

TASMANIA

FIREARMS AMENDMENT BILL 2003

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FIREARMS AMENDMENT BILL 2003

*(Brought in by the Minister for Police and Public Safety,
the Honourable David Edward Llewellyn)*

A BILL FOR

An Act to amend the *Firearms Act 1996*

Be it enacted by His Excellency the Governor of Tasmania,
by and with the advice and consent of the Legislative
Council and House of Assembly, in Parliament assembled,
as follows:

Short title

1. This Act may be cited as the *Firearms Amendment Act 2003*.

Commencement

2. This Act commences on 1 July 2003.

Principal Act

3. In this Act, the *Firearms Act 1996** is referred to as the
Principal Act.

Section 3 amended (Interpretation)

4. Section 3 of the Principal Act is amended as follows:

*No. 23 of 1996

- (a) by inserting the following definition after the definition of “approved firearms safety course”:

“barrel length” means –

- (a) in the case of a revolver, the distance from the muzzle of the barrel to the breach end immediately in front of the cylinder; and
 - (b) in any other case, the distance from the muzzle of the barrel to the point of the breach face (which includes the chamber);
- (b) by inserting the following definition after the definition of “prohibited firearm”:

“prohibited pistol” means a pistol prescribed as a prohibited pistol in the regulations;

Section 18 amended (Category H firearms licence)

5. Section 18 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “for a purpose other than sport or target shooting” after “licence”;
- (b) by inserting in subsection (2) “for a purpose other than sport or target shooting” after “firearms licence”;
- (c) by inserting the following subsections after subsection (2):

(3) A Category H firearms licence for sport or target shooting authorises the holder to possess or use any of the following:

- (a) a pistol that does not exceed .38 inch calibre;
- (b) a semi-automatic pistol that has a barrel length of 120 millimetres or more;
- (c) a revolver that has a barrel length of 100 millimetres or more;
- (d) a single-shot pistol that has a barrel length of 100 millimetres or more;
- (e) a pistol that has a magazine capacity of 10 rounds or less.

(4) A Category H firearms licence for sport or target shooting authorises the holder, with the approval of the Commissioner, to possess or use a prohibited pistol for the purpose of training for, and participating in, a prescribed event where pistols that have a calibre not exceeding .45 inch may be used.

Section 28 amended (Applications for licences)

6. Section 28(2) of the Principal Act is amended by inserting after paragraph (c) the following paragraph:

- (ca) contain an authorisation from the applicant to the Commissioner to release any information that the Commissioner considers necessary in relation to the applicant to a person holding an official position in an approved pistol shooting club or in an approved society, the members of

which collect firearms, and to a person holding an official position in an approved pistol shooting club or in an approved society, the members of which collect firearms, to release any information that the person considers necessary in relation to the applicant to the Commissioner.

Section 29 amended (General restrictions on granting licence)

7. Section 29 of the Principal Act is amended as follows:

- (a) by omitting from subsection (3)(d) “injury.” and substituting “injury; or”;
- (b) by inserting the following paragraph after paragraph (d) in subsection (3):
 - (e) in the Commissioner’s opinion, having regard to any criminal intelligence report or other criminal information held in relation to the person, is a risk to public safety.
- (c) by inserting the following subsection after subsection (3):

(3A) If an application for a licence is being determined by a delegate of the Commissioner, the opinion referred to in subsection (3)(e) must be that of the Commissioner and not the delegate.

Section 47 amended (Special conditions of certain licence)

8. Section 47 of the Principal Act is amended by inserting after subsection (2) the following subsections:

(3) A Category H firearms licence for sport or target shooting is subject to the following conditions:

- (a) the holder must not possess or use a prohibited pistol without the approval of the Commissioner;
- (b) the holder must comply with minimum annual participation rates relating to sport or target shooting as specified in the conditions of the licence and provide evidence to the Commissioner of his or her compliance with those annual participation rates unless exempted from doing so by the Commissioner.

(4) The Commissioner may, by notice in writing given to the holder of a Category H firearms licence for sport or target shooting in existence immediately before 1 July 2003, amend any conditions specified in that licence to give effect to the amendments made to this Act by the *Firearms Amendment Act 2003*.

Section 51 amended (Cancellation of licence)

9. Section 51 of the Principal Act is amended as follows:

- (a) by omitting paragraph (d) from subsection (2);
- (b) by inserting the following subsections after subsection (2):

(3) The Commissioner must cancel or suspend a licence if the holder is subject to any restraint order, other than a restraint order referred to in subsection (1), or interim restraint order.

(4) If the Commissioner cancels or suspends a licence under subsection (3), the Commissioner must, where possible, cause to be seized any firearm in the possession of the holder of the licence.

(5) The Commissioner must cancel a licence if the Commissioner considers that the loss or theft of a firearm was due to the negligence or fraud of the holder of the licence.

(6) The Commissioner may, on the written application of the person who held a licence cancelled or suspended under subsection (3), reinstate the licence or return any firearms, or both reinstate the licence and return any firearms, which have been seized in accordance with subsection (4) and which the Commissioner considers appropriate, to the holder of the licence or such other person, with the agreement of the applicant, who is the holder of a licence.

(7) In determining whether to reinstate a licence or return any firearms or both reinstate a licence and return any firearms, the Commissioner may consider –

- (a) the facts and evidence made out in the application for the restraint order referred in subsection (3); and

- (b) the order made by the court in issuing the restraint order or interim restraint order; and
- (c) such other matters that the Commissioner determines to be relevant.

Section 58A inserted

10. After section 58 of the Principal Act, the following section is inserted in Division 1:

Application for permit to acquire prohibited pistol for prescribed event

58A. (1) The holder of a Category H firearms licence for sport or target shooting may apply to the Commissioner for a permit to acquire a prohibited pistol for the purpose of training for, and participating in, a prescribed event.

(2) A separate permit is required for each pistol referred to in subsection (1).

Section 60 amended (General restrictions on granting permits)

11. Section 60(4) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (b) “firearm.” and substituting “firearm; and”;
- (b) by inserting the following paragraph after paragraph (b):

- (c) in the case of an applicant who is the holder of a Category H firearms licence for sport or target shooting, is satisfied that the applicant has held that licence, and has been a member of an approved pistol shooting club, for a period of at least 6 months.

Section 61 amended (Granting permit)

12. Section 61 of the Principal Act is amended as follows:

- (a) by omitting from paragraph (b) “lodged.” and substituting “lodged; and”;
- (b) by inserting the following paragraphs after paragraph (b):
 - (c) in the case of an application from the holder of a Category H firearms licence for sport or target shooting, to acquire not more than 2 pistols of different categories from the following categories of pistols if the Commissioner is satisfied that the applicant has held the Category H firearms licence for sport or target shooting, and has been a member of an approved pistol shooting club, for a period of at least 6 months:
 - (i) one .22 inch calibre pistol;
 - (ii) one .177 inch calibre air pistol;
 - (iii) one centre-fire pistol;

- (iv) one black-powder muzzle loader; and
- (d) in the case of an application from the holder of a Category H firearms licence for sport or target shooting, to acquire a pistol referred to in section 18(3) if the Commissioner is satisfied that the applicant has held the Category H firearms licence for sport or target shooting, and has been a member of an approved pistol shooting club, for a period of at least 12 months.

Section 141 amended (Reviews)

13. Section 141 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1)(b) “47(4),” after “(ii),”;
- (b) by omitting from subsection (1)(b) “153(c)” and substituting “153(1)(c), 153(2)”;
- (c) by omitting from subsection (1)(e) “club or range” and substituting “club, range or society”;
- (d) by inserting the following paragraph after paragraph (a) in subsection (2):
 - (ab) a notice is received under section 47(4); or
- (e) by inserting the following paragraph after paragraph (e) in subsection (2):

- (ea) a notice is received under section 153(2); or
- (f) by inserting the following subsections after subsection (2):

(3) The following provisions of the *Magistrates Court (Administrative Appeals Division) Act 2001* do not apply to an application to the Magistrates Court (Administrative Appeals Division) for a review of a decision referred to in subsection (1)(a) or (c) that was made on the grounds referred to in section 29(3)(e):

- (a) Division 1 of Part 4;
- (b) section 21.

(4) In determining an application for a review under subsection (1), the Magistrates Court (Administrative Appeals Division) –

- (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 criminal information referred to in section 29(3)(e); 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 the review and the applicant's representative.

Section 148 substituted

14. Section 148 of the Principal Act is repealed and the following section is substituted:

Disclosure of certain information

148. (1) A prescribed person is to inform the Commissioner, by notice in writing, if he or she reasonably believes that –

- (a) a patient or client is likely to possess or use a firearm; and
- (b) such possession or use would be unsafe, for the patient or client or another person –
 - (i) because of the patient's or client's mental or physical condition; or
 - (ii) because the patient or client would be a threat to public safety.

(2) A notice is to specify –

- (a) the patient's or client's name and address; and
- (b) the reason for the opinion held in relation to the patient.

(3) A representative of an approved pistol shooting club, or a representative of an approved society, the members of which collect firearms, is to inform the Commissioner by notice in writing of any concern held by the club or society or any member of the club or society that a person may pose a danger if in possession of a firearm.

(4) A representative of an approved pistol shooting club, or a representative of an approved

society, the members of which collect firearms, is to inform the Commissioner by notice in writing of a member's expulsion and the reasons for the expulsion.

(5) The act of giving any information in a notice in good faith does not give rise to any criminal or civil action or remedy.

(6) In this section, "**prescribed person**" means –

- (a) a person who is registered as a medical practitioner under the *Medical Practitioners Registration Act 1996*; or
- (b) a person who is registered as a nurse under the *Nursing Act 1995*; or
- (c) a person who is registered as a psychologist under the *Psychologists Registration Act 2000*; or
- (d) any other person or class of person determined by the Minister by notice in the *Gazette* to be a prescribed person.

(7) A notice for the purpose of subsection (6)(d) is not a statutory rule for the purposes of the *Rules Publication Act 1953*.

Section 151 amended (Approved clubs, shooting galleries and ranges)

15. Section 151(1) of the Principal Act is amended by omitting paragraph (d) and substituting the following paragraphs:

- (d) a range; or

- (e) a society, the members of which collect firearms.

Section 152 amended (Granting approval)

16. Section 152 of the Principal Act is amended as follows:

- (a) by omitting from paragraph (b) “rifle club or a pistol shooting club” and substituting “rifle club, a pistol shooting club or a society, the members of which collect firearms”;
- (b) by inserting the following paragraph after paragraph (c):
 - (ca) in the case of a pistol shooting club or a society, the members of which collect firearms, a request for the club or society to provide annually details of Category H firearms licence holders who are members of the club or society, including the names, addresses, dates of birth and licence numbers of the members; and

Section 153 amended (Conditions of approval)

17. Section 153 of the Principal Act is amended as follows:

- (a) by inserting “(1)” before “The Commissioner”;
- (b) by inserting the following subsection:

(2) The Commissioner may, by notice in writing given to a person named in an approval in existence immediately before 1 July 2003, amend any conditions imposed

under subsection (1)(c) to give effect to the amendments made to this Act by the *Firearms Amendment Act 2003*.

Section 155 amended (Exemptions)

18. Section 155 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(a) “, approved rifle club, approved pistol shooting club or approved range”;
- (b) by inserting the following subsections after subsection (1):

(1A) On the written application of a person, the Commissioner may exempt the person from any provision of this Act relating to the possession or use of a firearm or ammunition –

- (a) at an approved rifle club, approved pistol shooting club or approved range; and
- (b) subject to any conditions the Commissioner considers appropriate.

(1B) A person who has made a written application under subsection (1A) is entitled, on signing the application, to possess or use, at a club or range referred to in that subsection, a firearm approved for use at that club or range for the purpose of participating in one shooting activity on one day at that club or range.

(1C) An application referred to in subsection (1A) is to include an authorisation

from the applicant to the Commissioner to release any information that the Commissioner considers necessary in relation to the applicant to a person holding an official position in an approved rifle club or an approved pistol shooting club, and for a person holding an official position in an approved rifle club or an approved pistol shooting club to release to the Commissioner any information that the person considers necessary in relation to the applicant.

Schedule 1 amended (Prohibited Firearms)

19. Schedule 1 to the Principal Act is amended by inserting after

9. Any firearm or part of a firearm which has a dimension less than the prescribed minimum dimension.

the following item:

10. A prohibited pistol.

Savings and transitional

20. (1) A person does not commit an offence under section 9 of the Principal Act in respect of the possession of a prohibited pistol if the person lawfully acquired the pistol before 1 July 2003.

(2) Subsection (1) applies for the period of 6 months commencing on 1 July 2003.

(3) This section does not authorise a person to use a prohibited pistol without the approval of the

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Commissioner
subsection (2).

during the period specified in