

c2017-045B
SFF--Shooters, Fishers and Farmers Party

LEGISLATIVE COUNCIL

Firearms and Weapons Legislation Amendment Bill 2017

First print

Proposed amendments

No. 1 **Lever action shotguns**

Pages 3 and 4, Schedule 1 [7]–[10], line 30 on page 3 to line 5 on page 4. Omit all words on those lines.

No. 2 **Pump action shotguns**

Page 4, Schedule 1. Insert before line 6:

[11] Section 8 Licence categories and authority conferred by licence

Insert in the matter relating to category B licence as the third dot point in the list of firearms to which the licence applies:

- pump action shotguns

[12] Section 8 (1)

Omit the following from the matter relating to category C licence:

- pump action shotguns with a magazine capacity of no more than 5 rounds.

[13] Section 8 (1)

Omit the following from the matter relating to category D licence:

- pump action shotguns with a magazine capacity of more than 5 rounds

No. 3 **Use of pistols on private land**

Page 4, Schedule 1. Insert after line 9:

[12] Section 8 (1)

Insert at the end of the matter relating to category H licence:

Despite any other provision of this Act or the regulations, a category H licence authorises the licensee, if the licensee has been the holder of a category H licence for at least 2 years, to possess or use a registered pistol (for the purpose established by the licensee as being the genuine reason for having the licence) on any land on which that possession or use is not otherwise unlawful.

No. 4 **Protection of property**

Page 4, Schedule 1. Insert after line 25:

[15] Section 12 Genuine reasons for having a licence

Omit section 12 (2) and (3).

[16] Section 12, Table

Insert after the genuine reason of *business or employment*:

Reason: personal and property protection in the home

The applicant must state that he or she intends to possess or use the firearm for the protection of the person, other persons and property in the person's home.

No. 5 **Licence collection**

Page 4, Schedule 1. Insert after line 40:

[17] Section 18 Form of licence

Insert after section 18 (2):

(2A) A licence must be collected at an office of Service NSW by the person to whom it is issued.

No. 6 **Licence conditions**

Page 4, Schedule 1. Insert after line 40:

[17] Section 19 Conditions of licence

Insert "with reasonable cause (proof of which lies on the Commissioner)" after "impose" in section 19 (1):

No. 7 **Licence suspension**

Page 4, Schedule 1. Insert after line 40:

[17] Section 22 Suspension of licence

Omit section 22 (1A).

No. 8 **Licence revocation**

Page 4, Schedule 1. Insert after line 40:

[17] Section 24 Revocation of licence

Omit "whether or not the licensee has been convicted" from section 24 (2) (b) (ii).

Insert instead "but only if the licensee has been convicted".

No. 9 **Licence revocation**

Page 4, Schedule 1. Insert after line 40:

[17] Section 24 Revocation of licence

Insert ", but only if the licensee has been convicted of an offence in respect of the contravention" after "licence" in section 24 (2) (b) (iii).

No. 10 **Licence revocation**

Page 4, Schedule 1. Insert after line 40:

[17] Section 24 Revocation of licence

Insert “, based on evidence provided by the Commissioner to the licensee,” after “opinion” in section 24 (2) (c).

No. 11 **Licence revocation**

Page 4, Schedule 1. Insert after line 40:

[17] Section 24 Revocation of licence

Insert “, but only if the Commissioner has provided evidence to the licensee that the reason has been satisfied” after “regulations” in section 24 (2) (d).

No. 12 **Reasons for not issuing a permit**

Page 5, Schedule 1. Insert after line 16:

[20] Section 29 (3B)

Omit the subsection.

No. 13 **Pump action shotguns**

Page 5, Schedule 1. Insert after line 31:

[25] Section 32 (5A)

Omit “or pump action”.

No. 14 **Ammunition**

Page 6, Schedule 1 [32], lines 23 and 24. Omit all words on those lines. Insert instead:

[32] Section 45A Recording of ammunition transactions

Omit the section.

No. 15 **10 round magazines**

Page 7, Schedule 1. Insert after line 25:

[43] Section 51E (2)

Insert at the end of section 51E:

- (2) This section does not apply to a magazine that has a capacity of more than 10 rounds but that is prevented from being loaded with more than 10 rounds by a robust mechanical obstruction (such as crimping) that is not easily removed.

No. 16 **Ammunition**

Page 8, Schedule 1. Insert after line 20:

[49] Section 65 (1A)

Omit the note to the subsection.

No. 17 **Ammunition**

Page 8, Schedule 1 [51], lines 29–32. Omit all words on those lines. Insert instead:

[51] Section 65A Supply of ammunition by firearms dealers—additional requirements

Omit the section.

[55] Part 6A

Insert after Part 6:

Part 6A Firearms Ombudsman

72A Appointment of Firearms Ombudsman

- (1) The Governor may, on the recommendation of the Attorney General, appoint a Firearms Ombudsman.
- (2) The office of Firearms Ombudsman is a statutory office and the provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to that office.
- (3) The Firearms Ombudsman holds office for such term, not exceeding 5 years, as may be specified in the instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.
- (4) The Firearms Ombudsman is entitled to be paid remuneration in accordance with the *Statutory and Other Offices Remuneration Act 1975*. That Act is taken to be amended by including the office of Firearms Ombudsman in Part 1 of Schedule 2 to that Act.
- (5) The office of Firearms Ombudsman becomes vacant if the holder:
 - (a) dies, or
 - (b) completes a term of office and is not re-appointed, or
 - (c) resigns the office by instrument in writing addressed to the Governor, or
 - (d) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (e) becomes a mentally incapacitated person, or
 - (f) is convicted in New South Wales of an offence that is punishable by imprisonment or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or
 - (g) is removed from office under subsection (6).
- (6) The Governor may, on the recommendation of the Minister, remove the Firearms Ombudsman from office, but only for incompetence, incapacity or misbehaviour.
- (7) If the office of Firearms Ombudsman becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

72B Functions of Firearms Ombudsman

- (1) The Firearms Ombudsman may:
 - (a) receive and investigate complaints that relate to the exercise of any of the Commissioner's functions under this Act or the *Weapons Prohibition Act 1998*, and
 - (b) review any decision made by the Commissioner under this Act or the *Weapons Prohibition Act 1998*, being a decision in respect of which a person may apply to the Civil and Administrative

Tribunal for an administrative review under the *Administrative Decisions Review Act 1997*.

- (2) In reviewing any such decision made by the Commissioner, the Firearms Ombudsman may exercise all of the functions that are conferred or imposed on the Commissioner by or under this Act or the *Weapons Prohibition Act 1998*.
- (3) The Firearms Ombudsman may, after reviewing the Commissioner's decision, do any one or more of the following:
 - (a) affirm or vary the decision,
 - (b) set aside the Commissioner's decision and make a decision in substitution for the Commissioner's decision,
 - (c) set aside the decision and remit the matter for reconsideration by the Commissioner in accordance with any directions or recommendations of the Firearms Ombudsman.

72C Staff

Persons may be employed in the Public Service under the *Government Sector Employment Act 2013* to enable the Firearms Ombudsman to exercise his or her functions.

Note. Section 59 of the *Government Sector Employment Act 2013* provides that the persons so employed (or whose services the Firearms Ombudsman makes use of) may be referred to as officers or employees, or members of staff, of the Firearms Ombudsman. Section 47A of the *Constitution Act 1902* precludes the Firearms Ombudsman from employing staff.

No. 19 **Delegation**

Page 9, Schedule 1. Insert after line 33:

[58] Section 81 Delegation

Insert after section 81 (3):

- (4) A function is not to be delegated or subdelegated to a person under this section unless the person has the requisite level of training, knowledge and technical expertise for the competent exercise of the function.

No. 20 **Pump action shotguns**

Page 9, Schedule 1. Insert after line 33:

[58] Schedule 1 Prohibited firearms

Omit "or pump action" from item 4.

No. 21 **Lever action shotguns**

Page 9, Schedule 1 [58], lines 34–37. Omit all words on those lines.

No. 22 **Prohibited firearms—firearm appearance**

Page 9, Schedule 1. Insert after line 37:

[59] Schedule 1, item 7

Omit the item.

No. 23 **Silencers**

Page 9, Schedule 1. Insert after line 37:

[59] Schedule 1, item 10

Omit the item.

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- No. 24 **Paint-ball**
Page 9, Schedule 1. Insert after line 37:
 [59] Schedule 1, item 13
 Omit item 13 (c).
- No. 25 **Lever action shotguns**
Pages 10–12, Schedule 1 [59], line 5 on page 10 to line 5 on page 12. Omit all words on those lines.
- No. 26 **Paint-ball**
Page 13, Schedule 2. Insert after line 14:
 [2] Clause 4 Things declared not to be firearms
 Insert after clause 4 (k):
 (l) a paint-ball gun.
- No. 27 **Licence revocation**
Page 13, Schedule 2. Insert after line 14:
 [2] Clause 19 Revocation of licence—additional reasons
 Insert “but the Commissioner must first provide the licensee with a detailed explanation as to why the Commissioner is so satisfied” after “hold the licence”.
- No. 28 **Recreational hunting**
Page 13, Schedule 2. Insert after line 19:
 [3] Clause 28 Recreational hunting/vermin control—persons who are not members of approved hunting clubs
 Omit “48 hours” from clause 28 (4) (b).
 Insert instead “7 days”.
- No. 29 **Amnesties**
Page 18, Schedule 2 [25], lines 10 and 11. Omit all words on those lines.
- No. 30 **Amnesties**
Page 18, Schedule 2 [25], line 21. Omit “**Temporary amnesty**” insert instead “**Amnesty**”.
- No. 31 **Amnesties**
Page 18, Schedule 2 [25], line 22. Omit “during the amnesty period”.
- No. 32 **Amnesties**
Page 18, Schedule 2 [25], line 32. Omit “during the amnesty period”.
- No. 33 **Amnesties**
Page 18, Schedule 2 [25], lines 35 and 36. Omit “during the amnesty period”.
- No. 34 **Amnesties**
Page 18, Schedule 2 [25], line 37. Omit “**Temporary amnesty**”. Insert instead “**Amnesty**”.
- No. 35 **Amnesties**
Page 18, Schedule 2 [25], line 38. Omit “during the amnesty period”.
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- No. 36 **Amnesties**
Page 18, Schedule 2 [25], line 43. Omit “during the amnesty period”.
- No. 37 **Amnesties**
Page 18, Schedule 2 [25], lines 44 and 45. Omit “during the amnesty period”.
- No. 38 **Amnesties**
Page 19, Schedule 2 [25], line 3. Omit “**Temporary amnesty**”. Insert instead “**Amnesty**”.
- No. 39 **Amnesties**
Page 19, Schedule 2 [25], line 4. Omit “during the amnesty period”.
- No. 40 **Amnesties**
Page 19, Schedule 2 [25], line 7. Omit “during the amnesty period”.
- No. 41 **Amnesties**
Page 19, Schedule 2 [25], line 13. Omit “and is made during the amnesty period”.
- No. 42 **Amnesties**
Page 19, Schedule 2 [25], lines 15 and 16. Omit “made during the amnesty period”.
- No. 43 **Amnesties**
Page 19, Schedule 2 [25], line 32. Omit “made during the amnesty period”.
- No. 44 **Amnesties**
Page 19, Schedule 2 [25], line 35. Omit “during or after the end of the amnesty period”.
- No. 45 **Amnesties**
Page 19, Schedule 2 [25], lines 39 and 40. Omit all words on those lines.
- No. 46 **Amnesties**
Page 20, Schedule 2 [25], line 5. Omit “during the amnesty period”.
- No. 47 **Delegations**
Page 22, Schedule 3. Insert after line 14:
[7] Section 41 Delegation
Insert after section 41 (3):
(4) A function is not to be delegated or subdelegated to a person under this section unless the person has the requisite level of training, knowledge and technical expertise for the competent exercise of the function.
- No. 48 **Silencers**
Page 22, Schedule 3. Insert after line 14:
[7] Schedule 1 Prohibited weapons
Omit clause 4 (3).
- No. 49 **10 round magazines**
Page 22, Schedule 3. Insert after line 14:
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[7] Schedule 1 Prohibited weapons

Insert “, not including a magazine that has a capacity of more than 10 rounds but that is prevented from being loaded with more than 10 rounds by a robust mechanical obstruction (such as crimping) that is not easily removed” after “10 rounds” in clause 4 (4) (f).

No. 50 **Lever action shotguns**

Pages 23 and 24, Schedule 4 [3], line 41 on page 23 to line 5 on page 24. Omit all words on those lines.