

FIREARMS ACT 1989—REGULATION

(Relating to matters arising from the enactment of the Firearms Legislation
(Amendment) Act 1992 and miscellaneous matters)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council,
and in pursuance of the Firearms Act 1989, has been pleased to make the
Regulation set forth hereunder.

ROBERT WEBSTER
Minister for Police and Emergency Services.

Commencement

1. This Regulation commences on 1 May 1992.

Amendment of the Firearms Regulation 1990

2. The Firearms Regulation 1990 is amended:
 - (a) by omitting from clause 3 (2) (b) the word “Commissioner” and by inserting instead the word “Minister”;
 - (b) by inserting before clause 4 the following clause:

Apprehended violence orders and interim apprehended violence orders of other jurisdictions

3A. (1) For the purposes of the definition of “apprehended violence order” in section 3 (1) of the Act, the following orders are prescribed:

- (a) a protection order under the Domestic Violence (Family Protection) Act 1989 of the State of Queensland;
- (b) an order under section 99 of the Justices Act 1921 of the State of South Australia;
- (c) a restraint order made under section 106B of the Justices Act 1959 of the State of Tasmania;

- (d) an intervention order under the Crimes (Family Violence) Act 1987 of the State of Victoria;
- (e) an order under section 172 of the Justices Act 1902 of the State of Western Australia;
- (f) a protection order under the Domestic Violence Act 1986 of the Australian Capital Territory;
- (g) an order under Division 8 of Part IV of the Justices Act of the Northern Territory.

(2) For the purposes of the definition of “interim apprehended violence order” in section 3 (1) of the Act, the following orders are prescribed:

- (a) an interim protection order under the Domestic Violence (Family Protection) Act 1989 of the State of Queensland;
 - (b) an interim restraint order made under section 106D of the Justices Act 1959 of the State of Tasmania;
 - (c) an interim intervention order under the Crimes (Family Violence) Act 1987 of the State of Victoria;
 - (d) an interim protection order under the Domestic Violence Act 1986 of the Australian Capital Territory.
- (c) by omitting from clauses 9 and 10 the words “Principal Manager” wherever occurring and by inserting instead the word “Director”;
 - (d) by omitting from clauses 9 and 10 the words “Police Department” wherever occurring and by inserting instead the words “Police Service”;
 - (e) by inserting after clause 19 the following clause:

Identification of applicant

19A. An application by a person (other than a minor) for his or her first licence or permit is not to be granted unless the person produces evidence approved by the Commissioner to establish his or her identity.

- (f) by omitting clause 20 and by inserting instead the following clause:

“Cooling-off” period

20. (1) For the purposes of section 24 (2) of the Act, the prescribed period is:

- (a) in the case of an application by a person for his or her first licence—28 days after the day on which the application for the licence is lodged; and

- (b) in any other case—5 days after the day on which the application for the licence is lodged.
- (2) The following applications are taken to be applications to which subclause (1) (b) applies:
 - (a) an application referred to in clause 17 (2) of Schedule 1 to the Act;
 - (b) an application by the holder of a licence to which clause 100 applies for a licence of the corresponding type.
- (g) by omitting from clause 22 (4) the words “on or after 1 January 1991”;
- (h) by omitting from clause 22 (4) the words “by the Commissioner”;
- (i) by inserting after clause 22 the following clause:

Restrictions on issue of shooter licences—genuine reason

22A. (1) For the purposes of section 26 (2) of the Act, an applicant for a shooter licence—class 1 has a genuine reason for possessing and using a firearm if the applicant states that he or she intends to possess and use the firearm for any of the reasons set out in Column 1 of the Table to this clause.

(2) For the purposes of section 26 (2) of the Act, an applicant for a shooter licence—class 2 has a genuine reason for possessing and using a firearm if the applicant states that he or she intends to possess and use the firearm for any of the reasons set out in Column 1 of the Table to this clause and is able to produce evidence to the Commissioner that he or she satisfies the requirements set out opposite the reason in Column 2 of the Table.

(3) For the purposes of section 26 (2) of the Act, an applicant does not have a genuine reason for possessing and using a firearm if the applicant intends to possess and use the firearm for any of the following reasons:

- (a) his or her personal protection or the protection of members of his or her family;
- (b) the protection of property (other than in circumstances which constitute a genuine reason under subclause (1) or (2) for possessing and using the firearm).

(4) Subclause (3) does not exhaust the reasons which the Commissioner may be satisfied are not genuine reasons for the purposes of section 26 (2) of the Act.

TABLE

Column 1		Column 2
No.	Reason	Requirements
1.	Primary production	<p>The applicant must:</p> <ul style="list-style-type: none"> (a) be a person whose principal or only occupation is the business of a primary producer; and (b) be the owner, lessee or manager of land used for primary production; and (c) state that he or she intends to use the firearm solely in connection with farming or grazing activities.
2.	Business or employment	<p>The applicant must demonstrate that it is necessary in the conduct of the applicant's business or employment to possess and use the firearm for which the licence is sought.</p>
3.	Sport/target shooting	<p>The applicant must be a current member of a shooting organisation which is affiliated with the New South Wales Shooting Association Limited, or any other shooting organisation approved by the Commissioner, and which conducts competitions or activities requiring the use of the firearm for which the licence is sought.</p>
4.	Hunting	<p>The applicant must:</p> <ul style="list-style-type: none"> (a) satisfy the requirements of this Table relating to vermin control; or (b) be a current member of a hunting club approved by the Commissioner which is affiliated with the New South Wales Shooting Association Limited or any other shooting organisation approved by the Commissioner.

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Column 1		Column 2
No.	Reason	Requirements
5.	Collecting firearms	The applicant must be a current member with not less than 12 months membership of a collectors society approved by the Commissioner, the members of which collect firearms of the kind for which the licence is sought.
6.	Retaining a firearm that is a family heirloom	The applicant must furnish a statutory declaration stating the grounds on which the firearm is claimed to be a family heirloom.
7.	Vermin control	The applicant must produce a document from the owner or occupier of rural land or an officer of the National Parks and Wildlife Service, the Department of Lands, the Forestry Commission or the Western Lands Commission giving permission to shoot on land specified in the letter and describing the type of vermin to be shot.
8.	Animal population control	The applicant must be: <ul style="list-style-type: none"> (a) a person employed by or within, or authorised by, the Department of Agriculture, a Rural Lands Protection Board, the Wild Dog Destruction Board, the National Parks and Wildlife Service or the Forestry Commission or another body which has duties requiring vertebrate pest animal control; or (b) an occupier of rural land who requires a firearm of the kind for which the licence is sought to destroy or suppress vertebrate pest animals on the land.

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	Column 1	Column 2
No.	Reason	Requirements
9.	Animal welfare	<p>The applicant must be:</p> <p>(a) an officer of the R.S.P.C.A. or the Animal Welfare League who is a special constable; or</p> <p>(b) a veterinary surgeon within the meaning of the Veterinary Surgeons Act 1923; or</p> <p>(c) a person employed by or within the Department of Agriculture or a Rural Lands Protection Board with responsibilities for animal welfare: or</p> <p>(d) an owner, transporter, drover or another handler of animals who may need to destroy animals to avoid suffering.</p>

(i) by inserting before clause 23 the following clause:

Photographs on certain licences and permits

22B. (1) A licence or permit which confers authority only on the person to whom the licence or permit is issued must contain a photograph of the person.

(2) The photograph is to be obtained in accordance with arrangements approved by the Minister.

(3) Because of the requirements of section 26A of the Act, this clause does not apply to a shooter licence—class 1 or a shooter licence—class 2.

(k) by inserting after clause 27 (1) the following subclause:

(IA) The Commissioner must revoke a licence or permit issued to a person who, when making the application for the licence or permit, satisfied the Commissioner that he or she had a genuine reason for possessing and using the firearm concerned if the Commissioner is satisfied that the person no longer has a genuine reason.

(l) by inserting at the end of clause 41 the following subclause:

(2) The Commissioner is not to issue a business pistol licence unless the applicant holds a Class 2 licence under the Security (Protection) Industry Act 1985 and is able to produce evidence satisfactory to the Commissioner that it is necessary for the applicant, as a security guard (within the meaning of clause 71 (l)), or for persons employed by the applicant as such security guards, to be armed in connection with his, her or their employment.

- (m) by omitting from clause 44 the words “a business pistol licence,”;
(n) by inserting after clause 44 the following clause:

Safe carriage and storage of pistols, keeping of records etc.

44A. Clauses 73–77 apply to:

- (a) a person who carries a pistol the subject of a business pistol licence or government pistol licence in the same way as they apply to a security guard: and
(b) the holder of a business pistol licence or government pistol licence in the same way as they apply to the employer of security guards.

- (o) by omitting clause 49 (4);
(p) by inserting after clause 49 the following clause:

Exemption relating to junior target pistol shooters

49A. A person under the age of 18 years is exempt from the requirement made by section 5 of the Act to be authorised by a licence to possess or use a pistol if the person does so:

- (a) while participating in pistol target shooting at an approved pistol shooting range under the supervision of an adult member of a pistol club who is authorised to possess and use the pistol; and
(b) while complying with any conditions of the licence applicable to the pistol.

- (q) by inserting after clause 59 the following clause:

Militaria and arms fair permit

59A. (1) The holder of a firearms dealer licence may apply for a permit to use specified premises for the purposes of a militaria and arms fair.

(2) In considering whether or not premises are suitable for a militaria and arms fair, the Commissioner is required to have regard to the matters specified in clause 32 (2).

(3) The Commissioner is required to impose conditions on the permit specifying:

- (a) the premises in respect of which the permit is issued; and
- (b) the time at which the authority of the permit commences and the time at which it ends.

(4) A militaria and arms fair permit authorises its holder to conduct a militaria and arms fair in accordance with the authority under the holder's firearms dealer licence at the premises in respect of which the permit is issued, between the times specified in the permit and subject to any other conditions imposed on the permit.

- (r) by omitting from clause 66 (3) (b) the words "the standards set" and by inserting instead the words "the standards accepted by";
- (s) by omitting from clauses 74 and 75 the words "20 penalty units" wherever occurring and by inserting instead the words "50 penalty units";
- (t) by omitting clause 78 (5) and by inserting instead the following subclause:

(5) A person:

- (a) whose principal or only occupation is the business of a primary producer; and
- (b) who is the owner, lessee or manager of land used for primary production,

is exempt from the requirement to pay a fee for a shooter licence—class 1 or a shooter licence—class 2 if the person states that he or she intends to use the firearm for which the licence is sought solely in connection with farming or grazing activities.

- (u) by omitting clause 79 (1) and by inserting instead the following subclauses:

(1) The Minister may approve firearms safety awareness courses.

(1A) The Commissioner may approve persons to be instructors for those courses.

- (v) by omitting clause 79 (3);
- (w) by omitting from clause 87 (1) (b) the word "registered" and by inserting instead the word "security";
- (x) by inserting in clause 93 (a) before the word "Victoria" the word "Queensland,";
- (y) by omitting from clause 93 the words "if the person is the holder of a current shooter's licence (or an instrument conferring equivalent authority)" and by inserting instead the words "—class 1 or a current shooter licence—class 2 if the person is the holder

of a current licence or instrument conferring equivalent authority”:

- (z) by omitting clause 94;
- (aa) by inserting at the end of clause 96 the following subclause:
 - (2) The holder of a permit of a kind referred to in clause 7 (2) of the Prohibited Weapons Regulation 1990 is exempt from any requirement to be authorised by a licence under the Act to buy, possess, use or sell, or to give possession to another person of, or to buy or sell firearm ammunition in relation to, a firearm that could, apart from the exemption, be possessed and used only under the authority of a shooter licence—class 1 or a shooter licence—class 2.
- (ab) by inserting after clause 96 the following clause:

Exemption relating to student police officers

96A. A person is not guilty of an offence against the Act or this Regulation only because of something done by the person while acting in the ordinary course of the person’s duties as a student police officer enrolled in the New South Wales Police Academy.

- (ac) by omitting from clause 97 (b) the words “a shooter licence” and by inserting instead the words “a shooter licence—class 1 or a shooter licence—class 2”;
- (ad) by omitting clause 99 and by inserting instead:

Transitional arrangements for certain licences

99. (1) A licence of a class set out in Column 1 of Schedule 2 to this Regulation (being a licence in force immediately before the repeal of that Schedule by the Firearms Legislation (Amendment) Act 1992) is taken to be a licence of the corresponding type set out in the Table to section 21 of the Act (as substituted by the Firearms Legislation (Amendment) Act 1992).

(2) The authority of such a licence continues until the expiration of the term specified in the licence, unless the licence is earlier surrendered or revoked or otherwise ceases to be in force.

(3) Because the Firearms Legislation (Amendment) Act 1992 abolishes a personal pistol licence and makes provision in Part 3 of Schedule 1 for the continuance of shooter licences, this clause does not apply to a personal pistol licence or a shooter licence.

Persons excluded from the concession granted to certain primary producers

100. The following persons are excluded from the application of clause 17 of Schedule 1 to the Act:

- (a) a person who is an employee of a primary producer and is not the manager of the land used by the primary producer for primary production;
- (b) a person who is a dependant of:
 - (i) a primary producer; or
 - (ii) an employee (including the manager) of a primary producer.

Temporary permits for firearms which have become prohibited weapons—genuine reasons

101. (1) For the purposes of clause 18 of Schedule 1 to the Act, an applicant for a permit under that clause has a genuine reason for possessing and using a firearm if the applicant intends to possess and use the firearm for any of the reasons set out in Column 1 of the Table to this clause and is able to produce evidence to the Commissioner that he or she satisfies the requirements set out opposite the reason in Column 2 of the Table.

(2) An applicant for such a permit whose reason for possessing and using the firearm is animal population control and who produces a document from the owner or occupier of rural land must specify, in the application, the serial number of the firearm.

(3) It is a condition of a permit issued to an applicant referred to in subclause (2) that:

- (a) the body of the firearm must be securely stored on the rural land concerned when not in use; and
- (b) before storage, the firing mechanism must be removed by the applicant and retained by the applicant during storage; and
- (c) the magazine must be permanently modified so as to hold 5 rounds or less.

TABLE

Column 1		Column 2
No.	Reason	Requirements
1.	Primary production	<p>The applicant must:</p> <ul style="list-style-type: none"> (a) be a person whose principal or only occupation is the business of a primary producer; and (b) be the owner, lessee or manager of land used for primary production; and (c) state that he or she intends to use the firearm solely in connection with fanning or grazing activities.
2.	Business or employment	<p>The applicant must demonstrate that it is necessary in the conduct of the applicant's business or employment to possess and use the firearm for which the permit is sought.</p>
3.	Sport/target shooting	<p>The applicant must be:</p> <ul style="list-style-type: none"> (a) a member of a shooting organisation which is affiliated with the New South Wales Shooting Association Limited, or any other shooting organisation approved by the Commissioner, and which conducts competitions or activities requiring the use of the firearm for which the permit is sought; or (b) a member of a military rifle club approved by the Commissioner which conducts competitions or activities requiring the use of the firearm for which the permit is sought.

Column 1		Column 2
No.	Reason	Requirements
4.	Animal population control	<p>The applicant must be:</p> <ul style="list-style-type: none"> (a) a person employed by or within, or authorised by, the Department of Agriculture, a Rural Lands Protection Board, the Wild Dog Destruction Board, the National Parks and Wildlife Service or the Forestry Commission or another body which has duties requiring vertebrate pest animal control; or (b) an occupier of rural land who requires a firearm of the kind for which the permit is sought to destroy or suppress vertebrate pest animals on the land; or (c) a person who: <ul style="list-style-type: none"> (i) is able to produce a document from the owner or occupier of rural land giving permission to shoot vertebrate pest animals on the land and stating that there is secure storage on the land in which the body of the firearm for which the permit is sought will be stored when not in use; and (ii) is a member of a shooting organisation which is affiliated with the New South Wales Shooting Association Limited or any other shooting organisation approved by the Commissioner.

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(ae) by omitting Schedule 5 and by inserting instead the following Schedule:

SCHEDULE 5—FEES

(Cl. 78)

TYPE OF LICENCE	APPLICATION FEE	RENEWAL FEE
	\$	\$
Business pistol licence	100	100
Government pistol licence	100	100
Pistol collector licence	100	100
Club pistol licence	100	
Target pistol licence	100	100
Scientific pistol licence	200	
Blank fire pistol licence	200	
Shooter licence—class 1	75	28
Shooter licence—class 2	75	
Firearms dealer licence held as dealer or on behalf of dealer	1000	
	for each premises to which the licence relates	
held as club armourer	100	
Firearms museum licence	—	
TYPE OF PERMIT	APPLICATION FEE	
	\$	
Permit for tranquilliser firearms	200	
Other permits	25	
TYPE OF APPROVAL	APPLICATION FEE	
	\$	
Approval of a shooting range	100	

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DUPLICATES	FEE
	\$
Duplicate of a licence, permit or approval which incorporates a photograph of the holder	40
which does not incorporate a photograph of the holder	12
*INSPECTIONS	FEE
	\$
Inspection of less than 10 pistols at a police station	30 (per annum)
Inspection of firearms and premises (if firearms not required to be produced at police station) payable by:	
holder of pistol collector licence or firearms dealer licence	100 (per annum)
Inspection of firearms and premises subject to firearms museum	50 (per 3 years)
Inspection of firearms range in accordance with conditions of approval	100 (per 3 years)

*NOTE: No separate inspection fee is payable for initial issue of a licence or approval.

EXPLANATORY NOTE

The objects of this Regulation are to make amendments to the Firearms Regulation 1990 arising from the enactment of the Firearms Legislation (Amendment) Act 1992, to revise the fees payable in relation to firearms licences and permits and to make other amendments of a miscellaneous nature.

The principal amendments arising from the enactment of the Firearms Legislation (Amendment) Act 1992 are:

- to specify reasons which are, or are not, to be taken to be genuine reasons for possessing and using a firearm for which a shooter licence—class 1 is required, a firearm for which a shooter licence—class 2 is required or a

firearm which has become a prohibited weapon as a consequence of the enactment of that Act

- to specify persons who are to be excluded from the concession granted to primary producers that would otherwise enable them to retain firearms which have become prohibited weapons as a consequence of the enactment of that Act
- to prescribe, as apprehended violence orders and interim apprehended violence orders, the corresponding orders of other Australian jurisdictions
- to continue the authority of certain licences issued in accordance with provisions of the Firearms Regulation 1990 before the repeal of those provisions by the Firearms Legislation (Amendment) Act 1992.

This Regulation substitutes Schedule 5 to the Firearms Regulation 1990 which specifies the fees payable in relation to firearms licences and permits.

This Regulation also makes a number of miscellaneous amendments, including amendments:

- to provide that the Minister, rather than the Commissioner of Police, is to approve firearms safety awareness courses
 - to require an applicant for his or her first licence or permit to produce evidence of identity to the satisfaction of the Commissioner of Police
 - to reduce the cooling-off period that must expire between an application for a licence and the granting of the licence where the applicant already possesses a firearm under the authority of a licence
 - to require a licence or permit which confers authority only on the person to whom the licence or permit is issued to contain a photograph of the person
 - to further restrict the issue of business pistol licences
 - to apply, to persons authorised to use a pistol under a business pistol licence or a government pistol licence, the requirements as to the safe carriage and storage of pistols and the keeping of records relating to pistols that apply to security guards and their employers
 - to exempt junior target pistol shooters from the requirement to hold a licence when using a pistol in properly supervised and controlled circumstances
 - to enable a firearms dealer to obtain a permit to hold a militaria and arms fair
 - to exempt a person who is a Queensland resident from the requirement to hold a shooter licence—class 1 or a shooter licence—class 2 if the person holds a current equivalent Queensland licence
 - to remove certain exemptions from licensing that were granted to banks and bank employees
 - to exempt student police officers enrolled in the New South Wales Police Academy from licensing requirements.
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