

South Australia

Firearms Variation Regulations 2009

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 2009*.

2—Commencement

These regulations come into operation on the day on which they are made.

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—Variation of regulation 4—Prescribed firearms

Regulation 4(1)—after paragraph (j) insert:

- (ja) imitation firearms that closely resemble a firearm referred to in a preceding paragraph or that do not closely resemble such a firearm or a firearm of Class A, B, C, D or H;

5—Substitution of regulation 5

Regulation 5—delete the regulation and substitute:

5—Imitation firearms included within definition of firearm

- (1) Pursuant to paragraph (c) of the definition of *firearm* in section 5(1) of the Act, an imitation firearm is, subject to subregulation (3), declared to be a firearm for the purposes of the Act.
- (2) Without limiting the ordinary meaning of imitation firearm, an item will be taken to be an imitation firearm if—
 - (a) it imitates the action of a firearm, regardless of its shape, material or colour; or
 - (b) it imitates the shape of a firearm, regardless of its material or colour; or
 - (c) it is of a class declared by the Minister, by notice in the Gazette, to be an imitation firearm.
- (3) Subject to subregulation (4), an imitation firearm is not a firearm for the purposes of the Act—
 - (a) if it could not reasonably be taken to be a firearm and—
 - (i) it contains no working parts; or
 - (ii) it is not designed to fire a projectile and none of its working parts imitate the firing action or any mechanism involved in the functioning of a firearm; or
 - (iii) it is designed and, if marketed, marketed only as a toy for children or as a novelty item (such as a lighter) and cannot readily be altered in a manner that would enable it to be used as a firearm; or
 - (b) if it is of a class declared by the Minister, by notice in the Gazette, not to be a firearm for the purposes of the Act.
- (4) Subregulation (3) does not apply to an item declared by the Minister to be an imitation firearm under subregulation (2)(c).
- (5) The Minister may, by subsequent notice in the Gazette, vary or revoke a notice made under this regulation.

Examples—

The following items are commonly sold as imitation firearms and are to be regulated as firearms:

- (a) a device that looks like a firearm but fires blanks, is front or top venting, and has a threaded muzzle capable of accepting an adapter allowing for the firing of flares or other projectiles;
- (b) a device that looks like a firearm but fires blanks, is top venting, and while not designed with a threaded muzzle as referred to in paragraph (a), imitates the firing action of a firearm.

5AA—Classes of firearms expanded to include imitation firearms

The definitions of class A, B, C, D and H firearms in section 5(1) of the Act are amended so that, if an imitation firearm closely resembles a firearm of a particular class, the class will be taken to encompass the imitation firearm.

6—Variation of regulation 11—Purposes for which firearms may be used

- (1) Regulation 11(2)—delete "Subject to subregulation (3)" and substitute:
Subject to this regulation
- (2) Regulation 11—after subregulation (4) insert:
 - (4a) A licence endorsed with a purpose listed in paragraphs (a) to (f) of subregulation (2) cannot authorise the possession of an imitation firearm.

7—Variation of regulation 21—Conditions of firearms licences

Regulation 21—after subregulation (1) insert:

- (1a) It is a condition of a firearms licence that it does not authorise possession of an imitation firearm unless it is specifically endorsed by the Registrar to that effect.
- (1b) It is a condition of a firearms licence that authorises possession of an imitation firearm that the imitation firearm must not, without the approval of the Registrar, be altered in a manner that would enable it to fire a projectile.

8—Variation of regulation 27—Reporting obligations of prescribed persons

Regulation 27—delete "20A" and substitute:

27A

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's Deputy

with the advice and consent of the Executive Council
on 1 October 2009

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