



ANNO QUINTO

ELIZABETHAE II REGINAE

A.D. 1956.

No. 53 of 1956.

An Act to control the possession, carriage and use of firearms, to repeal the Use of Firearms Restriction Act, 1917-1934, the Firearms Registration Act, 1919-1934, and the Firearms Restriction (River Murray) Act, 1929, and for other purposes.

[Assented to 29th November, 1956.]

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

1. This Act may be cited as the "Firearms Act, 1956". Short title.
2. This Act shall come into operation on a day to be fixed by proclamation. Commencement of Act.
3. The following Acts are repealed :— Repeals.

Use of Firearms Restriction Act, 1917—No. 1321 of 1917 ;
 Firearms Registration Act, 1919—No. 1369 of 1919 ; and
 Firearms Restriction (River Murray) Act, 1929—No. 1901 of 1929.
4. In this Act unless the context otherwise requires or some other meaning is clearly intended— Interpretation.

"firearm" includes an airgun :
 "licence" means a licence granted under this Act :
 "River Murray" includes any affluent, effluent, anabranch or extension of the River Murray and any river, creek, stream, watercourse, spring, lake, lagoon, swamp or marsh connected with the River Murray :

“vessel” includes steamer, boat, barge, pontoon, raft or other mobile floating structure.

Regulation of possession of firearms by young persons and aliens.

Prohibition of possession, etc., of a firearm by a person under the age of fifteen years

5. (1) Any person who, being under the age of fifteen years, uses, carries or has in his possession any firearm shall be guilty of an offence.

(2) Any person who sells, gives, lends or in any way supplies any firearm to any person under the age of fifteen years shall be guilty of an offence.

Persons under the age of eighteen years and aliens to hold licences.

6. After the expiration of three months from the commencement of this Act, a person who—

(a) is under the age of eighteen years ; or

(b) is an alien,

shall not use, carry or have in his possession any firearm unless he holds a licence.

Penalty : Fifty pounds or imprisonment for three months.

Exemptions.

7. (1) In proceedings for an offence against subsection (1) of section 5 or against section 6 it shall be a defence for the defendant to prove—

(a) if he is charged with using the firearm in contravention of either of those provisions, that he used the firearm in a shooting gallery which was under the personal supervision of a reliable person who was in charge thereof ;

(b) that, being a person who carried on the business of a manufacturer or repairer of firearms or dealer in firearms or the servant of any such person, as the case may be, he used, carried or had in his possession the firearm in the ordinary course of the business of a person who manufactures or repairs firearms or who deals in firearms ;

(c) that, being an auctioneer, carrier or warehouseman or the servant of an auctioneer, carrier or warehouseman, as the case may be, he carried or had in his possession the firearm in the ordinary course of the business of an auctioneer, carrier or warehouseman ;

(d) that, being a person—

(i) who carried on a business on any land as a farmer, grazier, orchardist, agriculturalist or horticulturalist; or

(ii) who resided with or was the servant of a person mentioned in subparagraph (i) of this paragraph,

as the case may be, he used, carried or had in his possession the firearm on that land;

(e) that, as the case may be, he used, carried or had in his possession the firearm in circumstances prescribed by the regulations.

(2) In proceedings for an offence against subsection (2) of section 5 it shall be a defence for the defendant to prove that he believed on reasonable grounds that the person to whom, as the case may be, he sold, gave, lent, or supplied the firearm intended to use, carry or possess the firearm in accordance with paragraph (a), (b), (c), (d), or (e) of subsection (1) of this section.

(3) In proceedings for an offence against section 6, it shall be a defence for the defendant to prove that, as the case may be, he used or carried, or had in his possession a pistol within the meaning of the Pistol Licence Act, 1929, in compliance with that Act.

8. (1) An application for a licence shall be made to the Commissioner of Police in the prescribed form and shall contain the information indicated therein. Licences.

(2) Subject to this section, the Commissioner of Police shall, if he is satisfied that the applicant is a sufficiently reliable person to use, carry and have in his possession a firearm without danger to persons or property, grant a licence to the applicant.

(3) Subject to this section, if the Commissioner of Police is not so satisfied, he may refuse to grant a licence, or may grant a licence subject to conditions as to any one or more of the following things—

(a) the places in which the applicant shall be entitled to use, carry or have in his possession a firearm;

(b) the classes of firearms which he shall be entitled to use, carry or have in his possession; or

(c) such other matters as the Commissioner of Police thinks necessary for the purpose of preventing danger to persons or property.

(4) If any person contravenes any such condition, or any condition as varied or added under this Act, he shall be guilty of an offence.

(5) A licence shall not be granted to any person under the age of fifteen years.

(6) A licence shall not be granted except on payment of a fee of five shillings or such other fee as may be prescribed.

Duration of licence and renewal thereof.

9. (1) A licence shall, unless previously revoked, continue in force until the thirty-first day of December next following the day of the granting thereof.

(2) Subject to this Act, the Commissioner of Police shall on application in the prescribed manner and on payment of a fee of five shillings, or such other fee as may be prescribed, renew a licence for a further period of twelve months from the expiration of the licence or any renewal thereof.

(3) The Commissioner of Police may, on renewing a licence, vary, add to or delete any conditions of the licence.

Record of licences.

10. (1) The Commissioner of Police shall keep a record of licences granted under this Act.

(2) The record shall be open for inspection at all reasonable times on payment of the prescribed fee (if any).

Refusal of renewal or revocation of licence.
Renewal subject to conditions.

11. (1) If the Commissioner of Police is satisfied that the holder of a licence—

(a) is under the age of fifteen years ;

(b) is not a sufficiently reliable person to use, carry or have in his possession a firearm without danger to persons or property ; or

(c) has contravened any condition of the licence,

he may refuse to renew the licence or revoke the licence.

(2) On an application for the renewal of a licence not subject to conditions, where the Commissioner of Police is satisfied that the holder of a licence is not a sufficiently reliable person to use, carry or have in his possession a firearm without danger to persons or property, he may renew the licence subject to conditions as mentioned in section 8, and subsection (4) of that section shall apply with respect thereto.

(3) The revocation of a licence shall be by notice in writing under the hand of the Commissioner of Police served on the holder of the licence personally or delivered by registered post.

12. (1) Any person aggrieved by any decision of the Commissioner of Police purported to be given pursuant to this Act may in accordance with rules of court made under this section appeal against the decision to any special magistrate sitting in chambers. On appeal a special magistrate may—

Appeal against
decision of
Commissioner
of Police.

- (a) hear the parties and other witnesses ;
- (b) confirm, reverse or vary the decision appealed against ;
- (c) make any other order which he thinks just including any order as to costs.

Rules of court shall be made under the Local Courts Act, 1926-1947, prescribing the time within which and the mode in which appeals are to be instituted and dealt with under this section, and any other matters relevant to the appeals.

(2) In this section “decision” means the granting or renewal of a licence subject to any condition, the refusal to grant or renew a licence, or the revocation of a licence.

*Prohibition of use of rifled firearms from vessels on
River Murray.*

13. (1) Any person who, whilst on any vessel on the River Murray, discharges any rifled firearm shall be guilty of an offence.

Prohibition of
use of rifled
firearms from
vessels on
River Murray.

(2) In proceedings for an offence against subsection (1) of this section—

- (a) the allegation in the complaint that any specified firearm is a rifled firearm shall be *prima facie* evidence of the facts alleged ; and
- (b) any part of the River Murray shall be deemed a part to which subsection (1) applies unless the defendant proves that that part by virtue of a proclamation made under this section is a part to which subsection (1) does not apply.

(3) The Governor may by proclamation declare that subsection (1) of this section shall not apply to any part of the River Murray specified in the proclamation.

(4) The Governor may by proclamation revoke or vary any such proclamation.

(5) The Minister may, by instrument signed by him, appoint any person to exercise for the purpose of enforcing this section the powers conferred by sections 15 and 16 of this Act on members of the police force ; and every person so appointed

may exercise, subject to the terms of the instrument appointing him, all or any of those powers.

(6) Any person so appointed may require a person whom he suspects on reasonable grounds to have committed an offence against this section to state his full name and his address; and if the person so appointed has reasonable cause to suspect that the name or address stated is false, he may require that person to produce evidence of the correctness of the name or address stated by him.

If any person so required refuses to comply with the requirement, or states a name or address which is false in any particular, or produces false evidence with respect to his name or address, he shall be guilty of an offence.

(7) Every person so appointed shall, upon exercising any power under this section, produce his instrument of appointment to any person demanding the same.

(8) Any person who in any way resists, hinders, obstructs or interferes with any person in the exercise of any power under this section shall be guilty of an offence :

Penalty : Fifty pounds or imprisonment for three months.

(9) Any proclamation made under section 3 of the Firearms Restriction (River Murray) Act, 1929, before the commencement of this Act and in force at the commencement of this Act shall have effect as if it had been made under this section.

(10) Any appointment of a person under section 6 of the Firearms Restriction (River Murray) Act, 1929, and in force at the commencement of this Act shall have effect as if made under subsection (5).

Proceedings against persons not fit to possess firearms or in respect of unsafe firearms.

**Proceedings
against persons
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unsafe firearms.**

14. (1) If a court of summary jurisdiction upon complaint duly laid against a person is satisfied that—

- (a) a firearm was taken from the possession of the person by a member of the police force ; and
- (b) the person is not fit to have the firearm in his possession ;
or
- (c) the firearm is unsafe,

the court may make any one or more of the following orders, namely—

- (i) that the Commissioner of Police keep the firearm for such period as the court orders or until further order ;

- (ii) that the firearm be destroyed ;
- (iii) that the person be prohibited for such period as the court thinks fit, or until further order, from using, carrying or having in his possession a firearm or any class of firearm ; or
- (iv) such other order, including any order with respect to the disposal of the firearm, as the court thinks fit.

(2) Where an order has been made for a firearm to be kept by the Commissioner of Police until further order or against any person prohibiting him from using, carrying or having in his possession a firearm, or any class of firearm, until further order, the person may, on complaint duly laid before a court of summary jurisdiction and served on the Commissioner of Police as defendant to the proceedings, apply to that court for an order for the return of the firearm or ending the prohibition, and the court may, if it deems it expedient to do so, order that the firearm be returned or the prohibition end on any day which it thinks proper.

No application shall be made under this subsection earlier than three months after the making of the original order, nor shall any application under this subsection be made within three months of a previous application relating to the same order.

(3) If any person who is prohibited by the order of a court of summary jurisdiction from using, carrying or having in his possession a firearm or any class of firearm uses, carries or has in his possession a firearm in contravention of that prohibition, he shall be guilty of an offence.

Miscellaneous.

15. (1) If any member of the police force suspects on reasonable grounds that—

Seizure of
firearms.

- (a) any offence against this Act has been committed or is being committed with respect to a firearm ;
- (b) a person having a firearm in his possession is not fit to have the firearm in his possession ; or
- (c) a firearm in the possession of any person is unsafe, he may seize the firearm.

(2) Where a firearm is seized pursuant to paragraph (b) or (c) of subsection (1), if a complaint is not laid under section 14 within one month of the seizure, or if a complaint is laid and no order is made under that section with respect to the firearm, the firearm shall be returned to the person from whom it was seized.

Search for
firearm.

16. (1) Any member of the police force may do any one or more of the following things, namely, stop, search and detain—

- (a) any vehicle in or upon which he suspects on reasonable grounds may be found a firearm subject to seizure under this Act :
- (b) any person whom he suspects on reasonable grounds of using, carrying or having in his possession a firearm subject to seizure under this Act.

(2) Any member of the police force may break, enter and search any premises where he suspects on reasonable grounds may be found a firearm subject to seizure under this Act.

Name, address
and age.

17. (1) Any member of the police force may require any person using, carrying or having in his possession a firearm to state his full name and his address and age ; and if the member has reasonable cause to suspect that the name, address or age stated is false, he may require the person to produce evidence of the correctness of the name, address or age stated by him.

(2) If any such person refuses to comply with any such requirement, or states a name, address or age which is false in any particular, or produces false evidence with respect to his name, address or age, he shall be guilty of an offence.

Production of
licence to
member of
police force.

18. (1) Any person who, being the holder of a licence, and using, carrying or having in his possession a firearm, when requested by a member of the police force to produce his licence, does not either produce his licence to the member forthwith upon the making of the request, or produce it within forty-eight hours after the making of the request at a police station named by the person to the member at the time of the making of the request, shall be guilty of an offence.

(2) A document purporting to be signed by the Commissioner of Police and purporting to certify that a licence has not been produced as required by this section shall be *prima facie* evidence of the matter purporting to be certified.

False state-
ment on
application.

19. (1) Any person who makes any false statement in an application for the grant or renewal of a licence shall be guilty of an offence.

(2) On a charge of an offence against subsection (1) of this section it shall not be necessary for the prosecutor to prove the state of mind of the defendant, but the defendant shall be entitled to be acquitted if he proves that when making his statement he believed and had reasonable grounds for believing that it was true.

20. In proceedings for an offence against this Act, a certificate purporting to be signed by the Commissioner of Police and purporting to certify—

Proof whether person licensed and of conditions of licence.

- (a) that at any specified time any person was or was not the holder of a licence ;
- (b) the conditions subject to which a licence was granted or renewed,

shall be *prima facie* evidence of the facts stated therein.

21. (1) For the purposes of proceedings for any offence against this Act, or on any appeal pursuant to this Act, the court or the special magistrate may decide upon its or his own view and judgment whether any person has attained any age.

Proof of age.

(2) Nothing in subsection (1) of this section shall be construed so as to prevent the age of any person being proved.

22. (1) Upon convicting any person of an offence against this Act with respect to any firearm, the court may make such order as to the disposal of the firearm as the court thinks fit, including an order for the confiscation of the firearm.

Court may make order with respect to firearm on convicting person of offence.

(2) Where the court orders a firearm to be confiscated, the Commissioner of Police may sell the firearm by public auction upon such terms and conditions as he thinks fit or may destroy the firearm.

(3) The proceeds of any such sale shall be paid to the Treasurer for the purposes of the General Revenue of the State.

23. (1) The Governor may make regulations prescribing any matter which it is necessary or convenient to prescribe for giving effect to this Act.

Regulations.

(2) Any such regulation may create an offence and any such regulation may prescribe a penalty, not exceeding fifty pounds, for the offence.

24. (1) The Commissioner of Police may delegate to any member of the police force either generally or specially any power or function of the Commissioner of Police under this Act.

Power of Commissioner of Police to delegate.

(2) Where the member of the police force has exercised or performed any power or function so delegated, references in this Act to the Commissioner of Police shall, with respect to such exercise or performance, be read as references to the member.

Penalty for
offence against
Act.

25. Unless otherwise provided by this Act, a person who is guilty of an offence against this Act shall be liable to a penalty not exceeding fifty pounds.

Summary
disposal of
offences.

26. All proceedings in respect of offences against this Act shall be disposed of summarily.

Saving
provision.

27. Nothing in this Act shall be construed to affect any rights or obligations under the Animals and Birds Protection Act, 1919-1938, or the Pistol Licence Act, 1929.

In the name and on behalf of Her Majesty, I hereby
assent to this Bill.

R. A. GEORGE, Governor.