

Firearms Amendment (Prohibited Pistols) Bill 2003

Explanatory note

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

Overview of Bill

The object of this Bill is to reduce the number of pistols in the community and to strengthen controls over access to pistols that are used for the purposes of sport/target shooting. In particular, the Bill:

- (a) restricts the kinds of pistols that may lawfully be used for the purposes of sporting target shooting, and
- (b) imposes additional requirements in relation to sport/target pistol shooters (including the introduction of probationary pistol licences for new licensees), and
- (c) prohibits sport/target pistol shooters from using or possessing pistols fitted with magazines that have a capacity of more than 10 rounds, and
- (d) imposes additional requirements in relation to pistol collectors, and
- (e) makes provision for a compensation scheme in respect of pistols that licensed sport/target pistol shooters and pistol collectors are compelled to surrender, and
- (f) adds pistol magazines with a capacity of more than 10 rounds to the list of prohibited weapons in the *Weapons Prohibition Act 1998*, and
- (g) makes a number of other miscellaneous amendments to the *Firearms Act 1996* and the *Firearms (General) Regulation 1997*.

The Bill generally gives effect to the consolidated resolutions agreed on by the Australasian Police Ministers' Council at the Special Meeting on Firearms (Handguns) on 28 November 2002 and the measures relating to handgun reforms endorsed by the Council of Australian Governments after that meeting.

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 on a day or days to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the amendments to the *Firearms Act 1996* set out in Schedule 1.

Clause 4 is a formal provision that gives effect to the amendments to the *Firearms (General) Regulation 1997* set out in Schedule 2.

Clause 5 is a formal provision that gives effect to the amendments to the Acts and the regulation set out in Schedule 3.

Schedule 1 Amendment of Firearms Act 1996

Schedule 1 [1] and [2] insert definitions of certain terms that are referred to in the Bill, including a definition of *prohibited pistol*.

Schedule 1 [3] provides that category H (sport/target shooting) licence holders will be authorised to possess or use pistols only for the purposes of participating in competitive shooting activities that are approved by the Commissioner of Police. The amendment also provides that such a licence does not authorise the possession or use of a prohibited pistol.

Schedule 1 [4] makes it clear that the authority conferred by a firearms licence of any kind is subject to the provisions of the Act as well as the regulations made under the Act.

Schedule 1 [5] provides that an applicant for a firearms collector licence will be required to provide a written statement by the collectors' society or club of which the applicant is a member confirming that the applicant's collection has a genuine value.

Schedule 1 [6] provides that a category H (sport/target shooting) licence must not be issued to a person unless the person has previously held a probationary pistol licence and the application for the licence is supported by a written statement by the pistol shooting club of which the person is a member confirming that the person has complied with the conditions specified under proposed section 16A. **Schedule 1 [7]** inserts proposed section 16A that will provide for probationary pistol licences and the conditions to which they are subject. **Schedule 1 [12]** provides that the term of a probationary pistol licence will be 12 months. **Schedule 1 [11]** is a consequential amendment.

Schedule 1 [7] also inserts proposed section 16B to enable special category H (sport/target shooting) licences to be issued in relation to certain pistols that have short barrel lengths but only so as to enable the licence holder to participate in such classes of specialised shooting competitions as may be approved by the Commissioner.

Schedule 1 [8] provides that pistols manufactured after 1 January 1946 may be kept by licensed firearm collectors only if certain requirements are complied with. **Schedule 1 [10]** imposes similar requirements on existing firearms collector licences if post-1946 pistols are kept as part of the collection.

Schedule 1 [9] requires any prohibited pistol that is part of a licensed firearms collection to be rendered temporarily inoperable.

Schedule 1 [13] authorises the Commissioner to revoke a firearms licence if the Commissioner is satisfied that the licensee has caused a firearm to be lost or stolen through any negligence or fraud on the part of the licensee.

Schedule 1 [14] provides that a permit to acquire a pistol must not be issued to a person who is the holder of a category H (sport/target shooting) licence unless the person provides a written statement from the person's pistol club confirming that the person has adequate storage arrangements and specifying the shooting activities for which the pistol is required. In the case of probationary pistol licence holders, additional restrictions are imposed in relation to the issuing of permits to acquire pistols.

Schedule 1 [15] creates a new offence for a person who is the holder of a category H (sport/target shooting) licence to possess or use a pistol fitted with a magazine that has a capacity of more than 10 rounds. **Schedule 1 [17]** creates a new offence for a person to possess a barrel for a prohibited pistol unless authorised by a licence or permit to possess the pistol or barrel. **Schedule 1 [16]** is a consequential amendment. **Schedule 1 [25]** provides for the manner in which these new offences may be dealt with.

Schedule 1 [19] creates a new offence of converting a pistol into a prohibited pistol.

Schedule 1 [20] inserts a new section 78 which makes provision for a scheme to compensate licensed pistol shooters and licensed dealers who surrender prohibited pistols and licensed collectors who surrender pistols manufactured after 1946. **Schedule 1 [21]** provides for the regulations to make provision for the payment of compensation for surrendering certain other pistols and items and **Schedule 1 [26]** enables regulations to be made in respect of the compensation payable for surrendering pistols under proposed section 78.

Schedule 1 [27] is a consequential amendment.

Schedule 1 [22] provides that a health professional (which includes social workers and persons who provide professional counselling services) does not incur any criminal or civil liability if the health professional informs the Commissioner in good faith that a person to whom the health professional has been providing services may pose a threat to public safety if in possession of a firearm. **Schedule 1 [23]** makes a similar provision in relation to pistol and collectors' club officials who disclose information to the Commissioner about

their members in accordance with any requirement imposed on the official under the regulations.

Schedule 1 [24] allows the executor or administrator of the estate of a firearms licence holder who has died to retain possession of any firearm that is part of the estate until 6 months after the date of the licensee's death or such time as the firearm is lawfully disposed of (whichever occurs first). **Schedule 1 [18]** is a consequential amendment.

Schedule 1 [28] enables regulations of a savings or transitional nature to be made as a consequence of the proposed Act. **Schedule 1 [29]** contains certain transitional provisions, including provisions making it clear that existing licensed pistol shooters are not authorised to possess or use prohibited pistols when the proposed amendments to section 8 of the Act commence. However, provision is also made to allow licensed pistol shooters who are currently in possession of prohibited pistols to lawfully possess those pistols during the buyback period under proposed section 78.

Schedule 2 Amendment of Firearms (General)

Regulation 1997

Schedule 2 [1] enables the Commissioner to issue special permits authorising the possession and use of pistols with a calibre of more than .38 inch (but not more than .45 inch), but that are not otherwise prohibited pistols (ie they do not have short barrel lengths), for the purposes of participating in specialised shooting competitions approved by the Commissioner.

Schedule 2 [4] imposes further conditions on the approval by the Commissioner of pistol clubs and collectors' clubs. These conditions include a requirement that the secretary or other relevant office holder of any such approved club must inform the Commissioner if the secretary or office holder is of the opinion that any member of the club, or any person who has applied to be a member, may pose a threat to public safety if in possession of a firearm.

Schedule 2 [5] imposes requirements as to participation rates for members of approved pistol clubs. **Schedule 2 [2], [3] and [6]** are consequential amendments.

Schedule 2 [7] authorises the Commissioner to disclose information to approved pistol and collectors' clubs about applicants for membership of such clubs.

Schedule 2 [8] provides that the application fee for a probationary pistol licence is \$100.

Schedule 2 [9] is consequential on the amendment made by Schedule 1 [22].

Schedule 2 [10] and [11] provide an exemption from the licensing and registration requirements under the *Firearms Act 1996* in relation to prepercussion pistols (ie muzzle loading pistols that use black powder) manufactured before 1900.

Schedule 2 [12] provides for a 6-month amnesty to enable the surrender (without compensation) to the police of illegally held firearms.

Schedule 3 Amendment of other legislation

Schedule 3.1 amends the *Criminal Procedure Act 1986* to provide that the indictable offences under proposed sections 51E and 58 (2) of the *Firearms Act 1996* (see Schedule 1 [15] and [17]) are to be dealt with summarily unless the prosecution elects otherwise and to provide that the maximum penalty for such an offence (when dealt with summarily) will be 2 years imprisonment or a fine of 50 penalty units (or both).

Schedule 3.2 amends the *Weapons Prohibition Act 1998* to add pistol magazines with a capacity of more than 10 rounds to the list of prohibited weapons. A permit under the Act will be required to lawfully possess any such magazine. However, during the period of the buyback a temporary exemption from this requirement will apply to licensed pistol shooters who currently possess any

such magazine.

Schedule 3.3 amends the *Weapons Prohibition Regulation 1999* to provide an exemption from the requirement to have a permit for a pistol magazine with a capacity of more than 10 rounds for those category H licence holders under the *Firearms Act 1996* who hold such a licence for business or employment purposes.