

Western Australia

## **Firearms Act 1973**

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As at 04 May 2007

Version 04-f0-03

Extract from [www.slp.wa.gov.au](http://www.slp.wa.gov.au), see that website for further information



## Firearms Act 1973

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## Firearms Act 1973

**An Act to make provision for the control and regulation of firearms and ammunition, the licensing of persons possessing, using, dealing with, or manufacturing firearms and ammunition, the repeal of the *Firearms and Guns Act 1931*<sup>2</sup>, and for incidental and other purposes.**

**1. Short title**

This Act may be cited as the *Firearms Act 1973*<sup>1</sup>.

**2. Commencement**

This Act shall come into operation on a date to be fixed by proclamation<sup>1</sup>.

[3. *Omitted under the Reprints Act 1984 s. 7(4)(f).*]

**4. Interpretation**

In this Act, unless the context otherwise requires —

**“ammunition”** includes anything manufactured specifically as a component of ammunition designed for discharge from a firearm and also includes any primer or propellant manufactured specifically for use in making ammunition designed for discharge from a firearm but does not include ammunition rendered inoperative for the purpose of a collector’s item;

**“approved”** means approved by the Commissioner;

**“carry”** includes to have on or about one’s person;

**“Commissioner”** means the Commissioner of Police;

**“dealer”** means a person who in the ordinary course of business buys, sells or trades in firearms or ammunition; and **“deal”** has a corresponding meaning;

**“Department”** means the department of the Public Service principally assisting in the administration of this Act;

**“Extract of Licence”** means a Firearms Act Extract of Licence referred to in, and issued under, section 22A;

**“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, but does not include anything that is prescribed in regulations under the *Weapons Act 1999* to be a prohibited weapon or a controlled weapon;

**“handgun”** 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;

**“holder”**, in the context of an approval given under this Act, means the person to whom the approval relates;

**“medical practitioner”** means an individual who is registered as a medical practitioner under the *Medical Act 1894*;

**“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 persons;



**“paintball”** means a game in which players attempt to shoot at one another with prescribed paintball guns using prescribed paintball pellets;

**“paintball gun”** means a firearm designed to discharge or propel paintball pellets;

**“paintball pellets”** means pellets —

- (a) consisting primarily of a dye or a similar prescribed substance; and
- (b) designed to be discharged or propelled from a firearm;

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

**“section”** means section of this Act.

*[Section 4 amended by No. 59 of 1996 s. 4 and 40; No. 18 of 1999 s. 21; No. 69 of 2004 s. 4 and 8(1).]*

## 5. Administration

- (1) The responsibility for the administration of this Act is vested in the Minister who is required to have regard to the recommendations of the Commissioner but is not bound to give effect to any such recommendation.
- (2) Subject to the Minister, the administration of this Act shall be carried out by the Commissioner.
- (3) The costs and expenses incurred in the administration of this Act shall be defrayed out of moneys to be provided by Parliament for that purpose.
- (4) The provisions of the *Financial Management Act 2006* and the *Auditor General Act 2006* regulating the financial administration, audit and reporting of departments apply to and in respect of the Department and its operations under this Act.

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*[Section 5 amended by No. 98 of 1985 s. 3; No. 69 of 2004 s. 8(2); No. 77 of 2006 s. 17.]*

**5A. Delegation of Commissioner's power to give licences, permits and approvals**

- (1) The regulations may permit prescribed members of the Police Force to perform the Commissioner's functions upon an application being made for the grant of an approval or permit or the issue of a licence under this Act in respect of a firearm or ammunition.
- (2) Sections 58 and 59(1)(a) and (f), (2), and (3) of the *Interpretation Act 1984* apply as if a function that a member of the Police Force may perform under subsection (1) had been delegated to the person by the Commissioner.
- (3) The Commissioner may, by a signed instrument of delegation, delegate to a member of the Police Force, either generally or as otherwise provided in the instrument, any power or duty under this Act, other than —
  - (a) a function the performance of which is permitted by regulations under subsection (1); and
  - (b) this power of delegation.

*[Section 5A inserted by No. 59 of 1996 s. 5(1).]*

*[5B. Repealed by No. 69 of 2004 s. 9.]*

**6. Prohibition**

- (1) The Governor, on the recommendation of the Commissioner, may make regulations to prohibit the acquisition, sale, possession, or use of any firearm, silencer or other contrivance of a similar nature, or ammunition, whether licensed under this Act or not, either —
  - (a) absolutely; or
  - (b) except upon and subject to such conditions, restrictions, and limitations, for such purpose or purposes, and in

such place or places, as the Governor considers desirable in the public interest,

having regard to the especial potentially dangerous nature of that kind of firearm, contrivance or ammunition and the need to exercise special precautions in relation thereto, or otherwise in the public interest.

- (1a) Notwithstanding that any licence may have been issued, permit granted, or approval given under this Act in relation to any firearm or ammunition of that kind, the Governor, on the recommendation of the Commissioner, may, in relation to any firearm or ammunition which is, because of its nature or characteristics, of a kind requiring the exercise of special precautions and which is named, or falls within a description given in, or is otherwise identified by, those regulations, make regulations —
- (a) directing that no licence, permit or approval relating thereto shall be issued or given;
  - (b) directing that no licence, permit or approval relating thereto shall be capable of being renewed after a date specified in the regulations; or
  - (c) otherwise making such provision as may be expedient in relation thereto,

and for the purposes of section 22 the exercise of any power pursuant to those regulations shall not be taken to have been a decision made by or on behalf of the Commissioner.

- (2) Regulations made under subsection (1) may provide penalties for offences against the regulations, and may also provide that any firearm or ammunition relating to any such offence shall be forfeited to the Crown whether or not any person is lawfully entitled to the possession thereof.
- (3) Where no penalty is specifically provided, a person who contravenes a regulation made under subsection (1) commits a crime and is liable, on conviction —

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- (a) for a first offence, to imprisonment for 5 years;
- (b) for a subsequent offence, to imprisonment for 10 years.

Summary conviction penalty for a first offence: Imprisonment for 3 years or a fine of \$12 000.

*[Section 6 amended by No. 35 of 1980 s. 3; No. 70 of 1987 s. 4; No. 59 of 1996 s. 7 and 45; No. 4 of 2004 s. 58; No. 69 of 2004 s. 10.]*

**7. Governor may order delivery of firearms by dealers and manufacturers in cases of emergency**

- (1) Where the Governor is of opinion that any emergency has arisen, or is likely to arise, 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 or ammunition in their possession —

- (a) shall render the same innocuous by a method to be specified in the declaration;
- (b) shall deliver the same, or any parts or kinds of the same specified in the declaration, within a time and at a place so specified, to the Commissioner or any specified member of the Police Force, for the purpose of safe keeping.

- (2) A person who fails to comply with the requirements of a proclamation made under subsection (1) commits a crime and is liable, on conviction, to imprisonment for 5 years.

Summary conviction penalty: Imprisonment for 18 months or a fine of \$6 000.

*[Section 7 amended by No. 70 of 1987 s. 5; No. 59 of 1996 s. 46; No. 4 of 2004 s. 58.]*

**8. Exemptions from licensing requirements**

- (1) No licence under this Act is required —

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- (a) by a person who is the holder of a permit issued under this Act in relation to any matter authorised by that permit;
  - (b) by the Governor;
  - [(c) deleted]*
  - (d) by —
    - (i) a member of the Police Force; or
    - (ii) an employee of the Department,  
having a firearm or ammunition in his possession in preparation for, as a consequence of, or for use in, the performance of his duties;
  - (e) by a member of the armed forces of the Crown, or a member of any other disciplined force specified by the Governor for the purposes of this section by notice in the *Gazette*, having a firearm or ammunition in his possession for use in the performance of his duties;
  - (f) by a person permitted to do so under section 16(2) by a body licensed by the Commissioner under section 16(1)(c) who has a firearm or ammunition in his possession, or carries or uses it, in accordance with that permission;
  - (g) by a person who is an approved commercial carrier or approved warehouseman, or by the servant of any such person, who in the ordinary course of his trade or business as an approved commercial carrier or approved warehouseman —
    - (i) carries, and not by means of a bicycle or motor cycle, unless otherwise approved; or
    - (ii) stores,  
a firearm or ammunition for another person;
  - (h) in relation to an approved firearm or ammunition for that firearm, by a person who in the ordinary course of his practice, trade or business uses that firearm for the purpose

of dealing a blow to any animal with intent to slaughter it or to render the animal insensible prior to slaughtering;

- (i) by a person who is employed or contracted by, or is a family member (as defined in subsection (2)) of, a primary producer —
  - (i) to possess or use for the purpose of destroying vermin, or stock required by that primary producer to be destroyed, on land used by that primary producer for the purposes of primary production, a firearm and ammunition belonging to and held by that primary producer under a licence or permit granted under this Act to the primary producer; or
  - (ii) to possess such a firearm or ammunition while carrying it directly between 2 such pieces of land or directly between such land and any other place where it is authorised by law to be held,

if the use of the firearm and ammunition by that person is expressly authorised by the primary producer;

- (j) by a person who has in his possession or uses any firearm designed for signalling or life saving purposes in the course of rescue or attempted rescue operations or in rehearsal or training for such operations, or has in his possession or uses ammunition for that firearm;
- (k) by a person who has in his possession or uses for the purpose of starting races at any athletic or other sporting meeting an approved firearm or ammunition for that firearm belonging to, and held under a licence or permit granted under this Act by, another person with his permission;
- (l) by a person who, as an employee or partner of the holder of a licence to conduct a shooting gallery, or as a customer of a shooting gallery being conducted pursuant to this Act, handles or uses a firearm or ammunition at that shooting gallery in accordance with the conditions,

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- restrictions and limitations, if any, specified in the licence relating to that shooting gallery;
- (m) by a person who, with the permission of the owner of the firearm on an approved range that is properly constructed and maintained, has in his possession, handles or uses a firearm or ammunition for a firearm that is the property of, or is the property of a member of, an approved club or other approved organisation and is held by that owner under a licence or permit granted under this Act;
- (ma) by a person who, at a venue that is approved and properly constructed and maintained for the playing of paintball, is in possession of, handles or uses a prescribed paintball gun or prescribed paintball pellets —
- (i) with the permission of the owner of the paintball gun; or
  - (ii) if the owner of the paintball gun is an approved club or other approved organisation, as a member of that club or other organisation;
- (mb) by a person who is in possession of prescribed paintball pellets;
- (mc) by a person who is in possession of, or carries, but does not use, an antique mechanism firearm;
- (n) by a person under the age of 18 years who uses a firearm, not being a handgun, or ammunition for that firearm under the supervision of, and which is the property of, a person who is the holder of a licence or permit under this Act relating to that firearm.
- (2) In subsection (1) —
- “antique mechanism firearm”** means a muzzle loading firearm (including a percussion lock handgun that is muzzle loading) manufactured before 1900 that uses black powder to propel a shot, bullet, or other missile except that it does

not include a breech loading firearm, a firearm with revolving chambers or barrels, or a cannon;

**“approved”** means approved by the Commissioner either generally by notice in the *Gazette* or specifically by notice in writing;

**“family member”**, in relation to a person, means —

- (a) the spouse or de facto partner of the person;
- (b) a parent, child, brother, or sister, of the person or of the person’s spouse or de facto partner; or
- (c) the spouse or de facto partner of a person referred to in paragraph (b).

*[Section 8 amended by No. 59 of 1996 s. 8; No. 28 of 2003 s. 59; No. 69 of 2004 s. 5, 8(3) and 11.]*

**9. Licences etc. not transferable**

A licence, permit, or approval issued or granted under this Act is not transferable.

**9A. Duration and renewal of licences**

- (1) The period for which this section provides that a licence is valid is subject to —
  - (a) any other provision of this Act; and
  - (b) anything endorsed on the licence,under which the licence ceases to be valid earlier.
- (2) An Ammunition Collector’s Licence is valid for a period of 5 years from the day on which it was issued or last renewed.
- (2a) A Firearm Collector’s Licence is valid for a period of 3 years from the day on which it was issued or last renewed unless that day was before the day on which the *Firearms Amendment Act 2003* section 12 came into operation, in which case it is valid for a period of 5 years from the day on which it was issued or last renewed.



- (3) Any other licence under this Act is valid for a period of 12 months from the day on which it was issued or last renewed.
- (4) The Commissioner may, on payment of the prescribed fee, renew a licence from time to time for further periods on application made within one month before, or within 12 months after, its expiry.
- (5) Where a licence is renewed on application made within one month before, or within 3 months after, its expiry, it is deemed to have been renewed immediately after its expiry and the renewal is deemed to be a continuation of the licence.
- (6) Where a licence is renewed on application made more than 3 months, but not more than 12 months, after its expiry, the renewal takes effect on and from the day on which it is effected but, for the purpose of determining the day when the renewed licence expires, it is deemed to have been renewed immediately after it previously expired.
- (7) A licence cannot be renewed under this section more than 12 months after its expiry, but the person who held it is not prevented from making an application for a licence under section 18(1).

*[Section 9A inserted by No. 59 of 1996 s. 9; amended by No. 69 of 2004 s. 12.]*

#### **10. Minimum age of licensee or permit holder**

A licence or permit under this Act cannot be issued to a person under the age of 18 years.

*[Section 10 inserted by No. 59 of 1996 s. 10.]*

#### **10A. Training courses**

Regulations made under section 34 may —

- (a) require that, before a licence under this Act can be issued to an applicant, the applicant is required to have

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successfully completed a course of training accredited in accordance with the regulations;

- (b) make provision as to the accreditation of, and conducting of, courses referred to in paragraph (a).

*[Section 10A inserted by No. 59 of 1996 s. 11.]*

**11. Exercise of Commissioner's discretion**

- (1) The Commissioner cannot grant an approval or permit or issue a licence under this Act to a person if the Commissioner is of the opinion that —
  - (a) to do so would be contrary to section 11A or regulations under section 11B or 11C;
  - (b) it is not desirable in the interests of public safety; or
  - (c) the person is not a fit and proper person to hold the approval, permit, or licence.
- (2) Where the Commissioner is satisfied that a person has a history of, or a tendency towards, violent behaviour, the Commissioner may take it into account in deciding whether that person is a fit and proper person to hold an approval, permit, or licence.
- (3) The Commissioner has a sufficient ground for forming an opinion that a person is not a fit and proper person to hold an approval, permit or licence under this Act if the Commissioner —
  - (a) is satisfied that at any time within the period of 5 years before the person applies for the approval, permit or licence —
    - (i) the person was convicted of an offence involving assault with a weapon;
    - (ii) the person was convicted of an offence involving violence;
    - (iii) the person was convicted of any offence against this Act; or

- (iv) a violence restraining order was made against the person,  
whether in this State or in any other place;
  - (b) is satisfied that the person fails to meet standards of mental or physical fitness that the Commissioner considers to be necessary for the person to hold the approval, permit or licence; or
  - (c) suspects, on the basis of an intelligence report or other information held in relation to the person, that the person is a threat to public safety.
- (4) In subsection (3) —
- “violence restraining order”** means a judicial order imposing on the person against whom the order is made restraints on the person’s lawful activities and behaviour to prevent the person —
- (a) committing an offence against the person under Part V of *The Criminal Code*, other than Chapters XXXIV and XXXV; or
  - (b) behaving in a manner that could reasonably be expected to cause fear that the person will commit such an offence,
- or a similar order made under the laws of any place other than this State.
- (4a) The Commissioner is not required under this Act or any other Act or law to disclose information relied on under subsection (3)(c) unless the disclosure is required under the *State Administrative Tribunal Act 2004*.
- (5) The Commissioner may form an opinion that a person is a fit and proper person to hold an approval, permit or licence under this Act in a case in which the Commissioner has a sufficient ground under subsection (3) for forming the contrary opinion.
- (6) Subsection (3) does not limit the Commissioner’s ability, when forming an opinion as to whether a person is a fit and proper

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- person to hold an approval, permit or licence under this Act, to take into account —
- (a) a conviction or order made outside the period of 5 years referred to in paragraph (a) of that subsection; or
  - (b) anything else that could have been taken into account if that subsection had not been enacted.
- (7) Without limiting the other grounds on which an application may be refused, the Commissioner may refuse an application if satisfied that the applicant has —
- (a) failed to comply with a regulation providing for the manner in which a photograph of the applicant's face is to be supplied for inclusion on an Extract of Licence;
  - (b) failed to give the Commissioner, when requested in writing by a member of the Police Force to do so, a statement in the prescribed form as to what the applicant has done, or intends to do, to ensure that any firearms or ammunition in the applicant's possession are stored in accordance with this Act; or
  - (c) refused to permit a member of the Police Force to inspect the storage facilities for any firearms or ammunition that the applicant would be entitled to possess, when requested in writing by a member of the Police Force to do so.
- (8) Where the Commissioner, in writing, requests an applicant for an approval, permit or licence to supply information, or further information, which the Commissioner considers to be necessary to enable the application to be properly determined, if that information is not supplied —
- (a) within 28 days, or such further period as the Commissioner may approve; and
  - (b) in the manner and form requested by the Commissioner,
- the application lapses and the approval, permit, or licence sought cannot be granted or issued.

*[Section 11 inserted by No. 59 of 1996 s. 12; amended by No. 69 of 2004 s. 13.]*

**11A. Genuine reason required in all cases**

- (1) An approval or permit cannot be granted, and a licence cannot be issued, under this Act to a person who, in the Commissioner's opinion, has not been shown to have a genuine reason for acquiring or possessing the firearm or ammunition for which the approval, permit, or licence is sought.
- (2) A person has a genuine reason for acquiring or possessing a firearm or ammunition if and only if —
  - (a) it is for use by the person as a member of an approved shooting club and the person is an active and financial member of the club;
  - (b) it is for use by the person as a member of an organisation approved under this paragraph;
  - (c) it is for use in hunting or shooting of a recreational nature on land the owner of which has given written permission for that hunting or shooting;
  - (d) it is required by the person in the course of the person's occupation;
  - (da) in the case of a prescribed paintball gun, it is required by the person to conduct or engage in paintball in accordance with this Act;
  - (e) it is to form part of a genuine firearm collection or genuine ammunition collection; or
  - (f) it is for another approved purpose.
- (3) A person does not have a genuine reason for acquiring or possessing a firearm or ammunition of a particular kind unless the Commissioner is satisfied not only as to the person's reason for acquiring or possessing a firearm or ammunition but also that the particular kind of firearm or ammunition can be reasonably justified.

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- (4) The reasons described in subsection (2)(e) are not genuine reasons for acquiring or possessing a firearm or ammunition under a licence other than a Firearm Collector's Licence or an Ammunition Collector's Licence.
- (5) Approval cannot be given under subsection (2)(f) to the possession of a firearm or ammunition for the purpose of personal protection.
- (6) Regulations made under section 34 may limit the purposes that may be approved under subsection (2)(f).

*[Section 11A inserted by No. 59 of 1996 s. 12; amended by No. 69 of 2004 s. 6 and 14.]*

**11B. Genuine need required in some cases**

- (1) The regulations may provide that, for prescribed categories of firearms or ammunition, an approval or permit cannot be granted, and a licence cannot be issued, under this Act to a person unless the Commissioner is satisfied that the person has a genuine need to acquire or possess a firearm or ammunition of that category.
- (2) The regulations may make provision as to the circumstances in which a person can or cannot be considered to have a genuine need to acquire or possess a firearm or ammunition of a particular category.

*[Section 11B inserted by No. 59 of 1996 s. 12.]*

**11C. Other restrictions**

The regulations may restrict the grant, issue, or renewal of licences, permits, or approvals under this Act.

*[Section 11C inserted by No. 59 of 1996 s. 12.]*

**12. Unsafe or unserviceable firearms**

- (1) Except as allowed by this section, a licence or permit cannot be issued under this Act to any person in respect of any firearm which in the opinion of the Commissioner is —
  - (a) unsafe; or
  - (b) unserviceable.
- (2) Subsection (1) does not prevent the issue to a dealer of a licence or permit in respect of a firearm for the purpose of enabling it to be tested, repaired, or dismantled for parts.
- (3) Subsection (1) does not prevent the issue of a permit in respect of a firearm for the purpose of enabling it to be conveyed —
  - (a) to a dealer or the holder of a Repairer's Licence; or
  - (b) to any other person authorised to take possession of it.
- (4) Subsection (1)(b) does not prevent the issue to a person of —
  - (a) a Firearm Collector's Licence; or
  - (b) a permit in respect of a firearm that forms or is to form part of a genuine firearm collection.

*[Section 12 inserted by No. 59 of 1996 s. 13.]*

*[13, 14. Repealed by No. 59 of 1996 s. 5(2).]*

**15. Firearm collections**

- (1) For the purposes of this Act a firearm can form part of a genuine firearm collection only if, in the opinion of the Commissioner, it has significant commemorative, historical, thematic, or heirloom value.
- (2) The fact that there is only one firearm in a collection does not prevent it from being a genuine firearm collection for the purposes of this Act.

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- (3) For the purposes of this Act, a handgun manufactured after 1946 can form part of a genuine firearm collection only if —
  - (a) it is owned by a person who is, in the opinion of the Commissioner, a student of arms as defined in subsection (4); and
  - (b) the handgun is within the scope of that person's interest as a student of arms.
- (4) In subsection (3) —

**“student of arms”** means a person who can be shown to have a prolonged and genuine interest in the study, preservation, or collection of firearms.
- (5) In considering whether a firearm has significant commemorative value, the Commissioner has to take into account any special significance that the firearm, or any firearm or firearms of the same kind as that firearm or of a related kind, has to a particular event in history.
- (6) In considering whether a firearm has significant historical value, the Commissioner has to take into account any special significance that the firearm, or any firearm or firearms of the same kind as that firearm or of a related kind, has to a particular period in history.
- (7) In considering whether a firearm has significant thematic value, the Commissioner has to take into account any special significance that the firearm, or any firearm or firearms of the same kind as that firearm or of a related kind, has to the development, manufacture, or use of firearms.
- (8) In considering whether a firearm has significant heirloom value to a particular person, the Commissioner has to take into account any special significance that the firearm has because it was owned or possessed by a direct or indirect member of that person's family.
- (9) In considering whether or not it would be appropriate for a person to obtain, or continue to hold, a Firearm Collector's



Licence, the Commissioner may take into account any information provided about that person by a person or body designated under section 15A as an accredited society of collectors.

*[Section 15 inserted by No. 59 of 1996 s. 14; amended by No. 69 of 2004 s. 15(1) and (2).]*

**15A. Accredited societies of collectors**

- (1) The Commissioner may, in writing, designate a person or body, whether incorporated or unincorporated, as an accredited society of collectors for the purposes of this Act.
- (2) For a person or body to be an accredited society of collectors one of its purposes has to be to facilitate the study, preservation, or collection of —
  - (a) handguns in particular; or
  - (b) handguns and other firearms.
- (3) The regulations may specify other requirements for a person or body to be an accredited society of collectors.
- (4) The Commissioner may, by notice in writing given to an accredited society of collectors, cancel its designation as an accredited society of collectors for the purposes of this Act.

*[Section 15A inserted by No. 69 of 2004 s. 16.]*

**15B. Information from accredited society of collectors**

- (1) If an accredited society of collectors expels any of its members, it is required to notify the Commissioner in writing of the expulsion of the member, identifying the member and the reason for the expulsion.  
Penalty: Imprisonment for 2 years or a fine of \$8 000.
- (2) The notification may include information that the Commissioner might consider relevant to the question of whether or not the

member who is expelled is a fit and proper person to hold a Firearm Collector's Licence.

- (3) An accredited society of collectors that is requested at any time to do so may provide to the Commissioner any information that the Commissioner might consider relevant to —
  - (a) the question of whether, for the purposes of this Act, a firearm would be, or form part of, a genuine firearm collection; or
  - (b) the question of whether a person is a fit and proper person to hold a Firearm Collector's Licence.
- (4) Neither an accredited society of collectors that gives the Commissioner any notification or information under this section nor a person involved in the giving of that notification or information is liable in civil or criminal proceedings because of the giving, or the person's involvement in the giving, of the notification or information in accordance with this section if it was in good faith.

*[Section 15B inserted by No. 69 of 2004 s. 16.]*

## **16. Licences**

- (1) The licences which may be issued under this Act are —
  - (a) a Firearm Licence, which entitles the holder to possess, carry, and lawfully use the firearm named and identified in that licence, and ammunition for that firearm;
  - (b) a Firearm Collector's Licence, which entitles the holder to possess, but not to carry or use, the firearm named and identified in that licence;
  - (c) a Corporate Licence, which may be issued in the corporate or trading name of any bank, financial institution, Government department, State instrumentality or other organisation approved by the Commissioner and entitles that organisation to possess the firearms named and identified in that licence, together with ammunition therefor, and, subject to

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section 16A, authorises that organisation to permit any person to whom subsection (2) applies to possess, carry and use any such firearm or ammunition either

- (i) on the premises of the organisation; or
- (ii) in the course of carrying out a function approved by the Commissioner and authorised by that organisation,

in accordance with the terms, restrictions, limitations and conditions applicable to that licence;

- (d) a Dealer's Licence, which entitles the holder to deal in firearms and ammunition on the premises named and identified in that licence, to receive firearms for the purpose of their being dismantled for parts, and to arrange for the repair or servicing of firearms by the holder of a Repairer's Licence, and authorises the holder or an employee or partner of the holder to have in his possession, and to carry in the ordinary course of the business of that dealer, any such firearm or ammunition or to use it for the purpose of testing it or of demonstrating it to a prospective purchaser;
- (e) a Repairer's Licence, which entitles the holder to —
  - (i) repair firearms belonging to persons who are authorised by this Act or any other law to possess them; and
  - (ii) possess ammunition for those firearms, on the premises named and identified in that licence, and authorises the holder or an employee or partner of the holder to have in his possession, and to carry in the ordinary course of the business of that repairer, any such firearm or ammunition and to use any such firearm or ammunition for the purpose of testing it;
- (f) a Manufacturer's Licence, which entitles the holder to manufacture firearms or ammunition of the kind specified in that licence on the premises named and

identified in that licence and to sell and dispose of such firearms and ammunition at those premises, and authorises the holder or an employee or partner of the holder to have in his possession, and to carry in the ordinary course of the business of that manufacturer, any such firearm or ammunition and to use any such firearm or ammunition for the purpose of testing it or of demonstrating it to a prospective purchaser;

- (g) a Shooting Gallery Licence, which entitles the holder to conduct a shooting gallery in accordance with the regulations on the premises specified in that licence; and
  - (h) an Ammunition Collector's Licence, which entitles the holder to possess and carry, but not to use, ammunition not exceeding such quantity as may be specified in that licence and not being of a type prescribed as being ammunition to which such a licence does not apply.
- (2) An organisation which holds a Corporate Licence may permit a person who is —
- (a) an employee of that organisation;
  - (b) in respect to any particular act or omission authorised by the organisation —
    - (i) an agent of the organisation; or
    - (ii) a person acting at the request of and on behalf of the organisation;
- or
- (c) a person employed in the Public Sector by or under an employing authority, within the meaning of the *Public Sector Management Act 1994*, who is required or authorised by the organisation to act on behalf of the organisation in respect to a relevant act or omission, to possess, carry or use a firearm or ammunition in accordance with that licence.

[Section 16 amended by No. 59 of 1996 s. 15; No. 27 of 1996 s. 96.]

**16A. Possession of firearms by security officers**

A Corporate Licence referred to in section 16(1)(c) authorises an organisation for which a security agent's licence is held under the *Security and Related Activities (Control) Act 1996* to permit an employee to possess a firearm or ammunition to the extent only that the employee is authorised to do so by a security officer's licence endorsed under section 24 of that Act.

*[Section 16A inserted by No. 27 of 1996 s. 96; amended by No. 59 of 1996 s. 16.]*

**17. Temporary permits**

- (1) Subject to subsection (3), a permit to possess a firearm or ammunition temporarily may be granted by the Commissioner to a person —
- (a) for the purpose of any test or demonstration of it;
  - (b) who is an auctioneer, Sheriff or deputy sheriff, bailiff, executor or other person requiring such possession only for the purpose of the disposal of that firearm or ammunition;
  - (c) for the purposes of transit;
  - (d) for the purposes of a guided hunting tour; or
  - (e) in any other case where the Commissioner considers that it is not in the public interest to require that person to apply for a licence,

if the Commissioner is satisfied that the firearm or ammunition came, or will come, into the possession of the applicant in a lawful manner.

- (2) A permit granted under subsection (1) may authorise the use of the firearm or ammunition in the circumstances specified therein.
- (3) A permit granted under subsection (1) subsists for the period specified therein unless sooner determined by the Commissioner

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by notice in writing, but shall not be granted for any period in excess of 3 months.

- (4) A permit granted under subsection (1) may be renewed at any time before the expiry date but shall not be renewed in favour of the same person in relation to any particular firearm on more than one occasion in any period of 12 consecutive months.

*[Section 17 amended by No. 59 of 2004 s. 141.]*

**17A. Interstate group permits**

- (1) Subject to this section where the Commissioner receives a written application from any person purporting to reside outside the State and purporting to be a responsible officer of a bona fide shooting club or similar body or sporting organisation conducting occasional shooting contests or activities the Commissioner may, if he is satisfied that —

- (a) the members of the club, body or organisation are desirous of participating within this State in any shooting contest or sporting activity; and
- (b) the members of the club, body or organisation are of good repute,

grant to the club, body or organisation an interstate group permit.

- (2) An interstate group permit under this section —

- (a) shall be in the prescribed form;
- (b) shall be issued to the club, body or organisation on whose behalf the application for the permit has been made;
- (c) shall set forth —
  - (i) the names and addresses of the persons of the group in respect of whom it is issued; and
  - (ii) the day or days and the occasion or occasions in respect of which it is issued;

and

- (d) shall be issued without the payment of a fee.
- (3) An interstate group permit issued under this section shall not be granted for any period in excess of 28 days.
- (4) Sufficient copies of a group permit shall be issued to the applicant to enable him to furnish each person named in the interstate group permit with a copy of the permit.
- (5) An interstate group permit entitles the persons named in the permit to possess or carry the firearms named and identified in the permit and ammunition for that firearm as if each such person were the holder of a firearm licence for the period specified in the permit.

*[Section 17A inserted by No. 61 of 1976 s. 2.]*

**17B. Minister may authorise officers or employees of Agriculture Protection Board to possess, carry and use silencers**

- (1) Subject to this section, the Minister may grant authority in writing to an approved officer or employee of the Board to possess and carry a silencer and to use it in conjunction with a .22 calibre rifle during the period specified in that authority.
- (2) The Minister may at any time revoke an authority.
- (3) An officer or employee to whom an authority has been granted —
  - (a) shall, when he requires the use of a silencer, obtain one from a member of the Police Force at the police station nearest to the area in which he proposes to use the silencer;
  - (b) shall comply with such directions as are from time to time given to him in connection with silencers by a member of the Police Force acting on the instructions of the Commissioner;
  - (c) shall not use a silencer otherwise than in conjunction with a .22 calibre rifle named and identified in the Corporate Licence referred to in subsection (7) for the

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- purpose of shooting common starlings *Sturnus vulgaris* in the performance of his duties;
- (d) shall take all reasonable precautions to ensure the safekeeping of a silencer possessed, carried or used by him;
  - (e) shall, when not using or about to use a silencer, keep the silencer separate from any firearm in conjunction with which it is capable of being used; and
  - (f) shall, when he —
    - (i) is directed under this subsection to surrender; or
    - (ii) no longer requires the use of,a silencer obtained by him under this subsection, surrender that silencer to a member of the Police Force at the nearest police station.
- (4) If an officer or employee to whom an authority has been granted fails to perform any of the duties imposed on him by subsection (3) or ceases to be permitted by the Board to possess, carry or use a .22 calibre rifle under the Corporate Licence referred to in subsection (7), his authority is rendered void.
- (5) An authority ceases to be in force on —
- (a) the expiry of the period specified in the authority;
  - (b) its revocation under subsection (2);
  - (c) its being rendered void by virtue of subsection (4); or
  - (d) this section ceasing to have effect by virtue of subsection (7),
- whichever is the sooner.
- (6) For the purposes of section 22, neither the approval of an officer or employee of the Board for the purposes of subsection (1) nor the giving of a direction under subsection (3) shall be taken to be the making of a decision by or on behalf of the Commissioner.



- (7) This section has effect only while the Board is the holder of a valid Corporate Licence entitling the Board to possess .22 calibre rifles, together with ammunition therefor.
- (8) In this section —
- “**authority**” means authority granted under subsection (1);
- “**Corporate Licence**” means Corporate Licence referred to in section 16(1)(c);
- “**silencer**” means contrivance commonly known as a silencer, or contrivance of a similar nature;
- “**subsection**” means subsection of this section;
- “**the Board**” means The Agriculture Protection Board of Western Australia constituted under the *Agriculture Protection Board Act 1950*.

*[Section 17B inserted by No. 3 of 1983 s. 2; amended by No. 59 of 1996 s. 17.]*

## 18. Licensing procedure

- (1) A person who wishes to apply for a licence or a permit under this Act, other than an interstate group permit issued under section 17A, shall make application in the prescribed manner, and shall pay the prescribed fee.

*[(2), (3), (3a) repealed]*

- (4) The fee payable on the issue of —
- (a) an Ammunition Collector’s Licence that is to remain in force for a period of less than 5 years is the prescribed fee reduced proportionately by one-sixtieth for each month or portion of a month;
- (aa) a Firearm Collector’s Licence that is to remain in force for a period of less than 3 years is the prescribed fee reduced proportionately by one thirty-sixth for each month or portion of a month;

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- (b) a licence of any other kind that is to remain in force for a period of less than 12 months is the prescribed fee reduced proportionately by one-twelfth for each month or portion of a month.
- (4a) Before granting or issuing a licence, permit, or approval to a person under this Act the Commissioner is to ensure that, for the purpose of forming an opinion as to whether the person is a fit and proper person to hold the licence, permit, or approval —
  - (a) reference has been made where practicable to relevant criminal records held by the police forces in this State and elsewhere in Australia;
  - (b) if there is any apparently reliable indication that the person may not meet standards of mental or physical fitness referred to in section 11(3)(b), sufficient evidence has been provided to the Commissioner to satisfy the Commissioner that the person does meet those standards; and
  - (c) if there is any apparently reliable indication that for any other reason the person may not be a fit and proper person to hold the licence, permit, or approval, sufficient evidence has been provided to the Commissioner to satisfy the Commissioner that the person is a fit and proper person to hold the licence, permit, or approval.
- (4b) The evidence that the Commissioner may require before being satisfied that the person meets standards of mental or physical fitness referred to in section 11(3)(b) may include a certificate from a medical practitioner to the effect that the person has been examined and has not been found to have any physical or mental condition that could reasonably result in the person being considered not to be a fit and proper person to hold a licence, permit, or approval under this Act.
- (4c) On being provided with a certificate from a medical practitioner as required under subsection (4b), the Commissioner may request from the medical practitioner any further information that the Commissioner considers to be relevant and nothing

prevents the medical practitioner from providing the Commissioner in good faith with further information about the person.

- (4d) Subsection (4c) has effect despite any duty of confidentiality, and the provision of information in good faith as requested under that subsection does not give rise to a criminal or civil action or remedy.
- (5) Before any licence or permit under this Act is issued or renewed the applicant may be required to prove to the satisfaction of the Commissioner that any firearm to which the application relates is capable of complying with the prescribed safety standards and tests applicable thereto.
- (6) If the Commissioner is satisfied that —
- (a) the requirements of this section have been satisfied;
  - (b) there are no grounds upon which the application ought to be refused; and
  - (c) in the case of an application for the first issue of a Firearm Licence to a person, a period of at least 28 days has elapsed since the making of the application and the applicant has, under subsection (6a), confirmed the desire to proceed with the application,

the Commissioner is to enter the prescribed particulars in a Register to be compiled and maintained for the purpose and issue to the applicant a licence or permit under this Act.

- (6a) An applicant for the first issue of a Firearm Licence may, during the period commencing 28 days after the day on which the application was made and ending a further 28 days after that day, confirm the desire to proceed with the application, and if the applicant does not do so the application lapses and the licence sought cannot be issued.
- (7) The Register compiled for the purposes of this section shall be maintained in the prescribed manner and the licences and

permits issued or granted under this Act shall be in the prescribed form.

- (8) Where the Commissioner refuses an application, whether original or by way of renewal, or issues it subject to any restriction, limitation or condition, the Commissioner is to forthwith notify the applicant, in writing, of the reasons for the decision.
- (9) Licences of more than one kind may be issued to the same person in one document, and a licence may relate to more than one firearm.
- (10) Where a licence has been issued to any person and that person applies for an additional licence of the same kind in relation to a further firearm that additional licence may, on presentation of an application for expedited approval accompanied by the prescribed noting fee, be noted on the original licence in any case where the Commissioner is satisfied that the public interest does not require that the applicant should proceed by way of an originating application.
- (10a) The power given by subsection (10) cannot be performed under section 5A by a member of the Police Force unless that member could, under that section, grant the licence for which application was made.
- (11) Where a further firearm is noted on a current licence the licence applies whilst it remains in force to that further firearm.
- (12) Where an applicant for a licence, permit or approval under this Act fails to provide to the Commissioner, on being requested in writing to do so, any information as to —
  - (a) any other person who is to be concerned in, or responsible for, the management of any business or premises to which the application relates; or
  - (b) any employee or agent of the applicant or any person concerned in, or responsible for, management,

the Commissioner may regard the granting or issuing of the licence, permit or approval to the applicant as not desirable in the public interest.

- (13) Where a person who is the holder of a licence, permit or approval under this Act fails to provide to the Commissioner, on being requested in writing to do so, any information as to —
- (a) any other person who is to be, or is, concerned in, or responsible for, the management of any business or premises to which the licence, permit or approval relates; or
  - (b) any employee or agent of the holder or any person concerned in, or responsible for, management,

the Commissioner may consider the holder as being no longer a fit and proper person but only after the holder has been given an opportunity to make a submission to the Commissioner under section 20(1a).

*[Section 18 amended by No. 61 of 1976 s. 3; No. 59 of 1996 s. 18; No. 69 of 2004 s. 17.]*

## **19. Licensing offences**

- (1) Any person who —
- (a) sells, delivers or disposes of;
  - (b) purchases or otherwise comes into possession of; or
  - (c) is in possession of,

any firearm or ammunition and is not the holder of a licence or permit under this Act entitling him to do so commits a crime unless subsection (1ae) or section 19AA provides otherwise or section 8 applies.

- (1aa) A person who is guilty of a crime under subsection (1) committed in circumstances referred to in subsection (1)(a) is liable, on conviction, to imprisonment for 14 years if at the time of the offence the person was selling 3 or more firearms without a licence or permit entitling the person to sell any of them.

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- (1ab) A person who is guilty of a crime under subsection (1) —
- (a) committed in circumstances where the person was carrying both a firearm that is a subject of the offence and —
    - (i) a prohibited drug or prohibited plant, as defined in the *Misuse of Drugs Act 1981*, when not authorised to be in possession of that drug or plant under that Act; or
    - (ii) an amount of money equal to or greater than the prescribed amount,is liable, on conviction, to imprisonment for 14 years;
  - (b) committed in circumstances where the person was in possession of 3 or more firearms without a licence or permit entitling the person to be in possession of any of them, is liable, on conviction, to imprisonment for 10 years unless subsection (1aa) applies.
- (1ac) Unless subsection (1aa) or (1ab) applies, a person who is guilty of a crime under subsection (1) committed in relation to a firearm is liable, on conviction, to imprisonment for 7 years if —
- (a) at the time of the offence the offender —
    - (i) had been refused, or was disqualified from holding, a licence or permit referred to in subsection (1); or
    - (ii) had had a licence or permit referred to in subsection (1) revoked,in relation to the firearm or a firearm of the same kind;
  - (b) the firearm was a handgun or a prescribed firearm;
  - (c) at the time of the offence, any number or identification mark which was on the firearm had been defaced or removed; or

- (d) the firearm had been altered from the design or characteristics of its original manufacture.

Summary conviction penalty for a crime under subsection (1) committed in any of the circumstances described in this subsection: Imprisonment for 3 years or a fine of \$12 000.

- (1ad) Unless subsection (1aa), (1ab) or (1ac) applies, a person who commits a crime under subsection (1) is liable, on conviction, to imprisonment for 5 years.

Summary conviction penalty: Imprisonment for 3 years or a fine of \$12 000.

- (1ae) Subsection (1) does not apply to coming into, or being in, possession of ammunition under section 30(2) as the agent of a person to whom it is, or is to be, delivered as soon as is reasonably practicable.

- (1a) For the purposes of applying the penalty provisions of subsection (1ac)(a), a firearm is of one of the kinds prescribed for the purposes of that provision by the regulations.

- (2) A person who —

- (a) sells, delivers, or disposes of a firearm or ammunition to another person, or otherwise permits another person to take possession of a firearm or ammunition;
- (b) purchases, or otherwise comes into, possession of a firearm or ammunition from another person; or
- (c) permits another person to be in possession of a firearm or ammunition,

commits an offence if the other person is not the holder of a licence or permit under this Act entitling him to possession of it unless it is a disposal of ammunition under section 30(2) or section 8 applies.

Penalty:

- (a) if the firearm concerned was a handgun or a prescribed firearm, imprisonment for 5 years;

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- (b) in any other case, imprisonment for 3 years or a fine of \$12 000.

*[(3) repealed]*

- (4) A person who —

*[(a) deleted]*

- (b) repairs on behalf of another;
- (c) manufactures,

or is concerned in repairing or manufacturing, any firearm or ammunition otherwise than in accordance with a licence under this Act authorising him to do so, commits a crime and is liable, on conviction —

- (a) in the case of the manufacture of a handgun, to imprisonment for 14 years;
- (b) in any other case, to imprisonment for 5 years.

Summary conviction penalty except in the case of the manufacture of a handgun: Imprisonment for 2 years or a fine of \$8 000.

- (5) A person who conducts, or is concerned in the conducting of, a shooting gallery otherwise than in accordance with a licence under this Act authorising him to do so commits an offence.

Penalty: \$2 000.

*[Section 19 amended by No. 54 of 1978 s. 2; No. 70 of 1987 s. 6; No. 59 of 1996 s. 19, 47 and 50(1); No. 50 of 2003 s. 62(2); No. 4 of 2004 s. 58; No. 69 of 2004 s. 18 and 31.]*

**19AA. Certain offences of lesser severity**

- (1) If a person who has been the holder of a Firearm Licence, Firearm Collector's Licence, or Ammunition Collector's Licence does, while that licence has expired but is still capable of being renewed under section 9A, anything that is an offence under this Act but would not have been an offence if the licence had been renewed immediately after its expiry, that offence is



not an indictable offence but is triable summarily and is punishable by a fine of \$2 000 instead of the penalty that would otherwise apply for the offence.

- (2) If a person commits an offence under section 19(1) and the only firearm or ammunition concerned is, or is for, a prescribed paintball gun, that offence is not an indictable offence but is triable summarily and is punishable by a fine of \$2 000 instead of the penalty that would otherwise apply for the offence.

*[Section 19AA inserted by No. 69 of 2004 s. 19.]*

**19A. Infringement notice**

- (1) Where a person who has been the holder of a Firearm Licence, Firearm Collector's Licence, or Ammunition Collector's Licence —
- (a) applies for the renewal of that licence more than 3 months but not more than 12 months after the date on which the licence expired and the renewal is effected;
  - (b) has been served with a notice referred to in subsection (2); and
  - (c) has paid, within the time specified in the notice, the amount prescribed by way of penalty referred to in subsection (2) and the notice has not been withdrawn within 28 days after the service of it upon him,

proceedings shall not be brought against the person for any offence against this Act which was committed by him between the date on which the licence expired and the date on which its renewal was effected but which would not have arisen if the licence had been renewed within the time specified in section 9A(5).

- (2) The Commissioner may by notice in the prescribed form notify any person who has failed to renew a licence of a kind specified in subsection (1) after a period of 3 months immediately succeeding the expiry of his licence that an allegation can be made that he has contravened section 19(1) and that he may, if

he does not wish to be prosecuted for the alleged offence in a court —

- (a) pay to the holder of an office specified in the notice the amount prescribed by way of penalty for the alleged contravention; and
- (b) obtain the renewal of the licence,

within the time specified in the notice, if dealt with under this section.

- (3) A notice referred to in subsection (2) may be served on an alleged offender personally or by posting it to his address as ascertained from him or pursuant to any inquiry conducted under the direction of the Commissioner.
- (4) A person who receives a notice referred to in subsection (2) may decline to pay the penalty referred to in that subsection and where he fails to pay that penalty within the time specified in the notice or within such further time as may in any particular case be allowed, he is deemed to have declined to be dealt with under the provisions of subsection (2).
- (5) A notice referred to in subsection (2) may, whether or not the penalty has been paid, be withdrawn, at any time within 28 days after the service of the notice, by the sending of a notice, in the prescribed form, signed by an officer authorised by the Commissioner, to the alleged offender at his last known place of residence or business, advising him that the notice has been withdrawn.
- (6) The payment of a penalty pursuant to this section shall not constitute a conviction of an offence against this Act and shall not be regarded as an admission of liability for the purpose of, or in any way affect or prejudice, any civil claim, action or proceeding.

*[Section 19A inserted by No. 61 of 1976 s. 4; amended by No. 35 of 1980 s. 4; No. 59 of 1996 s. 20; No. 84 of 2004 s. 80.]*

**20. Revocation, etc.**

- (1) Where the Commissioner is satisfied —
- (a) that a person who is the holder of a licence, permit or approval under this Act —
    - (i) obtained it by fraud or deception;
    - (ii) has breached or failed to observe a restriction, limitation or condition to which it is subject; or
    - (iii) could not, because of section 11, be granted the approval or permit or issued the licence, as the case requires, if the person were then applying for it;
  - (aa) that harm may be suffered by any person as a result of a person retaining or regaining possession of a firearm or ammunition;
  - (ab) that a licence or permit was issued, or an approval was given, incorrectly because of an administrative or procedural error;
  - (ac) that to do so is in the public interest;
  - (ad) that a person holding or applying for the renewal of a licence, permit or approval has —
    - (i) failed to comply with a regulation providing for the manner in which a photograph of that person's face is to be supplied for inclusion on an Extract of Licence;
    - (ii) failed to give the Commissioner, when requested in writing by a member of the Police Force to do so, a statement in the prescribed form as to what the person has done to ensure that any firearms or ammunition in the person's possession are stored in accordance with this Act; or
    - (iii) contrary to section 23(9)(e), refused to permit a member of the Police Force to inspect storage facilities;

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- (b) that a particular firearm is unsafe or unfit for use;
- (c) that a particular place or premises, range or gallery does not comply with the requirements of this Act; or
- (d) that the circumstances in which his approval under this Act was given in relation to any person or matter no longer prevail,

he may refuse to renew or may revoke any licence, permit or approval relating thereto or may impose reasonable restrictions, limitations or conditions thereon.

- (1a) Where the Commissioner, in writing, requests a person who is the holder of any licence, permit, or approval to —
  - (a) supply information, or further information, that the Commissioner considers to be necessary in order to determine whether or not the holder remains a fit and proper person; or
  - (b) make a submission to show cause why the power of revocation should not be exercised,

if that information is not supplied, or that submission is not made, to the Commissioner in a form acceptable to the Commissioner within 28 days, or such further period as the Commissioner may approve, the licence, permit or approval may be revoked.

- (2) A restriction, limitation or condition imposed under this Act may be varied from time to time.
- (3) The Commissioner shall give notice in writing to the holder, where any licence, permit or approval issued or granted under this Act is revoked or varied, of the reasons for the decision.
- (4) Any licence, permit or approval issued or granted under this Act may be cancelled if the holder so requests.

*[Section 20 amended by No. 90 of 1994 s. 4; No. 59 of 1996 s. 21.]*

**21. Restrictions, limitations and conditions**

- (1) A licence, permit or approval issued or granted under this Act may be made subject to restrictions, limitations or conditions which shall be —
  - (a) either specified in the licence, permit or document evidencing the approval or, whether imposed at the time of issue or grant or subsequently, specified in a supplementary document; and
  - (b) entered in the Register.
- (2) A person, whether or not the holder of that licence, permit or approval, who commits a breach of, or fails to observe, a restriction, limitation or condition to which a licence, permit or approval issued or granted under this Act was made subject, and who is a person who ought reasonably to have known of the existence of that restriction, limitation or condition, commits an offence.

Penalty: Imprisonment for 18 months or a fine of \$6 000.

*[Section 21 amended by No. 70 of 1987 s. 7; No. 59 of 1996 s. 22 and 50(3); No. 69 of 2004 s. 20.]*

**21A. Supervision and management**

- (1) The conduct of business under a Dealer's Licence, a Repairer's Licence or a Manufacturer's Licence is always the responsibility of the holder and is to be personally supervised and managed, on each premises to which the licence applies, by —
  - (a) the holder; or
  - (b) a person appointed as the agent or employee of the holder.
- (2) Where in respect of a business of a kind to which subsection (1) applies —
  - (a) a requirement is made of the holder of the licence under which that business is conducted;

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- (b) a restriction, limitation or condition applies to that licence; or
- (c) an element of an offence under this Act is an act or omission on the part of the holder of that licence,

and a person is appointed, employed or permitted by the holder to conduct that business on any premises, if that requirement, restriction, limitation or condition is contravened by that person, or such an offence occurs because of an act or omission on the part of that person, that person as well as the holder is liable accordingly, and that person may be prosecuted for an offence either in addition to, or in substitution for, the holder.

- (3) Where, in contravention of any requirement, restriction, limitation or condition to which any licence, permit or approval held by a person under this Act is subject —
  - (a) any agent or employee of the holder; or
  - (b) any other person acting or purporting to act on behalf of the holder,

does or omits to do any act on the premises to which the licence, permit or approval relates and for which the holder would have been liable under this Act had it been done or omitted by the holder, the holder is deemed also to have done or omitted to do that act and is liable to the same penalty as is prescribed for the contravention.

- (4) The holder of the licence, permit or approval may be proceeded against and convicted under subsection (3) notwithstanding that the person contravening the requirement, restriction, limitation or condition has not been proceeded against or has not been convicted under this Act.

*[Section 21A inserted by No. 59 of 1996 s. 23; amended by No. 84 of 2004 s. 80.]*

**21B. Offences by bodies corporate and partnerships**

- (1) Where an offence under this Act is found to have been committed in the course of the business carried on under a Dealer's Licence, a Repairer's Licence or a Manufacturer's Licence by a body corporate, then —
- (a) if the offence is found —
    - (i) to have been committed with the consent or connivance of; or
    - (ii) to be attributable to any failure to take all reasonable steps to secure compliance by the body corporate with this Act on the part of, any officer or other person concerned in the management of the body corporate, or any person purporting to act in any such capacity, that person as well as the body corporate is liable accordingly and is deemed to have committed an offence; and
  - (b) where the offence was committed by an agent or employee of the body corporate, unless it is proved that —
    - (i) such direction had been given; and
    - (ii) such supervision had been exercised or caused to be exercised,as were reasonably necessary to ensure that an offence against this Act was not committed, the person responsible to the body corporate for the management of any premises in respect of which the offence was committed is deemed to have also committed an offence,
- and each is liable to the same penalty as is prescribed for the principal offence.
- (2) A person referred to in subsection (1) may, on the request of the prosecutor, be convicted on the proceedings on which the body corporate is convicted if the court is satisfied that the person had

reasonable notice that the prosecutor intended to make that request.

(3) In this section —

**“officer”**, in relation to a body corporate, includes a person who is an officer of the body corporate within the meaning of section 9 of the *Corporations Act 2001* of the Commonwealth.

(4) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with functions of management as if the member were a director of the body corporate.

(5) Where this Act provides that the holder of a licence, permit or approval commits an offence in specified circumstances —

(a) any reference to the holder is a reference to each person who holds the licence, permit or approval; and

(b) if that licence, permit or approval is held by a person who is a member of a partnership which is directly or indirectly interested in the business conducted under that licence, permit or approval, or the profits or proceeds of the business, each member of the partnership is liable for the offence.

*[Section 21B inserted by No. 59 of 1996 s. 23; amended by No. 10 of 2001 s. 220; No. 84 of 2004 s. 80.]*

## **22. Reviews**

(1) In this section —

**“decision”** includes a restriction, limitation or condition imposed under this Act.

(2) A person aggrieved by a decision made by or on behalf of the Commissioner may apply to the State Administrative Tribunal for a review of the decision.



*[Section 22 inserted by No. 59 of 1996 s. 24; amended by No. 55 of 2004 s. 369.]*

*[22AA. Repealed by No. 69 of 2004 s. 21(2).]*

**22A. Firearms Act Extract of Licence**

- (1) The Commissioner may cause to be issued, in such form as the Commissioner may approve, a document to be known as a Firearms Act Extract of Licence to identify a person who —
- (a) is exempted by section 8 from the requirement to hold a licence under this Act;
  - (b) is the holder of a licence granted, permit issued or approval given under this Act; or
  - (c) is an employee authorised, by an organisation to which is issued a Corporate Licence, to possess, carry or use a firearm or ammunition,

setting out particulars of the exemption or of the licence, permit, approval or authorisation held by that person.

- (2) Where a person has actual physical possession, or (otherwise than by way of storage) the custody or control, of a firearm, or ammunition for a firearm, to which any exemption, licence, permit, approval or authorisation relates and that person has been issued with an Extract of Licence, that person —
- (a) is required to keep the Extract of Licence in their actual possession at all times except if it is impracticable to do so; and
  - (b) is required, on request, to immediately produce that Extract of Licence for inspection by —
    - (i) a member of the Police Force; or
    - (ii) any person from whom the holder of the Extract of Licence is seeking to obtain services in relation to that firearm or ammunition.

Penalty: \$1 000.

**s. 22B**

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- (3) When seeking to obtain ammunition for a firearm to which the exemption, licence, permit, approval or authorisation in respect to which the Extract of Licence was issued relates, a person to whom an Extract of Licence was issued is required, on request, to produce that Extract of Licence, or cause it to be produced, to the person from whom the ammunition is to be obtained.

Penalty: \$1 000.

- (4) A person does not commit an offence under subsection (2)(b)(i) if the person is not in possession of the Extract of Licence when the request is made and, within 48 hours after being requested to produce the Extract of Licence, the person produces the Extract of Licence for inspection by the officer-in-charge of any police station.
- (5) A person does not commit an offence under subsection (3) if, when requested to produce the Extract of Licence, the person discontinues seeking to obtain the ammunition.
- (6) Regulations made under section 34 may —
- (a) require that a photograph of the face of the holder be included on the Extract of Licence, and provide for the manner in which that photograph is to be supplied;
  - (b) require that an applicant for, or for the renewal of, a licence, permit, approval or authorisation under this Act provide evidence of identity in a manner approved by the Commissioner;
  - (c) provide for the use, and for the issue, expiry, renewal, return and cancellation, of Extracts of Licence; and
  - (d) limit the application of this section to prescribed circumstances, or in relation to any specified case or class of case.

*[Section 22A inserted by No. 59 of 1996 s. 41.]*

**22B. Return of Extract of Licence**

A person who was —

- (a) the subject of an exemption under section 8 that has ceased to apply;
- (b) the holder of a licence granted under this Act that has expired and has not been renewed, or that has been cancelled or revoked;
- (c) the holder of a permit, or approval given, under this Act that has expired, or been determined, cancelled or revoked; or
- (d) authorised, pursuant to a Corporate Licence, to carry or use a firearm or ammunition and has ceased to be so authorised,

and who was issued with an Extract of Licence in respect of that exemption, licence, permit, approval or authorisation is required, as soon as is practicable, to deliver to the Commissioner that Extract of Licence.

Penalty: \$1 000.

*[Section 22B inserted by No. 59 of 1996 s. 41.]*

**22C. Offences relating to the Extract of Licence, licences, permits, etc.**

- (1) Any person who, without lawful authority —
  - (a) alters an Extract of Licence, licence, permit, approval or authorisation to which this Act applies;
  - (b) uses, or has in their possession, an Extract of Licence, licence, permit, approval or authorisation to which this Act applies which has, without lawful authority, been altered;
  - (c) being the holder of an Extract of Licence, licence, permit, approval or authorisation to which this Act applies, parts with possession of it in order that it may be used by any other person otherwise than as the agent of the holder;
  - (d) uses or attempts to use an Extract of Licence, licence, permit, approval or authorisation to which this Act

applies, issued in the name of another, otherwise than as the agent of the holder, to procure possession of any firearm or ammunition or any service to which this Act relates;

- (e) fraudulently obtains, or is in possession of, or uses an Extract of Licence, licence, permit, approval or authorisation to which this Act applies; or
- (f) in relation to any application under this Act in respect of an Extract of Licence, licence, permit, approval or authorisation to which this Act applies, supplies particulars or answers knowing them to be incorrect or misleading,

commits an offence.

Penalty: \$ 2 000.

- (2) For the purposes of subsection (1)(a) and (b) any alteration, addition or erasure made by a member of the Police Force, or any other person exercising a function under this Act, is to be taken to have been made with lawful authority.

*[Section 22C inserted by No. 59 of 1996 s. 41.]*

**23. General offences**

- (1) A person who permits possession of any firearm or ammunition to be taken by another person where there are reasonable grounds for believing that he knows, or ought to know, that the other person is affected by alcohol or drugs, or alcohol and drugs, or that the other person is of unsound mind, commits an offence.

Penalty: Imprisonment for 18 months or a fine of \$6 000.

- (2) A person who uses, carries or is otherwise in actual physical possession of a firearm whilst affected by alcohol or drugs, or alcohol and drugs, commits an offence.

Penalty:

- (a) if the firearm is loaded, imprisonment for 2 years or a fine of \$8 000; or
  - (b) otherwise, imprisonment for 18 months or a fine of \$6 000.
- (3) Unless he holds a licence or permit under this Act entitling him to do so or section 8 applies, a person who carries or uses a firearm commits a crime and is liable —
- (a) if the firearm concerned was a handgun or a prescribed firearm, on conviction, to imprisonment for 7 years; or
  - (b) otherwise, to imprisonment for 4 years or a fine of \$16 000.

Summary conviction penalty:

- (a) in a case to which paragraph (a) applies:  
Imprisonment for 3 years or a fine of \$12 000;
- (b) in a case to which paragraph (b) applies:  
Imprisonment for 2 years or a fine of \$8 000.

*[(4) repealed]*

- (5) A person who, without lawful excuse, —
- (a) defaces or alters any number or identification mark on a firearm;
  - (b) is in possession of a firearm whereon any number or identification mark, whether or not a number or mark recorded on the licence or permit relating thereto, has been altered or defaced; or
  - (c) alters a firearm —
    - (i) from the design or characteristics of its original manufacture; or
    - (ii) so that its calibre, character or kind differs from what it was when any current licence or permit relating to it was issued,or is in possession of a firearm that has been so altered,

commits a crime and is liable —

- (d) if the firearm concerned was a handgun or was modified in a prescribed manner, on conviction, to imprisonment for 7 years; or
- (e) otherwise, on conviction to imprisonment for 4 years or a fine of \$16 000.

Summary conviction penalty:

- (a) in a case to which paragraph (d) applies:  
Imprisonment for 3 years or a fine of \$12 000;
  - (b) in a case to which paragraph (e) applies:  
Imprisonment for 2 years or a fine of \$8 000.
- (5a) Subsection (5)(c) does not apply to a paintball gun where the alteration is in accordance with the manufacturer's design and is effected by the addition of a commercially produced product that does not alter the type or velocity of a projectile fired from the gun.
- (6) Subject to subsection (7a), a person who uses a contrivance commonly known as a silencer, or any contrivance of a similar nature, commits an offence.  
Penalty: Imprisonment for 7 years.
- (7) Subject to subsection (7a), a person who is in possession of a contrivance commonly known as a silencer, or any contrivance of a similar nature, commits an offence.  
Penalty: Imprisonment for 3 years or a fine of \$12 000.
- (7a) A person who, being —
- (a) a member of the Police Force or an employee of the Department acting in the performance of his duties; or
  - (b) the holder of an authority which is in force under section 17B,
- uses or is in possession of, as the case requires, a contrivance referred to in subsection (6) or (7) does not commit an offence under that subsection.

- (8) Except as provided in subsection (8a), a person who, without lawful excuse, points a firearm at any other person commits an offence.

Penalty: Imprisonment for 3 years or a fine of \$12 000.

- (8a) A player of a paintball game being conducted in accordance with a licence under this Act does not commit an offence under subsection (8) if the person points a paintball gun, named and identified in that licence, at another person while playing the game.

- (9) A person who, —

- (a) whilst carrying, or in actual physical possession of, or having the custody or control otherwise than by way of storage of, any firearm or ammunition, fails or omits to take all reasonable precautions to ensure its safe keeping;
- (b) having failed or omitted to take all reasonable precautions to prevent the same, permits a young person under the age of 18 years to have unlawful possession of a firearm;
- (c) without lawful excuse, discharges any firearm or any shot, bullet or other missile from a firearm, onto, from or across any road;
- (d) being responsible for the storage of any firearm or ammunition, fails —
  - (i) to provide and use adequate storage facilities to ensure its safety;
  - (ii) where prescribed requirements as to security are specified in relation to a firearm or ammunition of a prescribed kind, to ensure that those requirements are observed; or
  - (iii) otherwise, to safeguard it from loss or improper use;

or

- (e) being responsible for the storage of any firearm or ammunition, refuses to permit a member of the Police Force to inspect the storage facilities provided, at a reasonable time after such an inspection is requested in writing by the member of the Police Force,

commits an offence.

Penalty:

- (a) for a first offence, a fine of \$2 000;
  - (b) for a subsequent offence, imprisonment for 12 months or a fine of \$4 000.
- (9a) A person who from any place, discharges any firearm, or any shot, bullet, or other missile from a firearm, to the danger of, or in a manner to cause fear to, the public or any person, commits an offence.
- Penalty: Imprisonment for 3 years or a fine of \$12 000.
- (10) A person who, without reasonable excuse, uses a firearm on land belonging to another person without the express or implied consent of the owner or occupier of that land or some person apparently authorised to act on behalf of the owner or occupier, commits an offence.
- Penalty: \$2 000.
- (10a) A person who, without reasonable excuse, carries a firearm, other than on a road open to the public, onto or across land that is used for or in connection with primary production without the express or implied consent of the owner or occupier of that land or some person apparently authorised to act on behalf of the owner or occupier, commits an offence.
- Penalty: \$2 000.
- (10b) For the purposes of subsection (10) and subsection (10a), the holding of a permit issued under the *Wildlife Conservation Regulations 1970* shall not be taken to be a reasonable excuse.



- (11) A person who by act or omission commits any breach of the provisions of this Act for which no penalty is specifically provided commits an offence.  
Penalty: \$2 000.
- (12) A person must not admit a minor under the age of 16 years to attend a venue where paintball is played unless the minor is accompanied by his or her parent or guardian.  
Penalty: \$1 000.
- (13) It is a defence to a charge of an offence against subsection (12) for the person charged to prove that —
- (a) the person charged or that person's employee or agent took all reasonable steps to ensure that a minor was not present in contravention of subsection (12);
  - (b) the person charged or that person's employee or agent believed on reasonable grounds that the minor was 16 years of age or older; or
  - (c) the person charged or that person's employee or agent believed on reasonable grounds that the person accompanying the minor was the minor's parent or guardian.

*[Section 23 amended by No. 54 of 1978 s. 3; No. 3 of 1983 s. 3; No. 70 of 1987 s. 8; No. 59 of 1996 s. 25, 48 and 50(1), (3), (4) and (5); No. 50 of 2003 s. 62(3); No. 4 of 2004 s. 58; No. 69 of 2004 s. 7, 8(3), 22 and 31.]*

### **23A. Limitation periods**

A prosecution for an offence against section 19(1) to which section 19AA applies, 19(2), 22C, 23(9)(a), 23(9)(d), 24(6)(b), 30B(1) or 30B(2) may be commenced at any time within 2 years after the date on which the alleged offence was committed.

*[Section 23A inserted by No. 59 of 1996 s. 26; amended by No. 69 of 2004 s. 23; No. 84 of 2004 s. 80.]*

s. 23B

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**23B. Disclosure by doctors of certain information**

- (1) If a health professional is of the opinion that —
- (a) because of the patient’s physical, mental, or emotional condition, it is not in the person’s interest or not in the public interest that the person possess any firearm or ammunition to which the patient is believed to have access; or
  - (b) in the case of a medical practitioner or registered nurse, a person is seeking or has sought medical assistance for an injury in the infliction of which a firearm or ammunition is believed to have been involved,

nothing prevents the health professional in good faith from informing the Commissioner of that opinion.

- (2) This section has effect despite any duty of confidentiality, and nothing done by a health professional in good faith in accordance with this section gives rise to a criminal or civil action or remedy.

- (3) In this section —

**“health professional”** means —

- (a) a medical practitioner;
- (b) a psychologist as defined in the *Psychologists Act 2005* section 3;
- (c) a registered nurse;
- (d) a prescribed class of social worker; or
- (e) a prescribed class of professional counsellor;

**“registered nurse”** means a person registered under Part 3 of the *Nurses Act 1992*.

*[Section 23B inserted by No. 59 of 1996 s. 26; amended by No. 69 of 2004 s. 24; No. 28 of 2005 s. 108.]*

**23BA. Disclosure of certain information by approved club and organisation members**

- (1) If an officer of an approved shooting club or approved organisation is of the opinion that —
  - (a) a person who is a member of the club or organisation is not a fit and proper person to possess, carry or use a firearm; and
  - (b) the person has a licence under this Act or intends to apply for a licence under this Act or possesses or intends to possess a firearm,

the officer is to communicate to the Commissioner that opinion and the grounds on which it was formed.

- (2) Where a person's application for membership or renewal of membership of an approved shooting club or approved organisation is refused or, following a grant or renewal a person's membership is cancelled, an officer is to notify the Commissioner and give the reasons for that decision.
- (3) A decision made by the Commissioner is not liable to be questioned or annulled by reason only that it was made in full or partial reliance on information provided under subsection (1) or (2) and it is subsequently shown that the information was factually incorrect but, in any such case, the Commissioner must reconsider the decision when so requested by the person affected adversely and the extent to which the decision should, or might, be varied as a result of the correction of those factual errors.
- (4) Nothing done by an officer of an approved organisation or approved shooting club in good faith in accordance with this section gives rise to a criminal or civil action or remedy.
- (5) In this section —  
**“approved organisation”** means an organisation approved under section 11A(2)(b);

s. 23C

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**“approved shooting club”** means a shooting club approved under section 11A(2)(a);

**“officer”**, in relation to an approved shooting club or approved organisation —

- (a) that is a body corporate which is a corporation as defined in section 57A of the *Corporations Act 2001* of the Commonwealth, has the meaning given to that term in section 82A of that Act; and
- (b) that is not such a body corporate, means any person (by whatever name called) who is concerned in or takes part in the management of the club or organisation,

but does not include an employee of the club or organisation unless the employee is involved in its management.

*[Section 23BA inserted by No. 69 of 2004 s. 25.]*

**23C. Persons concerned in commission of offences**

Without limiting section 7 of *The Criminal Code* or section 21A of this Act, a person who by act or omission is in any way directly or indirectly knowingly concerned in the commission of any offence against this Act is deemed to have committed that offence and is punishable accordingly.

*[Section 23C inserted by No. 59 of 1996 s. 49.]*

*[23D. Repealed by No. 4 of 2004 s. 58.]*

**24. Powers of police**

- (1) A member of the Police Force may demand from any person in possession of a firearm or ammunition —
  - (a) the licence or permit under which he is authorised to have such possession; or
  - (b) evidence that he is authorised to have such possession otherwise than under a licence or permit or is exempt

under section 8 from the requirement to hold a licence under this Act; and

- (c) if the licence or permit, or the authorisation or exemption, is such that the person in possession of the firearm or ammunition should also be in possession of an Extract of Licence in respect of that licence, permit, authorisation, or exemption, that Extract of Licence,

and where no such licence or permit, or no relevant Extract of Licence, is produced or the officer is not satisfied that the possession is otherwise authorised he may seize and take possession of that firearm or ammunition.

- (2) A member of the Police Force may seize and take possession of any firearm or ammunition that is in the possession of a person, whether or not the person is licensed or otherwise authorised to possess it if, in the opinion of the member of the Police Force —
  - (a) possession of it by that person may result in harm being suffered by any person; or
  - (b) that person is not at the time a fit and proper person to be in possession of it.
- (2a) For the purpose of exercising the powers given by subsection (2), a member of the Police Force may enter and search any premises on which, in the opinion of the member of the Police Force, there are reasonable grounds to suspect that any firearm or ammunition may be found in the possession of a person in the circumstances described in that subsection.
- (3) A member of the Police Force may require any person to permit him to examine a firearm in the possession of that person and if, in the opinion of the officer, any such firearm, the possession of which is not authorised under a Firearm Collector's Licence, is unsafe or unserviceable the officer may seize and take possession of it.
- (4) A member of the Police Force may —
  - (a) question any person who is suspected on reasonable grounds of being able to furnish information or evidence

relating to an offence or suspected offence under this Act;

- (b) stop, search, and detain —
    - (i) any person who is suspected on reasonable grounds of having a firearm or ammunition in his possession without lawful excuse;
    - (ii) any vehicle or conveyance where there are reasonable grounds to suspect that a firearm is kept without lawful excuse;
  - (c) arrest any person who is suspected on reasonable grounds of committing an offence under this Act.
- (5) Any firearm or ammunition seized and any person arrested under the provisions of subsection (1) shall be taken before a Justice to be dealt with according to law.
- (6) A person who —
- (a) refuses or fails without lawful excuse to answer any question put by a member of the Police Force under this Act;
  - (b) wilfully misleads or wilfully attempts to mislead any member of the Police Force in any particular likely to affect the discharge of his duty under this Act;
  - (c) refuses or fails to produce any licence or permit held by him under this Act, or any firearm in respect of which any such licence or permit is issued, or any Extract of Licence issued in respect of any such licence or permit or in respect of any exemption or other authorisation, within reasonable time after demand made by a member of the Police Force,
- commits an offence and is liable on summary conviction to a fine of \$4 000.
- (7) The powers given by this section to a member of the Police Force may be exercised without warrant except that the powers

given by subsection (2a) can only be exercised without warrant if the member of the Police Force —

- (a) is reasonably of the opinion that —
    - (i) there is an immediate threat of harm being suffered by a person; and
    - (ii) the delay that would be involved in obtaining a warrant would be likely to increase the risk or extent of such harm;and
  - (b) gives the Commissioner, after the powers are exercised, a written report explaining the reason for that opinion.
- (8) The regulations may make provision as to —
- (a) the giving of the report required by subsection (7)(b);
  - (b) the steps that are required to be taken after any firearm or ammunition has been seized and taken under subsection (2).
- (9) For the purposes of this section the term **“firearm”** is deemed to include any silencer, within the meaning of section 17B(8), and any part of a firearm.

*[Section 24 amended by No. 61 of 1976 s. 5; No. 54 of 1978 s. 4; No. 70 of 1987 s. 9; No. 90 of 1994 s. 5; No. 59 of 1996 s. 27, 42 and 50(2); No. 69 of 2004 s. 31.]*

## **25. Constructive possession**

- (1) For the purposes of this section the term **“firearm”** is deemed to include a reference to ammunition therefor.
- (2) Where any firearm is carried in parts by, or is otherwise in the possession of, 2 or more persons each and every one of those persons is deemed to be in possession of the firearm.

**26. Search warrant**

- (1) Where a Justice is satisfied that there are reasonable grounds for suspecting that there is in any place any firearm or ammunition, or any document or other thing —
- (a) with respect to which under any written law an offence, involving any firearm, ammunition, silencer or other contrivance used in conjunction with a firearm, has been or is suspected, on reasonable grounds, to have been committed; or
  - (b) that, there are reasonable grounds for believing —
    - (i) will afford evidence as to the commission of any such offence; or
    - (ii) is intended to be used for the purpose of committing any such offence,

the Justice may grant to a member of the Police Force a warrant to enter and search such place for any such firearm, ammunition or other thing, and to seize and take any such firearm, ammunition or other thing found before a Justice to be dealt with according to law.

- (2) Where a Justice is satisfied that there are reasonable grounds to suspect that any firearm or ammunition may be found on premises in the possession of a person in the circumstances described in section 24(2), the Justice may grant to a member of the Police Force a warrant to enter and search such premises for the purpose of exercising the powers given by that subsection.

*[Section 26 inserted by No. 59 of 1996 s. 28.]*

*[27. Repealed by No. 78 of 1995 s. 46.]*

**27A. Disqualification by court imposing restraining order**

- (1) A court making a violence restraining order against a person may order that, for a term set by the court or until a court orders to the contrary, the person be disqualified from holding any



licence, permit, or approval, or any particular licence, permit, or approval, under this Act.

- (2) In subsection (1) —  
“**violence restraining order**” has the same meaning as it has in section 11(4).
- (3) If an order under subsection (1) disqualifies a person from holding any licence, permit, or approval already held by the person when the disqualification order is made, the licence, permit, or approval held is, by force of this section, suspended and has no effect for so long as the disqualification order is in force.
- (4) The court is to ensure that details of the restraining order and the disqualification order are made known to the Commissioner as soon as is practicable.

*[Section 27A inserted by No. 59 of 1996 s. 29; amended by No. 19 of 1997 s. 84.]*

## **28. Court may order forfeiture on conviction of offender**

On the conviction of a person for any offence whatever under any written law, the court may order that any firearm or ammunition, silencer or other thing to which this Act applies relating to the charge shall be forfeited to the Crown, but if it appears to the court that the firearm or ammunition, silencer or other thing to which this Act applies belongs to some other person, who is lawfully entitled to possession and is not guilty of any offence in relation thereto under this Act, the court shall order the firearm or ammunition, silencer or other thing to which this Act applies to be delivered to that other person.

*[Section 28 amended by No. 59 of 1996 s. 30.]*

## **29. Evidence**

- (1) In a prosecution for an offence against this Act an averment in the prosecution notice —

- (a) that a person is, or at a particular time was or was not, the holder of a particular licence or permit, or a particular Extract of Licence, under this Act;
- (b) that a person, place, organisation or thing is, or at a particular time was or was not, the subject of a particular approval granted by the Commissioner for a particular purpose under this Act;
- (c) that a particular firearm or ammunition is of a particular calibre or kind;
- (d) that a particular licence, permit or approval issued or granted under this Act was, at a particular time, subject, to a particular restriction, limitation or condition;
- (e) that a person named in the prosecution notice is, or at a particular time was —
  - (i) a member of the Police Force acting with the authority of the Commissioner; or
  - (ii) a member of the Police Force to whom a particular function has or had been delegated by the Commissioner;
- (f) that an authorisation or delegation granted by the Commissioner under this Act is, or at a particular time was, subject to a particular condition; or
- (g) that particular premises were a place to which an approval or a requirement under this Act applies, or at a particular time applied,

is evidence of the matter averred.

- (2) In any proceedings under this Act a document or writing purporting to be, or to be a copy of or extract from, any licence, permit, approval or other document issued under this Act, or provided or produced to the Commissioner or a member of the Police Force in connection with any application or request for information under this Act —

- (a) is evidence which is admissible, and is to be accepted as to the matter contained in the document in the absence of proof to the contrary; and
- (b) if it is proved to be an examined copy or extract, purporting to be signed and certified as such by or on behalf of the Commissioner, is for all purposes sufficient evidence of the matter contained in the original without producing the original.

*[Section 29 amended by No. 59 of 1996 s. 31 and 43; No. 84 of 2004 s. 80.]*

### **30. Ammunition sales**

- (1) The holder of a Dealer's Licence may dispose of ammunition to any person who represents himself as being the holder of a licence or permit under this Act entitling him to possess a firearm and ammunition or as lawfully possessing a firearm under the provisions of section 8, and who the dealer believes on reasonable grounds to be entitled to possess a firearm suitable for use with that ammunition, or as being the holder of an Ammunition Collector's Licence.
- (2) The holder of a Dealer's Licence may dispose of ammunition to any person apparently over the age of 18 years who represents himself as being, and whom the dealer believes to be, the agent of a person to whom the dealer would be authorised to dispose of ammunition under subsection (1).
- (3) At the time of any transaction authorised under subsection (1) or subsection (2) the dealer shall make an entry in the prescribed manner in the record kept for the purposes of this section and shall cause verification of that transaction to be entered in, or affixed to, the record in the prescribed manner or obtain the signature thereto of the person to whom the ammunition is supplied.
- (4) A person who makes a false representation for the purposes of obtaining ammunition for himself or another person, and any dealer who fails or neglects to comply with the requirements of this section commits an offence.

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Penalty: \$4 000.

- (5) If ammunition is disposed of by or on behalf of the holder of a Dealer's Licence and the person who disposes of it (in this subsection called "**the provider**") does not request the person receiving the ammunition (in this subsection called "**the receiver**") to produce —
- (a) a relevant licence or permit, or evidence of —
    - (i) exemption by section 8; or
    - (ii) a relevant authorisation;
  - and
  - (b) an Extract of Licence in respect of that licence, permit, exemption, or authorisation,

and inspect either an Extract of Licence or something referred to in paragraph (a), it is to be presumed in proceedings for an offence against this Act, upon proof that the provider disposed of the ammunition to the receiver, that there were no reasonable grounds to believe that the receiver was a person to whom the dealer would be authorised to dispose of that ammunition under subsection (1), unless the contrary is shown.

*[Section 30 amended by No. 54 of 1978 s. 5; No. 70 of 1987 s. 10; No. 59 of 1996 s. 32, 44 and 50(1); No. 69 of 2004 s. 31.]*

**30A. Sale and disposal of firearms**

- (1) A person who, except as described in subsection (2), advertises that a firearm is for sale is required to ensure that the advertisement includes details of the type, make, serial number, and calibre of the firearm.
- (2) The holder of a Dealer's Licence or a Manufacturer's Licence who advertises for sale a firearm to which the licence relates is required to ensure that the advertisement includes —
  - (a) the licence number; and
  - (b) either the business name or such other details as are sufficient to identify the holder of the licence.

- (3) A person who sends a firearm by post to a destination that is outside the State —
- (a) is required to address the firearm to premises at which the business of a dealer may lawfully be carried on; and
  - (b) is not to send ammunition in the package containing the firearm.

Penalty: \$2 000.

*[Section 30A inserted by No. 59 of 1996 s. 33; amended by No. 69 of 2004 s. 31.]*

**30B. Loss, theft, destruction, or disposal out of the State, to be reported**

- (1) Where any person entitled under an Act of the State or the Commonwealth to possess a firearm or any ammunition —
- (a) loses the firearm or ammunition, whether or not by theft; or
  - (b) becomes aware that the firearm has been destroyed, otherwise than by the authority of the Commissioner under this Act,

that person is required, as soon as is practicable, to report the loss or destruction to the Commissioner.

- (2) Where any person entitled under this Act to possess a firearm disposes of that firearm —
- (a) in a place outside the State; or
  - (b) to a destination outside the State,

that person is required, as soon as is practicable, to report to the Commissioner the details of the firearm concerned; the manner and date of its disposal; the name, address, and, in the case of a person other than a dealer in firearms, the birth date of any person taking possession of the firearm; and the number, expiry date and nature of any licence, permit or other authorisation to possess a firearm held by that person.

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Penalty: \$2 000.

*[Section 30B inserted by No. 59 of 1996 s. 33; amended by No. 69 of 2004 s. 31.]*

**31. Records**

- (1) The Commissioner shall cause to be compiled and maintained in the prescribed manner a register or registers of all applications made for a licence, permit or approval under this Act specifying whether or not the application was refused, the reasons for any refusal, and such other particulars as are prescribed.
- (2) The holder of a Corporate Licence, a Dealer's Licence, a Repairer's Licence, a Manufacturer's Licence or an Ammunition Collector's Licence shall compile, maintain and furnish records in such manner as is prescribed, all entries therein shall be made at the time of the transaction to which they relate or, in the case of a transaction involving the acquisition of ammunition by a person who is entitled to acquire it as the holder of an Ammunition Collector's Licence, as soon as may be practicable thereafter, and any such record shall be produced for inspection by any member of the Police Force on his request.
- (2a) A person who compiles, maintains, furnishes or produces a record under section 31(2) knowing it to be incorrect or misleading commits an offence.
- (3) A member of the Police Force shall be permitted to check the stock of firearms and ammunition on any premises in respect of which records are required to be kept under subsection (2), or ammunition held by a person who is the holder of an Ammunition Collector's Licence, and shall be provided with reasonable facilities for examining such firearms or ammunition.
- (4) A person who contravenes subsection (2), (2a), or (3) commits an offence.

Penalty: \$4 000.

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*[Section 31 amended by No. 59 of 1996 s. 34; No. 69 of 2004 s. 27 and 31.]*

**32. Safe keeping by traders**

The holder of a Dealer's Licence, a Repairer's Licence, or a Manufacturer's Licence shall keep all firearms and ammunition in a strongroom or otherwise in safe keeping, securely fastened during any period when the premises are not open for trade.

Penalty:

- (a) for a first offence, a fine of \$4 000;
- (b) for a subsequent offence, imprisonment for 2 years or a fine of \$8 000.

*[Section 32 amended by No. 59 of 1996 s. 35; No. 69 of 2004 s. 28.]*

**33. Disposal of firearms**

- (1) Where any firearm or ammunition is in the possession of a member of the Police Force if—
  - (a) the owner cannot be found; or
  - (b) the owner, not being the holder of a licence relating thereto or otherwise lawfully entitled to possession of it, dies; or
  - (c) the owner, not being the holder of a licence relating thereto or otherwise lawfully entitled to possession of it, refuses or fails lawfully to dispose of it within a period of 3 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,

the Commissioner may dispose of that firearm or ammunition in accordance with the regulations by destruction, sale or otherwise.

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- (2) Where a firearm or ammunition is sold by the Commissioner the net proceeds of the sale shall be paid to the owner, if he is known, but if the owner is not known or if after reasonable inquiry the Commissioner is of the opinion that the owner although known can not be contacted the net proceeds shall be credited to the Consolidated Account.
- (3) On payment of the prescribed fee the Commissioner may, at the request of the owner and in his absolute discretion, accept any firearm or ammunition for safe custody, subject to any prescribed conditions, and
- (a) may sue for and recover in any court of competent jurisdiction; or
  - (b) where the fees have not been paid for a period of more than 2 years, may recover from the proceeds of a sale of that firearm or ammunition in the prescribed manner,

any fees due and owing in respect of that safe custody and any costs or expenses incurred in effecting such recovery.

*[Section 33 amended by No. 6 of 1993 s. 11; No. 73 of 1994 s. 4; No. 49 of 1996 s. 64; No. 59 of 1996 s. 36; No. 77 of 2006 s. 4.]*

**34. Regulations**

- (1) The Governor may make regulations in regard to any matter or for any purpose for which regulations are prescribed or contemplated by this Act, and may make all such other regulations as may in his opinion be necessary or expedient for giving effect to the provisions of this Act, and for the due administration thereof.
- (2) Without limiting the general power conferred by subsection (1), the Governor may make regulations for or with respect to all or any of the following matters —
- (a) the application for and the issue, grant, renewal, cancellation or revocation of licences, permits and approvals under this Act;



- (b) the restrictions, limitations and conditions that may be imposed on any licence, permit or approval;
  - [(c) deleted]*
  - (d) the form of registers and records to be kept or furnished under this Act and the particulars to be entered therein;
  - (e) the forms to be used for the purposes of this Act, and the manner of, and the time for, their completion, including a requirement that information supplied be verified by statutory declaration;
  - (ea) enabling the Commissioner to require a holder of a Dealer's Licence to provide to the Commissioner information about any other persons who are involved in the management of, or have a financial interest in, any business conducted under the licence;
  - (f) the classification of firearms and ammunition for the purposes of this Act;
  - (g) making provision for the safe custody and control of firearms and ammunition by persons entitled to possession and for restricting the amount of ammunition that may be possessed;
  - (ga) the sending or conveyance of firearms or ammunition;
  - (h) the construction and conduct of shooting galleries and ranges;
  - (i) regulating the conduct of guided hunting tours; and
  - (j) any other purpose that the Governor deems necessary for safeguarding the public and the public interest in relation to firearms and ammunition.
- (3) Regulations made under this Act may —
- (a) be of general or limited application, according to time, place or circumstance;
  - (b) prescribe fees to be paid in relation to the issue, grant, variation or renewal of licences, permits and approvals, the fees that are payable in relation to other matters

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under this Act, the persons liable, and the method of recovery of amounts not duly paid either by the disposal of the firearms or ammunition to which they relate or otherwise;

- (c) impose upon any person or class of person a discretionary authority;
- (d) provide penalties, not exceeding \$2 000, for the contravention of any regulation.

*[Section 34 amended by No. 54 of 1978 s. 6; No. 70 of 1987 s. 11; No. 59 of 1996 s. 37 and 50(1); No. 55 of 2004 s. 370; No. 69 of 2004 s. 29 and 31.]*

*[Schedule 1 omitted under the Reprints Act 1984 s. 7(4)(f).]*

*[Schedule 2 repealed by No. 69 of 2004 s. 30.]*

*[Schedule 3 repealed by No. 55 of 2004 s. 371.]*

## Notes

- <sup>1</sup> This is a compilation of the *Firearms Act 1973* and includes the amendments made by the other written laws referred to in the following table<sup>1a</sup>. The table also contains information about any reprint.

### Compilation table

Short title	Number and year	Assent	Commencement
<i>Firearms Act 1973</i>	36 of 1973	18 Oct 1973	1 Jul 1974 (see s. 2 and <i>Gazette</i> 29 Mar 1974 p. 1027)
<i>Firearms Act Amendment Act 1976</i>	61 of 1976	16 Sep 1976	16 Sep 1976
<i>Firearms Act Amendment Act 1978</i>	54 of 1978	6 Sep 1978	6 Sep 1978
<i>Firearms Amendment Act 1980</i>	35 of 1980	5 Nov 1980	24 Jul 1981 (see s. 2 and <i>Gazette</i> 24 Jul 1981 p. 3060)
<b>Reprint of the <i>Firearms Act 1973</i> approved 22 Apr 1983</b> (includes amendments listed above)			
<i>Firearms Amendment Act 1983</i>	3 of 1983	1 Aug 1983	1 Aug 1983
<i>Acts Amendment (Financial Administration and Audit) Act 1985</i> s. 3 <sup>3</sup>	98 of 1985	4 Dec 1985	1 Jul 1986 (see s. 2 and <i>Gazette</i> 30 Jun 1986 p. 2255)
<i>Firearms Amendment Act 1987</i>	70 of 1987	22 Nov 1987	1 Oct 1989 (see s. 2 and <i>Gazette</i> 29 Sep 1989 p. 3665)
<i>Financial Administration Legislation Amendment Act 1993</i> s. 11	6 of 1993	27 Aug 1993	1 Jul 1993 (see s. 2(1))
<i>Statutes (Repeals and Minor Amendments) Act 1994</i> s. 4	73 of 1994	9 Dec 1994	9 Dec 1994 (see s. 2)
<i>Firearms Amendment Act 1994</i>	90 of 1994	5 Jan 1995	5 Jan 1995 (see s. 2)
<i>Sentencing (Consequential Provisions) Act 1995</i> Pt. 33	78 of 1995	16 Jan 1996	4 Nov 1996 (see s. 2 and <i>Gazette</i> 25 Oct 1996 p. 5632)
<i>Security and Related Activities (Control) Act 1996</i> s. 96	27 of 1996	22 Jul 1996	1 Apr 1997 (see s. 2 and <i>Gazette</i> 27 Mar 1997 p. 1693)

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Short title	Number and year	Assent	Commencement
<i>Financial Legislation Amendment Act 1996</i> s. 64	49 of 1996	25 Oct 1996	25 Oct 1996 (see s. 2(1))
<i>Firearms Amendment Act 1996</i> <sup>4</sup>	59 of 1996	11 Nov 1996	Act other than s. 16: 6 Dec 1996 (see s. 3(1) and <i>Gazette</i> 6 Dec 1996 p. 6699); s. 16: 1 Apr 1997 (see s. 3(2) and <i>Gazette</i> 27 Mar 1997 p. 1693)
<b>Reprint of the <i>Firearms Act 1973</i> as at 22 Jan 1997</b> (includes amendments listed above except those in the <i>Security and Related Activities (Control) Act 1996</i> and the <i>Firearms Amendment Act 1996</i> s. 16)			
<i>Restraining Orders Act 1997</i> s. 84	19 of 1997	28 Aug 1997	15 Sep 1997 (see s. 2 and <i>Gazette</i> 12 Sep 1997 p. 5149)
<i>Weapons Act 1999</i> s. 21	18 of 1999	16 Jun 1999	1 Sep 1999 (see s. 2(1) and <i>Gazette</i> 31 Aug 1999 p. 4235)
<b>Reprint of the <i>Firearms Act 1973</i> as at 11 Aug 2000</b> (includes amendments listed above)			
<i>Corporations (Consequential Amendments) Act 2001</i> s. 220	10 of 2001	28 Jun 2001	15 Jul 2001 (see s. 2 and <i>Gazette</i> 29 Jun 2001 p. 3257 and <i>Cwlth Gazette</i> 13 Jul 2001 No. S285)
<i>Acts Amendment (Equality of Status) Act 2003</i> Pt. 21	28 of 2003	22 May 2003	1 Jul 2003 (see s. 2 and <i>Gazette</i> 30 Jun 2003 p. 2579)
<i>Sentencing Legislation Amendment and Repeal Act 2003</i> s. 62	50 of 2003	9 Jul 2003	15 May 2004 (see s. 2 and <i>Gazette</i> 14 May 2004 p. 1445)
<i>Criminal Code Amendment Act 2004</i> s. 58	4 of 2004	23 Apr 2004	21 May 2004 (see s. 2)
<i>Courts Legislation Amendment and Repeal Act 2004</i> s. 141	59 of 2004	23 Nov 2004	1 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7128)
<i>State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004</i> Pt. 2 Div. 49 <sup>5,6</sup>	55 of 2004	24 Nov 2004	1 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)

Short title	Number and year	Assent	Commencement
<i>Firearms Amendment Act 2004</i> <sup>7,8</sup>	69 of 2004	8 Dec 2004	s. 13 and 21: 8 Dec 2004 (see s. 2(3)); Act other than s. 13, 17, 21, 22(4)(a) and 26: 1 Jan 2005 (see s. 2 and <i>Gazette</i> 24 Dec 2004 p. 6265); s. 17: 1 Feb 2005 (see s. 2 and <i>Gazette</i> 24 Dec 2004 p. 6265)
<i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004</i> s. 80	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7129 (correction in <i>Gazette</i> 7 Jan 2005 p. 53))
<b>Reprint 4: The Firearms Act 1973 as at 1 Jul 2005</b> (includes amendments listed above)			
<i>Psychologists Act 2005</i> s. 108	28 of 2005	12 Dec 2005	4 May 2007 (see s. 2 and <i>Gazette</i> 4 May 2007 p. 1963)
<i>Financial Legislation Amendment and Repeal Act 2006</i> s. 4 and 17	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2 and <i>Gazette</i> 19 Jan 2007 p. 137)

<sup>1a</sup> On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

#### Provisions that have not come into operation

Short title	Number and year	Assent	Commencement
<i>Courts Legislation Amendment and Repeal Act 2004</i> s. 142 <sup>9</sup>	59 of 2004	23 Nov 2004	To be proclaimed (see s. 2)
<i>Nurses and Midwives Act 2006</i> s. 114 <sup>12</sup>	50 of 2006	6 Oct 2006	To be proclaimed (see s. 2)
<i>Criminal Investigation (Consequential Provisions) Act 2006</i> s. 73 <sup>13</sup>	59 of 2006	16 Nov 2006	To be proclaimed (see s. 2)

<sup>2</sup> The provision in this Act repealing that Act has been omitted under the *Reprints Act 1984* s. 7(4)(f).

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<sup>3</sup> The *Acts Amendment (Financial Administration and Audit) Act 1985* s. 4 is a savings and transitional provision that is of no further effect.

<sup>4</sup> The *Firearms Amendment Act 1996* s. 9(2), 10(2), 11(2), 15(2), 39 and 53 are transitional, savings and related provisions that are of no further effect.

<sup>5</sup> The *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* Pt. 5, the *State Administrative Tribunal Act 2004* s. 167 and 169, and the *State Administrative Tribunal Regulations 2004* r. 28 and 42 deal with certain transitional issues some of which may be relevant for this Act.

<sup>6</sup> The *State Administrative Tribunal Regulations 2004* r. 31 reads as follows:

“

**31. Firearms Act 1973**

(1) In this regulation —

“**commencement day**” means the day on which the *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* Part 2 Division 49 comes into operation.

(2) If a matter partly or fully heard before the commencement day by a firearms appeals tribunal, as defined in the *Firearms Act 1973* section 22(1) immediately before the commencement day, is transferred to the Tribunal under the Act section 167(4)(b), despite the Act section 39, a person who is a legal practitioner is not to appear as an advocate for, or represent, a party in proceedings before the Tribunal relating to the matter.

”.

<sup>7</sup> The *Firearms Amendment Act 2004* s. 15(3) reads as follows:

“

(3) The amendments made by this section do not affect the validity of a licence or permit that a person already holds under the *Firearms Act 1973* on the day on which this section comes into operation, but on or after that day the grant, issue, or renewal of a licence or permit has to be in accordance with that Act as amended by this section.

”.

<sup>8</sup> The amendments in the *Firearms Amendment Act 2004* s. 22(4)(a) and 26 have not been proclaimed and will not be because the amendments they propose cannot operate due to the amendments made by the *Criminal Code Amendment Act 2004* s. 58.

<sup>9</sup> On the date as at which this compilation was prepared, the *Courts Legislation Amendment and Repeal Act 2004* s. 142, which gives effect to Sch. 2, had not come into operation. It reads as follows:

“

**142. Other amendments to various Acts**

Each Act listed in Schedule 2 is amended as set out in that Schedule immediately below the short title of the Act.

”.

Schedule 2 cl. 19 reads as follows:

“

**Schedule 2 — Other amendments to Acts**

**19. Firearms Act 1973**

s. 22(1) <sup>10</sup>	Delete the definition of “magistrate”. Delete the semi colon after the definition of “firearms appeal tribunal” and insert a full stop instead.
s. 22(3) <sup>10</sup>	Delete “a magistrate” and insert instead — “ the Magistrates Court ”.
After s. 22(6) <sup>10</sup>	Insert the following subsection — “ (6a) If an appeal is made to the Magistrates Court the court shall be constituted by a magistrate. ”.
s. 22(7) <sup>10</sup>	Delete “A magistrate” and insert instead — “ The Magistrates Court ”. Delete “whom or”.
s. 22(8) <sup>10</sup>	Delete “the magistrate” and insert instead — “ the Magistrates Court ”.
s. 22(9) <sup>10</sup>	Repeal the subsection and insert instead — “ (9) In determining an appeal the Magistrates Court may make any other order, including an order as to costs, that the court thinks fit. ”.

**s. 114**

Schedule 3 cl. 1 <sup>10</sup>	Delete the definition of “CSM” and insert instead — “ <b>“Chief Magistrate”</b> means the Chief Magistrate of the Magistrates Court; ”.
Schedule 3 <sup>10</sup>	Delete “CSM” wherever it occurs and insert instead — “ Chief Magistrate ”.

<sup>10</sup> The sections that it seeks to amend have been repealed by the *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* s. 369 and 371.

<sup>11</sup> Footnote no longer applicable.

<sup>12</sup> On the date as at which this compilation was prepared, the *Nurses and Midwives Act 2006* s. 114, which gives effect to Sch. 3, had not come into operation. It reads as follows:

**114. Consequential amendments**

Schedule 3 sets out consequential amendments.

Schedule 3 cl. 8 reads as follows:

**Schedule 3 — Consequential amendments**

[s. 114]

**8. Firearms Act 1973 amended**

- (1) The amendments in this clause are to *Firearms Act 1973*.
- (2) Section 23B(3) is amended in the definition of “registered nurse” by deleting “Part 3 of the *Nurses Act 1992*.” and inserting instead —  
“ Part 4 of the *Nurses and Midwives Act 2006*. ”.

<sup>13</sup> On the date as at which this compilation was prepared, the *Criminal Investigation (Consequential Provisions) Act 2006* s. 73 which gives effect to Sch. 1 it. 5 had not come into operation. They read as follows:



“

**73. Various Acts amended (Sch. 1)**

Each Act listed in Schedule 1 is amended as set out in that Schedule immediately below the short title of the Act.

”.

Schedule 1 item 5 reads as follows:

“

**Schedule 1 — Various Acts amended**

[s. 73]

**5. Firearms Act 1973**

s. 24(5)	Delete “taken before a Justice to be”.
s. 26(1)	Delete “and take”. Delete “before a Justice to be dealt with according to law”.

”.