

# Control of Weapons (Amendment) Act 2000

Act No. 47/2000

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Victoria

No. 47 of 2000

## Control of Weapons (Amendment) Act 2000<sup>†</sup>

[Assented to 14 June 2000]

The Parliament of Victoria enacts as follows:

### 1. *Purpose*

The purpose of this Act is to make miscellaneous amendments to the **Control of Weapons Act 1990** and to make a consequential amendment to the **Vagrancy Act 1966**.

### 2. *Commencement*

- (1) Subject to sub-section (2), this Act comes into operation on a day or days to be proclaimed.

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- (2) If a provision of this Act does not come into operation before 1 July 2001, it comes into operation on that day.

No. 24/1990.  
Reprint No. 2  
as at  
20 August  
1998.

**3. *Principal Act***

In this Act, the **Control of Weapons Act 1990** is called the Principal Act.

**4. *Body armour to be prescribed***

In section 3 of the Principal Act, for the definition of "body armour" **substitute**—

' "**body armour**" means a garment or item—

- (a) that is designed, intended or adapted for the purpose of protecting the body from the effects of a weapon, including a firearm within the meaning of section 3(1) of the **Firearms Act 1996**; and
- (b) that is prescribed by the regulations to be body armour;'

**5. *Definitions***

- (1) In section 3 of the Principal Act, **insert** the following definitions—

' "**controlled weapon**" means—

- (a) a knife, other than a knife that is a prohibited weapon; or
- (b) an article that is prescribed by the regulations to be a controlled weapon;

"**corrections officer**" means—

- (a) a person referred to in section 12(1) of the **Corrections Act 1986**; or

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- (b) a person authorised by the Secretary under section 9A of the **Corrections Act 1986**;

**"military officer"** means a person serving as a member of the naval, military or air forces of the Commonwealth;

**"police officer"** means—

- (a) a member of the police force; or
- (b) a police reservist, police recruit or protective services officer within the meaning of the **Police Regulation Act 1958**; or
- (c) an employee in the office of the Chief Commissioner of Police; or
- (d) a member of the police force of the Commonwealth or of another State or a Territory of the Commonwealth;

**"prohibited person"** has the same meaning as in section 3(1) of the **Firearms Act 1996**;

**"prohibited weapon"** means an article that is prescribed by the regulations to be a prohibited weapon;'

- (2) In section 3 of the Principal Act, the definitions of "prescribed weapon" and "regulated weapon" are **repealed**.

**6. *New section 5 substituted and sections 5A and 5B inserted***

For section 5 of the Principal Act **substitute—**

**'5. *Prohibited weapons***

- (1) A person must not—
- (a) bring into Victoria; or

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- (b) cause to be brought into or sent into Victoria; or
- (c) manufacture, sell or purchase; or
- (d) display or advertise for sale; or
- (e) possess, use or carry—

a prohibited weapon without an exemption under section 8B or an approval under section 8C.

Penalty: 120 penalty units or imprisonment for 6 months.

- (2) A person must not sell a prohibited weapon unless the person reasonably believes that the purchaser of the weapon has an exemption under section 8B or an approval under section 8C allowing the purchaser to possess the weapon.

Penalty: 120 penalty units or imprisonment for 6 months.

**5A. *Identifying persons purchasing prohibited weapons***

- (1) A person (the "seller") must require a person attempting to purchase a prohibited weapon from the seller (the "purchaser") to produce evidence as to the purchaser's identity—
  - (a) by means of a passport, driver licence or other document in one of the prescribed categories, if that document bears a photograph of the purchaser; or
  - (b) by means of 2 documents in the prescribed categories but each in a different category.

Penalty: 20 penalty units.

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- (2) A person must not sell a prohibited weapon to a person who is unable to produce the required evidence of identity under sub-section (1).

Penalty: 20 penalty units.

- (3) A person must not produce false evidence of identity under sub-section (1).

Penalty: 60 penalty units.

**5B. *Recording sales of prohibited weapons***

- (1) A person who sells a prohibited weapon must keep a record of the sale in accordance with this section.

Penalty: 20 penalty units.

- (2) A record under this section—

- (a) must be in the form, and contain the information, prescribed by the regulations; and
- (b) must be kept for a period of 3 years after the sale to which it relates.

- (3) A member of the police force, at any reasonable time, may require a person to produce for inspection a record kept under this section.'

**7. *Controlled weapons***

- (1) In section 6 of the Principal Act—

- (a) in sub-section (1), for "any regulated weapon" **substitute** "a controlled weapon";
- (b) in sub-section (2), for "regulated weapon" **substitute** "controlled weapon".

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- (2) In section 6 of the Principal Act, after sub-section (3) **insert**—

"(4) In considering whether a person has lawful excuse to possess, carry or use a controlled weapon, the court must have regard to the circumstances, such as time and location, of the incident."

**8. *Body armour***

In section 8A of the Principal Act—

- (a) in sub-section (1), for "this section or the written approval of the Chief Commissioner of Police" **substitute** "section 8B or an approval under section 8C";
- (b) sub-sections (2) to (9) are **repealed**.

**9. *New sections 8B to 8F inserted***

After section 8A of the Principal Act **insert**—

**"8B. *Exemptions for prohibited weapons and body armour***

The Governor in Council may, by Order published in the Government Gazette—

- (a) exempt from any provision of section 5 or 8A (as the case requires)—
- (i) a class of persons or class of prohibited weapons or body armour; or
- (ii) a corrections officer, military officer or police officer (by name or description of office); and
- (b) specify conditions and limitations to which an exemption under paragraph (a) is subject.
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**8C. Approvals for prohibited weapons and body armour**

- (1) Subject to sub-section (2), the Chief Commissioner of Police may grant an approval to a person to do anything that is otherwise prohibited by section 5 or 8A.
  - (2) The Chief Commissioner cannot grant an approval under this section to—
    - (a) a prohibited person; or
    - (b) a corrections officer, military officer or police officer in connection with their official duties.
  - (3) An application for approval must be—
    - (a) in the form approved by the Chief Commissioner; and
    - (b) contain the information required by the Chief Commissioner; and
    - (c) be accompanied by the prescribed fee.
  - (4) Before granting an approval the Chief Commissioner must have regard to the guidelines issued by the Minister under section 8D.
  - (5) The Chief Commissioner may—
    - (a) grant an approval for a specified period or indefinitely;
    - (b) vary or revoke an approval at any time, including an approval granted for a specified period.
  - (6) An approval—
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- (a) must be in writing; and
  - (b) is subject to—
    - (i) a condition that the prohibited weapon or body armour is stored safely and securely and in the manner (if any) specified by the Chief Commissioner in the approval; and
    - (ii) any other conditions or limitations that the Chief Commissioner considers appropriate.
- (7) The Chief Commissioner may—
- (a) refuse to grant an approval to an applicant who is under the age of 18 years; or
  - (b) impose conditions or limitations on an approval granted to an applicant who is under the age of 18 years that the Chief Commissioner would not impose on an applicant of or over that age.

**8D. Ministerial guidelines**

- (1) The Minister may issue guidelines relating to the granting of approvals under section 8C, including guidelines prohibiting or restricting the granting of approvals to applicants who are under the age of 18 years.
- (2) Any guidelines issued by the Minister under sub-section (1) must be published in the Government Gazette.

**8E. Offences regarding exemptions and approvals**

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- (1) A person must not intentionally or recklessly breach a condition to which an exemption under section 8B or an approval under section 8C that applies to the person is subject.

Penalty: 10 penalty units.

- (2) A person must not knowingly make a statement in an application for approval under section 8C that is false or misleading in a material particular.

Penalty: 10 penalty units.

**8F. *Chief Commissioner to report on applications for approval***

- (1) Within 30 days after the end of each financial year, the Chief Commissioner of Police must make a report to the Minister regarding applications for approval under section 8C in that financial year.
- (2) A report under this section must be in the form, and contain the information, required by the Minister."

**10. *Return of seized weapons or items***

- (1) In section 9 of the Principal Act—
- (a) in sub-section (1), for "prescribed weapon, regulated weapon" **substitute** "prohibited weapon, controlled weapon";
- (b) in sub-section (2)—
- (i) for "prescribed weapon, regulated weapon" **substitute** "prohibited weapon, controlled weapon";
- (ii) after "forfeited" **insert** "under sub-section (1)".
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- (2) In section 9 of the Principal Act, for sub-sections (3) and (4) **substitute**—
- "(3) A prohibited weapon, controlled weapon, dangerous article or body armour which has been seized in relation to an offence by a person under this Act must be returned to that person in accordance with this section if—
- (a) proceedings for that offence are not commenced within the period of 3 months after the seizure; or
  - (b) a decision is made within that period not to bring proceedings for that offence.
- (4) The member of the police force in charge of the police station at which the prohibited weapon, controlled weapon, dangerous article or body armour is kept must give notice to the person from whom the prohibited weapon, controlled weapon, dangerous article or body armour was seized of his or her right to have it returned.
- (5) If a person who is given notice under sub-section (4) does not apply within 7 days after the receipt of the notice for the return of the prohibited weapon, controlled weapon, dangerous article or body armour as the case requires, the prohibited weapon, controlled weapon, dangerous article or body armour is forfeited to the Crown and must be sold or destroyed.
- (6) A person who applies under this section for the return of a prohibited weapon, controlled weapon, dangerous article or body armour, must collect it from the police station at which it is kept.
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- (7) If the person who applies for the return of a prohibited weapon, controlled weapon, dangerous article or body armour is under the age of 18 years, the prohibited weapon, controlled weapon, dangerous article or body armour must not be returned to him or her unless he or she is accompanied by a parent or guardian to collect it."

**11. Consequential amendments**

In the Principal Act—

- (a) in section 10(1)—
- (i) in paragraph (a), for "prescribed weapon or a regulated weapon" **substitute** "prohibited weapon or controlled weapon";
  - (ii) in paragraphs (c) and (d), for "prescribed weapon or regulated weapon" **substitute** "prohibited weapon or controlled weapon";
- (b) in section 11(1)(c), for "prescribed weapon" **substitute** "prohibited weapon".

**12. Transitional provisions**

- (1) In section 13(3)(a) of the Principal Act, for "section 5" **substitute** "section 8B".
- (2) In section 13 of the Principal Act, after sub-section (3) **insert**—
  - "(4) An exemption under section 5(2) as in force immediately before the commencement of section 6 of the **Control of Weapons (Amendment) Act 2000** continues to be in force after that commencement according to its tenor as if it were an exemption given under section 8B.

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- (5) An exemption under section 8A(2) as in force immediately before the commencement of section 8 of the **Control of Weapons (Amendment) Act 2000** continues to be in force after that commencement according to its tenor as if it were an exemption given under section 8B.
- (6) An approval under section 8A as in force immediately before the commencement of section 8 of the **Control of Weapons (Amendment) Act 2000** continues to be in force after that commencement according to its tenor as if it were an approval given under section 8C.
- (7) Any reference to a prescribed weapon in any document, including an exemption referred to in sub-section (4), must be construed, so far as it relates to any period after the commencement of section 5 of the **Control of Weapons (Amendment) Act 2000**, as a reference to a prohibited weapon.
- (8) Any reference to a regulated weapon in any document must be construed, so far as it relates to any period after the commencement of section 5 of the **Control of Weapons (Amendment) Act 2000**, as a reference to a controlled weapon."

**13. Consequential amendment of Vagrancy Act 1966**

No. 7393.  
Reprint No. 4  
as at 14  
March 1996.

In section 8(a)(ii) of the **Vagrancy Act 1966**, for "prescribed weapon or a regulated weapon" **substitute** "prohibited weapon or controlled weapon".

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Notes

**NOTES**

† *Minister's second reading speech—*

*Legislative Assembly: 4 May 2000*

*Legislative Council: 30 May 2000*

The long title for the Bill for this Act was "to make miscellaneous amendments to the **Control of Weapons Act 1990**, to make a consequential amendment to the **Vagrancy Act 1966** and for other purposes."