

FIREARMS AND GUNS.

22° Geo. V., No. VIII.

No. 8 of 1931.¹

(Affected by Act No. 113 of 1965.)

[As amended by Acts:

No. 25 of 1931, assented to 3rd November, 1931;
No. 42 of 1939, assented to 20th December, 1939;
No. 85 of 1953, assented to 18th January, 1954;
No. 70 of 1956, assented to 4th January, 1957;
No. 28 of 1960, assented to 21st October, 1960;
No. 7 of 1962, assented to 27th September, 1962;
No. 6 of 1963, assented to 3rd October, 1963;
No. 62 of 1963,² assented to 18th December, 1963;
No. 46 of 1966, assented to 18th November, 1966;
No. 34 of 1968, assented to 4th November, 1968;
No. 81 of 1969, assented to 7th November, 1969;
No. 12 of 1971, assented to 4th October, 1971;

and reprinted pursuant to the provisions of the Amendments
Incorporation Act, 1938.]

AN ACT relating to Firearms, Pistols, and Guns.

[Assented to 21st August, 1931.]

BE it enacted—

1. This Act may be cited as the *Firearms and Guns Act, 1931-1971*, and shall come into force on a day to be fixed by proclamation.¹

Short title
as amended
by No. 12 of
1971, s. 1.

2. The Acts mentioned in the schedule are hereby repealed to the extent therein set out.

Repeal.

3. In this Act the following terms shall have the following meanings, unless repugnant to or inconsistent with the context:—

Definitions.
Amended by
No. 42 of
1939, s. 2;
No. 46 of
1966, s. 2.

“Commissioner” means the Commissioner of
Police;

¹ Proclaimed to come into operation on 1st January, 1932. See *Gazette* dated 6th November, 1931, p. 2392.

² Proclaimed to come into operation on 1st July, 1964. See *Gazette* dated 3rd July, 1964, p. 2593.

“Dealer” means a person who in the ordinary course of business buys, sells or trades in firearms, and includes a pawnbroker who accepts or takes firearms as a pledge in the ordinary course of business; and the term “deal in” has a corresponding meaning.

“Firearm” includes any lethal firearm and any other weapon of any description from which any shot, bullet, or other missile can be discharged or propelled or which, by any alteration in the construction or fabric thereof, can be made capable of discharging or propelling any shot, bullet or other missile.

The term also includes ammunition or any thing manufactured specifically as a component of ammunition designed for discharge from any firearm.

“Missile” means any solid substance or liquid chemical which when discharged or propelled from any weapon from any distance is capable of causing physical injury to human life.

“Pistol” means any lethal firearm and any other weapon of any length of barrel—

- (a) which is reasonably capable of being carried or concealed about the person; and
- (b) which when used can be aimed and fired or discharged from one hand; and
- (c) from which any shot, bullet, or other missile can be discharged or propelled, or which, by any alteration in the construction or fabric thereof can be made capable of discharging or propelling any shot, bullet or other missile. The term includes ammunition designed for discharge from a pistol but does not include an antique pistol which is kept or sold as a curiosity or ornament.

“Possession,” in addition to actual physical possession of a firearm, means the custody or control of it, or having and exercising access to it in any place either alone or in common with others.

4. This Act applies throughout the State.

Application
of Act.
Repealed and
re-enacted by
No. 46 of
1966, s. 3.

Licenses.

5. (1) Subject as hereinafter provided, and to the provisions of section four, no person shall—

Licenses.
Amended by
No. 85 of
1953, s. 2;
No. 81 of
1969, s. 2.

- (a) have in his possession any firearm; or
- (b) sell, dispose of, deliver, or acquire, or be concerned in the sale, disposal, delivery, or acquisition of any firearm to or by another,

unless pursuant to the authority of a license under this Act, or unless such person is exempted from the necessity of obtaining a license under this Act.

(2) Licenses under this Act may be issued on application to the Commissioner or, subject to subsection (3) of section eight, by any member of the police force acting with his authority.

(3) Licenses shall be of four kinds—

- (a) A license to possess a firearm: This license shall entitle the holder thereof to possess, carry, and lawfully use a specific firearm or firearms to be named and identified in the license.
- (b) A license to manufacture and repair firearms: This license shall entitle the holder to manufacture and/or repair firearms on premises to be named in the license, and to sell and dispose of firearms so manufactured at such premises in the ordinary way of business.

- (c) A license to deal in firearms: This license shall entitle the holder to deal in firearms on specified premises to be named in the license.
- (d) A license to conduct a shooting gallery: This license shall entitle the holder to conduct a shooting gallery on premises to be specified in the license.

(3a) A license of the kind referred to in paragraph (a) of subsection (3) of this section may be issued in the prescribed manner to a bank or financial institution for possession and use as prescribed.

(3b) A license of the kind referred to in paragraph (b), (c) or (d) of subsection (3) of this section may be issued to a company registered under the Companies Act, 1961, in its corporate name.

(4) A license issued under either paragraph (b) or paragraph (c) of subsection (3) of this section, authorises the holder or an employee or partner of the holder, to carry and use a firearm for the purpose of testing or demonstrating it to a prospective purchaser of the firearm.

Currency of
licenses.
Repealed and
re-enacted by
No. 34 of
1968, s. 2.

6. (1) Subject to the succeeding provisions of this section, a license shall, unless cancelled or revoked, be valid for a period of twelve months from the date of issue.

(2) During the year nineteen hundred and sixty-nine, the Commissioner or a member of the Police Force acting with his authority may, on payment of a fee as provided by this section, issue a license to remain in force for any period that is not less than six months or more than eighteen months.

(3) The fee payable on the issue of a license that is to remain in force for any period other than twelve months is the prescribed fee, reduced by ten cents for every month or portion thereof by which the period is less than twelve months and increased by ten cents for every month or portion thereof by which the period exceeds twelve months.

7. A license issued under this Act is not transferable.

License not transferable. Repealed and re-enacted by No. 81 of 1969, s. 3.

8. (1) No license to have possession of a firearm which comes within the description of pistol shall be issued to any person under the age of twenty-one years.

Persons under 21 not to hold pistol license. Amended by No. 12 of 1971, s. 2.

(2) No other license shall be issued to any person under the age of sixteen years.

Persons under 16 not to hold a license.

(3) [*Repealed by No. 12 of 1971, s. 2.*]

9. No license shall be required by any person—

Exemptions. Amended by No. 85 of 1953, s. 3; No. 70 of 1956, s. 2; No. 28 of 1960, s. 2; No. 34 of 1968, s. 3; No. 81 of 1969, s. 4.

- (a) who is a member of the Police Force having a firearm in his possession for use in the performance of his duties;
- (b) who is a common carrier or warehouseman, or his servant and carries a firearm in the ordinary course of the trade or business of a common carrier or warehouseman;
- (c) who, as an employee or partner of the holder of a license to conduct a shooting gallery, or as a customer of a shooting gallery being conducted pursuant to this Act, is *bona fide* handling or using a firearm at the shooting gallery in the prescribed manner;
- (d) who is the Governor;
- (e) who is sent to the State to reside temporarily therein as the diplomatic or consular representative of a foreign state;
- (f) using a firearm the property of a member of a registered Gun Club, with his permission, on a properly constructed clay pigeon shooting range of a registered Gun Club;

(fa) using—

- (i) a rifle that is the property of, or of a member of, a rifle club affiliated with the body known as the West Australian Rifle Association or the body known and incorporated as the West Australian Smallbore Rifle Association; or
- (ii) a pistol that is the property of, or of a member of, a pistol club that is affiliated with the body known and incorporated as the West Australian Pistol Association,

on a properly constructed range approved by the relevant body;

- (g) who being an employee of a primary producer, with the permission of his employer, has in his possession on the employer's land for the purpose of destroying vermin thereon a firearm belonging to the employer.

In this paragraph, "land" means land used by the employer for the purposes of primary production.

License
not to be
issued in
certain
cases:
appeal.
Substituted
by No. 42 of
1939, s. 4.

10. (1) The Commissioner shall not issue a license to any person if in his opinion such person—

- (a) is a person to whom it is not desirable in the public interest that a license shall be issued; or
- (b) is unfit to hold the license; or
- (c) has no good reason for requiring the license.

(2) The Commissioner shall not issue to any person a license in respect of any firearm which in his opinion is unsafe or unfit for use.

(3) Provided that any person aggrieved by the decision of the Commissioner under this section in refusing to grant him the license applied for under this Act may appeal to a stipendiary magistrate within the time and in the manner prescribed.

Powers of Police Officers.

11. All members of the police force shall be invested with the following powers, without the necessity of any warrant—

Powers of
police.
Amended by
No. 85 of
1953, s. 4;
No. 46 of
1966, s. 4.

- (a) to demand from any person having possession of a firearm in respect of which a license is required under this Act the production of his license and his name and address; and, where the license is not produced on demand or within such period as the officer may require, to take possession of the firearm, until such time as the license is produced or until the person having possession of the firearm shows that he is exempt from the requirement of holding a license;
- (b) to seize and take possession of any firearm in the possession of a person who has not the requisite license under this Act, and who is not entitled under this Act to have possession of the same without such license, and to take such firearm before any two justices to be dealt with according to law;
- (c) to stop, search, and detain—
 - (i) any person who may be suspected on reasonable grounds of having any unlicensed firearm in his possession without lawful excuse;
 - (ii) any vehicle or conveyance where there is reason to suspect any unlicensed firearm may be illegally kept,and to take any unlicensed firearm found by him before any two justices to be dealt with according to law;
- (d) to arrest and take any person suspected on reasonable grounds of committing an offence under this Act, before any two justices to be dealt with according to law;

- (e) to question any person who may be suspected on reasonable grounds of having any information relating to any offence or suspected offence under this Act;
- (f) to examine any firearm with a view to ascertaining whether it is safe or fit for use and, if it is found to be unsafe or unfit for use, to seize and take possession of the firearm.

Disposal of
firearms.
Added by
No. 85 of
1953, s. 5.
Amended by
No. 6 of
1963, s. 2.

11A. (1) Where a firearm is in the possession of a police officer if—

- (a) the owner of the firearm cannot be found; or
- (b) the firearm is in the opinion of the Commissioner of Police unfit for use; or
- (c) the owner of the firearm, not being the holder of a license to possess it, refuses, or fails, lawfully to dispose of the firearm, within a period of three months after notice in writing from the Commissioner, or within such longer period as the Commissioner may by the notice allow, requiring him to do so; or
- (d) the owner, not being the holder of a license to possess the firearm, dies,

the Commissioner of Police may dispose of the firearm as he deems necessary either by destruction or sale in accordance with the regulations.

(2) Where a firearm is sold by the Commissioner of Police the net proceeds of the sale shall be paid to the owner of the firearm, if he is known, otherwise the net proceeds shall be paid to the Consolidated Revenue Fund.

(3) The Commissioner may, at the request of the owner and in his absolute discretion, accept any firearm for safe custody, subject to any prescribed conditions and on payment of the prescribed fee;

and may sue for, and recover, any fees due and owing for the safe custody of a firearm, in any court of competent jurisdiction.

Offences.

12. The offences set out in the first column of the following table, and numbered one to sixteen consecutively, shall be deemed to be offences under this Act triable summarily unless otherwise stated, and any person committing the same shall be punishable on conviction by the respective penalties set out opposite each of the said offences in the second column of the said table:—

Offences.
Amended by
No. 42 of
1939, s. 5;
No. 85 of
1953, s. 6;
No. 7 of
1962, s. 2;
No. 113 of
1963, s. 8;
No. 46 of
1966, s. 5;
No. 81 of
1969, s. 5.

First Column—Description of Offence.	Second Column—Penalty.
<p>1. (a) Being in possession of any firearm without holding the requisite license for that firearm and without being a person exempted under section 9.</p> <p>(b) If the firearm is used or carried by the person charged between the hours of seven in the morning and seven in the following evening.</p> <p>(c) If the firearm is used or carried by the person charged between the hours of seven in the evening and seven in the following morning.</p>	<p>Not less than \$2 nor more than \$100. If the firearm in the possession of the offender is a pistol not less than \$20 nor more than \$200 or imprisonment with hard labour not exceeding six months or to both the fine and the imprisonment.</p> <p>Not less than \$20 nor more than \$100. If the firearm used or carried by the offender is a pistol not less than \$20 nor more than \$200 or imprisonment with hard labour not exceeding twelve months or to both the fine and the imprisonment.</p> <p>Not less than \$20 nor more than \$200, and imprisonment with hard labour not exceeding 12 months in addition. If the firearm used or carried by the offender is a pistol, not less than \$50 nor more than \$400 or imprisonment with hard labour not exceeding two years or to both the fine and the imprisonment.</p>
<p>2. Being intoxicated while in possession of a loaded firearm.</p>	<p>Not less than \$20 nor more than \$100, and imprisonment with hard labour for 12 months in addition.</p>
<p>3. Being intoxicated or excited by liquor while in possession of a firearm</p>	<p>\$40 or imprisonment, with hard labour not exceeding three months.</p>

Offences—continued.

First Column—Description of Offence.	Second Column—Penalty.
4. Selling, delivering, knowingly permitting possession to be taken of or disposing of a firearm to or by any person not entitled to possess the same under this Act, or to or by any person who the alleged offender has reasonable grounds to believe is intoxicated, excited by liquor, or of unsound mind.	\$200, or imprisonment with hard labour not exceeding six months.
5. Manufacturing firearms without the requisite license.	A misdemeanour punishable by imprisonment with hard labour for two years, or on summary conviction to a fine not less than \$40 or more than \$200 and imprisonment with hard labour not exceeding twelve months.
5A. Defacing or altering without lawful excuse, any number or identification mark on a firearm or being in possession of a firearm whereon any number or identification mark recorded on the license has been altered or defaced.	A misdemeanour punishable by imprisonment with hard labour for two years, or on summary conviction to a fine not more than \$200 or imprisonment with hard labour not exceeding twelve months or to both the fine and the imprisonment.
5B. Altering a firearm, so that its calibre, character or kind differs from that existing at the time a license was first issued to possess it.	A misdemeanour punishable by imprisonment with hard labour for two years or, on summary conviction to a fine not exceeding \$200 or imprisonment with hard labour not exceeding twelve months or to both the fine and imprisonment.
6. Dealing in or repairing firearms without being the holder of the requisite license.	For a first offence, not exceeding \$100, for a subsequent offence, not exceeding \$200.
7. Using a contrivance commonly known as a Maxim Silencer or any contrivance of a similar nature.	\$100, or imprisonment with hard labour not exceeding twelve months.
8. Having possession of a contrivance commonly known as a Maxim Silencer or any contrivance of a similar nature.	\$40, or imprisonment with hard labour not exceeding six months.
9. Permitting a person under 16 years of age unlawfully to have possession of a firearm unless the alleged offender proves that he took all reasonable precautions to prevent the same.	\$20.

Offences—continued.

First Column—Description of Offence.	Second Column—Penalty.
10. Having possession of a firearm and not taking all reasonable precautions to ensure its safe keeping.	\$20.
11. Any person under the age of 16 years unlawfully having in his possession any firearm: Provided that it shall not be an offence for any such person to use a firearm belonging to and under the supervision of a person licensed under this Act.	\$20.
12. Whether as a licensed dealer or otherwise purchasing a firearm from a person not authorised by or under this Act to possess or sell such firearm.	\$20.
13. Using a firearm on land belonging to another without the consent of the owner or occupier of such land.	\$20.
13A. Without lawful excuse, knowingly discharging any shot, bullet or other missile from a firearm onto, from or across any road.	\$20.
13B. Carrying a firearm, other than on a road open to the public, without reasonable excuse, onto or across land that is used for, or in connection with primary production, without the express or implied consent of the occupier or of some person apparently authorised to act on behalf of the occupier.	\$20.
13C. From or upon any place knowingly discharging any shot, bullet, or other missile from a firearm to the danger of, or in a manner to cause fear to, the public.	\$20.
14. (a) Refusing or failing without lawful excuse to answer any question put by a police officer under this Act.	\$20.
(b) Wilfully misleading any police officer in any particular likely to affect the discharge of his duty.	\$20.

Offences—*continued.*

First Column—Description of Offence.	Second Column—Penalty.
(c) Refusing or failing to produce any license held by him under this Act or a firearm in respect of which any license is issued within a reasonable time after demand made by any police officer.	\$20.
15. By act or omission committing any breach of the provisions of this Act for which no penalty is specifically provided.	\$20.
16. Pointing a firearm at any other person.	\$50.

Possession of firearm carried in parts. Added by No. 85 of 1953, s. 7.

12A. Where a firearm is carried in parts by two or more persons, each and every one of the persons is deemed to be in possession of a firearm.

Search warrant.

13. Where a justice of the peace is satisfied that there are reasonable grounds for suspecting that any firearms are kept in any place in contravention of the provisions of this Act, he may grant to a police officer a warrant to search such place for firearms, and to seize and take any firearms found before any two justices of the peace to be dealt with according to law.

Governor may order delivery of firearms by dealers and manufacturers in cases of emergency. Amended by No. 113 of 1965, s. 8.

14. Where the Governor is of opinion that any emergency has arisen, or is likely to arise, which may render a proclamation hereafter specified necessary, he may by proclamation declare that all dealers and manufacturers and repairers of firearms in the State, or in any specified portion of the State, having firearms in their possession shall render the same innocuous in a method to be stated in the proclamation, and/or may also declare that such dealers, manufacturers or repairers shall deliver the said firearms or such parts as shall render the same

innocuous within a specified time to the Commissioner or any of his officers for safe keeping at a specified place or places. If any person shall fail to comply with the requirements of any such proclamation, he shall be guilty of a misdemeanour punishable by imprisonment with hard labour not exceeding three years, or to a fine not exceeding one thousand dollars, or on summary conviction to imprisonment with hard labour not exceeding twelve months or to a fine not exceeding forty dollars.

15. In the prosecution of an offence against this Act an averment made by the complainant and contained in the complaint of the offence that at a particular time a person was not the holder of a particular license under this Act is evidence of the matter averred.

Evidence.
Repealed
and
re-enacted
by No. 85 of
1953, s. 8.

16. On the conviction of any person under this Act, the court may order that any firearm relating to the charge shall be forfeited to the Crown: Provided that if it appears to the court that the firearm belongs to some person other than the person convicted, and who is lawfully entitled to the possession thereof, and further that such other person has not been guilty of any act or omission constituting an offence in relation to the firearm under this Act or any regulations made thereunder, the court shall order its delivery to such other person.

Court
may order
forfeiture
of firearm on
conviction
of offender.

17. On the conviction of any person for any offence whatever under this Act or for any offence against the person in which it appears from the facts that the convicted person unlawfully used or had in his possession any firearm, any court before which the offender is convicted may declare any license held by the convicted person under this Act to be cancelled, and may declare such convicted person disqualified from holding a license under this Act for such period as the court may determine.

Court may
cancel license
or disqualify
offender.

Regulations.
Amended by
No. 6 of
1963, s. 3;
No. 113 of
1965, s. 8.

18. The Governor may make regulations under this Act—

- (a) for the keeping of records by persons who are licensed to manufacture and/or repair or to deal in firearms under this Act; the form thereof; and the nature of the entries to be made therein;
- (b) permitting dealers, without the production of a license, to deliver ammunition to any person who represents himself as entitled to obtain it, or as the agent of a person entitled to obtain it, subject to the *bona fide* observance of precautionary conditions;
- (c) for the production to, and inspection by, an officer of police of any prescribed record; and for the giving of notice to the Commissioner of any dealing in, or delivery of, any class of firearms, with or to any class of persons;
- (d) making provision for the safe custody and control of firearms by persons entitled to have possession of the same;
- (e) providing for the registration of curios and trophies, and exempting, either generally or under specified conditions, the holders thereof from taking out licenses therefor under this Act;
- (f) prescribing the method of applying for licenses under this Act;
- (g) prescribing the forms to be used under this Act;
- (h) prescribing the fees to be taken under this Act;
- (i) for the issue of licenses to banks and financial institutions in the name of the bank or financial institution, and providing for the possession and use by the officers of such banks or financial institutions, for the protection of their employers' property, of

the firearms specified in such licenses without such persons being named therein as the holders;

- (j) for the keeping and/or publication and inspection of registers of licensed persons;
- (k) prescribing the method of appeal, and the forms to be used in relation to appeals from the decision of the Commissioner refusing to grant or renew licenses under this Act;
- (l) providing for the revocation by the Commissioner of a license where the Commissioner is satisfied that the holder is not entitled to such license under this Act; or that such license was obtained by fraud; or that such person is no longer a fit and proper person to hold such license; or that the particular weapon for which such license was obtained is dangerous or unfit for use: Provided that such regulations shall make similar provisions in regard to appeals by any person aggrieved by reason of such revocation as in the case of a refusal by the Commissioner to grant a license;
- (m) providing for the delivering up of cancelled or revoked licenses;
- (n) for the conduct of shooting galleries;
- (o) prescribing penalties not exceeding forty dollars for the breach by act or omission of any such regulation.

THE SCHEDULE.

No.	Short Title.	Extent of repeal.
49th Vic., 18	The Gun License Act, 1885-1925	The whole.
No. 14 of 1905	The Aborigines Act, 1905	Sections 47 to 51, both inclusive.
No. 32 of 1906	The Municipalities Act, 1906	In Section 181, subsection (1), paragraph (t) the words "or shooting gallery."