

Firearms Amendment Regulation 2024 (No 1)

Subordinate law SL2024–23

made under the

Firearms Act 1996

EXPLANATORY STATEMENT

This Explanatory Statement relates to the *Firearms Amendment Regulation 2024 (No 1)* (the Amendment Regulation) as made by the Executive. It has been prepared to assist the reader of the Amendment Regulation and to help inform debate on it. It does not form part of the Amendment Regulation and has not been endorsed by the Legislative Assembly.

OVERVIEW

The *Firearms Act 1996* (the Act) and the *Firearms Regulation 2008* (the Regulation) establish an integrated licensing and registration scheme for firearms in the ACT. Licences are issued in different categories where a person has a genuine reason to possess or use a firearm. Category C licences authorise the possession and use of certain self-loading rim-fire rifles, self-loading shotguns and pump action shotguns.

Under the Act and the Regulation, a Category C licence may only be issued where:

- an adult establishes the genuine reason for the firearm is primary production (s 64(1) of the Act);
- an adult establishes the genuine reason for the firearm is vertebrate pest animal control (s 16A of the Regulation); or
- a composite entity establishes the genuine reason for the firearm is that they engage in primary production or operate a zoo (s 111(a) of the Act).

The Amendment Regulation amends section 16A of the Regulation to prescribe the following two additional genuine reasons for the purpose of a Category C licence:

- sport or target shooting, if:
 - the applicant is physically unable to compete in shooting competitions without the use of semi-automatic or pump-action shotgun; or

- the applicant was lawfully in possession of the firearm on or before 14 November 1996; and
- employment (other than by a security business) or occupational requirements relating to rural purposes.

Sport or target shooting

Currently, section 13 of the Regulation sets out requirements for a person applying for a Category C licence for the possession and use of a prohibited firearm for the purposes of a shooting competition.

However, this section does not formally prescribe sports or target shooting as a genuine reason for the purpose of obtaining a Category C licence. The Amendment Regulation amends section 16A to clarify that sport or target shooting, in certain circumstances, is a genuine reason to obtain a Category C licence. The Explanatory Memorandum for the *Firearms Regulation 1997* suggests this was the original intention.

Table 15 sets out the evidentiary requirements for different licence categories. The Amendment Regulation omits section 13 and moves the evidentiary requirements contained in that section to new items 6A and 6B in Table 15 as follows:

- a person who is applying on the basis that they are physically unable to compete in shooting competitions without the use of a semiautomatic or pump-action shotgun is required to provide a written statement from an officer of a club affiliated with the Australian Clay Target Association and a certificate from a doctor, both to the effect that the applicant is physically unable to compete in a shooting competition without the use of a semiautomatic or pump-action shotgun;
- a person who was lawfully in possession of a Category C firearm on or before 14 November 1996 must provide evidence of this.

The insertion of the evidentiary requirements into Table 15 in the Regulation ensures that the information required for an application for a Category C licence for the genuine reason of sports or target shooting is contained in the same part of the Regulation as the requirements for other licence categories.

In addition, the Amendment Regulation replaces the term 'shooting competition' in sections 14 and 20 of the Regulation with 'sports or target shooting' to ensure consistency with the term that is used in the Act.

The Amendment Regulation also amends sections 14 and 30 of the Regulation to exclude the ability for an applicant to apply for a Category C licence for a Schedule 1 Item 1 prohibited firearm under of the Act (which relates to a machine gun, submachine gun or other firearm capable of propelling projectiles in rapid succession during 1 pressure of the trigger). This is to ensure consistency with the Act, which excludes a Schedule 1 Item 1 firearm from a Category C licence.

Employment or occupational requirements

Existing item 13 of Table 15 of the Regulation sets out required information and documentation that must be provided in an application for a Category C

licence where the genuine reason is employment (other than by a security business) or occupational requirements relating to rural properties. However, this section does not formally prescribe employment or occupational requirements as a genuine reason or the purpose of obtaining a Category C licence. The Amendment Regulation amends section 16A to clarify that this is a genuine reason to obtain a Category C licence. Item 13 of Table 15 suggests that this was the original intention. It is anticipated that this genuine reason will be primarily relevant to employees of a business engaging in primary production or operating a zoo, similarly to the existing genuine reason for a composite entity Category C licence.

Application to previously issued Category C licences

New section 16B provides that if an adult had been granted a Category C licence or a renewal of a Category C licence before the commencement of the Amendment Regulation, but on or after 15 January 2009 (when the Regulation commenced), section 16A will apply as if the following genuine reasons were prescribed at that time:

- sport or target shooting, if:
 - the applicant is physically unable to compete in shooting competitions without the use of semi-automatic or pump-action shotgun; or
 - the applicant was lawfully in possession of the firearm on or before 14 November 1996; and
- employment (other than by a security business) or occupational requirements relating to rural purposes.

This amendment regularises any Category C licences that may have been issued for these purposes despite them not being formally prescribed as genuine reasons prior to the commencement of the Amendment Regulation. This amendment reflects that the apparent intention of the legislature, which suggests that these were previously intended to be prescribed as genuine reasons.

CONSISTENCY WITH HUMAN RIGHTS

Rights engaged and promoted

The Amendment Regulation may promote the right to work under section 27B of the *Human Rights Act 2004* (HRA). Everyone has the right to work, including the right to choose their occupation or profession freely.

The Amendment Regulation formally prescribes “employment (other than by a security business) or occupational requirements relating to rural properties” as a genuine reason to obtain a Category C licence. The ability for a person to obtain a Category C licence in these circumstances may facilitate the right to work. For example, a person who is employed at the National Zoo may be required to possess and use a Category C firearm as part of their employment and this amendment clarifies that they are eligible to apply for a Category C licence for that purpose.

Rights engaged and limited

The Amendment Regulation does not limit human rights.

REGULATORY IMPACT STATEMENT

Section 34 of the *Legislation Act 2001* requires the preparation of a Regulatory Impact Statement where a subordinate law is likely to impose appreciable costs on the community, or a part of the community. Since this regulation does not impose appreciable costs on the community, no such statement is necessary.

CLAUSE NOTES

Clause 1 Name of regulation

This clause sets out the name of the regulation as the *Firearms Amendment Regulation 2024 (No 1)*.

Clause 2 Commencement

This clause provides that the regulation commences on the day after its notification day.

Clause 3 Legislation amended

This clause provides that this regulation amends the *Firearms Regulation 2008*.

Clause 4 Section 13

This clause omits existing section 13. Existing section 13 provides that a licence may authorise the possession and use of a prohibited firearm if the application is supported by a written statement from an officer of a club affiliated with the Australian Clay Target Association and a certificate from a doctor to the effect that the applicant is physically unable to compete in clay target competition unless the applicant uses a semiautomatic or pump-action shotgun. Alternatively, a person may possess and use a prohibited firearm if the applicant was lawfully in the possession of the firearm on or before 14 November 1996.

The evidentiary requirements have been moved to items 6A and 6B of Table 15 and the provision to prescribe sport or target shooting as a genuine reason for issuing a Category C licence has been inserted into section 16A.

Clause 5 Section 14 heading

This clause amends the heading of section 14 to 'Category C licence, prohibited firearm used for sport or target shooting, offences – Act, s 272 (2) (o)'. This amendment replaces the existing term 'shooting competition' with 'sport or target shooting' for consistency with the Act.

Clause 6 Section 14 (1) (a)

This clause replaces the words 'purposes of a shooting competition' with 'genuine reason of sport or target shooting' for consistency with the Act.

This clause also amends section 14 to exclude the ability for an applicant to apply for a Category C licence for a Schedule 1 Item 1 prohibited firearm under of the Act (which relates to a machine gun, submachine gun or other firearm capable of propelling projectiles in rapid succession during 1 pressure of the trigger). This is to ensure consistency with the Act, which excludes a Schedule 1 Item 1 firearm from a Category C licence.

Clause 7 Table 15

This clause inserts items 6A and 6B in Table 15.

Item 6A relates to an application for a Category C licence if the genuine reason for possessing or using the firearm is sport or target shooting and the applicant is physically unable to compete in shooting competitions without the use of a semiautomatic or pump-action shotgun. The information that is required is a written statement from an officer of a club affiliated with the Australian Clay Target Association to the effect that the applicant is physically unable to compete in a shooting competition without the use of a semiautomatic or pump-action shotgun, and a certificate from a doctor certifying that the person ought to be considered physically unable to compete in a shooting competition without the use of a semiautomatic or pump-action shotgun. These requirements have been moved from section 13 of the Regulation.

Item 6B relates to an application for a Category C licence if the genuine reason for possessing or using the firearm is sport or target shooting and the applicant was lawfully in possession of the firearm on or before 14 November 1996. The information that is required is evidence the applicant was lawfully in possession of the prohibited firearm on or before 14 November 1996. This requirement has been moved from section 13 of the Regulation.

Clause 8 Sections 16A and 16B

This clause amends section 16A to prescribe the following additional genuine reasons for the purpose of a Category C licence:

- sport or target shooting, if 1 of the following also applies in relation to an applicant for a Category C licence:
 - the applicant is physically unable to compete in shooting competitions without the use of a semiautomatic or pump-action shotgun;
 - the applicant was lawfully in possession of the firearm on or before 14 November 1996;
- employment (other than by a security business) or occupational requirements relating to rural purposes.

This clause also inserts section 16B which provides that if an adult had been granted a Category C licence or a renewal of a Category C licence before the commencement of the Amendment Regulation, but on or after 15 January 2009 (when the Regulation commenced), section 16A will apply as if the following genuine reasons were prescribed at that time:

- sport or target shooting, if 1 of the following also applies in relation to an applicant for a Category C licence:
 - the applicant is physically unable to compete in shooting competitions without the use of a semiautomatic or pump-action shotgun;
 - the applicant was lawfully in possession of the firearm on or before 14 November 1996;
- employment (other than by a security business) or occupational requirements relating to rural purposes.

This section regularises any Category C licences that may have been issued for these purposes despite them not being formally prescribed as genuine reasons prior to the commencement of the Amendment Regulation.

Clause 9 Section 20 (2) (b)

This clause replaces the words 'purposes of a shooting competition – the licensee takes part in at least 4 clay target' with 'genuine reason of sport or target shooting – the licensee takes part in at least 4 shooting'. This amendment replaces the existing term 'shooting competition' with 'sport or target shooting' for consistency with the Act.

This clause also amends section 20 to exclude the ability for an applicant to apply for a Category C licence for a Schedule 1 Item 1 prohibited firearm under of the Act (which relates to a machine gun, submachine gun or other firearm capable of propelling projectiles in rapid succession during 1 pressure of the trigger). This is to ensure consistency with the Act, which excludes a Schedule 1 Item 1 firearm from a Category C licence.