

(Reprint No. 1)

SOUTH AUSTRALIA

FIREARMS ACT, 1977

This Act is reprinted pursuant to the Acts Republication Act, 1967, and incorporates all amendments in force as at 1 July 1991.

It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.

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FIREARMS ACT, 1977

being

Firearms Act, 1977, No. 26 of 1977 [Assented to 12 May 1977]¹

as amended by

Firearms Act Amendment Act, 1986, No. 60 of 1986 [Assented to 23 October 1986]²

An Act to control the possession and sale of firearms; to repeal the Firearms Act, 1958-1975, and the Pistol Licence Act, 1929-1975; and for other purposes.

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I

PRELIMINARY

Short title

1. This Act may be cited as the *Firearms Act, 1977*.

Commencement

2. This Act shall come into operation on a day to be fixed by proclamation.

Arrangement of Act

3. This Act is arranged as follows:—

PART I—PRELIMINARY

PART II—ADMINISTRATION

DIVISION I—THE REGISTRAR OF FIREARMS

DIVISION II—THE FIREARMS CONSULTATIVE COMMITTEE

PART III—REGULATION OF POSSESSION OF, AND DEALING IN,
FIREARMS

DIVISION I—POSSESSION OF FIREARMS

DIVISION II—DEALING IN FIREARMS

DIVISION III—PROVISIONS OF GENERAL APPLICATION TO
LICENCES

DIVISION IV—APPEALS AGAINST DECISIONS OF THE REGISTRAR

PART IV—REGISTRATION OF FIREARMS

¹Came into operation (including ss. 11 and 13) 1 January 1980: *Gaz.* 6 December 1979, p. 1896.

²Came into operation 23 October 1986: *Gaz.* 23 October 1986, p. 1412.

N.B. The amendments effected to this Act by the Firearms Act Amendment Act, 1988, had not been brought into operation at the date of, and have not been included in, this reprint.

PART V—MISCELLANEOUS.

Repeal and transitional provision

4. (1) The following Acts and portions of Acts are repealed:—

the *Firearms Act, 1958*;

so much of the second schedule to the *Statute Law Revision Act (No. 2), 1975*, as relates to the *Firearms Act, 1958*;

the *Pistol Licence Act, 1929*;

the *Pistol Licence Act Amendment Act, 1965*;

the *Pistol Licence Act Amendment Act, 1971*;

the *Pistol Licence Act Amendment Act (No. 2), 1971*;

so much of the second schedule to the *Statute Law Revision Act, 1975*, as relates to the *Pistol Licence Act, 1929-1971*.

(2) Any firearm registered under the repealed Firearms Act immediately before the commencement of this Act shall be deemed to have been registered under this Act.

(3) Where a person held a pistol licence under the repealed Pistol Licence Act immediately before the commencement of this Act—

(a) the pistol to which the licence relates shall be deemed to have been registered under this Act;

and

(b) the licence shall be deemed to be a licence of the appropriate category, granted under this Act, authorizing the holder to have the pistol in his possession, and shall, subject to this Act, remain in force for the remainder of the period for which it was granted or last renewed.

Interpretation

5. (1) In this Act, unless the contrary intention appears—

“the Commissioner of Police” means the person for the time being holding, or acting in, the office of Commissioner of Police:

“the consultative committee” or “the committee” means the Firearms Consultative Committee established under this Act:

“dangerous firearm” means a firearm of a class declared by regulation to be a class of dangerous firearms:

“dealer”, in relation to firearms, means a person—

(a) who carries on the business of manufacturing or repairing firearms;

(b) who carries on the business of buying, selling or hiring out, firearms;

or

(c) who carries on the business of a pawnbroker or auctioneer and handles firearms in the course of that business:

“dealer’s licence” means a dealer’s licence granted under this Act:

“firearm” means—

- (a) a portable device from which a shot, bullet or other missile can be discharged by means of explosive;
- (b) any airgun from which a shot, bullet or other missile can be discharged;
- or
- (c) a device of a kind declared by regulation to be a firearm for the purposes of this Act,

and includes a device which, if in working order, would be a firearm within the meaning of this definition (except such a device that has been rendered unusable in a manner stipulated in the regulations or by the Registrar) but does not include a device of a kind excluded by regulation from the provisions of this Act:

“firearms licence” means a firearms licence granted under this Act:

“licence” means a dealer’s licence, firearms licence or special firearms permit:

“the Minister” means the Minister of the Crown to whom the administration of this Act is for the time being committed by the Governor and includes any other Minister of the Crown for the time being discharging the duties of that Minister:

“owner” in relation to a firearm includes a person who has possession of the firearm in pursuance of a contract of hire:

“recognized rifle, pistol or gun club” means a club declared by the Minister, by notice published in the *Gazette*, to be a recognized rifle, pistol or gun club for the purposes of this Act:

“the Registrar” means the Registrar of Firearms:

“the repealed Firearms Act” means the *Firearms Act, 1958-1975*, repealed by this Act:

“the repealed Pistol Licence Act” means the *Pistol Licence Act, 1929-1975*, repealed by this Act:

“silencer” means a device attached to a firearm and designed to muffle the report of the firearm upon discharge of a bullet or other missile:

“special firearms permit” means a special firearms permit granted under this Act.

(2) For the purposes of this Act, a person has a firearm in his possession—

(a) if he handles the firearm in any way otherwise than—

(i) in the presence, and with the consent, of the owner of the firearm;

or

(ii) upon the premises of a licensed dealer in firearms for the purpose of inspecting the firearm;

or

(b) if he has a power of disposition over the firearm.

PART II

ADMINISTRATION

DIVISION I—THE REGISTRAR OF FIREARMS

The Registrar

6. (1) The Commissioner of Police shall be the Registrar of Firearms.

(2) The Registrar may, by instrument in writing, delegate to any person any of his powers and functions under this Act.

(3) A delegation under this section is revocable at will, and does not prevent the exercise of any power or function by the Registrar himself.

DIVISION II—THE FIREARMS CONSULTATIVE COMMITTEE

Establishment of consultative committee

7. (1) There shall be a committee entitled the "Firearms Consultative Committee".

(2) The consultative committee shall consist of three members, appointed by the Governor, of whom—

(a) one shall be a legal practitioner of at least seven years standing;

(b) one shall be a person nominated by the Commissioner of Police;

and

(c) one shall be a person who has, in the opinion of the Governor, wide experience in the use and control of firearms.

(3) The Governor may appoint any member of the consultative committee to be chairman of the committee.

(4) The Governor may appoint a suitable person to be a deputy of any member of the committee, and such a person while acting in the absence of the member of whom he has been appointed a deputy shall have all the powers, authorities, duties and obligations of that member.

Quorum, etc.

8. (1) Two members of the consultative committee shall constitute a quorum of the committee and no business shall be transacted by the committee unless a quorum is present.

(2) A decision in which any two members of the consultative committee concur shall be a decision of the committee.

Allowances and expenses

9. The members of the consultative committee shall be entitled to such allowances and expenses as may be determined by the Minister.

Procedure of the consultative committee

10. (1) Before the consultative committee makes any decision upon a matter arising under this Act, it shall allow the Registrar, and any other person with a direct interest in the matter, a reasonable opportunity to make representations orally or in writing to the committee.

(2) In investigating any matter arising under this Act, the consultative committee is not bound by the rules of evidence but may inform itself in any manner it thinks fit.

PART III

REGULATION OF POSSESSION OF, AND DEALING IN, FIREARMS

DIVISION I—POSSESSION OF FIREARMS

Possession of firearms

11. (1) Subject to subsection (2), a person who has possession—

(a) of a firearm (not being a dangerous firearm) without holding a firearms licence of the appropriate class;

or

(b) of a dangerous firearm, without holding a special firearms permit authorizing possession of that firearm,

is guilty of an offence.

(2) No offence is committed under subsection (1)(a) by virtue of the fact that a person has possession of a firearm—

(a) at a shooting gallery that is under the supervision of a responsible person, for the purpose of shooting at that shooting gallery;

(b) on the grounds of a recognized rifle, pistol or gun club for the purpose of shooting in any manner authorized by the club;

(c) in the ordinary course of a business of manufacturing, repairing, or dealing in, firearms;

(d) in the ordinary course of a business of auctioneer, pawnbroker, carrier or warehouseman;

(e) as executor of the will, or administrator of the estate, of a deceased person;

or

(f) in circumstances prescribed by regulation.

(3) A firearms licence of a particular class shall, in accordance with the regulations, authorize the holder to have possession of—

(a) firearms (not being dangerous firearms) of a specified class;

or

(b) a specified firearm (not being a dangerous firearm).

(4) The classes of firearms licences that may be granted shall be fixed by the regulations.

(5) A special firearms permit shall, in accordance with the regulations, authorize the holder to have possession of—

(a) dangerous firearms of a specified class;

or

(b) a specified dangerous firearm.

Applications

12. (1) An application for a firearms licence or a special firearms permit—

(a) must be made to the Registrar in the prescribed manner and form;

and

- (b) must contain the prescribed information.
- (2) The prescribed fee for an application must—
- (a) in the case of an application for a firearms licence, accompany the application; and
- (b) in the case of an application for a special firearms permit, be paid before the Registrar considers the application.
- (3) The Registrar may require an applicant—
- (a) to furnish such further information as may be necessary to enable the Registrar to determine the application;
- or
- (b) to verify by statutory declaration information furnished in relation to the application.
- (4) The Registrar may grant an application for a firearms licence in accordance with the application but shall not refuse to grant the licence, whether because the Registrar is not satisfied that the applicant is a fit and proper person to hold the licence or for some other reason, without the concurrence of the consultative committee.
- (5) The Registrar may, if satisfied that possession of dangerous firearms is necessary only for the purposes of a theatrical production or for some other purpose authorized by the regulations and that the applicant is a fit and proper person to hold the permit, grant an application for a special firearms permit.
- (6) The Registrar may in granting an application impose conditions on the firearms licence or special firearms permit, but shall not do so in the case of a firearms licence without the concurrence of the consultative committee.
- (7) Subject to subsection (8), a firearms licence or special firearms permit shall be subject—
- (a) to conditions imposed pursuant to subsection (6) and stipulated in the licence or permit;
- and
- (b) to the conditions prescribed by the regulations.
- (8) If the Registrar considers it safe to do so, the Registrar may exempt the holder of a firearms licence or special firearms permit from compliance with all or any of the conditions prescribed by the regulations.
- (9) A person under the age of 15 years is not entitled to apply for, or be granted, a firearms licence, and a person under the age of 18 years is not entitled to apply for, or be granted, a special firearms permit.

DIVISION II—DEALING IN FIREARMS

Prohibition against dealing in firearms without licence

13. (1) A person who carries on the business of a dealer in firearms without holding a dealer's licence shall be guilty of an offence.

(2) This section shall not come into operation until a day to be fixed by proclamation for that purpose.

Application for dealer's licence

14. (1) An application for a dealer's licence—

(a) must be made to the Registrar in the prescribed manner and form;

(b) must contain such information as may be prescribed;

and

(c) must be accompanied by the prescribed fee.

(2) Subject to subsection (3) of this section, where due application for a dealer's licence is made, the Registrar shall grant a licence in accordance with the application.

(3) Where the Registrar is of the opinion that a dealer's licence should not be granted to an applicant—

(a) because he is not satisfied that the applicant is a fit and proper person to carry on business as a dealer in firearms;

(b) because he is not satisfied that the premises in which the applicant proposes to carry on that business are appropriate for the purposes;

or

(c) for any other reason,

he shall refer the matter to the consultative committee, and if the committee concurs in his opinion that the licence should not be granted, he may refuse the application.

(4) A dealer's licence shall be subject to—

(a) such conditions as may be prescribed;

and

(b) any further conditions imposed by the Registrar with the concurrence of the consultative committee and stipulated in the licence.

(5) A person under the age of eighteen years is not entitled to apply for, or be granted, a dealer's licence.

Obligations of dealer to keep records

15. If a dealer—

(a) fails to keep prescribed records of the firearms in which he deals in the course of his business;

or

(b) fails to submit prescribed returns to the Registrar in accordance with the regulations,

he shall be guilty of an offence.

Sale, etc., of firearms

16. If a person (whether or not he is a dealer) sells, lends, or otherwise parts with possession of, a firearm to a person without taking reasonable steps to satisfy himself that that person holds a firearms licence of the appropriate class or special firearms permit authorizing him to be in possession of the firearm, he shall be guilty of an offence.

DIVISION III—PROVISIONS OF GENERAL APPLICATION TO LICENCES**Term of licence and renewals**

17. (1) A licence shall, subject to this Act, continue in force for a term (not exceeding three years) specified therein.

(2) The Registrar shall, upon receipt of an application made in the prescribed manner and form, and accompanied by the prescribed fee, renew a licence for a further term.

Term of special firearms permit

17a. A special firearms permit shall, subject to this Act, continue in force for the period determined by the Registrar and stipulated in the permit, but is not renewable.

Cancellation of licence

18. If the Registrar is satisfied that the holder of a licence—

(a) has committed some act that shows that he is not a fit and proper person to hold the licence;

or

(b) has contravened, or failed to comply with, any provision of this Act, or any condition of his licence,

he may, with the concurrence of the consultative committee, by notice in writing served personally or by registered post upon the holder of the licence, cancel the licence.

Contravention of condition of licence

19. A person who contravenes, or fails to comply with, a condition of a licence shall be guilty of an offence.

Notice of change of address

20. (1) The holder of a licence shall, within fourteen days after he changes his address, give notice, in the prescribed form, of that fact to the Registrar.

(2) A person who fails to give notice as required by this section shall be guilty of an offence.

DIVISION IV—APPEALS AGAINST DECISIONS OF REGISTRAR**Appeals against decisions of Registrar**

21. (1) A person aggrieved by a decision of the Registrar—

(a) to refuse an application for a licence;

(b) to grant a licence subject to conditions (other than prescribed conditions);

or

(c) to cancel a licence,

may appeal against that decision to a special magistrate sitting in chambers.

(2) The appeal must be instituted within one month after the appellant received notice of the decision, but the special magistrate may, if he is satisfied that it is just and reasonable in the circumstances to do so, dispense with the requirement that the appeal should be so instituted.

(3) The special magistrate may, on the hearing of the appeal, exercise one or more of the following powers:—

- (a) affirm or vary the decision appealed against, or substitute any decision that should have been made in the first instance;
- (b) remit the subject matter of the appeal to the Registrar for further consideration;
- (c) make any order for costs.

PART IV

REGISTRATION OF FIREARMS

Application of provisions for registration of firearms

22. This Part shall not apply to—

- (a) any firearm in the possession of a person in the ordinary course of a business of manufacturing, repairing or dealing in firearms;
 - (b) any firearm in the possession of a person in the ordinary course of a business of auctioneer, pawnbroker, carrier or warehouseman;
 - (c) any firearm in the possession of a person in the ordinary course of his duties as executor of the will, or administrator of the estate, of a deceased person;
 - (ca) any dangerous firearm in the possession of the holder of a special firearms permit;
- or
- (d) any firearm in the possession of a person in prescribed circumstances.

Duty to register firearms

23. (1) A person who has in his possession any unregistered firearm shall be guilty of an offence.

(2) It shall be a defence to a charge of an offence under subsection (1) of this section if the defendant proves that the firearm came into his possession not more than fourteen days before the alleged date of the offence and that it was not reasonably practicable in the circumstances for the firearm to be registered by the time of the alleged offence.

Registration of firearms

24. (1) An application for registration of a firearm—

- (a) must be made to the Registrar in the prescribed manner and form;
 - (b) must contain the prescribed information;
- and
- (c) must be accompanied by the prescribed fee.

(2) Upon receipt of an application under this section, the Registrar shall register the firearm.

Notice to be given by owner of registered firearm

25. (1) The owner of a registered firearm shall, within fourteen days after—

- (a) he sells or otherwise parts with possession of the firearm;
 - (b) any alteration is made to the firearm that affects the nature or performance of the firearm in a prescribed manner or to a prescribed extent;
- or
- (c) the firearm is lost, stolen, or destroyed,

give notice of that fact in the prescribed form to the Registrar.

(2) A person who fails to give a notice as required by this section shall be guilty of an offence.

Notice of change of address

26. (1) The owner of a registered firearm shall, within fourteen days after he changes his address, give notice, in the prescribed form, of that fact to the Registrar.

(2) A person who fails to give notice as required by this section shall be guilty of an offence.

PART V
MISCELLANEOUS

Registers

27. (1) The Registrar shall maintain—

(a) a register of licences issued under this Act;

and

(b) a register of firearms registered under this Act.

(2) Where the Registrar is satisfied that a person has a proper interest in the contents of a register maintained under this section, he may permit that person to inspect that register, or portion of that register.

False statement upon application under this Act

28. (1) Any person who, in an application under this Act, makes a statement that is false in a material particular shall be guilty of an offence.

(2) It shall be a defence to a charge under subsection (1) of this section to prove that the defendant believed upon reasonable grounds that the statement was true.

Offence

29. A person who has possession of a silencer is guilty of an offence.

Name, address and age of persons carrying firearms

30. (1) A member of the police force may require any person—

(a) who has a firearm in his possession;

or

(b) whom he suspects, on reasonable grounds, of having recently had a firearm in his possession,

to state his full name, address and age.

(2) The member of the police force may, if he thinks fit to do so, require that person to produce such evidence as may be stipulated by the member of the police force to verify information given in response to a requirement under subsection (1) of this section.

(3) If any person fails or refuses, without reasonable excuse, to comply with a requirement under this section, he shall be guilty of an offence.

Production of licence to a member of the police force

31. (1) A person who has a firearm in his possession shall, at the request of a member of the police force—

(a) produce his licence to the member of the police force forthwith;

or

(b) produce his licence or the firearm within forty-eight hours for inspection by a member of the police force at a police station nominated by that person at the time the request was made.

(2) An apparently genuine document purporting to be signed by the Commissioner of Police, and to certify that a licence has not been produced as required under this section, shall, in the absence of proof to the contrary, be accepted as proof of the matter so certified.

Power to seize firearms

32. (1) If a member of the police force suspects upon reasonable grounds that—

- (a) a firearm is unregistered;
- (b) an offence against this Act has been committed, or is being committed, with respect to a firearm;
- (c) a person having a firearm in his possession is not a fit and proper person to have that firearm in his possession;

or

- (d) a firearm is mechanically unsafe,

he may seize that firearm.

(2) A member of the police force may stop, detain and search—

- (a) any vehicle upon which he suspects on reasonable grounds that there is a firearm liable to seizure under this section;

or

- (b) any person whom he suspects on reasonable grounds of having in his possession a firearm liable to seizure under this section.

(3) A member of the police force may break into, enter and search any premises in which he suspects on reasonable grounds may be found a firearm liable to seizure under this section.

(4) Where a firearm is seized in pursuance of this section, it shall be forwarded forthwith to the Registrar.

Obstruction of officers

33. A person who hinders or resists a member of the police force acting in the exercise of his powers under this Act, shall be guilty of an offence.

Forfeiture of firearms

34. (1) Where a firearm is seized in pursuance of this Part, the Registrar may institute proceedings for the forfeiture of the firearm before a court of summary jurisdiction.

(2) If the court is satisfied, in proceedings under subsection (1) of this section, that—

- (a) the owner of the firearm is not authorized by a licence to be in possession of the firearm;
- (b) that the return of the firearm to its owner would be likely to result in undue danger to life or property;

or

- (c) that the whereabouts of the owner of the firearm has not been, or could not be, ascertained by reasonable inquiry,

it may order that the firearm be forfeited to the Crown, or may make such other order for the disposal of the firearm as it thinks appropriate.

(3) Upon convicting a person of an offence against this Act, the court may order that any firearm involved in the commission of the offence (whether or not it has been seized under this Part) be forfeited to the Crown, or may make such other order for the disposal of the firearm as it thinks appropriate.

(4) Where a firearm has been seized under this Part, the firearm shall, subject to the order of any court, be returned to its owner—

(a) where no proceedings are instituted for an order under this section, or in respect of an offence involving the firearm—at the expiration of two months from the date of seizure;

or

(b) where such proceedings are instituted—when those proceedings are finally determined.

Power of sale of forfeited firearms

35. (1) The Registrar may sell or otherwise dispose of any firearm forfeited to the Crown under this Act.

(2) The proceeds of the sale or disposal of a firearm under this Act shall be paid to the general revenue of the State.

Evidentiary provision

36. In any proceedings for an offence under this Act, an apparently genuine document purporting to be signed by the Registrar and to certify—

(a) that at a specified time a person was or was not the holder of a licence;

(b) that a licence granted under this Act was subject to specified conditions;

or

(c) that at a specified time a firearm mentioned in the document was or was not registered,

shall, in the absence of proof to the contrary, be regarded as proof of the matter so certified.

Penalties

37. Every person who is guilty of an offence against this Act shall be liable—

(a) for a first offence to a fine not exceeding five hundred dollars;

and

(b) for a second or subsequent offence—to a fine of not less than five hundred dollars but not more than two thousand dollars or imprisonment for a period of not less than one month but not more than six months.

Proceedings

38. (1) Proceedings for an offence against this Act shall be disposed of summarily.

(2) Proceedings for an offence against this Act may be commenced at any time within twelve months after the date of the alleged offence.

Regulations

39. (1) The Governor may make such regulations as are contemplated by this Act, or as are necessary or expedient for the purposes of this Act.

(2) Without limiting the generality of the foregoing, those regulations may—

- (a) prescribe the duties of the Registrar;
- (b) regulate the keeping and form of registers;
- (c) prescribe forms to be used in connection with this Act;
- (d) prescribe, and provide for the payment or recovery of, fees for the purposes of any application or other proceeding under this Act;
- (e) exempt absolutely or subject to conditions—
 - (i) persons of a specified class;
 - or
 - (ii) firearms of a specified class,
from specified provisions of this Act;
- (f) provide that firearms licences of specified classes shall not be granted to persons under the age of eighteen years;
- (g) prescribe penalties not exceeding five hundred dollars for breach of, or non-compliance with, any regulation.

APPENDIX

Legislative History

Section 5(1):	definition of "licence" inserted by 60, 1986, s. 3(a) definition of "special firearms permit" inserted by 60, 1986, s. 3(b)
Sections 11 and 12:	substituted by 60, 1986, s. 4
Section 16:	amended by 60, 1986, s. 5
Section 17a:	inserted by 60, 1986, s. 6
Section 22:	amended by 60, 1986, s. 7
Section 29:	substituted by 60, 1986, s. 8
Section 34(2):	amended by 60, 1986, s. 9