
GUN LAWS AMENDMENT ACT 1988

No. 7 of 1988

TABLE OF PROVISIONS
PART I
PRELIMINARY

1. Short title.
2. Commencement.

PART II
**AMENDMENTS OF THE FIREARMS ACT
1932**

3. Principal Act.
4. Insertion in Principal Act of Part heading (Part I).
5. Amendment of section 2 of Principal Act (Interpretation).
6. Amendment of section 3 of Principal Act (Non-application of Act).
7. Insertion in Principal Act of Part heading (Part II).
8. Amendment of section 4 of Principal Act (Unauthorized possession, &c., of pistols unlawful).
9. Amendment of section 5 of Principal Act (Power to issue certificates, &c.).
10. Amendment of section 6 of Principal Act (Effect of certificates, &c.).

11. Insertion in Principal Act of new Parts (Parts III and IV) and new Part heading (Part V).

PART III
LONG-BARRELLED
FIREARMS

6A—Gun-dealers' licences.

6B—Fully-automatic firearm licences.

6C—Delivery of long-barrelled firearms.

PART IV
FIREARM COLLECTORS

6D—Firearm-collectors' licences.

PART V
GENERAL

12. Amendment of section 7 of Principal Act (Cancellation of documents of authorization).
13. Amendment of section 8 of Principal Act (Certain persons prohibited from holding certificates, &c.).
14. Amendment of section 9 of Principal Act (Duties of persons holding certain certificates).
15. Amendment of section 10 of Principal Act (Powers of police officers).

16. Amendment of section 11 of Principal Act (Offences and penalties).
17. Amendment of section 12 of Principal Act (Prohibition of silencers).
18. Insertion in Principal Act of new sections 12A to 12F.
 - 12A—Prohibition of modification of firearms.
 - 12B—Firearms not to be supplied to prohibited persons.
 - 12C—Firearms not to be used by, or supplied to, children.
 - 12D—Discharging, carrying, &c., firearms, &c.
 - 12E—Prohibition of carriage or use of firearms on or over farm lands.
 - 12F—Seizure of firearms unlawfully used, &c.
19. Amendment of section 13 of Principal Act (Provisions as to search and arrest).
20. Amendment of section 14 of Principal Act (Procedure in respect of offences).
21. Insertion in Principal Act of new sections 14A to 14E.
 - 14A—Adult supervisors liable in relation to firearms offences committed by children.
 - 14B—Second and subsequent convictions for firearms offences.
 - 14C—Firearms offences by bodies corporate, &c.

14D—Forfeitures and disqualifications on conviction for firearm offences.

14E—Minimum penalties, forfeiture, &c., not applicable in certain cases.

22. Amendment of section 15 of Principal Act (Appeal to magistrate against decisions under this Act).

PART III

AMENDMENTS OF THE POLICE OFFENCES ACT 1935

23. Principal Act.
24. Amendment of section 4 of Principal Act (Drunkness).
25. Repeal of Division III of Part II of Principal Act (Use of firearms restriction).

PART IV

AMENDMENTS OF THE PROBATION OF OFFENDERS ACT 1973

26. Principal Act.
27. Amendment of section 7 of Principal Act (Conditional release of offenders).

PART V

MISCELLANEOUS

28. Transitional: pistol-dealer's licence.
29. Expiry.



GUN LAWS AMENDMENT ACT 1988

No. 7 of 1988

AN ACT to amend the Firearms Act 1932, the Police Offences Act 1935, and the Probation of Offenders Act 1973 in relation to firearms, and for other purposes.

[Royal Assent 26 May 1988]

BE 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 I

PRELIMINARY

1—This Act may be cited as the *Gun Laws Amendment Act 1988*. Short title.

2—(1) This section and section 1 shall commence on the day on which this Act receives the Royal assent. Commencement.

(2) Except as provided in subsection (1), the several provisions of this Act shall commence on such day or days as may be fixed by proclamation.

PART II

AMENDMENTS OF THE FIREARMS ACT 1932

Principal Act. **3**—In this Part, the *Firearms Act 1932** is referred to as the Principal Act.

Insertion in Principal Act of Part heading (Part I). **4**—Before section 1 of the Principal Act, the following heading is inserted:—

PART I
PRELIMINARY

Amendment of section 2 of Principal Act (Interpretation). **5**—Section 2 of the Principal Act is amended as follows:—

(a) by inserting after the definition of “buy” the following definition:—

“child” means a person who has not attained the age of 18 years;

(b) by omitting the definition of “pistol” and substituting the following definitions:—

“firearm” means a weapon designed or adapted to discharge shot or a bullet or other missile—

(a) by the expansion of gases produced in the weapon by the ignition of strongly combustible materials; or

(b) by compressed air or other gases, whether stored in the weapon in pressurised containers or produced in the weapon by mechanical means,

and includes any such weapon from which, for the time being, shot or a bullet or other missile, cannot be discharged by reason of the absence of, or a defect in, any part or the presence of any obstruction, but does not include an explosive-powered fastening tool;

“firearm-collector’s licence” means a licence in force under section 6D;

“firearms offence” means—

(a) an offence against this Act;

(b) a crime in the course of, or in connection with, the commission of which a firearm or an imitation firearm was used or carried by the person by whom the crime was committed; and

* 23 Geo. V No. 53. For this Act, as amended to 1st October 1980, see the continuing Reprint of Statutes. Subsequently amended by No. 80 of 1983 and No. 51 of 1985.

(c) an offence against section 4 (2A), or any provision of Division III of Part II, of the *Police Offences Act 1935*;

“fully-automatic firearm” means a long-barrelled firearm that is so constructed, that, if pressure is applied to the trigger or other similar part of its mechanism, bullets or other missiles continue to be automatically discharged from it in succession until the pressure is removed from the trigger or other similar part or until the supply of ammunition to the weapon is interrupted;

“imitation firearm” means an article that is not capable of discharging shot or a bullet or other missile and cannot be rendered so capable by the restoration or repair of any part but could reasonably be mistaken for a firearm;

“long-barrelled firearm” means a firearm other than a pistol;

“pistol” means a firearm the barrel of which, excluding any part of a revolving or removable breach or magazine, does not exceed 410 millimetres in length;

(c) by omitting “pistol” (twice occurring) from the definition of “sell” and substituting “firearm”.

6—Section 3 of the Principal Act is amended as follows:—

(a) by omitting from subsection (2) “pistol” (thrice occurring) and substituting “firearm”;

(b) by inserting after “obsolete” in subsection (2) “or defunct”.

7—After section 3 of the Principal Act, the following heading is inserted:—

PART II PISTOLS

8—Section 4 of the Principal Act is amended by omitting subsection (4) and substituting the following subsection:—

Amendment of section 3 of Principal Act (Non-application of Act).

Insertion in Principal Act of Part heading (Part II).

Amendment of section 4 of Principal Act (Unauthorized possession, &c., of pistols unlawful).

(4) The foregoing provisions of this section do not apply to any transaction under which a pistol is, or is to be, delivered from outside Tasmania—

- (a) in the ordinary course of his business, to the holder of a pistol-dealer's licence under this Part; or
- (b) subject to the conditions attaching to a firearm-collector's licence, to the holder of that licence.

Amendment of section 5 of Principal Act (Power to issue certificates, &c.).

9—Section 5 of the Principal Act is amended by omitting paragraph (d) of subsection (1) and substituting the following paragraphs:—

- (ca) a visiting pistol-shooter's permit;
- (d) a pistol-dealer's licence;
- (da) a visiting pistol-dealer's permit;

Amendment of section 6 of Principal Act (Effect of certificates, &c.).

10—Section 6 of the Principal Act is amended as follows:—

- (a) by inserting after "possession" in subsection (2) " , or sell,";
- (b) by inserting after subsection (2) the following subsections:—

(2A) A permit to carry a pistol shall relate only to the pistol in respect of which the person to whom the permit is issued is the holder of a certificate of registration and, while in force, shall authorize the holder of the permit to carry that pistol subject to the prescribed conditions, and shall remain in force, unless sooner cancelled, for such time as may be specified in the permit unless the certificate of registration of the pistol earlier ceases to have effect, whereupon the permit shall also cease to have effect.

(2B) A visiting pistol-shooter's permit, while in force, entitles the holder to have in his possession, and to carry, such pistol as is, or pistols as are, specified in the permit for such period, not exceeding 28 days, as is specified in the permit and subject to—

- (a) this Act;
- (b) such general conditions as are specified in regulations made for the purposes of this Act; and
- (c) such particular conditions as are specified in the permit.

- (c) by omitting from subsection (3) “dealer’s licence shall be in the prescribed form, and while in force” and substituting “pistol-dealer’s licence, while in force,”;
- (d) by omitting subsection (4) and substituting the following subsection:—
- (4) A visiting pistol-dealer’s permit entitles the holder—
- (a) to buy, sell, exchange, test, prove, or repair; and
- (b) to have in his possession, for all or any of those purposes, any pistols during such period, not exceeding 28 days, as is specified in the permit and subject to—
- (c) this Act;
- (d) such general conditions as are specified by regulations made for the purposes of this Act; and
- (e) such particular conditions as are specified in the permit.
- (e) by omitting from subsection (6) “dealer’s licence” and substituting “pistol-dealer’s licence”.

11—After section 6 of the Principal Act, the following Parts and Part heading are inserted:—

Insertion in Principal Act of new Parts (Parts III and IV) and new Part heading (Part V).

PART III

LONG-BARRELLED FIREARMS

6A—(1) A person shall not carry on the business of dealing in long-barrelled firearms unless that person is the holder of a valid licence issued under this section.

Gun-dealers’ licences.

(2) Subject to section 8 and to regulations made for the purposes of this Act, an authorized officer may issue to a person a gun-dealer’s licence.

(3) A gun-dealer’s licence, while in force, entitles the holder, subject to this Act, to such general conditions as are specified in regulations made for the purposes of this Act, and to such particular conditions as are specified in the licence, to carry on the business of dealing in long-barrelled firearms and, for that purpose, to keep or have in his possession, buy, or sell any such firearms.

(4) Where a gun-dealer's licence is issued for the purposes of a business carried on or by 2 or more persons in partnership it may be issued to those persons jointly, and where the business is carried on by a company the licence may be issued to the secretary or manager on behalf of the company.

Fully-automatic
firearm licences.

6B—(1) Subject to section 6D, a person shall not—

- (a) keep or have in his possession;
- (b) buy;
- (c) sell; or
- (d) carry or use,

a fully-automatic firearm unless that person is the holder of—

- (e) a valid gun-dealer's licence issued under section 6A; or
- (f) a valid fully-automatic firearm licence issued under this section.

(2) Subject to section 8 and to regulations made for the purposes of this Act, an authorized officer may issue to a person a fully-automatic firearm licence.

(3) A fully-automatic firearm licence, while in force, entitles the holder, subject to this Act, to such general conditions as are specified in regulations made for the purposes of this Act, and to such particular conditions as are specified in the licence—

- (a) to keep or have in his possession;
- (b) to carry or use; and
- (c) otherwise than by way of trade, to buy or sell,

fully-automatic firearms.

Delivery of long-
barrelled
firearms.

6C—(1) Where a person sells a long-barrelled firearm to another person—

- (a) delivery of the firearm to the purchaser shall not take place before the expiration of 7 days after the receipt by the vendor of notice, howsoever communicated to him, of the purchaser's intention to buy such a firearm; and

- (b) if, at the expiration of that period, the purchaser chooses not to take delivery of the firearm, the transaction shall, by force of this section, be deemed to be of no effect and the purchaser shall be entitled to a full refund of any money paid by him to the vendor by way of the whole or part of the purchase price payable for the firearm.
- (2) This section does not apply in relation to the sale of a firearm to—
- (a) the holder of a pistol-dealer's licence, or a gun-dealer's licence, under this Act; or
- (b) subject to the conditions attaching to a firearm-collector's licence, to the holder of that licence.

PART IV

FIREARM COLLECTORS

6D—(1) Subject to section 8 and to regulations made for the purposes of this Act, an authorized officer may issue to a person a firearm-collector's licence. Firearm-collectors' licences.

(2) A firearm-collector's licence, while in force, entitles the holder, subject to this Act, to such general conditions as are specified in regulations made for the purposes of this Act, and to such particular conditions as are specified in the licence—

- (a) to keep or have in his possession;
- (b) to carry for the purposes of exhibition or in connection with the sale or purchase; and
- (c) otherwise than by way of trade, to buy and sell, firearms, either generally, or of a particular kind or particular kinds, as specified in the licence, but does not entitle the holder to use a firearm otherwise than on such ranges (if any) as are specified for the purpose in the licence.

PART V

GENERAL

Amendment of section 7 of Principal Act (Cancellation of documents of authorization).

12—Section 7 of the Principal Act is amended by omitting paragraph (c) of subsection (1) and substituting the following paragraph:—

(c) is a person of intemperate habits or unsound mind, is a person suffering from a mental disorder within the meaning of the *Mental Health Act 1963*, or for any reason is a person unfit to be entrusted with a firearm,

Amendment of section 8 of Principal Act (Certain persons prohibited from holding certificates, &c.).

13—Section 8 of the Principal Act is amended as follows:—

(a) by omitting “No person” and substituting “(1) No person”;

(b) by omitting “section 5” and substituting “sections 5, 6A, 6B, or 6D”;

(c) by adding at the end the following subsection:—

(2) No person who—

(a) is for the time being declared under section 12B to be a prohibited person; or

(b) has not attained the age of 18 years, shall be the holder of a document of a kind referred to in subsection (1).

Amendment of section 9 of Principal Act (Duties of persons holding certain certificates).

14—Section 9 of the Principal Act is amended as follows:—

(a) by omitting “or permit to carry” from subsection (1) and substituting “, permit to carry, or fully-automatic firearm licence”;

(b) by omitting “pistol” from paragraph (b) of subsection (1) and substituting “firearm”;

(c) by omitting from subsection (2) “Every person who is the holder of a dealer’s licence under this Act, or who sells any pistol to the holder of a buyer’s certificate thereunder,” and substituting “A person who sells a pistol to the holder of a buyer’s certificate”;

(d) by omitting from subsection (3) “dealer’s licence” and substituting “pistol-dealer’s licence or a gun-dealer’s licence”.

Amendment of section 10 of Principal Act (Powers of police officers).

15—Section 10 of the Principal Act is amended as follows:—

(a) by omitting “a pistol” from paragraph (b) of subsection (1) and substituting “an article, being a firearm or other article the possession, use, or carriage of which is prohibited or regulated by this Act,”;

- (b) by omitting from paragraph (b) of subsection (1) “such pistol” and substituting “that article”;
- (c) by omitting from paragraph (d) of subsection (1) “pistol” (wherever occurring) and substituting “firearm or other article”;
- (d) by omitting paragraph (e) of subsection (1) and substituting the following paragraph:—
 - (e) seize or detain—
 - (i) a firearm or other article which he finds a person using or carrying, or which he believes on reasonable grounds that a person is using or carrying, in contravention of this Act; and
 - (ii) any motor vehicle or other article used by that person or any other person in connection with that contravention, or presumed contravention, of this Act.
- (e) by omitting from subsection (2) “pistol” and substituting “firearm, motor vehicle, or other article”;
- (f) by omitting from subsection (2) “in relation thereto” and substituting “under this Act in relation to any of the property so seized”;
- (g) by omitting from subsection (2) “the same” (twice occurring) and substituting “that property”.

16—Section 11 of the Principal Act is amended as follows:—

- (a) by omitting from subsection (1) “No person shall” and substituting “A person shall not”;
- (b) by omitting from paragraph (a) of subsection (1) “pistol” and substituting “pistol or fully-automatic firearm”;
- (c) by omitting from subsection (1)—
 - Penalty: \$200 or imprisonment for 6 months, or both such penalty and imprisonment.
 - and substituting—
 - Penalty: Fine of not less than 10 penalty units and not more than 100 penalty units, with or without imprisonment for a term not exceeding 10 years.
- (d) by omitting subsection (2) and substituting the following subsections:—

Amendment of section 11 of Principal Act (Offences and penalties).

(2) A person—

(a) shall not bring, or cause to be brought, into Tasmania any pistol unless he is the holder of a pistol-dealer's licence, a visiting pistol-dealer's permit, or a visiting pistol-shooter's permit under this Act; and

(b) shall not bring, or cause to be brought, into Tasmania any fully-automatic firearm unless he is the holder of a gun-dealer's licence under this Act.

Penalty: Fine of not less than 10 penalty units and not more than 100 penalty units, with or without imprisonment for a term not exceeding 10 years.

(2A) Subject to the conditions attaching to a firearm-collector's licence, subsection (2) does not apply to the holder of that licence.

(2B) A person shall not deliver a firearm of any kind to another person who is a resident of a State or Territory of the Commonwealth other than Tasmania unless that other person is, in accordance with the law of that State or Territory, authorized to carry on the business of dealing in firearms of that kind or, where the first-mentioned person is a manufacturer of firearms, that other person is acting on behalf of the government of the Commonwealth, the government of that State, or the administration of that Territory, as the case requires.

Penalty: Fine of not less than 5 penalty units and not more than 50 penalty units, with or without imprisonment for a term not exceeding 5 years.

(e) by omitting from subsection (3) "No person shall" and substituting "A person shall not";

(f) by omitting from subsection (3)—

Penalty: \$100 or imprisonment for 3 months.

and substituting—

Penalty: Fine of not less than 5 penalty units and not more than 50 penalty units, with or without imprisonment for a term not exceeding 5 years.

(g) by adding after subsection (3) the following subsection:—

(4) A person shall not—

- (a) permit a child employed by that person to sell a firearm;
- (b) carry on the business of dealing in long-barrelled firearms otherwise than as the holder of a gun-dealers' licence;
- (c) deliver, or cause to be delivered, a long-barrelled firearm to another person in contravention of section 6C; or
- (d) in connection with a request for the supply to him of a firearm, provide another person with a name and address that is, in any respect, false.

Penalty: Fine of not less than 5 penalty units and not more than 50 penalty units, with or without imprisonment for a term not exceeding 5 years.

17—Section 12 of the Principal Act is amended as follows:—

- (a) by omitting from subsection (1) “No person shall” and substituting “A person shall not”;
- (b) by omitting from subsection (1)—

Penalty: \$100 or 6 months' imprisonment, or both such penalty and imprisonment.

and substituting—

Penalty: Fine of not less than 10 penalty units and not more than 100 penalty units, with or without imprisonment for a term not exceeding 10 years.

Amendment of section 12 of Principal Act (Prohibition of silencers).

18—After section 12 of the Principal Act, the following sections are inserted:—

12A—A person shall not—

- (a) convert a firearm, not being a fully-automatic firearm, into a fully-automatic firearm; or
- (b) except with the permission in writing of the Commissioner of Police, combine magazines, or modify a magazine, so as to increase the capacity or overall firing rate of a firearm.

Penalty: Fine of not less than 5 penalty units and not more than 50 penalty units, with or without imprisonment for a term not exceeding 5 years.

Insertion in Principal Act of new sections 12A to 12F.

Prohibition of modification of firearms.

Firearms not to be supplied to prohibited persons.

12B—(1) The Commissioner of Police may, by instrument in writing, for the purposes of this section, declare a person to be a prohibited person if that person is—

- (a) a person of intemperate habits or unsound mind;
- (b) a person suffering from a mental disorder within the meaning of the *Mental Health Act 1963*;
- (c) a person to whom a firearm could not be supplied without danger to the public safety or to the peace;
- (d) a person who is, for the time being, disqualified by order under section 14D (1) from keeping, having in his possession, or carrying any firearm; or
- (e) a person who has—
 - (i) made an attempt to commit suicide; or
 - (ii) caused, or attempted to cause, himself a self-inflicted injury.

(2) The Commissioner shall, not later than 7 days after making a declaration under subsection (1) in relation to a person, cause to be given to that person, or sent by properly pre-paid post to that person at his last-known address, notice in writing of the declaration, of the grounds on which it was made, and of the person's right of appeal under section 15 (1) (c).

(3) A person shall not sell or otherwise supply, or cause to be sold or supplied, to another person a firearm unless there has been produced to the first-mentioned person a certificate given, not more than 14 days previously, by or on behalf of the Commissioner of Police to the effect that that other person was not, at the time the certificate was given, a prohibited person under subsection (1).

Penalty: Fine of not less than 5 penalty units and not more than 50 penalty units, with or without imprisonment for a term not exceeding 5 years.

(4) Subsection (3) does not apply in relation to the sale or supply to a person of a pistol in accordance with section 9 (2) or to the holder of a pistol-dealer's licence, a gun-dealer's licence, or a firearm-collector's licence.

Firearms not to be used by, or supplied to, children.

12C—(1) A child shall not use, discharge, carry, buy, keep, or knowingly have in his possession any firearm or ammunition for a firearm.

Penalty: Fine not exceeding 2 penalty units.

(2) A person shall not sell, give, lend, or in any way supply to a child any firearm or ammunition for a firearm.

Penalty: Fine of not less than 5 penalty units and not more than 50 penalty units, with or without imprisonment for a term not exceeding 5 years.

(3) Subsections (1) and (2) do not apply to—

- (a) any person who is a member of the Defence Force of the Commonwealth, whilst engaged in the performance of his duties as such a member;
- (b) any child under the proper supervision of an adult person, or any other person, who is engaged in shooting, or an act incidental to shooting, on or at a range or in or at a shooting gallery, which is used with the consent in writing of—
 - (i) the Commissioner of Police; or
 - (ii) in the case of a shooting gallery, the municipal council within whose municipality that shooting gallery is situated;
- (c) any child engaged, under the proper supervision of an adult person, in shooting or an act incidental to shooting, for the purpose of, and in the course of, receiving instruction in the use of firearms; or
- (d) an adult person providing that supervision or instruction.

12D—(1) A person shall not—

- (a) without reasonable cause or lawful excuse (proof of which shall lie on the person charged), discharge a firearm from, onto, or over a public place;
- (b) without consent of the occupier of any land or without reasonable cause or lawful excuse (proof of which shall lie on the person charged), discharge a firearm from, onto, or over that land;
- (c) without reasonable cause or lawful excuse (proof of which shall lie on the person charged), discharge a firearm from, onto, or over any unoccupied Crown land;

Discharging,
carrying, &c.,
firearms, &c.

- (d) recklessly or without due regard to the safety of other persons, discharge a firearm in any place whatsoever;
- (e) in any place whatsoever, discharge from a firearm, in the direction of another person, a pellet or other missile that is designed or intended to produce a visible mark at the point of its impact with a target;
- (f) in a public place, be found drunk while in charge of a firearm or of any other dangerous weapon;
- (g) being under the influence of alcohol or another drug and acting in such manner as to cause fear in any person, have charge of a firearm or of any other dangerous weapon;
- (h) without lawful excuse or authority (proof of which shall lie on the person charged), carry a loaded firearm in a public place or in a motor vehicle in a public place; or
- (i) without lawful excuse or authority (proof of which shall lie on the person charged), carry in a public place, or in the cabin or passenger compartment of a motor vehicle that is in a public place, a firearm that is not securely enclosed in a cover or container so as to prevent its immediate use.

Penalty: Fine of not less than 5 penalty units and not more than 50 penalty units, with or without imprisonment for a term not exceeding 5 years.

(2) Paragraphs (h) and (i) of subsection (1) do not apply in relation to the carrying of a firearm by a person, being a police officer, an officer of the National Parks and Wildlife Service authorized under section 12F to exercise the powers of a police officer under this Act in relation to firearms offences, a member of the Defence Force of the Commonwealth, a prison officer, a licensed security agent, or a licensed security guard, in the course of the duties of that person.

(3) For the purposes of subsection (2), a person is a licensed security agent or a licensed security guard if he is licensed as such under the *Commercial and Inquiry Agents Act 1974*.

(4) A person who makes use of a firearm or an imitation firearm in the commission of an assault on another person is guilty of an offence and is liable, on summary conviction, to a fine of not less than 10 penalty units and not more than 100 penalty units, with or without imprisonment for a term not exceeding 10 years.

(5) A person shall not—

- (a) in any place whatsoever, take part in an activity (in this subsection referred to as a “proscribed activity”), being a simulated military exercise, or similar activity, in which a firearm is used or carried by any person;
- (b) cause or permit a proscribed activity to be conducted on any land of which that person is the occupier;
- (c) cause a proscribed activity to be conducted on any land that is occupied by another person or is unoccupied Crown land;
- (d) assist in any way in the conduct of a proscribed activity; or
- (e) advertise or promote the conduct of a proscribed activity.

Penalty: Fine of not less than 5 penalty units and not more than 50 penalty units, with or without imprisonment for a term not exceeding 5 years.

(6) Subsections (1) (e) and (5) do not apply in relation to an act done by a person—

- (a) in the course of his duty, contractual or otherwise—
 - (i) to the State or the Commonwealth in relation to the training of police personnel; or
 - (ii) to the Commonwealth in relation to the defence of Australia; or
- (b) with the permission in writing of the Commissioner of Police, for the purposes of—
 - (i) a historical re-enactment;
 - (ii) a dramatic presentation; or
 - (iii) the making of a cinematograph film or video or television production.

Prohibition of carriage or use of firearms on or over farm lands.

12E—(1) A person shall not without the permission, express or implied, of the occupier of any land that is used in connection with primary production or of some person apparently authorized to act on behalf of that occupier carry a firearm or have a firearm in his possession while he is on that land.

Penalty: Fine of not less than 5 penalty units and not more than 50 penalty units, with or without imprisonment for a term not exceeding 5 years.

(2) It is a defence to any proceedings in respect of an offence against subsection (1) if the defendant satisfies the court that, at the time of the commission of the alleged offence, he was approaching the residence of the occupier of the land along a defined or customary path or road for the purpose of applying for such permission as is mentioned in that subsection.

(3) Nothing in this section limits or abridges any other civil or criminal proceedings in relation to trespass, firearms, or injury to person or property.

Seizure of firearms unlawfully used, &c.

12F—(1) A police officer or an officer of the National Parks and Wildlife Service for the time being authorized under subsection (3) to exercise the powers of a police officer under this Act in relation to firearms offences may—

- (a) search any person whom he believes on reasonable grounds to have committed an offence against section 12C, 12D, or 12E or search any vehicle in the possession or under the control of such a person;
- (b) seize without warrant any firearm or any ammunition which is being used or carried by, or which is in the possession or custody of, any person apparently in contravention of section 12C, 12D, or 12E, whether that firearm or ammunition is in any enclosure, building, tent, vessel, vehicle, or parcel, or otherwise, together with any motor vehicle or other article apparently used by that person or any other person in connection with the offence believed to have been committed; and
- (c) arrest, without warrant, any person found offending against section 12C, 12D, or 12E.

(2) Any firearm, ammunition, motor vehicle, or other article seized in pursuance of subsection (1) shall be retained in the possession of the Crown until an order in relation to it is made under section 14D (1).

(3) The Commissioner of Police may, by notice published in the *Gazette*, authorize an officer of the National Parks and Wildlife Service to exercise the powers of a police officer under this Act in relation to firearms offences.

19—Section 13 of the Principal Act is amended as follows:—

- (a) by inserting after “firearm” in subsection (1) “, or other article the possession, use, or carriage of which is prohibited or regulated by this Act”;
- (b) by omitting from subsection (3) “pistol” (first occurring) and substituting “firearm or other article”;
- (c) by omitting from subsection (3) “pistol found upon such search” and substituting “firearm, or other article the possession, use, or carriage of which is prohibited or regulated by this Act, found as a result of that search, and any vehicle, package, or thing in which it was so found,”.

Amendment of section 13 of Principal Act (Provisions as to search and arrest).

20—Section 14 of the Principal Act is amended by omitting subsection (3).

Amendment of section 14 of Principal Act (Procedure in respect of offences).

21—After section 14 of the Principal Act, the following sections are inserted:—

Insertion in Principal Act of new sections 14A, to 14E.

14A—Where, at the time when a child commits a firearms offence, the child was under the supervision of an adult person who did not take all measures practicable in the circumstances to prevent the commission of the offence (proof of which shall lie on that adult person), that adult person is guilty of an offence and liable to the same penalty as that provided for in relation to the first-mentioned offence.

Adult supervisors liable in relation to firearms offences committed by children.

Second and subsequent convictions for firearms offences.

14B—Where, within a period of 10 years after a person has been convicted of a firearms offence, being a period commencing on or after the commencement of this section, he commits another firearms offence (not being an offence under section 14D (10)), he is liable on conviction to both—

(a) a fine—

- (i) of not less than an amount equal to twice the minimum fine (if any) for the time being applicable to that offence;
- (ii) if no minimum fine is so applicable, of not less than an amount equal to 20 per cent of the maximum fine (if any) that is applicable to that offence; or
- (iii) if no fine would, but for this section, be applicable to that offence, of not less than 5 penalty units and not more than 50 penalty units; and

(b) unless the court is of the opinion that, having regard to—

- (i) the character, antecedents, age, health, or medical condition of the defendant;
- (ii) the nature of the offence; or
- (iii) the circumstances under which the offence was committed,

it is inexpedient to impose a sentence of imprisonment upon the defendant, imprisonment for a term not exceeding twice the maximum term of imprisonment (if any) that, but for this section, would be applicable to that offence.

Firearms offences by bodies corporate, &c.

14C—Where a firearms offence is committed by a body corporate—

- (a) the body corporate is liable on conviction to a fine 5 times greater than that to which, but for this subsection, it would be liable; and
- (b) if that offence is proved to have been committed with the consent or connivance of another person, being a director, manager, secretary, or other officer of the body corporate, that other person shall be deemed also to have committed that offence and is liable to be proceeded against and punished accordingly.

14D—(1) Where a person is convicted of a firearms offence, the court, in addition to imposing any other penalty to which that person (in this section referred to as “the convicted person”) is liable, shall order—

Forfeitures and disqualifications on conviction for firearm offences.

- (a) the cancellation of all certificates, permits, and licences (if any) for the time being in force under this Act in favour of the convicted person;
- (b) the disqualification of the convicted person, in accordance with subsection (2), from—
 - (i) holding any such certificate, permit, or licence; or
 - (ii) keeping, having in his possession, buying, or carrying any firearm;
- (c) subject to subsection (3), the forfeiture to the Crown of any firearm or imitation firearm, or other thing (other than a motor vehicle), used, or carried, by the convicted person or any other person in the course of, or in connection with, the commission of the offence; and
- (d) where a motor vehicle was used by the convicted person or any other person in the course of, or in connection with, the commission of the offence—
 - (i) the cancellation of the driver’s licence (if any) for the time being held by the convicted person; and
 - (ii) the disqualification of the convicted person for such period, not exceeding 5 years, as is specified in the order from holding or obtaining such a licence,

and, subject to subsection (3), may also order the forfeiture to the Crown of any motor vehicle used by the convicted person or any other person in the course of, or in connection with, the commission of the offence.

(2) A disqualification imposed on a person under subsection (1) (b) shall have effect, on and from the day on which the order is made—

- (a) on the first occasion after the commencement of this section on which the person is convicted of a firearms offence—for 5 years; and
- (b) on a subsequent such occasion—for life.

(3) Where a court exercising the powers conferred by subsection (1) is satisfied, in relation to an article that, but for this subsection, would be required, or might otherwise be ordered, to be forfeited to the Crown, that—

(a) the article is the property of a person without the consent of whom it was used or carried in the course of, or in connection with, the commission of the offence; or

(b) a person other than the convicted person has an interest in the article and it would be unfair to that person to order its forfeiture,

the court may order that the article not be so forfeited.

(4) Where the forfeiture of any article is ordered under subsection (1), the court may take the market value of that article into account when imposing the penalty to which, but for this section, the convicted person is liable.

(5) Without limiting any right of appeal conferred by any other law, an order under subsection (1) for the forfeiture of an article is appealable by any person who has an interest in that article—

(a) in the case of the convicted person—in the same manner as if the order were, or were part of, the sentence imposed in respect of his conviction; or

(b) in the case of a person other than the convicted person—in the same manner as if he had been so convicted and the order were, or were part of, the sentence imposed in respect of that conviction.

(6) The court to which an appeal is made in respect of an order under subsection (1) for the forfeiture of an article may, pending the hearing of the appeal, make such orders as it thinks fit for the custody of that article.

(7) On appeal, an order under subsection (1) for the forfeiture of an article may be confirmed, revoked, or varied.

(8) Where an order is made under subsection (1) for the forfeiture of an article, the Attorney-General may cause a memorandum in a summary form of so much of the order as is necessary for the purposes of this subsection to be made on paper, sealed with the seal of the court by which it was made, transmitted (in the case of such an order made by a court of petty sessions) to the Registrar of the Supreme Court, entered as if it were a judgment subject to the *Supreme Court Civil Procedure Act 1932*, and enforced under that Act.

(9) An article forfeited under this section shall be destroyed, or otherwise disposed of, in such manner as the Minister considers appropriate.

(10) A person shall not keep or have in his possession, buy, or carry any firearm in contravention of an order under subsection (1) (b).

Penalty: Fine of not less than 10 penalty units and not more than 100 penalty units, together with imprisonment for a term of not less than one year and not more than 10 years.

(11) Where, on the conviction of a person for an offence against subsection (10), the court is of the opinion that, having regard to—

- (a) the character, antecedents, age, health, or medical condition of that person;
- (b) the nature of the offence; or
- (c) the circumstances under which the offence was committed,

it is expedient to impose a sentence of imprisonment upon the person, the court may order that such a sentence not be imposed on the person.

14E—(1) This section applies in relation to the conviction of a person for a firearms offence that is not constituted, in whole or in part, by—

Minimum penalties, forfeiture, &c., not applicable in certain cases.

- (a) the carriage or use by that person of an article (in this subsection referred to as a “controlled article”), being a firearm or other article the possession, use, or carriage of which is prohibited or regulated by this Act;
- (b) the importation into Tasmania of a controlled article;

- (c) the purchase, or the acceptance of the delivery, of a controlled article from another person;
 - (d) the sale, or delivery, of a controlled article to another person; or
 - (e) the causing or permitting of any other person to do any of the things referred to in the foregoing paragraphs of this subsection.
- (2) Where this section applies in relation to the conviction of a person for a firearms offence—
- (a) any minimum penalty that would, but for this section, be applicable in relation to that offence does not apply; and
 - (b) the provisions of sections 14B and 14D do not have effect.

Amendment of section 15 of Principal Act (Appeal to magistrate against decisions under this Act).

22—Section 15 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:—

- (1) A person who is aggrieved by—
- (a) the refusal of an authorized officer to issue any document under this Act;
 - (b) the cancellation of any such document otherwise than in pursuance of an order under section 14D (1); or
 - (c) the declaration under section 12B of the person to be a prohibited person,

may appeal against that refusal, cancellation, or declaration to a magistrate in accordance with this section.

PART III

AMENDMENTS OF THE POLICE OFFENCES ACT 1935

Principal Act.

23—In this Part, the *Police Offences Act 1935** is referred to as the Principal Act.

* 26 Geo. V No. 44. For this Act as amended to 1st October 1977, see the continuing Reprint of Statutes. Subsequently amended by No. 117 of 1976, Nos. 86 and 87 of 1981, and Nos. 51, 63, 74, and 99 of 1982, No. 42 of 1984, Nos. 1, 51, and 100 of 1985, No. 93 of 1986, and Nos. 13, 90, and 112 of 1987.

24—Section 4 of the Principal Act is amended as follows:— Amendment of section 4 of Principal Act (Drunkness).
 (a) by omitting subsections (1) and (1A) and substituting the following subsections:—

(1) A person shall not, in a public place, be found—

(a) drunk and incapable of taking care of himself; or

(b) drunk and disorderly.

Penalty: Fine not exceeding one penalty unit or imprisonment for a term not exceeding one month.

(1A) A person shall not, in a public place, be found drunk while in charge of any vehicle or animal.

Penalty: Fine not exceeding 3 penalty units or imprisonment for a term not exceeding 3 months.

(b) by omitting from subsection (2) “under this section” and substituting “under subsection (1) or (1A)”;

(c) by omitting from subsection (3) “, animal, firearm, weapon or ammunition” and substituting “or animal”.

25—Division III of Part II of the Principal Act is repealed. Repeal of Division III of Part II of Principal Act (Use of firearms restriction).

PART IV

AMENDMENTS OF THE PROBATION OF OFFENDERS ACT 1973

26—In this Part, the *Probation of Offenders Act 1973** is Principal Act. referred to as the Principal Act.

27—Section 7 of the Principal Act is amended as follows:— Amendment of section 7 of Principal Act (Conditional release of offenders).

(a) by omitting from subsections (1) and (2) “Where” and substituting “Subject to subsection (2A), where”;

(b) by inserting after subsection (2) the following subsection:—

(2A) Subsections (1) and (2) do not apply in relation to an offence that is a firearms offence within the meaning of the *Firearms Act 1932*.

* Act No. 2 of 1973. For this Act, as amended to 1st August 1987, see the continuing Reprint of Statutes.

PART V

MISCELLANEOUS

Transitional:
pistol-dealer's
licence.

28—A dealer's licence in force under the *Firearms Act 1932* immediately before the day of commencement of section 9 of this Act shall be deemed, for the purposes of the *Firearms Act 1932* as amended by this Act, to be a pistol-dealer's licence issued under that Act as so amended for a period ending at the expiration of the period for which that dealer's licence was issued.

Expiry.

29—This Act expires on the expiration of the period of 2 years commencing on the day, or the last of the days, fixed by proclamation under section 2 (2), and, after that expiration, the Acts amended by this Act shall have effect as if this Act had never been enacted.