

South Australia

Firearms Variation Regulations 2008

under the *Firearms Act 1977*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Firearms Variation Regulations 2008*.

2—Commencement

These regulations will come into operation on the day on which the *Firearms (Firearms Prohibition Orders) Amendment Act 2008* comes into operation.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of *Firearms Regulations 2008*

4—Insertion of regulations 5A and 5B

After regulation 5 insert:

5A—Fit and proper person

For the purposes of section 5(11)(ca) of the Act, an offence against any of the following provisions is a prescribed offence:

(a) *Controlled Substances Act 1984*—

an indictable offence against section 32 as in force immediately before the commencement of the *Controlled Substances (Serious Drug Offences) Amendment Act 2005*;

an offence against section 32 (Trafficking) as in force following the commencement of the *Controlled Substances (Serious Drug Offences) Amendment Act 2005*;

section 33 (Manufacture of controlled drugs for sale);

section 33A (Sale, manufacture etc of controlled precursor);

section 33B (Cultivation of controlled plants for sale);

section 33C (Sale of controlled plants);

section 33F (Sale, supply or administration of controlled drug to child);

section 33G (Sale, supply or administration of controlled drug in school zone);

section 33H (Procuring child to commit offence);

an indictable offence against section 33I (Supply or administration of controlled drug);

section 33J (Manufacture of controlled drugs);

section 33K (Cultivation of controlled plants);

(b) *Criminal Law Consolidation Act 1935*—

section 19AA (Unlawful stalking);

section 31 (Possession of object with intent to kill or cause serious harm);

section 32 (Possession of a firearm with intent to commit an offence);

an aggravated offence against section 169 (Serious criminal trespass—non-residential buildings);

an aggravated offence against section 170 (Serious criminal trespass—places of residence);

section 248 (Threats or reprisals relating to persons involved in criminal investigations or judicial proceedings);

section 250 (Threats or reprisals against public officers);

section 270D (Going equipped for commission of offence against the person);

(c) *Serious and Organised Crime (Control) Act 2008*—

section 22 (Offence to contravene or fail to comply with control order);

section 32 (Offence to contravene or fail to comply with public safety order);

section 35 (Criminal associations);

(d) *Summary Offences Act 1953*—

section 15A (Possession of body armour);

section 74BJ (Hindering removal or modification of fortifications);

(e) offences consisting of a conspiracy or an attempt to commit an offence referred to in a preceding paragraph.

5B—Prescribed health professional

For the purposes of paragraph (c) of the definition of *health professional* in section 6B(3) of the Act, a nurse registered under the *Nurses Act 1999* is a person of a prescribed class.

5—Variation of regulation 7—International visitor firearms permits

(1) Regulation 7(1)—delete subregulation (1) and substitute:

(1) The Registrar may, on the application of a person who is visiting, or who intends visiting, Australia, issue an international visitor firearms permit to the applicant authorising the applicant to possess and use a firearm for 1 or more of the following purposes as specified in the permit:

(a) competitive shooting;

(b) hunting;

(c) providing personal security services for a foreign dignitary or official.

(2) Regulation 7(6) to (9) (inclusive)—delete subregulations (6) to (9) and substitute:

- (6) A person who holds an international visitor firearms permit or a permit under the law of another State or a Territory of the Commonwealth corresponding with this regulation is exempt from the application of the Act and these regulations provided that the person complies with the conditions of the permit.

6—Variation of regulation 8—Exemption of persons from outside the State

(1) Regulation 8(1) to (4) (inclusive)—delete subregulations (1) to (4) and substitute:

- (1) This regulation authorises the possession or use of a firearm for a purpose in South Australia only if the possession or use of that firearm for that purpose could be authorised by a firearms licence (disregarding a purpose with which a firearms licence may be endorsed under regulation 11(2)(h)).
- (2) Subject to this regulation, a person whose usual place of residence is in another State or a Territory of the Commonwealth may possess or use a firearm for a purpose in South Australia, without holding a firearms licence, if the person is authorised to possess or use that firearm for that purpose under the law of his or her usual place of residence.
- (3) Subject to this regulation, a person who moves his or her usual place of residence to South Australia may, for the period of 3 months after moving, possess or use a firearm for a purpose in South Australia, without holding a firearms licence, if the person could possess or use that firearm for that purpose under the law of his or her former place of residence.
- (4) Subregulation (3) does not authorise a person to use a class C, D or H firearm in South Australia.

(2) Regulation 8(5)—delete "subregulation (1)" and substitute:

subregulation (2)

(3) Regulation 8(6)—delete "subregulation (1) or (4)" and substitute:

subregulation (2) or (3)

(4) Regulation 8(6)—after "licence" wherever occurring insert:

or other authority

7—Insertion of regulations 55A and 55B

Before regulation 56 insert:

55A—Disposal of forfeited or surrendered firearms etc

- (1) For the purposes of section 35(5)(b)(i)(A) of the Act, the following requirements govern the sale or disposal of a firearm, firearm part or ammunition:
 - (a) a sale is to be by public auction or public tender (and the Registrar may, but need not, fix a reserve price for the purpose);
 - (b) the firearm, firearm part or ammunition may be disposed of otherwise than by sale if the Registrar believes on reasonable grounds that the firearm, firearm part or ammunition has no monetary value or that the proceeds of the sale would be unlikely to exceed the costs of the sale or if the firearm, firearm part or ammunition has been offered for sale and was not sold.
- (2) Before paying the proceeds of a sale or disposal of a firearm, firearm part or ammunition to a person under section 35(5)(b)(i)(B) or (e) of the Act, the Registrar may deduct expenses incurred in connection with the sale or disposal and storage and other expenses incurred in relation to the firearm, firearm part or ammunition.
- (3) For the purposes of section 35(5)(d) of the Act, the period for which a firearm, firearm part or ammunition must be made available for collection is 1 month.

55B—Register of firearms prohibition orders

The register of firearms prohibition orders maintained for the purposes of section 6A of the Act must contain the following information in relation to each order:

- (a) the full name of the person to whom the order applies;
- (b) the date on which the order was issued;
- (c) the details of any exemption from a provision of section 10C of the Act (including any conditions that apply to the exemption) granted by the Registrar under section 10C(15) of the Act.

8—Variation of regulation 60—Fees

Regulation 60—after its present contents (now to be designated as subregulation (1)) insert:

- (2) The Registrar may waive or reduce (in a particular case or classes of cases) fees that would otherwise be payable under these regulations.

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 27 November 2008

No 288 of 2008

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