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**THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY**

**WEAPONS ACT 1991
WEAPONS REGULATIONS**

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EXPLANATORY MEMORANDUM

Circulated by the authority of the Attorney General

Terry Connolly MLA

WEAPONS REGULATIONS
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Outline

The Weapons Regulations ("the Regulations") support the Weapons Act 1991 ("the Act"). They provide for matters required or permitted, under the Act, to be prescribed in regulations made under that Act.

The Regulations provide limited exemptions from provisions of the Act in respect of certain weapons, to specified persons or classes of persons. The provision of such exemptions will ensure that the specified individuals and organisations within the ACT, whose legitimate activities are affected by the operation of the Act, for example, members of theatrical, dramatic and historical societies and competitive crossbow users, are able to continue to pursue those legitimate recreations, sports and other activities, subject to the conditions imposed in the terms of the relevant exemption.

Revenue/cost implications

The Regulations will have no effect on revenue.

Details of the Regulations are provided in the Attachment.

Weapons Regulations

Explanatory Memorandum

Citation

Regulation 1 provides for the title of the Regulations, when made, to be the Weapons Regulations.

Commencement

Regulation 2 has the effect of commencing the Regulations on the same day as the Weapons Act 1991 ("the Act") commences, except for the three formal sections of that Act which commenced when the Act was gazetted on 3 April 1991.

Interpretation

Regulation 3 provides for the interpretation of terms used in the Regulations.

Approved reasons

Paragraph 5(1)(q) of the Act provides that prescribed persons or prescribed classes of persons are to be taken to have an approved reason for requiring a dangerous weapon. The Registrar, under section 24 of the Act, may not grant a dangerous weapons licence to an applicant for such a licence unless the Registrar is satisfied that the applicant has an approved reason for requiring a dangerous weapon.

Regulation 4 provides for a person who is a member of the ACT Gundog Society Incorporated and who participates in field trials and retrieving trials for gundogs, conducted by or in association with that society, to be a prescribed person and, as such, taken to have an approved reason for requiring a dangerous weapon.

Register of Weapons

Regulation 5, pursuant to paragraph 12(2)(d) of the Act, prescribes particulars required to be entered in the Register of Weapons. Subsection 12(2) of the Act specifies particulars which must be entered in the Register of Weapons and, in paragraph 12(2)(d), provides that such other particulars as are prescribed in the regulations may also be required to be entered in the Register of Weapons.

Regulation 5 provides that in relation to each licence granted by the Registrar the date of birth and the sex of the licensee shall be prescribed particulars and, as such, are required to be entered in the Register.

Exemption - crossbows

Subsection 20(2) of the Act provides that the regulations may exempt a specified person or persons, a specified weapon or weapons, or both, from the requirements of all or any of the provisions of the Act, or may specify the circumstances in which an exemption applies.

Regulation 6 provides an exemption in respect of crossbows. As a crossbow is a prohibited weapon under the Act a person is prohibited from possessing or using such a weapon by section 16 of the Act.

Paragraph 6(1)(a) exempts a person aged between 16 and 18 years from section 16 of the Act where the person is a member of an approved archery club and uses the crossbow only for the purpose of participating in competitions conducted by or in association with an approved archery club.

Paragraph 6(1)(b) exempts a person who is over the age of 18 years and owns a crossbow, if the person is a member of an approved archery club and uses the crossbow only for the purpose of participating in competitions conducted by or in association with an approved archery club.

Subregulation 6(2) provides that the exemptions in subregulation 6(1) do not apply to a person who is the subject of a restraining order under the Magistrates Court Act 1930, a protection order under the Domestic Violence Act 1986 or a corresponding order or where the person has within 8 years preceding the commencement of the Regulations or the acquisition of the crossbow, whichever is the later, been convicted in the Territory of an indictable offence. This is consistent with the prohibition on obtaining a dangerous weapons licence under section 25 of the Act.

An approved archery club is defined in regulation 3.

Approved manufacturer or supplier - crossbows and darts

A 'dart' is defined in regulation 3 to mean a dart capable of being projected from a blow-gun. Such a weapon is a prohibited weapon under the Act.

Regulation 7, pursuant to subsection 20(2) of the Act, provides for the Minister to, by notice in writing published in the Gazette, declare a manufacturer to be an approved manufacturer of darts and a supplier to be an approved supplier of crossbows, for the purposes of the Act.

Subregulation 7(2) provides for approved manufacturers of darts and approved suppliers of crossbows to be exempt from section 16 of the Act, subject to certain conditions.

Subregulation 7(3) restricts a supplier of crossbows to disposing of such weapons only to persons who are members of an approved archery club, or reasonably believed to be members of such a club.

A penalty of \$1,000 for a natural person and \$10,000 for a body corporate is provided for a breach of this provision.

Subregulation 7(4) restricts a manufacturer of darts to selling or disposing of those darts to persons who by reason of a disability are incapable of participating in a sport or recreation normally involving the use of hand thrown darts, or persons whom the manufacturer reasonably believes come within this description.

A penalty of \$1,000 for a natural person and \$10,000 for a body corporate is provided for a breach of this provision.

Exemption - antique crossbows

Regulation 8 provides an exemption in respect of antique crossbows which are prohibited weapons under the Act.

Subregulation 8(1) provides that where a person has an antique crossbow from which the trigger mechanism cannot be removed, so as to render the weapon inoperable, that person will be exempt from section 16 of the Act if the crossbow is kept with a licensed dealer.

Subregulation 8(2) provides a licensed dealer will be exempt from section 16 of the Act in respect of an antique crossbow kept by the dealer on behalf of a person who is exempt under the preceding subregulation.

These provisions will enable a person who owns an antique crossbow from which the trigger mechanism cannot be removed to retain legal, if not physical, possession of the weapon. This is similar to the position of a person who keeps a dangerous weapon as a memento. Under the Act, such a weapon, where it is operable, is required to be kept with a licensed dealer.

Subregulation 8(3) provides that where a person has an antique crossbow from which the trigger mechanism can be removed, that person is exempt from section 16 of the Act so long as the crossbow is kept by the person under such conditions as to prevent another person from having access to the trigger mechanism without the express consent of the first-mentioned person.

Subregulation 8(4) defines an antique crossbow to mean a crossbow manufactured before 1900.

Exemption - darts

Regulation 9 provides an exemption from section 16 of the Act for a person with a disability which renders that person unable to participate in a sport or recreation using hand thrown darts where that person is in possession of a dart for the purpose of enabling him or her to participate in a sport or recreation.

Exemption - theatrical productions

Regulation 10 provides an exemption in respect of dangerous weapons and restricted weapons used by persons in productions staged by theatrical, dramatic or historical societies.

Subregulation 10(1) provides an exemption from sections 17 and 18 of the Act (which require persons to be licensed in respect of restricted and dangerous weapons, respectively) where a person is a performer in a production being staged by a theatrical, dramatic or historical society, or is a member of such a society staging a production, in which the weapon is used and where the person has the weapon in his or her possession for the purposes of the production.

Subregulation 10(2) provides that the exemption does not apply in respect of a dangerous weapon if the weapon is loaded with otherwise than blank ammunition and unless -

- (i) the weapon is borrowed or hired, for the purposes of the production, from a person licensed to possess such a weapon and the weapon is registered on that person's licence;
- (ii) the weapon is registered or endorsed on the licence of a member of the society staging the production or on the licence of a performer in the production where such persons are licensed under the Act; or
- (iii) the weapon is borrowed or hired from a person ordinarily resident in a State or another Territory who is not prohibited by a law of that State or Territory from possessing the weapon.

Subregulation 10(3) provides that the exemption does not apply in respect of restricted weapons unless the person who lent or let the weapon on hire holds a licence for the restricted weapon or, if the person is ordinarily resident in a State or another Territory, the person is not prohibited by a law of that State or Territory from possessing the weapon.

Subregulation 10(4) provides a definition of the term 'production' for the purpose of the regulation.

Exemption - continuing participation

Regulation 11 provides an exemption from section 18 of the Act for a person who borrows a dangerous weapon for the purpose of taking part in competitions in, or activities relating to, the use of such weapons conducted by or in association with an approved club, where the competition or activity is being held on the premises of the club.

An approved club is defined in section 4 of the Act.

This provision will enable a competitor in a shooting competition to borrow a weapon to participate in, or continue participation in, the competition where, for example, the competitor's own weapon malfunctions.

Exemption - lending or letting a restricted or dangerous weapon

Regulation 12 provides that a person who provides a restricted or dangerous weapon to a person who is entitled to an exemption under regulation 10 relating to theatrical productions is exempt from the prohibitions on lending restricted weapons and lending or leasing dangerous weapons under subsections 77(1) and 77(2) of the Act, respectively.

Exemption - lending for competition

Regulation 13 provides that a person is exempt from the prohibition on lending a dangerous weapon, under subsection 77(2) of the Act, if that

person lends a dangerous weapon to a person who holds a dangerous weapons licence on whose licence that weapon is not endorsed, for the purpose of enabling the person borrowing the weapon to take part or continue to take part in competitions in, or activities relating to, the use of such a weapon, conducted by or in association with an approved club, on the club's premises.

This provision complements regulation 11.

Dealer's Book

Regulation 14 prescribes certain particulars pursuant to subsection 40(3) of the Act and, as such, requires them to be entered in the Dealer's Book.

Section 40 of the Act requires each licensed dealer to keep a Dealer's Book and requires the particulars prescribed by the regulations to be entered in the Book.

Regulation 14 specifies the various particulars which are required to be entered in the Book in respect of weapons manufactured, acquired, modified, repaired, tested, sold or otherwise disposed of by a dealer.

Change of possession

Regulation 15 provides for certain particulars to be prescribed for the purposes of paragraph 54(1)(a) of the Act which requires the holder of a dangerous weapons licence to, within seven days of ceasing to possess a weapon registered or endorsed on his or her licence, advise the Registrar of Weapons of the prescribed particulars.

The regulation provides for details of the date of the cessation of possession of the weapon, details relating to the person to whom possession of the weapon has passed and details relating to the weapon itself, to be prescribed particulars and, as such, required to be notified to the Registrar of Weapons.

Serial numbers

Subparagraph 102(2)(a)(i) of the Act enables the regulations to make provision regarding the marking of dangerous weapons with an identification mark.

Regulation 16 prohibits a person from having a dangerous weapon in his or her possession unless it is marked with a serial number inscribed by the manufacturer, allocated by the Registrar of Weapons or allocated by the Weapons Registry or allocated by the Gun Licensing Branch of the Australian Federal Police prior to the commencement of the Regulations.

A penalty of \$1,000 for a natural person and \$10,000 for a body corporate is provided for failure to comply with this requirement.