



## TASMANIA

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**GUNS ACT 1991**

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**No. 34 of 1991**

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## GUNS ACT 1991

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No. 34 of 1991

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**AN ACT to regulate the use and possession of guns**

[Royal Assent 27 November 1991]

**B**E it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

### PART 1

#### PRELIMINARY

##### Short title

1—This Act may be cited as the *Guns Act 1991*.

##### Commencement

2—This Act commences on a day to be proclaimed.

### Interpretation

- 3—(1) In this Act, unless the contrary intention appears—
- “**adult**” means a person who has attained the age of 18 years;
  - “**ammunition**” means ammunition for a gun and, in respect of component parts of ammunition, means component parts manufactured exclusively for the purpose of being used to make ammunition;
  - “**approval**” means an approval by the Commissioner of—
    - (a) a shooting gallery; or
    - (b) a rifle club; or
    - (c) a pistol shooting club; or
    - (d) a range—  
granted in accordance with section 85 and “**approved**” means approved in accordance with such an approval;
  - “**child**” means a person who has not attained the age of 18 years;
  - “**Commissioner**” means the Commissioner of Police;
  - “**fully-automatic gun**” means a gun designed to continuously discharge missiles while pressure is applied to its trigger;
  - “**fully-automatic gun permit**” means a permit referred to in section 13;
  - “**general authorization**” means a general authorization given by an order made under section 17;
  - “**gun**” means a lethal barrelled weapon of any description from which any shot, bullet or other missile can be discharged and includes—
    - (a) any component parts of such a weapon; and
    - (b) a gun operated by compressed gas; and
    - (c) a gun from which a missile cannot, for the time being be discharged because of the absence of, or a defect in, a part or the presence of an obstruction; and
    - (d) an imitation gun, being an object that could reasonably be mistaken for a gun;
  - “**gun licence**” means a licence referred to in section 10;
  - “**gun-dealers licence**” means a licence referred to in section 9;



“**licence**” means a gun licence, a gun-dealers licence, a security agents gun licence or a security guards gun licence;

“**permit**” means a pistol permit, a fully-automatic gun permit, a prohibited gun permit or a temporary gun permit;

“**pistol**” means a gun with a barrel length (excluding any revolving or removable breech or magazine) of 410 millimetres or less;

“**pistol permit**” means a permit referred to in section 15;

“**premises**” includes—

(a) land, whether or not covered by buildings; and

(b) any structure, whether or not attached to land; and

(c) a means of transport;

“**prohibited gun**” means a gun declared by the Minister, by order made under section 4, to be a prohibited gun;

“**prohibited gun permit**” means a permit referred to in section 14;

“**security agent**” means the holder of a licence granted under section 3 (1) of the *Commercial and Inquiry Agents Act 1974* authorizing the holder to carry out the duties of a security agent;

“**security agents gun licence**” means a licence referred to in section 11;

“**security guard**” means the holder of a licence granted under section 3 (1) of the *Commercial and Inquiry Agents Act 1974* authorizing the holder to carry out the duties of a security guard;

“**security guards gun licence**” means a licence referred to in section 12;

“**sell**” includes hire or offer to let on hire;

“**temporary gun permit**” means a permit referred to in section 16;

“**vehicle**” means any form of conveyance on land or over water.

(2) In this Act, “**gun**” does not include—

(a) a gun of the kind known as—

(i) a bolt gun or a stud gun; or

(ii) a humane killer; or

- (iii) a stock marking pistol; or
- (iv) an underwater spear gun; or
- (v) a distress signal pistol (if it is incapable of firing ammunition other than signal flares); or
- (b) a gun that is part of rocket or line throwing equipment; or
- (c) a gun that—
  - (i) was manufactured before 1 January 1900; and
  - (ii) is held in the possession of a person solely as an antique; and
  - (iii) is not designed for or capable of firing ammunition currently being manufactured; or
- (d) any other prescribed gun.

(3) A power given by this Act to dispose of a gun includes a power to destroy the gun.

### Prohibited guns

4—(1) This section applies to self loading centre fire rifles other than fully-automatic guns.

(2) Subject to subsection (4), the Minister may, by order, declare any gun or any class, design, style or model of gun to which this section applies to be a prohibited gun.

(3) The provisions of—

(a) section 47 of the *Acts Interpretation Act 1931*; and

(b) the *Subordinate Legislation Committee Act 1969*—

apply to an order made under this section as if it were a regulation.

(4) An order made under this section does not have effect until it has been approved by both Houses of Parliament.

(5) For the purposes of subsection (4), a House of Parliament is to be taken to have approved an order if a copy of the order has been laid on the table of that House, and—

(a) it is approved by that House; or

(b) at the expiration of 15 sitting days after it was laid on the table of that House no notice has been given of a motion to disallow the order or, if such a notice has been given, it has been withdrawn or the motion has been negatived; or

- (c) any notice of a motion to disallow the order given during the period of 15 sitting days after it was laid on the table of that House is, subsequent to those 15 sitting days, withdrawn or the motion is negated.

### **Act to bind Crown**

5—This Act binds the Crown in right of Tasmania and, so far as the legislative power of Parliament permits, in all its other capacities.

### **Act not to apply to Defence Force or police**

6—This Act does not apply to—

(a) a member of the Defence Force of the Commonwealth;  
or

(b) a police officer—

acting in the execution of his or her duties.

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## **PART 2**

### **RESTRICTIONS RELATING TO GUNS**

#### ***Division 1—Using, keeping, possession, trading and manufacturing to be authorized***

#### **Guns not to be owned, &c., except as authorized**

7—A person shall not—

(a) use, keep or possess a gun; or

(b) buy or sell a gun in the course of business; or

(c) manufacture a gun; or

(d) bring or import a pistol, fully-automatic gun or a prohibited gun into Tasmania—

unless authorized to do so by—

(e) a licence; or

(f) a permit; or

(g) a general authorization; or

(h) a specific authorization contained in section 18 or 19.

Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 2 years or both.

### Types of licences and permits

**8**—The Commissioner may grant—

(a) the following licences:—

- (i) a gun-dealers licence;
- (ii) a gun licence;
- (iii) a security agents gun licence;
- (iv) a security guards gun licence; and

(b) the following permits:—

- (i) a pistol permit;
- (ii) a fully-automatic gun permit;
- (iii) a prohibited gun permit;
- (iv) a temporary gun permit.

### Gun-dealers licence

**9**—Subject to section 24 (1) (place where gun-dealer may carry on business) and section 35 (restrictions on gun-dealers), a gun-dealers licence authorizes the person specified in the licence—

- (a) to use, keep and possess guns; and
- (b) to buy and sell guns; and
- (c) to manufacture guns; and
- (d) to bring or import pistols, fully-automatic guns and prohibited guns into Tasmania—

in the course of business.

### Gun licence

**10**—A gun licence authorizes the person specified in the licence to use, keep and possess a gun, other than a pistol, a fully-automatic gun or a prohibited gun.

### Security agents gun licence

**11**—A security agents gun licence authorizes the security agent specified in it to use, keep and possess a gun, other than a fully-automatic gun or a prohibited gun, for the purposes of carrying out the functions of a security agent.

### Security guards gun licence

**12**—A security guards gun licence authorizes the security guard specified in it to use and possess a gun, other than a fully-automatic gun or a prohibited gun, while carrying out the functions of a security guard.

### Fully-automatic gun permit

**13**—(1) A fully-automatic gun permit authorizes the person specified in the permit to keep and possess a fully-automatic gun for the purpose of a gun collection maintained by that person and to use it on an approved range.

(2) Nothing in subsection (1) authorizes a person referred to in that subsection to use a fully-automatic gun except on an approved range.

### Prohibited gun permit

**14**—(1) A prohibited gun permit authorizes the person specified in it—

- (a) in the case of a permit granted to a person as a member of an approved rifle club—to keep and possess a prohibited gun and to use a prohibited gun; or
- (b) in the case of a permit granted to a person as a gun collector—to keep and possess a prohibited gun for the purpose of a gun collection maintained by that person and to use it on an approved range.

(2) Nothing in subsection (1) (b) authorizes a person referred to in that subsection to use a prohibited gun except on an approved range.

**Pistol permit**

15—(1) A pistol permit authorizes the person specified in the permit—

- (a) in the case of a permit granted to a person as a member of an approved pistol shooting club—to keep and possess a pistol and to use a pistol for target shooting; and
- (b) in the case of a permit granted to a gun collector—to keep and possess a pistol for the purpose of a gun collection maintained by that person; and
- (c) in the case of a permit granted to a person who keeps a pistol as an heirloom or memento—to keep and possess that pistol; and
- (d) in the case of a permit granted to a person for the protection of life and property—to keep and possess a pistol and to use a pistol for the protection of life and property and on an approved range.

(2) Nothing in subsection (1) authorizes a person referred to in that subsection to use a pistol registered under section 46 as a collector's pistol.

**Temporary gun permit**

16—A temporary gun permit—

- (a) authorizes the person specified in it to use, keep or possess a gun to the extent specified in the permit during the period and subject to compliance with any conditions specified in the permit; and
- (b) may authorize a person to bring a pistol, fully-automatic gun or prohibited gun into Tasmania subject to compliance with any conditions specified in the permit.

**General authorization**

17—(1) If the Commissioner is of the opinion that—

- (a) the use, keeping, possession, purchase, sale or manufacture of a particular class of gun; or

- (b) the use, keeping, possession, purchase, sale or manufacture of guns by a particular person or class of people—

should not require to be authorized by a licence or permit, the Commissioner may, by order, grant a general authorization which authorizes—

- (c) the use, keeping, possession, purchase, sale or manufacture, as the case may be, of that particular class of gun; or
- (d) the use, keeping, possession, purchase, sale or manufacture, as the case may be, of guns by that particular person or class of people.

(2) An order made for the purpose of subsection (1) (a) shall specify—

- (a) the type of gun that may be used, kept, possessed, purchased, sold or manufactured in accordance with the authorization; and
- (b) any conditions to be complied with when that type of gun is used or in the possession of a person, or is being kept by a person, or is purchased, sold or manufactured.

(3) An order made for the purpose of subsection (1) (b) shall specify—

- (a) the person or class of people who may use, keep, possess, purchase, sell or manufacture guns in accordance with the authorization; and
- (b) any conditions to be complied with by a person or a person within any specified class of people when using, keeping, in possession of, or purchasing, selling or manufacturing a gun.

(4) If a condition specified in an order is not complied with, the order is not authorization to use, keep or to have possession of, purchase, sell or manufacture a gun as specified in the order.

### Specific authorizations

**18—(1)** A person employed by the holder of a gun-dealers licence is authorized to use and possess a gun in the course of his or her employment with the gun-dealer.

(2) A child who has attained the age of 12 years is authorized to use and possess a gun, other than a fully-automatic gun or a prohibited gun, if, while using or in possession of the gun, the child is under the direct personal supervision of a person who is authorized to have possession of the gun.

(3) A child who has attained the age of 16 years is authorized to use and possess a gun, other than a pistol or a fully-automatic gun or a prohibited gun, in connection with the management of land used for farming purposes.

(4) Subject to subsection (5), a person is authorized to use a gun, other than a fully-automatic gun or a prohibited gun, in an approved shooting gallery and to have possession of a gun for that purpose.

(5) Subsection (4) does not permit a child who has not attained the age of 16 years to use or have possession of a gun unless while using or in possession of the gun the child is under the direct supervision of an adult.

(6) A person carrying on the business of an auctioneer, carrier or warehouseman or an employee of such a person is authorized to have in his or her possession a gun or ammunition in the ordinary course of that business.

### Visitors

19—(1) A person—

(a) who by virtue of a licence, permit or other authorization is authorized to use, keep or possess a gun in another State or Territory of Australia; and

(b) who is visiting Tasmania—

is for the purpose of this Act, but subject to subsection (2), to be taken to be the holder of a licence or permit granted under this Act.

(2) A licence or permit a person is taken to hold by virtue of subsection (1) is, for any purpose of this Act, a licence or permit issued under this Act except that—

(a) it authorizes the person to use, keep or possess a gun only to the extent the person was authorized to use, keep or possess a gun in the State or Territory referred to in subsection (1) (a); and



- (b) it ceases to be valid, unless it is sooner terminated in respect of Tasmania in accordance with this Act—
- (i) when the person leaves the State; or
  - (ii) 45 days after the person entered the State—
- whichever first happens.

### *Division 2—Licences*

#### **Qualifications for licence**

**20—(1)** A person is not qualified to hold a gun-dealers licence unless—

- (a) the person satisfies the Commissioner that he or she intends to carry on a business which includes manufacturing, selling, buying, testing, proving or repairing guns; and
- (b) in the case of a natural person—the person—
  - (i) has attained the age of 18 years; and
  - (ii) is a fit and proper person to hold the licence; and
- (c) in the case of a corporation—the affairs of the corporation are controlled by people who are fit and proper people.

(2) Subject to subsection (3), a person is not qualified to hold a gun licence, a security agents gun licence or a security guards gun licence unless the person is a natural person—

- (a) who has attained the age of 18 years; and
- (b) who has the relevant gun safety knowledge; and
- (c) who is a fit and proper person to hold the licence; and
- (d) in the case of an application for a security agents gun licence—is a security agent; and
- (e) in the case of an application for a security guards gun licence—is a security guard.

(3) If a security agent is a corporation, an officer of that corporation is qualified to be granted a security agents gun licence on behalf of that corporation—

- (a) so long as that person remains an officer of the corporation; and

(b) if that person is otherwise qualified to hold a security agents gun licence under subsection (2) (a), (b) and (c).

(4) In deciding whether a person is a fit and proper person the Commissioner shall take into account any likelihood, reasonably suspected by the Commissioner, of the person using the gun—

- (a) for an unlawful purpose; or
- (b) to harm himself or herself.

(5) For the purpose of subsection (4) the Commissioner shall, in particular, take into account—

- (a) any criminal activity of the person whether in Tasmania or elsewhere; and
- (b) the mental and physical condition of the person; and
- (c) any restraint order or interim restraint order made in respect of the person under the *Justices Act 1959*.

(6) A person is not a fit and proper person if—

- (a) the person has at any time been sentenced to a term of imprisonment, whether in Tasmania or elsewhere, for an offence involving violence to another person; or
- (b) the person has, during the period of 5 years immediately preceding the application for the licence, been convicted, whether in Tasmania or elsewhere, of a crime involving violence to another person; or
- (c) the person has at any time been convicted for an offence contained in Division 1 of Part 3 (major gun offences), or, elsewhere than in Tasmania, for an offence equivalent to one of those offences; or
- (d) there is in force in respect of the person an order by a court prohibiting the person from using, keeping, possessing, selling, buying or manufacturing a gun.

(7) For the purposes of subsection (2) (b) a person has the relevant gun safety knowledge if—

- (a) in the case of an application for a gun licence—the person has—
  - (i) attended a gun safety training course; and
  - (ii) passed a written gun handling and knowledge test—

approved by the Commissioner; and

- (b) in the case of an application for a security agents gun licence or a security guards gun licence—the person has attended a course on the handling of guns approved for the purpose by the Commissioner.

### **Application for licence**

**21—(1)** An application for a licence shall—

- (a) be made to the Commissioner; and
- (b) be accompanied by the prescribed fee and the prescribed documents; and
- (c) be lodged in the prescribed manner.

(2) The Commissioner may require an applicant for a licence to supply the Commissioner with such further particulars as the Commissioner considers necessary for a proper consideration of the application.

### **Consideration of application for licence**

**22—(1)** If, after considering an application for a licence, the Commissioner decides to refuse to grant the licence the Commissioner shall inform the applicant in writing—

- (a) of the reason for the refusal; and
- (b) of the applicant's right to appeal to a magistrate against the Commissioner's decision.

(2) The Commissioner shall not grant a licence unless the Commissioner is satisfied that the applicant is qualified to hold the licence.

(3) The Commissioner shall not grant a gun-dealers licence unless the Commissioner is satisfied that the premises where the applicant intends to carry on business as a gun-dealer are suitable for that purpose and comply with any prescribed security requirements.

(4) The Commissioner shall not grant a gun licence to an applicant if the Commissioner suspects, upon reasonable grounds, that a person who is not a fit and proper person for the purposes of section 20 is likely to gain possession of any gun in the possession of the applicant.

(5) The Commissioner shall not grant a licence sooner than 21 days after the application for the licence was received by the Commissioner.

(6) If 56 days after an application has been made for a licence the Commissioner has not—

- (a) granted the licence; or
- (b) informed the applicant that the Commissioner has decided to refuse the licence—

the Commissioner shall, for the purposes of section 93 (right of appeal), be taken to have decided to refuse the licence.

### **Certain matters to be specified in licence**

**23**—The Commissioner shall specify in a licence—

- (a) the name and date of birth of the holder of the licence; and
- (b) the date when the licence comes into effect; and
- (c) the type of licence; and
- (d) in the case of a gun-dealers licence—the premises at which the holder of the licence may carry on business as a gun-dealer.

### **Gun-dealer not to change place of business without approval**

**24**—(1) The holder of a gun-dealers licence is not authorized to carry on business as a gun-dealer except at the premises specified in the licence or at an approved range.

(2) The Commissioner shall not approve other premises at which a gun-dealer may carry on business as a gun-dealer unless the Commissioner is satisfied that the premises are suitable for that purpose and comply with any prescribed security requirements.

(3) If the Commissioner approves additional or alternative premises at which a gun-dealer may carry on business the Commissioner shall amend the gun-dealer's licence accordingly.

### **Duration of licence**

**25**—A licence is valid—

- (a) in the case of a gun-dealers licence—for 3 years from the date it comes into effect; and
- (b) in the case of a gun licence—during the lifetime of the holder of the licence; and

- (c) in the case of a security agents gun licence—until the holder of the licence ceases to be a security agent; and
  - (d) in the case of a security guards gun licence—until the holder of the licence ceases to be a security guard—
- unless sooner determined in accordance with this Act.

### **Photograph on licence to be replaced**

26—(1) A licence, other than a gun-dealers licence, is suspended 10 years after it comes into effect unless the licence holder—

- (a) lodges with the Commissioner in the prescribed manner an application to have the photograph on the licence replaced; and
- (b) pays the prescribed fee for a replacement licence incorporating a new photograph.

(2) The Commissioner shall, not more than 60 days nor less than 30 days before a licence is due to be suspended under subsection (1), serve on the holder of the licence a notice stating that the licence will be suspended unless the action referred to in that subsection is taken.

### **Surrender of licence**

27—A licence may be surrendered to the Commissioner at any time.

## ***Division 3—Permits***

### **Qualifications for fully-automatic gun permit**

28—A person is not qualified to hold a fully-automatic gun permit unless the person is the holder of a gun licence and satisfies the Commissioner that he or she—

- (a) is a gun collector; and
- (b) requires a fully-automatic gun for the purposes of that person's collection.

### Qualifications for prohibited gun permit

**29**—A person is not qualified to hold a prohibited gun permit unless the person is the holder of a gun licence and satisfies the Commissioner that he or she—

- (a) is a member of an approved rifle club; or
- (b) is a gun collector—

and needs a prohibited gun as a member of that club or for the purposes of that person's gun collection.

### Qualifications for pistol permit

**30**—A person is not qualified to hold a pistol permit unless the person—

- (a) is the holder of a gun licence; and
- (b) satisfies the Commissioner that—
  - (i) he or she requires the pistol as a member of an approved pistol shooting club; or
  - (ii) he or she is a gun collector and the pistol is required for the purposes of his or her collection; or
  - (iii) the pistol has a special significance to that person as an heirloom or memento; or
  - (iv) the pistol is required by that person for the protection of life or property.

### Application for permit

**31**—(1) An application for a permit shall—

- (a) be made to the Commissioner; and
- (b) be accompanied by the prescribed fee and the prescribed documents; and
- (c) be lodged in the prescribed manner.

(2) The Commissioner may require an applicant for a permit to supply the Commissioner with such further particulars as the Commissioner considers necessary for a proper consideration of the application.

### Consideration of application for permit

**32—(1)** If, after considering an application for a permit, the Commissioner decides to refuse to grant the permit the Commissioner shall inform the applicant in writing of—

- (a) the reason for the refusal; and
- (b) the applicant's right to appeal to a magistrate against the Commissioner's decision.

(2) The Commissioner shall not grant a permit unless the Commissioner is satisfied—

- (a) that the applicant is qualified to hold the permit; and
- (b) in the case of an application for a fully-automatic gun permit, prohibited gun permit or pistol permit—the applicant has storage and security arrangements that comply with any prescribed requirements.

### Duration of permit

**33—(1)** A permit is valid—

- (a) in the case of a temporary gun permit—during the period specified in it; and
- (b) in any other case—from the date specified in it—

but may be terminated at any time in accordance with this Act.

(2) A fully-automatic gun permit, prohibited gun permit or pistol permit—

- (a) is suspended if the gun licence of the permit holder is suspended; and
- (b) is cancelled if the gun licence of the permit holder is cancelled.

### Surrender of permit

**34—**The holder of a permit may surrender the permit to the Commissioner at any time.

*Division 4—Restrictions and controls***Restrictions on gun-dealers**

**35—(1)** The Commissioner may prohibit or restrict any of the activities a gun-dealer is authorized to carry on by virtue of the gun-dealer's licence if the Commissioner is satisfied that it is in the public interest to do so.

(2) The Commissioner may impose a condition on the exercise of any of the activities authorized by the gun-dealer's licence.

(3) The Commissioner may exercise the power given to the Commissioner under subsection (1) or (2) either when the gun-dealer's licence is granted or at any subsequent time.

(4) While a prohibition or restriction is in effect the licence is not authority—

(a) to carry on any prohibited activity; or

(b) to carry on any restricted activity except in accordance with the restriction and any condition imposed under subsection (2).

(5) A prohibition or restriction takes effect when notice of the prohibition or restriction is served on the holder of the gun-dealers licence or from such later date as is specified in the notice.

(6) A notice served in accordance with subsection (5) shall inform the holder of the gun-dealers licence of his or her right to appeal to a magistrate against the Commissioner's decision.

(7) The Commissioner may revoke a prohibition or restriction imposed in accordance with this section at any time.

**Power of Commissioner to cancel licences or permits**

**36—(1)** The Commissioner shall cancel a licence or permit if the Commissioner is satisfied that the holder of the licence or permit is no longer qualified to hold it.

(2) The Commissioner may cancel—

(a) a pistol permit granted to a person as a member of an approved pistol shooting club; or



(b) a prohibited gun permit granted to a person as a member of an approved rifle club—

if the holder of the permit does not attend range practice at the club or competitions with the club or an association of clubs on at least the prescribed number of occasions during any prescribed period.

(3) The Commissioner may cancel a licence or permit if the Commissioner is satisfied that it was obtained by means of a false or misleading statement or by a failure to disclose relevant information.

(4) The Commissioner may cancel a licence if the Commissioner is satisfied that—

(a) a person who is not a fit and proper person to hold a licence is likely to gain possession of any gun in the possession of the holder of the licence; or

(b) the licensee has failed to comply with an obligation under Division 5 (obligations of licence holders); or

(c) if the licence is a gun-dealers licence—the place specified in the licence as the place at which the dealer may carry on business as a gun-dealer is no longer suitable for that purpose.

(5) The Commissioner shall cancel a fully-automatic gun permit or a prohibited gun permit if the Commissioner is satisfied that the holder of the permit has failed to provide adequate storage and security arrangements.

(6) The cancellation of a licence or permit takes effect when notice of the cancellation is served on the holder of the licence or permit or from such later date as is specified in the notice.

(7) A notice served in accordance with subsection (6) shall—

(a) specify the reason for the cancellation; and

(b) inform the holder of the licence or permit of his or her right to appeal to a magistrate against the Commissioner's decision; and

(c) require the holder of the licence or permit to surrender the licence or permit to the Commissioner; and

(d) inform the holder of the licence or permit that any gun in his or her possession must be surrendered—

(i) to the Commissioner; or

(ii) to a person who is authorized to have possession of the gun; and

- (e) inform the holder of the licence or permit that if any gun surrendered to the Commissioner is not sold or otherwise disposed of within 6 months the Commissioner will sell or otherwise dispose of it.

### *Division 5—Obligations of holders of licences*

#### **Gun-dealers to keep records**

37—(1) The holder of a gun-dealers licence shall keep records containing the prescribed information in respect of guns purchased or sold by the dealer or from time to time in the dealer's possession.

(2) The holder of a gun-dealers licence shall keep a record in such form as the Commissioner specifies.

- (3) The holder of a gun-dealers licence shall keep a record—
- (a) on the premises specified in the licence as the premises at which the gun-dealer may carry on business; or
  - (b) on such other premises as the Commissioner approves.

- (4) The holder of a gun-dealers licence shall—
- (a) preserve a record for 6 years; and
  - (b) produce a record to a police officer when required to do so; and
  - (c) allow a police officer to take a copy of a record.

#### **Gun-dealers to provide returns**

38—(1) The holder of a gun-dealers licence shall at prescribed times provide the Commissioner with prescribed particulars in respect of pistols, fully-automatic guns and prohibited guns sold or purchased by the gun-dealer, or from time to time in the dealer's possession.

(2) The particulars referred to in subsection (1) shall be provided in such form as the Commissioner specifies.

#### **Holder of gun-dealers licence to notify change of control**

39—If the holder of a gun-dealers licence is a corporation the corporation shall—

- (a) inform the Commissioner of any change in the people who control the affairs of the corporation; and

- (b) give the Commissioner details of any new people who control the affairs of the corporation.

### **Guns to be kept in secure place, &c.**

40—(1) The holder of a licence must ensure that when not in use or being carried for use any gun in his or her possession is kept in a secure place which complies with any prescribed requirements.

(2) The holder of a gun-dealers licence must ensure that the security and storage arrangements in respect of guns in the possession of the dealer comply with any prescribed security and storage arrangements.

### **Guns to be surrendered on suspension of licence**

41—(1) If a licence is suspended the holder of the licence shall surrender possession of any gun in his or her possession—

(a) to the Commissioner; or

(b) to a person who is authorized under this Act to have possession of the gun.

(2) Subject to section 86 (disposal of guns by the Commissioner), any gun surrendered to the Commissioner shall be returned at the end of the period of suspension.

### **Suspended licence to be surrendered to Commissioner**

42—(1) If a licence is suspended the holder of the licence shall surrender—

(a) the licence; and

(b) any permit held by the holder of the licence—  
to the Commissioner.

(2) The Commissioner shall return a licence and any permit surrendered to the Commissioner at the end of the period of suspension.

### **Access to be given to fully-automatic guns**

43—The holder of a fully-automatic gun permit shall—

- (a) keep a register, in a form approved by the Commissioner, of all fully-automatic guns from time to time in his or her possession; and

- (b) allow a police officer to inspect, at any reasonable time—
- (i) the register referred to in paragraph (a); and
  - (ii) any fully-automatic gun in the possession of the holder of the permit.

#### **Access to be given to prohibited guns**

**44**—The holder of a prohibited gun permit shall—

- (a) keep a register, in a form approved by the Commissioner, of all prohibited guns from time to time in his or her possession; and
- (b) allow a police officer to inspect, at any reasonable time—
  - (i) the register referred to in paragraph (a); and
  - (ii) any prohibited gun in the possession of the holder of the permit.

#### **Licence to be produced on demand**

**45**—(1) The holder of a licence shall produce the licence and any permit held by the holder to a police officer when required to do so.

(2) Subject to subsection (3), a person is to be taken to have complied with subsection (1) if after being requested to produce his or her licence or permit by a police officer the person—

- (a) gives the police officer his or her name and address; and
- (b) within 7 days produces the licence or permit to a police station.

(3) Subsection (2) does not apply where the requirement to produce the licence is made to a person who has possession of a gun in a public place.

### ***Division 6—Registration of pistols***

#### **Registration of pistols**

**46**—(1) In this section “pistol” does not include an imitation pistol, being an object that could reasonably be mistaken for a pistol.

- (2) An application for the registration of a pistol—
  - (a) shall be made to the Commissioner on a form approved or provided for the purpose by the Commissioner; and
  - (b) shall be accompanied by—
    - (i) any prescribed fee; and
    - (ii) the pistol to which the application relates.
- (3) A pistol may be registered—
  - (a) as a user's pistol; or
  - (b) as a collector's pistol.
- (4) A person may at any time apply to the Commissioner—
  - (a) to have a pistol registered as a user's pistol re-registered as a collector's pistol; or
  - (b) to have a pistol registered as a collector's pistol re-registered as a user's pistol.
- (5) The registration, re-registration or renewal of registration of a pistol is valid—
  - (a) in the case of a pistol registered as a user's pistol— for 3 years from its date of registration, re-registration or renewal of registration; or
  - (b) in the case of a pistol registered as a collector's pistol— from its date of registration or re-registration— unless it is re-registered.
- (6) An application for the re-registration of a pistol or the renewal of registration of a pistol—
  - (a) shall be made to the Commissioner on a form approved or provided for the purpose by the Commissioner; and
  - (b) shall be accompanied by any prescribed fee.
- (7) On the registration, re-registration or renewal of registration of a pistol the Commissioner shall—
  - (a) issue the applicant with a certificate of registration showing whether the pistol is registered as a user's pistol or as a collector's pistol; and
  - (b) enter details of the pistol and of its registration, re-registration or renewal of registration in a register kept for the purpose by the Commissioner.
- (8) While a pistol is registered as a collector's pistol nothing in this Act authorizes or may be used to authorize a person to use the pistol.

(9) The Commissioner may mark a pistol that does not already have an identifying mark with an identifying mark but not so as to deface or devalue the pistol.

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### PART 3

#### OFFENCES

##### *Division 1—Major gun offences*

##### **Carrying gun with criminal intent**

**47—(1)** It is a crime for a person to carry a gun with intent—

(a) to commit a crime; or

(b) to resist arrest or to prevent the arrest of another person—

while he or she is carrying a gun.

(2) In proceedings for a crime under subsection (1), proof that the accused—

(a) was carrying a gun; and

(b) intended to commit a crime or to resist or prevent arrest—

is evidence that the accused intended to have the gun with him or her while committing the crime or resisting or preventing the arrest.

##### **Aggravated assault**

**48—**If, during the course of an assault, as defined in section 182 of the *Criminal Code*, the person carrying out the assault—

(a) uses a gun; or

(b) threatens to use a gun, whether or not the person was actually carrying a gun; or

(c) was carrying a gun—

that person is guilty of a crime under section 183 of the *Criminal Code* (aggravated assault).

*Division 2—Gun offences***Unauthorized sales of guns and ammunition**

**49—(1)** In this section “**authorized person**”, in respect of a gun or ammunition for the gun, means a person who is authorized to have possession of the gun—

- (a) in accordance with this Act; or
- (b) if a gun or ammunition is to be dispatched to a place outside Tasmania—in accordance with the laws in force in that place.

(2) Subject to subsection (3), a person shall not sell, supply or deliver a gun or ammunition except to an authorized person.

Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 2 years or both.

(3) A person is not guilty of an offence under subsection (2) if the person satisfies the court that he or she made all reasonable enquiries to establish that the person was an authorized person and on reasonable grounds was so satisfied.

(4) Subsection (3) does not authorize the sale of a gun or ammunition to—

- (a) the holder of a security guards gun licence; or
- (b) a child.

(5) It is not an offence under subsection (2) for a carrier or warehouseman or an employee of a carrier or warehouseman to deliver a gun or ammunition in the ordinary course of his or her business or employment as such.

**Prohibition of silencers**

**50—**Unless authorized to do so by the Commissioner, a person shall not—

- (a) use, keep or possess; or
- (b) sell; or

(c) manufacture—

an implement designed to suppress the sound caused by the discharge of a gun whether or not the implement is part of the gun.

Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 2 years or both.

**Obligation to register pistol or change of ownership, &c.**

51—(1) In this section “pistol” does not include an imitation pistol, being an object that could reasonably be mistaken for a pistol.

(2) Subject to subsection (3), a person, other than the holder of a gun-dealers licence, must not use, keep or have possession of an unregistered pistol.

Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 2 years or both.

(3) If a person, other than the holder of a gun-dealers licence, buys or otherwise acquires ownership of a pistol that person must—

(a) if the pistol is not registered under this Act—register the pistol; or

(b) if the pistol is registered under this Act—inform the Commissioner of the acquisition—

within 48 hours of the acquisition.

Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 2 years or both.

(4) If a person sells or otherwise transfers ownership of a pistol that person must inform the Commissioner of the sale or transfer—

(a) in the case of a gun-dealer—within 5 days; and

(b) in any other case—within 48 hours.

Penalty: Fine not exceeding 10 penalty units or imprisonment for a term not exceeding 6 months or both.



(5) The owner of a registered pistol must renew the registration of the pistol before the period of registration of the pistol expires.

Penalty: Fine not exceeding 10 penalty units.

#### **Sale or transfer of fully-automatic gun to be notified to Commissioner**

52—A person, other than the holder of a gun-dealers licence, who sells or otherwise transfers ownership of a fully-automatic gun shall notify the Commissioner of the sale or transfer within 48 hours of the sale or transfer.

Penalty: Fine not exceeding 10 penalty units or imprisonment for a term not exceeding 6 months or both.

#### **Sale or transfer of prohibited gun to be notified to Commissioner**

53—A person, other than the holder of a gun-dealers licence, who sells or otherwise transfers ownership of a prohibited gun shall notify the Commissioner of the sale or transfer within 48 hours of the sale or transfer.

Penalty: Fine not exceeding 10 penalty units or imprisonment for a term not exceeding 6 months or both.

#### **Police officer not to be hindered**

54—A person shall not—

- (a) hinder the Commissioner or a police officer carrying out his or her duties under this Act; or
- (b) fail to comply with a requirement of the Commissioner or a police officer made in accordance with this Act.

Penalty: Fine not exceeding 20 penalty units or imprisonment for a term not exceeding 1 year or both.

**Unauthorized use, &c., of licence or permit**

**55—(1)** A person shall not—

- (a) sell or otherwise part with possession of a licence or permit with the intention of allowing another person to use the licence or permit; or
- (b) knowingly permit any other person to use a licence or permit.

Penalty: Fine not exceeding 10 penalty units or imprisonment for a term not exceeding 6 months or both.

**(2)** A person shall not—

- (a) buy or otherwise acquire possession of a licence or permit with the intention of using the licence or permit; or
- (b) with intent to deceive, use a licence or permit of another person.

Penalty: Fine not exceeding 10 penalty units or imprisonment for a term not exceeding 6 months or both.

**(3)** A person shall not, with intent to defraud, alter or attempt to alter a licence or permit.

Penalty: Fine not exceeding 10 penalty units or imprisonment for a term not exceeding 6 months or both.

**Possession of loaded gun in public place**

**56—(1)** A person shall not, without lawful authority or reasonable excuse (the proof of which lies on that person), be in possession of a loaded gun in a public place (including a vehicle in such a place).

Penalty: Fine not exceeding 10 penalty units or imprisonment for a term not exceeding 6 months or both.

**(2)** The holder of a security agents gun licence or a security guards gun licence is authorized to have possession of a loaded gun in a public place for the purpose of carrying out his or her duties as a security agent or a security guard.

(3) For the purposes of this section a gun is loaded if it has a round in—

- (a) its chamber; or
- (b) a magazine attached to the gun.

### **Gun not to be discharged on or over a public place**

57—A person shall not, without lawful authority or reasonable excuse (the proof of which lies on that person), discharge a gun from, onto or over a public place.

Penalty: Fine not exceeding 10 penalty units or imprisonment for a term not exceeding 6 months or both.

### **Gun not to be discharged on or over private land without authority**

58—(1) A person shall not, without lawful authority or reasonable excuse (the proof of which lies on that person), discharge a gun from, onto or over land without the consent of the owner or occupier of the land.

Penalty: Fine not exceeding 10 penalty units or imprisonment for a term not exceeding 6 months or both.

(2) A person has lawful authority to discharge a gun from, onto or over unoccupied Crown land if that person does so—

- (a) to take wildlife in accordance with a licence or permit issued under the *National Parks and Wildlife Act 1970*; or
- (b) to take or destroy vermin within the meaning of the *Vermin Destruction Act 1950*; or
- (c) in prescribed circumstances.

### **Recklessly discharging gun, &c.**

59—A person shall not discharge a gun—

- (a) recklessly; or

- (b) without due regard to the safety of any other person or property.

Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 2 years or both.

### **Identifying marks on guns not to be altered, &c.**

**60**—A person shall not, for an unlawful purpose, erase, alter or deface an identifying number, letter, mark or symbol on a gun.

Penalty: Fine not exceeding 20 penalty units or imprisonment for a term not exceeding 1 year or both.

### **Length of barrels not to be shortened, &c.**

**61**—A person shall not, unless he or she is the holder of a gun-dealers licence, shorten the barrel of a gun to a length of 410 millimetres or less.

Penalty: Fine not exceeding 20 penalty units or imprisonment for a term not exceeding 1 year or both.

### **Guns not to be converted to fully-automatic guns, &c.**

**62**—A person shall not—

- (a) convert a gun into a fully-automatic gun; or  
(b) unless he or she is the holder of a fully-automatic gun permit—use, keep or possess a gun which has been converted to a fully-automatic gun.

Penalty: Fine not exceeding 20 penalty units or imprisonment for a term not exceeding 1 year or both.

### **War games prohibited**

**63**—(1) In this section “war games” means a simulated military exercise, or a similar activity, in which a gun is used or carried by a person but does not include any such activity undertaken for police, defence force or other governmental training purposes.

- (2) Subject to subsection (3), a person shall not—
- (a) take part in war games; or
  - (b) allow war games to take place on his or her premises; or
  - (c) cause war games to be held; or
  - (d) assist in the conduct of war games; or
  - (e) advertise or promote war games.

Penalty: Fine not exceeding 10 penalty units or imprisonment for a term not exceeding 6 months or both.

- (3) The Commissioner may approve the conduct of war games for the purpose of—
- (a) an historical re-enactment; or
  - (b) a dramatic presentation; or
  - (c) a film, video or television production.

**Person under influence of alcohol or drugs, &c., not to be given possession of gun, &c.**

**64**—A person shall not give possession of a gun or ammunition to a person he or she knows or has reasonable cause for believing is under the influence of alcohol or any other drug.

Penalty: Fine not exceeding 20 penalty units or imprisonment for a term not exceeding 1 year or both.

**False returns**

**65**—The holder of a gun-dealers licence shall not, with intent to defraud—

- (a) keep a record or provide a return that is required to be kept or provided by this Act that is false or misleading in any material particular; or
- (b) omit from such a record or return information that is required by this Act to be in the record or return.

Penalty: Fine not exceeding 20 penalty units.

**False applications**

**66**—A person shall not knowingly make a false or misleading statement in an application made for the purposes of this Act.

Penalty: Fine not exceeding 10 penalty units.

**Person under influence of alcohol not to have possession of gun, &c.**

**67**—A person shall not carry a gun while under the influence of alcohol or any other drug.

Penalty: Fine not exceeding 20 penalty units.

**Use of unauthorized ranges**

**68**—(1) In this section “range” means a range intended for use by the public or members of a club.

(2) A person shall not—

(a) use a range; or

(b) make a range available for use on his or her premises;  
or

(c) advertise or promote a range—

unless the range is an approved range.

Penalty: Fine not exceeding 10 penalty units.

**Licence or permit holders to surrender licence or permit upon ceasing to be qualified**

**69**—The holder of a licence or permit who ceases to be qualified to hold the licence or permit shall surrender it to the Commissioner.

Penalty: Fine not exceeding 10 penalty units.

### **Change of name or address, &c., to be notified to the Commissioner**

70—The holder of a licence or temporary gun permit must inform the Commissioner of any change of name or address within 28 days of the change.

Penalty: Fine not exceeding 10 penalty units.

### **Person to have possession of licence, &c., when in possession of gun**

71—If a person has possession of a gun in a public place the person must also have in his or her possession any licence or permit authorizing the possession of that gun.

Penalty: Fine not exceeding 10 penalty units.

### **Licence or permit to be surrendered to Commissioner**

72—A person shall surrender a licence or permit to the Commissioner when required to do so in accordance with this Act.

Penalty: Fine not exceeding 10 penalty units.

## ***Division 3—Offence provisions***

### **Offences by corporations**

73—(1) In this section “responsible officer” in respect of a corporation means—

- (a) a director or executive officer of the corporation; or
- (b) any person in accordance with whose directions the directors of the corporation are accustomed to act.

(2) If the commission of an offence under this Act by a corporation is attributable to the act or omission of a responsible officer of the corporation, that responsible officer is also guilty of an offence and is liable to the same penalty as is prescribed for the principal offence.

(3) A responsible officer may be proceeded against and convicted pursuant to subsection (2) whether or not the corporation has been convicted in respect of the principal offence.

(4) If a corporation is convicted of an offence under this Act the corporation is liable to a penalty not exceeding an amount equal to 5 times the fine prescribed in respect of that offence.

### **Adults to supervise children**

#### **74—If—**

- (a) an adult has the supervision of a child; and
- (b) the adult fails to take measures reasonably practicable in the circumstances to prevent the child doing anything which if done by an adult would be an offence under this Act—

the adult is guilty of that offence whether or not the child is, or could be, convicted for the offence.

### **Amnesty**

#### **75—If—**

- (a) a person who is not authorized under this Act to have possession of a gun has possession of a gun; or
- (b) a person has possession of a gun which a person is not authorized to possess under this Act—

and voluntarily brings the gun to a police station and surrenders it to the Commissioner no action shall be taken against that person in respect of any offence relating to the unauthorized possession of the gun by that person.

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## **PART 4**

### **ENFORCEMENT**

#### **General power of police to stop and search**

76—(1) A police officer may require a person the police officer reasonably believes has possession of a gun, whether or not loaded, in a public place (including a vehicle in a public place) to hand the gun to the police officer for examination.



(2) A police officer may for the purpose of subsection (1) require a person driving or in control of a vehicle to stop the vehicle.

### **Power of police to enter and search in accordance with search warrant**

77—(1) If a magistrate or Justice of the Peace is satisfied, on an application made by a police officer, that there are reasonable grounds for suspecting that an offence under this Act has been, is being or is about to be committed on certain premises, the magistrate or Justice of the Peace may issue a warrant authorizing a police officer or police officers named in the warrant—

- (a) to enter those premises, using force if necessary; and
- (b) to search the premises and any person in the premises; and
- (c) if it is necessary to do so—to break open and search anything on the premises in which a gun or ammunition may be stored or concealed; and
- (d) to take possession of, and secure against interference, any gun, ammunition, record or document that appears to indicate that an offence under this Act has been, is being, or is about to be committed; and
- (e) to examine any gun or ammunition on the premises; and
- (f) to inspect and take copies of any record or document on the premises that appears to indicate that an offence under this Act has been, is being, or is about to be committed, or, if this is not practical, to deliver any such document or record to the Commissioner.

(2) If a record or document is delivered to the Commissioner in accordance with subsection (1) (f), the Commissioner may retain it for as long as is necessary to allow it to be inspected and for copies or abstracts to be taken and shall then return it to the premises from which it was taken.

(3) While a record or document is in the possession of the Commissioner in accordance with subsection (2), the Commissioner shall allow a person who would be entitled to inspect it if it were not in the possession of the Commissioner to inspect and take copies and abstracts of it at any reasonable time.

(4) If a person has a lien on a record, document, gun or ammunition to which this section applies, nothing done under this section in relation to the record, document, gun or ammunition prejudices the lien.

(5) An authorized officer shall give a receipt for a record or document delivered to the Commissioner in accordance with subsection (1) (f).

### **Power of police in dangerous situations**

**78**—If a police officer has reasonable ground to believe that a person has possession of a gun and is threatening to use it in circumstances where death or injury to a person is likely (whether or not another person is actually present) the police officer and people aiding the police officer may, without warrant, and using such force as is reasonably necessary—

- (a) enter the premises where that person is; and
- (b) search the premises where the person was found and any person on those premises; and
- (c) seize and detain any gun or ammunition found on the premises or any person on those premises.

### **Power of police to stop, search and arrest**

**79**—(1) If a police officer has reasonable ground to believe that a person has committed or is committing an offence under this Act the police officer may, without warrant—

- (a) search that person or any vehicle, package or other thing in that person's possession or under that person's control; and
- (b) seize any gun or ammunition that is found and detain it; and
- (c) if the person is found to have a gun or ammunition—arrest that person for any offence under this Act that the police officer believes the person has committed or is committing.

(2) A police officer may for the purpose of subsection (1) require a person driving or in control of a vehicle to stop the vehicle.

### **Police may request name, address and date of birth if offence suspected**

**80—**(1) If a police officer has reasonable ground to believe that a person has committed or is committing an offence under this Act the officer may require that person to give his or her name, address and date of birth.

(2) If a police officer acting in accordance with subsection (1) has requested a person to give his or her name, address or date of birth, the officer may arrest that person without warrant if—

- (a) the person refuses or fails to comply with the request; or
- (b) the officer reasonably believes any name, address or date of birth given by that person is false.

### **Police may enter gun-dealers premises**

**81—**A police officer may, at any reasonable time—

- (a) enter and inspect the premises specified in a gun-dealers licence as the premises at which the gun-dealer may carry on business; and
- (b) examine any gun or ammunition on those premises.

### **Gun may be forfeited**

**82—**(1) If a person is convicted of an offence under this Act in respect of a gun or ammunition the court that convicted the person may order that the gun or ammunition be forfeited to the Crown.

(2) A gun or ammunition forfeited to the Crown shall be sold or otherwise disposed of in such manner as the Commissioner determines, and any proceeds shall be paid into the Consolidated Fund.

### **Power of court**

**83—**(1) This section applies to—

- (a) any offence under this Act; or
- (b) any offence involving violence or the threat of violence to another person.

(2) If a person is convicted of an offence to which this section applies the court that convicted the person may, in addition to any other penalty it imposes on that person, order—

- (a) that any licence or permit held by the person be cancelled; and
- (b) that the person should not be granted a licence or permit or that the person should not be granted a licence or permit during the period specified in the order.

(3) A person may appeal against an order under subsection (2) in the same way as that person may appeal against the conviction, and the court may suspend the operation of the order pending the outcome of the appeal, on such terms as it considers appropriate.

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## PART 5

### ADMINISTRATION

#### *Division 1—General administration*

#### **Delegation by Commissioner**

**84—(1)** The Commissioner may in writing—

- (a) delegate any of the Commissioner's functions or powers (other than this power of delegation) to a police officer; and
- (b) revoke a delegation wholly or partly.

(2) A delegation—

- (a) may be made either generally or as otherwise provided by the instrument of delegation; and
- (b) does not prevent the performance or exercise of a function or power by the Commissioner.

(3) A function or power performed or exercised by a delegate has the same effect as if performed or exercised by the Commissioner.

**Certain National Parks and Wildlife people may be given powers of police officers**

**85—(1)** The Commissioner may in writing—

- (a) authorize a person appointed to undertake duties under the *National Parks and Wildlife Act 1970* to perform or exercise the functions and powers of a police officer under this Act; and
- (b) revoke an authorization wholly or partly.

(2) An authorization may be made either generally or as otherwise provided by the instrument of authorization.

(3) A function or power performed or exercised by a person authorized to perform or exercise the function or power under subsection (1) has the same effect as if performed or exercised by a police officer.

(4) This Act applies in respect of a person performing or exercising a function or power in accordance with an authorization given under subsection (1) as if that person were a police officer performing or exercising the function or power.

**Disposal of guns by Commissioner**

**86—(1)** If—

- (a) possession of a gun is surrendered to the Commissioner in accordance with this Act; and
- (b) within 6 months of the surrender the gun has not been sold or otherwise disposed of by the person who surrendered it—

the Commissioner shall serve a written notice on that person stating that unless the gun is sold or otherwise disposed of by that person within 3 months of the date of the notice the Commissioner will sell or otherwise dispose of it and pay any net proceeds of any sale to that person.

(2) If a person upon whom a notice has been served in accordance with subsection (1) does not sell or otherwise dispose of the gun within 3 months of the date of the notice the Commissioner—

- (a) has the power to sell or otherwise dispose of it in such manner as the Commissioner considers most appropriate; and

(b) shall pay any proceeds arising from any sale to the person who surrendered the gun to the Commissioner after deducting any costs reasonably associated with storing it before the sale and the costs associated with the sale.

(3) Notwithstanding subsections (1) and (2), a person who has surrendered a gun to the Commissioner in accordance with this Act may at any time authorize the Commissioner to sell or otherwise dispose of the gun on behalf of that person, and any proceeds arising from any sale shall be dealt with as if the sale or disposal were a sale under subsection (2).

### **Disposal of seized gun or ammunition**

**87—(1) If—**

(a) a police officer has seized a gun or ammunition in accordance with this Act; and

(b) subsequent to the seizure—

(i) no proceedings are instituted within a reasonable time for an offence for which the gun or ammunition may be forfeited; or

(ii) such proceedings are instituted but no order for its forfeiture is made—

unless a magistrate orders otherwise, the Commissioner shall give the gun or ammunition to a person the Commissioner is satisfied—

(iii) has a right to its possession; and

(iv) is authorized to have its possession.

(2) If a magistrate orders that a gun or ammunition should not be given to a person in accordance with subsection (1)

(b), the Commissioner may—

(a) sell the gun or ammunition in such manner as the Commissioner determines and pay the proceeds into the Consolidated Fund; or

(b) dispose of the gun or ammunition.

### **Form of licences, permits and approvals**

**88—(1)** Licences, permits and approvals granted under this Act shall be in such form as the Commissioner determines and may, where the Commissioner considers it appropriate, be combined in one document.

(2) The Commissioner shall issue one or more duplicates of a licence, permit or approval if the holder of the licence, permit or approval—

- (a) applies in the prescribed manner; and
- (b) pays the prescribed fee.

### *Division 2—Approvals*

#### **Approvals**

**89—(1)** An application for approval—

- (a) of a shooting gallery; or
- (b) of a rifle club; or
- (c) of a pistol shooting club; or
- (d) of a range—

shall—

- (e) be made to the Commissioner on a form approved as provided for the purpose by the Commissioner; and
- (f) be accompanied by any prescribed fee; and
- (g) be lodged—
  - (i) in the case of an application for approval of a shooting gallery—with the Commissioner; or
  - (ii) in the case of an application for approval of a rifle club or a pistol shooting club—at the police station nearest to where the club is to hold its meetings; or
  - (iii) in the case of an application for approval of a range—at the police station nearest to where the range is to be situated.

(2) The Commissioner may require an applicant for an approval to supply the Commissioner with such further particulars as the Commissioner considers necessary for a proper consideration of the application.

#### **Consideration of application for approval**

**90—(1)** If after considering an application for an approval the Commissioner decides to refuse to grant the approval the Commissioner shall when informing the applicant of the refusal also inform the applicant—

- (a) of the reason for the refusal; and

(b) of the applicant's right to appeal to a magistrate against the Commissioner's decision.

(2) The Commissioner shall not approve a shooting gallery unless the Commissioner is satisfied that—

(a) the situation, construction, suitability and equipment of the gallery are such that the gallery does not cause a hazard to the users of the gallery, the general public or other property; and

(b) that the guns to be used in connection with the gallery are safe and are appropriate for that purpose.

(3) The Commissioner shall not approve a range unless the Commissioner is satisfied that the situation, construction, suitability and equipment of the range are such that the range does not cause a hazard to the users of the range, the general public or any other property.

#### **Certain matters to be specified in approval**

**91—(1)** The Commissioner shall specify in an approval—

(a) the name and address of the person to whom the approval is granted; and

(b) in the case of an approval of a rifle club or a pistol shooting club—the premises where the club may carry on its activities; and

(c) in the case of an approval of a range—the address of the range; and

(d) any conditions that must be complied with by the person to whom the approval is granted.

(2) The Commissioner shall make it a condition of the approval of a shooting gallery that—

(a) neither the gallery nor its equipment shall be altered without the Commissioner's approval; and

(b) only guns approved by the Commissioner for the purpose are used in connection with the gallery.

(3) The Commissioner shall make it a condition of the approval of a range that neither the range, nor its equipment, shall be altered without the Commissioner's approval.



### Cancellation of approvals

92—(1) The Commissioner may cancel an approval if the Commissioner is satisfied that the approval was obtained by means of a false or misleading statement or by a failure to disclose relevant information.

(2) The Commissioner may cancel an approval if the person to whom the approval was granted has failed to comply with any conditions specified in the approval.

(3) The cancellation of an approval takes effect when notice of the cancellation is served on the person to whom the approval was given or from such later date as is specified in the notice.

- (4) A notice served in accordance with subsection (3) shall—
- (a) specify the reason for the cancellation; and
  - (b) inform the person to whom the approval was given of his or her right to appeal to a magistrate against the Commissioner's decision.

### *Division 3—Appeals and legal provisions*

#### Right to appeal against decision of Commissioner

93—A person may appeal to a magistrate against—

- (a) a decision by the Commissioner—
  - (i) to refuse to grant; or
  - (ii) to cancel—

a licence, a permit or an approval, or to prohibit or restrict the activities authorized by a gun-dealers licence; or

- (b) the conditions imposed by the Commissioner on the grant of a temporary permit or of an approval.

#### Procedure on appeal

94—(1) An appeal against a decision by the Commissioner shall be made in writing to a magistrate.

(2) A magistrate to whom an appeal is made shall deal with the appeal in accordance with the *Justices Act 1959* as if the appeal were a complaint against the Commissioner in respect of a breach of duty.

- (3) After hearing an appeal a magistrate shall—
  - (a) confirm the Commissioner's decision; or
  - (b) revoke the Commissioner's decision; or
  - (c) direct the Commissioner to take such action as in the circumstances the Commissioner would have been able to take under this Act.

(4) The Commissioner shall comply with a direction of a magistrate.

**Evidentiary provisions**

**95—(1)** In proceedings for an offence under this Act, an allegation in the complaint—

- (a) that a person named in the complaint was or was not on a specified date the holder of a licence, a permit or an approval; or
- (b) that a person referred to in the complaint was on a specified date under the age of 18 years—

is evidence of that matter.

(2) In legal proceedings, a document apparently certified by the Commissioner to be the original or a copy of a document granted or served under this Act—

- (a) is admissible in evidence; and
- (b) shall be accepted as the original or a copy of that document unless it is otherwise proved.

**Service of notices or other documents**

**96—(1)** A notice or other document is effectively served under this Act if—

- (a) in the case of a natural person—it is—
  - (i) given to the person; or
  - (ii) left at, or sent by post to, the person's postal or residential address or place or address of business or employment last known to the Commissioner; or
  - (iii) sent by way of facsimile to the person's facsimile number; and
- (b) in the case of any other person—it is—
  - (i) left at, or sent by post to, the person's principal or registered office or principal place of business; or

- (ii) sent by way of facsimile to the person's facsimile number.

(2) If notice is sent to a person by way of facsimile to the person's place of business or employment otherwise than during normal business or employment hours the notice is to be taken to have been delivered at the start of the next period of normal business or employment hours.

### Indemnity

**97**—(1) An action or proceeding, civil or criminal, does not lie against—

- (a) the Commissioner; or
- (b) na police officer or a person aiding a police officer;  
or
- (c) a person authorized by the Commissioner in accordance with section 85 (parks and wildlife officer)—

for anything done or omitted to be done under or in accordance with this Act in good faith.

(2) Subsection (1) does not preclude the Crown from being subject to any action, liability, claim or demand to which the Crown would, but for this subsection, have been subject.

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## PART 6

### MISCELLANEOUS

#### Transitional provisions

**98**—The transitional provisions set out in Schedule 1 have effect.

#### Consequential repeals, &c., and amendments

**99**—(1) The Acts specified in Part 1 of Schedule 2 are repealed.

(2) The subsidiary legislation specified in Part 2 of Schedule 2 is rescinded.

(3) The *Police Offences Act 1935* is amended as follows:—

(a) by amending section 4 as follows:—

(i) by omitting from subsection (1) (c) “firearm or ammunition or of any other”;

(ii) by omitting from subsection (3) “, firearm, weapon or ammunition” and substituting “or dangerous weapon”;

(b) by repealing Division III of Part II.

### Regulations

100—(1) The Governor may make regulations for the purposes of this Act.

(2) Regulations made under this Act may, in particular—

(a) prescribe fees payable in respect of matters under this Act; and

(b) provide for the imposition of a penalty, not exceeding 10 penalty units, for a contravention of a regulation.

(3) Regulations made under this Act may contain provisions of a saving or transitional nature consequent on the enactment of this Act.

(4) A provision referred to in subsection (3) may, if the regulations so provide, take effect from the date of assent of this Act or a later date.

### Administration of Act

101—Until an order is made under section 4 of the *Administrative Arrangements Act 1990*—

(a) the administration of this Act is assigned to the Minister for Police and Emergency Services; and

(b) the Department responsible to the Minister for Police and Emergency Services is the Department of Police and Emergency Services.

## SCHEDULE 1

## Section 98

## TRANSITIONAL PROVISIONS

**Interpretation**

1—In this Schedule—

“repealed Act” means the *Firearms Act 1932*;

“relevant date” means the date on which the Bill for this Act was introduced into Parliament.

**Gun-dealers**

2—A person who immediately before the commencement of this Act was the holder of a dealer’s licence issued under the repealed Act is to be taken, on that commencement, to be the holder of a gun-dealers licence granted under this Act expiring on the next 31 December.

**Gun licences**

3—(1) Notwithstanding section 20 (qualifications for licence), a person—

- (a) who does not have the qualifications for a gun licence referred to in section 20 (2) (b) (relevant gun safety knowledge) but is otherwise qualified under section 20 to hold a gun licence; and
- (b) who satisfies the Commissioner that on the relevant date the person was the owner of a gun (other than a pistol)—

shall be taken to be qualified to hold a gun licence if he or she makes an application for the licence before the end of 1 year after the commencement of this Act.

(2) Notwithstanding any other provision of this Act, a person referred to in subclause (1) is authorized to have possession of a gun (other than a pistol, fully-automatic gun or a prohibited gun) during the period ending 1 year after the commencement of this Act.

SCHEDULE 1—*continued*

(3) The authority given to a person by subclause (2) to have possession of a gun (other than a pistol, a fully-automatic gun or a prohibited gun) does not make that person an authorized person for the purpose of section 49 (unauthorized sales of guns and ammunition).

**Gun licences may be issued to certain young people**

4—(1) Notwithstanding section 20 (qualifications for licence), a person—

(a) who had on the relevant date attained the age of 16 years but had not attained the age of 18 years but is otherwise qualified under section 20 to hold a gun licence; and

(b) who satisfies the Commissioner that on the relevant date that person was the owner of a gun—

shall be taken to be qualified to hold a gun licence if he or she makes an application for the licence before the end of 3 months after the commencement of this Act.

(2) A licence granted to a person in accordance with subclause (1)—

(a) does not make the person an authorized person for the purpose of section 49 (unauthorized sales of guns and ammunition); and

(b) notwithstanding section 25 (duration of licence), is only valid until the person attains the age of 18 years.

(3) Notwithstanding any other provision of this Act, a person referred to in subclause (1) is authorized to have possession of a gun (other than a pistol, a fully-automatic gun or a prohibited gun) during the period ending 3 months after the commencement of this Act (although he or she may not possess the qualifications referred to in section 20 (2) (b) (relevant gun safety knowledge)).

(4) The authority given to a person by subclause (3) to have possession of a gun (other than a pistol, a fully-automatic gun or a prohibited gun) does not make that person an authorized person for the purpose of section 49 (unauthorized sales of guns and ammunition).

SCHEDULE 1—*continued* **Holders of pistol permits**

5—(1) Notwithstanding sections 20 (qualifications for licence), 25 (duration of licence), 30 (qualifications for pistol permit) and 33 (duration of permit), a person who immediately before the commencement of this Act was the holder of a permit to carry issued under the repealed Act shall be taken, on that commencement, to be the holder of a gun licence and a pistol permit granted under this Act both expiring 1 year after the commencement of this Act.

(2) Notwithstanding section 20 (qualifications for a licence), a person referred to in subclause (1) shall be taken to be qualified to hold a gun licence if—

- (a) he or she does not have the qualifications for a gun licence referred to in section 20 (2) (b) (relevant gun safety knowledge) but is otherwise qualified under section 20 to hold a gun licence; and
- (b) application for the licence is made before the end of 1 year after the commencement of this Act.

(3) When a pistol permit referred to in subclause (1) expires the holder of the permit shall not be taken to be qualified to hold a pistol permit unless he or she is qualified to hold the permit under section 30.

**Registration of pistols**

6—If immediately before the commencement of this Act a pistol was registered under the repealed Act—

- (a) the pistol shall, on that commencement, be taken to be registered in accordance with this Act for a period expiring at the same time as it would have expired under the repealed Act had this Act not been passed; and
- (b) the certificate of registration issued under the repealed Act in respect of the pistol shall be taken to be a certificate of registration issued under section 46 (7) (a) of this Act in respect of the pistol.

SCHEDULE 1—*continued*

**Ammunition**

7—(1) Subject to subclause (2), section 49 (unauthorized sale of guns and ammunition) does not apply in respect of the sale of ammunition to a person in this State for 1 year after the commencement of this Act.

(2) Subclause (1) does not authorize the sale of ammunition to a child.

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**SCHEDULE 2**

Section 99

**LEGISLATION REPEALED OR RESCINDED****PART 1****ACTS REPEALED***Firearms Act 1932**Firearms Amendment Act 1983**Firearms Amendment Act 1988***PART 2****SUBSIDIARY LEGISLATION RESCINDED***Firearms Regulations 1964* (Statutory Rules 1964, No. 121)*Firearms Amendment Regulations 1965* (Statutory Rules 1965, No. 40)*Firearms Amendment Regulations 1968* (Statutory Rules 1969, No. 1)*Firearms Amendment Regulations 1985* (Statutory Rules 1985, No. 184)

