

Firearms Amendment Act 2007

No. 50 of 2007

TABLE OF PROVISIONS

<i>Section</i>		<i>Page</i>
PART 1—PRELIMINARY		1
1	Purposes	1
2	Commencement	2
PART 2—AMENDMENT OF FIREARMS ACT 1996		3
3	Definitions	3
4	New section 3A inserted	5
	3A Declarations by the Chief Commissioner for the purposes of certain definitions	5
5	Reasons for applying for longarm licence, category A or B	7
6	Issue of handgun licences for general category handguns	7
7	Conditions applying to handgun licences	8
8	General discretion of Chief Commissioner to refuse a longarm or handgun licence	9
9	Issue of category 1 firearms collectors licences	9
10	Issue of category 2 firearms collectors licences	10
11	Issue of antique handgun collectors licences	10
12	New section 32A inserted	11
	32A Chief Commissioner may refuse to make a decision on an application for a licence	11
13	New sections 33A, 33B and 33C inserted	11
	33A Notice that licence may be refused	11
	33B Further consideration of application and convening of hearing	12
	33C Refusal of licence	13
14	Duration of licences	13
15	Immediate cancellation of a licence	14
16	New section 47A inserted	14
	47A Suspension of licence—certain prohibited persons	14
17	Power of Chief Commissioner to cancel licence under this Part	14
18	New section 52AA inserted	15
	52AA Chief Commissioner to notify approved handgun target shooting club or employer of certain events	15

<i>Section</i>	<i>Page</i>
19 Surrender of handguns where certain conditions of category 1 or category 2 firearms collectors licence not complied with	16
20 Disclosure of information	17
21 Permits to display firearms or ammunition collections	18
22 New section 56A inserted	18
56A Permits to display firearms or ammunition collections—Approved firearms collectors clubs	18
23 Permits to carry or use firearms held under a collectors licence	21
24 New section 58AAA inserted	21
58AAA Permits to carry or use firearms held under a collectors licence—approved firearms collectors clubs	21
25 Requirement to keep register of transactions	23
26 Power to inspect register and stock	24
27 New section 100A inserted	24
100A Hiring and loaning of firearms by licensed firearms dealers	24
28 Application for a permit to acquire	24
29 Keeping of register	25
30 Certificate of registration	25
31 Power of Chief Commissioner to require information	25
32 Approved handgun target shooting clubs—Record keeping requirements	26
33 Approved handgun target shooting clubs—Requirements as to members	26
34 Approved firearms collectors clubs—Requirements as to members and former members	27
35 Offence to possess, carry or use a firearm on private property without consent	27
36 Certain offences as to firearms, firearm parts, silencers and prescribed items	28
37 Requirement to obtain consent of Chief Commissioner to certain alterations of firearms	28
38 New section 134AB inserted	29
134AB Offence to possess or carry certain parts without the consent of the Chief Commissioner	29
39 Section 139 substituted	29
139 Notification of change of certain details	29
40 Making false or misleading statements or using false or misleading information	30
41 Search of persons or vehicles	30
42 Powers of court to order forfeiture of firearms, cartridge ammunition, silencers or prescribed items	30
43 Power of court to make an order with respect to the disposal of a firearm, cartridge ammunition, silencer or prescribed item	31
44 Authorised officers under the Conservation, Forests and Lands Act 1987 to exercise powers under this Act	31

<i>Section</i>	<i>Page</i>
45 Annual reports	31
46 New section 175 inserted	32
175 Service of notices	32
47 Deceased estates	32
48 Disclosure of information	33
49 Interstate licence holders—temporary visitors	33
50 Interstate licence holders—permanent residents	35
51 Indictable offences	35
52 Transitional provision—handgun security guard licence	35
53 New section 211 inserted	36
211 Transitional provisions— Firearms Amendment Act 2007	36
54 Schedule 1 amended	38
55 Schedule 2 amended	38
3A Handgun licences for general category handguns— operators of private security businesses	38
56 Schedule 4 amended	38
PART 3—AMENDMENT OF OTHER ACTS	40
57 Crimes Act 1958	40
58 Firearms (Further Amendment) Act 2005	40
59 Magistrates' Court Act 1989	41
PART 4—REPEAL OF AMENDING ACT	42
60 Repeal of Act	42
	=====
ENDNOTES	43



Victoria

Firearms Amendment Act 2007[†]

No. 50 of 2007

[Assented to 17 October 2007]

The Parliament of Victoria enacts:

PART 1—PRELIMINARY

1 Purposes

The purposes of this Act are—

- (a) to amend the **Firearms Act 1996** to further provide for various matters relating to the regulation of firearms in Victoria, including—
 - (i) licences under Part 2;
 - (ii) handgun target shooting and approved handgun target shooting clubs;

-
- (iii) firearms and the private security industry;
 - (iv) the storage of firearms;
 - (v) hunting on Crown land;
 - (vi) firearms collectors;
 - (vii) firearms dealers;
 - (viii) prohibited persons;
 - (ix) investigation, seizure and forfeiture of firearms;
 - (x) recognition of certain interstate firearms licences and permits;
 - (xi) regulation of imitation firearms; and
- (b) to amend the **Crimes Act 1958** to make further provision regarding the use of firearms in the commission of offences; and
 - (c) to amend the **Magistrates' Court Act 1989** to enable certain indictable offences under the **Firearms Act 1996** to be heard and determined summarily.

2 Commencement

- (1) Subject to subsection (2), this Act comes into operation on a day or days to be proclaimed.
 - (2) If a provision of this Act does not come into operation before 1 September 2008, it comes into operation on that day.
-

PART 2—AMENDMENT OF FIREARMS ACT 1996

3 Definitions

(1) In section 3(1) of the **Firearms Act 1996**—

(a) **insert** the following definitions—

"armed guard activity means the activity, performed by a person acting as a security guard, of protecting, watching or guarding any property while being in possession of a firearm;

cash-in-transit activity means the activity, performed by a person acting as a security guard, of collecting, transferring or delivering cash or other valuables;

private security business means a business that is carried on by the holder of a private security business licence under Part 3 of the **Private Security Act 2004**;"

(b) for the definition of *antique handgun substitute*—

"antique handgun means a handgun—

(a) that was manufactured before 1 January 1900; and

(b) that uses percussion as a means of ignition; and

(c) that does not take commercially available cartridge ammunition;"

See:
Act No.
66/1996.
Reprint No. 4
as at
11 October
2006
and
amending
Act Nos
78/2005,
97/2005,
23/2006,
48/2006 and
28/2007.
LawToday:
www.
legislation.
vic.gov.au

-
- (c) after paragraph (e) of the definition of *category D longarm* insert—
" (f) any other firearm that is declared under section 3A(1) to be a category D longarm;";
- (d) after paragraph (b) of the definition of *category E handgun* insert—
" (c) any other firearm that is declared under section 3A(1) to be a category E handgun;";
- (e) after paragraph (e) of the definition of *category E longarm* insert—
" (f) any other firearm that is declared under section 3A(1) to be a category E longarm;";
- (f) in paragraph (c) of the definition of *firearm*, after "gunpowder" insert "or compressed air or other gases";
- (g) in the definition of *prohibited person*—
(i) in paragraph (a)(iii), for "—" substitute "; or"; and
(ii) after paragraph (a)(iii) insert—
" (iii a) an offence under the **Control of Weapons Act 1990**—".
- (2) In section 3(2) of the **Firearms Act 1996**, for "which has the appearance of a longarm but" substitute "the appearance of which could not reasonably be mistaken for that of an operable longarm or handgun and".
-

(3) For section 3(4)(b) of the **Firearms Act 1996** substitute—

"(b) the firearm—

- (i) is not a handgun of a type that uses percussion, or methods developed during or after the development of percussion, as a means of ignition; or
- (ii) is a single shot antique handgun."

4 New section 3A inserted

After section 3 of the **Firearms Act 1996** insert—

"3A Declarations by the Chief Commissioner for the purposes of certain definitions

(1) The Chief Commissioner may, for the purposes of—

- (a) paragraph (f) of the definition of *category D longarm*; or
- (b) paragraph (c) of the definition of *category E handgun*; or
- (c) paragraph (f) of the definition of *category E longarm*—

in consultation with the Minister, by instrument, declare a firearm or type of firearm to be a category D longarm, a category E handgun or a category E longarm (as the case may be).

(2) The Chief Commissioner must cause a declaration made under subsection (1) to be published in the Government Gazette as soon as practicable after the declaration is made.

-
- (3) A declaration under subsection (1) remains in force for a period of 12 months from the day on which it is published unless it is revoked during that time by the Chief Commissioner.
 - (4) The Chief Commissioner must notify each person whom the Chief Commissioner is aware is in possession of a firearm to which a declaration under subsection (1) applies of the declaration.
 - (5) The Chief Commissioner must not make a declaration referred to in subsection (1) in respect of the same type of firearm more than once.
 - (6) If the Chief Commissioner makes a declaration under subsection (1) declaring a firearm or a type of firearm to be of a particular category and there is in force a regulation prescribing another category for the firearm or type of firearm—
 - (a) the declaration has effect despite the regulation; and
 - (b) the regulation is to be taken to have no force or effect for so long as the declaration is in force.
 - (7) In any proceeding for an offence under section 6(4), 6(5) or 7(2) in respect of a firearm that is declared to be a category D longarm, a category E handgun or a category E longarm, it is a defence to the charge if the person has not been notified by the Chief Commissioner of the declaration under subsection (4)."
-

5 Reasons for applying for longarm licence, category A or B

In section 10(2) of the **Firearms Act 1996**—

- (a) in paragraph (d)(i), after "**Private Security Act 2004**" **insert** "that authorises him or her to perform armed guard activities or cash-in-transit activities";
- (b) in paragraph (d)(ii), after "produce evidence that" **insert** "the applicant has a genuine need for the licence because".

6 Issue of handgun licences for general category handguns

(1) In section 15(1) of the **Firearms Act 1996**—

- (a) for "a general category handgun" **substitute** "general category handguns";
- (b) after paragraph (a) **insert**—
 - "(ab) for the carrying on of a private security business that provides the services of armed guard activities or cash-in-transit activities;"

(2) In section 15(2) of the **Firearms Act 1996**—

- (a) in paragraph (a)(i), after "**Private Security Act 2004**" **insert** "that authorises the applicant to perform armed guard activities or cash-in-transit activities";
- (b) in paragraph (a)(ii)—
 - (i) after "produce evidence that" **insert** "the applicant has a genuine need for the licence because";
 - (ii) for "handgun;" **substitute** "handgun; and";

(c) after paragraph (a)(ii) **insert**—

"(iii) in the case of a person who carries on a private security business that provides the services of armed guard activities or cash-in-transit activities, produce evidence that the applicant has a genuine need for the licence because the nature of the private security business the person carries on is such as to require the carriage and use of one or more general category handguns;"

(3) In section 15(4)(a) of the **Firearms Act 1996**, before "must not" **insert** "in the case of an employee of a private security business,".

(4) After section 15(4)(a) of the **Firearms Act 1996** **insert**—

"(ab) in the case of an operator of a private security business, must not issue the licence for more general category handguns than are, in the opinion of the Chief Commissioner, reasonably necessary for the operation of the business; and".

7 Conditions applying to handgun licences

For section 16(5)(c) of the **Firearms Act 1996** **substitute**—

"(c) for each specified class of handgun in which the holder possesses, carries or uses handguns in the whole or any part of the calendar year, at least 4 of the following—

(i) handgun target shoots; or

(ii) approved handgun target shooting matches; or

- (iii) a combination of handgun target shoots and handgun target shooting matches—
for that class of handgun that take place on at least 4 separate days; and".

8 General discretion of Chief Commissioner to refuse a longarm or handgun licence

After section 17(c) of the **Firearms Act 1996**
insert—

"(ca) if—

- (i) the applicant has surrendered a handgun licence; and
- (ii) the applicant has received compensation for the surrender of a handgun held under that licence; and
- (iii) the applicant does not require the licence for the reason set out in section 15(1)(a) or 15(1)(c)—

during a period of 5 years from the date of the surrender of the licence; or".

9 Issue of category 1 firearms collectors licences

In section 21(1) of the **Firearms Act 1996—**

- (a) in paragraph (b), for "—" **substitute** "; and";
- (b) after paragraph (b) **insert—**

"(c) handguns that have been manufactured before 1900, that use percussion as a means of ignition and that take cartridge ammunition that is commercially available; and

- (d) antique handguns (that are not single shot antique handguns)—".

10 Issue of category 2 firearms collectors licences

For section 21A(1) of the **Firearms Act 1996** substitute—

- "(1) The Chief Commissioner may licence a person to possess or carry—
- (a) longarms; and
 - (b) handguns that have been manufactured on or after 1 January 1947; and
 - (c) handguns that have been manufactured on or after 1 January 1900 but no later than 31 December 1946; and
 - (d) handguns that have been manufactured before 1900, that use percussion as a means of ignition and that take cartridge ammunition that is commercially available; and
 - (e) antique handguns (that are not single shot antique handguns)—
- for the purpose of collecting any such firearms."

11 Issue of antique handgun collectors licences

- (1) In section 21B(1) of the **Firearms Act 1996**, after "antique handguns" **insert** "(that are not single shot antique handguns)".
- (2) In section 21B(2)(a) of the **Firearms Act 1996** **omit** ", for at least 6 months,".

12 New section 32A inserted

After section 32 of the **Firearms Act 1996**
insert—

"32A Chief Commissioner may refuse to make a decision on an application for a licence

The Chief Commissioner may refuse to make a decision on an application for a licence under this Part if the applicant does not comply with any requirement of the Chief Commissioner under this Part in relation to the application within a reasonable time after the requirement being made."

13 New sections 33A, 33B and 33C inserted

After section 33 of the **Firearms Act 1996**
insert—

"33A Notice that licence may be refused

- (1) If the Chief Commissioner is proposing not to issue a licence under this Part for any reason other than that set out in subsection (2), the Chief Commissioner must, before deciding not to issue the licence, serve on the applicant a notice—
 - (a) specifying the reason why the Chief Commissioner is proposing not to issue the licence; and
 - (b) inviting the applicant to make a written submission in accordance with subsection (3).
- (2) If the Chief Commissioner is proposing not to issue a licence under this Part because he or she is satisfied that the applicant, a close associate of the applicant or, if the applicant is a body corporate, the nominated person or an officer of the body corporate, is a

prohibited person, the Chief Commissioner must serve on—

- (a) the applicant; and
- (b) any of the persons referred to in this subsection who the Chief Commissioner is satisfied is a prohibited person—

a notice specifying the reason why the licence is not to be issued.

- (3) An applicant who has been served with a notice under subsection (1) may, within 28 days after the day on which the applicant is served with the notice, make a submission to the Chief Commissioner concerning any reason that is specified in the notice.

33B Further consideration of application and convening of hearing

- (1) After receiving a submission within the time specified under section 33A(3), the Chief Commissioner may—
 - (a) further consider the application; or
 - (b) after giving notice to the applicant, convene a hearing to further consider the application.
- (2) An applicant may be represented at a hearing by any person the applicant chooses, but is not entitled to receive any costs in respect of a hearing.
- (3) The Chief Commissioner may arrange for an electronic recording of a hearing to be made.

-
- (4) The Chief Commissioner—
- (a) must retain any electronic recording of a hearing for a period of no less than 3 months from the date of the hearing; and
 - (b) may destroy the recording at the end of the period under paragraph (a).

33C Refusal of licence

The Chief Commissioner must not make a decision not to issue a licence under this Part unless the Chief Commissioner has—

- (a) considered any written submissions made by the applicant within the time specified in the notice under section 33A(1) for making such a submission; and
- (b) if a hearing is convened under section 33B, considered any oral submission made by the applicant at the hearing, if the applicant has indicated to the Chief Commissioner within any time specified in the notice under section 33B(1)(b) that he or she wishes to be heard at such a hearing."

14 Duration of licences

- (1) In section 39(1) of the **Firearms Act 1996**, after "that is specified in the licence" **insert** "unless it is sooner surrendered, suspended or cancelled".
- (2) In section 39(2) of the **Firearms Act 1996**, after "that is specified in the licence" **insert** "unless it is sooner surrendered, suspended or cancelled".
- (3) In section 39(3) of the **Firearms Act 1996**, after "(whichever is earlier)" **insert** "unless it is sooner surrendered, suspended or cancelled".

15 Immediate cancellation of a licence

In section 46(1) of the **Firearms Act 1996**, after "is a prohibited person" **insert** "(other than for the reason referred to in paragraph (c)(i) of the definition of *prohibited person*)".

16 New section 47A inserted

After section 47 of the **Firearms Act 1996** **insert**—

"47A Suspension of licence—certain prohibited persons

- (1) Immediately on becoming aware that the holder of a licence under this Part is a prohibited person for the reason referred to in paragraph (c)(i) of the definition of *prohibited person*, the Chief Commissioner must suspend the holder's licence.
- (2) If the holder of a licence that has been suspended under subsection (1) makes an application under section 189 within 3 months of the suspension, the suspension remains in force until the outcome of the application has been finally determined, or if the Chief Commissioner must cancel the licence under section 49(4), until the cancellation takes effect."

17 Power of Chief Commissioner to cancel licence under this Part

After section 49(3) of the **Firearms Act 1996** **insert**—

- "(4) The Chief Commissioner must cancel a licence that has been suspended under section 47A(1) on the expiry of 3 months after the suspension of the licence, unless the holder of the licence makes an application under section 189 for a declaration referred

to in subsection (1)(c) or (1)(d) of that section before the expiry of the 3 month period.

- (5) In the case of a person whose licence has been suspended and who makes an application under section 189, the Chief Commissioner must cancel the licence unless—
- (a) the court makes a declaration referred to in subsection (1)(c); or
 - (b) the court makes a declaration referred to in subsection (1)(d) deeming the holder of the licence to be a prohibited person for limited purposes and the purpose for which the person is deemed not to be a prohibited person is the purpose for which the licence is issued."

18 New section 52AA inserted

After section 52 of the **Firearms Act 1996** insert—

"52AA Chief Commissioner to notify approved handgun target shooting club or employer of certain events

- (1) If the Chief Commissioner cancels, suspends or suspends and subsequently decides not to cancel a licence under any of the following sections, the Chief Commissioner must, as soon as practicable after cancelling, suspending or deciding not to cancel a licence, give notice of the cancellation, suspension or subsequent decision not to cancel to any person, of whom the Chief Commissioner is aware, who employs the holder of the licence to perform duties for which the licence is required—

-
- (a) section 15(1)(a) or 15(1)(c); or
 - (b) section 10(1)(c), 10(1)(d) or 10(1)(e);
or
 - (c) section 10(1)(b) for the purpose set out
in section 10(2)(b)(iv).
- (2) If the Chief Commissioner cancels, suspends or suspends and subsequently decides not to cancel a licence under any of the following sections, the Chief Commissioner must, as soon as practicable after cancelling, suspending or deciding not to cancel a licence, give notice of the cancellation, suspension or subsequent decision not to cancel to each club of which the Chief Commissioner is aware that the holder of the licence is a member for purposes related to the reason for which he or she is the holder of the licence—
- (a) section 15(1)(b) or 15(1)(d); or
 - (b) section 10(1)(a); or
 - (c) section 10(1)(b) for the purpose set out
in section 10(2)(b)(ia); or
 - (d) section 18(1); or
 - (e) section 21(1), 21A(1), 21B(1) or
28(1)."

19 Surrender of handguns where certain conditions of category 1 or category 2 firearms collectors licence not complied with

After section 53B(3) of the **Firearms Act 1996**
insert—

- "(4) If a person has surrendered a handgun or ammunition under this section or if a handgun or ammunition has been seized from a person under this section, that person
-

must dispose of that handgun or ammunition to a licensed firearms dealer within 56 days of service of the notice from the Chief Commissioner under section 52B."

20 Disclosure of information

- (1) In section 54(2) of the **Firearms Act 1996**, for "Chief Commissioner on" **substitute** "Chief Commissioner in".
- (2) In section 54(3)(a) of the **Firearms Act 1996**, after "the person" **insert** "and the person who has given the instruction".
- (3) For section 54(4) of the **Firearms Act 1996** **substitute**—
 - "(4) As part of a notification under subsection (2), the Chief Commissioner may require the person giving the notification to make a declaration—
 - (a) that he or she has questioned the person as to whether or not the person is a prohibited person; and
 - (b) that he or she has questioned the person as to the number of occasions on which the person has received instruction in the use of a general category handgun; and
 - (c) that based on the answers he or she received in response to those questions, and on any other relevant facts available to him or her—
 - (i) whether or not he or she believes that the person is a prohibited person; and

(ii) the number of occasions on which he or she believes that the person has received instruction in the use of a general category handgun."

(4) After section 54(5) of the **Firearms Act 1996** insert—

"(6) A person who is questioned under subsection (4) must not knowingly or recklessly give false information in response to a question asked of him or her under that subsection.

Penalty: 120 penalty units or 2 years imprisonment."

21 Permits to display firearms or ammunition collections

After section 56(1) of the **Firearms Act 1996** insert—

"(1A) The Chief Commissioner must not grant a permit under subsection (1) to the holder of a firearms collectors licence to display firearms or cartridge ammunition at a premises, if an approved firearms collectors club has been granted a permit under section 56A(1) that specifies the premises and the licence holder's name."

22 New section 56A inserted

After section 56 of the **Firearms Act 1996** insert—

"56A Permits to display firearms or ammunition collections—Approved firearms collectors clubs

(1) The Chief Commissioner may grant a permit to an approved firearms collectors club that authorises each holder of a firearms collectors licence, whose name and licence number is specified in the permit, to display

-
- firearms and cartridge ammunition possessed or carried under his or her licence at the premises specified in the permit.
- (2) The Chief Commissioner may grant a permit under subsection (1), if the Chief Commissioner is satisfied that the arrangements made for the secure storage of the firearms and cartridge ammunition while on display are adequate.
- (3) A person who holds a firearms collectors licence and who displays firearms and cartridge ammunition at the premises specified in a permit granted under subsection (1) does not commit an offence under section 6, 7 or 8 or Part 6 when acting under or in accordance with the permit.
- (4) A permit authorises—
- (a) display of the firearms or cartridge ammunition at the premises specified in the permit and for the period specified in the permit; and
 - (b) carriage of the firearms or cartridge ammunition for the purposes of the display.
- (5) A permit to display firearms or cartridge ammunition at the premises specified in the licence is subject to the conditions fixed in the permit.
- (6) The Chief Commissioner may impose any conditions on the permit that the Chief Commissioner thinks fit.
- (7) The conditions that the Chief Commissioner may impose on the permit under this section may include conditions for or with respect to—
-

- (a) the circumstances in which the Chief Commissioner may cancel or suspend the permit and any other matters related to such cancellation or suspension; and
 - (b) the length or term of the permit and any related matters.
 - (8) An application for a permit must—
 - (a) be made in the manner and form approved by the Chief Commissioner; and
 - (b) be accompanied by the name and licence number of each holder of a firearms collectors licence who proposes to display firearms and cartridge ammunition at the premises specified in the permit.
 - (9) The applicant must pay the prescribed fee for such a permit.
 - (10) The holder of the permit must comply with the permit.

Penalty: 60 penalty units or 12 months imprisonment.
 - (11) A licence holder whose name is specified in the permit must comply with the permit.

Penalty: 60 penalty units or 12 months imprisonment.
 - (12) The holder of the permit must, before any firearms or cartridge ammunition are displayed under the permit, notify in writing each licence holder whose name is specified in the permit of the conditions to which the permit is subject (if any).

Penalty: 60 penalty units or 12 months imprisonment."
-

23 Permits to carry or use firearms held under a collectors licence

After section 58(1) of the **Firearms Act 1996** substitute—

- "(1A) The Chief Commissioner must not grant a permit under subsection (1) to the holder of a firearms collectors licence to carry or use a category A, B or C longarm or a general category handgun held under the licence at a commemorative or historical event if an approved firearms collectors club has been granted a permit under section 58AAA(1) for the commemorative or historical event to be specified in the permit which specifies the licence holder's name."

24 New section 58AAA inserted

After section 58 of the **Firearms Act 1996** insert—

"58AAA Permits to carry or use firearms held under a collectors licence—approved firearms collectors clubs

- (1) The Chief Commissioner may grant a permit to an approved firearms collectors club that authorises each holder of a firearms collectors licence, whose name and licence number is specified in the permit, to carry or use any firearm possessed or carried under his or her firearms collectors licence at a commemorative or historical event approved by the Chief Commissioner and held at an approved shooting range.
 - (2) A person who is the holder of a firearms collectors licence and who carries or uses any firearm held under a firearms collectors licence at a commemorative or historical event in respect of which a permit has been
-

granted under subsection (1), does not commit an offence under section 6 or 7 when acting under and in accordance with the permit.

- (3) The Chief Commissioner may impose any conditions on the permit that the Chief Commissioner thinks fit.
- (4) The conditions that the Chief Commissioner may impose on the permit under this section may include conditions for or with respect to—
 - (a) the circumstances in which the Chief Commissioner may cancel or suspend the permit and any other matters related to such cancellation or suspension; and
 - (b) the length or term of the permit and any related matters.
- (5) An application for a permit must—
 - (a) be made in the manner and form approved by the Chief Commissioner; and
 - (b) be accompanied by the name and licence number of each holder of a firearms collectors licence who proposes to carry or use any firearm held under his or her licence at a commemorative or historical event specified in the permit.
- (6) The applicant must pay the prescribed fee for such a permit.
- (7) The holder of the permit must comply with the permit.

Penalty: 120 penalty units or 2 years imprisonment.

- (8) A licence holder whose name is specified in the permit must comply with the permit.

Penalty: 120 penalty units or 2 years imprisonment.

- (9) The holder of the permit must, before the commemorative or historical event in respect of which the permit is issued, notify in writing each licence holder whose name is specified in the permit of the conditions to which the permit is subject (if any).

Penalty: 60 penalty units or 12 months imprisonment."

25 Requirement to keep register of transactions

- (1) In section 87(1)(b) of the **Firearms Act 1996**, after "disposed of" **insert** ", hired or loaned".

- (2) After section 87(5) of the **Firearms Act 1996** **insert**—

"(6) A person whose dealers licence has expired or has been suspended or cancelled must—

- (a) keep the register of transactions in which he or she has kept his or her transactions for a period of 5 years after the last entry has been made in the register; or
- (b) surrender the register of transactions kept by him or her to the Chief Commissioner of Police at any time during the period of 5 years after his or her licence expired or was suspended or cancelled.

Penalty: 30 penalty units."

26 Power to inspect register and stock

At the end of section 89 of the **Firearms Act 1996 insert—**

"(2) A member of the police force may inspect the register of transactions kept by a person under section 87(6) at any reasonable time."

27 New section 100A inserted

After section 100 of the **Firearms Act 1996 insert—**

"100A Hiring and loaning of firearms by licensed firearms dealers

A licensed firearms dealer must not hire or loan a firearm to a person unless—

- (a) the person is the holder of a licence that authorises the person to possess, carry or use the type of firearm sought to be hired or loaned; and
- (b) 28 days or more have expired since the issue of the licence referred to in paragraph (a); and
- (c) the person possesses a registered firearm under the licence, that has been acquired before the hiring or loan takes place.

Penalty: 120 penalty units or 2 years imprisonment."

28 Application for a permit to acquire

After section 106(1) of the **Firearms Act 1996 insert—**

"(1A) An application must specify the address where it is proposed that the firearm will ordinarily be stored."

29 Keeping of register

- (1) In section 113(3) of the **Firearms Act 1996**, after "firearms register" **insert** "(to the extent that the particulars are known to the Chief Commissioner)".
- (2) After section 113(3)(c) of the **Firearms Act 1996** **insert**—
 - "(ca) the address at which the firearm is ordinarily stored; and".

30 Certificate of registration

At the end of section 117 of the **Firearms Act 1996** **insert**—

- "(2) Despite subsection (1), the Chief Commissioner is not required to issue a certificate of registration in respect of a firearm if the Chief Commissioner is not aware of the person who possesses the firearm or of the licence particulars of the person who possesses the firearm."

31 Power of Chief Commissioner to require information

For section 119(1) of the **Firearms Act 1996** **substitute**—

- (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, possession, hiring or loaning of—
 - (a) firearms, firearm parts, silencers or prescribed items under the licence that are specified in the notice; or

- (b) firearms, firearms parts, silencers or prescribed items that have been manufactured by the holder of the licence."

32 Approved handgun target shooting clubs—Record keeping requirements

In section 123B(3) of the **Firearms Act 1996**—

- (a) in paragraph (d), for "time." **substitute** "time; and";
- (b) after paragraph (d) **insert**—
 - "(e) kept in an accurate and legible manner; and
 - (f) made as soon as reasonably practicable after—
 - (i) the approved handgun target shooting match or handgun target shoot to which the record relates takes places; or
 - (ii) the application to which the record relates is made."

33 Approved handgun target shooting clubs—Requirements as to members

- (1) In sections 123D(1) and 123D(1A) of the **Firearms Act 1996**, after "handgun target shooting match" **insert** "or handgun target shoot".
- (2) In section 123D(4) of the **Firearms Act 1996**—
 - (a) in paragraph (b), for "so." **substitute** "so; and";
 - (b) after paragraph (b) **insert**—
 - "(c) of the name of any person who has surrendered his or her membership or who has had his or her membership suspended or cancelled, within 7 days

of that surrender, suspension or
cancellation."

**34 Approved firearms collectors clubs—Requirements
as to members and former members**

- (1) In the heading to section 123L of the **Firearms Act 1996**, after "as to members" insert "and former members".
- (2) After section 123L(1) of the **Firearms Act 1996** insert—

"(1A) An approved firearms collectors club must notify the Chief Commissioner of the name of any person who has surrendered his or her membership or who has had his or her membership suspended or cancelled, within 7 days of that surrender, suspension or cancellation."

35 Offence to possess, carry or use a firearm on private property without consent

After section 131(3) of the **Firearms Act 1996** insert—

- "(4) Despite subsection (1), a person—
- (a) who is possessing or carrying a firearm under a licence under this Act; and
 - (b) who is crossing Crown land over which there is a licence, for the purpose of hunting in accordance with the **Wildlife Act 1975** on land that can only be accessed by passage over the Crown land—

is not required to obtain the consent of the holder of the licence over the Crown land."

36 Certain offences as to firearms, firearm parts, silencers and prescribed items

- (1) **Insert** the following heading to section 134 of the **Firearms Act 1996**—

"Certain offences as to firearms, firearm parts, silencers and prescribed items".

- (2) After section 134(3) of the **Firearms Act 1996** **insert**—

"(4) A person must not destroy, or render inoperable, a firearm, firearm part, silencer or prescribed item unless that person does so in a manner approved by the Chief Commissioner.

Penalty: 240 penalty units or 4 years imprisonment."

37 Requirement to obtain consent of Chief Commissioner to certain alterations of firearms

At the end of section 134A of the **Firearms Act 1996** **insert**—

"(2) A person must not increase the magazine capacity of a firearm if the increase in the magazine capacity would cause the firearm to become a different category of firearm unless, before doing so, the person obtains the consent of the Chief Commissioner.

Penalty: 60 penalty units."

38 New section 134AB inserted

After section 134A of the **Firearms Act 1996**
insert—

**"134AB Offence to possess or carry certain parts
without the consent of the Chief
Commissioner**

A person must not possess or carry a part of a firearm that is capable of being used to alter the category of a firearm in the person's possession, carriage or use so that the firearm becomes a different category of firearm to that which the person is authorised to possess, carry or use under his or her licence—

- (a) without lawful excuse; or
- (b) unless before doing so, the person obtains the consent of the Chief Commissioner.

Penalty: 30 penalty units."

39 Section 139 substituted

For section 139 of the **Firearms Act 1996**
substitute—

"139 Notification of change of certain details

The holder of a licence or permit under this Act must notify the Chief Commissioner in writing of any change to the following details—

- (a) the address which appears on the licence or permit; and
- (b) the holder's permanent place of residence; and
- (c) the holder's postal address; and

- (d) the address where any firearm held under the licence is ordinarily stored; and
- (e) if the holder is a licensed firearms dealer, the address where he or she carries on the business to which the licence relates—

within 14 days after the change occurs.

Penalty: 30 penalty units."

40 Making false or misleading statements or using false or misleading information

After section 140A(2) of the **Firearms Act 1996** insert—

- "(3) A person must not knowingly or recklessly make a statement in support of the application of another person under this Act which is false or misleading in any material particular.

Penalty: 240 penalty units or 4 years imprisonment."

41 Search of persons or vehicles

In section 149(1), (2) and (4) of the **Firearms Act 1996**, for "firearm or cartridge ammunition" (wherever occurring) substitute "firearm, cartridge ammunition, silencer or prescribed item".

42 Powers of court to order forfeiture of firearms, cartridge ammunition, silencers or prescribed items

- (1) Insert the following heading to section 151 of the **Firearms Act 1996**—

"Powers of court to order forfeiture of firearms, cartridge ammunition, silencers or prescribed items".

-
- (2) In section 151(1) of the **Firearms Act 1996**, for "firearm and cartridge ammunition" **substitute** "firearm, cartridge ammunition, silencer or prescribed item".
- (3) In section 151(2) of the **Firearms Act 1996**, for "firearm" **substitute** "firearm, cartridge ammunition, silencer or prescribed item".

43 Power of court to make an order with respect to the disposal of a firearm, cartridge ammunition, silencer or prescribed item

- (1) **Insert** the following heading to section 153 of the **Firearms Act 1996**—

"Power of court to make an order with respect to the disposal of a firearm, cartridge ammunition, silencer or prescribed item".

- (2) In section 153 of the **Firearms Act 1996**, for "firearm or cartridge ammunition" (wherever occurring) **substitute** "firearm, cartridge ammunition, silencer or prescribed item".

44 Authorised officers under the Conservation, Forests and Lands Act 1987 to exercise powers under this Act

In sections 153A(1)(a) and (1)(e) and 153A(1B) of the **Firearms Act 1996**, for "firearm or cartridge ammunition" **substitute** "firearm, cartridge ammunition, silencer or prescribed item".

45 Annual reports

In section 153C(1)(b) and 2(b) of the **Firearms Act 1996**, for "firearms and cartridge ammunition" **substitute** "firearms, cartridge ammunition, silencers and prescribed items".

46 New section 175 inserted

Before section 176 of the **Firearms Act 1996**
insert—

"175 Service of notices

- (1) If by or under this Act the Chief Commissioner serves a notice by post, the notice must be served on the person to be served by sending it by post addressed to the person at the person's last place of residence or business known to the Chief Commissioner.
- (2) Subject to any evidence to the contrary and despite anything to the contrary in section 49 of the **Interpretation of Legislation Act 1984**, a notice served by post in accordance with subsection (1) is deemed to be served 21 days after the date of the notice.
- (3) For the purposes of subsection (2), evidence to the contrary includes but is not limited to evidence that the person to be served had notified the Chief Commissioner of any change to his or her place of residence or business before the date of the notice."

47 Deceased estates

- (1) For section 180(1) of the **Firearms Act 1996**
substitute—

"(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 the executor or administrator, for a period of 6 months after the death of the person, retains possession of the firearm, carries the firearm and for the purpose of disposing of the firearm—

-
- (a) stores the firearm in accordance with Part 6; or
 - (b) arranges for a licensed firearms dealer to store the firearm on his or her behalf; or
 - (c) arranges for a holder of a licence under Part 2 whose licence permits the possession, carriage or use of that type of firearm to store the firearm on his or her behalf."
- (2) In section 180(2) of the **Firearms Act 1996**, after "who possessed the firearm" **insert** "as soon as practicable after becoming aware of the person's death".

48 Disclosure of information

After section 181(2)(b) of the **Firearms Act 1996** **insert**—

- "(ba) any approved handgun target shooting club or approved firearms collectors club (as the case requires) of which the applicant has been a member at any time during the 12 months immediately before the application was made;"

49 Interstate licence holders—temporary visitors

(1) After section 185(1) of the **Firearms Act 1996** **insert**—

- "(1AA) For the purposes of subsection (1), taking part in a shooting competition includes taking part in the competition as an instructor, referee, supervisor, competition judge or range officer."

(2) After section 185(3) of the **Firearms Act 1996**
insert—

"(4) A person who—

(a) is the holder of a licence or permit in another State or a Territory which authorises the possession, carriage or use of a paintball marker for the reason of participating in paintball gaming activities; 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 reason of participating in paintball gaming activities in accordance with this Act.

(5) A person who—

(a) is the holder of a licence or permit in another State or Territory which authorises the person to possess, carry or use a general category handgun for the occupation of security guard; 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 acting as a security guard on a temporary basis in accordance with this Act."

50 Interstate licence holders—permanent residents

After section 187(2) of the **Firearms Act 1996**
insert—

"(3) A person who—

- (a) is the holder of a licence or permit in another State or Territory which corresponds with a paintball marker 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 paintball marker licence; and
- (d) authorised under that licence to possess, carry or use a paintball marker."

51 Indictable offences

In section 189A of the **Firearms Act 1996**—

- (a) after "121(3)," **insert** "121(3A),";
- (b) after "127A(1)," **insert** "129A,";
- (c) for "138 and 140A(2)" **substitute** "138, 140A(1), (2) and (3)".

52 Transitional provision—handgun security guard licence

- (1) In sections 210(1)(c) and 210(2)(c) of the **Firearms Act 1996**, after "under the licence" **insert** "that is not restricted ammunition to which paragraph (a) of the definition of *restricted ammunition* applies, which is possessed, carried or used in the course of training as a security guard".

- (2) In section 210(3)(c) of the **Firearms Act 1996**, after "under the licence" **insert** "in the circumstances in which authority is required under subsection (1) or (2)".

53 New section 211 inserted

After section 210 of the **Firearms Act 1996**
insert—

**"211 Transitional provisions—Firearms
Amendment Act 2007**

- (1) The amendment made to this Act by section 7 of the **Firearms Amendment Act 2007** applies to any handgun licence that was in force immediately before the commencement of that section.
- (2) The amendments made to this Act by sections 5(b), 6(2)(b) and (c), 12 and 13 of the **Firearms Amendment Act 2007** apply to any application for a licence under Part 2 that was made, but not finally decided, before the commencement of that section.
- (3) The amendments made to this Act by section 14 of the **Firearms Amendment Act 2007** apply to a licence under Part 2 that was in force immediately before the commencement of that section.
- (4) The amendment made to this Act by section 28 of the **Firearms Amendment Act 2007** does not apply to applications made before the commencement of that section.
- (5) Subject to subsection (6), the amendments made to this Act by section 9, 10 or 11(1) of the **Firearms Amendment Act 2007** are not to be taken to affect a licence issued under section 21, 21A or 21B and in force immediately before the commencement of

-
- section 9, 10 or 11(1) of the **Firearms Amendment Act 2007** (as the case requires).
- (6) A licence issued under section 21B that authorises the possession or carriage of firearms that—
- (a) were manufactured before 1 January 1900; and
 - (b) that use percussion as a means of ignition; and
 - (c) that take cartridge ammunition that is commercially available—
- and in force immediately before the commencement of section 3(1)(b) of the **Firearms Amendment Act 2007**, is to be taken to continue in force as if section 3(1)(b) had not been enacted, unless the licence sooner expires or is sooner cancelled or surrendered.
- (7) The amendments made—
- (a) to this Act by sections 51(a) and 51(b) of the **Firearms Amendment Act 2007**; and
 - (b) to Schedule 4 of the **Magistrates' Court Act 1989** by sections 59(1) and 59(2) of the **Firearms Amendment Act 2007**—
- apply only to offences alleged to have been committed on or after the commencement of those sections.
- (8) For the purposes of subsection (7), if an offence is alleged to have been committed between two dates, one before and one after the commencement of sections 51(a), 51(b), 59(1) and 59(2) of the **Firearms Amendment Act 2007**, the offence is
-

alleged to have been committed before the commencement of those sections."

54 Schedule 1 amended

After condition 3 in Schedule 1 to the **Firearms Act 1996 insert—**

"4 The holder of the licence must notify the Chief Commissioner of any change to the reason for which the holder's licence was issued within 7 days of becoming aware of the change."

55 Schedule 2 amended

(1) In item 1(5A)(a) of Schedule 2 to the **Firearms Act 1996 omit** "or an approved location of a paintball activity".

(2) After item 3 of Schedule 2 to the **Firearms Act 1996 insert—**

"3A Handgun licences for general category handguns—operators of private security businesses

If the holder of a licence is authorised to carry or use one or more firearms for the purposes of operating a private security business, that holder must ensure that each firearm is registered to the holder's name."

(3) In item 5(12) of Schedule 2 to the **Firearms Act 1996**, for "5(5) and (6)" **substitute** "5(7) and (8)".

56 Schedule 4 amended

(1) For items 1(2) and 2(2) of Schedule 4 to the **Firearms Act 1996 substitute—**

"(2) If more than 15 firearms are stored on the premises where the firearm is stored, the premises must be fitted with an intruder alarm system—

-
- (a) the installation, maintenance and operation of which complies with Australian Standard 2201.1:2007 (as amended from time to time); and
- (b) which, in the event of an intrusion, activates an audible alarm warning device and an external visible alarm warning light."
- (2) After items 1(3) and 2(3) of Schedule 4 to the **Firearms Act 1996** insert—
- "(4) Subject to section 121, a firearm that is possessed, carried or used by a holder of a handgun security guard licence who is employed as a security guard must be stored by the person who employs the holder of the licence as a security guard at premises belonging to, or occupied by, the employer."
- (3) In item 3(2) of Schedule 4 to the **Firearms Act 1996**, for "the premises must be fitted with an effective alarm system of a class approved by the Chief Commissioner" **substitute**—
- "the premises must be fitted with an intruder alarm system—
- (c) the installation, maintenance and operation of which complies with Australian Standard 2201.1:2007 (as amended from time to time); and
- (d) which, in the event of an intrusion, activates an audible alarm warning device and an external visible alarm warning light."
-

PART 3—AMENDMENT OF OTHER ACTS

See:
Act No.
6231.
Reprint No. 19
as at
1 December
2006
and
amended by
Act Nos
16/2004,
97/2005,
23/2006,
48/2006,
50/2006 and
32/2007.
LawToday:
www.
legislation.
vic.gov.au

57 Crimes Act 1958

For section 31A(1) of the **Crimes Act 1958**
substitute—

"(1) A person who is found guilty of an indictable
offence and who carried—

(a) a firearm (within the meaning of the
Firearms Act 1996); or

(b) an imitation firearm (within the
meaning of section 29(3)(b))—

when committing the offence is guilty of a
further offence and is liable to level 6
imprisonment (5 years maximum).".

See:
Act No.
78/2005 as
amended by
Act No.
49/2006.
Statute Book:
www.
legislation.
vic.gov.au

58 Firearms (Further Amendment) Act 2005

In section 65 of the **Firearms (Further
Amendment) Act 2005**, after proposed section
57A(1) **insert—**

"(1A) Subsection (1) does not apply to the holder
of a handgun security guard licence who
possesses, carries or uses restricted
ammunition that is not factory manufactured
for a handgun which he or she possesses,
carries or uses under the licence, in the
course of training as a security guard.".

59 Magistrates' Court Act 1989

- (1) In clause 49Q of Schedule 4 to the **Magistrates' Court Act 1989**, after "121(3)" **insert** "and (3A)".
 - (2) After clause 49UA of Schedule 4 to the **Magistrates' Court Act 1989** **insert**—
"49UAB Offence for unlicensed person to store in an insecure manner
Offences under section 129A of the **Firearms Act 1996**".
 - (3) In clause 49ZB of Schedule 4 to the **Magistrates' Court Act 1989**, for "140A(2)" **substitute** "140A(1), (2) or (3)".
-

See:
Act No.
51/1989.
Reprint No. 13
as at
15 August
2007
and
amending
Act Nos
77/2004,
62/2005,
51/2006 and
36/2007.
LawToday:
www.
legislation.
vic.gov.au

s. 60

PART 4—REPEAL OF AMENDING ACT

60 Repeal of Act

This Act is **repealed** on 1 January 2009.

ENDNOTES

† *Minister's second reading speech—*

Legislative Assembly: 22 August 2007

Legislative Council: 20 September 2007

The long title for the Bill for this Act was "A Bill for an Act to amend the **Firearms Act 1996** to make further provision for the regulation of firearms in Victoria, to amend the **Crimes Act 1958** to make further provision regarding the use of firearms in the commission of offences and to amend the **Magistrates' Court Act 1989** to enable certain indictable offences under the **Firearms Act 1996** to be heard and determined summarily and for other purposes."