

Serial 102
Firearms Amendment (Paintball) Bill 2007
Dr Burns

**A BILL
for
AN ACT**

to amend the *Firearms Act* and for related purposes

NORTHERN TERRITORY OF AUSTRALIA
FIREARMS AMENDMENT (PAINTBALL) ACT 2007

Act No. [] of 2007

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NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2007

AN ACT

to amend the *Firearms Act* and for related purposes

[Assented to [] 2007]
[Second reading [] 2007]

The Legislative Assembly of the Northern Territory enacts as follows:

PART 1 – PRELIMINARY MATTERS

1. Short title

This Act may be cited as the *Firearms Amendment (Paintball) Act 2007*.

2. Commencement

This Act commences on the date fixed by the Administrator by *Gazette* notice.

PART 2 – AMENDMENT OF *FIREARMS ACT*

3. Act amended

This Part amends the *Firearms Act*.

4. Amendment of section 3 (Interpretation)

(1) Section 3(1)

omit

In this Act, unless the contrary intention appears –

Firearms Amendment (Paintball) Act 2007

substitute

In this Act:

- (2) Section 3(1), definition "this Act"

omit

- (3) Section 3(1)

insert (in alphabetical order)

"approved paintball operator" means the holder of a paintball operator licence or permit;

"approved paintball range" means the premises specified in a paintball operator licence or permit;

"paintball" means a game in which players attempt to shoot at one another with prescribed paintball firearms using prescribed paintball pellets;

"paintball employee" means the holder of a paintball employee licence;

"paintball employee licence" means a licence in force under Part 3, Division 14, Subdivision 2, for employment by an approved paintball operator;

"paintball firearm" means a firearm designed to discharge paintball pellets;

"paintball operator" means a person carrying on the business of providing a paintball range, paintball firearms and pellets and other things for playing paintball;

"paintball operator licence" means a licence in force under Part 3, Division 14, Subdivision 1, for the business of paintball operator at a paintball range;

"paintball operator permit" means a permit in force under Part 4 for the business of paintball operator at a temporary paintball range;

"paintball pellets" means pellets that:

- (a) consist primarily of a dye, paint or similar marking substance; and
- (b) are designed to be discharged from a firearm;

"paintball player declaration", see section 60K(1)(a);

"paintball range" means premises for playing paintball;

Firearms Amendment (Paintball) Act 2007

"prohibited person", for Part 11, Division 2B, see section 60B;

"representative" for:

- (a) a firearms corporate licence, firearms museum licence or firearms club licence – means the person nominated under section 9(4)(a), (5)(a) or (6)(a); or
- (b) a paintball operator licence or permit – see section 9(9)(b)(i) or 32(3)(b)(i);

and includes the person for whom a notice is given under section 91A;

- (4) Section 3(1), definition "ammunition", paragraph (d)

omit, substitute

- (d) a paintball pellet; or
- (e) an article prescribed by regulation;

- (5) Section 3(1), definition "corresponding"

omit

or permit (all references)

substitute

, permit or certificate of registration

- (6) Section 3(1), definition "firearm"

omit

or other missile

substitute

or other projectile

- (7) Section 3(3A), after "firearms dealer licence"

insert

or paintball operator licence or permit

5. Amendment of section 9 (Application for licence)

After section 9(6)

insert

(7) An application for a firearms dealer licence or paintball operator licence must specify:

- (a) the name and address of each person who is a close associate of the applicant; and
 - (b) particulars of the nature of the person's association with the applicant.
- (8) Only a body corporate may apply for a paintball operator licence.
- (9) An application for a paintball operator licence must:
- (a) describe the applicant's proposed business; and
 - (b) specify the names and addresses of the following persons:
 - (i) the person who will be primarily responsible for the control and management of the business (the "representative");
 - (ii) prospective paintball employees of the business; and
 - (c) be accompanied by evidence that the applicant has public liability insurance for the amount prescribed by regulation.

6. Amendment of section 10 (General restrictions on grant of licence)

(1) Section 10(3)

omit

all words from "The" to "applicant –"

substitute

Subject to subsections (6) and (6A), the Commissioner must not grant a licence unless satisfied the applicant or, for an application for a paintball operator licence, the representative:

(2) Section 10(3)(a) to (fa), at the end

insert

or

Firearms Amendment (Paintball) Act 2007

(3) Section 10(4)

omit

applicant (all references)

substitute

applicant or representative

(4) Section 10(4)(a) and (c)

omit

applicant's

substitute

applicant's or representative's

(5) Section 10(6)

omit, substitute

(6) Subsection (3)(c) does not apply to:

(a) an applicant who is already the holder of a licence when the application is made; or

(b) an application for a paintball operator licence.

(6A) Subsection (3)(d) does not apply to an application for a paintball operator licence.

(6) Section 10(7)

omit

or firearms corporate licence

substitute

, firearms corporate licence or paintball operator licence

(7) Section 10(8A)

omit (all references)

applicant

substitute

applicant or representative

7. New section 10AD

After section 10AC

insert

10AD. Restriction on grant of paintball operator licence

The Commissioner must not grant a paintball operator licence unless:

- (a) the Commissioner is satisfied each person who is or will be a close associate of the applicant is a fit and proper person to be a close associate of the holder of a paintball operator licence; and
- (b) the Commissioner is satisfied the applicant is able to meet the storage and safety requirements under this Act; and
- (c) the premises are approved under section 49A.

8. Amendment of section 14 (Period of licence)

- (1) Section 14(1)(g)

omit

year.

substitute

year; and

- (2) After section 14(1)(g)

insert

- (h) a paintball operator licence remains in force for 1 year; and
- (i) a paintball employee licence remains in force for 1 year or the shorter period specified in the licence.

- (3) Section 14(1)(a)(iv) and (b) to (ea), at the end

insert

and

9. New Part 3, Division 14

After section 30C

insert

Division 14 – Licences for paintball

Subdivision 1 – Paintball operator licences

30D. Effect of licence

A paintball operator licence authorises the holder, and the representative, to possess and use paintball firearms and pellets for carrying on the business of paintball operator at the paintball range specified in the licence.

Subdivision 2 – Paintball employee licences

30E. Effect of licence

A paintball employee licence authorises the holder to possess and use paintball firearms and pellets for purposes relating to the performance of the employee's duties as an employee of the approved paintball operator specified in the licence at the operator's approved paintball range.

30F. Licence expires if holder ceases to be employee

If the holder of a paintball employee licence ceases to be employed by the approved paintball operator specified in the licence, the licence immediately expires.

30G. Disclosure of information by Commissioner to approved paintball operator

(1) The Commissioner may give an approved paintball operator information held by the Commissioner about a paintball employee, or prospective paintball employee, of the operator (the "relevant person").

(2) The information given may only be information about:

- (a) an authority, or corresponding authority, of the relevant person that has been suspended or revoked within 5 years before the information is given; or
- (b) an application for an authority, or corresponding authority, by the relevant person that has been refused within 5 years before the information is given; or
- (c) whether the operator is prohibited from employing the relevant person, and if so, the reason and period of the prohibition.

(3) If a paintball employee licence is suspended or revoked, the Commissioner must inform the approved paintball operator specified in the employee's licence.

(4) In this section:

"authority" means a licence, permit or certificate of registration.

10. Amendment of section 31 (Grant of permits)

After section 31(1)(fc)

insert

(fd) to authorise an approved paintball operator, and the representative, to possess and use paintball firearms and pellets for carrying on the operator's business specified in the permit at the temporary paintball range specified in the permit;

11. Amendment of section 32 (Application for permit)

(1) Section 32

omit

An

substitute

(1) An

(2) Section 32, at the end

insert

(2) Also, the applicant must give the Commissioner the further information requested by the Commissioner for considering the application.

(3) In addition, an application for a permit to carry on the business of paintball operator at a temporary paintball range must:

(a) describe the applicant's proposed business at the paintball range and the period for which the permit is required; and

(b) specify the names and addresses of the following persons:

(i) the person who will be primarily responsible for the control and management of the business (the "representative");

(ii) prospective paintball employees of the business; and

- (c) specify:
 - (i) the name and address of each person who is a close associate of the applicant; and
 - (ii) particulars of the nature of the person's association with the applicant.

12. Amendment of section 33 (General restrictions on granting permits)

After section 33(4)

insert

(5) This section does not apply to an application for a paintball operator permit.

13. New section 35D

After section 35C, in Part 4

insert

35D. Restriction on granting paintball operator permit

The Commissioner must not grant a paintball operator permit if the applicant would not be entitled to be granted a paintball operator licence to carry on the business of paintball operator at the paintball range for which the permit is sought.

14. Amendment of section 40 (Revocation of licence, permit or registration)

- (1) Section 40(3)(k)

omit

granted.

substitute

granted; or

- (2) After section 40(3)(k)

insert

- (1) in the case of a paintball operator licence or permit, if:

- (i) the holder is no longer entitled to use the approved paintball range; or
 - (ii) the holder no longer carries on the business of paintball operator at the approved paintball range.
- (3) Section 40(3)(a) to (e), (f)(i) and (iii), (g)(i) and (iii) and (h)(ii)

insert

or

15. Amendment of section 42 (Suspension by police officer or Commissioner)

After section 42(2)

insert

(3) If the person does not comply with the notice, a police officer may, without a warrant:

- (a) enter any place the officer reasonably believes the firearm may be found; and
- (b) search the place and seize the firearm.

(4) The police officer may exercise the powers with the assistance, and using the force, that is reasonably necessary in the circumstances.

16. New section 49A

After section 49, in Part 8

insert

49A. Approval of premises for use as paintball range

(1) A person may apply to the Commissioner for an approval for the use of premises as a paintball range.

- (2) The application must be in the approved form.
- (3) The Commissioner must, as soon as practicable:
 - (a) consider the application and approve or refuse it; and
 - (b) give written notice to the applicant of the decision and, if refused, the reasons for it.

(4) Without limiting subsection (3), the Commissioner must refuse the application unless satisfied:

- (a) the person has all necessary approvals for the use of the premises as a paintball range under the laws of the Territory; and
- (b) the premises are suitable for use as a paintball range; and
- (c) the use of firearms on the premises will not constitute a danger to persons on the premises or to the public in the vicinity of the premises.

(5) In deciding whether premises are suitable for use as a paintball range, the Commissioner must consider:

- (a) if a building is constructed on the premises – its design and construction; or
- (b) if a building is to be constructed on the premises – its design and proposed construction.

(6) The approval may be subject to the reasonable conditions the Commissioner considers appropriate.

17. Amendment of section 58 (Possession or use of firearms)

(1) After section 58(1)

insert

(1A) Subsection (1) does not apply if:

- (a) the person possesses or uses a paintball firearm for playing paintball at an approved paintball range; and
- (b) the person is entitled to play paintball.

(2) After section 58(5)(a)

insert

- (ab) who has been found guilty of an offence of violence, may not possess or use a firearm for 5 years after the finding of guilt; or
- (ac) who is the subject of an order, made in the Territory or elsewhere, to keep the peace, may not possess or use a firearm while the order is in force; or

- (3) Section 58(5)(a), (b) and (ba)(ii), at the end

insert

or

18. Amendment of section 59 (Firearms to be registered)

- (1) Section 59

omit

A

substitute

- (1) A

- (2) Section 59, at the end

insert

- (2) Subsection (1) does not apply if:

- (a) the person possesses or uses a paintball firearm for playing paintball at an approved paintball range; and
- (b) the person is entitled to play paintball.

19. New Part 11, Division 2B

After section 60A

insert

Division 2B – Offences relating to paintball

60B. Definition

In this Division:

"prohibited person" means a person who:

- (a) is prohibited from applying for any licence under this Act or a law of a State or another Territory; or
- (b) is not entitled to be granted any licence under this Act, for a reason other than that the person is not a resident, or about to become a resident, of the Territory.

60C. Prohibition of carrying on business of paintball operator without authority

A person must not carry on business as a paintball operator without a paintball operator licence or permit.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

60D. Information about close associates, representatives and employees

(1) If a change occurs in the close associates of the holder of a paintball operator licence or permit, the holder must give the Commissioner, within 7 days after becoming aware of the change, written notice in the approved form.

Maximum penalty: 200 penalty units or imprisonment for 12 months.

(2) The Commissioner may, by written notice, require the holder of a paintball operator licence or permit to give the Commissioner, within a specified time, a declaration containing specified information about:

- (a) the representative for the licence or permit; or
- (b) the close associates of the holder; or
- (c) the operator's paintball operator employees.

(3) The person must comply with the notice unless the person has a reasonable excuse.

Maximum penalty: 200 penalty units or imprisonment for 12 months.

(4) If a person ceases employment as a paintball operator employee with the holder of a paintball operator licence or permit, the holder must, within 7 days after the person ceases employment, give the Commissioner written notice in the approved form.

Maximum penalty: 200 penalty units or imprisonment for 12 months.

60E. Records and returns

(1) The holder of a paintball operator licence or permit must:

- (a) keep the paintball player declaration made by each person who plays paintball at the operator's approved paintball range for 2 years after it is made; and
- (b) keep other records in accordance with the conditions of the licence or permit.

Maximum penalty: 20 penalty units.

(2) A police officer or approved person may ask the holder of a paintball operator licence or permit, the representative for the licence or permit or an employee of the holder to produce the paintball player declarations or other records kept by the operator.

(3) The person must comply with the request unless the person has a reasonable excuse.

Maximum penalty: 20 penalty units.

(4) On production of a declaration or record, the police officer or approved person may:

- (a) examine it; and
- (b) make copies of, or take extracts from, it.

(5) The holder of a paintball operator licence or permit must give the Commissioner, within 3 months after the end of each financial year, an annual report in the approved form.

Maximum penalty: 100 penalty units or imprisonment for 6 months.

60F. Prohibition on employing certain persons

(1) This section applies if the holder of a paintball operator licence or permit does any of the following things:

- (a) employs a prohibited person in the business authorised by the licence or permit;
- (b) allows a prohibited person to act as an agent for, or participate in the management of, the business.

(2) The holder and the prohibited person are each guilty of an offence.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

(3) It is a defence to a prosecution of the holder of the licence or permit for an offence against subsection (2) if the holder proves the holder did not know, and could not reasonably have been expected to know, the person was a prohibited person.

60G. Production of firearms

(1) A police officer or approved person may ask the holder of a paintball operator licence or permit, the representative for the licence or permit or an employee of the holder to produce a paintball firearm in the holder's possession.

(2) The person must comply with the request unless the person has a reasonable excuse.

Maximum penalty: 50 penalty units.

(3) On production of a firearm, the police officer or approved person may inspect and test it.

60H. Possession and use of paintball firearm only at approved paintball range

The holder of a paintball operator licence or permit must not allow a person to possess or use a paintball firearm registered in the holder's name except at the holder's approved paintball range.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

60J. Paintball player must be adult

The holder of a paintball operator licence or permit must not allow a person the holder knows to be under the age of 18 to possess or use a paintball firearm to play paintball at the holder's approved paintball range.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

60K. Paintball player must sign declaration and give identification

(1) The holder of a paintball operator licence or permit must not allow a person to possess or use a paintball firearm to play paintball at the holder's approved paintball range unless the person, before starting to play:

- (a) makes a declaration in the approved form (a "paintball player declaration"); and
- (b) gives the declaration and photographic identification to a paintball employee working at the range.

Maximum penalty: 50 penalty units.

(2) Before allowing the person to play paintball, the paintball employee must:

- (a) inspect the person's photographic identification; and
- (b) endorse on the person's paintball player declaration that the employee is satisfied the person appears to be the person shown in the identification.

Maximum penalty: 100 penalty units or imprisonment for 6 months.

60L. Certain persons prohibited from playing paintball

(1) The holder of a paintball operator licence or permit must not allow a prohibited person to possess or use a paintball firearm to play paintball at the holder's approved paintball range.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

(2) It is a defence to a prosecution for an offence against subsection (1) if the holder proves the holder did not know, and could not reasonably have been expected to know, the person was a prohibited person.

(3) A prohibited person must not play paintball.

Maximum penalty: 50 penalty units.

20. Amendment of section 69 (Possession of ammunition)

(1) Section 69

omit

A

substitute

(1) A

(2) Section 69, at the end

insert

(2) Subsection (1) does not apply if:

(a) the person possesses paintball pellets for playing paintball at an approved paintball range; and

(b) the person is entitled to play paintball.

21. Amendment of section 89 (False or misleading statements)

(1) Section 89(1) and (2)

omit, substitute

(1) A person must not make a statement in an official document the person knows to be false or misleading in a material particular.

- (2) After section 89(3)

insert

- (4) In this section:

"official document" means an application, notice, return, report, record, register or other document made, given, lodged or kept under this Act.

22. Amendment of section 91A (Notification of change of representative of licence holder)

- (1) Section 91A, heading

omit, substitute

Notice of change of representative of certain licence and permit holders

- (2) Section 91A(1)

omit, substitute

(1) This section applies if a person ceases to be the representative for any of the following:

- (a) a firearms corporate licence;
- (b) a firearms museum licence;
- (c) a firearms club licence;
- (d) a paintball operator licence or permit.

(1A) The holder of the licence or permit must, within 14 days after the person ceases to be the representative, give the Commissioner written notice in the approved form.

Maximum penalty: 100 penalty units or imprisonment for 6 months.

23. Repeal and substitution of section 107

Section 107

repeal, substitute

106A. Conduct of representatives

(1) If, in a proceeding for an offence against this Act, it is necessary to establish a person's state of mind in relation to particular conduct, it is sufficient to show:

- (a) the conduct was engaged in by a representative of the person, within the scope of the representative's actual or apparent authority; and
- (b) the representative had that state of mind.

(2) For a proceeding for an offence against this Act, conduct engaged in on behalf of a person by a representative within the scope of the representative's actual or apparent authority is taken to have been engaged in also by the person.

(3) However, an individual is not liable to be punished by imprisonment for an offence against this Act if the offence arises because of the person's vicarious liability for the representative's conduct.

(4) In this section:

"engaging in conduct" includes failing or refusing to engage in conduct;

"representative" means:

- (a) of a body corporate – an executive officer, employee or agent of the body corporate; or
- (b) of an individual – an employee or agent of the person;

"state of mind" of a person includes:

- (a) the knowledge, intention, opinion, belief or purpose of the person; and
- (b) the person's reasons for the intention, opinion, belief or purpose.

107. Liability of executive officers of bodies corporate

(1) If a body corporate commits an offence against this Act (the "principal offence"), each of the executive officers of the body corporate commits

an offence (the "secondary offence") and is liable to the penalty applicable to an individual who commits the principal offence.

- (2) However, it is a defence for an executive officer to establish:
 - (a) the officer did not know, and could not reasonably have been expected to know, the principal offence was to be or was being committed; or
 - (b) the officer exercised due diligence to prevent the commission of the principal offence.

(3) The executive officer may be found guilty of the secondary offence even though the body corporate has not been charged with, or found guilty of, the principal offence.

(4) This section does not affect the liability of the body corporate for the principal offence.

- (5) In this section:

"executive officer", of a body corporate, means a director or other person who is concerned with, or takes part in, the management of the body corporate.

24. Amendment of section 111 (Regulations)

Section 111(1)

omit, substitute

- (1) The Administrator may make regulations under this Act.

25. New section 114

After section 113

insert

114. Review of Act

(1) The Commissioner must, within 3 years after the commencement of the *Firearms Amendment (Paintball) Act 2007*:

- (a) review the regulation of the playing of paintball; and
- (b) give a report of the review to the Minister.

(2) The Minister must, within 7 sitting days after receiving the report, table a copy of it in the Legislative Assembly.

26. Amendment of Schedule 1 (Prohibited firearms)

Schedule 1, item 12

omit, substitute

12. A firearm capable of discharging, in any way:

(a) an irritant matter in liquid, powder, gas or chemical form; or

(b) a pyrotechnic flare or dye, other than a distress signal device.

27. Amendment of Schedule 4 (Category C firearms)

Schedule 4, at the end

insert

Paintball firearms

28. Further amendments

The Schedule has effect.

PART 3 – AMENDMENT OF *FIREARMS REGULATIONS*

29. Regulations amended

This Part amends the *Firearms Regulations*.

30. Amendment of regulation 12 (Restrictions on granting licences for category C firearms)

(1) Regulation 12(1)(a)(i) to (iv), at the end

insert

or

(2) Regulation 12(1)(a)(vi)

omit, substitute

(vi) instruction in firearms use and safety; or

(vii) paintball operator or employee; and

31. New Part 5A

After regulation 39

insert

PART 5A – PAINTBALL

39A. Prescribed paintball firearm

For the definition "paintball" in section 3(1) of the Act, a prescribed paintball firearm is a paintball firearm that:

- (a) has a calibre of .68"; and
- (b) discharges paintball pellets at a velocity of not more than 91.44 m per second; and
- (c) is a single shot pump action or semi-automatic; and
- (d) does not have the appearance of a pistol or prohibited firearm.

39B. Prescribed paintball pellets

For the definition "paintball" in section 3(1) of the Act, prescribed paintball pellets are gelatine capsules that:

- (a) when made, have a diameter of 17.27 mm; and
- (b) are filled with a water-soluble marking dye of any colour except red or brown.

39C. Prescribed amount of public liability insurance

For section 9(9)(c) of the Act, the prescribed amount is \$10 million.

39D. Conditions of paintball operator licence or permit

A paintball operator licence or permit is subject to the following conditions:

- (a) the paintball operator must not alter the approved paintball range without the written approval of the Commissioner;
- (b) the operator must:
 - (i) within 7 days after a change to the operator's business (whether relating to the business activities or the constitution of the business), give written notice to the Commissioner about the change; and

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- (ii) give the Commissioner the documents or information the Commissioner requires relating to the change;
- (c) the operator must ensure the operator's paintball operator employees:
 - (i) complete an approved paintball safety course; and
 - (ii) personally supervise the possession and use of paintball firearms by paintball players at the range; and
 - (iii) exercise all reasonable care and precaution, and give the necessary directions to any person, to prevent danger of injury arising out of the playing of paintball at the range;
- (d) the operator must ensure only paintball firearms are used for playing paintball at the range;
- (e) the operator must ensure compliance with an approved paintball operator code of practice;
- (f) the operator must allow a police officer or approved person to inspect the approved paintball range at any reasonable time to ensure compliance with the Act.

32. Amendment of Schedule 4

- (1) Schedule 4, entry for section 85 and regulation 21

omit

- (2) Schedule 4

insert (in numerical order)

Section 60J Allowing a person under 18 to possess or use a paintball firearm to play paintball	\$500
Section 60K(1) Allowing a person who has not made a paintball player declaration to possess or use a paintball firearm to play paintball	\$500
Section 85 Contravention of a licence or permit if the contravention does not result in the loss, theft or misuse of a firearm	\$500

Firearms Amendment (Paintball) Act 2007

(3) Schedule 4, at the end

insert

Regulation 21 Failing to comply with storage requirements for category A or B firearms if the failure does not result in the loss, theft or misuse of a firearm	\$500
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SCHEDULE

section 28

FURTHER AMENDMENTS OF *FIREARMS ACT*

Provision	Amendment	
	omit	substitute
section 4(6)(a)	a shooting gallery	an approved paintball range, shooting gallery
section 10A(a)	whole paragraph	(a) the representative does not hold a licence; or
section 10A(b)	that the person	the representative
section 11(2)(m)	whole paragraph	(m) instruction in firearms use and safety; (n) paintball operator or employee.
section 12(b)	a recent	if the holder is an individual – a recent
section 16A(1)	whole subsection	
section 40A(1)	or permit	or permit, the representative for the licence or permit
section 40A(1)(a)	the holder	the holder, representative
Part 8, heading	AND FOR SHOOTING ACTIVITIES	, FOR SHOOTING ACTIVITIES AND PAINTBALL RANGES
section 48(1) and (2)	this Part	section 49
section 49(1) and (6)	this Part	this section
section 49(3) and (4)	under this Part	

Firearms Amendment (Paintball) Act 2007

Section 93(3)	category C firearms	category C firearms (other than paintball firearms)
Section 96(2)	category C firearm	category C firearm (other than a paintball firearm)
section 107A, heading	whole heading	Offences by representatives of licence and permit holders
section 107A(1)	or firearms club licence	, firearms club licence or paintball operator licence or permit
	the licence under section 9 or 91A	the licence or permit
section 109	sections 61, 74(2)	sections 60J, 61, 74(2), 89(1)
