



TASMANIAN FIREARMS ACT 1996

2010 PUBLIC CONSULTATION



In recent times a number of stakeholders have indicated that the *Firearms Act 1996* (the Act) requires amendment to address matters that they believe should be put in place, bring the legislation into alignment with other Australian jurisdictions, provide opportunities for simpler processes for firearm owners and put in place requirements following a review of the administration of the Act by the Department of Police and Emergency Management (DPEM).

The Act has, since its enactment in November 1996, been amended on 11 occasions. Many of these amendments have been consequential changes as other Acts were modified, with major amendments occurring in 2003, 2007 and with the passage of the *Family Violence Act 2004*. The majority of the amendments made to the Act in 2003 and again in 2007 were a direct result of agreements made by all jurisdictions nationally.

The Tasmanian *Firearms Act 1996* regulates the ownership, storage, sale, purchase, repair, possession, registering, permitting, exemptions, collecting, security, seizure and forfeiture, applications, licensing, importation, transport, safety, offences and penalties, categorisation of firearms, heirloom and museum licences, approval of and types of ranges, inspections, modifications, unregistered firearms, employment restrictions and loss and destruction of firearms. There are presently 35,545 active firearms licences of all categories and 133 active firearm dealers, with 122,866 registered firearms in the State, for a population of 502,600 (June 2009).

The recommendations in the attached document have been made by a number of stakeholders, both groups and individuals. These have included DPEM, Tasmanian Firearm Owners Association (TFOA), Arms Collectors Guild of Tasmania (ACG), Tasmanian Farmers and Graziers Association (TFGA) and Department of Primary Industries, Parks, Water & Environment (DPIPWE). These recommendations are not advocated by any particular group other than those listed above, or by the Minister for Police and Emergency Management or any other Minister, or elected member of the Tasmanian Parliament.

Your comment is sought on the recommendations to seek a total community view and comment from which advice may be provided to the Minister for Police and Emergency Management. It should be noted that in some circumstances, whilst your ideas and opinions are welcomed and considered, they may not result in action, due to restrictions in the present Act, national agreements or other issues that may exist or arise.

Submissions marked "Confidential" will be deemed to be confidential and will not be released to any other party.

Submissions may be sent by e-mail to:

Firearms.Consultation@police.tas.gov.au

or by ordinary mail to:

**Public Consultation Firearms Legislation Submissions
Department of Police and Emergency Management
GPO Box 308
HOBART 7000**

Enquiries on the consultation process may be made to 03 6230 2600.

TASMANIAN - FIREARMS ACT 1996

DETAILED EXPLANATION OF CURRENT LEGISLATION AND AMENDMENTS PROPOSED 2010.

ACROYNMS:

<p>DPEM: DPIPWE: MCPEMP Commissioner</p>	<p>Department of Police and Emergency Management Department of Primary Industries, Parks, Water & Environment Ministerial Council for Police and Emergency Management – Police Commissioner of Police</p>
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	AMENDMENT	CURRENT LEGISLATION	SUPPORTING COMMENT
	<p>The words used are not the final version but provide guidance as to that which may be included in the legislation, only.</p>		
1	<p><u>Section 3</u> <i>Clarify the definition of 'firearm'</i> Specify those items which may unintentionally fit within the definition of "firearm" but should not be included as a "firearm". Such as captive bolt humane killers, starting pistols (cap type only which does not have the appearance of a firearm) industrial power tools; a device known as a 'line thrower' which is designed for tagging whales and devices designed for the discharge of signal flares.</p> <p>Amend section 3 "<i>firearm</i>" by inserting after the definition, "but does not include anything declared by the Regulations not to be a firearm."</p> <p>Amend the <i>Firearm Regulations 2006</i> by inserting after 3A: '3B. The following are declared not to be firearms for the purposes of the Act: (a) captive bolt guns of the kind designed</p>	<p>In section 3 "firearm" means –</p> <p>(a) a gun or other weapon that is capable of propelling anything wholly or partly by means of an explosive; and (b) a blankfire firearm; and (c) an air rifle; and (d) an air pistol; and (e) an imitation firearm, other than a toy; and (f) any other prescribed thing; and (g) any thing that would be a firearm under <u>paragraph (a), (b), (c) or (d)</u> if it did not have something missing from it or a defect or obstruction in it;</p>	<p>Research throughout other Australian jurisdictions has revealed the following common exclusions from the definition of "firearm":</p> <ol style="list-style-type: none"> (1) Captive bolt guns; (2) Flare guns; (3) Dog retrievers; (4) Line throwers; and (5) Nail guns <p>NSW: The following are declared not to be firearms for the purposes of the Act:</p> <ul style="list-style-type: none"> ▪ an explosive-powered tool, ▪ a heavy bench-mounted rifle of an approved kind that is used for experimental purposes, ▪ a tool designed to be used to split or break rock or concrete by means of the firing of an explosive cartridge, such as the tool known as the "Boulder Buster", ▪ an industrial tool designed to be used in the mining and steel industries to remove refractory material (eg slag) from kilns or for other similar purposes, such as the tool known as the "Slag Buster Kiln"

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	<p>for use in an abattoir in the humane killing of livestock; and</p> <p>(b) a device designed for the discharge of signal flares; and</p> <p>(c) a device commonly known as a line thrower designed for establishing lines between structures or natural features and powered by compressed air to other compressed gases and used for rescue purposes, rescue training or rescue demonstration.</p>		<p>Gun”,</p> <ul style="list-style-type: none"> ▪ a captive bolt gun of the kind designed for use in an abattoir in the humane killing of livestock, ▪ any piece of artillery manufactured before 1946 that has been rendered permanently inoperable, and the breech, chamber and barrel of which have been permanently sealed, and that is on permanent display in a public place for memorial or commemorative purposes, ▪ cannon and field guns that have been constructed as pieces of military ordnance, and that have a calibre of more than 25 millimetres, and that have been rendered permanently inoperable, and the breech, chamber and barrel of which have been permanently sealed, ▪ a firearm designed to be used for life saving or distress signalling purposes (such as line-throwing guns or the “Very” type of firearm), ▪ a firearm designed to be used in film, television or theatrical productions for the purposes of breaking glass or ceramic articles and that is only capable of firing a projectile over a short range (such as the firearm known as the “Trunion” gun), ▪ a firearm designed to be used to train dogs by firing retrievable projectiles (such as the firearm known as the “Turner Richards Dummy Launcher”), ▪ a tool designed to discharge a nail, spike or other fastener into or through material by means of compressed air or carbon dioxide (such as a nail gun). <p>VICTORIA: <i>firearm</i> means any device, whether or not assembled or in parts and whether or not operable or complete or</p>
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			<p>temporarily or permanently inoperable or incomplete—</p> <p>(a) which is designed or adapted to discharge shot or a bullet or other missile by the expansion of gases produced in the device by the ignition of strongly combustible materials or by compressed air or other gases, whether stored in the device in pressurised containers or produced in the device by mechanical means; or</p> <p>(b) which has the appearance of such a device which is not—</p> <p>(c) an industrial tool powered by cartridges containing gunpowder or compressed air or other gases which is designed and intended for use for fixing fasteners or plugs or for similar purposes; or</p> <p>(d) a captive bolt humane killer; or</p> <p>(e) a spear gun designed for underwater use; or</p> <p>(f) a device designed for the discharge of signal flares; or</p> <p>(g) (repealed)</p> <p>(h) a device commonly known as a kiln gun or ring blaster, designed specifically for knocking out or down solid material in kilns, furnaces or cement silos; or</p> <p>(i) a device commonly known as a line thrower designed for establishing lines between structures or natural features and powered by compressed air to other compressed gases and used for rescue purposes, rescue training or rescue demonstration; or</p> <p>(j) a device of a prescribed class;</p> <p>SOUTH AUSTRALIA: The following are excluded from the provisions of the Act and these regulations:</p>
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			<ul style="list-style-type: none"> (a) captive bolt guns; (b) tools or instruments powered by burning propellant or by compressed air or other compressed gas; (c) rocket line launchers; (d) devices designed to throw a net to catch animals; (e) devices designed to throw an object for shotgun target practice; (f) dog retrievers; (g) Very pistols (means: a handgun designed to fire flares or exploding shells) used only for signalling distress or rescuing persons in distress; (h) a firearm that— <ul style="list-style-type: none"> (i) has been fitted with a transmitter of infrared electromagnetic waves or a receiver of such waves or both; and (ii) has been modified so as to be incapable of firing a projectile; and (iii) cannot easily be modified to fire projectiles; (i) an underwater firearm; (j) receivers of firearms referred to in a preceding paragraph. <p>ACT: The following are not firearms:</p> <ul style="list-style-type: none"> (a) a pre-percussion pistol; (b) a firearm (other than a percussion-fired pistol) manufactured before 1900 for which ammunition is not readily commercially available; (c) an explosive-powered tool; (d) a heavy bench-mounted rifle used for experimental purposes that is of a kind approved by the registrar;
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		<p>(e) a tool designed to be used to split or break rock or concrete by the firing of an explosive cartridge; Example: the tool known as the ‘Boulder Buster’</p> <p>(f) an industrial tool designed to be used in the mining and steel industries to remove refractory material (such as slag) from kilns or for other similar purposes; Example: the tool known as the ‘Slag Buster Kiln Gun’</p> <p>(g) a captive bolt gun of the kind designed for use in an abattoir in the humane killing of livestock;</p> <p>(h) a tool designed to discharge a nail, spike or other fastener into or through material by means of compressed air or carbon dioxide.</p> <p>NORTHERN TERRITORY: No specific exclusions</p> <p>WESTERN AUSTRALIA: No specific exclusions</p> <p>QUEENSLAND: <i>firearm</i> means—</p> <p>(a) a gun or other thing ordinarily described as a firearm; or</p> <p>(b) a thing ordinarily described as a weapon that, if used in the way for which it was designed or adapted, is capable of being aimed at a target and causing death or injury by discharging—</p> <p>(i) a projectile; or</p> <p>(ii) noxious, corrosive or irritant liquid, powder, gas, chemical or other substance; or</p> <p>(c) a thing that would be a firearm mentioned in paragraph (a) or (b), if it were not temporarily inoperable or incomplete; or</p> <p>(d) a major component part of a firearm;</p>
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		<p><i>but does not include—</i></p> <p>(e) an antique firearm, explosive tool, captive bolt humane killer, spear gun, longbow or crossbow; or</p> <p>(f) a replica of a spear gun, longbow or crossbow; or</p> <p>(g) a slingshot, shanghai or sword.</p>
<p>2 <u>Section 3</u></p> <p><i>Define ‘Imitation firearm’</i></p> <p>Amend section 3 by inserting a definition of ‘imitation firearm’:</p> <p>An imitation firearm is an article, of any material or colour, that is a copy or reproduction of a firearm or has the appearance of a firearm, and</p> <p>(a) is not capable of discharging a projectile; and</p> <p>(b) which could reasonably be mistaken as a firearm.</p>	<p><i>Section 3</i> states that, for the purposes of the Act “firearm” includes –</p> <p>(e) an imitation firearm</p> <p>There is no definition of “imitation firearm” within the <i>Act</i> however.</p>	<p>MCPEMP passed a resolution at their November 2009 meeting, for a nationally consistent definition of ‘imitation’ firearm.</p> <p>The <i>Firearms Act 1996</i> currently includes an ‘imitation firearm’ within the definition of ‘firearm’ but it is not defined further, thus creating uncertainty.</p> <p>The new definition of ‘imitation firearm’ will capture those items which look like a firearm but do not discharge a projectile. If the item does discharge a projectile by means of compressed gas or air or by explosive or propellant means, then it would fit the definition of ‘firearm’ and be so classified.</p>
<p>3 <u>Section 9</u></p> <p><i>Create a separate offence with a more substantial penalty for possession of a prohibited firearm without a licence.</i></p> <p>Insert section:</p> <p>“A person must not possess or use a</p>	<p><i>9. Possession or use of firearms</i></p> <p>(1) A person must not possess or use a firearm unless the person is the holder of a firearms licence of the appropriate category as specified in <u>Division 2</u> in respect of that firearm.</p> <p>Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 2</p>	<p>There is currently no higher penalty for the possession of a ‘prohibited’ firearm. This offence should be recognised separately as a more serious offence than possession of a non ‘prohibited’ firearm with larger penalties available.</p> <p>In 2002 it was a resolution of the Australasian Police Minister’s Council that all jurisdictions were to ensure that the offence of possession of a prohibited firearm</p>

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	<p>firearm listed in Schedule 1 – Prohibited Firearms unless the person is the holder of a firearms licence of the appropriate category or written authority of the Commissioner of Police in respect of that firearm”.</p> <p>“A person is to apply for a firearms licence in accordance with <u>Division 5</u> of this Part.”</p>	<p>years, or both.</p> <p>(2) A person is to apply for a firearms licence in accordance with <u>Division 5</u> of this Part.</p>	<p>or a handgun will attract substantial penalties.</p> <p>Further, in accordance with the National Firearms Agreements, all states and territories were to ensure a charge of illegal possession can be made in circumstances where an illegal firearm is found in premises with a person or persons, even where there is no actual physical possession of the gun by any person.</p>
4	<p><u>Section 10</u></p> <p><i>Clarify section 10 to reflect that firearm dealers do not need to lodge an application for a permit to acquire for firearms purchased for the business.</i></p> <p>Amend section 10 (1) (b) to read:</p> <p>(1) A person must not acquire a firearm unless the person is the holder of –</p> <p>(a) a firearms licence of the category appropriate to that firearm; and</p> <p>(b) except in the case of a licensed firearms dealer, a permit in respect of that firearm.</p>	<p><i>Section 10</i></p> <p>(1) A person must not acquire a firearm unless the person is the holder of –</p> <p>(a) a firearms licence of the category appropriate to that firearm; and</p> <p>(b) a permit in respect of that firearm.</p> <p>Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 2 years, or both.</p>	<p>The requirement to lodge a permit application prior to acquisition of a firearm does not apply to firearm dealers acquiring firearms for on sale.</p> <p>Dealers are required to register any acquisitions on their transaction register within 24 hours. However, section 10 does not concur with the other provisions of the <i>Act</i> in relation to this.</p>
5	<p><u>Section 12</u></p> <p>Exhibition of firearms requirements to be amended or removed</p>	<p><i>12. Exhibition of firearms</i></p> <p>(1) A person must not possess a firearm for show or exhibition unless the person is the</p>	<p>It has been submitted that this section should be removed or rewritten as “its intention may be long lost in time”. The intention of this section has been questioned as it relates to individual</p>

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		<p>holder of a firearms museum licence in respect of that firearm.</p> <p>Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 2 years, or both.</p> <p>(2) A person is to apply for a firearms museum licence in accordance with <u>Division 5</u>.</p>	<p>collectors/exhibitors at venues like the Hobart Gun Show.</p> <p>However, this provision (along with section 20, 87 and 97) relates to the holders of a firearm museum licence. These sections provide for the licensing of museums and provide restrictions around the premises and security required for such premises.</p> <p>Individual exhibitors may seek permission to exhibit at certain events, and should be required to have permission of the Commissioner to display firearms over a set period of time, to ensure Tasmania Police is aware of the exhibition and to ensure strict conditions are imposed relating to security.</p>
6	<p><u>Section 16</u></p> <p><i>Reclassify pump action shotguns from category C to category A</i></p>	<p><i>Section 16 - Category C firearms licence</i></p> <p>(1) A Category C firearms licence applies to any –</p> <ul style="list-style-type: none"> (a) self-loading rim-fire rifle with a magazine capacity of no more than 10 rounds of ammunition; and (b) self-loading shotgun with a magazine capacity of no more than 5 rounds of ammunition; and (c) pump action shotgun with a magazine capacity of no more than 5 rounds of ammunition. <p>(2) A Category C firearms licence authorises the holder to possess or use only one</p>	<p>It is argued that pump action shotguns are not 'self loading' nor are they high velocity; therefore they should not be classified as a category C (self loading) but as a category A.</p> <p>Category A firearms are less restricted in who can possess and use them, and there are no legislative restrictions on the quantity that can be possessed.</p> <p>The matter was discussed at the most recent National Firearms Policy Working Group meeting in February 2010 and a nationwide reclassification was not supported. Reclassification would be inconsistent with National Firearms Agreements.</p>

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		<p>firearm referred to in <u>subsection (1)(a)</u> and one firearm referred to in <u>subsection (1)(b)</u> or <u>(c)</u> specified in the licence for the particular purpose specified in the licence.</p> <p><i>Section 14 Category A firearms licence</i></p> <p>(1) A Category A firearms licence applies to any –</p> <p style="padding-left: 40px;">(a) air rifle; and</p> <p style="padding-left: 40px;">(b) rim-fire rifle, other than self-loading; and</p> <p style="padding-left: 40px;">(c) shotgun, other than pump action or self-loading; and</p> <p style="padding-left: 40px;">(d) shotgun and rim-fire rifle combinations.</p> <p>(2) A Category A firearms licence authorises the holder to possess or use only a firearm referred to in <u>subsection (1)</u> for the particular purpose specified in the licence.</p>	
7	<p><u>Section 16</u></p> <p><i>Remove the maximum number of collection firearms of category C and D.</i></p> <p>Amend sections 16(2) and 17(2) by inserting after the first instance of the word 'licence', "other than a licence issued for the genuine reason of firearms collection".</p>	<p><i>16. Category C firearms licence</i></p> <p>(1) A Category C firearms licence applies to any –</p> <p style="padding-left: 40px;">(a) self-loading rim-fire rifle with a magazine capacity of no more than 10 rounds of ammunition; and</p>	<p>It has been submitted that there should be no limit on the number of category C or D firearms a collector may acquire as a single or pair of firearms would not amount to a collection.</p> <p>A collector must show commemorative, historical, thematic or investment value for each firearm they wish to acquire.</p>

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(b) self-loading shotgun with a magazine capacity of no more than 5 rounds of ammunition; and

(c) pump action shotgun with a magazine capacity of no more than 5 rounds of ammunition.

(2) A Category C firearms licence authorises the holder to possess or use only one firearm referred to in subsection (1)(a) and one firearm referred to in subsection (1)(b) or (c) specified in the licence for the particular purpose specified in the licence.

17. Category D firearms licence

(1) A Category D firearms licence applies to any –

(a) self-loading centre-fire rifle; and

(b) self-loading shotgun with a capacity of more than 5 rounds of ammunition; and

(c) pump action shotgun with a capacity of more than 5 rounds of ammunition; and

(d) self-loading rim-fire rifle with a magazine capacity of more than 10 rounds of ammunition.

(2) A Category D firearms licence authorises the holder to possess or use only a firearm referred to in subsection (1) that is specified in the licence for the particular purpose specified in the licence.

NSW, VIC, NT and QLD: No limit on number of category C or D firearms a collector may acquire, however Category C firearms must be rendered temporarily inoperable, and category D rendered permanently inoperable.

ACT: No limit on the number of category C or D firearms, however both categories must be rendered permanently inoperable.

It is submitted that this is intended to be the case in Tasmania; however, the legislation may not adequately reflect this situation.

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8	<p><u>Section 22</u></p> <p>Expand the definition of “use” to include cleaning and maintenance of firearms.</p> <p>Amend section 22(e) by deleting “.” and inserting “; or”</p> <p>And adding:</p> <p>“(f) cleaning or undertaking routine maintenance on the firearm whilst it is in the holder’s immediate control and custody.”</p>	<p><i>22. Additional authority relating to possession</i></p> <p>A licence that authorises the holder to possess a firearm also authorises the holder to possess it while –</p> <p>(a) taking it to a licensed firearms dealer for the purpose of maintenance or repair and subsequently recovering it from the dealer; or</p> <p>(b) taking it to a licensed firearms dealer for the purpose of sale and subsequently recovering it from the dealer if not sold; or</p> <p>(c) taking it for inspection and subsequently recovering it; or</p> <p>(d) conveying it from one place to another for the purpose of using it; or</p> <p>(e) taking it for the purpose of surrendering it.</p> <p>In section 3: "use", in relation to a firearm, means –</p> <p>(a) fire the firearm; or</p> <p>(b) hold it so as to cause a reasonable belief that it will be fired, whether or not it is capable of being fired.</p>	<p>It is argued that a firearm is required to be stored in accordance with Part 5 of the <i>Act</i> when not “in use”. However, the legislation does not allow for the scenario of a licence holder performing routine cleaning and maintenance to their firearms.</p> <p>It is therefore recommended to allow for such a scenario within section 22.</p>
9	<p><u>Section 25</u></p> <p>Amend section 25(1) to include:</p>	<p><u>25. Purchase and sale</u></p> <p>(1) A licensed firearms dealer must not purchase, acquire or take possession of a</p>	<p>There is a current exemption issued by the Commissioner of Police which allows firearms to be surrendered to a firearms dealer. It has been</p>

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	<p>firearm from another person who is not a licensed firearms dealer unless that other person –</p> <p>(a) is authorised by a licence to possess the firearm and the firearms dealer has seen the licence; or</p> <p>(b) is the holder of a corresponding firearms dealer licence.</p>	<p>submitted that this exemption should be permanently included in the legislation. However, the surrender of firearms to Tasmania Police is a constant program, with firearms being able to be surrendered at a Police Station at any time.</p> <p>The Firearm amnesties will remain in place for the foreseeable future, but subject to the direction from the Commissioner of Police.</p>
<p>19 <u>Section 25</u></p> <p><i>Restrict firearm dealers from “loaning” firearms and require a firearm licence to be sighted by a dealer when selling a firearm.</i></p> <p>Remove section 25(2) and replace it with:</p> <p>(2) A licensed firearms dealer must not sell or supply any firearm to any person unless that other person –</p> <p>(a) is authorised by a permit to acquire the firearm and the dealer has seen the permit; and</p> <p>(b) is authorised by a licence to possess the firearm and the firearms dealer has seen the licence.</p>	<p><i>Section 25(2) states that:</i></p> <p>A licensed firearms dealer must not sell any firearm to any person unless that other person –</p> <p>(a) is authorised by a permit to acquire the firearm; and</p> <p>(b) the dealer has seen the permit.</p>	<p>The section should restrict a firearms dealer from selling or “supplying” a firearm to any person unless the person is the holder of both a current firearms licence and a current permit to acquire a firearm and the dealer has seen both the licence AND the permit.</p> <p>This would prevent a firearms dealer from providing a firearm (‘loaning’ it) to a person prior to that person being issued with a permit to acquire a firearm (and thus circumventing the requirement for a 28 day waiting period).</p> <p>This condition was been imposed on all firearms dealers by the Commissioner of Police in August 2007 by virtue of section 35(a)(ii) and this amendment would formalise the current arrangements.</p> <p>A dealer should also be required to sight the permit AND the licence to ensure the person taking possession of the firearm is in fact the licence holder.</p>

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CURRENT LEGISLATION

COMMENT

11 Section 25
Amend the prescribed fee for dealer's transactions.

Amend section 25(4):

Remove "only charge" and replace it with "not charge in excess of the"

Insert:

"Penalty: Fine not exceeding 50 penalty units".

Amend the *Firearms Regulations 2006*:

Amend Schedule 1, Item 5 by deleting "10" and replacing it with "25"

25. Purchase and sale

(1) A licensed firearms dealer must not purchase, acquire or take possession of a firearm from another person who is not a licensed firearms dealer unless that other person –

(a) is authorised by a licence to possess the firearm and the firearms dealer has seen the licence; or

(b) is the holder of a corresponding firearms dealer licence.

Penalty: Fine not exceeding 100 penalty units.

(2) A licensed firearms dealer must not sell any firearm to any person unless that other person –

(a) is authorised by a permit to acquire the firearm; and

(b) the dealer has seen the permit.

Penalty: Fine not exceeding 100 penalty units.

(3) The holder of a licence may sell a firearm to, or purchase a firearm from, another holder of a licence through the agency of a licensed firearms dealer.

(4) A licensed firearms dealer who acts as an agent under subsection (3) may only charge the prescribed fee for so acting.

It is submitted that the prescribed fee a firearm dealer can charge should be removed, to allow market forces to prevail. They submit that the prescribed fee does not take into account increases in the dealer's costs since 1996.

However, in the more remote areas there is only one dealer to choose from (unlike the major cities where there are a number of dealers). This may disadvantage the public as there is insufficient competition to keep the prices at a reasonable level.

Therefore, whilst removal of the prescribed fee is not supported, it is recommended that the prescribed fee be increased and set as a *maximum* fee which can be charged.

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CURRENT LEGISLATION**COMMENT**

12	<p><u>Section 29</u></p> <p><i>Confirmation of the safe storage requirements.</i></p> <p>Amend section 29(1) by deleting: '(e) is able to meet the storage and safety requirements specified in Part 5.'</p> <p>Amend section 60(4) by inserting: '(d) is satisfied that the applicant is able to meet the storage and safety requirements specified in Part 5.'</p>	<p><i>Section 29(1)</i> of the Act states that:</p> <p>The Commissioner must not grant an application for a licence unless the Commissioner is satisfied that the applicant –</p> <p>(e) is able to meet the storage and safety requirements specified in Part 5.</p>	<p>Applicants for firearms licences have not yet acquired any firearms; therefore most do not have any storage and safety facilities installed at the time of making their initial application for a licence. It is not feasible to expect licence holders to have storage facilities in place at the time of making the application for a licence.</p> <p>The requirement for the Commissioner to be satisfied that a person can meet the storage and safety requirements is more appropriate once the person has made an application for a permit to acquire a firearm. An inspection is performed by Tasmania Police at this stage to ensure that the Commissioner is able to be satisfied of the arrangements in place prior to granting the permit to acquire a firearm.</p> <p>The requirement for the Commissioner to be satisfied that an applicant for a firearms licence is able to meet the storage and safety requirements specified in Part 5 of the <i>Act</i> should be removed from section 29(1)(e) and this should apply to the granting of an application for a <i>Permit to Acquire a Firearm</i> in section 60.</p>
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AMENDMENT

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CURRENT LEGISLATION

COMMENT

13

Section 29

Insert Section 29B

Allow the Commissioner to require an applicant or licence holder to provide certain information, and to provide information to health professionals to assist in the giving of an opinion as to suitability for a firearms licence.

Insert a provision in similar terms to that below –

(1) Before the application is decided, the Commissioner may -

(a) make an inquiry or investigation about the applicant or the application; and

(b) require the applicant to give the Commissioner further information the Commissioner reasonably needs to be satisfied about the applicant's identity or physical or mental health including -

(i) in relation to the applicant's physical health - a report from a doctor about the applicant's physical health; and

(ii) in relation to the applicant's mental health - a report from a doctor or psychologist about the applicant's mental health; and

(c) inspect the secure storage facilities for the firearm or category of firearms

29. General restrictions on granting licence

(1) The Commissioner must not grant an application for a licence unless the Commissioner is satisfied that the applicant –

(a) is at least 18 years of age; and

(b) is a natural person; and

(c) is a fit and proper person; and

(d) has satisfactorily completed an approved firearms safety course; and

(e) is able to meet the storage and safety requirements specified in Part 5.

(2) In deciding whether a person is a fit and proper person the Commissioner is to take into account the following:

(a) any likelihood of the person using a firearm –

(i) for an unlawful purpose; or

(ii) to harm himself or herself;

(b) the mental and physical condition of the person;

(c) any criminal activity of the person, whether in Tasmania or elsewhere;

(d) any offence committed by the person under this Act or under the Guns Act 1991;

(e) the ability of the person to exercise

This is mostly the formalisation of existing practice and processes which are allowed for under the current provisions of section 29.

It is recommended to provide specific authority for the Commissioner to require an applicant or licence holder to provide information relating to physical or mental health including a report from a doctor, psychologist or psychiatrist (this can be required currently under section 29 to satisfy the Commissioner that the person is a fit and proper person).

If such information is provided, this provision would also allow for the Commissioner to provide information to the health care professional which may influence their opinion about the applicant's mental health if it is reasonable to believe that the health care professional was not aware of the information.

Currently, requiring of fingerprints or other identifying particulars is not provided for within the Act. Allowing inquiries into the identify of a person will assist to ensure that legal name changes are not undertaken in order to gain a firearms licence by a person who would otherwise be refused a licence due to their previous history (this situation occurred recently in NSW).

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possession of which is to be authorised by the licence; and
 (d) supply, for this section, information or a document relevant to the applicant's identity to an officer or member of a State or Commonwealth police service; and
 (e) require the applicant to display an adequate knowledge of the safety practices for the use, storage and maintenance of the weapon or category of weapons the possession of which is to be authorised under the licence.

(2) (a) If the Commissioner suspects, on reasonable grounds, that the applicant's stated identity is false, the Commissioner may require the applicant to provide an identifying particular to verify the applicant's identity.

(b) For the purposes of this section, "*identifying particular*" includes
 (i) fingerprints;
 (ii) DNA; and
 (iii) any other means by which to identify a person.

(3) The applicant is taken to have withdrawn the application if, within a stated reasonable time, the applicant -
 (a) refuses to provide the information reasonably required under subsection (1)(b); or
 (b) refuses to allow the inspection under subsection (1)(c); or

reasonable and responsible control over a firearm;

(f) whether the person is subject to a restraint order, interim restraint order, family violence order, interim family violence order or police family violence order or has, at any time in the 5-year period immediately before lodging the application, been subject to such an order;

(g) whether the person is subject to a recognisance, granted in Tasmania or elsewhere, to keep the peace.

(3) The Commissioner must not grant an application for a licence to a person who -

(a) within the period of 5 years before the application was made, has been convicted in Tasmania or elsewhere of any crime involving violence to another person, whether or not the crime is a crime under a law of Tasmania; or

(b) has at any time been sentenced to a term of imprisonment, whether in Tasmania or elsewhere, for an offence involving violence to another person unless the Commissioner is satisfied that the nature of the offence, the term of imprisonment and the length of time since that term expired do not justify the refusal to grant the licence; or

(c) has been convicted of an offence under Division 1 of Part 3 of the *Guns Act 1991* or

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CURRENT LEGISLATION**COMMENT**

(c) fails to comply with a requirement under subsection (2).

(4) If information about the applicant's mental health given under subsection (1)(b) is provided in a doctor's or psychologist's report, the Commissioner may -

(a) make information in the Commissioner's possession available to the doctor or psychologist; and

(b) ask the doctor or psychologist to provide a further report.

(5) The Commissioner may make the information available only if the Commissioner considers, on reasonable grounds -

(a) the doctor or psychologist was not aware of the information; and

(b) the information may influence the doctor's or psychologist's opinion about the applicant's mental health.

(6) The Commissioner must also advise the applicant of the information being supplied to the doctor or psychologist.

(7) The Commissioner may make the information available under subsection (4) despite the provisions of any other Act.

(8) Unless the Commissioner considers that it is currently required for the

under section 114 of this Act or a crime under section 183 of the *Criminal Code*; or

(d) is subject to a firearms prohibition order, or one or more of the following in relation to personal injury:

(i) a restraint order;

(ii) an interim restraint order;

(iii) a family violence order;

(iv) an interim family violence order;

(v) a police family violence order; or

(e) in the Commissioner's opinion, having regard to any criminal intelligence report or other criminal information held in relation to the person, is a risk to public safety.

(3A) If an application for a licence is being determined by a delegate of the Commissioner, the opinion referred to in subsection (3)(e) must be that of the Commissioner and not the delegate.

(4) The Commissioner must not grant an application for a licence if the Commissioner has reasonable cause to believe that a person who is not a fit and proper person is likely to gain possession of any firearm in the possession of the applicant.

(5) The Commissioner must not grant an application for a licence authorising the

<p style="text-align: center;">AMENDMENT</p> <p>The words used are not the final version but provide guidance as to that which may be included in the legislation only.</p>	<p style="text-align: center;">CURRENT LEGISLATION</p>	<p style="text-align: center;">COMMENT</p>
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	<p>investigation of an offence, the Commissioner must, after deciding the application -</p> <p>(a) return to the applicant any identifying particular obtained in the course of inquiries into the application; and</p> <p>(b) destroy any record or copy of the identifying particular.</p> <p>(9) Information required to be supplied under this section may be used only to decide the application or to investigate or prosecute an offence and must not be disclosed for any other purpose.</p>	<p>possession or use of a firearm unless –</p> <p>(a) the Commissioner is satisfied that the applicant has a genuine reason for possessing or using the firearm; and</p> <p>(b) the applicant produces evidence to the Commissioner's satisfaction in relation to the requirements specified in <u>Division 6</u> of this Part in respect of that reason.</p> <p>(6) Notwithstanding <u>subsection (5)</u>, an applicant for a firearm heirlooms licence is not required to establish or provide a genuine reason in applying for the licence.</p>	
<p>14</p>	<p><u>Section 31</u></p> <p><i>Allow for a Category C licence as an alternative to Category D for animal population control</i></p> <p>Amend section 31 subsection (1) by inserting after the first instance of “primary production”:</p> <p>“, animal population control “</p> <p>and inserting after the second instance of</p>	<p><i>31. Restrictions on granting Category C firearms licence</i></p> <p>(1) The Commissioner must not grant an application for a Category C firearms licence to any person unless the person establishes and provides evidence that the genuine reason for holding the licence is primary production or firearms collection and, if the genuine reason for holding the licence is primary production –</p> <p>(a) produces evidence to the</p>	<p>Presently, the holder of a licence for the genuine reason of ‘animal population control’ may acquire a Category A, B or D firearm. Category C is not available but considering it is a lower magazine capacity firearm, it should be offered as an alternative to Category D.</p> <p>The categories are detailed below:</p> <p>Category A firearms</p> <p>(a) air rifle; and</p> <p>(b) rim-fire rifle, other than self-loading; and</p> <p>(c) shotgun, other than pump action or self-loading; and</p>

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CURRENT LEGISLATION**COMMENT**

“primary production”:

“ or animal population control “

Allow for a restriction to be applied as to the number of Category D firearms that anyone person may possess under their licence.

Commissioner's satisfaction that there is a need for the person to possess or use a firearm of the category to which the application relates; and

(b) produces evidence to the Commissioner's satisfaction that the need is not met –

- (i) by the authority conferred by a Category A firearms licence or a Category B firearms licence; or
- (ii) by any other means.

(2) Any licence granted by the Commissioner authorising a person to possess or use a firearm referred to in section 16(1), if the genuine reason for holding the licence is firearms collection, is subject to the conditions specified in section 47.

(d) shotgun and rim-fire rifle combinations.

Category B firearms

- (a) muzzle-loading firearm; and
- (b) centre-fire rifle, other than self-loading; and
- (c) shotgun and centre-fire rifle combinations.

Category C firearms

- (a) self-loading rim-fire rifle with a magazine capacity of no more than 10 rounds of ammunition; and
- (b) self-loading shotgun with a magazine capacity of no more than 5 rounds of ammunition; and
- (c) pump action shotgun with a magazine capacity of no more than 5 rounds of ammunition.

Category D firearms

- (a) self-loading centre-fire rifle; and
- (b) self-loading shotgun with a capacity of more than 5 rounds of ammunition; and
- (c) pump action shotgun with a capacity of more than 5 rounds of ammunition; and
- (d) self-loading rim-fire rifle with a magazine capacity of more than 10 rounds of ammunition.

There are presently no restrictions on the firearms of this category that may be possessed other than the fact that the person has a genuine reason. As a result a person may possess multiple Category D firearms.

Category H firearms

- (a) pistol; and
- (b) air pistol.

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<p>15 <u>Section 35</u> <i>Clarify the authority to vary the conditions of a licence</i></p> <p>Insert additional section:</p> <p>(1) The Commissioner may, at any time vary any condition imposed on a licence under this Part.</p> <p>(2) The variation of a condition under this section has effect upon giving notice of that variation to the holder of the licence.</p> <p>(3) For the purposes of this section, “notice” is considered to be given:</p> <p>(i) by giving it to the person; or</p> <p>(ii) by leaving it at, or sending it by post to, the person's residential or postal address or place or address of business or employment whichever is last known to the server of the notice or other document.</p>	<p><i>Section 35 states:</i></p> <p>Subject to this Division, the Commissioner may grant an application for a licence –</p> <p>(a) subject to –</p> <p>(i) the conditions specified in <u>section 46</u> or <u>47</u>; and</p> <p>(ii) <i>any other condition the Commissioner considers appropriate</i>; and</p> <p>(b) only after the end of 28 days following the day on which the application is lodged.</p>	<p>It is often necessary to impose additional conditions upon certain licence holders after a licence has been granted (due to a change in circumstances), such as, specific storage requirements may need to be imposed, or a person may be restricted to shooting at a certain property or location.</p> <p>Licence conditions are currently varied under section 35(a)(ii). For certainty, the power to vary a licence condition after an application has been granted needs to be more clearly articulated.</p>
<p>16 <u>Section 37</u> <i>Include licensing arrangements for commercial fishers.</i></p> <p>Amend section 37 (f) by inserting after ‘firearms dealer,’:</p> <p>“commercial fisher,”</p>	<p><i>37. Genuine reasons</i></p> <p>(1) A genuine reason to possess or use a firearm is any of the following:</p> <p>(a) sport or target shooting;</p> <p>(b) recreational hunting or vermin control;</p> <p>(c) primary production;</p> <p>(d) animal population control;</p> <p>(e) animal welfare;</p>	<p>Commercial fishermen have previously been granted licences for ‘primary production’.</p> <p>The reference to primary production in the Act in relation to Category C firearms (it is now proposed that this should refer to all categories of firearm) refers to:</p> <p>(i) the suppression of vertebrate pest animals on the land; and</p> <p>(ii) the destruction of animals to avoid pain and suffering.</p>

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CURRENT LEGISLATION**COMMENT**

- (f) business or employment as a firearms dealer, security agent or security guard;
- (g) firearms collection;
- (h) show or exhibition.

(2) A person does not have a genuine reason for possessing or using a firearm if the person intends to possess or use the firearm for –

- (a) the person's personal protection or the protection of his or her family; or
- (b) the general protection of property, other than the protection of property in the course of carrying out the functions of a security agent or security guard.

Advice obtained is that the sea is considered a public place. Most commercial fishers state they wish to use a firearm to deter or protect themselves from sharks or seals, but a firearm cannot be used on most types of shark or on seals. A DPIPWE permit can be granted for the use of 'bean bag' ammunition as a deterrent for seals (to be fired from a shotgun, so a Category A firearm).

Under current departmental policy, commercial fishers are allowed to obtain a Category A licence if they have completed the DPIPWE training for use of seal deterrent ammunition (proof required: copy of DPIPWE letter certifying training completed). This is discharged by a shotgun, so Category A only should be sufficient. A number of fishermen have exemptions to use 'power-heads' to deter sharks.

Enquiries with other jurisdictions has found that many states/territories do not allow for commercial fishermen to be authorised to carry firearms (except QLD, NSW and NT which have different issues – NT are quite restricted still).

It is therefore proposed to include a provision for commercial fishers to be licenced for the reason of 'business or employment'. Restrictions will be imposed as a matter of Departmental policy (including provision of a permit to discharge seal deterrent ammunition from DPIPWE and only for Category A firearms).

AMENDMENT

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CURRENT LEGISLATION**COMMENT**

17	<p><u>Section 40</u> <i>Clarify the requirements for the genuine reason of 'primary production'</i></p> <p>Delete section 40 and replace it with:</p> <p>'An applicant whose genuine reason for possessing or using a firearm is primary production must –</p> <p>“(a) be a person:</p> <p>(i) whose principal occupation is the business of primary production on land owned, managed or leased by them; or</p> <p>(ii) whose principal occupation is as an employee of a primary producer referred to in (a); and</p> <p>(b) produce evidence to the Commissioner's satisfaction that he or she intends to use the firearm solely in connection with –</p> <p>(i) the suppression of vertebrate pest animals on the land; and</p> <p>(ii) the destruction of animals to avoid pain and suffering.'</p>	<p><i>Section 40</i> states:</p> <p>An applicant whose genuine reason for possessing or using a firearm is primary production must, in the case of an application for a Category C firearms licence –</p> <p>(a) be a person who is a primary producer or who is employed or engaged in the business of primary production; and</p> <p>(b) produce evidence to the Commissioner's satisfaction that he or she intends to use the firearm solely in connection with –</p> <p>(i) the suppression of vertebrate pest animals on the land; and</p> <p>(ii) the destruction of animals to avoid pain and suffering.</p>	<p>There is currently ambiguity relating to what amounts to 'primary production'.</p> <p>NSW legislation requires that the applicant must:</p> <p>“(a) be a person whose occupation is the business of a primary producer, or who is the owner, lessee or manager of land used for primary production, and</p> <p>(b) state that he or she intends to use the firearm solely in connection with farming or grazing activities (including the suppression of vertebrate pest animals on the land concerned).“</p> <p>Victorian legislation requires the applicant to “produce evidence that he or she is regularly engaged in the business of primary production as an owner, lessee or manager of land used for the primary production or is a person employed for the purposes of such a business”.</p> <p>This would also ensure that all applicants for a firearms licence for primary production are required to provide the same level of proof, as the current section only refers to Category C firearms licences.</p>
18	<p><u>Section 47</u></p> <p><i>Amend the requirements relating to the collection of firearms by –</i></p> <p>(a) <i>removing the requirement for collection firearms to be rendered temporarily incapable of being fired;</i></p>	<p><i>Section 47</i> states:</p> <p>(1) Any licence that authorises the holder to possess firearms for the purpose of a firearms collection is subject to the following conditions:</p> <p>(a) any firearm in the collection that has</p>	<p>It has been submitted that the requirement to render 'collection' category A, B, C and H firearms temporarily incapable of being fired is too onerous, as they are also subject to the same storage requirements as other firearms (the requirement to firstly render the firearm temporarily incapable of use and secondly, store it in an approved firearms storage facility is</p>

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	<p><i>and</i> (b) <i>change the requirement for Category D firearms to be rendered permanently inoperable, to a requirement for temporary inoperability.</i></p>	<p>been manufactured after 1 January 1900, other than a firearm referred to in <u>section 17(1)</u>, must be rendered temporarily incapable of being fired by –</p> <p>(i) the removal and storage of the bolt or firing pin or both the bolt and firing pin in a locked container of an approved type that is kept separate from the firearm; or</p> <p>(ii) the application to the firearm of an approved trigger lock;</p>	<p>onerous). It has been submitted that this requirement to render the firearm temporarily incapable of being fired should be removed.</p> <p>Category D firearms are required to be rendered <i>permanently</i> inoperable. It has been further submitted that this should be changed to require <i>temporary</i> inoperability as the value of a deactivated firearm is substantially decreased. DPEM submit that the value of a firearm should not be a primary consideration in determining appropriate safety and security measures.</p> <p><u>These submissions are NOT supported as these changes would be contrary to the resolution of the APMC Special Firearms Meeting July 1996, Agenda item 1.10 which stated:</u></p> <p>“(b) Category D firearms would only be permitted in the collection if rendered inoperable;</p> <p>(c) all other firearms manufactured after 1900 held in a collection must be rendered temporarily inoperable although individual jurisdictions may require Category C firearms to be rendered permanently inoperable.”</p>
<p>19</p>	<p><u>Section 47</u></p> <p><i>Clarify the requirements for collection firearms in section 47(1)(d)</i></p> <p>Amend section 47(1) by inserting:</p> <p>“(da) Notwithstanding subsection (1)(d), a</p>	<p><i>47. Special conditions of certain licence</i></p> <p>(1) Any licence that authorises the holder to possess firearms for the purpose of a firearms collection is subject to the following conditions:</p> <p>(a) any firearm in the collection that has been manufactured after 1 January 1900,</p>	<p>It has been proposed that section 47(1)(d) should be clarified to apply only to category D firearms (which are required to be rendered <i>permanently</i> inoperable) as opposed to category A, B, C or H firearms (which must be rendered <i>temporarily</i> inoperable).</p> <p>The rationale behind this is that temporarily inoperable firearms may need to be temporarily returned to</p>

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CURRENT LEGISLATION

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firearm rendered temporarily incapable of being fired in accordance with subsection (1)(a) may be temporarily rendered operable for the purposes of undertaking routine cleaning or maintenance, or for participation in an approved shoot in accordance with section **."

other than a firearm referred to in section 17(1), must be rendered temporarily incapable of being fired by –

- (i) the removal and storage of the bolt or firing pin or both the bolt and firing pin in a locked container of an approved type that is kept separate from the firearm; or
- (ii) the application to the firearm of an approved trigger lock;

(b) any firearm referred to in section 17(1) in the collection must, in the prescribed manner, be rendered permanently incapable of being fired;

(c) the holder must not possess any ammunition for any firearm in the collection unless it is stored in the prescribed manner;

(d) the holder must not restore any firearm in the collection to a state in which the firearm can readily be fired;

(e) the holder must not discharge a firearm which forms part of the collection;

(f) a collection of firearms must only contain firearms manufactured before a prescribed date.

operability for the purposes of cleaning and maintenance, or for participating in approved collectors shoot.

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CURRENT LEGISLATION**COMMENT**

20

Section 47

Amend section 47 to remove (1)(c), (d), (e) and (f).

Section 47

(1) Any licence that authorises the holder to possess firearms for the purpose of a firearms collection is subject to the following conditions:

(a).....

(b).....

(c) the holder must not possess any ammunition for any firearm in the collection unless it is stored in the prescribed manner;

(d) the holder must not restore any firearm in the collection to a state in which the firearm can readily be fired;

(e) the holder must not discharge a firearm which forms part of the collection;

(f) a collection of firearms must only contain firearms manufactured before a prescribed date.

It has been submitted that section 47 subsections (c) – (f) should be deleted as they serve no useful purpose.

Subsection (c) is not currently utilised but does not disadvantage any collector and it is recommended that it be retained in case it is required in the future.

Subsection (d) has been addressed above, by rewording it to allow temporary reactivation of those firearms rendered temporarily inoperable, for cleaning or maintenance purposes or for participation in a shooting activity approved by the Commissioner of Police.

Subsection (e) requires a small amendment to make it consistent with the proposal at item number 55 to allow for occasional shooting activities as approved by the Commissioner of Police.

Subsection (f) – DPEM agree this should be removed:

- there is presently no prescribed date in our Regulations; and
- this was in the original agreement (APMC Special Firearms Meeting May 1996, Resolution 3d) but was replaced at the APMC Special Firearms Meeting July 1996, Agenda item 1.10 with a requirement that collections must be of an “obvious and significant commemorative, historical, thematic or investment value” with no restriction on the date of firearms able to be in a collection.

<p style="text-align: center;">AMENDMENT</p> <p>The words used are not the final version but provide guidance as to that which may be included in the legislation only.</p>	<p style="text-align: center;">CURRENT LEGISLATION</p>	<p style="text-align: center;">COMMENT</p>
<p>21 <u>Section 47(2)</u></p> <p><i>Remove requirement for heirloom firearms to be permanently disabled</i></p>	<p><i>Section 47 (2)</i></p> <p>A firearm heirlooms licence is subject to the condition that the heirloom firearm must, in the prescribed manner, be rendered permanently incapable of being fired.</p>	<p>It has been proposed that a trigger lock should be an acceptable alternative to permanent disablement of an heirloom firearm which decreases its value.</p> <p>The DPEM submit that an 'Heirloom Licence' specifically relates to those people who wish to retain firearms purely for sentimental reasons. There is no requirement for such a licence holder to undertake the approved firearms safety course and the fees are reduced significantly. Such firearms can already be retained under a collection licence (if the person is a bona fide collector) or under another type of licence (for use) if they do not wish to have them rendered permanently inoperable.</p>
<p>22 <u>Section 47(4) & Regulations concerning Security agents / guards.</u></p> <p><i>Include more stringent requirements for security agents/guards</i></p> <p>Amend section 47 by deleting (4) and replacing it with:</p> <p>(4) Any licence that authorises the holder to possess firearms for the purpose of business or employment as a security guard or agent is subject to any prescribed conditions.</p> <p>Amend the <i>Firearms Regulations 2006</i> by inserting:</p>	<p><i>Section 47 (4)</i></p> <p>The Commissioner may, by notice in writing given to the holder of a Category H firearms licence for sport or target shooting in existence immediately before 1 July 2003, amend any conditions specified in that licence to give effect to the amendments made to this Act by the <i>Firearms Amendment Act 2003</i>.</p>	<p>Section 47(4) is no longer required as the licences issued prior to 1 July 2003 have now all expired or been reissued in accordance with the current legislation.</p> <p>In accordance with other jurisdictional requirements (particularly NSW, from whose Act the proposed amendments have been adapted), it is proposed to include specific requirements for security guards and agents relating to:</p> <ul style="list-style-type: none"> ▪ the storage and safekeeping of firearms; ▪ maintenance of registers regarding the possession and use of firearms; and ▪ requirements for ongoing training and validation in the use of firearms (to be delivered by the service provider who delivers the firearms safety training course). ▪ Due to the type of firearms to which security

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CURRENT LEGISLATION**COMMENT****4A Prescribed conditions relating to security guards and agents**

In this part:

security guard has the same meaning as in the *Security and Investigations Agents Act 2002*, and who is licensed under this Act to possess firearms for the genuine reason of business or employment.

security agent means the holder of a agents licence under the *Security and Investigations Agents Act 2002*:

- (a) who is licensed under this Act to possess firearms for the genuine reason of business or employment, or
- (b) who employs security guards.

4B Restrictions on authority conferred by licence issued to a security guard

A licence issued to a security guard:

- (a) does not authorise the possession of more than one firearm at any one time, and
- (b) does not authorise the possession or use of a prohibited pistol or a shotgun unless otherwise authorised by the Commissioner in writing.

4C Special conditions on licence issued to a security guard

- (1) It is a condition of a licence issued

guards/agents have access (category H – handguns) and the level of trust placed in such persons who are authorised to carry firearms in public places it is appropriate reasonable regulation and requirements be put in place.

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to a security guard for the genuine reason of business or employment that the licensee must not:

- (a) apply for a permit to acquire a firearm for the reason of carrying on activities as a security guard, or
- (b) possess or use, in the licensee’s capacity as a security guard, any firearm acquired by the licensee for any other reason.

(2) Nothing in subclause (1) prohibits a security guard from acquiring, possessing or using a firearm under the authority conferred by any other licence or permit held by that person.

4D Special requirements for safekeeping of firearms by a security agent

- (1) For the purposes of section 86 (1)(d) of the Act the requirements specified in subclauses (2)–(5) are prescribed in relation to the safe storage of firearms by a security agent.
- (2) If the security agent is authorised to possess one, but not more than one, firearm, the following requirements apply:
 - (a) the firearm must, while not being carried or used by a person authorised to possess or use the

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firearm, be stored in a locked receptacle of an approved type made of metal, concrete or any other approved material that is not easily penetrated;

- (b) the receptacle must be bolted to a wall or floor;
- (c) any ammunition for the firearm must be stored in a locked container of an approved type that is kept separate from the receptacle containing the firearm;
- (d) the premises on which the firearm is stored must
 - (i) have an intruder alarm that is monitored off-site and is of an approved type.

4E Requirements relating to the carriage of firearms

- (1) A security guard or agent must comply with the following requirements while carrying a pistol:
 - (a) the pistol must be carried in a holster worn by the security guard or agent;
 - (b) the shape and size of the holster is to be consistent with, and suitable for, the shape and size of the pistol to be carried;
 - (c) the holster, when worn in conjunction with a belt, must be secured firmly to the belt;
 - (d) if the holstered pistol is concealed

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by clothing, the holster may be designed to allow free access to the pistol, but otherwise the holster must be designed with a thumb-break safety strap and with the trigger not exposed or alternatively with a complete covering flap so as to conceal the weapon from view; and

- (e) any such holster worn by a security guard or agent other than a holster with a complete covering flap must be of an approved type.

Maximum penalty: 50 penalty units.

4F Requirements for security guard employers

- (1) A person who employs security guards must:
 - (a) keep in safe storage at the employer's place of business all firearms that are authorised to be possessed by those security guards while they are not on duty, and
 - (b) in addition to the requirements set out in Part 5 of the Act, ensure that any firearm required to be kept in safe storage in accordance with paragraph (a) is secured in such a manner as would reasonably prevent its removal otherwise than by the employer or an authorised employee.
- (2) Subclause (1) (a) does not apply to any

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firearm that is permitted to be retained by a security guard in accordance with clause 4H or 4I.

(3) A person who employs security guards must not allow any firearm in the person's possession (including those firearms that have been acquired by the person in connection with the person's business) to be possessed or used by an employee who is not authorised to possess or use the firearm by a licence.

(4) A person who employs security guards must, if any person who is employed as a security guard (other than on a casual basis) ceases to be employed as a security guard, notify the Commissioner in writing of the person's cessation of employment within 7 days of the person ceasing to be so employed.

Maximum penalty: 50 penalty units.

4G Employees to return firearms after being on duty

(1) A person who is employed as a security guard must, at the end of any period of duty, return any firearm in the person's possession to his or her employer's store of firearms unless the person is authorised to retain possession of the firearm in accordance with clause 4H or 4I.

Maximum penalty: 50 penalty units.

(2) A person does not commit an offence

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under subclause (1) if:

- (a) the person has not been on duty at his or her ordinary place of work, and
- (b) it was not reasonably practicable, for reasons of distance or public safety, to return the firearm to the employer's store of firearms, and
- (c) it was not reasonably practicable in the circumstances for an authorisation under clause 4H or 4I to be obtained before the end of the period of duty (e.g. because the person was required to travel unexpectedly in connection with the person's employment).

4H Arrangements for off-duty possession of firearms by employees

- (1) The Commissioner may authorise in writing any person who is employed as a security guard to retain possession, between periods of duty as a security guard, of any firearm that the person is authorised by a licence to possess.
- (2) The Commissioner must not authorise possession of a firearm between periods of duty unless the Commissioner is satisfied that:
 - (a) it is not practicable in the circumstances, for reasons such as distance, for the employee to return the firearm to the employer's store of firearms, and

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- (b) the firearm will be stored in accordance with the requirements of Part 5 of the Act.
- (3) In determining whether or not it is practicable in the circumstances for the employee concerned to return the firearm to the employer's store of firearms, reasons such as commercial practice or inconvenience on the part of the employee or employer are not, in themselves, to be taken into consideration.
- (4) An employee's authorisation to retain possession of a firearm between periods of duty is subject to the following requirements:
- (a) the firearm may only be carried by the employee when the employee is travelling directly to or from work or in the course of a work-related journey;
 - (b) the firearm must be stored at the employee's place of residence;
 - (c) the employee must comply with the requirements of Part 5 of the Act; and
 - (d) the employee must allow a police officer to inspect, at any reasonable time, the arrangements for the safe-keeping of the firearm.
- (5) An authorisation under this clause remains in force for such time as is specified in the authorisation unless it is sooner revoked by the Commissioner.

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- (6) The Commissioner may revoke any such authorisation if the Commissioner is satisfied that:
 - (a) the requirements of subclause (4) have not been complied with, or
 - (b) it is in the public interest to do so.
- (7) An authorisation under this clause is automatically revoked when the employee to whom it relates ceases to be employed by the person who was the employer at the time the authorisation was granted.

4I Temporary arrangements for off-duty possession of pistols by employees

- (1) If the Commissioner is satisfied that it is not reasonably practicable for a person who is employed as a security guard to comply with clause 4G (1):
 - (a) because the person is required to work on a temporary basis at a place other than the person's ordinary place of work, and
 - (b) because of the distance between the other place of work and the employee's place of residence, the Commissioner may authorise in writing the person to retain possession, between periods of duty as a security guard, of any firearm that the person is authorised by a licence to possess.
- (2) An employee's authorisation under this

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clause to retain possession of a firearm between periods of duty is, in addition to the requirements of section 39 of the Act, subject to the following requirements:

(a) the firearm may only be carried by the employee when the employee is travelling directly to or from work or in the course of a work-related journey; and

(b) the firearm must be stored in accordance with approved arrangements that have been made by the employer.

(3) An authorisation under this clause may only be given on a temporary basis, and remains in force for the limited period as is specified in the authorisation (unless sooner revoked by the Commissioner).

(4) The Commissioner may revoke an authorisation under this clause for such reason as the Commissioner thinks fit.

4J Registers to be kept by security guard employers

(1) A person who employs security guards, or who is self-employed as a security agent, must keep in the approved form:

(a) a register in which are kept particulars of the acquisition of firearms by, the servicing and inspection of firearms on behalf of,

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- and of the disposal of firearms and ammunition by, the person, and
- (b) if appropriate, a register in which are kept particulars of the names of each employee who is authorised by a licence to possess a firearm, and of the periods for which each such employee has possession of the firearm.
- (2) The person must ensure that each register is maintained in a book of not less than 100 pages in the following manner:
- (a) the pages are to be bound in a manner that will prevent any page being readily removed, each page is to be numbered consecutively;
- (b) entries are to be made in black or blue ink and any alteration to an entry must be made by interlineation or striking out and not by erasure; and
- (c) no page is to be extracted.
- (3) The person must:
- (a) ensure that each register is kept in a place of safe keeping at the place of business of the person or at an approved address, and
- (b) ensure that each register is kept for not less than 3 years after its completion, and
- (c) ensure that an appropriate entry is made in the register referred to in

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- subclause (1) (a) within 24 hours of the acquisition, servicing, inspection or disposal of a firearm, and
- (d) if appropriate, ensure that an appropriate entry is made in the register referred to in subclause (1) (b) when any firearm (and any ammunition for the firearm) is transferred from the person's store of firearms to the custody of an employee and when the firearm and ammunition is returned to the store of firearms, and
 - (e) immediately produce, if requested to do so by a police officer at any time, any such register to the officer and permit the officer to inspect, and make copies of any entry contained in, the register.

Maximum penalty: 50 penalty units.

4K Maintenance of firearms

A person who employs security guards, or who is self-employed as a security guard, must:

- (a) ensure that each firearm in respect of which each security guard holds a licence is serviced at least once a year by a licensed firearms dealer.

Maximum penalty: 50 penalty units.

4L Additional requirements relating to security guards

- (1) The Commissioner may refuse to issue

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a licence to a person who is employed as a security guard unless the person:

- (a) has completed, to the satisfaction of the Commissioner, an approved firearms safety course, and
- (b) produces the person's licence under the *Security and Investigations Agents Act 2002*.

(2) 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.

Maximum penalty: 50 penalty units.

- (3) A person who employs security guards must:
- (a) ensure that subclause (2) is complied with by the persons employed as security guards by the employer, and
 - (b) report to the Commissioner when those persons have completed the required training course or if any such person fails to undertake the required training course.

Maximum penalty: 50 penalty units.

4M Number of firearms to be held by security firms

(1) The authority conferred by a licence

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	<p>issued to a security firm authorises the firm to possess only such number of firearms as, in the opinion of the Commissioner, are required to carry out the security activities of the security firm.</p> <p>(2) The Commissioner may require a security firm to provide information relating to the following:</p> <p>(a) the number of firearms owned by the security firm,</p> <p>(b) the number of security guards employed by the firm,</p> <p>(c) the security activities for which the firearms are used,</p> <p>(d) such other relevant information that is required in order for the Commissioner to form an opinion under this clause.</p>		
23	<p><u>Clarify sections 51 and 53.</u></p> <p>Remove “, or interim restraint order” from section 51(3).</p>	<p><i>Section 51(3)</i> The Commissioner must cancel or suspend a licence if the holder is subject to any restraint order, other than a restraint order referred to in subsection (1), or interim restraint order.</p> <p><i>Section 53(1)</i> The Commissioner, if satisfied that there may be grounds for cancelling a licence or if the holder of a licence becomes subject to an interim restraint order, interim family violence order or police family violence order, may suspend the licence by serving</p>	<p>Section 51(3) is ambiguous, as it is unclear whether an interim restraint order requires the suspension or cancellation of a licence.</p> <p>Following legal advice, it is apparent that section 53(1) provides a discretion to suspend a licence on the issue of an interim restraint order, therefore section 51(3) must mean that the prescriptive requirement to cancel or suspend does not relate to interim orders (only full orders).</p> <p>It is therefore recommended that the reference to interim restraint orders in section 51(3) is removed to ensure clarity.</p>

<p style="text-align: center;">AMENDMENT</p> <p>The words used are not the final version but provide guidance as to that which may be included in the legislation only.</p>	<p style="text-align: center;">CURRENT LEGISLATION</p>	<p style="text-align: center;">COMMENT</p>
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		<p>on the holder of the licence a notice –</p> <p>(a) stating that the licence is suspended and the reasons for suspending it; and</p> <p>(b) requesting that the holder provide the Commissioner with any reason why the licence should not be cancelled.</p>	
<p>24</p>	<p><u>Section 54</u></p> <p><i>Allow for the seizure of ammunition when a licence is surrendered, suspended or cancelled.</i></p> <p>Amend section 54 by inserting “and ammunition” after “firearm” in subsection (3), (4)(a), and (5).</p>	<p><i>54. Surrender of licence and firearm</i></p> <p>(1) A person, by notice in writing to the Commissioner, may surrender a licence held by that person.</p> <p>(2) A licence surrendered under <u>subsection (1)</u> ceases to have effect –</p> <p style="padding-left: 40px;">(a) on the date specified in the notice; or</p> <p style="padding-left: 40px;">(b) if a date is not specified, on the date of receipt of the notice.</p> <p>(3) A person who surrendered a licence must immediately surrender any firearm to which the licence relates.</p> <p>(4) If a licence is suspended or cancelled, the person to whom it was issued must immediately surrender –</p> <p style="padding-left: 40px;">(a) any firearm in the person's possession; and</p> <p style="padding-left: 40px;">(b) the licence.</p> <p>Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 2</p>	<p>On the surrender, suspension or cancellation of a licence, a police officer may seize any firearm in the possession of the person (or the person is required to surrender it). This provision does not currently include ammunition.</p>

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		<p>years, or both.</p> <p>(5) A police officer may seize any firearm in the possession of a person whose licence is surrendered, suspended or cancelled.</p> <p>(6) In this section – "firearm" includes a weapon of the kind referred to in <u>paragraph (a)</u> of the definition of "light ordnance" in <u>section 3</u>.</p>	
25	<p><u>Section 55 & 56</u></p> <p><i>Corresponding licence and registration of firearms</i></p> <p>Insert section 56A: "A person who is a resident of another State or Territory does not commit an offence under section 74 of this Act if a firearm is possessed or used in accordance with section 55 or 56 and the firearm is registered under a law in force in that other State or Territory."</p>	<p><i>55. Licence not required in certain circumstances</i></p> <p>A person who is a resident of another State or a Territory is not required to hold a Category A firearms licence, a Category B firearms licence or a Category H firearms licence –</p> <p>(a) if the person is the holder of a corresponding licence; and</p> <p>(b) for the purpose of participating in an approved shooting competition or for any other approved purpose.</p> <p><i>56. Corresponding licence</i></p> <p>(1) If a person resident in another State or a Territory notifies the Commissioner by notice in writing that he or she intends to reside in this State, any corresponding Category A firearms licence or corresponding Category B firearms licence held by the person is taken to be such a licence under this Act for a period of 3 months from the date of the notice.</p>	<p>'Registered' means 'registered under this Act'. This means that a firearm not registered under the Tasmanian <i>Firearms Act 1996</i> is technically 'unregistered' even if it is correctly registered and licensed in another jurisdiction.</p> <p>This is an anomaly which requires a small insertion into the Act.</p>

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		<p>(2) If a person resident in another State or Territory notifies the Commissioner by notice in writing that he or she intends to reside in this State, any corresponding Category C firearms licence, corresponding Category D firearms licence or corresponding Category H firearms licence held by the person is taken to be such a licence under this Act for a period of 7 days from the date of the notice.</p> <p>(3) If, before the 7 day period referred to in <u>subsection (2)</u> expires, a person referred to in that subsection applies for a licence, that person is not guilty of an offence under <u>section 9</u> during any period the application is being determined.</p> <p>(4) A person must not possess or use a firearm under the purported authority of a corresponding licence without notifying the Commissioner under this section.</p> <p>Penalty: Fine not exceeding 50 penalty units.</p>	
<p>26</p>	<p><u>Section 61</u></p> <p><i>Remove the 28 day waiting period for second or subsequent firearms.</i></p> <p>Delete section 61(b) and replace it with:</p> <p>(b) in the case of an application for a permit to acquire which has been made by a person who does not possess a registered firearm under a licence under this Act, only after 28 days have expired</p>	<p><i>61. Granting permit</i></p> <p>The Commissioner may grant an application for a permit –</p> <p>(a) subject to any condition the Commissioner considers appropriate; and</p> <p>(b) only after the end of 28 days following the day on which the application is lodged; and</p> <p>(c) in the case of an application from the holder of a Category H firearms licence for sport or target shooting, to acquire not more than 2 pistols of different categories from the</p>	<p>This amendment would still require a person who wishes to acquire their <i>first</i> firearm to wait 28 days from the date of lodgement of their application. Any applications for <i>subsequent</i> firearms would not be subject to this time constraint.</p> <p>The rationale behind this amendment is that the ‘waiting period’ is designed to ensure that a person does not lodge an application for a firearm licence and firearm on impulse with the intention of accessing a firearm for the purposes of self harm or harm to another person. This reason is not sustained once</p>

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after the making of the application for the permit.

(ba) in any other case, only after sufficient time has expired to allow the Commissioner to consider the application properly.

following categories of pistols if the Commissioner is satisfied that the applicant has held the Category H firearms licence for sport or target shooting, and has been a member of an approved pistol shooting club, for a period of at least 6 months:

- (i) one .22 inch calibre pistol;
 - (ii) one .177 inch calibre air pistol;
 - (iii) one centre-fire pistol;
 - (iv) one black-powder muzzle loader;
- and

(d) in the case of an application from the holder of a Category H firearms licence for sport or target shooting, to acquire a pistol referred to in section 18(3) if the Commissioner is satisfied that the applicant has held the Category H firearms licence for sport or target shooting, and has been a member of an approved pistol shooting club, for a period of at least 12 months.

the person already owns a firearm which could be used for such a purpose, but simply wishes to obtain a second or subsequent firearm.

There also exists a 28 day waiting period between the lodgement of an application for a *licence* and its issue, and this would remain in place. It would still allow sufficient time for proper consideration (including relevant background checks) prior to granting the application without a mandatory minimum waiting period.

Requirements Australia-wide:

Victoria: 28 days on first firearm only, but the Act allows "sufficient time to allow consideration" of subsequent applications.

NSW: First firearm has a 28 day waiting period. Subsequent firearms *of the same type already registered* have no waiting period.

ACT: 28 days for all.

Queensland: First firearm has a 28 day waiting period. Subsequent firearms only require a wait of "the remainder of the day on which the application is submitted".

South Australia: 28 days for all, but for "special reasons" the waiting period can be shortened.

Western Australia: 28 days from issue of *licence*.

NT: 28 days for first firearm only

Tasmania: 28 days for all.

It should be noted that the Joint Standing Committee on Community Development considered this issue in 2007, and recommended retaining the 28 day waiting period for *all* firearms. It is proposed again, as this

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			position appears to put Tasmania out of line with the other mainland jurisdictions.
27	<p>Section 69</p> <p><i>Amend the provisions relating to Minor's permits by lowering the age for juniors to shoot recreationally or "in the field".</i></p> <p>Amend section 69 to read as follows:</p> <p>(1) The Commissioner must not grant an application for a minor's permit unless the Commissioner is satisfied that the applicant –</p> <p>(a) is at least 12 years of age; and</p> <p>(b) is a natural person; and</p> <p>(c) is a fit and proper person; and</p> <p>(d) has satisfactorily completed an approved firearms safety course; and</p> <p>(e) has permission from a parent or guardian to lodge the application.</p> <p>(2) In deciding whether a person is a fit and proper person, the Commissioner is to take into account the matter specified in section 29(2).</p> <p>(3) The Commissioner must refuse to grant an application on any ground the Commissioner must not grant a licence under section 29(3) and (4).</p>	<p>69. Granting minor's permit</p> <p>The Commissioner may –</p> <p>(a) if satisfied that the parent or guardian of an applicant has given permission, grant an application for a minor's permit subject to any condition the Commissioner considers appropriate; or</p> <p>(b) refuse to grant the application -</p> <p>(i) if satisfied that the applicant is not a fit and proper person, taking into account the matters specified in section 29(2); or</p> <p>(ii) on any ground the Commissioner must not grant a licence under section 29(3) and (4).</p> <p>70. Authority of minor's permit</p> <p>(1) A minor's permit granted to a person of 16 years and under 18 years of age authorises the holder to possess or use a firearm of a category specified in the permit only -</p> <p>(a) under the supervision of -</p> <p>(i) the holder of a licence; or</p> <p>(ii) a person approved to supervise the use by minors of firearms to</p>	<p>It is recommended that the age of juniors authorised to shoot recreationally or "in the field" be lowered to 12 years of age. Currently there are two categories of minor's permits:</p> <p>(1) Ages 12-15: permit holder can shoot on an approved range only; and</p> <p>(2) Ages 16-17: permit holder can shoot on an approved range or receive instruction "in the field".</p> <p>All other jurisdictions have lesser restrictions than Tasmania, and it is recommended that a small reduction in age be allowed for, in company with:</p> <p>(1) the introduction of a requirement to complete an approved firearms safety training course for <i>all</i> applicants; and</p> <p>(2) the introduction of a substantial penalty for failing to adequately supervise a minor.</p> <p><i>Other states:</i></p> <p>SA: Category A firearms may be used without a permit between the ages of 10-14 under supervision of a licensed adult. Other firearms may be used without a permit between the ages of 14-18 under supervision. On a range or recreationally.</p> <p>VIC: Junior licence available between 12-18 years for categories A, B and C (clay target only) for use under supervision on a range or recreationally.</p> <p>WA: A person under 18 can shoot under supervision of a licence adult (on range or recreationally).</p> <p>ACT: Junior's permit available between 12-18 years</p>

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CURRENT LEGISLATION**COMMENT****Amend section 70 to read as follows:**

(1) A minor's permit authorises the holder to possess or use a firearm of a category specified in the permit only –

(a) under the continuous supervision of –
 (i) the holder of a licence; or
 (ii) a person approved to supervise the use by minors of firearms to which the permit relates; and

(b) for the purpose of –
 (i) receiving instruction in the safe use of the firearm; or
 (ii) target shooting on an approved range.

(2) It is an offence under this part if a person supervising a minor in accordance with subsection (a) fails to provide continuous and responsible supervision over the use or possession of a firearm.

Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 2 years, or both.

which the permit relates; and
 (b) for the purpose of –

(i) receiving instruction in the safe use of the firearm; or
 (ii) target shooting on an approved range.

(2) A minor's permit granted to a person of 12 years and under 16 years of age authorises the holder to possess or use a firearm of a category specified in the permit only –

(a) under the supervision of –
 (i) the holder of a licence; or
 (ii) a person approved to supervise the use by minors of firearms to which the permit relates; and
 (b) for the purpose of –
 (i) receiving on an approved range instruction in the safe use of the firearm; or
 (ii) target shooting on an approved range.

on completion of an approved firearms safety training course. For use at a club or for instruction in the use for primary production under supervision.

NSW: Minor's permit available between 12-18 years on completion of an approved firearms safety training course. For use on a range or for recreational hunting under supervision.

NT: 16-18 year olds can get a Junior Licence on completion of an approved course for use at an approved range. What about recreational hunting?

QLD: Junior's permit available for 11-17 years for use on a range or recreational hunting under supervision.

The recommendations contained in the report of the Joint Standing Committee were considered, which included:

(1) A recommendation that the age for minors to shoot recreationally (or "in the field") be lowered to 14, subject to completion of a firearm safety training course.

Comment:
 The age recommended is 12 which is in line with other jurisdictions and would create just one type of minors permit.

The requirement for completion of the firearms safety training course has been included.

(2) A requirement for minors to be members of a shooting club which shoots on a range for a period of 2 years (this was not considered feasible nor in line with other jurisdictions).

Comment:

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			<p>It is submitted that it is impractical for parents to take their children to approved ranges (particularly children of primary producers).</p> <p>It is further submitted that the child should learn their skills in the environment they will be using a firearm in (i.e. shooting on a range will not equip a minor for the experience of shooting recreationally or in a primary production environment)</p> <p>(3) A recommendation that supervisors of minors must have completed the approved firearm safety training course.</p> <p>Comment: All applicants for firearms licences since 1997 have completed the firearm safety training course.</p> <p>Any licence holder who has not completed the course has held their licence for more than 10 years (and was therefore considered competent and not required to complete the course in 1997).</p>
28	<p><u>Section 84</u></p> <p><i>Amend section 84 to include safekeeping requirements for ammunition.</i></p> <p>Amend section 84 by inserting “or ammunition” after each instance of the word “firearm”.</p>	<p><i>84. General requirements</i></p> <p>(1) A person in possession of a firearm must take all reasonable precautions to ensure that the firearm is kept safely.</p> <p>(2) A person in possession of a firearm must take all reasonable precautions to ensure that the firearm is not stolen or lost.</p> <p>(3) A person in possession of a firearm must take all reasonable precautions to ensure</p>	<p>The safekeeping requirements of section 84 should apply to ammunition as well as firearms.</p>

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		that the firearm does not come into the possession of a person who is not authorised to possess it.	
29	<p><u>Section 84A & 85</u> <i>Increase the storage requirements for larger quantities of firearms</i></p> <p>Insert Section 84A:</p> <p>“A person in possession of 15 or more firearms must comply with the following requirements in respect of the storage of those firearms:</p> <p>(1) The premises and place of storage are to be equipped with an anti-intrusion alarm that is able to detect, any unauthorised entry to the premises or place or any unauthorised interference with any firearm.</p> <p>(2) An alarm system referred to in subsection (1) must be:</p> <p>(a) professionally installed with a 24 hour battery backup;</p> <p>(b) monitored (either by security company or back to mobile phone of the owner); and</p> <p>(c) activated when the premises are not occupied by a person who is appropriately licensed or authorised.</p>	<p><i>85. Category A and B firearms licence requirements</i></p> <p>(1) The holder of a Category A firearms licence or Category B firearms licence must comply with the following requirements in respect of the storage of any firearm to which the licence applies:</p> <p>(a) if the firearm is not being used, it must be stored in a locked receptacle of an approved type that is –</p> <p>(i) constructed of hard wood, metal, concrete or any other approved material; and</p> <p>(ii) not easily penetrable;</p> <p>(b) a receptacle that weighs less than 150 kg when empty must be fixed to a wall or floor in a manner that prevents easy removal;</p> <p>(c) the locks of a receptacle must be –</p> <p>(i) of solid metal; and</p> <p>(ii) of an approved type;</p> <p>(d) any ammunition for the firearm must be stored in a locked container of an approved type that is kept separate from the receptacle containing the firearm;</p>	<p>Licence holders who own large quantities of firearms are potential targets for burglaries.</p> <p>Firearms dealers are required to meet a certain standard for storage and security of firearms due to the quantities of firearms they may hold, and some individual licence holders (collectors) may have more firearms than a firearms dealer, and therefore the increased level of security should apply to ensure that large quantities of firearms are adequately secured against theft.</p> <p>At this point of time of the 36,800 firearm licence holders in the State, there are only approximately 200–250 people who own 15 firearms or more. The broad evidence is that those with this number of firearms, many of whom are collectors already have stringent storage security provisions in place.</p> <p>Some other jurisdictions have increased storage and security requirements for larger quantities of firearms (Queensland, for example, requires ‘collector’ storage standards for more than 30 firearms).</p>

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(e) any other prescribed requirement relating to security and safe storage.

Penalty: Fine not exceeding 20 penalty units or imprisonment for a term not exceeding 12 months, or both.

(2) Subsection (1) does not apply to a licensee if the licensee satisfies the Commissioner that the licensee has provided alternative arrangements for the storage of firearms in the licensee's possession that are of a standard not less than the requirements specified in this section.

86. Category C, D and H firearms licence requirements

(1) The holder of a Category C firearms licence, Category D firearms licence or Category H firearms licence must comply with the following requirements in respect of the storage of any firearm to which the licence applies:

(a) if the firearm is not being used, it must be stored in a locked receptacle of an approved type made of metal, concrete or any other approved material that is not easily penetrated;

(b) the receptacle must be bolted to a wall or floor;

(c) any ammunition for the firearm must be stored in a locked container of an approved

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type that is kept separate from the receptacle containing the firearm;

(d) any other prescribed requirement relating to security and safe storage.

Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 2 years, or both.

(2) Subsection (1) does not apply to a licensee if the licensee satisfies the Commissioner that the licensee has provided alternative arrangements for the storage of firearms in the licensee's possession that are of a standard not less than the requirements specified in this section.

30 Section 85 and 86

Increase the storage requirements for all firearms

That section 85 is removed and storage requirements for all Categories of Firearms be detailed in section 86.

Section 85 and 86 detailed above.

**Theft of Firearms during the period
1 Jul 2005 – 30 Jun 2010.**

This includes air rifle, pistol, revolver, rifle and shotgun only.

No. of Firearms stolen	No. of theft occasions
1	102
2	41
3	22
4	22
5	3
6	17
7	6
8	4
9	4
10	1
11	1
12	2
13	2
16	2

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31	<p><u>Section 87</u></p> <p><i>Clarify the requirements for storage of firearms and ammunition by firearms dealers.</i></p> <p>By inserting: “(j) in the case of the holder of a firearms dealer licence, if the premises or place of storage are premises or a place to which the public have access, all ammunition at those premises or that place that is not in the physical possession of the holder or any employee of the holder, or that is not being displayed to a customer under the immediate continuous personal supervision of the holder or the employee, is to be stored in a locked receptacle of an approved type that is kept separate to any receptacle containing a firearm.”</p> <p>AND</p> <p>“(k) any other requirements as prescribed in the Regulations.”</p> <p>In the <i>Firearms Regulations 2006</i> insert: “13A Prescribed requirements relating to Firearm Dealers (1) In relation to section 87(f) and (g) of the <i>Act</i>: (1) Anti-intrusion alarms must be professionally installed with a 24 hour battery backup.</p>	<p><i>87. Firearms dealer and museum licences requirement</i></p> <p>The holder of a firearms dealer licence or a firearms museum licence must comply with the following requirements in respect of the premises specified in the licence and the place of storage for firearms in those premises:</p> <p>(a) the premises are to be in a structurally sound condition;</p> <p>(b) the doors giving access to the premises and their locks, bolts, hinges and other fastenings are to be strong, stout and in good condition;</p> <p>(c) any windows, skylights or other covers of openings giving access to the premises are to be in good condition and their locks, bolts, hinges and other fastenings are to be strong, stout and in good condition;</p> <p>(d) all doors and windows, skylights and other covers are to be capable of being secured against unlawful entry;</p> <p>(e) all reasonable steps are to be taken to secure the premises and the place of storage from unlawful entry;</p> <p>(f) the premises and place of storage are to be equipped with an anti-intrusion alarm that</p>	<p><i>Insertion of requirements for ammunition storage:</i> The storage requirements for firearms dealers and museum licences do not currently specify the requirements for the storage or security of ammunition.</p> <p>This amendment will require any ammunition in areas <i>accessible to the public</i> to be adequately secured. It will also allow for additional stock stored in a secure room which is not accessible to the public.</p> <p><i>Clarification of other storage requirements relating to firearms:</i> The current requirements relating to security of firearms at dealer’s premises are ambiguous and open to interpretation. Further clarification should provide certainty to firearm dealers and police.</p>
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- (2) The alarm system must be monitored (either by security company or back to mobile phone of dealer).
- (3) Alarms must be activated when the premises are not occupied by a person who is appropriately licenced or authorised.
- (2) In relation to section 87(h) of the *Act*:
- (a) If the firearms are to be secured in a manner which prevents their ready removal, the minimum standard of wire is 5mm stainless steel plastic coated wire, looped at either end and locked to the rack with a good quality lock (with a shank no less than 8mm thick) or a 30mm x 8mm steel bar locked at both ends with same quality lock as above.

is able to detect, to the maximum extent reasonably practicable, any unauthorised entry to the premises or place or any unauthorised interference with any firearm;

(g) the anti-intrusion alarm is to be activated at any time the premises are unoccupied;

(h) in the case of the holder of a firearms dealer licence, if the premises or place of storage are premises or a place to which the public have access, all firearms at those premises or that place that are not in the physical possession of the holder or any employee of the holder, or that are not being displayed to a customer under the immediate continuous personal supervision of the holder or the employee, are to be –

(i) dismantled, rendered temporarily incapable of discharging a shot, bullet or other missile by the removal of a part of the firing mechanism or otherwise or secured, whether in a display cabinet, rack or otherwise, in a manner that prevents them from being readily removed and fired; or

(ii) locked up in a metal container of sturdy construction that is secured to the premises, a metal safe of sturdy construction or a steel and concrete strongroom of sturdy and sound construction;

(i) if any firearm has been dismantled or rendered temporarily incapable of

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	<p>discharging a shot, bullet or missile by the removal of a part of the firing mechanism, that part is to be stored on the premises in a locked receptacle of an approved type that is kept separate from any receptacle containing the firearm.</p>	
<p>32 <u>Section 89</u></p> <p><i>Remove the requirement for lodgement of ammunition returns by dealers.</i></p> <p>Remove ‘and ammunition’ from section 89(1), insert ‘and’ after ‘firearms,’ and replace subsection (2) with:</p> <p>‘(2) A licensed firearms dealer must, if required to do so by the Commissioner, compile records of ammunition purchased by the dealer and ammunition sold by the dealer in a form approved by the Commissioner for that purpose.’</p>	<p><i>Section 89(1) states:</i></p> <p>A licensed firearms dealer must keep a record in an approved form of all dealings with firearms, firearm parts and ammunition.</p> <p><i>89(2) states:</i></p> <p>A dealings record is to contain the following particulars: (e) the type, description and quantity of any ammunition;</p>	<p>The requirement for the recording of ammunition sales is not required. Most other jurisdictions do not generally require it (with the exception of WA), and the information is not used for any particular purpose. Ammunition may be purchased by licence holders in other states and then shipped into the State, without the knowledge of DPEM.</p> <p>NSW: no requirement WA: required to record ACT: no requirement VIC: no requirement SA: no general requirement, but legislation allows the Registrar to require a dealer to compile a record of ammunition purchased and sold if considered necessary. NT: no requirement</p> <p>This amendment would retain the requirement that ammunition must only be sold or supplied to the holder of an appropriate firearms licence.</p>
<p>33 <u>Section 96A</u></p> <p><i>Include a person who has had a firearm</i></p>	<p><i>96A. Employment restrictions, &c.</i></p> <p>(1) The holder of a firearms dealer licence must</p>	<p>Section 96A currently excludes certain people from being employees of firearm dealers. Persons are excluded if they have had firearm licences cancelled or</p>

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licence cancelled as a proscribed person for the purposes of section 96A.

Amend Section 96A(6) to read:

“has, in the 10-year period immediately preceding that day, had a firearm licence cancelled or an application for a licence or permit under this Act refused on the grounds that –

(i) the person was not considered a fit and proper person to hold or be issued with the licence or permit; or

(ii) the person was not considered a fit and proper person to be trusted with possession of firearms; or

(iii) the holding or issuing of the licence or permit would be contrary to the public interest; or”

not employ a proscribed person in a job that gives the proscribed person access to any firearms or ammunition dealt with under the licence.

Penalty: Fine not exceeding 40 penalty units or imprisonment for a term not exceeding 2 years, or both.

(2) A proscribed person must not apply for or accept employment that gives the proscribed person access to any firearms or ammunition dealt with under a firearms dealer licence.

Penalty: Fine not exceeding 40 penalty units or imprisonment for a term not exceeding 2 years, or both.

(3) The holder of a firearms dealer licence must not cause or allow a proscribed person to –

(a) act as an agent for the business carried on under the licence; or

(b) participate in the management of the business carried on under the licence.

Penalty: Fine not exceeding 40 penalty units or imprisonment for a term not exceeding 2 years, or both.

(4) A proscribed person must not –

(a) act as an agent for a business carried on under a firearms dealer licence; or

(b) participate in the management of the business carried on under a firearms dealer licence.

Penalty: Fine not exceeding 40 penalty units or imprisonment for a term not exceeding 2 years,

refused in the previous 10 years (including dealer licences) or are subject to restraint orders, family violence orders, good behaviour bonds or firearm prohibition orders.

The section does not currently exclude a person who has had a personal firearms licence cancelled due to concerns about that person’s fitness and propriety (it only refers to a person who has had a firearm dealer licence cancelled).

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or both.

(5) It is a defence in proceedings for an offence under subsection (1) or (3) if the defendant establishes that, on the day of the alleged offence, he or she did not know, and could not reasonably have been expected to know, that the person to whom the alleged offence relates was a proscribed person.

(6) For the purposes of this section, a person is taken to be a proscribed person on a particular day if the person –

(a) has, in the 10-year period immediately preceding that day, had a firearms dealer licence cancelled; or

(b) has, in the 10-year period immediately preceding that day, had an application for a licence or permit under this Act refused on the grounds that –

(i) the person was not considered a fit and proper person to be issued with the licence or permit; or

(ii) the person was not considered a fit and proper person to be trusted with possession of firearms; or

(iii) the issue of the licence or permit would be contrary to the public interest; or

(c) is subject to an interim restraint order or interim family violence order or a similar interim order in force under a law of another jurisdiction; or

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	<p>(d) is subject to a restraint order, family violence order or police family violence order or a similar order in force under a law of another jurisdiction; or</p> <p>(e) is subject, either in this State or elsewhere, to a good behaviour bond relating to an offence of or involving violence; or</p> <p>(f) is subject to a firearm prohibition order.</p>	
<p>34 <u>Section 98</u></p> <p><i>Amend s.98 to remove the requirement to sight the registration certificate.</i></p>	<p><i>98. Repair</i></p> <p>(1) A licensed firearms dealer must not take possession of any firearm for the purpose of repairing it unless the dealer has seen –</p> <p style="padding-left: 40px;">(a) the licence or permit of the person who is giving possession of the firearm to the dealer; and</p> <p style="padding-left: 40px;">(b) the current certificate of registration of the firearm.</p> <p>Penalty: Fine not exceeding 20 penalty units.</p> <p>(2) A licensed firearms dealer must not repair any firearm that is not registered.</p> <p>Penalty: Fine not exceeding 50 penalty units.</p>	<p>It has been submitted that section 98 should be amended to require either (1)(a) or (b) (and not both) as it is “an impost to require a licensed person to provide both forms of identification of ownership of the firearm”.</p> <p>This submission is not supported, as the <i>Act</i> requires dealers to <u>only accept firearms for repair that are registered</u>. Sighting of the person’s licence alone would not confirm that an individual firearm is registered, it can only be confirmed by sighting of the certificate of registration.</p> <p>The proponents of the amendment have previously been advised that if a person has misplaced their certificate of registration, then a replacement certificate can be requested from Firearms Services by the dealer.</p>

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35	<p><u>Section 101</u></p> <p><i>Amend section 101 relating to the mailing of firearms, parts or ammunition outside the State.</i></p> <p>Amend section 101 (c) by removing “security mail” and inserting “a form of post that requires delivery in person to the addressee”.</p>	<p><i>101. Mailing firearms outside State</i></p> <p>A person must not send any firearm, firearm part or ammunition to another person by mail unless –</p> <p>(a) the person sending it holds a firearms dealer licence; and</p> <p>(b) the address to which it is sent is outside Tasmania; and</p> <p>(c) it is sent by security mail; and</p> <p>(d) the other person would not, because of receiving it or being in possession of it at the place to which it is sent, be guilty of any offence under any law which applies at that place; and</p> <p>(e) the other person holds a corresponding licence under the law of that other place.</p> <p>Penalty: Fine not exceeding 50 penalty units.</p>	<p>The requirements for mailing of a firearm, part or ammunition by mail outside the state include a requirement for the item(s) to be sent by “security mail”, “Security mail” is not defined.</p> <p>For consistency with other jurisdictions and also for certainty, it is recommended that this be amended in line with NSW legislation.</p>
36	<p><u>Section 110</u></p> <p><i>Amend section 110 to allow a firearm dealer or collector to have possession of an unsafe firearm in appropriate circumstances.</i></p> <p>Insert section 110 (4): “Notwithstanding section 110(1), (a) the holder of a firearms dealer licence</p>	<p><i>110. Unsafe firearms</i></p> <p>(1) A person must not have possession of a firearm that is unsafe. Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 2 years, or both.</p> <p>(2) A police officer may seize any firearm in the possession of any person if the police officer suspects on reasonable grounds that</p>	<p>It has been submitted that section 110 be amended to state: “A person must not use a firearm that is unsafe”. However, this would prevent a person from being required to dispose of an unsafe firearm.</p> <p>It is therefore recommended that the section be amended to include firearms dealers and collectors as those persons authorised to possess unsafe firearms as they may be either repairing the firearm, or it may form part of a collection (but is not authorised for use).</p>

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	<p>may have an unsafe firearm in his or her possession in the ordinary course of his or her business or for the purpose of repairing it; and (b) the holder of a firearms licence for the genuine reason of collection or the holder of a firearms museum licence may have an unsafe firearm in his or her possession. “</p>	<p>the firearm is unsafe. (3) A firearm is unsafe if – (a) because of some mechanical defect or its general condition, it may reasonably be considered to be unsafe; or (b) for any other reason, it may reasonably be considered to be unsafe.</p>	
37	<p><u>Section 118</u></p> <p><i>Amend the provision prohibiting silencers/sound suppressors to include a sound suppressor which is built into the firearm.</i></p> <p>Amend section 118 as follows:</p> <p>At the end of section 118(1) insert after ‘firearm’:</p> <p>“, whether the implement forms part of the firearm or is or can be affixed or attached to the firearm.”</p>	<p><i>Section 118</i> states:</p> <p>(1) A person must not use, keep, possess, sell or manufacture any implement designed to suppress the sound caused by the discharge of a firearm.</p>	<p>Amend the section prohibiting the use, possession, sale or manufacture of a sound suppressor to allow for a sound suppressor which is built into the firearm (newly developed technology).</p>
38	<p><u>Section 118</u></p> <p><i>Allow for the use of silencers/sound suppressors or moderators.</i></p>	<p><i>118. Silencers and magazines</i></p> <p>(1) A person must not use, keep, possess, sell or manufacture any implement designed to suppress the sound caused by the</p>	<p>It is submitted that consideration should be given regarding the use of silencers or sound suppressors/moderators for “health and occupational safety reasons”.</p>

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	<p>discharge of a firearm.</p> <p>Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 2 years, or both.</p> <p><i>155. Exemptions</i></p> <p>(4) The Commissioner, subject to any specified condition, may exempt a person or class of persons from a provision of this Act relating to the possession or use of any or any combination of the following:</p> <ul style="list-style-type: none"> (a) any ammunition; (b) a firearm; (c) a firearms magazine; (d) a firearm sound suppressor. 	<p>The DPEM submit that moderators are similar to silencers as they are 'designed to suppress the sound caused by the discharge of a firearm' as per section 118 and are therefore prohibited. Anything which moderates or suppresses the sound of the explosion caused by the discharge of a firearm would fit within this definition.</p> <p>Silencers or sound suppressors/moderators are currently allowed for by exemption which can be issued under section 155(4). They are only issued in very restricted circumstances (currently only a very small number of approved members of DPIPWE hold such an exemption). There are other means available which provide ear protection.</p>
<p>39 <u>Section 119</u></p> <p>Allow for the legalisation of Paintball and amend section 119.</p>		<p>The sport of paintball is the 3rd most played alternative sport in America (after in-line skating and skateboarding) and is played in over 100 countries. Tasmania is now, and has been since 2007, the only state in which does not permit the sport on the basis that the equipment used to discharge the paintball is classified as a firearm, and section 119 of the <i>Firearms Act 1996</i> <u>expressly prohibits simulated war games in which a firearm is used or carried by a person.</u></p> <p>The sport advocates that it promotes a range of attributes and benefits for its players those including; Physical activity Teamwork, Communication,</p>

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			<p>Leadership, Planning and Initiative to name a few. Paintball is also seen as a major tourist attraction, an attraction in which Tasmania has no comparison and hence possesses even more appeal to travellers. Paintball is a sport, all the equipment involved is designed for sport and warrants no malicious view of the sport. Safety statistics also show the sport as having fewer injuries than major sports such as Football, Soccer, Tennis and even Golf.</p>
<p>40</p>	<p><u>Section 120</u></p> <p><i>Amend the offence provisions relating to handling of a firearm under the influence of alcohol or drugs to include 'physical possession'.</i></p> <p>Amend section 120 as follows: Subsection (1): replace 'handle' with 'have physical possession of'.</p> <p>Subsection (2): insert 'physical' before 'possession'.</p> <p>Subsection (2)(a): insert 'physical' before 'possession'.</p> <p>Insert:</p> <p>'(3) For the purposes of this section, 'physical possession' means under the person's immediate physical control or not secured in accordance with the</p>	<p><i>Section 120</i></p> <p>(1) A person must not handle or use a firearm while the person is under the influence of alcohol or any other drug.</p> <p>Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 2 years, or both.</p> <p>(2) A person must not sell or give possession of a firearm to another person if –</p> <p>(a) the person knows or has reasonable cause to believe that the other person is under the influence of alcohol or any other drug; or</p> <p>(b) the other person's appearance or behaviour is such that the person intending to sell or give possession of the firearm believes or has reasonable cause to believe that the other person is incapable of exercising responsible control over</p>	<p>Currently the legislation states that if a person 'handles' a firearm under the influence of alcohol or any other drug then they are committing an offence. However, this section is too limiting as it requires proof that the person was actually handling the firearm (that is, they must be caught with the firearm in their hands in order to prove this offence).</p> <p>Many charges under this section are being dismissed or not proven for this reason, despite the fact that the person does not have the firearm secured in accordance with the storage requirements for a firearm that is not 'in use'. This appears to be against the intention of the section. Most other jurisdictions have 'actual possession' or 'physical possession' requirements in their like provisions.</p> <p>The definition of 'possession' in the <i>Criminal Code Act 1924</i>: <i>"have in possession"</i> includes having under control in any place whatever, whether for the use or benefit of the person of whom the term is used or of another person, and although another person has the actual</p>

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<p>requirements for a firearm not being used in Part 5 of this Act.’</p> <p><i>(or: means physically handle or have an immediate ability to physically handle the firearm)</i></p>	<p>the firearm.</p>	<p>possession or custody of the thing in question.</p>
<p>41 <u>Section 120</u></p> <p><i>Allow for drug or alcohol testing for persons found handling or in actual physical possession of a firearm who are suspected to be under the influence.</i></p> <p>Insert provisions similar to those contained within the <i>Road Safety (Alcohol and Drugs) Act 1970</i>, Division 2 in relation to those persons found in actual physical possession of a firearm.</p>	<p><i>Section 120:</i></p> <p>(1) A person must not handle or use a firearm while the person is under the influence of alcohol or any other drug. Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 2 years, or both.</p>	<p>A power of arrest exists for this section but there is no provision to test a person who has been found handling or in possession of a firearm for the presence of alcohol or drugs, (as there is within the <i>Road Safety (Alcohol and Drugs) Act 1970</i>).</p> <p>Provisions may include the suspension of a firearms licence and seizure of their firearms until the conclusion of any court hearings. Penalties for these provisions may include the cancellation of their firearms licence and confiscation of firearms.</p>
<p>42 <u>Section 124</u></p> <p><i>Firearms with serial number defaced or removed.</i></p> <p>Insert section 124A: <i>“Possession of a firearm with a defaced or altered serial number or identification mark.</i></p> <p>A person must not possess a firearm on which the serial number or identification</p>	<p><i>124. Defacing or altering identification marks.</i></p> <p>A person must not, either intentionally or recklessly, deface or alter any number, letter or identification mark on any firearm or firearm part.</p> <p>Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 3 years, or both.</p>	<p>Deem firearms with no serial number or a serial number which has been defaced, to be automatically unregistered and create an offence for their possession.</p> <p>This was required by the APMC National Firearms Trafficking Policy Agreement 2002, Resolution 7:</p> <p>The introduction of offences relating to defacing of serial numbers:</p> <ul style="list-style-type: none"> An offence to possess a firearm on which the serial number has been defaced or removed;

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<p>mark has been defaced or altered, if the defacing or altering of the serial number or identification mark is not in accordance with this Act.</p> <p>Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 2 years, or both.”</p>		<ul style="list-style-type: none"> An offence to remove or deface a serial number.
<p>43 <u>Section 129</u></p> <p><i>Include firearms dealers as persons authorised to accept surrendered firearms under amnesty.</i></p>	<p>129. Amnesty Where any person – (a) who is not authorised under this Act to have possession of a firearm has possession of a firearm; or (b) has possession of a firearm which that person is not authorised to possess under this Act – and that person voluntarily brings the firearm to a police station and surrenders it to the Commissioner, no action is to be taken against that person in respect of any offence relating to the unauthorised possession of the firearm by that person.</p>	<p>This is already allowed for by exemption. This situation allows the Commissioner to withdraw this exemption if this arrangement becomes unsuitable.</p>
<p>44 <u>Section 147</u></p> <p><i>Amend the requirements for inherited firearms to allow an unregistered firearm to be surrendered to ‘a licensed firearms dealer’.</i></p>	<p>147. <i>Inherited firearms</i> (1) If at the time of a person's death the person was in possession of a firearm, a person who as a consequence of that death gains possession of the firearm must, as soon as is reasonably practicable after</p>	<p>It is submitted that an unregistered firearm should be able to be surrendered to a licensed firearms dealer in the event of the owner's death.</p> <p>The surrender of unregistered firearms to licensed firearms dealers is currently allowed for by exemption</p>

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	<p>gaining possession of the firearm -</p> <p>(a) if it is a registered firearm, deliver it up to –</p> <p style="padding-left: 40px;">(i) the Commissioner; or</p> <p style="padding-left: 40px;">(ii) a person (in this section referred to as "the keeper") who holds a firearms licence of the category appropriate to that firearm; or</p> <p>(b) if it is an unregistered firearm, surrender it to the Commissioner.</p>	<p>issued by the Commissioner of Police. This allows for the exemption to be withdrawn if this situation is no longer considered appropriate by the Commissioner.</p>
<p>45 <u>Section 148</u></p> <p><i>Include a Social Worker as a "prescribed person" for the purposes of section 148.</i></p> <p>Amend section 148(6) by</p> <p>Renumber (d) to (f) and at (d) insert: 'a social worker eligible for membership of the Australian Association of Social Workers; or'</p> <p>and at (e) insert: 'a person who provides professional counselling services; or'</p>	<p><i>Section 148</i></p> <p>(1) A prescribed person is to inform the Commissioner, by notice in writing, if he or she reasonably believes that -</p> <p style="padding-left: 40px;">(a) a patient or client is likely to possess or use a firearm; and</p> <p style="padding-left: 40px;">(b) such possession or use would be unsafe, for the patient or client or another person –</p> <p style="padding-left: 80px;">(i) because of the patient's or client's mental or physical condition; or</p> <p style="padding-left: 80px;">(ii) because the patient or client would be a threat to public safety.</p> <p>(5) The act of giving any information in a notice in good faith does not give rise to any criminal or civil action or remedy.</p> <p>(6) In this section "prescribed person" means –</p> <p style="padding-left: 40px;">(a) a person who is registered as a medical practitioner under the <u>Medical</u></p>	<p>The requirement for certain health care professionals to provide information regarding concerns relating to a person's access to firearms should be extended to include a social worker and a person who provides professional counselling services.</p> <p>Many people are seen by social workers and professional counsellors in relation to a variety of issues such as mental health, anger management, family, alcohol or drug dependency issues. In some circumstances, there may be concerns regarding the person's continued access to firearms, which should be reported to Firearms Services to allow a proper review of the person's licence and circumstances.</p> <p>Social workers and Professional Counsellors have previously been included by a Gazette notice issued 15th July 2003; however it is still not common established practice for reporting to occur.</p>

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	<p><i><u>Practitioners Registration Act 1996</u>; or</i> (b) a person who is registered as a nurse under the <i><u>Nursing Act 1995</u></i>; or (c) a person who is registered as a psychologist under the <i><u>Psychologists Registration Act 2000</u></i>; or (d) any other person or class of person determined by the Minister by notice in the <i>Gazette</i> to be a prescribed person.</p>	<p>Consultation will take place with DHHS Mental Health Services.</p> <p>ACT legislation: health professional means any of the following people: (a) a doctor, psychologist, nurse, midwife or social worker; (b) a person who provides professional counselling services; (c) anyone else declared under the regulations to be a provider of health-related services.</p>
<p>46 <u>Section 149</u></p> <p><i>Disposal of forfeited firearms</i></p> <p>Amend section 149 (3A) as follows:</p> <p>Replace “Minister” with “Commissioner”.</p>	<p><i>149. Disposal of surrendered or seized firearms</i></p> <p>(3A) Any firearm or ammunition forfeited to the Crown under <u>subsection (3)</u> is to be disposed of as the Minister determines.</p>	<p>Amend section 149 to provide the Commissioner with the discretion to determine how to dispose of forfeited firearms (similar to section 37ZI of the <i>Police Offences Act 1935</i> in relation to vehicles).</p> <p>The disposal of forfeited firearms should be an administrative, and not a political decision. The <i>Act</i> requires an audit each year by the Auditor-General of all firearms disposed of by the Department under this provision. The majority of forfeited firearms are destroyed by Tasmania Police with a small number retained for the Ballistics Library (if the item is of evidentiary value).</p>
<p>47 <u>Section 149</u></p> <p><i>Provide for a Magistrate to order the forfeiture of seized firearms</i></p>	<p><i>149. Disposal of surrendered or seized firearms</i></p> <p>(1) A police officer or a person who claims to be the owner of any firearm or ammunition</p>	<p>Many firearms are seized by police every year, and if the owner is (a) not able to be contacted or found after reasonable enquiry, or (b) not authorised to possess the firearm but fails to provide adequate instructions on another means of lawful disposal, then the firearms are</p>

AMENDMENT

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CURRENT LEGISLATION

COMMENT

Insert sub-section 149 (2A):

“(1) A magistrate may order forfeiture of a firearm or ammunition under subsection (2)(a), if the magistrate is satisfied that:

- (a) the owner of the firearm or ammunition is not authorised by or under this Act to be in possession of the firearm or ammunition and has failed to provide an alternative method of disposal for the firearm or ammunition within a reasonable time; or
- (b) the whereabouts of the owner of the firearm or ammunition has not been, and is not likely to be, ascertained by reasonable inquiry; or
- (c) the owner of the firearm or ammunition has failed to comply with the requirements of this Act in relation that firearm or ammunition.”

surrendered or seized under this Act may apply to a magistrate for an order under this section.

(2) A magistrate may order that the firearm or ammunition–

- (a) is forfeited to the Crown; or
- (b) is to be returned to the person claiming to be the owner of the firearm or ammunition; or
- (c) is to be disposed of in any manner the magistrate determines.

(3) If a person is convicted of an offence under Part 5 in respect of which any firearm or ammunition has been seized under section 88, the court, in addition to imposing any other penalty, may order that the seized firearm or ammunition is forfeited to the Crown.

(3A) Any firearm or ammunition forfeited to the Crown under subsection (3) is to be disposed of as the Minister determines.

(4)

(5) The Auditor-General is to arrange for an independent audit of all firearms or ammunition disposed of under this Act to be carried out once every year.

(6) A report of any audit carried out under subsection (5) is to be tabled in both Houses

kept by Tasmania Police until an order can be obtained by the court.

Magistrates are currently reluctant to order the forfeiture of firearms under the current provisions (which results in a large number of firearms being retained and stored by Tasmania Police), and it is submitted that providing further direction as to the matters to be considered may assist a Magistrate in making such an order.

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	<p>of Parliament.</p> <p>(7) In this section –</p> <p>"ammunition" includes a projectile falling within <u>paragraph (b)</u> of the <u>definition of "light ordnance"</u> in <u>section 3</u>;</p> <p>"firearm" includes a weapon falling within <u>paragraph (a)</u> of the <u>definition of "light ordnance"</u> in <u>section 3</u>.</p>	
<p>48 <u>Section 149</u></p> <p>Allow for mandatory forfeiture of firearms upon conviction for certain offences.</p>	<p>See section 149 (above)</p>	<p>It is submitted that certain offences should attract mandatory forfeiture of firearms upon conviction to highlight the serious nature of the offence. Suggested offences include:</p> <ul style="list-style-type: none"> • Possess loaded firearm in public place including in a vehicle in a public place; • Discharge a firearm into, from or over a public place; • Trespass while in possession of a firearm (this is contained within the <i>Police Offences Act 1935</i>); • Recklessly discharging a firearm; and • Carry a firearm with criminal intent. <p>This is considered unnecessary, as Magistrates have the discretion to impose this penalty.</p>
<p>49 <u>No current section</u></p> <p><i>Establish infringement notices for minor offences under the Act.</i></p>	<p>Not currently provided for.</p>	<p>Some of the more “minor” firearms offences may be diverted from the court system and dealt with by way of infringement or penalty notice.</p> <ul style="list-style-type: none"> ▪ minor offences by dealers such as lodging late

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		<p>quarterly returns without reasonable excuse (93(1)), failing to include a transaction in the register within 24 hours (89(3)) and failure to label firearms (94(1));</p> <ul style="list-style-type: none"> ▪ minor storage offences (first offence only); ▪ failure to produce a firearm carried and failure to state name and address (108); ▪ failure to advise of change of address within 14 days; ▪ Failure to produce licence card on demand by police officer (122); ▪ Failure to produce written permission to hunt on property on demand by police officer; ▪ If renewal of licences is included, failure to lodge a renewal application by the required time.
<p>50 <u>No current section</u></p> <p><i>Extend the limitation period for summary offences under the Act</i></p> <p>It is recommended that a provision is inserted which would allow for summary offences under the <i>Firearms Act 1996</i> to be prosecuted up to 12 months after <i>the detection</i> of the offence.</p>	<p>Not currently provided for – the 6 month statute of limitations currently applies for summary offences in the section 26 of the <i>Justices Act 1959</i>.</p>	<p>Currently, proceedings must be instigated within 6 months of the date of the offence. This results in a large number of offences only detected after the 6 months period (but not at the fault of Tasmania Police or DPIPW) not able to be prosecuted.</p> <p>Increasing the limitation period would demonstrate the Government's attitude to the serious nature of firearms offences and is consistent with many other jurisdictions.</p> <p>Queensland: 1 year after the commission of the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.</p> <p>NSW: An offence under this Act or the regulations may be dealt with in a summary manner if the court attendance notice was issued within 2 years of the</p>

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			<p>date on which the offence is alleged to have been committed.</p>
<p>51</p>	<p><u>No current section</u></p> <p><i>Allow for the collection of pre-1900 firearms.</i></p> <p>Insert a section similar to the following:</p> <p>(1) This section applies to any firearm manufactured before 1 January 1900 that:</p> <p>(a) is not capable of discharging breech-loaded metallic cartridges, or</p> <p>(b) is a firearm the ammunition for which is determined by the Commissioner to be ammunition that is not commercially available.</p> <p>(2) Sections 10, 24, 25 and 81 do not apply in relation to a firearm to which this section applies.</p> <p>(3) A person does not commit an offence under section 74 with respect to an unregistered firearm if it is a firearm to which this section applies.</p> <p>(4) Nothing in this section authorises the use of any firearm to which this section applies.</p> <p>(5) Any determination by the</p>	<p>Not currently provided for.</p>	<p>Firearms manufactured prior to 1 January 1900 are currently exempted by the Commissioner of Police from the provisions of the <i>Act</i> provided the firearm:</p> <p>(a) is not capable of discharging cartridge ammunition;</p> <p>(b) is a firearm for which cartridge ammunition is no longer commercially available.</p> <p>This means that a licence is not required to possess such a firearm, firearms are not required to be registered, and the provisions of the <i>Act</i> relating to storage do not apply.</p> <p>It is recommended that this exemption should be included in the legislation and also the determination as to what is “not commercially available ammunition” should be restricted to made by the Commissioner (or his delegate).</p> <p>It has been recommended changing the requirements to firearms that are 100 years old or more instead of manufactured prior to 1 January 1900 as this is the standard worldwide for antiques and will allow obsolete collectible firearms with no commercially available ammunition to be included with the passing of time. This is not supported by Tasmania Police as firearms manufactured post 1900 are capable of holding metallic cartridges which can be reloaded (even if the ammunition is not widely “commercially available”, such ammunition can easily be made/manufactured).</p>

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	<p>Commissioner of the ammunition that is not commercially available for the purposes of this section must be published in the Gazette.</p> <p>(6) A firearm will only be classified as subject to this section by determination of the Commissioner.</p>		<p>A further restriction to be included is the status of a firearm as 'pre-1900' or subject to this provision is to be determined by Tasmania Police.</p>
<p>52</p>	<p><u>No current section</u></p> <p><i>Requirements for reporting of firearm incidents by medical practitioners.</i></p> <p>South Australian legislation is provided as an example:</p> <p>(1) If a medical practitioner, or other person prescribed for the purposes of this subsection, has reasonable cause to suspect in relation to a person whom he or she has seen in his or her professional capacity that the person is suffering from a wound inflicted by a firearm, the medical practitioner, or other prescribed person, must make a report to the Registrar under this section.</p> <p>Penalty: Fine not exceeding 50 penalty units.</p> <p>(2) A report under this section - (a) must be made as soon as practicable</p>	<p>Not currently provided for.</p>	<p>If a firearm incident has occurred which has resulted in injury to a person, then the incident should be investigated by police to ensure that the persons involved are not liable for criminal charges, that the safety of the whole community is not at risk, as well as assessing the suitability of the people with the firearms to retain access to firearms.</p>

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	<p>after the suspicion is formed; and (b) must include -</p> <ul style="list-style-type: none"> (i) the name and address of the person the subject of the suspicion or, if the name and address are not known, a description of the person; and (ii) details of the wound; and (iii) any information provided to the practitioner or other person about the circumstances leading to the infliction of the wound. <p>(3) If a medical practitioner, or other person prescribed for the purposes of this subsection, treats a person for a wound that the practitioner or person has reasonable cause to suspect was inflicted by a firearm, the practitioner or person must take reasonable steps to retain any ammunition or fragment of ammunition recovered from the wound until it can be collected by a police officer.</p> <p>(4) A person incurs no civil or criminal liability in taking action in good faith in compliance, or purported compliance, with this section.</p>		
<p>53</p>	<p><u>No current section</u></p> <p><i>Further define “possession” in relation to a firearm, and provide for proof of possession.</i></p>	<p>Not currently provided for.</p>	<p>To assist in defining “possession” and what constitutes “possession” under the Act.</p>

AMENDMENT

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CURRENT LEGISLATION**COMMENT**

Insert a provision similar to the NSW provision below:

(1) Without restricting the meaning of the word "possession", for the purposes of any proceedings under this Act, a firearm is taken to be in the possession of a person so long as it is in or on any premises owned, leased or occupied by, or in the care, control or management of, the person, unless the court is satisfied that:

(a) the firearm was placed in or on, or brought into or on to, the premises by or on behalf of a person who was lawfully authorised by or under this Act to possess the firearm, or

(b) the person did not know and could not reasonably be expected to have known that the firearm was in or on the premises, or

(c) on the evidence before it, the person was not in possession of the firearm.

(2) In this section, "premises" means any place, vehicle, vessel or aircraft.

54

No current section

Allow for renewal of a firearms licence

Not currently provided for.

Time is required to allow background checks and other enquiries to be made. Even if the waiting period to grant a renewal of a licence was removed, it would still require a certain period of time before all the checks

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CURRENT LEGISLATION**COMMENT**

Insert similar provisions to those contained within the *Firearms Act 1996* (Victoria):

41 Renewal of Licences

(1) Before the expiration of a licence under this Part, the holder may apply to the Chief Commissioner for renewal of the licence.

(2) A person who is making an application for the renewal of a licence under this Part must make that application to the Chief Commissioner.

(3) An application must -
(a) be in a form and manner approved by the Chief Commissioner;

(4) An application must be accompanied by -

(a) a list of all the firearms in the possession of the applicant; and

(b) in the case of an application by a body corporate, if any of the responsible persons has changed during the course of the licence—

(i) proof of the identity of the new persons, being, if the Chief Commissioner so requires, proof in the same manner and to the same extent as is required for an identification reference in the *Financial Transactions Reports Act 1988* of the Commonwealth; and

(ii) a full set of each person's

could be conducted.

However, a provision could be inserted which would state that the person's licence remains active whilst the licence is being adjudicated. It would still require the person to lodge their application before the expiration of their current licence.

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CURRENT LEGISLATION

COMMENT

fingerprints.

(5)The applicant must pay the fee prescribed for the category of licence applied for.

41A Continuation of licence during consideration of application for renewal

If a licence holder has applied for renewal of a licence under section 41 and that application has not been determined before the date of expiry of the licence, the licence is deemed to continue in force, on and from that date, until the determination of the application.

42 General discretion of Chief Commissioner to refuse to renew a licence or to alter or vary the conditions of a licence

(1) The Chief Commissioner may renew or refuse to renew a licence under this Part and, if a licence is to be renewed, the Chief Commissioner may alter or vary the conditions on the licence or impose further conditions on the licence.

(2) The Chief Commissioner must not renew the licence -

(a) if the applicant can no longer demonstrate that he or she has the reason for which the licence was previously issued; or

(b) if the applicant or any responsible

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CURRENT LEGISLATION**COMMENT**

person in relation to the application is a prohibited person; or
 (c) unless the Chief Commissioner is satisfied that -
 (i) the applicant and all responsible persons in relation to the application are fit and proper persons; and
 (ii) the applicant can comply with the storage requirements set out by or under the Act; and
 (iii) the renewal of the licence is not against the public interest; or
 (d) for any prescribed reason.

43 Circumstances in which the Chief Commissioner may alter or vary conditions on a licence

The Chief Commissioner may alter or vary the conditions on the licence -
 (a) if the applicant can no longer demonstrate that he or she has the reason for which, in respect of any of the firearms possessed under the licence, the licence was issued; or
 (b) for any other prescribed reason.

43A Variation of licence for failure to comply with participation condition

Not required.

44 Review of a decision not to renew a

AMENDMENT

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CURRENT LEGISLATION

COMMENT

licence

A non-prohibited person who has applied for a renewal of a licence under this Part may apply to the Committee for a review of a decision of the Chief Commissioner—

- (a) not to renew that licence; or
- (b) to alter or vary any of the conditions on the licence.

45 Disposal of firearms where licence not renewed

(1) A person whose licence is not renewed does not commit an offence under this Part if he or she possesses or carries a firearm held under that licence—

- (a) if no application for review has been made against the decision not to renew the licence, for 28 days after the licence expires, for the purposes of disposing of the firearm; or
- (b) if an application for review has been made against the decision not to renew the licence, for 28 days after the confirmation of the decision, for the purposes of disposing of the firearm.

(2) If a condition on a licence is altered or varied under section 43, the holder of the licence does not commit an offence under this Part if he or she possesses or carries a firearm held under that licence which must be disposed of because of that alteration or variation for a period of 28 days after the alteration or variation for the

AMENDMENT

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CURRENT LEGISLATION

COMMENT

purposes of disposing of the firearm.

(3) A person who is disposing of a category A or B firearm in the circumstances to which subsection (1) or (2) applies must dispose of that firearm to a licensed firearms dealer.

Penalty: 60 penalty units or 12 months imprisonment.

(4) A person who is disposing of a category C or D firearm or a non-prohibited handgun in the circumstances to which subsection (1) or (2) applies must dispose of that firearm to a licensed firearms dealer.

Penalty: 120 penalty units or 2 years imprisonment.

(5) A person who is disposing of a prohibited firearm in the circumstances to which subsection (1) or (2) applies must dispose of that firearm in the manner specified in the licence.

Penalty: 240 penalty units or 4 years imprisonment.

This section should also include a provision similar to:

“To remove any doubt, this Act applies to an application for the renewal of a licence as if it were an application for a new licence.”

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<p>55 <u>No current section</u> <i>Allow for the use of collection firearms on specific occasions</i></p> <p>Insert a provision similar to:</p> <p>(1)The Commissioner may approve the holder of a licence granted for the genuine reason of collection, to carry or use any category A, B or H firearm held under the licence at an arranged shooting event held on an approved range.</p> <p>(2) The Commissioner may impose any conditions on the approval that the Commissioner considers appropriate.</p>	<p>Not currently provided for.</p>	<p>Many collectors own firearms which are suitable for use but also form part of a collection. The current legislation prohibits the use of a collection firearm, forcing the licence holder to acquire additional firearms for use.</p> <p>If collectors shoots could be allowed for (on approval of the Commissioner or Police) this may reduce the number of firearms held by collectors.</p> <p>Victoria has a similar provision.</p>
<p>56 <u>No current section</u> <i>Allow collectors with specific security standards to acquire ex military category D firearms.</i></p>	<p>Not currently provided for.</p>	<p>Legislative change is not supported by DPEM– the Commissioner may provide an exemption if it is considered appropriate.</p>
<p>57 <u>Firearms Regulations 2006 Regulation 10</u> <i>Amend the method of permanently deactivating a firearm so as to preserve the value of such firearms</i></p>	<p><i>Firearms Regulations 2006</i></p> <p><i>10. Firearm collections and heirloom firearms</i></p> <p>(1) For <u>section 47(1)(b)</u> and <u>section 47(2)</u> of the Act, the following is the prescribed manner in which a firearm of a kind specified in those sections that is not a shotgun is to</p>	<p>It is submitted that the method of permanent deactivation should be reviewed. Their submission includes a suggestion to allow deactivation of ex-military firearms by removal and destruction of the internal parts.</p> <p>DPEM submit that any method of deactivation would have to be permanent (i.e. removal of internal working</p>

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CURRENT LEGISLATION**COMMENT**

be rendered permanently incapable of being fired:

(a) a bore diameter mild steel rod is to be inserted into the barrel of the firearm, extending for the full length of the barrel;

(b) the mild steel rod is to be fully welded to –

(i) the muzzle and finished flush; and

(ii) the chamber of the firearm, if applicable;

(c) the barrel is to be welded to the receiver to prevent its removal;

(d) the firing pin of the firearm is to be removed and the firing pin hole welded closed;

(e) all internal springs or components that can be removed from the firearm without detracting from its external appearance are to be so removed;

(f) the trigger of the firearm is to be welded in a fixed position to prevent its function;

(g) weld is to be applied to the internal components of the firearm to prevent its function, if possible;

(h) each bolt, if any, is to be welded in a fixed position;

(i) each external hammer, if any, is to be

parts would not suffice, as they could be replaced which would effectively reactivate that firearm).

It should be noted, that preservation of the value of a firearm is not the sole consideration.

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welded in a fixed fired position to prevent its function;

(j) the action of the firearm is to be welded in a closed position to prevent its function;

(k) if the firearm has a bolt action, weld is to be applied to the bolt guide rail to prevent removal of the bolt;

(l) if the firearm has a nipple, the nipple is to be blocked with weld.

(2) For section 47(1)(b) and section 47(2) of the Act, the following is the prescribed manner in which a firearm of a kind specified in those sections that is a shotgun is to be rendered permanently incapable of being fired:

(a) a bore diameter mild steel rod is to be inserted into the barrel of the firearm for a distance of 5 centimetres;

(b) the mild steel rod is to be fully welded flush to the muzzle;

(c) a 5 centimetre long mild steel plug is to be inserted into the chamber and fully welded flush;

(d) the barrel is to be welded to the receiver to prevent its removal;

(e) if the firearm has a nipple, the nipple is to be blocked with weld.

(3) An heirloom firearm that is a semi-

AMENDMENT

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CURRENT LEGISLATION

COMMENT

automatic pistol is, in addition to the matters set out in sub regulation (1), to have the slide of the pistol welded to the frame on both sides to prevent its removal.

(4) A pistol with a revolving cylinder is, in addition to the matters set out in sub-regulation (1), to have a mild steel rod extending from the muzzle to a chamber of the cylinder and the cylinder is to be welded to the frame.

(5) A weld made for the purposes of this regulation is to be –

(a) substantial and, if practicable, not a spot weld; and

(b) effected by gas metal arc, gas tungsten arc, manual arc electrode or gas fusion with steel wire.

(6) If a firearm that is required to be welded in accordance with this regulation has components of a non-ferrous composition that cannot be satisfactorily welded, the components may be glued and pinned to prevent their function.

(7) If a firearm that is required to be welded in accordance with this regulation has a barrel that is constructed of material suitable for welding, the barrel may be plugged with a mild steel rod and welded by gas brazing or a similar method.

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<p>58 <u>Firearms Regulations 2006 Regulation 12</u></p> <p><i>Clarify the requirements for conveying a firearm</i></p> <p>Amend the <i>Firearms Regulations 2006</i>:</p> <p>Delete Regulation 12A.</p> <p>Delete Regulation 12 and replace it with:</p> <p><i>12. Safety requirements for conveying firearms</i></p> <p>The following are the safety requirements for conveying any firearm:</p> <p>(a) the firearm is to be in the unloaded condition;</p> <p>(b) ammunition is to be stored completely separate from the firearm;</p> <p>(c) magazines are not to contain any ammunition;</p> <p>(d) at least one of the following requirements is to be met:</p> <p>(i) either the firearm or ammunition is to be in a locked receptacle of an approved type;</p> <p>(ii) the bolt of the firearm is to be in a closed container, completely separate from the firearm;</p> <p>(iii) the firearm is to be fitted with a mechanism that locks or disables the trigger or action and prevents the firearm from being used; or</p> <p>(iv) the firearm is to be broken down into</p>	<p><i>Firearms Regulations 2006</i></p> <p><i>12. Safety requirements for conveying prohibited firearms</i></p> <p>The following are safety requirements for conveying a prohibited firearm:</p> <p>(a) the firearm is to be in the unloaded condition, with any detachable magazine detached from the firearm;</p> <p>(b) the bolt or breech block is to be removed from the firearm, if reasonably possible;</p> <p>(c)</p> <p>(d)</p> <p>(e) a trigger lock is to be fitted to the firearm, if possible;</p> <p>(f) if the firearm is not a pistol, it is to be conveyed in a locked receptacle that is of solid construction or made of timber that is at least 10 millimetres thick;</p> <p>(g) the receptacle is to be fitted with a metal lock;</p> <p>(h) the locked receptacle is not to contain any ammunition;</p> <p>(i) magazines are not to contain any ammunition;</p> <p>(j) if the firearm is a pistol, it is to be contained in a locked receptacle preferably located in the most secure area of a vehicle (such as the locked boot of a sedan).</p> <p><i>12A. Safety requirements for conveying other firearms</i></p> <p>The following are safety requirements for</p>	<p>The requirements for conveying firearms require clarification to provide certainty for licence holders and police. It is recommended to establish one requirement for all types of firearms, which reflects the intention of the requirements which is to ensure they are not available whilst in a moving vehicle and are secured from theft.</p> <p>It is submitted that primary producers should be exempted from the requirements ‘when moving about their properties, going about their normal duties and using the public roads that either bisect, bound or connect their property’. This is already provided for within section 104 of the Act which states:</p> <p><i>104. Conveying firearms and ammunition</i></p> <p>(1) A person who conveys a firearm or any ammunition must comply with the prescribed safety requirements.</p> <p>Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 12 months.</p> <p>(2) It is a defence in proceedings for an offence under <u>subsection (1)</u> if the defendant establishes that, at the relevant time, the relevant firearm or ammunition was being conveyed –</p> <p>(a) in connection with the defendant's employment or livelihood; and</p> <p>(b) no further than reasonably necessary in the circumstances.</p>
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	<p>at least 2 separate parts so as to be incapable of being immediately used.</p>	<p>conveying a firearm that is not a prohibited firearm:</p> <p>(a) the firearm is to be in the unloaded condition;</p> <p>(b) ammunition is to be in a closed container, completely separate from the firearm;</p> <p>(c) magazines are not to contain any ammunition;</p> <p>(d) at least one of the following requirements is to be met:</p> <p style="padding-left: 20px;">(i) the firearm is to be in a locked receptacle;</p> <p style="padding-left: 20px;">(ii) the bolt of the firearm is to be in a closed container, completely separate from the firearm;</p> <p style="padding-left: 20px;">(iii) the firearm is to be fitted with a mechanism that locks or disables the trigger or action and prevents the firearm from being used.</p>	
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