

Serial 324
Weapons Control Bill 2001
Mr Reed

**A BILL
for
AN ACT**

to regulate weapons (other than firearms) and body armour

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NORTHERN TERRITORY OF AUSTRALIA

WEAPONS CONTROL ACT 2001

No. of 2001

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NORTHERN TERRITORY OF AUSTRALIA

No. of 2001

AN ACT

to regulate weapons (other than firearms) and body armour

[Assented to 2001]
[Second reading 2001]

The Legislative Assembly of the Northern Territory enacts as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Weapons Control Act 2001*.

2. Commencement

This Act comes into operation on the date fixed by the Administrator by notice in the *Gazette*.

3. Definitions

In this Act, unless the contrary intention appears –

"approval" means an approval in force under section 14;

"body armour" means a garment or item that is designed, intended or adapted for the purpose of protecting the body from the effects of a weapon, including a firearm;

"Commissioner" means the Commissioner of Police;

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"controlled weapon" means —

- (a) a knife, other than a knife that is a prohibited weapon; or
- (b) an article that is prescribed by regulation to be a controlled weapon;

"firearm" has the same meaning as in the *Firearms Act*, but does not include an imitation or replica firearm;

"offensive weapon" means an article —

- (a) made or adapted to cause damage to property or to cause injury or fear of injury to a person; or
- (b) by which the person having it intends to cause damage to property or to cause injury or fear of injury to a person,

but does not include a prohibited weapon, controlled weapon or body armour;

"prohibited weapon" means an article prescribed by regulation to be a prohibited weapon;

"public place" has the same meaning as in the *Summary Offences Act*.

4. Firearms excluded from this Act

This Act does not apply to a firearm.

5. Delegation

The Commissioner may delegate to a member of the Police Force or an employee within the meaning of the *Public Sector Employment and Management Act* any of his or her powers or functions under this Act.

PART 2 — REGULATION OF WEAPONS AND BODY ARMOUR

6. Prohibited weapons

A person must not —

- (a) bring into the Territory;
- (b) cause to be brought or sent into the Territory;
- (c) manufacture, sell or purchase;
- (d) display or advertise for sale; or

- (e) possess, use or carry,

a prohibited weapon except if permitted to do so by an exemption under section 12 or an approval.

Penalty: If the offender is a natural person – 400 penalty units or imprisonment for 2 years.

If the offender is a body corporate – 2 000 penalty units.

7. Controlled weapons

(1) A person must not, without lawful excuse, proof of which is on the person, possess, carry or use a controlled weapon in a public place.

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.

(2) A person must not carry a controlled weapon except in a safe and secure manner consistent with the reason for which it is possessed, carried or is to be used.

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.

(3) Despite subsections (1) and (2), if a person is found guilty of an offence against subsection (1) or (2) committed at night-time, the person is liable to a maximum penalty of twice the penalty specified in subsection (1) or (2), as the case may be.

(4) In this section, "lawful excuse" includes –

- (a) the pursuit of a lawful employment or lawful duty;
- (b) participation in a lawful sport, lawful recreation, lawful entertainment or lawful activity; and
- (c) the legitimate collection, legitimate display or legitimate exhibition of weapons,

but does not include for the purpose of self-defence.

(5) In considering whether a person has a lawful excuse to possess, carry or use a controlled weapon, the court must have regard to the circumstances (including the time and location) of the incident.

8. Offensive weapons

(1) A person must not, without lawful excuse, proof of which is on the person, possess, carry or use an offensive weapon.

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.

(2) Despite subsection (1), if a person is found guilty of an offence against that subsection committed at night-time, the person is liable to a maximum penalty of twice the penalty specified in that subsection.

(3) In this section, "lawful excuse" includes –

- (a) the pursuit of a lawful employment or lawful duty;
- (b) participation in a lawful sport, lawful recreation, lawful entertainment or lawful activity; and
- (c) the legitimate collection, legitimate display or legitimate exhibition of weapons,

but does not include for the purpose of self-defence.

9. Body armour

A person must not –

- (a) bring body armour into the Territory;
- (b) cause body armour to be brought or sent into the Territory;
- (c) manufacture, sell or purchase body armour; or
- (d) possess or use body armour,

except if permitted to do so by an exemption under section 12 or an approval.

Penalty: If the offender is a natural person – 400 penalty units or imprisonment for 2 years.

If the offender is a body corporate – 2 000 penalty units.

10. Authority to purchase required for each purchase of prohibited weapon or body armour

(1) A person must not purchase a prohibited weapon or body armour unless he or she is the holder of a specific purchase authority permitting him or

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her to purchase the prohibited weapon, or the body armour, specified in the authority.

Penalty: If the offender is a natural person – 400 penalty units or imprisonment for 2 years.

If the offender is a body corporate – 2 000 penalty units.

(2) A separate specific purchase authority is required for each prohibited weapon or body armour to be purchased.

(3) The holder of an approval to purchase may apply to the Commissioner for a specific purchase authority.

(4) An application under subsection (3) is to be –

(a) in a form approved by the Commissioner; and

(b) accompanied by the prescribed fee.

(5) A person must not, in an application under subsection (3), knowingly make a statement that is false or misleading in a material particular.

Penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

(6) The Commissioner may, on receipt of an application under subsection (3), grant or refuse to grant a specific purchase authority to the applicant.

(7) A specific purchase authority is to specify the prohibited weapon or body armour to which the authority relates.

(8) The Commissioner must not grant a specific purchase authority to a person unless the person is –

(a) the holder of an approval to purchase and possess a prohibited weapon or body armour of the type to which the authority is to relate; or

(b) exempt under section 12 from compliance with section 6 in relation to the purchase and possession of prohibited weapons or body armour generally or a prohibited weapon or body armour of the type to which the authority is to relate.

(9) The Commissioner may refuse to grant a specific purchase authority to a person if the Commissioner –

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- (a) has reasonable cause to believe that the person has, in relation to his or her application for the authority, failed to supply material information or has supplied information that is false or misleading; or
- (b) is satisfied that it is not in the public interest to do so.

11. Sales of prohibited weapons and body armour

(1) A person must not sell a prohibited weapon or body armour to another person unless –

- (a) the purchaser provides proof that an exemption under section 12, or an approval, authorises the purchaser to purchase and possess the prohibited weapon or body armour or prohibited weapons or body armour generally;
- (b) the purchaser shows the seller a specific purchase authority authorising the purchaser to purchase the prohibited weapon or the body armour; and
- (c) the seller is satisfied on reasonable grounds that the purchaser is a person to whom the specific purchase authority, and the exemption or approval, relates.

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.

(2) A person who sells a prohibited weapon or body armour must keep a record of the sale in accordance with this section.

Penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

(3) A record under this section –

- (a) is to be in the form, and contain the information, prescribed by regulation; and
- (b) is to be kept for 3 years after the sale to which the record relates.

(4) A person who is required under this section to keep a record must, at the request at any reasonable time of a member of the Police Force, produce the

record for inspection by the member.

Penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

PART 3 – EXEMPTIONS AND APPROVALS

12. Exemptions for prohibited weapons and body armour

(1) The following persons are prescribed persons for the purposes of subsection (2):

- (a) an officer within the meaning of the *Prisons (Correctional Services) Act*;
- (b) a member of the Defence Force referred to in Division 1 of Part 3 of the *Defence Act 1903* of the Commonwealth;
- (c) a member of the Police Force, a member of the Australian Federal Police or a member of a police force of a State or another Territory of the Commonwealth;
- (d) a member of the Australian Customs Service;
- (e) a member of the Australian Protective Service.

(2) Sections 6 and 9 do not apply to a prescribed person acting in the course of his or her duties as a prescribed person in respect of a prohibited weapon or body armour that –

- (a) is supplied to him or her by his or her employer for the performance of his or her duties as a prescribed person; or
- (b) is seized by the prescribed person in the course of the performance of his or her duties as a prescribed person and is not dealt with except in the course of those duties.

(3) Sections 6 and 9 do not apply (except in relation to the use of a prohibited weapon or body armour) to an employer of a prescribed person if the weapon or body armour is supplied, or is to be supplied, to a prescribed person for use in the course of the prescribed person's duties as a prescribed person.

(4) Sections 6 and 9 do not apply to a person (except in relation to the manufacture, sale, purchase or use of a prohibited weapon or body armour by the person) if the prohibited weapon or armour –

- (a) is in the person's possession;
- (b) is not the person's property; and

(c) forms part of a consignment of goods in the person's possession as a common carrier.

(5) The Administrator may, by notice in the *Gazette*, exempt a class of persons or class of prohibited weapons from the application of a provision of section 6.

(6) The Administrator may, by notice in the *Gazette*, exempt a class of persons or class of body armour from the application of a provision of section 9.

(7) A notice under subsection (5) or (6) may specify the conditions and limitations to which an exemption in the notice is subject.

(8) The Administrator may vary or revoke a notice under subsection (5) or (6).

13. Person may apply for approval in relation to prohibited weapons and body armour

(1) A person may apply to the Commissioner for an approval to do anything that is otherwise prohibited by section 6 or 9.

(2) An application for approval is to –

(a) be in the form approved by the Commissioner;

(b) contain the information required by the Commissioner;

(c) be accompanied by the prescribed fee; and

(d) in accordance with the directions of the Commissioner, be accompanied by –

(i) a recent photograph of the applicant; or

(ii) a photograph of the applicant that the applicant permits to be taken by a person acting on behalf of the Commissioner.

(3) A person must not, in an application under subsection (1), knowingly make a statement that is false or misleading in a material particular.

Penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

(4) A person must not provide a photograph to the Commissioner for inclusion on an approval if the photograph is not a photograph of the applicant for

the approval.

Penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

(5) A person must not permit a photograph of himself or herself to be taken for inclusion on an approval unless he or she is the applicant for the approval.

Penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

14. Approvals in relation to prohibited weapons and body armour

(1) Subject to section 15, the Commissioner may grant an approval to a person to do anything that is otherwise prohibited by section 6 or 9.

(2) The Commissioner may grant an approval for a specified period or indefinitely.

(3) The Commissioner may vary or revoke an approval.

(4) An approval is to be in writing in the form approved by the Commissioner and is to contain a photograph of the applicant.

(5) A person must not alter a photograph on an approval or replace a photograph on an approval with a photograph of another person.

Penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

15. Refusal of approvals

(1) The Commissioner must not grant an approval to a person if the Commissioner has reasonable cause to believe that the person has, in relation to his or her application for approval, failed to supply material information or has supplied information that is false or misleading.

(2) The Commissioner must not grant an approval to a person unless the Commissioner is satisfied that the person –

(a) has not, within the period of 10 years before the application for the approval was made, been found guilty in the Territory or elsewhere of a disqualifying offence within the meaning of the *Firearms Act*;

- (b) has not, within the period of 5 years before the application for the approval was made, been found guilty in the Territory or elsewhere of an offence of violence within the meaning of the *Firearms Act*;
 - (c) is not subject to a restraining order within the meaning of the *Firearms Act* or has not, within the period of 5 years before the application for the approval was made, been subject to such an order; or
 - (d) is not subject to an order, made in the Territory or elsewhere, to keep the peace.
- (3) The Commissioner may refuse to grant an approval to an applicant because –
- (a) he or she is satisfied that it is not in the public interest to do so;
 - (b) the applicant is not, having regard to the person's history of violence or mental state, a fit and proper person for the grant of an approval; or
 - (c) the applicant is under 18 years of age.

16. Conditions of approvals

- (1) An approval is subject to the condition that the prohibited weapon or body armour to which the approval relates is stored safely and securely.
- (2) An approval is subject to the conditions or limitations that the Commissioner thinks fit and specifies on the approval.
- (3) The Commissioner may impose a condition on an approval granted to an applicant who is under 18 years of age that the Commissioner would not impose on an older person.

17. Breach of condition of exemptions and approvals

A person must not breach a condition of an exemption under section 12(5) or (6), or an approval, that applies to the person.

Penalty: If the offender is a natural person – 200 penalty units.

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

18. Review of decisions under this Part

- (1) A person may apply to the Commissioner for a review by the Commissioner of a decision under section 14, 15 or 16 of this Act made by a delegate of the Commissioner.

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(2) An application under subsection (1) is to be made within 28 days after the date of the decision to which the application relates.

(3) An application under subsection (1) is to be in writing and is to specify—

- (a) the decision that the applicant wants the Commissioner to review; and
- (b) the matters that the applicant thinks the Commissioner should take into account in reviewing the decision.

(4) An application under subsection (1) is to be accompanied by the prescribed fee.

(5) The Commissioner must, within 28 days after receiving an application under subsection (1) in relation to a decision, review the decision and decide to—

- (a) uphold the original decision; or
- (b) make, in substitution for the original decision, a new decision under the section of this Act under which the original decision was made.

(6) The Commissioner is to make his or her decision under subsection (5) after considering—

- (a) the matters that the applicant specified in his or her application under subsection (1); and
- (b) any other matters the Commissioner thinks fit.

(7) The Commissioner is to give notice in writing to the applicant of his or her decision under subsection (5), specifying the reasons for the decision.

(8) The Commissioner is to make his or her decision under the section of this Act under which the original decision was made, within the period specified in subsection (3).

PART 4 – SEARCH WITHOUT WARRANT AND FORFEITURE

19. Search without warrant

- (1) Subsection (2) applies in relation to a person in a public place if—
 - (a) a member of the Police Force has reasonable grounds to suspect that the person is carrying, or has in his or her possession, a prohibited weapon, controlled weapon, offensive weapon or body armour contrary to this Act; and

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- (b) the member informs the person of the grounds for his or her suspicion.
- (2) A member of the Police Force may without warrant –
 - (a) search a person to whom this subsection applies for a prohibited weapon, controlled weapon, offensive weapon or body armour;
 - (b) search a vehicle, vessel, package or thing in the person's possession or under the person's control for a prohibited weapon, controlled weapon, offensive weapon or body armour; and
 - (c) seize and detain a prohibited weapon, controlled weapon, offensive weapon or body armour that the member finds on the person or on or in the vehicle, vessel, package or thing.
- (3) Nothing in this section limits or prevents the exercise of a power granted to a member of the Police Force under any other Act.

20. Forfeiture by courts

- (1) If a person is found guilty of an offence against section 6, 10, 7, 8, 9, 13 or 14(5) –
 - (a) the court may order that the weapon or body armour to which the offence relates be returned to a specified person; or
 - (b) if the court does not make an order under paragraph (a) – the weapon or body armour to which the offence relates is forfeited to the Territory.
- (2) The court may only make an order under subsection (1)(a) if –
 - (a) the person to whom the weapon or body armour is to be returned is not the person found guilty of the offence;
 - (b) the person to whom the weapon or body armour is to be returned is, in the opinion of the court, the owner of the weapon or body armour; and
 - (c) the court is satisfied that the person to whom the weapon or body armour is to be returned is authorised to possess the weapon or body armour under this Act.
- (3) The Commissioner may destroy or dispose of an object forfeited under subsection (1)(b) as the Commissioner thinks fit.

(4) If a person is found guilty of an offence in relation to an object that has been forfeited under subsection (1)(b), the object is not to be destroyed or disposed of—

- (a) until the period for an appeal against the finding of guilt in relation to the offence has elapsed; or
- (b) if an appeal against the finding of guilt in relation to the offence is lodged— unless the appeal is dismissed.

21. Return of goods if prosecution does not occur

(1) Subsection (2) applies to a prohibited weapon, controlled weapon, offensive weapon or body armour that has been seized by a member of the Police Force in relation to an alleged offence by a person against this Act.

(2) The Commissioner must return a weapon or body armour to which this subsection applies to the person from whom it was seized or, if the lawful owner is known to be another person, the lawful owner if—

- (a) proceedings for the alleged offence are not commenced within 6 months after the seizure; or
- (b) a decision is made within 6 months after the seizure not to bring proceedings for the alleged offence.

(3) Subsection (2) does not apply to a prohibited weapon or body armour unless there is in force an exemption under section 12, or an approval, authorising the person to whom under that subsection the weapon or body armour is required to be returned to possess the prohibited weapon or body armour.

22. Procedure for return of goods if prosecution does not occur

(1) The Commissioner or a person authorised by the Commissioner must notify in accordance with subsection (2) a person to whom section 21(1) applies.

(2) A notice for the purposes of subsection (1) is to specify that the person to whom the notice relates may, within 7 days after the notice is given, apply to the Commissioner or authorised person for the return of the prohibited weapon, controlled weapon, offensive weapon or body armour specified in the notice.

(3) If a person does not apply within 7 days after notice is given under subsection (1) for the return of an object specified in the notice, the object is forfeited to the Territory.

(4) If a person applies within 7 days after notice is given under subsection (1) for the return of the object specified in the notice, the

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Commissioner or a person authorised by the Commissioner must, if required by this Act to return the object, give the person notice in accordance with subsection (5).

(5) A notice for the purposes of subsection (4) is to specify that the object to which the notice relates may be collected by the person specified in the notice from the police station specified in the notice within 21 days after the notice is given.

(6) An object may only be returned to a person under this section by being collected by the person from the police station at which it is kept within the time specified in the notice under subsection (4).

(7) An object must not be returned under this section to a person under 18 years of age unless the person's parent or guardian is with him or her when it is returned.

(8) Notice under this section may be given in person, by telephone or by post.

PART 5 – MISCELLANEOUS

23. Amnesty

(1) The Commissioner may, by notice in the *Gazette*, declare that a provision of this Act or the Regulations does not apply in relation to an object, or a class of objects, specified in the declaration, for the period specified in the declaration.

(2) A declaration under subsection (1) may be subject to the conditions specified in the declaration.

(3) A provision of this Act or the Regulations that is specified in a declaration under subsection (1) does not apply to a person for the period specified in the declaration –

- (a) in relation to the object or class of objects specified in the declaration; or
- (b) if a condition is specified in the declaration – in relation to the object or class of objects specified in the declaration, if the person complies with and does not contravene the condition.

24. Duplicate approvals or specific purchase authorities

(1) If an approval or a specific purchase authority is lost, damaged or destroyed, the holder of the approval or authority may apply to the Commissioner for the issue of a duplicate approval or authority.

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(2) An application under subsection (1) is to –

- (a) be on the approved form; and
- (b) be accompanied by the prescribed fee.

(3) The Commissioner may, if he or she receives an application under subsection (1), issue to the applicant a duplicate of the approval or authority issued under this Act.

25. Regulations

The Administrator may make regulations, not inconsistent with this Act, prescribing matters –

- (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
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