

FIRST PRINT

## FIREARMS (REFERENDUM) BILL 1994

NEW SOUTH WALES



### EXPLANATORY NOTE

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The objects of this Bill are:

- (a) to enact amendments to the Firearms Act 1989:
- to prohibit persons other than primary producers and persons of a class prescribed by the regulations from storing firearms in residential premises; and
  - to require persons permitted to store firearms in residential premises to do so in a specified safe way; and
  - to enable firearms to be stored in armouries at police stations or other places (such as gun club premises) approved by the Commissioner of Police; and
  - to enable armouries at places other than police stations to be inspected by police officers; and
  - to provide for the registration of firearms in addition to pistols; and
- (b) to provide for the holding of a referendum on the question whether those amendments should come into effect.

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**Clause 1** specifies the short title of the proposed Act.

**Clause 2** provides that the proposed Act (except for Schedule 1) commences on assent. If the people approve the referendum question, Schedule 1 commences on the day that is 3 months after the day on which the Electoral Commissioner causes a statement of the result of the referendum to be published in the Gazette or on an earlier day appointed by proclamation.

**Clause 3** requires a referendum to be held on the question of whether additional legal requirements for the safe storage and registration of firearms should have effect.

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**Clause 4** sets out the question to be asked in the referendum.

**Clause 5** requires the vote for the referendum to be taken in conjunction with the next general election of members of the Legislative Assembly.

**Clause 6** provides that the voters in the referendum are to be the electors in that election.

**Clause 7** requires the referendum to be held in accordance with the existing legislation concerning referendums on Bills (that is, the Constitution Further Amendment (Referendum) Act 1930). Regulations may be made to adapt that legislation to the referendum.

**Clause 8** provides that a person who votes in favour of the referendum question is taken to be voting in favour of the provisions contained in Schedule 1.

**Clause 9** provides a general regulation-making power.

**Clause 10** is a formal provision which gives effect to the Schedule of amendments to the Firearms Act 1989.

#### **SCHEDULE 1—AMENDMENTS**

##### **Storage facilities**

Schedule 1 (2) inserts proposed sections 12A, 12B and 12C.

Proposed section 12A (restrictions on storing firearms in homes) will prohibit a person who possesses a firearm from storing it (including by leaving it unattended) in a dwelling or any building or place adjoining or in the vicinity of or used in connection with a dwelling. An exception is made for:

- a primary producer who stores it in a dwelling that is on land used for primary production that is owned, leased or managed by the primary producer; or
- a person of a class prescribed by the regulations who stores it in a dwelling that is on a prescribed place,

and who stores the firearm in a steel cabinet or other receptacle securely bolted to the floor or a wall and locked by use of a combination lock.

Proposed section 12B (keeping of firearms in armouries) provides that firearms may be stored in armouries at police stations or other places, and in accordance with procedures, approved by the Commissioner of Police. While a firearm is so stored, the requirements made by section 12 of the Act for the safekeeping of the firearm are taken to be complied with.

Proposed section 12C (inspection of armouries) provides that a police officer has the power to enter a place for the purpose of ascertaining whether armouries comply with the Act and the regulations, but only if the officer reasonably suspects that there is an armoury in that place. However, the officer cannot exercise that power unless the officer gives reasonable notice to the occupier. A police officer may enter residential premises only if the officer has the consent of the occupier of the premises or a search warrant.

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**Registration of firearms**

Schedule 1 (3) amends section 21 of the Act so as to limit the authority conferred by shooter licences, firearms dealer licences and firearms museum licences to firearms in respect of which a current registration certificate is in force. This will require firearms subject to such licences to be registered in accordance with the regulations (at present only pistols are required to be individually registered). A consequential amendment to section 56 is made by Schedule 1 (4) (b) to enable regulations to be made requiring the registration of firearms. The registration requirements will not apply to any firearm the use and possession of which is authorised by a shooter licence, firearms dealers licence or firearms museum licence in force at the commencement of Schedule 1.

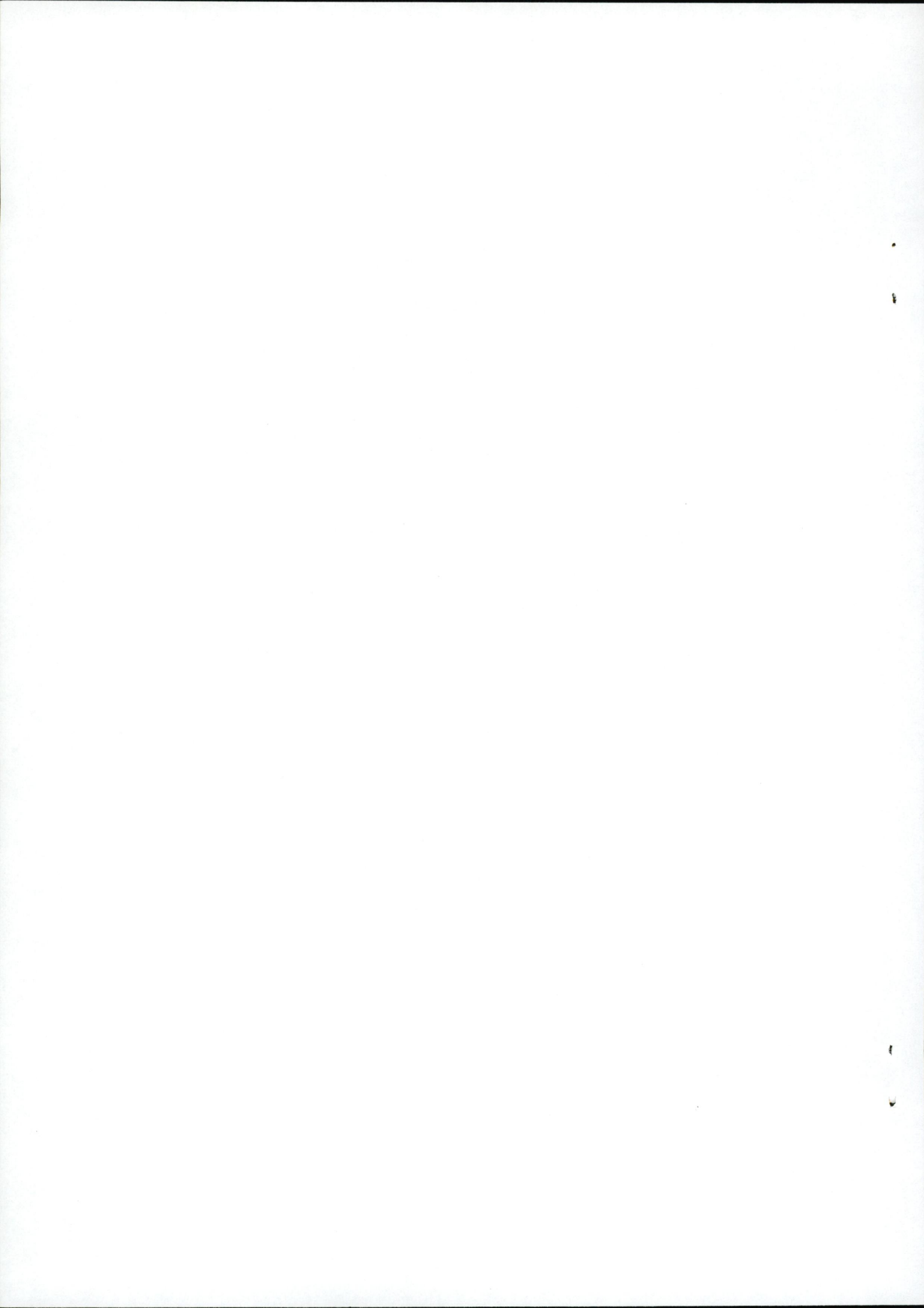
**Other amendments**

Schedule 1 (1) makes a consequential amendment to section 3 (definitions) to insert a definition of "Commissioner".

Schedule 1 (4) amends section 56 (regulations) to enable regulations to be made in respect of the registration of firearms and to omit a provision prohibiting the making of regulations requiring the registration of firearms other than pistols.

Schedule 1 (5) inserts provisions of a savings and transitional nature. In particular, proposed clause 23 ensures that the amendments concerning registration will apply only to persons who obtain shooter licences, firearms dealer licences and firearms museum licences after the commencement of the amendments.

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NEW SOUTH WALES



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SCHEDULE 1—AMENDMENTS

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**FIREARMS (REFERENDUM) BILL 1994**

NEW SOUTH WALES



No. , 1994

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**A BILL FOR**

An Act to enact provisions for the safe storage and registration of firearms; and to provide for the holding of a referendum on whether those provisions should be brought into effect.

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**The Legislature of New South Wales enacts:****Short title**

1. This Act may be cited as the Firearms (Referendum) Act 1994.

**Commencement**

- 5      2. (1) This Act (except Schedule 1) commences on the date of assent.

- (2) If the referendum question is approved by the people in a referendum under this Act, Schedule 1 commences on the day that is 3 months after the day on which the Electoral Commissioner causes a statement of the result of the referendum to be published in the Gazette under section 27 (2) of the Constitution Further Amendment (Referendum) Act 1930 or on an earlier day appointed by proclamation.
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**Referendum must be held**

3. A referendum must be held to determine whether the people of New South Wales approve of the provisions for the safe storage and registration of firearms set out in Schedule 1.
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**Referendum question**

4. The following question is to be submitted to the persons entitled to vote at the referendum:

- 20      Are you in favour of additional legal requirements for the safe storage and registration of firearms coming into effect?

**Date of referendum**

5. (1) The referendum under this Act is to be held on the day appointed for the taking of the poll at the next general election of members of the Legislative Assembly.
- 25      (2) The Governor is to issue a writ for the referendum accordingly.

**Persons entitled to vote at referendum**

6. The persons entitled to vote at the referendum under this Act are the electors qualified to vote for the general election of members of the Legislative Assembly.



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**How vote taken**

7. (1) The vote at the referendum under this Act is to be taken under and in accordance with the Referendum Act.

(2) For the purposes of the application of the Referendum Act to the referendum under this Act:

(a) a reference to the submission of a Bill to a referendum is to be construed as a reference to the submission of the question set out in section 4 to a referendum; and

(b) the Governor is not required to attach any material to the writ for the referendum; and

(c) the provisions of the Referendum Act apply with such modifications as are necessary to give effect to the object of this Act (including modifications to the Forms set out in the Second Schedule to the Referendum Act); and

(d) any other modifications prescribed by the regulations have effect.

(3) In this section, "**Referendum Act**" means the Constitution Further Amendment (Referendum) Act 1930.

**Meaning of result**

8. For the purposes of the referendum under this Act, the voters who approve of the referendum question are voting in favour of the provisions of Schedule 1 coming into effect.

**Regulations**

9. The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

**Amendment of Firearms Act 1989 No. 25**

10. On the day referred to in section 2 (2), the Firearms Act 1989 is amended as set out in Schedule 1.

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*Firearms (Referendum) 1994***SCHEDULE 1—AMENDMENTS**

(Sec. 10)

(1) Section 3 (**Definitions**):

In section 3 (1), insert in alphabetical order:

5                    “**Commissioner**” means the Commissioner of Police;

## (2) Sections 12A–12C:

After section 12, insert:

**Restrictions on storing firearms in homes**

10                    12A. (1) This section takes effect on the third anniversary after the commencement of Schedule 1 to the Firearms (Referendum) Act 1994.

(2) A person who possesses a firearm must not store the firearm:

- 15                    (a) in a dwelling; or
- (b) in any building (such as a garage) or place adjoining or in the vicinity of, and used in connection with, a dwelling.

20                    Maximum penalty on summary conviction—50 penalty units or imprisonment for 2 years, or both (if it is established beyond reasonable doubt that the firearm concerned was a pistol) or 20 penalty units or imprisonment for 1 year, or both (if it is not so established).

25                    (3) A person is not guilty of an offence under subsection (2) if:

- 30                    (a) the person is a primary producer and the firearm is stored by the primary producer on land used for primary production that is owned, leased or managed by that primary producer; or
- (b) the person is a person of a class prescribed by the regulations for the purposes of this paragraph and the firearm is stored by the person in a place prescribed by the regulations for the purposes of this paragraph,

35                    and the firearm is stored as required by subsection (4).

*Firearms (Referendum) 1994*SCHEDULE 1—AMENDMENTS—*continued*

(4) A firearm referred to in subsection (3) must be stored in a steel receptacle securely bolted to a wall or floor (such as a cabinet) that is locked by use of a combination lock. The lock and the receptacle must each be approved (or of a type approved) by the Commissioner. 5

(5) The requirements made by this section are in addition to those made by section 12. However, locked storage approved, or of a type approved, for the purposes of this section is taken to be locked storage approved, or of a type approved, for the purposes of section 12 (2). 10

(6) In this section:

“primary producer” means a person whose principal or only occupation is the business of a primary producer; 15

“store” includes leave unattended.

**Keeping of firearms in armouries**

12B. (1) For the purposes of section 12, firearms may be stored in armouries that are located at a police station or at some other place (for example, gun club premises) approved by the Commissioner. 20

(2) Such armouries are to be constructed, maintained, managed, guarded and regularly inspected in accordance with standards approved by the Commissioner.

(3) A person who leaves a firearm at such an armoury (being an armoury kept in accordance with the standards approved by the Commissioner) is, while it is kept in the armoury, taken to have complied with the requirements of section 12 relating to the firearm. 25

**Inspection of armouries** 30

12C. (1) A police officer may, with such assistance as the officer considers necessary, enter any place that the officer reasonably suspects contains an armoury for the purpose of ascertaining whether the armoury complies with the provisions of this Act or the regulations. 35

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SCHEDULE 1—AMENDMENTS—*continued*

(2) The power conferred on a police officer by this section to enter any place may be exercised only if the officer:

- 5 (a) gives reasonable notice to the occupier of the place, unless the giving of notice would defeat the purpose for which it is intended to exercise the power; and
- 10 (b) exercises the power at a reasonable hour of the day, unless it is being exercised in an emergency; and
- (c) uses no more force than is reasonably necessary to effect the entry.

15 (3) The Crown is to pay the owner of a place a reasonable amount of compensation for damage caused by a police officer (or person assisting a police officer) exercising a power conferred by this section unless the damage was caused because the exercise of the power was obstructed.

20 (4) This section does not apply to a power conferred by a search warrant issued under Part 2 of the Search Warrants Act 1985.

(5) The powers conferred by this section are not exercisable in relation to residential premises except:

- 25 (a) with the consent of the occupier of the premises; or
- (b) under the authority conferred by a search warrant.

(6) This section does not apply to a police station.

(3) Section 21 (**Types of conditions of licences**):

- 30 (a) Omit “firearms to which the licence applies” from item 2 of the matter under the heading “Shooter licence—class 1” in the Table to section 21, insert instead “a firearm or firearms of a kind described in item 1 and that are specified in current registration certificates issued to the holder”.

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SCHEDULE 1—AMENDMENTS—*continued*

- (b) Omit “firearms to which the licence applies” from item 2 of the matter under the heading “Shooter licence—class 2” in the Table to section 21, insert instead “a firearm or firearms of a kind described in item 1 and that are specified in current registration certificates issued to the holder”. 5
- (c) Omit “firearms (except pistols or prohibited weapons)” from item 2 (b) of the matter under the heading “Firearms dealer licence” in the Table to section 21, insert instead “firearm or firearms (except pistols or prohibited weapons) specified in the current registration certificates issued to the holder”. 10
- (d) Omit “firearms (except prohibited weapons)” from item 2 of the matter under the heading “Firearms museum licence” in the Table to section 21, insert instead “firearm or firearms (except prohibited weapons) specified in the current registration certificates issued to the holder”. 15
- (4) Section 56 (**Regulations**):
- (a) In section 56 (2) (a), after “testing”, insert “, registration”. 20
- (b) Omit section 56 (3) (a).
- (5) Schedule 1 (**Savings and transitional provisions**):
- (a) At the end of clause 1 (1), insert:  
Firearms (Referendum) Act 1994 25
- (b) After Part 3, insert:
- Part 4—Firearms (Referendum) Act 1994**
- Application of amendments relating to registration**
23. A shooter licence, firearms dealer licence or firearms museum licence in force under section 21 immediately before the amendments made to that section 30

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SCHEDULE 1—AMENDMENTS—*continued*

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by Schedule 1 (3) to the Firearms (Referendum) Act 1994 continues to authorise the possession and use, until the expiration of the term specified in the licence, of the firearms in relation to which it was issued (unless the licence is earlier surrendered or revoked or otherwise ceases to be in force) as if those amendments were not in force.

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