

Reprinted under the
Reprints Act 1984 as
at 22 January 1997

WESTERN AUSTRALIA

FIREARMS ACT 1973

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WESTERN AUSTRALIA

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 1931-1971*, and for incidental and other purposes.

BE it enacted —

Short title

1. This Act may be cited as the *Firearms Act 1973*¹.

Commencement

2. This Act shall come into operation on a date to be fixed by proclamation¹.

Repeals and savings

3. (1) The Acts set out in Schedule 1 are repealed.

(2) Without limiting the operation of the provisions of the *Interpretation Act 1918*, until regulations are made under this Act the regulations made under the Acts repealed by this Act, and in force immediately prior to the time this Act comes into operation, shall apply, so far as applicable, to persons, acts, circumstances and things under this Act as if those regulations were made under this Act.

[Section 3 amended by No. 73 of 1994 s.4.]

Interpretation

4. 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;

“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;

“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;

“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;

“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;

“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 ss.4 and 40.]

Administration

5. (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 Administration and Audit Act 1985* regulating the financial administration, audit and reporting of departments apply to and in respect of the Police Department and its operations under this Act.

[Section 5 amended by No. 98 of 1985 Schedule 1.]

Delegation of Commissioner's power to give licences, permits and approvals

5A. (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).*]

Firearms Advisory Committee

5B. (1) There is to be a committee known as the Firearms Advisory Committee.

(2) The functions of the Firearms Advisory Committee are —

- (a) to consider and advise the Minister on matters relevant to this Act referred to it by the Minister;
- (b) to advise the Minister on firearm safety and firearm matters in this State; and
- (c) to advise the Minister on national firearm matters.

(3) The Firearms Advisory Committee is to consist of 7 members of whom —

- (a) one is to be an independent Chairman appointed by the Minister;
- (b) one is to be the Commissioner;
- (c) one is to be appointed by the Minister as a representative of primary producers;
- (d) one is to be appointed by the Minister as a representative of the firearms trade;

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- (e) one is to be appointed by the Minister as a representative of the community;
 - (f) one is to be appointed by the Minister as a representative of the health profession; and
 - (g) one is to be appointed by the Minister after consultation with organizations representing firearms users.
- (4) Schedule 2 has effect.

(5) The Minister is to arrange for the Firearms Advisory Committee to have, or to have the services or use of, staff or facilities to enable it to carry out its functions.

[Section 5B inserted by No. 59 of 1996 s.6.]

Prohibition

6. (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) of this section 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 an indictable offence and is liable, on conviction, to imprisonment for 5 years.

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

[Section 6 amended by No. 35 of 1980 s.3; No. 70 of 1987 s.4; No. 59 of 1996 ss.7 and 45.]

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

7. (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 an indictable offence 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.]

Exemptions from licensing requirements

8. (1) No licence under this Act is required —

- (a) by a person who is the holder of a permit issued under this Act in relation to any matter authorized by that permit;
- (b) by the Governor;
- [(c) *deleted*]

- (d) by —
 - (i) a member of the Police Force; or
 - (ii) an employee of the Police Department of the Public Service,

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

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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 authorized by law to be held,

if the use of the firearm and ammunition by that person is expressly authorized 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, 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;
 - (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) —

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

[Section 8 amended by No. 59 of 1996 s.8.]

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Licences etc. not transferable

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

Duration and renewal of licences

9A. (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) A Firearm Collector's Licence or an Ammunition Collector's Licence 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.]

Minimum age of licensee or permit holder

10. 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.]

Training courses

10A. 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 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.]

Exercise of Commissioner's discretion

11. (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;

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- (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 is satisfied that —

- (a) 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; or

- (b) 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.

(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.

(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 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;

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- (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.]

Genuine reason required in all cases

11A. (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 permission for that hunting or shooting;
- (d) it is required by the person in the course of the person's occupation;
- (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.

(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.]

s. 11B

Genuine need required in some cases

11B. (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.]

Other restrictions

11C. 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.]

Unsafe or unserviceable firearms

12. (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 authorized 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. Repealed by No. 59 of 1996 s.5 (2).]

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

Firearm collections

15. (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, heirloom, or sentimental 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.

[Section 15 inserted by No. 59 of 1996 s.14.]

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Licences

16. (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 authorizes 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 authorized 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 authorizes 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 authorized 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 authorizes 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 authorizes 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

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- (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 authorized 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 authorized 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.]

Temporary permits

17. (1) Subject to subsection (3) of this section, 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, 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) of this section may authorize the use of the firearm or ammunition in the circumstances specified therein.

(3) A permit granted under subsection (1) of this section subsists for the period specified therein unless sooner determined by the Commissioner by notice in writing, but shall not be granted for any period in excess of 3 months.

(4) A permit granted under subsection (1) of this section 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.

Interstate group permits

17A. (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

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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.]

Minister may authorize officers or employees of Agriculture Protection Board to possess, carry and use silencers

17B. (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 purpose of shooting common starlings *Sturnus vulgaris* in the performance of his duties;

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- (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.*]

Licensing procedure

18. (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) *repealed*]

[(3) *repealed*]

[(3a) *repealed*]

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(4) The fee payable on the issue of —

- (a) a Firearm Collector's Licence or 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;
- (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

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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.]

Licensing offences

19. (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 an offence unless subsection (1aa) provides otherwise or section 8 applies.

Penalty: Where —

- (a) in relation to the firearm concerned in the offence or a firearm of the same kind, the offender —
 - (i) has been refused such a licence or permit;
 - (ii) is disqualified from holding such a licence or permit; or
 - (iii) has had such a licence or permit revoked;
- (b) the firearm concerned was a handgun;
- (c) any numbers or identification mark which was on the firearm has been defaced or removed; or
- (d) the firearm has been altered from the design or characteristics of its original manufacture,

imprisonment for 18 months or a fine of \$6 000; otherwise, imprisonment for 6 months or a fine of \$2 000.

(1aa) 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 (1), 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: Where the firearm concerned was a handgun, imprisonment for 18 months or a fine of \$6 000; otherwise, imprisonment for 6 months or a fine of \$2 000.

[(3) *repealed*]

(4) A person who —

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

or is concerned in dealing in, repairing or manufacturing, any firearm or ammunition otherwise than in accordance with a licence under this Act authorizing him to do so, commits an indictable offence and is liable, on conviction, to imprisonment for 5 years.

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

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(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 authorizing him to do so commits an offence.

Penalty: \$1 000.

[Section 19 amended by No. 54 of 1978 s.2; No. 70 of 1987 s.6; No. 59 of 1996 ss.19, 47 and 50 (1).]

Infringement notice

19A. (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 three 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) of this section; and
- (c) has paid, within the time specified in the notice, the amount prescribed by way of penalty referred to in subsection (2) of this section 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 the complaint relating to that alleged contravention to be heard and determined by 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) of this section 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) of this section 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) of this section.

(5) A notice referred to in subsection (2) of this section 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 authorized 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.]

Revocation, etc.

20. (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;
- (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.

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(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.]

Restrictions, limitations and conditions

21. (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 12 months or a fine of \$4 000.

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

Supervision and management

21A. (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;
- (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 a complaint for an offence may be made out against that person 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

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- (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.]

Offences by bodies corporate and partnerships

21B. (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 complainant, 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 complainant 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 Law.

(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

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- (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.]

Appeals

22. (1) In this section —

“appeal” means an appeal under subsection (2);

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

“firearms appeals tribunal” means a firearms appeals tribunal constituted under Schedule 3;

“magistrate” means a magistrate sitting alone as a court of petty sessions.

(2) A person aggrieved by a decision made by or on behalf of the Commissioner may, within 2 months of receiving written advice of the decision, appeal against the decision on the ground that the Commissioner erred in the making of the decision.

(3) An appeal may be made to a magistrate or a firearms appeals tribunal but the commencement of an appeal to one extinguishes any right of appeal to the other.

(4) An appeal is to be commenced by written notice given in the manner prescribed.

- (5) Schedule 3 has effect in relation to —
- (a) the constitution and powers of firearms appeals tribunals;
 - (b) the members of firearms appeals tribunals;
 - (c) the procedure to be followed on an appeal to a firearms appeals tribunal; and
 - (d) other matters relating to firearms appeals tribunals and appeals to them.

(6) Subsection (5) does not affect the operation of section 34 (2) (c).

(7) A magistrate or firearms appeals tribunal to whom or which an appeal is made shall consider the appeal and may confirm, vary or set aside the decision appealed against and, if the decision is set aside, may —

- (a) make a decision in substitution for the decision set aside; or
- (b) remit the matter for reconsideration in accordance with any directions or recommendations that are considered appropriate.

(8) Before determining an appeal in a way that —

- (a) causes the issue or grant of a licence, permit or approval; or
- (b) varies or sets aside a restriction, limitation or condition to which a licence, permit or approval is subject,

the magistrate or firearms appeals tribunal shall give the Commissioner the opportunity to submit that any, or any other, restriction, limitation or condition should be imposed and shall give due regard to any submission made by the Commissioner.

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(9) In determining an appeal a magistrate may make any other order, including an order as to costs, that the magistrate thinks fit.

[Section 22 inserted by No. 59 of 1996 s.24.]

Firearms Act Extract of Licence

22A. (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 authorized, 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 authorization 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 authorization 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.

(3) When seeking to obtain ammunition for a firearm to which the exemption, licence, permit, approval or authorization 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 authorization 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

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- (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.]

Return of Extract of Licence

22B. 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) authorized, pursuant to a Corporate Licence, to carry or use a firearm or ammunition and has ceased to be so authorized,

and who was issued with an Extract of Licence in respect of that exemption, licence, permit, approval or authorization 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.]

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

22C. (1) Any person who, without lawful authority —

- (a) alters an Extract of Licence, licence, permit, approval or authorization to which this Act applies;

- (b) uses, or has in their possession, an Extract of Licence, licence, permit, approval or authorization 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 authorization 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 authorization 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 authorization 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 authorization 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.]

General offences

23. (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 12 months or a fine of \$4 000.

(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 18 months or a fine of \$6 000; or
- (b) otherwise, imprisonment for 12 months or a fine of \$4 000.

(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 an indictable offence and is liable —

- (a) if the firearm concerned was a handgun, on conviction, to imprisonment for 5 years; or
- (b) otherwise, to imprisonment for 18 months or a fine of \$6 000.

Summary conviction penalty in a case to which paragraph (a) 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 an indictable offence and is liable —

- (d) if the firearm concerned was a handgun, on conviction, to imprisonment for 5 years; or
- (e) otherwise, to imprisonment for 6 months or a fine of \$2 000.

Summary conviction penalty in a case to which paragraph (d) applies: Imprisonment for 12 months or a fine of \$4 000.

(6) Subject to subsection (7a) of this section, a person who uses a contrivance commonly known as a silencer, or any contrivance of a similar nature, commits an offence.

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

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(7) Subject to subsection (7a) of this section, 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 12 months or a fine of \$4 000.

(7a) A person who, being —

- (a) a member of the Police Force or an employee of the Police Department of the Public Service 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) of this section does not commit an offence under that subsection.

(8) A person who, without lawful excuse, points a firearm at any other person commits an offence.

Penalty: Imprisonment for 2 years or a fine of \$8 000.

(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: \$1 000.

(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 2 years or a fine of \$8 000.

(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 authorized to act on behalf of the owner or occupier, commits an offence.

Penalty: \$1 000.

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(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 authorized to act on behalf of the owner or occupier, commits an offence.

Penalty: \$1 000.

(10b) For the purposes of subsection (10) and subsection (10a) of this section, the holding of a permit issued under the *Wildlife Conservation Regulations 1970*⁶ 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: \$1 000.

[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 ss.25, 48 and 50 (1), (3), (4) and (5).]

Limitation periods

23A. A complaint for an offence against section 19 (1), 19 (2), 22C, 23 (5) (c), 23 (9) (a), 23 (9) (d), 24 (6) (b), 30B (1) or 30B (2) may be made at any time within 2 years from the time when the matter of complaint arose.

[Section 23A inserted by No. 59 of 1996 s.26.]

Disclosure by doctors of certain information

23B. (1) If a medical practitioner 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) 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 medical practitioner 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 medical practitioner in good faith in accordance with this section gives rise to a criminal or civil action or remedy.

[Section 23B inserted by No. 59 of 1996 s.26.]

Persons concerned in commission of offences

23C. 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.]

Summary trial of indictable offences

23D. (1) Where for any offence under this Act triable on indictment offenders may be punished summarily under this section any court of petty sessions before which a person is charged with the offence, or which deals with the charge or examines the person charged, or commits the person for trial, is to be constituted by a magistrate alone, or, if there is no magistrate available and the person consents, by 2 Justices.

(2) If a person is charged before a court of petty sessions with an offence under this Act triable on indictment the prosecutor may request the court to deal with the charge summarily and, if that request is made and the court, having regard to —

- (a) the nature and particulars of the offence;

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- (b) such particulars of the circumstances relating to the charge and the antecedents of the person charged as the court may require from the prosecutor; and
- (c) whether or not it is appropriate to do so,

considers that the charge can be adequately dealt with summarily, the court is to deal with the charge, and the person is liable on summary conviction to the penalty set out after the words "Summary conviction penalty" appearing after the provision of this Act in respect to which the person was charged.

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

Powers of police

24. (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 authorized to have such possession; or
- (b) evidence that he is authorized 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 authorization 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, authorization, 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 authorized 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 authorized 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 authorized 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;

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(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) of this section 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 authorization, 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 \$2 000.

(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 ss.27, 42 and 50 (2).]

Constructive possession

25. (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.

Search warrant

26. (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.]*

Disqualification by court imposing restraining order

27A. (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 or obtaining 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.]

Court may order forfeiture on conviction of offender

28. 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.]

Evidence

29. (1) In a prosecution for an offence against this Act an averment made by the complainant and contained in the complaint of the offence —

- (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 complaint 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 authorization 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 ss.31 and 43.]

Ammunition sales

30. (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 authorized to dispose of ammunition under subsection (1) of this section.

(3) At the time of any transaction authorized under subsection (1) or subsection (2) of this section the dealer shall make an entry in the prescribed manner in the record kept for

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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.

Penalty: \$1 000.

(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 authorization;

and

(b) an Extract of Licence in respect of that licence, permit, exemption, or authorization,

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 authorized 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 ss.32, 44 and 50 (1).]

Sale and disposal of firearms

30A. (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: \$1 000.

[Section 30A inserted by No. 59 of 1996 s.33.]

Loss, theft, destruction, or disposal out of the State, to be reported

30B. (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

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- (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 authorization to possess a firearm held by that person.

Penalty: \$1 000.

[Section 30B inserted by No. 59 of 1996 s.33.]

Records

31. (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.

(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) or (3) commits an offence.

Penalty: \$2 000.

[Section 31 amended by No. 59 of 1996 s.34.]

Safe keeping by traders

32. 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: \$2 000.

[Section 32 amended by No. 59 of 1996 s.35.]

Disposal of firearms

33. (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

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- (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.

(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 Fund.

(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.]

Regulations

34. (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) of this section, 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) the manner in which appeals under this Act may be brought and the procedure to be followed in the conduct of those appeals;
- (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;
- (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;

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- (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 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 \$1 000, 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 ss.37 and 50 (1).]

SCHEDULE 1

[section 3 (1).]

[Heading amended by No. 73 of 1994 s.4.]

ACTS REPEALED

Number of Act	Short title of Act
8 of 1931	<i>Firearms and Guns Act 1931.</i>
25 of 1931	<i>Firearms and Guns Act Amendment Act 1931.</i>
42 of 1939	<i>Firearms and Guns Act Amendment Act 1939.</i>
85 of 1953	<i>Firearms and Guns Act Amendment Act 1953.</i>
70 of 1956	<i>Firearms and Guns Act Amendment Act 1956.</i>
28 of 1960	<i>Firearms and Guns Act Amendment Act 1960.</i>
7 of 1962	<i>Firearms and Guns Act Amendment Act 1962.</i>
6 of 1963	<i>Firearms and Guns Act Amendment Act 1963.</i>
62 of 1963	<i>Firearms and Guns Act Amendment Act (No. 2), 1963.</i>
46 of 1966	<i>Firearms and Guns Act Amendment Act 1966.</i>
34 of 1968	<i>Firearms and Guns Act Amendment Act 1968.</i>
81 of 1969	<i>Firearms and Guns Act Amendment Act 1969.</i>
12 of 1971	<i>Firearms and Guns Act Amendment Act 1971.</i>

[Schedule 1 amended by No. 73 of 1994 s.4.]

SCHEDULE 2 — FIREARMS ADVISORY COMMITTEE

[s. 5B]

Definitions

1. In this Schedule —

“**appointed member**” means a member of the Committee appointed under section 5B (3) (a), (c), (d), (e), (f) or (g);

“**Committee**” means the Firearms Advisory Committee established by section 5B (1).

Tenure of office

2. (1) Subject to subclauses (2) and (3), an appointed member holds office for such period, not exceeding 2 years, as is specified in the member's instrument of appointment, and is eligible for reappointment.

(2) An appointed member may resign from office by written notice to the Minister.

(3) An appointed member may be removed from office by the Minister —

- (a) for mental or physical disability, incompetence, neglect of duty or misconduct that impairs the performance of the member's duties;
- (b) if the member is an insolvent under administration, as that expression is defined in the Corporations Law;
- (c) if the member is absent without leave from 2 consecutive meetings of the Committee of which the member has had notice; or
- (d) for any other act or omission that in the Minister's opinion —
 - (i) makes it inappropriate for the member to continue as a member; or
 - (ii) may adversely affect the functioning of the Committee.

Deputy members

3. (1) The Minister may appoint a person to be the deputy of a member of the Committee other than the Commissioner, and may revoke the appointment.

(2) The Commissioner may appoint a person to be the deputy of the Commissioner as a member of the Committee, and may revoke the appointment.

(3) A person who is the deputy of a member may attend any meeting of the Committee at which the member is not present and, when so attending, has all the powers, duties and entitlements of the member.

Meetings

4. (1) The Committee is to determine the procedure for convening and conducting its meetings.

(2) At a meeting of the Committee —

(a) the Chairman or, if the Chairman is absent, the Chairman's deputy, is to preside; or

(b) in the absence of both of them, a member chosen by the members present is to preside.

(3) The Committee is to record and maintain minutes of its meetings.

Remuneration

5. (1) Subject to subclause (2), an appointed member is entitled to such remuneration and allowances in respect of the performance of the member's functions under this Act as the Minister from time to time determines on the recommendation of the Minister for Public Sector Management.

(2) Subclause (1) does not apply to a person employed in the Public Service.

[Schedule 2 inserted by No. 59 of 1996 s.38.]

SCHEDULE 3 — FIREARMS APPEALS TRIBUNALS

[s. 22]

Definitions

1. In this Schedule —

“**appeal**” and “**decision**” have the same meanings as they have in section 22;

“**appellant**” means the person by whom an appeal is made;

“**CSM**” means the Chief Stipendiary Magistrate within the meaning of the *Stipendiary Magistrates Act 1957*;

“**respondent**” means the person who made the decision that is the subject of an appeal;

“**tribunal**” means a firearms appeals tribunal constituted under this Schedule.

Constitution and status of tribunals

2. (1) The CSM is to constitute one or more tribunals for the purposes of this Schedule, each consisting of —

(a) a presiding member, being a magistrate selected by the CSM from the panel created under clause 3 (1); and

(b) 2 associate members, one being a person selected by the CSM from the panel created under clause 3 (3) and the other being a person selected by the CSM from the panel created under clause 3 (5).

(2) The CSM is to cause written notice of the constitution of a tribunal to be given to its members.

(3) A person may be a member of more than one tribunal.

(4) The CSM may, by written notice to a member, remove that member from a tribunal.

(5) A tribunal is not a court and a person does not have any judicial status by reason of being a member of a tribunal.

Panels for selection of tribunal members

3. (1) A panel of magistrates is to be created for the purpose of clause 2 (1) (a).

(2) The panel created under subclause (1) is to consist of magistrates nominated by the CSM and appointed to the panel by the Governor.

(3) A panel of nominees of the Commissioner is to be created for the purpose of clause 2 (1) (b).

(4) The panel created under subclause (3) is to consist of persons appointed to the panel by the Governor on the recommendation of the Minister after being nominated to the Minister by the Commissioner.

(5) A panel of persons representing firearms users is to be created for the purpose of clause 2 (1) (b).

(6) The panel created under subclause (5) is to consist of persons appointed to the panel by the Governor on the recommendation of the Minister being persons who, in the Minister's opinion, have an occupational, recreational or sporting involvement or expertise with firearms or ammunition or both.

(7) Subject to subclauses (8) and (9), a person remains on a panel for such period, not exceeding 3 years, as is specified in the person's instrument of appointment, and is eligible for reappointment.

(8) A person may resign from a panel by written notice to the Minister.

(9) The Governor may remove a person from a panel.

Remuneration

4. (1) Subject to subclause (2), an associate member of a tribunal is entitled to such remuneration and allowances in respect of the performance of the member's functions under this Act as the Minister from time to time determines on the recommendation of the Minister for Public Sector Management.

(2) Subclause (1) does not apply to a person employed in the Public Service.

Assignment of business to tribunals

5. (1) If an appeal to a tribunal is commenced, the CSM is to assign that appeal to a particular tribunal for determination.

(2) If the CSM considers it just and proper, the CSM may remove an appeal from a tribunal and assign it to another tribunal for determination.

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Proceedings of a tribunal

6. (1) The presiding member shall appoint the time and place for the sittings of a tribunal and may adjourn its sittings from time to time.

(2) A tribunal may conduct proceedings by means of telephone or video conferencing.

(3) A tribunal is to act fairly, economically, informally and quickly in determining an appeal.

(4) A tribunal is to act according to the substantial merits of the case without regard to technicalities or legal form or precedent.

(5) To the extent that it is not prescribed by this Act or the regulations a tribunal shall determine its own procedure.

Quorum

7. (1) All 3 members must be present at any sitting of a tribunal.

(2) The decision of a majority of the members of a tribunal shall be the decision of the tribunal.

Parties

8. The parties to an appeal are the appellant and the respondent and any other person considered by the tribunal to have a sufficient interest in the matter.

Attendance, evidence and submissions

9. (1) A tribunal shall ensure that the parties to an appeal have reasonable notice of the sittings of the tribunal and shall give them reasonable opportunity to appear before the tribunal and call or give evidence, examine or cross-examine witnesses and make submissions.

(2) A party may also make written submissions to a tribunal.

(3) If either party does not appear at the time and place appointed for a sitting the tribunal may proceed with the determination of the appeal or adjourn the sitting to some other time.

Appearance or representation before a tribunal

10. (1) Subject to this clause, a party may —
- (a) appear personally before a tribunal, either with or without an advocate; or
 - (b) be represented before a tribunal by an agent.
- (2) A person who is a legal practitioner is not to appear as an advocate for, or represent, a party in proceedings before a tribunal.
- (3) A tribunal may direct that a specified person is not to appear as an advocate for, or represent, the appellant in proceedings before the tribunal.
- (4) A person who demands or receives any fee or reward for appearing as an advocate for, or representing, a party to proceedings before a tribunal commits an offence and is liable to a fine not exceeding \$1 000.

Powers of a tribunal

11. (1) A tribunal may summon persons required by the tribunal to give evidence before it and may examine those persons on oath or affirmation and may require the production of any documents, plans or other papers in the custody or control of any party.
- (2) A tribunal is not bound by rules of evidence, but may inform itself on any matter in such manner as it thinks fit.

Offence

12. A person who —
- (a) having been served with a summons to attend before a tribunal, fails without reasonable excuse (proof of which lies upon the person) to attend in obedience to the summons;
 - (b) having been served with a summons to produce before a tribunal any document, fails without reasonable excuse (proof of which lies upon the person) to comply with the summons;
 - (c) misbehaves before a tribunal, wilfully insults a tribunal or any of its members, or interrupts the proceedings of a tribunal; or

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- (d) fails without reasonable excuse (proof of which lies upon the person) to swear or affirm, or to answer any question, when required to do so by a tribunal,

commits an offence and is liable to a fine not exceeding \$2 000.

Costs

13. (1) Subject to subclause (2), the parties to an appeal are each to meet their own costs.

(2) If an appeal is successful, the tribunal may, at its discretion, make an order for the payment by the Commissioner of expenses reasonably incurred by the appellant.

Reasons for determination

14. A tribunal shall give the parties to an appeal to the tribunal written reasons for the determination of the tribunal on the appeal.

Appeal to Supreme Court in certain cases

15. (1) Subject to subclause (2), any person aggrieved by a determination or order of a tribunal in proceedings before the tribunal to which the person was a party may appeal to the Supreme Court against the determination or order in the manner, and in the time, prescribed by the Rules of Court.

(2) An appeal does not lie to the Supreme Court from a determination or order of a tribunal unless the appeal involves a question of law.

(3) The Supreme Court may make such order as to costs as it thinks fit in relation to an appeal to the Supreme Court under this clause.

[Schedule 3 inserted by No. 59 of 1996 s.38.]

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NOTES

^{1.} This reprint is a compilation as at 22 January 1997 of the *Firearms Act 1973* and includes all amendments effected by the other Acts referred to in the following Table^{1a}.

Table of Acts

Act	Number and Year	Assent	Commencement	Miscellaneous
<i>Firearms Act 1973</i>	36 of 1973	18 October 1973	1 July 1974 (see <i>Gazette</i> 29 March 1974 p.1027)	
<i>Firearms Act Amendment Act 1976</i>	61 of 1976	16 September 1976	16 September 1976	
<i>Firearms Act Amendment Act 1978</i>	54 of 1978	6 September 1978	6 September 1978	
<i>Firearms Amendment Act 1980</i>	35 of 1980	5 November 1980	24 July 1981 (see <i>Gazette</i> 24 July 1981 p.3060)	
<i>Firearms Amendment Act 1983</i>	3 of 1983	1 August 1983	1 August 1983	
<i>Acts Amendment (Financial Administration and Audit) Act 1985, section 3</i>	98 of 1985	4 December 1985	1 July 1986 (see section 2 and <i>Gazette</i> 30 June 1986 p.2255)	Section 4 savings and transitional
<i>Firearms Amendment Act 1987</i>	70 of 1987	22 November 1987	1 October 1989 (see <i>Gazette</i> 29 September 1989 p.3665)	
<i>Financial Administration Legislation Amendment Act 1993, Part 4</i>	6 of 1993	27 August 1993	1 July 1993 (see section 2 (1))	

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Act	Number and Year	Assent	Commencement	Miscellaneous
<i>Statutes (Repeals and Minor Amendments) Act 1994</i> , section 4	73 of 1994	9 December 1994	9 December 1994	
<i>Firearms Amendment Act 1994</i>	90 of 1994	5 January 1995	5 January 1995	
<i>Sentencing (Consequential Provisions) Act 1995</i> , Part 33	78 of 1995	16 January 1996	4 November 1996 (see section 2 and <i>Gazette</i> 25 October 1996 p.5632)	
<i>Financial Legislation Amendment Act 1996</i> , section 64	49 of 1996	25 October 1996	25 October 1996 (see section 2 (1))	
<i>Firearms Amendment Act 1996</i>	59 of 1996	11 November 1996	Act, other than section 16 6 December 1996 (see section 3 (1) and <i>Gazette</i> 6 December 1996 p.6699); section 16 operative on proclamation of Act No. 27 of 1996 (see section 3 (2))	Section 9 (2) transitional ² section 10 (2) saving ³ section 11 (2) transitional ⁴ section 15 (2) transitional ⁵ section 39 transitional ⁷ section 53 transitional ⁸

^{1a} As at the date of this reprint section 96 of the *Security and Related Activities (Control) Act 1996* (Act No.27 of 1996) was not in operation. Section 96 item 2 of Schedule 2 reads as follows —

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(1) In section 16 (c) after "ammunition therefore, and" the following is inserted —

" , subject to section 16A,

".

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(2) After section 16, the following section is inserted —

“ **Possession of firearms by security officers**

16A. A Corporate Licence referred to in section 16 (c) authorizes an organization 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 authorized to do so by a security officer's licence endorsed under section 24 of that Act;

”.

² Section 9 (2) of the *Firearms Amendment Act 1996* (Act No. 59 of 1996) reads as follows —

“ (2) For the purpose of determining when it first expires after this section comes into operation a Firearm Curio Licence that becomes a Firearm Collector's Licence under section 15 (2) is to be regarded as if it had been renewed on the day on which this section comes into operation.

”.

³ Section 10 (2) of the *Firearms Amendment Act 1996* (Act No. 59 of 1996) reads as follows —

“ (2) The amendment made by subsection (1) does not affect the validity of a licence or permit issued before the commencement of this section.

”.

⁴ Section 11 (2) of the *Firearms Amendment Act 1996* (Act No. 59 of 1996) reads as follows —

“ (2) The Minister is to ensure that, within 12 months after the commencement of the provisions of this Act other than section 16 —

(a) regulations are made in accordance with section 10A of the principal Act; and

(b) those regulations reflect the spirit of Resolution 5 of the Special Firearms Meeting of the Australasian Police Ministers' Council on 10 May 1996.

”.

⁵ Section 15 (2) of the *Firearms Amendment Act 1996* (Act No. 59 of 1996) reads as follows —

“ (2) A Firearm Curio Licence that is in force under the principal Act immediately before the commencement of subsection (1) (b) becomes a Firearm Collector's Licence on the commencement of that provision.

”.

⁶ Title changed pursuant to section 7 (3) (gb) of the *Reprints Act 1984*.

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⁷ Section 39 of the *Firearms Amendment Act 1996* (Act No. 59 of 1996) reads as follows —

“ **Transitional regulations**

39. (1) Regulations under section 34 of the principal Act may provide for the first renewal of a licence for a firearm after the commencement of the provisions of this Act other than section 16 to be effected at a time to be specified in the regulations, being a time that is earlier than would otherwise apply, and for related matters.

(2) The regulations may modify the operation of the principal Act for such time and to such extent as is necessary as a result of regulations made in accordance with subsection (1), but not so as to make a licence expire earlier than it otherwise would. ”

⁸ Section 53 of the *Firearms Amendment Act 1996* (Act No. 59 of 1996) reads as follows —

“ **Minister to report on implementation of APMC Resolutions**

53. (1) A reference to a “**Resolution**” in this section is a reference to a resolution of the Australasian Police Ministers’ Council meetings on 10 May 1996 and 17 July 1996.

(2) The Minister shall prepare a report on any Resolution that requires for its implementation —

- (a) any ministerial direction;
- (b) any other executive action;
- (c) the enactment of any Act; or
- (d) the making of any subsidiary legislation.

(3) The Minister shall cause copies of the report required by this section to be laid before each House of Parliament within 12 months after the commencement of the provisions of this Act other than section 16 or by 31 December 1997, whichever is the later.

(4) Without limiting the matters the subject of the report required by this section, the report must contain advice on the participation by this State in —

- (a) an effective nationwide firearms registration system in compliance with Resolution 2;
- (b) the development of uniform guidelines by licensing authorities in compliance with the Resolutions;

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- (c) the development of an accredited course for firearms safety training in compliance with Resolution 5;
- (d) the implementation of national uniform standards for when a licence for a firearm is to be refused or cancelled in compliance with Resolution 6 including the development of criteria and systems for determining mental and physical fitness to own, possess or use a firearm;
- (e) the development of a national standard approach to the storage of firearms and ammunition in compliance with Resolution 8;
- (f) the provision of records to the National Register of Firearms in compliance with Resolution 9; and
- (g) the implementation of compensation and incentive issues and other action taken before and after the proposed 12 month national amnesty in compliance with Resolution 11.

”.

