

Firearms Legislation Amendment Bill 2010

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Firearms Act 1996* and the *Firearms Regulation 2006* as follows:

- (a) to exempt air rifles from certain requirements under the Firearms Act (namely, registration and the need for a permit to acquire such firearms) and to allow minors under the age of 12 years to use air rifles under supervision at approved shooting ranges,
- (b) to provide that an applicant is disqualified from being issued with a firearms licence or permit if the applicant has been the subject of an apprehended violence order at any time during the previous 5 years (the disqualification period for an AVO is currently 10 years),
- (c) to make a number of other amendments of an administrative, minor or consequential nature.

The Bill also makes minor and miscellaneous amendments to certain other legislation.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act 3 months after the date of assent (although a proclamation may provide for a provision of the proposed Act to commence sooner).

Schedule 1 Amendment of Firearms Act 1996

Amendments relating to air rifles

Schedule 1 [3] exempts air rifles from the registration requirements under the Firearms Act. A permit to acquire will not be required in relation to an air rifle, though the general requirement for a licence or permit to possess or use an air rifle will remain. Special provision is made however to allow minors under the age of 12 years (and who are not therefore eligible for a minor's firearms permit) to use an air rifle at an approved shooting range under the direct supervision of persons who are licensed to use air rifles.

Schedule 1 [1] is a consequential amendment that distinguishes air rifles from air pistols for the purposes of the Firearms Act (noting that the proposed amendments relating to air rifles do not affect existing licensing and registration requirements in relation to air pistols).

Schedule 1 [4] is a consequential amendment that makes it clear that category A licence holders are authorised to possess or use an unregistered air rifle.

Amendments relating to firearm licences and permits

Schedule 1 [5] and [14] make it clear that the authority conferred by a category C licence extends, in the case where the genuine reason for having such a licence is primary production, to shooting not only on rural land owned or occupied by the licensee but to any other rural land with the permission of the owner or occupier of that land. The genuine reason of primary production involves the use of a firearm solely in connection with farming or grazing activities on rural land (such as the suppression of vertebrate pest animals).

Schedule 1 [6] makes it clear that while a category H licence may authorise the use of an antique revolver, a category H licence that is issued for sport/target shooting purposes does not authorise the possession of an antique revolver if it happens to be a prohibited pistol (eg a pistol with a calibre of more than .38 inch). Special permits for large calibre pistols are currently available under the Firearms Regulation.

Schedule 1 [7] provides that the application fee for a firearms licence for a particular period cannot exceed the equivalent amount for an unrestricted driver licence of the same period.

Schedule 1 [8] will enable a serving member of the armed forces of the Commonwealth who is the holder of a firearms licence in his or her off-duty personal capacity to renew the licence even though the member is not living in New South Wales.

Schedule 1 [9] and [23] provide that a firearms licence or permit must not be issued, amongst others, to a person who has been subject to an apprehended violence order during the previous 5 years (at present the disqualifying period for an AVO is 10 years).

Schedule 1 [10], [11], [24] and [25] separate the existing mandatory and discretionary grounds for refusing the issue of a licence or permit so that from now on the Commissioner of Police will have a discretion (rather than be required) to refuse a licence or permit application on the ground that the applicant has been convicted of a disqualifying offence in the past 10 years or is the subject of a good behaviour bond. **Schedule 1 [18]** is a consequential amendment that makes it clear that the grounds for revoking a licence include any reason for which the licensee

may, or must, be refused a licence.

Schedule 1 [12] enables a licence applicant, in establishing the genuine reason of recreational hunting/vermin control, to produce proof of permission given by any public or local authority to shoot on that authority's land (whether or not it is rural land). At present, permission to shoot may only be given by landowners and certain public authorities in relation to rural land. **Schedule 1 [13]** is a consequential amendment. **Schedule 1 [15]–[17]** make similar amendments in relation to the genuine reason of vertebrate pest animal control, with the result that the scope of that genuine reason is extended to the control of vertebrate pest animals by professional contract shooters on any land owned, occupied or managed by a public or local authority (and not just rural land). **Schedule 1 [21]** is a consequential amendment.

Schedule 1 [19] and [26] provide that the requirement for a person to surrender a firearm when the person's licence or permit is suspended or revoked applies only after the person is directed by the Commissioner in writing to surrender the firearm. The amendments also extend the requirement to surrender a firearm when the relevant licence or permit otherwise ceases to be in force. **Schedule 1 [20]** is a consequential amendment.

Schedule 1 [22] provides for the recognition in New South Wales of interstate firearms licences held by serving members of the armed forces of the Commonwealth in their off-duty personal capacity.

Schedule 1 [27] enables a person who has applied for a licence or permit to also apply for a permit to acquire a firearm pending the issuing of the licence or permit authorising the person to possess the firearm. The amendment will enable the 28-day waiting periods for issuing a licence and for issuing a permit to acquire a firearm to occur concurrently.

Schedule 1 [28] replaces the requirement for pistol clubs to confirm that a person applying for a permit to acquire a pistol has adequate storage arrangements with a requirement that the applicant for such a permit certify in the application that he or she is aware of, and can comply with, the safe keeping requirements under the Act in relation to the pistol.

Schedule 1 [29] and [30] remove the restrictions on the types of pistols that the holder of a probationary pistol licence is allowed to acquire after the first 6 months of the licence.

Schedule 1 [31] extends, from 30 to 90 days, the period for which a permit to acquire is in force and **Schedule 1 [32]** enables that period to be automatically extended for a further 90-day period if the firearm to which the permit to acquire relates has not been acquired during the initial 90-day period.

Schedule 1 [33] provides that the 28-day waiting period for the issue of a permit to acquire a firearm of a particular kind does not apply if another firearm of that kind was registered in the applicant's name at any time during the previous 5 years (at present the exemption from the waiting period only applies if the other firearm is registered in the applicant's name at the time the application for the permit is made).

Miscellaneous amendments

Schedule 1 [2] makes it clear that the definition of *ammunition* does not, in the case of cartridges, include a spent cartridge (that is, a cartridge case must be fitted with a live primer and a projectile for it to be ammunition).

Schedule 1 [34] provides for the recognition of interstate registered firearms on a transitional basis to assist interstate residents who move to New South Wales with firearms that are not registered under the Firearms Act.

Schedule 1 [35]–[37] are consequential on the amendments made elsewhere in Schedule 1 to the proposed Act that exempt certain firearms from the requirement to be registered. **Schedule 1 [35]** also exempts firearms dealers from having to notify the Commissioner of a transaction or dealing that does not involve a change in ownership of a firearm (such as taking possession of a firearm for the purposes of repair).

Schedule 1 [38] removes certain firearms (namely, certain longarms with a revolving ammunition cylinder) from the list of prohibited firearms so that they will be treated as ordinary firearms that are required to be registered.

Schedule 1 [39] enables regulations of a savings or transitional nature to be made as a consequence of the enactment of the proposed Act.

Schedule 2 Amendment of Firearms Regulation 2006

Schedule 2 [1] enables firearms licences to be issued for various periods of up to 5 years.

Schedule 2 [2] removes the requirement for the holder of an approval for a shooting range to record the name and licence number of each licensed shooter who is practising at the range and who is not otherwise participating in competitions or activities conducted by a shooting club. The current requirement for such persons to be supervised while practising at the range is retained.

Schedule 2 [3] and [4] enable a permit for specialised shooting activities involving large calibre pistols to be issued not only to the holder of a category H (sport/target shooting) licence but also to the holder of a minor's target pistol permit who has held such a permit for at least 12 months and who is a member of an approved pistol club. The amendments also expand the range of specialised shooting activities or disciplines in respect of which large calibre pistols can be used under the authority of a permit.

Schedule 2 [5] makes it clear that it is not necessary for the approval of a shooting range to specify the name of each particular shooting event or practice activity that may be conducted or carried out at the shooting range.

Schedule 2 [6] increases, from 3 to 5 years, the maximum period for which the approval of a shooting range remains in force.

Schedule 2 [7] specifies the new application fees for firearms licences for specified periods. The fees are equivalent to the amounts for driver licences for the same respective periods.

Schedule 2 [8] exempts pensioners from the requirement to pay an application fee for a category H (ie pistol) licence.

Schedule 2 [9] provides for the removal from the Register of Firearms of details relating to firearms that are no longer required to be registered.

Schedule 2 [11] removes the requirement for an advertisement for the sale of a firearm to include the name and address of the licensed dealer who is arranging the sale.

Schedule 3 Amendment of other legislation

Schedule 3.1 amends the *Crimes Act 1900* to make it clear that the offence under that Act of possessing an unregistered firearm in a public place does not apply in the case of a firearm that is not required to be registered under the Firearms Act (eg an antique firearm).

Schedule 3.2 amends the *National Parks and Wildlife Regulation 2009*:

(a) to provide that it is not an offence for a person to carry or possess a firearm on national park land if the firearm is not loaded and is being conveyed in a vehicle travelling on a road traversing that land and so long as the person is authorised under the Firearms Act to possess the firearm, and

(b) to provide for a similar exemption in relation to the possession of ammunition on national park land, and

(c) to remove a superfluous reference to airguns in an offence provision relating to the possession or use of certain weapons on national park estate land (noting that airguns are firearms within the meaning of the Firearms Act and are already covered by the existing prohibition under the National Parks and Wildlife Regulation of carrying, discharging or possessing a firearm on such land).

Schedule 3.3 amends the Weapons Prohibition Act 1998:

(a) to provide that an application for a permit under that Act must be refused if the applicant was subject to an apprehended violence order within the previous 5 years (instead of the previous 10 years as is the case at present), and

(b) to provide that the Commissioner will have a discretion (rather than be required) to refuse to issue a weapons permit to an applicant who has been convicted of an offence or who is subject to a recognisance to keep the peace, and

(c) to clarify the grounds on which a weapons permit may be revoked.

Schedule 3.4 modifies the current exemption under the *Weapons Prohibition Regulation 2009* relating to the possession of laser pointers by firearms licence holders who use them for the purpose of an activity associated with the use of a firearm.