



Australian Capital Territory

Firearms and Prohibited Weapons Legislation Amendment Act 2018

A2018-1

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Firearms and Prohibited Weapons Legislation Amendment Act 2018

A2018-1

An Act to amend legislation about firearms and prohibited weapons

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

Part 1 Preliminary

1 Name of Act

This Act is the *Firearms and Prohibited Weapons Legislation Amendment Act 2018*.

2 Commencement

- (1) This Act (other than sections 25, 26, 27 and 30) commences on the day after its notification day.
- (2) Sections 25, 26 and 27 commence 6 months after this Act's notification day.
- (3) Section 30 commences 1 month after this Act's notification day.

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

3 Legislation amended

This Act amends the following legislation:

- [Firearms Act 1996](#)
- [Firearms Regulation 2008](#)
- [Prohibited Weapons Act 1996](#)
- [Prohibited Weapons Regulation 1997](#).

Part 2 Firearms Act 1996

4 Authority to possess and use firearms temporarily Section 14 (2) (d)

substitute

- (d) the instructor is authorised under subsection (3) to possess or use the firearm.

5 Section 14 (3) (b)

substitute

- (b) the firearm is a registered firearm; and
(ba) the person is licensed to possess or use a firearm of that kind;
and

6 Assessing suitability of individuals—discretionary criteria Section 18 (2), definition of *law enforcement agency*, paragraph (d)

substitute

- (d) the Australian Criminal Intelligence Commission;

7 New sections 18A to 18C

insert

18A Protection of security sensitive information

- (1) This section applies if, in deciding an individual's suitability under section 17, the registrar—
- (a) considers discretionary criteria under section 18 (1) (c) in relation to the individual; and

- (b) 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.
- (2) The registrar is not required under this Act or any other territory law to give reasons for the registrar's decision to the extent that giving those reasons would disclose security sensitive information.

- (3) In this section:

law enforcement agency—see section 18 (2).

security sensitive information means information held by a law enforcement agency that relates to actual or suspected criminal activity (whether in the ACT or elsewhere) the disclosure of which could reasonably be expected to—

- (a) prejudice a criminal investigation; or
- (b) enable the discovery of the existence or identity of a confidential source of information relevant to law enforcement; or
- (c) endanger a person's life or physical safety.

18B ACAT or court review—decision on security sensitive information

- (1) This section applies if—
 - (a) an individual applies to the ACAT or the court for review of a decision of the registrar under this Act (the *relevant decision*); and
 - (b) the registrar has not given reasons for the relevant decision under section 18A (2).
- (2) The registrar must apply to the ACAT or the court for a decision about whether the reasons disclose security sensitive information.

- (3) The registrar need not notify anyone about the registrar's application (including the applicant for the review of the relevant decision) unless the ACAT or the court otherwise orders.
- (4) On application, the ACAT or the court must decide whether the information is, or is not, security sensitive information.
- (5) In this section:
security sensitive information—see section 18A (3).

18C ACAT or court review—dealing with security sensitive information

- (1) This section applies if the ACAT or the court decides under section 18B that reasons for a relevant decision disclose security sensitive information.
- (2) In deciding an application for review of the relevant decision, the ACAT or the court must—
 - (a) ensure security sensitive information is not disclosed in any reasons for the decision; and
 - (b) receive evidence and submissions that would disclose security sensitive information in private, in the absence of the public, the applicant for review, the applicant's representative and any other interested party.
- (3) However, the ACAT or court need not receive evidence or submissions in accordance with subsection (2) (b) if the registrar otherwise agrees.
- (4) In this section:
relevant decision—see section 18B (1) (a).
security sensitive information—see section 18A (3).

**8 Firearms declarations by registrar
Section 31 (2)**

substitute

- (2) A declaration remains in force for 3 months.

**9 Delegation by registrar
New section 35 (2)**

before the notes, insert

- (2) However, the registrar must not delegate the registrar's functions under sections 18A, 18B or 18C.

**10 Adult firearms licences—refusal
Section 58 (1) (d)**

substitute

- (d) that the applicant will comply with the following in relation to the storage of each registered firearm held under the licence:
- (i) for a firearm stored in the ACT—part 12 (Safe storage of firearms);
 - (ii) for a firearm stored in New South Wales—the requirements for storage under a permit issued under the *Firearms Act 1996* (NSW), section 28; and

11 Section 58 (1) (f)

substitute

- (f) that each registered firearm held under the licence will be—
- (i) stored in the ACT; or
 - (ii) if the applicant's genuine reason for possessing or using a firearm relates to an activity that occurs in New South Wales—authorised to be stored in New South Wales by a permit issued under the *Firearms Act 1996* (NSW), section 28.

**12 Adult firearms licences—conditions
Section 73 (1) (c), except note**

substitute

- (c) the licensee must store each registered firearm held under the licence—
- (i) at the registered premises for the firearm; or
 - (ii) at premises authorised for storage of the firearm by a permit issued under the *Firearms Act 1996* (NSW), section 28;

13 Section 73 (1) (d)

before

premises

insert

registered

**14 Composite entity firearms licences—genuine reasons to possess or use firearms
New section 108 (1) (e)**

insert

(e) that—

- (i) the entity is the owner or operator of a zoo; and
- (ii) it is necessary for a person employed in relation to the management of animals at the zoo to possess a firearm in the course of employment.

**15 Composite entity firearms licences—restriction on issue of category C licences
Section 111 (a)**

substitute

- (a) the genuine reason established by the composite entity to possess or use a firearm is—
- (i) that the entity is—
 - (A) engaged in primary production; or
 - (B) operating a zoo; or
 - (ii) a genuine reason prescribed by regulation; and

**16 Evidentiary certificates
Section 269 (1) (p) (i), new dot point**

insert

- section 41 (Registrar's approval to possess ammunition as collector);

**17 Prohibited firearms
Schedule 1, item 11***substitute*

11	a firearm with a suppressor attached if there is no permit to possess or use the suppressor in relation to the firearm under the <i>Prohibited Weapons Act 1996</i> , section 9
----	---

18 Dictionary, new definition of *suppressor**insert**suppressor*—see the *Prohibited Weapons Act 1996*, dictionary.

Part 3 Firearms Regulation 2008

19 Not firearms—Act, s 6 (2) (a) Section 6 (1) (a)

substitute

- (a) an antique firearm;

20 Section 6 (2), new definition of *antique firearm*

insert

antique firearm—

- (a) means a muzzle-loading pistol (including a percussion-lock pistol that is muzzle-loading) that uses black powder to propel a projectile; but
- (b) does not include a breech-loading pistol—
- (i) with a rotating cylinder; or
 - (ii) that accepts metal cartridges.

21 Section 6 (2), definition of *pre-percussion pistol*

omit

22 Category C licences, target shooting—Act, s 53 (3) Section 13 (1), note

omit

prohibited weapon

substitute

prohibited firearm

**23 Composite entity, evidence of special need for category C licence—Act, s 272 (2) (o)
Section 30 heading, note**

omit

of primary production

24 Sections 32 and 33

omit

responsible person for the licensee

substitute

registered principal

25 New section 44A

insert

44A Storage of more than 10 category A or category B firearms—Act, s 180 (3)

- (1) This section applies if—
 - (a) a person holds any of the following licences:
 - (i) a collectors licence;
 - (ii) a category A licence;
 - (iii) a category B licence; and
 - (b) more than 10 category A or category B firearms are stated in the licence.
- (2) The person takes reasonable steps to ensure that the firearms are stored safely if the firearms are stored in a metal safe or a concrete or brick safe of a kind described in section 47 (3).

26 Section 46 heading

substitute

46 Storage of not more than 10 category A or category B firearms, collectors—Act, s 180 (3)

27 Section 46 (4)

omit

Part 4 Prohibited Weapons Act 1996

28 Prohibited articles and weapons declarations by registrar Section 4L (2)

substitute

- (2) A declaration remains in force for 3 months.

29 Permits Section 9 (1)

substitute

- (1) The registrar may issue a permit authorising the possession or use of—
- (a) a prohibited weapon; or
 - (b) a prohibited article.

30 Prohibited weapons Schedule 1, part 1.1, new item 10 and example

insert

- 10 an article or other thing that—
- (a) because of its appearance is capable of being mistaken for something else that is not a weapon; and
 - (b) disguises or conceals within it a single-edged or multi-edged blade or spike

Example

credit card knife

31 Prohibited articles Schedule 2, item 1

substitute

- 1 body armour

32 Schedule 2, item 3

substitute

- 3 a suppressor

33 Schedule 2, new item 8A

insert

- 8A a detachable centre-fire rifle magazine (other than a centre-fire self-loading rifle magazine) with a capacity of more than 10 rounds

34 Dictionary, new definitions

insert

anti-ballistic means resistant to the penetration of a projectile discharged from a firearm.

anti-fragmentation means resistant to the penetration of material discharged when an explosive device is detonated.

body armour means—

- (a) an article that is designed—
 - (i) for anti-ballistic or anti-fragmentation purposes; and
 - (ii) to be worn on, or cover, the human body; but
- (b) does not include any of the following:
 - (i) a helmet;
 - (ii) an anti-ballistic article designed for sight or hearing protection;

- (iii) a vest or plate carrier designed to hold anti-ballistic or anti-fragmentation protection but without the anti-ballistic or anti-fragmentation protection included in the vest or plate carrier.

suppressor means an article or device intended for use to muffle, reduce or stop the noise created by firing a firearm.

Part 5 Prohibited Weapons Regulation 1997

35 Section 12 heading

substitute

12 Possession and use of body armour

36 Section 12 (1) and (2)

omit

soft

37 Section 12 (3)

omit

38 New section 12A

insert

12A Possession and use of suppressors

- (1) The registrar must not issue a permit authorising a person to possess or use a suppressor unless—
 - (a) the person is an authorised person; and
 - (b) the suppressor is being used for an authorised purpose.
- (2) The following activities are authorised purposes for this section:
 - (a) at the direction, or under the authority, of a conservation officer—killing fauna on public land reserved under the [territory plan](#) for a purpose mentioned in the [Planning and Development Act 2007](#), section 315 (Reserved areas—public land);

- (b) for a conservation officer or veterinary surgeon—killing fauna to alleviate its suffering;
 - (c) for an employee of the CSIRO—undertaking an expedition to collect museum specimens;
 - (d) for a firearms dealer—carrying out activities that are reasonable and necessary for a firearms dealer to manufacture, acquire, dispose of, repair, maintain or test firearms or firearm parts;
 - (e) for a lessee of land held under a rural lease or a person authorised by the lessee—killing fauna on the rural lease.
- (3) In this section:

authorised person means a person who—

- (a) holds a licence or permit or is otherwise authorised under the *Firearms Act 1996* to possess or use a prohibited firearm; and
 - (b) is—
 - (i) a conservation officer; or
 - (ii) contracted or otherwise authorised by the Territory to kill particular fauna; or
- Note* The conservator or custodian of unleased land or public land must take reasonable steps to implement a controlled native species management plan and may authorise another person to take action to implement the plan (see *Nature Conservation Act 2014*, s 167).
- (iii) a veterinary surgeon; or
 - (iv) authorised by a licence under the *Firearms Act 1996* to carry on business as a firearms dealer, including manufacturing, acquiring, disposing of, repairing, maintaining or testing firearms or firearm parts; or

- (v) employed by the CSIRO; or
- (vi) a lessee of land held under a rural lease, or a person lawfully authorised by the lessee.

conservation officer means a person who is appointed as a conservation officer under the *Nature Conservation Act 2014*, section 28 (Conservation officers—appointment).

CSIRO means the Commonwealth Scientific and Industrial Research Organisation established by the *Science and Industry Research Act 1949* (Cwlth).

fauna includes the following:

- (a) a native animal;
- (b) an animal declared to be a pest animal under the *Pest Plants and Animals Act 2005*, section 16;
- (c) stock.

rural lease—see the *Planning and Development Act 2007*, dictionary.

stock—see the *Stock Act 2005*, dictionary.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 14 September 2017.

2 Notification

Notified under the [Legislation Act](#) on 28 February 2018.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Firearms and Prohibited Weapons Legislation Amendment Bill 2018, which originated in the Legislative Assembly as the Firearms and Prohibited Weapons Legislation Amendment Bill 2017 and was passed by the Assembly on 13 February 2018.

Clerk of the Legislative Assembly

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