



New South Wales

# **Weapons and Firearms Legislation Amendment Act 2010 No 40**

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New South Wales

## **Weapons and Firearms Legislation Amendment Act 2010 No 40**

Act No 40, 2010

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An Act to amend the *Weapons Prohibition Act 1998* to make further provision with respect to the regulation and control of certain weapons; to amend the *Firearms Act 1996* in relation to imitation and antique firearms and certain other matters; and for other purposes. [Assented to 15 June 2010]

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Weapons and Firearms Legislation Amendment Act 2010*.

**2 Commencement**

This Act commences on a day or days to be appointed by proclamation.

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## **Schedule 1      Amendment of Weapons Prohibition Act 1998 No 127**

### **[1] Section 4 Definitions**

Insert in alphabetical order in section 4 (1):

*military-style weapon* means a prohibited weapon of a kind referred to in clause 1A of Schedule 1.

### **[2] Section 7 Offence of unauthorised possession or use of prohibited weapon**

Omit the penalty at the end of section 7 (1). Insert instead:

Maximum penalty: imprisonment for 14 years.

### **[3] Section 10 Issuing of permit**

Omit “as may be approved (either generally or in a particular case)” from section 10 (2) (c).

Insert instead “as are imposed by or under this Act”.

### **[4] Section 10 (3) (c)**

Omit the paragraph. Insert instead:

- (c) is subject to a good behaviour bond, whether entered into in New South Wales or elsewhere, in relation to an offence prescribed by the regulations, or

### **[5] Section 10 (3A) and (3B)**

Insert after section 10 (3):

- (3A) A permit must not be issued to a person if the Commissioner is of the opinion, having regard to any criminal intelligence report or other criminal information held in relation to the person, that:

- (a) the person is a risk to public safety, and
- (b) the issuing of the permit would be contrary to the public interest.

**Note.** Any such grounds for not issuing a permit may also be grounds for suspending or revoking the permit—see sections 16 (1) and 18 (2).

- (3B) The Commissioner is not, under this or any other Act or law, required to give any reasons for not issuing a permit on the grounds referred to in subsection (3A).

### **[6] Section 10 (4)**

Omit “The”. Insert instead “Despite any other provision of this section, the”.

**[7] Section 10 (6)**

Omit the subsection.

**[8] Section 11 Genuine reason**

Insert after the matter relating to the genuine reason of recreational/sporting purposes in the Table to section 11 (2):

*Reason: historical re-enactment purposes*

The applicant must be a current member of a historic or commemorative club or society approved by the Commissioner in accordance with the regulations and which conducts activities or events requiring the possession or use of the prohibited weapon for which the permit is sought.

**[9] Section 11 (2), Table**

Omit the matter relating to the genuine reason of weapons collection.

Insert instead:

*Reason: weapons collection*

The applicant must:

- (a) be a current member of a collectors' club or society approved by the Commissioner in accordance with the regulations, and
- (b) demonstrate that the applicant's weapons collection has a genuine commemorative, historical, thematic or financial value.

**[10] Section 13 Form of permit**

Omit section 13 (2) (a). Insert instead:

- (a) contain a recent photograph of the person to whom it is issued (such photograph being obtained in accordance with arrangements determined by the Commissioner), and

**[11] Section 14 Conditions of permit**

Omit section 14 (1). Insert instead:

- (1) A permit is subject:
  - (a) to such conditions as may be imposed by the Commissioner (whether at the time the permit is issued or at any later time), and
  - (b) to such other conditions as are imposed by this Act or prescribed by the regulations.

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**[12] Section 14 (3)**

Omit the subsection.

**[13] Section 16 Suspension of permit**

Insert after section 16 (1):

- (1A) If a permit is being suspended because the Commissioner is satisfied that there may be grounds for revoking the permit under section 10 (3A), the notice suspending the permit is not required:
- (a) to state the reasons for the suspension, or
  - (b) to include any request that the permit holder provide the Commissioner with reasons why the permit should not be revoked.

**[14] Section 18 Revocation of permit**

Insert after section 18 (2):

- (2A) If the Commissioner revokes a permit because the permit holder would be refused a permit on the grounds referred to in section 10 (3A), the Commissioner is not, under this or any other Act or law, required to give any reasons for revoking the permit on those grounds.

**[15] Section 19 Surrender and seizure of prohibited weapons when permit suspended or revoked**

Omit “suspended or revoked” wherever occurring.

Insert instead “suspended, revoked or otherwise ceases to be in force”.

**[16] Section 19 (3)**

Insert after section 19 (2):

- (3) This section does not apply in relation to a permit that has expired if the authority conferred by the permit continues to have effect (as provided by the regulations) pending the determination of an application for a subsequent permit.

**[17] Section 20 Weapons dealers and theatrical weapons armourers must hold permit**

Omit the penalty at the end of the section. Insert instead:

Maximum penalty: imprisonment for 7 years.

**[18] Section 20A**

Insert after section 20:

**20A Record of sale of prohibited weapons**

- (1) An authorised weapons dealer or authorised theatrical weapons armourer must ensure that the following particulars are recorded in relation to each sale by the dealer or armourer of a prohibited weapon to another person:
  - (a) the name and address of the other person,
  - (b) the number of the other person's permit authorising the other person to possess the prohibited weapon,
  - (c) the date of the sale,
  - (d) a description of the prohibited weapon sold,
  - (e) in the case of the sale of a military-style weapon—the serial number or other unique identifier (if available) of the weapon,
  - (f) such other particulars as may be prescribed by the regulations.
- (2) An entry required to be made in a record concerning the sale of a prohibited weapon must, subject to the regulations, be entered within 24 hours of the sale occurring.
- (3) A record must be made and kept in the approved form.
- (4) If an authorised weapons dealer or authorised theatrical weapons armourer ceases to hold a weapons dealer permit or theatrical weapons armourer permit, the former dealer or armourer must provide the Commissioner with a record of all sales during the 2 years immediately preceding the date on which the permit ceased to be in force.
- (5) A person who is required to ensure a record is kept or to keep a record under this section, must, on demand made by a police officer at any time:
  - (a) produce the record to that officer and permit that officer to inspect and make copies of any entries in it, and
  - (b) produce to that officer all prohibited weapons in the possession of that person, and
  - (c) furnish to that officer any information in that person's possession with respect to any prohibited weapon that has been manufactured, purchased or received under the authority of the person's weapons dealer permit or theatrical weapons armourer permit, or that the person has

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in his or her possession or has sold or repaired under the authority of the permit.

Maximum penalty: 50 penalty units.

**[19] Section 23 Restrictions on purchase of prohibited weapons**

Omit the penalty at the end of section 23 (1). Insert instead:

Maximum penalty: imprisonment for 5 years.

**[20] Section 23 (3)**

Omit the subsection.

**[21] Sections 23A and 23B**

Insert after section 23:

**23A Restrictions on sale of prohibited weapons**

**(1) Prohibited weapons generally**

A person (*the seller*) must not sell a prohibited weapon to another person (*the buyer*) unless:

- (a) the buyer is authorised to possess the weapon by a permit, and
- (b) the seller:
  - (i) has seen the buyer's permit, or
  - (ii) knows that the buyer is an authorised weapons dealer or authorised theatrical weapons armourer.

Maximum penalty: imprisonment for 14 years.

**(2) Military-style weapons**

A person (*the seller*) must not sell a military-style weapon to another person (*the buyer*) unless:

- (a) the buyer is authorised to possess the weapon by a permit, and
- (b) the seller:
  - (i) has seen the buyer's permit, or
  - (ii) knows that the buyer is an authorised weapons dealer or authorised theatrical weapons armourer.

Maximum penalty: imprisonment for 20 years.

- (3) If on the trial of a person for an offence under subsection (2) the jury is not satisfied that the accused is guilty of the offence charged but is satisfied on the evidence that the accused is guilty of an offence under subsection (1), it may find the accused not

guilty of the offence charged but guilty of the latter offence, and the accused is liable to punishment accordingly.

**23B Selling prohibited weapons on an ongoing basis**

**(1) Offences**

A person must not contravene section 23A on 3 or more separate occasions over any consecutive period of 12 months.

Maximum penalty: imprisonment for 20 years.

**(2) Jury must be satisfied as to same 3 occasions of sale**

If, on the trial of a person for an offence under this section, more than 3 occasions of selling a prohibited weapon are relied on as evidence of commission of the offence, the members of the jury who return a guilty verdict must be satisfied as to at least 3 of the same occasions of sale.

**(3) Alternative verdict—relevant selling offence**

If, on the trial of a person for an offence under this section, the jury is not satisfied that the offence is proven but is satisfied that the person has, in respect of any of the occasions relied on as evidence of commission of the offence under this section, committed a relevant selling offence, the jury may acquit the person of the offence charged and find the person guilty of the relevant selling offence, and the person is liable to punishment accordingly.

**(4) Double jeopardy provisions**

A person who has been convicted of an offence under this section is not liable to be convicted:

- (a) of a relevant selling offence, or
- (b) of a separate offence under this section,

on the same, or substantially the same, facts as those relied on as evidence of commission of the offence in respect of which the person has been convicted.

**(5) A person who has been acquitted of an offence under this section is not liable to be convicted:**

- (a) except as provided by subsection (3)—of a relevant selling offence, or
- (b) of a separate offence under this section,

on the same, or substantially the same, facts as those relied on as evidence of commission of the offence in respect of which the person has been acquitted.

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- (6) A person who has been:
- (a) convicted of a relevant selling offence, or
  - (b) acquitted of a relevant selling offence,
- is not liable to be convicted of an offence under this section on the same, or substantially the same, facts as those relied on as evidence of commission of the relevant selling offence.
- (7) **Liability for relevant selling offences not affected by offence under this section**
- Subject to subsections (4) and (5), this section does not:
- (a) remove the liability of any person to be convicted of a relevant selling offence, or
  - (b) affect the punishment that may be imposed for any such offence.
- (8) **Definition**
- In this section, *relevant selling offence* means any offence under this Act (other than under this section) relating to the sale of a prohibited weapon.

**[22] Section 25A**

Insert after section 25:

**25A Unauthorised manufacture of prohibited weapons**

- (1) A person who manufactures a prohibited weapon is guilty of an offence unless the person is authorised by a permit to manufacture the weapon.  
Maximum penalty: imprisonment for 14 years.
- (2) A person who manufactures a military-style weapon is guilty of an offence unless the person is authorised by a permit to manufacture the weapon.  
Maximum penalty: imprisonment for 20 years.
- (3) Without limiting the operation of subsection (1) or (2), this section applies to a person regardless of whether the prohibited weapon concerned was manufactured in the course of carrying on a business.

**[23] Section 26 General requirement for safe keeping of prohibited weapons**

Omit the section.

**[24] Section 31 False or misleading documents**

Omit the penalty at the end of the section. Insert instead:

Maximum penalty: imprisonment for 10 years.

**[25] Part 4A**

Insert after Part 4:

**Part 4A Safe keeping of prohibited weapons**

**32A General requirement for safe keeping of prohibited weapons**

A person who possesses a prohibited weapon must take all reasonable precautions to ensure:

- (a) its safe keeping, and
- (b) that it is not stolen or lost, and
- (c) that it does not come into the possession of a person who is not authorised to possess the weapon.

Maximum penalty: 100 penalty units or imprisonment for 2 years, or both.

**32B Level 1 requirements**

- (1) The holder of a permit in respect of a prohibited weapon that is prescribed for the purposes of this section must comply with the following requirements (each of which is *a level 1 requirement*):

- (a) when any such weapon is not actually being used or carried, it must be stored in a locked receptacle of a type approved by the Commissioner and that is constructed of hard wood or steel and not easily penetrable,
- (b) if such a receptacle weighs less than 150 kilograms when empty, it must be fixed in order to prevent its easy removal,
- (c) the locks of such a receptacle must be of solid metal and be of a type approved by the Commissioner,
- (d) such other requirements relating to security and safe storage as may be prescribed by the regulations.

Maximum penalty: 20 penalty units or imprisonment for 6 months, or both.

- (2) A permit holder does not have to comply with a level 1 requirement if the permit holder satisfies the Commissioner that the permit holder has provided alternative arrangements for the

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storage of prohibited weapons in the permit holder's possession that are of a standard not less than the requirements set out in this section.

- (3) The Commissioner may, in such cases as the Commissioner thinks fit, vary or modify a level 1 requirement in respect of its application to a particular permit holder. Any such variation or modification is to be imposed by way of a condition on the relevant permit.

**32C Level 2 requirements**

- (1) The holder of a permit in respect of a prohibited weapon that is prescribed for the purposes of this section must comply with the following requirements (each of which is *a level 2 requirement*):
- (a) when any such weapon is not actually being used or carried, it must be stored in a locked steel safe of a type approved by the Commissioner and that cannot be easily penetrated,
  - (b) such a safe must be bolted to the structure of the premises where the weapon is authorised to be kept,
  - (c) such other requirements relating to security and safe storage as may be prescribed by the regulations.

Maximum penalty: 50 penalty units or imprisonment for 1 year, or both.

- (2) A permit holder does not have to comply with a level 2 requirement if the permit holder satisfies the Commissioner that the permit holder has provided alternative arrangements for the storage of prohibited weapons in the permit holder's possession that are of a standard not less than the requirements set out in this section.
- (3) The Commissioner may, in such cases as the Commissioner thinks fit, vary or modify a level 2 requirement in respect of its application to a particular permit holder. Any such variation or modification is to be imposed by way of a condition on the relevant permit.

**32D Level 3 requirements**

- (1) The holder of a permit in respect of a military-style weapon, or such other prohibited weapon prescribed for the purposes of this

section, must comply with the following requirements (each of which is *a level 3 requirement*):

- (a) when any such weapon is not actually being used or carried, it must be stored in an area or room of a permanent building that has secure locks on all entrances,
- (b) the area or room of the building must have solid walls that provide a substantial barrier to forced entry,
- (c) any windows in the area or room must be covered by a security screen,
- (d) any doors to the area or room must be made of solid material or be reinforced with steel,
- (e) any such door must be fitted with a 'dead latch' type lock or with a hasp/barrel bolt and padlock,
- (f) door hinges must be concealed or the hinge pins must be welded to prevent them from being punched out,
- (g) the weapon must be stored in the area or room in a locked steel safe of a type approved by the Commissioner and that cannot be easily penetrated,
- (h) such a safe must be bolted to the structure of the area or room where the weapon is authorised to be kept,
- (i) such other requirements relating to security and safe storage as may be prescribed by the regulations.

Maximum penalty: 100 penalty units or imprisonment for 2 years, or both.

- (2) A permit holder does not have to comply with a level 3 requirement if the permit holder satisfies the Commissioner that the permit holder has provided alternative arrangements for the storage of prohibited weapons in the permit holder's possession that are of a standard not less than the requirements set out in this section.
- (3) The Commissioner may, in such cases as the Commissioner thinks fit, vary or modify a level 3 requirement in respect of its application to a particular permit holder. Any such variation or modification is to be imposed by way of a condition on the relevant permit.

**[26] Section 34 Effect of weapons prohibition order**

Omit the penalty at the end of section 34 (1) and (3) wherever occurring.

Insert instead:

Maximum penalty: imprisonment for 10 years.

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**[27] Section 35 Review by Administrative Decisions Tribunal of certain decisions**

Insert at the end of the section:

- (2) The following provisions of the *Administrative Decisions Tribunal Act 1997* do not apply to an application to the Administrative Decisions Tribunal for a review of a refusal to issue a permit, or the revocation or suspension of a permit, that was made on the grounds referred to in section 10 (3A):
  - (a) Part 2 of Chapter 5,
  - (b) section 58.
- (3) In determining an application for a review of any such decision, the Administrative Decisions Tribunal:
  - (a) is to ensure that it does not, in the reasons for its decision or otherwise, disclose the existence or content of any criminal intelligence report or other information referred to in section 10 (3A), and
  - (b) in order to prevent the disclosure of any such report or other information, is to receive evidence and hear argument in the absence of the public, the applicant for review and the applicant's representative.

**[28] Section 43**

Omit the section. Insert instead:

**43 Proceedings for offences**

- (1) Except as provided by this section, proceedings for an offence under this Act or the regulations may be disposed of summarily before the Local Court.
- (2) An offence under section 7, 20, 23 (1), 23A (1), 25A (1), 31 or 34 may be prosecuted on indictment. However, Chapter 5 of the *Criminal Procedure Act 1986* (which relates to the summary disposal of certain indictable offences unless an election is made to proceed on indictment) applies to and in respect of an offence referred to in this subsection.
- (3) An offence under section 23A (2), 23B or 25A (2) is to be prosecuted on indictment only.

**[29] Section 50 Regulations**

Insert after section 50 (2) (d):

- (d1) the approval of clubs, societies or organisations in relation to the use or possession of prohibited weapons (including requirements in relation to the membership of such clubs, societies or organisations),

**[30] Schedule 1 Prohibited weapons**

Insert “, wholly or partly,” after “can be fitted” in clause 1 (5).

**[31] Schedule 1**

Insert after clause 1:

**1A Military-style weapons**

- (1) Any **bomb, grenade, rocket, missile** or **mine** or other similar device (such as a tear-gas canister) that is in the nature of, or that expels or contains, an explosive, incendiary, irritant, gas or smoke, and whether or not it is live, has been deactivated or is spent.

For the purposes of this subclause, **bomb** includes a device known as an Improvised Explosive Device (or **IED**).

- (2) Any device intended for use by a military or defence force and that is designed to **propel or launch** a weapon referred to in subclause (1).
- (3) A **flame thrower** that is of military design or any other device that is capable of projecting ignited incendiary fuel.

**[32] Schedule 1, clause 2 (1)–(3)**

Omit the subclauses.

**[33] Schedule 1, clause 2 (16)**

Insert “, but not including any such article that is produced and identified as a children’s toy” after “independently of each other”.

**[34] Schedule 1, clause 2 (17)**

Insert “, but not including any such article that is produced and identified as a children’s toy” after “permanently fixed”.

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**[35] Schedule 1, clause 2 (18), (18A) and (18B)**

Omit clause 2 (18). Insert instead:

- (18) Any hand-held defence or anti-personnel device that is designed to administer an electric shock on contact.
- (18A) A **Taser gun** or other similar anti-personnel conducted energy device.
- (18B) A cartridge or similar device that is designed to propel probes or prongs from a weapon referred to in subclause (18A).

**[36] Schedule 1, clause 2 (19)**

Omit “over the knuckles”. Insert instead “over 2 or more knuckles”.

**[37] Schedule 1, clause 3 (Imitations, concealed blades etc)**

Omit clause 3 (1). Insert instead:

- (1) Any object that substantially duplicates in appearance a weapon referred to in clause 1A (1), but not including an object that is produced and identified as a children’s toy.

**[38] Schedule 1, clause 3 (2)**

Omit the subclause.

**[39] Schedule 1, clause 4 (1) and (2)**

Omit the subclauses. Insert instead:

- (1) **Body armour vests** (or other similar article) designed for anti-ballistic purposes or similar purposes (such as protection against electroshock or conducted energy devices) and to be worn on (or to cover) any part of the body, but not including helmets or anti-ballistic articles used to protect the eyes or ears.
- (2) **Handcuffs** (including thumb and leg cuffs), being a set of ring-shaped shackles of any material (and connected by any means) that are designed to be worn on the wrists, thumbs or ankles (as the case requires), but not including:
  - (a) antique handcuffs, or
  - (b) handcuffs produced and identified as children’s toys, or
  - (c) handcuffs that are designed to be released by the wearer (such as handcuffs used in theatrical productions).

**[40] Schedule 1, clause 4 (4)**

Omit the subclause. Insert instead:

- (4) A **detachable firearm magazine** of any of the following kinds:
  - (a) a rimfire rifle magazine with a capacity of more than 15 rounds,
  - (b) a centre-fire self-loading rifle magazine with a capacity of more than 5 rounds,
  - (c) a centre-fire rifle magazine (other than a self-loading rifle magazine) with a capacity of more than 10 rounds,
  - (d) a shotgun magazine with a capacity of more than 5 rounds,
  - (e) a tubular magazine extension that is capable of extending the capacity of any firearm,
  - (f) a pistol magazine with a capacity of more than 10 rounds,
  - (g) any magazine designed to be attached to any machine gun, sub-machine gun or other firearm that is capable of propelling projectiles in rapid succession following one pressure of the trigger.

**[41] Schedule 1, clause 4 (9)**

Insert after clause 4 (8):

- (9) Any device (regardless of its composition) that is designed to propel or launch a bomb, grenade, rocket or missile by any means other than by means of an explosive, including a device known as a PVC cannon.

**[42] Schedule 2 Savings and transitional provisions**

Insert at the end of clause 1 (1):

*Weapons and Firearms Legislation Amendment Act 2010*

**[43] Schedule 2, Part 4**

Insert after Part 3:

**Part 4 Provisions consequent on enactment of  
Weapons and Firearms Legislation  
Amendment Act 2010**

**9 Definition**

In this Part, *amending Act* means the *Weapons and Firearms Legislation Amendment Act 2010*.

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**10 Existing permits issued for weapons collection purposes**

- (1) The amendment made by Schedule 1 [9] to the amending Act does not apply to or in respect of a permit that was in force immediately before the commencement of that amendment.
- (2) This clause ceases to have effect 6 months after the commencement of the amendment made by Schedule 1 [9] to the amending Act (or such later period as may be prescribed by the regulations).

**11 Existing permits may be revoked on grounds of risk to public safety etc**

Section 10 (3A), as inserted by Schedule 1 [5] to the amending Act, extends to a permit that was in force immediately before the commencement of that subsection.

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## Schedule 2 Amendment of Firearms Act 1996 No 46

### [1] Section 4 Definitions

Insert in alphabetical order in section 4 (1):

*imitation firearm*—see section 4D.

### [2] Section 4D

Insert after section 4C:

#### **4D Special provisions relating to imitation firearms**

- (1) This Act applies to an imitation firearm in the same way as it applies to a firearm, subject to the following:
  - (a) the Commissioner may issue a permit, but not a licence, authorising the possession or use of an imitation firearm,
  - (b) an imitation firearm is not required to be registered.
- (2) For the purposes of the application (as provided by this section) of this Act to imitation firearms:
  - (a) an imitation firearm that is an imitation of a pistol is taken to be a pistol, and
  - (b) an imitation firearm that is an imitation of a prohibited firearm is taken to be a prohibited firearm.
- (3) In this section, *imitation firearm* means an object that, regardless of its colour, weight or composition or the presence or absence of any moveable parts, substantially duplicates in appearance a firearm but that is not a firearm.
- (4) However, an imitation firearm does not include any such object that is produced and identified as a children's toy.

### [3] Section 6A

Omit the section. Insert instead:

#### **6A Exemption for certain firearms manufactured before 1900**

- (1) A person is exempt from any requirement under this Act to hold a licence or permit in respect of the possession of an antique firearm. However, the exemption provided by this subsection does not extend to an antique revolver.

**Note.** A licence or permit will still be required to use any such firearm.
- (2) An antique firearm is not required to be registered. Accordingly, a person does not commit an offence under section 36 or 37 (2) in relation to an antique firearm.

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- (3) A permit under section 31 to acquire a firearm is not required in the case of an antique firearm.
- (4) Sections 50, 50AA, 51 and 51A do not apply in relation to the sale or purchase of an antique firearm or a firearm part for an antique firearm. However, the exemption provided by this subsection does not extend to an antique revolver or a firearm part for an antique revolver.
- (5) Sections 50 (b) and 51 (1) (b) (ii) and (1A) (b) (ii) do not apply in relation to the sale or purchase of an antique revolver.
- (6) The possession of an antique firearm by a person in accordance with an exemption under this section is taken not to be possession for the purposes of section 51D.
- (7) In this section:  
*antique firearm* means any firearm manufactured before 1900 that:  
(a) in the case of a firearm other than a pistol:  
(i) is not capable of discharging breech-loaded metallic cartridges, or  
(ii) is a firearm the ammunition for which is determined by the Commissioner to be ammunition that is not commercially available, or  
(b) in the case of a pistol—is not capable of discharging breech-loaded metallic cartridges.  
*antique revolver* means an antique firearm that is a percussion lock pistol equipped with a revolving cylinder.
- (8) Any determination by the Commissioner of the ammunition that is not commercially available for the purposes of this section must be published in the Gazette.

**[4] Section 22 Suspension of licence**

Insert after section 22 (1):

- (1A) If a licence is being suspended because the Commissioner is satisfied that there may be grounds for revoking the licence under section 11 (5A), the notice suspending the licence is not required:  
(a) to state the reasons for the suspension, or  
(b) to include any request that the licensee provide the Commissioner with reasons why the licence should not be revoked.

**[5] Section 24 Revocation of licence**

Insert after section 24 (2):

- (2A) If the Commissioner revokes a licence because the licence holder would be refused a licence on the grounds referred to in section 11 (5A), the Commissioner is not, under this or any other Act or law, required to give any reasons for revoking the licence on those grounds.

**[6] Section 25 Surrender and seizure of firearms when licence suspended or revoked**

Omit “suspended or revoked” wherever occurring.

Insert instead “suspended, revoked or otherwise ceases to be in force”.

**[7] Section 25 (3)**

Insert after section 25 (2):

- (3) This section does not apply in relation to a licence that has expired if the authority conferred by the licence continues to have effect (as provided by the regulations) pending the determination of an application for a subsequent licence.

**[8] Section 30 General provisions relating to permits**

Omit “suspended or revoked” from section 30 (6) and (7), wherever occurring.

Insert instead “suspended, revoked or otherwise ceases to be in force”.

**[9] Section 30 (8)**

Insert after section 30 (7):

- (8) Subsections (6) and (7) do not apply in relation to a permit that has expired if the authority conferred by the permit continues to have effect (as provided by the regulations) pending the determination of an application for a subsequent permit.

**[10] Section 30 (8) and (9)**

Insert after section 30 (7):

- (8) If a permit is being suspended because the Commissioner is satisfied that there may be grounds for revoking the permit under section 11 (5A), the notice suspending the permit is not required:
- (a) to state the reasons for the suspension, or
  - (b) to include any request that the permit holder provide the Commissioner with reasons why the permit should not be revoked.

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- (9) If the Commissioner revokes a permit because the permit holder would be refused a permit on the grounds referred to in section 11 (5A), the Commissioner is not, under this or any other Act or law, required to give any reasons for revoking the permit on those grounds.

**[11] Schedule 1 Prohibited firearms**

Omit item 17.

**[12] Schedule 3 Savings and transitional provisions**

Insert after clause 1 (1) (f):

- (g) the *Weapons and Firearms Legislation Amendment Act 2010*, to the extent that it amends this Act.

**[13] Schedule 3, Part 8**

Insert after Part 7:

**Part 8 Provisions consequent on enactment of  
Weapons and Firearms Legislation  
Amendment Act 2010**

**25 Definition**

In this Part, *amending Act* means the *Weapons and Firearms Legislation Amendment Act 2010*.

**26 Existing permits for imitation firearms**

A permit issued in respect of a prohibited weapon referred to in clause 3 (2) of Schedule 1 to the *Weapons Prohibition Act 1998* (as in force immediately before the repeal of that subclause by the amending Act) is taken to be a permit issued in respect of an imitation firearm under this Act and continues in force (unless it is sooner suspended, revoked or otherwise ceases to be in force) for the remainder of the term for which it was issued.

**27 Existing determinations of ammunition considered not commercially available**

A determination by the Commissioner in respect of ammunition that is not commercially available and made under section 6A (as in force immediately before the substitution of that section by the amending Act) is taken to be a determination made under section 6A as so substituted.

## **Schedule 3 Amendment of other legislation**

### **3.1 Bail Act 1978 No 161**

#### **Section 8B Presumption against bail for serious firearms and weapons offences**

Insert after section 8B (1) (c):

- (d) an offence under section 7 of the *Weapons Prohibition Act 1998*, being an offence that relates to a military-style weapon,
- (e) an offence under section 23A (2), 23B or 25A (2) of the *Weapons Prohibition Act 1998*.

### **3.2 Casino Control Act 1992 No 15**

#### **Section 66 Approval of games and rules for games**

Insert “or an imitation firearm,” after “ammunition,” in section 66 (4) (b) (ii).

### **3.3 Centennial Park and Moore Park Trust Regulation 2009**

#### **Clause 18 Recreational activities on Trust lands**

Insert “, or imitation firearm,” after “firearm” in clause 18 (k).

### **3.4 Children (Protection and Parental Responsibility) Act 1997 No 78**

#### **Section 29 Removal of concealed weapons**

Omit paragraph (a) of the definition of *weapon* in section 29 (2). Insert instead:

- (a) a firearm, or an imitation firearm, within the meaning of the *Firearms Act 1996*, or

### **3.5 Commercial Agents and Private Inquiry Agents Act 2004 No 70**

#### **Section 4 Definitions**

Insert “or imitation firearm (within the meaning of the *Firearms Act 1996*)” after “firearm” in paragraph (b) of the definition of *major offence* in section 4 (1).

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### **3.6 Commons Management Regulation 2006**

#### **Schedule 1 Model by-law**

Insert “or imitation firearm” after “firearm” in clause 4 (a) of the Schedule.

### **3.7 Court Security Act 2005 No 1**

#### **[1] Section 4 Definitions**

Omit paragraph (b) of the definition of *restricted item* in section 4 (1).

Insert instead:

- (b) a firearm, or an imitation firearm, within the meaning of the *Firearms Act 1996*,

#### **[2] Section 8 Possession of restricted items in court premises**

Insert “, or an imitation firearm,” after “firearm” in paragraph (a) of the penalty at the end of section 8 (1).

### **3.8 Crimes Act 1900 No 40**

#### **[1] Section 4 Definitions**

Omit paragraph (a) of the definition of *Dangerous weapon* in section 4 (1).

Insert instead:

- (a) a firearm, or an imitation firearm, within the meaning of the *Firearms Act 1996*, or

#### **[2] Section 93F Interpretation**

Insert “, *imitation firearm*” after “*firearm*” where firstly occurring in section 93F (1).

#### **[3] Section 154D Stealing firearms**

Omit the definition of *firearm* from section 154D (2). Insert instead:

*firearm* has the same meaning as in the *Firearms Act 1996*, and includes an imitation firearm within the meaning of that Act.

#### **[4] Section 207 Placing etc dangerous articles on board an aircraft or vessel**

Insert after section 207 (3):

- (4) A reference in this section to a firearm includes a reference to an imitation firearm within the meaning of the *Firearms Act 1996*.

### **3.9 Crimes (Criminal Organisations Control) Act 2009 No 6**

#### **Section 27 Prohibition on carrying on of certain activities when interim control order or control order takes effect**

Insert “, or an imitation firearm,” after “firearm” in paragraph (e) of the definition of *prescribed activity* in section 27 (6).

### **3.10 Crimes (Sentencing Procedure) Act 1999 No 92**

#### **Section 76 Home detention not available for certain offences**

Insert “, or an imitation firearm, within the meaning of the *Firearms Act 1996*” after “firearm” in section 76 (d).

### **3.11 Criminal Procedure Act 1986 No 209**

#### **[1] Section 268 Maximum penalties for Table 2 offences**

Insert after section 268 (2) (e1):

- (e2) for an offence under section 7, 20, 23 (1), 23A (1), 25A (1), 31 or 34 of the *Weapons Prohibition Act 1998*—imprisonment for 2 years, or a fine of 100 penalty units, or both,

#### **[2] Section 348 Offences in respect of which an intervention program may be conducted**

Insert “, or an imitation firearm, within the meaning of the *Firearms Act 1996*” after “firearm” in section 348 (2) (e).

#### **[3] Schedule 1 Indictable offences triable summarily**

Omit clause 8 from Table 2. Insert instead:

##### **8 Weapons Prohibition Act 1998**

An offence under section 7, 20, 23 (1), 23A (1), 25A (1), 31 or 34 of the *Weapons Prohibition Act 1998*.

### **3.12 Crown Lands (General Reserves) By-law 2006**

#### **Clause 21 Regulation of conduct in reserve**

Insert “, or an imitation firearm,” after “firearm” in clause 21 (2) (u).

### **3.13 Crown Lands Regulation 2006**

#### **Clause 46 Unauthorised activities on public land**

Insert “, or an imitation firearm,” after “firearm” in clause 46 (1) (u).

### **3.14 Firearms Regulation 2006**

#### **[1] Clauses 116 and 116A**

Omit the clauses.

#### **[2] Clause 119 Exemption relating to imitations and replicas of firearms**

Omit the clause.

### **3.15 Law Enforcement (Powers and Responsibilities) Act 2002 No 103**

#### **[1] Section 3 Interpretation**

Omit the definition of *firearm* from section 3 (1). Insert instead:

*firearm* has the same meaning as it has in the *Firearms Act 1996*, and includes an imitation firearm within the meaning of that Act.

#### **[2] Section 46A Searchable offences**

Insert “, an imitation firearm” after “firearm” in the definition of *firearms or prohibited weapons offence* in section 46A (2).

### **3.16 Lotteries and Art Unions Act 1901 No 34**

#### **Section 2A Definitions**

Insert “or an imitation firearm,” after “ammunition,” in paragraph (b) of the definition of *prohibited prize* in section 2A (1).

### **3.17 National Parks and Wildlife Act 1974 No 80**

#### **Section 166 Definition of “article” for secs 164 and 165**

Insert at the end of the section:

- (2) A reference in this section to a firearm includes a reference to an imitation firearm within the meaning of the *Firearms Act 1996*.

### **3.18 National Parks and Wildlife Regulation 2009**

#### **Clause 20 Weapons**

Insert “, or imitation firearm,” after “firearm” in clause 20 (1) (a).

### **3.19 Parramatta Park Trust Regulation 2007**

#### **Clause 17 Recreational activities on trust lands**

Insert “or imitation firearm” after “firearm” in clause 17 (k).

### **3.20 Road Transport (Driver Licensing) Act 1998 No 99**

#### **[1] Section 39 Photographs to which this Part applies**

Omit section 39 (c). Insert instead:

- (c) photographs in the possession of the Authority that were taken or provided for the purpose of applications for the issue or renewal by the Commissioner of Police of the following:
  - (i) a licence or permit under the *Firearms Act 1996*,
  - (ii) a licence under the *Security Industry Act 1997*,
  - (iii) a permit under the *Weapons Prohibition Act 1998*.

#### **[2] Section 40 Purposes for which photographs may be kept and used**

Omit section 40 (1) (a). Insert instead:

- (a) to reproduce the likeness of a person on a driver licence or on the following:
  - (i) a licence or permit under the *Firearms Act 1996*,
  - (ii) a licence under the *Security Industry Act 1997*,
  - (iii) a permit under the *Weapons Prohibition Act 1998*,

#### **[3] Section 41 Release of photographs prohibited**

Omit section 41 (1) (c) (iii). Insert instead:

- (iii) in relation to a licence or permit under the *Firearms Act 1996*, a licence under the *Security Industry Act 1997* or a permit under the *Weapons Prohibition Act 1998*, or

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### 3.21 Road Transport (Driver Licensing) Regulation 2008

**[1] Clause 108A Keeping and use of photographs: use of facial recognition technology**

Insert “or permit” after “licence” in paragraph (d) of the definition of *relevant permit* in clause 108A (2).

**[2] Clause 108A (2), definition of “relevant permit”**

Insert after paragraph (e) of the definition:

(e1) a permit under the *Weapons Prohibition Act 1998*,

### 3.22 Sydney Harbour Foreshore Authority Regulation 2006

**Clause 4 Commercial and other activities**

Insert “or imitation firearm within the meaning of the *Firearms Act 1996*” after “firearm” in clause 4 (1) (p).

### 3.23 Sydney Olympic Park Authority Regulation 2007

**Clause 4 Commercial and other activities**

Insert “or imitation firearm” after “firearm” in clause 4 (v).

### 3.24 Sydney Water Catchment Management Regulation 2008

**Clause 23 Certain conduct prohibited on Schedule 1 land and Schedule 2 land**

Insert “or imitation firearm (within the meaning of the *Firearms Act 1996*)” after “firearm” in clause 23 (2) (c).

### 3.25 Sydney Water Regulation 2006

**Clause 23 Certain conduct prohibited**

Omit “firearm or prohibited weapon” from clause 23 (1) (c).

Insert instead “firearm or imitation firearm (within the meaning of the *Firearms Act 1996*) or prohibited weapon (within the meaning of the *Weapons Prohibition Act 1998*)”.

### 3.26 Tow Truck Industry Regulation 2008

**[1] Clause 7 Offences that disqualify applicants for licences**

Insert “or imitation firearm (within the meaning of the *Firearms Act 1996*)” after “firearm” in clause 7 (1) (b).

**[2] Clause 16 Offences that disqualify applicants for drivers certificates**

Insert “or imitation firearm (within the meaning of the *Firearms Act 1996*)” after “firearm” in clause 16 (1) (b).

**3.27 Water Management (Water Supply Authorities) Regulation 2004**

**Clause 76 Prohibited conduct**

Insert “, imitation firearm” after “firearm” in clause 76 (i).

**3.28 Wellington Showground By-law 1987**

**Clause 10 Regulation of conduct within the land**

Omit “firearm or prohibited weapon within the meaning of the *Firearms and Dangerous Weapons Act 1973*” from clause 10 (1) (k).

Insert instead “firearm or imitation firearm (within the meaning of the *Firearms Act 1996*) or prohibited weapon (within the meaning of the *Weapons Prohibition Act 1998*)”.

[Agreement in principle speech made in Legislative Assembly on 18 March 2010  
Second reading speech made in Legislative Council on 2 June 2010]

BY AUTHORITY