

South Australia

Firearms Act 2015

An Act to provide for the control of firearms; to repeal the *Firearms Act 1977*; to make consequential amendments to other Acts; and for other purposes.

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Legislative history

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Firearms Act 2015*.

2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Principles and objects of Act

- (1) The underlying principles of this Act are—
 - (a) to confirm firearm possession and use as a privilege that is conditional on the overriding need to ensure public safety; and
 - (b) to improve public safety—
 - (i) by imposing strict controls on the possession, use, acquisition, supply and manufacture of firearms; and
 - (ii) by promoting the safe and responsible storage, transport and use (whether for recreational or other purposes) of firearms; and
 - (c) to facilitate a nationally consistent approach to the control of firearms.
- (2) The objects of this Act are as follows:
 - (a) to ensure that the possession and use of automatic and self-loading firearms is permitted only in strictly limited circumstances;
 - (b) to establish an integrated licensing and registration scheme for all firearms;
 - (c) to require each person who possesses or acquires a firearm or ammunition under the authority of a licence or permit to have established a genuine reason to possess or acquire the firearm or ammunition;
 - (d) to provide strict requirements that must be satisfied in relation to firearms and transactions and activities involving firearms, including requirements to ensure the safe and secure storage and transport of firearms;
 - (e) to reduce the number of firearms that are in unlawful possession in the community through a general amnesty;
 - (f) to prevent or restrict persons and organisations from accessing, possessing or using firearms for criminal purposes;
 - (g) to minimise the risk of persons becoming victims of crimes involving the use or threatened use of firearms;
 - (h) to minimise the risk of persons causing injury or harm (including psychological harm) to themselves or others by the use or threatened use of firearms.

4—Interpretation

- (1) In this Act, unless the contrary intention appears—

accredited paint-ball employee means a person accredited in accordance with the regulations to possess or use a paint-ball firearm on the grounds of a recognised paint-ball operator in the ordinary course of paint-ball shooting operations on the grounds as an employee of the operator;

acquire means acquire through purchase, gift, loan or hire;

air gun—see section 5;

ammunition means ammunition suitable for use in a firearm, and includes—

- (a) an article consisting of a cartridge case fitted with a live primer and a projectile; and
- (b) an article consisting of a cartridge case fitted with a live primer and containing a propelling charge and a projectile; and
- (c) live primers, propellants and blank cartridges; and
- (d) an article of a kind declared by the regulations to be ammunition,

but does not include—

- (e) inert blank cartridges; or
- (f) inert drill rounds; or
- (g) snap caps or other item designed to fit in the breech or chamber for the purpose of preventing damage to the firing pin; or
- (h) paint-balls; or
- (i) an article of a kind declared by the regulations not to be ammunition;

antique firearm—see section 5;

arms fair means an event involving the temporary display of firearms, firearms parts or ammunition for the purposes of sale or exhibition and to which the general public has access;

Australian citizen means an Australian citizen within the meaning of the *Australian Citizenship Act 2007* of the Commonwealth;

automatic firearm—see section 5;

cartridge case means a container made of brass, plastic or other material that is designed to contain propellant, house a primer at the rear, hold 1 or more projectiles at the front and function as a gas seal during firing;

category A, category B, category C, category D, category H firearms—see section 5;

code of practice means a code of practice for the security, storage or transport of firearms and ammunition under Part 6;

collectors' club means a recognised firearms club that—

- (a) is established to foster the interests of persons who collect, or collect and display, firearms; and
- (b) does not include as part of its regular activities the shooting of firearms;

commercial range operator means a person who carries on the business of providing—

- (a) a shooting range (not being a shooting gallery) for use by members of the public; and
- (b) firearms for use by members of the public at the range;

company includes a body corporate;

company's principal nominee—see section 16;

company's secondary nominee—see section 16;

contravention includes failure to comply;

criminal intelligence means information relating to actual or suspected criminal activity (whether in South Australia or elsewhere) the disclosure of which could reasonably be expected to prejudice criminal investigations, to enable the discovery of the existence or identity of a confidential source of information relevant to law enforcement or to endanger a person's life or physical safety;

criminal organisation has the same meaning as in Part 3B Division 2 of the *Criminal Law Consolidation Act 1935*;

dealer means a person—

- (a) who carries on the business of purchasing, selling or hiring out firearms, firearm parts or ammunition; or
- (b) who carries on the business of a pawnbroker or auctioneer and handles firearms, firearm parts or ammunition in the course of that business; or
- (c) who carries on the business of repairing, modifying or testing firearms or firearm parts; or
- (d) who carries on the business of holding or storing firearms or firearm parts for the purpose of repair, safekeeping or disposal;

director of a company includes a person occupying or acting in the position of a director or member of the governing body of the company, by whatever name called and whether or not validly appointed to occupy or duly authorised to act in the position, and includes any person in accordance with whose directions or instructions the directors or members of the governing body are accustomed to act;

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

firearm means—

- (a) a device designed to fire bullets, shot or other projectiles by means of burning propellant or by means of compressed air or other compressed gas; or
- (b) a device of a kind declared by the regulations to be a firearm,

and includes a receiver of a firearm and any device or devices which (whether or not rendered temporarily or permanently unusable) would, if in working order, or if assembled and in working order, be a firearm within the meaning of this definition but does not include—

- (c) an antique firearm; or

(d) a device of a kind declared by the regulations not to be a firearm;

firearm part means a barrel, firing mechanism, magazine, cylinder, hammer, bolt, breech block or slide designed as, or reasonably capable of forming, part of a firearm;

firearm refurbishment permit means a permit issued under the regulations authorising a person who carries on the business of refurbishing firearms to possess firearms for the purpose of that business;

firearms club means a club for the benefit of enthusiasts who are interested in firearms generally or in a particular category of firearm;

firearms licence means a firearms licence in force under Part 2;

firearms prohibition order means an order in force under Part 8 (including an interim firearms prohibition order);

firing mechanism of a firearm means the mechanism of the firearm that is designed for the purpose of firing the firearm and includes a trigger mechanism or firing pin;

fit and proper person—see section 7;

foreign firearms dealer means a person who is authorised, under legislation of a jurisdiction outside this State, to carry on the business of a dealer by an instrument that is, in the opinion of the Registrar, equivalent to a licence authorising a person to carry on the business of a dealer under this Act;

foreign firearms dealer permit means a permit issued under the regulations authorising the display, purchase, sale or use of firearms, firearm parts or ammunition by a foreign firearms dealer at an arms fair;

foreign restraining order means a foreign intervention order within the meaning of the *Intervention Orders (Prevention of Abuse) Act 2009* or a foreign restraining order within the meaning of the *Summary Procedure Act 1921*;

foreign theatrical armourer means a person whose usual place of residence is in another jurisdiction who is authorised to possess or use a firearm for the purpose of film, television or theatre production under the law of his or her usual place of residence;

foreign theatrical armourer permit means a permit issued under the regulations authorising a foreign theatrical armourer to possess or use a firearm for the purpose of film, television or theatre production in South Australia;

gift includes the transfer of ownership of a firearm to a beneficiary of a deceased estate in the distribution of the estate;

grounds of a recognised firearms club means grounds provided or arranged to be provided by or on behalf of a recognised firearms club for use by members of the club;

grounds of a recognised paint-ball operator means grounds provided or arranged to be provided by or on behalf of a recognised paint-ball operator for use by participants in an organised activity involving the use of paint-ball firearms;

handgun—see section 5;

identifying mark of a firearm—see section 29;

interim firearms prohibition order—see section 43;

international visitor firearms permit means a permit issued under the regulations to authorise a person who is visiting, or who intends visiting, Australia—

- (a) to possess and use a firearm for the purpose of competitive shooting or hunting; or
- (b) to possess and use a firearm for the purpose of providing personal security services for a foreign dignitary or official; or
- (c) to possess and use a firearm for a purpose prescribed by the regulations;

licence means a firearms licence;

licensed dealer means the holder of a licence authorising the person to carry on the business of a dealer under this Act, or the holder of a licence under corresponding legislation of another State or Territory of the Commonwealth to carry on the business of a dealer;

licensee means the holder of a firearms licence;

loading mechanism of a firearm means all the parts of the firearm (except the barrel) that are designed to place or hold or to place and hold a round in position for firing, and includes the magazine of the firearm (if any);

loan, in relation to a firearm, includes any grant of the use of the firearm to a person on the understanding that it will be returned (other than under a hire agreement);

medical practitioner means a person registered under the *Health Practitioner Regulation National Law* to practise in the medical profession (other than as a student);

member, of a criminal organisation, includes an associate member or prospective member, however described;

owner of a firearm includes a person who has possession of a firearm in a representative capacity while authorised under an Act or law to manage the estate or property of another who has died, lacks legal capacity, is unable to manage his or her affairs or is insolvent;

paint-ball means a projectile primarily containing dye, paint or other marking substance designed to mark a person or object;

paint-ball firearm—see section 5;

paint-ball operator means a person who carries on the business of providing or arranging for the provision of grounds for use by participants in an organised activity involving the use of paint-ball firearms (but not involving the use of any other firearms);

participant, in a criminal organisation, has the same meaning as in Part 3B Division 2 of the *Criminal Law Consolidation Act 1935*;

permanent resident means a permanent resident within the meaning of the *Australian Citizenship Act 2007* of the Commonwealth;

possession—see section 6;

prescribed firearm—see section 5;

prohibited firearm accessory means an item, or an item of a class, prescribed by the regulations that may be fitted to or used in conjunction with a firearm;

psychologist means a person registered under the *Health Practitioner Regulation National Law* to practise in the psychology profession (other than as a student);

public safety notice—see section 60;

pump action shotgun—see section 5;

purchase includes acquire by barter or exchange;

receiver of a firearm means the body or frame of the firearm that is designed to hold the firing mechanism or the loading mechanism or both in place, but does not include the stock or barrel of the firearm;

recognised coach means a person recognised by a shooting club as being a fit and proper person to instruct others in the skills of using firearms;

recognised commercial range operator means a commercial range operator declared to be a recognised commercial range operator under the regulations;

recognised firearms club means a firearms club declared to be a recognised firearms club under the regulations;

recognised paint-ball operator means a paint-ball operator declared to be a recognised paint-ball operator under the regulations;

refurbishing a firearm means bluing or chroming the firearm, or undertaking other processes in relation to the firearm, to enhance its appearance or structural integrity, but does not include repairing the firearm;

registered means registered under this Act;

Registrar—see Part 10;

relative of a person means the spouse, domestic partner, parent or remoter lineal ancestor, son, daughter or remoter issue or brother or sister of the person;

repealed Act means the *Firearms Act 1977* repealed by this Act;

restricted firearm mechanism means a mechanism or other fitting—

- (a) that can be fitted to a firearm to convert it to an automatic firearm; or
- (b) that, when fitted to a suitable firearm, will enable the firearm to fire grenades or other explosive projectiles;

round means an unfired complete live cartridge;

sale includes the disposal of a firearm by barter or exchange;

self-loading firearm—see section 5;

shooting club means a recognised firearms club that includes amongst its regular activities the shooting of firearms;

shooting gallery means an indoor or outdoor gallery at which members of the public can use shooting gallery firearms that are attached to a shooting bench to shoot at stationary or moving targets;

shooting gallery firearm means—

- (a) a .177 calibre air gun; or

- (b) a handgun designed to fire shot, bullets or other projectiles by means of compressed air or other compressed gas and not by means of burning propellant; or
- (c) a firearm of a prescribed kind;

sound moderator means a device designed or adapted to be attached to, or comprising part of, a firearm to muffle the report when the firearm is fired and includes baffles, tubes or other parts that when fitted together would comprise a sound moderator;

spouse—a person is the spouse of another if they are legally married;

supply means supply through sale, gift, loan or hire;

Tribunal means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*.

- (2) For the purposes of this Act, the capacity of a magazine that has been modified to reduce its capacity will only be regarded as having the reduced capacity, instead of its capacity as manufactured, if it has been modified in a manner approved by the Registrar.

5—Categories and types of firearms

- (1) Firearms are divided into the following categories for the purposes of this Act:
 - (a) *category A firearms* consisting of the following:
 - (i) air guns;
 - (ii) paint-ball firearms;
 - (iii) rim fire rifles (not being self-loading rifles);
 - (iv) shotguns (not being self-loading or pump action shotguns);
 - (v) break action combination shotguns and rim fire rifles;
 - (b) *category B firearms* consisting of the following:
 - (i) muzzle loading firearms (not being handguns);
 - (ii) revolving chamber rifles;
 - (iii) centre fire rifles (not being self-loading centre fire rifles);
 - (iv) multiple barrel centre fire rifles that are not designed to hold additional rounds in a magazine;
 - (v) break action combination shotguns and rifles (not being break action combination shotguns and rim fire rifles);
 - (vi) all other firearms (not being prescribed firearms, handguns, self-loading firearms or pump action shotguns) that are not category A firearms;
 - (c) *category C firearms* consisting of the following:
 - (i) self-loading rim fire rifles having a magazine capacity of 10 rounds or less;
 - (ii) self-loading shotguns having a magazine capacity of 5 rounds or less;

- (iii) pump action shotguns having a magazine capacity of 5 rounds or less;
 - (d) **category D firearms** consisting of the following:
 - (i) self-loading rim fire rifles having a magazine capacity of more than 10 rounds;
 - (ii) self-loading centre fire rifles;
 - (iii) self-loading shotguns having a magazine capacity of more than 5 rounds;
 - (iv) pump action shotguns having a magazine capacity of more than 5 rounds;
 - (e) **category H firearms** consisting of handguns (not being prescribed firearms);
 - (f) **prescribed firearms** consisting of the following:
 - (i) automatic firearms;
 - (ii) mortars, bazookas, rocket propelled grenades and similar military firearms designed to fire explosive projectiles;
 - (iii) firearms designed to fire projectiles containing tear gas or any other lachrymatory substance or any nauseating substance or poison (but not firearms designed to tranquillise, immobilise or administer vaccines or other medicines to animals);
 - (iv) firearms designed to have the appearance of other objects;
 - (v) firearms of a kind declared by the regulations to be prescribed firearms.
- (2) In this Act—
- air gun** means a firearm (other than a handgun) designed to fire shot, bullets or other projectiles by means of compressed air or other compressed gas and not by means of burning propellant;
- antique firearm** means a firearm that—
- (a) was manufactured before 1900; and
 - (b) is kept solely for curiosity, display, ornamental or investment purposes; and
 - (c) is not used to fire projectiles; and
 - (d) —
 - (i) in the case of a firearm other than a category H firearm—
 - (A) is designed to fire breech loading cartridges and is a firearm the ammunition for which is not ordinarily available for purchase by retail in Australia; or
 - (B) is not designed to fire breech loading cartridges; or
 - (ii) in the case of a category H firearm—is a handgun designed or altered to fire by means of a flintlock, matchlock, wheel-lock or other system used prior to the use of percussion caps as a means of ignition;

automatic firearm means a firearm that is designed to fire a round when the trigger is brought to the firing position and to continue to fire 1 or more rounds automatically while the trigger is held in that position;

handgun means a firearm with a barrel length of less than 400 millimetres that is designed or adapted for aiming and firing from the hand and is reasonably capable of being carried concealed about the person;

paint-ball firearm means an air gun designed to fire paint-balls;

pump action shotgun means a shotgun that is reloaded manually by moving the forward hand grip which is part of the loading mechanism of the gun backwards and then forwards;

self-loading firearm means a firearm that is designed to fire a round when the trigger is brought to the firing position and to continue to fire 1 or more rounds by releasing the trigger and returning it to the firing position to fire each additional round, but does not include a shotgun that is a category A or B firearm that is not designed to hold additional rounds in a magazine.

- (3) For the purposes of this Act, a reference to a firearm of a particular category or kind includes—
 - (a) a reference to a receiver of a firearm of that particular category or kind; and
 - (b) a reference to a device that would, if in working order, or if assembled and in working order, be a firearm of that category or kind.
- (4) The regulations may amend the categories of firearms or definitions prescribed by this section, including by adding a new category or definition.

6—Possession of firearms etc

- (1) This section applies to the following items:
 - (a) a firearm;
 - (b) a firearm part;
 - (c) a prohibited firearm accessory;
 - (d) a sound moderator;
 - (e) a restricted firearm mechanism;
 - (f) ammunition.
- (2) For the purposes of this Act (other than section 25), a person has possession of an item to which this section applies if—
 - (a) the person has physical possession or control of the item or has the item in the physical possession or control of another; or
 - (b) the person has and exercises access to the item; or
 - (c) the person controls access to the item; or
 - (d) the person occupies, or has care, control or management of, premises, or is in charge of a vehicle, vessel or aircraft, where the item is found.

- (3) However, subsection (2)(d) does not apply if the person proves that—
- (a) he or she did not know, and could not reasonably be expected to have known, that the item was on or in the premises, vehicle, vessel or aircraft; or
 - (b) the item was in the lawful possession of another or he or she believed on reasonable grounds that the item was in the lawful possession of another.
- (4) For the purposes of this Act, if 2 or more persons who occupy or are present on or in the same premises, vehicle, vessel or aircraft, or are in each other's company, have different firearm parts in their physical possession or control which would constitute a firearm if assembled and in working order, each of the persons will be taken to possess the firearm.

7—Fit and proper person

- (1) A person is not a fit and proper person for a purpose under this Act if—
- (a) the person is prohibited from possessing or using a firearm by an order of a court whether in South Australia or any other State or Territory of the Commonwealth; or
 - (b) a firearms prohibition order applies to the person or a similar order under corresponding legislation of another State or Territory of the Commonwealth applies to the person.
- (2) A person who has a physical or mental illness, condition or disorder, or in relation to whom other circumstances exist, that would make it unsafe for him or her to possess a firearm or ammunition is not a fit and proper person for a purpose under this Act.
- (3) A person may be taken not to be a fit and proper person for a purpose under this Act if the person—
- (a) has not complied with the requirements of this Act in relation to the safe handling, use, storage or transport of firearms; or
 - (b) has been found guilty of an offence under this Act, the repealed Act or corresponding legislation of another State or Territory of the Commonwealth; or
 - (c) has been found guilty of an offence involving actual or threatened violence in South Australia or any other State or Territory of the Commonwealth or in any other part of the world; or
 - (d) has been found guilty of an offence as prescribed by the regulations; or
 - (e) has been found guilty of fraud or deception for the purpose of obtaining a licence or permit under this Act or under corresponding legislation of another State or Territory of the Commonwealth; or
 - (f) is the subject, or has in the past been the subject, of—
 - (i) an intervention order under the *Intervention Orders (Prevention of Abuse) Act 2009* or any other order of a similar nature made by a court whether in this State or any other State or Territory of the Commonwealth; or
 - (ii) a foreign restraining order; or
 - (g) has failed to comply with a requirement made under section 53.

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- (4) In deciding whether a person is a fit and proper person for a purpose under this Act—
- (a) regard may be had to the reputation, honesty and integrity of the person, close associates of the person and any people with whom the person associates; and
 - (b) regard must be had to—
 - (i) any risk of the person using a firearm for an unlawful purpose; or
 - (ii) any risk of the person using a firearm to harm himself or herself; or
 - (iii) any risk that the person will cause injury or harm to another by the use or threatened use of a firearm; or
 - (iv) any risk of the person failing to exercise continuous and responsible control over a firearm,and, in that connection, regard may be had to the person's past behaviour, instability, intemperate habits, way of living or domestic circumstances.
- (5) A person may be taken not to be a fit and proper person for a purpose under this Act if the person has made a threat of violence, or stated the intention, or sought, to acquire or use a prescribed firearm or any firearm for an unauthorised purpose.
- (6) For the purposes of this Act, persons are *close associates* if—
- (a) 1 is a relative of the other; or
 - (b) they are in partnership; or
 - (c) they are related bodies corporate within the meaning of the *Corporations Act 2001* of the Commonwealth; or
 - (d) 1 is a body corporate and the other is a director, manager, secretary or public officer of the body corporate; or
 - (e) 1 is a body corporate (other than a public company whose shares are listed on a stock exchange) and the other is a shareholder in the body corporate; or
 - (f) 1 is a trustee of a trust and the other is a beneficiary of the trust or, in the case of a discretionary trust, an object of the trust; or
 - (g) 1 has a right to participate, or participates, (otherwise than as a shareholder in a body corporate) in income or profits derived from a business conducted by the other; or
 - (h) 1 is in a position to exercise, or exercises, control or significant influence over the conduct of the other.
- (7) This section does not limit the grounds on which a person may be taken not to be a fit and proper person for a purpose under this Act.

8—Application of Act

- (1) This Act (other than section 51) does not apply to the Crown in right of this State or to the Crown in any other capacity.

- (2) Subject to subsection (3), this Act does not apply to—
- (a) **(international visitor firearms permits)** the possession or use of a firearm by a person who holds an international visitor firearms permit, provided that the person's possession or use of the firearm is authorised by the permit and the person acts in accordance with the conditions of the permit; or
 - (b) **(foreign theatrical armourer permits)** the possession or use of a firearm by a person who holds a foreign theatrical armourer permit, provided that the person's possession or use of the firearm is authorised by the permit and the person acts in accordance with the conditions of the permit; or
 - (c) **(foreign firearms dealer permits)** the possession or use of a firearm, a firearm part or ammunition by a person who holds a foreign firearms dealer permit, provided that the person's possession or use of the firearm, firearm part or ammunition is authorised by the permit and the person acts in accordance with the conditions of the permit; or
 - (d) **(firearm refurbishment permits)** the possession of a firearm by a person who holds a firearm refurbishment permit, provided that the person's possession of the firearm is authorised by the permit and the person acts in accordance with the conditions of the permit; or
 - (e) **(shooters at commercial ranges or shooting galleries)** a person's possession or use of a category A, B or H firearm on the range of a recognised commercial range operator, or of a shooting gallery firearm at a shooting gallery, in the ordinary course of the operation of the range or gallery, provided that the operator of the range or gallery holds a firearms licence authorising possession of the firearm for the purpose and the possession or use of the firearm on the range or at the gallery is under the continuous supervision of a person who holds a licence authorising possession of the firearm for the purpose; or
 - (f) **(adult shooters on grounds of shooting club)** the possession or use of a category A, B or H firearm by a person 18 years of age or more on the grounds of a shooting club for the purpose of shooting in a manner authorised by the club, provided that the person's possession or use of the firearm on the grounds is under the continuous supervision of a person who holds a licence authorising possession of the firearm for the purpose; or
 - (g) **(junior shooters on grounds of shooting club)** the possession or use of a category A, B or H firearm by a person 10 years of age or more but under the age of 18 years on the grounds of a shooting club for the purpose of shooting in a manner authorised by the club, provided that—
 - (i) the person is a member of a shooting club; and
 - (ii) the persons is (with the consent of his or her parent or guardian) with, and is under the continuous supervision of, a recognised coach who holds a firearms licence authorising possession of the firearm for the purpose for which it is being used; or

- (h) **(accredited paint-ball employee)** a person's possession or use of a paint-ball firearm as an employee of a recognised paint-ball operator on the grounds of the paint-ball operator in the ordinary course of paint-ball shooting operations on the grounds, provided that the paint-ball operator holds a firearms licence authorising possession of the firearm for the purpose and the person is an accredited paint-ball employee; or
- (i) **(paint-ball shooters)** the possession or use of a paint-ball firearm by a person 10 years of age or more on the grounds of a recognised paint-ball operator in the ordinary course of paint-ball shooting operations on the grounds, provided that the paint-ball operator holds a firearms licence authorising possession of the firearm for the purpose and the possession or use of the firearm on the grounds is under the supervision of—
 - (i) the operator; or
 - (ii) a person who is engaged as an employee in the business of the operator; or
- (j) **(transport and storage businesses)** a person's possession of a firearm (other than a prescribed firearm), in the ordinary course of the business of transporting or storing goods (other than as a dealer), except that the person carrying on the business must comply with the requirements of this Act relating to the transport or storage of firearms, firearm parts or ammunition; or
- (k) **(executors, administrators etc)** a person's possession of a firearm in a representative capacity while authorised under an Act or law to manage the estate or property of another who has died, lacks legal capacity, is unable to manage his or her affairs or is insolvent, provided that the person—
 - (i) provides the Registrar, not more than 28 days after coming into possession of the firearm, with written notice in a form approved by the Registrar giving details of the firearm and the circumstances in which the firearm has come into the person's possession; and
 - (ii) ensures that the transport or storage of the firearm is in compliance with the requirements of this Act relating to the transport or storage of firearms; and
 - (iii) disposes of the firearm, as soon as practicable but in any event within 28 days of the person coming into its possession, to a person authorised under this Act to have possession of it or by surrendering it to the Registrar; or
- (l) **(inspecting dealer's stock)** a person's handling of a firearm—
 - (i) at the premises of a licensed dealer; or
 - (ii) in the presence of a licensed dealer or a person who holds a foreign firearms dealer permit at an arms fair,for the purpose of inspecting the firearm; or

- (m) **(testing dealer's stock)** a person's possession or use of a firearm that the person is considering acquiring from a licensed dealer or a person who holds a foreign firearms dealer permit, for the purpose of testing the firearm, provided that—
- (i) the possession and use occurs in the presence, and under the supervision, of the licensed dealer or person holding the foreign firearms dealer permit; and
 - (ii) the person holds a firearms licence authorising possession of the category of firearm; and
 - (iii) the possession and use occurs—
 - (A) at a place approved by the Registrar for the purposes of this paragraph; or
 - (B) in the case of a category A, B or H firearm—on the range of a recognised commercial range operator if the use of the category of firearm is permitted by, and is in accordance with, the rules of the recognised commercial range operator and the conditions of the approval of the range of the commercial range operator; or
 - (C) in the case of a category A, B, C or H firearm—on the grounds of a shooting club if the use of the category of firearm is permitted by, and is in accordance with, the rules of the club and the conditions of the approval of the grounds of the club; or
- (n) **(handling in presence of owner)** a person's handling of a firearm in the presence, and with the consent, of another who holds a firearms licence authorising possession of the firearm and is the registered owner of the firearm or an employee or agent of the registered owner of the firearm; or
- (o) **(safety training)** a person's possession or use of a firearm for the purpose of training or an examination in the safe handling, use, storage and transport of firearms if the person is with, and is under the continuous supervision of, a person authorised by the Registrar to conduct the training or examination; or
- (p) **(supervised use)** the possession or use of a category A, B or H firearm by a person 18 years of age or more (other than as an employee of a licensed dealer) if the person is with, and is under the continuous supervision of, a person who holds a firearms licence authorising possession of the firearm for the purpose for which it is being used; or
- (q) **(supervised use by 14 to 18 year-olds)** the possession or use of a category A, B or H firearm by a person 14 years of age or more but under the age of 18 years if—
- (i) the person is with, and is under the continuous supervision of, his or her parent or guardian or some other person approved by his or her parent or guardian; and
 - (ii) the person providing the supervision holds a firearms licence authorising possession of the firearm for the purpose for which it is being used; or

- (r) **(supervised use by 10 to 14 year-olds)** the possession or use of a category A firearm or an air handgun by a person 10 years of age or more but under the age of 14 years if—
- (i) the person is with, and is under the continuous supervision of, his or her parent or guardian or some other person approved by his or her parent or guardian; and
 - (ii) the person providing the supervision holds a firearms licence authorising possession of the firearm for the purpose for which it is being used; or
- (s) **(possession on behalf of Crown)** the possession of a firearm by a person on behalf of the Crown.
- (3) A person is not excluded from the application of this Act under subsection (2) if the person—
- (a) is suspended from holding a firearms licence, or a similar licence or authorisation under corresponding legislation of another State or Territory of the Commonwealth; or
 - (b) has been the holder of a firearms licence, or a similar licence or authorisation under corresponding legislation of another State or Territory of the Commonwealth, that has been cancelled; or
 - (c) is prohibited from possessing or using a firearm by an order of a court whether in South Australia or any other State or Territory of the Commonwealth or by a firearms prohibition order or a similar order under corresponding legislation of another State or Territory of the Commonwealth; or
 - (d) handles a firearm while so much under the influence of intoxicating liquor or a drug as to be incapable of exercising effective control of the firearm.
- (4) If this Act does not apply to the possession or handling of a firearm by a person in circumstances referred to in subsection (2), this Act does not apply to the acquisition of the firearm by the person in those circumstances.
- (5) The regulations may exempt, or empower the Registrar to exempt, classes of persons or firearms from the application of this Act or provisions of this Act, absolutely or subject to conditions.
- (6) The Registrar may exempt a specified person, absolutely or subject to conditions, from specified provisions of this Act and may vary or revoke an exemption by written notice served personally or by registered post on the holder of the exemption.
- (7) In this section—
- air handgun*** means a handgun designed to fire shot, bullets or other projectiles by means of compressed air or other compressed gas and not by means of burning propellant.

Part 2—Possession and use of firearms and firearms dealers

Division 1—Requirement for licence

9—Possession and use of firearms

- (1) A person who has possession of a firearm without holding a firearms licence authorising possession of the firearm is guilty of an offence.
- (2) A person who has possession of or uses a firearm for a purpose that is not authorised by a firearms licence held by the person is guilty of an offence.
- (3) If, in proceedings for an offence under subsection (2), the evidence gives rise to a reasonable inference that the purpose for which the defendant had possession of or used the firearm was not authorised by the licence, the onus shifts to the defendant to establish that the purpose for which he or she had possession of or used the firearm was authorised by the licence.
- (4) Subject to this section, the maximum penalty for an offence under this section is as follows:
 - (a) if the firearm is a prescribed firearm—\$50 000 or imprisonment for 10 years;
 - (b) if the firearm is a category C, D or H firearm—\$35 000 or imprisonment for 7 years;
 - (c) if the firearm is any other category of firearm—\$20 000 or imprisonment for 4 years.
- (5) The maximum penalty for an aggravated offence is as follows:
 - (a) if the firearm is a prescribed firearm—\$75 000 or imprisonment for 15 years;
 - (b) if the firearm is a category C, D or H firearm—\$50 000 or imprisonment for 10 years;
 - (c) if the firearm is any other category of firearm—\$35 000 or imprisonment for 7 years.
- (6) A person may, at the discretion of the prosecutor, be prosecuted for a summary offence except where the firearm is a prescribed firearm, but on conviction of a summary offence under this section the maximum penalty is \$10 000 or imprisonment for 2 years.
- (7) An offence under this section is an aggravated offence if it has been proved that—
 - (a) the firearm to which the offence relates was—
 - (i) loaded (irrespective of whether the offender knew that it was loaded); or
 - (ii) in the immediate vicinity of ammunition suitable for use in the firearm; or
 - (b) the offender had the firearm concealed about his or her person; or
 - (c) the offender committed the offence in connection with, or at the same time as, an act or omission that would, if proved, constitute a prescribed offence against the *Controlled Substances Act 1984*.

- (8) For the purposes of this section—
- (a) a person who has possession of a self-loading rim fire rifle that does not have an inbuilt magazine and does not have possession of any magazine that can be fitted to the rifle will be taken to have possession of a category C firearm; and
 - (b) a person who has possession of a self-loading rim fire rifle and also has possession of a magazine with a capacity of more than 10 rounds that can be fitted to the rifle will be taken to have possession of a category D firearm even though the magazine is not fitted to the rifle; and
 - (c) a person who has possession of a self-loading or pump action shotgun that does not have an inbuilt magazine and does not have possession of any magazine that can be fitted to the shotgun will be taken to have possession of a category C firearm; and
 - (d) a person who has possession of a self-loading or pump action shotgun and also has possession of a magazine with a capacity of more than 5 rounds that can be fitted to the shotgun will be taken to have possession of a category D firearm even though the magazine is not fitted to the shotgun; and
 - (e) a firearm will be taken to be loaded if a round is in the breech, barrel or chamber of the firearm or in a magazine comprising part of or attached to the firearm.

10—Dealers

- (1) A person who carries on the business of a dealer in South Australia without holding a firearms licence authorising the person to carry on that business is guilty of an offence.
Maximum penalty: \$35 000 or imprisonment for 7 years.
- (2) For the purposes of this section, a person who purchases or sells more than 20 firearms or more than 20 firearm parts in any 12 month period will be taken to be carrying on the business of a dealer in respect of the firearms or firearm parts purchased or sold in excess of 20 in that period unless it is proved that the person was not carrying on such a business.
- (3) Subsection (2) does not apply if all the firearms purchased or sold in a 12 month period were the subject of 1 or more transactions entered into on the same day at an auction.
- (4) For the purposes of this section, a person who purchases or sells more than 50 000 rounds of ammunition in any 12 month period will be taken to be carrying on the business of a dealer in respect of the ammunition purchased or sold in excess of 50 000 rounds in that period unless it is proved that the person was not carrying on such a business.
- (5) Subsection (4) does not apply—
- (a) in relation to a recognised firearms club; or
 - (b) if all the ammunition purchased or sold in a 12 month period was the subject of 1 or more transactions entered into on the same day at an auction.

11—Employment of persons by licensed dealers

- (1) If a licensed dealer employs a disqualified person in the business of the dealer, the dealer and the disqualified person are each guilty of an offence.
Maximum penalty: \$35 000 or imprisonment for 7 years.
- (2) It is a defence to a charge against a licensed dealer for an offence under subsection (1) to prove that the dealer did not know, and could not reasonably be expected to have known, that the person employed in the business of the dealer was in fact a disqualified person.
- (3) It is a defence to a charge against a person employed in the business of a dealer for an offence under subsection (1) to prove that the person did not know, and could not reasonably be expected to have known, that he or she was disqualified from being employed in the business.
- (4) If a licensed dealer employs a person in the business of the dealer who, in the course of the person's employment, will have access to firearms, the dealer and the person are each guilty of an offence unless the person holds a firearms licence authorising the person—
 - (a) to carry on the business of a dealer; or
 - (b) to possess and use firearms as an employee of a licensed dealer.Maximum penalty: \$35 000 or imprisonment for 7 years.
- (5) If a licensed dealer employs a person in the business of the dealer who, in the course of the person's employment, will have access to ammunition, the dealer and the person are each guilty of an offence unless the person holds a firearms licence authorising the person to possess and use firearms, or to possess ammunition, as an employee of a licensed dealer.
Maximum penalty: \$35 000 or imprisonment for 7 years.
- (6) Subsection (4) does not apply to the employment by a licensed dealer of the holder of a firearm refurbishment permit for the purposes of undertaking processes authorised by the permit in the ordinary course of the dealer's business under the licence.
- (7) In this section—

disqualified person—a person is a disqualified person for the purposes of this section if—

 - (a) a firearms licence held by the person (whether under this Act or the repealed Act) has, within the preceding 5 years, been cancelled; or
 - (b) an application for a licence or permit made by the person under this Act or the repealed Act within the preceding 5 years was refused on the ground—
 - (i) that the applicant was not a fit and proper person to hold the licence or permit; or
 - (ii) that to grant the licence or permit would be contrary to the public interest; or
 - (c) the person has, within the preceding 5 years, been found guilty of—
 - (i) an indictable offence or an offence that if committed in this jurisdiction would be an indictable offence; or

- (ii) an offence under this Act or the repealed Act; or
 - (iii) an offence as prescribed by the regulations; or
 - (d) the person is the subject of—
 - (i) a firearms prohibition order; or
 - (ii) an intervention order under the *Intervention Orders (Prevention of Abuse) Act 2009* or any other order of a similar nature made by a court whether in this State or any other State or Territory of the Commonwealth; or
 - (iii) a foreign restraining order; or
 - (iv) a control order under the *Serious and Organised Crime (Control) Act 2008*; or
 - (e) the person is a member of, or a participant in, a criminal organisation;
- employ* a person includes engage the person as an agent.

Division 2—Categories of licence and authorised purposes

12—Licence categories and authorised purposes

- (1) A firearms licence may authorise the licensee to—
 - (a) possess a particular firearm, or firearms of a particular category, for a purpose authorised under the licence; or
 - (b) possess firearms of a particular category, firearm parts or ammunition for the purpose of carrying on the business of a dealer or as an employee of a dealer.
- (2) For the purposes of this Act, the regulations—
 - (a) may set out the categories of firearms licence that may be granted under the Act; and
 - (b) may prescribe the category or categories of firearms the possession or use of which may be authorised in respect of each category of licence; and
 - (c) may—
 - (i) prescribe the purpose for which possession or use of a firearm may be authorised in respect of each category of licence; or
 - (ii) authorise the Registrar to determine the purpose for which possession or use of a firearm may be authorised in respect of a particular category of licence.
- (3) Nothing prevents a person from holding more than 1 category of firearms licence.
- (4) Nothing prevents a firearms licence from being constituted of more than 1 category of licence, provided that a firearms licence authorising the purpose of collecting, or collecting and displaying, firearms does not authorise any other purpose.
- (5) A firearms licence may—
 - (a) indicate the purpose for which a firearm may be possessed under the licence by specifying on the licence document the particular purpose of the licence (for example, by specifying "Category 1"); and

- (b) indicate the firearms that may be possessed under the licence by specifying on the licence document the particular category of firearms (for example, by specifying "Category A").

Division 3—General provisions relating to licences

13—Division applies to initial grant and renewal

The provisions of this Division apply in relation to both the initial grant of a licence and the renewal of a licence.

14—Applications for licences

- (1) An application for a firearms licence—
 - (a) must be made to the Registrar in the manner and form approved by the Registrar; and
 - (b) must be accompanied by any documents required under this Act or by the Registrar; and
 - (c) must be accompanied by the application fee prescribed by the regulations.
- (2) The Registrar may require an applicant to furnish any information the Registrar requires to determine the application.
- (3) Subject to this Act and any exception allowed under the regulations, an application for a firearms licence cannot be made by a natural person under the age of 18 years.
- (4) Subject to any exception allowed under the regulations, if a person's firearms licence has been cancelled by the Registrar under section 20(6) or (7), an application for a firearms licence cannot be made by the person before the expiration of 3 years after the day on which the cancellation takes effect.

15—Grant of licences

- (1) The Registrar may only refuse an application for a firearms licence if the Registrar is not satisfied—
 - (a) that the applicant has made the application in accordance with this Act and met the requirements of the Registrar in connection with the application; or
 - (b) that the applicant is a fit and proper person to hold the licence; or
 - (c) that the applicant has a genuine reason to possess a firearm to which the application relates; or
 - (d) that the applicant could use a firearm to which the application relates for the purpose that would be authorised by the licence; or
 - (e) that the applicant has, in respect of any licence held by the applicant (whether under this Act or the repealed Act), complied with or satisfied the requirements of this Act or the repealed Act (as the case requires) or the conditions of the licence; or
 - (f) that the applicant will comply with or satisfy the requirements of this Act or the conditions of the licence; or
 - (g) in the case of an application to be a licensed dealer—

- (i) that the applicant is to be primarily responsible for the management of the business that would be carried on under the licence; or
 - (ii) that the applicant has, or in the case of an applicant that is a company, the director or directors together have, sufficient business knowledge and experience and financial resources for the purpose of properly conducting the business that would be carried on under the licence; or
 - (iii) that the premises at which the applicant proposes carrying on the business are appropriate for the purpose; or
 - (h) in the case of an application for a licence authorising the holder to possess and use firearms as an employee of a licensed dealer—that the applicant is not a disqualified person within the meaning of section 11; or
 - (i) in the case of an application by a natural person—
 - (i) that the applicant has established his or her identity, date of birth and residential and postal addresses (the Registrar may require the applicant to provide evidence of identity in the same manner as would be required for the opening of an account at an ADI); or
 - (ii) that the applicant is an Australian citizen or permanent resident usually resident in South Australia; or
 - (iii) that the applicant has successfully completed training in the safe handling, use, storage and transport of firearms as required under the regulations; or
 - (j) that he or she would be prepared to grant a permit to the applicant to acquire a firearm of a category that the applicant would be authorised to possess by the licence if it were granted; or
 - (k) that the applicant meets a requirement prescribed by the regulations; or
 - (l) that to grant the licence would be in the public interest.
- (2) For the purposes of subsection (1)(c), a person has a genuine reason to possess a firearm if the person genuinely intends to possess or use the firearm for a purpose that would be authorised under the licence if it were granted.
- (3) A person does not have a genuine reason to possess a firearm if—
- (a) the person intends possessing or using it for the purpose of personal protection or the protection of another; or
 - (b) the person intends possessing or using it for the purpose of the protection of property in circumstances in which that purpose would not be authorised under the licence if it were granted.
- (4) Subsection (3) does not limit the reasons which the Registrar may be satisfied are not genuine reasons for the purpose of justifying the possession of a firearm.
- (5) An application for a firearms licence must not be granted if the applicant has been found guilty of a prescribed offence within the 5 years immediately preceding the application.

- (6) If the Registrar refuses an application for renewal of a firearms licence, the Registrar must, by written notice served personally or by registered post on the licensee, notify the licensee of the refusal within 28 days of the decision to refuse the application.
- (7) If—
- (a) the Registrar refuses an application for a firearms licence on the ground that the Registrar is not satisfied that to grant the licence would be in the public interest; and
 - (b) the Registrar made the decision because of information that is classified by the Registrar as criminal intelligence,
- the Registrar is not required to provide any reasons for the Registrar's decision to the applicant other than that the decision was made on public interest grounds under this section.
- (8) Subject to the regulations, an application for a firearms licence (other than renewal of a licence) must not be granted until at least 28 days have elapsed from the date of the application.
- (9) The Registrar will be taken to have refused an application for a firearms licence if the application has not been granted within 6 months after it was made.
- (10) A firearms licence does not come into force until any licence fee required to be paid under this Act has been paid.

16—Nominees of licensed companies

- (1) It is a condition of a firearms licence that is held by a company that the company must have a person (the *company's principal nominee*) who—
- (a) has been approved by the Registrar in accordance with the regulations; and
 - (b) holds a firearms licence that authorises possession of the firearms in the possession of the company for the purpose for which the company is authorised by its licence to have possession of the firearms; and
 - (c) is an officer or employee of the company who is an Australian citizen or permanent resident usually resident in South Australia; and
 - (d) exercises control on behalf of the company over the firearms in the possession of the company under its licence; and
 - (e) keeps a record of the firearms in the possession of the company under its licence, as required by the Registrar.
- (2) The Registrar may, in accordance with the regulations, approve persons (the *company's secondary nominees*) to assist the principal nominee in exercising the powers and performing the functions of the principal nominee, subject to such limitations and conditions as the Registrar thinks fit.
- (3) A person may only be approved as a company's secondary nominee if the person—
- (a) holds a firearms licence that authorises possession of the firearms in the possession of the company for the purpose for which the company is authorised by its licence to have possession of the firearms; and
 - (b) is an officer or employee of the company who is an Australian citizen or permanent resident usually resident in South Australia.

- (4) A company's secondary nominee is subject to the direction of the company's principal nominee in assisting the principal nominee.
- (5) In assisting a company's principal nominee in the exercise of his or her powers or the performance of his or her functions, the company's secondary nominee must not, without reasonable excuse, fail to comply with any reasonable direction of the principal nominee.
Maximum penalty: \$5 000.
- (6) The Registrar may, in accordance with the regulations, revoke an approval under this section.

17—Term and renewal of licence

- (1) Subject to this Act, a firearms licence remains in force—
 - (a) in the case of a licence that only authorises the possession or use of category A, B or C firearms or a licence that authorises the holder to carry on the business of a dealer—for a term not exceeding 5 years; or
 - (b) in the case of any other licence—for a term not exceeding the term prescribed by the regulations (which must not exceed 5 years).
- (2) A licence may be renewed from time to time.

18—Limitations and conditions of licences

- (1) A firearms licence does not authorise the possession and use of a firearm acquired by the licensee if possession of the firearm was obtained by the licensee in contravention of Part 3.
- (2) A firearms licence is subject to the following conditions:
 - (a) the licensee must, whenever required to do so by the Registrar, provide the Registrar with information relating to—
 - (i) any firearm registered in the licensee's name or in his or her possession; or
 - (ii) the licensee's use of such a firearm; or
 - (iii) a matter relevant to whether the licensee is a fit and proper person to hold the licence;
 - (b) the licensee must, in accordance with a written request of the Registrar, conduct an audit of the licensee's practices with respect to the storage and safe keeping of the firearms in the licensee's possession, and report to the Registrar the results of the audit, in the manner and within the time specified by the Registrar;
 - (c) the licensee must allow a police officer to inspect, at any reasonable time, the firearms in the licensee's possession and the licensee's facilities for the storage and safe keeping of the firearms.
- (3) A firearms licence is subject to (in addition to the limitations and conditions prescribed by other provisions of this Act)—
 - (a) any limitations or conditions prescribed by the regulations; and
 - (b) any limitations or conditions imposed by the Registrar.

19—Breach of conditions

A licensee who fails to comply with a condition of the licence is guilty of an offence.

Maximum penalty:

- (a) if the condition relates to a category C, D or H firearm or a prescribed firearm—\$20 000 or imprisonment for 4 years;
- (b) in any other case—\$10 000 or imprisonment for 2 years.

20—Variation, cancellation and suspension of licences

- (1) The Registrar may, on the Registrar's own initiative or on application, vary a firearms licence at any time—
 - (a) by varying the firearms to which the licence relates (but subject to the limitations and conditions prescribed by or under this Act); or
 - (b) by imposing a limitation or condition of the licence or varying or revoking a limitation or condition of the licence (other than a limitation or condition prescribed by or under this Act); or
 - (c) by varying, revoking or adding a purpose for which a firearm may be possessed under the licence.
- (2) An application for variation of a licence—
 - (a) must be made to the Registrar in the manner and form approved by the Registrar; and
 - (b) must be accompanied by any documents required under this Act or by the Registrar; and
 - (c) must be accompanied by the application fee prescribed by the regulations.
- (3) If an application for variation of a licence concerns the category of firearms to which the licence relates or the purpose for which the applicant may possess firearms, the Registrar may require the applicant to proceed instead by way of application for a licence under section 14.
- (4) The variation of a licence during the term of the licence does not operate until the Registrar has given the licensee (either personally or by registered post) written notice of the variation.
- (5) If the Registrar is considering variation of a licence, the Registrar may require the licensee to furnish any information the Registrar requires for the purpose.
- (6) The Registrar may, by written notice served personally or by registered post on the licensee, cancel a firearms licence—
 - (a) if satisfied that the licensee obtained the licence improperly; or
 - (b) if satisfied that the licensee has not used a firearm for the purpose authorised by the licence; or
 - (c) if satisfied that the licensee has failed to comply with or satisfy the requirements of this Act or the conditions of the licence; or
 - (d) on any ground on which the Registrar might refuse an application by the licensee for such a licence.

- (7) The Registrar must, by written notice served personally or by registered post on the licensee, cancel a firearms licence if the licensee is found guilty of an offence prescribed by the regulations for the purposes of section 15(5) committed after the commencement of this subsection.
- (8) The Registrar may, by written notice served personally or by registered post on a licensee, suspend the licence pending an investigation as to whether grounds exist for action against the licensee.
- (9) If grounds exist for cancelling a licence (other than the grounds referred to in subsection (7)), the Registrar may instead, by written notice served personally or by registered post on the licensee, limit the firearms that may be possessed or used by the licensee under the licence.
- (10) A notice served on a licensee varying or cancelling the licence under this section must set out the Registrar's reasons for the action.
- (11) Subsection (10) does not apply in relation to the variation or cancellation of a licence on application.
- (12) If the Registrar varies or cancels a licence under this section and made the decision because of information that is classified by the Registrar as criminal intelligence, the Registrar is not required to give any reasons for the Registrar's decision other than that the decision was made on public interest grounds under this section.
- (13) The Registrar may, on the application of a licensee, cancel the licence.
- (14) The Registrar may, on his or her own initiative or on application by a person whose licence is suspended, revoke the suspension.
- (15) If—
 - (a) a licence held by a person has been cancelled or suspended and the person was authorised by the licence to use a firearm—
 - (i) as a member of a recognised firearms club; or
 - (ii) in the course of his or her employment; or
 - (b) a licence held by a person has been varied and, as a result, the person is no longer authorised to use a firearm—
 - (i) as a member of a recognised firearms club; or
 - (ii) in the course of his or her employment,the Registrar must, after serving notice under subsection (16), inform the club or the person's employer (or both) of the cancellation, suspension or variation of the licence.
- (16) The Registrar must serve notice on the holder or former holder of a licence that the Registrar intends to inform the person's club or employer (or both) of the cancellation, suspension or variation of the licence.
- (17) The Registrar is not subject to any civil or criminal liability in respect of action taken by the Registrar under subsection (15).

21—Surrender of firearms etc when licence cancelled, suspended etc

- (1) If, under this Part or in prescribed circumstances, a person's firearms licence is cancelled or suspended or an application by a person for renewal of a firearms licence is refused, the person must surrender to the Registrar all firearms, firearm parts, sound moderators and ammunition owned by or in the possession of the person—
- (a) if served personally with notice of the cancellation, suspension or refusal—immediately; or
 - (b) if served with notice of the cancellation, suspension or refusal by registered post—within 7 days of service of the notice.

Maximum penalty:

- (a) in the case of a firearm—\$50 000 or imprisonment for 10 years;
 - (b) in the case of a firearm part, sound moderator or ammunition—\$20 000 or imprisonment for 4 years.
- (2) If the firearms that may be possessed or used by a licensee under a firearms licence are limited under section 20 then the licensee must—
- (a) if served personally with notice of the variation of the licence, immediately surrender to the Registrar—
 - (i) any firearm, possession or use of which is no longer authorised by the licence; and
 - (ii) any associated firearm parts, sound moderators and ammunition, owned by or in the possession of the person; or
 - (b) if served with notice of the variation of the licence by registered post, within 7 days of service of the notice, surrender to the Registrar—
 - (i) any firearm, possession or use of which is no longer authorised by the licence; and
 - (ii) any associated firearm parts, sound moderators or ammunition, owned by or in the possession of the person.

Maximum penalty:

- (a) in the case of a firearm—\$50 000 or imprisonment for 10 years;
 - (b) in the case of a firearm part, a sound moderator or ammunition—\$20 000 or imprisonment for 4 years.
- (3) A person who is required to surrender a firearm under this section must not use the firearm for any purpose before surrendering it in accordance with this section.

Maximum penalty:

- (a) in the case of a prescribed firearm or a category C, D or H firearm—\$50 000 or imprisonment for 10 years;
- (b) in the case of any other kind of firearm—\$20 000 or imprisonment for 4 years.

- (4) In this section—

associated firearm part, sound moderator and ammunition means any firearm part, sound moderator or ammunition that may be used in or in connection with a firearm, the possession or use of which is no longer authorised by the firearms licence, but does not include a firearm part, a sound moderator or ammunition that may be used in or in connection with a firearm, the possession or use of which continues to be authorised by the person's licence.

Part 3—Acquisition, supply and transfer of possession of firearms

22—Trafficking in firearms

- (1) Subject to this section, a person who acquires a firearm is guilty of an offence unless—
- (a) the person is authorised to acquire the firearm by a permit under this Part (or under corresponding legislation of another State or Territory of the Commonwealth); and
 - (b) there is compliance with the prescribed process for acquisition of the firearm.
- (2) If a person acquires a firearm in contravention of subsection (1), the following persons are each guilty of an offence:
- (a) the person who supplied the firearm;
 - (b) a person who knowingly took, or participated in, a step, or caused a step to be taken, in the process of acquisition or supply of the firearm;
 - (c) a person who knowingly provided or arranged finance for a step in the process of acquisition or supply of the firearm;
 - (d) a person who knowingly provided the premises in which a step in the process of acquisition or supply of the firearm was taken, or allowed a step in the process of acquisition or supply of the firearm to be taken in premises of which the person was an owner, lessee or occupier or of which the person had care, control or management.
- (3) Subsection (1) does not apply to the acquisition of a firearm by a licensed dealer in the ordinary course of the dealer's business under the licence.
- (4) Subsection (1)(b) does not apply to the acquisition of a firearm from a licensed dealer in the ordinary course of the dealer's business under the licence, including the acquisition of a firearm from a licensed dealer as the agent of the owner of the firearm.
- (5) It is a defence to a charge of an offence under subsection (1) or (2) to prove—
- (a) that the acquisition was pursuant to—
 - (i) an oral loan or hire agreement, made for the purpose of a business between persons each of whom was engaged in that same business and authorised by a firearms licence to possess the firearm for use in the business, under which the person acquiring the firearm would return the firearm to the owner within 10 days; or

- (ii) a written loan or hire agreement, made for the purpose of a business between persons each of whom was engaged in that same business and authorised by a firearms licence to possess the firearm for use in the business, under which the person acquiring the firearm would return the firearm to the owner within 28 days; or
 - (b) in the case of a category A, B or H firearm, that—
 - (i) the acquisition was pursuant to—
 - (A) an oral loan or hire agreement made between the owner of the firearm and a licensee under which the licensee would only use the firearm for a purpose specified under the agreement and would return the firearm to the owner within 10 days; or
 - (B) a written loan or hire agreement made between the owner of the firearm and a licensee under which the licensee would only use the firearm for a purpose specified under the agreement and would return the firearm to the owner within 28 days; and
 - (ii) the owner had, immediately before delivering the firearm to the licensee, inspected the person's licence and was satisfied that the person was authorised by the licence to possess the firearm for the agreed purpose; and
 - (iii) the owner had no reason to believe that the licensee would breach the agreement; and
 - (iv) in the case of a written agreement—the owner and the licensee each made and retained a written record relating to the licensee's acquisition of the firearm in accordance with the regulations; or
 - (c) the acquisition was in circumstances prescribed for the purposes of this subsection by the regulations.
- (6) A person who acquires a firearm pursuant to an oral agreement referred to in subsection (5)(a) or (b) is guilty of an offence if the person does not return it to the owner within 10 days.

Maximum penalty:

- (a) if the offence is committed in relation to a prescribed firearm or a category C, D or H firearm—\$10 000 or imprisonment for 2 years;
- (b) if the offence is committed in relation to any other kind of firearm—\$5 000 or imprisonment for 1 year.

- (7) A person who acquires a firearm pursuant to a written agreement referred to in subsection (5)(a) or (b) is guilty of an offence if the person does not return it to the owner within 28 days.

Maximum penalty:

- (a) if the offence is committed in relation to a prescribed firearm or a category C, D or H firearm—\$10 000 or imprisonment for 2 years;
- (b) if the offence is committed in relation to any other kind of firearm—\$5 000 or imprisonment for 1 year.

- (8) The regulations may make provision for, or in relation to, the retention, production and inspection of written agreements referred to in subsection (5)(a) and (b).
- (9) If a firearm is acquired by or from a licensed dealer in the ordinary course of the dealer's business under the licence (including from a licensed dealer as the agent of the owner of the firearm), the licensed dealer is guilty of an offence if the dealer fails to comply with the requirements prescribed by the regulations for the purposes of this subsection.
- (10) Subject to this section, the maximum penalty for a first offence against subsection (1), (2) or (9) that involves only 1 firearm is as follows:
 - (a) if the firearm is a prescribed firearm—\$75 000 or imprisonment for 15 years;
 - (b) if the firearm is a category C, D or H firearm—\$50 000 or imprisonment for 10 years;
 - (c) if the firearm is any other category of firearm—\$35 000 or imprisonment for 7 years.
- (11) Subject to this section, the maximum penalty for—
 - (a) a first offence against subsection (1), (2) or (9) that involves more than 1 firearm; or
 - (b) a subsequent offence against subsection (1), (2) or (9),is imprisonment for 20 years.
- (12) A person who has not previously been found guilty of an offence against subsection (1), (2) or (9) may, at the discretion of the prosecutor, be prosecuted for a summary offence except where the offence involves a prescribed firearm, but on conviction of a summary offence under this section the maximum penalty is \$10 000 or imprisonment for 2 years.
- (13) For the purposes of subsections (10), (11) and (12), a previous offence against—
 - (a) the repealed Act; or
 - (b) corresponding legislation in another State or Territory of the Commonwealth (whether committed before or after the commencement of this section),involving the unlawful acquisition or supply of a firearm is to be regarded as a previous offence against subsection (1), (2) or (9).

23—Permits to acquire firearms

- (1) An application for a permit to acquire a firearm—
 - (a) must be made to the Registrar in the manner and form approved by the Registrar; and
 - (b) must be accompanied by any documents required under this Act or by the Registrar; and
 - (c) must be accompanied by the application fee prescribed by the regulations.
- (2) The Registrar may require an applicant to furnish any information the Registrar requires to determine the application.

- (3) Subject to this section, the Registrar may only refuse an application for a permit to acquire a firearm if—
- (a) the applicant has not made the application in accordance with this Act or has not met the requirements of the Registrar in connection with the application; or
 - (b) the applicant does not hold a firearms licence that authorises possession of the firearm; or
 - (c) the Registrar is not satisfied that the applicant is a fit and proper person to acquire the firearm; or
 - (d) the Registrar is not satisfied that the applicant has—
 - (i) a genuine reason to acquire the firearm; and
 - (ii) a genuine need to acquire the firearm that cannot be met by a firearm already in the possession of the applicant; or
 - (e) the Registrar is not satisfied that the applicant, being a licensee, could use the firearm for the purpose authorised by the licence; or
 - (f) the Registrar is not satisfied that the applicant, being a licensee, will comply with or satisfy a condition of the licence or a requirement of this Act relevant to the firearm; or
 - (g) the Registrar is of the opinion that the firearm is particularly dangerous, or is otherwise unsuitable for the purpose for which it is intended to be used, by reason of its design, construction or any other factor; or
 - (h) the Registrar is of the opinion that the firearm could easily be converted to an automatic firearm; or
 - (i) the Registrar is of the opinion that, by reason of the firearm's size or any other factor, the firearm could be more readily concealed than other firearms of the same category or would be particularly suited to unlawful use; or
 - (j) the applicant has in the past acquired a firearm that he or she failed to produce to the Registrar for registration in accordance with this Act or the repealed Act; or
 - (k) the applicant has been found guilty of an offence under this Act or the repealed Act; or
 - (l) the Registrar is not satisfied that the applicant meets a requirement prescribed by the regulations.
- (4) A licence granted to a person in order that the person may possess a firearm for use as an employee in a business carried on by another is not sufficient for the purposes of subsection (3)(b) to justify the granting of a permit to acquire a firearm.
- (5) For the purposes of subsection (3)(d)(i), a person has a genuine reason to acquire a firearm if the person genuinely intends to possess or use the firearm for a purpose authorised by a licence held by the applicant.
- (6) A person does not have a genuine reason to acquire a firearm if—
- (a) the person intends possessing or using it for the purpose of personal protection or the protection of another; or

- (b) the person intends possessing or using it for the purpose of the protection of property in circumstances in which that purpose is not authorised by the licence held by the person.
- (7) Subsection (6) does not limit the reasons which the Registrar may be satisfied are not genuine reasons for the purpose of justifying the acquisition of a firearm.
- (8) Subsection (3)(d)(ii) does not apply to—
 - (a) a category A firearm; or
 - (b) a firearm that has been rendered unusable in a manner stipulated in the regulations or by the Registrar; or
 - (c) a firearm, or a firearm of a kind, prescribed by the regulations.
- (9) Subject to subsection (10), an application for a permit must not be granted until at least 28 days have elapsed from the date of the application.
- (10) An application for a permit may be granted before 28 days have elapsed from the date of the application if—
 - (a) the applicant is the owner of a registered firearm of the same category as the firearm to which the application relates; or
 - (b) the Registrar is satisfied that it is safe to do so and that there are special reasons for doing so.
- (11) The period for which a permit remains in force must be specified in the permit.

24—Cancellation of permit

- (1) The Registrar may, by written notice served personally or by registered post on the holder of a permit under this Part, cancel the permit—
 - (a) if the holder of the permit has failed to comply with a provision of this Act; or
 - (b) if satisfied that the holder of the permit obtained the permit improperly; or
 - (c) on any ground on which the Registrar might refuse an application by the holder of the permit for the permit.
- (2) A notice served on the holder of a permit cancelling the permit under this section must set out the Registrar's reasons for the cancellation.
- (3) If the Registrar cancels a permit under this section and made the decision because of information that is classified by the Registrar as criminal intelligence, the Registrar is not required to give any reasons for the Registrar's decision other than that the decision was made on public interest grounds under this section.

25—Transfer of possession of firearms

- (1) The owner of a firearm may only transfer possession of the firearm to another person—
 - (a) if he or she is selling, giving, lending or hiring the firearm to the other person; or

Note—

For circumstances in which it is lawful for a person to sell, give, lend or hire a firearm to another person, see section 22.

- (b) if the other person is a licensed dealer in firearms and possession is transferred—
 - (i) to enable the dealer to repair, modify or test the firearm, or to display the firearm on behalf of the owner for the purpose of sale; or
 - (ii) to the dealer to hold the firearm during a period during which the owner is not entitled to be in possession of the firearm; or
 - (c) in circumstances in which this Act does not apply to the possession or handling of the firearm by the person under section 8(2); or
 - (d) in circumstances authorised by regulation.
- (2) A person must not accept the transfer of possession of a firearm unless possession is transferred to him or her in circumstances referred to in subsection (1).
- (3) A person to whom possession of a firearm is transferred in circumstances referred to in subsection (1) who is not the owner of the firearm must not (unless authorised by or under this Act) transfer possession of the firearm to any other person except the owner of the firearm.
- (4) A person who contravenes a provision of this section is guilty of an offence.
- Maximum penalty:
- (a) if the offence is committed in relation to a prescribed firearm or a category C, D or H firearm—\$10 000 or imprisonment for 2 years;
 - (b) if the offence is committed in relation to any other kind of firearm—\$5 000 or imprisonment for 1 year.
- (5) The regulations may make provision in relation to what constitutes, or does not constitute, possession of a firearm, or transfer of possession of a firearm, for the purposes of this section, including by prescribing circumstances in which a person will, or will not, be taken to be in possession of, or to have transferred possession of, a firearm.
- (6) In this section—
- giving** a firearm to a person means transferring ownership of the firearm to the person as a gift.

Part 4—Registration of firearms

26—Application of Part

This Part does not apply to—

- (a) a firearm in the possession of a licensed dealer in the ordinary course of the person's business under the licence; or
- (b) a firearm in the possession of a person in prescribed circumstances; or
- (c) a receiver in the possession of a person in whose name a firearm of which the receiver forms part is registered (whether the firearm is assembled or disassembled).

27—Requirement to register firearms

- (1) A person is guilty of an offence if the person has possession of an unregistered firearm.
- (2) It is a defence to a charge of an offence under subsection (1) to prove that the firearm came into the defendant's possession lawfully not more than 14 days before the alleged date of the offence and that it was not reasonably practicable in the circumstances for the firearm to be registered by the time of the alleged offence.
- (3) A person who is the owner of a firearm is guilty of an offence if the firearm is not registered in the person's name.
- (4) Subsection (3) does not apply to—
 - (a) the owner of a firearm if the registration of the firearm is cancelled under section 30(6); or
 - (b) a person who is the owner of a firearm by virtue of his or her possession of the firearm in a representative capacity while authorised under an Act or law to manage the estate or property of another who has died, lacks legal capacity, is unable to manage his or her affairs or is insolvent.
- (5) It is a defence to a charge of an offence under subsection (3) to prove that ownership of the firearm passed to the defendant lawfully not more than 14 days before the alleged date of the offence and that it was not reasonably practicable in the circumstances for the firearm to be registered in the defendant's name by the time of the alleged offence.
- (6) The maximum penalty for an offence under this section is as follows:
 - (a) if the firearm is a prescribed firearm—\$35 000 or imprisonment for 7 years;
 - (b) if the firearm is a category C, D or H firearm—\$20 000 or imprisonment for 4 years;
 - (c) if the firearm is any other category of firearm—\$10 000 or imprisonment for 2 years.

28—Registration of firearms

- (1) An application for registration of a firearm—
 - (a) must be made to the Registrar in the manner and form approved by the Registrar; and
 - (b) must be accompanied by any documents required by the Registrar; and
 - (c) must be accompanied by the fee prescribed by the regulations.
- (2) The Registrar may require an applicant to furnish any information the Registrar requires to determine the application.
- (3) The Registrar may only refuse an application for registration of a firearm if the Registrar is satisfied that—
 - (a) acquisition of the firearm by the applicant was not authorised by a permit in contravention of this Act; or
 - (b) the applicant improperly obtained a permit to acquire the firearm; or

- (c) the applicant would not, having regard to the firearm sought to be registered and the current circumstances, be entitled to be granted a permit to acquire the firearm; or
- (d) the applicant is not the owner of the firearm; or
- (e) the firearm does not have an identifying mark as required under section 29.

29—Registered firearms to have identifying marks

- (1) A firearm that is required to be registered under this Act must have an identifying mark that complies with the requirements of this section.
- (2) The identifying mark for a firearm must comply with the following:
 - (a) the mark must consist of a number, or a combination of a number and a letter or letters, that is of at least 4 characters and unique to the firearm;
 - (b) the mark must be stamped or engraved into part of the metal structure of the firearm on the outside surface of the firearm where it can be easily seen and, if possible, on the receiver of the firearm;
 - (c) the characters must be at least 2 millimetres in height and must be stamped to form an indentation to a depth, or be engraved to a depth, of at least 0.5 millimetres.
- (3) However, a firearm will be taken to have an identifying mark that complies with the requirements of this section if the firearm is identified in some other way approved by the Registrar.
- (4) If a firearm that is produced for registration does not have an identifying mark as required under this section, the Registrar must give directions as to the form of the identifying mark for the firearm and the owner of the firearm must produce the firearm to a police officer within 14 days with an identifying mark in compliance with the Registrar's directions.

Maximum penalty:

- (a) if the firearm is a prescribed firearm—\$20 000 or imprisonment for 4 years;
 - (b) if the firearm is a category C, D or H firearm—\$10 000 or imprisonment for 2 years;
 - (c) if the firearm is any other category of firearm—\$5 000 or imprisonment for 1 year.
- (5) A person is guilty of an offence if the person—
 - (a) defaces, alters or removes the identifying mark of a firearm without the authority of the Registrar; or
 - (b) has possession of a firearm that does not have an identifying mark as required under this section.

Maximum penalty:

- (a) if the firearm is a prescribed firearm—\$50 000 or imprisonment for 10 years;
- (b) if the firearm is a category C, D or H firearm—\$35 000 or imprisonment for 7 years;
- (c) if the firearm is any other category of firearm—\$20 000 or imprisonment for 4 years.

- (6) For the purposes of this Act, a firearm does not have an identifying mark as required under this section if the identifying mark has been defaced, altered or removed without the authority of the Registrar.

30—Cancellation of registration

- (1) The Registrar may, by written notice served personally or by registered post on the person in whose name a firearm is registered, cancel the registration of the firearm if the Registrar is satisfied that, having regard to the firearm and the current circumstances, the person would not be entitled to obtain registration of the firearm.
- (2) A notice served on a person under this section must set out the Registrar's reasons for the cancellation.
- (3) If the Registrar cancels the registration of a firearm under subsection (1) and made the decision because of information that is classified by the Registrar as criminal intelligence, the Registrar is not required to give any reasons for the Registrar's decision other than that the decision was made on public interest grounds under this section.
- (4) If the registration of a firearm is cancelled under subsection (1), the person in whose name the firearm was registered must surrender the firearm to the Registrar—
- (a) if served personally with notice of cancellation of the registration—immediately; or
 - (b) if served with notice of the cancellation of the registration by registered post—within 7 days of service of the notice.

Maximum penalty: \$50 000 or imprisonment for 10 years.

- (5) If a person has ceased to be the owner of a firearm, registration of the firearm in that person's name is cancelled by registration of the firearm in the name of the subsequent owner.
- (6) If the person in whose name a firearm is registered gives the Registrar written notice of the loss or theft of the firearm, registration of the firearm is cancelled on receipt of the notice by the Registrar.

Part 5—Acquisition and possession of ammunition

31—Acquisition and possession of ammunition

- (1) A person who acquires, owns or has possession of ammunition is guilty of an offence unless—
- (a) the person is the holder of a firearms licence that authorises possession of a firearm of a category designed to fire that ammunition (not being a licence authorising possession of firearms for the purpose only of collecting, or collecting and displaying, the firearms or a licence authorising possession of a prescribed firearm); or
 - (b) —
 - (i) the person is the holder of a firearms licence authorising possession of a prescribed firearm designed to fire that ammunition; and

- (ii) use of that ammunition in the prescribed firearm would not be in contravention of a condition of the licence; or
 - (c) the person is the holder of a permit granted by the Registrar under section 32 that authorises the person to possess ammunition of that kind.
- (2) Subsection (1) does not apply to—
 - (a) the acquisition, ownership or possession of ammunition—
 - (i) by a licensed dealer in the ordinary course of the person's business under the licence; or
 - (ii) by a shooting club for distribution to members of, or visitors to, the club; or
 - (iii) by a person for use by that person in a firearm in circumstances in which that person is not required by this Act to hold a firearms licence (including, subject to subsection (10), where that person is under the age of 18 years); or
 - (b) the acquisition of ammunition by a member of a shooting club from the club (including, subject to subsection (10), where that member is under the age of 18 years); or
 - (c) the acquisition of ammunition from a shooting club by a visitor to the club (including, subject to subsection (10), where that visitor is under the age of 18 years) or the possession of that ammunition by the visitor for use on the grounds of the club in a manner authorised by the club.
- (3) In proceedings for an offence under subsection (1), the onus is on the defendant to prove that he or she held the required licence or permit when the ammunition was acquired, owned or possessed or that the acquisition, ownership or possession of the ammunition was excluded from the application of this section by virtue of subsection (2).
- (4) A person who supplies ammunition to another person is guilty of an offence if the other person is not authorised to possess the ammunition.
- (5) In proceedings for an offence under subsection (4), the onus is on the defendant to prove that he or she was entitled to supply the ammunition to the other person by virtue of subsection (2).
- (6) A person who has possession of ammunition is guilty of an offence if the ammunition was acquired by another person in contravention of this section.
- (7) It is a defence to a charge for an offence under subsection (6) to prove that the defendant did not know, and could not reasonably be expected to have known, that the ammunition was acquired by the other person in contravention of this section.
- (8) If the Registrar cancels or suspends a permit authorising possession of ammunition, the Registrar may authorise the person who held the permit to retain the ammunition for disposal, or transfer the ammunition to a licensed dealer for disposal or safekeeping, in accordance with the directions of the Registrar.
- (9) No criminal liability attaches to a person to the extent that he or she complies with an authorisation of the Registrar, and any related directions, under subsection (8).

- (10) Despite anything in this section, a person under 18 years of age must not purchase or own ammunition.
Maximum penalty: \$5 000 or imprisonment for 1 year.
- (11) A person who sells ammunition to a person under 18 years of age is guilty of an offence.
- (12) Subject to this section, the maximum penalty for an offence under this section is \$10 000 or imprisonment for 2 years.

32—Permits to possess ammunition

- (1) An application for a permit to possess ammunition—
 - (a) must be made to the Registrar in the manner and form approved by the Registrar; and
 - (b) must be accompanied by any documents required under this Act or by the Registrar; and
 - (c) must be accompanied by the application fee prescribed by the regulations.
- (2) The Registrar may require an applicant to furnish any information the Registrar requires to determine the application.
- (3) Subject to this section, the Registrar may only refuse an application for a permit to possess ammunition if the Registrar is not satisfied—
 - (a) that the applicant is a fit and proper person to have possession of ammunition of the kind to which the application relates; or
 - (b) that the applicant has a genuine reason to possess the ammunition.
- (4) When granting a permit, the Registrar must not restrict the kind of ammunition that can be possessed unless it is, in the Registrar's opinion, necessary to do so in order to comply with subsection (3).
- (5) For the purposes of subsection (3)(b), a person has a genuine reason to possess ammunition if the person—
 - (a) genuinely intends to possess the ammunition for—
 - (i) a purpose for which the possession of a firearm is authorised under a licence held by the applicant; or
 - (ii) a purpose prescribed by the regulations or approved by the Registrar; or
 - (b) has a genuine interest in collecting ammunition of historical or other significance and genuinely intends to possess the ammunition for that purpose.
- (6) A person does not have a genuine reason to possess ammunition if—
 - (a) the person intends possessing or using it for the purpose of personal protection or the protection of another; or
 - (b) the person intends possessing or using it for the purpose of the protection of property in circumstances in which that purpose would not be a purpose for which possession or use of a firearm is authorised under a licence held by the person.

- (7) Subsection (6) does not limit the reasons which the Registrar may be satisfied are not genuine reasons for the purpose of justifying the possession of ammunition.
- (8) A permit to possess ammunition is subject to—
 - (a) any limitations or conditions prescribed by the regulations; and
 - (b) any limitations or conditions imposed by the Registrar.

33—Cancellation or suspension of permit

- (1) The Registrar may, by written notice served personally or by registered post on the holder of a permit under section 32, cancel the permit if—
 - (a) the holder of the permit has failed to comply with a provision of this Act or a condition of the permit; or
 - (b) the Registrar is not satisfied that the holder of the permit is a fit and proper person to hold the permit.
- (2) The Registrar may, by written notice served personally or by registered post on the holder of a permit, suspend the permit pending an investigation as to whether the permit should be cancelled under subsection (1).
- (3) A notice served on the holder of a permit cancelling the permit under this section must set out the Registrar's reasons for the cancellation.
- (4) If the Registrar cancels a permit under this section and made the decision because of information that is classified by the Registrar as criminal intelligence, the Registrar is not required to give any reasons for the Registrar's decision other than that the decision was made on public interest grounds under this section.
- (5) The Registrar may, on his or her own initiative or on application by a person whose permit is suspended, revoke the suspension.

34—Restriction on quantity and possession of certain ammunition

- (1) A person who acquires or owns or has possession of more ammunition than is required to meet the person's reasonable needs in making lawful use of a firearm for the immediately following 12 months is guilty of an offence.
Maximum penalty: \$5 000.
- (2) A licensed dealer who acquires or owns or has possession of more ammunition than is required to meet the dealer's reasonable needs in carrying on the business of a dealer for the immediately following 12 months is guilty of an offence.
Maximum penalty: \$5 000.
- (3) The regulations may prescribe limits on the quantity of ammunition of any kind that a person, or a person of a particular class, may acquire during a specified period or may own or have in his or her possession at any 1 time.
- (4) The regulations may prohibit or restrict the acquisition or possession of a specified kind or class of ammunition.
- (5) A person who acquires or owns or has possession of ammunition in contravention of a regulation under this section is guilty of an offence.
Maximum penalty: \$5 000.

- (6) In proceedings for an offence under subsection (1) or (2), the onus is on the defendant to prove that the quantity of ammunition in his or her possession was not more than was required to meet his or her reasonable needs in making lawful use of a firearm or in carrying on the business of a dealer (as the case requires) for the immediately following 12 months.

Part 6—Code of practice for security, storage and transport of firearms and ammunition

35—Code of practice

- (1) The regulations may set out a code of practice for the purposes of this Part.
- (2) A code of practice may (without limiting section 78)—
- (a) specify requirements in relation to the security and storage of firearms, ammunition, firearm parts, sound moderators and restricted firearm mechanisms; and
 - (b) specify requirements in relation to the transport of firearms, ammunition, firearm parts, sound moderators and restricted firearm mechanisms; and
 - (c) specify requirements for the keeping of records and the provision of information to the Registrar in respect of the security, storage, location and transport of firearms, ammunition, firearm parts, sound moderators and restricted firearm mechanisms; and
 - (d) make provision in relation to the joint liability of persons for contraventions of the code; and
 - (e) declare that a contravention of the code is a category A, B, C, D, E or F offence for the purposes of subsection (4).

- (3) A person who contravenes a provision of a code of practice is guilty of an offence.

Maximum penalty:

- (a) For a category A offence—\$75 000 or imprisonment for 15 years;
- (b) For a category B offence—\$50 000 or imprisonment for 10 years;
- (c) For a category C offence—\$20 000 or imprisonment for 4 years;
- (d) For a category D offence—\$10 000 or imprisonment for 2 years;
- (e) For a category E offence—\$5 000 or imprisonment for 1 year;
- (f) For a category F offence—\$2 500.

Expiation fee:

- (a) For a category E offence declared under a code of practice to be expiable—\$315;
- (b) For a category F offence declared under a code of practice to be expiable—\$210.

- (4) For the purposes of this section, contravention of a code of practice is a category A, B, C, D, E or F offence if the code declares that such contravention will be an offence of that category.

36—Exemption from code

The Registrar may exempt a person from compliance with a code of practice under this Part or specified provisions of a code of practice subject to such conditions as he or she thinks fit and may vary or revoke an exemption at any time.

Part 7—Prohibited practices relating to firearms and ammunition

37—Manufacture of firearms, firearm parts or sound moderators

- (1) Subject to this section, a person is guilty of an offence if the person manufactures a firearm, firearm part or sound moderator.
- (2) If a person manufactures a firearm, firearm part or sound moderator in contravention of subsection (1), the following persons are each guilty of an offence:
 - (a) a person who knowingly took, or participated in, a step, or caused a step to be taken, in the process of manufacture of the firearm, firearm part or sound moderator;
 - (b) a person who knowingly provided or arranged finance for a step in the process of manufacture of the firearm, firearm part or sound moderator;
 - (c) a person who knowingly provided the premises in which a step in the process of manufacture of the firearm, firearm part or sound moderator was taken, or allowed a step in the process of manufacture of the firearm, firearm part, or sound moderator to be taken in premises of which the person was an owner, lessee or occupier or of which the person had care, control or management.
- (3) Subsection (1) does not apply to—
 - (a) the manufacture by a person of a firearm or firearm part in accordance with a licence held by the person; or
 - (b) the manufacture by a person of a sound moderator with the written approval of the Registrar, provided the person complies with any limitations or conditions prescribed by the regulations or imposed by the Registrar.
- (4) It is a defence to a charge of an offence under subsection (1) or (2) to prove that, in the case of a firearm part—
 - (a) the firearm part was for a firearm registered in the name of the person who manufactured the firearm part; or
 - (b) —
 - (i) the firearm part was for a firearm registered in the name of a company of which the person who manufactured the firearm part was an officer or employee; and
 - (ii) the officer or employee was the holder of a licence authorising possession of the firearm; and
 - (iii) the firearm part was manufactured by the officer or employee in the course of his or her duties as an officer or employee of the company.

- (5) The maximum penalty for an offence under this section is as follows:
- (a) in the case of a firearm or firearm part—
 - (i) if the firearm is a prescribed firearm or the firearm part is a firearm part for a prescribed firearm—\$75 000 or imprisonment for 15 years;
 - (ii) if the firearm is a category C, D or H firearm or the firearm part is a firearm part for a category C, D or H firearm—\$50 000 or imprisonment for 10 years;
 - (iii) if the firearm or firearm part is any other kind of firearm or firearm part—\$35 000 or imprisonment for 7 years;
 - (b) in the case of a sound moderator—\$35 000 or imprisonment for 7 years.
- (6) A person may, at the discretion of the prosecutor, be prosecuted for a summary offence except where the firearm is a prescribed firearm or the firearm part is a firearm part for a prescribed firearm, but on conviction of a summary offence under this section the maximum penalty is \$10 000 or imprisonment for 2 years.
- (7) For the purposes of this section, a licensed dealer who assembles, from separate, prefabricated parts, a firearm that is designed to be so assembled, or that is designed to be disassembled for the purpose of transport or storage, will not be taken to have manufactured the firearm.

38—Alteration of firearms

- (1) A person who, without the written approval of the Registrar, alters a firearm that has been rendered unusable so that, as a result of the alteration, the firearm becomes capable of being used as a firearm, is guilty of an offence.

Maximum penalty:

- (a) if the firearm is a prescribed firearm—\$75 000 or imprisonment for 15 years;
 - (b) if the firearm is a category C, D or H firearm—\$50 000 or imprisonment for 10 years;
 - (c) if the firearm is any other category of firearm—\$35 000 or imprisonment for 7 years.
- (2) A person who alters a firearm so that, as a result of the alteration, the firearm becomes a firearm of a different category (whether temporarily or permanently), is guilty of an offence unless—
- (a) the person is authorised by a licence, at the time of the alteration, to possess firearms of the categories to which the firearm belongs both before and after the alteration; and
 - (b) the alteration has been approved by the Registrar or is permitted under regulations made for the purposes of this subsection.

Maximum penalty:

- (a) if the firearm as altered is a prescribed firearm—\$75 000 or imprisonment for 15 years;
- (b) if the firearm as altered is a category C, D or H firearm—\$50 000 or imprisonment for 10 years;

- (c) if the firearm as altered is any other category of firearm—\$35 000 or imprisonment for 7 years.
- (3) A person who attempts to commit an offence against subsection (1) or (2) is guilty of the offence of attempting to commit that offence.
Maximum penalty: \$15 000 or imprisonment for 4 years.

39—Possession etc of sound moderator and certain parts of firearms

- (1) A person who, without the written approval of the Registrar, acquires, owns or has possession of—
 - (a) a sound moderator; or
 - (b) a restricted firearm mechanism,is guilty of an offence.
- (2) Subject to this section, the maximum penalty for an offence under subsection (1) is \$10 000 or imprisonment for 2 years.
- (3) The maximum penalty for an aggravated offence under subsection (1) is \$75 000 or imprisonment for 15 years.
- (4) An offence under subsection (1) is an aggravated offence if it has been proved that—
 - (a) the sound moderator or restricted firearm mechanism to which the offence relates was fitted to a firearm; or
 - (b) the offender had physical possession or control of the sound moderator or restricted firearm mechanism together with a firearm to which the sound moderator or restricted firearm mechanism could be fitted.
- (5) The Registrar may only grant approval for a person to acquire, own or possess a sound moderator if the Registrar is satisfied—
 - (a) that—
 - (i) the person intends to possess or use the sound moderator for the purpose of culling or destroying animals on Crown land in accordance with a contract or agreement with an agency or instrumentality of the Crown and the person genuinely requires the use of the sound moderator in order to fulfil his or her obligations under the contract; and
 - (ii) there is a genuine need by the agency or instrumentality of the Crown for the person to use the sound moderator for the purposes of the contract; and
 - (iii) there is no reasonable alternative to the use of the sound moderator by the person for the purpose, or in the circumstances, for which the approval is to be given; or
 - (b) that—
 - (i) the person is the operator or employee of a pest control business who intends to possess or use the sound moderator in the course of that business for the purpose of culling or destroying animals in a built-up urban environment; and

- (ii) use of the sound moderator by the person is genuinely required in order to avoid disturbing the peace; and
 - (iii) there is no reasonable alternative to the use of the sound moderator by the person for the purpose, or in the circumstances, for which the approval is to be given; or
 - (c) that the person is a licensed dealer who intends to possess the sound moderator for the purpose of selling or hiring out the sound moderator in the ordinary course of the dealer's business to a person who holds a written approval of the Registrar under this section to acquire, own or possess the sound moderator.
- (6) The purpose for which, or the circumstances in which, a sound moderator or restricted firearm mechanism may be possessed or used by a person pursuant to an approval under subsection (1) must be specified by the Registrar in writing at the time the approval is granted.
- (7) An approval under this section must also specify the circumstances under which the approval will cease to have effect for the purposes of this section.
- (8) If a person who is approved by the Registrar to acquire, own or possess a sound moderator or restricted firearm mechanism under subsection (1) possesses or uses the sound moderator or restricted firearm mechanism for a purpose or in circumstances other than as specified by the Registrar for the purposes of the approval, the person is guilty of an offence.
- Maximum penalty: \$75 000 or imprisonment for 15 years.
- (9) A person may, at the discretion of the prosecutor, be prosecuted for a summary offence against subsection (8) but on conviction of a summary offence under that subsection the maximum penalty is \$10 000 or imprisonment for 2 years.
- (10) A person who is approved by the Registrar under subsection (1) to have possession of a sound moderator must, within 14 days of coming into possession of a sound moderator in accordance with the approval, produce the sound moderator to a police officer with an identifying mark that complies with the requirements of the Registrar.
- Maximum penalty: \$20 000 or imprisonment for 4 years.
- (11) Subsection (10) does not apply in relation to a sound moderator that is in the possession of a licensed dealer for the purpose of sale in the ordinary course of the dealer's business.
- (12) A person who is in the possession of a sound moderator is not required to produce it to a police officer under subsection (10) if the sound moderator is hired by the person from a licensed dealer and it has an identifying mark as required by that subsection.
- (13) A person must not deface, alter or remove the identifying mark of a sound moderator without the authority of the Registrar.
- Maximum penalty: \$35 000 or imprisonment for 7 years.
- (14) The regulations may make further provision in relation to the grant, variation and cancellation of, and the imposition of conditions or limitations on, approvals under this section.

40—Possession etc of prohibited firearm accessory

- (1) A person who acquires, owns or has possession of a prohibited firearm accessory is guilty of an offence.
- (2) Subject to this section, the maximum penalty for an offence under this section is \$10 000 or imprisonment for 2 years.
- (3) The maximum penalty for an aggravated offence under this section is \$75 000 or imprisonment for 15 years.
- (4) An offence under this section consisting of possession of a prohibited firearm accessory is an aggravated offence if it has been proved that—
 - (a) the accessory to which the offence relates was fitted to a firearm; or
 - (b) the offender had physical possession or control of the accessory together with a firearm to which the accessory could be fitted or in conjunction with which the accessory could be used.

41—Assembly of ammunition

- (1) Subject to this section, a person is guilty of an offence if the person assembles ammunition.
- (2) If a person assembles ammunition in contravention of subsection (1), the following persons are each guilty of an offence:
 - (a) a person who knowingly took, or participated in, a step, or caused a step to be taken, in the process of assembly of the ammunition;
 - (b) a person who knowingly provided or arranged finance for a step in the process of assembly of the ammunition;
 - (c) a person who knowingly provided the premises in which a step in the process of assembly of the ammunition was taken, or allowed a step in the process of assembly of the ammunition to be taken in premises of which the person was an owner, lessee or occupier or of which the person had care, control or management.
- (3) Subsection (1) does not apply to the assembly of ammunition—
 - (a) by a licensee for use—
 - (i) by the licensee in a firearm lawfully in the possession of the licensee in circumstances in which the licensee is authorised under this Act to use the firearm; or
 - (ii) by another licensee in a firearm lawfully in the possession of the other licensee in circumstances in which the other licensee is authorised under this Act to use the firearm; or
 - (iii) by another person in a firearm in circumstances in which the other person is authorised under this Act to use the firearm but not required by this Act to hold a firearms licence; or
 - (b) by a person for use by the person in a firearm in circumstances in which the person is authorised under this Act to use the firearm but not required by this Act to hold a firearms licence; or

- (c) by a person, or a person of a class, or in circumstances, prescribed by the regulations,
unless the ammunition is assembled—
 - (d) for the purpose of supply to a person who is not permitted to possess or acquire the ammunition under this Act; or
 - (e) by a person excluded, or of a class of persons excluded, from the operation of this subsection by the regulations.
- (4) In proceedings for an offence under this section, the onus is on the defendant to prove that the person who assembled the ammunition was entitled to do so under subsection (3).
- (5) The maximum penalty for an offence under this section is \$20 000 or imprisonment for 4 years.
- (6) A person may, at the discretion of the prosecutor, be prosecuted for a summary offence, but on conviction of a summary offence under this section the maximum penalty is \$10 000 or imprisonment for 2 years.
- (7) In this section—
assemble ammunition means combine a cartridge case and at least 1 other component of ammunition into a single article that is suitable for use in a firearm.

42—Handling firearms when under influence of intoxicating liquor or drug

- (1) A person who handles a firearm while so much under the influence of intoxicating liquor or a drug as to be incapable of exercising effective control of the firearm is guilty of an offence if—
 - (a) a round is in the breech, barrel or chamber or the magazine of the firearm; or
 - (b) the person has physical possession or control of ammunition that can be used in the firearm.

Maximum penalty: \$10 000 or imprisonment for 2 years.
- (2) A person who delivers a firearm into the physical possession or control of another who is so much under the influence of intoxicating liquor or a drug as to be incapable of exercising effective control of the firearm is guilty of an offence if—
 - (a) a round is in the breech, barrel or chamber or the magazine of the firearm; or
 - (b) the person delivers ammunition that can be used in the firearm into the physical possession or control of the other person or the other person has or can readily obtain physical possession or control of ammunition that can be used in the firearm.

Maximum penalty: \$10 000 or imprisonment for 2 years.
- (3) Without limiting subsection (1) or (2), a person is incapable of exercising effective control of a firearm if, owing to the influence of intoxicating liquor or a drug, the use of any mental or physical faculty of that person is lost or appreciably impaired.
- (4) The regulations may empower police officers to conduct alcohol and drug testing of persons in possession of firearms and create evidentiary presumptions relating to the tests and their results.

Part 8—Firearms prohibition orders

43—Interim firearms prohibition order issued by police officer

- (1) Subject to subsection (2), a police officer may issue an interim firearms prohibition order against a person if the police officer suspects on reasonable grounds that—
 - (a) possession of a firearm by the person would be likely to result in undue danger to life or property; or
 - (b) the person is not a fit and proper person to possess a firearm.
- (2) If the police officer issuing the order is not of or above the rank of sergeant, the officer must, before issuing the order, obtain the authorisation (either orally or in writing) of a police officer of or above that rank.
- (3) An interim firearms prohibition order must be in a form approved by the Registrar.
- (4) For the purposes of this Act, an interim firearms prohibition order applies to a person as soon as it is issued against the person, but the order only comes into force against the person when it is served personally on the person.
- (5) If a police officer proposes to issue an interim firearms prohibition order against a person—
 - (a) the officer may require the person to—
 - (i) remain at a particular place while the order is prepared and issued so that the order may be served on the person; or
 - (ii) accompany the officer to the nearest police station for the order to be served; and
 - (b) if the person refuses or fails to comply with the requirement or the officer has reasonable grounds to believe that the requirement will not be complied with, the officer may arrest and detain the person in custody (without warrant) for—
 - (i) so long as may be necessary for the order to be served on the person; or
 - (ii) 2 hours,whichever is the lesser.
- (6) If a person accompanies a police officer to a police station in accordance with a requirement under subsection (5)(a)(ii), a police officer must ensure that the person is returned to the place at which the requirement was made, or taken to a place that is near to that place, unless to do so would be against the person's wishes or there is other good reason for not so doing.
- (7) A person against whom an interim firearms prohibition order is issued must give the Registrar written notice of an address for service.
- (8) An interim firearms prohibition order expires 28 days after the Registrar is given written notice of the person's address for service.

- (9) The Registrar may, on his or her own initiative, revoke an interim firearms prohibition order by written notice served personally or by post on the person against whom it is issued.

44—Firearms prohibition order issued by Registrar

- (1) The Registrar may issue a firearms prohibition order against a person if the Registrar is satisfied—
- (a) that—
 - (i) possession of a firearm by the person would be likely to result in undue danger to life or property; or
 - (ii) the person is not a fit and proper person to possess a firearm, and that it is in the public interest that a firearms prohibition order should apply to the person; or
 - (b) that the person—
 - (i) is a member of, or a participant in, a criminal organisation; or
 - (ii) has been a member of an organisation that, at the time the order is issued, is a criminal organisation; or
 - (iii) is the subject of a control order under the *Serious and Organised Crime (Control) Act 2008*.
- (2) For the purposes of this Act, a firearms prohibition order applies to a person as soon as it is issued against the person, but the order only comes into force against the person when it is served personally on the person.
- (3) A firearms prohibition order will be taken to be served personally on a person against whom an interim firearms prohibition order is in force if it is served by registered post on the person at the address for service notified to the Registrar by the person under section 43.
- (4) If a police officer has reason to believe that a firearms prohibition order applies to a person, but the order has not been served on the person, the officer may—
- (a) require the person to—
 - (i) remain at a particular place for—
 - (A) so long as may be necessary for the order to be served on the person; or
 - (B) 2 hours,whichever is the lesser; or
 - (ii) accompany the officer to the nearest police station for the order to be served; and
 - (b) if the person refuses or fails to comply with the requirement or the officer has reasonable grounds to believe that the requirement will not be complied with, arrest and detain the person in custody (without warrant) for the period referred to in paragraph (a)(i).

- (5) If a person accompanies a police officer to a police station in accordance with a requirement under subsection (4)(a)(ii), a police officer must ensure that the person is returned to the place at which the requirement was made, or taken to a place that is near to that place, unless to do so would be against the person's wishes or there is other good reason for not so doing.
- (6) A firearms prohibition order served on a person must be accompanied by a notice setting out the Registrar's reasons for issuing the order.
- (7) If the decision to issue the order was made because of information that is classified by the Registrar as criminal intelligence, the only reason required to be given is that the decision was made on public interest grounds.
- (8) If a person against whom a firearms prohibition order is issued has not already done so, the person must, at the request of the Registrar or a police officer, notify the Registrar or officer of an address for service within 48 hours of the request.
Maximum penalty: \$10 000.
- (9) The Registrar may, on his or her own initiative or on application, revoke a firearms prohibition order by written notice served personally or by post on the person against whom it is issued.
- (10) For the purposes of this section, a person is presumed, in the absence of proof to the contrary, to be a member of a criminal organisation at a particular time if the person is, at that time, displaying (whether on an article of clothing, as a tattoo or otherwise) the insignia of that organisation.

45—Effect of firearms prohibition order

- (1) While a firearms prohibition order is in force against a person, any licence or permit under this Act held by the person is suspended.
- (2) A person against whom a firearms prohibition order is in force must not acquire, possess or use a firearm, a firearm part, a sound moderator or ammunition.
Maximum penalty:
 - (a) in the case of a firearm—\$75 000 or imprisonment for 15 years;
 - (b) in the case of a firearm part, a sound moderator or ammunition—\$35 000 or imprisonment for 7 years.
- (3) If a firearms prohibition order comes into force against a person, the person must immediately surrender to the Registrar all firearms, firearm parts, sound moderators and ammunition owned by or in the possession of the person.
Maximum penalty:
 - (a) in the case of a firearm—\$50 000 or imprisonment for 10 years;
 - (b) in the case of a firearm part, a sound moderator or ammunition—\$20 000 or imprisonment for 4 years.
- (4) A person against whom a firearms prohibition order is in force—
 - (a) must not be present at—
 - (i) the grounds of a firearms club or paint-ball operator or the range of a commercial range operator; or
 - (ii) a shooting gallery; or

- (iii) an arms fair; or
 - (iv) a place at which a person carries on the business of repairing, modifying or testing firearms, firearm parts or ammunition or buying, selling or hiring out, firearms, firearm parts or ammunition; or
 - (v) a place at which a person manufactures a firearm, firearm part or sound moderator; or
 - (vi) a place at which a person carries on the business of refurbishing firearms; or
 - (vii) any other place of a kind prescribed by the regulations; and
- (b) must not become, or remain, a member of a firearms club; and
 - (c) must not be in the company of a person who has physical possession or control of a firearm.

Maximum penalty: \$50 000 or imprisonment for 10 years.

- (5) It is a defence to a charge of an offence under subsection (4)(c) to prove that the person did not know, and could not reasonably be expected to have known, that the other person had physical possession or control of a firearm.
- (6) A person against whom a firearms prohibition order is in force must not be present or reside at premises on which there is a firearm, a firearm part, a sound moderator or ammunition.

Maximum penalty:

- (a) in the case of a firearm—\$50 000 or imprisonment for 10 years;
 - (b) in the case of a firearm part, a sound moderator or ammunition—\$20 000 or imprisonment for 4 years.
- (7) It is a defence to a charge of an offence under subsection (6) to prove that the person did not know, and could not reasonably be expected to have known, that the firearm, firearm part, sound moderator or ammunition was on the premises.
 - (8) A person against whom a firearms prohibition order is in force must inform each other person of or over the age of 18 years who resides or proposes to reside at the same premises as the person of the fact that a firearms prohibition order is in force against the person and ask each such person whether or not he or she has or proposes to have a firearm, a firearm part, a sound moderator or ammunition on the premises.

Maximum penalty: \$20 000 or imprisonment for 4 years.

- (9) A person must not supply a firearm, a firearm part, a sound moderator or ammunition to a person to whom a firearms prohibition order applies or permit such a person to gain possession of a firearm, a firearm part, a sound moderator or ammunition.

Maximum penalty:

- (a) in the case of a firearm—\$75 000 or imprisonment for 15 years;
- (b) in the case of a firearm part, a sound moderator or ammunition—\$35 000 or imprisonment for 7 years.

- (10) A person who has physical possession or control of a firearm must not be in the company of a person to whom a firearms prohibition order applies.
Maximum penalty: \$20 000 or imprisonment for 4 years.
- (11) If a person to whom a firearms prohibition order applies resides at premises, a person who brings a firearm, a firearm part, a sound moderator or ammunition onto the premises or has possession of a firearm, a firearm part, a sound moderator or ammunition on the premises is guilty of an offence.
Maximum penalty:
(a) in the case of a firearm—\$50 000 or imprisonment for 10 years;
(b) in the case of a firearm part, a sound moderator or ammunition—\$20 000 or imprisonment for 4 years.
- (12) It is a defence to a charge of an offence under subsection (9), (10) or (11) to prove that the person did not know, and could not reasonably be expected to have known, that a firearms prohibition order applies to the person.
- (13) A police officer may require a person who the police officer suspects on reasonable grounds is a person against whom a firearms prohibition order is in force—
(a) to state his or her full name, address and date of birth; and
(b) to state the full names of the persons with whom he or she resides.
- (14) A person is guilty of an offence if the person fails or refuses, without reasonable excuse, to comply with a requirement under subsection (13).
Maximum penalty: \$10 000 or imprisonment for 2 years.
- (15) A person against whom a firearms prohibition order is in force must, within 7 days, give the Registrar written notice, in a form approved by the Registrar, of a change of his or her address.
Maximum penalty: \$10 000.
- (16) For the purposes of this section—
(a) if a person to whom a firearms prohibition order applies is on or in premises or a vehicle, vessel or aircraft (other than any premises, vehicle, vessel or aircraft to which the public are admitted) when a firearm, a firearm part, a sound moderator or ammunition is found on or in the premises, vehicle, vessel or aircraft, the person will be taken to possess the firearm, firearm part, sound moderator or ammunition unless it is proved that the person did not know, and could not reasonably be expected to have known, that the firearm, firearm part, sound moderator or ammunition was on or in the premises, vehicle, vessel or aircraft; and
(b) a person will be taken to acquire a firearm if—
(i) the person knowingly takes, or participates in, any step, or causes any step to be taken, in the process of acquisition of the firearm; or
(ii) the person knowingly provides or arranges finance for any step in that process; or

- (iii) the person knowingly provides the premises in which any step in that process is taken, or allows any step in that process to be taken in premises of which the person is an owner, lessee or occupier or of which the person has care, control or management; and
 - (c) a person will be taken to supply a firearm if—
 - (i) the person knowingly takes, or participates in, any step, or causes any step to be taken, in the process of supply of the firearm; or
 - (ii) the person knowingly provides or arranges finance for any step in that process; or
 - (iii) the person knowingly provides the premises in which any step in that process is taken, or allows any step in that process to be taken in premises of which the person is an owner, lessee or occupier or of which the person has care, control or management.
- (17) The Registrar may exempt a person, unconditionally or subject to conditions, from a specified provision of this section and may vary or revoke an exemption by notice in writing served personally or by registered post on the holder of the exemption.

Part 9—Reviews

46—Review of interim firearms prohibition order by Registrar

- (1) A person to whom an interim firearms prohibition order applies may apply to the Registrar for review of the decision to issue the order.
- (2) The making of an application under this section does not affect the operation of the decision to which the application relates.
- (3) On a review, the Registrar may affirm the decision or revoke the interim firearms prohibition order.

47—Review by Tribunal

- (1) A person aggrieved by a decision of the Registrar—
 - (a) to refuse an application for a licence (including renewal of a licence), a permit or registration under this Act; or
 - (b) to impose a limitation or condition of a licence (other than a limitation or condition prescribed by or under this Act) or a limitation or condition of a permit; or
 - (c) to vary a licence or permit; or
 - (d) to suspend or cancel a licence, permit or registration; or
 - (e) to refuse to revoke suspension of a licence or permit; or
 - (f) to issue a firearms prohibition order; or
 - (g) to refuse to approve a person as a company's principal or secondary nominee or to revoke such an approval; or
 - (h) declared to be reviewable by regulations made for the purposes of this section (including a decision of the Registrar made under the regulations),

may apply to the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013* for review of the decision.

- (2) If the Registrar did not give reasons in writing at the time of making the decision, the Registrar must do so on request made within 28 days of the making of the decision.
- (3) If a decision was made because of information that is classified by the Registrar as criminal intelligence, the only reason required to be given is that the decision was made on public interest grounds.
- (4) The Tribunal may, on the application of the Registrar, give such directions as the Tribunal thinks fit in relation to the requirement to give reasons under subsection (2) in order to ensure that an investigation of the Registrar following suspension of a licence or permit is not compromised.
- (5) An application under subsection (1) must be made—
 - (a) within 28 days of the making of the decision; or
 - (b) if a request for reasons in writing is made under subsection (2)—within 28 days after receipt of the reasons in writing or, if the Registrar has made an application under subsection (4), within a period determined by the Tribunal.
- (6) The Tribunal may, in the Tribunal's discretion, extend the time for making an application under this section even if the time for making the application has ended.

48—Related provisions

- (1) In proceedings before the Tribunal under this Act, or on an appeal under section 71 of the *South Australian Civil and Administrative Tribunal Act 2013*, the Tribunal or the Court (as the case requires)—
 - (a) must, on the application of the Registrar, take steps to maintain the confidentiality of information classified by the Registrar as criminal intelligence, including steps to receive evidence and hear argument about the information in private in the absence of the parties to the proceedings and their representatives; and
 - (b) may take evidence consisting of or relating to information so classified by the Registrar by way of affidavit of a police officer of or above the rank of superintendent.
- (2) If the Tribunal did not give reasons in writing at the time of making a decision, the Tribunal must do so on request made within 28 days of the making of the decision.
- (3) If a decision was made because of information that is classified by the Registrar as criminal intelligence, the only reason required to be given is that the decision was made on public interest grounds.
- (4) An application for an appeal against a decision of the Tribunal under section 71 of the *South Australian Civil and Administrative Tribunal Act 2013*, must be made—
 - (a) within 28 days of the making of the decision; or
 - (b) if a request for reasons in writing is made under subsection (2)—within 28 days after receipt of the reasons in writing.

Part 10—Administration

49—Registrar

- (1) The Commissioner of Police is the Registrar of Firearms.
- (2) The Registrar may delegate a power or function of the Registrar under this Act to a particular person or to the person for the time being performing particular duties or holding or acting in a particular position.
- (3) A power or function delegated under this section may, if the instrument of delegation so provides, be further delegated.
- (4) A delegation under this section—
 - (a) may be absolute or conditional; and
 - (b) does not derogate from the power of the delegator to act in a matter; and
 - (c) is revocable at will by the delegator.
- (5) The Registrar may not delegate—
 - (a) the function of classifying information as criminal intelligence for the purposes of this Act; or
 - (b) the exercise of the power under section 8(6) to exempt a specified person from specified provisions of this Act (or to vary or revoke an exemption),
except to a Deputy Commissioner or Assistant Commissioner of Police.

50—Registers

- (1) The Registrar must maintain—
 - (a) a register of licences issued under this Act; and
 - (b) a register of firearms registered under this Act; and
 - (c) a register or registers of firearms prohibition orders issued under this Act.
- (2) If the Registrar is satisfied that a person has a proper interest in the contents of a register, the Registrar may permit that person to inspect the register, or portion of the register.
- (3) A register of firearms prohibition orders must be made available to the public by electronic or other means.
- (4) However, the Registrar may, at his or her discretion, determine that there is to be no public access to certain entries on a register or that access to certain entries is to be restricted to specified persons or classes of persons.
- (5) The Registrar may integrate a register maintained under this section with other law enforcement systems maintained in South Australia or elsewhere.

51—Provision of information by government agencies etc to Registrar

An agency or instrumentality of the Crown in right of this State must, at the request of the Registrar, provide the Registrar with information, reports or other documents relating to the possession, use or management of firearms, firearm parts and ammunition in possession of the agency or instrumentality.

52—Exchange of information with agencies etc

The Registrar may enter into an agreement or arrangement providing for the exchange of information held or obtained in the course of the administration or enforcement of this Act with an agency or instrumentality (whether in this State, the Commonwealth, another State or Territory of the Commonwealth or another jurisdiction) or some other prescribed body or person.

53—Power of Registrar to require medical examination or medical report

- (1) The Registrar may, as reasonably required for the purposes of determining whether a person is a fit and proper person for a purpose under this Act, require the person to—
 - (a) submit to an examination by a health professional, or by a health professional of a class, specified by the Registrar; or
 - (b) provide a medical report from a health professional, or from a health professional of a class, specified by the Registrar,

(including an examination or report that will require the person to submit to a blood test or some other prescribed procedure).

- (2) In this section—

health professional means—

- (a) a medical practitioner; or
- (b) a psychologist; or
- (c) a person of a class prescribed by the regulations.

54—Power of Registrar to investigate

- (1) The Registrar, or a person authorised by the Registrar, may, for the purpose of determining whether a person should be granted, or continue to hold, a licence, permit, authorisation or approval under this Act, or whether a licence, permit, authorisation or approval under this Act should be varied—
 - (a) require a person to do 1 or more of the following:
 - (i) to answer questions and, for that purpose, to be present or attend at a specified place and time as reasonably required by the Registrar;
 - (ii) to provide information, or to produce material for inspection, that the Registrar reasonably requires; or
 - (b) at any reasonable time, enter and inspect any premises; or
 - (c) while on premises entered under paragraph (b), seize anything found on the premises that the Registrar or other person acting under this section reasonably believes may assist in making the determination.
- (2) The Registrar or other person acting under this section may retain any material produced or seized under this section for such reasonable period as he or she thinks fit, and make copies of the material, or any of its contents.
- (3) The Registrar or other person acting under this section must not exercise the power conferred by subsection (1)(b) in relation to any premises except with the permission of the occupier of the premises or on the authority of a warrant issued by a magistrate.

- (4) A magistrate must not issue a warrant under this section unless satisfied, by information given on oath, that the warrant is reasonably required in the circumstances.
- (5) A person is guilty of an offence if the person fails or refuses, without reasonable excuse, to—
 - (a) comply with a requirement under this section; or
 - (b) answer a question put by the Registrar or a person authorised by the Registrar to the best of his or her knowledge, information and belief.

Maximum penalty: \$20 000 or imprisonment for 4 years.

- (6) This section does not limit or affect a power of investigation or inquiry that exists apart from this section.

55—Power of police officer to require information

- (1) A police officer may require a person who the police officer suspects on reasonable grounds has knowledge of matters in respect of which information is reasonably required for the administration or enforcement of this Act to answer questions in relation to those matters, to state the person's full name, date of birth and usual place of residence and to produce evidence of the person's identity.
- (2) Without limiting the operation of subsection (1), a police officer may require—
 - (a) a person who the police officer suspects on reasonable grounds is a person to whom this subsection applies—
 - (i) to state his or her full name, address and date of birth; and
 - (ii) to state whether he or she is the owner of the firearm or firearm related item and, if not, to state the name of the owner of the firearm or firearm related item; and
 - (iii) to answer questions relating to the firearm or firearm related item or to other persons who have, or have had, possession, of the firearm or firearm related item; or
 - (b) the owner of a firearm or firearm related item to answer questions relating to—
 - (i) the whereabouts of the firearm or firearm related item; or
 - (ii) the person or persons who have, or have had, possession of the firearm or firearm related item.
- (3) Subsection (2) applies—
 - (a) to a person who has, or recently has had, in his or her possession a firearm or firearm related item;
 - (b) to a person who is in the company of a person who has, or recently has had, in his or her possession a firearm or firearm related item;
 - (c) to a person who is an occupier or in charge of premises or a vehicle, vessel or aircraft on or in which a firearm or firearm related item is found;

- (d) to a person who is or was on or in any premises, vehicle, vessel or aircraft (other than any premises, vehicle, vessel or aircraft to which the public are admitted) at the time or immediately before a firearm or firearm related item is found on or in the premises, vehicle, vessel or aircraft.
- (4) The police officer may, if he or she thinks fit to do so, require a person who has given information in response to a requirement under this section to produce such evidence as may be stipulated by the police officer to verify the information.
- (5) A person is guilty of an offence if the person fails or refuses, without reasonable excuse, to—
 - (a) comply with a requirement under this section; or
 - (b) answer a question put by a police officer to the best of his or her knowledge, information and belief.

Maximum penalty: \$20 000 or imprisonment for 4 years.

- (6) A person may, at the discretion of the prosecutor, be prosecuted for a summary offence, but on conviction of a summary offence under this section the maximum penalty is \$10 000 or imprisonment for 2 years.
- (7) A person may not decline on grounds of self-incrimination to answer a question put by a police officer under subsection (2)(b) but the answer to any such question is not admissible except in proceedings for an offence under this section.
- (8) In this section—

firearm related item means—

 - (a) a firearm part; or
 - (b) a sound moderator; or
 - (c) ammunition; or
 - (d) a restricted firearm mechanism.

56—Power of police officer or warden to require production of licence etc

- (1) A person who has possession of a firearm must, at the request of a police officer or a warden under the *National Parks and Wildlife Act 1972*—
 - (a) produce a firearms licence authorising his or her possession of the firearm and the certificate of registration of the firearm for inspection by the police officer or warden (or, if production of the licence or certificate is not possible at the time of the request, the person must produce the licence or certificate within 48 hours for inspection by a police officer at a police station nominated by that person at the time of the request); and
 - (b) produce the firearm for inspection or, if production is not possible at the time of the request, produce the firearm within 48 hours for inspection by a police officer at a police station nominated by the person at the time of the request.

Maximum penalty: \$10 000 or imprisonment for 2 years.

- (2) An apparently genuine document purporting to be signed by the Commissioner of Police, and to certify that a licence, certificate of registration or a firearm has not been produced as required under this section, will, in the absence of proof to the contrary, be accepted as proof of the matter so certified.

- (3) A warden under the *National Parks and Wildlife Act 1972* can only act under subsection (1) when the person in possession of a firearm is on a reserve constituted under that Act.

57—Power to inspect or seize firearms etc

- (1) The owner of a firearm must, at the request of a police officer, produce the firearm for inspection at a specified place at a specified time or within a specified period.
Maximum penalty: \$10 000 or imprisonment for 2 years.
- (2) A police officer may seize a firearm if the police officer suspects on reasonable grounds that—
- (a) the firearm is unregistered; or
 - (b) an offence under this Act has been committed, or is being committed, with respect to the firearm; or
 - (c) the firearm has been forfeited to the Crown by order of a court; or
 - (d) a person who has possession of the firearm is not a fit and proper person to have possession of the firearm; or
 - (e) continued possession of the firearm by a person would be likely to result in undue danger to life or property; or
 - (f) a person has possession of the firearm in contravention of an order of a court whether the order was made in South Australia or in any other State or Territory of the Commonwealth; or
 - (g) a person has possession of the firearm in contravention of an intervention order under the *Intervention Orders (Prevention of Abuse) Act 2009*; or
 - (h) the holder of a firearms licence authorising use of the firearm can no longer use the firearm for the purpose authorised under the licence; or
 - (i) the firearm is mechanically unsafe; or
 - (j) the firearm (not being a prescribed firearm)—
 - (i) is particularly dangerous by reason of its design, construction or any other factor; or
 - (ii) could easily be converted to an automatic firearm; or
 - (iii) by reason of its size or any other factor, could be more readily concealed than other firearms of the same category or would be particularly suited to unlawful use.
- (3) If a police officer suspects on reasonable grounds that a person has possession of a firearm, firearm part, sound moderator, prohibited firearm accessory or restricted firearm mechanism in contravention of this Act, the police officer may seize the firearm, firearm part, sound moderator, prohibited firearm accessory or restricted firearm mechanism.
- (4) If a police officer suspects on reasonable grounds that a person has possession of ammunition that has been acquired or is held in contravention of this Act, the police officer may seize the ammunition.

- (5) If a police officer suspects on reasonable grounds that a person has possession of a firearm, a firearm part or ammunition in contravention of—
- (a) a condition of a bail agreement under the *Bail Act 1985*; or
 - (b) a condition of the person's release on parole under the *Correctional Services Act 1982*; or
 - (c) a condition of the person's release on licence under the *Criminal Law (Sentencing) Act 1988*; or
 - (d) a condition of a bond under the *Criminal Law (Sentencing) Act 1988*; or
 - (e) a condition of the person's release on licence under the *Criminal Law Consolidation Act 1935*; or
 - (f) a condition of the person's release on licence under the *Young Offenders Act 1993*; or
 - (g) any other Act,

the police officer may seize the firearm, firearm part or ammunition.

- (6) If a police officer suspects on reasonable grounds that—
- (a) a person has possession of a licence authorising possession of a firearm that has been seized under this section; or
 - (b) a person has possession of a licence in contravention of an order of a court; or
 - (c) a person has possession of a licence in contravention of an intervention order under the *Intervention Orders (Prevention of Abuse) Act 2009*; or
 - (d) a person has possession of a licence that has been cancelled or suspended or is not otherwise in force under this Act; or
 - (e) a person has possession of a licence for an illegal purpose; or
 - (f) a person who has possession of a licence is not a fit and proper person to have possession of the licence,

the police officer may require the person to surrender the licence to him or her immediately and, if the person refuses or fails to comply with such a requirement, seize the licence.

- (7) A police officer may stop, detain and search or detain and search—
- (a) any vehicle, vessel or aircraft on which the police officer suspects on reasonable grounds that there is a firearm or ammunition, or a firearm part, sound moderator, prohibited firearm accessory, restricted firearm mechanism or licence, liable to seizure under this section; or
 - (b) any person who the police officer suspects on reasonable grounds has possession of a firearm or ammunition, or a firearm part, sound moderator, prohibited firearm accessory, restricted firearm mechanism or licence, liable to seizure under this section.
- (8) If a police officer suspects on reasonable grounds that a person who has possession of a firearm has failed to keep the firearm safely and securely and in accordance with the requirements of this Act, the police officer may inspect the firearm and the means (if any) by which it has been secured.

- (9) A police officer may enter and search any premises in which the police officer suspects on reasonable grounds—
- (a) there is a firearm or ammunition, or a firearm part, sound moderator, prohibited firearm accessory, restricted firearm mechanism or licence, liable to seizure under this section; or
 - (b) there is a firearm that has not been kept safely and securely and in accordance with the requirements of this Act.
- (10) For the purposes of this section, there will be reasonable cause to suspect that a firearm has not been kept safely and securely and in accordance with the requirements of this Act if the firearm is in the possession of a licensee who has failed to comply with a condition of the licence—
- (a) that the licensee must, in accordance with a written request of the Registrar, conduct an audit of the licensee's practices with respect to the storage and safe keeping of the firearms in the licensee's possession, and report to the Registrar the results of the audit, in the manner and within the time specified by the Registrar; or
 - (b) that the licensee must permit inspection by a police officer at any reasonable time of the firearms in the licensee's possession and the licensee's facilities for the storage and safe keeping of the firearms.
- (11) A police officer may, as reasonably required for the purpose of ensuring compliance with a firearms prohibition order issued by the Registrar or to which a person is subject by order of a court—
- (a) detain a person to whom this subsection applies and search the person for any firearm, firearm part, sound moderator, ammunition or licence liable to seizure under this section; and
 - (b) stop and detain a vehicle, vessel or aircraft to which this subsection applies and search the vehicle, vessel or aircraft for any firearm, firearm part, sound moderator, ammunition or licence liable to seizure under this section; and
 - (c) enter premises to which this subsection applies and search the premises for any firearm, firearm part, sound moderator, ammunition or licence liable to seizure under this section.
- (12) Subsection (11) applies—
- (a) to a person who a police officer suspects on reasonable grounds is a person to whom a firearms prohibition order issued by the Registrar applies or to which the person is subject by order of a court; and
 - (b) to a vehicle, vessel or aircraft that a police officer suspects on reasonable grounds—
 - (i) is in the charge of a person to whom the subsection applies; or
 - (ii) is a vehicle, vessel or aircraft in which a person to whom this subsection applies is or was a passenger (other than a vehicle, vessel or aircraft to which the public are admitted); and
 - (c) to premises that a police officer suspects on reasonable grounds—

- (i) are occupied by, or under the care, control or management of, a person to whom the subsection applies; or
 - (ii) are premises in which a person to whom this subsection applies is or was present (other than premises to which the public are admitted).
- (13) A police officer may, with such assistance as he or she considers appropriate, use such reasonable force as is necessary to—
 - (a) break into any premises, vehicle, vessel or aircraft in order to gain entry or conduct a search under this section; and
 - (b) if reasonably necessary for the purposes of conducting a search, break into or open anything in or on the premises, vehicle, vessel or aircraft.
- (14) If a firearm or ammunition, or a firearm part, sound moderator, prohibited firearm accessory, restricted firearm mechanism or licence, is delivered or seized under this section, it must be forwarded immediately to the Registrar.

58—Return of licence that has been surrendered or seized

If a licence has been surrendered to or seized by a police officer under this Part and the licence has not been suspended or cancelled, it must, subject to the order of any court, be dealt with as follows:

- (a) if the firearm to which the licence relates has been seized—the licence must be returned to the holder on the return of the firearm to its owner;
- (b) in any other case—the licence must be returned to the holder at the expiration of 90 days from the date of surrender or seizure.

59—Seizure and forfeiture of equipment etc

- (1) If a police officer suspects on reasonable grounds that an offence against section 37 or 38 has been committed, is being committed or will be committed, the officer may seize any equipment, device, object or document reasonably suspected of being used, or intended for use, for, or in connection with, the commission of the offence.
- (2) If equipment, a device, an object or a document is seized under subsection (1), the Registrar may institute proceedings for forfeiture of the equipment, device, object or document before a court of summary jurisdiction.
- (3) If, in proceedings under subsection (2), the court is satisfied that the equipment, device, object or document was used or intended for use for, or in connection with, the commission of an offence against section 37 or 38, the court may order that the equipment, device, object or document be forfeited to the Crown, or make such other order for the disposal of the equipment, device, object or document as it thinks appropriate.
- (4) If a court finds a person guilty of an offence against section 37 or 38 and the court finds that any equipment, device, object or document was involved in the commission of the offence, the court may order that the equipment, device, object or document be forfeited to the Crown or be disposed of in such manner as the court directs.
- (5) If a police officer suspects on reasonable grounds that equipment, a device, an object or a document has been forfeited to the Crown by order of a court, the police officer may seize that equipment, device, object or document.

- (6) Equipment, a device, an object or a document seized under this section may be held—
- (a) until—
 - (i) proceedings are instituted for—
 - (A) an order under this section; or
 - (B) an offence against section 37 or 38 for which, or in connection with which, the equipment, device, object or document is alleged to have been used,
 - or a decision is made not to institute such proceedings; or
 - (ii) the expiration of 12 months after the equipment, device, object or document was seized,
 - whichever first occurs; or
 - (b) if proceedings of either kind referred to in paragraph (a)(i) are instituted within 12 months after the equipment, device object or document was seized—until those proceedings are finally determined.
- (7) The Registrar may sell or otherwise dispose of equipment, a device, an object or a document forfeited to the Crown under this section.
- (8) Subject to this Act and the regulations, the proceeds of the sale or disposal of equipment, a device, an object or a document under this section must be paid into the Consolidated Account.

60—Public safety notices

- (1) If a senior police officer considers that it is necessary or desirable to address an issue or perceived issue of public safety or to mitigate adverse consequences arising from an issue or perceived issue of public safety, the officer may issue a notice (a **public safety notice**) in respect of regulated premises to the owner or occupier of those premises.
- (2) Unless the urgency of the circumstances require otherwise, the senior police officer must, before issuing a public safety notice in respect of regulated premises, give the owner or occupier of the premises a reasonable opportunity to make submissions about the making of the notice and its proposed terms (however, failure to comply with this subsection does not affect the validity of the notice).
- (3) A public safety notice may impose 1 or more of the following requirements on the person to whom the notice is directed:
 - (a) a requirement that the person provide information, or produce for inspection material in his or her possession, relating to the premises, or to activities carried on at the premises, within a time specified in the notice;
 - (b) a requirement that the person ensure that the premises be closed and remain closed for a specified period;
 - (c) a requirement that the person ensure that specified activities or operations at the premises be discontinued or not commenced for a specified period;
 - (d) a requirement that the person ensure that specified activities or operations not be carried on at the premises except at specified times or subject to specified conditions;

- (e) a requirement that the person take action in relation to the premises as specified in the notice.
- (4) The Registrar may retain material produced under this section for such reasonable period as he or she thinks fit, and make copies of the material, or any of its contents.
- (5) A person to whom a public safety notice is directed is guilty of an offence if the person fails, without reasonable excuse, to comply with a requirement imposed by the notice.
Maximum penalty: \$20 000 or imprisonment for 4 years.
- (6) A public safety notice takes effect when served on the person to whom the notice is directed or at a later time specified in the notice and, subject to subsection (9), remains in force for a period of not more than 72 hours specified in the notice.
- (7) A public safety notice may not be issued except with the approval of the Minister if the premises has been subject to another public safety notice within the 72 hours immediately preceding the period for which the notice would apply.
- (8) A public safety notice issued with the approval of the Minister under subsection (7) remains in force for a period determined by the Minister and specified in the notice.
- (9) The Minister may, if he or she is satisfied that it is in the public interest to do so, determine that a public safety notice issued with his or her approval under subsection (7) is to remain in force for a period that exceeds 72 hours.
- (10) If a public safety notice is issued with the approval of the Minister under subsection (7), the person to whom the notice is directed may apply to the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013* for review of the decision of the Minister to give the approval.
- (11) An approval of the Minister under subsection (7) must be in writing and must set out—
- (a) the reasons for the approval; and
 - (b) if the Minister has determined that the notice to which the approval relates is to remain in force for more than 72 hours—the reasons for that determination,
- and must be provided to the person to whom the notice is directed.
- (12) If the approval of the Minister was given because of information that is classified by the Registrar as criminal intelligence, the only reason required to be given is that the approval was given on public interest grounds.
- (13) A public safety notice may be varied or revoked by a senior police officer by notice in writing served on the person to whom the notice is directed.
- (14) The requirements of a public safety notice operate despite any contrary terms and conditions of a licence or approval under this Act.
- (15) No civil liability attaches to a senior police officer or the Crown in respect of an act or omission in good faith in the making, variation or revocation of a public safety notice.
- (16) In this section—
- premises** includes—
- (a) land; and

- (b) any building or structure on land; and
- (c) a part of premises,

but does not include residential premises;

regulated premises means premises at which firearms, firearms parts or ammunition are used, held, stored or displayed in connection with the activities or operations of recognised firearms clubs, commercial ranges, the operations of paint-ball operators or the business of licensed dealers or foreign firearms dealers;

senior police officer means the Registrar or a police officer of or above the rank of superintendent.

61—Obstruction of police officer

A person who hinders or resists a police officer acting in the exercise of powers conferred by this Act is guilty of an offence.

Maximum penalty: \$10 000 or imprisonment for 2 years.

Part 11—Surrender and forfeiture of firearms etc

62—Procedures on surrender of firearms etc

- (1) This section does not apply to a person if—
 - (a) the person is prohibited from possessing or using a firearm by an order of a court whether in South Australia or any other State or Territory of the Commonwealth or by a firearms prohibition order or a similar order under corresponding legislation of another State or Territory of the Commonwealth; or
 - (b) the operation of this section in relation to the person would conflict with an order of a court whether in South Australia or any other State or Territory of the Commonwealth.
- (2) If a firearm, a firearm part, a sound moderator or ammunition is surrendered to the Registrar under this Act as a result of—
 - (a) the cancellation, suspension or variation of a licence authorising possession of a firearm; or
 - (b) the refusal of the Registrar to renew such a licence; or
 - (c) the cancellation of the registration of a firearm,the firearm, firearm part, sound moderator or ammunition must be retained by the Registrar until it is dealt with in accordance with this section.
- (3) The Registrar may, subject to subsection (4), give a written direction to the person who held, or applied for renewal of, the licence or in whose name the firearm was registered (as the case requires) to arrange for the surrendered item to be transferred to a licensed dealer or other person approved by the Registrar, for sale or disposal on behalf of the person.
- (4) A direction may not be given by the Registrar under subsection (3)—
 - (a) until the period allowed for review of the cancellation, suspension, variation or refusal under Part 9 has expired; or

- (b) if an application for review has been made—
 - (i) until the review lapses; or
 - (ii) in the case of a review that is finally determined—until the period allowed for an appeal under section 71 of the *South Australian Civil and Administrative Tribunal Act 2013* (if any) has expired or, if an appeal has been instituted, until the appeal has lapsed or been finally determined,

and unless the Registrar is satisfied that the person is not entitled to lawful possession of the surrendered item.

- (5) If a person fails to comply with a direction of the Registrar under subsection (3) within 90 days after the day on which the direction is given, or within such longer period as may be allowed by the Registrar, a surrendered item to which the direction relates is forfeited to the Registrar by force of this subsection.
- (6) An item forfeited under subsection (5) may be sold or otherwise disposed of by the Registrar and, subject to the regulations, any proceeds of sale or disposal must be paid into the Consolidated Account.
- (7) Despite subsections (3) and (4), the Registrar may—
 - (a) at the request of the person who surrendered a surrendered item—
 - (i) consent to the person arranging for the transfer of the item to a licensed dealer or other person approved by the Registrar for sale or disposal of the item on behalf of the person; or
 - (ii) authorise the collection of the item by a person to whom the item has been sold (provided that the Registrar is satisfied that the person is entitled to lawful possession of the item); or
 - (b) if satisfied that the person who surrendered a surrendered item, or some other person, is entitled to lawful possession of the item, authorise the collection of the item by that person.
- (8) A surrendered item transferred to a person approved by the Registrar in accordance with subsection (3) or (7)(a)(i) must be delivered by the person to a licensed dealer as soon as reasonably practicable.

Maximum penalty: \$5 000.

- (9) If—
 - (a) the Registrar—
 - (i) has authorised collection of a surrendered item; and
 - (ii) has made a reasonable attempt to notify the owner of the item in accordance with the requirements of the regulations that the surrendered item is available for collection; and
 - (b) the surrendered item is not collected within the period allowed by the regulations by the owner or some other person who satisfies the Registrar that he or she is entitled to lawful possession of the surrendered item,

the surrendered item is forfeited to the Registrar by force of this subsection.

- (10) An item forfeited under subsection (9) may be sold or otherwise disposed of by the Registrar and, subject to the regulations, any proceeds of sale or disposal must be paid into the Consolidated Account.
- (11) A licensed dealer or a person approved by the Registrar to whom a surrendered item is transferred under this section must comply with any conditions imposed by the Registrar in relation to the surrendered item.
Maximum penalty: \$5 000.
- (12) Nothing in this section authorises a person who is not entitled to lawful possession of a surrendered item to have access to the item for the purposes of transferring the item to a licensed dealer or while it is kept by the dealer for sale or disposal under this section.
- (13) In this section—
surrendered item means a firearm, a firearm part, a sound moderator or ammunition surrendered to the Registrar under this Act in circumstances referred to in subsection (2).

63—Forfeiture of firearms etc

- (1) The Registrar may institute proceedings before a court of summary jurisdiction for forfeiture of a firearm or ammunition, or a firearm part, sound moderator or restricted firearm mechanism, that has been seized under this Act or any other law (a *seized item*).
- (2) If, in proceedings under subsection (1), a court is satisfied—
- (a) that possession of a seized item by its owner would not be authorised under this Act or would be in contravention of an order of a court whether the order was made in South Australia or in any other State or Territory of the Commonwealth; or
 - (b) that the return of a seized item to its owner would be likely to result in undue danger to life or property; or
 - (c) that the whereabouts of the owner of a seized item has not been, and is not likely to be, ascertained by reasonable inquiry; or
 - (d) that the owner of a seized item has failed to comply with the requirements of this Act in relation to the safe storage or transport of the item or has been guilty of any offence under this Act with respect to the item; or
 - (e) that the return of a seized item to its owner would not be in the public interest; or
 - (f) in the case of a firearm, that—
 - (i) the firearm is mechanically unsafe; or
 - (ii) the firearm is particularly dangerous by reason of its design, construction or any other factor; or
 - (iii) the firearm could easily be converted to an automatic firearm; or
 - (iv) by reason of the firearm's size or any other factor, the firearm could be more readily concealed than other firearms of the same category or would be particularly suited to unlawful use,

the court may order that the seized item be forfeited to the Crown, or make such other order for the disposal of the item as it thinks appropriate.

- (3) A seized item may be held under this subsection—
- (a) until—
 - (i) proceedings are instituted for an order under this section or for an offence in relation to the seized item against the owner of the seized item or a decision is made not to institute such proceedings; or
 - (ii) the expiration of 12 months after the seized item was seized, whichever first occurs;
 - (b) if proceedings of either kind referred to in paragraph (a)(i) are instituted within 12 months after the seized item was seized—until those proceedings are finally determined.

64—General amnesty

- (1) If a person who has unauthorised possession of a firearm or ammunition, or a firearm part, prohibited firearm accessory, sound moderator or a restricted firearm mechanism, (an *unauthorised item*) brings the unauthorised item to a police station, or to another location approved by the Registrar, and surrenders it to the Registrar, no action is to be taken against the person in respect of any offence relating to the unauthorised possession of the item by that person.
- (2) A person who surrenders an unauthorised item under this section (other than a prohibited firearm accessory) may make application to the Registrar for the necessary authority under this Act to acquire, possess or use the item.
- (3) If a person has not made an application under this Act to obtain the necessary authority to acquire, possess or use the item within 28 days of surrendering the item, the Registrar may sell or otherwise dispose of the item as the Registrar thinks fit.
- (4) The Registrar must not sell or otherwise dispose of an unauthorised item until all applications made by the person in order to obtain the necessary authority to possess the item under this Act have been finally determined.

65—Disposal of forfeited or surrendered firearms etc

- (1) The Registrar may sell or otherwise dispose of any firearm, ammunition, firearm part, sound moderator or restricted firearm mechanism forfeited to the Crown under this or any other Act.
- (2) Subject to this Act and the regulations, the Registrar may sell or otherwise dispose of any firearm, ammunition, firearm part, sound moderator or restricted firearm mechanism surrendered to the Registrar.
- (3) If a court makes an order confiscating a firearm to the custody of the Registrar but does not make an order as to the manner in which the firearm should be disposed of or dealt with, the Registrar must, subject to a further order of the court or the order of any other court, keep the firearm for 1 year and must then sell or otherwise dispose of it as the Registrar thinks fit.

- (4) Subject to this Act and the regulations, the proceeds of the sale or disposal of a firearm or ammunition, or a firearm part, sound moderator or restricted firearm mechanism, under this section must be paid into the Consolidated Account.
- (5) If a firearms prohibition order applies to a person and the person surrenders a firearm, a firearm part, a sound moderator or ammunition (a *surrendered item*) owned by the person to the Registrar, the following provisions apply, subject to the regulations:
- (a) subject to paragraph (e), the Registrar must retain the surrendered item—
 - (i) in the case of an interim firearms prohibition order—for the period that the order applies to the person; and
 - (ii) in any other case—for the period allowed for an appeal against the order or, if an appeal has been instituted, until the appeal lapses or is finally determined;
 - (b) at the end of the period for which the Registrar is required to retain the surrendered item under paragraph (a)—
 - (i) if the person is subject to a firearms prohibition order, the Registrar must—
 - (A) comply with the requirements of the regulations as to the sale or disposal of the surrendered item; and
 - (B) pay the proceeds of the sale or disposal (if any) to the person;
 - (ii) if the person is not then subject to a firearms prohibition order, the Registrar must make the surrendered item available for collection by the person or some other person who satisfies the Registrar that he or she is entitled to lawful possession of the item;
 - (c) if the person ceases to be subject to a firearms prohibition order before the end of the period referred to in paragraph (a)(ii), the Registrar must make the surrendered item available for collection by the person or some other person who satisfies the Registrar that he or she is entitled to lawful possession of the surrendered item;
 - (d) if a surrendered item is made available for collection under this subsection but is not collected within the period allowed by the regulations, the Registrar may sell or otherwise dispose of the surrendered item and, subject to the regulations, pay the proceeds of the sale or disposal into the Consolidated Account;
 - (e) the Registrar may, during the period for which the Registrar would otherwise be required to retain the item—
 - (i) authorise the person to arrange for the transfer of the surrendered item to a licensed dealer or other person approved by the Registrar for sale or disposal; or
 - (ii) authorise the collection of the surrendered item by a person to whom the item has been sold (provided that the Registrar is satisfied that the person is entitled to lawful possession of the item).

- (6) A surrendered item transferred to a person approved by the Registrar in accordance with subsection (5)(e)(i) must be delivered by the person to a licensed dealer as soon as reasonably practicable.

Maximum penalty: \$5 000.

- (7) Nothing in subsection (5)(e) authorises a person who is not entitled to lawful possession of the surrendered item to have access to the item for the purposes of transferring it to the licensed dealer or person approved by the Registrar, or while it is kept by the dealer or person for sale or disposal.

Part 12—Powers of court

66—Powers of court

- (1) If a court finds a person guilty of an offence under this or any other Act and the court finds that a firearm or ammunition, or a firearm part, sound moderator or restricted firearm mechanism, was involved in the commission of the offence, the court may make 1 or more of the following orders:
- (a) that the firearm, ammunition, firearm part, sound moderator or restricted firearm mechanism be forfeited to the Crown or be disposed of in such other manner as the court directs;
 - (b) that a licence held by the person is subject to specified conditions;
 - (c) that a licence held by the person is suspended for a specified period or until further order;
 - (d) that a licence held by the person is cancelled;
 - (e) that the person is disqualified from holding or obtaining a licence for a specified period or until further order;
 - (f) that the person is subject to a firearms prohibition order until further order.
- (2) If, in the course of proceedings before a court, the court forms the view that a party to the proceedings who has possession of a firearm or ammunition, or a firearm part, sound moderator or restricted firearm mechanism, is not a fit and proper person to have possession of the firearm, ammunition, firearm part, sound moderator or restricted firearm mechanism, the court may make 1 or more of the following orders:
- (a) that the firearm, ammunition, firearm part, sound moderator or restricted firearm mechanism be disposed of in such manner as the court directs;
 - (b) that a licence held by the party is subject to specified conditions;
 - (c) that a licence held by the party is suspended for a specified period or until further order;
 - (d) that a licence held by the party is cancelled;
 - (e) that the party is disqualified from holding or obtaining a licence for a specified period or until further order;
 - (f) that the party is subject to a firearms prohibition order until further order.

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- (3) If a court makes an order that a person is subject to a firearms prohibition order—
 - (a) the order operates as a firearms prohibition order in force against the person under Part 8; and
 - (b) the court may exercise the powers of the Registrar under section 45(17) to grant an exemption from specified provisions of that section.
 - (4) If a court makes an order under this section, the Registrar of the court must notify the Registrar of Firearms of the details of the order.
 - (5) If a court makes an order that a licence held by a person is suspended or cancelled, the person must surrender to the Registrar all firearms, ammunition, firearm parts and sound moderators owned by or in the possession of the person within 7 days of the making of the order or as otherwise directed by the court.

Maximum penalty:

- (a) in the case of a firearm—\$50 000 or imprisonment for 10 years;
 - (b) in the case of a firearm part, sound moderator or ammunition—\$20 000 or imprisonment for 4 years.
- (6) For the purposes of subsection (1), a declaration by a court under Part 8A of the *Criminal Law Consolidation Act 1935* that a person is liable to supervision in relation to an offence will be taken to be a finding by the court that the person is guilty of the offence.

Part 13—Miscellaneous

67—Firearms clubs, commercial range operators and paint-ball operators

The regulations may make provision in relation to—

- (a) the recognition of firearms clubs, commercial range operators and paint-ball operators; and
- (b) the approval of—
 - (i) grounds of recognised firearms clubs; and
 - (ii) ranges of recognised commercial range operators; and
 - (iii) grounds of recognised paint-ball operators; and
- (c) applications for, and conditions of, recognition of clubs or operators or approval of grounds or ranges; and
- (d) the variation of conditions of recognition of clubs or operators or approval of grounds or ranges; and
- (e) the revocation of recognition of clubs or operators or approval of grounds or ranges; and
- (f) the keeping of records and the furnishing of information and documents to the Registrar by—
 - (i) recognised firearms clubs; and
 - (ii) recognised commercial range operators; and
 - (iii) recognised paint-ball operators; and

- (g) the membership of recognised firearms clubs, including the expulsion of members; and
- (h) mandatory reporting obligations of recognised firearms clubs, recognised commercial range operators or recognised paint-ball operators with respect to prescribed matters or circumstances; and
- (i) entry into, and inspection of, the grounds of recognised firearms clubs and paint-ball operators and ranges of recognised commercial range operators by the Registrar or a person authorised by the Registrar for the purposes of determining applications for approval, reviewing approvals or determining whether conditions of approvals are being or have been contravened; and
- (j) any other matter relating to—
 - (i) recognised firearms clubs, recognised commercial range operators or recognised paint-ball operators; or
 - (ii) the approved grounds or ranges of recognised firearms clubs, recognised commercial range operators or recognised paint-ball operators.

68—Offence to misuse, forge etc authorisation

- (1) A person is guilty of an offence if the person—
 - (a) falsely represents himself or herself to be the holder of an authorisation (whether or not it is in force); or
 - (b) gives possession of an authorisation to another person for the purpose of its unlawful use; or
 - (c) steals an authorisation; or
 - (d) forges or fraudulently alters an authorisation; or
 - (e) knowingly has possession of, or uses, a forged, fraudulently altered, borrowed or stolen authorisation.

Maximum penalty: \$10 000 or imprisonment for 2 years.

- (2) In this section—

authorisation means a licence, permit, authorisation or approval under this Act or under corresponding legislation of another State or Territory of the Commonwealth.

69—False or misleading information

- (1) A person is guilty of an offence if the person makes a statement that is false or misleading in a material particular (whether by reason of the inclusion or omission of any particular) in any information provided, or record kept, under this Act.

Maximum penalty:

- (a) if the person is a licensed dealer and the statement is included in information provided or a record kept in the ordinary course of the business of the licensed dealer—\$20 000 or imprisonment for 4 years;
 - (b) in any other case—\$10 000 or imprisonment for 2 years.
- (2) It is a defence to a charge under subsection (1) to prove that the defendant believed on reasonable grounds that the information was true.

70—Statutory declaration

If a person is required to provide information to the Registrar under this Act, the Registrar may require the information to be verified by statutory declaration and, in that event, the person will be taken not to have provided the information as required unless it has been verified in accordance with the requirements of the Registrar.

71—Liability for act or default of officer, employee or agent

For the purposes of this Act, an act or default of an officer, employee or agent of a person will be taken to be an act or default of that person unless it is proved that the officer, employee or agent acted outside the scope of his or her actual, usual and ostensible authority.

72—Offences by companies

- (1) If a company is guilty of an offence under this Act, the directors of the company and the company's principal nominee (if any) are each guilty of an offence and liable to the same penalty as may be imposed for the principal offence when committed by a natural person unless it is proved that the director or nominee (as the case may be) could not, by the exercise of reasonable diligence, have prevented the commission of the principal offence by the company.
- (2) A director or company's principal nominee may be prosecuted and convicted of an offence under this section whether or not there has been a finding by a court that the company committed the principal offence.

73—Accessories and conspiracy

- (1) A person must not, in this State—
 - (a) aid, abet, counsel or procure the commission of an offence in any place outside this State, being an offence punishable under the provisions of a law in force in that place that corresponds to a provision of this Act; or
 - (b) conspire with another to commit an offence in any place outside this State, being an offence punishable under the provisions of a law in force in that place that corresponds to a provision of this Act (whether the other conspirator is in this State or elsewhere).
- (2) The maximum penalty for an offence under subsection (1) is the same penalty or forfeiture that the person would be subject to if the offence concerned had been committed in this State.
- (3) A person must not conspire with another to commit an offence under this Act (whether the other conspirator is in this State or elsewhere).
- (4) The maximum penalty for an offence under subsection (3) is the same penalty or forfeiture that the person would be subject to for the offence he or she conspired to commit.

74—Evidentiary provisions

- (1) In proceedings for an offence under this Act or other legal proceedings, an apparently genuine document purporting to be signed by the Registrar and to certify that, at a specified time—
 - (a) a firearms prohibition order applied to, or was in force against, a person; or

- (b) a person was, or was not, the holder of a licence; or
- (c) a licence was for a specified category or conferred specified authority or was subject to specified limitations or conditions; or
- (d) a licence was suspended or cancelled; or
- (e) a person was disqualified from holding or obtaining a licence or permit; or
- (f) a person was, or was not, the holder of a specified permit; or
- (g) a permit was suspended or cancelled; or
- (h) a permit was subject to specified conditions; or
- (i) a firearm was, or was not, registered; or
- (j) a person was, or was not, the registered owner of a firearm; or
- (k) a public safety notice applied to premises; or
- (l) a person was, or was not, approved as a company's principal or secondary nominee; or
- (m) a person or body was, or was not, a collectors' club, shooting club, paint-ball operator or commercial range operator; or
- (n) a firearms club, paint-ball operator or commercial range operator was, or was not, a recognised firearms club, recognised paint-ball operator or recognised commercial range operator; or
- (o) the grounds of a recognised firearms club or recognised paint-ball operator were, or were not, approved under this Act; or
- (p) the range of a recognised commercial range operator was, or was not, approved under this Act; or
- (q) a person was, or was not, approved or authorised for a purpose under this Act; or
- (r) an approval or authorisation under this Act was subject to specified conditions; or
- (s) a person was, or was not, the holder of a specified exemption under this Act; or
- (t) an exemption under this Act was subject to specified conditions; or
- (u) information (including records or agreements) required to be kept, retained or provided to the Registrar under this Act had not been kept, retained or provided as required,

is to be accepted, in the absence of proof to the contrary, as proof of the matter so certified.

- (2) In proceedings for an offence under this Act or other legal proceedings, an apparently genuine document purporting to be signed by the relevant authority under corresponding legislation of another State or Territory of the Commonwealth and to certify that, at a specified time—
 - (a) a specified order (similar to a firearms prohibition order) was in force against a person under that legislation; or

- (b) a person was, or was not, the holder of a licence, permit, approval or other authorisation under that legislation; or
 - (c) that a firearm was, or was not, registered under that legislation,
- is to be accepted, in the absence of proof to the contrary, as proof of the matter so certified.

75—General defence

- (1) It is a defence to a charge of an offence against this Act if the defendant proves that the alleged offence was not committed intentionally and did not result from any failure on the part of the defendant to take reasonable care to avoid the commission of the offence.
- (2) This section does not apply in relation to a person who is charged with an offence under any of the following provisions:
 - (a) section 9;
 - (b) section 19;
 - (c) section 22;
 - (d) section 37;
 - (e) section 45.

76—Form of licences, permits etc

- (1) Subject to this Act, a firearms licence, permit, approval, exemption or other authority granted by the Registrar under this Act must be in writing in a form determined by the Registrar.
- (2) The regulations may set out requirements and procedures in relation to photographic licences, including by empowering the Registrar to issue interim licences and take measures for non-compliance with any requirements or procedures (including, without limitation, cancelling or suspending the licence).
- (3) Terms used in this Act will have the same respective meanings when used in a firearms licence or other document issued by the Registrar under this Act.

77—Service of notices

- (1) Unless otherwise provided by this Act, a notice or other document required or authorised to be given to or served on a person under this Act may be given or served as follows:
 - (a) by personal service on the person or the agent of the person;
 - (b) by leaving it for the person at his or her place of residence or, in the case of a company, at the company's registered office, with someone apparently over the age of 16 years;
 - (c) by serving it by registered post on the person or an agent of the person at his or her last known address;

- (d) by transmitting it by fax or email to a fax number or email address provided by the person to the Registrar for the purpose (in which case the notice or document will be taken to have been given or served at the time of transmission).
- (2) Service by post is effected by addressing, prepaying and posting the notice or document and service will be taken to have occurred when the notice or document, or notice that the notice or document is available for collection, would be delivered in the ordinary course of post.

78—Regulations

- (1) The Governor may make such regulations as are contemplated by this Act or as are necessary or expedient for the purposes of this Act.
- (2) Without limiting the generality of subsection (1), the regulations may—
 - (a) make provision for the making of applications for, and the grant, variation and cancellation of, and the imposition of conditions or limitations on, permits and other authorisations granted under the regulations; and
 - (b) make provision in relation to mandatory reporting and other obligations of medical practitioners, employers, licensees, firearm owners and other specified persons in relation to prescribed matters or circumstances; and
 - (c) make provision for procedures, specifications and requirements in respect of applications for, and granting and revocation of, approval of company nominees; and
 - (d) make provision in relation to the advertising of firearms for sale; and
 - (e) make provision with respect to the keeping of records and other documents or the furnishing of information and documents (including by electronic means) to the Registrar; and
 - (f) regulate the keeping and form of registers; and
 - (g) prescribe, and provide for the payment, recovery, waiver, reduction or refund of, fees for the purposes of this Act; and
 - (h) without derogating from the power to declare that a contravention of a code of practice is of a particular category under Part 6—
 - (i) prescribe expiation fees not exceeding \$1 250 for alleged offences under this Act; and
 - (ii) prescribe fines not exceeding \$5 000 for offences against the regulations.
- (3) A regulation under this Act may confer discretionary powers.
- (4) The regulations may be of general application or vary in their application according to prescribed factors.
- (5) The regulations may include evidentiary provisions to facilitate proof of breaches of the regulations for the purposes of proceedings for offences against this Act or the regulations.

- (6) A regulation under this Act may make provisions of a saving or transitional nature consequent on the enactment of this Act or on the commencement of specified provisions of this Act or specified regulations.
- (7) A provision referred to in subsection (6) may, if the regulations so provide, take effect from a day that is earlier than the day on which the regulation is made but, in such a case, the provision does not operate so as—
- (a) to affect, in a manner prejudicial to any person (other than the Crown), the rights of that person existing before the date of publication of the regulation; or
 - (b) to impose liabilities on any person (other than the Crown) in respect of any thing done or omitted to be done before the date of publication of the regulation.

Schedule 1—Consequential amendments, repeal and transitional provisions

Part 1—Preliminary

1—Amendment provisions

In this Schedule, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Bail Act 1985*

2—Amendment of section 3—Interpretation

- (1) Section 3(1), definition of *ammunition*—delete "*Firearms Act 1977*" and substitute:
Firearms Act 2015
- (2) Section 3(1), definition of *firearm*—delete "*Firearms Act 1977*" and substitute:
Firearms Act 2015

Part 3—Amendment of *Correctional Services Act 1982*

3—Amendment of section 37A—Release on home detention

Section 37A(3)(ca)—delete "*Firearms Act 1977*" and substitute:
Firearms Act 2015

4—Amendment of section 68—Conditions of release on parole

Section 68(1)(a)(ia)—delete "*Firearms Act 1977*" and substitute:
Firearms Act 2015

Part 4—Amendment of *Criminal Law Consolidation Act 1935*

5—Amendment of section 5—Interpretation

Section 5(1), definition of *firearm*—delete the definition and substitute:
firearm has the same meaning as in the *Firearms Act 2015*;

6—Amendment of section 267AA—Offence where unlawfully supplied firearm used in subsequent offence

Section 267AA(6), definition of *prescribed firearm offence*—after "*Firearms Act 1977*" insert:

or section 22(2)(a) or 45(9) of the *Firearms Act 2015*

7—Amendment of section 269O—Supervision

Section 269O(1a)(a)—delete "*Firearms Act 1977*" and substitute:

Firearms Act 2015

8—Amendment of section 299A—Orders as to firearms and offensive weapons

Section 299A(1)(g)(i)—delete "*Firearms Act 1977*" and substitute:

Firearms Act 2015

Part 5—Amendment of *Criminal Law (High Risk Offenders) Act 2015*

9—Amendment of section 10—Supervision orders—terms and conditions

Section 10(1)(b)—delete "*Firearms Act 1977*" and substitute:

Firearms Act 2015

Part 6—Amendment of *Criminal Law (Sentencing) Act 1988*

10—Amendment of section 20AA—Interpretation

- (1) Section 20AA(1), definition of *serious firearm offence*, (a)—delete "*Firearms Act 1977*" and substitute:

Firearms Act 2015

- (2) Section 20AA(1), definition of *serious firearm offence*, (a)—delete "class" wherever occurring and substitute in each case:

category

- (3) Section 20AA(1), definition of *serious firearm offence*, (b)—delete "*Firearms Act 1977*" and substitute:

Firearms Act 2015

- (4) Section 20AA(1), definition of *serious firearm offence*, (d)—delete "*Firearms Act 1977*" and substitute:

Firearms Act 2015

- (5) Section 20AA(1), definition of *serious firearm offence*, (e)—delete "*Firearms Act 1977*" and substitute:

Firearms Act 2015

- (6) Section 20AA(1), definition of *serious firearm offence*, (f)—delete "section 10C(10) of the *Firearms Act 1977*" and substitute:

section 45(9) of the *Firearms Act 2015*

- (7) Section 20AA(1), definition of *serious firearm offence*, (g)—delete "section 14 of the *Firearms Act 1977*" and substitute:

section 22(2)(a) of the *Firearms Act 2015*

- (8) Section 20AA(2)—delete "*Firearms Act 1977*" and substitute:

Firearms Act 2015

- (9) Section 20AA(2)(b), (c) and (d)—delete "class" wherever occurring and substitute in each case:

category

11—Amendment of section 24—Release on licence

Section 24(2a)(a)—delete "*Firearms Act 1977*" and substitute:

Firearms Act 2015

12—Amendment of section 42—Conditions of bond

Section 42(a1)(a)—delete "*Firearms Act 1977*" and substitute:

Firearms Act 2015

13—Transitional provision

Section 20AA of the *Criminal Law (Sentencing) Act 1988* as in force immediately before the commencement of this clause continues to apply in relation to an offence committed before that commencement.

Part 7—Amendment of *Cross-border Justice Act 2009*

14—Amendment of section 68—Proceedings that may be heard in another participating jurisdiction

Section 68(2)(h)—delete "*Firearms Act 1977*" and substitute:

Firearms Act 2015

Part 8—Amendment of *Intervention Orders (Prevention of Abuse) Act 2009*

15—Amendment of section 3—Interpretation

- (1) Section 3(1), definition of *ammunition*—delete "*Firearms Act 1977*" and substitute:

Firearms Act 2015

- (2) Section 3(1), definition of *firearm*—delete "*Firearms Act 1977*" and substitute:

Firearms Act 2015

16—Amendment of section 40—Dealing with items surrendered under intervention order

Section 40(1)—delete "*Firearms Act 1977*" and substitute:

Firearms Act 2015

Part 9—Amendment of *Protective Security Act 2007*

17—Amendment of section 3—Interpretation

Section 3, definition of *dangerous object or substance*, (ba)—delete "*Firearms Act 1977*" and substitute:

Firearms Act 2015

Part 10—Amendment of *Security and Investigation Industry Act 1995*

18—Amendment of section 3—Interpretation

- (1) Section 3(1), definition of *firearm*—delete "*Firearms Act 1977*" and substitute:

Firearms Act 2015

- (2) Section 3(1), definition of *firearms licence*—delete "*Firearms Act 1977*" and substitute:

Firearms Act 2015

Part 11—Amendment of *Sheriff's Act 1978*

19—Amendment of section 4—Interpretation

Section 4(1), definition of *restricted item*, (ba)—delete "*Firearms Act 1977*" and substitute:

Firearms Act 2015

Part 12—Amendment of *Summary Offences Act 1953*

20—Amendment of section 18—Loitering

Section 18(6)(c)—delete "Part 2A of the *Firearms Act 1977*" and substitute:

Part 8 of the *Firearms Act 2015*

21—Amendment of section 66—Interpretation

Section 66(1), definition of *prescribed offence*, (b)—delete "*Firearms Act 1977*" and substitute:

Firearms Act 2015

22—Amendment of Schedule 2—Exempt persons—prohibited weapons

- (1) Schedule 2, clause 19(1)(a)(i)—delete "*Security and Investigation Agents Act 1995*" and substitute:

Security and Investigation Industry Act 1995

- (2) Schedule 2, clause 19(1)(a)(ii)—delete "*Firearms Act 1977*" and substitute:

Firearms Act 2015

- (3) Schedule 2, clause 19(2)(b)—delete "*Security and Investigation Agents Act 1995*" and substitute:

Security and Investigation Industry Act 1995

- (4) Schedule 2, clause 19(2)(c)—delete "*Firearms Act 1977*" and substitute:

Firearms Act 2015

Part 13—Amendment of *Young Offenders Act 1993*

23—Amendment of section 41A—Conditional release from detention

- Section 41A(2)(c)(iia)—delete "*Firearms Act 1977*" and substitute:

Firearms Act 2015

Part 14—Repeal of *Firearms Act 1977*

24—Repeal

The *Firearms Act 1977* is repealed.

Part 15—Transitional provisions

25—Interpretation

In this Part—

transition period means the period of 12 months from the commencement of this clause.

26—Licences continued

- (1) A firearms licence in force, under the repealed Act, immediately before the commencement of this clause continues in force, subject to this Act, for the balance of the term of the licence as if it were a firearms licence of the corresponding category issued under this Act that—
- (a) authorises the possession and use of the same firearms or categories of firearms for the same purpose or purposes as the licence under the repealed Act; and
 - (b) is subject to the conditions and limitations applicable to a licence of that category under this Act, including any conditions or limitations imposed by the Registrar under the repealed Act or this Act.
- (2) A firearms licence that authorised the licensee to act as a dealer's assistant in force under the repealed Act immediately before the commencement of this clause continues in force, subject to this Act, for the balance of the term of the licence, or for 12 months following that commencement, whichever is the lesser period, as if it were a licence under this Act that—
- (a) authorises the licensee to possess and use firearms, or to possess ammunition, only as an employee of a licensed dealer; and
 - (b) authorises the possession and use of firearms, firearm parts or ammunition for the purpose of the business of a licensed dealer, being firearms, firearm parts or ammunition of the same categories or kinds as the licensee was authorised to possess and use by the licence under the repealed Act; and
 - (c) is subject to the conditions and limitations applicable to a licence of that category under this Act, including any conditions or limitations imposed by the Registrar under the repealed Act or this Act.

- (3) Subject to this Act, section 11(5) does not apply, until the end of the transition period, in respect of a person who, immediately before the commencement of this clause, was an employee of a licensed dealer authorised under the repealed Act to deal in ammunition only, and who, immediately after the commencement of this clause has access to ammunition in the course of his or her employment with that dealer.
- (4) A dealer's licence in force, under the repealed Act, immediately before the commencement of this clause continues in force, subject to this Act, for the balance of the term of the licence as if it were a licence that—
- (a) authorises the licensee to carry on the business of a dealer; and
 - (b) authorises the possession and use of firearms, firearm parts and ammunition for the purpose of the business of the dealer, being firearms, firearm parts and ammunition of the same categories or kinds as the dealer was authorised to deal in by the licence under the repealed Act; and
 - (c) is subject to the conditions and limitations applicable to a licence of that category under this Act, including any conditions or limitations imposed by the Registrar under the repealed Act or this Act.

27—Firearms permits

A firearms permit in force, under the repealed Act, immediately before the commencement of this clause continues in force, subject to this Act, for the balance of the term of the permit as if it were a firearms licence under this Act that—

- (a) authorises, for the purpose only of use in a primary production business, the possession of the same firearms or categories of firearms as the firearms permit under the repealed Act; and
- (b) is subject to the conditions and limitations applicable to a licence under this Act that authorises the possession and use of firearms for the purpose of primary production, including any conditions or limitations imposed by the Registrar under the repealed Act or this Act.

28—Permits to acquire firearms continued

A permit to acquire a firearm in force, under the repealed Act, immediately before the commencement of this clause continues in force, subject to this Act, for the balance of the term of the permit as if it were a corresponding permit issued under this Act.

29—Registration of firearms continued

Registration of a firearm in force, under the repealed Act, immediately before the commencement of this clause continues in force, subject to this Act, as if it were registration of the firearm under this Act.

30—Registration of prescribed firearms

Section 27 does not apply, during the transition period, to a prescribed firearm in the possession of the holder of a firearms licence that authorised possession of the prescribed firearm under the repealed Act immediately before the commencement of that period.

31—Possession, use and registration of firearms that were not firearms under repealed Act

- (1) If a device that is a firearm within the meaning of this Act was not a firearm within the meaning of the repealed Act—
 - (a) this Act does not apply, during the transition period, to the possession or use of the device; and
 - (b) section 27(3) does not apply, during the transition period, to the owner of the device.
- (2) Despite sections 14(1)(c) and 28(1)(c)—
 - (a) no application fee is payable in relation to an application for a licence authorising possession of a firearm, or an application for the registration of a firearm, if the firearm was, under the repealed Act, a deactivated firearm and—
 - (i) the applicant was in lawful possession of the firearm before the commencement of this clause; and
 - (ii) the application is made before the end of the transition period; and
 - (b) no application fee is payable in relation to an application for a licence authorising possession of a firearm, or an application for the registration of a firearm, if the firearm is a firearm within the meaning of this Act but was not a firearm within the meaning of the repealed Act because it was not designed to be carried by hand and—
 - (i) the applicant was in lawful possession of the firearm before the commencement of this clause; and
 - (ii) the application is made before the end of the transition period; and
 - (iii) the Registrar is satisfied that the applicant is—
 - (A) a museum to which access is permitted to the public, whether for free or on payment of money; or
 - (B) the RSL or a sub-branch of the RSL; or
 - (C) a genuine collector of firearms of historical or other significance and genuinely has possession of the firearm for that purpose; and
 - (c) no application fee is payable in relation to an application for renewal of a licence authorising possession of a firearm made after the end of the transition period if, under paragraph (a) or (b), no application fee was payable in relation to the application for the grant of the licence in respect of that firearm.
- (3) If an application for a licence, or for the renewal of a licence, to which subclause (2) applies also includes an application for authorisation to possess a firearm that does not fall within the ambit of that subclause, then that subclause does not operate to preclude the requirement for payment of an application fee in respect of the application insofar as it relates to the additional firearm.

- (4) In this clause—

deactivated firearm means a device that was not a firearm for the purposes of the repealed Act because it had been rendered unusable in a manner stipulated in the regulations under that Act or by the Registrar;

RSL means the Returned & Services League of Australia (S.A. Branch) Incorporated.

32—Permits to acquire ammunition continued

A permit to acquire ammunition in force, under the repealed Act, immediately before the commencement of this clause continues in force, subject to this Act, for the balance of the term of the permit as if it were a permit to possess ammunition issued under this Act, subject to the condition and limitations applicable to the permit under this Act, including any conditions or limitations imposed by the Registrar under the repealed Act or this Act.

33—Recognised firearms clubs and their grounds

- (1) A firearms club that is a recognised firearms club, under the repealed Act, immediately before the commencement of this clause continues, subject to this Act, as if the club were a recognised firearms club under this Act.
- (2) An approval of grounds of a recognised firearms club in force, under the repealed Act, immediately before the commencement of this clause continues in force, subject to this Act, as if it were an approval of the grounds under this Act, subject to the conditions and limitations applicable to the approval under this Act, including any conditions or limitations imposed by the Registrar under the repealed Act or this Act.

34—Commercial range operators and their ranges

- (1) A commercial range operator who is a recognised commercial range operator, under the repealed Act, immediately before the commencement of this clause continues, subject to this Act, as if the person were a recognised commercial range operator under this Act.
- (2) An approval of a range of a recognised commercial range operator in force, under the repealed Act, immediately before the commencement of this clause continues in force, subject to this Act, as if it were an approval of the range under this Act, subject to the conditions and limitations applicable to the approval under this Act, including any conditions or limitations imposed by the Registrar under the repealed Act or this Act.

35—Paint-ball operators and their grounds

- (1) A paint-ball operator who is a recognised paint-ball operator, under the repealed Act, immediately before the commencement of this clause continues, subject to this Act, as if the person were a recognised paint-ball operator under this Act.
- (2) An approval of grounds of a recognised paint-ball operator in force, under the repealed Act, immediately before the commencement of this clause continues in force, subject to this Act, as if it were an approval of the grounds under this Act, subject to the conditions and limitations applicable to the approval under this Act, including any conditions or limitations imposed by the Registrar under the repealed Act or this Act.

36—Accredited paint-ball employees

A person who possesses or uses a paint-ball firearm on the grounds of a recognised paint-ball operator in the ordinary course of paint-ball shooting operations as an employee of the operator for the purposes of the business of the operator is not, during the transition period, required to be an accredited paint-ball employee in order for section 8(2)(h) to operate in relation to the person.

37—Continuation of applications

- (1) An application for a firearms licence, or for renewal of a firearms licence, made under Part 3 of the repealed Act but not finally determined immediately before the commencement of this clause is to be taken to be an application to the Registrar for a firearms licence, or for renewal of a firearms licence, made under Part 2 Division 3 of this Act for a firearms licence of the corresponding category under this Act and is to be dealt with accordingly.
- (2) An application for a dealer's licence, or for renewal of a dealer's licence, made under Part 3 of the repealed Act but not finally determined immediately before the commencement of this clause is to be taken to be an application to the Registrar for a firearms licence, or for renewal of a firearms licence, authorising the licensee to carry on the business of a dealer made under Part 2 Division 3 of this Act and is to be dealt with accordingly.
- (3) An application for registration of a firearm made under Part 4 of the repealed Act but not finally determined immediately before the commencement of this clause is to be taken to be an application to the Registrar for registration of a firearm made under Part 4 of this Act and is to be dealt with accordingly.
- (4) An application for a permit authorising the acquisition of a firearm made under Part 3 of the repealed Act but not finally determined immediately before the commencement of this clause is to be taken to be an application to the Registrar for a permit to acquire a firearm made under Part 3 of this Act and is to be dealt with accordingly.
- (5) An application for a permit entitling the holder to acquire ammunition made under Part 3 of the repealed Act but not finally determined immediately before the commencement of this clause is to be taken to be an application to the Registrar for a permit to possess ammunition made under Part 5 of this Act and is to be dealt with accordingly.
- (6) An application for recognition of a firearms club, paint-ball operator or commercial range operator made to the Minister under Part 3 of the repealed Act but not finally determined immediately before the commencement of this clause is to be taken to be an application to the Registrar for recognition of a firearms club, paint-ball operator or commercial range operator (as the case requires) made under the regulations under this Act and is to be dealt with accordingly.
- (7) An application for approval of the grounds of a recognised firearms club or recognised paint-ball operator, or for approval of the range of a recognised commercial range operator, made to the Registrar under Part 3 of the repealed Act but not finally determined immediately before the commencement of this clause is to be taken to be an application to the Registrar for approval of the grounds of the firearms club or paint-ball operator, or for approval of the range of the commercial range operator (as the case requires) made under the regulations under this Act and is to be dealt with accordingly.

- (8) An application for the approval of the Registrar made under section 27AA of the repealed Act but not finally determined immediately before the commencement of this clause is to be taken to be an application to the Registrar for approval made under section 38 of this Act and is to be dealt with accordingly.
- (9) If an application within the ambit of this clause satisfies the requirements of the provision of the repealed Act under which it was made, the application will be taken to satisfy the requirements of the provision of this Act under which it is to be taken to have been made subject to any requirements of the Registrar to furnish information he or she requires to determine the application.
- (10) The regulations may make further provision in relation to the manner in which applications made under the repealed Act that are not finally determined on the commencement of this clause are to be dealt with by the Registrar.

38—Application for renewal of licence

- (1) Section 15(5) does not apply to an application for renewal of a firearms licence under this Act where the applicant has been found guilty of a prescribed offence if the offence was committed before the commencement of this clause.
- (2) In this clause—
prescribed offence means an offence prescribed for the purposes of section 15(5).

39—Firearms prohibition orders continued

- (1) A firearms prohibition order or interim firearms prohibition order that applies to or is in force against a person, under the repealed Act, immediately before the commencement of this clause continues, subject to this Act, as if it were such an order under this Act.
- (2) An exemption given by the Registrar under section 10C(15) of the repealed Act and in force immediately before the commencement of this clause continues as if it were an exemption given by the Registrar under section 45(17).

40—Company nominees

- (1) A person appointed by a company, under the revoked regulations, to have control of the company's firearms at the place at which they are kept by the company will be taken to be the company's principal nominee until the end of the day on which the transition period expires or until a person is approved as the company's principal nominee under this Act, whichever occurs first.
- (2) In this clause—
revoked regulations means the *Firearms Regulations 2008* as in force immediately before the commencement of this clause.

41—Certain other permits, acts and proceedings continued in effect

- (1) An international visitor firearms permit in force, under the regulations under the repealed Act, immediately before the commencement of this clause continues in force for the balance of the term of the permit, subject to this Act, as if it were a corresponding permit issued under the regulations under this Act, subject to the conditions and limitations applicable to the permit under this Act, including any conditions or limitations imposed by the Registrar under the repealed Act or this Act.

- (2) An exemption, approval, authorisation or consent given under a provision of the repealed Act or regulations under the repealed Act continues to have effect for the purpose of the corresponding provision of this Act or the regulations under this Act, subject to the conditions and limitations applicable to the exemption, approval, authorisation or consent under this Act, including any conditions or limitations imposed by the Registrar under the repealed Act or this Act.
- (3) A requirement, request or agreement made under a provision of the repealed Act or regulations under the repealed Act continues to have effect for the purpose of the corresponding provision of this Act or the regulations under this Act.

42—Suspension of licences and permits

The suspension of a licence or permit under the repealed Act in operation immediately before the commencement of this clause continues to operate from that commencement, subject to this Act, as if the licence or permit had been suspended under this Act.

43—Reviews and appeals

- (1) A decision of the Firearms Review Committee under the repealed Act in force immediately before the relevant day will, on and from the relevant day, be taken to be a decision of the Tribunal.
- (2) A right to seek a review under the repealed Act in existence (but not yet exercised) before the relevant day, with the effect that the relevant proceedings would have been commenced before the Firearms Review Committee, will be exercised as if this Part had been in operation before the right arose, so that the relevant proceedings may be commenced instead before the Tribunal.
- (3) Any proceedings before the Firearms Review Committee under the repealed Act immediately before the relevant day will, subject to such directions as the President of the Tribunal thinks fit, be transferred to the Tribunal where they may proceed as if they had been commenced before the Tribunal.
- (4) The Tribunal may—
 - (a) receive in evidence any transcript of evidence in proceedings before the Firearms Review Committee, and draw any conclusions of fact from that evidence that appear proper; and
 - (b) adopt any findings or determinations of the Firearms Review Committee that may be relevant to proceedings before the Tribunal; and
 - (c) adopt or make any decision, direction or order in relation to proceedings before the Firearms Review Committee before the relevant day (including so as to make a decision, direction or order, in relation to proceedings fully heard before the relevant day); and
 - (d) take other steps to promote or ensure the smoothest possible transition from 1 jurisdiction to another in connection with the operation of this section.
- (5) Nothing in this clause affects a right to appeal to the District Court under section 26C of the repealed Act in force immediately before the relevant day against a decision of the Firearms Review Committee or the Registrar made or given before the relevant day.

- (6) Nothing in this clause affects any proceedings before the District Court commenced before the relevant day.
- (7) The Firearms Review Committee is dissolved by force of this subclause.
- (8) A member of the Firearms Review Committee holding office when subclause (7) comes into operation will cease to hold office at that time and any contract of employment, agreement or arrangement relating to the office held by that member is terminated by force of this subclause at the same time (and no right of action will arise against a Minister or the State on account of that termination).
- (9) In this clause—

Firearms Review Committee means the Firearms Review Committee established under the repealed Act;

relevant day means the day on which this Part comes into operation.

44—Acts Interpretation Act applies

The *Acts Interpretation Act 1915* applies to the repeal of the *Firearms Act 1977* and the enactment of this Act, except to the extent of any inconsistency with the provisions of this Schedule.

Legislative history

Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Principal Act

Year	No	Title	Assent	Commencement
2015	46	<i>Firearms Act 2015</i>	17.12.2015	uncommenced