

1995
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Weapons (Amendment) Bill 1995

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Weapons (Amendment) Bill 1995

**A BILL
FOR**

An Act to amend the *Weapons Act 1991*

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

Short title

1. This Act may be cited as the *Weapons (Amendment) Act 1995*.

5 Commencement

2. (1) Section 1 and this section commence on the day on which this Act is notified in the *Gazette*.

(2) The remaining provisions commence on a day, or respective days, fixed by the Minister by notice in the *Gazette*.

10 (3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

Principal Act

3. In this Act, "Principal Act" means the *Weapons Act 1991*.¹

Interpretation

4. Section 4 of the Principal Act is amended—

- 5 (a) by inserting in the definition of "dangerous weapon" in subsection (1) " , and includes a pistol that has been modified to fire blank cartridges, a starting pistol that is an imitation pistol and a silencer" after "propelled";
- 10 (b) by inserting in the definition of "dealer's licence" in subsection (1) "dealer's" before "licence" (last occurring);
- (c) by omitting "and" from paragraph (a) of the definition of "prohibited weapon" in subsection (1);
- (d) by adding at the end of paragraph (b) of the definition of "prohibited weapon" in subsection (1) "or";
- 15 (e) by inserting after paragraph (b) of the definition of "prohibited weapon" in subsection (1) the following paragraph:
- "(c) such other weapons, articles or devices as are prescribed for the purposes of this paragraph;"
- 20 (f) by omitting from subsection (1) the definition of "authorised instructor" and substituting the following definition:
- " 'authorised instructor' means, subject to section 22A, a person authorised in writing by—
- (a) an approved club; or
- (b) the Registrar;
- 25 to give instruction in the use of dangerous weapons;" ; and
- (g) by inserting the following definitions:
- " 'inoperable weapon' means a dangerous weapon or prohibited weapon that has been rendered inoperable in accordance with this Act;
- 30 'inoperable weapons licence' means an inoperable weapons licence granted or renewed under this Act;
- 'starting pistol' means a dangerous weapon the purpose of which is for use in the starting of racing events in sporting competitions."

Approved reasons

5. Section 5 of the Principal Act is amended—

(a) by inserting after paragraph 5 (1) (a) the following paragraph:

“(ab) is an authorised instructor;”;

(b) by adding at the end of subparagraph (1) (b) (i) “or”;

(c) by omitting subparagraph (1) (b) (ii);

(d) by inserting after paragraph (1) (h) the following paragraph:

“(ha) is employed or engaged by—

(i) the Royal Society for the Prevention of Cruelty to Animals;

(ii) the Commonwealth Scientific and Industrial Research Organisation; or

(iii) a body, included in a prescribed class of bodies the principal objects of which are plant research or research into the cause, prevention or cure of diseases in animals, or the management of the welfare of animals;

and it is necessary for the person to possess a dangerous weapon in the course of that employment or engagement;”;

(e) by omitting paragraph (1) (m) and substituting the following paragraph:

“(m) is a recreational shooter or hunter in the Territory or in a State or another Territory;”;

(f) by inserting after paragraph (1) (n) the following paragraphs:

“(na) is a registered veterinary surgeon, and the weapon is used in the course of carrying out his or her profession;

(nb) in the case of a crossbow—

(i) is a member of an approved archery club and the crossbow is used for the purpose of participating in a competition in the use of crossbows conducted by or in association with an approved archery club and the crossbow is not used for any other purpose; or

(ii) the crossbow is required for use in the course of scientific research;

(nc) in the case of a starting pistol—

5 (i) is a natural person who is an official in relation to sporting competitions conducted by a prescribed sporting organisation, and the starting pistol is used while he or she is acting in that capacity; or

(ii) is a prescribed sporting organisation;”; and

(g) by inserting in subsection (5) the following definition:

10 “‘approved archery club’ means—

(a) the Canberra Archery Club Incorporated or the Weston Valley Archery Club Incorporated; or

15 (b) any other body declared by the Registrar, by notice in the *Gazette*, to be an approved archery club for the purposes of this Act;”.

Reports, recommendations and guidelines

6. Section 13 of the Principal Act is amended—

(a) by omitting from paragraph (1) (a) “and” (last occurring);

(b) by adding at the end of paragraph (1) (b) “and”; and

20 (c) by inserting after paragraph (1) (b) the following paragraph:

“(c) by notice in the *Gazette*, determine guidelines for rendering a dangerous weapon or prohibited weapon inoperable.”.

Repeal

25 7. Section 14 of the Principal Act is repealed.

Prohibited weapons

8. Section 16 of the Principal Act is amended by inserting in subsection (1) “, use or cause or permit to be used” after “possession”.

Insertion

30 9. After section 19 of the Principal Act the following section is inserted:

Inoperable weapons

"19A. A person shall not possess an inoperable weapon unless the person is the holder of an inoperable weapons licence.

Penalty:

- 5 (a) if the inoperable weapon was a dangerous weapon—100 penalty units or imprisonment for 12 months, or both;
- (b) if the inoperable weapon was a prohibited weapon—200 penalty units or imprisonment for 2 years, or both."

Exemptions—general

- 10 10. Section 20 of the Principal Act is amended by inserting in paragraph (1) (a) "or a prison officer of a State or another Territory," before "who".

Specific exemptions—possession or use of dangerous weapons and restricted weapons

- 15 11. Section 21 of the Principal Act is amended by omitting paragraph (b) and substituting the following paragraph:

- 20 "(b) a dangerous weapon that is a pistol modified to fire blank cartridges, or a starting pistol that is an imitation pistol, if the pistol is registered and the person is a member of a prescribed sporting organisation or a sporting organisation included in a class of prescribed sporting organisations, while the person is taking part in a sporting event conducted by or in association with that organisation,".

Insertion

- 25 12. After section 22 of the Principal Act the following section is inserted:

Authorised instructors

- 30 "22A. The Registrar or an approved club shall not authorise a person to give instruction in the use of dangerous weapons unless the person has, to the satisfaction of the Registrar, completed a course of training in instruction in the use of dangerous weapons approved by the Registrar."

Grant of dangerous weapons licence

13. Section 24 of the Principal Act is amended—

- 35 (a) by omitting from subparagraph (1) (d) (i) all the words after "conducted" and substituting "by an authorised instructor";

(b) by omitting from subsection (2) all the words from and including “In determining” to and including “whether—” and substituting “Without limiting the generality of subsection (1), in determining whether or not an applicant is a fit and proper person to hold a dangerous weapons licence, the Registrar shall have regard to whether—”;

(c) by inserting before paragraph (2) (a) the following paragraph:

“(aa) the applicant’s physical or mental condition is, in his or her opinion, likely to endanger the applicant or another person, or as a consequence of that condition, the applicant is likely to cause a breach of the peace involving the use of a weapon;” and

(d) by omitting from paragraph (2) (b) “or” (last occurring) and substituting “and”.

Refusal to grant licence

14. Section 25 of the Principal Act is amended by adding at the end the following subsections:

“(3) The Registrar shall refuse to grant a licence under section 24 if the applicant refuses or fails to provide the Registrar with acceptable proof of his or her identity when requested by the Registrar to do so.

“(4) A reference in paragraphs (1) (b) and (c) to an indictable offence shall be read as a reference to an offence involving the use of a weapon, or actual or threatened violence.”.

Substitution

15. Section 27 of the Principal Act is repealed and the following section substituted:

Temporary licences—internationally protected persons

“27. (1) The Chief Police Officer may, on written application, grant to a person a temporary dangerous weapons licence if satisfied that—

(a) the person to whom the application relates is a member of the staff of an internationally protected person whose duties include the protection of that person while in the Territory;

(b) the weapon to which the application relates is a pistol or revolver of not more than .45 calibre that is not fully automatic or capable of conversion to being fully automatic; and

(c) it would not be contrary to the public interest to grant the licence.

“(2) The Chief Police Officer may, in a temporary licence, specify conditions to which the licence is subject.

“(3) In subsection (1)—

5 ‘internationally protected person’ has the same meaning as in the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons a copy of which is set out in the Schedule of the *Crimes (Internationally Protected Persons) Act 1976* of the Commonwealth.”.

Grant of restricted weapons licence

10 16. Section 30 of the Principal Act is amended by adding at the end the following subsection:

“(3) The Registrar shall refuse to grant a licence if the applicant refuses or fails to provide the Registrar with acceptable proof of his or her identity when requested by the Registrar to do so.”.

15 Repeal

17. Section 31 of the Principal Act is repealed.

Insertion

18. After section 33 of the Principal Act the following Division is inserted:

20 “*Division 3A—Inoperable weapons licences*

Application

“33A. An application for an inoperable weapons licence shall be—

- (a) in accordance with a form approved by the Registrar;
- (b) executed by the applicant; and
- 25 (c) accompanied by the determined fee.

Grant of inoperable weapons licence

“33B. (1) The Registrar may grant, or refuse to grant, an inoperable weapons licence.

30 “(2) The Registrar shall grant an inoperable weapons licence if satisfied that—

- (a) the applicant for the licence—
 - (i) has attained the age of 18;

(ii) is a member of the ACT Antique and Historical Arms Association Limited or is a collector (whether incorporate or unincorporate) of weapons of historical interest, or as mementos or for ceremonial or memorial purposes; and

5 (iii) is otherwise a fit and proper person to hold an inoperable weapons licence;

(b) the weapon is inoperable; and

(c) it would not be contrary to the public interest to grant the licence.

10 “(2) In determining whether or not an applicant is a fit and proper person to hold an inoperable weapons licence, the Registrar shall have regard to the matters to which he or she is required to have regard under subsection 24 (2) in relation to an application for a dangerous weapons licence.

Refusal to grant licence

15 “33C. The Registrar shall refuse to grant an inoperable weapons licence if, in relation to the applicant for the licence, a ground specified in section 25 exists on which the Registrar could refuse to grant a dangerous weapons licence.

Return of licence

20 “33D. If—

(a) the holder of an inoperable weapons licence ceases to possess an inoperable weapon to which the licence relates; or

(b) the licence expires and is not renewed;

25 the licensee shall not, without reasonable excuse, fail to return the licence to the Registrar within 7 days after ceasing to possess the weapon or that expiration.

Penalty: 10 penalty units.

Effect of licence

30 “33E. An inoperable weapons licence authorises the licensee to possess an inoperable weapon specified on the licence.”.

Grant of dealer's licence

19. Section 35 of the Principal Act is amended by adding at the end the following subsection:

35 “(3) In determining whether or not an applicant is a fit and proper person to hold a dealer's licence, the Registrar shall have regard to the

matters referred to in paragraphs 24 (2) (a) to (c) (inclusive) as if the applicant were an applicant for a dangerous weapons licence.”.

Repeal

20. Section 37 of the Principal Act is repealed.

5 Insertion

21. After section 45 of the Principal Act the following sections are inserted:

False or misleading statements

10 “45A. A person shall not provide information or make a statement to the Registrar knowing that it is false or misleading in a material particular.

Penalty: 50 penalty units or imprisonment for 6 months.

Form of licences

15 “45B. (1) A dangerous weapons licence, temporary dangerous weapons licence, restricted weapons licence, inoperable weapons licence and dealer’s licence shall be in accordance with a form approved by the Registrar.

“(2) The regulations may make provision for—

- (a) the inclusion in the form of a licence of a recent photograph of the person to whom the licence is granted; and
- 20 (b) arrangements in accordance with which photographs may be obtained.”.

Cancellation and suspension of licence—general

22. Section 51 of the Principal Act is amended by inserting after paragraph (2) (b) the following paragraph:

25 “(ba) in the case of a dangerous weapons licence—

- (i) on which more than 1 dangerous weapon is registered or endorsed; and
- (ii) for which the approved reason for requiring the dangerous weapons is the same;

30 the licensee has ceased to require a dangerous weapon for that approved reason;”.

Insertion

23. After section 51 of the Principal Act the following section is inserted:

Surrender of licence following cancellation

- 5 “51A. A person whose licence is cancelled under section 51 shall, as soon as practicable, and in any event not later than 7 days, after being notified of the decision to cancel, give his or her licence to the Registrar or a police officer.

Penalty: 10 penalty units.”.

Application for registration

24. Section 56 of the Principal Act is amended by inserting in paragraphs (1) (a) and (b) “or inoperable” after “dangerous”.

10 **Approval of application**

25. Section 57 of the Principal Act is amended—

- (a) by inserting in subsection (1) “or inoperable” after “dangerous” (first occurring); and
- 15 (b) by inserting in paragraph (1) (c) “in the case of a dangerous weapon—” before “the applicant”.

Refusal of registration—duties of licensees

26. Section 58 of the Principal Act is amended—

- (a) by inserting in subsection (1) “or inoperable weapon” after “weapon” (first occurring);
- 20 (b) by inserting in paragraph (1) (b) “or inoperable, as the case requires” after “safe” (first occurring);
- (c) by inserting in subparagraph (1) (b) (i) “or inoperable, as the case requires” after “safe”;
- 25 (d) by inserting in subparagraph (1) (b) (ii) “or inoperable, as the case requires,” after “safe”;
- (e) by omitting from subsections (2), (3) and (4) “dangerous”; and
- (f) by inserting in subsection (4) “or inoperable, as the case requires” after “safe”.

Cancellation of registration

30 27. Section 60 of the Principal Act is amended—

- (a) by omitting subsection (1) and substituting the following subsections:

“(1) Where the holder of a dangerous weapons licence has more than 1 dangerous weapon registered on his or her licence and the Registrar is satisfied that—

- (a) the approved reason for which a particular weapon was required has ceased to exist; or
- (b) the weapon is no longer suitable for use for the approved reason for which it was granted;

the Registrar shall cancel the registration of the weapon and alter the licence accordingly.

“(1A) Where, under section 49, a person has applied for the renewal of his or her dangerous weapons licence or inoperable weapons licence, the Registrar may require the applicant to produce to the Registrar any dangerous weapon or inoperable weapon registered on the licence for the purpose of determining whether or not the weapon is safe or inoperable, as the case requires.”; and

- (b) by omitting from subsection (2) “dangerous weapon referred to in subsection (1) is safe” and substituting “weapon referred to in subsection (1) is safe or inoperable, as the case requires”.

Search warrants

28. Section 72 of the Principal Act is amended by omitting from paragraph (1) (a) “and” and substituting “or”.

Forfeiture etc. of weapons

29. Section 73 of the Principal Act is amended—

- (a) by omitting from paragraph (1) (a) “or restricted weapon” and substituting “, restricted weapon or ammunition”;
- (b) by inserting in paragraph (1) (b) “or ammunition” after “weapon”;
- (c) by omitting from subsection (1) “or restricted weapon” (last occurring) and substituting “, restricted weapon or ammunition”;
- (d) by omitting from paragraph (2) (a) “or restricted weapon” and substituting “, restricted weapon or ammunition”;
- (e) by omitting from subsection (2) “or restricted weapon” (last occurring) and substituting “, restricted weapon or ammunition”;
- (f) by omitting subsection (3) and substituting the following subsection:

“(3) Subsections (1) and (2) do not apply if, before the expiration of the 60 days or before the court finds the offence not proved, as the case may be—

- 5 (a) the licence of the person to whom the weapon would, but for this section have been returned, has been cancelled; or
- (b) in relation to ammunition seized—a prosecution for another offence against section 90 has been instituted.”;
- 10 (g) by omitting from paragraph (4) (a) “or restricted weapon” and substituting “, restricted weapon or ammunition”;
- (h) by inserting in paragraph (4) (b) “or ammunition” after “weapon”;
- (i) by inserting in subsection (4) “or if the Registrar is otherwise entitled to revoke an approval under subsection 90 (4) or the person would not otherwise be entitled to possess the ammunition,” after “licence”; and
- 15 (j) by omitting from subsections (5) and (6) “or restricted weapon” and substituting “, restricted weapon or ammunition”.

Insertion

- 20 30. Before section 75 of the Principal Act the following section is inserted in Part VI:

Interpretation

“74. In this Part—

‘ammunition’ includes primers and propellants.”.

Sale etc. of weapons

- 25 31. Section 77 of the Principal Act is amended by adding at the end the following subsections:

“(7) A person shall not sell, lend or give a dangerous weapon to another person if it is—

- (a) fitted with a folding or detachable stock; or
- 30 (b) a self-loading centre fire rifle of a military type or a dangerous weapon that substantially replicates such a weapon.

Penalty—

- (a) if the offender is a natural person—200 penalty units or imprisonment for 2 years, or both;
- 35 (b) if the offender is a body corporate—1,000 penalty units.

“(8) A person shall not sell, lend or give a self-loading centre fire rifle or self loading shotgun to another person if it has a detachable magazine capable of holding more than 5 rounds.

Penalty—

- 5 (a) if the offender is a natural person—200 penalty units or imprisonment for 2 years, or both;
- (b) if the offender is a body corporate—1,000 penalty units.”.

Safekeeping of weapons

32. Section 82 of the Principal Act is amended—

- 10 (a) by inserting in subsection (1) “, a restricted weapon or inoperable weapon” after “gun”;
- (b) by omitting from subsection (1) “or under” and substituting “and under”; and
- (c) by inserting after subsection (1) the following subsection:
- 15 “(1A) It is a defence to a prosecution under subsection (1) if the defendant satisfies the court that he or she believed on reasonable grounds that he or she had complied with the guidelines determined under paragraph 13 (1) (b).”.

Possession of ammunition

20 33. Section 90 of the Principal Act is amended—

- (a) by omitting from subparagraph (2) (a) (iii) “(3)” and substituting “(4)”;
- (b) by omitting from paragraph (2) (a) “or” (last occurring);
- (c) by adding at the end of paragraph (2) (b) “or”; and
- 25 (d) by adding at the end of subsection (2) the following paragraph:
- “(c) a person who has an approved reason for requiring a starting pistol, if the ammunition consists of blank cartridges for use in a starting pistol.”.

Sale of ammunition

30 34. Section 91 of the Principal Act is amended—

- (a) by omitting from paragraph (2) (b) “or” (last occurring);
- (b) by adding at the end of paragraph (2) (c) “or”; and
- (c) by adding at the end of subsection (2) the following paragraph:

- “(d) in the case of ammunition capable of being discharged from a starting pistol—the licensed dealer is satisfied that the person has an approved reason for requiring a starting pistol.”.

5 Substitution

35. Section 92 of the Principal Act is repealed and the following sections are substituted:

Compensation

- 10 “92. The Territory shall compensate the owner of a weapon surrendered to the Registrar if, immediately before its surrender, the weapon was lawfully in his or her possession but its sale is prohibited.

Disposal of uncollected weapons

“92A. The Registrar may dispose of a weapon in his or her possession for not less than 6 months if—

- 15 (a) the Registrar has made reasonable attempts to ascertain the whereabouts of the owner of the weapon; and
(b) there are no circumstances which would preclude the disposal of the weapon.”.

Review of decisions

- 20 36. Section 98 of the Principal Act is amended—
(a) by inserting in paragraph (b) “, 33B” after “30”;
(b) by inserting in paragraph (c) “, 33B” after “30”;
(c) by inserting in paragraph (e) “33B or” after “section”;
25 (d) by omitting from paragraph (h) “section 51” and substituting “subsection 51 (1)”; and
(e) by inserting in paragraphs (i) and (j) “or inoperable weapon” after “weapon”.

Schedule 2

- 30 37. Schedule 2 to the Principal Act is amended by adding at the end of item 1 “or a starting pistol that is an imitation pistol”.

Schedule 3

38. Schedule 3 to the Principal Act is amended—

- (a) by omitting item 1;

(b) by inserting in item 4 “, Blackjack, cosh, Billy club or any similar article” after “glove”;

(c) by omitting item 6 and substituting the following item:

“6 Any blowgun or blow pipe or any dart capable of being projected from a blowgun or blow pipe.”;

(d) by omitting from item 14 “crossbow” and substituting “military style crossbow or a pistol crossbow”;

(e) by inserting after item 15 the following items:

“15A A Butterfly or Balisong knife having a blade that opens by centrifugal force or manipulation and which is concealed within 2 folding half handles.

15B A push dagger, push blade, urban skinner, urban pal, terminator or similar knife.

15C A ballistic knife or similar article.”;

(f) by inserting in item 16 “or Stun Gun” after “Weapon”; and

(g) by inserting after item 17 the following items:

“17A A Nunchaku, Nunchaku baton or similar article.

17B An automatic or spring-loaded baton commonly known as a Tokushu Keibo, or similar article.

17C An expandable straight or side handled baton.

17D A Yawara or Yawara Sticks or Persuader, Kubotan, Mojem, Pow-r-stick or expandable yawara or similar article.

17E An article commonly known as a Ninja Shobo or similar article.

17F A modified article of clothing accessory or adornment used to disguise or conceal a weapon.”.

NOTES

Principal Act

1. Reprinted as at 28 February 1995.

Penalty units

See section 33AA of the *Interpretation Act 1967*.