

NORTHERN TERRITORY OF AUSTRALIA

FIREARMS AMENDMENT ACT 2003

Act No. 25 of 2003

TABLE OF PROVISIONS

Section

1. Short title
2. Commencement
3. Principal Act
4. Interpretation
5. Exemptions
6. Delegation
7. General restrictions on grant of licence
8. New sections
 - 10AA. Restriction on grant of category H sports shooter's licence
 - 10AB. Restriction on grant of firearms dealer licence
 - 10AC. Restriction on grant of firearms collector licence
9. Genuine reason for licence
10. General conditions of licence
11. Period of licence
12. New Division
 - Division 3A – Category H Sports Shooter's Licence*
 - 15A. Category H sports shooter's licence
 - 15B. Procedure for obtaining licence
 - 15C. Conditions of licence
13. New section
 - 16A. Information about close associates of firearms dealers
14. Records and returns to be kept by dealers
15. Repeal and substitution
 20. Restriction on employing certain persons
16. Firearms armourer licence
17. New section
 - 22A. Records to be kept by firearms armourer
18. Firearms collector licence
19. New Division
 - Division 6A – Antique Firearms Collector Licence*
 - 25A. Antique firearms collector licence
20. Firearms club licence

- 21. Records to be kept by firearms clubs
- 22. Grant of permits
- 23. General restrictions on granting permits
- 24. New sections
 - 35A. Permits for category H sports shooters
 - 35B. Limits on firearm ownership under category H sports shooter's licence
 - 35C. Permits under firearms collector licence
- 25. Revocation of licence, permit or registration
- 26. New section
 - 40A. Revocation on basis of criminal intelligence
 - 40B. Seizure of firearms on revocation
- 27. Possession or use of firearms
- 28. New sections
 - 58A. Obligation of supervisor
 - 58B. Obligation of firearms club
- 29. New sections
 - 61. Manufacture of firearms
 - 61A. Repair or modification of firearms
- 30. Repeal and substitution
 - 74. Alteration of identification marks
- 31. Unsafe firearms
- 32. New Division
 - Division 1A – Revocation, disqualification, forfeiture*
 - 93A. Revocation and disqualification
 - 93B. Disqualification if aggravating circumstance
 - 93C. No grant of licence or permit
 - 93D. Court may order forfeiture
 - 93E. No effect on general power
- 33. New section
 - 93F. No review of certain decisions by Commissioner
- 34. Police may require production of licences etc.
- 35. New section
 - 96A. Police may require production of firearm
- 36. Report to be made in certain circumstances
- 37. Repeal and substitution
 - 102. Commissioner may disclose information in certain circumstances
- 38. Repeal and substitution
 - 105. Evidentiary – meaning of possession of a firearm etc.
- 39. Repeal and substitution
 - 110. Certain category H firearms to be produced to Commissioner
 - 110A. Voluntary surrender of category H firearms
- 40. Regulations
- 41. Repeal and substitution
 - 113. Transitional

42. Further amendments

SCHEDULE



NORTHERN TERRITORY OF AUSTRALIA

Act No. 25 of 2003

AN ACT

to amend the *Firearms Act*

[Assented to 26 June 2003]
[Second reading 28 May 2003]

The Legislative Assembly of the Northern Territory enacts as follows:

1. Short title

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

2. Commencement

This Act comes into operation on 1 July 2003.

3. Principal Act

The *Firearms Act* is in this Act referred to as the Principal Act.

4. Interpretation

Section 3 of the Principal Act is amended –

- (a) by inserting after the definition of "approved" in subsection (1) the following:

" 'category H sports shooter' means a person who –

- (a) is the holder of a licence to possess and use prescribed category H firearms;

Firearms Amendment Act 2003

- (b) is a member of an approved firearms club; and
- (c) participates in category H sports shooting;

'category H sports shooting' means participation in prescribed category H shooting disciplines at an approved firearms club;";

- (b) by inserting after the definition of "firearm" in subsection (1) the following:

" 'firearm part' means a part referred to in subsection (1A);";

- (c) by inserting after the definition of "offence of violence" in subsection (1) the following:

" 'order to keep the peace' means an order under section 99 of the *Justices Act* requiring the person in relation to whom the order is made to keep the peace or to enter into a recognizance to keep the peace;";

- (d) by omitting from the definition of "possess or use" in subsection (1) "discharge, repair and store" and substituting "discharge and store";

- (e) by inserting after the definition of "prohibited firearm" in subsection (1) the following:

" 'purchase' means to do or cause or allow to be done any of the following, whether or not for valuable consideration:

- (a) purchase by wholesale, retail, auction or tender;
- (b) obtain by barter or exchange;
- (c) receive by transfer, exchange, assignment or settlement;";

- (f) by omitting from subsection (1) the definition of "sale" and substituting the following:

" 'sale' means to do or cause or allow to be done any of the following, whether for profit, valuable consideration or otherwise:

- (a) sell by wholesale, retail, auction or tender;
- (b) dispose of by barter, transfer, exchange, assignment or settlement;
- (c) offer for sale, receive for sale, have in possession for sale or expose or exhibit for sale;
- (d) conduct negotiations for sale;

Firearms Amendment Act 2003

'shooting member', of an approved firearms club, means a full member of the firearms club who has completed the period of probation (if any) as a member and does not include a person who is a social or associate member (however called) of the club;"

- (g) by inserting after the definition of "silencer" in subsection (1) the following:

" 'specially accredited discipline' means a category H sports shooting discipline that is prescribed as a discipline for which a category H firearm with a calibre greater than .38" but not greater than .45" may be used;"

- (h) by inserting after the definition of "starting pistol" in subsection (1) the following:

" 'this Act' includes the Regulations;"

- (i) by omitting from subsection (3) "business, whether or not the person, in the course of the business, repairs firearms" and substituting "business"; and

- (j) by inserting after subsection (3) the following:

"(3A) For the purposes of this Act, a person is a close associate of an applicant for, or the holder of, a firearms dealer licence if the person –

- (a) holds or will hold any relevant financial interest, or is or will be entitled to exercise any relevant power (whether in his or her own right, on behalf of any other person or for the benefit of any other person), in the business of the applicant or holder and, by virtue of that interest or power, is or will be able to exercise a significant influence over, or with respect to, the conduct or control of that business; or
- (b) holds or will hold any relevant position (whether in his or her own right, on behalf of any other person or for the benefit of any other person) in the business of the applicant or holder.

"(3B) In subsection (3A) –

'relevant financial interest', in a business, means –

- (a) any interest in or entitlement to the capital or assets of the business, including any interest or entitlement where the business is carried on under a trust; or

Firearms Amendment Act 2003

- (b) any entitlement to receive any income derived from the business, whether the entitlement arises at law or in equity or otherwise;

'relevant position', in a business, means a position whose holder participates in or is entitled to participate in the management of the business (whether in the capacity of a director, manager, secretary, partner or in any other capacity);

'relevant power', in a business, means any power, whether exercisable by voting or otherwise and whether exercisable alone or in association with others –

- (a) to participate in any managerial or executive decision about the business; or
- (b) to elect or appoint any person to any relevant position in the business."

5. Exemptions

Section 4 of the Principal Act is amended by omitting subsection (1)(c).

6. Delegation

Section 5 of the Principal Act is amended by omitting from subsection (1) "other than this power of delegation" and substituting the following:

"other than –

- (a) the forming of the necessary opinion for the purposes of section 10(8A), 33(3A) or 40A(1); or
- (b) this power of delegation."

7. General restrictions on grant of licence

Section 10 of the Principal Act is amended –

- (a) by inserting in subsection (2A) "against this Act or the *Weapons Control Act* or" after "guilty of an offence";
- (b) by omitting from subsection (2A)(a) "12 months" and substituting "2 years";
- (c) by omitting from subsection (2A)(b) "2 years" and substituting "5 years"; and

Firearms Amendment Act 2003

(d) by inserting after subsection (8) the following:

"(8A) The Commissioner must refuse to grant a licence if the Commissioner is of the opinion, having regard to any criminal intelligence report or other criminal information the Commissioner holds about the applicant, that –

- (a) the applicant is a risk to public safety; and
- (b) the grant of the licence would be contrary to the public interest.

"(8B) The Commissioner is not, under this or any other Act or law, required to give reasons for refusing to grant a licence on the grounds referred to in subsection (8A)."

8. New sections

The Principal Act is amended by inserting after section 10 the following:

"10AA. Restriction on grant of category H sports shooter's licence

"The Commissioner must not grant a category H sports shooter's licence unless the application is accompanied by an endorsement from an approved firearms club to the effect that –

- (a) the applicant is a member of the club;
- (b) the applicant has provided the club with –
 - (i) details of the applicant's membership of any other firearms clubs and the firearms owned by the applicant; and
 - (ii) at least 2 character references from persons who have known the applicant for at least 2 years; and
- (c) the club supports the application.

"10AB. Restriction on grant of firearms dealer licence

"The Commissioner must not grant a firearms dealer licence if the Commissioner –

- (a) is of the view that a person who (in the opinion of the Commissioner) is or will be a close associate of the applicant is not a fit and proper person to be a close associate of the holder of a firearms dealer licence; or
- (b) is not satisfied that the applicant will be the person primarily responsible for the control and management of the business to be carried on under the authority of the licence.

"10AC. Restriction on grant of firearms collector licence

"The Commissioner must not grant a firearms collector licence unless –

- (a) the Commissioner is satisfied that the applicant is a genuine historical collector of firearms;
- (b) the applicant is a member of an approved historical firearms collector's society and the society has endorsed the application for the licence; and
- (c) the applicant can demonstrate that he or she can comply with the prescribed requirements for storage and safe keeping of firearms held under the licence."

9. Genuine reason for licence

Section 11 of the Principal Act is amended by adding at the end the following:

"(3) The Regulations may provide that the genuine reasons for possessing or using a specified category of firearm are limited to only one or some of the reasons specified in subsection (2)."

10. General conditions of licence

Section 13 of the Principal Act is amended by inserting in subsection (2) before paragraph (a) the following:

"(aa) any other conditions imposed under this Act;"

11. Period of licence

Section 14 of the Principal Act is amended by inserting in subsection (1) after paragraph (e) the following:

"(ea) an antique firearms collector licence remains in force for the life of the licence holder;"

12. New Division

Part 3 of the Principal Act is amended by inserting after Division 3 the following:

"Division 3A – Category H Sports Shooter's Licence

"15A. Category H sports shooter's licence

"(1) A category H sports shooter's licence authorises the holder to possess only prescribed category H firearms.

Firearms Amendment Act 2003

"(2) The holder of a category H sports shooter's licence is authorised to use a firearm under the licence only at an approved firearms club.

"15B. Procedure for obtaining licence

"(1) A person who wishes to obtain a category H sports shooter's licence must be (or become) a shooting member of an approved firearms club.

"(2) A person may apply for a category H sports shooter's licence if the person –

- (a) is a shooting member of an approved firearms club;
- (b) has satisfactorily completed a firearm safety training course; and
- (c) holds, and has held for at least 3 months, a permit to use category H firearms under supervision for sports shooting.

"(3) Subsection (2)(c) does not apply in relation to a person who, at the time of applying for a category H sports shooter's licence, is the holder of –

- (a) a category H sports shooter's licence;
- (b) a shooter's licence authorising the possession and use of a category H firearm that was granted for (or partially for) the genuine reason of sports shooting; or
- (c) a corresponding licence.

"15C. Conditions of licence

"A category H sports shooter's licence is subject to the following conditions:

- (a) the only firearms that can be registered under the licence are prescribed firearms;
- (b) the holder of the licence must be a member of an approved firearms club;
- (c) the holder of the licence can use firearms under the licence only at an approved firearms club;
- (d) the holder of the licence must participate in category H sports shooting events at the prescribed participation rate or satisfy the Commissioner as to the reason the holder was unable to participate at that rate."

13. New section

The Principal Act is amended by inserting after section 16 the following:

"16A. Information about close associates of firearms dealers

"(1) In an application for a firearms dealer licence, the applicant must give the name and address of each person who is a close associate of the applicant and particulars of the nature of the person's association with the applicant.

"(2) If the holder of a firearms dealer licence becomes aware that the close associates (if any) of the holder have changed since the submission to the Commissioner of the holder's most recent application for a licence or most recent declaration under this section, the holder must submit to the Commissioner within 7 days of this subsection coming into operation or of the change to the close associates (whichever is the later) a declaration –

- (a) notifying the Commissioner in writing of that fact; and
- (b) setting out the name and address of each person who is a close associate of the holder and particulars of the nature of the person's association with the holder.

"(3) The Commissioner may, by written notice served on the holder of a firearms dealer licence, require the holder to submit to the Commissioner within the time specified in the notice and in the approved form –

- (a) a declaration to the effect that –
 - (i) the holder (and no other person) is the person primarily responsible for the control and management of the firearms dealing business that is carried on under the licence; or
 - (ii) another person or other persons (whether instead of or in addition to the holder) are primarily responsible for the control and management of that business; and
- (b) a declaration –
 - (i) to the effect that the close associates (if any) of the holder have not changed since the submission to the Commissioner of the holder's most recent application for a licence or most recent declaration under this section; or
 - (ii) setting out the name and address of each person who is a close associate of the holder and particulars of the nature of the person's association with the holder.

Firearms Amendment Act 2003

"(4) A person must not –

- (a) fail to make a declaration as required by this section; or
- (b) in a declaration under this section, make a statement or provide information that the person knows is false or misleading in a material particular.

Penalty: If the offender is a natural person – 200 penalty units or imprisonment for 12 months.

If the offender is a body corporate – 1 000 penalty units."

14. Records and returns to be kept by dealers

Section 18 of the Principal Act is amended –

- (a) by inserting in subsection (1) "and firearm parts" after "all firearms";
- (b) by omitting from subsection (2) "sale, purchase or repair" (all references) and substituting "sale or purchase";
- (c) by inserting in subsection (2) "or firearm part" after "firearm" (all references);
- (d) by omitting subsection (3) and substituting the following:

"(3) The holder of a firearms dealer licence must, not later than 7 days after a transaction involving the sale, purchase or storage of a firearm or firearm part, give the Commissioner a record of the transaction in the approved form.";

- (e) by inserting in subsection (4)(b) "or firearm part" after "any firearm";
- (f) by omitting from subsection (4)(b) "manufactured," and "or repaired";
- (g) by inserting in subsection (6) "or firearm part" after "a firearm";
- (h) by omitting from subsection (8) "acquisition, disposition" and substituting "purchase, receipt, sale"; and
- (i) by inserting in subsection (8) "or firearm parts" after "any firearms".

15. Repeal and substitution

Section 20 of the Principal Act is repealed and the following substituted:

"20. Restriction on employing certain persons

"(1) If the holder of a firearms dealer licence –

Firearms Amendment Act 2003

- (a) employs a prescribed person in the business authorised by the licence; or
- (b) permits a prescribed person to act as an agent for, or participate in the management of, that business,

the holder and the prescribed person are each guilty of an offence.

Penalty: 400 penalty units or imprisonment for 2 years.

"(2) It is a defence to the prosecution of the holder of a firearms dealer licence for an offence against subsection (1) if the defendant proves that he or she did not know, and could not reasonably have been expected to know, that the person was a prescribed person.

"(3) In this section –

'prescribed person' means a person who, whether in the Territory or elsewhere –

- (a) has, within the preceding 10 years, had his or her firearms dealer licence revoked;
- (b) has, within the preceding 10 years, had his or her application for a licence or permit refused, or had his or her licence or permit revoked, on the grounds that the Commissioner –
 - (i) was not satisfied that the person was a fit and proper person; or
 - (ii) considered that a grant of the licence or permit to the person would be contrary to the public interest;
- (c) has been found guilty of a disqualifying offence within the preceding 10 years;
- (d) has been found guilty of an offence of violence within the preceding 5 years;
- (e) is the subject of a restraining order or, if the person was previously the subject of a restraining order, less than 5 years have passed since the order expired or ceased to have effect;
- (f) is the subject of an order to keep the peace;
- (g) is the holder of a firearms licence that is suspended or was the holder of a firearms licence that expired while the

Firearms Amendment Act 2003

licence was suspended and the person has not been granted another licence or a permit; or

- (h) is prohibited from applying for a licence by a provision of this Act or an order of a court."

16. Firearms armourer licence

Section 22 of the Principal Act is amended by omitting subsection (5).

17. New section

The Principal Act is amended by inserting after section 22 the following:

"22A. Records to be kept by firearms armourer

"(1) The holder of a firearms armourer licence is to record in the approved form the particulars of –

- (a) each firearm that has come into the holder's possession under the licence; and
- (b) each firearm that is no longer in the holder's possession.

"(2) A record required to be kept under subsection (1) must be made within 24 hours after a firearm comes into, or is no longer in, the possession of the holder of the firearms armourer licence.

"(3) The holder of a firearms armourer licence must provide to the Commissioner a copy of a record required to be kept under subsection (1) not later than 7 days after the end of March, June, September and December in each year.

"(4) A holder of a firearms armourer licence who fails to comply with this section commits an offence.

Penalty: 20 penalty units or imprisonment for 6 months."

18. Firearms collector licence

Section 24 of the Principal Act is amended –

- (a) by omitting subsection (1) and substituting the following:

"(1) A firearms collector licence authorises the holder to possess and display only firearms –

- (a) of a category specified in the licence; and

Firearms Amendment Act 2003

(b) that were manufactured before 1 January 1947 unless the holder of the licence is a student of arms within the meaning of section 35C(2)."; and

(b) by omitting subsection (3)(a).

19. New Division

Part 3 of the Principal Act is amended by inserting after Division 6 the following:

"Division 6A – Antique Firearms Collector Licence

"25A. Antique firearms collector licence

"(1) An antique firearms collector licence authorises the holder to possess and display only firearms –

- (a) of a category specified in the licence; and
- (b) that were manufactured before 1 January 1900.

"(2) The holder of an antique firearms collector licence must ensure that all firearms in the holder's possession under the licence are stored in accordance with –

- (a) the safe keeping and storage requirements under this Act; and
- (b) the safe keeping and storage requirements (if any) determined by the Commissioner."

20. Firearms club licence

Section 30A of the Principal Act is amended –

- (a) by omitting "A firearms" and "sport shooting" and substituting "(1) A firearms" and "sports shooting" respectively; and
- (b) by adding at the end the following:

"(2) If a firearms club is licensed to use category H firearms, the club is authorised under the licence to conduct category H sports shooting events only if –

- (a) the category H sports shooting event is for a prescribed shooting discipline; and
- (b) the club is affiliated with the appropriate national or international body that administers the particular shooting discipline."

Firearms Amendment Act 2003

21. Records to be kept by firearms clubs

Section 30B of the Principal Act is amended –

- (a) by omitting from subsection (2) "a record kept" and substituting "a record required to be kept"; and
- (b) by adding at the end the following:

"(4) The holder of a firearms club licence must provide to the Commissioner within 3 months after the end of each financial year an annual report in the approved form giving the following details:

- (a) the name and address of each person who was a member of the firearms club during the year and whether or not the member was a financial member;
- (b) particulars of category H firearms held by each of those members;
- (c) particulars of participation in category H sports shooting events during the year by each of those members (if applicable), including the dates of the events.

Penalty: 100 penalty units."

22. Grant of permits

Section 31 of the Principal Act is amended –

- (a) by omitting "The Commissioner" and substituting "(1) The Commissioner";
- (b) by inserting after paragraph (fa) the following:

"(fb) to authorise a person to use under supervision a category H firearm for sports shooting at an approved firearms club;" and

- (c) by adding at the end the following:

"(2) The Commissioner must not grant a permit for the purpose specified in subsection (1)(fb) unless the application is accompanied by –

- (a) an endorsement from an approved firearms club to the effect that –
 - (i) the applicant is a member of the club;

Firearms Amendment Act 2003

- (ii) the applicant has provided the club with –
 - (A) details of the applicant's membership of any other firearms clubs and the firearms owned by the applicant; and
 - (B) at least 2 character references from persons who have known the applicant for at least 2 years; and
- (iii) the club supports the application; and
- (b) an authority from the applicant authorising the Commissioner to disclose to the club the applicant's criminal history at any time while the permit is in force.

"(3) The Commissioner may grant a permit to authorise a person to do any or all of the things that may be authorised under a firearms armourer licence.

"(4) Part 3, Division 5 applies (with the necessary changes) to the holder of a permit under subsection (3) as if the person were the holder of a firearms armourer licence."

23. General restrictions on granting permits

Section 33 of the Principal Act is amended –

- (a) by omitting subsection (1)(a) and substituting the following:

"(a) is at least 18 years of age unless –

- (i) the applicant is the holder of a firearms club junior licence; or
- (ii) the permit is to use under supervision a category H firearm for sports shooting at an approved firearms club;" and

- (b) by inserting after subsection (3) the following:

"(3A) The Commissioner must refuse to grant a permit if the Commissioner is of the opinion, having regard to any criminal intelligence report or other criminal information the Commissioner holds about the applicant, that –

- (a) the applicant is a risk to public safety; and
- (b) the grant of the permit would be contrary to the public interest.

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

24. New sections

The Principal Act is amended by inserting after section 35 in Part 4 the following:

"35A. Permits for category H sports shooters

"(1) The Commissioner must not grant to the holder of a category H sports shooter's licence a permit to purchase or acquire a firearm unless the holder has, at all times during the 6 months before the application for the permit, held one or the other of the following:

- (a) a category H sports shooter's licence;
- (b) a shooter's licence authorising the possession and use of a category H firearm that was granted for (or partially for) the genuine reason of sports shooting.

"(2) The Commissioner must not grant to the holder of a category H sports shooter's licence a permit to acquire a firearm unless the permit is for a prescribed firearm.

"(3) The Commissioner must not grant to the holder of a category H sports shooter's licence a permit to acquire a firearm if the acquisition under the permit would result in the holder exceeding the limits on firearm ownership specified in section 35B.

"(4) The Commissioner may grant to the holder of a category H sports shooter's licence a permit to acquire a firearm only if the application for the permit is accompanied by an endorsement by an approved firearms club –

- (a) to the effect that –
 - (i) the applicant is, and has been for more than 6 months, a shooting member of the firearms club;
 - (ii) the applicant has complied with the licence condition specified in section 15C(d); and
 - (iii) the club supports the application for a permit;
- (b) giving details of the shooting disciplines the firearm to be purchased under the permit is to be used for at the club;
- (c) confirming that the applicant has adequate storage facilities to cater for the firearm to be purchased under the permit;

Firearms Amendment Act 2003

- (d) if the permit sought relates to a firearm with a calibre greater than .38", confirming that –
 - (i) the firearm is intended for use in a specially accredited discipline; and
 - (ii) the applicant is affiliated with the appropriate national or international body that administers the particular shooting discipline; and
- (e) providing any further particulars that the Commissioner requires.

"35B. Limits on firearm ownership under category H sports shooter's licence

"(1) The holder of a category H sports shooter's licence who has, at all times during the preceding 6 months, held one or the other of the following:

- (a) a category H sports shooter's licence;
- (b) a shooter's licence authorising the possession and use of a category H firearm that was granted for (or partially for) the genuine reason of sports shooting,

may hold only the following firearms under the licence:

- (c) one .22" calibre pistol or one centrefire pistol;
- (d) one .177" air pistol;
- (e) one black powder muzzle loading pistol or one cap and ball percussion fired revolver.

"(2) The holder of a category H sports shooter's licence who has, at all times during the preceding 12 months, held one or the other of the following:

- (a) a category H sports shooter's licence;
- (b) a shooter's licence authorising the possession and use of a category H firearm that was granted for (or partially for) the genuine reason of sports shooting,

may, in addition to the firearms permitted to be held under subsection (1), hold other firearms under the licence if the holder –

- (c) demonstrates a genuine need for the additional firearms, including by specifying the category H sports shooting discipline for which the firearms are required; and
- (d) has adequate storage facilities to cater for the additional firearms.

"35C. Permits under firearms collector licence

"(1) The Commissioner must not grant a permit to the holder of a firearms collector licence for a firearm manufactured on or after 1 January 1947 unless –

- (a) the holder is a student of arms within the meaning of subsection (2); and
- (b) the firearm for which the permit is sought fits within the theme of the holder's firearms collection and will enhance the collection's historical or commemorative value.

"(2) A person may be considered to be a student of arms if the person –

- (a) is the holder of a firearms collector licence;
- (b) is, and has been for at least 12 months, a member of an approved historical firearms collector's society and the society recognises the person to be a student of arms;
- (c) can demonstrate regular attendance at meetings of the society and participation in displays held by the society;
- (d) can demonstrate that the person's firearms collection has a thematic structure and historical or commemorative value; and
- (e) possesses a research library or contributes to the literature on the theme of the person's collection."

25. Revocation of licence, permit or registration

Section 40 of the Principal Act is amended –

- (a) by inserting in subsection (1)(a) "or an order to keep the peace" after "restraining order";
- (b) by omitting from subsection (1)(b) "disqualifying offence or an offence of violence" and substituting "disqualifying offence, an offence of violence or an offence against this Act"; and
- (c) by inserting after subsection (2) the following:

"(2A) The Commissioner must, by written notice served on the holder of a licence or permit, revoke the licence or permit if satisfied that the loss or theft of a firearm was due to the negligence or fraud of the holder."

26. New section

The Principal Act is amended by inserting after section 40 the following:

"40A. Revocation on basis of criminal intelligence

"(1) The Commissioner must revoke a licence, permit or certificate of registration if the Commissioner is of the opinion, having regard to any criminal intelligence report or other criminal information the Commissioner holds about the holder of the licence or permit or the person in whose name the firearm is registered, that –

- (a) the holder or person is a risk to public safety; and
- (b) the holding of the licence or permit or the registration would be contrary to the public interest.

"(2) The Commissioner is not, under this or any other Act or law, required to give reasons for revoking a licence, permit or certificate of registration on the grounds referred to in subsection (1).

"40B. Seizure of firearms on revocation

"(1) If a licence, permit or certificate of registration is –

- (a) suspended by the Commissioner under section 38;
- (b) automatically suspended under section 39;
- (c) automatically revoked under section 40; or
- (d) revoked by the Commissioner under section 40 or 40A,

the Commissioner must cause notice of the suspension or revocation to be served personally on the person who was the holder of the licence or permit or in whose name the firearm was registered.

"(2) At the time of serving a notice under subsection (1), a member of the Police Force may, without a warrant and using the force that is necessary and with any necessary assistance, enter premises, a vessel, vehicle, aircraft or other place to search for and seize any firearm or ammunition in the possession of the person whose licence or permit has been suspended or revoked or in whose name a firearm was registered until the registration was suspended or revoked."

27. Possession or use of firearms

Section 58 of the Principal Act is amended –

- (a) by omitting the penalty provision at the foot of subsection (1) and substituting the following:

Firearms Amendment Act 2003

"Penalty: 400 penalty units or imprisonment for 2 years or, if the offence relates to a category A firearm or category B firearm, 200 penalty units or imprisonment for 12 months.";

(b) by inserting after subsection (2) the following:

"(2A) Without limiting subsection (1), the holder of a category H sports shooter's licence commits an offence against this section if –

- (a) the holder uses a category H firearm –
 - (i) that is not a prescribed firearm; or
 - (ii) elsewhere than at an approved firearms club; and

(b) the use is not authorised under another licence or a permit.";

(c) by inserting in subsection (3) ", and under the supervision of," after "in the company of"; and

(d) by omitting the penalty provision at the foot of subsection (6) and substituting the following:

"Penalty: 400 penalty units or imprisonment for 2 years.".

28. New sections

The Principal Act is amended by inserting after section 58 in Part 11, Division 1 the following:

"58A. Obligation of supervisor

"(1) The holder of a firearms licence who is supervising a person for the purposes of section 58(3) must ensure the firearm is –

- (a) of a category that the holder is authorised to use;
- (b) used in accordance with any conditions of the licence; and
- (c) used in a manner that will not create a danger to any person or damage to property.

Penalty: 100 penalty units or imprisonment for 12 months.

"(2) A firearms club must not permit a person who is not the holder of a category H sports shooter's licence to use a category H firearm under supervision at the club premises unless –

- (a) the person is undergoing an approved firearms safety training course conducted by the holder of a firearms instructor licence; or

Firearms Amendment Act 2003

(b) the person is the holder of a permit under section 31(1)(fb).

Penalty: 500 penalty units.

"58B. Obligation of firearms club

"If the Commissioner gives notice to a firearms club that a member of the club is subject to suspension or revocation of the member's shooting licence or a permit under section 31(1)(fb), the club must not permit the member to use a firearm at the club premises during the period specified in the notice.

Penalty: 500 penalty units."

29. New sections

The Principal Act is amended by inserting before section 62 in Part 11, Division 3 the following:

"61. Manufacture of firearms

"(1) A person must not manufacture a firearm unless the person is authorised to manufacture the firearm by a licence or permit.

Penalty: 2 000 penalty units or imprisonment for 10 years or, if the offence relates to a category A firearm or category B firearm, 1 000 penalty units or imprisonment for 5 years.

"(2) A person must not manufacture a prohibited firearm or pistol unless the person is authorised to manufacture the prohibited firearm or pistol by a licence or permit.

Penalty: 3 000 penalty units or imprisonment for 15 years.

"(3) Without limiting subsection (1) or (2), those subsections apply to a person regardless of whether the firearm concerned was manufactured in the course of carrying on a business.

"(4) In this section –

'manufacture', of a firearm, includes assembly of a firearm from firearm parts.

"61A. Repair or modification of firearms

"(1) A person must not repair or modify a firearm unless the person is authorised to repair or modify the firearm by a licence or permit.

Penalty: 2 000 penalty units or imprisonment for 10 years or, if the offence relates to a category A firearm or category B firearm, 1 000 penalty units or imprisonment for 5 years.

Firearms Amendment Act 2003

"(2) A person must not repair or modify a prohibited firearm or pistol unless the person is authorised to repair or modify the prohibited firearm or pistol by a licence or permit.

Penalty: 3 000 penalty units or imprisonment for 15 years.

"(3) Without limiting subsection (1) or (2), those subsections apply to a person regardless of whether the firearm concerned was repaired or modified in the course of carrying on a business.

"(4) In this section –

'repair or modification', of a firearm, does not include work performed by a person on a firearm registered in the name of the person if the work is not of a nature likely to affect the safe operation of the firearm."

30. Repeal and substitution

Section 74 of the Principal Act is repealed and the following substituted:

"74. Alteration of identification marks

"(1) A person must not alter an identifying serial number on a firearm without approval.

Penalty: 1 000 penalty units or imprisonment for 5 years.

"(2) A person must not knowingly possess a firearm the serial number of which has been altered in contravention of subsection (1).

Penalty: 1 000 penalty units or imprisonment for 5 years.

"(3) A person must not deface or remove an identifying serial number on a firearm without approval.

Penalty: 1 000 penalty units or imprisonment for 5 years.

"(4) A person must not possess a firearm the serial number of which has been defaced or removed in contravention of subsection (3).

Penalty: 1 000 penalty units or imprisonment for 5 years."

31. Unsafe firearms

Section 76 of the Principal Act is amended –

(a) by omitting from subsection (2) "firearms dealer licence" and substituting "firearms armourer permit"; and

Firearms Amendment Act 2003

- (b) by inserting in subsection (3) "antique firearms collector licence," after "firearms collector licence,".

32. New Division

Part 12 of the Principal Act is amended by inserting after Division 1 the following:

"Division 1A – Revocation, disqualification, forfeiture

"93A. Revocation and disqualification

"(1) If a court finds a person guilty of an offence against this Act or the *Weapons Control Act* or involving a firearm, the court may –

- (a) revoke the person's licence or permit and disqualify the person from holding a specified licence or permit for the period specified by the court; and
- (b) order that the person is not to apply for a licence or permit or to register a firearm for the period of disqualification.

"(2) The period for which a court may disqualify the person is in addition to any period of automatic disqualification under this Act.

"93B. Disqualification if aggravating circumstance

"(1) If a court finds a person guilty of an offence referred to in section 93A and the offence involves a circumstance of aggravation –

- (a) the person is liable to twice the penalty otherwise provided for the offence; and
- (b) the court must disqualify the person from holding any licence or permit for –
 - (i) if the court imposes a pecuniary penalty for the offence – a minimum period of 4 years; or
 - (ii) if the court imposes a custodial sentence for the offence – a minimum period of 10 years.

"(2) In this section –

'circumstance of aggravation', for an offence, means the offender was, at the time of committing the offence, subject to –

- (a) a refusal by the Commissioner to grant a licence or permit for a period of time;

Firearms Amendment Act 2003

- (b) a suspension or revocation of a licence, permit or certificate of registration under this Act; or
- (c) a period of disqualification under this Act.

"93C. No grant of licence or permit

"The Commissioner cannot grant a licence or permit to a person disqualified under section 93A or 93B during the period of disqualification.

"93D. Court may order forfeiture

"(1) If the court is satisfied that the person in whose name the firearm to which the offence referred to in section 93A relates is registered –

- (a) is implicated in the offence – the court may order that the firearm (and any ammunition in the possession of the person) is forfeited to the Territory; or
- (b) is not implicated in the offence – the court may not order the firearm to be forfeited but may order that it be returned to that person.

"(2) Subsection (1) applies to a firearm in the possession of a person referred to in that subsection despite that the firearm is not registered in that person's name.

"93E. No effect on general power

"A decision or action of the court under section 93A, 93B or 93D does not affect any power under this Act to revoke or suspend a licence, permit or certificate of registration."

33. New section

The Principal Act is amended by inserting before section 94 in Part 12, Division 2 the following:

"93F. No review of certain decisions by Commissioner

"Despite any other Act or law of the Territory (including the common law) –

- (a) no person or body is entitled to investigate, inquire into, review or otherwise call into question a decision of the Commissioner under section 10(8A), 33(3A) or 40A(1); and

Firearms Amendment Act 2003

- (b) no proceedings for an appeal, an injunction, a declaration or an order for prohibition or mandamus are to be brought in relation to a decision of the Commissioner referred to in paragraph (a)."

34. Police may require production of licences etc.

Section 96 of the Principal Act is amended by omitting subsection (3).

35. New section

The Principal Act is amended by inserting after section 96 the following:

"96A. Police may require production of firearm

"(1) A member of the Police Force may, by notice in writing, require the registered owner of a firearm to produce the firearm at a time and place specified in the notice for the purpose of inspection of the firearm to determine whether or not the firearm complies with, and is held in compliance with, this Act.

"(2) If a person fails to comply with the requirement of a notice under subsection (1) –

- (a) the person commits an offence punishable, on being found guilty, by –
- (i) if the offender is a natural person – a fine not exceeding 100 penalty units or a term of imprisonment not exceeding 12 months; or
 - (ii) if the offender is a body corporate – a fine not exceeding 500 penalty units; and
- (b) all firearms licences held by the person, and all firearm registrations in the name of the person, are automatically suspended from the day specified in the notice to produce the firearm until 28 days after –
- (i) the day on which the firearm is produced; or
 - (ii) the person provides information to the satisfaction of the Commissioner as to why the firearm was not produced as required.

"(3) It is a defence to a prosecution for an offence against subsection (2)(a) if the defendant proves that he or she did not know (for good reason) the whereabouts of the firearm or was otherwise (for good reason) unable to comply with the requirement to produce the firearm.

Firearms Amendment Act 2003

"(4) The Commissioner may, if he or she thinks the circumstances warrant it, reduce the period of suspension referred to in subsection (2)(b).

"(5) If the person has not, within 28 days after the day specified in the notice to produce the firearm –

- (a) complied with the requirement; or
- (b) satisfied the Commissioner as to why the requirement has not been complied with,

all firearms licences held by the person and all firearm registrations in the name of the person are revoked by force of this section."

36. Report to be made in certain circumstances

Section 101 of the Principal Act is amended –

- (a) by inserting in subsections (1) and (2) "nurse, professional counsellor," after "medical practitioner,"; and
- (b) by adding at the end the following:

"(3) A firearms club or an historical firearms collector's society must provide a report in writing to the Commissioner without delay of any concern held by the club or society that a member is not a fit and proper person to have a firearm in his or her possession or control.

"(4) A firearms club or an historical firearms collector's society must, within 2 days after expelling a member from the club or society, provide a report in writing to the Commissioner of the expulsion and the reasons for it.

Penalty: 500 penalty units.

"(5) The provision of any information in good faith under or in purported compliance with subsection (3) or (4) does not give rise to any civil or criminal liability."

37. Repeal and substitution

Section 102 of the Principal Act is repealed and the following substituted:

"102. Commissioner may disclose information in certain circumstances

"(1) The Commissioner may disclose to a firearms club or an historical firearms collector's society any information the Commissioner holds about an applicant for membership of the club or society that relates to the following:

- (a) the firearms held by the applicant;

Firearms Amendment Act 2003

- (b) other firearms clubs or historical firearms collector's societies of which the applicant is a member;
- (c) any other firearms clubs or historical firearms collector's societies of which the applicant has been refused membership, or from which the applicant has been expelled, in the preceding 5 years;
- (d) any licence or permit, or registration of a firearm, pertaining to the applicant that has been suspended or revoked in the preceding 5 years;
- (e) any application by the applicant for a licence, permit or registration of a firearm that has been refused by the Commissioner in the preceding 5 years.

"(2) If the Commissioner suspends or revokes a licence, permit or registration of a firearm in relation to a person, the Commissioner must inform any firearms club or historical firearms collector's society of which the person is a member of the suspension or revocation.

"(3) No civil or criminal liability arises from the provision of information under this section."

38. Repeal and substitution

Section 105 of the Principal Act is repealed and the following substituted:

"105. Evidentiary – meaning of possession of a firearm etc.

"(1) Without limiting the meaning of 'possession', for the purposes of any proceedings under this Act, a firearm, ammunition or a silencer is taken to be in the possession of a person if it is in or on any premises owned, leased or occupied by, or in the care, control or management of, the person unless the court is satisfied that –

- (a) the firearm, ammunition or silencer was placed in or on, or brought into or on to, the premises by or on behalf of a person who was lawfully authorised by or under this Act to possess the firearm, ammunition or silencer;
- (b) the person did not know and could not reasonably be expected to have known that the firearm, ammunition or silencer was in or on the premises; or
- (c) on the evidence before it, the person was not in possession of the firearm, ammunition or silencer.

Firearms Amendment Act 2003

"(2) In this section –

'firearm' includes a prohibited firearm;

'premises' includes a place, vehicle, vessel or aircraft."

39. Repeal and substitution

Section 110 of the Principal Act is repealed and the following substituted:

"110. Certain category H firearms to be produced to Commissioner

"(1) A person who, immediately before 1 July 2003, was the holder of a shooter's licence authorising the possession and use of a category H firearm that was granted for (or partially for) the genuine reason of sports shooting must, on or before 31 December 2003, present to the Commissioner or a member of the Police Force every category H firearm in the person's possession under the licence.

"(2) The Commissioner may specify a time and place at which a category H firearm referred to in subsection (1) is to be produced.

"(3) If a person fails to produce a category H firearm referred to in subsection (1) at the time and place specified under subsection (2), a member of the Police Force may give the registered owner of the firearm a notice under section 96A(1) and section 96A applies accordingly.

"(4) The registration of a category H firearm referred to in subsection (1) is cancelled by force of this section –

- (a) at the time the firearm is produced to the Commissioner or a member of the Police Force; or
- (b) on 31 December 2003,

whichever is the earlier.

"(5) If a firearm produced under this section is not of a type that is prescribed for this section –

- (a) the registered owner of the firearm is to be paid compensation at the rate specified in the National List of Compensation Values for Handgun Buyback 2003 as published from time to time by the Commonwealth; and
- (b) the firearm is forfeit to the Territory after compensation is paid.

Firearms Amendment Act 2003

"(6) If a firearm produced under this section is of a type that is prescribed for this section, the Commissioner must (subject to section 110A) register the firearm again without charge.

"(7) If the application of this section constitutes an acquisition of property for which the compensation provided under subsection (5) does not provide just terms, the registered owner of the firearm is entitled to receive just compensation for the acquisition and a court may determine the amount of the compensation or make an order that, in its opinion, is necessary to ensure that the acquisition is on just terms.

"110A. Voluntary surrender of category H firearms

"(1) Despite that a category H firearm presented under section 110 is of a type that is prescribed for that section and can be re-registered, the person in whose name the firearm was registered may voluntarily surrender the firearm to the Territory and, subject to subsection (2), receive compensation at the rate referred to in section 110(5)(a).

"(2) Compensation is payable under subsection (1) only if the person surrenders every category H firearm held under the person's licence.

"(3) The Commissioner must revoke the licence to possess and use category H firearms of a person who voluntarily surrenders a Category H firearm under this section, and the person is not eligible to apply for the grant of a category H sports shooters licence for 5 years from the date of revocation."

40. Regulations

Section 111 of the Principal Act is amended by adding at the end the following:

"(3) The Regulations may provide for –

(a) the payment of a prescribed amount, not exceeding 200 penalty units, instead of a penalty that may otherwise be imposed for an offence against this Act; and

(b) the service of an infringement notice on a person alleged to have committed an offence referred to in paragraph (a) and the particulars to be included in that notice."

Firearms Amendment Act 2003

41. Repeal and substitution

Section 113 of the Principal Act is repealed and the following substituted:

"113. Transitional

"(1) Subsection (2) applies to a person who, immediately before 1 July 2003, was the holder of a shooter's licence authorising the possession and use of a category H firearm that was granted for (or partially for) the genuine reason of sports shooting.

"(2) Despite section 15A(1), the person is taken to lawfully hold any category H firearm the person was authorised to hold under the shooter's licence until the registration of the firearm is cancelled under section 110(4)."

42. Further amendments

The Principal Act is amended as set out in the Schedule.

SCHEDULE

Section 42

Provision	Amendment	
	omit	substitute
Section 23(1)	kept	required to be kept
Section 36(7)(a)	12 months	2 years
Section 36(7)(b)	2 years	5 years
Section 44(2)	, or under an order of a court under section 102(1),	
