

**FIREARM LEGISLATION IN AUSTRALIA  
21 YEARS AFTER THE  
NATIONAL FIREARMS AGREEMENT**

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**Research Commissioned by  
Gun Control Australia**

**Philip Alpers  
Adjunct Associate Professor  
Sydney School of Public Health**

and

**Amélie Rossetti  
GunPolicy.org**

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## Introduction

At an historic Special Meeting of the Australasian Police Ministers' Council (APMC) of 10 May 1996 and in two subsequent meetings that year, all Australian Governments agreed to a 10-point plan for the regulation of firearms. Amongst other things, the resolutions of the National Firearms Agreement<sup>1</sup> (NFA) prohibited and made provision to buy back and destroy specific types of firearms; established firearm registration systems in all jurisdictions; established 'genuine reason' and 'genuine need' provisions for owning, possessing or using a firearm and developed uniform standards for the security and storage of firearms.

The 'perfect storm' of tragedy, outrage, law and leadership which in a mere 12 days saw nationwide policy reversal, sudden acceptance of two decades of public health research and the surrender and destruction of more than 1.1 million privately owned firearms is described elsewhere (Alpers, 2017).

One year after the NFA, the Australian Institute of Criminology commissioned Professor Kate Warner to produce a detailed analysis of State and Territory legislation to determine the level of compliance with the APMC resolutions (Warner and Moller, 1997). In 2006 Professor Warner completed a further 'ten-year review' in the same format, this time published by the National Coalition for Gun Control (Warner and Sherwood, 2006). Both are used as the basis for this review.

In 2002, the National Agreement on Handguns committed all States and Territories to further restrict certain revolvers, pistols and similar firearms. Comparable provisions in legislation are included here, and in Warner and Sherwood, 2006.

All three of these reports, as well as two others (Rath and Griffith, 1999; Davies and Mouzos, 2007) found that no Australian State or Territory has at any stage fully complied with the 1996 or 2002 APMC resolutions (see Executive Summary).

The aim of this 2017 analysis is to revisit all current State and Territory legislation and consider: first, whether any of the jurisdictions have attempted to address the areas of non-compliance identified in four previous reports; and secondly, whether there has been any "watering down" of the legislation by any of the jurisdictions.

This analysis follows the format of the 1997 and 2006 Warner reviews and deals with each of the APMC resolutions of 10 May 1996 sequentially. After setting out the terms of a resolution, our review once again analyses all the current 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 incorporated within the text of the 10 May resolutions at the most appropriate places. After considering the 1996 resolutions, our review then considers the core resolutions of the 2002 National Agreement on Handguns in much the same form. This is followed by a summary and overview of all comparisons (see State by State Compliance in 2017).

The findings of this review are further summarised in the Executive Summary which follows.

Philip Alpers  
Sydney School of Public Health  
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<sup>1</sup> Also known as the Nationwide (or National) Agreement on Firearms 1996, or the NFA

## Executive Summary

Four consecutive formal reports have now found that no Australian State or Territory has at any stage fully complied with the 1996 or 2002 firearm resolutions which collectively formed the National Firearms Agreement. All authors did note that compliance with the most important provisions of the NFA remained substantially intact. Yet each report sounded early warnings, for example: “the spirit and intent of the [NFA] resolutions have not been fully implemented” (1997); “no jurisdiction fully complies” (1999); “there are facets of some jurisdictions’ schemes that do not adequately comply with the Agreement” (2006); and “divergence from the resolutions of the firearm agreements has significantly weakened the national framework for the control of firearms.” (2007).<sup>2</sup> The 21-year analysis which follows both confirms and reinforces each of these findings.

In the wider public debate, observers on all sides note that in important areas, State and Territory legislation has been blocked or revised to dilute the effect of the NFA. This report finds that on balance, both non-compliance from day one and two decades of political pressure have steadily reduced restrictions and undermined the NFA’s original intent.<sup>3</sup>

Standout examples of current non-compliance with the National Firearms Agreement include:

### Children and Guns

Despite the NFA requirement that all applicants for a licence be at least 18 years of age, every State and Territory allows minors to possess and use firearms (see pages 44-45). The licensing age for children varies from 10 to 16 years, and at club shoots, Western Australia stipulates no minimum age at all. With this nationally agreed NFA resolution, no jurisdiction complies.

### Australian Capital Territory

- Does not comply with a range of NFA resolutions on category D prohibited firearms.

### New South Wales

- Now allows the use of firearm silencers, which are a prohibited weapon
- Exempts all antique firearms except revolvers from firearm registration
- Extends permission for the use of semi-automatic firearms to shooters whose occupation is not pest control
- Permits people to be trained in the use of firearms without undergoing firearm licensing
- Permits people to use firearms on safari tours without undergoing firearm licensing
- Exempts from firearm licensing children 12 years of age or over, shooting under supervision
- Adds membership of a hunting club as a ‘genuine reason’ for firearm possession
- Exempts from the NFA’s 28-day ‘cooling off’ period a permit to acquire second or subsequent A or B category firearms
- Does not require good reason for a permit to acquire more firearms of a category already held
- Permits the use of pistols of higher calibre than the NFA allows in two handgun competitions
- Specifies in legislation no limit on the quantity of ammunition which may be purchased.

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<sup>2</sup> Warner and Moller (Australian Institute of Criminology, 1997); Rath and Griffith (NSW Parliamentary Library, 1999); Warner and Sherwood (National Coalition for Gun Control, 2006); Davies and Mouzos (Australian Institute of Criminology, 2007) – See References

<sup>3</sup> A notable exception to this trend is that in all jurisdictions, laws have been tightened to mandate the refusal or cancellation of a firearm licence in cases of domestic or aggravated violence, as required under the NFA.

### **Northern Territory**

- Authorises the possession of a pistol or revolver during the first six months of a handgun licence
- Permits to acquire second or further firearms may be exempt from the 28-day waiting period
- Although personal protection is not regarded as a genuine reason for owning, possessing or using a firearm in any jurisdiction, this is still not stated in Northern Territory legislation.

### **Queensland**

- Firearm licensing proof of identity and photographic identification procedures are less stringent
- The 10-year licence validity period for category A and B is double that agreed in the NFA
- Category C weapons may be stored in the minimum security conditions for category A and B
- Production of a valid firearm licence is not mandatory for the purchase of ammunition
- Authorises the possession of a pistol or revolver during the first six months of a handgun licence
- Specifies in legislation no limit on the quantity of ammunition which may be purchased
- Although personal protection is not regarded as a genuine reason for owning, possessing or using a firearm in any jurisdiction, this is still not explicitly stated in Queensland legislation.

### **South Australia**

- Authorises the possession of a pistol or revolver during the first six months of a handgun licence
- Does not fully comply with the licensing resolutions of 2002 to regulate pistol club members
- Production of a valid firearm licence is not mandatory for the purchase of ammunition.

### **Tasmania**

- Does not comply with any of the licensing resolutions of 2002 to regulate pistol club members.

### **Victoria**

- Permits to acquire second or further firearms are exempt from the 28-day 'cooling off' period
- Authorises the possession of a pistol or revolver during the first six months of a handgun licence
- Specifies in legislation no limit on the quantity of ammunition which may be purchased.

### **Western Australia**

- Gun owner safety training is not required by law, except for handgun licences
- Permits to acquire second or further firearms are exempt from the 28-day 'cooling off' period
- Firearm sales are not limited to licensed firearm dealers, and not all particulars must be recorded
- Although interstate mail order firearm transfers are prohibited except for licensed firearm dealers, non-dealer firearm mail orders do not appear to be prohibited within the State
- Does not require that collector's firearms be rendered permanently inoperable
- Does not fully comply with the licensing resolutions of 2002 to regulate pistol club members
- Specifies in legislation no limit on the quantity of ammunition which may be purchased.

### **Higher-Category Firearms**

Where NFA non-compliance occurs above 'entry level,' or category A firearms, in most cases requirements for B, C, D and H firearms (handguns and larger-calibre, or semi-automatic rifles and shotguns) are now less stringent than they were in 1996. For example:

- A 'genuine need' for a category B licence is still not generally required in South Australia, Victoria or the Northern Territory
- Queensland only poorly complies with the NFA conditions for category D prohibited firearms
- NSW permits the use of prohibited firearms more widely than do other jurisdictions
- South Australia permits the use of fully automatic and self-loading firearms
- Tasmania does not forbid the use of prohibited firearms for competitive shooting
- Victoria allows private ownership of automatic handguns

- Tasmania, Victoria and the ACT also do not comply with a range of other NFA category D prohibited firearm conditions
- The only State to restrict category D prohibited firearms more tightly than the NFA is Western Australia, where such firearms are limited to Commonwealth or State government use.

### **National Firearm Registry**

Western Australia, Queensland, Victoria and New South Wales either do not, or only obliquely comply in legislation with an NFA requirement for an effective national firearm registry, a goal now delayed for over two decades.

More examples of non-compliance with NFA resolutions apply to firearm collectors, ammunition collectors, museums and heirloom firearms, interstate recognition of firearm licences, firearm safety booklets, security for interstate firearm transfers, among other provisions.

It is important to reiterate that current legislation in most States and Territories complies with most NFA resolutions. As is true of any form of firearm regulation, the examples above apply only in limited circumstances. Yet each exception to the NFA arguably opens the door to further dilution of the national agreement, as flagged on a regular basis by interest groups and politicians catering to firearm owners. Attempts to undermine and circumvent the provisions of the NFA are persistent, and have often been successful.

# NATIONWIDE FIREARMS AGREEMENT 1996 RESOLUTIONS

## RESOLUTION 1 – BANS ON SPECIFIC TYPES OF FIREARM

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 importation 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 (e.g. 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.

As referred to in Resolution 1(a), firearms that are banned from import, other than in exceptional circumstances, are listed by the Commonwealth in the *Customs (Prohibited Imports) Regulations 1956* (Cth). Under reg. 4F(1), the importation of all firearms and firearm parts, etc., is prohibited unless it is an article to which an item in Part 2 Schedule 6 applies. The import must also meet the requirements set out in column 3 of the table in Part 2 (Schedule 6).

According to reg. 4F(2), reg. 3A(b) and reg. 3B(b), reg. 4F(1) does not apply to banned firearms that are imported by the Australian Defence Force, which complies with Resolution 1(a).

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

1. Official purposes test
2. Specified purposes test
3. Specified person test
4. Police certification test
5. Sport shooter test (and 5A – International sport shooter test)
6. Dealer test – Category C and Category D articles
7. Dealer test – Category H article
8. Returned goods test

Part 2 of Schedule 6 lists the 24 items or firearm descriptions of which the importation is permitted, provided the specified test of importation has been satisfied (column 3). 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). It is expressly stated in each item that a firearm that has fully automatic firing capability, or that is similar in appearance to a fully automatic firearm, is prohibited. 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. The latter is referred to under reg. 4F(2A), which comply with Resolution 1(b).

In summary, only listed firearms can be imported and the importation of fully automatic firearms is prohibited. Listed firearms must comply with requirements (tests) set out in Part 2 of Schedule 6. All items are subject to the police certification test, except item 6 (category D firearms). Regarding long arms, 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 five rounds) if an import 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 import tests can be satisfied. It should be noted that for the police authorisation test, the importer must be a primary producer for a category C firearm and the importer must be a certified sport shooter or international sport shooter, or is certified for business or occupational purposes, or a certified collector for a category H firearm. Under Schedule 6 Part 4, a certified sports shooter (for the sport shooter test), intending to import a restricted category C firearm, must prove that he or she is a registered shooter with the Australian Clay Target Association. The international sport shooter test is subject to stringent limitations.

## **New South Wales**

- (a) The *Firearms Act 1996*, s. 3(2)(a) prohibits the possession and use of all automatic and self-loading rifles and shotguns except in special circumstances. Schedule 1 on ‘Prohibited firearms’ lists 18 items (Item No. 17 was repealed between July and Dec 2010. This concerned an ‘imitation or replica of any firearm’ and is now included in s. 4D). This includes all self-loading rifles, self-loading shotguns and all pump action shotguns (category C and D firearms). Such firearms are prohibited except for ‘limited purposes’ for category C licences and ‘official purposes’ for category D licences (Part 2, Division 2 on ‘Licensing scheme’). These limited and official purposes are primary production and vertebrate pest animal control, which extends permission to non-occupational vertebrate pest animal control beyond the terms of Resolution 1(a). The *Firearms and Weapons Legislation Amendment Act 2017* Sch. 1 4(a) adds to the list of prohibited firearms any lever action shotgun with a magazine capacity of more than five rounds.

### Handguns

Schedule 1, item 1 prohibits any machine gun, submachine gun or other firearm capable of propelling projectiles in rapid succession following one pull 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. Section 4(c) defines ‘prohibited pistols’.

- (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 is permitted for category C licences).
- (c) Although not mentioned in its *Act* or *Regulations*, NSW allows the use of silencers, which are prohibited weapons. See NSW Police Force *Prohibited Weapon Silencer Permit – Genuine Reason Form* at *Legislation and Forms* (in References).

Note: There is nothing on prohibited firearms in the *Firearms Regulation 2006*, with the exception of reg. 126 on ‘Non commercial transportation of prohibited firearm and pistols – prescribed safety requirements’ and reg. 34 on ‘Firearms collections’.



## Queensland

- (a) The *Weapons Act 1990*, s. 3(2) states that “the object of the Act is to prevent the misuse of weapons”. Section 4 (a) states that this object is to be achieved by prohibiting the possession and use of all automatic and self-loading rifles and automatic and self-loading shotguns except in special circumstances. These special circumstances comply with the resolution (reg. 30-33).

*Weapons Categories Regulation 1997*, reg. 5 on ‘Category D’ weapons includes self-loading centrefire rifles, self-loading shotguns and self-loading rimfire, which are only allowed for occupational culling of animals (reg. 33).

### Handguns

*Weapons Categories Regulation 1997*, reg. 8 details the list of category R weapons, which include a machine gun or submachine gun that is fully automatic in its operation. Nothing in the Queensland regulatory scheme authorises the possession or use of a category R weapon, except for collectors, if the weapons are made permanently inoperable or inert (*Weapons Act 1990*, s. 77(1)(a); *Weapons Regulation 2016*, reg. 54(1)(b) regarding dealers and collectors and theatrical ordnance suppliers). The *Weapons Regulation 2016*, reg. 22 provides that a concealable firearm licence (pistols in general) does not authorise the possession and use of a category R weapon (automatic pistols).

*Weapons Act 1990*, s. 132 lists category H weapons (handguns) that are excluded from the concealable firearm licence.

- (b) With the exception of clay target shooting, the use of automatic and self-loading rifles and shotguns is not permitted for competitive shooting. *Weapons Regulation 2016*, reg. 30-32 for clay target shooting, occupational rural purpose on rural land and occupational fisher; *Weapons Categories Regulation 1997*, reg. 4 for category C weapons: semi-automatic rifles and shotguns and pump action shotguns.

## South Australia

- (a) *Firearms Act 1977*, s. 15A provides that a permit to acquire a firearm may be refused if the firearm can be easily converted to an automatic firearm. A permit to acquire a class C firearm may only be granted for primary production or to a member of the South Australian Clay Target Association Incorporated, s. 15A(3). Under s. 15A(4), a permit to acquire a class D firearm may only be granted to professional shooters. The Act 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 (see s. 12(7)).
- (b) *Firearms Regulations 2008*, reg. 4 defines ‘prescribed firearms’, which includes automatic firearms. Also reg. 4A defines ‘prohibited firearm accessories’ and includes ‘semi-automatic operation’ and ‘fully automatic operation’. Reg. 12 states that prescribed firearms may be used for the purpose of theatrical or cinematic productions.

### Handguns

Automatic handguns are included in the definition of ‘prescribed firearms’, reg. 4(1)(a).

- (c) *Firearms Act 2015 (SA)*, s. 3(2)(a) provides that the possession and use of automatic and self-loading firearms is permitted only in strictly limited circumstances. Section 5 lists the categories and types of firearm, which include category C and D (s. 5(1)(c) and (d)) for self-loading rifles, self-loading shotguns and pump action shotguns). Section 5(1)(f) defines ‘prescribed firearms’, which includes automatic firearms.

The special circumstances provided for exclude the collection of a prescribed firearm or a class D firearm, unless rendered unusable, in which case it ceases to be a firearm (see *Firearms Regulations 2008*, reg. 11(3)). Under reg. 12, on ‘Authorised purpose for which prescribed firearms may be used’, prescribed firearms may also be used for the purpose of theatrical or cinematic productions or for such other purposes approved by the Registrar.

### Handguns

Automatic handguns are included in the definition of ‘prescribed firearms’, s. 5(1)(e) and (f).

**Note:** The *Firearms Act 2015* will repeal the *Firearms Act 1977* (SA), but it is not yet in force. New regulations may come into operation.

## **Tasmania**

- (a) *Firearms Act 1996* (Tas), s. 3, Schedule 1 lists prohibited firearms and the 10 items include: machine guns, submachine guns and all other automatic firearms, as well as self-loading rifles and shotguns, and pump action shotguns. Item 10 mentions ‘prohibited pistol’. Ss. 16 and 17 on category C and D firearm licences include self-loading rifles, shotguns and pump action shotguns, which are only allowed under licence for the particular purpose specified in the licence. According to s. 31, a category C firearm licence may only be granted for primary production, animal population control or firearm collection. According to s. 32, a category D firearm licence may only be granted for animal population control or firearm collection. Collection is also referred to under s. 47.

### Handguns

Section 3 of the Act: ‘prohibited pistols’ means a pistol prescribed as a prohibited pistol in the regulations (definition of ‘prohibited pistol’: reg. 7 of the *Firearms Regulations 2016*). Under s. 18(3), semi-automatic pistols are allowed under a category H firearm licence for sport and target shooting. Section 18(4) authorises the possession and use of a prohibited pistol (that has a barrel length of 120 millimetres or more) for the purpose of training for, and participating in, a prescribed event. Prohibited pistols of a barrel length of less than 120 millimetres are considered prohibited with no exceptions (*Firearms Regulations 2016*, reg. 7(b)). Under s. 33 of the Act, a category H firearm licence may only be granted, amongst other things, for sport or target shooting.

- (b) The Act does not specifically prohibit the use of prohibited firearms for competitive shooting (s. 38), but it does not authorise the granting of a category C or D licence for this purpose (ss. 31 and 32).

## **Victoria**

- (a) Under ss. 5-7 of the *Firearms Act 1996* (Vic), the possession and use of any firearm without a licence are prohibited. Regarding the circumstances agreed to in Resolution 4(e), which limit the right of the licence’s holder to possess and use an automatic or semi-automatic rifle or shotgun or pump action shotgun, they are referred to in ss. 11 (category C), 12 (category D) and 13 (category E): primary production, professional hunting and clay target shooting. And collection.

### Handguns

Under s. (3)(1), fully automatic handguns are included in the definition of a ‘Category E handgun’ (see also, definition of ‘machine gun’). Section 16A provides 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) Clay target shooting competitions: section 11(2)(c)(iii)(B) complies with the resolution.

### **Western Australia**

- (a) Under s. 6 of the *Firearms Act of 1973* (WA), the Governor may make regulations to prohibit the acquisition, sale, possession or use of any firearm. The *Firearms Regulations 1974*, reg. 26 states that prohibited firearms include category D firearms (most self-loading rifles and shotguns, pump action shotguns), machine guns and fully automatic firearms. Possession and use of these weapons are absolutely prohibited, with few exemptions including members of the armed forces (Schedule 3 of the *Firearms Regulation 1974*). Category D licences may be issued in accordance with the Act.

Under the *Firearms Regulation 1974*, Schedule 3, category C firearm licences (mostly self-loading rifles and shotguns, and pump action shotguns) may only be granted for the purpose of training for, and participating in, an approved national or international shooting discipline or for a person who is a primary producer and for pest control.

### Handguns

Under *Regulations 1974*, Schedule 3, category H firearm licences (handguns) may only be granted if the applicant is involved in mustering or yarding cattle. Hunting, recreational shooting (with exemptions) and destroying stock or vermin are not considered to be genuine need.

- (b) No specific provisions on “clay target shooting” were found in WA legislation. However, as mentioned in Schedule 3 of the Regulation, category C and H firearms may be permitted for sport shooting, which include target shooting.

### **Australian Capital Territory**

- (a) Section 5(2)(a) of the *Firearms Act 1996* (ACT) prohibits the possession and use of all automatic firearms, self-loading rifles and shotguns (including pump action shotguns), except in special circumstances. Schedule 1 of the Act lists 24 items as prohibited firearms. They include machine guns, submachine guns or other automatic firearms, self-loading rifles and shotguns, as well as pump action shotguns and semi-automatic pistols.

These firearms are prohibited except for limited occupational purposes in accordance with the agreed category C and D licences, ss. 64 and 65.

Under Schedule 2, Part 2.2 of the Act, members of the armed forces and of the Police are exempt from the Act if possessing or using firearm in the exercise of their functions.

### Handguns

*Firearms Regulation 2008*, reg. 12 authorises category H licences (for prohibited pistols) to be issued for sport or target shooting. Section 66 of the Act provides for this too.

- (b) Section 53(5) of the Act provides that unless regulated otherwise, a category C licence does not authorise the possession or use of a prohibited firearm for a shooting competition. Paragraph (6) of the same section provides that the possession of prohibited firearm for the purpose of a firearm

collection is unauthorised.

*Firearms Regulation 2008*, reg. 13 and 14 authorises category C licences for the possession and use of a prohibited firearm for the purpose of a shooting competition (clay target shooting).

Note: Schedule 3 of the Act lists licence categories, types of firearm to which licence applies and authority conferred.

## **Northern Territory**

- (a) According to s. 58 of the *Firearms Act 1997* (NT), the possession and use of a firearm without a licence is prohibited. Schedule 1 details the list of prohibited firearms, which includes machine guns, submachine guns or any other fully automatic firearms, self-loading rifles and shotguns, as well as pump action shotguns. Section 58(6) provides that a person must not possess or use a prohibited firearm unless authorised under the Act.

### Handguns

Schedule 1 (list of prohibited firearms) includes any machine gun, submachine gun or any other fully automatic firearm. Regulations 36 and 37 of the *Firearms Regulations 1977* (NT) regulate prescribed category H firearms and reg. 14 is on the authorisation to possess and use category H firearms for sport shooting.

- (b) Under reg. 12 (category C) and reg. 13 (category D) of the *Firearms Regulations*, the use of some semi-automatic firearms is permitted for sport shooting.

## **RESOLUTION 2 – EFFECTIVE NATIONWIDE REGISTRATION OF ALL FIREARMS**

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**

- (a) Under the *Firearms Act 1996*, Part 3 provides for firearm registration. 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) and (2)). Section 6A exempts all antique firearms from registration except revolvers.  
Part 11 of the *Firearms Regulation 2006* provides for firearm registration.
- (b) Section 33(3) provides that the Register be in a form that enables it to be linked to the National Exchange of Police Information (NEPI) scheme, and that enables information in the Register to be accessed by other State and Territory firearm authorities.

### **Queensland**

- (a) *Weapons Act 1990* (Qld): s. 49 requires that the Commissioner maintains a register of all firearms in Queensland. The register must contain details relating to each firearm (make, type, etc.) and to the person owning the firearm and the licence authorising possession of it.  
In addition, s. 49(5) mentions that a regulation may limit the information the commissioner may make available under subsection (4). No limitation was found in regulations.
- (b) There is no reference to the NEPI scheme in the Act, but s. 49(4) provides that the Commissioner may make information in the register available to another entity, if satisfied that “to do so would assist in achieving the object of this Act”.

### **South Australia**

- (a) *Firearms Act 1977* (SA), Part 2, Division 1 regulates the Registrar of Firearms. Section 6A provides that the Registrar must maintain a register of licences issued and of firearms registered under this Act. If the Registrar is satisfied that a person has a proper interest in the contents of a register, he or she may disclose information on the register (s. 6A(2)). The Registrar may integrate a register maintained under this section with other law enforcement systems maintained in SA or elsewhere (s. 6A(4)). Part 4 details the process for a proper registration. No reference is made to NEPI in the Act or in the *Firearms Regulations 2008*. Part 4 of the latter describes how to register firearm (ss. 29, 30 and 34).
- (b) *Firearms Act 2015* (SA), s. 3(2)(b) states that the object of this Act is to establish an integrated licensing and registration scheme for all firearms. Part 4 of this Act regulates the ‘Registration of firearms’. According to s. 50(1) of the Act, the Registrar must maintain a register of licences issued and of all firearms registered under this Act. Section 50(2) stipulates that for the Registrar to disclose information on the register, the Registrar must be satisfied that the person has a proper

interest in the contents. Under s. 50(4), the Registrar may, at his or her discretion, determine that there is to be no public access to certain entries on a register, or that access to certain entries is to be restricted to specified persons. Subsection (5) provides that the Registrar may integrate a register maintained under this Act with other law enforcement systems maintained in SA or elsewhere.

Section 52 provides that the Registrar may enter into an agreement or arrangement providing for the exchange of information held or obtained under this Act with an agency or instrumentality or some other prescribed body or person.

Note: The *Firearms Act 2015* is not yet in force. New regulations may come into operation.

### **Tasmania**

According to s. 83 of the *Firearms Act 1996* (Tas), the Commissioner is to maintain a register of all firearms registered under Part 4. The register must contain particulars of the firearm and its owner. Under s. 83(3)(a), the register is to be linked to CrimTrac (now the NEPI system), enabling approved authorities to access it.

### **Victoria**

Part 5 of the *Firearms Act 1996* (Vic) provides for firearm registration. Under s. 113, the Commissioner must keep a register of all firearms which includes particulars of the firearm and of its owner. Apparently there is still no reference to the NEPI system, but s. 181 mentions the disclosure of information. Under s. 181(1)(e), information contained in a record may be disclosed to any person or body in another State or Territory or the Commonwealth performing tasks which correspond with those performed by the Chief Commissioner under this Act. Subsection (f) also allows the disclosure of information to anybody formed between the States and Territories or between the Commonwealth, the States and the Territories, if the disclosure of information is approved by the Chief Commissioner.

### **Western Australia**

Under ss. 18 (6) and 31 (1) of the *Firearms Act 1973* (WA), the Commissioner is to enter the prescribed particulars in a register or registers. The register or registers contain information of all applications made for a licence, permit or approval under this Act (s. 31 (1)). Section 21 of the *Firearms Regulations 1974* details what information must be contained in the register, such as particulars of the firearm's owner and of the firearm. There is no reference in the Act or in the Regulation to the NEPI system, or to access to information by other authorities. However, the current Firearm Registry is an online portal called 'Licensing and Registry Public Portal', which replaced the Firearm Registry System on 29 April 2016.

### **Australian Capital Territory**

According to s. 156 of the *Firearms Act 1996* (ACT), the registrar must keep a register of firearms stored in the ACT. Under s. 156 (2)(a) (b), the register must be linked to a national scheme for firearm management, allowing information in the register to be accessed by other State and Territory government entities. Section 157 of the Act and reg. 41 of the *Firearms Regulation 2008* detail the particulars to be included in the register: particulars of the firearm and of its owner. Division 11.3 of this Act and Part 10 of the Regulation provide for firearm registration.

## **Northern Territory**

Part 5 of the *Firearms Act* (NT) provides for firearm registration. Under s. 36 (5), the Commissioner is to register particulars of the firearm and of its owner. Section 7 (3)(a) of the Act provides that the Commissioner must keep a register in a way that enables it to be linked to CrimTrac (now NEPI system) and to be accessed by other authorities.

## **RESOLUTION 3 – GENUINE REASON AND GENUINE NEED FOR OWNING, POSSESSING OR USING A FIREARM**

### **(a) Personal Protection**

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.

### **New South Wales**

Under s. 12(2)(a) of the *Firearms Act 1996* (NSW), personal protection is not a genuine reason for possessing or using a firearm. In addition, s. 12(2)(b) excludes the protection of property as a genuine reason, with some exceptions, for example vermin or pest control (Table of genuine reasons). The *Firearms and Weapons Legislation Amendment Act 2017* added club participation requirements for the genuine reasons of sport shooting (Cl. 27(1)) and recreational hunting/vermin control (Cl. 29(1)).

### **Queensland**

Under s. 10(2)(f) of the *Weapons Act 1990*, a licence may only be issued to an individual if the person has a reason mentioned in s. 11 to possess the weapon. Personal protection is not expressly stated under s. 11, even though subparagraph (e) stipulates “another reason prescribed under a regulation”. The *Weapons Regulation 2016*, reg. 7 lists these additional reasons for firearm possession, but they do not include personal protection. Furthermore, personal protection is not listed under Schedule 2 of the Regulation, which lists conditions (as codes) that may be stated on a licence, for example: ‘PP1’ for primary production. Also, under s. 50 (1B), self-defence is not recognised to be a reasonable excuse to unlawfully possess a short firearm in a public place. The same applies to the unlawful carrying of a firearm in a public place (s. 57(6)). However, protection of property is permitted under reg. 65(1).

### **South Australia**

- (a) *Firearms Act 1977* (SA): personal protection is not expressly stated as a genuine reason.
- (b) *Firearms Act 2015* (SA): s. 15(1)(c) stipulates that a firearm licence cannot be granted if the applicant has no genuine reason to possess a firearm. Under, s. 15(3), personal protection is not a genuine reason, nor is protection of property, with exceptions.
- (c) The *Firearms Regulations 2008* (SA), reg. 11 lists purposes for which firearms may be used. Subparagraph (e) refers to protection of property and subparagraph (h) mentions other purposes approved by the Registrar, but personal protection is not listed as a purpose.

Note: The *Firearms Act 2015* is not yet in force. New regulations may come into operation.

### **Tasmania**

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



## **Victoria**

Section 1(a)(i) of the *Firearms Act 1996* (Vic) provides that one of the purposes of the Act is to establish a system of firearm licensing and regulation, 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, under ss. 10-13, leave out ‘personal protection’ from genuine reasons for a firearm licence.

## **Western Australia**

*Firearms Act 1973*: s. 11A(5) provides that personal protection is not a genuine reason for acquiring or possessing a firearm.

## **Australian Capital Territory**

Under s. 62(a) of the *Firearms Act 1996* (ACT), personal protection is not a genuine reason to possess or use a firearm. Paragraph (b) also excludes protection of property as a genuine reason, with exceptions mentioned in Table 61, column 2.

## **Northern Territory**

The *Firearms Act 1997* (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 under 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, e.g. 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, e.g. firearms used in film production.

## **New South Wales**

The *Firearms Act 1996* (NSW), s. 12(4), Table, lists the genuine reasons as follows:

- sport/target shooting (applicant must be a member of an approved shooting club)
- recreational hunting/vermin control (applicant must be the 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)
- business or employment (applicant must demonstrate that it is necessary)
- occupational requirements relating to rural purposes
- animal welfare
- firearm collection (applicant must be a member of an approved collector's society or club)

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

Section 6B exempts unlicensed persons undertaking firearm safety training. It also exempts unlicensed persons 12 years of age or over who may shoot on an approved shooting range under the direct supervision of an appropriately licensed firearm owner.

*Firearms Regulations 2006* (NSW), reg. 59-60 allow safari tour permits for A & B category firearms, while reg. 66 exempts unlicensed persons 12 years of age or over to shoot at a permitted club open day.

## Queensland

The *Weapons Act 1990* (Qld), s. 11 lists the genuine reasons for firearm possession:

- sports or target shooting
- recreational shooting
- an occupation requirement, including an occupational requirement for rural purposes
- the collection, preservation or study of weapons
- another reason prescribed under a regulation

Subsections 13(2) and (3) contain the requirements for club membership and landowners' consent.

The *Weapons Regulation 2016*, reg. 7 lists the following additional genuine reasons: military re-enactment or historical demonstration; starting sporting events; theatrical production; and paint-pellet sports.

## South Australia

(a) *Firearms Act 1977*, s. 13(1) states that a firearm licence must be endorsed by the Registrar with the purpose or purposes for which that firearm may be used by the holder of the licence. Subsection (2) provides that the purpose or purposes are prescribed by regulation or approved by the Registrar pursuant to the regulations. Subsection (2a) states that if the purpose is collection, there could be no other purpose. Section 15(2)(a) provides that a permit to acquire cannot be granted unless a genuine reason for acquiring the firearm is given.

(b) *Firearms Regulations 2008*, reg. 11(2) lists the purposes for which firearms may be used as follows: member of a shooting club; target shooting; hunting; paintball shooting; primary production; guarding properties; collecting and displaying firearms; "such other purpose as is approved by the Registrar". Subsection (6) refers to a member of a recognised firearm club. Reg. 12 is specific to the purpose of theatrical or cinematic productions. Reg. 21 refers to club membership (for example (9)). It appears that there is no requirement for recreational hunters to produce proof of permission from a landowner.

(c) *Firearms Act 2015*(SA): s. 3(2)(c) requires for a person who possesses or acquires a firearm to have established a genuine reason. Section 12(2)(c) states that the authorised purposes for which a licence may be granted are set out in the regulations. Section 15(1)(c) and (2) reiterate the fact that a genuine reason is required for the granting of a licence.

Note: The *Firearms Act 2015* is not yet in force. New regulations may come into operation.

## **Tasmania**

The *Firearms Act 1996* (Tas), s. 37(1) lists the genuine reasons to possess or use a firearm as follows:

- sport or target shooting (requirements provided by s. 38 include being a member of an approved shooting organisation);
- recreational hunting or vermin control (s. 39: requirements include permission from the landowner or National Parks and Wildlife or Forestry);
- primary production (requirements: s. 40);
- animal population control (requirements: s. 41);
- animal welfare (requirements: s. 42);
- business or employment as firearm dealer, security agent or guard (requirements: s. 43);
- fishing for commercial purposes (requirements: s. 43);
- paintball (requirements: Part 6A);
- firearm collection (requirements: s. 44);
- show or exhibition (no additional requirements for this genuine reason)

Historical re-enactment, dramatic presentation and film, video or television production are referred to in s. 119 of the Act. The Commissioner may approve these purposes.

## **Victoria**

*Firearms Act 1996* (Vic):

- Sport or target shooting: s. 10(1)(a) and s. 15(1)(b) (must be a member of an approved shooting club: s. 10(2)(a)(i))
- Hunting: s. 10(1)(b), s. 11(1)(a)(ii) and s. 12(1)(a)(i) (applicant must be a landowner or be a member of a shooting club; have permission from the landowner; or have a game licence: s. 10(2)(b))
- Primary production: s. 10(1)(c) and s. 11(1)(a)(i) (requirements: s. 10(2)(c))
- Occupation of security guard or prison guard: s. 10(1)(d) and s. 15(1)(a) (requirements: s. 10(2)(d))
- Official, commercial or prescribed purpose: s. 10(1)(e), s. 11(1)(a)(iv), s. 12(1)(a)(ii), s. 13(1)(a) and s. 15(1)(c) (requirements: s. 10(2)(e))
- Firearm collection: s. 21 and (2) provides that the applicant must be a member of an approved firearm collectors club.

Schedule 2, s. 1(1): the holder of a licence to hunt must obtain permission from the landowner.

Regarding film or theatrical production, or historical re-enactment, s. 92A of the Act regulates permits for theatrical armourers.

### **Western Australia**

*Firearms Act 1973* (WA): s. 11A(1) provides that a genuine reason is required for the issuance of a licence. Genuine reasons are listed under s. 11A(2):

- a member of an approved shooting club (the person must be an active and financial member of the club);
- a member of an approved organisation;
- hunting or shooting for a recreational nature, with the written permission from the landowner;
- required by the person in the course of the person's occupation;
- paintball;
- firearm collection;
- for another approved purpose.

### **Australian Capital Territory**

Section 61, Table 61 of the *Firearms Act 1996* (ACT) lists the genuine reasons and their matching requirements as follows:

- sport or target shooting (membership of an approved shooting club required)
- recreational hunting or vermin control on rural land (permission from the landowner required)
- primary production
- vertebrate pest animal control
- business or employment
- occupational requirements relating to rural purposes
- animal welfare
- firearm collection
- heirloom possession
- paintball activity

The possession or use of firearms in film or theatrical productions is authorised with a permit, subject to s. 141.

### **Northern Territory**

Section 11(2) of the *Firearms Act 1997* (NT) lists the genuine reasons for possessing or using firearms:

- sport shooting
- recreational shooting or hunting

- primary production
- vertebrate pest animal control
- business or employment
- occupational requirements
- animal welfare
- firearm collection
- museum display
- inheritance
- instruction in firearm use and safety
- paintball operator or employee

Requirements relating to the grant of licences are referred to in reg.2-11A of the *Firearms Regulations* (NT). Regarding sport shooting, an applicant must be a member of an approved firearm club (reg. 2). Permission of the landowner is referred to in reg. 3.

### **(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 licences 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**

*Firearms Act 1996* (NSW):

Category B: s. 13 requires a 'special need' in addition to a genuine reason.

Section 17 provides that a special need is a matter of the Commissioner's discretion but the regulations may specify the sort of evidence that may be produced. After reviewing the regulations, no evidence of a provision to regulate this aspect was found.

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

#### Clay target shooters

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

- (i) s. 17A(3)
- (ii) s. 17A(4)
- (iii) s. 17A(6) and *Firearms Regulations 1996*, reg. 33 (four clay target shooting competitions per year)
- (iv) s. 17A(2)(b), penalties are not clearly mentioned in the Act or in the Regulations, but the misuse could be covered by ss. 93G and 93H of the *Crimes Act 1900*. If no harm is caused by the misuse, provisions on the revocation of licence may apply (s. 22 of the Act)
- (v) s. 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’. Under s. 12, Table, ‘vertebrate pest animal control’ is limited to professional contract shooters, or persons employed or authorised by a government agency, or persons whose occupation is primary production and who are authorised by the government to take part in a campaign to eradicate large feral animals or animals that are affected by brucellosis or tuberculosis. Further, NSW generally complies with the conditions listed in the resolution:

- (i) Section 15(c)
- (ii) The Act does not mention any accreditation requirements for professional shooters. However and as mentioned in the resolution, general safety training requirements are provided for under reg. 122 of the *Firearms Regulation 2006*
- (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): not explicitly stated

Category H: ‘special need’ must be established – s. 16(1)(b)

The NSW application form for a permit to acquire subsequent firearms does not require that a ‘good reason’ for acquisition be stated. Instead, signature of the form seems sufficient to claim ‘good reason’. See *Application for a Permit to Acquire a Longarm*, NSW Police Firearms Registry, at *Legislation and Forms* (in References).

## Queensland

Queensland legislation does not require a genuine need for a licence for a particular category of weapon, but s. 39(2)(c) of the *Weapons Act 1990* (Qld) provides that an applicant for a permit to acquire a category B, C, D, H or M weapon must demonstrate a need to possess it. Under s. 40(2), the applicant must state why that need for a permit to acquire cannot be satisfied in another way.

Category C: *Weapons Regulation 2016*, reg. 31 contains requirements for category C rifle or shotgun for occupational rural purpose on rural land. The ‘need’ is referred to in reg. 31(1) and the fact that it cannot be achieved by some other means is referred to in subsection (4). Subsection (5) refers to the limit on the number of firearms, i.e. one, but (2) and (6) provide that an applicant may have more than one if need be. The regulation does not specify that the Commissioner of Police must approve the application, but only that an authorised officer does so. The regulation also does not mention that more than one licence for a category C firearm may be granted in case of a very large property, but this could be implied in subsections (2) and (6). According to reg. 50 on group licences (which includes group licences for category C firearms, reg. 49), such licence enables employees to use the employer’s firearms while working on the property.

### Clay target:

The *Weapons Regulations 2016*, reg. 30 lists the requirements for category C shotguns for clay target shooting:

(i) reg. 30(4)– does not 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) reg. 30(2) and (3), but it is not specified that the supporting document be signed by an officer of an ACTA affiliated club. It must be signed by a doctor.

(iii) No minimum requirement

(iv) reg. 30(5), but no penalty for misuse is prescribed

(v) reg. 94 (2) provides that a weapon must be stored unloaded in a locked container and (5) (b) states that the container must be in solid steel, but the container does not have to be bolted to the frame or floor of a permanent building. This last requirement only applies to a category D, H or R weapon.

Category D: reg. 33(1) of the *Weapons Regulation 2016* refers to the need to cull animals, ‘whether or not in primary production’.

(i) reg. 33(1) for the ‘need to cull’, but nothing on large feral animals

(ii) –

(iii) s. 20(1)(b) of the Act provides that a licence for a weapon other than a category A or B weapon is valid for no more than five years.

(iv) –

(v) reg. 33(4): restricted area

(vi) reg. 33(2): any number of category D weapons deemed reasonable to the authorised officer, but s. 50(1)(a) seems to limit that number to maximum of five category D firearms.

(vii) –

(viii) –

(ix) –



Category H: The ‘need’ requirement is specifically referred to in reg. 100(1) for a permit to acquire a category H weapon and in ss. 39(2)(c) and 40(2) of the Act for a permit to acquire. This requirement adds up to the need for a ‘concealable firearms licence’ (s. 12(d)).

## **South Australia**

(a) *Firearms Act 1977* (SA):

Category B: a genuine need is not required for a category B firearm (s. 15A(2)). The Registrar may only refuse to grant a permit if the applicant does not have a genuine reason for acquiring the firearm.

Category C:

- primary producer: s. 15A(3)(a)(i)(A);
- genuine need and no other alternative: s. 15A(3)(a)(i)(C)(ii);
- limited number of rifle and shotgun: s. 15A(3)(a)(i)(C)(iii) for rifles, s. 15A(3)(a)(i)(C)(iv) for shotguns and s. 15A(3)(a)(i)(C)(v) for pump action shotguns, but there are exemptions to that limit (*Firearms Regulations 2008*, reg. 21(5), exemptions that do not specify ‘large properties’);
- that the licence enables employees of licence holders to use the employer’s firearms while working on the property: s. 15 A(3)(a) subparagraph (B).

Clay Target shooters:

- (i) is a member of the SACTAI (s. 15A(3)(b)(i));
- (ii) a need, but not ‘physical’ (s. 15A(3)(b)(ii));
- (iii) nothing on that matter;
- (iv) ditto;
- (v) safe storage: *Firearms Regulations 2008*, reg. 38(2).

Category D: (i) s. 15A(4)(a)(ii); (ii) s. 15A(4)(a)(i); (iii) s. 19(1)(a); (iv) NA; (v) NA; (vi) one firearm per permit to acquire, s. 15A; (vii) – ; (viii) – ; (ix) –

Category H: s. 15A(4a)(a)

(b) *Firearms Act 2015* (SA): s. 23(3)(d)(ii) provides that the Registrar may only refuse an application for a permit to acquire a firearm if the Registrar is not satisfied that the applicant has a genuine need to acquire the firearm that cannot be met by a firearm already in the possession of the applicant.

Note: The *Firearms Act 2015* is not yet in force. New regulations may come into operation.

## **Tasmania**

*Firearms Act 1996* (Tas)

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: s. 31(1); genuine need: s. 31(1)(a); which cannot be achieved by some other means: s. 31(1)(b); limited number: s. 16(2); Commissioner to grant the licence: s. 31(1) (nothing on geographical location of its use); employees: s. 40(a)(ii) (this section also 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 specific provisions on clay target shooters acquiring a category C licence, but it is possible to apply for exemption under s. 155.

Category D: nothing on primary producers, but s. 32(1)(a) limits the category D firearm licence to animal population control or firearm collection. (i) need: s. 32(1)(b); (ii) professional shooter competences: s. 41(a); (iii) licence duration: not limited to one year, s. 49; (iv) –; (v) geographical location: –; (vi) one firearm: s. 17(2), with the exception of firearm collection; (vii) –; (viii) s. 41 restricts applicants whose genuine reason is animal population control to professional hunters and persons employed by a prescribed government agency; (ix) –

Category H: under s. 33(1)(b) the Commissioner must be satisfied that the applicant needs to possess or use a firearm of the category to which the application relates in connection with that genuine reason. Additional requirements are listed under ss. 38, 43 and 44.

## **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 an official, commercial or prescribed purpose or for a purpose authorised by an Act or regulations, s. 10(1)(e) and s. 10(2)(e).

Category C: primary production: s. 11(1)(a)(i); genuine need and no other means: s. 11(1)(b); limited number: s. 9(3)(b), with some exceptions for clay target shooting where more than one shotgun may be needed: s. 9(3)(a); Commissioner to grant the licence: s. 11(1); large property: s. 9(3)(c)(i); employee: s. 11(2)(a); geographical location: Schedule 2, s. 2(1)

Clay target shooter: (i) s. 11(2)(c)(i) and (iii)(B); (ii) s. 11(2)(c)(iii)(A); (iii) Schedule 2, s. 2(2)(b); (iv) s. 11(2)(c)(ii) and s. 2(2)(c), but no penalties; (v) Schedule 4, s. 2(1)

Category D: professional hunting and official or prescribed purposes are the only ‘genuine reasons’ for obtaining a Category D firearm licence (s. 12(1)).

(i) s. 12(1)(b) and (2); (ii) s. 12(1); (iii) not exceeding three years: s. 39(2); (iv) –; (v) –; (vi) s. 9(4); (vii) –; (viii) s. 12(1)(b); (ix) –

Category H: s. 15(2)(a)(ii) provides for genuine need in case of a natural person and (iii) for a private security business.

## **Western Australia**

According to s. 11B of the *Firearms Act 1973* (WA), the regulations may provide that a genuine need is required for certain categories of firearms – *Firearm Regulations 1974*, reg. 6A(2) and Schedule 3 of the regulations.

Category B: *Regulations 1974*, Schedule 3, Division 2, s. 3: a category A would be inadequate or unsuitable for the purpose for which the firearm is required.

Category C: *Regulations 1974*, Schedule 3, Division 3, s. 5 on the need for a category C firearm because the purpose cannot be achieved by other means; s. 6: not only limited to primary producers, but also national or international shooting discipline for shotguns ((a) and (b)); s. 6(2) for employees and large properties. There seems to be no limit on the number of category C rifles or shotguns. Schedule 3 provides that the Commissioner is to grant category C licences..

Clay target shooters: *Regulations 1974*, Schedule 3, Division 3, s. 6(1)(a)(ii). Under s. 11A(2)(a) of the Act, the person must be a member of an approved shooting club. The Act or the Regulations do not expressly provide for Clay Target Shooting, they only provide for national or international shooting discipline.

Category D: *Regulations 1974*, Schedule 3, Division 4, s. 8: special need only for Commonwealth or State government purposes, nothing on primary producer.

Category H: *Regulations 1974*, Schedule 3, Division 6, s. 11. Other restrictions are provided for under this section.

### **Australian Capital Territory**

Category B: section 63 of the *Firearms Act 1996* (ACT) requires an applicant to demonstrate a 'special need' to possess or use a firearm to which a category B licence relates.

Category C: section 64(b) contains the 'special need' requirement for category C licences and restricts such licences to primary producers or other prescribed genuine reasons (s. 64(a)). The special need cannot be met by any other means: s. 64(b)(ii). Limited number: Schedule 3 of the Act, item 3, column 5. Size of the property is referred to in reg. 17(2) of the *Firearms Regulation 2008*. It seems that an employee cannot use the firearm without a personal licence, see Schedule 3 of the Act. Under s. 64, the Registrar is to issue the licence (under s. 33, the Registrar is a police officer who holds a rank of or above that of superintendent). Geographical location for the use of the firearm: s. 61, Table 61, states that the firearm is to be used solely in relation to farming or grazing activities and reg. 17(2) states that the applicant must produce evidence regarding the property or properties (number, size, location).

#### Clay target shooters:

Category C licences for clay target shooters are covered in the *Firearms Regulations 1997*, reg. 13:

- (i) Reg. 13(3) and 20(2)
- (ii) Reg. 13(2)(a)(b)
- (iii) Reg. 20(2)(b)
- (iv) Reg. 14(1) – penalty for misuse is prescribed
- (v) Section 182(1) of the Act

#### Category D:

- (i) Section 65 provides that a category D licence shall not be issued to any person unless for vertebrate pest animal control. The 'special need' is referred to in s. 65(1)(b)
- (ii) Table 61 of s. 61, item 4, states that the applicant must be a professional contract shooter
- (iii) Reg. 19: the licence is for two years
- (iv) –
- (v) Schedule 3: limited to the place stated in licence
- (vi) Schedule 3 of Act: only one gun
- (vii) –
- (viii) –
- (ix) –

The licence has to be authorised in writing by the Minister and reg. 18 mentions the size of the property.

Category H: Evidence of special need is required (s. 66(b)).

## **Northern Territory**

Under s. 11(1)(b) of the *Firearms Act 1997* (NT), 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: Category C licences are not just limited to primary production. The genuine reason can also be sport shooting, animal welfare, firearm collection, museum display, instruction in firearm use and safety and paintball operator or employee, reg. 12 (1)(a) of the *Firearms Regulations 1997* (NT). Genuine need: reg. 12(1)(b) and (c). Only one shotgun per licence for sport shooting, reg. 12(3). The licence doesn't seem to enable employees of licence holders to use the employer's firearm while working, but there is a corporate licence (reg. 16) and reg. 17 for firearm employee licences. According to reg. 12(1), the Commissioner is in charge of granting licences for category C firearms.

Clay target shooter: There is no requirement that an applicant demonstrate 'physical need'. Rather, where the genuine reason is sport shooting, reg. 12(2) requires an applicant to be a member of an approved firearm 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 four club competitions per year and restricts the use of category C firearms to authorised premises (penalty provided for in Schedule 4). According to reg. 22, the firearm must be stored in a safe bolted to the wall or floor. The safe must be made of steel, Schedule 3, item 1 of the regulation.

Category D: Category D firearms are restricted to applicants with a genuine reason for vertebrate pest animal control, primary production or firearm collection (reg. 13(1)). Evidence of genuine need is also required (reg. 13(1)(b)). The need for category D firearms by primary producers: reg. 13(2)

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

- (i) Reg. 13(2)
- (ii) –
- (iii) Section 14(1)(a)(iii) of the Act: five years or a shorter period
- (iv) Reg. 18(1)(d)
- (v) Reg. 18(1)(a)
- (vi) There does not appear to be any restriction to a single firearm
- (vii) Reg. 18(1)(b)
- (viii) Reg. 13(2)
- (ix) Reg. 18(1)(c)

Category H: reg. 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**

- (i) *Firearms Act 1996* (NSW), s. 12 (see the Table of genuine reasons, under *firearms collection*)
- (ii) Category D firearms must be rendered permanently inoperable: s. 20(a); manner of rendering inoperable: *Firearms Regulations 1996*, reg. 34(3)
- (iii) Section 20(b); there is no special provision on stricter requirements for category C firearms
- (iv) Sections 20(c) and (d): sales and acquisitions of category C and D firearms must be conducted through a licensed firearm dealer
- (v) Safe storage: s. 20(e) and reg. 34(7)
- (vi) No ammunition: s. 9(3); 'ammunition collection permit' is regulated by reg. 69
- (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: s. 6A, except for antique revolvers; membership requirement: s. 12 (see the Table of genuine reasons, under *firearms collection*) and reg. 95

#### **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, schedule 2, 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)).
- (ii) Section 77(1)(a)(i); manner of rendering inoperable: *Weapons Regulation 1996*, reg. 159 and s. 7
- (iii) Section 77(1)(b) for category A, B or C weapons and (c) for category H weapons; temporarily inoperable: s. 8. No stricter standards were found for category C collectable firearms
- (iv) Sales of all weapons must be done through a licensed dealer: s. 36, except at an arms fair with special approval (ss. 79-80 and 82, reg. 106-107)
- (v) Regulation 88-92
- (vi) Ammunition is not mentioned, but under Schedule 2 of the Act, an ‘antique firearm’ means a firearm in relation to which an authorised officer decides under s. 154 that ammunition is not commercially available. Section 77 only mentions weapons.

*Explosives Act 1999*, s. 38(2)(c) provides that if a person is licensed under the *Weapons Act 1990*, filling ammunition for the weapon for use by the person is permitted.

- (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 collector’s licence who intends to possess a temporarily inoperable modern handgun must be a member of an approved historical society.

## **South Australia**

(a) *Firearms Act 1977* (SA) complies with the resolution:

- (i) *Firearms Regulations 2008*, reg. 21(11) (b) for ‘member of a collector’s club’
- (ii) Reg. 11(4) and see Note under reg. 11(4): a category D firearm that is rendered unusable (s. 5(1)) ceases to be a firearm and is therefore no longer subject to regulation; plus reg. 21(1) and (13)
- (iii) Reg. 21(11)(a) (but nothing on stricter conditions for category C firearms)
- (iv) *Firearms Act 1977*, s. 15B
- (v) Reg. 38
- (vi) Reg. 21(11)(c)
- (vii) Reg. 21(11)(e)
- (viii) Pre-1900 firearms: ‘antique firearms’ are exempt (s. 5(1) and reg. 6

(b) *Firearms Act 2015*: ‘collectors’ seem to be covered by regulations and not by this Act.

- (viii) s. 5(2) definition of an ‘antique firearm’

Note: The *Firearms Act 2015* is not yet in force. New regulations may come into operation.

## Tasmania

- (i) *Firearms Act 1996* (Tas), s. 44
- (ii) Section 47(1)(b), s. 17(3) and *Firearms Regulations 2016*, reg. 14(1) and (2)
- (iii) Section 47(1)(a) (but nothing on stricter conditions for category C firearms)
- (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. 84-86), but an ammunition collector's licence is required (s. 105(3))
- (vii) Section 47(1)(e): prohibited except with specific approval of the Commissioner
- (viii) Pre-1900: licence is required (s. 9); club membership is required: s. 44(1)(b)

## Victoria

- (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, subs. (9) and (10)
- (v) Schedule 4, Item 3
- (vi) Possession of ammunition is not expressly prohibited, although s. 8 provides for ammunition collectors licences.
- (vii) A collector is only licensed to possess and carry a firearm (s. 21(1), i.e. not licensed to 'use' that firearm). A permit is required for a collector to 'use' a firearm (s. 58). Finally, s. 127A makes it an offence to discharge a firearm held under a collectors licence without the permit mentioned in s. 58.
- (viii) Pre-1900: licence is still required for handguns (s. 21(1)(c)); collectors must be members of an approved club (s. 21(2)(a)). For other firearms, this Act does not apply s. 3(4).

## Western Australia

- (i) Section 15(1) of the *Firearms Act 1973* requires that a firearm be of significant commemorative, historical, thematic or heirloom value (subs. (5) – (8) expand on these categories).
- (ii) *Firearms Regulations 1974*, reg. 6A(3) and Schedule 3, item 8, of the Regulations provide that a category D firearm may only be possessed if required for Commonwealth or State government purposes. It appears that possessing a category D firearm for collection purposes is prohibited.
- (iii) –
- (iv) –
- (v) No special storage requirements in addition to the general provisions: reg. 11A and Schedule 4

- (vi) Ammunition collectors licences: Schedule 1 of the Regulations item 16 and s. 16(1)(h) allows to possess or carry ammunition for collection purposes but not to use them. Section 16(1)(b) provides that a firearm collector's licence entitles the holder to possess, but not carry or use the firearm.
- (vii) Section 16(1)(b), Schedule 1 item 10 of the Regulations
- (viii) Pre-1900: licence is required; no provision is made for club membership

### **Australian Capital Territory**

- (i) *Firearms Act 1996* (ACT), s. 61 (see table; item 8.2(b)) and s. 67
- (ii) Section 76(d)
- (iii) Section 76(a), s. 76(d) (category C or D firearms must be rendered permanently inoperable) and reg. 27 (firearms other than category C or D firearms must be rendered temporarily inoperable)
- (iv) Section 76(e) and ss. 191 and 227
- (v) Regulation 46 (category A and B firearms) and reg. 47 (category C, D and H firearms)
- (vi) Section 76(b)
- (vii) Section 76(g) and (f)
- (viii) Pre-1900 firearms, other than percussion-fired pistol, for which ammunition is not readily commercially available are exempt, because they are not considered to be firearms under this Act: *Firearms Regulations 1997*, reg. 6(1)(b) and s. 6(2)(a)

### **Northern Territory**

- (i) The *Firearms Regulations 1997* (NT), reg. 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) Reg. 19(a)
- (iii) Reg. 19(b)
- (iv) No specific provisions for sale, but s. 63
- (v) Reg. 25
- (vi) *Firearms Act 1997* (NT): s. 69 states that a person must not possess ammunition unless the person is an ammunition collector authorised by the Commissioner in writing.
- (vii) Section 25
- (viii) Pre-1900: licence is required (s. 25A); collectors must be a member of an approved club (reg. 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**

- (i) *Firearms Regulation 2006* (NSW), reg. 69(1) and (2)
- (ii) *Firearms Act 1996* (NSW), s. 65
- (iii) Reg. 69(3)(a) and (b)
- (iv) Reg. 69(3)(c)

### **Queensland**

*Explosives Act 1999*, s. 38(2)(c) provides that if a person is licensed under the *Weapons Act 1990*, filling ammunition for the weapon for use by the person is permitted.

Under reg. 44(1)(g) (ammunition in general) and (k) (collector's ammunition) of the *Explosives Regulation 2003*, ammunition that is possessed by a person licensed under the *Weapons Act 1990* to use a firearm is to be considered as 'prescribed explosives' and no authorisation is required to possess such type of explosive (s. 34 of the *Explosives Act*).

- (i) *Explosives Regulation 2003*, reg. 33(c) stipulates that a licence to collect ammunition authorises the holder to purchase, sell, possess, transport and store collectors' ammunition.
- (ii) Reg. 79 – under s. 41 of the Act, one needs authority to sell explosives, but reg. 74(e) exempts a person to have this authority if this person is a licensed firearm dealer or under (h) if that person is a prescribed ammunition collector.
- (iii) Reg. 147 states that a prescribed ammunition collector and the holder of a licence to collect ammunition must demonstrate that the ammunition is free from explosive material (also see definition of explosives reg. 6(1)(b) and 6(3))
- (iv) Reg. 86

### **South Australia**

(a) *Firearms Act 1977* (SA):

- (i) –
- (ii) Section 21B, acquisition of ammunition for collection seems to be prohibited. In the absence of a firearm 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.

(iii) –

(iv) –

(b) *Firearms Regulations 2008*: reg. 21(11) it is a condition of a collector's licence that (c) the holder of the licence does not have possession of any ammunition that can be used in a firearm owned by the collector for the purpose of collecting and displaying firearms (excluding ammunition for use in a firearm that the collector is authorised to have possession of and use for some other purpose endorsed on a separate firearm licence).

(iii) On military ammunition: reg. 41(3)

(iv) General storage requirements are provided in reg. 38 and reg. 41

(c) *Firearms Act 2015* (SA):

(i) Section 31(1(a) provides that a person may acquire, own or possess ammunition if the person is the holder of a firearm licence that authorises possession of a firearm of a category designed to fire that ammunition (not being a licence authorising possession of firearms for the purpose only of collecting, or collecting and displaying the firearms).

Under s. 32(5)(b), a person may be granted a permit to possess ammunition if there is a genuine interest in collecting ammunition of historical or other significance and genuinely intends to possess the ammunition for that purpose.

Note: The *Firearms Act 2015* is not yet in force. New regulations may come into operation.

## **Tasmania**

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

(ii) The sale or purchase of ammunition only from or to a person authorised by the Commissioner in writing or, in case of sales, a firearm dealer: s. 105(1).

(iii) –

(iv) s. 47(1)(c) the holder of a firearm collector's licence must not possess any ammunition for any firearm in the collection unless it is stored in the prescribed manner (ss. 84-86)

## **Victoria**

(i) *Firearms Act 1966* (Vic): s. 28

(ii) Section 30 and Schedule 2, item 7(4)

(iii) Schedule 2, item 7(3)

(iv) Schedule 2, item 7(1), Schedule 4, item 5 and s. 122(4)

## **Western Australia**

(i) *Firearms Act 1973* (WA), s. 16(1)(h) provides for ammunition collector's licences. Section 11(2)(e) for genuine reason

(ii) Section 30(1) for a licensed dealer and reg. 19A for another licensed holder

(iii) The table in reg. 26 prohibits the possession of ammunition containing high explosive, smoke, chemical, lachrymatory agent and ammunition with a calibre of 20mm or more

(iv) *Firearms Regulations 1974*, reg. 11A: general storage requirements

Reg. 19A requires the holder of an Ammunition Collector's Licence to maintain a record of all transactions.

### **Australian Capital Territory**

(i) *Firearms Act 1996* (ACT): s. 41 authorises the possession of ammunition for collection purposes (see also s. 76(f))

(ii) Unlawful sale of ammunition: s. 243 (one must be a licensed firearm dealer or an authorised club member). General offence for acquiring ammunition: must be licensed (s. 248)

(iii) –

(iv) s. 181(1)(b) for category A and B, s. 182(1)(b) for category C, D and H

### **Northern Territory**

(i) *Firearms Act 1997* (NT): s. 69 states that a person must not possess ammunition unless the person is an ammunition collector authorised by the Commissioner in writing

(ii) Section 68A states that a person must not sell ammunition unless the person is a licensed firearm dealer or the person is authorised by a permit to sell or purchase the ammunition

(iii) –

(iv) Storage: s. 46, reg. 21 (category A and B), reg. 22 (category C, D and H)

### **(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**

*Firearms Regulations 2006* (NSW), reg. 51 regulates Firearm Museum Permits for public museums. Conditions are set under reg. 51(4). It would appear that museums outside the definition of 'public museums' are subject to the same requirements that apply to private collections.

### **Queensland**

Under s. 2(2) of the *Weapons Act 1900* (Qld), the Act does not apply to a government service entity or to its employee. A 'government service entity' includes a museum under the control of a State or the Commonwealth (s. 2(9)(b)).

A museum is included in the definition of a 'prescribed ammunition collector' under the *Explosives Regulation 2003*, but it appears that the museum they are referring to is only one that preserves information in any branch of the natural sciences about animals.

## **South Australia**

(a) *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. It appears that there is no special provision for museums.

(b) *Firearms Regulations 2008* (SA): nothing

(c) *Firearms Act 2015*: museums are only mentioned in s. 31(2)(b)(iii)(A) on fees.

Note: The *Firearms Act 2015* is not yet in force. New regulations may come into operation.

## **Tasmania**

*Firearms Act 1996* (Tas), s. 30 on Firearm Museum Licences.

Storage requirements: s. 87.

## **Victoria**

Section 184 of the *Firearms Act 1996* (Vic) provides that an exemption from certain parts of the Act (Part 2 on 'Possession, carriage or use of firearms' and Division 2 of Part 4 on 'Permit to acquire firearms') 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**

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

## **Australian Capital Territory**

Schedule 2, Part 2.2, item 5, states that a member of Council of the National Museum of Australia, or staff of the museum, is exempt from the Act if the firearm is part of the national historical collection within the meaning of the *National Museum of Australia Act 1980*. Item 4 provides that a member of Council of the Australia War Memorial, or of staff of the memorial, is exempt from Act if the firearm is part of the memorial collection within the meaning of the *Australian War Memorial Act 1980*.

## **Northern Territory**

Requirements for an application for a firearm museum licence are referred to in s. 9(5) of the *Firearms Act 1997* (NT). General restrictions: s. 10A. Museum display is considered to be a genuine reason under s. 11(2)(j). Section 29 provides for museum firearm licences.

*Firearms Regulations 1997* (NT):

Requirements for museum display: reg. 10

Conditions for firearm museum licences: reg. 19A

Storage: reg. 25A

### **(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 Regulations 2006* (NSW), reg. 50 makes provision for permits authorising possession of heirloom firearms. The conditions set out in reg. 50 comply with the agreed conditions.

### **Queensland**

The *Weapons Act 1900* (Qld), s. 6 defines an 'heirloom firearm'. Section 12(c) provides for a collector's licence (heirloom). Ss. 39 and 40 provide for a permit to acquire an heirloom firearm.

- (a) There is no heirloom licence *per se* in Qld, but there is a collector's licence (heirloom), s. 12(c)
- (b) Section 6 and s. 39(2)(d) (for a permit to acquire)
- (c) –
- (d) Section 76
- (e) Section 78: general requirements for a collector's licence

Schedule 4 of the *Weapons Regulation 2016* provides for ways to modify firearms to make them permanently incapable of being discharged.

### **South Australia**

(i) *Firearms Act 1977* (SA): no provisions on heirloom firearms, but similar to the 2015 Act: s. 11(5)(a) provides that no offence is committed if the person doesn't hold the proper firearm licence, if the said firearm is in possession of the executor or administrator of a will of a deceased person. But the executor or administrator must transfer this firearm as soon as possible (s. 35C). Otherwise, the acquisition of an heirloom firearm is subject to the general requirements for a permit to acquire (Part 3, Divisions 2AA and 2A)

(ii) *Firearms Regulations 2008* (SA): ditto

(iii) *Firearms Act 2015* (SA): This Act does not provide for 'heirloom firearms licences', but under s. 4(1), a 'gift' includes the transfer of ownership of a firearm to a beneficiary of a deceased estate in the distribution of the estate. 'acquire' means acquire through purchase or gift. Hence, heirloom firearms are subject to the general requirements under permits to acquire firearms (Part 3, ss. 23-25)

Note: The *Firearms Act 2015* is not yet in force. New regulations may come into operation.

## **Tasmania**

- (a) *Firearms Act 1996* (Tas): s. 13 provides that a 'firearm heirlooms licence' is necessary to possess heirloom firearms and s. 29(6) provides that a genuine reason is not required for a firearm heirlooms licence.
- (b) Proof of inheritance is required: s. 34
- (c) Section 21
- (d) Section 47(2) and reg. 14 of the *Firearms Regulation 2016*
- (e) ditto

## **Victoria**

- (a) *Firearms Act 1996* (Vic), s. 25(a) (conditions: ss. 26-27)
- (b) Section 25(b) and Schedule 2, item 6(6)(a)
- (c) Section 25
- (d) Schedule 2, item 6(5)
- (e) Schedule 2, item 6(4) and (7)

## **Western Australia**

- (a) Authority to possess heirloom firearms is included within a collector's licence (see s. 15(8) of the *Firearms Act 1973* (WA))
- (b) Section 15(1) and (8)
- (c) There seems to be no limit in the number of firearms that can be possessed
- (d) Nothing on firearms being rendered permanently inoperable
- (e) Section 16(1)(b)

## **Australian Capital Territory**

- (a) *Firearms Act 1996* (ACT), s. 68 and *Firearms Regulation 2008*, reg. 15, table item 19
- (b) Section 68(b)
- (c) Section 68(a)
- (d) Section 68(b)
- (e) Reg. 24

## **Northern Territory**

- (a) *Firearms Act 1997* (NT), s. 30 and reg. 11(b)
- (b) *Firearms Regulations 1997* (NT), reg. 11(a)
- (c) Section 30
- (d) Reg. 20
- (e) Reg. 20

## **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 five 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**

(a)

- (i) *Firearms Act 1996* (NSW), s. 10(2)(a)
- (ii) Section 11(3)(a)
- (iii) Section 10(2)(b); more stringent conditions when there is reasonable doubt as to the applicant’s identity: fingerprints, reg. 10 of the *Firearms Regulation 2006*
- (iv) Section 11(3)(b)

(b)

- (v) Section 18(2)(a)
- (vi) Section 18(2)(c)
- (vii) Section 18(2)(g) does not require that the address of the holder be specified, but it does require that the premises where the firearm is authorised to be kept should be specified (in the case of a firearm dealer licence). *Firearms Regulation 2006*, reg. 16(1) provides that the holder of a licence must notify the Commissioner in writing of the address of the premises on which the firearm is to be kept. The residential address of the person in

- whose name the firearm is registered is included in the firearm register, reg. 102(a)
- (viii) Section 11(2)
- (ix) Section 21: five years, except for a category D licence, a provisional pistol licence and a probationary pistol licence (12 months)
- (x) Section 18(2)(h)
- (xi) Undertakings: s. 19(2)(a) and reg. 9; details: *Firearms Regulation 2006*, reg. 34(7) (collection), reg. 38 (ammunition), reg. 75 (security firms), s. 40 (category A and B), s. 41 (category, C, D and H); inspection: s. 19(2)(c)
- (xii) Revocation: s. 24; confiscation: s. 25; penalties: ss. 39-41

## Queensland

- (a)
  - (i) *Weapons Act 1990* (Qld), s. 10(2)(a)(i) requires that an applicant for a licence be an adult, for a licence other than a minor's licence
  - (ii) Section 10(2)(e) and s. 10B
  - (iii) Section 13(1)(c)(ii) only requires proof of identity 'to the satisfaction' of an authorised officer. The extent or type of information required is not specified; see also, s. 14(1)(b) and s. 14(2)
  - (iv) Section 10(2)(b), s. 10A(2), s. 10AA, reg. 13 of the *Weapons Regulation 2016*
- (b)
  - (v) A photograph is not required, but s. 53(2)(a) mentions that a 'weapons licence' can be used as identification identifying the person if an unlicensed person wishes to use a weapon at an approved range.
  - (vi) Section 16(1)(b)(i)
  - (vii) An address is not required, but an address is included in register: s. 49(2)(a).
  - (viii) *Weapons Regulation 2016*, reg. 10(a)(i)
  - (ix) Ten years for category A or B and five years for a category other than A or B, s. 20(1)
  - (x) Schedule 2 of the Regulation. There are also reminders for dealers and armourers (reg. 78) and collectors (reg. 88). For individuals, these reminders are in reg. 94
  - (xi) Undertakings: s. 10(2)(c); details: details could be requested under s. 14(1)(a) and reg. 94; inspection: s. 14(1)(c)
  - (xii) Revocation: s. 29; seizure: s. 34(2) appears to imply that a power of seizure does exist if a licensee contravenes a condition of the licence; s. 30(1)(c)(ii) and (4) also provide for the surrender of a weapon under a 'revocation notice'; penalties: s. 60.

## South Australia

- (a)
  - (i) *Firearms Act 1977* (SA), section 12(3) a permit may be issued to under 18s in limited circumstances (s. 12(4))  
*Firearms Act 2015* (SA): s. 14(3), with exceptions
  - (ii) *Firearms Act 1977*: s. 12(6)(a)(i) (see also; s. 12(7)(b) for prescribed firearm)  
*Firearms Act 2015*: s. 15(1)(b)  
*Regulations 2008*: reg. 5A with s. 5(11)(ca)
  - (iii) *Firearms Act 1977*: s. 12(5)(a)  
*Firearms Act 2015*: s. 15(1)(i)(i)
  - (iv) *Firearms Regulations 2008*, reg. 19(1), the Registrar may require an applicant to undertake safety training  
*Firearms Act 2015*: s. 15(1)(i)(iii)



- (b)
- (v) *Firearms Act 1977*: s. 19A(1)  
*Firearms Act 2015*: s. 76(2), the condition that the licence must bear a photograph of the licensee is no longer mandatory, but it may be set out in regulations
  - (vi) *Firearms Act 1977*: s. 13(1)  
*Firearms Act 2015*: s. 12(5) provides that a licence ‘may’ indicate the category of the firearm(s)
  - (vii) The Act does not specifically require that the holder’s address be provided on the licence, but s. 21A of the *Firearms Act 1977* provides that the holder of a licence has 14 days to give the Registrar notice in writing of a change of his or her address (also see reg. 21(1)(a)). Finally, s. 12(5)(ab) stipulates that an application for a firearm licence may not be granted if the Registrar is not satisfied as to the residential and postal addresses of the applicant  
*Firearms Act 2015*: s. 15(1)(i)(i): mandatory
  - (viii) *Firearms Act 1977*:s. 12(8)  
*Firearms Act 2015*: s. 15(8)
  - (ix) *Firearms Act 1977*: s. 19(1)  
*Firearms Act 2015*: s. 17(1)
  - (x) *Firearms Act 1977*:Part 6 and s. 21  
*Firearms Act 2015*: s. 18, s. 35.
  - (xi) *Firearms Regulations 2008*: Undertakings: reg. 21(1)(c); details: reg. 21(1)(f); inspection: reg. 21(f)(i)  
*Firearms Act 2015*: Undertakings: s. 18(2)(b); details: s. 35 and regulations; inspection: s. 18(2)(c).
  - (xii) *Firearms Act 1977*: cancellation: s. 20(1); seizure: s. 32 and forfeiture: s. 34.  
*Firearms Act 2015*: cancellation: s. 20; seizure: ss. 57 and 59; forfeiture: s. 59

Note: The *Firearms Act 2015* is not yet in force. New regulations may come into operation.

## **Tasmania**

- (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)
- (v) Section 45(c)
  - (vi) Section 45(e)
  - (vii) An address is not required (an address is included in the register: s. 83)
  - (viii) Section 35(b)
  - (ix) Section 49 and *Firearms Regulations 2016*, reg. 12
  - (x) Section 45(g)
  - (xi) Undertaking: s 46(b); details: s 29(2)(e), general requirements: s. 84, category A and B: s. 85, category C, D and H: s. 86; inspection: s. 46(e)
  - (xii) Cancellation: s. 51; seizure: s. 88; penalties: s. 84.

## Victoria

- (a)
  - (i) *Firearms Act 1996* (Vic), s. 17(1)(b)
  - (ii) Section 17(1)(c)(i)
  - (iii) Section 32(1)(a)
  - (iv) Section 17(1)(c)(iii)
  
- (b)
  - (v) Section 35(2)
  - (vi) Section 35(1)(b)
  - (vii) Section 35(1)(a)
  - (viii) Section 33
  - (ix) Section 39
  - (x) Section 35(1)(e)
  - (xi) Undertakings: s. 121, s. 122; details: s. 17(c)(iv), requirement: Schedule 4; inspection: Schedule 1, cl. 1
  - (xii) Revocation: Division 9 (ss. 46-52); confiscation: Division 9A (ss. 52A-53B); penalties: s. 121-123.

## Western Australia

- (a)
  - (i) *Firearms Act 1973* (WA), s. 10
  - (ii) Section 11(1)(c)
  - (iii) *Firearms Regulations 1974* (WA), reg. 7(3)(b): application must be accompanied by “evidence, in a manner approved by the Commissioner, of the applicant’s identity” and reg. 7B states that an applicant may be required to provide proof of identity “in a manner approved by the Commissioner”
  - (iv) Section 10A: Regulations may require a training course; *Firearms Regulations 1974* (WA), reg. 12(2)(c) (training course for category H firearms only)
  
- (b)
  - (v) Regulation 7A(1), s. 11(7)(a), s. 23(9)(e)
  - (vi) Section 16(1)(a) requires that a licence names and identifies the firearm or firearms that its holder is licensed to possess and use
  - (vii) The address is not required on the licence, but must be provided for the application (Regulations, Schedule 1, section 2, item 4), and required for firearm registration, reg. 21(1)(b)
  - (viii) Section 18(6)(c)
  - (ix) Section 9A
  - (x) Section 18(5), the reminder of safe storage responsibilities may only be required
  - (xi) Undertaking: reg. 11A, s. 11(7)(b), s. 20(1)(ad)(ii) and 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) and reg. 7(4); details: s. 11(7)(b), reg. 11A and Schedule 4
  - (xii) Revocation: s 20; seizure: s 24; penalties: s. 23(9)(d)

## Australian Capital Territory

- (a)
  - (i) *Firearms Act 1996* (ACT), division 7.3 for adult firearm licences and division 7.4 for minors' firearm licences.
  - (ii) Sections 17-19
  - (iii) Section 54(2)(a)
  - (iv) Section 55(a)
- (b)
  - (v) Section 71(b)
  - (vi) Section 71(d)
  - (vii) Section 255 provides for penalties if the change of address is not notified. Ss. 157 and 160 provide for the address in case of firearm registration. *Firearms Regulation 2008*, reg. 41(b) states that the address must be included in the register.
  - (viii) Section 60
  - (ix) Section 78(1)(a)
  - (x) Ss. 71 and 73(1)(a)
  - (xi) Undertakings: s. 55(b), s. 73(1)(a) and (c); inspection: s. 73(1)(d), s. 73(2) and s. 207; details and penalties: Part 12, ss. 180-183; details: Part 11 of the *Firearms Regulation 2008*, reg. 44-47
  - (xii) Cancellation: ss. 79-81; penalties: ss. 180-183; confiscation: s. 209 and seizures: ss. 216-217

## Northern Territory

- (a)
  - (i) *Firearms Act 1997 (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)
  - (v) Section 12(b)
  - (vi) Section 12(a) and *Firearms Regulations 1997 (NT)*, reg. 26(f)
  - (vii) Schedule 4 of the regulations provides a penalty for failing to notify the Commissioner of a change of address. Under s. 95, the police may request the address of the firearm holder
  - (viii) Section 10(2)
  - (ix) Section 14
  - (x) A reminder of safe storage responsibilities is not required, but s. 10(3)(d) states that storage and safety requirements are a prerequisite to being granted a licence
  - (xi) Undertaking: s. 13(1)(a); details: s. 10(3)(d) and Part 3 of *Firearms Regulations*, ss. 21-25B; inspection: s. 13(1)(c)
  - (xii) Revocation: s. 40; seizure: s. 40B; penalties: s. 46.

## Licences and permits for minors

As first observed by Professor Warner, the ‘undermining’ which began in 1996 has continued through 2017:

“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.”

- Warner, Kate and Simon Sherwood (2006), p. 31

### **New South Wales**

Minor’s firearm permits are regulated by s. 32 of the *Firearms Act 1996* (NSW). There are two classes of permits for minors: a ‘minor’s firearms training permit’ and a ‘minor’s target pistol permit’. Minors’ permits are available to a person who is 12 years of age (*Firearms Regulation 2006*, reg. 45), has completed a firearm safety training course (s. 32(2)(b)) and has the written consent of a parent or guardian(s. 32(3)). A permit issued under s. 32 allows the possession and use of firearms (other than a pistol or a prohibited firearm) 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 (category C firearms) for clay target shooting competitions (must comply with restrictions set out in s. 17A). Reg. 48(b) provides for probationary pistol licences for minors.

### **Queensland**

The *Weapons Act 1990* (Qld), s. 12(h) provides for a minor’s licence. Minor’s licences are available to persons who are 11 years of age under s. 10(2)(a)(ii). A minor’s licence can be issued for a category A, B, C or H weapon in accordance with the *Weapons Regulations 2016*, reg. 36. Purposes for which a minor’s licence may be issued are: for use at shooting ranges, primary production (in the conduct of the licensee’s business or employment) (reg. 36).

### **South Australia**

(a) *Firearms Act 1977* (SA): s. 12(4) allows a person who is between the ages of 15 and 18 to apply for a firearm 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.

(b) *Firearms Regulations 2008* (SA): reg. 23 provides that a person over the age of 14 and under the age of 18 years may have possession or use of a registered firearm under direct supervision of his or her parent or guardian, or coach, and if that person holds a firearm licence. Also, the possession and use of a firearm by such minor may be carried out at facilities provided by the SA Sports Institute (again under supervision of an authorised adult), or by a minor in a theatrical production or film. There are also some exceptions for category A firearms for minors over the age of 10 years but under the age of 14 years and for minors between 12 and 18 years who are members of a gun club or take part in competition (reg. 24).

(c) *Firearms Act 2015* (SA): s. 8(2)(g), the Act does not apply to junior shooters on the grounds of a shooting club for the purpose of shooting in a manner authorised by the club; (q) to supervised use by 14 to 18 year-olds; and (r) to supervised use by 10 to 15 year-olds.

Note: The *Firearms Act 2015* is not yet in force. New regulations may come into operation.

## **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. Sections 69-73A regulate the minor's permit.

## **Victoria**

Section 136 of the *Firearms Act 1996* (Vic) provides that a person must not dispose of a firearm to a person who is under 18 years of age. This is reiterated by s. 17(1)(b): a licence cannot be granted to a person under the age of 18 years. Nonetheless, under Schedule 3 on "Non-prohibited persons who are exempt from requirement to hold a licence under Part 2", item 5A provides that a person of or over the age of 12 years and under the age of 18 years may carry or use a general handgun at an approved shooting range. Item 5B states that the same minor may carry or use a longarm at a shooting range. Also, Division 5 provides for Junior Licences: minors between 12 and 18 year-olds (ss. 18-20).

## **Western Australia**

Section 8(1)(n) of the *Firearms Act 1973* (WA) exempts a person under the age of 18 from holding a licence if he or she uses a firearm, not being a handgun, under the supervision of a person who holds a licence or permit under the Act. No minimum age is prescribed for this exemption. No licence may be granted to a person under the age of 18 years (s. 10).

## **Australian Capital Territory**

The *Firearms Act 1996* (ACT), Division 7.4, ss. 84 to 99 regulate minor's firearm licences. Under reg. 28 of the *Firearms Regulation 2008*, the minimum age for a minor's firearm licence is 12 years.

## **Northern Territory**

Section 28 of the *Firearms Act 1997* (NT) 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', except for a permit where the minimum age seems to be 16 years. (s. 33(1)(f)(i)). For paintball, the minimum age is 14 years old (s. 60J(1)(b)(i)).

### **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**

*Firearms Act 1996* (NSW) are:

- (c) Section 26; *Firearms Regulation 2006*, reg. 25 (reg. 47 for minors)
- (d) Section 27

## **Queensland**

*Weapons Act 1990* (Qld) are:

- (c) Section 32, *Weapons Regulation 2016*, reg. 19
- (d) Section 33, reg. 20

## **South Australia**

(i) *Firearms Act 1977* (SA):

(c) Section 11(4)(b), a person from another State may possess or use a firearm in a shooting club, provided that he/she has a valid firearm licence in that other State.

Under s. 14(1)(a), unless authorised to acquire or sell a firearm by a permit under corresponding legislation in another State, a person can be guilty of trafficking in firearms.

(d) The Act does not provide for interstate recognition delays

(ii) *Firearms Regulations 2008* (SA):

(c) and (d) reg. 7(6) (international) and sub-sections reg. 8(3) and (4): a person can possess and use a firearm without a new licence for three months, but this privilege does not include category C, D and H firearms; reg. 8(7) a person must apply for a new licence within seven days after moving to SA

(iii) *Firearms Act 2015* (SA):(c) s. 8(2)(a): this Act does not apply to international visitor firearm permits. See also s. 8(3). It seems that persons with a valid firearm licence from another State are exempt from this Act. s. 22(1)(a) is similar to s. 14 of the Act 1977.

Note: The *Firearms Act 2015* is not yet in force. New regulations may come into operation.

## **Tasmania**

*Firearms Act 1996* (Tas)

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

## **Victoria**

*Firearms Act 1996* (Vic)

- (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. Temporary permits, under s. 17, may also be granted for the purposes of transit, guided hunting tours, or any other case where the Commissioner decides so.

## **Australian Capital Territory**

*Firearms Act 1996* (ACT)

Part 8 'Temporary recognition of interstate licences and permits'

(c) Section 136, *Firearms Regulation 2008*, reg. 35-36 (Part 8)

(d) Section 138 (category A and B), s. 139 (category C and H) and section 140A (category D)

## **Northern Territory**

*Firearms Act 1997* (NT)

Part 12, Division 1

(c) Section 92 and *Firearms Regulations 1997* (NT), reg. 33

(d) Section 93 (the period of recognition for category C, D and H firearms is shorter: two days)

### **(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**

*Firearms Act 1996* (NSW), s. 8 lists the licence categories and the firearms to which they apply. The prescribed categories comply with the resolution.

## **Queensland**

*Weapons Categories Regulation 1997* (Qld): the provisions listed in this Regulation do 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), reg. 8 adds category R (machine guns, hand grenades, mines, rocket launchers and other firearms and devices) and reg. 7A adds category M weapons or white/bladed weapons.

## **South Australia**

(a) The *Firearms Act 1997* (SA) lists the categories prescribed in the resolution 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 2008*, reg. 4 (see also s. 5) provides for an additional category of 'prescribed firearms' (which includes automatic firearms, bazookas and rocket propelled grenades).

(b) *Firearms Act 2015* (SA): ditto than Act 1977 in s. 5.

Note: The *Firearms Act 2015* is not yet in force. New regulations may come into operation.

## **Tasmania**

*Firearms Act 1996* (Tas):

- 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 black powder, ball firing cannons and category C includes tranquilliser guns.

## **Western Australia**

Schedule 3 of reg. 6A of the *Firearms Regulations 1974* 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, tranquilliser guns, 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 3 of s. 52 of the *Firearms Act 1996* (ACT) sets out the licence categories and the firearms to which they apply. The categories comply with the resolution.

### **Northern Territory**

The licence categories set out in Schedules 2-6 of the *Firearms Act 1997* (NT) comply with the resolution:

- Category A: sch. 2
- Category B: sch .3
- Category C: sch. 4 (also includes firearms designed to discharge tranquillisers and paintball firearms)
- 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) *Firearms Act 1996* (NSW), s. 10(3)(a) provides that an applicant must be provided with information on the safety training course that is required by the regulations. Section 11(3)(b) requires that a licence must not be issued to a first time applicant unless that applicant has completed such firearm training and safety courses as prescribed by the regulations. The *Firearms Regulation 2006*, reg. 122(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 Regulation 2006*, reg. 83(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 annually, such continuing firearms safety training courses as may be approved.”

### **Queensland**

- (a) The *Weapons Act 1990* (Qld), s. 10(2)(b) and s. 10A effectively require applicants for a new licence to complete a safety training course for weapons that ‘satisfies the Commissioner’. Approved training courses are regulated by s. 10AA and *Weapons Regulation 2016*, reg. 13
- (b) Security industry: s. 10A(2)(a) and s. 124 require completion of a training course before a new licence can be issued, but also a security guard who holds a licence must complete an approved safety training course as often as required by regulation. See also *Weapons Regulation 2016*, reg. 63, which requires security guards to complete an approved training course within 60 days before the day of the application for renewal of a security licence (guard). Renewal of a security licence must be conducted annually (reg. 62).

### **South Australia**

- (a)
  - (i) *Firearms Act 1977* (SA): the Act does not expressly require the completion of a safety training course, but s. 12(6)(a)(iii) stipulates that the Registrar may refuse an application for a licence

if not satisfied that the applicant will keep firearms in his or her possession secured in accordance with this Act. No provisions were found on security guards.

(ii) *Firearms Regulations 2008* (SA), reg. 19 on 'Training and Examinations' mentions that the Registrar may require an applicant for a firearm licence to complete a safety course. Regulation 20 empowers the Registrar to accredit and monitor courses.

(iii) *Firearms Act 2015* (SA): s. 15(1)(i)(iii) provides that the Registrar must not grant a firearm licence unless the applicant has successfully completed a safety training course as prescribed for in the regulations.

(b) Security guards: no specific provisions relating to the security industry

Note: The *Firearms Act 2015* is not yet in force. New regulations may come into operation.

### **Tasmania**

(a) Section 29(1)(d) of the *Firearms Act 1996* (Tas) requires that the Commissioner must not grant an application for a licence unless satisfied that the applicant has satisfactorily completed an approved firearm safety course. 'Approved firearms safety course' is defined under s. 3 of the Act as an accredited course relating to the safe possession and use of firearms as approved by the Commissioner. Information about the approved firearm safety course must be provided by the Commissioner (s. 27(a)).

(b) There do not appear to be any provisions in the *Firearms Act 1996* (Tas) specific to the security industry and safety training.

### **Victoria**

(a) Section 17(c)(iii) of the *Firearms Act 1996* (Vic) requires that the Chief Commissioner must not grant a licence unless satisfied that the applicant has satisfactorily completed a course on firearm safety approved by the Chief Commissioner. A similar provision exists with respect to the issue of junior licences (s. 20(1)(b)(iii)).

(b) There are no provisions that specifically relate to the security industry.

### **Western Australia**

(a) Section 10A of the *Firearms Act 1973* (WA) provides that regulations may be made as to the completion of a training course. It may also make provision as to the accreditation and conducting of such courses. In the *Firearms Regulations 1974*, reg. 12(2)(c) requires that a safety training course be completed only for the issuance of a category H licence, approval or permit.

(b) There are no specific provisions relating to the security industry.

### **Australian Capital Territory**

(a) Section 55(a) of the *Firearms Act 1996* (ACT) provides that the Registrar must provide the applicant with information about firearm training courses that must be completed by the applicant. The Registrar must refuse to issue a licence if the applicant has not completed the firearm training course for the category of licence (except for category D licence), s. 58(2)(c). For a category D licence, the applicant must be accredited by an entity approved by the registrar. Section 75(2)(b) makes it mandatory for a category H licensee (for sport and target shooting) to complete each approved firearm training course for the licence within the first 6-month period of the licence. Section 85(1)(b) is for minor's firearm licences.

Section 20(1)(a) empowers the Registrar to approve a firearm training course.

(b) The *Firearms Regulations 2008*, reg. 21(1)(a) and reg. 32(1)(a) provides that an applicant for 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 at least once every 12 months.

### **Northern Territory**

(a) Section 10(3)(c) of the *Firearms Act 1997* (NT) provides that all applicants must complete an approved firearm training and safety course. Section 15B(2)(b) provides that a person may apply for a category H sport shooter's licence only if the person has satisfactorily completed an approved firearm safety training course.

Division 13 of the Act is on 'Firearms Instructor Licence'.

(b) There are no provisions specific to the security industry. However, reg. 16(c) of the *Firearms Regulations 1997* (NT) provides that the Commissioner is not to grant a corporate firearm licence unless satisfied that the employees of the applicant have completed a firearm training and safety program. Regulation 17 prescribes the same thing for employee firearm licences.

## **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.

### **New South Wales**

#### *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 and (s. 11(4) elaborates on this requirement); s. 24(2)(a) provides that a 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 Regulation 2006*, under reg. 5 prescribed offences include crimes of a sexual nature, involving violence, firearms, prohibited drugs, fraud, dishonesty or stealing, robbery, terrorism or organised criminal groups. Cancellation: s. 24(2)(a) – revocation for any reason for which a licence would be refused.
- (iii) Refusal: s. 11(5)(b) and reg. 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 any reason for which a licence would be refused (s. 12(1): requires genuine reason for issue of a licence); see also reg. 14 which requires licence holders to notify the Commissioner within 14 days if genuine reason ceases to exist.
- (vi) Refusal: s. 11(7); cancellation: s. 24(2)(d) and reg. 19 (reg. 20 and s. 30(4)(b) regarding the cancellation of permits)

(vii) Not notifying change of address is a contravention under s. 69, which is grounds for cancellation under s. 24(2)(b)(ii). Change of address of premises where firearms are held: reg. 16(2)

(viii) Cancellation: s. 24(2)(b)(i) and s. 70 on providing false or misleading information.

#### *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 the 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(1)(c) prescribes offences involving violence and (d) offences of a sexual nature. Regulation 121 lists apprehended violence orders, which include domestic violence.

Cancellation is automatic when a person is made subject to a firearm prohibition order or an apprehended violence order (s. 24(1)). See also s. 22(2) stating that the Commissioner must suspend a licence if the licensee has been charged with a domestic violence offence.

#### *Mental or physical fitness*

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

#### *Appeal*

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

## **Queensland**

#### *General reasons*

(i) Refusal: *Weapons Act 1990* (Qld), s. 10(2)(e), details in s. 10B; revocation: s. 29(1)(d)

(ii) Refusal: s. 10B(2)(a)(ii); revocation: s. 29(1)(d) or (b) and s. 10B(2)(a)(ii) (suspension of a licence is referred to in s. 28(1)(a)(i)(B) if charged with an offence involving the use or threatened use of violence)

(iii) Refusal: s. 10B(2)(a)(iii); revocation: s. 29(1)(b)

(iv) Refusal: s. 10(2)(c); revocation: s. 29(1)(b), (c), (2)(a) and s. 60

(v) Refusal: s. 10(2)(f); revocation: s. 29(1)(e)

(vi) Refusal: s. 10B(1)(d) and (ca) – public interest is a relevant consideration in determining whether an applicant is a fit and proper person; revocation: s. 29(1)(d), (3) for s. 10B(1)(ca) and s. 10B(1)(d)

(vii) Revocation: s. 29(1)(c) and s. 24(1) and (2)(a)(i)

(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 firearm offence or an offence involving the use of violence within five years (s. 10B(2)(a)), or has been subject to 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) and s. 24(2)(a)(iv)).

#### *Mental or physical fitness*

Section 10B(1)(a) provides that mental and physical fitness is relevant to whether a person is fit and proper; revocation: s. 29(1)(d).

#### *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 to revoke a licence.

## South Australia

### General reasons

- (i) Refusal: *Firearms Act 1977* (SA), s. 12(6)(a)(i), *Act 2015* s. 15(1)(b); cancellation: s. 20(1)(b), *Act 2015* s. 20(6)(d) and s. 43(1)(b) on an interim firearm prohibition order if the person is not a fit and proper person to possess a firearm and s. 44(1)(a)(ii) for a firearm prohibition order (suspension of licence)
- (ii) Refusal: s. 5(11)(c) (*Act 2015* s. 7(3)(c)) provides that a person may be taken not to be a fit and proper person if they have been convicted of an offence involving violence (a five year term is not mentioned); cancellation: s. 20(1)(b) and *Act 2015* s. 20(6)(d)
- (iii) Refusal: s. 5(11)(a) (*Act 2015* s. 7(3)(b)) – a person may be taken not to be fit and proper if convicted of a firearm offence; cancellation: s. 20(1)(a) and *Act 2015* s. 20(6)(c)
- (iv) Refusal: s. 12(6)(a)(iii) (*Act 2015* s. 7(3)(a)) – provides that a person may be taken not to be a fit and proper person if the person has not complied with the requirements of this Act on safe handling, use, storage or transport of firearms; cancellation: s. 20(1)(b) and (a) and s. 5(11)(a) (may provide grounds for finding that a person is not fit and proper), *Act 2015* s. 20(6)(c)
- (v) Refusal: s. 12(5)(b) and *Firearms Regulation 2008* reg. 11 and reg. 13, *Act 2015* s. 15(3); cancellation: s. 20(1a)(b), *Act 2015* s. 20(6)(b)
- (vi) Refusal: s. 12(6)(a)(vi), *Act 2015* s. 15(1)(l) and (7); cancellation: s. 20(1a)(a), *Act 2015* s. 20(12)
- (vii) Cancellation: s. 20(1)(a) and s. 21A (offence not to notify), *Act 2015* s. 20(6)(c); *Firearms Regulations 2008*: change of address must be notified to the Registrar within 14 days, reg. 21(1)(a)
- (viii) Cancellation: s. 20(1)(aa) 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. *Act 2015* s. 20(6)(a) and s. 69 (offence to give false information) and s. 7(3)(e) fraud or deception for the purpose of obtaining a licence.

### 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 be not be fit and proper: s. 5(11)(c). It follows that such events do not automatically result in licence refusal or cancellation. *Act 2015* s. 7(3)(f) if the person is subject to an order under the *Intervention Orders (Prevention of Abuse) Act 2009*, this person is not considered to be a fit and proper person.

### 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). Section 27A on the obligation to report unsafe situations associated with firearms (medical practitioner, etc.). *Act 2015*: s. 7(2).

### Appeal

Section 26B provides for a process of appeal by a person aggrieved with a decision to refuse or cancel a licence. *Act 2015*: s. 47.

Note: The *Firearms Act 2015* is not yet in force. New regulations may come into operation.

## Tasmania

### General reasons

- (i) Refusal: *Firearms Act 1996* (Tas), s. 29(1)(c); cancellation: s. 51(2)(f)(i)
- (ii) Refusal: s. 29(3)(a); cancellation: s. 51(2)(a) – further licence of the same kind would be refused to the holder
- (iii) Refusal: s. 29(2)(d) – relevant to the assessment of whether person is fit and proper; see also, s. 29(3)(c); cancellation: s. 51(2)(c)

- (iv) Refusal: s. 46(b) (safekeeping is a condition of the licence) and s. 29(2)(e); cancellation: s. 51(2)(c), it is an offence not to comply with safekeeping provisions: ss. 84-87; and s. 51(2)(e)
- (v) Refusal: s. 29(5)(a); cancellation: s. 51(2)(a)
- (vi) Refusal: s. 36(1); cancellation: s. 51(2)(a)
- (vii) Failure to notify a 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 firearm 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 five years: s. 29(3)(a). If a person is, or was within the last five years, subject to a restraint order or interim restraint order, then this is relevant to the decision as to being a fit and proper person.

Cancellation: a licence is automatically cancelled if the holder becomes subject to any firearm 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**

### *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 five 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 firearm offence within 12 months; cancellation: s. 49(1)(h)
- (iv) Refusal: s. 17(1)(c)(iv); cancellation: s. 49(1)(e)
- (v) Refusal: s. 10 (category A and B), s. 11 (category C), s. 12 (category D), s. 13 (category E), s. 15 (category H); cancellation: s. 49(1)(a)
- (vi) Refusal: s. 17(1)(c)(v); no provision is made for cancellation, but s. 49(1)(g)
- (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 five 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 five years (paragraph (a)).

### *Mental and physical fitness*

Mental and physical conditions are not specifically provided for in Victoria but evidence of an applicant's mental and physical conditions 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**

### *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)(ii)
- (v) Refusal: s. 11A; revocation: s. 20(1)(d)
- (vi) Refusal: s. 11(1)(b) – public safety rather than public interest; revocation: s. 20(1)(ac) (public interest)
- (vii) Notification must be given within 21 days reg. 9(1)(b) of the *Firearms Regulations 1974*; cancellation: s. 20(1)(a)(ii)
- (viii) Section 20(1)(a)(i)

### *Specific reasons*

Section 11(3)(a) provides that a conviction for assault with a weapon or a firearm offence or a violence restraining order within five years are grounds for 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 (s. 27A)

### *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**

### *General reasons*

- (i) Refusal: s. 58(1)(b) (the applicant needs to be suitable – see definition s. 18); cancellation: s. 81(1)(c)
- (ii) Refusal: if the applicant has been convicted of an indictable offence with 10 years (s. 18(1)(b)(iv) and s. 58(1)(b)); cancellation: s. 81(1)(c)
- (iii) Refusal: s. 18(1)(b)(iv) and s. 58(1)(b); cancellation: s. 81(1)(b)(ii)
- (iv) Refusal: s. 58(1)(d); cancellation: s. 81(1)(b)(iii) and Part 12 ss. 180-182 make unsafe storage an offence
- (v) Refusal: s. 58(1)(c); cancellation: s. 81(1)(a) – cancellation for any reason for which the licence would be refused
- (vi) Refusal: s. 18(1)(c) and s. 58(2)(e); cancellation: s. 81(1)(c); suspension: s. 79(1)(b)
- (vii) Cancellation: s. 81(1)(b)(ii) and s. 255 makes failure to notify an offence
- (viii) Cancellation: s. 81(1)(b)(i)

### *Specific reasons*

A licence must be refused if, within 10 years, the applicant has been subject to a protection order or corresponding order (s. 18(1)(b)(ii)); or convicted of an indictable offence involving violence (s. 18(1)(b)(iv)(B)). Interim protection orders within 10 years are relevant to whether an applicant is a 'fit and proper' person (s. 18(1)(b)(iii)). Cancellation and suspension: s. 81(1)(c) (is no longer suitable) and s. 80(a) on mandatory suspension if the person committed a domestic violence offence.

### *Mental or physical fitness*

An applicant's mental or physical condition is relevant to the decision as to whether a person is fit and proper (suitable adult): s. 18(1)(a) and s. 58(1)(b)(refusal) and s. 81(1)(c) (cancellation) (d)

### *Appeal*

Part 16 provides for review of decisions.

## **Northern Territory**

### *General decisions*

- (i) Refusal: *Firearms Act 1997* (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 licence would be refused
- (vi) Refusal: s. 10(8); cancellation: s. 40(3)(a) – cancellation for any reason for which the licence would be refused
- (vii) Cancellation: s. 40(3)(c) or s. 40(1)(b) – failure to notify a 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 five years (s. 10(3)(fa)); nor a person who has been the subject of a restraining order within five 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)).

Under s. 39, a licence is automatically suspended on the making of an interim domestic violence order. Also see reg. 25D of the *Firearms Regulations 1997* (NT) on 'Prescribed checks for shooter's licence or permit to purchase firearm'.

### *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 *Firearms Act 1996* (NSW) does not comply with this resolution. Second and subsequent A and B category firearms are exempt from the 28-day waiting period for a permit to acquire.

- (a) Section 31
- (b) Section 31A (28 days) and s. 29 (suitability)

### **Queensland**

The Queensland legislation does not comply with this resolution. Second and subsequent firearms are exempt from the 28-day waiting period for a permit to acquire.

- (a) *Weapons Act 1990* (Qld), s. 35
- (b) Section 42(1) (delay) and *Weapons Regulation 2016*, reg. 101 (28 days); s. 41 (mental and physical health, storage/suitability)

### **South Australia**

The *Firearms Act 2015* (SA) does not comply with this resolution. Second and subsequent firearms are exempt from the 28-day waiting period for a permit to acquire.

*Firearms Act 2015* (SA):

- (a) Section 22(1)
- (b) Section 23(9) and (10) (28 days) and s. 23(3) and (6) (suitability)

### **Tasmania**

The *Firearms Act 1996* (Tas) does not comply with this resolution. Second and subsequent firearms are exempt from the 28-day waiting period for a permit to acquire, and may be permitted after 14 days or less.

*Firearms Act 1996* (Tas):

- (a) Section 58(2)
- (b) Section 61(b) (28 days) and s. 60 (suitability)

### **Victoria**

The *Firearms Act 1996* (Vic) does not comply with this resolution. Second and subsequent firearms are exempt from the 28-day waiting period for a permit to acquire, then only a 'sufficient time' is required.

*Firearms Act 1996* (Vic):

- (a) Section 102
- (b) Section 107 (28 days) and ss. 103 and 104 (suitability)

## **Western Australia**

The *Firearms Act 1973* (WA) does not comply with this resolution. Second and subsequent firearms are exempt from the 28-day waiting period.

*Firearms Act 1973* (WA):

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

(b) Section 18(6)(c): The Act requires a 28 day waiting period only for the first issue of a Firearm Licence to a person. Suitability: s. 18(4a)-(4d)

## **Australian Capital Territory**

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

(a) Section 143(2)

(b) Section 147 (28 days) and s. 145 (suitability)

## **Northern Territory**

The *Firearms Act 1997* (NT) does not comply with this resolution. Second and subsequent firearms are exempt from the 28-day waiting period.

*Firearms Act 1997* (NT):

(a) Section 35(2) and s. 31(1)(a)

(b) Section 35(4) (28 days), but subsection (5) allows less than 28 days in certain circumstances. Section 33 (suitability)

## **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 firearm 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**

### *Firearms Act 1996* (NSW):

- (i) Section 11(3)(c) and *Firearms Regulation 2006* reg. 9(1)
- (ii) Offence: ss. 39, 40 and 41; cancellation: s 24(1A)(a) and (2) (for security guards) and sub-s. (2)(a) for any reason for which the licensee would be refused a licence (s. 11(3)(c)); seizure/confiscation: s. 42 and s. 25
- (iii)
  - Section 40
  - Section 41
  - Sections 40(1)(d) (A and B) and 41(1)(c) (C, D and H)
- (iv) Sections 40(2) (A and B) and 41(2) (C, D and H)
- (v) Section 39 and ss. 57 and 126 on ‘non-commercial transportation of certain firearms’ (prohibited firearms and pistols)
- (vi) Section 10(3)(b)
- (vii) Section 18(2)(h)
- (viii) Section 48, reg. 37 and reg. 38 (storage of ammunition)
- (ix) *Firearms Regulations 2006* (NSW), reg. 52(4)(d) and (5)(a) (permit for firearms used in film, television or theatrical production) and reg. 35A(2)(b) (theatrical armourers)

## **Queensland**

### *Weapons Act 1990* (Qld):

- (i) Section 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, see also s. 30 on surrendering a weapon after receiving a revocation notice.
- (iii) The *Weapons Regulation 2016*, reg. 94 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 (reg. 94 and Part 20, same standards as for firearm collectors). There is no requirement for the separate storage of ammunition in the Act. However, according to the Regulation, weapons must be stored unloaded (reg. 93) and requirements for storing small arms ammunition are set in the *Explosives Regulation 2003*, reg. 86(c). The latter mentions that unless otherwise authorised by the *Weapons Act*, small arms ammunition must not be stored in a secured area in which a firearm is stored.
- (iv) Regulation 98
- (v) The *Weapons Regulation 2016* contains a number of requirements for safe storage when firearms are temporarily away from their usual place of storage: reg. 95 (kept unloaded and stored, out of sight, in a locked or secure container); and reg. 96 (precautions for weapons in or on vehicles)
- (vi) –
- (vii) Such a reminder appears as a code on the licence itself, see reg. 14 and Schedule 2 of the *Weapons Regulation 2016*, for example code CO4 for category A, B or C weapons mentions that these weapons must be securely stored.
- (viii) *Weapons Regulation 2016*, Part 19 (reg. 78-87)
- (ix) It appears that a firearm licence can be obtained for theatrical purposes: s. 11(e) and reg. 4. Further, reg. 39 specifically provides for a more limited ‘theatrical ordnance supplier’s licence’.

## **South Australia**

### *Firearms Act 1977* (SA):

- (i) Section 12(6)(a)(iii) (new licence). Renewal of a licence seems to follow the same

requirements as for a new licence (*Firearms Regulations 2008*, reg. 10, but there may be exceptions, reg. 19(2)) – *Firearms Act 2015*: General provisions apply both to new licences and renewals s. 13; s. 15(1)(f) states that the applicant shall comply with requirements of this Act or of the licence and s. 18 stipulates that an applicant must allow an audit of his or her premises to check safe storage. Also s. 7(3)(a) states that an applicant is no longer a fit and proper person if the person has not complied with the requirements of this Act on the safe storage of firearms.

- (ii) Offence: s. 21 because *Firearms Regulations 2008*, reg. 21(1)(c) makes safe storage (part 6) a condition of the licence – *Act 2015*: s. 19 for breach of condition and s. 18 list conditions that include an audit of the licensee’s practices with respect to the storage and safe-keeping of firearms; cancellation: s. 20(1)(a) (not automatic) – *Act 2015*: s. 20(6)(c); seizure: s. 32 – *Act 2015* s. 57(10)
- (iii)
  - Regulation 38(1), but receptacle not required if firearm is secured or locked to the building – *Act 2015*, s. 35 provides that regulations may set out a code of practice for storage of firearms.
  - Regulation 38(2) – *Act 2015*: ditto
  - Regulation 41(1) – *Act 2015*: ditto
- (iv) Regulation 38(1)(e) and reg. 38(2)(c) provide for other methods approved by the Registrar – s. 43 provides that the Registrar may exempt a person from compliance with this Part subject to conditions as he or she thinks fit. – *Act 2015*: ditto
- (v) Regulation 21(1)(d)
- (vi) –
- (vii) –
- (viii) Regulations 40, 38 and 42 – *Act 2015*: ditto
- (ix) –

Note: The *Firearms Act 2015* is not yet in force. New regulations may come into operation.

## **Tasmania**

*Firearms Act 1996* (Tas):

- (i) Section 29(1)(c) and (2)(e): in deciding whether a person is a fit and proper person, the Commissioner must take into account the ability of the person to exercise reasonable and responsible control over a firearm.
- (ii) Offence: ss. 84, 85 and 86; cancellation: s. 51(2)(c) and (2)(f) as storage is part of being a fit and proper person, 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 and *Firearms Regulations 2016*, reg. 18
- (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

### *Firearms Act 1996 (Vic):*

- (i) Section 17(c)(iv) (new licence) 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(1)(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 firearm 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

### *Firearms Act 1973 (WA):*

- (i) Section 11(7)(b) and s. 20(1)(ad)(ii)
- (ii) Offence: s. 23(9)(d); cancellation: s. 20(1); confiscation: s. 24(2)(b)
- (iii)
  - *Firearms Regulations 1974*, reg. 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: reg. 11A(8)
- (iv) Regulation 11A(2)
- (v) Section 23(9)(a)
- (vi) Not mentioned in the Act or in its Regulations, there is a Firearms Safety Booklet available on the Western Australia Police website:  
<https://www.police.wa.gov.au/About-Us/Our-agency/Police-Licensing-Services/Firearms>
- (vii) Requirements for a reminder of safe storage responsibilities are in the application form (*Regulations 1974*, Schedule 1, Form 1)
- (viii) Section 32 requires firearms to be kept in a securely fastened strong room or other safekeeping when the premises are not open for trade. General requirements for safe storage: Schedule 4
- (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

### *Firearms Act 1996 (ACT):*

- (i) Section 58(1)(d) – licence renewals to be treated as fresh applications, s. 51
- (ii) Offence: s. 180 and s. 45 (if doesn’t comply with licence conditions and under s. 73(1)(a), one



- of the conditions of a licence is storage); cancellation: s. 81(1)(b)(iii) (has contravened a condition of the licence); seizure: s. 183
- (iii)
- Section 181 and *Firearms Regulation 2008*, Part 11, reg. 44 and reg. 46 (collectors)
  - Section 182 and *Firearms Regulation 2008*, Part 11, reg. 45 (category D firearms) and reg. 47 (category C, D and H firearms – collectors)
  - Sections 181(1)(b) and 182(1)(b)
- (iv) Sections 181(2) and 182(2)
- (v) Section 180
- (vi) Section 55(b)
- (vii) Section 71 and s. 55(b)
- (viii) Section 200 – security of displayed firearms only and reg. 48 and Division 11.2 for displays
- (ix) Permit may be granted for theatrical purposes: s. 141(a) and reg. 70; special conditions or general storage conditions under Part 12

## **Northern Territory**

### *Firearms Act 1997* (NT):

- (i) Section 10(3)(d)
- (ii) Offence: s. 46; revocation: s. 40(3)(d) (safe keeping is a condition: s. 13(1)(a)); seizure: s. 40B and s. 47
- (iii) Relevant storage requirements are contained in the *Firearms Regulations 1997* (NT):
- 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) Section 12 and reg. 26(h): conditions to which the licence is subject are to be included in the licence. Storage is among those conditions, s. 13(1)(a)
- (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**

*Firearms Act 1996* (NSW):

- (a) Section 51(2)
- (b) The principles underpinning the recording of firearm sales by dealers are complied with:
  - (i) Ss. 51(1) and 51 (1A) (for pistols or prohibited firearm)
  - (ii) Section 45(1) and (2)
  - (iii) Section 46 (records provided to the Commissioner)
  - (iv) Section 45(6)
  - (v) Section 51(2)(b) and *Firearms Regulations 2006* (NSW), reg. 124(2)
- (c) Section 65 and s. 65A: Section 65(2) states that the amount of ammunition that can be acquired at any one time does not exceed the amount (if any) prescribed by the regulations. In the *Firearms Regulations 2006* (NSW), no evidence was found of a limit on the amount of ammunition to be acquired at one time.
- (d) Section 65(1A)

*Firearms Regulations 2006* (NSW) allows an employee or otherwise authorised person to acquire ammunition on behalf of an appropriately licensed firearm owner.

### **Queensland**

*Weapons Act 1990* (Qld):

- (a) Ss. 35 and 36
- (b) Queensland complies with the requirements of this part of the resolution:

- (i) Section 73 and *Weapons Regulation 2016*, reg. 56
- (ii) Section 73(b) and s. 71(2) and reg. 57(1)(b) and reg. 56
- (iii) Section 71(3) – must notify an ‘authorised officer’ (s. 153) 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) Ss. 35(1)(b)(ii) and 36(1)(b)(ii) and reg. 57

(c) No provisions for the sale of ammunition found in the Act or Regulation, but:

Restrictions on type of ammunition that a person performing duties as security guard may use: reg. 66

Limit on the maximum capacity of a handgun magazine: reg. 161

Ditto for category B weapons: reg. 34

Filling ammunition is allowed if the holder of the ammunition is licensed *Explosives Act 1999*, s. 38(2)(c)

The *Explosives Act 1999*, s. 42 provides that no one must sell an explosive (which includes ammunition under Schedule 2) unless the other person is authorised to use the explosive. Section 79(2)(d) provides that the holder of a licence to sell explosives must record details of evidence produced by the purchaser to establish the purchaser’s authority to obtain the explosive, but this section does not apply to small arms ammunition.

Note: according to the *Explosives Act*, s. 120(1) explosives for which authority to use is not required include small arms ammunition used by a person licensed under the *Weapons Act 1990*.

(d) No requirement to produce licence

## **South Australia**

*Firearms Act 1977* (SA):

(a) Section 15B(9) – In addition to firearm dealers, a responsible officer of a recognised gun club who has been authorised by the Registrar (‘authorised officer’) and police officers may also witness transfers (see sub-section (14) for definition of ‘prescribed person’); *Firearms Act 2015*: s. 22(3), (4) and s. 25

(b)

(i) Section 15C(1)(a); *Firearms Act 2015*: s. 22(1) and (2)(a); *Firearms Regulations 2008*: reg. 16(1)

(ii) Section 15C(1)(b); reg. 15(1) and reg. 16(1)(b)

(iii) Section 15C(1)(c) (the Registrar); reg. 15(2) and reg. 16(1)(c)

(iv) *Firearms Regulations 2008*, reg. 22(1)(l)

(v) Police and ‘authorised officers’ are permitted to witness transfers: s. 15B(9) ‘prescribed person’, as described by subs. (14)(a), (c) and (d)

(c) Section 21B(1); limit on amount: s. 21BB and reg.36 – *Act 2015*, s. 31(1) and s. 34 (for limit on quantity of ammunition)

(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) – *Act 2015*, s. 31(4)

Note: The *Firearms Act 2015* is not yet in force. New regulations may come into operation.

## **Tasmania**

*Firearms Act 1996* (Tas):

(a) Ss. 24 and 25(3)

(b)

(i) Section 25(2)

(ii) Section 89(2) and *Firearms Regulation 2016*, reg. 19

- (iii) Section 89(4) (Commissioner) and s. 93
- (iv) Section 90
- (v) Seems to be prohibited, as the only way to purchase and sell firearms is through a licensed firearm dealer, s. 24.
- (c) Section 105(1) and (2); limited amount: s. 105(2)(b) and *Firearms Regulations 2016*, reg. 20
- (d) Section 105(1)(b)

### **Victoria**

*Firearms Act 1996* (Vic):

- (a) Ss. 95 and 96
- (b)
  - (i) Section 94
  - (ii) Section 87 and *Firearms Regulations 2008*, reg. 7 and Schedule 2 of the Regulations
  - (iii) Section 118
  - (iv) Section 89
  - (v) Seems to be prohibited, unless through a licensed firearm dealer
- (c) Section 125; but no limit on amount
- (d) Section 125

### **Western Australia**

- (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*, reg. 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 (this is supported by the *Dangerous Goods Safety (Explosives) Regulations 2007*, Schedule 6, item 5(1))
- (d) Section 30(5)

### **Australian Capital Territory**

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

- (a) Section 226(1)(c) and s. 231, and *Firearms Regulation 2008*, reg. 53
- (b)
  - (i) Section 227(1)(b) and s. 191(1) and (2)
  - (ii) Sections 193, 194 and reg. 38
  - (iii) Section 193 and 198
  - (iv) Section 196(1)(b)
  - (v) – (not necessary given the geographical size of ACT)
- (c) Section 243 (only licensed firearm dealers may sell ammunition) and s. 244; limit on amount of ammunition: s. 244(c) should be ‘as prescribed by regulation’, but no provision was found in the Regulation
- (d) Section 244(b)

## **Northern Territory**

The Northern Territory complies with this resolution:

(a) *Firearms Act 1997* (NT), s. 63

(b)

(i) Section 63(3)

(ii) Section 18(1) and *Firearms Regulations 1997* (NT), reg. 27

(iii) Section 18(3)

(iv) Section 18(4)

(v) Section 63(1)(b)(ii)

(c) Section 68A(2)(a): no limit expressly prescribed, but s. 13(1)(d) provides that the amount of ammunition may not exceed the amount authorised in writing by the Commissioner.

(d) Section 68A(2)(b)

## **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**

*Firearms Act 1996* (NSW):

- (i) Section 52(4A) and (4B) (within NSW) and s. 53 (outside NSW)
- (ii) Section 54
- (iii) Commercial: s. 56 and *Firearms Regulation 2006*, reg. 125 (applies to all categories of firearms); non-commercial (for prohibited firearms or pistols): s. 57 and reg. 126
- (iv) The commercial transportation of ammunition with firearms is neither prohibited under the New South Wales legislation nor are there any specific requirements for the separate transport of ammunition with firearms (see reg. 125). However, specific requirements for the transport of ammunition with firearms are prescribed for the non-commercial transport of ammunition with firearms (see r 126), which is prohibited under reg. 126(1)(a) (ammunition must be transported separately), with exceptions stated in subs. (2): conveyance conducted by a primary producer or by a member of staff of the Department of Primary Industries, the Department of Environment and Conservation, Local Land Services or the Wild Dog Destruction Board.

### **Queensland**

*Weapons Act 1990* (Qld):

- (i) Section 66 states that the dispatch of a weapon is a matter of regulation. The *Weapons Regulation 2016*, reg. 97 sets out the restrictions on dispatching weapons but does not restrict mail order arrangements on a strictly licensed gun dealer to licensed gun dealer basis. Individuals without a firearm dealer licence may dispatch firearms, but only to a licensed dealer/armourer or a police officer. 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 the sale of a firearm be conducted through a licensed gun dealer and s. 37 requires that an advertisement for a firearm for such a sale must contain the serial number of the firearm
- (iii) *Weapons Regulation 2006*, reg. 97(5) and (6) provide that the weapon must be stored in a container, while reg. 96 contains safety requirements for all weapons in or on vehicles.
- (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. However, reg. 97 provides that a weapon may be dispatched only if unloaded.

## **South Australia**

(i) *Firearms Act 1977* (SA), subs. 15B(1) and (9) (sale must be in the presence of a dealer or authorised officer (14)). Mail order firearm sales are referred to in s. 15B(4)(d). It seems that mail orders are prohibited if made to an individual and are restricted to a licensed firearm dealer to licensed firearm dealer basis (s. 15B(5)) – *Firearms Act 2015*: s. 25 on the transfer or possession of firearms does not mention mail orders, but provides that the Regulation may make further provisions. In the Regulation, no such provisions were found.

(ii) Section 35B – *Act 2015*: s. 78 states that the Regulations may make provisions in relation to the advertising of firearms for sale. *Firearms Regulations 2008*, reg. 56 provides that an individual (other than a dealer) may advertise firearms for sale, only if the advertisement includes the identification number/details of the firearm.

(iii) Section 35A(2) and *Firearms Regulations 2008*, reg. 57(2) – *Act 2015*: Part 6 on the Code of practice for security, storage and transport of firearms and ammunition. No such regulations were found regarding the Code of practice referred to in the *Act 2015*.

(iv) Section 35A(1) and reg. 57, which allows ammunition to be transported with firearms, but firearms must be unloaded – *Act 2015*: Part 6 on the Code of practice for security, storage and transport of firearms and ammunition. No such regulations were found.

Note: The *Firearms Act 2015* is not yet in force. New regulations may come into operation.

## **Tasmania**

*Firearms Act 1996* (Tas):

(i) Ss. 100 (within State) and 101 (outside State)

(ii) Section 106

(iii) Section 104 and *Firearms Regulations 2016*, reg. 17 (for prohibited firearms) and reg. 18 (for other firearms)

(iv) Section 103: prohibited

## **Victoria**

*Firearms Act 1996* (Vic):

(i) Section 98 (transfer by mail is prohibited unless via a licensed gun dealer), s. 97 (acquisition from outside the State and for category C, D and H, must be from a licensed dealer) and s. 100 (disposal to place outside the State – only from and to licensed dealer)

(ii) Section 101

(iii) Subs. 126(2) and (3) provide that category C, D and E (equivalent of H) firearms must be carried in a manner that is secure and not dangerous. No specific provisions on mail order or commercial transport.

(iv) S. 126(4) provides that ammunition must be carried in a manner that is secure and not dangerous. There are no specific provisions on the commercial transportation of ammunition, which seems to be permitted.

## **Western Australia**

*Firearms Act 1973* (WA):

(i) Section 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 (2)) and there does not appear to be any requirement that the 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 specific provision in the Act nor in the Regulations, but reg. 11A(8) (*Firearms Regulations 1974*) provides that firearms and ammunition must be stored separately. The *Dangerous Goods Safety (Explosives) Regulations 2007*, Schedule 6, item 5(1) provides that a person may transport any quantity of ammunition, but includes nothing about transporting firearms with ammunition.

*Dangerous Goods Safety Act 2004*: Schedule 1, Item 7 on ‘Transport of dangerous goods’

### **Australian Capital Territory**

*Firearms Act 1996* (ACT):

- (i) Section 229 (within the State: prohibited), s. 230 (outside the State: permitted only from and to licensed firearm dealer)
- (ii) Section 231
- (iii) Section 232(b), s. 180 and *Firearms Regulation 2008*, reg. 52A
- (iv) Section 233 and *Firearms Regulation 2008*, reg. 52A(2)(a)

### **Northern Territory**

*Firearms Act 1997* (NT):

- (i) Ss. 64(6) and 65
- (ii) Section 63 requires that the 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 1997* (NT), reg. 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.



## COMPARATIVE TABLE OF PENALTIES FOR FIREARM OFFENCES

OFFENCE	New South Wales (penalty unit= \$110; <i>Crimes (Sentencing Procedure) Act 1999</i> )	Queensland (penalty unit= \$121.90; <i>Penalties and Sentences Act 1992, s 5</i> )	South Australia	Tasmania (penalty unit= \$157; <i>Penalty Units and Other Penalties Act 1987, s 4</i> )	Victoria (penalty unit = \$155.46; <i>Monetary Units Act 2004</i> )	Western Australia	ACT (penalty unit= \$150; <i>Legislation Act 2001</i> )	Northern Territory (penalty unit = \$154; <i>Penalty Units Act 2009, s 3</i> )
<b>Possession of a firearm without a licence</b>	Prohibited firearm: 7(1) 14 years imprisonment Firearms generally: 7A(1) 5 years	50(1) Category D, H or R weapon: 300 units or 7 years Category C or E weapon: 200 units or 4 years Category A, B or M weapon: 100 units or 2 years 10 or more weapons at least 5 of which are category D, E, H or R: 13 years 10 or more weapons: 500 units or 10 years	11(1) and (7) for penalties 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 Act 2015: 9(1) and (4) for penalties: Prescribed firearm: \$50,000 or 10 years Category C, D or H firearm: \$35,000 or 7 years Other category of firearm: \$20,000 or 4 years	9(1) 100 penalty units or 2 years or both	6(1) and (2) Category A or B longarm: 120 units or 2 years 6(3) and (4) Category C or D longarm: 240 units or 4 years 6(5) Category E longarm: 600 units or 7 years 7(1) General category handgun: 240 units or 4 years 7(2) Category E handgun: 600 units or 7 years	23(3) Indictable: - handgun or prescribed firearm: 7 years - otherwise: 4 years or \$16,000 Summary: - handgun or prescribed firearm: 3 years or \$12 000 - otherwise: 2 years or \$8000 6(1) Possession of firearm, ammunition, etc., prohibited by regulation: Indictable: 5 years Summary: 3 years or \$12,000	42 Prohibited firearm: 10 or more prohibited firearms 20 years Between 3 and 10: 14 years 1 or 2 prohibited firearms: 10 years 43 Any other firearm: 10 or more firearms: 20 years Between 3 and 10: 7 years 1 or 2 firearms: 5 years	58(6) Prohibited firearm: 400 units or 2 years 58(1) Other firearms: 400 units or 2 years Category A or B firearm: 200 units or 12 months

<b>OFFENCE</b>	<b>New South Wales</b> (penalty unit= \$110; <i>Crimes</i> ( <i>Sentencing</i> <i>Procedure</i> ) <i>Act</i> 1999)	<b>Queensland</b> (penalty unit= \$121.90; <i>Penalties</i> <i>and Sentences Act</i> 1992, s 5)	<b>South Australia</b>	<b>Tasmania</b> (penalty unit= \$157; <i>Penalty</i> <i>Units and Other</i> <i>Penalties Act</i> 1987, s 4)	<b>Victoria</b> (penalty unit = \$155.46; <i>Monetary Units</i> <i>Act 2004</i> )	<b>Western</b> <b>Australia</b>	<b>ACT</b> (penalty unit= \$150; <i>Legislation</i> <i>Act 2001</i> )	<b>Northern Territory</b> (penalty unit = \$154; <i>Penalty Units Act</i> 2009, s 3)
<b>Acquiring a firearm without a licence or permit</b>	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)(a) and (6) for penalties 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  Act 2015: 22(1) and (10) for penalties 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 or \$12,000	227(1)(a) Prohibited firearm: 10 years Other firearms: 5 years	62(1) 400 units or 2 years Category A or B firearm: 200 units or 12 months

<b>OFFENCE</b>	<b>New South Wales</b> (penalty unit= \$110; <i>Crimes</i> ( <i>Sentencing</i> <i>Procedure</i> ) <i>Act</i> 1999)	<b>Queensland</b> (penalty unit= \$121.90; <i>Penalties</i> <i>and Sentences Act</i> 1992, s 5)	<b>South Australia</b>	<b>Tasmania</b> (penalty unit= \$157; <i>Penalty</i> <i>Units and Other</i> <i>Penalties Act</i> 1987, s 4)	<b>Victoria</b> (penalty unit = \$155.46; <i>Monetary Units</i> <i>Act 2004</i> )	<b>Western Australia</b>	<b>ACT</b> (penalty unit= \$150; <i>Legislation</i> <i>Act 2001</i> )	<b>Northern Territory</b> (penalty unit = \$154; <i>Penalty Units Act</i> 2009, s 3)
<b>Purchasing a firearm except from a dealer or through a dealer as agent or where a police officer witnesses</b>	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) and (13) for penalties Class C, D or H firearm: \$10,000 or 2 years Any other firearm: \$5,000 or 1 year  Act 2015: 25(1)(b) and (4) for penalties 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	Purchasing a firearm except from a dealer or through a dealer as agent or where a police officer witnesses is not an offence in WA (s. 30A)	227(1)(c) Prohibited firearm: 10 years Other firearms: 5 years	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; <i>Crimes (Sentencing Procedure) Act 1999</i> )	Queensland (penalty unit= \$121.90; <i>Penalties and Sentences Act 1992, s 5</i> )	South Australia	Tasmania (penalty unit= \$157; <i>Penalty Units and Other Penalties Act 1987, s 4</i> )	Victoria (penalty unit = \$155.46; <i>Monetary Units Act 2004</i> )	Western Australia	ACT (penalty unit= \$150; <i>Legislation Act 2001</i> )	Northern Territory (penalty unit = \$154; <i>Penalty Units Act 2009, s 3</i> )
<b>Supplying/providing/selling a firearm to a person without a licence</b>	51(1) Otherwise: 5 years 51(1A) Prohibited firearm or pistol: 20 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	14(1)(b) and (6) for penalties Prescribed firearm: 15 years or \$75,000 Class C, D or H firearm: 10 years or \$50,000 Any other type of firearm: 7 years or \$35,000  Act 2015: 22(2) and (10) for penalties 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	226(1) Prohibited firearm: 10 years Other firearms: 5 years	63(2) 400 units or 2 years Category A or B firearm: 200 units or 1 year

<b>OFFENCE</b>	<b>New South Wales</b> (penalty unit= \$110; <i>Crimes</i> ( <i>Sentencing</i> <i>Procedure</i> ) <i>Act</i> <i>1999</i> )	<b>Queensland</b> (penalty unit= \$121.90; <i>Penalties</i> <i>and Sentences Act</i> <i>1992</i> , s 5)	<b>South Australia</b>	<b>Tasmania</b> (penalty unit= \$157; <i>Penalty</i> <i>Units and Other</i> <i>Penalties Act</i> <i>1987</i> , s 4)	<b>Victoria</b> (penalty unit = \$155.46; <i>Monetary Units</i> <i>Act 2004</i> )	<b>Western</b> <b>Australia</b>	<b>ACT</b> (penalty unit= \$150; <i>Legislation</i> <i>Act 2001</i> )	<b>Northern Territory</b> (penalty unit = \$154; <i>Penalty Units Act</i> <i>2009</i> , s 3)
<b>Contravention or failure to comply with condition of licence</b>	7(2)(b) Prohibited Firearms: 14 years 7A(2)(b) Firearms generally: 5 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  Act 2015: 19 Class C, D or H firearm: \$20,000 or 4 years Any other firearm: \$10,000 or 2 years	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 \$6,000	45 Prohibited firearm: 1000 units or 10 years or both Non-prohibited firearm: 500 units or 5 years or both	85 50 units or 12 months
<b>Failure to surrender a firearm and licence when the licence is suspended or revoked</b>	25(1) 50 units or 2 years or both	30(3) 20 units or 6 months imprisonment	Not following suspension or revocation but prohibition order: s. 10C(4) Firearms: \$50,000 or 10 years Firearm part or ammunition: \$20,000 or 4 years	54(4) 50 units or 2 years or both	53(1) 240 units or 4 years		48 50 units or 6 months or both	40(5) 50 units or 12 months

<b>OFFENCE</b>	<b>New South Wales</b> (penalty unit= \$110; <i>Crimes</i> ( <i>Sentencing</i> <i>Procedure</i> ) <i>Act</i> 1999)	<b>Queensland</b> (penalty unit= \$121.90; <i>Penalties</i> <i>and Sentences Act</i> 1992, s 5)	<b>South Australia</b>	<b>Tasmania</b> (penalty unit= \$157; <i>Penalty</i> <i>Units and Other</i> <i>Penalties Act</i> 1987, s 4)	<b>Victoria</b> (penalty unit = \$155.46; <i>Monetary Units</i> <i>Act 2004</i> )	<b>Western Australia</b>	<b>ACT</b> (penalty unit= \$150; <i>Legislation</i> <i>Act 2001</i> )	<b>Northern Territory</b> (penalty unit = \$154; <i>Penalty Units Act</i> 2009, s 3)
(cont.)			Act 2015: 21 Firearms: \$50,000 or 10 years Firearm part, sound moderator or ammunition: \$20,000 or 4 years					
<b>Possess ammunition without a licence</b>	65(3) 50 units		21B(1) and (8) for penalties \$10,000 or 2 years	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	249 10 units	69 10 units or imprisonment for 3 months
<b>Purchase/acquire ammunition unless holder of a licence or permit</b>	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	248 50 units or 6 months or both	68A(1) 10 units or 3 months

<b>OFFENCE</b>	<b>New South Wales</b> (penalty unit= \$110; <i>Crimes</i> ( <i>Sentencing</i> <i>Procedure</i> ) <i>Act</i> 1999)	<b>Queensland</b> (penalty unit= \$121.90; <i>Penalties</i> <i>and Sentences Act</i> 1992, s 5)	<b>South Australia</b>	<b>Tasmania</b> (penalty unit= \$157; <i>Penalty</i> <i>Units and Other</i> <i>Penalties Act</i> 1987, s 4)	<b>Victoria</b> (penalty unit = \$155.46; <i>Monetary Units</i> <i>Act 2004</i> )	<b>Western Australia</b>	<b>ACT</b> (penalty unit= \$150; <i>Legislation</i> <i>Act 2001</i> )	<b>Northern Territory</b> (penalty unit = \$154; <i>Penalty Units Act</i> 2009, s 3)
<b>Sell or supply ammunition to a person not holder of a licence for firearm designed to fire that ammunition</b>	65(1)and (1A) 50 units		21B(5) \$10,000 or 2 years  Act 2015: 31(4) and (12) for penalties \$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	244 50 units or 6 months or both	68A(2) 10 units or 3 months
<b>Possession of an unregistered firearm</b>	36(1) Prohibited firearm or pistol: 14 years Otherwise: 5 years	50A(1) 120 units	23(1) Class C, D or H firearm: \$10,000 or 2 years Any other firearm: \$5,000 or 1 year  Act 2015: 27(1) Prescribed firearm: \$35,000 or 7 years Class C, D or H firearm: \$20,000 or 4 years Any other firearm: \$10,000 or 2 years	74(1) 50 units or 2 years or both	7B(1) General category handgun: 600 units or 7 years Category E handgun: 1800 units or 14 years 6A(2) Category C or D longarm: 240 units or 4 years 6A(1) Category A or B longarm: 120 units or 2 years	23(5)(b) Handgun or prescribed firearm: 7 years Otherwise: \$16,000	177 Prohibited firearm: 1,000 units or 10 years, or both Other firearm: 500 units or 5 years, or both	59 50 units or 12 months or for a Category A or B firearm, 10 units or 3 months

<b>OFFENCE</b>	<b>New South Wales</b> (penalty unit= \$110; <i>Crimes</i> ( <i>Sentencing</i> <i>Procedure</i> ) <i>Act</i> 1999)	<b>Queensland</b> (penalty unit= \$121.90; <i>Penalties</i> <i>and Sentences Act</i> 1992, s 5)	<b>South Australia</b>	<b>Tasmania</b> (penalty unit= \$157; <i>Penalty</i> <i>Units and Other</i> <i>Penalties Act</i> 1987, s 4)	<b>Victoria</b> (penalty unit = \$155.46; <i>Monetary Units</i> <i>Act 2004</i> )	<b>Western</b> <b>Australia</b>	<b>ACT</b> (penalty unit= \$150; <i>Legislation</i> <i>Act 2001</i> )	<b>Northern Territory</b> (penalty unit = \$154; <i>Penalty Units Act</i> 2009, s 3)
<b>Failure to notify of loss, theft or destruction of a firearm</b>	37(1) – for supply, loss or theft, but nothing on destruction (7 days) 50 units	60A (loss or theft, but nothing on destruction) 10 units 22 (loss, destruction or theft to be reported) 10 units	25(1) (14 days) \$5,000 Act 2015: 30, if notice is given to the Registrar for the loss or theft of the firearm, the registration of the firearm is cancelled, but there seem to be no penalties	80(2) (loss and theft, but nothing on destruction) (7 days) 50 units	140 (24 hours) 30 units	30B (as soon as practicable) \$2,000	47 (7days) 10 units	90(2) (nothing on destruction. Destruction is only mentioned for licensed gun dealers, s. 18(6)) (2 days) 50 units or 12 months
<b>Handling firearm under the influence of alcohol or drugs</b>	64(1) 5 years	59(2) 40 units	29(1) \$10,000 or 2 years  Act 2015: 42(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	242(1) 50 units or 6 months or both	86 50 penalty units or imprisonment for 12 months
<b>Use of the mail to send firearms</b>	52 (within the State) 50 penalty units 53 (outside the State) 50 penalty units		15B(4)(d) and (13) for penalties: Class C, D or H firearm: \$10,000 or 2 years Other firearms: \$5,000 or 1 year  Act 2015: nothing	100 & 101 50 units	98 120 units or 2 years	30A(3) \$2000	229 (within the State) 50 units 230 (outside State) 100 units or 1 year or both	64 (within the Territory) and 65 (outside the Territory) 20 penalty units or 6 months



OFFENCE	New South Wales (penalty unit= \$110; <i>Crimes (Sentencing Procedure) Act 1999</i> )	Queensland (penalty unit= \$121.90; <i>Penalties and Sentences Act 1992, s 5</i> )	South Australia	Tasmania (penalty unit= \$157; <i>Penalty Units and Other Penalties Act 1987, s 4</i> )	Victoria (penalty unit = \$155.46; <i>Monetary Units Act 2004</i> )	Western Australia	ACT (penalty unit= \$150; <i>Legislation Act 2001</i> )	Northern Territory (penalty unit = \$154; <i>Penalty Units Act 2009, s 3</i> )
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### Storage and safekeeping

<b>Failure to comply with general requirements</b>	39(1) Prohibited firearm or pistol: 50 units or 2 years or both (and s. 41) Any other kind: 20 units or 12 months or both (and s. 40) Plus seizure of the firearm (s. 42)	60 100 units or 2 years	Safe storage is a condition of a licence – see penalties above for breach of condition  Act 2015: Part 6, s. 35 Category A offence: \$75,000 or 15 years Category B offence: \$50,000 or 10 years Category C offence: \$20,000 or 4 years Category D offence: \$10,000 or 2 years Category E offence: \$5,000 or 1 year Category F offence: \$2,500	84 Prohibited firearm: 50 units or 2 years or both Any other firearm: 20 units or 12 months or both		23(9)(d) \$2,000	180 Prohibited firearm: 2 years Other firearm: 1 year	46(1) 50 units or 12 months
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<b>OFFENCE</b>	<b>New South Wales</b> (penalty unit= \$110; <i>Crimes</i> ( <i>Sentencing</i> <i>Procedure</i> ) <i>Act</i> 1999)	<b>Queensland</b> (penalty unit= \$121.90; <i>Penalties</i> <i>and Sentences Act</i> 1992, s 5)	<b>South Australia</b>	<b>Tasmania</b> (penalty unit= \$157; <i>Penalty</i> <i>Units and Other</i> <i>Penalties Act</i> 1987, s 4)	<b>Victoria</b> (penalty unit = \$155.46; <i>Monetary Units</i> <i>Act 2004</i> )	<b>Western Australia</b>	<b>ACT</b> (penalty unit= \$150; <i>Legislation</i> <i>Act 2001</i> )	<b>Northern Territory</b> (penalty unit = \$154; <i>Penalty Units Act</i> 2009, s 3)
<b>Requirements for Category A or B firearms</b>	40(1) 20 units or 12 months or both		Penalties to be defined in the future Code of practice under Act 2015	85 20 units or 12 months or both	121(1) Category A or B longarm: 60 units or 1 year		181 1 year	46(1)(b) 50 units or 12 months
<b>Requirements for Category C, D and H firearms</b>	41(1) 50 units or 2 years or both		Penalties to be defined in the future Code of practice under Act 2015	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		182 2 years	46(1)(b) 50 units or 12 months
<b>Dealers to be licensed</b>	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 Act 2015: \$35,000 or 7 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	19(1)(a) Handgun or prescribed firearm:5 years Any other firearm:3 years or \$12,000	185 100 units or 1 year or both	16 (defines what a dealer licence authorises)  62, 63 and 64

<b>OFFENCE</b>	<b>New South Wales</b> (penalty unit= \$110; <i>Crimes</i> ( <i>Sentencing</i> <i>Procedure</i> ) <i>Act</i> <i>1999</i> )	<b>Queensland</b> (penalty unit= \$121.90; <i>Penalties</i> <i>and Sentences Act</i> <i>1992</i> , s 5)	<b>South Australia</b>	<b>Tasmania</b> (penalty unit= \$157; <i>Penalty</i> <i>Units and Other</i> <i>Penalties Act</i> <i>1987</i> , s 4)	<b>Victoria</b> (penalty unit = \$155.46; <i>Monetary Units</i> <i>Act 2004</i> )	<b>Western Australia</b>	<b>ACT</b> (penalty unit= \$150; <i>Legislation</i> <i>Act 2001</i> )	<b>Northern Territory</b> (penalty unit = \$154; <i>Penalty Units Act</i> <i>2009</i> , s 3)
<b>Dealer who fails to keep prescribed records or fails to submit prescribed returns</b>	45(1) Failure to keep: 20 units	71(1) Failure to keep: 20 units or 6 months	18 \$5,000  Act 2015: Dealers' records are referred in reg. 15 of the Firearms Regulations 2008 as a condition of a licence. Thus the penalty under s. 19 (Breach of conditions) applies: Category C, D or H firearm: \$20,000 or 4 years Other firearms: \$10,000 or 2 years	89(1) Failure to keep: 50 units 93 Failure to submit: 50 units	87(1) Keep records: 120 units or 2 years Records submitted: 118 60 units or 12 months	31(2) \$4,000	193 Keep records: 50 units or 6 months or both 198 Records submitted: 10 units	18(1) Failure to keep: 20 units or 6 months 18(3) Failure to submit: 20 units or 6 months

## NATIONAL HANDGUN AGREEMENT 2002 RESOLUTIONS<sup>4</sup>

“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 sport shooting purposes and also tightening licensing requirements for sport shooters seeking to obtain a handgun or pistol licence (Category H).”

- Warner, Kate and Simon Sherwood (2006), p. 31

### **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 1.3 effectively prohibits the importation 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**

#### *Firearms Act 1996* (NSW)

Section 4C on the ‘Meaning of Prohibited Pistols’:

- (a) calibre of more than .38”
- (b) self-loading pistol with barrel length of less than 120 mm
- (c) revolver with barrel length of less than 100mm

Section 8 provides that a category H (sport/target shooting) licence does not authorise possession of a prohibited pistol.

Section 16B and reg. 70 (more than .38”) allows category H (sport/target shooting) licence holders to possess and use prohibited pistols in certain limited circumstances (as agreed) (exception: *Firearms*

<sup>4</sup> Where a 1996 NFA resolution was unaffected, it has been omitted from this list.

*Regulation 2006*, reg. 48 for minors).

Section 51E provides that the holder of a category H (sport/target shooting) licence must not possess or use a pistol fitted with a magazine that has a capacity of more than 10 rounds.

### **Queensland**

Section 132(1) of the *Weapons Act 1990* (Qld) complies with the resolution and under s. 132(2) a licensee may be authorised to possess a restricted category H weapon if authorised by the competent authority in the limited circumstances agreed to.

*Weapons Regulation 2016* (Qld): reg. 23 on the prohibition to possess a category H weapon if the weapon has a calibre of more than .38”.

Regulation 24 on the prohibition to possess a category H weapon with a maximum capacity of more than 10 rounds.

### **South Australia**

(a) *Firearms Act 1997* (SA):

Section 15A(4b)(a) implements the agreed restrictions for barrel length, calibre and magazine capacity for handguns. However, this section only provides that “the Registrar may refuse an application for a permit to acquire a class H firearm for use as a member of a shooting club”.

(b) *Firearms Act 2015*: nothing found

(c) *Firearms Regulations 2008* (SA): reg. 21(10)(d) allows the possession of more than .38” calibre handguns for shooting club members.

Regulation 33: despite the restriction on barrel length set out in s. 15A(4b)(a) of the *Firearms Act 1997*, the Registrar may issue a shooting club member’s licence

Note: The *Firearms Act 2015* is not yet in force. New regulations may come into operation.

### **Tasmania**

*Firearms Act 1996* (Tas), s. 18(3) complies with the resolution’s restrictions.

*Firearms Regulations 2016*, reg. 7 also complies with the resolution’s restrictions.

### **Victoria**

Section 7A of the *Firearms Act 1996* (Vic) provides that, unless authorised by the Chief Commissioner, the holder of a target shooting licence must not possess, carry or use a semi-automatic handgun of less than 120 mm in length, a revolver or single shot handgun of less than 100 mm, a handgun that has a calibre of more than .45”, a handgun that has a calibre of less than .38”, but not more than .45”, and a handgun that has a magazine with a capacity of more than 10 rounds.

### **Western Australia**

*Firearms Regulations 1974* (WA), Schedule 3, Division 6, cl. 12(3) (Restrictions for category H): less than 120 (semi-automatic handguns) or 100 mm (other handguns) are prohibited, max 10 rounds and calibre of .45” or less.

### **Australian Capital Territory**

*Firearms Act 1996* (ACT), Schedule 1, on Prohibited Firearms: item 21 (.38” calibre pistol); item 22 (semi-automatic pistol with a barrel length of less than 120mm); item 23 (revolver or single action pistol with a barrel length of less than 100mm); 10 rounds restriction is applied to category C and D licence, but nothing on category H licence (see Schedule 3).

*Firearms Regulations 2008* (ACT), reg. 12 provides for limited circumstances for authorising the possession and use of a prohibited pistol for sport or target shooting.

**Northern Territory**

*Firearms Regulations 1997* (NT): reg.36 contains a list of types of 'prescribed Category H firearms' that complies with the agreed restrictions. Section 58 (2A)(a) of the *Firearms Act 1997* (NT) provides that the holder of a Category H sport shooter's licence is only authorised to possess and use a 'prescribed firearm'.

## **RESOLUTION 8 – LICENSING REQUIREMENTS**

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**

Section 31(3B) of the *Firearms Act 1996* (NSW) complies with the resolution.

### **Queensland**

Under s. 131 of the *Weapons Act 1990* (Qld), during the first year after the first issuance of a concealable firearm licence, the licensee must not acquire more than two handguns of the type listed in the article (types of handguns comply with the resolution). There is no prohibition for the acquisition of handguns during the first six months.

### **South Australia**

(a) *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 six months or less. The restrictions on ownership for the period between six and 12 months are also provided for: s 15A(4b)(c).

(b) *Firearms Act 2015* (SA): s. 23(3)(1) on the refusal of a permit to acquire if the applicant does not meet a requirement prescribed by the regulations.

No specific restrictions mentioned in this Act.

Note: The *Firearms Act 2015* is not yet in force. New regulations may come into operation.

### **Tasmania**

Section 61(c) of the *Firearms Act 1996* (Tas) provides that the Commissioner may only grant a permit to acquire up to two Category H firearms (of the types listed in the resolution) for sport and target shooting if satisfied that the applicant has held the Category H firearm licence for a period of at least six months (see also s. 61(d)).

### **Victoria**

Section 104(1)(e) of the *Firearms Act 1996* (Vic) 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 six months or less. Victoria does not fully comply with the resolution, as it would appear that a person is not prohibited from owning a pistol for the first six months of the licence.

### **Western Australia**

*Firearms Regulation 1974* (WA), Schedule 3, Division 6, item 12(2) fully complies with the resolution.

**Australian Capital Territory**

Section 145 of the *Firearms Act 1996* (ACT), on 'permits to acquire', states that they can only be granted if conditions under s. 75 are complied with. Section 75(2)(a) prohibits possession of a pistol for the first 6-month period of the licence and sub-s (3) refers to the second 6-month period and lists the types of pistol a licensee can own, in accordance with the resolution.

**Northern Territory**

*Firearms Act 1997* (NT), s. 35B: the licensee may only hold certain types (in accordance with the resolution) of category H handguns during the first six months of the licence. During the subsequent six months, the licensee may hold other firearms under the licence. There seems to be no prohibition to own a category H weapon during the first 6-month period.



**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 two 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**

Resolution 10: *Firearms Regulation 2006*, reg. 96(3) and reg. 94((a)(ii)

Resolution 11: reg. 94(a)(i)

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

**Queensland**

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

Resolution 11: s. 98B(1)(b)

Resolution 12: s. 18B(1)

**South Australia**

(a) *Firearms Regulations 2008* (SA):

Resolution 10: no requirement (nor in the *Firearms Act 1977*)

Resolution 11: reg. 48(c) and (d)

Resolution 12: no requirement (nor in the *Firearms Act 1977*)

(b) *Firearms Act 2015* (SA): no requirement, but s. 67 provides that the regulations may make provisions on the membership of recognised firearm clubs

Note: The *Firearms Act 2015* is not yet in force. New regulations may come into operation.

**Tasmania**

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

**Victoria**

*Firearms Act 1996* (Vic)

Resolution 10: s. 123D(3)(c) and (d)

Resolution 11: s. 123D(3)(b)

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

**Western Australia**

Resolution 12: *Firearms Regulations 1974*, could be provided for by Schedule 3, Division 6, cl. 12(2)(c), on safety training, but no endorsement is required.

**Australian Capital Territory**

Resolution 10: *Firearms Regulation 2008*, reg. 8(1)(c)(i)

Resolution 11: reg. 8(1)(b)(i)

Resolution 12: *Firearms Act 1996* (ACT), s. 145(2)(b)(ii) and (c)

**Northern Territory**

*Firearms Act 1997* (NT)

Resolution 10: s. 10AA(b)(i)

Resolution 11: s. 10AA(b)(ii)

Resolution 12: s. 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**

*Firearms Regulation 2006* (NSW), reg. 96(1)(a)(i) requires a minimum of six club organised competitive shooting matches and reg. 96(1)(a)(ii) states that for each different type of pistol, a person must undertake at least four club organised shoots. Regulation 96(4) provides that the failure of a person to comply with requirements under this clause is a reason for which the Commissioner may revoke the person's licence.

### **Queensland**

*Weapons Act 1990* (Qld), s. 133(1) provides for a minimum of six handgun shooting competitions and s. 133(3) provides that a weapon from each class must each be used in no fewer than four club organised shoots.

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 *Firearms Regulations 2008*, reg. 21(7)(a) makes active membership of a shooting club a condition of a Class H licence. The *Firearms Act 1977* (SA), s. 5(1)(b) defines 'active member' as a person who has participated in club organised competitive shooting matches on at least six occasions during the last 12 months. A minimum of at least four club organised shoots for each different type of handgun owned is not required.

The *Firearms Act 2015* (SA) does not comply with the resolution.

Note: The *Firearms Act 2015* is not yet in force. New regulations may come into operation.

### **Tasmania**

*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 to minimum participation in the Act or in the *Firearms Regulations 2016*.

### **Victoria**

*Firearms Act 1996* (Vic), ss. 16(3)-(8) fully comply with the resolution, especially s. 16(4) for minimums.

**Western Australia**

*Firearms Regulations 1974* (WA), Schedule 3, Division 6, item 12(6) fully complies with the resolution.

**Australian Capital Territory**

*Firearms Act 1996* (ACT), s. 82: cancellation of category H licence if the licensee stops being an active member. Ditto for *Firearms Regulation 2008*, reg. 20(2)(a). According to reg. 20(2)(b) a category C licence requires the licensee to take part in at least four clay target competitions, but nothing for category H licences. According to the Dictionary of the Act, 'active', for a member of an approved club, means a person who takes part in the number and kind of activities prescribed under the regulations and for the holder of a category H licence, who makes a personal contribution (financial).

**Northern Territory**

The *Firearms Act 1997* (NT), s. 15C(d) fully complies with the resolution and includes more stringent requirements (see reg. 39 of the *Firearms Regulations*).

# STATE BY STATE COMPLIANCE IN 2017

## The 1996 National Firearms Agreement

### Resolution 1 – Bans on specific types of firearm

Council agreed to either ban or restrict the possession and use of all fully automatic and semi-automatic long arms (rifles and shotguns) other than by military, police or government personnel. The only civilians allowed to use such firearms were to be in limited occupational categories licensed for a specified purpose, for example extermination of feral animals. Although States and Territories generally comply with this resolution, some jurisdictions still do not fully comply.

For example, South Australia does authorise the possession and use of fully automatic and self-loading firearms in limited circumstances. New South Wales extends permission for the use of semi-automatic firearms for use in vertebrate pest animal control to non-occupational firearm users, and also allows limited use of silencers, which are prohibited weapons. Tasmania's *Firearms Act* does not specifically forbid 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. In Tasmania, target shooting seems to be only authorised for semi-automatic pistols. In Victoria, automatic handguns are permitted in some circumstances.

Since the 'ten years on' report (Warner and Sherwood, 2006), no jurisdiction has made major legislative amendments with regard to Resolution 1.

### Resolution 2 – Nationwide registration of all firearms

All States and Territories comply with paragraph (a) of the resolution on the establishment of an integrated licence and firearm registration system. However, no specific reference to the National Exchange of Police Information (NEPI) system (resolution 2 (b)), or to related agencies,<sup>5</sup> was found in Queensland, Victoria or Western Australia legislation. In Queensland and in Victoria, there is a legislative requirement for access to information by other States. No such provision was found in Western Australia provisions. In New South Wales, legislation requires that the State firearm register be in a form accessible to other jurisdictions, while all antique firearms except revolvers are exempt from registration.

Since the 2006 report, legislative amendments regarding the NEPI scheme have been added in South Australia, where the *Firearms Act 2015* establishes a specific provision on this matter. The previous *Firearms Act 1977* (SA) only provided for the disclosure of information when proper interest in the contents was proven.

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

#### (a) Personal protection

Although personal protection is not regarded as a genuine reason for owning, possessing or using a firearm in any jurisdiction, this is not explicitly stated in Queensland, the Northern Territory or South Australia's *Firearms Act 1977* and *Firearms Regulations 2008*. The *Firearms Act 2015* (SA) will correct this. When in force, the Act will clearly state that personal protection is not a genuine reason for firearm possession and that armed protection of property is only permitted in exceptional circumstances.

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<sup>5</sup> CrimTrac, later rolled into the Australian Criminal Intelligence Commission (ACIC)

*(b) Genuine reason*

All States and Territories generally comply with this resolution, although additional reasons are acceptable in several jurisdictions. For example, paintball is added in Tasmania, Western Australia, the Australian Capital Territory and the Northern Territory. New South Wales permits unlicensed persons to undertake firearm safety training, to use firearms on safari tours, and exempts from licensing persons 12 years of age or over while shooting under supervision at an approved range. This State also counts membership of a hunting club as a genuine reason for firearm possession and does not require good reason for a permit to acquire subsequent firearms of a category already held.

The requirement for recreational hunters to produce proof of permission from a landowner to shoot on a specific property was not included in South Australia's *Firearms Act 1977* and its *Firearms Regulations 2008*. Although the *Firearms Act 2015* (SA) only reiterates the need for a genuine reason and requires that any such genuine reasons should be listed in regulations, it is not clear if the law refers to the 2008 regulations or those to come.

Since 2006 there have been no major legislative changes relating to this resolution.

*(a) Genuine need*

The resolution requires 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. All States and Territories generally comply with this resolution, except Queensland where a 'genuine need' is not required for a licence, but only for a permit to acquire. That aside, in Queensland an applicant for a category C licence must demonstrate a genuine need in primary production and/or in clay target shooting. In such case the Queensland requirements generally comply with the conditions laid down in the resolution for category C firearms.

For category D firearms, Queensland only poorly complies with the conditions listed in the resolution. In the same State, 'genuine need' for a category H firearm is not specifically addressed for a licence, but it is for a permit to acquire.

Most other jurisdictions generally comply with this resolution. Where differences occur, in most cases conditions are now less stringent than in 1996. A 'genuine need' for a category B licence is not required in South Australia, Victoria (except for security or prison guard, commercial or prescribed purposes), or in the Northern Territory. The same conclusions were reached ten years after the 1996 NFA (Warner and Sherwood, 2006).

In South Australia, the *Firearms Act 1977* does not comply with the conditions of this resolution in regard to large properties, clay target shooting and most conditions for category D licences. The *Firearms Act 2015* (not yet in force) only provides that a need be established for a permit to acquire all firearms. No such need is defined.

In New South Wales, permission to use Category D firearms in vertebrate pest animal control is extended to non-occupational users.

Most conditions for category D firearms are not complied with in Tasmania, Victoria and the Australian Capital Territory. The validity period of a D licence is more than the agreed renewal period of one year in the Northern Territory (up to five years), the Australian Capital Territory (2 years), and Victoria (3 years).

The only State to have more stringent requirements for category D firearms than stipulated in the NFA is Western Australia, where such firearms are limited to Commonwealth or State government use.

#### *(d) Firearm collectors*

On 17 July 1996 a regulatory scheme was adopted in respect of firearm collectors. All jurisdictions now generally comply with this scheme, with in most cases only minor differences.

One of the conditions is that jurisdictions may wish to apply a more stringent ‘permanently inoperable’ standard to category C firearms held by collectors. New South Wales, South Australia (*Firearms Act 1977* and *Firearms Regulations 2008*), Tasmania, Western Australia (where there are no provisions on the obligation to have the firearms rendered permanently or temporarily inoperable) do not observe this provision.

At the same meeting of all States and Territories it was agreed that jurisdictions would consider not applying any requirement for licensing or registering a collection firearm manufactured before 1900 for which no cartridge ammunition is commercially available. Most jurisdictions complied with this condition except Tasmania, Victoria, Western Australia, the Australian Capital Territory (but pre-1900 percussion-fired pistol are exempt) and the Northern Territory.

There are some other minor differences. For example, in New South Wales the discharge prohibition is not clearly provided for, but it is implied in the need for a special permit to use and in the ‘no ammunition’ provision. Queensland is the last remaining jurisdiction since 2006 to have no prohibition on the possession of ammunition for collection firearms. In Tasmania there are no provisions on the transfer of collectable prohibited firearms. The Northern Territory is the last remaining State with no specific provisions on sale, whereas in 2006 no jurisdiction restricted sales of Category C and D firearms to other collectors and all allowed sales to registered dealers.

South Australia complies with the resolution so far, under the *Firearms Act 1977* and the *Firearms Regulations 2008*, but firearm collectors are poorly addressed in the *Firearms Act 2015*.

The jurisdiction with the least change toward full compliance with this resolution is Western Australia, where there is still no obligation to have collection firearms rendered permanently or temporarily inoperable. There are also no specific provisions on special storage requirements and no provisions on club membership. However, it appears that the collection of category D firearms is prohibited.

A potential loophole referred to in the ‘10 years on’ report (Warner and Sherwood, 2006) now seems to have been addressed in all jurisdictions but Western Australia.

#### *(e) Ammunition collectors*

Council agreed that jurisdictions should consider requiring a collector of ammunition to have a licence or permit for the purchase or possession of that ammunition. New South Wales, Queensland, Victoria and Western Australia fully comply with this resolution. Since the 2006 report the Australian Capital Territory and Queensland have amended their legislation and now require that ammunition collectors hold a licence. The Australian Capital Territory, Tasmania and the Northern Territory generally comply with the resolution, except that in all cases there is no specific provision stating that all ammunition in a collection must be rendered inert for all sporting ammunition and military ammunition of UN hazard classification code 1.4 up to 20mm calibre, and must not contain high explosive, smoke, chemical, or lachrymatory agents.

So far, South Australia is the only remaining State that does not comply with this resolution. It appears from the *Firearms Act 1977* that there is no need for an ammunition collector’s licence. The acquisition of ammunition for collection seems to be prohibited, but there is a permit to acquire ammunition of a ‘particular kind’. The *Firearms Regulations 2008* seem to follow the same direction as the Act. This should be corrected when the *Firearms Act 2015* comes into force. This provides for

an ammunition collector's licence, but there are no details on such a licence. Subsequent regulations may cover these details.

*(f) Museums*

Council agreed that official museums should be subject to prescribed conditions while private museums should be subject to the same requirements as those applied to private firearm collections. New South Wales, Queensland, Victoria, Western Australia and the Australian Capital Territory fully comply with this resolution. In these jurisdictions, public museums are subject to prescribed requirements. In Tasmania, firearm museum licences appear to apply both to private and public museums. In the Northern Territory, museum display is covered by the Act and there are provisions for museum firearm licences, but the Act does not seem to make a distinction between private and public museums.

In South Australia, there is no special provision on museums in the *Firearms Act 1977* and in the *Regulations 2008*. The *Firearms Act 2015* only provides details on fees regarding museums.

*(g) Heirloom firearm licence*

Council agreed that jurisdictions may issue heirloom firearm licences. New South Wales, Queensland, Tasmania, Victoria, Western Australia, the Australian Capital Territory and the Northern Territory all have a special permit or licence for heirloom owners. As Queensland and Western Australia include the heirloom owner in the collector's licence, these two jurisdictions only partially comply with the conditions attached to this resolution. There is no limit on the number of firearms that can be possessed. Also in Western Australia no requirement was found that such a firearm must be rendered permanently inoperable.

South Australia is the only State not complying with this resolution. There is no provision on heirloom firearm licences in both the Act 1977 and its Regulations 2008. Under the Act 2015, it is not an offence to possess a firearm without a licence if inherited, but it does fall within the scope of the general requirements for a permit to acquire firearms.

Since the 2006 report, no jurisdiction underwent major amendments regarding this resolution.

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

New South Wales, South Australia, Tasmania, Victoria and the Australian Capital Territory fully comply with this resolution. New South Wales also has more stringent requirements for proof of identity.

Queensland generally complies, but with less stringent requirements. For example, there is no need to prove identity with a system similar to that required to open a bank account. The law only requires that an authorised officer be satisfied of the applicant's identity, and may request more information if in doubt. No photograph is required on the licence and the validity period is longer than the licence renewal agreed in the resolution – 10 years for category A and B, and five years for other categories.

Western Australia also follows less stringent requirements. The identity must only be proven in a manner approved by the Commissioner, but there are no details on that manner. Safety training does not seem mandatory, except for handguns. A reminder of safe storage is not included in the licence, but safe storage reminders may be given before the licence is granted.

In the Northern Territory it is not mandatory to include the holder's address, although police may request it. A reminder of safe storage responsibilities is not required.



All in all, each jurisdiction substantially, if not fully complies with the basic licence requirements of this resolution, for example age, ‘fit and proper person’ and proof of identity, which was already the case in 2006 (Warner and Sherwood, 2006). In that report it was noted that South Australia and Western Australia were the only jurisdictions not to clearly require applicants to undertake adequate safety training. In South Australia, this will be corrected when the *Firearms Act 2015* comes into force. It is still not a mandatory condition in Western Australia’s legislation, except for category H firearms. Compared to the 2006 report where Queensland, South Australia, Western Australia and the Northern Territory did not require a reminder of safe storage responsibilities on the licence, today this is only true of Western Australia and the Northern Territory.

“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.”

- Warner, Kate and Simon Sherwood (2006), p. 78

In 2017 this remains true of all States and Territories, where the minimum age for using a firearm varies from 10 to 16 years. Western Australia stipulates no minimum age at all. With regard to this nationally agreed NFA resolution, no jurisdiction complies.

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

Council agreed that all jurisdictions recognise, for visiting gun owners, licences issued in other Australian jurisdictions. All States and Territories fully comply with this resolution, with the exception of Western Australia which only provides for group permits for members of visiting interstate shooting clubs. There are no provisions regarding individuals visiting the State. Most jurisdictions also comply with the resolution regarding the time delay between recognition of an out-of-State licence and application for a new local licence. In South Australia, delays are neither included in the *Firearms Act 2015* nor in the *Firearms Act 1997*, but they are included in the *Firearms Regulations 2008*. The Regulations state that a new resident may possess and use a firearm for three months without a new local licence, except for category C, D and H firearms, which cannot be possessed and used. After moving to South Australia a new resident must apply for a local licence within seven days. The Northern Territory has stricter requirements, as the period of recognition for category C, D and H firearms prior to applying for a new licence is only two days.

#### **Resolution 4(e) – Licence categories**

Since the 1997 Australian Institute of Criminology report on NFA compliance (Warner and Moller, 1997), all jurisdictions have adopted provisions which comply with the nationally agreed licence and firearm categories with only minor variations. Some jurisdictions have added additional categories, for example: category W weapons in Queensland; category H replaced by category E in Victoria; category E in Western Australia. Some jurisdictions have also added firearms and/or weapons to the agreed 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 licence applicants be required to complete an accredited firearm safety training course. All States and Territories substantially comply with this resolution, except South Australia and Western Australia. South Australia’s *Firearms Act 1977* and *Regulations 2008* made it optional to pass this safety training. The *Firearms Act 2015* will make it mandatory. According to Western Australia legislation, the safety training course is still only optional, except for a category

H licence where it is mandatory. According to the 2006 Warner report “it is now understood that all States, including South Australia and Western Australia, require a course for first time applicants.” (Warner and Sherwood 2006, p. 78).

With respect to security industry employees, there are no specific provisions in Tasmania, Victoria, and Northern Territory legislation. This is an improvement since 2006 when only the Australian Capital Territory required persons employed in the security business to successfully pass an examination in safe handling and use of category H firearms on a yearly basis (Warner and Sherwood, 2006).

### **Resolution 6 – Grounds for licence refusal or cancellation**

Compared to 2006, when some jurisdictions did not fully comply with this resolution (Warner and Sherwood, 2006), all States and Territories now substantially follow the nationally agreed grounds for refusal and/or cancellation of firearm licences. For example, South Australia and Western Australia legislation did not stipulate that a domestic violence order or a violence-related restraint order would automatically result in refusal and/or cancellation of a licence. This remains the case in the *Firearms Act 1977* (SA), but the *Firearms Act 2015* will correct this. Western Australia has also since rectified this omission (Warner and Sherwood 2006, pp. 41-42). In 2006 New South Wales, South Australia, Tasmania and Western Australia legislation did not provide that a conviction for aggravated assault would automatically cancel a licence. These jurisdictions have since rectified this omission. New South Wales and South Australia now impose more stringent requirements (no conviction allowed within 10 years, instead of five years for New South Wales, and no time limit for South Australia), along with the Australian Capital Territory where the same requirements apply as for New South Wales. As in 2006, the failure to notify a change of address is still not grounds for cancellation of a firearm licence in Tasmania, but it is now for Western Australia.

### **Resolution 7 – Permits to acquire**

Council agreed that a separate permit be required for the acquisition of every firearm. Most jurisdictions generally comply with this resolution with only minor differences regarding the 28-day ‘cooling off,’ or waiting period. As in 2006, in Victoria and Western Australia the 28-day waiting period is only stipulated for the first weapon, after which a “sufficient time” only is required in Victoria, with no delay specified in Western Australia. New South Wales now exempts second and subsequent A and B category firearms from the 28-day waiting period for a permit to acquire. The Northern Territory applies the 28-day waiting period, but seems to allow less than 28 days in certain circumstances. Nonetheless, as agreed in the resolution, the appropriate background checks must still be made by each jurisdiction.

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

Council agreed that all firearms and ammunition must be stored in secure conditions. In 2017 all jurisdictions substantially comply with this resolution, but as in 2006 Queensland and Western Australia have still not implemented the agreed minimum uniform standards. In Queensland, category C weapon storage must still comply only with the same requirements as category A and B weapons. In Western Australia, there are no specific storage requirements by category of firearm. Although the same requirements apply to all firearms, the minimum standards appear to be equal to, or higher than those required by the resolution. There is no reference to the nationally agreed firearm safety booklet to be distributed to all new licence applicants in Queensland, South Australia, Victoria, Western Australia or the Northern Territory legislation. However, and contrary to the situation in 2006,

Queensland, Western Australia and the Northern Territory now include a reminder of safe storage responsibilities on the licence. Only South Australia's legislation remains silent on this matter. In Tasmania's legislation there are no specific storage requirements for firearms used in film production.

### **Resolution 9 – Recording of sales**

Except for Western Australia, all jurisdictions generally comply with this resolution in relation to firearm and ammunition sales. Most jurisdictions lack a limit on the amount of ammunition that a licence holder can possess or acquire. As in 2006, this is the case in New South Wales, Queensland, Victoria and Western Australia. The Australian Capital Territory and the Northern Territory do refer to a limited amount of ammunition which should be prescribed in the regulation or by the Commissioner, but no provision was found in the regulation for more details. Tasmania and South Australia are still the only jurisdictions to actually prescribe a limited quantity of ammunition. In Queensland's legislation and in South Australia's legislation (both 1977 and 2015), production of a valid firearm licence is not mandatory for the purchase of ammunition. There are no special provisions regarding remote locations in Tasmania, Victoria and in the Australian Capital Territory.

In South Australia, dealer firearm records will not be covered in legislation once the *Firearms Act 2015* comes into force. Records of dealer purchases, sales and transfers will only be covered in the regulations. As Western Australia has made no change to its legislation in this regard since 2006, the State still does not comply with this resolution. Firearm sales are not on a licensed firearm dealer basis, not all particulars of the sale must be recorded, there is no provision on remote location, and there is no limit on the quantity of ammunition allowed.

### **Resolution 10 – Mail order control and transport**

Except for Queensland and Western Australia, jurisdictions generally comply with this resolution, as was the case in 2006. Queensland allows the dispatch of a firearm from an individual, but only to a licensed dealer or police officer. In Western Australia, interstate mail orders are prohibited except for licensed firearm dealers, but they appear to be authorised between non-dealers within the State. In 2006, Victoria and Western Australia had no safety requirements for the movement of Category C, V and H weapons. This appears still to be the case. Also in 2006, New South Wales, Queensland, Victoria and Western Australia were the only jurisdictions not complying with the requirement to prohibit or regulate the commercial transport of firearms with ammunition. This is still the case in New South Wales (although the non-commercial transport of ammunition with firearms is prohibited), in Queensland (where regulations provide that a weapon may be dispatched only if unloaded), Victoria and Western Australia (although here, regulations provide that firearms and ammunition must be transported and stored separately).

## **The 2002 National Agreement on Handguns<sup>6</sup>**

### **Resolution 1 – Restrictions on classes of handguns for sporting purposes**

Most jurisdictions have fully complied with the restrictions on access to handguns (pistols and revolvers) for sport shooting. South Australia is the only State where the registrar may relax restrictions on barrel length, calibre and magazine capacity for handguns, but these limited exceptions are in accordance with the resolution. In two types of handgun competition, New South Wales permits the use of pistols of higher calibre than this resolution allows.

### **Resolution 8 – System of graduated access**

Council agreed that a system of graduated access to handguns for sport shooters should be implemented in all legislations. All jurisdictions comply with this resolution except Queensland, South Australia, Victoria and the Northern Territory. The latter all authorise the possession of a handgun during the first six months of a licence. In South Australia, this is at the discretion of the Registrar. Nonetheless, all jurisdictions restrict the type and number of handguns a person may own for the first 12 months of the licence, in accordance with the conditions set out in the resolution.

### **Resolution 10, Resolution 11 and Resolution 12 – Licensing Requirements**

In the 2006 Warner and Sherwood report, aside from South Australia, Tasmania and Western Australia, all other jurisdictions complied with resolutions 10, 11 and 12 on shooting clubs. This still appears to be the case. South Australia only complies with resolution 11 on the need for two character references from people the applicant has known for at least two years. When the *Firearms Act 2015* comes into force, this matter will be relegated to regulations. Tasmania does not comply with any of these resolutions. Western Australia only complies with resolution 12, but there is no need for an endorsement by an approved shooting club.

### **Resolution 14 – Minimum participation requirements**

As was the case in 2006, all jurisdictions have implemented some type of minimum participation requirements for approved clubs. Tasmania is the only jurisdiction to mention these minimum participation rates, but not to detail them. South Australia complies with the six club-organised competitive shooting matches condition, but not with the four club-organised shoots condition agreed nationally for handgun possession. This State's *Firearms Act 2015* also seems to be silent on the topic. Failure to comply with the minimum participation requirements is grounds for licence revocation or cancellation in all jurisdictions.

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<sup>6</sup> Where a 1996 NFA or 2002 Handgun Agreement resolution is unaffected, it has been omitted from this list.

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### Legislation and Forms Analysed and Compared

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- *Firearm Act 1996* (NSW) [as amended by all amendments in force as at 24 November 2015]
- *Firearms Regulation 2006* (NSW) [as amended by all amendments in force as at 1 January 2014]
- *Firearms and Weapons Legislation Amendment Act 2017* (NSW)
- *Crimes Act 1900*
- *Application for a Permit to Acquire a Longarm P562*. NSW Police Firearms Registry, at: [http://www.police.nsw.gov.au/\\_data/assets/pdf\\_file/0014/133403/SAMPLE\\_FORM\\_P562\\_v.3.3.pdf](http://www.police.nsw.gov.au/_data/assets/pdf_file/0014/133403/SAMPLE_FORM_P562_v.3.3.pdf)
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## **Queensland**

- *Weapons Act 1990* (Qld) [as amended by all amendments in force as at 5 March 2017]
- *Weapons Categories Regulation 1997* (Qld) [as amended by all amendments in force as at 19 December 2014]
- *Weapons Regulation 2016* (Qld) [as amended by all amendments in force as at 9 March 2017]
- *Explosives Act 1999* (Qld) [as amended by all amendments in force as at 5 December 2014]
- *Explosives Regulation 2003* (Qld) [as amended by all amendments in force as at 1 July 2016]

## **South Australia**

- *Firearms Act 1977* (SA) [as amended by all amendments in force as at 7 February 2014]
- *Firearms Regulations 2008* (SA) [as amended by all amendments in force as at 28 July 2016]
- *Firearms Act 2015* (SA) [version as at 17 December 2015. The *Firearms Act 2015* is yet to come into force]

## **Tasmania**

- *Firearms Act 1996* (Tas) [as amended by all amendments in force as at 17 August 2016]
- *Firearms Regulations 2016* (Tas) [as amended by all amendments in force as at 25 October 2016]

## **Victoria**

- *Firearms Act 1996* (Vic) [as amended by all amendments in force as at 1 December 2015]
- *Firearms Regulations 2008* (Vic) [as amended by all amendments in force as at 20 September 2012]

## **Western Australia**

- *Firearms Act 1973* (WA) [as amended by all amendments in force as at 21 September 2016]
- *Firearms Regulations 1974* (WA) [as amended by all amendments in force as at 4 February 2017]

## **Australian Capital Territory**

- *Firearms Act 1996* (ACT) [as amended by all amendments in force as at 9 March 2017]
- *Firearms Regulation 2008* (ACT) [as amended by all amendments in force as at 9 September 2016]

## **Northern Territory**

- *Firearms Act 1997* (NT) [as amended by all amendments in force as at 12 October 2016]
- *Firearms Regulations 1997* (NT) [as amended by all amendments in force as at 12 October 2016]