

FIREARMS AND GUNS.

22° Geo. V., No. VIII.

No. 8 of 1931.

[As amended by Acts:

- No. 25 of 1931 assented to 3rd November, 1931;
- No. 42 of 1939 assented to 20th December, 1939;
- No. 85 of 1953 assented to 18th January, 1954;
- No. 70 of 1956 assented to 4th January, 1957;
- No. 28 of 1960 assented to 21st October, 1960;
- No. 7 of 1962 assented to 27th September, 1962,
and reprinted pursuant to the provisions of the Amendments
Incorporation Act, 1938.]

AN ACT relating to Firearms, Pistols, and Guns.

[Assented to 21st August, 1931.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Firearms and Guns Act, 1931-1962*, and shall come into force on a day to be fixed by proclamation.*

Short title
as amended
by No. 7 of
1962, s. 1 (3).

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 The Acts mentioned in the schedule are hereby repealed to the extent therein set out.

Repeal.

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

Definitions.
No. 8 of
1931, s. 3
amended by
No. 42 of 1939,
s. 2.

“Commissioner” means the Commissioner of Police;

* Proclaimed to come into operation on 1st January, 1932: See *Gazette* dated 8th November, 1931, p. 2392.

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

Amended
by No. 42 of
1939, s. 2.

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

The term also includes ammunition designed for discharge from any firearm.

Inserted
by No. 42 of
1939, s. 2.

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

Amended
by No. 42 of
1939, s. 2.

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

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

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

4. This Act shall have the following application:—

Application of Act. No. 8 of 1931, s. 4, amended by No. 25 of 1931, s. 2; No. 42 of 1939, s. 3.

(1) It shall apply throughout the State to pistols.

To pistols generally.

(2) It shall apply throughout the State to any person who is an Asiatic or African alien, or who is an Asiatic or African alien claiming or deemed to be a British subject and to every person who is a native within the meaning of the Native Administration Act, 1905-1936.¹

To Asiatic and African aliens and natives generally.

(3) Subject to the provisions of paragraphs (1) and (2), it shall apply to all municipalities and within one mile of the boundaries of any municipality.

To municipalities.

(4) Subject to the provisions of paragraph (2), section five of this Act, relating to licenses, shall not apply, so far as regards firearms other than pistols, in any portion of the State not particularly specified in paragraph (3) of this section, unless the Governor by Proclamation* from time to time declares it to apply to any portion or portions not so specified. In all other respects it shall apply generally throughout the State.

License for a firearm other than pistol not necessary in other portions of State, unless the Governor declares by Proclamation.

¹ Now Native Welfare Act, 1905-1960: See No. 64 of 1954, s. 1 (2), (3).

* See Proclamations published in *Gazette* dated 20th November, 1953, at p. 2288; 4th February, 1955, at p. 225; and 21st December, 1962, at p. 4061.

*Firearms and Guns.**Licenses.*

Licenses.
No. 8 of 1931,
s. 5, amended
by No. 85 of
1953, s. 2.

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

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

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

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

(3) Licenses shall be of four kinds—

- (a) A license to possess a firearm: This license shall entitle the holder thereof to the possession of a specific firearm or firearms to be named and identified in the license.
- (b) A license to manufacture and repair firearms: This license shall entitle the holder to manufacture and/or repair firearms on premises to be named in the license, and to sell and dispose of firearms so manufactured at such premises in the ordinary way of business.
- (c) A license to deal in firearms: This license shall entitle the holder to deal in firearms on specified premises to be named in the license.
- (d) A license to conduct a shooting gallery: This license shall entitle the holder to conduct a shooting gallery on premises to be specified in the license.

* See Proclamations published in *Gazette* dated 20th November, 1953, at p. 2288; 4th February, 1955, at p. 225; and 21st December, 1962, at p. 4061.

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

Subs. (4)
added by
No. 85 of
1953, s. 2.

6. A license under this Act shall inure until the thirty-first day of December in the year in which it is granted, and shall be of no further effect unless renewed.

Period of
license.

7. A license shall be personal to the holder, and not transferable.

License not
transferable.

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

Persons
under 21
not to hold
pistol
license.

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

Persons
under 16
not to hold
a license.

(3) No Asiatic or African alien or person of Asiatic or African race claiming to be a British subject shall hold a license under this Act, unless with the express approval of the Commissioner of Police, who may in his absolute discretion withhold such consent, and the proviso to section ten shall not in such case apply: Provided that this paragraph shall not apply to any person of the Jewish and Lebanese races.

9. No license shall be required by any person—

Exemptions.
No. 8 of 1931,
s. 2, amended
by No. 85 of
1953, s. 3:
No. 70 of
1956, s. 2;
No. 28 of
1960, s. 2.

(a) who is a member of the naval, military, or air service of His Majesty, or the police force, or of a rifle club, or who has in his possession any firearm for the use of such service or club: Provided that the firearm is not used other than in the performance of such person's duty or when engaged in drill or target practice as the case may be:

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- (b) any common carrier or warehouseman, or his servant, who carries a firearm in the ordinary course of the trade or business of a common carrier or warehouseman;
- (c) any person *bona fide* using at a shooting gallery under the supervision of the licensee a firearm belonging to such licensee;
- (d) who is the Governor;
- (e) who is sent to the State to reside temporarily therein as the diplomatic or consular representative of a foreign state.
- (f) using a firearm the property of a member of a registered Gun Club, with his permission, on a properly constructed clay pigeon shooting range of a registered Gun Club.
- (g) who being an employee of a primary producer, with the permission of his employer, has in his possession on the employer's land for the purpose of destroying vermin thereon a firearm belonging to the employer.

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

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

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

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

Paras. (d)
and (e)
added by
No. 85 of
1933, s. 3.

Para. (f)
added by
No. 70 of
1936, s. 2.

Para. (g)
added by
No. 28 of
1960, s. 2.

License
not to be
issued in
certain
cases:
appeal.
No. 8 of 1931,
s. 10 repealed
and new s.
inserted by
No. 42 of
1939, s. 4.

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

Powers of Police Officers.

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

Powers of
police.
No. 8 of
1931, s. 11,
amended
by No. 85 of
1953, s. 4.

- (a) to demand from any person having possession of a firearm in respect of which a license is required under this Act the production of his license and his name and address;
- (b) to seize and take possession of any firearm in the possession of a person who has not the requisite license under this Act, and who is not entitled under this Act to have possession of the same without such license, and to take such firearm before any two justices to be dealt with according to law;
- (c) to stop, search, and detain—
 - (i) any person who may be suspected on reasonable grounds of having any unlicensed firearm in his possession without lawful excuse;
 - (ii) any vehicle or conveyance where there is reason to suspect any unlicensed firearm may be illegally kept,

and to take any unlicensed firearm found by him before any two justices to be dealt with according to law;

- (d) to arrest and take any person suspected on reasonable grounds of committing an offence under this Act, before any two justices to be dealt with according to law;

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

Disposal of
firearms.
S. 11A added
by No. 85 of
1933, s. 5.

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

- (a) the owner of the firearm cannot be found;
or
- (b) the firearm is in the opinion of the Commissioner of Police unfit for use; or
- (c) the owner of the firearm not being the holder of a license to possess it, refuses to lawfully dispose of the firearm within six months of it coming into the possession of the police officer unless the owner of the firearm requests the Commissioner in writing to retain the firearm in his custody, in which case, upon payment of such annual fee as may be prescribed, the Commissioner shall retain the same, from year to year, either until the owner obtains a license, or requests the same to be sold, or dies,

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

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

Offences.

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

Offences.
No. 8 of 1931, s. 12, amended by No. 42 of 1939, s. 5; No. 85 of 1953, s. 6; No. 7 of 1962, s. 2.

First Column—Description of Offence.	Second Column—Penalty.
<p>1. (a) Being in possession of any firearm without holding the requisite license for that firearm and without being a person exempted under section 9.</p> <p>(b) If the firearm is used or carried by the person charged between the hours of seven in the morning and seven in the following evening</p> <p>(c) If the firearm is used or carried by the person charged between the hours of seven in the evening and seven in the following morning</p>	<p>Not less than £1 nor more than £50. If the firearm in the possession of the offender is a pistol not less than £10 nor more than £100 or imprisonment with hard labour not exceeding six months or to both the fine and the imprisonment.</p> <p>Not less than £10 nor more than £50. If the firearm used or carried by the offender is a pistol not less than £10 nor more than £100 or imprisonment with hard labour not exceeding twelve months or to both the fine and the imprisonment.</p> <p>Not less than £10 nor more than £100, and imprisonment with hard labour not exceeding 12 months in addition. If the firearm used or carried by the offender is a pistol, not less than £25 nor more than £200 or imprisonment with hard labour not exceeding two years or to both the fine and the imprisonment.</p>
<p>2. Being intoxicated while in possession of a loaded firearm</p>	<p>Not less than £10 nor more than £50, and imprisonment with hard labour for 12 months in addition.</p>
<p>3. Being intoxicated or excited by liquor while in possession of a firearm</p>	<p>£20, or imprisonment with hard labour not exceeding three months.</p>

*Firearms and Guns.*Offences—*continued.*

First Column—Description of Offence.	Second Column—Penalty.
4. Selling, delivering, knowingly permitting possession to be taken of or disposing of a firearm to or by any person not entitled to possess the same under this Act, or to or by any person who the alleged offender has reasonable grounds to believe is intoxicated, excited by liquor, or of unsound mind	£100, or imprisonment with hard labour not exceeding six months.
5. Manufacturing firearms without the requisite license	A misdemeanour punishable by imprisonment with hard labour for two years, or on summary conviction to a fine not less than £20 or more than £100 and imprisonment with hard labour not exceeding twelve months.
5A. Defacing or altering without lawful excuse, any number or identification mark on a firearm or being in possession of a firearm whereon any number or identification mark recorded on the license has been altered or defaced	A misdemeanour punishable by imprisonment with hard labour for two years, or on summary conviction to a fine not more than £100 or imprisonment with hard labour not exceeding twelve months or to both the fine and the imprisonment.
6. Dealing in or repairing firearms without being the holder of the requisite license	For a first offence, not exceeding £50; for a subsequent offence, not exceeding £100.
7. Using a contrivance commonly known as a Maxim Silencer or any contrivance of a similar nature	£50, or imprisonment with hard labour not exceeding twelve months.
8. Having possession of a contrivance commonly known as a Maxim Silencer or any contrivance of a similar nature	£20, or imprisonment with hard labour not exceeding six months.
9. Permitting a person under 16 years of age unlawfully to have possession of a firearm unless the alleged offender proves that he took all reasonable precautions to prevent the same	£10.
10. Having possession of a firearm and not taking all reasonable precautions to ensure its safe keeping	£10.

Offences—continued.

First Column—Description of Offence.	Second Column—Penalty.
11. Any person under the age of 16 years unlawfully having in his possession any firearm: Provided that it shall not be an offence for any such person to use a firearm belonging to and under the supervision of a person licensed under this Act	£10.
12. Whether as a licensed dealer or otherwise purchasing a firearm from a person not authorised by or under this Act to possess or sell such firearm	£10.
13. Using a firearm on land belonging to another without the consent of the owner or occupier of such land	£10.
13A. Without lawful excuse, knowingly discharging any shot, bullet or other missile from a firearm onto, from or across any road	£10.
14. (a) Refusing or failing without lawful excuse to answer any question put by a police officer under this Act	£10.
(b) Wilfully misleading any police officer in any particular likely to affect the discharge of his duty	£10.
(c) Refusing or failing to produce any license held by him under this Act or a firearm in respect of which any license is issued within a reasonable time after demand made by any police officer	£10.
15. By act or omission committing any breach of the provisions of this Act for which no penalty is specifically provided	£10.
16. Pointing a firearm at any other person	£25.

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

Possession of firearm carried in parts. S. 12A added by No. 85 of 1953, s. 7.

Search
warrant.

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

Governor
may order
delivery
of firearms
by dealers
and manu-
facturers
in cases of
emergency.

14. Where the Governor is of opinion that any emergency has arisen, or is likely to arise, which may render a proclamation hereafter specified necessary, he may by proclamation declare that all dealers and manufacturers and repairers of firearms in the State, or in any specified portion of the State, having firearms in their possession shall render the same innocuous in a method to be stated in the proclamation, and/or may also declare that such dealers, manufacturers or repairers shall deliver the said firearms or such parts as shall render the same innocuous within a specified time to the Commissioner or any of his officers for safe keeping at a specified place or places. If any person shall fail to comply with the requirements of any such proclamation, he shall be guilty of a misdemeanour punishable by imprisonment with hard labour not exceeding three years, or to a fine not exceeding five hundred pounds, or on summary conviction to imprisonment with hard labour not exceeding twelve months or to a fine not exceeding twenty pounds.

Evidence.
S. 15 repealed
and
re-enacted
by No. 85 of
1953, s. 8.

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

Court
may order
forfeiture
of firearm
on convic-
tion of
offender.

16. On the conviction of any person under this Act, the court may order that any firearm relating to the charge shall be forfeited to the Crown: Provided that if it appears to the court that the firearm

belongs to some person other than the person convicted, and who is lawfully entitled to the possession thereof, and further that such other person has not been guilty of any act or omission constituting an offence in relation to the firearm under this Act or any regulations made thereunder, the court shall order its delivery to such other person.

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

Court
may cancel
license or
disqualify
offender.

18. The Governor may make regulations under this Act—

Regulations.

- (a) for the keeping of records by persons who are licensed to manufacture and/or repair or to deal in firearms under this Act; the form thereof; and the nature of the entries to be made therein;
- (b) permitting dealers, without the production of a license, to deliver ammunition to any person who represents himself as entitled to obtain it, or as the agent of a person entitled to obtain it, subject to the *bona fide* observance of precautionary conditions;
- (c) for the production to and inspection of such records by an officer of police;
- (d) making provision for the safe custody and control of firearms by persons entitled to have possession of the same;

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- (e) providing for the registration of curios and trophies, and exempting, either generally or under specified conditions, the holders thereof from taking out licenses therefor under this Act;
- (f) prescribing the method of applying for licenses under this Act;
- (g) prescribing the forms to be used under this Act;
- (h) prescribing the fees to be taken under this Act; provided that the fee for a license to possess a firearm shall not exceed five shillings;
- (i) for the issue of licenses to banks and financial institutions in the name of the bank or financial institution, and providing for the possession and use by the officers of such banks or financial institutions, for the protection of their employers' property, of the firearms specified in such licenses without such persons being named therein as the holders;
- (j) for the keeping and/or publication and inspection of registers of licensed persons;
- (k) prescribing the method of appeal, and the forms to be used in relation to appeals from the decision of the Commissioner refusing to grant or renew licenses under this Act;
- (l) providing for the revocation by the Commissioner of a license where the Commissioner is satisfied that the holder is not entitled to such license under this Act; or that such license was obtained by fraud; or that such person is no longer a fit and proper person to hold such license; or that the particular weapon for which such license was obtained is dangerous or unfit

for use: Provided that such regulations shall make similar provisions in regard to appeals by any person aggrieved by reason of such revocation as in the case of a refusal by the Commissioner to grant a license;

- (m) providing for the delivering up of cancelled or revoked licenses;
- (n) for the conduct of shooting galleries;
- (o) prescribing penalties not exceeding twenty pounds for the breach by act or omission of any such regulation.

THE SCHEDULE.

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