this Act.

**dispose**, of a firearm—

- (a) for this Act—see section 4AD; and
- (b) for division 6.3 (Licensed firearms dealers—records and returns)—see section 67A.

**domestic violence offence**—an offence is a **domestic violence offence** if the conduct making up the offence is domestic violence under the *Domestic Violence and Protection Orders Act 2001*.

**employed** includes engaged.

**employee**—

- (a) of a person, includes someone engaged by the person; and
- (b) in relation to a government agency, means a public servant holding office, or a person employed, in the agency.

**executive officer**, of a corporation, means a person (however described) who is concerned with, or takes part in, the corporation's management, whether or not the person is a director of the corporation.

**firearm**—see section 4A.

**firearm part** includes a barrel, breech, pistol slide, frame, receiver, cylinder, trigger mechanism, operating mechanism or magazine designed as, or reasonably capable of forming, part of a firearm.

**firearms dealer**—

- (a) means an individual who, in the ordinary course of carrying on business—
  - (i) manufactures, acquires, disposes of (including by sale) or repairs firearms or firearm parts; or
  - (ii) possesses firearms for the purpose of disposing of, or repairing, them; or

- (iii) possesses firearm parts for the purpose of disposing of, or repairing, them, or of manufacturing firearms; and
- (b) includes an individual who is a club armourer for an approved club.

***foreign acquirer***, for part 3C (Permits to acquire firearms)—see section 45.

***foreign firearms licence***, for part 3.2D (Licensing scheme—temporary international firearms licences)—see section 42ZOA.

***genuine reason***—

- (a) in relation to an adult firearms licence—see section 23; or
- (b) in relation to a minors firearms licence—see section 42K; or
- (c) in relation to a composite entity firearms licence—see section 42ZC; or
- (d) in relation to a temporary international firearms licence—see section 42ZQ.

***genuine reason of international visitor***—see section 42ZQ (1) (b) (Temporary international firearms licences—genuine reasons to possess or use firearms).

***interstate licence***, for part 3A (Temporary recognition of interstate licences and permits)—see section 42ZS.

***local licence***, for part 3A (Temporary recognition of interstate licences and permits)—see section 42ZS.

***minors firearms licence***—see section 16A.

***occupier***, of premises, includes—

- (a) a person believed on reasonable grounds to be an occupier of the premises; and
- (b) a person apparently in charge of the premises.



**offence**, for part 7 (Enforcement)—see section 73.

**owner and user particulars**, in relation to a registered firearm, for part 4 (Registration of firearms and firearm users)—see section 49B.

**paintball** means a projectile that primarily consists of a dye or similar substance designed to mark a person or object.

**paintball activity** includes a paintball competition.

**paintball marker** means a firearm designed to discharge a paintball.

**paintball range operator**, for an approved paintball range, means a person licensed under this Act to operate the range.

**parental responsibility**—a person has **parental responsibility** for a child or young person if the person has parental responsibility for the child or young person under the *Children and Young People Act 2008*.

*Note 1* Parental responsibility is dealt with in the *Children and Young People Act 2008*, div 1.3.2.

*Note 2* For the meaning of **parental responsibility** before the commencement of the *Children and Young People Act 2008*, see s 213A.

**permit-holder** means the holder of a permit.

**permit to acquire**, a firearm, means a permit to acquire the firearm issued under part 3C (Permits to acquire firearms).

**photograph** includes a digitised, electronic or computer generated image in a form approved by the registrar.

**possession**—see section 4B.

**principal**, of a composite entity—see section 42U.

**prohibited firearm**—see section 4AB.

**prohibited person**, for part 6 (Firearms dealers)—see section 65A.

**prohibited pistol** means a prohibited firearm mentioned in schedule 1, item 19, item 20 or item 21.

**registered firearm** means a firearm registered under this Act.

**registered owner**, of a firearm, means the person recorded in the register as the owner of the firearm.

**registered premises**, for a firearm, means the premises in the ACT stated in the register as the premises where the firearm—

- (a) is or is to be stored; or
- (b) if the registered owner of the firearm is a licensed firearms dealer—may be available for sale.

**registered principal**—

- (a) for a composite entity firearms licence—see section 42U; and
- (b) for a firearm—means the principal named in the composite entity firearms licence under which the firearm is held.

**registered user**, of a firearm, means an individual recorded in the register as a user of the firearm.

**responsible person**, for a child or young person, means a person with parental responsibility for the child or young person.

**reviewable decision**, for part 10 (Review of decisions)—see section 113.

**security organisation**—see section 42ZC (2).

**sell** includes—

- (a) sell by wholesale, retail, auction or tender; and
- (b) dispose of by barter or exchange; and
- (c) sell for profit; and
- (d) offer for sale, receive for sale, have in possession for sale or expose or exhibit for sale; and
- (e) conduct negotiations for sale; and

(f) consign or deliver for sale.

***successfully appealed against***—an order is ***successfully appealed against*** if an appeal against the making of the order is upheld.

***temporarily store***—a firearm is ***temporarily stored*** by a licensed firearms dealer if—

- (a) for a person who has possession of the firearm because of the death of the individual authorised to possess it—the dealer stores the firearm until the person is authorised, under this Act or another territory law, to otherwise dispose of it; or
- (b) for a person who inherits the firearm and applies for a licence or permit in relation to the firearm—the dealer stores the firearm until the application is finally decided (including any application to the AAT for review of the decision and any subsequent appeal).

***temporary international firearms licence***—see section 16A.

***unregulated firearm***—see section 4G.

## Part 3 Prohibited Weapons Act 1996

### 70 Legislation amended—pt 3

This part amends the *Prohibited Weapons Act 1996*.

*Note* The Act is also amended in sch 1.

### 71 Section 3

*substitute*

#### 3 Meaning of *possession*—Act

- (1) For this Act, a person has *possession* of a prohibited weapon or prohibited article if the person—
  - (a) has the weapon or article on his or her person, including in something carried or worn by the person (*physical possession*); or
  - (b) has the weapon or article at premises owned, leased or occupied by the person; or
  - (c) otherwise has the care, control or management of the firearm.
- (2) Also, for this Act, a person has *possession* of a prohibited weapon or prohibited article if—
  - (a) part of the weapon or article is in the person's possession; and
  - (b) other parts of the weapon or article are in the possession of 1 or more other people; and
  - (c) at least 1 of the other people is in possession of the other part or parts for an agreed purpose with the person; and
  - (d) the parts would make up the weapon or article if fitted together.

**3A Evidence of possession—prohibited weapons or articles at premises**

- (1) For this Act, a person is not taken to have possession of a prohibited weapon or prohibited article only because the weapon or article is at premises owned, leased or occupied by the person if—
  - (a) the person does not know that the weapon or article is at the premises; or
  - (b) someone else who is authorised to possess the weapon or article—
    - (i) is also at the premises; or
    - (ii) has the care, control or management of the weapon or article; or
  - (c) someone else who is not authorised to possess the weapon or article has the care, control or management of the weapon or article; or
  - (d) the trier of fact is otherwise satisfied that the person was not in possession of the weapon or article.
- (2) To remove any doubt, a defendant to a prosecution for an offence against this Act who wishes to rely on a matter mentioned in subsection (1) has the evidential burden in relation to the matter.

**3B Evidence of possession—care, control or management of prohibited weapon or article**

- (1) To work out whether a person has the care, control or management of a prohibited weapon or prohibited article for this Act, each of the following must be considered:
  - (a) whether the person knows about the weapon or article;
  - (b) whether the person can use or dispose of the weapon or article;

- (c) whether the person can control or prevent someone else from using or having physical possession of the weapon or article.
- (2) In this section:
  - physical possession*—see section 3 (1) (a).

**72 New part 1A**

*insert*

**Part 1A Important concepts**

**4A Meaning of *prohibited weapon*—Act**

- (1) In this Act:
  - prohibited weapon*—
    - (a) means—
      - (i) a weapon or thing described in schedule 1; and
      - (ii) a weapon or thing prescribed by regulation; and
      - (iii) something declared to be a prohibited weapon under section 4L; and
    - (b) includes a modified prohibited weapon.
  - (2) However, *prohibited weapon* does not include something declared not to be a prohibited weapon under section 4L.
  - (3) A regulation may amend schedule 1—
    - (a) by adding the name or description of a weapon or thing; or
    - (b) by amending a name or description of a prohibited weapon to more accurately describe the weapon; or
    - (c) by omitting the name and description of a prohibited weapon.

(4) In this section:

***modified prohibited weapon*** means a weapon or thing that would be a prohibited weapon if—

- (a) it did not have something missing from it, or a defect or obstruction; or
- (b) something had not been added to it.

#### **4B Meaning of *prohibited article*—Act**

(1) In this Act:

***prohibited article***—

- (a) means—
  - (i) an article described in schedule 2; and
  - (ii) an article prescribed by regulation; and
  - (iii) something declared to be a prohibited article under section 4L; and
- (b) includes a modified prohibited article.

(2) However, ***prohibited article*** does not include something declared not to be a prohibited article under section 4L.

(3) A regulation may amend schedule 2—

- (a) by adding the name or description of an article; or
- (b) by amending a name or description of a prohibited article to more accurately describe the article; or
- (c) by omitting the name and description of a prohibited article.

(4) In this section:

***modified prohibited article*** means an article that would be a prohibited article if—

- (a) it did not have something missing from it, or a defect or obstruction; or
- (b) something had not been added to it.

**73 New parts 1B to 1D**

*insert*

**Part 1B Unregulated weapons**

**4C Meaning of *unregulated weapon*—Act**

In this Act:

*unregulated weapon*—a thing is an *unregulated weapon* if—

- (a) the thing is designed, made or altered to be used as a weapon; and
- (b) the only practical use of the thing is as a weapon; and
- (c) the thing is not a prohibited weapon; and
- (d) the possession or use of the thing is not authorised under this Act.

**4CA Meaning of *connected*—pt 1B**

In this part:

*connected*—a thing is *connected* with an offence if—

- (a) the offence has been committed in relation to it; or
- (b) it will provide evidence of the commission of the offence; or
- (c) it was used, is being used, or is intended to be used, to commit the offence.



**4D Unregulated weapons—seizure by police**

A police officer may seize a thing if the police officer believes on reasonable grounds that the thing is an unregulated weapon and that the seizure is necessary—

- (a) because the thing would pose a risk to the safety of anyone if used; and
- (b) to prevent the thing from being used or concealed, lost or destroyed.

**4E Unregulated weapons—receipt for seizure**

- (1) A police officer who seizes a thing under section 4D must give a receipt for the thing to the person from whom it was seized.
- (2) If, for any reason, it is not practicable to comply with subsection (1), the police officer must leave the receipt, secured conspicuously, at the premises where it was seized (the *place of seizure*).
- (3) The receipt must include the following:
  - (a) a description of the thing seized;
  - (b) an explanation of why the thing was seized;
  - (c) the police officer's name, and how to contact the officer;
  - (d) if the thing is removed from the place of seizure under section 4F—the address of the place to which the thing is removed.

**4F Unregulated weapons—examination**

- (1) A police officer who seizes a thing under section 4D (Unregulated weapons—seizure by police) may remove the thing from the premises where it was seized to another place for examination or processing, for not longer than 7 days (the *7-day period*).

- (2) A police officer may apply to the Magistrates Court for an extension of the 7-day period if the officer believes on reasonable grounds that the thing cannot be examined or processed within that time.
- (3) The police officer must, if practicable, give notice of the application to the person from whom the thing was seized, and the person is entitled to be heard on the application.
- (4) The court may order the extension if satisfied on reasonable grounds that the thing cannot be examined or processed within the 7-day period.
- (5) If a thing is moved to another place under this section, the police officer must, if practicable, tell the person from whom the thing was seized (or the person's representative) the results of the examination or processing.

#### **4G Unregulated weapons—access to things seized**

A person who would, apart from the seizure, be entitled to inspect a thing seized under section 4D (Unregulated weapons—seizure by police) may inspect it.

#### **4H Unregulated weapons—review of decision to seize**

- (1) The registrar must review each seizure under section 4D (Unregulated weapons—seizure by police) and order the return of the thing to the person from whom it was seized if—
  - (a) when seized, the thing was not—
    - (i) an unregulated weapon; or
    - (ii) a prohibited weapon; or
  - (b) within 30 days after the day of seizure, the thing is not a prohibited weapon; or

- (c) the registrar has no reasonable grounds to believe that the thing is connected with an offence against any of the following:
  - (i) this Act;
  - (ii) the *Firearms Act 1996*;
  - (iii) the *Crimes Act 1900*;
  - (iv) the Criminal Code;
  - (v) another law prescribed by regulation.
- (2) If a thing is ordered to be returned under subsection (1) to the person from whom it was seized, but it cannot be returned, the Territory must pay reasonable compensation to the owner of the thing for its loss.
- (3) In this section:

*offence* includes an offence that there are reasonable grounds for believing has been, is being or will be, committed.

#### **4I Unregulated weapons—forfeiture**

- (1) A thing seized under section 4D (Unregulated weapons—seizure by police) is forfeited to the Territory if there is no requirement under section 4H—
  - (a) to return the thing to the person from whom it was seized; or
  - (b) to pay compensation for the thing.
- (2) A thing forfeited to the Territory may be destroyed or otherwise disposed of as the chief executive directs.

## **Part 1C Minister's guidelines**

### **4K Minister's guidelines**

- (1) The Minister may make guidelines about the making of a decision by the registrar under section 4L.
- (2) The registrar must comply with any guidelines under this section.
- (3) A guideline is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

## **Part 1D Declarations about prohibited articles and weapons**

### **4L Prohibited articles and weapons declarations by registrar**

- (1) The registrar may, in accordance with any guidelines under section 4K (Minister's guidelines), do any of the following:
  - (a) declare something to be a prohibited article;
  - (b) declare an unregulated weapon to be a prohibited weapon;
  - (c) declare that something is not a prohibited article or prohibited weapon.
- (2) A declaration remains in force for 3 months beginning on the day after the day the declaration is notified under the Legislation Act.
- (3) A declaration is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

- (4) The registrar must also publish the declaration in a daily newspaper circulating in the ACT.

**4M Effect of certain declarations**

A person does not commit an offence against this Act in relation to the possession or use of a thing that is the subject of a declaration under section 4L (1) (a) or (b) if the elements of the offence happen less than 2 days after the day the declaration is notified under the Legislation Act.

**74 Part 2 heading**

*substitute*

**Part 2 Offences****75 Sections 5 and 6**

*substitute*

**5 Offence—unauthorised possession or use of prohibited weapons**

A person commits an offence if the person—

- (a) possesses or uses a prohibited weapon; and
- (b) is not authorised by a permit, or otherwise under this Act, to possess or use the weapon.

Maximum penalty: 500 penalty units, imprisonment for 5 years or both.

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

**6 Offence—unauthorised possession or use of prohibited articles**

A person commits an offence if the person—

- (a) possesses or uses a prohibited article; and
- (b) is not authorised by a permit, or otherwise under this Act, to possess or use the article.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

**76 New sections 6A and 6B**

*insert*

**6A Declarations about authorised possession and use of laser pointers**

- (1) The registrar may, in accordance with any guidelines under section 6B, declare that the possession or use of a laser pointer is authorised.

*Note 1* A power to make a statutory instrument includes power to make different provision in relation to different matters or different classes of matters (see Legislation Act, s 48.)

*Note 2* A reference to an Act includes a reference to a provision of an Act (see Legislation Act, s 7 (3)).

- (2) A declaration may provide for the authorisation—
  - (a) to apply generally or in a particular case; or
  - (b) to be conditional.

- (3) A declaration is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

- (4) In this section:

*laser pointer* means a prohibited weapon that is a hand-held article, commonly known as a laser pointer, designed or adapted to emit a laser beam with an accessible emission level of greater than 1mW.

## **6B Guidelines for declarations under section 6A**

- (1) The Minister may make guidelines about the making of a declaration under section 6A.
- (2) The registrar must comply with any guidelines under this section.
- (3) A guideline is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

## **77 Section 8**

*substitute*

### **8 Offence—disposal of prohibited weapons and articles by unauthorised holders**

- (1) A person commits an offence if—
- (a) the person has possession of a prohibited weapon or prohibited article; and
- (b) the person is not, or is no longer, authorised by a permit or otherwise under this Act to possess the weapon or article; and
- (c) within 7 days after the day the person comes into possession of, or is no longer authorised to possess, the weapon or article, the person fails—
- (i) to surrender the weapon or article to a police officer; or

- (ii) to dispose of the weapon or article to someone who is authorised by a permit to possess it.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) A person does not contravene any other provision of this Act because the person—
  - (a) disposed of or surrendered a prohibited weapon or prohibited article in accordance with this section; or
  - (b) accepted a prohibited weapon or prohibited article under this section.

## **78 Section 17**

*substitute*

### **17 Evidentiary provisions**

A certificate signed by the registrar stating the following is evidence of the matter stated:

- (a) at a stated time or during a stated period, a stated person was, or was not, the holder of a stated permit (or of a permit for a stated prohibited weapon or prohibited article);
- (b) a permit was or was not, on a day or during a stated period, subject to a stated condition.

### **17A Determination of fees**

- (1) The Minister may determine fees for this Act.

*Note* The Legislation Act contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

- (2) A determination is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.



**79**      **Approved forms**  
**Section 18**

*omit*

Minister

*substitute*

registrar

**80**      **New part 5****Part 5**                      **Transitional****50**      **Definitions—pt 5**

In this part:

*commencement day* means the day 1 year after the day the *Firearms Amendment Act 2008* is notified.

*dispose*, of a prohibited weapon or article, means sell, give away or otherwise transfer possession of the weapon or article.

*pre-commencement Act* means this Act as in force at any time before the commencement day.

**51**      **Pre-commencement Act—permitted weapons and articles generally**

- (1) This section applies to a weapon or article that—
  - (a) is not, before the commencement day, a prohibited weapon or prohibited article; and
  - (b) will be, on the commencement day, a prohibited weapon or prohibited article.
- (2) A person may apply to the registrar for a permit for the weapon or article at any time before the commencement day.

- (3) For an application mentioned in subsection (2), section 9 (Permits), section 13 (Surrender of cancelled permit) and section 14 (Review of decisions) apply as if the weapon or article were a prohibited weapon or prohibited article.
- (4) The person is exempt from any fee that would otherwise be payable to the registrar for—
  - (a) the application; and
  - (b) if a permit is issued to the person—the issue of the permit.
- (5) A person may before the commencement day—
  - (a) surrender the weapon or article to a police officer; or
  - (b) dispose of the weapon or article to someone who is authorised by a permit to possess it.
- (6) A weapon or article surrendered under this section—
  - (a) is forfeited to the Territory; and
  - (b) may be destroyed or otherwise disposed of as the chief executive directs.

**52 Pre-commencement Act—permitted weapons and articles—late application for permit**

- (1) This section applies if—
  - (a) a person applies under section 51 for a permit for a weapon or article during the period beginning 30 days before the commencement day; and
  - (b) the registrar has not decided whether to issue or refuse to issue the permit before the commencement day.

- (2) The person does not commit an offence against this Act in relation to the possession or use of the weapon or article if the elements of the offence happen—
  - (a) during the period the registrar is deciding; and
  - (b) if the registrar decides to refuse to issue the permit—during the period of 7 days (the *7-day period*) beginning on the day after the day the person receives notice of the registrar's decision.
- (3) A person mentioned in subsection (2) (b) may, during the 7-day period—
  - (a) surrender the weapon or article to a police officer; or
  - (b) dispose of the weapon or article to someone who is authorised by a permit to possess it; or
  - (c) if the person decides to apply to the AAT for a review of the decision of the registrar to refuse to issue the permit—ask the registrar to store the weapon or article until the application, and any subsequent appeal, are finally decided.
- (4) If the person's application or appeal is successful, the weapon or article must be returned to the person.
- (5) If the person's application or appeal is not successful, the weapon or article is taken to be surrendered to the registrar.
- (6) A weapon or article surrendered under this section—
  - (a) is forfeited to the Territory; and
  - (b) may be destroyed or otherwise disposed of as the chief executive directs.

**53 Transitional regulations**

- (1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of the *Firearms Amendment Act 2008*.
- (2) A regulation may modify this part to make provision in relation to anything that, in the Executive's opinion, is not, or is not adequately or appropriately, dealt with in this part.
- (3) A regulation under subsection (2) has effect despite anything else in this Act or another territory law.

**54 Expiry—pt 5**

This part expires 1 year after the commencement day.

**81 Schedule 1, new item 31**

*insert*

- 31 Hand-held articles, commonly known as laser pointers, designed or adapted to emit a laser beam with an accessible emission level of greater than 1mW.

**82 Schedule 1***substitute***Schedule 1 Prohibited weapons**

(see s 4A)

**Part 1.1 Prohibited bladed weapons**

column 1 item	column 2 description
1	a flick knife or other similar device that has a blade folded or recessed into the handle which opens automatically by— <ul style="list-style-type: none"> <li data-bbox="464 1025 954 1059">(a) gravity or centrifugal force; or</li> <li data-bbox="464 1081 1326 1151">(b) pressure applied to a button, spring or device in or attached to the handle of the device</li> </ul>
2	a sheath knife or other similar device that has a sheath that withdraws into the handle by— <ul style="list-style-type: none"> <li data-bbox="464 1263 954 1296">(a) gravity or centrifugal force; or</li> <li data-bbox="464 1319 1326 1388">(b) pressure applied to a button, spring or device in or attached to the handle of the device</li> </ul>
3	a dagger or other similar device, that has a sharp-pointed stabbing instrument— <ul style="list-style-type: none"> <li data-bbox="464 1500 1082 1534">(a) that can be concealed on the person; and</li> <li data-bbox="464 1556 1326 1771">(b) that—               <ul style="list-style-type: none"> <li data-bbox="544 1615 1326 1684">(i) has a flat blade with cutting edges (whether serrated or non-serrated) along the length of both sides; or</li> <li data-bbox="544 1706 1326 1771">(ii) has a needle-like blade, the cross section of which is elliptical or has three or more sides; and</li> </ul> </li> </ul>

column 1 item	column 2 description
	(iii) is not a sword or bayonet
	<b>Example</b> Urban Skinner push dagger
	<i>Note</i> An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).
4	a butterfly knife, balisong or other similar device that consists of a blade (whether single-edged or multi-edged) or spike that— (a) fits within 2 handles attached to the blade or spike by transverse pivot points; and (b) can be opened by gravity or centrifugal force
5	a star knife or other similar device that— (a) consists of 2 or more angular points, blades or spikes that spreads out about a central axis point; and (b) is designed to spin around the knife’s central axis point in flight when thrown at a target
6	a trench knife or other similar device that— (a) consists of a blade (whether single-edged or multi-edged) or spike; and (b) is fitted with a handle made of a hard substance; and (c) is either made or modified to be fitted over the knuckles of the hand of the user— (i) to protect the knuckles; and (ii) to increase the effect of a punch or blow
7	a knife that can discharge a blade as a projectile by a spring mechanism or other means (known as a ballistic knife)

column 1 item	column 2 description
8	a blade, knife or axe that is either made or modified to be thrown
9	a claw (known as a hand or foot claw) made or modified to be attached to or worn on the hand or foot to cause injury to someone else

## Part 1.2 Prohibited hand weapons

column 1 item	column 2 description
1	a knuckle-duster or other similar device, made or modified to be fitted over the knuckles of the hand of the user— <ul style="list-style-type: none"> <li>(a) to protect the knuckles; and</li> <li>(b) to increase the effect of a punch or other blow</li> </ul>
2	a sap glove or other weighted glove (including a fingerless glove) made or modified to be used as a weapon
3	a studded glove, or other similar hand covering, that incorporates protrusions designed to puncture or bruise the skin
4	a mace or other similar device (other than a ceremonial mace made for use solely as a symbol of authority on ceremonial occasions) that— <ul style="list-style-type: none"> <li>(a) can cause injury; and</li> <li>(b) consists of a club or staff fitted with a flanged or spiked head</li> </ul>
5	a flail or other similar device consisting of a staff or handle that has fitted to 1 end, by any means, a freely swinging part armed with spikes or studded with any protruding matter
6	a whip, the lash of which is comprised completely or partly of metal

<b>column 1 item</b>	<b>column 2 description</b>
7	a cat-o'-nine-tails or other similar device whether or not it has 9 lashes
8	nunchakus or kung-fu sticks or other similar device
9	a side-handled baton or other similar device that— (a) consists of a baton, staff or rod; and (b) is made of a hard substance; and (c) has fitted to 1 side a handle (whether or not permanently fixed)
10	an extendable or telescopic baton, made or modified so that the length of the baton extends by— (a) gravity; or (b) centrifugal force; or (c) pressure applied to a button, spring or device in or attached to the handle of the baton



## Part 1.3 Prohibited missile weapons

column 1 item	column 2 description
1	a spear gun with an overall length of less than 45cm when unloaded
2	<p>a hunting sling, catapult or sling shot made or modified for use with, or a component part of which is, a brace that—</p> <p>(a) fits or rests on the forearm or other part of the body; and</p> <p>(b) supports the wrist or forearm against the tension of the material used to propel a projectile</p> <p><b>Example</b> a Saunders ‘falcon’ hunting sling</p> <p><i>Note</i> An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).</p>
3	a crossbow or other similar device manufactured on or after 1 January 1900
4	<p>a blow gun, blow-pipe or dart projector that consists of a pipe or tube through which a dart or other device can be projected by—</p> <p>(a) the exhaled breath of the user; or</p> <p>(b) the use of an elasticised band; or</p> <p>(c) means other than by an explosive</p>
5	<p>a shark dart or other similar device designed to expel, on or after contact, a gas or other substance that can cause bodily harm</p> <p><b>Example</b> a Farallon shark dart</p>

## Part 1.4 Other prohibited weapons

column 1 item	column 2 description
1	<p>an explosive, incendiary, irritant or poison gas—</p> <ul style="list-style-type: none"><li>(a) bomb; or</li><li>(b) grenade; or</li><li>(c) rocket with a propellant charge of more than 100g; or</li><li>(d) missile with an explosive or incendiary charge of more than 7g; or</li><li>(e) mine</li></ul>
2	<p>a device or apparatus made or modified for use with a gas or liquid, if the device or apparatus is—</p> <ul style="list-style-type: none"><li>(a) capable of killing or incapacitating someone; or</li><li>(b) made or modified to kill or incapacitate someone</li></ul>
3	<p>A flame thrower or any other device of military design that can propel ignited incendiary fuel</p>
4	<p>A hand-held or other electric device designed to administer an electric shock on contact, other than a piece of medical equipment or electric prod designed exclusively for use with animals</p> <p><b>Example—hand-held electric device</b> a taser self-defence weapon</p> <p><b>Examples—other electric device</b> 1 a taxi protection cushion system 2 a super safety suitcase</p> <p><i>Note</i> An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).</p>

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<b>column 1 item</b>	<b>column 2 description</b>
5	a thing made or intended as a defence or antipersonnel spray that can discharge by any means an irritant (other than an irritant matter mentioned in item 6) in liquid, powder, gas or chemical form
6	a thing made or intended as a defence or antipersonnel spray that can discharge by any means an irritant in liquid, powder, gas or chemical form, including but not limited to the following: <ul style="list-style-type: none"><li>(a) chloroacetophenone, known as CN;</li><li>(b) orthochlorobenzalmalononitrile, known as CS;</li><li>(c) dypenylaminechloroarsone, known as DM or Adamsite;</li><li>(d) oleoresin capsicum, known as OC</li></ul>
7	an acoustic or light-emitting antipersonnel device made or modified— <ul style="list-style-type: none"><li>(a) to cause permanent or temporary incapacity or disability to a person; or</li><li>(b) to otherwise physically disorientate a person</li></ul>
8	hand-held articles, commonly known as laser pointers, designed or adapted to emit a laser beam with an accessible emission level of greater than 1mW

## Schedule 2 Prohibited articles

(see s 4B)

column 1 item	column 2 description
1	an article commonly known as soft body armour
2	a modified article of clothing, accessory or adornment a purpose of which is to disguise or conceal a weapon
	<b>Examples—modified articles</b>
	1 a walking stick containing a sword
	2 a riding crop containing a stiletto
	3 a Bowen knife belt
	<i>Note</i> An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).
3	an article or device intended for use to muffle, reduce or stop the noise created by firing a firearm
4	equipment made or modified to make a smoke screen
5	a trip flare
6	a rimfire magazine with a capacity of more than 15 rounds
7	a pistol magazine with a capacity of more than 10 rounds
8	a centre-fire self-loading rifle magazine, or shotgun magazine, with a capacity of more than 5 rounds
9	a shotgun tubular magazine extension to extend the capacity of a shotgun magazine to more than 5 rounds
10	a device that converts a firearm so it can fire in a fully automatic condition
11	a folding, detachable, telescopic or collapsible stock

## Part 4                      Prohibited Weapons Regulation 1997

### 83            Legislation amended—pt 4

This part amends the *Prohibited Weapons Regulation 1997*.

### 84            Prohibited articles Section 4

*omit*

## Schedule 1      Technical amendments

(see s 3 and s 70)

### Part 1.1      Firearms Act 1996

#### [1.1]      Long title

*substitute*

An Act to provide for the regulation, control and registration of firearms

#### [1.2]      Section 1

*substitute*

#### 1      Name of Act

This Act is the *Firearms Act 1996*.

#### [1.3]      Section 7

*omit*

, in writing,

#### [1.4]      Section 7, new notes

*insert*

*Note 1* For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

*Note 2* In particular, an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

**[1.5] Section 8, new note**

*insert*

*Note* A provision of a law that gives an entity (including a person) a function also gives the entity the powers necessary and convenient to exercise the function (see Legislation Act, s 196 (1) and dict, pt 1, defs *entity* and *function*).

**[1.6] Section 9**

*omit*

**[1.7] Section 11**

*omit*

**[1.8] Section 15 (2)**

*substitute*

- (2) The registrar may approve the club.

*Note* An approval is a disallowable instrument (see s (6)).

**[1.9] Section 123**

*omit*

**[1.10] Sections 125 and 125A**

*substitute*

**125 Determination of fees**

- (1) The Minister may determine fees for this Act.

*Note* The Legislation Act contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

- (2) A determination is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

**125A      Approved forms**

- (1) The registrar may approve forms for this Act.
- (2) If the registrar approves a form for a particular purpose, the approved form must be used for that purpose.

*Note*      For other provisions about forms, see the Legislation Act, s 255.

- (3) An approved form is a notifiable instrument.

*Note*      A notifiable instrument must be notified under the Legislation Act.

**[1.11]      Schedule 1, heading**

*omit*

(see s 4)

*substitute*

(see s 4AB)

**[1.12]      Firearms Act 1996—renumbering**

*renumber provisions when Act next republished under Legislation Act*

**Part 1.2                      Prohibited Weapons Act 1996**

**[1.13]      Section 1**

*substitute*

**1              Name of Act**

This Act is the *Prohibited Weapons Act 1996*.



**[1.14] New section 2**

*insert*

**2 Dictionary**

The dictionary at the end of this Act is part of this Act.

*Note 1* The dictionary at the end of this Act defines certain terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere.

For example, the signpost definition, ‘*firearm*—see the *Firearms Act 1996*, section 4A.’ means that the term ‘firearm’ is defined in that section and the definition applies to this Act.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

**[1.15] New sections 2A and 2B**

*insert*

**2A Notes**

A note included in this Act is explanatory and is not part of this Act.

*Note* See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

**2B Offences against Act—application of Criminal Code etc**

Other legislation applies in relation to offences against this Act.

*Note 1* *Criminal Code*

The Criminal Code, ch 2 applies to the following offences against this Act (see Code, pt 2.1):

- s 5 (Offence—unauthorised possession or use of prohibited weapons)
- s 6 (Offence—unauthorised possession or use of prohibited articles)

- s 8 (Offence—disposal of prohibited weapons and articles by unauthorised holders).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

*Note 2*    *Penalty units*

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

**[1.16]    New dictionary**

*insert*

## Dictionary

(see s 2)

*Note 1*    The Legislation Act contains definitions and other provisions relevant to this Act.

*Note 2*    For example, the Legislation Act, dict, pt 1, defines the following terms:

- AAT
- ACT
- corrections officer
- Criminal Code
- exercise
- function
- police officer
- registrar of firearms
- under.

***connected*** with an offence, for part 1B (Unregulated weapons)—see section 4CA.

***dispose***, of a prohibited weapon or article, means sell, give away or otherwise transfer possession of the weapon or article.

***firearm***—see the *Firearms Act 1996*, section 4A.

*permit* means a permit under part 3.

*possession*—see section 3.

*premises* means the whole or any part of any land, building or other structure, vehicle, vessel, aircraft or place.

*prohibited article*—see section 4B.

*prohibited weapon*—see section 4A.

*registrar* means the registrar of firearms.

*unregulated weapon*—see section 4C.

## Schedule 2 Consequential amendments

### Part 2.1 Court Procedures Act 2004

#### [2.1] Section 40, definition of *firearm*

*substitute*

*firearm*—see the *Firearms Act 1996*, section 4A.

#### [2.2] Dictionary, definition of *firearm*

*substitute*

*firearm*, for part 5 (Court security)—see the *Firearms Act 1996*, section 4A.

### Part 2.2 Crimes (Sentence Administration) Regulation 2006

#### [2.3] Dictionary, definition of *firearm*

*substitute*

*firearm*—see the *Firearms Act 1996*, section 4A.

#### [2.4] Dictionary, definitions of *prohibited article* and *prohibited weapon*

*substitute*

*prohibited article*—see the *Prohibited Weapons Act 1996*, section 4B.

*prohibited weapon*—see the *Prohibited Weapons Act 1996*, section 4A.

## Part 2.3 Domestic Violence and Protection Orders Act 2001

### [2.5] Section 3, notes

*substitute*

*Note 1* The dictionary at the end of this Act defines certain terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere.

For example, the signpost definition '*firearm*—see the *Firearms Act 1996*, section 4A.' means that the term 'firearm' is defined in that section and the definition applies to this Act.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

### [2.6] Section 9 (2), definition of *domestic violence offence*, paragraph (e) (i)

*substitute*

- (i) section 53 (Offence—unregistered firearms);

### [2.7] Dictionary, definitions of *ammunition*, *firearm* and *firearms licence*

*substitute*

*ammunition*—see the *Firearms Act 1996*, dictionary.

*firearm*—see the *Firearms Act 1996*, section 4A.

*firearms licence*—see the *Firearms Act 1996*, dictionary, definition of *licence*.

## Part 2.4                      Fair Trading Act 1992

### [2.8]            Section 26 (2) (e)

*substitute*

- (e) carrying a firearm or prohibited weapon;

### [2.9]            New section 26 (3)

*insert*

- (3) In this section:

*firearm*—see the *Firearms Act 1996*, section 4A.

*prohibited weapon*—see the *Prohibited Weapons Act 1996*, section 4A.

## Part 2.5                      Spent Convictions Act 2000

### [2.10]           Section 19 (5)

*substitute*

- (5) Section 16 does not apply in relation to the making of a decision under the *Firearms Act 1996* about a person's suitability.

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 10 April 2008.

**2 Notification**

Notified under the Legislation Act on 15 July 2008.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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I certify that the above is a true copy of the Firearms Amendment Bill 2008, which was passed by the Legislative Assembly on 3 July 2008.

Acting Clerk of the Legislative Assembly

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