

TASMANIA

FIREARMS (MISCELLANEOUS AMENDMENTS) BILL 2015

CONTENTS

PART 1 – PRELIMINARY

1. Short title
2. Commencement

PART 2 – FIREARMS ACT 1996 AMENDED

3. Principal Act
4. Section 3 amended (Interpretation)
5. Section 3B inserted
 - 3B. Meaning of “possession”
6. Section 9 amended (Possession or use of firearms)
7. Section 10 amended (Acquiring firearms)
8. Section 13A amended (Possession of ex-military firearms and ordnance)
9. Section 16 amended (Category C firearms licence)
10. Section 17 amended (Category D firearms licence)
11. Section 18 amended (Category H firearms licence)
12. Section 21A amended (Militaria firearms licence)
13. Section 22 amended (Additional authority relating to possession)
14. Section 25 amended (Purchase and sale)
15. Section 27A inserted
 - 27A. Use of collection firearms on certain occasions

16. Section 29 amended (General restrictions on granting licence)
17. Section 29B inserted
 - 29B. Commissioner may seek further information
18. Section 31 amended (Restrictions on granting Category C firearms licence)
19. Section 35A inserted
 - 35A. Variation of conditions of licence
20. Part 2, Division 5A inserted
 - Division 5A – Renewal of licences*
 - 36A. Renewal of licences
 - 36B. Continuation of licence during consideration of application for renewal
 - 36C. General discretion of Commissioner to refuse to renew licence or to alter or vary conditions of licence
 - 36D. Commissioner may alter or vary conditions on licence
 - 36E. Review of a decision not to renew licence
 - 36F. Disposal of firearms where licence not renewed
21. Section 37 amended (Genuine reasons)
22. Section 39 amended (Requirements relating to recreational hunting or vermin control)
23. Section 40 amended (Requirements relating to primary production)
24. Section 46 amended (General conditions of licence)
25. Section 47 amended (Special conditions of certain licence)
26. Section 51 amended (Cancellation of licence)
27. Section 54 amended (Surrender of licence and firearm)
28. Section 60 amended (General restrictions on granting permits)
29. Section 61 amended (Granting permit)
30. Section 70 amended (Authority of minor's permit)
31. Section 73A inserted
 - 73A. Minor to act in accordance with permit
32. Section 74 amended (Unregistered firearms)
33. Section 83 amended (Register of firearms)
34. Section 84 amended (General requirements)
35. Sections 85 and 86 substituted

- 85. Licence holder must comply with prescribed storage requirements
- 36. Section 87 amended (Firearms dealer and museum licences requirement)
- 37. Section 87A amended (Militaria firearms licence requirements)
- 38. Section 88 amended (Seizure of firearms if storage requirements not met)
- 39. Section 89 amended (Record of dealings)
- 40. Section 96A amended (Employment restrictions, &c.)
- 41. Part 6A inserted
 - PART 6A – Paintball
 - 99B. Interpretation of Part
 - 99C. Application for registration as paintball operator
 - 99D. Period of registration
 - 99E. Suspension or cancellation of registration
 - 99F. Paintball employment restrictions, &c.
 - 99G. Authority to possess and use paintball firearms
 - 99H. Paintball offences
- 42. Section 101 amended (Mailing firearms outside State)
- 43. Section 104 amended (Conveying firearms and ammunition)
- 44. Section 106A inserted
 - 106A. Advertising sale of firearm receptacles
- 45. Section 107A inserted
 - 107A. Possession of stolen firearms
- 46. Section 109 amended (Surrender of firearms by unauthorised persons)
- 47. Section 110 amended (Unsafe firearms)
- 48. Section 113 amended (Recklessly discharging firearm)
- 49. Section 118 amended (Silencers and magazines)
- 50. Section 119 amended (War games)
- 51. Section 120 amended (Restrictions relating to alcohol and drugs)
- 52. Section 124 substituted
 - 124. Defacing or altering identification marks
- 53. Section 129 amended (Amnesty)
- 54. Section 133 repealed

- 55. Section 133A amended (Interpretation of Part)
- 56. Section 137 amended (Dangerous situations)
- 57. Section 141 amended (Reviews)
- 58. Section 149 amended (Disposal of surrendered or seized firearms)
- 59. Section 157A inserted
 - 157A. Infringement notices
- 60. Section 158 amended (Evidence)
- 61. Sections 158A and 158B inserted
 - 158A. Medical practitioners to report firearm incidents
 - 158B. Limitation on proceedings
- 62. Schedule 1 amended (Prohibited Firearms)
- 63. Schedule 1A inserted
 - SCHEDULE 1A – INFRINGEMENT NOTICE OFFENCES**

PART 3 – FORENSIC PROCEDURES ACT 2000 AMENDED

- 64. Principal Act
- 65. Section 3 amended (Interpretation)

PART 4 – REPEAL OF ACT

- 66. Repeal of Act

FIREARMS (MISCELLANEOUS AMENDMENTS) BILL 2015

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

SHANE DONNELLY, *Clerk of the House*
25 March 2015

*(Brought in by the Minister for Police and Emergency
Management, the Honourable Marinus Theodoor Hidding)*

A BILL FOR

An Act to amend the *Firearms Act 1996*

Be it enacted by Her 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:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Firearms (Miscellaneous Amendments) Act 2015*.

2. Commencement

The provisions of this Act commence on a day or days to be proclaimed.

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

s. 3

Part 2 – Firearms Act 1996 Amended

PART 2 – FIREARMS ACT 1996 AMENDED

3. Principal Act

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

4. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

- (a) by inserting the following paragraph after paragraph (d) in the definition of *ammunition*:
 - (da) paintball pellets as defined in section 99B; or
- (b) by omitting “it;” from paragraph (g) of the definition of *firearm* and substituting “it –”;
- (c) by inserting the following after paragraph (g) in the definition of *firearm*:

“but does not include any device declared by the regulations not to be a firearm;”
- (d) by inserting the following definition after the definition of *firearm*:

*No. 23 of 1996

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

Part 2 – Firearms Act 1996 Amended

s. 4

firearm heirlooms licence means the
licence referred to in section 21;

- (e) by inserting the following definition after
the definition of *heirloom firearm*:

imitation firearm means an article of
any material or colour that –

- (a) is a copy or reproduction
of a firearm or has the
appearance of a firearm;
and
 - (b) could reasonably be
mistaken for a firearm;
- (f) by omitting the definition of *light
ordnance* and substituting the following
definition:

manufacture means –

- (a) any process of which the
intended outcome is the
creation of a firearm,
ordnance or firearm part
including, but not limited
to, a barrel, slide, frame,
receiver or bolt body; or
- (b) in relation to a firearm
that has been rendered
incapable of being fired,
making that firearm
capable of being fired;

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

s. 4

Part 2 – Firearms Act 1996 Amended

- (g) by inserting the following definition after the definition of *minor's permit*:

ordnance means –

- (a) a bazooka, rocket launcher or prescribed weapon that, although not a firearm within the meaning of this Act, is designed to be capable of –
 - (i) being carried and used manually; and
 - (ii) firing a projectile by non-explosive means such as a propellant; and
- (b) a shell, rocket or other projectile that –
 - (i) is designed to be fired by a weapon referred to in paragraph (a); and
 - (ii) has not been permanently rendered inert; and
- (c) a tank, cannon or other similar military vehicle

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

Part 2 – Firearms Act 1996 Amended

s. 5

capable of discharging a
missile or other projectile;

5. Section 3B inserted

After section 3A of the Principal Act, the
following section is inserted in Part 1:

3B. Meaning of “possession”

Without restricting the meaning of the
word *possession*, for the purposes of any
proceedings under this Act, a firearm is
taken to be in the possession of a person
so long as –

- (a) the firearm is found in or on any
premises, structure, vehicle,
vessel, aircraft or other place; and
- (b) the person is in, on, or in
occupation of, the premises,
structure, vehicle, vessel, aircraft
or place when the firearm is
found –

unless the court is satisfied that the
person did not know, and could not
reasonably be expected to have known,
that the firearm was in or on the
premises, structure, vehicle, vessel,
aircraft or place.

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

s. 6

Part 2 – Firearms Act 1996 Amended

6. Section 9 amended (Possession or use of firearms)

Section 9 of the Principal Act is amended by omitting subsection (1) and substituting the following subsections:

(1) A person must not possess or use a firearm –

(a) unless the person is the holder of a firearms licence of the appropriate category as specified in Division 2 in respect of that firearm; or

(b) for which a firearms licence is not required under this Act.

Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 2 years, or both.

(1A) If a person possesses or uses a prohibited firearm –

(a) for which a firearms licence is required under this Act, without being the holder of a firearms licence of the appropriate category as specified in Division 2 in respect of that firearm; or

(b) for which a firearms licence is not required under this Act –

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

Part 2 – Firearms Act 1996 Amended

s. 7

the person is guilty of an indictable offence punishable under the *Criminal Code*.

7. Section 10 amended (Acquiring firearms)

Section 10(1) of the Principal Act is amended by inserting “a licensed firearms dealer or” after “is”.

8. Section 13A amended (Possession of ex-military firearms and ordnance)

Section 13A(1) of the Principal Act is amended by omitting “light”.

9. Section 16 amended (Category C firearms licence)

Section 16 of the Principal Act is amended by inserting after subsection (2) the following subsection:

- (3) Subsection (2) does not apply in respect of a Category C firearms licence that is specified as being issued only for the genuine reason of firearms collection.

10. Section 17 amended (Category D firearms licence)

Section 17 of the Principal Act is amended by inserting after subsection (2) the following subsection:

- (3) Subsection (2) does not apply in respect of a Category D firearms licence that is

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

s. 11

Part 2 – Firearms Act 1996 Amended

specified as being issued only for the
genuine reason of firearms collection.

11. Section 18 amended (Category H firearms licence)

Section 18(4) of the Principal Act is amended by
omitting “.45” and substituting “.46”.

12. Section 21A amended (Militaria firearms licence)

Section 21A of the Principal Act is amended by
omitting “light”.

13. Section 22 amended (Additional authority relating to possession)

Section 22 of the Principal Act is amended by
inserting after paragraph (d) the following
paragraph:

- (da) cleaning, or undertaking routine
maintenance of, the firearm whilst it is in
the licensed holder’s immediate custody
and control; or

14. Section 25 amended (Purchase and sale)

Section 25 of the Principal Act is amended as
follows:

- (a) by omitting paragraphs (a) and (b) from
subsection (2) and substituting the
following paragraphs:

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

Part 2 – Firearms Act 1996 Amended

s. 15

- (a) is authorised by a permit to acquire the firearm and the firearms dealer has seen the permit; and
 - (b) is authorised by a licence to possess the firearm and the firearms dealer has seen the licence.
- (b) by omitting subsection (4).

15. Section 27A inserted

After section 27 of the Principal Act, the following section is inserted in Division 4:

27A. Use of collection firearms on certain occasions

- (1) The Commissioner may grant a permit, to the holder of a licence granted for the genuine reason of collection, to carry or use any firearm held under the licence at a commemorative or historical event approved by the Commissioner and held on an approved range.
- (2) The Commissioner may impose any conditions on the permit that the Commissioner considers appropriate.
- (3) The conditions that the Commissioner may impose on a permit granted under this section may include conditions for or in respect of –

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

s. 16

Part 2 – Firearms Act 1996 Amended

- (a) the circumstances in which the Commissioner may cancel or suspend the permit and any other matters related to any such cancellation or suspension; and
 - (b) the length or term of the permit and any related matters.
- (4) An application for a permit must be –
 - (a) in a form approved by the Commissioner; and
 - (b) accompanied by the prescribed fee.
- (5) The holder of a permit must comply with the terms and conditions of the permit.

Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 2 years, or both.

16. Section 29 amended (General restrictions on granting licence)

Section 29(1) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (d) “course; and” and substituting “course.”;
- (b) by omitting paragraph (e).

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

Part 2 – Firearms Act 1996 Amended

s. 17

17. Section 29B inserted

After section 29A of the Principal Act, the following section is inserted in Division 5:

29B. Commissioner may seek further information

- (1) Before granting an application for a licence, the Commissioner may do any or all of the following:
 - (a) make an inquiry or conduct an investigation into the applicant or the application;
 - (b) require the applicant to provide any further information the Commissioner reasonably needs to be satisfied about the applicant's identity or physical or mental health including –
 - (i) a report from a medical practitioner about the applicant's physical health; and
 - (ii) a report from a medical practitioner or psychologist about the applicant's mental health;
 - (c) provide, for this section, information or a document relevant to the applicant's identity to a police officer or an employee of the Department.

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

s. 17

Part 2 – Firearms Act 1996 Amended

- (2) If the Commissioner suspects, on reasonable grounds, that the applicant's stated identity is false or misleading, the Commissioner may require the applicant to provide an identifying particular to verify the applicant's identity.
- (3) The applicant is taken to have withdrawn the application if, within a period specified by the Commissioner, the applicant –
 - (a) refuses or fails to provide the information reasonably required under subsection (1)(b); or
 - (b) refuses to allow the inspection under subsection (1)(c); or
 - (c) fails to comply with a requirement under subsection (2).
- (4) If information about the applicant's mental health given under subsection (1)(b) is provided in a medical practitioner's or psychologist's report, the Commissioner may –
 - (a) make information in the Commissioner's possession available to the medical practitioner or psychologist; and
 - (b) ask the medical practitioner or psychologist to provide a further report.

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

Part 2 – Firearms Act 1996 Amended

s. 17

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- (5) The Commissioner may make the information available only if the Commissioner considers, on reasonable grounds, that –
- (a) the medical practitioner or psychologist was not aware of the information; and
 - (b) the information may influence the medical practitioner's or psychologist's opinion about the applicant's mental health.
- (6) The Commissioner must advise the applicant of the fact that the information is being supplied to the medical practitioner or psychologist.
- (7) The Commissioner may make the information available under subsection (4) despite the provisions of any other Act.
- (8) Unless the Commissioner considers that an identifying particular obtained in the course of inquiries into the application is currently required for the investigation of an offence, the Commissioner must, after deciding the application –
- (a) either –
 - (i) return the identifying particular to the applicant;
 - or

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

s. 18

Part 2 – Firearms Act 1996 Amended

- (ii) destroy the identifying particular and notify the applicant in writing of its destruction; and
- (b) destroy any record or copy of the identifying particular.
- (9) Information required to be supplied under this section may be used only to decide the application or to investigate or prosecute an offence and must not be disclosed for any other purpose.
- (10) For the purposes of this section –
 - identifying particular* includes –
 - (a) fingerprints; and
 - (b) DNA; and
 - (c) any other means by which a person may be identified.

18. Section 31 amended (Restrictions on granting Category C firearms licence)

Section 31(1) of the Principal Act is amended as follows:

- (a) by inserting “, animal population control” after “that the genuine reason for holding the licence is primary production”;

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

Part 2 – Firearms Act 1996 Amended

s. 19

- (b) by inserting “or animal population control ” after “if the genuine reason for holding the licence is primary production”.

19. Section 35A inserted

After section 35 of the Principal Act, the following section is inserted in Division 5:

35A. Variation of conditions of licence

- (1) The Commissioner may, at any time, vary or review a condition imposed on a licence under this Part.
- (2) The variation of a condition under this section has effect when notice of that variation is given in writing to the holder of the licence.
- (3) For the purposes of this section, notice may be given to a person –
 - (a) by email or facsimile; or
 - (b) by leaving it at, or sending it by post to, the person’s residential or postal address or place or address of business or employment, whichever is last known to the server of the notice.

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

s. 20

Part 2 – Firearms Act 1996 Amended

20. Part 2, Division 5A inserted

After section 36 of the Principal Act, the following Division is inserted in Part 2:

Division 5A – Renewal of licences

36A. Renewal of licences

- (1) Before the expiration of a licence under this Part, the holder may apply to the Commissioner for renewal of the licence.
- (2) An application must be –
 - (a) in a form and manner approved by the Commissioner; and
 - (b) accompanied by the prescribed fee.
- (3) An application must be accompanied by a list of all the firearms in the possession of the applicant.

36B. Continuation of licence during consideration of application for renewal

If a licence holder has applied for renewal of a licence under section 36A and that application has not been determined before the date of expiry of the licence, the licence is deemed to continue in force, on and from that date, until the determination of the application.

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

Part 2 – Firearms Act 1996 Amended

s. 20

36C. General discretion of Commissioner to refuse to renew licence or to alter or vary conditions of licence

- (1) The Commissioner may renew or refuse to renew a licence under this Part and, if a licence is to be renewed, the Commissioner may alter or vary the conditions on the licence or impose further conditions on the licence.
- (2) The Commissioner must not renew the licence –
 - (a) if the applicant can no longer demonstrate that the genuine reason for which the licence was previously issued is still applicable; or
 - (b) if the applicant or any responsible person in relation to the application is subject to a prohibition order; or
 - (c) unless the Commissioner is satisfied that –
 - (i) the applicant is a fit and proper person; and
 - (ii) the applicant can comply with the storage requirements set out by or under this Act; and

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

s. 20

Part 2 – Firearms Act 1996 Amended

(iii) the renewal of the licence
is not against the public
interest; or

(d) for any other prescribed reason.

**36D. Commissioner may alter or vary conditions
on licence**

The Commissioner may alter or vary the
conditions on the licence –

(a) if the applicant can no longer
demonstrate that the genuine
reason for which the licence was
previously issued is still
applicable; or

(b) for any other prescribed reason.

36E. Review of a decision not to renew licence

A person who is not the subject of a
prohibition order and who has applied for
the renewal of a licence under this Part
may apply to a magistrate for a review of
a decision of the Commissioner –

(a) not to renew that licence; or

(b) to alter or vary any of the
conditions on the licence.

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

Part 2 – Firearms Act 1996 Amended

s. 20

36F. Disposal of firearms where licence not renewed

- (1) A person whose licence is not renewed does not commit an offence under this Part if he or she possesses or carries a firearm held under that licence –
 - (a) if no application for review has been made against the decision not to renew the licence, for 28 days after the licence expires, for the purposes of disposing of the firearm; or
 - (b) if an application for review has been made against the decision not to renew the licence, for 28 days after the confirmation of the decision, for the purposes of disposing of the firearm.
- (2) If a condition on a licence is altered or varied under section 36D requiring a firearm to be disposed of, the holder of the licence does not commit an offence under this Part, in the period of 28 days after the date of the alteration or variation, if he or she possesses or carries the firearm for the purpose of disposing of it.
- (3) A person who is disposing of a firearm in the circumstances to which subsection (1) or (2) applies must dispose

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

s. 21

Part 2 – Firearms Act 1996 Amended

of that firearm to a police officer or a licensed firearms dealer.

Penalty: Fine not exceeding 60 penalty units or imprisonment for a term not exceeding 12 months, or both.

- (4) This Act applies to an application for the renewal of a licence as if it were an application for that licence.

21. Section 37 amended (Genuine reasons)

Section 37(1) of the Principal Act is amended by inserting after paragraph (f) the following paragraphs:

- (fa) fishing for commercial purposes within the meaning of the *Living Marine Resources Management Act 1995*;
- (fb) conducting a paintball business within the meaning of Part 6A;

22. Section 39 amended (Requirements relating to recreational hunting or vermin control)

Section 39 of the Principal Act is amended by omitting paragraph (b).

23. Section 40 amended (Requirements relating to primary production)

Section 40 of the Principal Act is amended as follows:

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

Part 2 – Firearms Act 1996 Amended

s. 24

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- (a) by omitting “, in the case of an application for a Category C firearms licence”;
 - (b) by omitting paragraph (a) and substituting the following paragraph:
 - (a) be a person who is regularly engaged –
 - (i) in the business of primary production on land owned, managed or leased by the person; or
 - (ii) as an employee of such a person; and

24. Section 46 amended (General conditions of licence)

Section 46 of the Principal Act is amended by inserting after paragraph (b) the following paragraph:

- (ba) the licensee must notify the Commissioner in an approved form of any change in the licensee’s name or residential address within 14 days after that change;

25. Section 47 amended (Special conditions of certain licence)

Section 47 of the Principal Act is amended as follows:

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

s. 26

Part 2 – Firearms Act 1996 Amended

(a) by omitting paragraphs (e) and (f) from subsection (1) and substituting the following paragraph:

(e) the holder must not discharge a firearm which forms part of the collection otherwise than in accordance with the specific approval of the Commissioner.

(b) by inserting the following subsection after subsection (1):

(1A) Notwithstanding subsection (1)(d), a firearm rendered temporarily incapable of being fired in accordance with subsection (1)(a) may be temporarily rendered operable for the purposes of undertaking routine cleaning or maintenance, or for participation in an approved event in accordance with section 27A.

26. Section 51 amended (Cancellation of licence)

Section 51 of the Principal Act is amended as follows:

(a) by omitting from subsection (3) “, or interim restraint order”;

(b) by omitting from subsection (7)(b) “or interim restraint order”.

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

Part 2 – Firearms Act 1996 Amended

s. 27

27. Section 54 amended (Surrender of licence and firearm)

Section 54 of the Principal Act is amended as follows:

- (a) by inserting in subsection (3) “, ammunition and firearm parts” after “firearm”;
- (b) by inserting in subsection (4)(a) “, ammunition and firearm parts” after “firearm”;
- (c) by inserting in subsection (5) “, ammunition and firearm parts” after “firearm”;
- (d) by omitting “definition of *light ordnance*” from the definition of *firearm* in subsection (6) and substituting “definition of *ordnance*”.

28. Section 60 amended (General restrictions on granting permits)

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

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

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

s. 29

Part 2 – Firearms Act 1996 Amended

- (d) is satisfied that the applicant is able to meet the storage and safety requirements specified in Part 5.

29. Section 61 amended (Granting permit)

Section 61 of the Principal Act is amended by omitting paragraph (b) and substituting the following paragraph:

(b) only –

- (i) after 28 days have expired after the lodging of the application for the permit, in the case of an application for a permit which has been made by a person who does not possess a registered firearm under a licence under this Act; or
- (ii) in any other case, after sufficient time has expired to allow the Commissioner to consider the application properly, in normal circumstances not less than 14 days after the lodging of the application; and

30. Section 70 amended (Authority of minor's permit)

Section 70 of the Principal Act is amended as follows:

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

Part 2 – Firearms Act 1996 Amended

s. 31

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- (a) by omitting from subsection (1) “16” and substituting “15”;
 - (b) by inserting in subsection (1)(a)(i) “who has held the licence for a continuous period of 5 years” after “licence”;
 - (c) by inserting in subsection (1)(b)(i) “including, in the case of a minor who has completed an approved firearms safety course, shooting the firearm under the immediate supervision of the holder of a licence who has held the licence for a continuous period of 5 years” after “firearm”;
 - (d) by omitting from subsection (2) “16” and substituting “15”.

31. Section 73A inserted

After section 73 of the Principal Act, the following section is inserted in Division 2:

73A. Minor to act in accordance with permit

The holder of a minor’s permit must not use or possess a firearm otherwise than in accordance with the permit.

Penalty: Fine not exceeding 5 penalty units.

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

s. 32

Part 2 – Firearms Act 1996 Amended

32. Section 74 amended (Unregistered firearms)

Section 74(2) of the Principal Act is amended by inserting after paragraph (a) the following paragraph:

- (ab) a firearm that is registered in another State or a Territory and that is possessed and used in accordance with a corresponding licence; or

33. Section 83 amended (Register of firearms)

Section 83 of the Principal Act is amended as follows:

- (a) by omitting from subsection (3)(a) “the National Exchange of Police Information Scheme” and substituting “CrimTrac”;
- (b) by inserting the following subsection after subsection (3):

- (4) In this section –

CrimTrac means the CrimTrac Agency established under section 65 of the *Public Service Act 1999* of the Commonwealth.

34. Section 84 amended (General requirements)

Section 84 of the Principal Act is amended as follows:

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

Part 2 – Firearms Act 1996 Amended

s. 35

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- (a) by inserting in subsection (1) “, firearm part or ammunition” after “a firearm”;
 - (b) by inserting in subsection (1) “, firearm part or ammunition” after “the firearm”;
 - (c) by inserting in subsection (2) “, firearm part or ammunition” after “a firearm”;
 - (d) by inserting in subsection (2) “, firearm part or ammunition” after “the firearm”;
 - (e) by inserting in subsection (3) “, firearm part or ammunition” after “a firearm”;
 - (f) by inserting in subsection (3) “, firearm part or ammunition” after “the firearm”;
 - (g) by inserting in paragraph (b) of the penalty under subsection (3) “, firearm part or ammunition” after “firearm”.

35. Sections 85 and 86 substituted

Sections 85 and 86 of the Principal Act are repealed and the following section is substituted:

85. Licence holder must comply with prescribed storage requirements

- (1) The holder of a Category A, Category B, Category C or Category D firearms licence must comply with the prescribed requirements in respect of the storage of –

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

s. 35

Part 2 – Firearms Act 1996 Amended

(a) any firearm to which the licence applies; and

(b) any firearm parts or ammunition for such a firearm.

Penalty: Fine not exceeding 60 penalty units or imprisonment for a term not exceeding 12 months, or both.

(2) If the holder of a Category A, Category B, Category C or Category D firearms licence has possession of 10 or more firearms, he or she must comply with the prescribed requirements in respect of the storage of –

(a) those firearms; and

(b) any firearm parts or ammunition for those firearms.

Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 2 years, or both.

(3) The holder of a Category H firearms licence must comply with the prescribed requirements in respect of the storage of –

(a) any firearm to which the licence applies; and

(b) any firearm parts or ammunition for such a firearm.

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

Part 2 – Firearms Act 1996 Amended

s. 36

Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 2 years, or both.

- (4) This section does not apply to a licensee if the licensee satisfies the Commissioner that the licensee has provided alternative arrangements, for the storage of firearms, firearms parts and ammunition in the licensee's possession, that are of a standard not less than the prescribed requirements.

36. Section 87 amended (Firearms dealer and museum licences requirement)

Section 87 of the Principal Act is amended as follows:

- (a) by omitting from paragraph (i) “firearm.” and substituting “firearm;”;
- (b) by inserting the following paragraphs after paragraph (i):
 - (j) in the case of the holder of a firearms dealer licence, all ammunition that is not in the physical possession of the holder or any employee of the holder, or that is not being displayed to a customer under the immediate continuous personal supervision of the holder or the employee, is to be stored in a locked receptacle that is –

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

s. 37

Part 2 – Firearms Act 1996 Amended

- (i) of an approved type; and
- (ii) kept separate from any receptacle containing a firearm;
- (k) such other requirements as may be prescribed.

37. Section 87A amended (Militaria firearms licence requirements)

Section 87A(3) of the Principal Act is amended as follows:

- (a) by omitting “definition of *light ordnance*” from the definition of *ammunition* and substituting “definition of *ordnance*”;
- (b) by omitting “definition of *light ordnance*” from the definition of *firearm* and substituting “definition of *ordnance*”.

38. Section 88 amended (Seizure of firearms if storage requirements not met)

Section 88 of the Principal Act is amended by omitting “ammunition or light” and substituting “firearm part, ammunition or”.

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

Part 2 – Firearms Act 1996 Amended

s. 39

39. Section 89 amended (Record of dealings)

Section 89 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “, firearm parts and ammunition” and substituting “and firearm parts”;
- (b) by omitting paragraph (e) from subsection (2);
- (c) by inserting the following subsection after subsection (5):
 - (6) If required to do so by the Commissioner, a licensed firearms dealer must keep a record in an approved form of all of the dealer’s dealings with ammunition.

40. Section 96A amended (Employment restrictions, &c.)

Section 96A(6)(b) of the Principal Act is amended as follows:

- (a) by inserting “a firearms licence cancelled or” after “had”;
- (b) by omitting “under this Act refused” and substituting “refused under this Act or in any other jurisdiction”;
- (c) by inserting in subparagraph (i) “hold or” after “to”;

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

s. 41

Part 2 – Firearms Act 1996 Amended

- (d) by omitting from subparagraph (iii) “issue” and substituting “holding or issuing”.

41. Part 6A inserted

After section 99A of the Principal Act, the following Part is inserted:

PART 6A – PAINTBALL

99B. Interpretation of Part

In this Part –

paintball means a game in which paintball firearms are used to discharge paintball pellets at people or things;

paintball business means the business of providing a paintball range, paintball firearms and paintball pellets and other things for playing paintball;

paintball firearm means a firearm designed to discharge paintball pellets;

paintball pellets means pellets that –

- (a) consist primarily of a dye, paint or similar marking substance; and

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

Part 2 – Firearms Act 1996 Amended

s. 41

- (b) are designed to be discharged from a paintball firearm;

paintball range means premises approved for playing paintball;

proscribed person means a proscribed person within the meaning of section 96A(6);

registered paintball operator means a person registered under this Part to carry on a paintball business.

99C. Application for registration as paintball operator

- (1) A person who is the holder of a Category A firearms licence may apply to the Commissioner for registration as a paintball operator.
- (2) An application is to be –
 - (a) in an approved form; and
 - (b) supported by such information or evidence as the Commissioner requires; and
 - (c) accompanied by the prescribed fee.
- (3) The Commissioner may –

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

s. 41

Part 2 – Firearms Act 1996 Amended

- (a) approve the application, with or without conditions; or
 - (b) refuse the application.
- (4) The Commissioner must not approve an application unless satisfied that –
 - (a) the applicant is a fit and proper person; and
 - (b) the paintball range is suitable for the operation of a paintball business; and
 - (c) any paintball firearms and paintball pellets are stored in accordance with the requirements of this Act when not in use.
- (5) If the application is refused, the Commissioner is to give the applicant notice of –
 - (a) the refusal, together with the reasons for the refusal; and
 - (b) the applicant's right of review.
- (6) If the application is approved, the Commissioner is to –
 - (a) give the applicant notice of the approval; and
 - (b) issue the applicant with a certificate of registration.

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

Part 2 – Firearms Act 1996 Amended

s. 41

99D. Period of registration

- (1) Subject to section 99E, a registration is in force for a period of 12 months.
- (2) Before its expiry, a registration may be renewed, on application and payment of the prescribed fee, subject to a satisfactory inspection of the paintball range by the Commissioner.

99E. Suspension or cancellation of registration

- (1) The Commissioner may suspend the registration of a registered paintball operator for such period as the Commissioner thinks fit or, following an inquiry, cancel the registration if satisfied that the registered paintball operator has –
 - (a) contravened this Act; or
 - (b) contravened another Act in such a way that calls into question the registered paintball operator's suitability to operate a paintball business; or
 - (c) contravened a condition of registration.
- (2) If the Commissioner suspends or cancels the registration of a registered paintball operator, the Commissioner must give the paintball operator notice of –

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

s. 41

Part 2 – Firearms Act 1996 Amended

- (a) the decision; and
 - (b) the reasons for the decision; and
 - (c) the paintball operator's right of review.
- (3) A paintball operator whose registration has been suspended is taken, during the period of suspension, not to be registered.

99F. Paintball employment restrictions, &c.

- (1) A registered paintball operator must not employ a person who is not the holder of a Category A firearms licence.

Penalty: Fine not exceeding 40 penalty units or imprisonment for a term not exceeding 2 years, or both.

- (2) A proscribed person must not apply for or accept employment that gives the proscribed person access to paintball firearms or paintball pellets.

Penalty: Fine not exceeding 40 penalty units or imprisonment for a term not exceeding 2 years, or both.

- (3) A registered paintball operator must not cause or allow a proscribed person to –
 - (a) act as an agent for the paintball business; or

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

Part 2 – Firearms Act 1996 Amended

s. 41

- (b) participate in the management of the paintball business.

Penalty: Fine not exceeding 40 penalty units or imprisonment for a term not exceeding 2 years, or both.

- (4) A proscribed person must not –

- (a) act as an agent for a paintball business; or
- (b) participate in the management of the paintball business.

Penalty: Fine not exceeding 40 penalty units or imprisonment for a term not exceeding 2 years, or both.

- (5) It is a defence in proceedings for an offence under subsection (1) or (3) if the defendant establishes that, on the day of the alleged offence, the defendant did not know, and could not reasonably have been expected to know, that the person to whom the alleged offence relates was not the holder of a Category A firearms licence or was a proscribed person, as the case may be.

99G. Authority to possess and use paintball firearms

- (1) An adult is authorised to possess and use a paintball firearm if –

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

s. 41

Part 2 – Firearms Act 1996 Amended

- (a) the paintball firearm is in the person's possession with the knowledge and approval of the registered paintball operator or an adult employee of the operator; and
 - (b) the person is playing, is about to play, or has just finished playing, paintball on an approved paintball range.
- (2) A person who is 16 or 17 years old (*young participant*) is authorised to possess and use a paintball firearm if the possession and use are in accordance with –
 - (a) subsection (1)(a) and (b); and
 - (b) the written consent of a person with parental responsibility for the young participant.

99H. Paintball offences

- (1) A person must not operate a paintball range that is not approved.

Penalty: Fine not exceeding 20 penalty units or imprisonment for a term not exceeding 12 months, or both.

- (2) A person must not operate an approved paintball range unless the person is a registered paintball operator.

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

Part 2 – Firearms Act 1996 Amended

s. 42

Penalty: Fine not exceeding 20 penalty
units or imprisonment for a term
not exceeding 12 months, or both.

42. Section 101 amended (Mailing firearms outside State)

Section 101(c) of the Principal Act is amended
by omitting “security mail” and substituting
“mail, or freight, that requires delivery in person
to the addressee and his or her signature”.

43. Section 104 amended (Conveying firearms and ammunition)

Section 104(2) of the Principal Act is amended
as follows:

- (a) by omitting from paragraph (b)
“circumstances.” and substituting
“circumstances; and”;
- (b) by inserting the following paragraph after
paragraph (b):
 - (c) in the case of a person whose
genuine reason for possessing or
using a firearm is primary
production, or an employee of
that person, on a road that
bounds, bisects or immediately
connects property or properties
owned by that person.

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

s. 44

Part 2 – Firearms Act 1996 Amended

44. Section 106A inserted

After section 106 of the Principal Act, the following section is inserted in Division 2:

106A. Advertising sale of firearm receptacles

A person must not cause an advertisement for the sale of a receptacle for the storage of firearms unless the receptacle complies with the requirements of Part 5.

Penalty: Fine not exceeding 50 penalty units.

45. Section 107A inserted

After section 107 of the Principal Act, the following section is inserted in Division 2:

107A. Possession of stolen firearms

- (1) A person must not have possession of a stolen firearm.
- (2) A police officer may, without warrant, arrest any person who the police officer has reasonable grounds for believing has committed an offence against subsection (1).
- (3) A police officer may enter (using reasonable force if necessary), remain on and search premises, including a conveyance, on or in which the police

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

Part 2 – Firearms Act 1996 Amended

s. 45

officer has reasonable grounds for believing that a stolen firearm is present.

- (4) In proceedings for an offence against subsection (1), an allegation in the complaint that the firearm is stolen is evidence of that matter.
- (5) It is a defence to proceedings for an offence against subsection (1) for a person to provide a satisfactory account for the possession or control of the firearm.
- (6) A court that convicts a person of an offence against subsection (1), and a court that imposes a sentence upon the conviction of the person, must –
 - (a) if there are no exceptional circumstances, order the person to serve in respect of the offence a term of imprisonment of not less than 3 months; or
 - (b) if there are exceptional circumstances, order the person to pay a fine of 60 penalty units.
- (7) If an order has been made, in accordance with subsection (6), that a person must serve in respect of an offence a term of imprisonment of not less than 3 months, a court must not –
 - (a) make any other order in respect of the offence; or

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

s. 46

Part 2 – Firearms Act 1996 Amended

- (b) amend an order in respect of the offence –

if the effect of that other order or amendment would be that the person is not imprisoned for a term of at least 3 months in respect of the offence.

46. Section 109 amended (Surrender of firearms by unauthorised persons)

Section 109 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “to a police officer or a licensed firearms dealer” after “surrender the firearm”;
- (b) by inserting the following subsection after subsection (2):
 - (3) A licensed firearms dealer to whom a firearm is surrendered under this section must deal with the firearm in the manner prescribed by the regulations.

Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 12 months, or both.

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

Part 2 – Firearms Act 1996 Amended

s. 47

47. Section 110 amended (Unsafe firearms)

Section 110 of the Principal Act is amended by inserting after subsection (3) the following subsection:

- (4) Notwithstanding subsection (1), the following people may have possession of a firearm that is unsafe:
 - (a) the holder of a firearms dealer licence, if the possession is –
 - (i) in the ordinary course of his or her business; or
 - (ii) for the purpose of repairing the firearm;
 - (b) the holder of a firearms licence, if the possession is for the genuine reason of firearms collection;
 - (c) the holder of a firearms museum licence, if the possession is in the ordinary course of storing, exhibiting or showing the firearm.

48. Section 113 amended (Recklessly discharging firearm)

Section 113 of the Principal Act is amended by omitting subsection (1).

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

s. 49

Part 2 – Firearms Act 1996 Amended

49. Section 118 amended (Silencers and magazines)

Section 118(1) of the Principal Act is amended by inserting “, whether or not the implement forms part of the firearm or can be attached to, or removed from, the firearm” after “firearm”.

50. Section 119 amended (War games)

Section 119(4) of the Principal Act is amended by inserting “or to the operation of a paintball business in accordance with Part 6A” after “purposes”.

51. Section 120 amended (Restrictions relating to alcohol and drugs)

Section 120 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “handle” and substituting “have physical possession of”;
- (b) by inserting in subsection (2) “physical” after “not sell or give”;
- (c) by inserting in subsection (2)(b) “physical” after “give”;
- (d) by inserting the following subsection after subsection (2):
 - (3) For the purposes of this section, a firearm is in a person’s physical possession if it is under the

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

Part 2 – Firearms Act 1996 Amended

s. 52

immediate physical control of the person and is not secured in accordance with the requirements of this Act.

52. Section 124 substituted

Section 124 of the Principal Act is repealed and the following section is substituted:

124. Defacing or altering identification marks

- (1) A person must not, either intentionally or recklessly, deface or alter any number, letter or identification mark on any firearm or firearm part.

Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 3 years, or both.

- (2) A person must not possess any firearm, or firearm part, on which any number, letter or identification mark has been defaced or altered.

Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 3 years, or both.

- (3) If, at any time, a number, letter or identification mark on a firearm is defaced or altered, the firearm is –

- (a) if it was registered at that time, automatically de-registered but may be re-registered if the

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

s. 53

Part 2 – Firearms Act 1996 Amended

Commissioner considers it
appropriate; or

- (b) if it was not registered at that
time, incapable of being
registered.

53. Section 129 amended (Amnesty)

Section 129 of the Principal Act is amended by
omitting “any offence relating to”.

54. Section 133 repealed

Section 133 of the Principal Act is repealed.

55. Section 133A amended (Interpretation of Part)

Section 133A of the Principal Act is amended as
follows:

- (a) by omitting “definition of *light
ordnance*” from the definition of
ammunition and substituting
“definition of *ordnance*”;
- (b) by omitting “definition of *light
ordnance*” from the definition of *firearm*
and substituting
“definition of *ordnance*”.

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

Part 2 – Firearms Act 1996 Amended

s. 56

56. Section 137 amended (Dangerous situations)

Section 137 of the Principal Act is amended by omitting “to a” and substituting “to themselves or another”.

57. Section 141 amended (Reviews)

Section 141(1) of the Principal Act is amended as follows:

- (a) by inserting the following paragraph after paragraph (b):
 - (ba) any variation of a condition under section 35A; or
- (b) by inserting the following paragraphs after paragraph (d):
 - (da) a refusal to grant an application under section 99C; or
 - (db) the suspension or cancellation of a registration under section 99E; or

58. Section 149 amended (Disposal of surrendered or seized firearms)

Section 149 of the Principal Act is amended as follows:

- (a) by inserting the following subsections after subsection (2):

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

s. 58

Part 2 – Firearms Act 1996 Amended

(2A) A magistrate may make an order under subsection (2)(a) if satisfied that –

(a) the owner of the firearm or ammunition –

(i) is not authorised by or under this Act to be in possession of the firearm or ammunition; and

(ii) has failed to provide an alternative method of disposal for the firearm or ammunition within a reasonable time; or

(b) the whereabouts of the owner of the firearm or ammunition has not been, and is not likely to be, ascertained by reasonable inquiry; or

(c) the owner of the firearm or ammunition has failed to comply with the requirements of this Act

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

Part 2 – Firearms Act 1996 Amended

s. 59

in relation to that firearm
or ammunition.

(2B) If a person is convicted of an offence against any one or more of the following provisions, the firearm used in relation to the offence is to be forfeited to the Crown:

- (a) section 111;
 - (b) section 112;
 - (c) section 113(2);
 - (d) section 114;
 - (e) section 14B(2A)(a) of the *Police Offences Act 1935*.
- (b) by omitting from subsection (3A) “Minister” and substituting “Commissioner”;
- (c) by omitting “definition of *light ordnance*” from the definition of *ammunition* in subsection (7) and substituting “definition of *ordnance*”;
- (d) by omitting “definition of *light ordnance*” from the definition of *firearm* in subsection (7) and substituting “definition of *ordnance*”.

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

s. 59

Part 2 – Firearms Act 1996 Amended

59. Section 157A inserted

After section 157 of the Principal Act, the following section is inserted in Part 11:

157A. Infringement notices

- (1) Where a police officer is satisfied that a person has committed a prescribed offence, he or she may serve on that person an infringement notice in respect of that offence by delivering it to that person or by sending it to that person by post.
- (2) An infringement notice is to be in accordance with section 14 of the *Monetary Penalties Enforcement Act 2005*.
- (3) For the purposes of subsection (1), an offence specified in Schedule 1A is a prescribed offence.
- (4) The penalties listed in Column 4 of Schedule 1A are the prescribed penalties for the offences listed in Column 3 of that Schedule to which they respectively relate.

60. Section 158 amended (Evidence)

Section 158 of the Principal Act is amended by inserting after paragraph (h) the following paragraph:

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

Part 2 – Firearms Act 1996 Amended

s. 61

- (ha) that a specified firearm was a specified category of firearm, whether registered or not, on a specified day or during a specified period;

61. Sections 158A and 158B inserted

After section 158 of the Principal Act, the following sections are inserted in Part 11:

158A. Medical practitioners to report firearm incidents

- (1) If a medical practitioner, or other person prescribed for the purposes of this subsection, has reasonable cause to suspect, in relation to a person whom he or she has seen in his or her professional capacity, that the person is suffering from a wound inflicted by a firearm, the medical practitioner, or other prescribed person, must make a report to a police officer under this section.

Penalty: Fine not exceeding 50 penalty units.

- (2) A report under this section –
 - (a) must be made as soon as practicable after the suspicion is formed; and
 - (b) must include –
 - (i) the name and address of the person who is the

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

s. 61

Part 2 – Firearms Act 1996 Amended

subject of the suspicion
or, if the name and
address are not known, a
description of the person;
and

(ii) details of the wound; and

(iii) any information provided
to the practitioner or other
person about the
circumstances leading to
the infliction of the
wound.

(3) If a medical practitioner, or other person prescribed for the purposes of this subsection, treats a person for a wound that the practitioner or person has reasonable cause to suspect was inflicted by a firearm, the practitioner or person must take reasonable steps to retain any ammunition or fragment of ammunition recovered from the wound until it can be collected by a police officer.

(4) A person incurs no civil or criminal liability in taking action in good faith in compliance, or purported compliance, with this section.

158B. Limitation on proceedings

A complaint in relation to an offence under this Act, other than section 9(1A), 11, 110A, 115 or 120A, is to be made

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

Part 2 – Firearms Act 1996 Amended

s. 62

within 12 months after the date of the
offence.

62. Schedule 1 amended (Prohibited Firearms)

Schedule 1 to the Principal Act is amended by
inserting after

10. A prohibited pistol.

the following items:

11. Any ex-military firearm.

12. Any ordnance.

63. Schedule 1A inserted

After Schedule 1 to the Principal Act, the
following Schedule is inserted:

**SCHEDULE 1A – INFRINGEMENT NOTICE
OFFENCES**

Section 157A			
	Section of Act	Description of offence	Penalty (Penalty units)
1.	23(2)	Fail to provide document within required period	2
2.	48	Fail to comply with conditions of licence	5

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

s. 63

Part 2 – Firearms Act 1996 Amended

	Section of Act	Description of offence	Penalty (Penalty units)
3.	82	Fail to produce registered firearm	2
4.	91	Alter dealings record otherwise than by interlineation or striking out	2
5.	92	Fail to provide copy of dealings record on ceasing to hold dealer licence	5
6.	93(1)	Fail to forward quarterly return	5
7.	93A(2)	Fail to provide business management declaration	4
8.	94(1)	Fail to affix label	2
9.	95(1)	Fail to notify of loss, theft or destruction of firearm	2
10.	96(2)	Fail to provide particulars as requested	2
11.	97	Display firearm otherwise than in accordance with requirements	5
12.	98(1)	Repair firearm without seeing licence, permit or certificate of registration	2

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

Part 2 – Firearms Act 1996 Amended

s. 63

	Section of Act	Description of offence	Penalty (Penalty units)
13.	98(2)	Repair firearm that is not registered	5
14.	99	Fail to keep records safe as required	2
15.	106	Advertise sale of firearm otherwise than as required	2
16.	108(2)	Person carrying firearm fail to state name and place of residence	5
17.	122(1)	Fail to produce licence or permit for inspection	5
18.	122(2)	Holder of licence or permit fail to state name and place of residence	5
19.	138(2)	Fail to provide information as requested	1
20.	147(7)	Fail to comply with obligations as keeper of firearm	2

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

s. 64

Part 3 – Forensic Procedures Act 2000 Amended

**PART 3 – FORENSIC PROCEDURES ACT 2000
AMENDED**

64. Principal Act

In this Part, the *Forensic Procedures Act 2000**
is referred to as the Principal Act.

65. Section 3 amended (Interpretation)

Section 3(1) of the Principal Act is amended by
omitting paragraph (ba) from the definition of
serious offence and substituting:

(ba) against section 9(1), 74(1), 107A(1),
111(1), 112(1), 113(2) or 114(1) of the
Firearms Act 1996; or

*No. 101 of 2000

Firearms (Miscellaneous Amendments) Act 2015
Act No. of

Part 4 – Repeal of Act

s. 66

PART 4 – REPEAL OF ACT

66. Repeal of Act

This Act is repealed on the three hundred and sixty fifth day from the day on which all of the provisions of this Act commence.