

Firearms Act 1996

Act No. 66/1996

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Victoria

No. 66 of 1996

Firearms Act 1996[†]

[Assented to 17 December 1996]

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1. *Purpose*

The purposes of this Act are—

- (a) to give effect to the principle that the possession, carriage, use, acquisition and disposal of firearms are conditional on the need to ensure public safety and peace by—

-
- (i) establishing a system of licensing and regulating the possession, carriage and use of firearms and related items which does not allow for self defence to be used as a reason for obtaining a licence to possess, carry or use a firearm; and
 - (ii) establishing a system of licensing and regulating the carrying on of the business of dealing in firearms; and
 - (iii) establishing a system of permitting and regulating the acquisition and disposal of firearms and related items; and
 - (iv) establishing a system of registering firearms; and
 - (v) establishing requirements for the secure storage and carriage of firearms; and
 - (vi) establishing a Firearms Appeals Committee to hear applications for review of decisions of the Chief Commissioner under the Act; and
 - (vii) making provision for the education of the community in the safe and responsible use of firearms; and
 - (viii) making other related provisions; and
- (b) to repeal the **Firearms Act 1958**; and
 - (c) to make various consequential amendments to other Acts.

2. Commencement

- (1) Section 1 and this section come into operation on the day on which this Act receives the Royal Assent.

- (2) Subject to sub-section (3), the remaining provisions of this Act come into operation on a day or days to be proclaimed.
- (3) If a provision referred to in sub-section (2) does not come into operation before 31 January 1998, it comes into operation on that day.

3. Definitions

- (1) In this Act—

"acquire" includes buy, offer to buy or come into the possession of, but does not include borrow;

"approved club" means a club approved by the Chief Commissioner under section 10(3) or section 15(3);

"approved shooting range" means a shooting range approved by the Chief Commissioner under section 179;

"airgun" includes air rifle and paintball gun;

"carry" in relation to a firearm, includes the carriage of that firearm either as a whole or in parts and either by one person or more than one person;

"category A longarm" means any of the following—

- (a) an airgun;
 - (b) a rimfire rifle (other than a semi-automatic rimfire rifle);
 - (c) a shotgun (other than a pump action or semi-automatic shotgun);
 - (d) any combination of a shotgun and rimfire rifle;
-

"category B longarm" means any of the following—

- (a) a muzzle loading firearm;
- (b) a centre fire rifle (other than an automatic or a semi-automatic centre fire rifle);
- (c) any combination of a shotgun and centre fire rifle;

"category C longarm" means any of the following—

- (a) a semi-automatic rimfire rifle with a magazine capacity of no more than 10 rounds;
- (b) a semi-automatic shotgun with a magazine capacity of no more than 5 rounds;
- (c) a pump action shotgun with a magazine capacity of no more than 5 rounds;
- (d) a tranquilliser gun;

"category D longarm" means any of the following—

- (a) a semi-automatic rimfire rifle with a magazine capacity of more than 10 rounds;
 - (b) a semi-automatic shotgun with a magazine capacity of more than 5 rounds;
 - (c) a pump action shotgun with a magazine capacity of more than 5 rounds;
 - (d) a semi-automatic centre fire rifle;
 - (e) any other firearm prescribed for the purposes of this category;
-

"category E longarm" means any of the following—

- (a) a machine gun;
- (b) a tear gas gun or projector;
- (c) a shotgun or rifle with a length of less than 75 centimetres measured parallel to the barrel;
- (d) a cannon, mortar, bazooka, rocket propelled grenade or similar large calibre military firearm designed to fire an explosive or projectile or any other similar prescribed firearm;
- (e) any other firearm prescribed for the purposes of this category;

"Chief Commissioner" means the Chief Commissioner of Police appointed under the **Police Regulation Act 1958**;

"Committee" means the Firearms Appeals Committee established under Part 9;

"dealers licence" means a firearms dealers licence issued under section 60;

"Department" has the same meaning as in the **Public Sector Management Act 1992**;

"Department Head" has the same meaning as in the **Public Sector Management Act 1992**;

"dispose of " includes sell, offer to sell, have in possession for the purposes of sale, barter or exchange but does not include lend;

"drug" has the same meaning as in the **Road Safety Act 1986**;

"firearm" means any device, whether or not assembled or in parts and whether or not

operable or complete or temporarily or permanently inoperable or incomplete—

- (a) which is designed or adapted to discharge shot or a bullet or other missile by the expansion of gases produced in the device by the ignition of strongly combustible materials or by compressed air or other gases, whether stored in the device in pressurised containers or produced in the device by mechanical means; or
- (b) which has the appearance of such a device—

and which is not—

- (c) an industrial tool powered by cartridges containing gunpowder which is designed and intended for use for fixing fasteners or plugs or for similar purposes; or
- (d) a captive bolt humane killer; or
- (e) a spear gun designed for underwater use; or
- (f) a device designed for the discharge of signal flares; or
- (g) a device which was manufactured before 1900 for which cartridge ammunition is not commercially available; or
- (h) a device commonly known as a kiln gun or ringblaster, designed specifically for knocking out or down solid material in kilns, furnaces or cement silos; or
- (i) a device commonly known as a line thrower designed for establishing lines

between structures or natural features and powered by compressed air to other compressed gases and used for rescue purposes, rescue training or rescue demonstration; or

(j) a device of a prescribed class;

"firearms ammunition collectors licence"

means a firearms ammunition collectors licence issued under section 28;

"firearms collectors licence" means a firearms collectors licence issued under section 21;

"firearms heirlooms licence" means a firearms heirlooms licence issued under section 25;

"fixed ammunition" means ammunition having a bullet or other projectile and a priming device fixed to or enclosed in a cartridge case which is composed wholly or partly of material other than paper;

"handgun" means a firearm that—

- (a) is reasonably capable of being carried or concealed about the person; or
- (b) is reasonably capable of being raised and fired by one hand; or
- (c) does not exceed 65 centimetres in length measured parallel to the barrel;

"handgun licence" means a licence issued under section 15;

"infringement penalty" means the amount stated in an infringement notice as payable in respect of the offence to which the infringement notice relates;

"junior licence" means a licence issued under section 18;

"licensed firearms dealer" means a person who is the holder of a dealers licence;

"licensed premises" in relation to dealers licence, means the premises specified in dealers licence;

"longarm" means any firearm other than a handgun;

"longarm licence" means a licence issued under section 9;

"machine gun" means a firearm which can fire more than one projectile with a single pressure of the trigger or other like appliance;

"member of the police force" has the same meaning as "member of the force" in the **Police Regulation Act 1958**;

"nominated person" means any person nominated in an application for a licence under Part 2 or Part 3 or any person nominated in the place of that person during the course of the licence, notice of whose nomination has been given to the Chief Commissioner;

"non-prohibited person" means a person who is not a prohibited person;

"officer"—

- (a) in relation to a body corporate which is a corporation within the meaning of the Corporations Law, has the same meaning as in section 82A of that Law; and
- (b) in relation to a body corporate which is not a corporation within the meaning of that Law, means any person (by

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whatever name called) who is concerned in or takes part in the management of the body corporate—

but does not include an employee of the body corporate;

"permit to acquire" means a permit issued under section 103;

"pest animal" has the same meaning as in the **Catchment and Land Protection Act 1994**;

"possession" in relation to a firearm, includes—

- (a) actual physical possession of the firearm; or
- (b) custody or control of the firearm; or
- (c) having and exercising access to the firearm, either solely or in common with others;

"prohibited person" means—

- (a) a person who is serving a term of imprisonment for—
 - (i) an indictable offence; or
 - (ii) an assault; or
 - (iii) an offence under the **Drugs, Poisons and Controlled Substances Act 1981**—

or, in relation to a person—

- (iv) not more than 15 years have expired since the person finished serving a term of imprisonment of 5 years or more for such an offence; or
 - (v) not more than 5 years have expired since the person finished
-

serving a term of imprisonment of less than 5 years for such an offence; or

(b) a person who is serving a term of imprisonment in another State or a Territory for an offence of a corresponding nature to an offence listed in paragraph (a) or in relation to a person—

(i) not more than 15 years have expired since the person finished serving a term of imprisonment in another State or a Territory of 5 years or more for such an offence; or

(ii) or not more than 5 years have expired since that person finished serving a term of imprisonment in another State or a Territory of less than 5 years for such an offence; or

(c) a person who is subject to—

(i) an intervention order under section 4 of the **Crimes (Family Violence) Act 1987** or an order of a corresponding nature made in another State or a Territory; or

(ii) a community based order which includes a condition referred to in section 38(1)(b) of the **Sentencing Act 1991**—

or, in relation to a person, not more than 5 years have expired since the person was subject to such an order; or

- (d) a person who is found guilty by a court—
- (i) of an offence against this Act, in relation to which it is open to the court to impose a term of imprisonment; or
 - (ii) of an offence against any other Act involving the possession or use of firearms and in relation to which it is open to the court to impose a term of imprisonment—
- or, in relation to a person, not more than 12 months have expired since the person was found guilty by a court of such an offence; or
- (e) found guilty by a court of an indictable offence, or in relation to a person, not more than 12 months have expired since the person was found guilty by a court of such an offence; or
- (f) is of a class of persons prescribed by the regulations;

"protective services officer" means a protective services officer under Part VIA of the **Police Regulation Act 1958**;

"pump action shotgun" means a shotgun which is, or has been at any time, constructed with an action which includes a moveable forearm or fore-end which is manually activated by a motion parallel to the barrel by the person using the gun;

"registered medical practitioner" has the same meaning as in the **Medical Practice Act 1994**;

"registered nurse" has the same meaning as in the **Nurses Act 1993**;

"registered psychologist" has the same meaning as in the **Psychologists Registration Act 1987**;

"responsible person" means—

- (a) in the case of a body corporate, any officer of the body corporate or the person nominated in an application for a licence by a body corporate under Part 2 or 3; or
- (b) in the case of a Department—
 - (i) the person authorised by the Department Head to make an application for a licence under Part 2; or
 - (ii) the person nominated in an application for a licence on behalf of a Department under Part 2;

"semi-automatic" when used to describe a rifle or shotgun, means a rifle or shotgun which is constructed or has been, at any time, constructed so that—

- (a) each bullet or missile is discharged by a separate application of pressure to the trigger; and
- (b) the energy of the discharge is used as part of the reloading cycle of the rifle or shotgun (as the case may be);

"shooting gallery" means any room, gallery, saloon, land or premises used with the permission of a Council (within the meaning of the **Local Government Act 1989**) for the purpose of practising shooting with airguns,

other than paintball guns, whether on payment or otherwise;

"silencer" means any instrument or thing by means of which the sound caused by the discharge of a firearm is rendered less audible, whether the instrument or thing forms part of the firearm or is or can be affixed or attached to the firearm;

"term of imprisonment" includes—

- (a) a term that is suspended wholly or partly; and
 - (b) any term of imprisonment that is served by way of intensive correction in the community; and
 - (c) any period during which a person has been released on parole under the **Corrections Act 1986**; and
 - (d) any period of detention in a youth training centre.
- (2) This Act does not apply to any device which has the appearance of a longarm but which is not designed or adapted in the manner described in paragraph (a) of the definition of firearm and which is not capable of being made to be so.

4. Act binds the Crown

This Act binds the Crown in right of Victoria and, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

**PART 2—POSSESSION, CARRIAGE OR USE OF FIREARMS
AND RELATED ITEMS**

Division 1—Offences

**5. *Offence for prohibited person to possess, carry or use
a firearm***

- (1) A prohibited person must not possess, carry or use a firearm.

Penalty: 600 penalty units or 7 years imprisonment.

- (2) A prohibited person must not possess, carry or use—

(a) a silencer; or

(b) any other prescribed item.

Penalty: 240 penalty units or 4 years imprisonment.

**6. *Offence for non-prohibited person to possess, carry or
use a longarm without a licence***

- (1) A non-prohibited person must not possess, carry or use a category A longarm unless the longarm is registered and that person does so under and in accordance with a licence issued under this Part.

Penalty: 60 penalty units or 12 months imprisonment.

- (2) A non-prohibited person must not possess, carry or use a category B longarm unless the longarm is registered and that person does so under and in accordance with a licence issued under this Part.

Penalty: 60 penalty units or 12 months imprisonment.

(3) A non-prohibited person must not possess, carry or use a category C longarm unless the longarm is registered and that person does so under and in accordance with a licence issued under this Part.

Penalty: 120 penalty units or 2 years imprisonment.

(4) A non-prohibited person must not possess, carry or use a category D longarm unless the longarm is registered and that person does so under and in accordance with a licence issued under this Part.

Penalty: 120 penalty units or 2 years imprisonment.

(5) A non-prohibited person must not possess, carry or use a category E longarm unless the longarm is registered and that person does so under and in accordance with a licence issued under this Part.

Penalty: 240 penalty units or 4 years imprisonment.

(6) A non-prohibited person must not possess, carry or use a longarm which is not a longarm to which sub-section (1), (2), (3), (4) or (5) applies.

Penalty: 120 penalty units or 2 years imprisonment.

7. Offence for non-prohibited person to possess, carry or use a handgun without a licence

A non-prohibited person must not possess, carry or use a handgun unless the handgun is registered and that person does so under and in accordance with a licence issued under this Part.

Penalty: 120 penalty units or 2 years imprisonment.

8. *Offence to acquire, dispose of possess or carry ammunition for collections*

A person must not acquire, dispose of, possess or carry ammunition for the purposes of collecting ammunition unless that person does so under and in accordance with a licence issued under this Part.

Penalty: 60 penalty units or 12 months imprisonment.

Division 2—Longarm Licences

9. *Issue of longarm licences*

- (1) The Chief Commissioner may licence a person to possess, carry or use registered category A longarms for the reason specified in the licence.
 - (2) The Chief Commissioner may licence a person to possess, carry or use registered category B longarms for the reason specified in the licence.
 - (3) The Chief Commissioner may licence a person to possess, carry or use—
 - (a) not more than one registered category C longarm, being a rifle; and
 - (b) not more than one registered category C longarm, being a shotgun—for the reason specified in the licence.
 - (4) The Chief Commissioner may licence a person to possess, carry or use—
 - (a) not more than one registered category D longarm, being a rifle; and
 - (b) not more than one registered category D longarm, being a shotgun—for the reason specified in the licence.
-

- (5) The Chief Commissioner may licence a person to possess, carry or use one or more category E longarms for the reason specified in the licence.

10. *Reasons for applying for longarm licence, category A or B*

- (1) The Chief Commissioner must not issue a longarm licence for category A or B longarms unless the applicant can demonstrate that the licence is required for one or more of the following reasons—
- (a) for sport or target shooting;
 - (b) for hunting;
 - (c) for primary production;
 - (d) for the occupation of security guard or prison guard;
 - (e) for an official or commercial purpose or for a purpose authorised by an Act or regulations.
- (2) For the purpose of demonstrating that the licence is required for—
- (a) sport or target shooting—
 - (i) the applicant must be a member of a shooting club or shooting organisation which is approved by the Chief Commissioner; and
 - (ii) the applicant must engage in—
 - (A) sport or target shooting at an approved range using longarms that are not category C or D longarms; or
 - (B) paintball activities at a location approved by the Chief
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Commissioner using paintball
guns;

- (b) hunting, the applicant must—
- (i) produce written evidence that the applicant owns, occupies or manages the land on which he or she intends to hunt; or
 - (ii) produce written evidence from the owner or manager of any privately owned land on which he or she intends to hunt that he or she may be permitted from time to time to use that land for the purposes of hunting; or
 - (iii) if the applicant is the holder of a game licence issued under the **Wildlife Act 1975**, produce the licence; or
 - (iv) produce written evidence that he or she is from time to time formally employed, engaged or contracted to shoot pest animals or take game;
- (c) primary production, the applicant must produce evidence that he or she is regularly engaged in the business of primary production as an owner, lessee or manager of land used for the primary production or is a person employed for the purposes of such a business;
- (d) the occupation of security or prison guard, the applicant must—
- (i) hold a licence under the **Private Agent's Act 1966** or be a prison officer, a contractor or a sub-contractor within the meaning of the **Corrections Act**

1986 or an employee of such a contractor or sub-contractor; and

(ii) produce evidence that the duties he or she performs as a security guard, prison officer, contractor, sub-contractor or employee are such as to require the carriage or use of a category A or B longarm;

(e) for an official or commercial purpose or purpose authorised by an Act or regulations, the applicant must produce evidence that the licence is required for that purpose.

(3) The Chief Commissioner may approve any shooting club or shooting organisation for the purposes of sub-section (2).

11. *Reasons for applying for a longarm licence, category C*

(1) The Chief Commissioner must not issue a longarm licence for category C longarms unless—

(a) the applicant can demonstrate that the licence is required for one of the following reasons—

(i) primary production;

(ii) professional hunting;

(iii) clay target shooting;

(iv) an official or commercial purpose or for a purpose authorised by an Act or regulations; and

(b) the applicant has a genuine need to possess, carry or use a category C firearm which relates to the applicant's reason for requiring the licence and which cannot be satisfied by a category A or B firearm or by other means.

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- (2) For the purposes of demonstrating that the licence is required for—
- (a) primary production, the applicant must produce evidence that he or she is substantially engaged in the business of primary production as an owner, lessee or manager of land used for primary production or is a person employed, full time, in such a business;
 - (b) professional hunting, the applicant must produce evidence that he or she is substantially dependant on hunting as a source of income and enters into formal engagements or contracts to hunt professionally;
 - (c) clay target shooting, the applicant must—
 - (i) be a member of a clay target shooting club or organisation approved by the Chief Commissioner; and
 - (ii) engage in clay target shooting at an approved shooting range; and
 - (iii) either—
 - (A) satisfy the Chief Commissioner that he or she is physically unable to compete in clay target shooting competitions unless he or she uses a category C longarm which is a semi-automatic or pump action shotgun; or
 - (B) be a person who, on 15 November 1996, possessed a semi-automatic or pump action shotgun registered under the **Firearms Act 1958** for use in clay target shooting and who was, on that date, a member
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of a club affiliated with the
Australian Clay Target
Association; and

- (iv) demonstrate other prescribed requirements;
- (d) for an official or commercial purpose or purpose authorised by an Act or regulations, the applicant must produce evidence that the licence is required for that purpose.
- (3) The Chief Commissioner may approve any clay target shooting club or clay target shooting organisation for the purposes of sub-section (2).

12. *Reasons for applying for a longarm licence, category D*

- (1) The Chief Commissioner must not issue a longarm licence for category D longarms unless—
 - (a) the applicant can demonstrate that the licence is required for one of the following reasons—
 - (i) professional hunting;
 - (ii) an official or commercial purpose or for a purpose authorised by an Act or regulations; and
 - (b) in the case of an applicant who requires the licence for professional hunting, the Chief Commissioner is satisfied that the quarry the applicant proposes to hunt cannot be hunted with any category of firearm other than a category D longarm.
 - (2) For the purposes of demonstrating that the licence is required for—
 - (a) professional hunting, the applicant must produce evidence that he or she is
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Firearms Act 1996

Act No. 66/1996

substantially dependant on hunting as a

source of income and enters into formal engagements or contracts to hunt professionally;

- (b) for an official or commercial purpose or purpose authorised by an Act or regulations, the applicant must produce evidence that the licence is required for that purpose.

13. *Reasons for applying for a longarm licence, category E*

- (1) The Chief Commissioner must not issue a longarm licence for category E longarms unless—
 - (a) the applicant can demonstrate that the licence is required for an official or commercial purpose or for a purpose authorised by an Act or regulations; and
 - (b) if the application is in respect of more than one category E longarm, the applicant can demonstrate a compelling reason for more than one such longarm to be possessed, carried or used under the licence.
- (2) For the purposes of demonstrating that the licence is required for an official or commercial purpose or a purpose authorised by an Act or regulations, the applicant must produce evidence that the licence is required for that purpose.

14. *Conditions applying to longarm licences*

- (1) A longarm licence for a category A or B longarm is subject to—
 - (a) the general conditions specified in items 1, 2 and 3 of Schedule 1; and
 - (b) the special conditions specified in item 1 of Schedule 2; and
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- (c) any other conditions imposed on the licence or the category of licence by the Chief Commissioner.
- (2) A longarm licence for a category C longarm is subject to—
- (a) the general conditions specified in items 1, 2 and 3 of Schedule 1; and
- (b) the special conditions specified in item 2 of Schedule 2; and
- (c) any other conditions imposed on the licence or the category of licence by the Chief Commissioner.
- (3) A longarm licence for a category D longarm is subject to—
- (a) the general conditions specified in items 1, 2 and 3 of Schedule 1; and
- (b) any other conditions imposed on the licence or the category of licence by the Chief Commissioner.
- (4) A longarm licence for a category E longarm is subject to—
- (a) the general conditions specified in items 1, 2 and 3 of Schedule 1; and
- (b) any other conditions imposed on the licence or the category of licence by the Chief Commissioner.

Division 3—Handgun Licences

15. *Issue of handgun licences*

- (1) The Chief Commissioner may licence a person to possess, carry or use a handgun for all or any of the following reasons—

- (a) for the occupation of security guard or prison guard;
 - (b) for target shooting;
 - (c) for an official or commercial purpose or for a purpose authorised by an Act or regulations.
- (2) For the purpose of demonstrating that the licence is required for—
- (a) the occupation of security guard or prison guard, the applicant must—
 - (i) hold a licence under the **Private Agent's Act 1966** or be a prison officer, a contractor or a sub-contractor, within the meaning of the **Corrections Act 1986**, or an employee of such a contractor or sub-contractor; and
 - (ii) in the case of an applicant who is a natural person, produce evidence that the duties he or she performs as a security guard, prison officer, contractor, sub-contractor or employee are such as to require the carriage and use of a handgun;
 - (b) target shooting, the applicant must be a current member of a shooting club or shooting organisation which is approved by the Chief Commissioner;
 - (c) for an official or commercial purpose or purpose authorised by an Act or regulations, the applicant must produce evidence that the licence is required for that purpose.
- (3) The Chief Commissioner may approve any shooting club or shooting organisation for the purposes of sub-section (2).
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16. *Conditions applying to handgun licences*

A handgun licence is subject to—

- (a) the general conditions specified in items 1, 2 and 3 of Schedule 1; and
- (b) the special conditions specified in item 3 of Schedule 2; and
- (c) any other conditions imposed on the licence or the category of licence by the Chief Commissioner.

Division 4—General Provisions Applying to Longarm and Handgun Licences

17. *General discretion of Chief Commissioner to refuse a longarm or handgun licence*

- (1) The Chief Commissioner must not issue a longarm or handgun licence—
 - (a) if the applicant or any responsible person in relation to the application is a prohibited person; or
 - (b) if the applicant or any responsible person in relation to the application is under the age of 18 years; or
 - (c) unless the Chief Commissioner is satisfied that—
 - (i) the applicant and all the responsible persons in relation to the application are fit and proper persons; and
 - (ii) the applicant can possess, carry or use a firearm without being a danger to public safety or peace; and

- (iii) the applicant has satisfactorily completed a course of firearms safety approved by the Chief Commissioner and has a good knowledge of firearms law; and
 - (iv) the applicant can comply with the storage requirements set out by or under the Act; and
 - (v) the issue of the licence is in the public interest; or
- (d) for any prescribed reason.

Division 5—Junior Licences

18. *Issue of junior licences*

The Chief Commissioner may licence a natural person who is of or over 12 years of age and under 18 years of age to carry or use category A or B longarms or handguns of the type specified in the licence for the purpose of receiving instruction in the use of such firearms or engaging in competition shooting.

19. *Conditions applying to junior licences*

A junior licence is subject to—

- (a) the general conditions specified in items 2 and 3 of Schedule 1; and
 - (b) the special conditions specified in item 4 of Schedule 2; and
 - (c) any other conditions imposed on the licence or the category of licence by the Chief Commissioner.
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20. *General discretion of Chief Commissioner to refuse a junior licence*

The Chief Commissioner must not issue a junior licence—

- (a) to a prohibited person; or
- (b) unless the Chief Commissioner is satisfied that—
 - (i) the applicant is a fit and proper person to be permitted to carry a category A or B longarm or a handgun; and
 - (ii) the applicant can possess, carry or use a firearm without being a danger to public safety or peace; and
 - (iii) the applicant has satisfactorily completed a course in firearms safety approved by the Chief Commissioner and has a good knowledge of firearms law; and
 - (iv) the issue of the licence is in the public interest; or
- (c) unless the application is made with the written consent of the parent or guardian of the applicant; or
- (d) for any prescribed reason.

Division 6—Firearms Collectors and Heirlooms Licences

21. *Issue of firearms collectors licences*

- (1) The Chief Commissioner may licence a person to possess, and carry firearms for the purposes of collecting firearms.
 - (2) The Chief Commissioner must not issue a licence under sub-section (1) unless the applicant—
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- (a) is and has been, for at least 6 months, a member of an organisation of firearms collectors approved by the Chief Commissioner; and
- (b) can demonstrate that the firearms collected will be of obvious and significant commemorative, historical, thematic or investment value.

22. *Conditions applying to firearms collectors licences*

A firearms collectors licence is subject to—

- (a) the general conditions specified in items 1 and 2 of Schedule 1; and
- (b) the special conditions specified in item 5 of Schedule 2; and
- (c) any other conditions imposed on the licence or the category of licence by the Chief Commissioner.

23. *General discretion of Chief Commissioner to refuse a firearms collectors licence*

- (1) The Chief Commissioner must not issue a firearms collectors licence—
 - (a) if the applicant or any responsible person in relation to the application is a prohibited person; or
 - (b) if the applicant or any responsible person in relation to the application is under 18 years of age; or
 - (c) unless the Chief Commissioner is satisfied that—
 - (i) the applicant and all responsible persons in relation to the application are fit and proper persons; and

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- (ii) the applicant can possess or carry a firearm without being a danger to public safety or peace; and
 - (iii) the applicant can comply with the storage requirements set out by or under the Act; and
 - (iv) the issue of the licence is in the public interest; or
- (d) for any prescribed reason.

24. *Firearms collectors register*

- (1) A person who is the holder of a firearms collectors licence must—
- (a) keep a register at the premises specified in the licence which has a record of the firearms kept under the licence and which is in the form approved by the Chief Commissioner; and
 - (b) enter prescribed particulars of any dealings in firearms held under the licence in the register within 24 hours after the dealing takes place.

Penalty: 120 penalty units or 2 years imprisonment.

- (2) The Chief Commissioner may permit a person who is the holder of a firearms collectors licence to remove a firearm from the register kept under this section if that person is the holder of a longarm licence for category A or B longarms or a handgun licence which entitles that person to possess that firearm.
- (3) An application for a permit under sub-section (2) must be made in the form and manner approved by the Chief Commissioner.

25. *Issue of firearms heirlooms licences*

The Chief Commissioner may licence a natural person who is of or over the age of 18 years to possess and carry a single firearm or a matched pair of firearms if that person—

- (a) is not able to satisfy the requirements to obtain a licence under any other provision of this Part; and
- (b) can demonstrate that he or she inherited the firearm.

26. *Conditions applying to firearms heirlooms licences*

A firearms heirlooms licence is subject to—

- (a) the general conditions specified in items 1 and 2 of Schedule 1; and
- (b) the special conditions specified in item 6 of Schedule 2; and
- (c) any other conditions imposed on the licence or the category of licence by the Chief Commissioner.

27. *General discretion of Chief Commissioner to refuse a firearms heirlooms licence*

The Chief Commissioner must not issue a firearms heirlooms licence—

- (a) if the applicant is a prohibited person; or
 - (b) unless the Chief Commissioner is satisfied that—
 - (i) the applicant is a fit and proper person; and
 - (ii) the applicant can possess or carry a firearm without being a danger to public safety or peace; and
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- (iii) the applicant can comply with the storage requirements set out by or under the Act; and
 - (iv) the issue of the licence is in the public interest; or
- (c) for any prescribed reason.

Division 7—Firearms Ammunition Collectors Licences

28. *Issue of firearms ammunition collectors licences*

- (1) The Chief Commissioner may licence a person to acquire, dispose of, possess or carry ammunition for the purposes of collecting ammunition.
- (2) The Chief Commissioner must not issue a licence under sub-section (1) unless the person is a member of an organisation of firearms collectors or an organisation of ammunition collectors approved by the Chief Commissioner.

29. *General discretion of Chief Commissioner to refuse a firearms ammunition collectors licence*

The Chief Commissioner must not issue a firearms ammunition collectors licence—

- (a) if the applicant or any responsible person in relation to an application is a prohibited person; or
- (b) if the applicant or any responsible person in relation to an application is under the age of 18 years; or
- (c) unless the Chief Commissioner is satisfied that—
 - (i) the applicant and all responsible persons in relation to an application are fit and proper persons; and

- (ii) the applicant can possess or carry ammunition without being a danger to public safety or peace; and
 - (iii) the applicant can comply with the storage requirements set out by or under the Act; and
 - (iv) the issue of the licence is in the public interest; or
- (d) for any prescribed reason.

30. *Conditions applying to firearms ammunition collectors licences*

A firearms ammunition collectors licence is subject to—

- (a) the general conditions specified in items 1 and 2 of Schedule 1; and
- (b) the special conditions specified in item 7 of Schedule 2; and
- (c) any other conditions imposed on the licence or the category of licence by the Chief Commissioner.

Division 8—General Provisions applying to licences under this Part

31. *Application for a licence*

- (1) A person who is making an application for a licence under this Part must make that application to the Chief Commissioner.
 - (2) An application must be in a form and manner approved by the Chief Commissioner and verified by a statutory declaration.
 - (3) An applicant must pay the fee prescribed for the category of licence applied for.
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32. Information which is required for an application for a licence

- (1) An application by a natural person for a licence under this Part must be accompanied by—
 - (a) proof of the identity of the applicant being, if the Chief Commissioner so requires, proof in the same manner and to the same extent as is required for an identification reference under the Financial Transactions Reports Act 1988 of the Commonwealth; and
 - (b) in the case of an application for a longarm licence for a category D or E longarm, a handgun licence or a firearms collectors licence, a full set of the applicant's fingerprints.
 - (2) An application by a body corporate for a licence under this Part must—
 - (a) specify the officers of the body corporate; and
 - (b) nominate a person who will be responsible for the storage and day to day management of firearms possessed under that licence; and
 - (c) be accompanied by, in respect of the responsible persons—
 - (i) proof of the identity of each person being, if the Chief Commissioner so requires, proof in the same manner and to the same extent as is required for an identification reference under the Financial Transactions Reports Act 1988 of the Commonwealth; and
 - (ii) a full set of each person's fingerprints.
 - (3) An application on behalf of a Department for a licence under this Part must—
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- (a) be made by a person authorised by the Department Head; and
- (b) nominate the person who is to be responsible for the storage and day to day management of firearms possessed under that licence; and
- (c) be accompanied by, in respect of the responsible persons—
 - (i) proof of the identity of each person, being, if the Chief Commissioner so requires, proof in the same manner and to the same extent as is required for an identification reference under the Financial Transactions Reports Act 1988 of the Commonwealth; and
 - (ii) a full set of each person's fingerprints.

33. 28 day waiting period

The Chief Commissioner must not issue a licence under this Part until at least 28 days have expired after the making of the application.

34. Review of decision not to issue a licence

A non-prohibited person who has applied for a licence under this Part may apply to the Committee for a review of a decision of the Chief Commissioner—

- (a) not to issue a licence; or
- (b) to impose a condition on a licence.

35. Particulars of licences

- (1) A licence under this Part must contain the following particulars—
 - (a) the name and address of the holder of the licence; and
 - (b) the category of the licence; and
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- (c) any particulars required by this Act to be specified in the licence; and
 - (d) the reason for which the applicant has been issued with the licence; and
 - (e) a summary of the storage requirements imposed by or under the Act; and
 - (f) any other prescribed particulars.
- (2) A licence under this Part must contain a recent photograph of—
- (a) in the case of a licence issued to a natural person, that person; or
 - (b) in any other case, the nominated person—
- which complies with the Chief Commissioner's requirements.

36. *Offence not to comply with licence conditions*

- (1) A person who is the holder of a longarm licence for category A or B longarms must comply with any conditions to which the licence is subject.
- Penalty: 60 penalty units or 12 months imprisonment.
- (2) A person who is the holder of a longarm licence for category C or D longarms or a handgun licence must comply with any conditions to which the licence is subject.
- Penalty: 120 penalty units or 2 years imprisonment.
- (3) A person who is the holder of a longarm licence for category E longarms must comply with any conditions to which the licence is subject.
- Penalty: 240 penalty units or 4 years imprisonment.

- (4) A person who is the holder of a junior licence, a firearms collectors licence, a firearms heirlooms licence or a firearms ammunition collectors licence must comply with any conditions to which the licence is subject.

Penalty: 60 penalty units or 12 months imprisonment.

37. *Variation of licence conditions*

- (1) The Chief Commissioner may, at any time vary any condition imposed on a licence under this Part by the Chief Commissioner.
- (2) The variation of a condition under this section has effect upon the giving of notice of that variation to the holder of the licence.

38. *Review of a decision to vary licence conditions*

A non-prohibited person who is the holder of a licence under this Part may apply to the Committee for a review of a decision of the Chief Commissioner to vary any of the conditions on the licence.

39. *Duration of licences*

- (1) A licence under this Part, other than a longarm licence for a category C, D or E longarm or a junior licence continues in force for the period, not exceeding 5 years from the issue or renewal of the licence, that is specified in the licence.
- (2) A longarm licence for a category C, D or E longarm continues in force for the period, not exceeding 3 years from the issue or renewal of the licence, that is specified in the licence.
- (3) A junior licence continues in force for the period of 3 years from the issue or renewal of the licence or until the holder turns 18 years of age (whichever is the earlier).
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40. Requirement to notify Chief Commissioner of change of nominated person

- (1) If the person nominated in an application under section 31 becomes a prohibited person during the course of a licence, the holder of the licence must nominate another person to be responsible for the storage and day to day management of firearms possessed under that licence and must immediately notify the Chief Commissioner of that nomination.

Penalty: 60 penalty units or 12 months imprisonment.

- (2) At any time during the course of a licence, the holder of the licence may nominate a person to replace the person nominated in the application under section 31 and must immediately notify the Chief Commissioner of that nomination.

Penalty: 20 penalty units.

- (3) A notice under this section must—

- (a) be in writing; and
(b) be accompanied by—

- (i) proof of the identity of the person, being, if the Chief Commissioner so requires, proof in the same manner and to the same extent as is required for an identification reference in the Financial Transactions Reports Act 1988 of the Commonwealth; and

- (ii) a full set of the person's fingerprints.

Penalty: 20 penalty units.

41. Renewal of licences

- (1) Before the expiration of a licence under this Part, the holder may apply to the Chief Commissioner for renewal of the licence.
- (2) A person who is making an application for the renewal of a licence under this Part must make that application to the Chief Commissioner.
- (3) An application must—
 - (a) be in a form and manner approved by the Chief Commissioner; and
 - (b) be verified by statutory declaration.
- (4) An application must be accompanied by—
 - (a) a list of all the firearms in the possession of the applicant; and
 - (b) in the case of an application by a body corporate, if any of the responsible persons has changed during the course of the licence—
 - (i) proof of the identity of the new persons, being, if the Chief Commissioner so requires, proof in the same manner and to the same extent as is required for an identification reference in the Financial Transactions Reports Act 1988 of the Commonwealth; and
 - (ii) a full set of each person's fingerprints.
- (5) The applicant must pay the fee prescribed for the category of licence applied for.

42. *General discretion of Chief Commissioner to refuse to renew a licence or to alter or vary the conditions of a licence*

- (1) The Chief Commissioner may renew or refuse to renew a licence under this Part and, if a licence is to be renewed, the Chief Commissioner may alter
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or vary the conditions on the licence or impose further conditions on the licence.

- (2) The Chief Commissioner must not renew the licence—
- (a) if the applicant can no longer demonstrate that he or she has the reason for which the licence was previously issued; or
 - (b) if the applicant or any responsible person in relation to the application is a prohibited person; or
 - (c) unless the Chief Commissioner is satisfied that—
 - (i) the applicant and all responsible persons in relation to the application are fit and proper persons; and
 - (ii) the applicant can comply with the storage requirements set out by or under the Act; and
 - (iii) the renewal of the licence is in the public interest; or
 - (d) for any prescribed reason.

43. *Circumstances in which the Chief Commissioner may alter or vary conditions on a licence*

The Chief Commissioner may alter or vary the conditions on the licence—

- (a) if the applicant can no longer demonstrate that he or she has the reason for which, in respect of any of the firearms possessed under the licence, the licence was issued; or
- (b) for any other prescribed reason.

44. *Review of a decision not to renew a licence*

A non-prohibited person who has applied for a renewal of a licence under this Part may apply to the Committee for a review of a decision of the Chief Commissioner—

- (a) not to renew that licence; or
- (b) to alter or vary any of the conditions on the licence.

45. *Disposal of firearms where licence not renewed*

- (1) A person whose licence is not renewed does not commit an offence under this Part if he or she possesses or carries a firearm held under that licence for a period of 28 days after the licence expires for the purposes of disposing of the firearm.
- (2) If a condition on a licence is altered or varied under section 43, the holder of the licence does not commit an offence under this Part if he or she possesses or carries a firearm held under that licence which must be disposed of because of that alteration or variation for a period of 28 days after the alteration or variation for the purposes of disposing of the firearm.
- (3) A person who is disposing of a category A or B longarm in the circumstances to which sub-section (1) or (2) applies must dispose of that firearm to a licensed firearms dealer.

Penalty: 60 penalty units or 12 months imprisonment.

- (4) A person who is disposing of a category C or D longarm or a handgun in the circumstances to which sub-section (1) or (2) applies must dispose of that firearm to a licensed firearms dealer.

Penalty: 120 penalty units or 2 years imprisonment.

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- (5) A person who is disposing of a category E longarm in the circumstances to which sub-section (1) or (2) applies must dispose of that firearm in the manner specified in the licence.

Penalty: 240 penalty units or 4 years imprisonment.

Division 9—Suspension and Cancellation of Licences under this Part

46. *Immediate cancellation of a licence*

- (1) Immediately on becoming aware that—
- (a) the holder of the licence under this Part; or
 - (b) in the case of a licence which is held by a body corporate, any officer of the body corporate—

is a prohibited person the Chief Commissioner must cancel the licence.

- (2) The Chief Commissioner must notify the holder of the licence of the cancellation of the licence, either personally or by post.

47. *Suspension of a licence and notice of proposal to cancel*

- (1) If the Chief Commissioner is satisfied that there may be grounds for cancelling a licence under section 49 the Chief Commissioner may suspend the licence.
- (2) The Chief Commissioner must serve notice of the suspension of the licence on the holder of the licence either personally or by post.
- (3) A notice under sub-section (2) must—
- (a) state that the licence is suspended; and

- (b) state that the Chief Commissioner is satisfied that there are grounds for the cancellation of the licence; and
 - (c) set out those grounds; and
 - (d) state that the holder of the licence may make written submissions on the proposal and that any written submissions made must be made within 28 days of the giving of the notice.
- (4) A suspension under this section remains in force—
- (a) if the Chief Commissioner decides to cancel the licence, until the coming into effect of the cancellation; or
 - (b) if the Chief Commissioner decides not to cancel the licence, until the making of that decision.
- (5) The holder of a licence, whose licence is suspended is deemed not to be the holder of a licence for the period of the suspension.

48. *Making of submissions*

- (1) The holder of a licence who has been notified under section 47 may make written submissions on the proposal to cancel the licence.
- (2) Submissions made under sub-section (1) must be made within 28 days of the holder being notified.

49. *Power of Chief Commissioner to cancel licence under this Part*

The Chief Commissioner may cancel a licence suspended under section 47 if, after considering any submissions made within the time fixed for making submissions, the Chief Commissioner is satisfied that—

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- (a) the holder no longer has the reason specified in the licence for holding the licence; or
 - (b) the holder has failed to notify the Chief Commissioner of a change of his or her address; or
 - (c) the holder has knowingly supplied false or misleading information in a material particular in, or in connection with the application for the licence or renewal of the licence; or
 - (d) the holder has contravened or failed to comply with the conditions of the licence; or
 - (e) the holder has contravened or failed to comply with any requirement for the storage of firearms possessed, carried or used under the licence; or
 - (f) the holder of the licence or any responsible person in relation to the licence is no longer a fit and proper person; or
 - (g) the holder of the licence cannot carry on, or be employed in the business without being a danger to public safety or peace; or
 - (h) the holder of the licence or a responsible person in relation to the licence has contravened a provision of this Act or the regulations; or
 - (i) the holder is no longer entitled to hold the licence for any other prescribed reason.

50. *Review of decision to cancel a licence*

The holder of a licence under this Part whose licence has been cancelled by the Chief Commissioner under section 49 may, if the holder is a non-prohibited person, apply to the Committee for a review of that decision.

51. *Notice of Chief Commissioner's decision*

- (1) The Chief Commissioner must notify the holder of the licence as to whether or not he or she has decided to cancel the licence under section 49 and must set out the reasons for that decision in the notice.
- (2) A notice under sub-section (1) may be served on the licence holder either personally or by post.

52. *Coming into effect of cancellation*

Cancellation of a licence under this Part by the Chief Commissioner has effect from the time at which notice of the cancellation is served on the licence holder.

53. *Surrender of firearms and licence document*

- (1) If a licence under this Part is suspended or cancelled, the holder must—
 - (a) if served personally with notice of the suspension or cancellation, immediately surrender any firearm or ammunition in that person's possession and the licence document to the person serving the notice; and
 - (b) if served by post with notice of the suspension or cancellation, within 7 days of service of the notice, surrender any firearm or ammunition in that person's possession and the licence document to a police station.

Penalty: 240 penalty units or 4 years imprisonment.

- (2) If a member of the police force has reasonable grounds for believing that a person has not complied with sub-section (1), the member—

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- (a) must seize any firearm or ammunition which the member is aware is in the possession of the person; and
 - (b) may, at any reasonable time, without warrant, enter and search any premises where the person resides or has resided for the purpose of seizing any such firearm or ammunition.
- (3) Despite the surrender or seizure of a firearm or ammunition under this section the person who has surrendered the firearm or ammunition or from whom the firearm or ammunition has been seized continues to be the owner of the firearm or ammunition.
- (4) If the Chief Commissioner decides to cancel the licence of a person who has surrendered a firearm or ammunition or from whom a firearm or ammunition has been seized under this section, that person must dispose of the firearm or ammunition to a licensed firearms dealer—
- (a) if no application for review had been made against the Chief Commissioner's decision, within 28 days of the making of that decision; or
 - (b) if an application for review has been made against the Chief Commissioner's decision, within 28 days of the confirmation of the Chief Commissioner's decision under that procedure.

Penalty: 60 penalty units or 12 months imprisonment.

Division 10—Exemptions and Permits

54. Persons who are exempt from the Part

Firearms Act 1996

Act No. 66/1996

Any non-prohibited person who is of a category of persons specified in an item in Column 1 of Schedule 3 who possesses, carries or uses a registered firearm in the circumstances set out in that item in Column 2 of Schedule 3 does not

commit an offence against section 6 or 7 for so doing and is not required to hold a licence under this Part.

55. *Employees of licensed firearms dealers*

A person who is employed by a licensed firearms dealer in the carrying on of the business does not commit an offence against section 6 or 7 for anything done during the course of and for the purposes of that employment.

56. *Permits to display firearms or ammunition collections*

- (1) If the holder of a firearms collectors licence or a firearms ammunition collectors licence displays all or any of the firearms or ammunition in his or her collection, whether or not at the premises specified in the licence or at any other premises, the holder of the licence does not commit an offence against section 6, 7 or 8 or Part 6 if he or she has first obtained a permit from the Chief Commissioner to do so.
 - (2) The Chief Commissioner may grant a permit under sub-section (1), if the Chief Commissioner is satisfied that the arrangements made for the secure storage of the firearms or ammunition while on display are adequate.
 - (3) A permit authorises—
 - (a) display of the firearms or ammunition at the premises specified in the permit and for the period specified in the permit; and
 - (b) carriage of the firearms or ammunition for the purposes of the display.
 - (4) A permit to display firearms or ammunition at the premises specified in the licence is subject to the conditions fixed in the permit.
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- (5) A permit to display firearms or ammunition at premises other than the premises specified in the licence is subject to any conditions imposed on that permit or on permits in the nature of that permit by the Chief Commissioner.
- (6) An application for a permit must be made in the manner and form approved by the Chief Commissioner.
- (7) The applicant must pay the fee prescribed for such a permit.
- (8) The holder of the permit must comply with the permit.

Penalty: 60 penalty units or 12 months imprisonment.

57. *Permits to possess, carry or use silencers or prescribed items*

- (1) A non-prohibited person must not possess, carry or use a—
 - (a) silencer; or
 - (b) prescribed item—

unless that person does so under and in accordance with a permit issued under this section.

Penalty: 120 penalty units or 2 years imprisonment.

- (2) The Chief Commissioner may grant a permit to a person who is of or over the age of 18 years to possess, carry or use—
 - (a) a silencer; or
 - (b) a prescribed item.

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- (3) The Chief Commissioner may impose any conditions on the permit that the Chief Commissioner thinks fit.
 - (4) An application for a permit must be in the form approved by the Chief Commissioner.
 - (5) The applicant must pay the prescribed fee for such a permit.
 - (6) The holder of the permit must comply with the permit.

Penalty: 120 penalty units or 2 years imprisonment.

58. *Permits to carry or use firearms held under a collectors licence*

- (1) The Chief Commissioner may grant a permit to the holder of a collectors licence to carry or use any category A, B or C longarm or handgun held under the licence at a commemorative or historical event approved by the Chief Commissioner and sponsored by an approved organisation of firearms collectors and held at an approved range.
 - (2) The Chief Commissioner may impose any conditions on the permit that the Chief Commissioner thinks fit.
 - (3) The holder of a permit under this section does not commit an offence under section 6 or 7 when acting under and in accordance with the permit.
 - (4) An application for a permit must be in the form approved by the Chief Commissioner.
 - (5) The applicant must pay the prescribed fee for such a permit.
 - (6) The holder of the permit must comply with the permit.
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Firearms Act 1996
Act No. 66/1996

Penalty: 120 penalty units or 2 years
imprisonment.

**PART 3—CARRYING ON THE BUSINESS OF DEALING IN
FIREARMS AND RELATED ITEMS**

Division 1—Licensing of Firearms Dealers

59. *Offence to carry on business of dealing in firearms*

- (1) A person must not carry on the business of being a firearms dealer in category A or B longarms unless that person does so under and in accordance with a licence issued under this Part.

Penalty: 120 penalty units or 2 years imprisonment.

- (2) A person must not carry on the business of being a firearms dealer—

- (a) in category C, D or E longarms or handguns;
or
(b) in any other firearms to which sub-section (1) does not apply—

unless that person is the holder of a licence issued under this Part.

Penalty: 240 penalty units or 4 years imprisonment.

- (3) In this Act, "carrying on the business of being a firearms dealer" includes, but is not limited to—

- (a) acquiring, disposing of, hiring, lending or transferring ownership in any firearms, firearms parts or ammunition; or
(b) exposing or offering for sale any firearms, firearms parts or ammunition; or
(c) possessing for the purpose of disposing of, acting as an agent in the transfer of ownership in or repairing any firearms, firearms parts or ammunition; or
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- (d) manufacturing or repairing any firearms or possessing any firearms parts for the purpose of manufacturing or repairing firearms.

60. *Issue of dealers licences*

- (1) The Chief Commissioner may licence a person to carry on the business of being a firearms dealer at the premises specified in the licence.
- (2) A licence issued by the Chief Commissioner under sub-section (1) may—
 - (a) be issued in relation to all categories of firearms or in relation to those categories of firearms specified in the licence; and
 - (b) may authorise the carrying out of all aspects relating to the business of being a firearms dealer or may be limited to particular aspects of that business.

61. *General discretion of Chief Commissioner to refuse a dealers licence*

The Chief Commissioner must not issue a dealers licence to an applicant—

- (a) if the applicant, any responsible person in relation to the application or any person the applicant is proposing to employ in the business is a prohibited person; or
 - (b) if the applicant or any responsible person in relation to the application is under the age of 21 years; or
 - (c) unless the Chief Commissioner is satisfied that—
 - (i) the applicant and all responsible persons in relation to the application and the persons the applicant is proposing to employ in the business—
-

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- (A) are fit and proper persons; and
 - (B) can carry on the business without being a danger to public safety or peace; and
 - (ii) the premises specified in the application are suitable to carry on the business of being a firearms dealer; and
 - (iii) the issue of the licence is in the public interest; or
 - (d) for any prescribed reason.

62. *Review of decision not to issue licence*

A non-prohibited person who has applied for a licence under this Part may apply to the Committee for a review of a decision of the Chief Commissioner—

- (a) not to issue a licence; or
- (b) to impose conditions on the licence.

Division 2—General Provisions Applying to Dealers Licences

63. *Application for a dealers licence*

- (1) A person who is applying for a dealers licence must make the application to the Chief Commissioner.
- (2) An application must be in a form and manner approved by the Chief Commissioner and verified by a statutory declaration.
- (3) The applicant must pay the fee prescribed for licences in the nature of the licence applied for.

64. *Information required for an application by a natural person for a dealers licence*

An application by a natural person for a dealers licence must be accompanied by—

- (a) proof of the identity of the applicant and any person the applicant proposes to employ in the business, being, if the Chief Commissioner so requires, proof in the same manner and to the same extent as is required for an identification reference under the Financial Transactions Reports Act 1988 of the Commonwealth; and
- (b) a full set of the applicant's fingerprints and the fingerprints of any person the applicant proposes to employ in the business.

65. *Information required for an application by a body corporate for a dealers licence*

An application by a body corporate for a dealers licence must—

- (a) specify the officers of the body corporate; and
 - (b) in respect of the premises for which the licence is to be issued, nominate the person who will be responsible for the day to day management of the business on that premises; and
 - (c) be accompanied by, in respect of each responsible person and any person the applicant proposes to employ in the business—
 - (i) proof of the identity of each person, being, if the Chief Commissioner so requires, proof in the same manner and to the same extent as is required for an
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identification reference under the
Financial Transactions Reports Act
1988 of the Commonwealth; and

(ii) a full set of the person's fingerprints.

66. 28 day waiting period

The Chief Commissioner must not issue a dealers licence until 28 days have expired after the making of the application.

67. Particulars of dealers licences

(1) A dealers licence must contain the following particulars—

- (a) the name and address of the holder of the licence; and
- (b) the nature of the licence; and
- (c) the address of the premises to which the licence applies; and
- (d) a summary of the storage requirements imposed by or under the Act; and
- (e) any other prescribed particulars.

(2) A dealers licence must contain a recent photograph of—

- (a) in the case of a licence issued to a natural person, that person; or
- (b) in any other case, the nominated person—

which complies with the Chief Commissioner's requirements.

68. Offence not to comply with licence conditions

The holder of a dealers licence must comply with any conditions to which the licence is subject.

Penalty: 60 penalty units.

69. *Variation of dealers licence conditions*

- (1) The Chief Commissioner may, at any time vary any condition imposed on a dealers licence by the Chief Commissioner.
- (2) The variation of a condition under this section has effect upon the giving of notice of that variation to the holder of the licence.

70. *Review of a decision to vary licence conditions*

A non-prohibited person who is the holder of a dealers licence may apply to the Committee for a review of a decision of the Chief Commissioner to vary any of the conditions on the licence.

71. *Duration of licences*

A dealers licence continues in force for the period, not exceeding 5 years from the issue or renewal of the licence, that is specified in the licence.

72. *Renewal of dealers licences*

- (1) Before the expiration of a dealers licence, the holder may apply to the Chief Commissioner for renewal of the licence.
- (2) A person who is making an application for the renewal of a licence under this Part must make that application to the Chief Commissioner.
- (3) An application must—
 - (a) be in a form and manner approved by the Chief Commissioner; and
 - (b) be verified by statutory declaration.
- (4) In the case of an application by a body corporate, if any of the responsible persons in relation to the licence have changed during the course of the licence, the application must be accompanied by—

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- (a) proof of the identity of the new persons, being, if the Chief Commissioner so requires, proof in the same manner and to the same extent as is required for an identification reference in the Financial Transactions Reports Act 1988 of the Commonwealth; and
 - (b) a full set of each persons fingerprints.
- (5) The applicant must pay the fee prescribed for renewals of licences in the nature of the licence to which the application relates.
- (6) The Chief Commissioner may renew or refuse to renew a licence and, if a licence is to be renewed, the Chief Commissioner may alter or vary the conditions on the licence or impose further conditions on the licence.

73. *General discretion of Chief Commissioner to refuse to renew a dealers licence*

The Chief Commissioner must not renew a dealers licence—

- (a) if the applicant or any responsible person in relation to the application is a prohibited person; or
- (b) unless the Chief Commissioner is satisfied that—
 - (i) the applicant, all the responsible persons in relation to the application and any persons employed in the business are fit and proper persons; and
 - (ii) the premises specified in the application are suitable to carry on the business of being a firearms dealer; and

(iii) the issue of the licence is in the public interest; or

(c) for any prescribed reason.

74. *Review of decision not to renew licence*

A non-prohibited person who has applied for renewal of a licence under this Part may apply to the Committee for review of a decision of the Chief Commissioner not to renew the licence.

75. *Requirement to notify Chief Commissioner of persons employed in business or change of nominated person*

(1) The holder of a dealers licence must, immediately on the employment of a person in the business carried on under that licence, notify the Chief Commissioner of that employment.

Penalty: 60 penalty units or 12 months imprisonment.

(2) If the person nominated in an application under section 65 becomes a prohibited person during the course of a licence, the holder of the licence must nominate another person to be responsible for the day to day management of the business on the premises and must immediately notify the Chief Commissioner of that nomination.

Penalty: 60 penalty units or 12 months imprisonment.

(3) At any time during the course of the licence, the holder of the licence may nominate a person to replace the person nominated in the application under section 65 and must immediately notify the Chief Commissioner of that nomination.

Penalty: 20 penalty units.

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- (4) A notice under this section must—
- (a) be in writing; and
 - (b) be accompanied by—
 - (i) proof of the identity of the person, being, if the Chief Commissioner so requires, proof in the same manner and to the same extent as is required for an identification reference under the Financial Transactions Reports Act 1988 of the Commonwealth; and
 - (ii) a full set of the person's fingerprints.
- Penalty: 20 penalty units.

Division 3—Suspension, Cancellation and Transfer of Dealers Licences

76. Immediate cancellation of a dealers licence

- (1) Immediately on becoming aware that—
- (a) the holder of a dealers licence; or
 - (b) in the case of a licence which is held by a body corporate, any officer of the body corporate—
- is a prohibited person the Chief Commissioner must cancel the licence.
- (2) The Chief Commissioner must notify the holder of the licence of the cancellation of the licence, either personally or by post.

77. Suspension of a dealers licence and notice of proposal to cancel

- (1) If the Chief Commissioner is satisfied that there may be grounds for cancelling a dealers licence under section 79 the Chief Commissioner may suspend the licence.

- (2) The Chief Commissioner must serve notice of the suspension of the licence on the holder of the licence either personally or by post.
- (3) A notice under sub-section (2) must—
 - (a) state that the licence is suspended; and
 - (b) state that the Chief Commissioner is satisfied that there are grounds for the cancellation of the licence; and
 - (c) set out those grounds; and
 - (d) set out the time within which written submissions on the proposed cancellation of the licence may be made to the Chief Commissioner.
- (4) A suspension under this section remains in force until—
 - (a) if the Chief Commissioner decides to cancel the licence, the coming into effect of that cancellation; or
 - (b) if the Chief Commissioner decides not to cancel the licence, the making of that decision.
- (5) The holder of a licence, whose licence is suspended is deemed not to be the holder of a licence for the period of the suspension.

78. *Making of submissions*

- (1) The holder of a licence who has been notified under section 77 may make written submissions on the proposal to cancel the licence.
 - (2) Submissions made under sub-section (1) must be made within 28 days of the holder being notified.
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79. *Power of Chief Commissioner to cancel a dealers licence*

The Chief Commissioner may cancel a dealers licence suspended under section 77 if, after considering any submissions made within the time fixed for making submissions, the Chief Commissioner is satisfied—

- (a) that the holder has knowingly supplied false or misleading information in a material particular in, or in connection with the application for the licence or the renewal of the licence; or
- (b) that the holder has contravened or failed to comply with the conditions of the licence; or
- (c) that the holder has contravened or failed to comply with any requirement for the storage of firearms possessed, carried or used under the licence; or
- (d) that the holder of the licence no longer carries on business at the premises specified in the licence; or
- (e) that—
 - (i) the holder of the licence or any responsible person in relation to the licence; or
 - (ii) any person employed in the business—
is no longer a fit and proper person; or
- (f) that—
 - (i) the holder of the licence or any responsible person in relation to the licence; or

- (ii) any person employed in the business—
cannot carry on, or be employed in the
business without being a danger to public
safety or peace; or
- (g) that—
 - (i) the holder of the licence or any
responsible person in relation to the
licence; or
 - (ii) any person employed in the business—
has contravened a provision of this Act or the
regulations; or
- (h) that the premises in respect of which the
licence has been issued have become
unsuitable to carry on the business of being a
firearms dealer; or
- (i) that the holder is no longer entitled to hold
the licence for any other prescribed reason.

80. *Notice of Chief Commissioner's decision*

- (1) The Chief Commissioner must notify the holder of
the licence as to whether or not he or she has
decided to cancel the licence under section 79 and
must set out the reasons for that decision in the
notice.
- (2) A notice under sub-section (1) may be served on
the licence holder either personally or by post.

81. *Coming into effect of cancellation*

Cancellation of a licence by the Chief
Commissioner has effect from the time at which
notice of the cancellation is served on the licence
holder.

82. *Right of appeal against cancellation of licence*

The holder of a licence under this Part whose licence has been cancelled by the Chief Commissioner under section 79 may, if he or she is a non-prohibited person, apply to the Committee for a review of that decision.

83. *Surrender of firearms and licence document*

If a dealers licence is suspended or cancelled, the holder must—

- (a) if served personally with notice of the suspension or cancellation, immediately surrender any firearms or ammunition held under the licence and the licence document to the person serving the notice; and
- (b) if served by post with notice of the suspension or cancellation, within 7 days of service of the notice, surrender any firearms or ammunition held under the licence and the licence document to a police station.

Penalty: 240 penalty units or 4 years imprisonment.

84. *Application to carry on business*

- (1) A dealers licence may be transferred in any of the following circumstances—
 - (a) if the dealer has died; or
 - (b) if the dealer has become bankrupt or has assigned his business for the benefit of his creditors; or
 - (c) if the dealer has become a patient within the meaning of the **Mental Health Act 1986**.
- (2) In the circumstances in which sub-section (1)(a) applies, the executors or administrators of the

dealer's estate, or, if probate or letters of administration have not been granted, the widow or widower (as the case may be) or any member of the dealer's family may apply to the Chief Commissioner for a transfer of the licence.

- (3) In the circumstances in which sub-section (1)(b) applies, the trustee in bankruptcy, receiver or assignee (as the case requires) may apply for a transfer of the licence.
- (4) In the circumstances in which sub-section (1)(c) applies, the spouse or any member of the dealer's family or any person nominated for the purpose by State Trustees within the meaning of the **State Trustees (State Owned Company) Act 1994** may apply for a transfer of the licence.

85. *Chief Commissioner may transfer authority to conduct business*

- (1) The Chief Commissioner may, if the Chief Commissioner thinks fit, transfer a dealers licence to any person who has applied for such a transfer under section 84 or to any person specified in an application for such a transfer under section 84.
- (2) A licence transferred under sub-section (1) continues in force until the date of expiration of the original licence and is on the same terms and subject to the same conditions as applied to the original licence.
- (3) The person to whom the licence has been transferred is deemed to be the holder of the licence.

86. *Prohibition on any other transfer of licence*

Except as otherwise provided for in this Division, the Chief Commissioner must not transfer a dealers licence.

Division 4—Records to be Kept by Licensed Firearms Dealers

87. Requirement to keep register of transactions

- (1) A licensed firearms dealer must ensure that a record of each transaction whereby—
- (a) a firearm is acquired by the dealer or otherwise comes into the possession of the dealer; or
 - (b) a firearm is disposed of by the dealer or otherwise goes out of the possession of the dealer; or
 - (c) the dealer acts as an agent for the acquisition or disposal of a firearm—

is recorded in a register of transactions.

Penalty: 120 penalty units or 2 years imprisonment.

- (2) A licensed firearms dealer must ensure that the register of transactions contains in relation to each transaction—
- (a) in the case of a firearm coming into the possession of the dealer—
 - (i) the prescribed particulars about the person who has given possession of the firearm, and the licence number or other evidence of the person's authority to possess the firearm; and
 - (ii) the make, type, calibre, action and serial number of the firearm; and
 - (b) in the case of a firearm going out of the possession of the dealer—
 - (i) where the case so requires, the permit to acquire; and

- (ii) the prescribed particulars about the person who is acquiring possession of the firearm, and the licence number or other evidence of the person's authority to possess the firearm; and
 - (iii) the make, type, calibre, action and serial number of the firearm; and
- (c) in the case of a firearm in respect of which the dealer is acting as an agent for the person acquiring the firearm—
 - (i) where the case so requires, the permit to acquire; and
 - (ii) the prescribed particulars about the person who is acquiring the firearm, and the licence number or other evidence of the person's authority to possess the firearm; and
 - (iii) the make, type, calibre, action and serial number of the firearm; and
- (d) in the case of a firearm in respect of which the dealer is acting as an agent for the person disposing of the firearm—
 - (i) the prescribed particulars about the person who is disposing of the firearm, and the licence number or other evidence of the person's authority to possess the firearm; and
 - (ii) the make, type, calibre, action and serial number of the firearm; and
- (e) any other prescribed particulars.

Penalty: 120 penalty units or 2 years imprisonment.

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- (3) A licensed firearms dealer must ensure that the register of transactions—
- (a) is kept at the premises specified in the licence; and
 - (b) is kept in a place of safekeeping and separately from any place of safekeeping where firearms are kept; and
 - (c) is available for inspection by a member of the police force at any reasonable time.

Penalty: 60 penalty units or 12 months imprisonment.

- (4) A licensed firearms dealer must ensure that the record of a transaction or dealing is made immediately on the transaction taking place.

Penalty: 30 penalty units.

- (5) A licensed firearms dealer must ensure that any entry in a register of transactions kept by him is kept for a period of 5 years after the entry is made in the register.

Penalty: 30 penalty units.

88. *Firearms to be labelled with transaction details*

A licensed firearms dealer must ensure that a label is fixed to each firearm in the dealers possession which shows a number which is capable of being used to identify the record of any transaction or dealing in the firearm in the register of transactions.

Penalty: 10 penalty units.

89. *Power to inspect register and stock*

A member of the police force may inspect the register of transactions and the stock kept by a licensed firearms dealer at any reasonable time.

90. *Power to require production of licence*

- (1) A member of the police force who is at the premises where a licensed firearms dealer carries on the business to which the licence relates may demand that the dealer produce the licence for inspection.
- (2) A person must comply with a demand under subsection (1) unless that person has a reasonable excuse.

Penalty: 10 penalty units.

Division 5—Display by Dealers

91. *Display of firearms by dealers*

- (1) If a licensed firearms dealer acquires, disposes of or displays all or any of the firearms kept under the licence at a premises other than the licensed premises, the holder of the licence does not commit an offence against Division 1 of this Part or Part 6 if he or she has first obtained a permit from the Chief Commissioner to do so.
 - (2) The Chief Commissioner may issue a permit if he or she is satisfied that the arrangements made for the secure storage of the firearms while on display are adequate.
 - (3) A permit authorises—
 - (a) the person specified in the permit to acquire, dispose of or display the firearms at the premises specified in the permit and for the period specified in the permit; and
 - (b) carriage of the firearms for the purposes of the display.
 - (4) The Chief Commissioner may impose any conditions on the permit that he or she thinks fit.
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- (5) An application for a permit must be made in the manner and form approved by the Chief Commissioner.
- (6) The applicant must pay the fee prescribed for such a permit.
- (7) The holder of the permit must comply with the permit.
- Penalty: 60 penalty units or 12 months imprisonment.

92. *Display Offences*

A licensed firearms dealer must ensure that any firearms displayed on the licensed premises—

- (a) are under the immediate supervision and control of the dealer or an employee of the dealer; and
- (b) are secured in a manner which would prevent removal by any person other than the dealer or an employee of the dealer.

Penalty: 120 penalty units or 2 years imprisonment.

**PART 4—ACQUISITION AND DISPOSAL OF FIREARMS
AND RELATED ITEMS**

**Division 1—Offences relating to the Acquisition and
Disposal of Firearms**

93. *Persons from whom a dealer can acquire firearms*

- (1) A licensed firearms dealer must not acquire a category A or B longarm unless the firearm is being acquired from a person listed in sub-section (4).

Penalty: 60 penalty units or 12 months imprisonment.

- (2) A licensed firearms dealer must not acquire a category C or D longarm or a handgun unless the firearm is being acquired from a person listed in sub-section (4).

Penalty: 120 penalty units or 2 years imprisonment.

- (3) A licensed firearms dealer must not acquire a—
- (a) category E longarm; or
 - (b) any other firearm to which sub-sections (1) and (2) do not apply—

unless the firearm is being acquired from a person listed in sub-section (4).

Penalty: 240 penalty units or 4 years imprisonment.

- (4) A firearm may be acquired under this section from any of the following—
- (a) another person who is a licensed firearms dealer;

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- (b) a person who is authorised by a licence under this Act to possess, carry or use that firearm;
 - (c) a person who is exempted by this Act from the requirement to have a licence in order to possess, carry or use that category of firearm;
 - (d) a deceased estate;
 - (e) another person in circumstances authorised by this Act or by any Commonwealth Act relating to the importation of firearms.

94. *Persons to whom a dealer can dispose of firearms*

- (1) A licensed firearms dealer must not dispose of a category A or B longarm unless the dealer reasonably believes that the firearm is being disposed of to a person listed in sub-section (4).

Penalty: 60 penalty units or 12 months imprisonment.

- (2) A licensed firearms dealer must not dispose of a category C or D longarm or a handgun unless the dealer reasonably believes that the firearm is being disposed of to a person listed in sub-section (4).

Penalty: 120 penalty units or 2 years imprisonment.

- (3) A licensed firearms dealer must not dispose of—

- (a) a category E longarm; or
- (b) any other firearm to which sub-sections (1) and (2) do not apply—

unless the dealer reasonably believes that the firearm is being disposed of to a person listed in sub-section (4).

Penalty: 240 penalty units or 4 years imprisonment.

- (4) A firearm may be disposed of under this section to any one of the following—
- (a) another person who is a licensed firearms dealer;
 - (b) a person who is authorised by a licence under this Act to possess, carry or use that firearm and who holds a permit under this Act to acquire that firearm;
 - (c) a person who is exempted by this Act from the requirement to have a licence in order to possess, carry or use that category of firearm;
 - (d) a member of the police force, who is acting in the course of his or her duty.

95. *Prohibition on acquisition of firearm except from licensed firearms dealer*

- (1) A person who is not a licensed firearms dealer must not acquire a category A or B longarm from a person who is not a licensed firearms dealer, unless the person who is acquiring the firearm engages a licensed firearms dealer as his or her agent in the transaction.

Penalty: 60 penalty units or 12 months imprisonment.

- (2) A person who is not a licensed firearms dealer must not acquire a category C or D longarm or a handgun from a person who is not a licensed firearms dealer, unless the person who is acquiring the firearm engages a licensed firearms dealer as his or her agent in the transaction.

Penalty: 120 penalty units or 2 years imprisonment.

- (3) A person who is not a licensed firearms dealer must not acquire a category E longarm from a person who is not a licensed firearms dealer,
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unless the person who is acquiring the firearm engages a licensed firearms dealer as his or her agent in the transaction.

Penalty: 240 penalty units or 4 years imprisonment.

96. *Prohibition on disposal of firearm except to licensed firearms dealer*

- (1) A person who is not a licensed firearms dealer must not dispose of a category A or B longarm to a person who is not a licensed firearms dealer, unless the person who is disposing of the firearm engages a licensed firearms dealer as his or her agent in the transaction.

Penalty: 60 penalty units or 12 months imprisonment.

- (2) A person who is not a licensed firearms dealer must not dispose of a category C or D longarm or a handgun to a person who is not a licensed firearms dealer, unless the person who is disposing of the firearm engages a licensed firearms dealer as his or her agent in the transaction.

Penalty: 120 penalty units or 2 years imprisonment.

- (3) A person who is not a licensed firearms dealer must not dispose of a category E longarm to a person who is not a licensed firearms dealer, unless the person who is disposing of the firearm engages a licensed firearms dealer as his or her agent in the transaction.

Penalty: 240 penalty units or 4 years imprisonment.

97. Fees to be charged by dealers

A licensed firearms dealer must not charge more than the prescribed amount for acting as an agent under section 95 or 96.

Penalty: 10 penalty units.

98. Requirement for taking or giving of possession of firearm to be in person

- (1) A person who is not a licensed firearms dealer must not take possession of a firearm by any means other than by personally receiving possession of the firearm.

Penalty: 120 penalty units or 2 years imprisonment.

- (2) A person who is not a licensed firearms dealer must not give possession of a firearm by any means other than by personally giving possession of the firearm.

Penalty: 120 penalty units or 2 years imprisonment.

99. Control of acquisition from a place outside the State

- (1) If a licensed firearms dealer is acquiring a category A or B longarm from a place outside Victoria but within Australia (whether or not on his or her own behalf or as an agent for another person), the dealer must not take possession of that firearm from any person other than a person who holds a licence in that place which corresponds with a dealers licence.

Penalty: 60 penalty units or 12 months imprisonment.

- (2) If a licensed firearms dealer is acquiring a category C or D longarm or a handgun from a place outside Victoria but within Australia

(whether or not on his or her own behalf or as an agent for another person), the dealer must not take possession of that firearm from any person other than a person who holds a licence in that place which corresponds with a dealers licence.

Penalty: 120 penalty units or 2 years imprisonment.

- (3) If a licensed firearms dealer is acquiring a category E longarm from a place outside Victoria but within Australia (whether or not on his or her own behalf or as an agent for another person), the dealer must not take possession of that firearm from any person other than a person who holds a licence in that place which corresponds with a dealers licence.

Penalty: 240 penalty units or 4 years imprisonment.

100. *Control of disposal to place outside the State*

- (1) If a licensed firearms dealer is disposing of a category A or B longarm to a place outside Victoria but within Australia (whether or not on his or her own behalf or as an agent for another person), the dealer must not give possession of that firearm to any person other than a person who holds a licence in that place which corresponds with a dealers licence.

Penalty: 60 penalty units or 12 months imprisonment.

- (2) If a licensed firearms dealer is disposing of a category C or D longarm or a handgun to a place outside Victoria but within Australia (whether or not on his or her own behalf or as an agent for another person), the dealer must not give possession of that firearm to any person other than

a person who holds a licence in that place which corresponds with a dealers licence.

Penalty: 120 penalty units or 2 years imprisonment.

- (3) If a licensed firearms dealer is disposing of a category E longarm to a place outside Victoria but within Australia (whether or not on his or her own behalf or as an agent for another person), the dealer must not give possession of that firearm to any person other than a person who holds a licence in that place which corresponds with a dealers licence.

Penalty: 240 penalty units or 4 years imprisonment.

101. *Prohibitions on advertising*

- (1) A person must not publish or cause to be published an advertisement which advertises that a firearm is offered for sale by a person who is not a licensed firearms dealer.

Penalty: 40 penalty units.

- (2) In any proceedings for an offence under subsection (1) it is a defence to prove that immediately before making the publication, the person publishing the advertisement or causing the advertisement to be published reasonably believed that the person by whom the firearm was offered for sale was the holder of a firearms dealers licence.

- (3) A person must not publish or cause to be published an advertisement that a firearm is for sale if the advertisement does not contain the serial number of the firearm and the licence number of the person disposing of the firearm.

Penalty: 10 penalty units.

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- (4) In any proceedings for an offence under subsection (3) it is a defence to prove that immediately before making the publication, the person publishing the advertisement or causing the advertisement to be published, after making reasonable enquiries, did not know that the advertisement indicated that a firearm was for sale.
- (5) Sub-sections (1) and (2) do not apply to the publication of an advertisement in a magazine published by an approved club or in a commercially published firearms or shooting sports magazine.

Division 2—Permit to Acquire a Firearm

102. *Offence to acquire a firearm without a permit*

- (1) A person must not acquire a category A or B longarm unless that person has a permit to acquire that firearm.
- Penalty: 60 penalty units or 12 months imprisonment.
- (2) A person must not acquire a category C or D longarm or a handgun unless that person has a permit to acquire that firearm.
- Penalty: 120 penalty units or 2 years imprisonment.
- (3) A person must not acquire a category E longarm unless that person has a permit to acquire that firearm.
- Penalty: 240 penalty units or 4 years imprisonment.
- (4) Sub-sections (1), (2) and (3) do not apply to a person who is a licensed firearm dealer.

103. *Issue of permit to acquire*

The Chief Commissioner may issue a permit to a person to acquire a firearm if that person is the holder of a licence under Part 2 and that licence authorises the possession of that firearm (whether or not generally or in specific terms).

104. *General discretion of Chief Commissioner to refuse to issue a permit to acquire*

- (1) The Chief Commissioner must not issue a permit to acquire—
 - (a) if the applicant or any responsible person in relation to the application is a prohibited person; or
 - (b) unless the Chief Commissioner is satisfied that—
 - (i) the applicant and all responsible persons in relation to the application are fit and proper persons; and
 - (ii) the applicant can comply with the storage requirements set out by or under the Act; and
 - (iii) the acquisition of the firearm is in the public interest; or
 - (c) for any prescribed reason; or
 - (d) unless—
 - (i) the applicant can demonstrate that the reason for which the licence was required continues to apply in respect of the category of firearm for which the application for the permit is made; and
 - (ii) in the case of an application for a permit to acquire a category B longarm

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- or a handgun, the applicant has demonstrated a genuine need to possess, carry or use a category B longarm or a handgun; and
- (iii) in the case of an application for a permit to acquire a category C or D firearm—
- (A) if the application is for a semi-automatic rifle, the applicant does not possess another semi-automatic rifle; and
 - (B) if the application is for a semi-automatic shotgun or a pump action shotgun, the applicant does not possess another semi-automatic shotgun or pump action shotgun.
- (2) In determining whether or not an applicant has a genuine need to possess, carry or use a category B longarm or a handgun, the Chief Commissioner must have regard to—
- (a) in the case of a category B longarm, whether or not the need expressed by the applicant cannot be satisfied by the possession, carriage or use of a category A longarm; and
 - (b) in any case, the number, category and type of firearms already possessed by the applicant; and
 - (c) any other prescribed matter.

105. *Review of decision not to issue permit*

A non-prohibited person who has applied for the issue of a permit to acquire, may apply to the Committee for a review of a decision of the Chief Commissioner not to issue a permit to that person.

106. *Application for a permit to acquire*

- (1) A person who is applying for a permit to acquire must make the application to the Chief Commissioner.
- (2) An application must be in a form and manner approved by the Chief Commissioner and verified by statutory declaration.
- (3) The applicant must pay the prescribed fee for the permit.

107. *28 day waiting period*

The Chief Commissioner must not issue a permit to acquire until 28 days have expired after the making of the application.

108. *Form of permit*

A permit to acquire must be in the form approved by the Chief Commissioner.

109. *Conditions applying to a permit*

- (1) A permit to acquire is subject to any condition which is imposed on that permit or generally on permits to acquire by the Chief Commissioner and which is specified in the permit.
- (2) A person who is the holder of a permit to acquire must comply with any condition to which the permit is subject.

Penalty: 30 penalty units.

110. *Duration of permit*

A permit to acquire continues in force from the time it is issued—

- (a) for a period of 28 days; or

- (b) until the firearm to which it relates is acquired; or
- (c) if the permit is cancelled, until it is cancelled—

whichever occurs first.

111. *Cancellation of permit*

- (1) A permit to acquire may be cancelled at any time by the Chief Commissioner.
- (2) The Chief Commissioner must serve notice of the cancellation of the permit on the holder of the permit, either personally or by post and must give reasons for the cancellation in the notice.
- (3) Cancellation of a permit under this section has effect from the time at which notice under subsection (2) is served.

112. *Surrender of firearms acquired under cancelled permit*

- (1) If a permit to acquire is surrendered or cancelled, the person to whom it was issued must immediately surrender to a member of the police force—
 - (a) the permit; and
 - (b) any firearm acquired under the permit.

Penalty: 60 penalty units or 12 months imprisonment.

- (2) Despite the surrender or seizure of a firearm under this section, the person who has surrendered the firearm or from whom the firearm has been seized continues to be the owner of the firearm.
- (3) If the permit of a person who has surrendered a firearm or from whom a firearm has been seized, is

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cancelled, that person must dispose of the firearm to a licensed firearms dealer within 28 days of the cancellation of the licence.

Penalty: 60 penalty units or 12 months imprisonment.

PART 5—REGISTRATION OF FIREARMS

113. *Keeping of register*

- (1) The Chief Commissioner must keep a register of each firearm kept within the State.
- (2) The register is to be called the firearms register.
- (3) The following particulars must be included in the firearms register against the firearm to which they apply—
 - (a) the make, type, calibre, action and serial number of the firearm; and
 - (b) the name of the person who possesses the firearm; and
 - (c) particulars of the licence under which the firearm is possessed ; and
 - (d) any other prescribed information.
- (4) The Chief Commissioner may enter any other information relating to the firearm on the register.

114. *Exemption from Freedom of Information Act*

- (1) The firearms register is an exempt document for the purposes of the **Freedom of Information Act 1982**.
- (2) Sub-section (1) does not apply where a person is applying for information on the firearms register which specifically relates to that person.

115. *Notice of bringing into the State*

- (1) A person who brings a firearm into the State for the purpose of keeping it in the State must give

notice of the bringing in of that firearm to the Chief Commissioner.

Penalty: 240 penalty units or 4 years imprisonment.

- (2) A notice under sub-section (1) must be—
- (a) in the form approved by the Chief Commissioner; and
 - (b) given within 7 days after the firearm has been brought into the State.

Penalty: 30 penalty units.

116. *Notice of removal from the State*

- (1) A person who removes a firearm from the State for the purpose of no longer keeping it in the State must give notice of the removal of that firearm to the Chief Commissioner.

Penalty: 240 penalty units or 4 years imprisonment.

- (2) A notice under sub-section (1) must be—
- (a) in the form approved by the Chief Commissioner; and
 - (b) given not less than 7 days before the firearm is removed from the State.

Penalty: 40 penalty units.

117. *Certificate of registration*

Immediately on registering a firearm, the Chief Commissioner must issue a certificate of registration for that firearm to the person who possesses the firearm which—

- (a) sets out the details of the registration of the firearm; and

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- (b) the name of the person who possesses the firearm; and
 - (c) any other prescribed information.

118. *Notice of transactions*

A licensed firearms dealer must ensure that written notice of each transaction or dealing in firearms under the licence is sent to the Chief Commissioner within 7 days of the transaction or dealing taking place.

Penalty: 60 penalty units or 12 months imprisonment.

119. *Power of Chief Commissioner to require information*

- (1) The Chief Commissioner may, by notice in writing addressed to the holder of a licence under this Act, require the holder to give the Chief Commissioner any information relating to the acquisition, disposal or possession of firearms and firearms parts under the licence that is specified in the notice.
- (2) A person to whom a notice under sub-section (1) is addressed must comply with the notice within 7 days of the giving of the notice.

Penalty: 60 penalty units or 12 months imprisonment.

120. *Offence not to produce firearm for inspection*

A person in whose name a firearm is registered must produce the firearm for inspection at any reasonable time when so requested by a member of the police force.

Penalty: 60 penalty units or 12 months imprisonment.

PART 6—STORAGE

121. *Storage of firearms under longarm and handgun licences*

- (1) A person who possesses a firearm under a longarm licence for a category A or B longarm must store that firearm, when the firearm is not being carried or used—
- (a) in the manner provided for in item 1 of Schedule 4; or
 - (b) in any other manner which the Chief Commissioner is satisfied is as secure as the manner provided for in that item.

Penalty: 60 penalty units or 12 months imprisonment.

- (2) A person who possesses a firearm under a handgun licence or a longarm licence for a category C or D longarm must store that firearm, when the firearm is not being carried or used—
- (a) in the manner provided for in item 2 of Schedule 4; or
 - (b) in any other manner which the Chief Commissioner is satisfied is as secure as the manner provided for in that item.

Penalty: 120 penalty units or 2 years imprisonment.

- (3) A person who possesses a firearm under a longarm licence for a category E longarm must store that firearm, when the firearm is not being carried or used, in the manner provided for by the Chief Commissioner in the licence.

Penalty: 240 penalty units or 4 years imprisonment.

122. *Storage of firearms under firearms collectors and firearms heirlooms licences and ammunition under firearms ammunition collectors licence*

- (1) A person who possesses a firearm (other than a Category E firearm) under a firearms collectors licence must store that firearm, when the firearm is not being carried—
- (a) in the manner provided for in item 3 of Schedule 4; or
 - (b) in any other manner which the Chief Commissioner is satisfied is as secure as the manner provided for in that item.

Penalty: 120 penalty units or 2 years imprisonment.

- (2) A person who possesses a category E firearm under a firearms collectors licence must store that firearm in the manner fixed in the licence.

Penalty: 240 penalty units or 4 years imprisonment.

- (3) A person who possesses a firearm under a firearms heirlooms licence must store that firearm, when the firearm is not being carried—

- (a) in the manner provided for in item 4 of Schedule 4; or
- (b) in any other manner which the Chief Commissioner is satisfied is as secure as the manner provided for in that item.

Penalty: 10 penalty units.

- (4) A person who possesses ammunition under a firearms ammunition collectors licence must store that ammunition, when the ammunition is not being carried—

- (a) in the manner provided for in item 5 of Schedule 4; or
- (b) in any other manner which the Chief Commissioner is satisfied is as secure as the manner provided for in that item.

Penalty: 10 penalty units.

123. *Storage of firearms under dealers licences*

- (1) A person who possesses a category A or B longarm under a dealers licence must store that firearm in the manner fixed in the licence.

Penalty: 60 penalty units or 12 months imprisonment.

- (2) A person who possesses a category C or D longarm or a handgun under a dealers licence must store that firearm in the manner fixed in the licence.

Penalty: 120 penalty units or 2 years imprisonment.

- (3) A person who possesses a category E longarm under a dealers licence must store that firearm in the manner fixed in the licence.

Penalty: 240 penalty units or 4 years imprisonment.

**PART 7—FURTHER OFFENCES AND LEGAL
PROCEEDINGS**

124. *Possession of ammunition*

- (1) A person must not possess ammunition unless that person—
- (a) is the holder of a licence under this Act; or
 - (b) is the holder of a licence to keep explosives for sale and to sell explosives issued under the **Dangerous Goods Act 1985**; or
 - (c) is not required to have a licence under this Act in order to possess a firearm.

Penalty: 40 penalty units.

- (2) The holder of a licence under this Act (other than a firearms ammunition collectors licence), must not possess ammunition which is not suitable for use in the category of firearms that that person is authorised to possess, carry or use under the licence.

Penalty: 10 penalty units.

- (3) A person who is not required to have a licence under this Act in order to possess, carry or use a firearm must not possess ammunition which is not suitable for use in the category of firearms that that person may possess, carry or use without having to obtain a licence.

Penalty: 10 penalty units.

125. *Disposal of ammunition to unauthorised persons*

A person must not dispose of ammunition to another person unless the person to whom the ammunition is disposed of—

- (a) produces a licence under this Act to possess, carry or use a firearm, and the ammunition is suitable for use in a firearm that that person is authorised to possess, carry or use under that licence; or
- (b) produces a licence to keep explosives for sale and to sell explosives under the **Dangerous Goods Act 1985** and the ammunition is ammunition that that person is authorised to keep for sale and sell under that licence; or
- (c) produces evidence that he or she is not required to have a licence under this Act in order to possess, carry or use a firearm of the type the ammunition is suitable for.

Penalty: 60 penalty units or 12 months imprisonment.

126. *Safekeeping of firearms and ammunition while being carried or used*

- (1) A person who is carrying or using a category A or B longarm must—
 - (a) ensure that the firearm is carried and used in a manner that is secure and is not dangerous; and
 - (b) must take reasonable precautions to ensure that the firearm is not lost or stolen.

Penalty: 60 penalty units or 12 months imprisonment.

- (2) A person who is carrying or using a category C or D longarm or a handgun must—
 - (a) ensure that the firearm is carried and used in a manner that is secure and is not dangerous; and

(b) must take reasonable precautions to ensure that the firearm is not lost or stolen.

Penalty: 120 penalty units or 2 years imprisonment.

(3) A person who is carrying or using a category E longarm must—

(a) ensure that the firearm is carried and used in a manner that is secure and is not dangerous; and

(b) must take reasonable precautions to ensure that the firearm is not lost or stolen.

Penalty: 240 penalty units or 4 years imprisonment.

(4) A person who is carrying or using ammunition must—

(a) ensure that the ammunition is carried and used in a manner that is secure and is not dangerous; and

(b) must take reasonable precautions to ensure that the ammunition is not lost or stolen.

Penalty: 60 penalty units or 12 months imprisonment.

127. *Use of firearm by person other than the possessor*

(1) A person who possesses a category A or B longarm must not permit that firearm to be carried or used by any person who is not—

(a) so authorised by a licence under Part 2; or

(b) exempted by this Act from the requirement to be so authorised.

Penalty: 60 penalty units or 12 months imprisonment.

- (2) A person who possesses a category C or D longarm or a handgun must not permit that firearm to be carried or used by any person who is not—
- (a) so authorised by a licence under Part 2; or
 - (b) exempted by this Act from the requirement to be so authorised.

Penalty: 120 penalty units or 2 years imprisonment.

- (3) A person who possesses a category E longarm must not permit that firearm to be carried or used by any person who is not—
- (a) so authorised by a licence under Part 2; or
 - (b) exempted by this Act from the requirement to be so authorised.

Penalty: 240 penalty units or 4 years imprisonment.

128. *Offence to damage property with a firearm*

A person must not injure or damage property with a firearm.

Penalty: 120 penalty units or 2 years imprisonment.

129. *Offence to use a firearm in a dangerous manner*

A person must not use a firearm in a dangerous manner.

Penalty: 120 penalty units or 2 years imprisonment.

130. *Offence to carry or use a firearm in certain places*

- (1) A person must not carry a loaded firearm or use a firearm in a town or populous place or on any

thoroughfare or place open to or used by the public for passage with vehicles.

Penalty: 60 penalty units or 12 months imprisonment.

- (2) Sub-section (1) does not apply to—
- (a) any member of the police force when acting in the course of their official duties when so authorised by the Chief Commissioner; or
 - (b) any member of a police force of the Commonwealth or of another State or a Territory when carrying or using a firearm issued to him or her for the performance of a detailed duty; or
 - (c) any person who holds a licence under this Act, issued for the reason of security guard or prison guard when carrying or using a firearm which the guard is authorised to carry or use under the licence and when acting in the course of his or her duties as a security guard or prison guard; or
 - (d) any person who holds a licence under this Act, when carrying or using a firearm which the person is authorised to carry or use under the licence and who is acting in the course of his or her duties in putting down birds or animals.

131. *Offence to possess, carry or use a firearm on private property without consent*

- (1) A person must not—
- (a) possess, carry or use a firearm on private property; or

(b) discharge a shot, bullet or other missile from a firearm onto or across private property— without the consent of the owner or occupier of the property.

Penalty: 60 penalty units or 12 months imprisonment.

- (2) In any proceedings for an offence under subsection (1)(a), it is a defence for a person to satisfy the court that he or she was approaching the residence of the owner or occupier of the property along a defined path for the purposes of applying for such consent.

132. *Offences about the carriage and the use of firearms*

- (1) A person must not carry or use a firearm if that person is under the influence of intoxicating liquor or a drug.

Penalty: 120 penalty units or 2 years imprisonment.

- (2) A person must not, for the purpose of committing an indictable offence, carry a firearm which is concealed from view.

Penalty: 240 penalty units or 4 years imprisonment.

133. *Disposal of a firearm to person who is intoxicated*

A person must not dispose of a firearm to a person whom the person disposing of the firearm reasonably believes to be under the influence of intoxicating liquor or a drug.

Penalty: 120 penalty units or 2 years imprisonment.

134. *Offence to alter a firearm*

- (1) A person must not shorten the barrel of a longarm so as to reduce the length of the firearm to less than 75 centimetres measured parallel with the barrel or the length of the barrel to less than 50 centimetres.

Penalty: 240 penalty units or 4 years imprisonment.

- (2) A person must not alter a firearm which has been rendered permanently inoperable so that the firearm can discharge any shot, bullet or missile.

Penalty: 240 penalty units or 4 years imprisonment.

- (3) A person must not deface or alter any number or letter or other identifying symbol or mark on a firearm.

Penalty: 240 penalty units or 4 years imprisonment.

135. *Offence to own a firearm without a licence to possess*

- (1) A person must not own a category A or B longarm unless that person is authorised by a licence under this Act to possess the firearm.

Penalty: 60 penalty units or 12 months imprisonment.

- (2) A person must not own a category C or D longarm or a handgun unless that person is authorised by a licence under this Act to possess the firearm.

Penalty: 120 penalty units or 2 years imprisonment.

- (3) A person must not own a category E longarm unless that person is authorised by a licence under this Act to possess the firearm.

Penalty: 240 penalty units or 4 years imprisonment.

136. *Disposal of firearms to minors*

A person must not dispose of a firearm to a person who is under 18 years of age.

Penalty: 240 penalty units or 4 years imprisonment.

137. *Alteration of documents*

A person must not alter the particulars on a licence, permit, certificate or other document issued under this Act.

Penalty: 240 penalty units or 4 years imprisonment.

138. *False entries*

A person must not make or cause to be made a false or misleading entry in a register or other record required to be kept under this Act.

Penalty: 240 penalty units or 4 years imprisonment.

139. *Notification of change of address*

The holder of a licence or permit under this Act must notify the Chief Commissioner in writing of any change of the address which appears on the licence within 7 days after the change occurs.

Penalty: 30 penalty units.

140. *Requirement to notify Chief Commissioner of loss etc.*

The holder of a licence must notify the Chief Commissioner of any loss, theft or destruction of a

firearm in the holder's possession within 24 hours after becoming aware of that loss, theft or destruction.

Penalty: 30 penalty units.

141. *Statements of the Chief Commissioner as evidence*

In any proceedings under this Act, a statement in writing purporting to be signed by the Chief Commissioner to the effect that—

- (a) a specified person was or was not the holder of a licence or permit under this Act; or
- (b) a licence or permit under this Act is subject to the conditions specified in the certificate; or
- (c) a premises is the premises specified in the licence; or
- (d) the information specified in the certificate is recorded on the Register; or
- (e) the firearm specified in the certificate is or is not registered; or
- (f) a firearm is of a particular type or category—

is evidence, and in the absence of evidence to the contrary, is proof of the facts stated in it.

142. *Liability of officers of body corporate or nominated persons for offences committed by the body corporate*

If a body corporate is guilty of an offence against this Act or any regulation made under this Act, any officer of the body corporate or nominated person who was in any way, by act or omission, directly or indirectly, knowingly concerned in or a party to the commission of the offence is also guilty of that offence and liable to the penalty for that offence.

143. *How to determine state of mind of a body corporate*

If, in any proceeding for an offence against this Act, it is necessary to establish the state of mind of a body corporate in relation to particular conduct, it is sufficient to show that—

- (a) the conduct was engaged in by an officer, employee or agent of the body corporate within the scope of his or her actual or apparent authority; and
- (b) the officer, employee or agent had that state of mind.

144. *Liability of body corporate or licence holder for acts of directors, employees or agents*

If an officer, employee or agent of a body corporate or an employee or agent of a licence holder engages in conduct on behalf of the body corporate or licence holder within the scope of his or her actual or apparent authority, the body corporate or licence holder must be taken, for the purposes of prosecution for an offence against this Act, also to have engaged in the conduct unless the body corporate or licence holder establishes that it took reasonable precautions and exercised due diligence to avoid the conduct.

145. *Evidence of possession*

In any proceedings under this Act, evidence that a person occupies any land or premises on or in which any firearm is found is evidence, and, in the absence of evidence to the contrary, is proof that that person possessed the firearm.

PART 8—FURTHER ENFORCEMENT POWERS

146. *Warrants to search premises*

- (1) A member of the police force may apply to a magistrate for the issue of a search warrant in relation to particular premises, if the member believes on reasonable grounds that an offence against this Act is being or is about to be committed.
- (2) If the magistrate is satisfied by the evidence on oath, whether oral or by affidavit, that there are reasonable grounds for suspecting that an offence against this Act is being or is about to be committed, the magistrate may issue a search warrant authorising the member named in the warrant and any assistants the member considers necessary—
 - (a) to enter the premises named or described in the warrant; and
 - (b) to search for and seize any evidence of the offence named or described in the warrant.
- (3) In addition to any other requirement, a search warrant issued under this section must state—
 - (a) the offence suspected; and
 - (b) the premises to be searched; and
 - (c) a description of the evidence to be searched for; and
 - (d) any conditions to which the warrant is subject; and
 - (e) whether entry is authorised to be at any time or during stated hours; and

- (f) a day, not later than 7 days after the issue of the warrant, on which the warrant ceases to have effect.
- (4) A search warrant must be issued in accordance with the **Magistrates' Court Act 1989** and in the prescribed form under that Act.
- (5) The rules to be observed with respect to search warrants set out by or under the **Magistrates' Court Act 1989** extend and apply to warrants under this section.

147. *Announcement before entry*

- (1) Before executing a search warrant, the member named in the warrant or person assisting must announce that he or she is authorised by warrant to enter the premises and give any person at the premises an opportunity to allow entry to the premises.
- (2) The member or a person assisting the member need not comply with sub-section (1) if he or she believes, on reasonable grounds, that immediate entry to the premises is required to ensure—
- (a) the safety of any person; or
 - (b) that the effective execution of the search warrant is not frustrated.

148. *Copy of the warrant to be given to occupier*

If the occupier or another person who apparently represents the occupier is present at the premises when a search warrant is being executed, the member must—

- (a) identify himself or herself to the person as a member of the police force; and
 - (b) give that person a copy of the execution copy of the warrant.
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149. *Search of persons or vehicles*

If a member of the police force has reasonable grounds for believing that a person is committing or is about to commit an offence against this Act and that person has a firearm or ammunition in his or her possession, the member may search that person and any vehicle, package or thing in the possession of that person, and may seize any firearm or ammunition found during the course of that search.

150. *Power to require production of licence*

- (1) A member of the police force—
- (a) who has reasonable grounds for believing that a person has committed or is about to commit an offence against this Act or that a person is in possession of a firearm; and
 - (b) who produces his or her identification for inspection by the person—

may demand that the person produce his or her licence or permit under this Act.

- (2) A person to whom a demand is directed under sub-section (1) must comply with that demand.

Penalty: 30 penalty units.

151. *Powers of court to order forfeiture of firearms*

- (1) If a person has by the operation of a finding by a court or the making of an order by a court—
- (a) become a prohibited person; or
 - (b) been found guilty of—
 - (i) an offence against this Act; or
 - (ii) an offence under another Act involving the possession, carriage or use of a firearm—

the Supreme Court, or the court who makes the finding or order, may order the forfeiture to the Crown of any firearm and ammunition in the possession of or used or carried by the person.

- (2) The court must notify the Chief Commissioner of the forfeiture of the firearm.

152. *Disposal of forfeited firearms*

Any firearm which is forfeited to the Crown under this Act or any other Act must be—

- (a) destroyed; or
- (b) disposed of in accordance with one of the following sub-paragraphs—
 - (i) if the person who is entitled to possess the firearm under this Act is not the person from whom the firearm was seized, by returning it to the person entitled to possess the firearm; or
 - (ii) by giving the firearm to any person or body approved for that purpose by the Minister.

153. *Power of court to make an order with respect to the disposal of a firearm*

If a firearm or ammunition has been surrendered or seized under this Act or any other Act or has been handed in to a member of the police force and—

- (a) the owner cannot be found; or
- (b) it is otherwise necessary for the firearm or ammunition to be disposed of—

the Magistrates' Court may, on the application of a member of the police force, order that the firearm or ammunition be destroyed or otherwise disposed of in the manner approved by the Court.

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PART 9—FIREARMS APPEALS COMMITTEE

Division 1—Establishment of Committee

154. *Establishment of Committee*

- (1) There is established a committee to be called the Firearms Appeals Committee.
- (2) The Committee has the function of reviewing decisions of the Chief Commissioner in the circumstances in which a right to review is given to any person by or under this Act.

155. *Membership of the Committee*

- (1) The Committee is to consist of 13 persons appointed by the Governor in Council.
- (2) Of the persons appointed to the Committee—
 - (a) 3 must be barristers and solicitors of the Supreme Court of Victoria nominated by the Minister from a panel of persons submitted to the Minister as follows—
 - (i) if there are more than 2 RPAs (within the meaning of the **Legal Practice Act 1996**), one person may be nominated for the panel by each RPA; or
 - (ii) if there are only 2 RPAs, 3 persons may be nominated for the panel by each RPA; or
 - (iii) if there is only one RPA, 5 persons may be nominated for the panel by that RPA; and
 - (b) 5 must be nominated by the Minister; and
 - (c) 5 must be nominated by the Minister from panels of persons submitted as follows—

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- (i) 3 must be appointed from a panel of persons submitted to the Minister, and constituted by a submission of 4 names by each of the bodies prescribed for the purposes of this section, being bodies which are, or which represent, shooting organisations; and
 - (ii) 1 must be appointed from a panel of 3 persons submitted to the Minister by the Firearms Traders Association of Victoria; and
 - (iii) 1 must be appointed from a panel of 3 persons submitted to the Minister by the Victorian Farmers Federation.

156. *Terms of office*

- (1) A member of the Committee holds office for the term determined by the Governor in Council which must not be more than 3 years from the date of his or her appointment.
- (2) A member of the Committee is eligible for reappointment.
- (3) The **Public Sector Management Act 1992** (except Part 9 or in accordance with Part 8) does not apply to a member in respect of the office of member.

157. *Resignation and removal*

- (1) A member of the Committee ceases to be a member if he or she is absent, without leave first being granted by the Committee, from 3 consecutive meetings of the Committee of which reasonable notice has been given to that member, either personally or by post.

- (2) A member of the Committee may resign the office of member by writing signed by the member and addressed to the Governor in Council.
- (3) The Governor in Council may, at any time, remove a member from office.
- (4) If a member dies, resigns or is removed from office, the Governor in Council may, in accordance with this Act, fill the vacant office.
- (5) A member appointed under sub-section (4) holds office for the rest of the term of appointment of the member whose place he or she fills.

158. Chairperson

- (1) The Governor in Council may appoint a member of the Committee who holds office under section 155(2)(a) to be the chairperson of the Committee.
- (2) The chairperson holds that office for the term determined by the Governor in Council and is eligible for reappointment.
- (3) The chairperson may resign that office by writing signed by him or her and addressed to the Governor in Council.
- (4) The Governor in Council may, at any time remove the chairperson from office.
- (5) The chairperson ceases to hold office on ceasing to be member of the Committee.

159. Acting member

- (1) If a member of the Committee is unable to perform the duties or functions of his or her office, the Governor in Council may appoint a person qualified to be appointed to that office to act in that office during the period of inability.
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- (2) The Governor in Council—
 - (a) subject to this Act, may determine the terms and conditions of appointment of an acting member; and
 - (b) may, at any time, terminate the appointment.
 - (3) While the appointment of the acting member remains in force, the acting member has and may exercise all the powers and perform all the duties and functions of the office in which that person is acting.

160. *Payment of members*

- (1) A member, other than a member who is an officer or employee of the public service within the meaning of the **Public Sector Management Act 1992**, is entitled to receive the fees, if any, that are fixed from time to time by the Governor in Council for the members of the Committee.
- (2) A member is entitled to receive the allowances that are fixed from time to time by the Governor in Council.

161. *Procedure of the Committee*

- (1) The chairperson must preside at a meeting of the Committee at which he or she is present.
- (2) In the absence of the chairperson, the members present may elect a member to preside at the meeting.
- (3) A question arising at a meeting of the Committee is to be determined by a majority of votes of the members present at the meeting.
- (4) The person presiding at the meeting has a deliberative vote and, if the members are equally divided in opinion, a second or casting vote.

- (5) A quorum of the Committee consists of 7 members.
- (6) Except as otherwise provided for in this Act, the Committee may regulate its own proceedings.

162. *Effect of vacancy or defect*

An act or decision of the Committee is not invalid only because—

- (a) of a vacancy in its membership; or
- (b) of a defect or irregularity in the appointment of any of its members; or
- (c) in the case of an acting member, the occasion for that member so acting had not arisen or had ceased.

Division 2—Review of Decisions of the Chief Commissioner**163. *Power of committee to sit in divisions***

- (1) For the purposes of reviewing a decision of the Chief Commissioner, the Committee may sit in divisions.
 - (2) A division must consist of 3 members of the Committee of whom—
 - (a) 1 must be appointed from the persons appointed to the Committee under section 155(2)(a); and
 - (b) 1 must be appointed from the persons appointed to the Committee under section 155(2)(b); and
 - (c) 1 must be appointed from the persons appointed to the Committee under section 155(2)(c).
 - (3) The member appointed to a Division under subsection (2)(a) must preside at a Division hearing.
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- (4) More than one Division of the Committee may sit concurrently.

164. *Decision of a Division*

A question before a Division of the Committee must be decided according to the opinion of the majority of the members constituting the Division.

165. *Change in composition of a Division*

- (1) If one of the members of the Division (other than the presiding member) vacates office or becomes incapable of sitting—
- (a) before the Division has completed the hearing; or
 - (b) before the Division has made a determination in respect of a hearing—

if the remaining members of the Division agree, the hearing may be continued, or a determination made, by those remaining members and, if they are divided in opinion as to the determination to be made in respect of the hearing, the opinion of the presiding member prevails.

- (2) If the presiding member or more than 1 member vacates office or becomes incapable of sitting before the Division has completed the hearing or made a determination in respect of the hearing, the hearing is terminated and a new hearing may be commenced before another Division of the Committee.
- (3) In a new hearing, the new Division may have regard to the record of the proceeding before the Committee as previously constituted, including the record of any evidence taken in the proceeding.

166. *Procedure of Division*

- (1) A Division—
 - (a) is not bound by the rules of evidence; and
 - (b) may inform itself in any manner it thinks fit; and
 - (c) may conduct the proceeding in any manner it thinks fit.
- (2) Sections 14, 15, 16 and 21A of the **Evidence Act 1958** apply to the Committee or a Division of the Committee in hearing an appeal under this Act as if the Committee or Division of the Committee (as the case requires) were a Board appointed by the Governor in Council.

167. *How to commence a proceeding*

- (1) An application for the review of a decision of the Chief Commissioner may be commenced before a Division of the Committee by giving notice in writing of the application to the Committee within 28 days of the notice of the decision of the Chief Commissioner being given to the applicant.
 - (2) The applicant must give notice of the application to the Chief Commissioner at the same time as notice is given under sub-section (1) and the notice must set out the nature and grounds of the application.
 - (3) A person who is applying for a review of a decision of the Chief Commissioner must pay the fee prescribed for applications for review.
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PART 10—INFRINGEMENT NOTICES

168. *Power to serve a notice*

- (1) A member of the police force may serve an infringement notice under this Part on any person that he or she has reason to believe has committed a prescribed offence.
- (2) An infringement notice may be served on a person—
 - (a) by delivering it personally to the person; or
 - (b) by sending it by post addressed to the person's last known place of residence or business.

169. *Form of notice*

An infringement notice must state—

- (a) the date of the notice;
- (b) the provision of this Act or the regulations that creates the offence;
- (c) the nature of the offence and a brief description of the offence;
- (d) the date, time and place of the offence;
- (e) the infringement penalty for the offence;
- (f) the place where the infringement penalty may be paid;
- (g) the time (being not less than 28 days after the date on which the notice was served) within which the infringement penalty must be paid;
- (h) that if the amount of the infringement penalty is paid before the end of the time specified in the notice, the matter will not be brought before the Magistrates' Court unless the

notice is withdrawn within 28 days after the date on which it was served;

- (i) that the person is entitled to disregard the notice and defend any proceedings in respect of the offence in the Magistrates' Court;
- (j) any other prescribed particulars.

170. *Penalties to be paid for offences under infringement notices*

The penalty to be paid in respect of an offence to which an infringement notice relates is one-tenth of the maximum penalty fixed for that offence by the Act or any lesser prescribed amount.

171. *Late payment of penalty*

If a charge has not been filed or a courtesy letter served under Part 2 of Schedule 7 to the **Magistrates' Court Act 1989** in respect of an offence to which an infringement notice relates, an authorised officer may accept payment of the infringement penalty even if the time specified in the notice as the time within which the penalty may be paid has expired.

172. *Withdrawal of notice*

- (1) A member of the police force may withdraw an infringement notice at any time within 28 days after the date on which the notice was served by serving a withdrawal notice on the person served with the infringement notice.
 - (2) A withdrawal notice may be served on a person—
 - (a) by delivering it personally to the person; or
 - (b) by sending it by post addressed to the person's last known place of residence or business.
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- (3) An infringement notice may be withdrawn even if the infringement penalty has been paid.
 - (4) If an infringement notice is withdrawn, the amount of any infringement penalty paid on the infringement notice must be refunded.

173. *Effect of payment of penalty*

If—

- (a) an infringement notice is not withdrawn; and
- (b) the person on whom the notice was served pays the infringement penalty within the time specified in the notice or in accordance with section 171—

then—

- (c) the person has expiated the offence by payment of the penalty; and
- (d) no proceedings may be taken against the person in respect of the offence; and
- (e) no conviction is to be taken to have been recorded against that person for the offence.

174. *Application of penalty*

- (1) An infringement penalty paid under this Division must be applied as if the person who committed the offence had been convicted of the offence in the Magistrates' Court on a charge filed by the member of the police force who served the infringement notice.
- (2) The payment of an infringement penalty under this Division by a person is not and must not be taken to be—
 - (a) an admission of guilt in relation to the offence; or

- (b) an admission of liability for the purpose of any civil claim or proceeding arising out of the same occurrence and the payment does not in any way affect or prejudice any such claim or proceeding.

175. Proceedings where infringement notice served

- (1) A charge may be filed if—
 - (a) the person on whom the notice was served has not paid the infringement penalty within the time specified in the notice or in accordance with section 171; or
 - (b) the notice is withdrawn.
 - (2) Instead of filing a charge, payment of the infringement penalty may be enforced in accordance with the procedures in Part 2 of Schedule 7 to the **Magistrates' Court Act 1989** if—
 - (a) the infringement notice served under this Division is an infringement notice within the meaning of Schedule 7 to that Act; and
 - (b) the person on whom the notice was served has not paid the infringement penalty within the time specified in the notice or in accordance with section 171; and
 - (c) the notice has not been withdrawn.
 - (3) If proceedings have been taken for an offence to which an infringement notice relates because a person has not paid the infringement penalty and a conviction is imposed by the court, the conviction must not be taken to be a conviction for any purpose except in relation to—
 - (a) the making of the conviction itself; and
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- (b) subsequent proceedings which may be taken in respect of the conviction itself, including proceedings by way of appeal.
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PART 11—GENERAL**176. *Power of delegation***

The Chief Commissioner may, in writing, delegate to any member of the police force or to any person employed in the office of the Chief Commissioner any of the Chief Commissioner's powers under this Act except this power of delegation.

177. *Duplicate licences*

If, on receiving an application for a duplicate licence, permit or authority, the Chief Commissioner is satisfied that the original licence, permit or authority has been lost or destroyed, the Chief Commissioner may issue a duplicate of that licence, permit or authority to the holder.

178. *Application for duplicate licence*

- (1) An application under section 177 must be in the manner and form approved by the Chief Commissioner and accompanied by a statutory declaration.
- (2) The applicant must pay the fee prescribed for an application in the nature of the application made.

179. *Power of Chief Commissioner to make approvals*

- (1) The Chief Commissioner may approve firearms shooting ranges, firearms safety courses, organisations of collectors, locations of paintball activities, events and bodies to whom information may be disclosed for the purposes of this Act.
 - (2) A non-prohibited person who has applied to the Chief Commissioner for approval of a firearms shooting range may apply to the Committee for a review of a decision of the Chief Commissioner not to approve the shooting range.
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180. *Deceased estates*

- (1) The executor or administrator of an estate of a person who has died in possession of a firearm does not commit an offence against this Act if that person retains possession of the firearm and carries the firearm, for a period of 6 months after the death of the person, for the purposes of disposing of the firearm.
- (2) The executor or administrator must notify the Chief Commissioner of the death of the person who possessed the firearm.

Penalty: 10 penalty units.

181. *Disclosure of information*

Except to the extent necessary to perform duties under this Act, a person engaged or employed in the administration of this Act must not disclose information gained because of that person's engagement or employment or information contained in a record, return or report prepared by that person to any person except—

- (a) a court; or
- (b) the Committee; or
- (c) the Minister; or
- (d) the Chief Commissioner or a member of the police force; or
- (e) any person or body in another State or a Territory or the Commonwealth who performs tasks (whether or not as a delegate or agent or otherwise) which correspond with those performed by the Chief Commissioner under this Act; or
- (f) any body formed between the States and Territories or between the Commonwealth,

the States and the Territories, if the disclosure of information is approved by the Chief Commissioner; or

- (g) the Ombudsman or the Ombudsman's officers.

Penalty: 60 penalty units or 12 months imprisonment.

182. *Appeals from decisions of Committee*

- (1) An application may be made to the Administrative Appeals Tribunal established under the **Administrative Appeals Tribunal Act 1984** for the review of a decision of the Committee made under Part 9 or of a failure by the Committee to make such a decision within a reasonable time.
- (2) An application under sub-section (1) may only be made by a person aggrieved by—
- (a) the decision of the Committee; or
 - (b) the failure of the Committee to act.

183. *Immunity from liability*

- (1) Despite section 141 of the **Health Services Act 1988**, section 120A of the **Mental Health Act 1986**, section 16 of the **Intellectually Disabled Persons' Services Act 1986** and any other similar enactment or provision if a registered medical practitioner, registered psychologist or registered nurse reasonably believes—
- (a) that a person whom he or she has been providing professional services is not a fit and proper person to possess, carry or use a firearm; and
 - (b) that that person has a licence under this Act or intends to apply for a licence under this
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Act or possesses or intends to possess a
firearm—

the practitioner, psychologist or nurse is not
subject to any civil or criminal liability for
informing the Chief Commissioner of his or her
reasonable belief.

- (2) If an officer of an approved club reasonably
believes—
- (a) that a person who is a member of the club is
not a fit and proper person to possess, carry
or use a firearm; and
 - (b) that that person has a licence under this Act
or intends to apply for a licence under this
Act or possesses or intends to possess a
firearm—

the officer is not subject to any civil or criminal
liability for informing the Chief Commissioner of
his or her reasonable belief.

184. Exemptions for museums

- (1) The Governor in Council, on the recommendation
of the Minister, may grant an exemption to a
museum from the provisions of Part 2 and
Division 2 of Part 4.
- (2) The Chief Commissioner may recommend to the
Minister that a museum be granted an exemption
if the Chief Commissioner is satisfied that—
 - (a) the museum is a body corporate which is not
run for profit and is publicly funded; and
 - (b) the premises of the museum are open to the
public; and
 - (c) the museum is of an educational, historical
or cultural nature.

- (3) An exemption is subject to any conditions specified in the exemption.
- (4) The holder of an exemption must comply with the exemption.
Penalty: 30 penalty units.
- (5) An application for an exemption must be addressed to the Chief Commissioner and in the form and manner approved by the Chief Commissioner.
- (6) A person who applies for an exemption must pay the fee prescribed for exemptions in the nature of the exemption applied for.

185. *Interstate licence holders—temporary visitors*

- (1) A person who—
 - (a) is the holder of a licence issued in another State or a Territory which authorises the possession, carriage or use of a category A or B longarm or a handgun for the purposes of sport or target shooting; and
 - (b) ordinarily resides in the other State or Territory—is deemed to be the holder of a corresponding licence under this Act for the purposes of taking part in a shooting competition which is conducted by an approved club or organisation.
- (2) A person who—
 - (a) is the holder of a licence in another State or a Territory which authorises the possession, carriage or use of a category A or B longarm for the purposes of hunting; and

(b) ordinarily resides in the other State or Territory—

is deemed to be the holder of a corresponding licence under this Act to the extent that the holder is authorised—

(c) to hunt on land where the holder has obtained the permission of the owner or occupier of the land to hunt on that land; and

(d) to hunt on Crown land, if such hunting is in accordance with any Act, regulation or other instrument regulating hunting on that land.

(3) A person who—

(a) is the holder of a licence in another State or a Territory which authorises the carrying on of the business of dealing in firearms; and

(b) ordinarily resides in the other State or Territory—

is deemed to be the holder of a corresponding licence under this Act for the purpose of taking part in a display of firearms—

(c) which is conducted by licensed firearms dealer; and

(d) which is approved by the Chief Commissioner.

186. *Temporary visitor permit*

(1) A person who ordinarily resides outside Australia may apply to the Chief Commissioner for a permit to possess, carry or use a firearm in Victoria.

(2) The Chief Commissioner may issue a permit to a person who has applied for a permit under sub-

section (1) and may impose any conditions on the permit the Chief Commissioner thinks fit.

- (3) The holder of a permit under this section does not commit an offence against section 6 or 7 while acting under and in accordance with the permit.
- (4) The holder of the permit must comply with the permit.

Penalty: 60 penalty units or 12 months imprisonment.

187. *Interstate licence holders—permanent residents*

- (1) A person who—
 - (a) is the holder of a licence in another State or a Territory which corresponds with a category A or B longarms licence; and
 - (b) has notified the Chief Commissioner that he or she intends to permanently reside in Victoria—

is, for a period of 3 months after that notification is given, deemed to be—

- (c) the holder of a category A or B longarms licence (as the case requires); and
 - (d) authorised under that licence to possess, carry or use any firearm which that person was so authorised to possess, carry or use under the licence issued in the other State or Territory.
- (2) A person who—
 - (a) is the holder of a licence in another State or a Territory which corresponds with a category C or D longarms licence or a handgun licence; and

(b) has notified the Chief Commissioner that he or she intends to permanently reside in Victoria—

is, for a period of 7 days after that notification is given—

(c) deemed to be the holder of a category C or D longarms licence or a handgun licence (as the case requires); and

(d) authorised under that licence to possess or carry any firearm which that person was so authorised to possess, carry or use under the licence issued in the other State or Territory.

188. *Power to approve schemes of compensation*

- (1) The Minister, in consultation with the Treasurer, may approve a scheme of compensation for making payment to any person who surrenders to the Chief Commissioner a firearm which he or she lawfully owned immediately before it became unlawful to own that firearm.
- (2) A payment made under a scheme approved by the Minister under sub-section (1) must be paid from the Consolidated Fund which is hereby to the necessary extent appropriated accordingly.

189. *Application to be deemed not to be a prohibited person*

- (1) A person—
 - (a) who is subject to an intervention order under section 4 of the **Crimes (Family Violence) Act 1987** or an order of a corresponding nature made in another State or a Territory; or

(b) in relation to whom not more than 5 years have passed since the person was the subject of such an order—

may apply to the Court for a declaration that that person—

(c) is deemed not to be a prohibited person by virtue of being or having been subject to such an order; or

(d) is so deemed for limited purposes only.

(2) The purposes for which the person is deemed not to be a prohibited person must be specified in the order.

(3) In this section, "**Court**" means—

(a) if a person was made subject to an order referred to in sub-section (1) in Victoria, the Court which made the order; or

(b) if a person was made subject to an order referred to in sub-section (1) in another State or a Territory, the Supreme Court.

190. *Supreme Court—Limitation of jurisdiction*

It is the intention of section 183 to alter or vary section 85 of the **Constitution Act 1975**.

191. *Regulations*

(1) The Governor in Council may make regulations for or with respect to any matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act, including but not limited to the following matters—

(a) the acquisition and possession of ammunition or classes of ammunition, including—

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- (i) specifying amounts of ammunition that may be acquired by persons or classes of persons; and
 - (ii) specifying amounts of ammunition that may be possessed by persons or classes of persons;
 - (b) any devices which are not to fall within the definition of firearms;
 - (c) classes of firearms that fall within the definitions of category D or E longarms;
 - (d) classes of persons that fall within the definition of prohibited person;
 - (e) reasons for which persons may need licences to possess, carry or use category B longarms or handguns;
 - (f) reasons for which the Chief Commissioner must not issue licences under the Act;
 - (g) fees for any application or for the issue or renewal of any licence or permit or the giving of any approval made under the Act;
 - (h) fees which may be charged by firearms dealers when acting as agents;
 - (i) fees for applications to the Committee to review decisions of the Chief Commissioner
 - (j) forms for the purposes of the Act;
 - (k) particulars to be included in applications, forms, notices, registers or other documents under the Act;
 - (l) grounds for the cancellation of licences under the Act;
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- (m) particulars which must be kept on the firearms register or any other document or by any other person or class or persons;
 - (n) grounds upon which licences, permits or other approvals may be varied;
 - (o) grounds upon which renewals of licences, permits or other approvals may be refused;
 - (p) items for which permits to possess, carry or use are required;
 - (q) grounds for refusing to issue permits;
 - (r) the procedure of the Committee, whether sitting as a whole or in Divisions;
 - (s) offences in respect of which infringement notices may be issued.
- (2) Regulations made under this Act—
- (a) may be of general or limited application;
 - (b) may differ according to differences in time place or circumstances; and
 - (c) may confer a discretionary authority or impose a duty on a specified person or body or a specified class of persons or bodies; and
 - (d) may impose a penalty not exceeding 5 penalty units for a contravention of the regulations; and
 - (e) may make provision for—
 - (i) a scale of fees according to the nature of the licence, permit or approval provided; or
 - (ii) the reduction, waiver or refund in whole or in part of the fees.
- (3) If, under sub-section (2)(e), regulations provide for a reduction, waiver or refund in whole or in
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part of a fee, the reduction, waiver or refund may be expressed to apply either generally or specifically—

- (a) in respect of certain matters or transactions or classes of matters or transactions;
- (b) in respect of certain documents or classes of documents;
- (c) when an event happens;
- (d) in respect of certain persons or classes of persons; or
- (e) in respect of any combination of such matters, transactions, documents, events or persons—

and may be expressed to apply subject to specified conditions or in the discretion of any specified person or body.

PART 12—TRANSITIONAL PROVISIONS

192. Definitions

In this Part—

"new Committee" means the Firearms Appeals Committee established under this Act;

"old Act" means the **Firearms Act 1958** as in force immediately before the commencement of section 177 of this Act.

"old Committee" means the Firearms Consultative Committee established under the old Act.

193. Repeal of Firearms Act 1958

The **Firearms Act 1958** is repealed.

194. References

In—

(a) an Act; or

(b) a subordinate instrument within the meaning of the **Interpretation of Legislation Act 1984**;

(c) any document whatever—

in relation to any period occurring on or after the commencement of this section and, unless inconsistent with the context or subject matter, a reference to the **Firearms Act 1958** must be taken to be a reference to the **Firearms Act 1996**.

195. Licences authorities permits and schemes

(1) On and from the coming into operation of this section—

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- (a) an authority which—
- (i) is given by the Registrar under section 32(1) of the old Act for a firearm which is a category C longarm for the purposes of this Act; and
 - (ii) is in force immediately before the commencement of this Act; and
 - (iii) is not held by the holder of a gun dealer's licence within the meaning of the old Act—
- is deemed to—
- (iv) be a longarms licence for a category C longarm and, except as is otherwise provided for in this paragraph, the provisions of this Act apply accordingly; and
 - (v) continue in force, unless sooner suspended or cancelled in accordance with the provisions of this Act, until the date on which the authority would have expired, if the old Act had continued to apply to it;
- (b) an authority which—
- (i) is given by the Registrar under section 32(1) of the old Act for a firearm which is a category D longarm for the purposes of this Act; and
 - (ii) is in force immediately before the commencement of this Act; and
 - (iii) is not held by the holder of a gun dealer's licence within the meaning of the old Act—
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is deemed to—

- (iv) be a longarms licence for a category D longarm and, except as is otherwise provided for in this paragraph, the provisions of this Act apply accordingly; and
 - (v) continue in force, unless sooner suspended or cancelled in accordance with the provisions of this Act, until the date on which the authority would have expired, if the old Act had continued to apply to it;
- (c) a shooter's licence within the meaning of the old Act for a firearm which is a category A longarm for the purposes of this Act and which is in force immediately before the commencement of this Act—
- (i) is deemed to be a longarms licence for a category A longarm and, except as is otherwise provided for in this paragraph, the provisions of this Act apply accordingly; and
 - (ii) continues in force, unless sooner suspended or cancelled in accordance with the provisions of this Act, until the date on which the licence would have expired, if the old Act had continued to apply to it;
- (d) a shooter's licence within the meaning of the old Act for a firearm which is a category B longarm for the purposes of this Act and which is in force immediately before the commencement of this Act—
- (i) is deemed to be a longarms licence for a category B longarm and, except as is
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- otherwise provided for in this paragraph, the provisions of this Act apply accordingly; and
- (ii) continues in force, unless sooner suspended or cancelled in accordance with the provisions of this Act, until the date on which the licence would have expired, if the old Act had continued to apply to it;
- (e) a pistol licence, within the meaning of the old Act in force immediately before the commencement of this Act—
- (i) is deemed to be a handgun licence and except as is otherwise provided for in this paragraph, the provisions of this Act apply accordingly; and
 - (ii) continues in force, unless sooner suspended or cancelled in accordance with a provision of this Act, until the date on which the licence would have expired, if the old Act had continued to apply to it.
- (f) a pistol collector's licence, within the meaning of the old Act in force immediately before the commencement of this Act—
- (i) is deemed to be a firearms collectors licence and, except as is otherwise provided for in this paragraph, the provisions of this Act apply accordingly; and
 - (ii) continues in force, unless sooner suspended or cancelled in accordance with the provisions of this Act, for a period of 2 years;
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- (g) a gun dealer's licence, within the meaning of the old Act in force immediately before the commencement of this Act—
- (i) is deemed to be a dealers licence with authority to deal in category A and B longarms and handguns and, except as is otherwise provided for in this paragraph, the provisions of this Act apply accordingly; and
 - (ii) continues in force, unless sooner suspended or cancelled in accordance with the provisions of this Act, until the date on which the licence would have expired, if the old Act had continued to apply to it;
- (h) an authority which—
- (i) is given by the Registrar under section 32(1) of the old Act for a firearm which is a category C longarm for the purposes of this Act; and
 - (ii) is in force immediately before the commencement of this Act; and
 - (iii) is held by the holder of a gun dealer's licence within the meaning of the old Act—
- is deemed to—
- (iv) be a dealers licence with authority to deal in category C longarms and, except as is otherwise provided for in this paragraph, the provisions of this Act apply accordingly; and
 - (v) continue in force, unless sooner suspended or cancelled in accordance with the provisions of this Act, until the
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date on which the authority would have expired, if the old Act had continued to apply to it;

- (i) an authority which—
- (i) is given by the Registrar under section 32(1) of the old Act for a firearm which is a category D longarm for the purposes of this Act; and
 - (ii) is in force immediately before the commencement of this Act; and
 - (iii) is held by the holder of a gun dealer's licence within the meaning of the old Act—

is deemed to—

- (iv) be a dealers licence with authority to deal in category D longarms and, except as is otherwise provided for in this paragraph, the provisions of this Act apply accordingly; and
 - (v) continue in force, unless sooner suspended or cancelled in accordance with the provisions of this Act, until the date on which the authority would have expired, if the old Act had continued to apply to it;
- (j) a display licence, within the meaning of the old Act in force immediately before the commencement of this Act—
- (i) is deemed to be a firearms collectors licence and, except as is otherwise provided for in this paragraph, the provisions of this Act apply accordingly; and

- (ii) continues in force, unless sooner suspended or cancelled in accordance with a provision of this Act, until the date on which the licence would have expired, if the old Act had continued to apply to it;
 - (k) a junior permit, within the meaning of the old Act in force immediately before the commencement of this Act—
 - (i) is deemed to be a junior licence except as is otherwise provided for in this paragraph, the provisions of this Act apply accordingly; and
 - (ii) continues in force, unless sooner suspended or cancelled in accordance with a provision of this Act, until the date on which the licence would have expired, if the old Act had continued to apply to it.
 - (2) In the case of an authority, licence or permit issued under the old Act, which is deemed by sub-section (1) to be a licence issued under Part 2 of this Act, the Chief Commissioner may refuse to renew the licence if the holder of the licence cannot demonstrate a reason for which that licence is required as set out in Part 2.
 - (3) Despite the coming into operation of section 177 an authority issued by the Governor in Council under section 32(6) of the old Act and in force immediately before the commencement of this Act continues in force as if that Act had not been repealed, for a period of 12 months after the coming into operation of section 193.
 - (4) A person who is, under sub-section (1), deemed to be the holder of a longarms licence for category A
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or B longarms or a handgun licence and who is, upon the expiration of that licence under this section, applying for the renewal of the licence under this Act, the Chief Commissioner may impose a condition on the renewed licence as to the number of firearms that may be possessed under that licence if the person cannot demonstrate a need to possess some of the firearms possessed under the licence.

196. *Right to apply to court under section 189 before commencement of part of Act*

A person may apply to the Court (within the meaning of section 189) for a declaration under that section at any time after the commencement of that section, despite the fact that any other part of this Act has not commenced.

197. *Appeals and rights to appeal*

If—

- (a) an appeal before the old Committee under section 43 of the old Act has not been completed before the commencement of this Act the new Committee may proceed to determine the appeal as if it were an application for a review of a decision of the Chief Commissioner under this Act or
- (b) a person, immediately before the commencement of this Act, had a right to appeal to the old Committee in respect of a decision of the Registrar under the old Act, this Act applies to that right as if it were a right to apply for review of a decision of the Chief Commissioner under this Act.

198. *Sunset on licences and permits issued under repealed provisions*

- (1) A farm permit issued and in force under section 22AB of the old Act as in force immediately before the commencement of section 12 of the **Firearms (Amendment) Act 1983** continues in force for a period of 12 months after the coming into operation of section 193.
- (2) A gun collectors licence issued and in force under section 4B of the old Act, as inserted by section 4 of the **Firearms (Amendment) Act 1966**, immediately before the repeal of that section continues in force for a period of 12 months after the coming into operation of section 193.

199. *Declarations*

- (1) Any right existing under a declaration made under section 4(1)(f) of the old Act and in force immediately before the coming into operation of section 193, continues to exist as if that Act had not been repealed for a period of 12 months after the coming into operation of section 193.
 - (2) Any right existing under a declaration made under section 4(2) of the old Act and in force immediately before the coming into operation of section 193, continues to exist as if that Act had not been repealed for a period of 12 months after the coming into operation of section 193.
 - (3) Any right existing under a declaration made under section 3(1A) of the old Act and in force immediately before the coming into operation of section 193, continues to exist as if that Act had not been repealed for a period of 12 months after the coming into operation of section 193.
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200. *Prison officers*

Any person who is a prison officer within the meaning of the **Corrections Act 1986** and who, within a period of 12 months after the coming into operation of section 193, has in his possession or carries or uses a firearm issued to him for the performance of a detailed duty and during the performance of the duty does not commit an offence against section 6 or 7 for so doing and is not required to hold a licence under this Part.

201. *Consequential—Crimes Act 1958 and Magistrates' Court Act 1989*

(1) In section 29(3) of the **Crimes Act 1958**, for paragraph (a) **substitute—**

'(a) "**firearm**" has the same meaning as in the **Firearms Act 1996**; and'.

(2) In section 77(1)(a) of the **Crimes Act 1958** for ' "**firearm**" includes an airgun or air pistol' **substitute** ' "**firearm**" has the same meaning as in the **Firearms Act 1996**'.

(3) In Schedule 4 to the **Magistrates' Court Act 1989**, after item 56A **insert—**

"56B. *Crimes Act*

Offences under section 32 of the **Crimes Act 1958**."

202. *Insertion of new section in Crimes Act 1958*

After section 31 of the **Crimes Act 1958** **insert—**

"32. *Use of firearms in the commission of offences*

(1) A person who is found guilty of an indictable offence and who carried a firearm (within the meaning of the **Firearms Act 1996**) when

committing the offence is guilty of a further offence and liable to a penalty of imprisonment for not more than 5 years.

- (2) Despite anything to the contrary in the **Sentencing Act 1991** or in any other law, a court, in imposing a penalty under sub-section (1)—
- (a) must direct that the sentence not be served concurrently with any other sentence; and
 - (b) must not make an order suspending the whole or any part of the sentence."

203. Consequential—Crimes (Family Violence) Act 1987

- (1) In section 5(1) of the **Crimes (Family Violence) Act 1987**, for sub-section (1)(h) **substitute—**

"(h) revoke any licence, permit or other authority to possess, carry or use firearms."

- (2) In section 5 of the **Crimes (Family Violence) Act 1987**, after sub-section (1) **insert—**

"(1A) If in an order under sub-section (1), a licence, permit or other authority to possess, carry or use firearms is revoked—

- (a) the person in respect of whom the order is made is disqualified from obtaining any such licence, permit or authority during the course of the order and for a period of 5 years from the date of cessation of the order; and
 - (b) any firearm in the possession of the person must either be—
 - (i) forfeited to the Crown; or
 - (ii) disposed of by sale to a licensed firearms dealer, within the
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meaning of the **Firearms Act 1996**—

as the Court directs.

- (1B) If a firearm is disposed of by sale under sub-section (1A)(b)(ii), the proceeds of the sale must be paid to the owner of the firearm."
- (3) In section 5(3) of the **Crimes (Family Violence) Act 1987**, for "**Firearms Act 1958**" substitute "**Firearms Act 1996**".
- (4) In section 8(1B) of the **Crimes (Family Violence) Act 1987**, omit "(b)".
- (5) In section 8 of the **Crimes (Family Violence) Act 1987**, after sub-section (1B) insert—
- "(1C) In making an interim intervention order the court must determine whether or not the person against whom the order is made is the holder of a licence, permit or other authority under the **Firearms Act 1996** to possess, carry or use firearms.
- (1D) If the person against whom the order is made is the holder of a licence, permit or other authority under the **Firearms Act 1996**, the court may suspend that licence, permit or authority.
- (1E) Any firearm in the possession of a person in whose licence, permit or authority is suspended and the licence or permit document must be immediately surrendered to a member of the police force.
- (1F) A member of the police force may seize any firearm or licence or permit document which is not immediately surrendered under sub-section (1E).

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- (1G) The suspension of a licence, permit or authority under this section remains in force until—
- (a) an order under section 5 is made; or
 - (b) the court which imposed the suspension makes an order under sub-section (1H).
- (1H) If a licence, permit or authority under the **Firearms Act 1996** has been suspended under this section, and if an order under section 5 is not made in place of the interim order in which the licence, permit or authority was suspended, the court which made the interim order may, upon the application of the person against whom the interim order was made, revoke the suspension, or cancel the licence, permit or authority.
- (1I) If a licence, permit or authority under the **Firearms Act 1996** is cancelled, any firearm surrendered or seized under this section is forfeited to the Crown and must be disposed of as the court orders.
- (1J) If the suspension of a licence, permit or authority under the **Firearms Act 1996** is revoked, any firearm surrendered or seized under this section must be returned to the person who is authorised to possess that firearm under that Act."

204. Consequential—Court Security Act 1980

In section 2 of the **Court Security Act 1980**, for the definition of "firearm" substitute—

' "**firearm**" has the same meaning as in the **Firearms Act 1996**.'

205. Consequential—National Parks Act 1975

In section 36(3) of the **National Parks Act 1975**, for "**Firearms Act 1958**" substitute "**Firearms Act 1996**".

206. Consequential—Second-Hand Dealers and Pawnbrokers Act 1989

In section 4 of the **Second-Hand Dealers and Pawnbrokers Act 1989**, for paragraph (b) substitute—

"(b) a licensed firearms dealer or a firearm within the meaning of the **Firearms Act 1996**; or".

207. Consequential—Wildlife Act 1975

In section 60(1)(b) of the **Wildlife Act 1975**, after "this Act" insert "or which has been or is likely to be used to threaten the officer or member".

208. Insertion of new section 60A in Wildlife Act 1975

After section 60 of the **Wildlife Act 1975** insert—

"60A. Power to require production of firearms licence

- (1) An authorised officer who—
- (a) has reasonable grounds for believing that—
 - (i) a person is in possession of a firearm; and
 - (ii) that the person intends to use the firearm for the purposes of hunting wildlife; and

(b) produces evidence of his or her identity to the person—

may demand that that person produce his or her licence or permit under the **Firearms Act 1996** to possess, carry or use that firearm.

(2) A person to whom a demand is directed under sub-section (1) must comply with that demand.

Penalty: 30 penalty units."

SCHEDULES

SCHEDULE 1

General Conditions For licences under Part 2

1. The holder of the licence must permit a member of the police force to inspect the holder's storage arrangements at any reasonable time.
 2. The holder of the licence must not transfer, lend or give the licence to another person.
 3. Any firearms held under the licence must not be used for any reason other than the reasons authorised by the licence.
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SCHEDULE 2

Special Conditions for licences under Part 2

1. Longarm licences for category A or B longarms

- (1) If the holder of a licence is authorised to hunt under the licence, the licence is subject to the condition that, before the holder enters any privately owned land for the purpose of hunting, the holder must obtain the permission of the owner or occupier of that land to hunt on the land.
- (2) If the holder of the licence has obtained the licence for the reason of hunting, sport or target shooting or primary production, the holder is also authorised to hunt pest animals on Crown land, if such hunting is in accordance with any Act, regulations or other instrument regulating hunting on that land.
- (3) The holder is authorised to carry or use a longarm, the carriage or use of which is authorised by the licence, on an approved shooting range.
- (4) If one of the reasons for the licence is sport or target shooting, the holder is authorised to hunt on privately owned land if, before entering that land for the purposes of hunting, the holder has obtained the permission of the owner or occupier of that land to hunt on the land.
- (5) If one of the reasons for the licence is sport or target shooting, the holder must be a member of an approved club.
- (6) If the licence is a longarm licence for category B longarms, the holder is authorised to use category A longarms for the reason for which the licence is issued.

2. Longarm licences for category C longarms

- (1) If the holder of the licence is authorised to possess, carry or use firearms held under the licence for the purposes of primary production, the holder of the licence must not carry or use any firearm held under the licence except—
 - (a) on the property on which the business of primary production is carried out and for the purposes of the genuine need for which the licence was required; or

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- (b) for the purposes of the suppression of pest animals—
 - (i) on another property on which primary production is carried out, if the activity is conducted in accordance with the regulations; or
 - (ii) on Crown land, if such hunting is in accordance with any Act, regulation or other instrument regulating hunting on that land.
 - (2) If the holder of the licence is authorised to possess, carry or use a firearm for the purposes of clay target shooting—
 - (a) the holder of the licence must remain a member of a clay target shooting club or organisation approved by the Chief Commissioner for the period of the licence; and
 - (b) in each calendar year, the holder must take part in at least 4 clay target shooting competitions conducted by clay target shooting clubs or organisations; and
 - (c) the holder must not use a firearm held under the licence except at an approved shooting range.

3. Handgun licences

- (1) If the holder of a licence is authorised to carry or use the firearm for the purposes of the occupation of security guard or prison guard, the holder is also authorised to carry or use a handgun, the carriage or use of which is authorised under the licence to practise at an approved shooting range.
- (2) If the holder is an approved club, the firearms held under the licence—
 - (a) must not be carried by any person other than the nominated person; and
 - (b) must not be used by any person other than a member of an approved club and at an approved shooting range.

4. Junior licences

- (1) The holder of the licence must not carry or use a firearm under the licence except under the immediate supervision of a person who is the holder of a longarm licence or a handgun licence (as the case requires).

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- (2) The holder is authorised to carry or use a handgun, the carriage or use of which is authorised by the licence, on an approved shooting range.
- (3) The holder is not authorised to purchase ammunition.

5. *Firearms collectors licences*

- (1) The holder of the licence must not possess or carry any types of firearms under the licence which are not consistent with the theme of the licence.
 - (2) The firearms kept under the licence must be kept at the premises specified in the licence.
 - (3) The firearms kept under the licence may be carried only for the purposes of acquisition, disposal or repair.
 - (4) The holder of the licence must remain a member of an organisation of firearms collectors approved by the Chief Commissioner for the period of the licence.
 - (5) Any category E firearms in the collection must be rendered permanently inoperable.
 - (6) Any category D firearms kept in the collection must be rendered permanently inoperable as follows—
 - (a) in the case of firearms with fixed firing pins, the pin must be ground flush with the face of the bolt, in any other case, the pin must be removed completely; and
 - (b) in the case of firearms with a firing pin hole, the hole must be filled from the front end with weld; and
 - (c) the barrel must be rendered inoperative by—
 - (i) welding a steel insert into the chamber end to prevent chambering a round; or
 - (ii) drilling a hole vertically through the chamber and welding a substantial pin in place to prevent chambering a round; and
 - (d) immobilising the firing mechanism by welding the trigger and internal components.
 - (7) Any firearms kept in the collection which are not category D firearms must be immediately rendered incapable of use by—
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- (a) the removal of the bolt or firing pin; or
 - (b) if that is not possible, by the application of an appropriate trigger lock or barrel lock.
- (8) Any bolt or firing pin that is removed must be stored in a separate locked container from that in which the firearm is stored.
- (9) Any category C, D or E longarm for the collection must not be acquired except from—
- (a) a licensed firearms dealer; or
 - (b) the holder of a firearms collectors licence and through the agency of a licensed firearms dealer.
- (10) Any category C, D or E longarm in the collection must not be disposed of except to—
- (a) the holder of a collector's licence, through the agency of a licensed firearms dealer; or
 - (b) to a member of the police force for disposal; or
 - (c) to a museum to which an exemption has been granted under Part 11.
- (11) The holder of the licence or any person at the premises specified in the licence must produce and allow inspection of the register kept under section 24 when so requested by any member of the police force.

6. *Firearms heirlooms licences*

- (1) The licence applies only to the firearm or firearms specified in the licence.
- (2) The firearms kept under the licence must be kept at the premises specified in the licence.
- (3) Any of the firearms kept under the licence may be carried only for the purposes of acquisition, disposal or repair.
- (4) The firearms kept under the licence must not be used.
- (5) The firearms kept under the licence must be rendered permanently inoperable as follows—
 - (a) in the case of firearms with fixed firing pins, the pin must be ground flush with the face of the bolt, in any other case, the pin must be removed completely; and

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- (b) in the case of firearms with a firing pin hole, the hole must be filled from the front end with weld; and
 - (c) the barrel must be rendered inoperative by—
 - (i) welding a steel insert into the chamber end to prevent chambering a round; or
 - (ii) drilling a hole vertically through the chamber and welding a substantial pin in place to prevent chambering a round; and
 - (d) immobilising the firing mechanism by welding the trigger and internal components; and
- (6) The firearms kept under the licence must not be acquired or disposed of except—
- (a) through inheritance; or
 - (b) to the holder of a firearms collectors licence, through the agency of a licensed firearms dealer; or
 - (c) a member of the police force for disposal; or
 - (d) to a museum to which an exemption has been granted under Part 11.
- (7) The holder of the licence must not keep any ammunition for the firearms kept under the licence.

7. *Firearms ammunition collectors licences*

- (1) The ammunition must be kept at the premises specified in the licence.
 - (2) The holder of the licence must remain a member of the organisation of collectors approved by the Chief Commissioner for the period of the licence.
 - (3) All ammunition in the collection must—
 - (a) be rendered inert except for all sporting ammunition and military ammunition of UN hazard classification code 1.4s up to 20mm calibre; and
 - (b) must not contain high explosive smoke or chemical or lachrymatory agents.
 - (4) Any ammunition kept in the collection must not be disposed of except—
 - (a) to another person who is the holder of a firearms ammunition collectors licence through the agency of a licensed firearms dealer; or
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(b) to a licensed firearms dealer.

SCHEDULE 3

Non-prohibited persons who are exempt from requirement to hold a licence under Part 2

Item No.	Column 1 Persons	Column 2 Circumstances
1.	A person serving as a member of the naval, military or air forces of the Commonwealth of Australia.	When possessing, carrying or using a firearm while on duty or when carrying a firearm while going to or from duty.
2.	Any member of the police force, recruit, officer or employee in the office of the Chief Commissioner of Police or protective services officer.	When possessing, carrying or using a firearm for their official duties when authorised to do so by the Chief Commissioner.
3.	Any member of the police force of the Commonwealth or any other State or a Territory of the Commonwealth.	When possessing, carrying or using a firearm issued to him or her for the performance of a detailed duty.
4.	Any person who is of or over the age of 18 years who is receiving instruction in the use of a handgun by or under the immediate supervision of the holder of a handgun licence.	When carrying or using at an approved shooting range the handgun specified in the supervisor's licence for the purposes of receiving the instruction.
5.	Any person who is of or over the age of 18 years who is receiving instruction in the use of a category A or category B firearm by or under the immediate supervision of the holder of a category A or category B longarm licence.	When carrying or using a longarm of the category specified in the supervisor's licence for the purposes of receiving the instruction at an approved shooting range.

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Item No.	Column 1 Persons	Column 2 Circumstances
6.	Any person.	When using an airgun which is not a paintball gun and which is securely attached to the bench for the purpose of shooting at a target at a shooting gallery or other place of amusement.
7.	Any commercial carrier or warehouseman.	When possessing for the purposes of storage or carrying a firearm in the ordinary course of his or her business as a carrier or warehouseman.
8.	Any member of a cadet corps established or recognised by or under any Commonwealth Act relating to defence.	When carrying a category A or B longarm or using such a longarm under immediate supervision at an approved range.
9.	Any person on any ship or aircraft which normally operates outside Australia.	When the firearm is part of the usual equipment of the ship or aircraft and remains on board the ship or aircraft.
10.	Any actor or person performing in a work for stage, television or film or in an historical re-enactment.	When carrying or using the firearm which is incapable of firing fixed ammunition or which has been rendered permanently inoperable.
11.	Any officer of a sporting club or association.	When carrying or using a handgun, which is and has always been constructed for the purpose of starting sporting events, for the purpose of starting a sporting event.

SCHEDULE 4

Storage requirements

1. Longarm licences for category A and B longarms

- (1) The firearm must be stored in a receptacle—
 - (a) which is constructed of hard wood or steel that is not easily penetrable; and
 - (b) which, if it weighs less than 150 kilograms when it is empty, must be fixed to the frame of the floor or the wall of the premises where the firearm is kept in such a manner that it is not easily removable; and
 - (c) which, when any firearm is stored in it, is locked with a lock of sturdy construction.
- (2) If more than 15 firearms are stored on the premises where the firearm is stored, the premises must be fitted with an effective alarm system.
- (3) Any ammunition for the firearm must be stored in a locked container separate from the receptacle in which the firearm must be stored.

2. Longarm licences for category C or D longarms and handgun licences

- (1) The firearm must be stored in a steel safe—
 - (a) which is of a thickness that is not easily penetrable; and
 - (b) which, if it weighs less than 500 kilograms when it is empty, must be bolted to the structure of the premises where the firearm is authorised to be kept; and
 - (c) which, when any firearm is stored in it, is locked.
 - (2) If more than 15 firearms are stored on the premises where the firearm is stored, the premises must be fitted with an effective alarm system.
 - (3) Any ammunition for the firearm must be stored in a locked container separate from the safe in which the firearm must be stored.
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3. Firearms collectors licences

- (1) The firearm must be stored—
- (a) on premises or a part of premises which is a permanent building with secure locks on all openings; and
 - (b) in a room—
 - (i) the walls of which are solid enough to be a substantial physical barrier to entry; and
 - (ii) any window of which is covered by security bars; and
 - (iii) any door to which is—
 - (A) of a solid material, or is covered by steel sheet or reinforced by firmly fixed steel mesh; and
 - (B) fitted with a lock of the dead latch type or an extra hasp or barrel bolt and padlock which is of such a nature as to reduce the possibility of the door being sprung from the jamb; and
 - (C) hinged with concealed hinge pins or with hinge pins which are welded to prevent the pins being removed; and
 - (c) in a container—
 - (i) which is made of steel or any other robust material; and
 - (ii) which must be firmly fixed to the wall or floor of the room; and
 - (iii) the doors of which are attached with concealed or welded hinges; and
 - (iv) which, when any firearm is stored in it, is locked with a lock which is so constructed as to prevent the doors of the container being easily sprung.
- (2) If more than 15 firearms are stored on the premises where the firearm is stored, the premises must be fitted with an effective alarm system.

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- (3) The firearm must not be removed from the container except by the holder of the licence.
- (4) Any bolt or firing pin which is required to be stored separately from the firearm it is a part of, must be stored in the same manner as is required for the storage of a firearm under a longarm licence for a category A or B longarm.

4. *Firearms heirlooms licences*

The firearm must be stored in a receptacle—

- (a) which is constructed of hard wood or steel that is not easily penetrable; and
- (b) which, if it weighs less than 150 kilograms when it is empty, must be fixed to the frame of the floor or the wall of the premises where the firearm is kept in such a manner that it is not easily removable; and
- (c) which, when any firearm is stored in it, is locked with a lock of sturdy construction.

5. *Firearms ammunition collectors licences*

The ammunition must be stored in a receptacle—

- (a) which is constructed of hard wood or steel that is not easily penetrable; and
 - (b) which, if it weighs less than 150 kilograms when it is empty, must be fixed to the frame of the floor or the wall of the premises where the firearm is kept in such a manner that it is not easily removable; and
 - (c) which, when any ammunition is stored in it, is locked with a lock made of sturdy construction.
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NOTES

† *Minister's second reading speech—*

Legislative Assembly: 31 October 1996

Legislative Council: 3 December 1996

The long title for the Bill for this Act was "to re-enact, with amendments, the **Firearms Act 1958** to make various consequential amendments to other Acts and for other purposes."

Constitution Act 1975:

Section 85(5) statement:

Legislative Assembly: 31 October 1996

Legislative Council: 3 December 1996

Absolute majorities:

Legislative Assembly: 19 and 21 November 1996

Legislative Council: 5 December 1996