



ANNO SEPTIMO

ELIZABETHAE II REGINAE

A.D. 1958.

No. 46 of 1958.

An Act to consolidate and amend certain Acts relating to the ownership, possession, carriage and use of fire-arms, and for other purposes.

[Assented to 27th November, 1958.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

<u>PART I.</u>	PART I. PRELIMINARY.
Short title.	1. This Act may be cited as the "Firearms Act, 1958".
Commence- ment of Act.	2. This Act shall come into operation on a day to be fixed by proclamation.
Repeals.	3. The following Acts are repealed :— Use of Firearms Restriction Act, 1917-1934 ; Firearms Registration Act, 1919-1934 ; Firearms Restriction (River Murray) Act, 1929 ; Firearms Act, 1956.
Arrangement of Act.	4. The provisions of this Act are arranged as follows :— PART I—Preliminary. PART II—Regulation of Use and Possession of Firearms PART III—Firearms Registration. PART IV—Use of Rifled Firearms from Vessels on River Murray. PART V—Miscellaneous.

5. In this Act unless the context otherwise requires or some other meaning is clearly intended— Interpretation.

“deputy registrar” means deputy registrar of firearms :

“exempted firearm” means a firearm to which Part III of this Act is declared by regulation not to apply :

“firearm” means—

(a) a portable gun from which a shot, bullet or other missile can be discharged by means of explosive ; and

(b) a portable gun of any other class or description prescribed by regulations under this Act, but does not include a pistol within the meaning of the Pistol Licence Act, 1929.

“firearms licence” or “licence” means a firearms licence granted under this Act :

“the registrar” means the Registrar of Firearms :

“River Murray” includes any affluent, effluent, anabranch or extension of the River Murray and any river, creek, stream, watercourse, spring, lake, lagoon, swamp or marsh connected with the River Murray :

“vessel” includes steamer, boat, barge, pontoon, raft or other mobile floating structure.

PART II.

PART II.

REGULATION OF USE AND POSSESSION OF FIREARMS

6. (1) Any person who, being under the age of fifteen years, uses, carries or has in his possession a firearm shall be guilty of an offence.

Prohibition of possession or use of firearms by persons under fifteen years.

(2) Any person who sells, gives, lends or supplies a firearm to any person under the age of fifteen years shall be guilty of an offence.

7. After the expiration of three months from the commencement of this Act, a person who—

Duty of persons under eighteen years and aliens to hold licences.

(a) is under the age of eighteen years ; or

(b) is an alien,

shall not use, carry or have in his possession a firearm unless he holds a firearms licence.

8. (1) In proceedings for an offence against subsection (1) of section 6 or against section 7 it shall be a defence for the defendant to prove—

- (a) if he is charged with using a firearm in contravention of either of those provisions, that he used the firearm in a shooting gallery which was under the personal supervision of a reliable person who was in charge thereof or on the grounds of an incorporated gun or pistol club or registered rifle club;
- (b) that he carried on or was employed in the business of a manufacturer or repairer of firearms or dealer in firearms and that he used, carried or had in his possession the firearm in the ordinary course of such a business;
- (c) that he carried on or was employed in the business of an auctioneer, carrier or warehouseman and carried or had in his possession the firearm in the ordinary course of such business;
- (d) that he—
 - (i) carried on business on any land as a farmer, grazier, orchardist, agriculturalist or horticulturalist; or
 - (ii) resided with or was the servant of a person carrying on any such business
 and used, carried or had in his possession the firearm on that land; or
- (e) that he used, carried or had in his possession the firearm in circumstances prescribed by the regulations.

(2) In proceedings for an offence against subsection (2) of section 6 it shall be a defence for the defendant to prove that he believed on reasonable grounds that the person to whom, as the case may be, he sold, gave, lent or supplied the firearm intended to use, carry or possess the firearm in accordance with paragraph (a), (b), (c), (d) or (e) of subsection (1) of this section.

Licences.

9. (1) An application for a firearms licence shall be made to the Commissioner of Police in the prescribed form and shall contain the information indicated therein.

(2) Subject to this section, the Commissioner of Police shall, if he is satisfied that the applicant is a sufficiently reliable person to use, carry and have in his possession a firearm without danger to persons or property, grant a licence to the applicant.

(3) Subject to this section, if the Commissioner of Police is not so satisfied, he may refuse to grant a licence, or may grant a licence subject to conditions relating to any one or more of the following matters, namely—

- (a) the places in which the applicant shall be entitled to use, carry or have in his possession a firearm ;
- (b) the classes of firearms which the applicant may use, carry or have in his possession ;
- (c) such other matters as the Commissioner of Police thinks necessary for the purpose of preventing danger to persons or property.

(4) A licence shall not be granted to any person under the age of fifteen years.

(5) A licence shall not be granted except on payment of a fee of five shillings or such other fee as may be prescribed.

10. (1) A licence shall, unless previously revoked, continue in force until the thirty-first day of December next following the day of the granting thereof.

Duration of licence and renewals.

(2) Subject to this Act, the Commissioner of Police shall on application in the prescribed manner and on payment of a fee of five shillings, or such other fee as may be prescribed, renew a licence for a further period of twelve months from the expiration of the licence or any renewal thereof.

(3) The Commissioner of Police may, on renewing a licence, vary, add to or delete any conditions of the licence.

11. (1) The Commissioner of Police shall keep a record of licences granted under this Act.

Record of licences.

(2) The record shall be open for inspection at all reasonable times on payment of the prescribed fee (if any).

12. (1) If the Commissioner of Police is satisfied that the holder of a licence—

- (a) is under the age of fifteen years ; or
- (b) is not a sufficiently reliable person to use, carry or have in his possession a firearm without danger to persons or property ; or
- (c) has contravened any condition of the licence,

he may refuse to renew the licence or revoke the licence.

Refusal of renewal or revocation of licence.

Renewal subject to conditions.

(2) On an application for the renewal of a licence not subject to conditions, where the Commissioner of Police is satisfied that the holder of a licence is not a sufficiently reliable person to use, carry or have in his possession a firearm without danger to persons or property, he may renew the licence subject to conditions as to any of the matters mentioned in subsection (3) of section 9.

(3) The revocation of a licence shall be by notice in writing under the hand of the Commissioner of Police served on the holder of the licence personally or delivered by registered post.

Appeal against
decision of
Commissioner
of Police.

13. (1) A person aggrieved by a decision of the Commissioner of Police purported to be given pursuant to this Act may in accordance with rules of court made under this section appeal against the decision to a special magistrate sitting in chambers.

(2) On appeal a special magistrate may—

- (a) hear the parties and other witnesses ;
- (b) confirm, reverse or vary the decision appealed against ;
- (c) make any other order which he thinks just including any order as to costs.

(3) Rules of court shall be made under the Local Courts Act, 1926-1956, prescribing the time within which and the mode in which appeals are to be instituted and dealt with under this section, and any other matters relevant to such appeals.

(4) In this section "decision" means the granting or renewal of a licence subject to any condition, the refusal to grant or renew a licence, or the revocation of a licence.

Contravention
of conditions.

14. A person who contravenes a condition of a licence shall be guilty of an offence.

PART III.

PART III.

FIREARMS REGISTRATION.

Firearms to
which this
does not
apply.

15. This Part shall not apply to—

- (a) any firearm, the property of the Government of the Commonwealth or the Government of the State, which is lawfully in the possession of—
 - (i) a member of a naval or military force of the Commonwealth ; or

- (ii) a member of the police force ; or
- (iii) a member of a registered rifle association ;

or

- (b) any firearm owned by and in the possession of and forming part of the stock-in-trade of a gunsmith or seller of firearms, or an employee of such person ;

or

- (c) any firearm of any class or kind which is exempted by the regulations.

16. (1) The Commissioner of Police shall be the Registrar of Firearms under this Act. Registrar and deputy registrars.

(2) Every member of the police force who is for the time being in charge of a police station shall, whilst he is in charge of such station, be a deputy registrar of firearms under this Act.

17. (1) Every person who owns, uses, carries, or has in his possession, any unregistered firearm, other than a firearm to which this Part does not apply, shall be guilty of an offence. Duty to register firearms.

(2) Notwithstanding subsection (1) of this section, the owner of a firearm may own, use, carry and possess it without registration for fourteen days after he becomes such owner.

18. A person desiring a firearm to be registered shall make an application in the prescribed form to the deputy registrar whose office is nearest to the place of abode of the applicant, and shall furnish the deputy registrar with the prescribed particulars in respect of the firearm. Application for registration.

19. A deputy registrar shall upon application register a firearm by entering the prescribed particulars in respect of the firearm in a register, and shall forthwith forward a copy of such prescribed particulars to the registrar, who shall cause them to be entered in a register to be kept at his office. How registration effected.

20. The owner of a firearm registered under this Part shall, within fourteen days of any change in his address notify the registrar of such change of address. Duty to notify change of address.

PART III.

Effect of registration under Firearms Registration Act, 1919-1934.

21. A firearm registered pursuant to the Firearms Registration Act, 1919-1934, by a person who is at the date when this Act comes into operation the owner of such firearm, shall be deemed to be registered under this Part.

PART IV.

PART IV.

USE OF RIFLED FIREARMS FROM VESSELS
ON RIVER MURRAY.

Prohibition of use of rifled firearms from vessels on River Murray.

22. (1) Any person who, whilst on a vessel on any part of the River Murray to which this section applies discharges a rifled firearm shall be guilty of an offence.

(2) In proceedings for an offence against subsection (1) of this section—

(a) the allegation in the complaint that a specified firearm is a rifled firearm shall be *prima facie* evidence of the fact alleged; and

(b) any part of the River Murray shall be deemed a part to which this section applies unless the defendant proves that by virtue of a proclamation made under section 23, this section does not apply to that part.

Application of section 22.

23. (1) The Governor may by proclamation declare that section 22 of this Act shall not apply to any part of the River Murray specified in the proclamation.

(2) The Governor may by proclamation revoke or vary any such proclamation.

(3) Any proclamation made under section 3 of the Firearms Restriction (River Murray) Act, 1929, before the commencement of this Act and in force at the commencement of this Act shall have effect as if it had been made under this section.

Authorized persons.

24. (1) The Minister of Agriculture may, by instrument signed by him, appoint any person to be an authorized person for the purpose of enforcing section 22 of this Act.

(2) Every authorized person so appointed shall have the powers conferred on authorized persons by Part V of this Act, and shall be an authorized person within the meaning of that Part.

(3) Every authorized person so appointed shall, upon exercising any power under this Act, produce his instrument of appointment to any person demanding the same.

PART V.

PART V.

MISCELLANEOUS.

25. (1) Any person who makes a false statement in an application to register or re-register a firearm or for the grant or renewal of a licence shall be guilty of an offence. False statement on application.

(2) On a charge of an offence against subsection (1) of this section it shall not be necessary for the prosecutor to prove the state of mind of the defendant, but the defendant shall be entitled to be acquitted if he proves that when making the statement he believed and had reasonable grounds for believing that it was true.

26. No person shall hinder or resist a member of the police force or an authorized person in the exercise of any of his powers under this Act. Obstruction of officers.

27. (1) A member of the police force or an authorized person may require any person using, carrying or having in his possession a firearm to state his full name and his address and age; and if the member of the police force or authorized person has reasonable cause to suspect that the name, address or age stated is false, he may require the person to produce evidence of the correctness of the name, address or age stated by him. Name, address and age.

(2) If any such person refuses to comply with any such requirement, or states a name, address or age which is false in any particular, or produces false evidence with respect to his name, address or age, he shall be guilty of an offence.

28. (1) If the holder of a licence while using, carrying or having in his possession a firearm, is requested by a member of the police force to produce his licence he shall either produce his licence to the member forthwith upon the making of the request, or produce it within forty-eight hours after the making Production of licence to member of police force.

of the request at a police station named by such holder to the member at the time of the making of the request. If a person fails to comply with this subsection he shall be guilty of an offence.

(2) A document purporting to be signed by the Commissioner of Police and to certify that a licence has not been produced as required by this section shall be *prima facie* evidence of the matter purporting to be certified.

Proof whether person licensed or firearm registered.

29. In proceedings for an offence against this Act, a document purporting to be a certificate signed by the Commissioner of Police and purporting to certify any one or more of the following matters, namely—

- (a) that at a specified time a person was or was not the holder of a licence ;
- (b) the conditions subject to which a licence was granted or renewed ;
- (c) that at a specified time a firearm was or was not registered,

shall be *prima facie* evidence of the matters stated therein.

Proof of age.

30. (1) In proceedings for an offence against this Act, or on an appeal pursuant to section 13 of this Act, the court or the special magistrate may decide upon its or his own view and judgment whether a person has attained any age.

(2) Subsection (1) of this section shall not be construed so as to prevent evidence being given of the age of any person.

Power to seize firearms.

31. If a member of the police force suspects on reasonable grounds that—

- (a) a firearm is unregistered ; or
- (b) an offence against this Act has been committed or is being committed with respect to a firearm ; or
- (c) a person having a firearm in his possession is not fit to have the firearm in his possession ; or
- (d) a firearm in the possession of a person is unsafe ;

he may seize the firearm.

Search for firearms subject to seizure.

32. (1) A member of the police force may do any one or more of the following things, namely, stop, search or detain—

- (a) any vehicle in or upon which he suspects on reasonable grounds may be found a firearm subject to seizure under this Act ;

(b) any person whom he suspects on reasonable grounds of using, carrying or having in his possession a firearm subject to seizure under this Act.

(2) A member of the police force may break, enter and search any premises where he suspects on reasonable grounds may be found a firearm subject to seizure under this Act.

33. (1) If a court of summary jurisdiction upon complaint duly laid against a person is satisfied that—

- (a) a firearm was lawfully seized from the person pursuant to this Act; and
- (b) the person is not fit to have the firearm in his possession; or
- (c) the firearm is unsafe,

the court may make any one or more of the following orders, namely—

- (i) that the registrar keep the firearm for such period as the court orders or until further order;
- (ii) that the firearm be forfeited to the Crown or destroyed;
- (iii) that the person be prohibited for such period as the court thinks fit, or until further order from using, carrying or having in his possession a firearm or any class of firearm; or
- (iv) such other order, including any order with respect to the disposal of the firearm, as the court thinks fit.

(2) Where an order has been made against a person that a firearm be kept by the registrar until further order or that he be prohibited from using, carrying or having in his possession a firearm, or any class of firearm, until further order, that person may, on complaint duly laid before a court of summary jurisdiction and served on the Commissioner of Police as defendant to the proceedings, apply to that court for an order for the return of the firearm or ending the prohibition, and the court may, if it deems it expedient to do so, order that the firearm be returned or the prohibition end on any day which it thinks proper.

(3) An application shall not be made under subsection (2) earlier than three months after the making of the original order, nor shall an application under that subsection be made within three months of a previous application relating to the same order.

(4) If a person who is prohibited by the order of a court of summary jurisdiction from using, carrying or having in his

Proceedings
against persons
not fit to
possess
firearms or
in respect of
unsafe firearms.

possession a firearm or any class of firearm uses, carries or has in his possession a firearm in contravention of that prohibition, he shall be guilty of an offence.

Orders with respect to firearm on conviction.

34. Upon convicting any person of an offence against this Act with respect to a firearm, the court may make such order as to the disposal of the firearm as the court thinks fit, including an order for the forfeiture of the firearm to the Crown.

Return of firearms.

35. Where a firearm is seized pursuant to this Act and no complaint is laid within two months of the date of seizure, or if a complaint is laid and no order is made by the court with respect to the firearm, the firearm shall be returned to the person from whom it was seized.

Disposal of forfeited firearms.

36. (1) Any firearm forfeited to the Crown under this Act may be sold by or under instructions from the registrar by public auction, upon such terms and conditions as he thinks fit.

(2) The proceeds of every such sale shall be paid to the Treasurer in aid of the general revenue of the State.

Power of Commissioner of Police to delegate.

37. (1) The Commissioner of Police may by a general or limited delegation, delegate to any member of the police force any power or function of the Commissioner of Police under this Act.

(2) A delegation under this section shall be revocable at will and shall not prevent the exercise of any power or function by the Commissioner of Police.

(3) Where a member of the police force has exercised or performed any power or function so delegated to him, references in this Act to the Commissioner of Police shall, with respect to such exercise or performance, be read as references to the member.

Regulations.

38. (1) The Governor may make regulations prescribing all matters which by this Act are required or permitted to be prescribed, or are necessary or convenient to be prescribed for giving effect to this Act, including regulations for the following among other purposes :—

- (a) prescribing the duties of the registrar and deputy registrars ;
- (b) regulating the manner of keeping and the form of registers ;
- (c) prescribing forms to be used in connection with any thing done under this Act ;

- (d) exempting, either absolutely or subject to such conditions as are prescribed, any class or kind of firearm from the operation of Part III of this Act ;
 - (e) prescribing pursuant to paragraph (e) of subsection (1) of section 8, circumstances in which a person may use, carry or possess a firearm without contravening the provisions of subsection (1), section 6 and section 7.
 - (f) prescribing a class or description of portable guns as being firearms within the meaning of this Act.
- (2) Any such regulation may create an offence and prescribe a fine recoverable summarily and not exceeding fifty pounds, for the offence.

39. (1) Every person who commits a contravention of this Act, whether by act or omission, shall be guilty of an offence. Penalties for offences.

(2) Every person who is guilty of an offence against this Act shall be liable—

- (a) for a first offence to a fine not exceeding fifty pounds, or to imprisonment for not more than two months ;
- (b) for a second or any subsequent offence to a fine not exceeding one hundred pounds, or to imprisonment for not more than six months ; and
- (c) in addition to such penalty or imprisonment, in any case where a power of forfeiture has arisen under this Act, to forfeiture of any firearm in relation to which the offence was committed.

40. All proceedings in respect of offences against this Act shall be disposed of summarily. Summary disposal of offences.

41. (1) The provisions of this Act shall not diminish or affect any duty or liability imposed by the Animals and Birds Protection Act, 1919-1938, or the Pistol Licence Act, 1929, and the provisions of those Acts shall not diminish or affect any duty or liability imposed by this Act. Saving provisions.

(2) A gun licence under the Animals and Birds Protection Act, 1919-1938, shall not be granted to an applicant who is under the age of eighteen years or is an alien unless he proves that he holds a licence under this Act.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

R. A. GEORGE, Governor.