

South Australia

## Firearms Act 2015

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An Act to provide for the control of firearms; and for other purposes.

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## Legislative history

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**The Parliament of South Australia enacts as follows:**

## **Part 1—Preliminary**

### **1—Short title**

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

### **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;

- (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;