

PO301\*

Firearms Act 1973

## **Firearms Amendment Regulations (No. 2) 2003**

Made by the Governor in Executive Council.

### **1. Citation**

These regulations may be cited as the *Firearms Amendment Regulations (No. 2) 2003*.

### **2. The regulations amended**

The amendments in these regulations are to the *Firearms Regulations 1974*\*.

[\* *Reprinted as at 8 June 2001.*

*For amendments to 30 June 2003 see Western Australian Legislation Information Tables for 2002, Table 4, p. 114.]*

### **3. Regulation 6A amended**

Regulation 6A(4) is amended by deleting “persons to whom an approval or permit can be granted or a licence can be issued,” and inserting instead —

“ grant of an approval or permit or the issue of a licence, ”.

4. **Regulations 6C to 6G inserted**

After regulation 6B the following regulations are inserted —

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**6C. Meaning of “close associate” of the holder of a Dealer’s Licence in regulations 6D, 6E and 6G**

(1) In this regulation —

“**relevant financial interest**”, in relation to a business, means —

- (a) any interest in the capital or assets of the business; or
- (b) any entitlement to receive any income derived from the business, whether the entitlement arises at law or in equity or otherwise;

“**relevant position**”, in relation to a business, means a position whose holder participates in the management of the business (whether in the capacity of a director, manager or secretary or otherwise);

“**relevant power**” means any power, whether exercisable by voting or otherwise and whether exercisable alone or in association with others —

- (a) to participate in any managerial or executive decision; or
- (b) to elect or appoint any person to any relevant position.

(2) For the purposes of regulations 6D, 6E and 6G, a person is a “**close associate**” of the holder of a Dealer’s Licence if the person —

- (a) holds any relevant financial interest, or is entitled to exercise any relevant power (whether in his or her own right or on behalf of any other person), in the business of the holder, and by virtue of that interest or power is able to exercise a significant influence over or with respect to the conduct of that business; or
- (b) holds any relevant position, whether in his or her own right or on behalf of any other person, in the business of the holder.

**6D. Information about close associates of an applicant for the issue or renewal of a Dealer’s Licence**

In an application for the issue or renewal of a Dealer’s Licence, the applicant must give the name and address of each person who will be (if the licence is issued or renewed) a close associate of the applicant and particulars of the nature of each such person’s association with the applicant.

**6E. Dealer's Licences — restrictions on issue**

The Commissioner must not issue or renew a Dealer's Licence if the Commissioner —

- (a) is not satisfied that the applicant is to be the person primarily responsible for the management of the business to be carried on under the authority of the licence; or
- (b) is of the opinion that a person who will be (if the licence is issued or renewed) a close associate of the applicant is not a fit and proper person to be a close associate of the holder of a Dealer's Licence.

**6F. Condition on Dealer's Licence — persons not to be involved in firearms dealing business**

(1) In this regulation —

**“prescribed person”**, in relation to the business authorised by a Dealer's Licence, means a person who —

- (a) has, within the period of 10 years before being employed in that business, been —
  - (i) convicted in this State of an offence under Part II Chapter IX or Part V (other than Chapters XXXIV and XXXV) of *The Criminal Code*; or
  - (ii) convicted elsewhere of a substantially similar offence;
- (b) has, within the period of 10 years before being employed in that business, had his or her Dealer's Licence revoked by the Commissioner for any reason;
- (c) has, within the period of 10 years before being employed in that business, had his or her application for a licence, permit or approval refused by the Commissioner, or had a licence, permit or approval issued or granted to him or her revoked, because —
  - (i) the Commissioner was not satisfied that the person was a fit and proper person to hold the approval, permit, or licence; or
  - (ii) the Commissioner considered that the issue of the licence or grant of the permit or approval to the person would be contrary to the public interest;
- (d) is subject to a violence restraining order as defined in section 11(4) of the Act;
- (e) is subject to a conditional release order, a community based order, an intensive

- supervision order, suspended imprisonment or an early release order under the *Sentencing Act 1995*, or a similar order or bond made or entered into elsewhere; or
- (f) is subject to a disqualification order made under section 27A.
- (2) A Dealer's Licence may be made subject to the condition that the holder of the licence must not —
- (a) employ a prescribed person in the business that is authorised by the licence; or
- (b) permit a prescribed person to act as an agent for, or participate in the management of, that business.
- (3) It is a defence for the holder of a Dealer's Licence prosecuted for an offence under section 21(2) of the Act of failing to comply with the condition referred to in subregulation (2), if the holder proves that he or she did not know, and could not reasonably be expected to have known, that the person employed or permitted to act as an agent for, or to participate in the management of, the holder's business was in fact a prescribed person.

**6G. Condition on a Dealer's Licence — information about close associates to be provided**

- (1) A Dealer's Licence may be made subject to the condition that whenever a person ceases to be or becomes a close associate of the holder, the holder must notify the Commissioner in accordance with subregulation (2) of —
- (a) the name and address of each person who is a close associate of the holder; and
- (b) the particulars of the nature of each such person's association with the holder.
- (2) The notice under subregulation (1) must be given in writing to the Commissioner within 7 days after a person ceases to be or becomes a close associate of the holder.
- (3) A person must not, in any notice under subregulation (1), make a statement or provide information knowing it to be incorrect or misleading.

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**5. Regulation 18 amended**

- (1) Regulation 18(1)(b)(i) and (ii) are each amended by inserting after “record of all firearms” —
- “ and major firearm parts ”.

- (2) After subregulation (1) the following subregulation is inserted —

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- (1a) In subregulation (1) and Forms 21 and 22 —

**“major firearm part”** means any slide, barrel, revolving chamber, frame, receiver, trigger assembly or magazine.

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**6. Schedule 1 amended**

- (1) Schedule 1 Form 3 Part I is amended by inserting before item 1 —

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Particulars of each close associate:

Surname	Other names	Residential address	Nature of association
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- (2) Schedule 1 Form 3 Part II is amended by inserting before item 1 —

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Particulars of each close associate:

Surname	Other names	Residential address	Nature of association
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- (3) Schedule 1 Form 21 is amended as follows:

- (a) in the heading by inserting after “RECORD OF FIREARMS” —

“ **AND MAJOR FIREARM PARTS** ”;

- (b) in the Table by inserting after “Type of Firearm” —

“ or Major Firearm Part ”.

- (4) Schedule 1 Form 22 is amended as follows:

- (a) in the heading by inserting after “RECORD OF FIREARMS” —

“ **AND MAJOR FIREARM PARTS** ”;

- (b) in the Table by inserting after “Description of Firearm” —

“ or Major Firearm Part ”.

**7. Schedule 2 amended**

Schedule 2 is amended by inserting after the item “5 mm Remington Rim Fire Magnum” the following item —

“ .17 Hornady magnum rim fire ”.

**8. Schedule 3 amended**

- (1) Schedule 3 is amended in the clause under the heading “Restrictions for category H” as follows:
- (a) by inserting before “An” the subclause designation “(1)”;
  - (b) in paragraph (a) by inserting before “it is for a firearm” —  
“ subject to subclauses (2) to (6), ”;
  - (c) by inserting the following subclauses —
- “
- (2) An approval or permit may be granted, and a licence may be issued, to a person under subclause (1)(a) only if —
- (a) the person has been a member of an approved shooting club for at least 6 months;
  - (b) if the person has been a member of an approved shooting club for less than 12 months, the approval, permit or licence does not apply to more than 2 handguns being either —
    - (i) one .177 air pistol and one .22 calibre handgun; or
    - (ii) one .177 air pistol and one centre fire handgun;
- and
- (c) the person has satisfactorily completed an approved firearm safety training course while being a member of the shooting club.
- (3) Subject to subclause (5), an approval or permit may be granted, and a licence may be issued, to a person under subclause (1)(a) only if it applies to a handgun —
- (a) that has a calibre of .45 or less;
  - (b) that is not capable of firing more than 10 rounds without being reloaded; and
  - (c) that has a barrel length 120 mm or more in the case a semi-automatic handgun and 100 mm or more in any other case, unless the Commissioner is satisfied that —
    - (i) the handgun has been specially designed for target shooting; and
    - (ii) the design does not make the handgun easier to conceal than a handgun that has a barrel length of 120 mm or 100 mm, as the case requires.
- (4) Subject to subclause (5), an approval or permit may be granted, and a licence may be issued, to a person under subclause (1)(a) in relation to a handgun that has a calibre greater than .38 but not greater than .45 only if the approval, permit or licence is subject to the condition that the handgun must not be used except in either —
- (a) the shooting discipline known as “Metallic Silhouette”; or

- (b) the shooting discipline known as “Western Action” or “Single Shot”.
- (5) Subclauses (3) and (4) do not apply to a muzzle loading handgun or a cap and ball percussion fired handgun.
- (6) An approval or permit may be granted, and a licence may be issued, to a person under subclause (1)(a) only if it is subject to the condition that —
  - (a) if the approval, permit or licence relates to one or more handguns in a single discipline — the licensee must use one of those handguns in at least 6 shooting competitions organised by the club for the discipline on different days in each year; or
  - (b) if the approval, permit or licence relates to at least one handgun in each of 2 or more disciplines — the licensee must use a handgun from each discipline in at least 4 shooting competitions organised by the club for the discipline on different days in each year.
- (7) In this clause —
  - “**approved**” means —
    - (a) approved by the Commissioner; or
    - (b) approved in another State or Territory under a law of that State or Territory corresponding to this clause;
  - “**barrel length**” in relation to a handgun means —
    - (a) in the case of a revolver — the distance from the muzzle of the barrel to the breach end immediately in front of the cylinder; and
    - (b) in any other case — the distance from the muzzle of the barrel to the point of the breach face (including the chamber), measured with the top slide (if any) in the closed position.

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By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.

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