

**FIREARMS LEGISLATION IN AUSTRALIA A
DECADE AFTER THE NATIONWIDE
AGREEMENT**

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FIREARMS LEGISLATION IN AUSTRALIA A DECADE AFTER THE NATIONWIDE AGREEMENT

INTRODUCTION

At a Special Meeting of the Australasian Police Ministers' Council (APMC) of 10 May 1996, all Australian Governments agreed to a 10 point plan for the regulation of firearms. Further additions and minor amendments were made to this agreement at subsequent meetings on 17 July and 15 November 1996. Amongst other things, the Nationwide Agreement on Firearms prohibited specific types of firearms; established firearms registration systems in all jurisdictions; established genuine reason and genuine needs provisions for owning, possessing or using a firearm and developed uniform standards for the security and storage of firearms.

In 1997, the Australian Institute of Criminology was asked to produce a detailed analysis of State and Territory legislation to determine the level of compliance with the APMC resolutions. That report, prepared by Professor Kate Warner and Carl Moller, has been used a basis for this review. The aim of this report was to revisit the State and Territory legislation and consider: first, whether any of the jurisdictions have attempted to address the areas of non-compliance identified in 1997; and secondly, whether there has been any "watering down" of the legislation by any of the jurisdictions. A further aim was to examine the position of the States and Territories in relation to handgun regulation.

The general finding of this report is that the regulatory schemes in most jurisdictions have been largely unaltered since the 1997 review.¹ As such, it does not appear that any jurisdiction has significantly "watered down" their legislation. It also means that the areas of non-compliance identified in 1997 still largely remain unchanged.² So whilst in general, the core aspects of the Agreement are still being complied with, there are facets of some jurisdictions' schemes that do not adequately comply with the Agreement.

This review follows the format of the 1997 review and deals with each of the resolutions of 10 May 1996 sequentially. After setting out the terms of a resolution, the review analyses the legislation of each jurisdiction in turn to determine the extent of compliance with that resolution. The resolutions of 17 July and 15 November 1996 are inserted into the text of the 10 May resolutions at the most appropriate places. After considering the resolutions of 10 May 1996, the review then considers the core resolutions of the 2002 National Agreement on Handguns in much the same form.

An overview and summary of the failures to implement various aspects of each resolution is provided at the end of the review.

¹ At least with respect to the provisions relevant to the Agreement.

² It must be noted that in some cases jurisdictions have used administrative mechanisms to implement aspects of the Agreement. Where applicable, these mechanisms are noted in the overview and summary provided at the end of this review.

The method adopted for this review was to check all the legislative provisions in each jurisdiction and assess the level of compliance with the relevant resolution. The legislation listed in Appendix A has been used in preparing this report. It should be noted that the 1996 Agreement set out a number of resolutions which it was expected would, when implemented by the States and Territories, lead to a uniform approach to firearms regulation in Australia. However, there was no attempt at the time to draft uniform legislation. As a result, the States and Territories adopted varying approaches when implementing the Agreement. Most jurisdictions repealed existing legislation and enacted a new regulatory scheme for firearms that incorporated the resolutions. In contrast, Queensland, South Australia and Western Australia attempted to implement the terms of the Agreement by amending existing firearms legislation.

The result is that although, in general, there is uniformity across the jurisdictions with respect to the *substance* of the resolutions, there is not always uniformity in the *structure* of the respective regulatory schemes.

THE 1996 AGREEMENT

RESOLUTION 1 – BANS ON SPECIFIC TYPES OF FIREARMS

Council resolved:

(a) that all jurisdictions ban the sale, resale, transfer, ownership, possession, manufacture and use of those firearms banned or proposed to be banned from import other than in the following exceptional circumstances;

- military;
- police or other government purposes; and
- occupational categories of shooters who have been licensed for a specified purpose (eg extermination of feral animals).

(b) that all jurisdictions ban competitive shooting involving those firearms banned or proposed to be banned from import.

At the meeting of 15 November 1996, Council amended this resolution to allow the use of semi-automatic and pump action shotguns in clay target shooting competitions in accordance with international rules of clay target shooting, and under stringent conditions.

This resolution raises the question of what firearms are banned from import by the Commonwealth other than in exceptional circumstances.

The *Customs (Prohibited Imports) Regulations 1956* (Cth), r 4F contains the relevant provisions relating to the importation of firearms and firearm parts etc. Regulation 4F(1) prohibits the import of all firearms and firearm parts etc unless it is an article to which an item in Part 2 of Schedule 6 applies. The importation must also satisfy the specified test

of importation set out in column 3 of the table in Part 2. While the statutory framework in r 4F and Schedule 6 for regulating the importation of firearms remains the same as it was when reviewed in 1997, the provisions have increased somewhat in complexity by the addition of more tests and items or firearms descriptions.

Part 1 of Schedule 6 sets out seven tests of importation:

1. Official purposes test
2. Specified purposes test
3. Specified person test
4. Police authorisation test
5. Shorts shooter test (and 5A – International sports shooter test)
6. Dealer test – Category C article
7. Dealer test – Category H article

Part 2 of Schedule 6 contains 23 items or firearm descriptions the importation of which is permitted, provided the specified test of importation has been satisfied. The permitted items include firearms corresponding to those in Category A (item 1), B (item 2), C (item 3), D (item 6) and H (item 9) of resolution 4(e). Other than these permitted items, the terms of resolution 1(a) require all jurisdictions to (with limited exception) ban the sale, transfer, ownership, possession and use of all other firearms and firearm parts not referred to in Part 2 of Schedule 6.

In summary, only listed firearms can be imported. And the listed firearms must satisfy the test of importation in Part 2 of Schedule 6. For longarms, item 6 only allows the importation of self-loading centre fire rifles, self-loading rim fire rifles (capacity greater than 10 rounds), self-loading and pump action shotguns (capacity greater than 5 rounds) if an importation test is satisfied which corresponds with the exceptional circumstances listed in Resolution 1. For self-loading rimfire rifles, self-loading shotguns and pump action repeating shotguns with lesser capacity any one of the importation tests can be satisfied. However, it should be noted that for the police authorisation test, the importer must be a primary producer and the sports shooter test is limited to clay target shooters registered with the Australian Clay Target Association and the international sport shooter test has stringent limitations. Item 9 effectively bans the import of all fully automatic handguns, machine pistols/gun and sub-machine guns. This was the case at the time of the 1997 review. However, in 2003 following a national agreement relating to handguns, the *Customs (Prohibited Imports) Regulations 1956* (Cth) were amended to restrict the import of certain handguns for sporting purposes on the basis of barrel length and shot capacity.

New South Wales

(a) The *Firearms Act 1996* (NSW), s 3(2)(a) states that an object of the Act is to prohibit the possession and use of all automatic and self-loading rifles and shotguns except in special circumstances. Schedule 1 of the Act contains a list of prohibited firearms. The list of 18 items includes all self loading rifles and self loading shotguns as well as all pump action shotguns. These firearms are prohibited except for limited occupational purposes or official purposes in accordance with the agreed licence categories C and D (see resolution 4(e)).

Handguns

Schedule 1, item 1 prohibits any machine gun, sub-machine gun or other firearm capable of propelling projectiles in rapid succession during one pressure of the trigger. Section 8 provides that a Category H licence (pistols) does not authorise possession or use of a prohibited firearm. Thus, fully automatic handguns are not permitted under any circumstances in New South Wales.

- (b) Section 9(2) provides that subject to the regulations, a Category C or D licence does not authorise the possession and use of a prohibited firearm for the purposes of any shooting competition, except as provided by s 17A (clay target shooting).

Queensland

- (a) The *Weapons Act 1990* (Qld), s 3(2) states that the object of the Act is to prevent the misuse of weapons. Section 4 states that this object is to be achieved by prohibiting the possession and use of all automatic and self loading rifles and shotguns except in special circumstances. The special circumstances provided for are limited to those agreed to in the resolution.

Handguns

The *Weapons Categories Regulations 1997*, r 8 contains a list of items that are Category R weapons. This list includes a machine gun or sub-machine gun that is fully automatic in its operation. Nothing in the Queensland regulatory scheme authorises the possession or use of a Category R weapon and the *Weapons Regulation 1996*, r 16 expressly provides that a concealable firearms licence (handguns) does not authorise the possession of a pistol in Category R.

- (b) With the exception of clay target shooting, the use of automatic and self loading rifles and shotguns are not permitted for competitive shooting.

South Australia

- (a) The *Firearms Regulations 1993* (SA), r 6 divides firearms into three classes: exempt, prescribed and other. The South Australian legislation requires a licence for all firearms other than exempt firearms (see *Firearms Regulations 1993*, r 7). Regulation 8 contains a list of prescribed firearms and this list includes all automatic firearms and various other firearms but semi-automatic firearms are not included. But as semi-automatic weapons require either a Class C or D licence, the resolution is satisfied.

Handguns

South Australia complies with the ban on fully automatic handguns by virtue of the *Firearms Regulations 1993*, r 8, which contains a list of prescribed firearms which includes all automatic firearms.

- (b) The *Firearms Act 1977* (SA) neither specifically prohibits the use of prescribed firearms for competitive shooting, nor does it authorise the granting of Class C or D firearms for this purpose (s 15A(3) and (4)). In accordance with the meeting of 15 November, a person may acquire a Class C firearm for the purposes of clay target shooting.

Tasmania

- (a) The *Firearms Act 1996* (Tas), Schedule 1 contains a list of prohibited firearms that includes self loading rifles and shotguns and pump action shotguns. The Act only allows for the possession and use of semi-automatic firearms in the circumstances agreed to in the resolution.

Handguns

Schedule 1, item 1 prohibits any machine gun, sub-machine gun or other firearm capable of propelling projectiles in rapid succession during one pressure of the trigger. Thus, fully automatic handguns are banned.

- (b) The Act does not specifically prohibit the use of prohibited firearms for competitive shooting, but it does not authorise the granting of a Category C or D licence for this purpose.

Victoria

- (a) The *Firearms Act 1996* (Vic), ss 5-7 prohibit the possession and use of any firearm without a licence. Licences that would entitle the holder to possess and use an automatic or semi-automatic rifle or shotgun or a pump action shotgun (i.e. Category C, D and E (longarms) licences) are limited to the circumstances agreed to in resolution 4(e).

Handguns

Under s (3)(1), fully automatic handguns are within the definition of a “Category E handgun” (see also, definition of “machine gun”). Section 16A makes provision for the issue of Category E handgun licences for official, commercial or prescribed purposes. It follows that Victoria permits the possession and use of fully automatic handguns in some circumstances.

- (b) Except for clay target shooting (as agreed to at 15 November meeting), the use of automatic and semi-automatic longarms for the purpose of competitive shooting is not permitted.

Western Australia

- (a) In accordance with the *Firearms Act 1973* (WA), s 6, the *Firearms Regulations 1974*, r 26 contains a table of prohibited firearms. This table includes any fully automatic firearm and any Category D firearm (includes most semi-automatic rifles and shotguns and pump action shotguns). The restrictions on issue of Category C and D licences comply with the agreed circumstances.

Handguns

The table of prohibited firearms contained in r 26 includes fully automatic firearms. The acquisition, sale, possession or use of a firearms listed in this table is absolutely prohibited (r 26(1)).

- (b) Clay target shooting is the only competitive shooting in which use of a semi-automatic weapon is permitted.

Australian Capital Territory

- (a) The *Firearms Act 1996* (ACT), s 3(2) states that an object of the Act is to prohibit the possession and use of all automatic and self-loading rifles and shotguns except in special circumstances. Schedule 1 of the Act contains a list of prohibited firearms. The list of 18 items includes all self loading rifles and self loading shotguns as well as all pump action shotguns. These firearms are prohibited except for limited occupational purposes or official purposes in accordance with the agreed licence categories C and D (see resolution 4(e)).

Handguns

The list of prohibited firearms contained in sch 1 includes any machine gun, sub-machine gun or any other fully automatic firearm. Schedule 2, item 5 provides that a Category H licence (pistols) does not authorise the possession or use of a prohibited firearm.

- (b) Section 17(2) provides that subject to the regulations, a Category C or D licence does not authorise the possession and use of a prohibited firearm for the purposes of any shooting competition.

Northern Territory

- (a) Possession and use of a firearm without licence or permit is prohibited by the *Firearms Act 1996* (NT), s 58. Schedule 1 contains a list of prohibited firearms which includes self loading rifles and self loading and pump action shotguns.

Handguns

The list of prohibited firearms contained in sch 1 includes any machine gun, sub-machine gun or any other fully automatic firearm. Section 58(6) provides that a person must not possess or use a prohibited firearm unless authorised under the Act and there do not appear to be any provisions authorising the use of fully automatic handguns.

- (b) It appears that the Northern Territory regulatory scheme does permit the use of some semi-automatic firearms (Category C) for sports shooting: *Firearms Regulations 1996*, r 12).

<p>RESOLUTION 2 – EFFECTIVE NATIONWIDE REGISTRATION OF ALL FIREARMS</p>
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Council resolved:

(a) that New South Wales, Queensland and Tasmania immediately establish an integrated licence and firearms registration system and that all other jurisdictions review their existing registration systems to ensure that all systems are compatible.

(b) that these databases be linked through the National Exchange of Police Information (NEPI) to ensure effective nationwide registration of all firearms.

New South Wales

Part 3 of the *Firearms Act 1996* provides for the registration of firearms. The Commissioner must compile and maintain a Register of Firearms with particulars relating to each firearm and the licence or permit of the person in respect of whom the firearm is registered (s 33(1) & (2)). There is a requirement that the Register be in a form that enables it to be linked to the NEPI scheme (s 33(3)(a)), and to enable information in the Register to be accessed by other state and territory firearms authorities (s 33(3)(b)).

Queensland

The *Weapons Act 1990* (Qld) s 49 requires that the commissioner maintain a register of all firearms in Queensland. The register must contain details of each firearm (make, type etc) and the person who owns the firearm and the licence authorising possession of it. The Act does not refer to the NEPI system but the commissioner may make information available to “another entity”, if the commissioner is satisfied to do so “would assist in achieving the object of this Act” (s 49(4)).

South Australia

The *Firearms Act 1977* (SA) s 27(1) requires the Registrar to maintain a register of all licences issued and all firearms registered under the Act. No reference is made to the NEPI system. Provision is made for the Registrar to disclose information on the register where the Registrar is satisfied that the person has a proper interest in the contents (s 27(2)).

Tasmania

The *Firearms Act 1996* (Tas) s 83 requires the Commissioner to maintain a register of all firearms registered under Part 4 of the Act. The register must contain particulars of the firearm, the name and address of the registrant and the particulars of the licence and permit the registrant holds (s 83(2)). Section 83(3) requires that the register be in a form that enables it to be linked to the NEPI scheme and enables approved authorities to access it.

Victoria

Part 5 of the *Firearms Act 1996* (Vic) provides for the registration of firearms. Section 113 provides that the Chief Commissioner must keep a register of all firearms which includes particulars relating to each firearm (make, type etc) and the person who possesses the firearm and particulars of their licence. The Act does not refer to the NEPI system.

Western Australia

The *Firearms Act 1973* (WA) does not contain any specific requirements for registration. Instead, firearms licences issued under s 16 must name and identify the firearm in the licence. The *Firearms Regulations 1974*, r 21 requires that the Commissioner maintain a register of all licences, permits and approvals. There is no reference in the Act to the NEPI scheme nor to access by other authorities.

Australian Capital Territory

The *Firearms Act 1996* (ACT), Part 4 provides for the registration of firearms. The registrar must compile and maintain a register of firearms with particulars relating to each firearm and the licence or permit of the person in respect of whom the firearm is registered (s 50(1) & (2)). There is a requirement that the register be in a form that enables it to be linked to the NEPI scheme (s 50(3)(a)), and to enable information in the register to be accessed by other state and territory firearms authorities (s 50(3)(b)).

Northern Territory

The *Firearms Act 1996* (NT), s 36(2) requires the Commissioner to register a firearm that is the subject of an application. The Commissioner registers a firearm by entering in the register the particulars of the firearm and particulars relating to the person in whose name the firearm is registered (s 36(5)). Section 7 requires the Commissioner keep a register containing a record of all registered firearms and all licences and permits. The register must be kept in a form that enables it to be linked to the NEPI scheme and enables access by other firearms authorities (s 7(3)).

<p>RESOLUTION 3 – GENUINE REASON AND GENUINE NEED FOR OWNING, POSSESSING OR USING A FIREARM</p>
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<p>(a) Personal Protection</p>

<p>It was resolved that personal protection not be regarded as a genuine reason for owning, possessing or using a firearm. This was to be confirmed by all jurisdictions.</p>

New South Wales

The *Firearms Act 1996* (NSW), s 12(2)(a) provides that personal protection is not a genuine reason for owning, possessing or using a firearm. Further, s 12(2)(b) excludes protection of property as a genuine reasons (some exceptions).

Queensland

The *Weapons Act 1990* (Qld) does not expressly state that personal protection is not a genuine reason for owning, possessing or using a firearm. Personal protection is not listed in s 11 but subparagraph (e) allows for other reasons “prescribed under a regulation”. It is possible that personal protection could be prescribed.

South Australia

South Australia does not expressly provide that personal protection is not a genuine reason for owning, possessing or using a firearm. Personal protection is not listed as a purpose for which a firearm may be used in the *Firearms Regulations 1993*, r 12 but r 12(2)(h) allows for other purposes approved by the Registrar.

Tasmania

The *Firearms Act 1996* (Tas), s 37(2)(a) provides that personal protection is not a genuine reason for owning, possessing or using a firearm. Further, s 37(2)(b) excludes, with the exception of security guards, protection of property as a genuine reasons.

Victoria

The *Firearms Act 1996* (Vic), s 1(a)(i) provides that one of the purposes of the Act is to establish a system of licensing and regulation of firearms which “does not allow for self defence to be used as a reason for obtaining a licence”. Furthermore, the specific reasons set out in the Act do not allow any scope for personal protection to be used as a reason: ss 10-13.

Western Australia

The *Firearms Act 1973* (WA), 11A(5) provides that personal protection is not a genuine reason for owning, possessing or using a firearm.

Australian Capital Territory

The *Firearms Act 1996* (ACT), 23(2)(a) provides that personal protection is not a genuine reason for owning, possessing or using a firearm. Paragraph (b) also excludes protection of property as a genuine reason.

Northern Territory

The *Firearms Act 1996* (NT) does not expressly provide that personal protection is not a genuine reason for possessing or using a firearm but it is not listed as a genuine reason in s 11(2).

(b) Genuine reason:

Council resolved that the following classifications be used to define the “genuine reason” an applicant must show for owning, possessing or using a firearm:

- sporting shooters with valid membership of an approved club (defined as participants in shooting sports recognised in the charters of such major sporting events as the Commonwealth Games, Olympic Games or World Championships);
- recreational shooters who produce proof of permission from a landowner;
- persons with an occupational requirement, eg primary producers, other rural purposes, security employees and professional shooters for nominated purposes;
- bona fide collectors of lawful firearms; and
- persons having other limited purposes authorised by legislation or ministerial approval in writing, eg firearms used in film production.

New South Wales

The genuine reasons listed in the *Firearms Act 1996* (NSW), s 12(4) comply with the reasons set out in the resolution. The genuine reasons are:

- Sport/target shooting (applicant must be a member of an approved shooting club)
- Recreational hunting/vermin control (applicant must be owner or occupier of rural land, or have proof of permission, or be a member of an approved hunting club)
- Primary production
- Vertebrate pest animal control (applicant must be either; a professional contract shooter; employed or authorised by a government agency; or a primary producer participating in authorised campaigns)
- Business or employment (applicant must demonstrate that it is necessary)
- Occupational requirements relating to rural purposes
- Animal welfare
- Firearms collection (applicant must be a member an approved collector’s club or society)

“persons having other limited purposes” – this is dealt with by way of permit rather than licence in the Act (see s 28(c)).

Queensland

The *Weapons Act 1990* (Qld), s 11 lists the genuine reasons for possession of a weapon. The five reasons listed are the same as the resolution. Subsections 13(2) and (3) contain the requirements for club membership and landowners consent. Section 11(e) refers to other reasons prescribed under regulation. The *Weapons Regulation 1996*, r 4 lists the following as additional genuine reasons: military re-enactment or historical demonstration; staging of sporting events; and theatrical productions.

South Australia

The *Firearms Act 1977*, s 13(2) provides that a firearms licence must be for a purpose prescribed by regulation or approved by the Registrar pursuant to the regulation. The *Firearms Regulations 1993* prescribe the purposes in r 12(2) where all of the agreed purposes are listed and paint-ball shooting is added in paragraph (d). There is no requirement that recreational hunters produce proof of permission from a landowner.

Tasmania

The *Firearms Act 1996* (Tas) complies with the resolution. The genuine reasons are listed in s 37(1):

- (a) Sport or target shooting (requirements: s 38);
- (b) Recreational hunting or vermin control (requirements: s 39);
- (c) Primary production (requirements: s 40);
- (d) Animal population control (requirements: s 41);
- (e) Animal welfare (requirements: s 42);
- (f) Business or employment as a firearms dealer, security agent or security guard (requirements: s 43);

- (g) Firearms collection (requirements: s 44);
- (h) Show or exhibition (there are no additional requirements for this provision)

Victoria

The *Firearms Act 1996* (Vic) substantially complies with the resolution. The genuine reasons are:

- Sport or target shooting: s 10(1)(a) and s 15(1)(b) (must be a member of an approved shooting club or organisation: s 10(2)(a)(i))
- Hunting: s 10(1)(b) (applicant must be a landowner or have permission of a landowner or hold a game licence: s 10(2)(b))
- Primary production: s 10(1)(c) and s 11(1)(a)(i)
- Occupation as a security guard or prison guard: s 10(1)(d), s 10(2)(d) and s 15(1)(a)
- Official, commercial or prescribed purpose: s 10(1)(e) and s 10(2)(e); s 11(1)(a)(iv); s 12(1)(a)(ii); and s 15(1)(c)
- Professional hunting: s 11(1)(a)(ii) and s 12(1)(a)(i)

Firearms collection (s 21 – must be a member of an approved firearms club)

Western Australia

The *Firearms Act 1973* (WA), s 11A(1) requires an applicant to have a genuine reason under the Act before a licence is issued. The genuine reasons are set out in s 11A(2) and substantially comply with the resolution except paint-ball shooting is added as a genuine reason in paragraph (da).

Australian Capital Territory

The *Firearms Act 1996* (ACT), s 23(4) complies with the resolution. Table 23, column 2 contains the same eight classes of genuine reason as New South Wales and column 3 contain the requirements in accordance with the resolution. “Composite Entity” is also added as a genuine reason to cover security organisations, approved clubs and relevant government agencies.

Northern Territory

The *Firearms Act 1996* (NT), s 11(2) lists the same eight classes of genuine reasons as New South Wales. Paragraphs (j) and (k) add museum display and inheritance (respectively) as genuine reasons. The *Firearms Regulations 1996*, r 2 – r 11 prescribe the requirements for each class of genuine reason contained in the Act.

(c) Genuine need

Council resolved that over and above satisfaction of the "genuine reason" test, an applicant for a licence for the categories B, C, D and H must demonstrate a “genuine need” for the particular type of firearm.

For Licence Category C:

- application will be limited to primary producers;
- the applicant must satisfy the licensing authority that there is a genuine need for the use of the firearm that pertains to the applicant's occupation, which cannot be achieved by some other means, and that the need cannot be satisfied by a firearm under Category A or B;
- licence holder will be limited to the maximum of one rifle and one shotgun of the types covered by Category C;
- the application is to be approved by the Commissioner of the Police, who may impose conditions as to the use of the firearm, including as to the geographical location of its use; and

[licensing authorities to develop uniform guidelines to be approved by Council]

Multiple licenses for large rural properties

At the July 17 meeting it was resolved:

- (i) that, in the case of very large properties, or where one primary producer owned a number of separate properties, more than one licence for a category C firearm be permitted for use on that property or those properties; and
- (ii) that the licence enable employees of licence holders to use the employer's firearms only while working on the property.

Access to Category D firearms by primary producers

At the July 17 meeting council resolved that limited access to Category D firearms should be provided to primary producers who satisfy the same requirements as professional shooters in respect of culling, for the purpose of large feral and brucellosis and tuberculosis eradication campaign (BTEC) animals. The following conditions will apply to this limited access:

- (i) a licence may only be issued where there is a demonstrated need for a category D firearm for the culling of large feral animals (e.g. where a government authority requires the undertaking of specific culling within the relevant area);
- (ii) the applicant must meet all of the qualifications which are required for accreditation of professional shooters, including safety training requirements;
- (iii) the licence may only be issued for a nominated period not exceeding one year, in accordance with the demonstrated need;
- (iv) the firearm must, upon expiry of the nominated period, be returned to the authorities or stored as approved by the authorities;
- (v) the geographical location of the use of the firearm must also be limited (normally, to the applicant's property);
- (vi) only one category D firearm may be issued per individual applicant;
- (vii) the applicant must obtain approval from the Civil Aviation Safety Authority to shoot from a helicopter;
- (viii) the applicant must show that no other means of dealing with the problem (including the use of a different category firearm, or the contracting of a professional shooter) is practicable; and
- (ix) ground culling will only be allowed where airborne culling is not practicable.

Clay target shooters

At the November 15 meeting council resolved:

- (a) that a restricted class of shooters be permitted access to certain Category C firearms under the following conditions:
- (i) applicant must already (as at 15 November 1996) possess a semi-automatic or pump action shotgun for use in clay target shooting competition and be an existing member of a club affiliated with the Australian Clay Target Association; or
 - (ii) in the case of new applicants, the applicant must satisfy the Commissioner that they have a special physical need such as to require a semi-automatic or pump action shotgun in order to participate in clay target shooting events (the application must be supported in writing by an officer of an ACTA affiliated club);
 - (iii) licence holders must take part in a minimum of four club competitions or shooting events per year;
 - (iv) the licence will only authorise use of the firearm on an authorised shooting range... with misuse subject to criminal penalties;
 - (v) the firearm, when not in use, must be stored in a locked steel safe of a thickness to ensure it is not easily penetrable, bolted to the structure of a building;

These conditions must be explicitly stated in legislation or regulations and, in addition, ACTA rules must stipulate these minimum requirements and must require ACTA to notify licensing authorities of membership cancellation.

New South Wales

The *Firearms Act 1996* (NSW) requires a ‘special need’ for each of the licence categories in accordance with the resolution.

Category B: s 13 requires a ‘special need’ in addition to a genuine reason for a Category B licence. Section 17 provides that special need is a matter of the Commissioner’s discretion but the regulations may specify the sort of evidence that may be produced. The regulations do not appear to do this.

Category C: s 14(a) restricts “genuine reason” to primary production and s 14(b) contains the requirement for ‘special need’. Section 14(c) implements the “no other means” requirement in the resolution and s 8(1) limits Category C licences to one rifle and one shotgun and provides for multiple licences for large rural properties.

Clay target shooters:

Section 17A contains special provisions relating to Category C licences issued for clay target shooting purposes. These substantially comply with the resolution and are implemented in the following provisions:

- (i) Section 17A(3)
- (ii) Section 17A(4)
- (iii) Section 17A(6) and *Firearms Regulations 1996*, r 81(1)(b)
- (iv) Section 17A(2)(b) but no penalties for misuse
- (v) Section 17A(7) and s 41

Category D: s 15(a) restricts “genuine reason” to vertebrate pest animal control and s 15(b) requires a “special need”.

Access to Category D firearms by primary producers

The Act substantially complies with the provisions of the resolution:

- (i) Section 15(c)
- (ii) The Act does not mention any accreditation requirements for professional shooters
- (iii) Section 21(2)
- (iv) Section 20A(a)
- (v) Section 8(1), see Category D
- (vi) Section 8(1), see Category D
- (vii) –
- (viii) Section 15(c)
- (ix) Section 20A(b)

Category H: “special need” must be established – s 16(1)(b)

Queensland

The *Weapons Act 1990* (Qld) does not require a genuine need for a licence for a particular category of weapon but, upon application for a permit to acquire a Category B, C, D or H weapon, an applicant must demonstrate a need for that weapons and state why that need can not be satisfied in another way: s 40(2).

Category C: the *Weapons Regulation 1996*, r 20 complies with the resolution. Regulation 20(1) limits Category C licences to primary producers or their employees with a “need” for the stated firearm or firearms. Regulation 20(4) contains the “no other means” requirement.

Clay target shooters:

Regulation 19 contains the requirements for Category C shotguns for clay target shooting and substantially complies with the resolution:

- (i) Regulation 19(4) – doesn’t limit ‘approved clubs’ to ACTA members:
“...approved shooting club that takes part in, or is affiliated with a body that takes part in, national and international clay target shooting competition.”
- (ii) Regulation 19(2) and 19(3)
- (iii) No minimum requirement prescribed
- (iv) Regulation 19(5) but no penalty for misuse is prescribed
- (v) Storage requirements for Category C weapons: r 60(3)(b) – does not require storage in a steel container, solid timber is deemed appropriate

Category D: a person must, in the conduct of the person’s business or employment (whether or not in primary production), demonstrate a need for a Category D weapon to cull animals (r 21(1)).

Access to Category D firearms by primary producers

Whilst there do not appear to be any specific provisions relating to primary producers, it is unclear whether r 21 is limited to professional contract shooters. The wording “whether or not in primary production” suggests that primary producers may also apply for a Category D firearms licence under r 21. If this is the effect of the provision, then r 21 only partially complies with the resolution:

- (i) Regulation 21(1)
- (ii) –
- (iii) Regulation 21(4)
- (iv) –
- (v) Regulation 21(3)
- (vi) Regulation 21(2)
- (vii) –
- (viii) –
- (ix) –

Category H: in addition to the need requirement in s 40(2) the applicant would need a “concealable firearms licence” (s 12(1)(d) and r 16 and 17) for a permit to acquire a Category H weapon.

South Australia

Category B: a genuine need is not required for a Category B firearm in South Australia. The Firearms Act 1977 s 15A(2) provides that the Registrar may refuse to grant a permit if the applicant does not have a genuine reason for acquiring the firearm.

Category C: permits to acquire a Category C firearm are limited to primary producers, clay target shooters, professional shooters or as prescribed by regulation (s 15A(3)). The Firearms Regulations 1993, r 26 provides for the additional purposes of collection or the Royal Zoological Society of South Australia. The conditions relating to primary production (genuine need, limit of one rifle and one shotgun and exception for large rural properties) are implemented by the requirements for a permit to acquire a Category C firearm (s 15A(3)(a)).

Clay target shooters

The conditions relating to clay target shooters in s 15A(3)(b) do not fully comply with those in the November 15 resolution. All that is required is that an applicant must be an “active” (*Firearms Regulations 1993*, r 19(4)) member of a club affiliated with the South Australian Clay Target Association or the national association and the Registrar must be satisfied that the applicant ‘needs’ the firearm for the purpose of an activity of the club conducted in accordance with the rules of the ACTA and in accordance with the regulations under the Act. The Act does not require a “physical need” nor does it have a minimum requirement for participation in club competitions.

Category D: section 15A(4)(a)(ii) contains the ‘need’ requirement for a Category D licence for the purpose of professional shooting. No provision is made for access to Category D firearms by primary producers.

Category H: section 15A(4a)(a) provides that the Registrar may refuse an application for a permit to acquire a Category H firearm if they are of the opinion that the firearm is not “genuinely required” for a purpose for which the applicant is licensed to use or possess such a firearm.

Tasmania

Category B: In addition to establishing a genuine reason, an applicant must satisfy the Commissioner that there is a need to possess and use a Category B firearm: Firearms Act 1996, s 30.

Category C: primary production or firearms collection are the permitted genuine reasons for a Category C licence: s 31. Primary producers must also satisfy the Commissioner that there is a need to possess and use a Category C firearm and that this need cannot be met by a Category A or B firearm or any other means (s 31(b)). The limit to one rifle and one shotgun is contained in s 16(2). Section 40(a) provides that employees in the business of primary production may apply for a Category C licence. This covers the situation where more than one rifle and one shotgun are required for large rural properties.

Clay target shooters

The *Firearms Act 1996* (Tas) does not contain any express provisions with respect to clay target shooters acquiring a Category C licence but it is possible to apply for exemption under s 155.

Category D: Section 32 limits Category D licences to applicants whose genuine reason is animal population control or firearms collection. A need to possess a Category D weapon must be established if the genuine reason is animal population control (s 32(1)(b)). Section 41 restricts applicants whose genuine reason is animal population control to professional hunters and persons employed by a prescribed government agency. No provision is made for access to Category D weapons by primary producers.

Category H: Section 33(b) requires an applicant for a Category H licence to demonstrate a need for that person to possess and use such a firearm. The genuine reasons in s 33(a) are sport and target shooting, business or employment (for additional requirements see s 43) or firearms collection.

Victoria

Category B: the *Firearms Act 1996* (Vic) does not require a “genuine need” in addition to “genuine reason” for a Category B licence unless the reason is occupation of security or prison guard in which case the applicant must provide evidence that the duties he or she performs are such as to require the carriage or use of a Category B longarm (s 10(2)(d)(ii)). Evidence of need is also required for the more general class of “genuine reason” contained in s 10(1)(e) (see s 10(2)(e)).

Category C: section 10(1)(b) requires proof of a “genuine need” which cannot be satisfied by a Category A or B weapon or by other means. Category C licences are limited to one rifle and one shotgun (s 9(3)) and lessees, managers or employees may also apply for a Category C licence (s 11(2)(a)), covering the situation where more than one rifle and one shotgun may be required because of the size of a rural property.

Clay target shooters

The conditions for Category C licences for clay target shooters as set out in the resolution have been implemented in the Act:

- (i) Section 11(2)(c)(iii)(B)
- (ii) Section 11(2)(c)(iii)(A) – no requirement that application be supported in writing by an officer of an ACTA affiliated club
- (iii) Schedule 2, clause 2(2)(b)
- (iv) Section 11(2)(c)(ii) and schedule 2, clause 2(2)(c) – no penalty for misuse
- (v) Section 121(2)

Category D: professional hunting and official or prescribed purposes are the only “genuine reasons” for obtaining a Category D firearms licence (s 12(1)). Professional hunters must establish need (s 12(1)(b) and s 12(2)(a)) and applicants with an official or prescribed purpose must also produce evidence that the licence is required for that purpose (s 12(2)(b)). No provision is made for primary producers to obtain a Category D firearms licence.

Category H: section 15(1)(a) provides that a Category H licence can only be obtained for the following reasons: occupation of security guard or prison guard; for target shooting; or for an official or prescribed purpose. Section 15(2) requires need to be established under each of these classes of reasons.

Western Australia

The Firearms Act 1973 (WA), s 11B provides that regulations may provide that, for prescribed categories of firearms, a licence or permit cannot be issued unless the Commissioner is satisfied that a person has a “genuine need” to possess or use a firearm of that category. *The Firearms Regulations 1974*, r 6A and Schedule 3 prescribe “genuine need” tests for the relevant categories of firearms.

Category B: Schedule 3 requires an applicant to satisfy Commissioner that a Category A firearm would be unsuitable or inadequate for the required purpose.

Category C: Schedule 3 requires an applicant to satisfy the Commissioner that a Category A or B firearm would be inadequate for the required purpose. Category C firearms are limited to primary producers, professional shooters, clay target shooters or firearms collectors. Provision is made for multiple licences on large rural properties but there is no limit on the number of Category C rifles or shotguns a primary producer may possess.

Clay target shooters:

Schedule 3 requires active membership of an approved shooting club (by virtue of s 11A(2)(a)) and training for, or participation in, an approved national or international discipline (presumably this requires affiliation with the ACTA). There is no requirement for ‘physical need’ to be demonstrated by new applicants.

Category D: An applicant must satisfy the Commissioner that a Category D firearm is required for Commonwealth or State government purposes (Schedule 3). There is no provision for primary producers to have access to Category D firearms.

Category H: Schedule 3 contains a genuine need test for Category H firearms (hunting, recreational shooting and vermin control are excluded as genuine needs). Schedule 3 also provides for further restrictions on Category H firearms.

Australian Capital Territory

Category B: the *Firearms Act 1996* (ACT), s 24 requires an applicant to demonstrate a “special need” to possess or use a firearm to which a Category B licence relates.

Category C: section 25(b) contains the “special need” requirement for Category C licences and restricts such licences to primary producers or other prescribed genuine reasons (s 25(a)). In accordance with s 32, the *Firearms Regulations 1997*, r 8 prescribes certain evidence that is relevant to ‘special need’ for primary producers (eg size of land, number of properties etc). Section 25(c) contains the “no other means” requirement and s 17 and schedule 2 limit Category C licences to one rifle and one shotgun.

Clay target shooters:

The conditions on Category C licences for clay target shooters have been included in the *Firearms Regulations 1997*, r 5:

- (i) Regulation 5(1)(a)
- (ii) Regulation 5(1)(b)
- (iii) Regulation 5(2)
- (iv) Regulation 5(3) – penalty for misuse is prescribed
- (v) Section 64

Category D: Section 26 provides that a Category D licence shall not be issued to any person except with the written authority of the Minister. No separate provision is made for primary producers to access Category D firearms but the possibility of this occurring does appear to have been contemplated by the legislation (see r 6(1)(g)). Presumably, a primary producer would have to seek the written authority of the Minister.

Category H: Evidence of special need is required (s 27(b)).

Northern Territory

Under the Firearms Act 1996 (NT), s 11(1)(b), a genuine need is required for a Category C, D or H firearm. No genuine need is required for a Category B firearm.

Category C: Sports shooting, animal welfare firearms collection, museum display and primary production are all allowable reasons for a Category C licence under the *Firearms Regulations 1996*, r 12(1). Evidence of genuine need is required as well as satisfying the Commissioner that that need cannot be met by other means (r 12(1)(b) & (c)). There does not appear to be any limit placed on the number of Category C firearms that can be licensed to a primary producer.

Clay target shooters:

There is no requirement that an applicant demonstrate ‘physical need’. Rather, where the genuine reason is sport shooting, r 12(2) requires an applicant to be a member of an approved firearms club, the members of which compete in nationally and internationally recognised ‘target shooting’ disciplines (does not

limit to clay target shooting). Regulation 18(2) requires an applicant to take part in at least 4 club competitions per year and restricts the use of Category C firearms to authorised premises.

Category D: Category D firearms are restricted to applicants with a genuine reason of vertebrate pest animal control, primary production or firearms collection (r 13(1)). Evidence of genuine need is also required (r 13(2)).

Access to Category D firearms by primary producers:

Primary producers are allowed access to Category D firearms by virtue of r 13(1). The conditions applying to such a licence substantially comply with the conditions stipulated in the resolution:

- (i) Regulation 13(2)
- (ii) –
- (iii) Section 14(1)(a)(iii)
- (iv) Regulation 18(d)
- (v) Regulation 18(a)
- (vi) There does not appear to be any restriction to one firearm
- (vii) Regulation 18(b)
- (viii) Regulation 13(2)
- (ix) Regulation 18(c)

Category H: Evidence of genuine need is required (r 14(b))

(d) Firearms Collectors

On 17 July 1996 the following regulatory scheme was agreed upon in respect of firearms collectors:

- (i) That a collector must be a bona fide collector in the opinion of the authorising officer such that the authorising officer must be satisfied that the collection will be of obvious and significant commemorative, historical, thematic or investment value;
- (ii) that category D firearms be permitted in a firearms collection provided they have been rendered permanently inoperable;
- (iii) that all other firearms manufactured after 1900 be permitted in a firearms collection provided they have been rendered temporarily inoperable (by removal and separate secure storage of the bolt and/or firing pin or, if not feasible, an appropriate trigger lock) although jurisdictions may wish to apply the stricter (permanently inoperable) standard to category C firearms held by collectors in that jurisdiction;
- (iv) that prohibited firearms held under the above terms not be bought, sold, transferred or otherwise disposed of except between bona fide collectors with approval of the appropriate authority and through the agency of a registered dealer;
- (v) that there will be prescribed standards for storage and security of collection firearms;

- (vi) that no ammunition for any firearm in a collection be allowed except if an ammunition collector's licence is held or a separate licence is held enabling use of a firearm which takes that ammunition;
- (vii) that a collector's licence not authorise the discharge of any firearm in the collection unless authorised by special permit in prescribed circumstances;
- (viii) that jurisdictions consider not applying any requirement for licensing or registering a collection firearm which was manufactured before 1900 and for which no cartridge ammunition is commercially available and where necessary, jurisdictions consider requiring that a firearms collector be a member of an approved firearms collector's club or association.

New South Wales

New South Wales complies with the resolution:

- (i) *Firearms Act 1996* (NSW), s 12 (see the Table of genuine reasons)
- (ii) Category D firearms must be rendered permanently inoperable: s 20(a); manner of rendering inoperable: *Firearms Regulations 1996*, r 31(3)
- (iii) Section 20(b)
- (iv) Sections 20(c) and (d): sales must be to or from a licensed dealer
- (v) Safe storage: s 20(e) and r 31(6)
- (vi) No ammunition: s 9(3)
- (vii) No discharge: not expressly prohibited but is implied in the need for a special permit to use (s 28(f)) and the 'no ammunition' provision (s 9(3)).
- (viii) Exemption for pre-1900 firearms: r 111; membership requirement: s 12 (table) and r 78.

Queensland

Despite having no prohibition on the possession of ammunition, Queensland otherwise complies with the resolution:

- (i) The *Weapons Act 1990* (Qld) does not expressly require that a collector be bona fide or that the collection be of any obvious and significant value (see s 5, definition of "collector"). However, s 77(1) effectively only authorises "collectors" to possess Category A, B, C or H firearms that are of "obvious and significant commemorative, historical, thematic or investment value" (see definition of "collectable firearm": s 77(2)). And for a collector to possess a Category D firearm, that firearm must be rendered permanently inoperable: s 77(1)(a).
- (ii) Section 77(1)(a)(i); manner of rendering inoperable: *Weapons Regulation 1996*, r 73
- (iii) Section 77(1)(b); temporarily inoperable: s 8
- (iv) Sales of all weapons must be done through a licensed dealer: s 36
- (v) Regulation 39-44
- (vi) Ammunition is not mentioned
- (vii) Section 78
- (viii) So long as ammunition is no longer commercially available (s 154), "antique firearms" (firearms manufactured before 1 January 1901: s 5) are not within

the definition of “firearm” (s 5) and thus, not subject to regulation; club membership: a holder of a collectors licence who intends to possess a temporarily inoperable modern handgun must be a member of an approved historical society.

South Australia

South Australia complies with the resolution of 17 July:

- (i) *Firearms Regulations* 1993,
- (ii) Regulation 12(4) and see Note 1 under r 12: a Category D firearm that is rendered unusable ceases to be a firearm and is therefore no longer subject to regulation
- (iii) Regulation 19(8)(a)
- (iv) *Firearms Act 1977*, s 15B
- (v) Regulation 29
- (vi) Regulation 19(8)(c)
- (vii) Regulation 19(8)(e)
- (viii) Pre-1900 firearms: “antique firearms” are exempt (r 7(a)); club membership is required: r 19(8)(b)

Tasmania

Tasmania does not fully comply with the resolution of 17 July:

- (i) *Firearms Act 1996* (Tas), s 44
- (ii) Section 47(1)(b) and *Firearms Regulations 1996*, r 8
- (iii) Section 47(1)(a)
- (iv) No specific provisions – covered by general provisions: ss 24 and 25
- (v) Safe storage: covered by general provisions: ss 84-86
- (vi) Possession of ammunition is permitted if stored in the prescribed manner: s 47(1)(c) (for prescribed manner see ss 85 and 86)
- (vii) Section 47(1)(e)
- (viii) Pre-1900: licence is required; club membership is required: s 44(1)(b)

Victoria

Other than no express prohibition on the possession of ammunition, Victoria substantially complies with the resolution:

- (i) *Firearms Act 1996* (Vic), s 21(2)(b)
- (ii) Section 22(1), Schedule 2, Item 5, subparagraph (6)
- (iii) Schedule 2, Item 5, subparagraph (7)
- (iv) Sch 2, Item 5, subparas (9) and (10)
- (v) Schedule 4, Item 3
- (vi) Possession of ammunition is not expressly prohibited
- (vii) There is no express prohibition on discharge but this is impliedly prohibited. A collector is only licensed to possess and carry a firearm (s 21(1), i.e. not licensed to ‘use’ that firearm) and a permit is required for a collector to ‘use’ a firearm (s 58).

- (viii) Pre-1900: licence is still required; collectors must be members of an approved club (s 21(2)(a)).

Western Australia

Western Australia only partially complies with the resolution. There is no requirement that firearms manufactured after 1900 be rendered temporarily inoperable nor is there any prohibition on the possession of ammunition by firearms collectors. Western Australia has also failed to enact specific provisions relating to the disposal and storage of firearms under a collector licence.

- (i) The *Firearms Act 1973*, s 15(1) requires that a firearm be of significant commemorative, historical, thematic or heirloom value (subsections (5) – (8) expand on these categories)
- (ii) *Firearms Regulations 1974*, r 6A(3)
- (iii) –
- (iv) –
- (v) No special storage requirements in addition to the general provisions: r 11A and Schedule 4
- (vi) –
- (vii) Section 16(1)(b)
- (viii) Pre-1900: licence is required; no provision is made for club membership

Australian Capital Territory

The Australian Capital Territory complies fully with the resolution:

- (i) *Firearms Act 1996* (ACT), s 23 (see table; item 8.2(b))
- (ii) Section 37(d)
- (iii) Section 37(a)
- (iv) Section 37(e)
- (v) Regulation 38 (Category A and B firearms) and r 39 (Category C, D and H firearms)
- (vi) Section 37(f)
- (vii) Section 37(g)
- (viii) Pre-1900 firearms for which ammunition is not readily commercially available are exempt: *Firearms Regulations 1997*, r 4(2); club membership is required: s 23 (see table, item 8.2)

Northern Territory

The Northern Territory substantially complies with the resolution of 17 July:

- (i) The *Firearms Regulations 1996*, r 9(b) requires collection for display as curiosities or ornaments or for their historic or artistic value or mechanical uniqueness. This is slightly wider than was contemplated by the resolution.
- (ii) Regulation 19(a)
- (iii) Regulation 19(b)
- (iv) No specific provisions for sale
- (v) Regulation 25

- (vi) There is no prohibition on the possession of ammunition
- (vii) Section 25
- (viii) Pre-1900: licence is required; collectors must be a member of an approved club (r 9(a))

(e) Ammunition Collectors

On 17 July Ministers agreed to the following regulatory regime for ammunition collectors:

- jurisdictions *give consideration to* requiring a collector of firearms ammunition to have a licence or permit for purchase or possession of that ammunition unless covered by an appropriate shooter's licence;
- purchase or sale be permitted only from or to another licensed collector or firearms dealer;
- all ammunition in a collection must be rendered inert except for all sporting ammunition and military ammunition of UN hazard classification code 1.4.s up to 20mm calibre, and must not contain high explosive, smoke, chemical, or lachrymatory agents; and
- adequate storage requirements be a condition of the licence and that storage facilities comply with explosives regulations in each jurisdiction.

New South Wales

Other than not restricting the purchase and sale of ammunition to licensed collectors and firearms dealers, New South Wales complies with the regulatory regime: *Firearms (General) Regulations 1997*, r 59.

Queensland

Queensland does not appear to have imposed any specific licensing requirements for ammunition collectors.

South Australia

The *Firearms Act 1977* (SA) does not appear to contain any specific licensing scheme for ammunition collectors. Acquisition of ammunition is prohibited under s 21B unless the person is a holder of a firearms licence (not being a collector's licences). In the absence of a firearms licence, s 21B(1)(b) makes provision for a permit to acquire ammunition of a particular kind and s 21B(3)(b) requires a genuine reason. The *Firearms Regulations 1993*, r 32(2) prohibits possession of ammunition that includes high explosives or that is designed to kill, injure or incapacitate by means of smoke or chemicals, and r 32(3) prohibits possession of military ammunition unless it has been rendered inert or is of a calibre less than 19.1mm.

Tasmania

The *Firearms Act 1996* (Tas), s 105(3) prohibits the possession of ammunition unless the person is the holder of a firearms licence or is a collector of ammunition and is authorised by the Commissioner in writing to possess that ammunition.

Victoria

The *Firearms Act 1996* (Vic) complies with the resolution through the following provisions:

- Section 28
- Section 30 and Schedule 2, Item 7(4)
- Schedule 2, Item 7(3)
- Section 122(4) and Schedule 4, Item 5

Western Australia

The *Firearms Act 1973* (WA), s 16(1)(h) provides for ammunition collector's licences. The *Firearms Regulations 1974*, r 4A and r 26 prohibit the possession of ammunition containing high explosives, smoke, chemical or lachrymatory agents and ammunition with a calibre of 20mm or more. Further, s 31(2) and r 19A require the holder of an Ammunition Collector's Licence to maintain a record of all transactions etc. Section 11A contains storage requirements that apply to ammunition.

Australian Capital Territory

The Australian Capital Territory does not appear to have a regulatory regime for ammunition collectors.

Northern Territory

The *Firearms Act 1996* (NT), s 69 prohibits the possession of ammunition unless the person is the holder of a firearms licence or is a collector of ammunition and is authorised by the Commissioner in writing to possess that ammunition. The sale of ammunition is only permitted by firearms dealers and persons authorised by permit (s 68A(1)).

(f) Museums

It was agreed on 17 July that official and approved museums would be subject to prescribed conditions while non-approved or private museums should be subject to the same requirements as apply to private collections.

New South Wales

The *Firearms (General) Regulations 1997*, r 45(1) provides for the issue of 'firearms museum permits' for "public museums" (defined in the regulation). The prescribed conditions for holders of a firearms museum permit are set out in r 45(4). It would appear that museums outside the definition of "public museums" are subject to the same requirements that apply to private collections. A provision of the *Firearms Act 1996* (NSW) that exempted employees of public museums from criminal responsibility under the Act has been repealed (s 6(2)(e)).

Queensland

The *Weapons Act 1990* (Qld), s 2(2) provides that the Act does not apply to staff at a museum under the control of the Government of the State or the Commonwealth.

Provisions and regulations relating to safe storage still apply (s 2(4)). There do not appear to be any additional prescribed conditions for public museums.

South Australia

South Australia does not appear to make any special provision for museums. The *Firearms Act 1977 (SA)*, s 5A provides that the Act does not apply to the Crown in right of the State or to the Crown in any other capacity.

Tasmania

The *Firearms Act 1996 (Tas)*, s 20 makes special provision for a firearms museum licence and s 87 prescribes certain safe storage requirements for holders of such a licence. It would appear that both private and public museums can apply for a firearms museum licence under s 20.

Victoria

The *Firearms Act 1996 (Vic)*, s 184 provides that an exemption from certain parts of the Act may be granted for approved museums. This exemption is only available to museums which are publicly funded and open to the public (s 184(2)). Thus, it would appear that private museums are subject to the same conditions that apply to private collectors.

Western Australia

The *Firearms Regulations 1974*, r 26(2) exempts the Western Australian Museum from the prohibition on possession and use of certain firearms (see Table in r 26). Other than this exemption, Western Australia does not make any special provision for museums.

Australian Capital Territory

The *Firearms Act 1996 (ACT)*, subs 6(c) and (d) state that the provisions of the Act do not apply to the Australian War Memorial or the National Museum of Australia. There do not appear to be any prescribed conditions applying to the keeping of firearms in these museums.

Northern Territory

The *Firearms Act 1996 (NT)*, s 29 provides for museum firearms licences and the *Firearms Regulations 1996*, r 19A prescribes certain conditions applying to firearms museum licences. Regulation 25A prescribes storage and safe keeping requirements for firearms museum licences.

(g) Heirlooms Firearms Licence

At the 17 July Meeting it was resolved:

- (a) that where the owner of an heirloom firearm is unable to establish a "genuine reason" for continued possession of that firearm and/or does not qualify for a collector's licence, jurisdictions may issue the heirloom owner with a special category of licence;

- (b) that, before an heirloom licence is issued, the owner must provide sufficient proof of inheritance of the heirloom;
- (c) that such a licence apply only to a single gun, or a matched pair or set;
- (d) that all heirloom firearms be rendered permanently inoperable; and
- (e) that an heirloom licence not authorise the discharge of the heirloom firearm or firearms in any circumstance.

New South Wales

The *Firearms (General) Regulations 1997*, r 44 makes provision for permits authorising possession of heirloom firearms. The conditions set out in r 44 comply with the agreed conditions.

Queensland

The *Weapons Act 1990* (Qld), s 12 makes provision for a collector's (heirloom) licence and the agreed conditions are complied with (see s 6, s 39(2)(d) and s 76).

South Australia

South Australia does not appear to have made any provision for heirloom firearms licences.

Tasmania

The *Firearms Act 1996* (Tas), s 21 makes provision for firearms heirlooms licences for either a single, matched pair or set of heirloom firearms. Section 29(6) provides that a genuine reason is not required by an applicant for a firearm heirlooms licence. Proof of inheritance is required by s 34 and s 47(2) requires heirloom firearms to be rendered permanently incapable of being fired.

Victoria

The *Firearms Act 1996* (Vic) provides for heirlooms licences with the agreed conditions: s 25 and s 26 and Schedule 2, Item 6.

Western Australia

Under the Western Australian regulatory scheme, authority to possess heirloom firearms is included within a collector's licence: *Firearms Act 1973*, s 16(1)(b) and s 15(1) and s 15(8).

Australian Capital Territory

The *Firearms Act 1996* (ACT), s 29 provides for the issue of heirlooms licence and complies with the agreed conditions.

Northern Territory

The Northern Territory regulatory scheme makes provision for firearms heirlooms licences and complies with the resolution: *Firearms Act 1996*, s 30; and *Firearms Regulations 1996*, r 11 (proof of inheritance) and r 20 (permanently inoperable).

RESOLUTION 4 – BASIC LICENCE REQUIREMENTS

Council resolved:

(a) that in addition to the demonstration of “genuine reason”, a licence applicant should be required to:

- (i) be aged 18 years or over;
- (ii) be a fit and proper person;
- (iii) be able to prove identity through a system similar to that required to open a bank account, that is, a 100 point system requiring a passport or multiple types of identification; and
- (iv) undertake adequate safety training.

(b) that the licence:

- (v) bear a photograph of the licensee;
- (vi) be endorsed with the category of the firearm;
- (vii) be endorsed with the holder’s address [this was varied by the 17 July resolution which agreed that this would not be mandatory if that detail is included in the firearms register];
- (viii) be issued after a waiting period of not less than 28 days;
- (ix) be issued for a period of not more than 5 years;
- (x) contain a reminder of safe storage responsibilities;
- (xi) be issued subject to certain undertakings as to safe storage, to provide details of proposed storage and to submit to inspection of storage facilities;
- (xii) be subject to immediate withdrawal of licence and confiscation in certain circumstances and jurisdictions may wish to consider appropriate penalties for failure to comply with security and storage conditions.

New South Wales

New South Wales meets all of the licence requirements set out in resolution 4:

(a)

- (i) *Firearms Act 1996* (NSW), s 10(2)(a)
- (ii) Section 11(3)(a)
- (iii) Section 10(2)(b)
- (iv) Section 11(3)(b)

(b)

- (i) Section 18(2)(a)
- (ii) Section 18(2)(c)
- (iii) Not required (as above; see *Firearms (general) Regulations 1997*, r 87(a))
- (iv) Section 11(2)
- (v) Section 21
- (vi) Section 18(2)(h)
- (vii) Undertakings: s 19(2)(a); details: *Firearms (general) Regulations 1997*, r 14(1); inspection: s 19(2)(c)
- (viii) Revocation: s 24; confiscation: s 25; penalties: ss 39-41.

Queensland

Queensland legislation largely complies with the requirements in paragraph (a) of the resolution and most of the requirements in paragraph (b) as to form have also been complied with.

- (a)
 - (i) *Weapons Act 1990* (Qld), s 10(2)(a)(i)
 - (ii) Section 10(2)(e)
 - (iii) Section 13(1)(c)(ii) (only requires proof of identity “to the satisfaction” of an authorised officer – extent or type of information required is not specified); see also, s 14(1)(b) and s 14(2)
 - (iv) Section 10(2)(b) and s 10A(2)
- (b)
 - (i) Photograph is not required
 - (ii) Section 16(1)(b)(i)
 - (iii) Address is not required (see above: address is included in register; s 49(2)(a)).
 - (iv) *Weapons Regulation 1996*, cl 7(a)(i)
 - (v) Section 20(1)
 - (vi) There is no ‘reminder’ requirement under the Act
 - (vii) Undertakings: s 10(2)(c); details: no specific requirement but details could be requested under s 14(1)(a); inspection: s 14(1)(c)
 - (viii) Revocation: s 29; seizure: there does not appear to be any provision for the seizure of weapons under this Act, but s 34(2) appears to imply that a power of seizure does exist if a licensee contravenes a condition of the licence; s 30(4) also provides for the surrender of a weapon under a ‘revocation notice’; penalties: s 60.

South Australia

- (a)
 - (i) *Firearms Act 1977* (SA), section 12(3) but a permit may be issued to under 18s in limited circumstances (s 12(4)).
 - (ii) Section 12(6)(a)(i) (see also; s 12(7)(b) for prescribed firearm)
 - (iii) Section 12(5)(a)
 - (iv) *Firearms Regulations 1993*, r 17(1), the Registrar may require an applicant to undertake safety training
- (b)
 - (i) Section 19A(1)
 - (ii) Section 13(1)
 - (iii) –
 - (iv) Section 12(8)
 - (v) Section 19(1)
 - (vi) No reminder is required by either the Act or the regulations
 - (vii) Undertakings: r 19(1)(c); details: r 19(1)(f); inspection: s 19(1)(f)(i)
 - (viii) Cancellation: s 20(1); seizure: s 32 and forfeiture: s 34.

Tasmania

The Tasmanian legislation fully complies with paragraphs (a) and (b) of the resolution.

- (a)
 - (i) *Firearms Act 1996* (Tas), s 29(1)(a)
 - (ii) Section 29(1)(c)
 - (iii) Section 28(2)(b)
 - (iv) Section 29(1)(d)
- (b)
 - (i) Section 45(c)
 - (ii) Section 45(e)
 - (iii) Address is not required (see above; address is included in the register: s 83)
 - (iv) Section 35(b)
 - (v) Section 49 and *Firearms Regulations 1996*, r 9
 - (vi) Section 45(g)
 - (vii) Undertaking: s 46(b); details: s 29(1)(e); inspection: s 46(e)
 - (viii) Cancellation: s 51; seizure: s 88; penalties: s 84.

Victoria

Victoria complies with all of the licence requirements set out in the resolution:

- (a)
 - (i) *Firearms Act 1996* (Vic), s 17(b)
 - (ii) Section 17(c)(i)
 - (iii) Section 32(1)(a)
 - (iv) Section 17(c)(iii)
- (b)
 - (i) Section 35(2)
 - (ii) Section 35(1)(b)
 - (iii) Section 35(1)(a)
 - (iv) Section 33
 - (v) Section 39
 - (vi) Section 35(1)(e)
 - (vii) Undertakings: s 121, s 122; details: s 17(c)(iv); inspection: Schedule 1, cl 1
 - (viii) Revocation: Division 9 (ss 46-52); confiscation: Division 9A (ss 52A-53B); penalties: s 121-123.

Western Australia

Western Australia does not appear to have met all the requirements in either paragraph (a) or (b) of the resolution. Training does not appear to be a requirement for all first time applicants and no reminder as to safe storage is required. It is also questionable whether the requirements for proof of identity comply with the resolution.

- (a)
 - (i) *Firearms Act 1973* (WA), section 10
 - (ii) Section 11(1)(c)

- (iii) *Firearms Regulations 1974*, r 7B – applicant may be required to provide proof of identity “in a manner approved by the Commissioner”
 - (iv) Section 10A provides that regulations may require a course of training but there do not appear to be any such regulations (see generally; *Firearms Regulations 1974*).
- (b)
- (i) Regulation 7A(1)
 - (ii) Section 16(1)(a) requires that a licence names and identifies the firearm or firearms that its holder is licensed to possess and use.
 - (iii) Not required
 - (iv) Section 18(6)(c)
 - (v) Section 9A
 - (vi) No reminder as to safe storage is required
 - (vii) Undertaking: there is no explicit requirement that safe storage is a condition of all licences but see s 23(9)(d) which makes failure to comply with safe storage an offence; details: s 11(7)(b); inspection: s 11(7)(c) and s 23(9)(e)
 - (viii) Revocation: s 20; seizure: s 24; penalties: s 23(9)(d).

Australian Capital Territory

All the basic licence requirements are included in the legislation:

- (a)
- (i) *Firearms Act 1996* (ACT), s 19(1)(a)
 - (ii) Section 21(3)(a)
 - (iii) Section 19(1)(b)
 - (iv) Section 21(3)(b)
- (b)
- (i) Section 33(1)(a)
 - (ii) Section 33(1)(c)
 - (iii) Address is not required (see above; address is included in register: s 50)
 - (iv) Section 21(2)
 - (v) Section 38
 - (vi) Section 33(1)(g)
 - (vii) Undertaking: s 36(2)(a); details: s 21(3)(c); inspection: s 36(2)(c)
 - (viii) Cancellation: s 41; surrender and seizure: s 42 and s 65; penalties: s 62-64.

Northern Territory

The Northern Territory scheme complies with the resolution:

- (a)
- (i) *Firearms Act 1996* (NT), s 9(2)(a) and s 10(3)(a)
 - (ii) Section 10(3)(b)
 - (iii) Section 9(2)(b)
 - (iv) Section 10(3)(c)
- (b)
- (i) Section 12(b)

- (ii) Section 12(a) and *Firearms Regulations 1996*, r 26(f)
- (iii) -
- (iv) Section 10(2)
- (v) Section 14
- (vi) Reminder as to safe storage responsibilities not required
- (vii) Undertaking: s 13(1)(a); details: s 10(3)(d); inspection: s 13(1)(c)
- (viii) Revocation: s 40; seizure: s 40B; penalties: s 46.

Licences and permits for minors

Despite a requirement in resolution 4(a) that all applicants be at least 18 years of age, all states and territories have somewhat undermined this by allowing (in varying degrees) special licences or permits for persons under the age of 18. Assuming the intention of resolution 4(a) was to restrict the possession and use of firearms to adults, the following provisions are contrary to this intention.

New South Wales

The *Firearms Act 1996* (NSW), s 32 provides for minors' firearm training permits and minors' target pistol permits. Minors' permits are available to a person who is 12 years of age (*Firearms (General) Regulations 1996*, r 39), has completed a firearms safety training course and has the written consent of a parent or guardian. A permit issued under s 32 allows the possession and use of firearms for training and for competing in events approved by the Commissioner. Section 32(5A) provides for permits to authorise the use of self loading or pump action shotguns for clay target shooting (must comply with restrictions set out in s 17A).

Queensland

The *Weapons Act 1990* (Qld), s 12(h) provides for a minor's licence. A minor's licence can be issued for a Category A, B, C or H weapon in accordance with the *Weapons Regulations 1996*, r 23. A minor's licence authorises the use of a firearm at an approved range (under supervision of range officer) or for use in primary production. A minor's licence may also authorise the use of a Category C firearm for clay target shooting.

South Australia

The *Firearms Act 1977* (SA), s 12(4) allows a person who is between the ages of 15 and 18 to apply for a firearms permit if that person is the spouse, child, brother, sister or employee of a person who holds a licence for the purpose of primary production. Section 12(4a) provides that the permit may only authorise the use of a Category A or B firearm for the purpose of primary production.

Tasmania

The *Firearms Act 1996* (Tas), s 68(2) provides that a person may apply for a minor's permit if they are at least 12 years of age and under 18 years of age. Consent of a parent or guardian is required. A minor's permit authorises the use of a firearm under supervision for the purpose of receiving instruction in the safe use of a firearm or target

shooting at an approved range. Holders of a minor's permit under 16 years of age are only authorised to possess and use the firearm at an approved range.

Western Australia

Western Australia does not appear to make any provision for the issue of licences or permits to persons under the age of 18. However, the *Firearms Act 1973* (WA), s 8(1)(n) exempts a person under the age of 18 who uses a firearm, not being a handgun, under the supervision of a person who holds a license or permit under the Act. No minimum age is prescribed for this exemption.

Australian Capital Territory

Except that there are no provisions for clay target shooting, the provisions for a minor's licence in the *Firearms Act 1996* (ACT), s 49 are the same as the New South Wales provisions.

Northern Territory

The *Firearms Act 1996* (NT), s 28 provides for a firearms club junior licence which authorises possession and use of a firearm when under the supervision of a licence holder and only for the purpose of receiving instruction in the safe use of firearms at an approved range or competing in an approved event. No minimum age is prescribed for the holder of a firearms club junior licence.

Interstate recognition

Council resolved:

- (c) That within a regime of uniform firearms legislation, all States and Territories recognise, for visiting gun owners, licences issued in other Australian jurisdictions in order to facilitate the lawful pursuit of sporting and other purposes.
- (d) That jurisdictions recognise, for a period of no longer than 3 months, a category A or B firearm licence issued in another jurisdiction to an individual who moves permanently to a new jurisdiction; for such an individual with a licence categories C, D and H, a period of recognition will not exceed 7 days.

New South Wales

The relevant provisions in the *Firearms Act 1996* (NSW) are:

- (c) Section 26
- (d) Section 27

Queensland

The relevant provisions in the *Weapons Act 1990* (Qld) are:

- (c) Section 32
- (d) Section 33

South Australia

The *Firearms Act 1977* (SA) does not provide for the interstate recognition of licences but the *Firearms Regulations 1993*, r 50(1) appears to comply with paragraph (c) of the resolution and regulations 50(2) & (5) appear to comply with paragraph (d) of the resolution.

Tasmania

The relevant provisions of the *Firearms Act 1996* (Tas) are:

- (c) Section 55
- (d) Section 56

Victoria

The relevant provisions in the *Firearms Act 1996* (Vic) are:

- (c) Section 185
- (d) Section 187

Western Australia

The *Firearms Act 1973* (WA) does not contain any specific provisions for interstate recognition of licences, but s 17A provides for group permits for members of visiting interstate shooting clubs.

Australian Capital Territory

The relevant provisions of the *Firearms Act 1996* (ACT) are:

- (c) Section 43
- (d) Section 44 (does not recognise Category D licences)

Northern Territory

The relevant provisions of the *Firearms Act 1996* (NT) are:

- (c) Section 92
- (d) Section 93

(e) Licence Categories

It was resolved that all jurisdictions would adopt the following categories in the licensing of firearms:

Licence Category A:

- air rifles;
- rimfire rifles (excluding self loading);
- single and double barrel shotguns.

Licence Category B:

- muzzle-loading firearms;

- single shot, double barrel and repeating centre fire rifles;
- break action shotguns/rifle combinations.

Licence Category C (prohibited except for occupational purposes):

- semi-automatic rimfire rifles with a magazine capacity no greater than 10 rounds;
- semi-automatic shotguns with a magazine capacity no greater than 5 rounds;
- pump action shotguns with a magazine capacity no greater than 5 rounds.

Licence Category D (prohibited except for official purposes):

- self loading centre fire rifles designed or adapted for military purposes or a firearm which substantially duplicates those rifles in design, function or appearance;
- non-military style self loading centre fire rifles with either an integral or detachable magazine;
- self loading shotguns with either an integral or detachable magazine and pump action shotguns with a capacity of more than 5 rounds;
- self loading rimfire rifles with a magazine capacity greater than 10 rounds.

Licence Category H (restricted):

- all handguns, including air pistols.

New South Wales

The licence categories and the firearms to which they apply are set out in the *Firearms Act 1996* (NSW), section 8. The prescribed categories comply with the resolution.

Queensland

The licence categories and the firearms to which they apply are set out in the *Weapons Categories Regulation 1997* (Qld) and comply with the resolution (the *Weapons Act 1990*, s 5 and sch 2 refer to these regulations). Categories B, C, D and H are the same as the resolution but Category A includes a miniature cannon and a power head. Regulation 6 adds Category E (bullet proof vests and other body armour) and r 8 adds Category R (machine guns, hand grenades, mines, rocket launchers and other firearms and devices).

South Australia

The *Firearms Act 1997* (SA) complies with the categories and lists them in s 5. In addition to the firearms set out in the resolution Class A firearms include ‘paint-ball firearms’ and Class B firearms include ‘revolving chamber rifles’. The *Firearms Regulations 1993*, r 8 provides for an additional category of “prescribed firearms” (which includes automatic firearms, bazookas and rocket propelled grenades).

Tasmania

The firearms categories set out in the *Firearms Act 1996* (Tas) comply with the resolution:

- Category A: s 14
- Category B: s 15
- Category C: s 16
- Category D: s 17
- Category H: s 18

Victoria

The licence categories under the *Firearms Act 1996* (Vic) are defined in s 3. Victoria has complied with the resolution with respect to Category A, B, C and D. There is no Category H but the Act does add a ‘Category E handgun’ and “handgun” is defined in s 3. The Act also adds a Category E longarm which includes bazookas, cannons, machine guns and other specified firearms. Further, Category B includes a black powder, ball firing cannon and Category C includes a tranquilliser gun.

Western Australia

The *Firearms Regulations 1974*, sch 3 sets out the licence categories and the firearms to which they apply. The categories comply with the resolution. Schedule 3 also adds Category E which includes cannons, tranquillizers, paintball guns and any firearm that is not within one of the other categories or sub-categories. Category H includes an underwater explosive device.

Australian Capital Territory

Schedule 2 of the *Firearms Act 1996* (ACT) uses the agreed licence categories in compliance with the resolution (see also s 17(1)).

Northern Territory

The licence categories set out in the *Firearms Act 1996* (NT), schedules 2-6 are in compliance with the resolution:

- Category A: sch 2
- Category B: sch 3
- Category C: sch 4 (also includes firearms designed to discharge tranquillisers)
- Category D: sch 5 (also includes inoperable machine guns)
- Category H: sch 6

RESOLUTION 5 – TRAINING AS A PREREQUISITE FOR LICENCES

Council resolved;

(a) that all first time licence applicants be required to complete an accredited course in safety training. The course should be:

- (i) comprehensive and standardised across Australia for all licence categories;
- (ii) subject to accreditation of the syllabus and a system of accredited instructors to bring prospective licensees to the required standard with a focus on firearms law, firearms safety and firearms competency;
- (iii) outlined in a Firearms Safety Code which emphasises both safety and storage issues and is distributed to all new licence applicants prior to attending the course of instruction;
- (iv) monitored as to content of courses and the skills of instructors by firearms regulatory authorities.

(b) It was also resolved that a specialised course should be developed in all jurisdictions for the training of persons employed in the security industry.

It was agreed that the Commonwealth would chair a working party to develop an accredited course for safety training in firearms.

New South Wales

(a) The *Firearms Act 1996* (NSW) requires that a licence must not be issued to a first time applicant unless that applicant has completed such firearms safety and training courses as are prescribed by the regulations. The *Firearms (General) Regulations 1997*, r. 96(1)(a) provides that, for the purposes of the Act, the prescribed safety training is the “Firearms Licence Qualification Course” or any other approved course conducted by or on behalf of an approved person or body.

(b) The *Firearms (General) Regulations 1997*, r. 69(2) provides that in addition to the firearms safety training courses required in connection with an application for a licence, a security guard who possesses a firearm “must undertake, at least once a year, such continuing firearms safety training courses as may be approved.”

Queensland

(a) The *Weapons Act 1990* (Qld), s 10(2)(b) and s 10A(2)(b) effectively require applicants for a new licence to complete a course in safety training for weapons that is ‘approved by the Commissioner’.

(b) Security industry: s. 10(2)(b), s. 10A(2)(a) and s. 124 require completion of a training course before a new licence can be issued. See also *Weapons Regulation 1996*, r. 47 which requires security guards to complete an approved training course annually.

South Australia

(a) The *Firearms Act 1977* (SA) does not expressly require the completion of a safety training course for all first time applicants. Under the *Firearms Regulations 1993*, r

- 17(1)(a), the Registrar may require an applicant to complete a safety course. Regulation 18 empowers the Registrar to accredit and monitor courses.
- (b) There are no specific provisions relating to the security industry.

Tasmania

- (a) The *Firearms Act 1996* (Tas), s 29(1)(d) requires that the Commissioner must not grant an application for a licence unless satisfied that the applicant has satisfactorily completed an approved firearms safety course. “Approved firearms safety course” is defined in s 3 of the Act as an accredited course relating to the safe possession and use of firearms as approved by the Commissioner.
- (b) There do not appear to be any provisions in the *Firearms Act 1996* (Tas) specific to the security industry.

Victoria

- (a) The *Firearms Act 1996* (Vic), s 17(c)(iii) requires that the Chief Commissioner must not grant a licence unless satisfied that the applicant has satisfactorily completed a course on firearms safety approved by the Chief Commissioner. A similar provision exists with respect to the issue of junior licences (s 20(b)(iii)).
- (b) There are no provisions that specifically relate to the security industry.

Western Australia

- (a) The *Firearms Act 1973* (WA), s 10A provides that regulations may be made requiring the completion of a training course. However, no such regulations appear to have been enacted (see generally *Firearms Regulations 1974*).
- (b) There are no specific provisions relating to the security industry.

Australian Capital Territory

- (a) The *Firearms Act 1996* (ACT), s 21(3)(b) provides that all first time applicants must have satisfactorily completed the prescribed firearms safety and training courses. With the exception of Category H licences, no safety training courses are prescribed.
- (b) The *Firearms Regulations 1996*, r 6(1)(j)(ii) provides that an applicant for the renewal of a Category H licence, where the genuine reason is employment in the security business, must have passed an examination in safe handling and use of a category H firearm with a period of 90 days before the application is made.

Northern Territory

- (a) The *Firearms Act 1996* (NT), s 10(3)(c) provides that all applicants must complete an approved firearms training and safety course.
- (b) No provisions specific to the security industry.

RESOLUTION 6 – GROUNDS FOR LICENCE REFUSAL OR CANCELLATION AND SEIZURE OF FIREARMS

Council resolved:

(a) that jurisdictions set out in legislation circumstances in which licence applications are to be refused or licences are to be cancelled. The following minimum standards are proposed:

- general reasons – (i) not of good character; (ii) conviction for an offence involving violence within the past five years; (iii) contravene a firearms law; (iv) unsafe storage; (v) no longer genuine reason; (vi) not in public interest due to (defined) circumstances; (vii) not notifying of change of address; (viii) licence obtained by deception;
- specific reasons - where applicant/licence holder has been the subject of an Apprehended Violence Order, Domestic Violence Order, restraining order or conviction for assault with a weapon/aggravated assault within the past five years;
- mental or physical fitness - reliable evidence of a mental or physical condition which would render the applicant unsuitable for owning, possessing or using a firearm.

(b) that in regard to the latter point, a balance needs to be struck between the rights of the individual to privacy and fair treatment, and the responsibility of authorities, on behalf of the community, to prevent danger to the individual and the wider community.

(c) that a Commonwealth/State working party, including health officials, police and medical representation, be established to examine possible criteria and systems for determining mental and physical fitness to own, possess or use a firearm. The working party should report to the second APMC meeting for 1996, but jurisdictions should not delay the introduction of necessary legislative changes while awaiting its report.

(d) that jurisdictions will establish an appeal from a refusal of a licence application and the cancellation of a licence.

As noted in the 1997 review, the distinction between general and specific reasons in paragraph (a) of the resolution is not clear. Were both the general and specific reasons intended to be grounds on which a licence must be refused or cancelled? Or was mandatory refusal/cancellation only intended for the specific reasons and the general reasons matters that may lead to refusal or cancellation? Nor was the meaning of aggravated assault clear. Was it inserted as a synonym for assault with a weapon or does it embrace the wider meaning of aggravated assault (assaults accompanied by an intention of a particular kind; assaults committed on particular classes of people or assaults resulting in harm of a particular kind)?

New South Wales

New South Wales substantially complies with the resolution except that revocation is not automatic upon conviction for aggravated assault.

General reasons

- (i) The *Firearms Act 1996*, s 11(3)(a) provides that a licence must not be issued unless the Commissioner is satisfied that the applicant is a fit and proper person (s 11(4) elaborates on this requirement); s 24(2)(a) provides that licence may be revoked for any reason for which a licensee would be required to be refused a licence of the same kind.
- (ii) Refusal: a licence must be refused for a conviction for a prescribed offence within 10 years (s 11(5)(b)). The *Firearms (General) Regulation 1997*, r 5 prescribes offences involving violence, firearms or prohibited drugs. Cancellation: s 24(2)(a) – revocation for reason which licence would be refused.
- (iii) Refusal: s 11(5)(b) and r 5(a); cancellation: s 24(2)(a) and s 24(2)(b)(ii)
- (iv) Refusal: s 11(3)(c); cancellation: s 24(2)(a) and s 24(2)(b)(iii) (safe storage is a condition of a licence: s 19(2)(a)).
- (v) Cancellation: s 24(2)(a), revocation for reason which licence would be refused (s 12(1): requires genuine reason for issue of licence); see also r 12 which requires licence holders to notify Commissioner within 7 days if genuine reason ceases to exist.
- (vi) Refusal: s 11(7); cancellation: s 24(2)(d) and r 17
- (vii) Not notifying change of address is a contravention of s 69, which is a ground for cancellation under s 24(2)(b)(ii).
- (viii) Cancellation: s 24(2)(b)(i).

Specific reasons

Refusal: a licence must not be issued to a person who is subject to an apprehended violence order or has been at any time within last 10 years (s 11(5)(c)), or to an applicant who has been convicted of a prescribed offence within 10 years (s 11(5)(b)). Regulation 5 prescribes offences involving violence, firearms or prohibited drugs.

Cancellation is automatic when a person is made subject to a firearms prohibition order or an apprehended violence order (s 24(1)), and s 24(2)(a) provides that a licence may be revoked for a conviction of aggravated assault.

Mental or physical fitness

Refusal: an applicant's intemperate habits or being of unsound mind is a ground for refusal (s 11(4)(c)); and cancellation: s 24(2)(a)

Appeal

Section 75 provides that a person may apply to the Administrative Decisions Tribunal for a review of a decision to refuse an application or to cancel a licence.

Queensland

Queensland complies with the resolution:

General reasons

- (i) Refusal: *Weapons Act 1990* (Qld), s 10(2)(e); revocation: s 29(1)(d)
- (ii) Refusal: s 10B(2)(a)(ii); revocation: s 29(1)(d) and s 10B(2)(a)(ii)
- (iii) Refusal: s 10B(2)(a)(iii); revocation: s 29(1)(b)
- (iv) Refusal: s 10(2)(c); revocation: s 29(1)(b) and s 60
- (v) Revocation: s 29(1)(e)
- (vi) Refusal: s 10B(1)(d) – public interest is a relevant consideration in determining whether an applicant is a fit and proper person; revocation: s 29(1)(d) and s 10B(1)(d)
- (vii) Revocation: s 29(1)(c) and s 24(1)
- (viii) Refusal: s 10B(1)(c) – deception is a relevant consideration in determining whether an applicant is a fit and proper person; revocation: s 29(1)(a)

Specific reasons

An application will be refused if a person is not a fit and proper person (s 10(1)(e)) and the Act provides that an applicant is not a fit and proper person if they have been convicted of a firearms offence or an offence involving the use of violence within 5 years (s 10B(2)(a)), or has been the subject of a domestic violence order (s 10B(2)(b)). Similarly, a licence will be revoked if a person is no longer a fit and proper person (s 29(1)(d)).

Mental or physical fitness

Section 10B(1)(a) provides that mental and physical fitness is relevant to whether a person is fit and proper.

Appeal

Part 6 of the Act deals with appeals and s 142 provides a right of appeal against a decision to refuse a licence application or revoke a licence.

South Australia

A domestic violence order or a conviction for aggravated assault does not automatically result in refusal or revocation of a licence. Otherwise, South Australia complies with the resolution.

General reasons

- (i) Refusal: *Firearms Act 1977* (SA), s 12(6)(a)(i); cancellation: s 20(1)(b)
- (ii) Refusal: s 5(11)(c) provides a person may be taken not to be a fit and proper person if they have been convicted of an offence involving violence; cancellation: s 20(1)(b)
- (iii) Refusal: s 5(11)(a) - person may be taken not to be fit and proper if convicted of a firearms offence; cancellation: s 20(1)(a)

- (iv) Refusal: s 12(6)(a)(iii); cancellation: s 20(1)(b) and s 5(11)(a) (may provide grounds for finding that a person is not fit and proper)
- (v) Cancellation: s 20(1a)(b)
- (vi) Refusal: s 12(6)(a)(vi); cancellation: s 20(1a)(a)
- (vii) Cancellation: s 20(1)(a) and s 21A (offence not to notify)
- (viii) Cancellation: s 20(1)(a) and s 28 (offence to give false information), and s 5(11)(d) fraud or deception may be grounds for finding a person is not fit and proper.

Specific reasons

If a person has been the subject of a domestic violence restraining order this may be grounds for a finding that they are not a fit and proper person: s 5(11)(e); similarly, for an offence involving violence, a person may be found to not be fit and proper: s 5(11)(c). It follows that such events do not automatically result in licence refusal or cancellation.

Mental or physical fitness

A person must be taken not to be a fit and proper person if they have a mental or physical condition that would make it unsafe for them to possess a firearm: s 5(10).

Appeal

Section 21D provides for a process of appeal by a person aggrieved with a decision to refuse or cancel a licence.

Tasmania

Failure to notify change of address is not a ground for cancellation and cancellation is not automatic for a conviction for aggravated assault.

General reasons

- (i) Refusal: *Firearms Act 1996* (Tas), s 29(1)(c); cancellation: s 51(2)(f)(i)
- (ii) Refusal: s 29(3)(a); s 51(2)(a) – further licence of the same kind would be refused to the holder
- (iii) Refusal: s 29(2)(d) – relevant to assessment of whether person is fit and proper; see also, s 29(3)(c); cancellation: s 51(2)(c)
- (iv) Refusal: s 29(1)(e); cancellation: s 51(2)(c), it is an offence not to comply with safekeeping provisions: ss 84-87; and s 51(2)(e), safekeeping is a condition of the licence: s 46(b)
- (v) Cancellation: s 51(2)(a)
- (vi) Refusal: s 36(1); cancellation: s 51(2)(a)
- (vii) Failure to notify of change of address is not a ground for cancellation, s 57 requires a licensee to notify change of particulars specified in the licence within 14 days, but address is not such a particular (see s 45)
- (viii) Cancellation: s 51(2)(b)

Specific reasons

Refusal: a licence must not be granted to a person who is subject to a firearms prohibition order or a restraint order relating to personal injury: s 29(3)(d), or if an applicant has been convicted for a crime involving violence within 5 years: s 29(3)(a). If a person is, or was within last 5 years, subject to a restraint order or interim restraint order, then this is relevant to the decision as to fit and proper person.

Cancellation: a licence is automatically cancelled if the holder becomes subject to any firearms prohibition order, family violence order or restraint order relating to personal injury: s 51(1); and any other restraint order or interim restraint order may lead to cancellation: s 51(2)(f)(i); a conviction for a crime involving violence may result in cancellation: s 51(2)(a) and s 29(3)(a).

Mental or physical fitness

Mental and physical condition are relevant to the decision of whether a person is fit and proper: s 29(2)(b); cancellation: no longer fit and proper: s 51(2)(f)(i).

Appeal

Section 141 provides for a process of review.

Victoria

Victoria substantially complies with the resolution. However, a conviction for an offence involving violence only results in refusal and cancellation if that person has served a term of imprisonment. A conviction alone does not result in automatic refusal or cancellation.

General reasons

- (i) Refusal: *Firearms Act 1996* (Vic), s 17(1)(c)(i); cancellation: s 49(1)(f)
- (ii) Refusal: s 17(1)(a) and paragraph (a) of definition of “prohibited person” in s 3(1) – only applies to a person who has served a term of imprisonment for an assault or indictable offence within 5 years; cancellation: s 46(1)
- (iii) Refusal: s 17(1)(a) and paragraph (d) of definition of “prohibited person” in s 3(1) – only applies if convicted of a firearms offence within 12 months; cancellation: s 49(1)(h)
- (iv) Refusal: s 17(1)(c)(iv); cancellation: s 49(1)(e)
- (v) Cancellation: s 49(1)(a)
- (vi) Refusal: s 17(1)(c)(v); no provision is made for cancellation
- (vii) Cancellation: s 49(1)(b)
- (viii) Cancellation: s 49(1)(c)

Specific reasons

A “prohibited person” cannot obtain a licence (s 17(1)(a)) and if the holder of a licence becomes a prohibited person, then the licence must be cancelled (s 46(1)). A “prohibited person” is defined in s 3(1) and includes a person who is, or has been within 5 years, subject to an intervention (family violence) order (paragraph (c)) or a person who has served a term of imprisonment for assault within the last 5 years (paragraph (a)).

Mental and physical fitness

Mental and physical condition are not specifically provided for in Victoria but evidence of an applicant's mental and physical condition could be used to assess whether they are a fit and proper person under ss 17(1)(c)(i) and s 49(1)(f).

Appeal

Section 34 provides for the review of a decision not to issue a licence and s 50 provides for the review of a decision to cancel a licence.

Western Australia

Neither a violence restraining order nor a conviction for a firearms offence or an offence involving violence automatically results in refusal or revocation of a licence. Further, failure to notify change of address is not grounds for cancellation.

General reasons

- (i) Refusal: *Firearms Act 1973*, s 11(1)(c); revocation: s 20(1)(a)(iii)
- (ii) Refusal: s 11(3)(a)(ii); revocation: s 20(1)(a)(iii)
- (iii) Refusal: s 11(3)(a)(iii); revocation: s 20(1)(a)(iii)
- (iv) Refusal: s 11(7)(b); revocation: s 20(1)(ad)
- (v) Revocation: s 20(1)(d)
- (vi) Refusal: s 11(1)(b) – public safety rather than public interest; revocation: s 20(1)(ac)
- (vii) –
- (viii) Section 20(1)(a)(i)

Specific reasons

Section 11(3)(a) provides that a conviction for assault with a weapon or a firearms offence or a violence restraining order within 5 years are grounds for a finding that a person is not a fit and proper person, justifying refusal or revocation of a licence under s 20(1)(a)(iii), but this is not automatic.

Mental or physical fitness

Mental or physical fitness is relevant to the determination of whether an applicant is a fit and proper person (s 11(3)(b)).

Appeal

Section 22 provides that a person may apply to the State Administrative Tribunal for a review of any decision made by the Commissioner.

Australian Capital Territory

The *Firearms Act 1996* (ACT) complies with the resolution:

General reasons

- (i) Refusal: s 21(3)(a); cancellation: s 41(3)(c)
- (ii) Refusal: if applicant has been convicted of an indictable offence with 10 years (s 22(1)(b)); cancellation: s 41(3)(a)
- (iii) Refusal: having licence suspended or cancelled within 10 years is relevant to whether a person is fit and proper (s 21(5)(d)(ii)(B)); cancellation: s 41(3)(b)(ii)
- (iv) Refusal: s 21(3)(c); cancellation: s 41(3)(b)(ii) and ss 62-64 make unsafe storage an offence
- (v) Cancellation: s 41(3)(a) – cancellation for any reason for which the licensee would be required to be refused
- (vi) Refusal: s 21(10); cancellation: s 41(3)(a)
- (vii) Cancellation: s 41(2)(b)(ii) and s 106 makes failure to notify an offence
- (viii) Cancellation: s 41(3)(b)(i)

Specific reasons

An applicant must be refused a licence if, within 10 years, the applicant has been subject to a protection order or corresponding order (s 22(1)(a)); or convicted of an indictable offence involving violence (s 22(1)(b)). Cancellation is automatic under s 41(1) when a person is subject to a firearm prohibition order or a domestic violence order (see *Domestic Violence and Protection Orders Act 2001*, s 38 in relation to domestic violence orders). By virtue of s 41(3)(a) a licence may be cancelled if the holder of that licence is convicted of an assault involving violence. Interim protection orders within 10 years are relevant to whether an applicant is a ‘fit and proper’ person (s 21(5)(d)(i)).

Mental or physical fitness

An applicant’s mental or physical condition is relevant to the decision of whether a person is fit and proper: s 21(5)(a) (refusal) and s 41(3)(c) (cancellation)
(d)

Appeal

Section 113 provides for review of decisions.

Northern Territory

The Northern Territory complies with the resolution:

General decisions

- (i) Refusal: *Firearms Act 1996* (NT), s 10(3)(b); cancellation: s 40(3)(e)
- (ii) Refusal: s 10(3)(fa); cancellation: s 40(1)(b) (automatic)
- (iii) Refusal: s 10(2A); cancellation: s 40(1)(b) (automatic)

- (iv) Refusal: s 10(3)(d); cancellation: s 40(2) – safe storage is a condition under s 13(1)(a)
- (v) Cancellation: s 40(3)(a) cancellation for any reason for which the licensee would be required to be refused
- (vi) Refusal: s 10(8); cancellation: s 40(3)(a) cancellation for any reason for which the licensee would be required to be refused
- (vii) Cancellation: s 40(3)(c) or s 40(1)(b) – failure to notify of change of address is an offence (s 90(1))
- (viii) Cancellation: s 40(3)(b)

Specific reasons

Refusal: a licence cannot be granted to a person who has been convicted of an offence involving violence within 5 years (s 10(3)(fa)); nor a person who has been the subject of a restraining order within 5 years (s 10(3)(g)).

Cancellation: a licence is automatically cancelled on a restraining order or an order to keep the peace being made against the holder (s 40(1)(a)), or the holder being found guilty of an offence involving violence or an offence against the Act (s 40(1)(b)).

Mental or physical condition

An applicant's intemperate habits or being of unsound mind as well as any attempt to commit suicide are all relevant to the decision of whether an applicant is a fit and proper person (s 10(4)).

Appeal

Part 9 (ss 50-54) establishes a Firearms Appeal Tribunal and provides for a process of appeal for persons aggrieved.

RESOLUTION 7 – PERMIT TO ACQUIRE

Council resolved:

- (a) that a separate permit be required for the acquisition of every firearm;
- (b) that the issue of a permit should be subject to a waiting period of at least 28 days to enable appropriate checks to be made on licences in order to ascertain whether circumstances have occurred since the issue of the original licence which would render the licensee unsuitable to possess the firearm or which would render the licensee ineligible for that type of firearm.

New South Wales

The provisions of the *Firearms Act 1996* (NSW) comply with this resolution:

- (a) Section 31
- (b) Section 31(3)(b) and s 29

Victoria

The provisions of the *Firearms Act 1996* (Vic) comply with this resolution:

(a) Section 102

(b) Section 107 has been amended so that 28 day period only applies for the first firearm; however the Commissioner must not issue a permit for second and subsequent firearms until sufficient time has expired to consider the application properly.

Queensland

The Queensland legislation complies with this resolution:

(a) *Weapons Act 1990* (Qld), s 35

(b) Section 42(1) and *Weapons Regulation 1996*, r 56

Tasmania

The provisions of the *Firearms Act 1996* (Tas) comply with this resolution:

(a) Section 58(2)

(b) Section 61(b) and s 60

South Australia

The provisions of the *Firearms Act 1977* (SA) comply with this resolution:

(a) Section 14(1)

(b) Section 15 and s 15A

Western Australia

(a) The *Firearms Act 1973* (WA) does not require a separate permit for the acquisition of every firearm. However, the Act does comply with the resolution because a “Firearm Licence” only entitles the holder to possess and use the firearm named and identified in that licence (s 16(1)). To acquire an additional firearm a new licence must be applied for. If the application is for a licence of the same kind, then an application for expedited approval can be made and the additional firearm can be noted on the current licence: s 18(10) and (11).

(b) Section 18(6)(c). The Act does not appear to require a 28 day waiting period where the application is for expedited approval.

Australian Capital Territory

This resolution is implemented by the provisions of the *Firearms Act 1996* (ACT):

(a) Section 48(2)

(b) Section 48(3)(b) and s 46

Northern Territory

The provisions of the *Firearms Act 1996* (NT) implement this resolution:

- (a) Section 35(2)
- (b) Section 35(4) but subsection (5) allows less than 28 days in certain circumstances.

RESOLUTION 8 – UNIFORM STANDARDS FOR THE SECURITY AND STORAGE OF FIREARMS

Council resolved that all firearms and ammunition be stored in secure conditions as follows:

(i) it should be a precondition to the issuing of a new firearms licence (and on each renewal of licence in respect of existing licence holders) that the licensing authority be satisfied as to the proposed storage and security arrangements;

(ii) legislation should have the effect of making failure to store firearms in the manner required an offence as well as a matter that will lead to the cancellation of the licence and the confiscation of all firearms;

(iii) measures should be indicated in legislation for the storage of firearms which are specific and clear so that firearm owners and possessors know their obligations and the following minimum basic standards should apply:

- Licence Category A and B: storage in a locked receptacle constructed of either hard wood or steel with a thickness to ensure it is not easily penetrable. If the weight is less than 150 kilograms the receptacle shall be fixed to the frame of the floor or wall so as to prevent easy removal. The locks fitted to these receptacles shall be of sturdy construction;
- Licence Category C, D and H: storage in a locked, steel safe with a thickness to ensure it is not easily penetrable, bolted to the structure of a building; and
- all ammunition must be stored in locked containers separate from any firearms.

(iv) should a firearms owner or possessor wish to store firearms through measures other than those indicated in legislation, he or she would have the burden of persuading the firearms regulatory authority that he or she can provide the level of security not less than that required by the relevant approved practices;

(v) in order to govern safekeeping when firearms are temporarily away from their usual place of storage, legislation could provide a statement indicating reasonable precautions to take to ensure the safekeeping taking into consideration situations most likely to be encountered. A basic standard that should be included in the statement is that the holder of the licence "must take reasonable care to ensure that the firearm is not lost or stolen and must take reasonable care to ensure that the firearm does not fall into the hands of an unauthorised person";

- (vi) the firearms safety booklet to be distributed to all new licence applicants prior to attending for a course of instruction should also feature clear and precise information on the obligations as regards storage of firearms;
- (vii) a reminder of safe storage responsibilities should be on the licence itself;
- (viii) security at gun dealer premises will require the dealer meeting such additional requirements as the firearms regulatory authority deems appropriate having regard to the type of activity of the dealer;
- (ix) where approval has been given for the possession or use of a firearm for a limited purpose such as film production (see 3.3), the person authorised must meet such requirements as the firearms regulatory authority deems appropriate having regard to the type of activity for which possession has been authorised.

New South Wales

New South Wales complies with the resolution:

- (i) *Firearms Act 1996* (NSW), s 11(3)(c)
- (ii) Offence: ss 39, 40 and 41; cancellation and confiscation: s 24(2) and s 25
- (iii)
 - Section 40
 - Section 41
 - Sections 40(1)(d) and 41(1)(c)
- (iv) Sections 40(2) and 41(2)
- (v) Section 39
- (vi) Section 10(3)(b)
- (vii) Section 18(2)(h)
- (viii) Section 48
- (ix) *Firearms (General) Regulations 1996*, r 22(2) and r 47(2)(b)

Queensland

- (i) *Weapons Act 1990* (Qld), s 10(2)(c) (new licence) and s 18(9) (renewal)
- (ii) Offence: s 60; cancellation: s 29(1)(c) (assuming s 60 is a condition); seizure: s 34 implies that there is a power of seizure if a licence condition is contravened
- (iii) The *Weapons Regulation 1996*, r 60 complies with the resolution for Category A, B, D and H weapons. Category C weapons are only required to comply with the same storage requirements that apply for Category A and B weapons. There is no requirement for the separate storage of ammunition
- (iv) Regulation 63
- (v) Queensland does not adopt the recommended words but the *Weapons Regulation 1996* contain a number of requirements for safe storage when firearms are temporarily away from their usual place of storage: r 59 (kept unloaded); r 60A (stored, out of sight, in a locked or secure container); and r 61 (precautions for weapons in or on vehicles)
- (vi) –
- (vii) There is no requirement for such a reminder

- (viii) *Weapons Regulation 1996*, Part 5 (r 30-38)
- (ix) It appears that a firearms licence can be obtained for theatrical purposes: s 11(e) and r 4. Further, r 24 specifically provides for a more limited “theatrical ordnance supplier’s licence”.

South Australia

South Australia largely complies with the resolution:

- (i) *Firearms Act 1977 (SA)*, s 12(6)(a)(iii)
- (ii) Offence: s 21 because *Firearms Regulations 1993*, r 19(1)(c) makes safe storage a condition of the licence; cancellation: s 20(1)(a) (not automatic); seizure: s 32
- (iii)
 - Regulation 29(1) but receptacle not required if firearm is secured or locked to the building
 - Regulation 29(2)
 - Regulation 32(1)
- (iv) Regulation 29(1)(e) and r 29(2)(c) provide for other methods approved by the Registrar
- (v) Regulation 19(1)(d)
- (vi) –
- (vii) –
- (viii) Regulation 31 and 33

Tasmania

Tasmania complies with the resolution:

- (i) *Firearms Act 1996 (Tas)*, s 29(1)(e)
- (ii) Offence: ss 84, 85 and 86; cancellation: s 51(2)(c) but cancellation is not automatic; seizure: s 88
- (iii)
 - Section 85
 - Section 86
 - Section 85(1)(d) and s 86(1)(c)
- (iv) Section 85(2) and s 86(2)
- (v) Section 84
- (vi) Section 27(b)
- (vii) Section 45(g)
- (viii) Section 87 (premises) and s 97 (display)
- (ix) No specific requirements but could be covered by s 35(a)(ii)

Victoria

Victoria substantially complies with the resolution:

- (i) *Firearms Act 1996 (Vic)*, s 17(c)(iv) and s 42(2)(c)(ii) (renewal)
- (ii) Offence: s 121-122; Commissioner must first suspend the licence: s 47(1) and then cancel: s 49(e); confiscation: s 53(2)

- (iii)
 - Schedule 4 cl 1
 - Schedule 4 cl 2
 - Schedule 4 cl 1(3) and cl 2(3)
- (iv) Section 121(1)(b) and s 121(2)(b)
- (v) Section 126
- (vi) –
- (vii) Section 35(1)(e)
- (viii) Section 123
- (ix) If under the supervision of a licensed firearms dealer, no licence is required for stage, TV or film: s 54 and sch 3, item 10. But s 92A requires a licensed dealer to first obtain a theatrical armourers permit and before such a permit is granted the Commissioner must be satisfied with the safety and storage arrangements.

Western Australia

- (i) *Firearms Act 1973* (WA), s 11(7)(b)
- (ii) Offence: s 23(9)(d); cancellation: s 29(1)(a); forfeiture: s 28
- (iii)
 - *Firearms Regulations 1974*, r 11A and Schedule 4 impose storage requirements that apply to all firearm categories. The requirements are different from those contained in the resolution but the minimum standard appears to be equal to, or higher than, that required by the resolution.
 - Ammunition: r 11A(8)
- (iv) Regulation 11A(2)
- (v) Section 23(9)(a)
- (vi) –
- (vii) No requirement for reminder of safe storage responsibilities
- (viii) Section 32 – requires firearms to be kept in a securely fastened strong room or other safe keeping when the premises are not open for trade.
- (ix) No specific requirements specified but a person may obtain a licence for an “approved purpose”: s 11A(2)(f) or alternatively a temporary permit may be granted: s 17(1)(e).

Australian Capital Territory

The Australian Capital Territory complies with the resolution:

- (i) *Firearms Act 1996*, s 21(3)(c)
- (ii) Offence: s 63 and 64; cancellation: s 41(3)(b)(ii) ; seizure: s 65
- (iii)
 - Section 63
 - Section 64
 - Sections 63(1)(b) and 64(1)(b)
- (iv) Sections 63(2) and 64(2)
- (v) Section 62
- (vi) Section 19(2)(b)

- (vii) Section 33(1)(g)
- (viii) Section 71 – security of displayed firearms only
- (ix) Permit may be granted for theatrical purposes: s 45(c); and may be subject to conditions: s 47(3)(a) and *Firearms Regulations 1997*, r 22.

Northern Territory

The Northern Territory substantially complies with the standards set out in the resolution:

- (i) *Firearms Act 1996*, 10(3)(d)
- (ii) Offence: s 46; revocation: s 40(3)(d) (safe keeping is a condition: s 13(1)(a)); seizure: s 47
- (iii) Relevant storage requirements are contained in the *Firearms Regulation 1996*:
 - Regulation 21 and Schedule 2
 - Regulation 22 and Schedule 3
 - Regulation 21(c) and 22(c)
- (iv) Section 46(2)
- (v) Section 46(1)
- (vi) –
- (vii) –
- (viii) Section 17 and regulation 23 (dealers) and 24 (armourers)
- (ix) Permit may be granted for theatrical purposes: s 31(1)(d) and Commissioner must be satisfied with storage and safety arrangements: s 33(1)(cb)

RESOLUTION 9 – RECORDING OF SALES

Council resolved:

- (a) that firearms sales be conducted only by or through licensed firearms dealers
- (b) that the following principles should underpin firearms dealer recording of firearms transactions:
 - (i) firearms dealers should continue to be obliged under penalty to ensure that purchasers are appropriately licensed for the firearm to be purchased;
 - (ii) firearms dealers should be required to record and maintain details (type, make, calibre and serial number) of each weapon purchased or sold against the identity (name, address and licence number) of the seller or the purchaser;
 - (iii) firearms dealers should be required to provide records to the National Register of Firearms through the State/Territory licensing authority;
 - (iv) police personnel investigating a crime or checking the compliance of licensed gun dealers with recording responsibilities should have the right to inspect the records of licensed gun dealers without the need to give notice to the licensee; and
 - (v) special provisions may have to be put in place in those jurisdictions which have remote locations where licensed gun dealers may not be readily available

(it may be possible, for instance, to authorise local police officers to certify sales/purchases in such circumstances).

(c) that jurisdictions legislate to allow the sale of ammunition only for those firearms for which the purchaser is licensed and that there be limits on the quantity of ammunition that may be purchased in a given period.

(d) on the purchase of ammunition, the relevant licence must be produced.

New South Wales

New South Wales substantially complies with the resolution:

- (a) *Firearms Act 1996* (NSW), s 51(2)
- (b) The principles underpinning the recording of firearms sales by dealers are complied with:
 - (i) Section 51(1)
 - (ii) Section 45(2)
 - (iii) Section 46
 - (iv) Section 45(6)
 - (v) Section 51(2)(b) and *Firearms (General) Regulations 1997*, r 99(2)
- (c) Section 65 but no restrictions on the quantity of ammunition have been prescribed
- (d) Section 65(1)

Queensland

Except for the requirements relating to the sale of ammunition, Queensland complies with the resolution:

- (a) *Weapons Act 1990* (Qld), ss 35 and 36
- (b) Queensland complies with the requirements of this part of the resolution:
 - (i) Section 73 and *Weapons Regulation 1996*, r 28
 - (ii) Section 71(2) and r 29(1)
 - (iii) Section 71(3) – must notify an “authorised officer” of each transaction within 14 days
 - (iv) Queensland does expressly provide that there is no need to give notice to inspect the records of licensed gun dealers
 - (v) Section 36(1)(b)(ii) and r 57
- (c) No provisions for the sale of ammunition
- (d) No requirement to produce licence

South Australia

South Australia substantially complies with the resolution:

- (a) *Firearms Act 1977* (SA), s 15B(9) – note: in addition to firearms dealers, a responsible officer of a recognised firearms club who has been authorised by the Registrar (“authorised officer”) and police officers may also witness transfers.
- (b)
 - (i) Section 15C(1)(a)
 - (ii) Section 15C(1)(b)

- (iii) Section 15C(1)(c)
- (iv) *Firearms Regulations 1993*, r 19A(1)(j)
- (v) Police and “authorised officers” are permitted to witness transfers: s 15B(9)
- (c) Section 21B(1); limit on amount: s 21BB and r 28A
- (d) Production of a licence is not required but it is an offence if a seller knows, or has reason to believe, that the purchaser is not licensed: s 21B(5)

Tasmania

Tasmania complies with the resolution:

- (a) *Firearms Act 1996* (Tas), ss 24 and 25(3)
- (b)
 - (i) Section 25(2)
 - (ii) Section 89(2)
 - (iii) Section 89(4) and s 93
 - (iv) Section 90
 - (v) –
- (c) Section 105(1) and (2); limit on amount: s 105(2)(b)(i) and *Firearms Regulations 1996*, r 12
- (d) Section 105(1)(b)(i)

Victoria

Other than failing to prescribe a limit on the amount of ammunition, Victoria complies with the resolution:

- (a) *Firearms Act 1996* (Vic), ss 95 and 96
- (b)
 - (i) Section 94
 - (ii) Section 87 and *Firearms Regulation 1997*, r 7
 - (iii) Section 118
 - (iv) Section 89
 - (v) –
- (c) Section 125; but no limit on amount
- (d) Section 125

Western Australia

Western Australia does not fully comply with the resolution. There is no requirement that firearms sales be conducted only through or by licensed dealers, nor is a firearms dealer required to keep a record of the details of persons who buy or sell a firearm through that dealer.

- (a) Western Australia does not appear to comply with this part of the resolution (see s 30A)
- (b)
 - (i) *Firearms Act 1973* (WA), s 19(2)

- (ii) Section 31(2) and *Firearms Regulations 1974*, r 18(1)(b) – must keep records of all firearms bought or sold, details of purchaser or seller not required
- (iii) Regulation 18(1)(b) – must lodge records monthly
- (iv) Section 31(2)
- (v) –
- (c) Section 30(1) and (2); no limit on quantity of ammunition is prescribed
- (d) Section 30(5)

Australian Capital Territory

The *Firearms Act 1996* (ACT) complies with the resolution:

- (a) Section 84
- (b)
 - (i) Section 67(2)
 - (ii) Section 68(2)
 - (iii) Section 69
 - (iv) Section 68(6)
 - (v) – (not necessary given the geographical size of the ACT)
- (c) Section 98; to date, no limit on quantity has been prescribed
- (d) Section 98(2)

Northern Territory

The Northern Territory complies with the resolution:

- (a) *Firearms Act 1996* (NT), s 63
- (b)
 - (i) Section 63(3)
 - (ii) Section 18(1) and *Firearms Regulations 1996*, r 27
 - (iii) Section 18(3)
 - (iv) Section 18(4)
 - (v) Section 63(1)(b)(ii)
- (c) Section 68A(2); no limit prescribed
- (d) Section 68A(3)

RESOLUTION 10 – MAIL ORDER CONTROL AND TRANSPORT

Council resolved:

- (a) to adopt the following principles in relation to mail order firearms sales:
- (i) mail order arrangements will apply strictly on a licensed gun dealer to licensed gun dealer basis;
 - (ii) advertisement of firearms for sale will be prohibited unless the sale is to be conducted by or through a licensed gun dealer;
 - (iii) the movement of firearms covered by Licence Categories C, D and H must be in accordance with prescribed safety requirements;
 - (iv) the commercial transport of ammunition with firearms will be prohibited; [July 17 meeting agreed that the commercial transport of firearms and ammunition should be permitted but only under closely regulated secure conditions]
- and
- (b) that each jurisdiction pass the necessary legislation to enforce these principles within their borders.

New South Wales

With the exception of regulating the commercial transport of firearms and ammunition, New South Wales has complied with this resolution:

- (a)
- (i) *Firearms Act 1996* (NSW), s 53
 - (ii) Section 54
 - (iii) Commercial: s 56 and *Firearms (General) Regulation 1996*, r 100; non-commercial: s 57 and r 101
 - (iv) The commercial transport of ammunition with firearms is not prohibited under the New South Wales regulatory scheme nor are any specific ‘conditions’ prescribed for the transport of ammunition with firearms (see r 100).

Queensland

The Queensland legislation does not deal with the commercial transport of firearms and ammunition and, contrary to the resolution, allows mail order from a licensed dealer to a non-dealer.

- (a)
- (i) *Weapons Act 1990* (Qld), s 66 states that dispatch of a weapon is a matter of regulation. The *Weapons Regulation 1996*, r 62 sets out the restrictions on dispatching weapons but does not restrict mail order arrangements to a strictly licensed gun dealer to licensed gun dealer basis. Regulation 62(3)(b) allows gun dealers to dispatch weapons to persons who are not licensed gun dealers.
 - (ii) Sections 35 and 36 require that a sale of a firearm be conducted through a licensed gun dealer and s 37 requires that an advertisement of a firearm for such a sale must contain the serial number of the firearm

- (iii) *Weapons Regulation 1996*, r 61 contains safety requirements for all weapons in or on vehicles and r 62 sets out additional restrictions for the dispatch of weapons
- (iv) Commercial transport of firearms is exempt from the Act: s 2(1)(l)(i). So the Act neither prohibits the commercial transport of firearms and ammunition nor regulates it.

South Australia

South Australia complies with the resolution:

- (a)
 - (i) *Firearms Act 1977 (SA)*, subs 15B(1) and (9) (sale must be in the presence of a dealer or authorised officer)
 - (ii) Section 35B
 - (iii) Section 35A(2) and *Firearms Regulations 1993*, r 44A(2)
 - (iv) Section 35A(1)

Tasmania

Tasmania complies with the resolution:

- (a)
 - (i) *Firearms Act 1996 (Tas)*, ss 100 and 101
 - (ii) Section 106
 - (iii) Section 104 and *Firearms Regulations 1996*, r 10
 - (iv) Section 103

Victoria

Victoria does not appear to make any provision in relation to transport, but complies with respect to mail order and advertising.

- (a)
 - (i) *Firearms Act 1996 (Vic)*, ss 98-100
 - (ii) Section 101
 - (iii) –
 - (iv) –

Western Australia

Western Australia does not comply with the resolution:

- (a)
 - (i) *Firearms Act 1973*, s 30A(3) prohibits the interstate mail order of a firearm except to a licensed dealer. Mail order arrangements do not appear to be prohibited within the State.
 - (ii) Advertisements are not prohibited (see s 30A(1)) and there does not appear to be any requirement that a sale of a firearm be conducted through a licensed dealer.

- (iii) Whilst s 34(2)(ga) envisages that the conveyance of firearms or ammunition will be the subject of regulations, there do not appear to be any such regulations
- (iv) No provision

Australian Capital Territory

The provisions of the *Firearms Act 1996* (ACT) comply with the resolution:

- (a)
 - (i) Section 86
 - (ii) Section 87
 - (iii) Section 90 and *Firearms Regulations 1997*, r 52
 - (iv) Section 89

Northern Territory

The Northern Territory has substantially complied with the resolution.

- (a)
 - (i) *Firearms Act 1996* (NT), ss 64 and 65
 - (ii) Section 63 requires that a sale of a firearm be conducted through a licensed gun dealer and s 63B requires that an advertisement of a firearm for such a sale must contain the serial number of the firearm
 - (iii) Section 66 and *Firearms Regulations 1996*, r 32
 - (iv) Regulation 32(2) (which applies to the transport of all firearms, not just commercial transport) sets out the safety requirements for the transport of firearms and ammunition but these only apply where a firearm is being conveyed in a motor vehicle.

RESOLUTION 11 – COMPENSATION/INCENTIVE ISSUES

Council resolved:

- (a) that a common basis for fair and proper compensation, based on the value of each firearm as at March 1996, be agreed between jurisdictions to prevent gun owners from offering their firearms to the State/Territory which offers the 'best price';
- (b) that there be a public education campaign to highlight the firearms amnesty and compensation program;
- (c) to note that the Commonwealth will make a financial contribution to the public education campaign;
- (d) that a 12 month national amnesty be established, during which the public education campaign would persuade firearm owners to comply, and warn of severe penalties where firearms are not voluntarily surrendered;
- (e) that, after the amnesty has concluded, each jurisdiction have severe penalties, which to the extent practicable should be uniform, for breaches of the firearms control laws.

The provisions of this resolution are now largely outdated as the relevant buy-back and amnesty periods have expired in all jurisdictions except Tasmania, where it appears that the amnesty period still operates: *Firearms Act 1996*, s 129.

With respect to paragraph (e), it is questionable whether the desire for uniform penalties for firearms offences has been implemented as intended. Professor Warner's 1997 report contained a comparative table outlining the various firearms offences (and their respective penalties) that operated in the different jurisdictions. It was clear then, as it is now, that there is little uniformity amongst the States and Territories with respect to firearms offences.³ It follows that if there is a lack of uniform offences, it is very difficult to determine the extent of uniformity in the penalties prescribed for those offences.

In an attempt to give some idea of the comparative severity of penalties for firearms offences across the jurisdictions, a number of offences that can be seen as being central to the 1996 Agreement have been set out in the table below. These include offences relating to unauthorised possession and use of firearms (including prohibited firearms); registration and reporting requirements; storage and safe handling requirements; and offences relating to the sale and purchase of firearms (i.e. must be through a licensed dealer etc).

³ This is, in part, attributable to the fact that States and Territories adopted varying approaches to implementing the resolutions of the 1996 Agreement (see introductory note, page 1)

COMPARATIVE TABLE OF FIREARMS OFFENCES

OFFENCE	New South Wales (penalty unit= \$110)	Queensland (penalty unit= \$75; <i>Penalties and Sentences Act 1992</i> , s 5)	South Australia	Tasmania (penalty unit= \$100; <i>Penalty Units and Other Penalties Act 1987</i> , s 4)	Victoria (penalty unit = \$100; <i>Monetary Units Act 2004</i>)	Western Australia	ACT (penalty unit= \$100)	Northern Territory (penalty unit = \$110; <i>Penalty Units Act 2002</i> , s 3)
Possession of a firearm without a licence	<p>Prohibited firearm: 7(1) 14 years imprisonment</p> <p>Firearms generally: 7A(1) 5 years</p>	<p>50 Category D, H or R weapon: 300 units or 7 years</p> <p>Category C or E weapon: 200 units or 4 years</p> <p>Category A, B or M weapon: 100 units or 2 years</p>	<p>11(1) Prescribed firearm: \$50 000 or 10 years</p> <p>Class C, D or H firearm: \$35 000 or 7 years</p> <p>Firearm of any other kind: \$20 000 or 4 years</p>	<p>9(1) 50 penalty units or 2 years or both</p>	<p>6(1) and (2) Category A or B longarm: 120 units or 2 years</p> <p>6(3) and (4) Category C or D longarm: 240 units or 4 years</p> <p>6(5) Category E longarm: 600 units or 7 years</p> <p>7(1) General category handgun: 240 units or 4 years</p> <p>7(2) Category E handgun: 600 units or 7 years</p>	<p>23(3) Indictable: - handgun or prescribed firearm: 7 years - otherwise: 4 years or \$16000</p> <p>Summary: - handgun or prescribed firearm: 3 years or \$12 000 - otherwise: 2 years or \$8000</p> <p>6(1) Possession of firearm, ammunition etc prohibited by regulation: Indictable: 5 years Summary: 3 years or \$12000</p>	<p>16(1) Prohibited firearm: 200 units or 2 years or both</p> <p>Any other firearm: 100 units or 1 year or both</p>	<p>58(6) Prohibited firearm: 400 units or 2 years</p> <p>58(1) 400 units or 2 years</p> <p>Category A or B firearm: 200 units or 12 months</p>

OFFENCE	New South Wales (penalty unit= \$110)	Queensland (penalty unit= \$75; <i>Penalties and Sentences Act 1992, s 5</i>)	South Australia	Tasmania (penalty unit= \$100; <i>Penalty Units and Other Penalties Act 1987, s 4</i>)	Victoria (penalty unit = \$100; <i>Monetary Units Act 2004</i>)	Western Australia	ACT (penalty unit= \$100)	Northern Territory (penalty unit = \$110; <i>Penalty Units Act 2002, s 3</i>)
Possession or use of a firearm for a purpose not authorised by licence	7(2) Prohibited firearm: 14 years 7A(2) Firearms generally: 5 years		11(2) Prescribed firearm: \$50 000 or 10 years Class C, D or H firearm: \$35 000 or 7 years Firearm of any other kind: \$20 000 or 4 years	26 50 penalty units			16(1) (see example of unauthorised possession) Prohibited firearm: 200 units or 2 years or both Any other firearm: 100 units or 1 year or both	58(2) Prohibited firearm: 400 units or 2 years Firearms of any other kind: 400 units or 2 years Category A or B firearm: 200 units or 12 months
Acquiring a firearm without a licence or permit	50 Prohibited firearm: 10 years Any other case: 5 years	35(1) Category D, H or R weapon: 100 units or 2 years Category C or E weapon: 60 units or 1 year Category A, B or M weapon: 20 units or 6 months	14(1) Prescribed firearm: 15 years or \$75 000 Class C, D or H firearm: 10 years or \$50 000 Any other kind of firearm: 7 years or \$35 000	10(1) 50 units or 2 years or both	102 General category handgun: 600 units or 5 years Category E handgun: 1200 units or 10 years Category E longarm: 240 units or 4 years Category A or B longarm: 60 units or 12 months Category C or D longarm: 120 units or 2 years	19(2)(b) Handgun or prescribed firearm: 5 years Any other firearm: 3 years	83 100 units or 1 year or both	62(1) 400 units or 2 years Category A or B firearm: 200 units or 12 months

OFFENCE	New South Wales (penalty unit= \$110)	Queensland (penalty unit= \$75; <i>Penalties and Sentences Act 1992, s 5</i>)	South Australia	Tasmania (penalty unit= \$100; <i>Penalty Units and Other Penalties Act 1987, s 4</i>)	Victoria (penalty unit = \$100; <i>Monetary Units Act 2004</i>)	Western Australia	ACT (penalty unit= \$100)	Northern Territory (penalty unit = \$110; <i>Penalty Units Act 2002, s 3</i>)
Purchasing a firearm except from dealer or through dealer as agent or where police officer witnesses	51(2) Prohibited firearm or pistol: 20 years Otherwise: 5 years	35(1) Category D, H or R weapon: 100 units or 2 years Category C or E weapon: 60 units or 1 year Category A, B or M weapon: 20 units or 6 months	15B(9) Class C, D or H firearm: \$10 000 or 2 years Any other firearm: \$5 000 or 1 year	24 50 units	95(4) Category E handgun: 1200 units or 10 years 95(2A) General category handgun: 600 units or 5 years 95(3) Category E longarm: 600 units or 7 years 95(2) Category C or D: 240 units or 4 years 95(1) Category A or B: 120 units or 2 years		84(2) 100 units or 1 year	62(2) 400 units or 2 years Category A or B firearm: 200 units or 1 year Body corporate: 2000 units or 1000 units (A or B firearm)

OFFENCE	New South Wales (penalty unit= \$110)	Queensland (penalty unit= \$75; <i>Penalties and Sentences Act 1992, s 5</i>)	South Australia	Tasmania (penalty unit= \$100; <i>Penalty Units and Other Penalties Act 1987, s 4</i>)	Victoria (penalty unit = \$100; <i>Monetary Units Act 2004</i>)	Western Australia	ACT (penalty unit= \$100)	Northern Territory (penalty unit = \$110; <i>Penalty Units Act 2002, s 3</i>)
Supplying/providing /selling a firearm to a person without a licence	51(1) Prohibited firearm or pistol: 20 years Otherwise: 5 years	36(1) Category D, H or R weapon: 100 units or 2 years Category C or E weapon: 60 units or 1 year Category A, B or M weapon: 20 units or 6 months	14A(1) Prescribed firearm: 15 years or \$75 000 Class C, D or H firearm: 10 years or \$50 000 Any other kind of firearm: 7 years or \$35 000	25(2) 100 units	94(3) Category E longarm or handgun: 240 units or 4 years 94(2) Category C, D or general category handgun: 120 units or 2 years 94(1) Category A or B longarm: 60 units or 12 months	19(2)(a) Handgun or prescribed firearm: 5 years Any other firearm: 3 years or \$12 000	67(2) 50 units or 6 months or both	63(2) 400 units or 2 years Category A or B firearm: 200 units or 1 year
Contravention or failure to comply with condition of licence	7(2)(b) 14 years	34(1) 60 units or 1 year	21 Class C, D or H firearm: \$10 000 or 2 years Any other firearm: \$5 000 or 1 year	48 50 units	36(3) Category E longarm or handgun: 240 units or 4 years 36(2) Category C, D or general category handgun: 120 units or 2 years 36(1) Category A or B longarm: 60 units or 12 months	21(2) 18 months or \$6000	16(2) Prohibited firearm: 200 units or 2 years or both Any other firearm: 100 units or 1 year or both	85 50 units or 12 months

OFFENCE	New South Wales (penalty unit= \$110)	Queensland (penalty unit= \$75; <i>Penalties and Sentences Act 1992</i> , s 5)	South Australia	Tasmania (penalty unit= \$100; <i>Penalty Units and Other Penalties Act 1987</i> , s 4)	Victoria (penalty unit = \$100; <i>Monetary Units Act 2004</i>)	Western Australia	ACT (penalty unit= \$100)	Northern Territory (penalty unit = \$110; <i>Penalty Units Act 2002</i> , s 3)
Failure to surrender firearm and licence when licence suspended or revoked	25(1) 50 units or 2 years or both	30(1) 20 units or 6 months imprisonment		54(4) 50 units or 2 years or both	53(1) 240 units or 4 years		42(1) 50 units or 6 months or both	40(5) 50 units or 12 months
Possess ammo without licence	65(3) 50 units			105(3) 50 units	124(1) 40 units	19(1)(c) Handgun or prescribed firearm: 5 years Any other firearm: 3 years or \$12 000	99(1) 10 units	69 10 units or imprisonment for 3 months
Purchase/acquire ammo unless holder of licence or permit	65(2) 50 units		21B(1) \$10 000 or 2 years	105(2) 50 units		19(1)(b) Handgun or prescribed firearm: 5 years Any other firearm: 3 years or \$12 000	98(3) 50 units or 6 months or both	

OFFENCE	New South Wales (penalty unit= \$110)	Queensland (penalty unit= \$75; <i>Penalties and Sentences Act 1992, s 5</i>)	South Australia	Tasmania (penalty unit= \$100; <i>Penalty Units and Other Penalties Act 1987, s 4</i>)	Victoria (penalty unit = \$100; <i>Monetary Units Act 2004</i>)	Western Australia	ACT (penalty unit= \$100)	Northern Territory (penalty unit = \$110; <i>Penalty Units Act 2002, s 3</i>)
Sell or supply ammo to person not holder of licence for firearm designed to fire that ammo	65(1) 50 units		21B(5) \$10 000 or 2 years	105(1) 50 units	125 60 units or 12 months	19(1)(a) Handgun or prescribed firearm: 5 years Any other firearm: 3 years or \$12 000	98(2) 50 units or 6 months or both	68A(2) 10 units or 3 months
Possession of unregistered firearm	36(1) Prohibited firearm or pistol: 10 years Otherwise: 5 years	50A(1) 60 units	23(1) Class C, D or H firearm: \$10 000 or 2 years Any other firearm: \$5 000 or 1 year	74(1) 50 units or 2 years or both	7B(1) General category handgun: 600 units or 7 years 6A(2) Category C or D longarm: 240 units or 4 years Category A or B longarm: 120 units or 2 years		53(1) 50 units or 6 months or both	59 50 units or 12 months or for a Category A or B firearm, 10 units or 3 months
Failure to notify of loss, theft or destruction of firearm	37(1) (7 days) 50 units	60A 10 units	25(1) (14 days) \$5 000	80(2) (7 days) 50 units	140 (24 hours) 30 units	30 (as soon as practicable) \$2000	110 (2 days) 10 units	90(2) (2 days) 50 units or 12 months
Handling firearm under the influence of alcohol or drugs	64(1) 5 years	59(2) 20 units	29(1) \$10 000 or 2 years	120(1) 50 units or 2 years or both	132(1) 120 units or 2 years	23(2) If loaded: 2 years or \$8000 Otherwise: 18 months or \$6000	97(1) 50 units or 6 months or both	86 50 penalty units or imprisonment for 12 months

OFFENCE	New South Wales (penalty unit= \$110)	Queensland (penalty unit= \$75; <i>Penalties and Sentences Act 1992</i> , s 5)	South Australia	Tasmania (penalty unit= \$100; <i>Penalty Units and Other Penalties Act 1987</i> , s 4)	Victoria (penalty unit = \$100; <i>Monetary Units Act 2004</i>)	Western Australia	ACT (penalty unit= \$100)	Northern Territory (penalty unit = \$110; <i>Penalty Units Act 2002</i> , s 3)
Use of mail to send firearms	53 50 penalty units			100 & 101 50 units	98 120 units or 2 years	30A(3) \$2000	85 50 units	64 & 65 20 penalty units or 6 months
Storage and safekeeping								
Failure to comply with general requirements	39(1) Prohibited firearm or pistol: 50 units or 2 years or both Any other kind: 20 units or 12 months or both	60 100 units or 2 years	Safe storage is a condition of licence – see penalties above for breach of condition	84 Prohibited firearm: 50 units or 2 years or both Any other firearm: 20 units or 12 months or both		23(9)(d) \$2000	62(1) 20 units	46(1) 50 units or 12 months
Requirements for Category A or B firearms	40(1) 20 units or 12 months or both			85 20 units or 12 months or both	121(1) Category A or B longarm: 60 units or 1 year		63(1) 50 units	46(1)(b) 50 units or 12 months
Requirements for Category C, D and H firearms	41(1) 50 units or 2 years or both			86 50 units or 2 years or both	121(3) Category E handgun or longarm: 240 units or 4 years 121(2) Category C or D longarm: 120 units or 2 years		64(1) 50 units	46(1)(b) 50 units or 12 months

OFFENCE	New South Wales (penalty unit= \$110)	Queensland (penalty unit= \$75; <i>Penalties and Sentences Act 1992</i> , s 5)	South Australia	Tasmania (penalty unit= \$100; <i>Penalty Units and Other Penalties Act 1987</i> , s 4)	Victoria (penalty unit = \$100; <i>Monetary Units Act 2004</i>)	Western Australia	ACT (penalty unit= \$100)	Northern Territory (penalty unit = \$110; <i>Penalty Units Act 2002</i> , s 3)
Dealers to be licensed	43 7 years	68(1) Category D, H or R weapon: 100 units or 2 years Category C or E weapon: 60 units or 1 year Category A, B or M weapon: 20 units or 6 months	16 \$10 000 or 2 years	11(1) 50 units or 2 years or both	59(2) Category C, D or E firearms: 240 units or 4 years 59(1) Category A or B longarm: 120 units or 2 years		66 100 units or 1 year or both	16 (defines what a dealers licence authorises)
Dealer who fails to keep prescribed records or fails to submit prescribed returns	45(1) Failure to keep: 20 units 46(1) Failure to submit: 50 units	71(1) Failure to keep: 20 units or 6 months 71(3) Failure to submit: 20 units or 6 months	18 \$5 000	89(1) Failure to keep: 50 units	87(1) Keep records: 120 units or 2 years	31(2) \$4000	68(1) Failure to keep: 50 units or 6 months or both 69(1) Failure to submit: 10 units	18(1) Failure to keep: 20 units or 6 months 18(3) Failure to submit: 20 units or 6 months

NATIONAL AGREEMENT ON HANDGUNS

At a Special Meeting in November 2002 the Australasian Police Ministers' Council (APMC) agreed to a national approach to restrict the availability and use of handguns, particularly concealable weapons. In all, 28 resolutions were made by the APMC and subsequently endorsed by the Council of Australian Governments (COAG), which agreed that legislative and administrative measures be undertaken to implement the resolutions by 30 June 2003. Many of the resolutions related to restricting access to particular types of handguns for sports shooting purposes and also tightening licensing requirements for sports shooters seeking to obtain a handgun or pistol licence (Category H).

As part of the review of firearms regulation in Australia, the following section considers some of the major aspects of the 2002 National Agreement on Handguns and analyses the level of compliance in all jurisdictions.

The general finding of this review is that most jurisdictions have substantially implemented the terms of the Agreement.

It must be noted that many of the provisions discussed in the main report apply equally to handguns.

RESOLUTION 1 - RESTRICTION OF CLASSES OF HANDGUNS THAT CAN BE IMPORTED OR POSSESSED FOR SPORTING PURPOSES

Council resolved that all jurisdictions would restrict the classes of legal handguns that can be imported or possessed for sporting purposes to those meeting recognised sporting shooter classifications in the Olympic and Commonwealth Games and other accredited events.

As part of implementing this recommendation it was agreed that the *Customs (Prohibited Imports) Regulations 1956* be amended to prohibit the importation of all handguns for sporting shooting purposes other than those which meet the prescribed physical characteristics, including barrel length, calibre and shot capacity.

The *Customs (Prohibited Imports) Regulations 1956*, Schedule 6, Part 1, clause 5 and Part 4, cl 1 effectively prohibits the import of the following handguns for sports shooting purposes:

- Semi-automatic handgun with a barrel length of less than 120 mm;
- Revolver or single shot handgun with barrel length of less than 100 mm;
- Any handgun with a magazine or cylinder capacity of more than 10 rounds;
- Any handgun with a calibre greater than .38" (limited exception for handguns with calibre between .38" and .45")

In accordance with the Handguns Agreement, the Regulations provide limited exception for barrel length requirements if the handgun is specifically designed or adapted for competition target shooting (Part 4, cl 1.3(a)(i)).

New South Wales

The *Firearms Act 1996* (NSW) complies with this resolution by prescribing certain pistols that are “prohibited pistols” under the Act (s 4C). The definition of “prohibited pistol” complies with the agreed restrictions regarding physical characteristics i.e. barrel length, magazine capacity and calibre, and s 8 provides that a Category H (sport/target shooting) licence does not authorise possession of a prohibited pistol. However, s 16B and r 59A allow Category H (sport/target shooting) licence holders to possess and use prohibited pistols in certain limited circumstances (as agreed).

Queensland

The *Weapons Act 1990* (Qld), s 132(1) implements the agreed restrictions for barrel length, calibre and magazine capacity for handguns (“restricted handguns”). Section 132(2) provides that a licensee may be authorised to possess a restricted handgun in the limited circumstances agreed to.

South Australia

The *Firearms Act 1977* (SA), s 15A(4b) provides that the Registrar may refuse an application for a permit to acquire a Class H firearm if the firearm does not meet the agreed restrictions as to physical characteristics.

Tasmania

The *Firearms Act 1996* (Tas), s 18(3) provides that a Category H licence issued for the purposes of sport/target shooting only authorises possession and use of a handgun that complies with the agreed restrictions.

Victoria

The *Firearms Act 1996* (Vic), s 7A(1) prohibits the holder of a general category handgun licence for the purposes of sports shooting from possessing or using the restricted handguns.

Western Australia

The *Firearms Regulations 1974*, Schedule 3 contains the prescribed restrictions for Category H licences for the purposes of sports shooting.

Australian Capital Territory

The *Firearms Act 1996* (ACT), Schedule 2, Item 5 provides that a Category H licence does not authorise the possession or use of a “prohibited pistol”. The definition of “prohibited pistol” implements the agreed restrictions. The *Firearms Regulations 1997*, reg 8A provides for limited circumstances for authorising the possession and use of a prohibited pistol for sports shooting.

Northern Territory

The *Firearms Regulations 1996*, reg 36 contains a list of types of “prescribed Category H firearms” that complies with the agreed restrictions. The *Firearms Act 1996*, s 58(2A)(a) provides that a holder of a category H sports shooter’s licence is only authorised to possess and use a “prescribed firearm”.

RESOLUTION 8 - 12 – LICENSING REQUIREMENTS

Resolution 8

Council resolved that a system be developed for graduated access to handguns for legitimate sporting shooters based on training, experience and event participation. The major aspects of this system were that during the first six months, a holder of a handgun licence for sports shooting purposes will not be permitted to own a handgun, and then during the second six months, a person will only be permitted to own:

- (i) one .22” calibre pistol and one .177” calibre air pistol; or
- (ii) one centrefire pistol and one .177” calibre air pistol

New South Wales

The *Firearms Act 1996* (NSW), s 31(3B) provides that the Commissioner must not issue to a licensee a permit to acquire any kind of pistol during the first 6 months, and after that period and up until the probationary pistol licence expires (12 months), a permit only for pistols of the type stipulated in the resolution (see also s 31(3C)).

Queensland

The *Weapons Act 1990* (Qld), s 131 limits the type of firearms that a holder of a concealable weapons licence can own in the first 12 months in accordance with the resolution. There is no prohibition on a person owning a handgun for the first 6 months.

South Australia

The *Firearms Act 1977* (SA), s 15A(4b)(b) provides that the Registrar may refuse an application to acquire a Class H firearm if the applicant has held the licence for 6 months or less. It does not appear that the Registrar must refuse such an application. The restrictions on ownership for the period between 6 and 12 months are also provided for: s 15A(4b)(c).

Tasmania

The *Firearms Act 1996* (Tas), s 61(c) provides that the Commissioner may only grant a permit to acquire a Category H firearm for sports or target shooting if satisfied that person has held licence and been a member of an approved pistol club for at least 6 months. Section 61(c) also limits the types of pistols a person may possess for the first 12 months in accordance with the resolution (see also s 61(d)).

Victoria

The *Firearms Act 1996* (Vic), s 104(1)(e) provides that the Commissioner must not issue a permit to acquire any general category handgun other than those prescribed by the resolution if the person has held the licence for a period of 6 months or less. It would appear then, that a person is not prohibited from owning a pistol for the first 6 months of the licence.

Western Australia

The *Firearms Regulations 1974*, Schedule 3, subs (2) prohibits a category H sports shooting licence being issued to a person unless they have been a member of an approved club for at least 6 months. Subparagraph (b) contains the required prescriptions on the types of pistols a licensee can own in the first 12 months.

Australian Capital Territory

The *Firearms Act 1996* (ACT), s 36A fully complies with the resolution.

Northern Territory

The *Firearms Act 1996* (NT), s 35B fully complies with the resolution.

Resolution 10

Requirement that a person wishing to join a club provide details to the club of any other shooting clubs to which they belong and firearms they own.

Resolution 11

Requirement that a person applying to join a shooting club must provide the club with two character references from people they have known for at least 2 years.

Resolution 12

Requirement that clubs endorse a member's application to acquire a handgun. In endorsing the application clubs should confirm that the licensee has adequate storage arrangements in place and specify for which competition shooting discipline the handgun is required.

New South Wales

New South Wales complies with the resolutions:

Resolution 10: *Firearms (General) Regulations 1997*, reg 80A(a)(ii)

Resolution 11: regulation 80A(a)(i)

Resolution 12: *Firearms Act 1996* (NSW), s 16(2)(c)

Queensland

Queensland complies with the resolutions:

Resolution 10: *Weapons Act 1990* (Qld), s 98B(1)(c)

Resolution 11: section 98B(1)(b)

Resolution 12: section 18B(1)

South Australia

South Australia does not appear to comply with resolution 10 or resolution 12 of the Agreement:

Resolution 10: no requirement

Resolution 11: *Firearms Regulations 1993*, reg 38AA(b)

Resolution 12: no requirement

Tasmania

Tasmania does not appear to comply with any of the terms of resolutions 10, 11 and 12.

Victoria

The *Firearms Act 1996* (Vic) fully complies with the resolutions:

Resolution 10: section 123D(3)(c) and (d)

Resolution 11: section 123D(3)(b)

Resolution 12: sections 15(3) and 18(5) (junior licences); see also, s 123F(1)

Western Australia

The regulatory scheme in Western Australia does not appear to have any requirements relating to the provision of details of other club memberships and firearms, nor to providing character references nor endorsement by an approved club.

Australian Capital Territory

The Australian Capital Territory fully complies:

Resolution 10: *Firearms Regulations 1997*, reg 31B(1)(a)(iii)

Resolution 11: reg 31B(1)(a)(ii)

Resolution 12: *Firearms Act 1996* (ACT), s 27(c)

Northern Territory

The *Firearms Act 1996* (NT) complies:

Resolution 10: section 10AA(b)(i)

Resolution 11: section 10AA(b)(ii)

Resolution 12: section 10AA(c)

RESOLUTION 14 – MINIMUM PARTICIPATION REQUIREMENTS

Require that members of approved shooting clubs be required to attend a minimum number of shooting events offered by the club. Failure to meet the minimum participation level will make a person liable to have their licence revoked.

Specifically jurisdictions require sporting shooters to meet the following minimum participation rates annually:

- (a) a sports shooter must participate in a minimum number of six club organised competitive shooting matches; and
- (b) for each different type of handgun owned for different events the sporting shooter must undertake at least four club organised shoots.

New South Wales

The *Firearms (General) Regulations 1997*, reg 81(1) prescribes minimum participation requirements that comply with those stipulated in the resolution. Regulation 81(2) provides that failure to comply with the requirements under the clause is a reason for which the Commissioner may revoke a licence under the *Firearms Act 1996*, s 24(2)(d).

Queensland

The *Weapons Act 1990* (Qld), s 133 contains the participation conditions for a concealable firearms licence. Section 134 requires a licensee to maintain a “participation record” and makes the keeping of such a record a special condition of the licence. Section 29(1)(c) provides that a licence may be revoked if a licensee contravenes a participation condition or a special condition.

South Australia

The regulatory scheme in South Australia does not fully comply with the resolution. The *Firearms Regulations 1993*, reg 19(7) makes active membership of a shooting club a condition of a Class H licence. The *Firearms Act 1996*, s 5(1) defines “active member” as a person who has participated in competitive shooting matches for class H firearms on at least 6 occasions during 12 months. A minimum of at least 4 club organised shoots for each different type of handgun owned is not required.

Tasmania

The extent of compliance in Tasmania is not entirely clear. The *Firearms Act 1996*, s 47(3)(b) provides that compliance with the minimum annual participation rates (as specified in the conditions of the licence) is a condition of a Category H licence. However, there is no reference in the Act or the *Firearms Regulations 1996* as to what these participation rates are.

Victoria

The *Firearms Act 1996* (Vic), ss 16(3)-(8) provide that compliance with the prescribed participation rates is a condition of the licence. The prescribed participation rates comply with those stipulated in the resolution.

Western Australia

The *Firearms Regulations 1974* (WA), Schedule 3 provides that a Category H sports shooters licence may only be issued if it is subject to the condition that the licensee participates in a minimum number of club organised shooting competitions. The minimum participation rates prescribed by the Regulations comply with the resolution.

Australian Capital Territory

The *Firearms Regulations 1997*, reg 4A prescribes the minimum participation rates for members of approved clubs that comply with those stipulated in the resolution. The *Firearms Act 1996* (ACT), s 41(2) provides that the registrar must cancel a category H sports shooters licence if the licensee fails to meet the participation rates prescribed under regulation (see definition of “active member”: s 4(1)).

Northern Territory

The *Firearms Act 1996* (NT), s 15C(d) provides that participation in category H sports shooting events at the prescribed participation rate is a condition of a category H sports shooters licence. The *Firearms Regulations 1996*, reg 39 contains the prescribed participation rate which substantially complies with the resolution.

SUMMARY AND COMMENTS

The 1996 Agreement

Resolution 1 – Bans on specific types of firearms

All states and territories have either banned or restricted in accordance with the resolutions, the possession and use of automatic and semi-automatic longarms. The 1997 report noted that, contrary to the resolution, the Northern Territory permits the use of some semi-automatic firearms for sports shooting. This still appears to be the case (page 8).

With the exception of Victoria, all jurisdictions have banned the use and possession of fully automatic handguns in accordance with import ban.

Resolution 2 – Nationwide registration of all firearms

All states and territories now require registration of all firearms with the agreed particulars. In the 1997 report it was noted that there was no legislative requirement for links to the National Exchange of Police Information (NEPI) or access by other states in South Australia, Victoria or Western Australia.

Whilst the position of the legislation in these jurisdictions remains unchanged, all jurisdictions have now established links to the NEPI scheme and to other State and Territory registration systems through either legislative provisions or administrative mechanisms.⁴

Resolution 3 – Genuine reason and genuine need for owning, possessing and using a firearm

(a) Personal protection

Personal protection is not regarded as a genuine reason to own, possess or use a firearm in any jurisdiction. This is explicitly stated in the legislation in all jurisdictions with the exception of Queensland, South Australia and the Northern Territory. In theory, personal protection could be prescribed as a reason in Queensland, however, it has not been. Similarly, in South Australia, the Registrar could, in theory, approve personal protection as a purpose under the Regulations (see page 8).

(b) Genuine reason

The 1997 report found that not all jurisdictions had confined the genuine reasons for owning, possessing or using a firearm to those stipulated by the resolution nor imposed the conditions stipulated in relation to particular reasons. The genuine reasons in paragraph (b) of the resolution confine sporting shooters to those participating in shooting sports recognised in the charters of such sporting events as the Olympic Games,

⁴ AIC Executive Summary, *Firearms Legislation in Australia*, April 1997, page 1.

Commonwealth Games and World Championships. As was the case in 1997, in most jurisdictions approved shooting clubs are not limited to the shooting sports envisaged by the resolution.

The 1997 report also noted that the inclusion of “paint ball” activities as a genuine reason in South Australia and Victoria was unlikely to be within the spirit of the resolution. With the exception of Tasmania and the Northern Territory, all jurisdictions now contain provisions which allow “paint ball” activities to be conducted in certain circumstances. The inclusion of paint-ball activities (whether it be within the “sports shooters” class or otherwise) was arguably not envisioned in the 1996 resolution. This is more than likely attributable to the fact that “paint balling” was not then a well recognised hobby/sport in 1996. As such, it is likely that provisions authorising paint ball activities would no longer be seen as being outside the spirit of the agreement. Paint ball ‘markers’ designed exclusively to fire paint balls are now a permitted import if the police authorisation test is satisfied (see item 14A in Part 2 of Schedule 6 of the *Customs (Prohibited Imports) Regulations 1956* (Cth)).

Recreational shooters are required by the resolution to produce proof of permission to shoot on rural land from the landowner. The 1997 report found that no proof of permission was required in South Australia. This still appears to be the case (page 13). In New South Wales, membership of a hunting club allows recreational hunting and Victoria and Tasmania similarly widen this class beyond that prescribed in the resolution to persons who hold a game licence or hunting permit. The 1997 report raised some concerns with respect to “recreational shooters” and the potential for abuse. These concerns are echoed in this report. It is questionable whether the requirements prescribed by resolution 4(b) regarding recreational hunting are sufficient to ensure that this is in fact the genuine reason for obtaining a licence. Proof of permission from a landowner would appear to be an almost negligible threshold requirement for a person to obtain a firearms licence.

(c) Genuine need

The resolution requires that, over and above satisfaction of the “genuine reason” test, an applicant must demonstrate a “genuine need” for that firearm. The 1997 report concluded that most jurisdictions had substantially complied with the requirements as to genuine need. This still appears to be the case. There is still no genuine need requirement for a Category B weapon in South Australia, Victoria (unless the reason is occupation of security or prison guard) and the Northern Territory and the limit to one Category C rifle and one Category C shotgun has not been implemented in the Northern Territory.

Clay target shooting

At the subsequent meeting of 15 November 1996, it was agreed that the use of category C firearms for clay target shooting would be allowed under *limited circumstances*. The resolution provided that applicants for a licence must have been a member of the Australian Clay Target Association (ACTA) as at 15 November 1996. New applicants must be supported by an officer of an ACTA affiliated club and must demonstrate that they have a physical need requiring the use of a semi-automatic or pump action shotgun in order to participate in particular events.

The 1997 report found that most jurisdictions had provided access to Category C weapons for clay target shooters, but the restrictions relating to physical need had not been provided for in South Australia and Western Australia. The finding of this review is that of the jurisdictions that have provided access to Category C firearms for clay target shooters, only New South Wales, Victoria and the Australian Capital Territory adequately comply with the conditions stipulated in the resolution. Queensland, South Australia, Western Australia and the Northern Territory provide access to Category C firearms for clay target shooters but do not fully implement the agreed restrictions and the Tasmanian legislation contains no express provisions for clay target shooters.

Access to Category D firearms by primary producers

At the 17 July 1996 meeting, Council agreed to allow primary producers limited access to Category D firearms. This access has only been explicitly provided for in New South Wales and the Northern Territory. It would appear that primary producers can access Category D firearms in the Australian Capital Territory and Queensland but both jurisdictions only partially comply with the agreed restrictions. The remaining jurisdictions have not made any provision for access to Category D firearms by primary producers.

(d) Firearms collectors

At the meeting of 17 July 1996, Police Ministers agreed to a regulatory regime for firearms collections. The 1997 report found that this regulatory regime had not been comprehensively adopted. In particular, the definition of a “collection” or a “collector” was wider than the agreed definition in Queensland, Western Australia and the Northern Territory. This still appears to be the case although it could be argued that Queensland and Western Australia effectively comply with the resolution because their respective collectors’ licences only authorise possession of firearms that are of obvious and significant value, but it is questionable whether this approach is within the spirit of the resolution.

The 1997 report also found that Category D weapons were not required to be rendered permanently inoperable in Western Australia and neither were Category A and B weapons required to be rendered temporarily inoperable in the Northern Territory. These shortcomings appear to have been addressed since the 1997 review. The Northern Territory now requires Category A and B weapons be rendered temporarily inoperable (page 22) and Category D weapons must be rendered permanently inoperable in Western Australia (page 22). However, contrary to the resolution, Western Australia does not require Category A, B or C firearms be rendered temporarily inoperable.

As was the case in 1997, there is still no express prohibition on the possession of ammunition by collectors in Queensland, Tasmania, Victoria, Western Australia nor the Northern Territory and there does not appear to be any specific requirements for storage in South Australia, Tasmania or Western Australia. The 1997 report noted that no jurisdiction had restricted sales of Category C and D firearms to other collectors and all allowed sales to registered dealers. This still appears to be the case in all jurisdictions and in Western Australia there isn’t even a requirement that sales be conducted through the agency of a licensed dealer.

The 1997 report noted that the failure in three jurisdictions to adopt the recommended definition of collector created a potential loophole for persons wishing to retain or obtain a semi-automatic weapon without having a legitimate genuine reason. This potential loophole is in part alleviated in Queensland and Western Australia because collectors are only authorised to possess firearms that are of obvious and significant commemorative, historical or investment value. However, it remains that in Queensland and Western Australia collectors are not required to be members of an approved collectors' club and in Western Australia one firearm can constitute a collection and there is no requirement that Category A, B or C firearms be rendered temporarily inoperable.

(e) Ammunition collectors

Council agreed that jurisdictions would consider requiring ammunition collectors to have a licence or permit for purchase or possession of ammunition. New South Wales, Victoria and Western Australia are the only jurisdictions that have enacted the recommended regulatory regime. As was the case in 1997, neither Queensland nor the Australian Capital Territory appears to have made any provision for ammunition collectors. Tasmania and the Northern Territory make provision for the collection of ammunition if authorised by the Commissioner, but fail to ban the agreed types of ammunition. South Australia does not provide for a regime for ammunition collectors but does provide for acquisition of ammunition by permit and has prohibited possession of the agreed types of ammunition.

(f) Museums

Council agreed that official museums should be subject to prescribed conditions while private museums should be subject to the same requirements as apply to private collections. The 1997 report found that the separate jurisdictions had adopted different approaches to museums. This is still the case. New South Wales and the Northern Territory provide for special museum licences and prescribe specific requirements that apply to the holders of such licences. Tasmania also provides for museum licences and these appear to be available for both public and private museums.

Queensland, Victoria, Western Australia and the Australian Capital Territory exempt certain public museums from regulation and the South Australian legislation does not bind the Crown in any event. None of these latter jurisdictions appear to prescribe conditions for public museums, at least in the firearms legislation.

With the exception of Tasmania, private museums would be subject to the same conditions that apply to private collectors.

(g) Heirloom firearms licence

The 1997 report found that most jurisdictions had provisions for heirlooms firearms licences which substantially complied with the agreed conditions. This is still the case and the only exceptions are Western Australia, which requires a collector's licence in order to possess heirloom firearms, and South Australia, which does not make any provision for heirloom firearms licences.

Resolution 4(a) and (b) – Basic licence requirements

The 1997 report found that most jurisdictions had substantially complied with the basic licence requirements agreed to in the resolution i.e. age, fit and proper person and proof of identity. This still appears to be the case. In 1997 it was noted that the South Australia and Western Australia were the only jurisdictions not to clearly require first time applicants to undertake a training course. The legislation in both these jurisdiction still does not expressly require first time applicants to undertake safety training, however, the Australian Institute of Criminology has stated that “such requirements have been put in place through other means”.⁵ In South Australia, it would appear the Registrar imposes this requirement using his power under the Regulations (see page 28.) As to the form of the licence, Queensland does not require a photograph and neither Queensland, South Australia, Western Australia nor the Northern Territory require a reminder of safe storage responsibilities on the licence.

Despite the requirement in Resolution 4(a) that all applicants for a licence be at least 18 years of age, there are provisions in all jurisdictions allowing persons under the age of 18 to possess and use firearms, albeit in limited circumstances (see above at pages 31-32).

Resolution 4(c) and (d) – Interstate recognition

All jurisdictions have made at least some provision for the interstate recognition of licences.

Resolution 4(e) – Licence categories

The 1997 report found that all jurisdictions had adopted legislative provisions which substantially complied with the agreed categories and with minor variations, the listed firearms were as agreed. This still appears to be the case. Some of the jurisdictions have added additional firearms and/or weapons to the agreed categories or have created additional categories, but these additions are within the spirit of the resolution.

Resolution 5 – Training as a pre-requisite for a licence

Council agreed that all first time applicants for a firearms licence be required to complete an accredited course in safety training. As stated above, the 1997 report found that all jurisdictions made a safety course a basic licence requirement except South Australia and Western Australia. It is now understood that all states, including South Australia and Western Australia, require a course for first time applicants.⁶ Resolution 5 outlines requirements in relation to standardisation, accreditation and monitoring of courses and that a specialised course be developed in all jurisdictions for the training of security industry employees. One would not expect to see these resolutions reflected in legislation.

With respect to the security industry employees, the 1997 report found that there were no specific legislative provisions for courses in most jurisdictions. This is still largely the case, although the ACT does require persons employed in the security business to successfully complete an examination in safe handling on a yearly basis.

⁵ Above, note 4 at 3.

⁶ Above n 4 at 3.

Resolution 6 – Grounds for licence refusal or cancellation

The 1997 report found that most jurisdictions had dealt very comprehensively with the agreed grounds for refusal and/or cancellation of licences. The major omissions identified in the 1997 report included the failure by South Australia and Western Australia to stipulate that a domestic violence order or a violence restraint order automatically results in refusal and/or cancellation and that in New South Wales, South Australia, Tasmania and Western Australia a conviction for aggravated assault does not automatically cancel a licence. These omissions have not been rectified by the relevant jurisdictions. Also, the failure to notify change of address is not grounds for cancellation in Tasmania or Western Australia.

Resolution 7 – Permits to acquire

The 1997 review found that all jurisdictions had implemented the requirement of a permit to acquire for each firearm and made the issue of such a permit subject to a 28-day waiting period. It was noted that Victoria, Western Australia and the Northern Territory make provision for expedited approval in certain circumstances. The spirit of the resolution does not appear to have been defeated by these provisions (i.e. appropriate checks must still be made etc).

Resolution 8 – Uniform standards for the security and storage of firearms

Council agreed to a number of conditions for the secure storage of all firearms and ammunition. As was the case in 1997, all jurisdictions except Queensland, South Australia and Western Australia have implemented the agreed minimum uniform standards. Queensland still does not require Category C weapons to comply with the higher standards applicable to Category D and H weapons nor is the separate storage of ammunition a requirement. Western Australia implements different standards to those agreed to but these appear to be at least as stringent (if not more so) as the agreed minimum standards. Contrary to the resolution, South Australia does not require Category A and B firearms to be in a receptacle if they are secured to the building. The requirement that licences contain a reminder as to safe storage responsibilities has not been implemented by a legislative requirement in Queensland, South Australia, Western Australia or the Northern Territory.

Resolution 9 – Recording of Sales

With respect to the sale of firearms and ammunition, and the recording of those sales, the 1997 report found that all jurisdictions except Queensland and Western Australia had substantially complied with this resolution. There does not appear to have been any change in this finding. Queensland still does not have any provisions regulating the sale of ammunition and Western Australia does not appear to restrict firearms sales to licensed dealers. And although most jurisdictions make provision for it, Tasmania and South Australia are the only jurisdictions to actually prescribe a limit on the quantity of ammunition that can be purchased.

Resolution 10 – Mail order control and transport

The 1997 report found that the mail order and advertising requirements agreed to had been complied with in all jurisdictions except Queensland and Western Australia. This still appears to be the case. Contrary to the resolution, Queensland allows mail order from a licensed dealer to a non-dealer and Western Australia appears to permit mail order between non-dealers within the State.

With respect to transport, the 1997 report found that no safety requirements had been prescribed for the movement of Category C, D and H weapons in South Australia, Victoria or Western Australia. This finding still applies with respect to Victoria and Western Australia but South Australia now prescribes safety requirements. Also, since the 1997 report, the failure to prohibit or regulate the commercial transport of firearms with ammunition has been addressed by the Australian Capital Territory and the Northern Territory, leaving New South Wales, Queensland, Victoria and Western Australia as the only jurisdictions which do not comply with this requirement.

The 2002 National Agreement on Handguns

Resolution 1 – Restrictions on classes of handguns for sporting purposes

All jurisdictions have fully complied with the restrictions on access to particular handguns for sports shooters. The limited exceptions for barrel length and calibre requirements provided for in most jurisdictions comply with the terms of the Agreement.

Resolution 8 – System of graduated access

All jurisdictions except Queensland, South Australia and Victoria have implemented provisions for graduated access to handguns for sports shooters. Queensland and Victoria do not prohibit a person from owning a handgun for the first six months and in South Australia it is a matter of the Registrar's discretion. Importantly, all jurisdictions restrict the type and number of handguns a person may own for the first 12 months to those stipulated in the resolution.

Resolution 10, Resolution 11 and Resolution 12 – Licensing Requirements

All jurisdictions except South Australia, Tasmania and Western Australia have complied with resolutions 10, 11 and 12 of the Agreement. South Australia only contains the requirement for two character references and Tasmania and Western Australia do not appear to have enacted any provisions requiring applicants to provide details of memberships to other clubs and firearms owned (resolution 10), nor is there any requirement to provide character references (resolution 11), nor is endorsement by an approved club required (resolution 12).

Resolution 14 – Minimum participation requirements

Except for Tasmania, which does not appear to prescribe any participation requirements, all jurisdictions have substantially complied with the participation rates stipulated in the resolution. Failure to comply with the prescribed minimum participation requirements is grounds on which a licence *may* be revoked or cancelled in all jurisdictions.

APPENDIX A

New South Wales:

- *Firearms Act 1996* (NSW) [as amended by all amendments in force as at 19 May 2006]
- *Firearms (General) Regulations 1997* (NSW) [as amended by all amendments in force as at 17 April 2006]

Queensland

- *Weapons Act 1990* (Qld) [as amended by all amendments in force as at 8 May 2006]
- *Weapons Regulation 1996* [as amended by all amendments in force as at 8 May 2006]
- *Weapons Categories Regulations 1997* [as amended by all amendments in force as at 8 May 2006]

South Australia

- *Firearms Act 1977* (SA) [as amended by all amendments in force as at 22 May 2006]
- *Firearms Regulations 1993* [as amended by all amendments in force as at 22 May 2006]

Tasmania

- *Firearms Act 1996* (Tas) [as amended by all amendments in force as at 9 May 2006]
- *Firearms Regulations 1996* [as amended by all amendments in force as at 9 May 2006]

Victoria

- *Firearms Act 1996* (Vic) [as amended by all amendments in force as at 20 May 2006]
- *Firearms Regulations 1996* [as amended by all amendments in force as at 1 January 2006]

Western Australia

- *Firearms Act 1973* (WA) [as amended by all amendments in force as at 20 December 2005]
- *Firearms Regulations 1974* [as amended by all amendments in force as at 1 February 2006]

Australian Capital Territory

- *Firearms Act 1996* (ACT) [as amended by all amendments in force as at 2 May 2006]
- *Firearms Regulations 1997* [as amended by all amendments in force as at 2 May 2006]

Northern Territory

- *Firearms Act 1996* (NT) [as amended by all amendments in force as at 22 February 2006]
- *Firearms Regulations 1996* [as amended by all amendments in force as at 28 April 2004]