

Firearms (Club) Approval 2015 (No 2)

Disallowable instrument DI2015–278

made under the

Firearms Act 1996, s 40 (Approval of clubs)

EXPLANATORY STATEMENT

The Registrar of Firearms has the power to approve a collectors, hunting or shooting club pursuant to section 40 of the *Firearms Act 1996* (ACT). The Note to section 40(2) states that an approval is a disallowable instrument (see s (6)). Sub-section (6) states an approval is a disallowable instrument. The Note to this sub-section states a disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

Advice has been received from the ACT Government Solicitor that there are currently only three valid firearms club approvals. These approvals do not include the A.C.T. Antique and Historical Arms Association Incorporated. In relation to this club, a search of repealed notifiable instruments in the ACT Legislation Register revealed that Mr Geoffrey Hazel, the then Registrar of Firearms, made a “Declaration of Approved Club” pursuant to section 15(2) of the Firearms Act, to declare the A.C.T. Antique and Historical Arms Association Incorporated to be an approved club for the purposes of section 15 on an unspecified date in 1998.

The Declaration was identified as a “notifiable instrument” as notified on 1 April 1998 (NI1998-75). The ACT Legislation Register states that the Declaration was repealed on 28 August 1998, with the reason noted on the ACT Legislation Register as “approvals under the ACT, s 15 (Approval of clubs) are disallowable instruments and must be presented to the Legislative Assembly.”

However, this instrument was not presented to the Legislative Assembly within 15 sitting days and is therefore taken to be repealed (s 6(6) *Subordinate Laws Act 1989*). Accordingly, 28 August 1998 was the date upon which the Declaration ceased to have effect as this is the day after the last of the 15 sitting days from 1 April 1998.

To rectify this situation, the A.C.T. Antique and Historical Arms Association Incorporated submitted a new Application to be an Approved Firearms Club, dated 16 September 2015. The Application has been reviewed and it has been determined that the club has satisfied all the requirements under the Act.

In relation to the retrospective clause, namely, for the approval to take effect from 28 August 1998, the advice from the ACT Government Solicitor is that this should be allowed as s 76(1) of the Legislation Act provides that a statutory instrument may provide that a non-prejudicial provision of the instrument commences retrospectively.