



## Changes to the firearms import regime – July 2013

This document provides a summary of the amendments to the *Customs (Prohibited Imports) Regulations 1956* (the Regulations) described in the *Customs (Prohibited Imports) Amendment (Firearms) Regulation 2013*. The amendments began on 13 July 2013. The amendment regulations and the explanatory statement can be found on the [ComLaw](#) website.

This document is provided as a guide to assist interpretation and does not constitute legal advice. It should not be relied upon in place of the Regulations or the Explanatory Statement.

This document is current at the time of writing and may be superseded by additional changes to the *Customs (Prohibited Imports) Regulations 1956* or changes to government policy.

### New definitions (Items 1, 5-9)

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New definitions have been added to Regulation 4F:

- i. **adjustable stock** means a stock that may be adjusted by more than 120mm

*Practical effect*—stocks that were previously controlled as telescopic or collapsible stocks under the Regulations may no longer be controlled under Regulations, where the length of adjustment is less than 120mm.

- ii. **detachable stock** means a stock that:
  - a. is easily removable from a firearm without the use of a tool; and
  - b. does not make the firearm dangerous to operate or unreasonable to fire when removed

*Practical effect*—clarifies existing controls.

- iii. **folding stock** means a stock that is designed to be, or capable of being, folding in a way to reduce the length of a firearm.

*Practical effect*—clarifies existing controls.

- iv. **electro-shock cartridge** means ammunition, discharged from a firearm, that is designed or adapted to deliver an electric shock or charge on impact.

*Practical effect*—clarifies existing controls.

- v. **handgun** means a firearm that must be:
  - a. reasonably capable of being raised and fired with one hand; and
  - b. reasonably capable of being carried or concealed on the body of a person; and
  - c. not more than 650mm long.

*Practical effect*—clarifies existing controls.

- vi. **firearm part**, for a firearm, means any of the following items, whether or not complete, damaged, temporarily or permanently inoperable, or unfinished:
- a. a gas piston, friction ring, action bar, breech bolt, breech block;
  - b. a firearm barrel;
  - c. a trigger mechanism;
  - d. a frame or receiver;
  - e. a slide;
  - f. an upper receiver;
  - g. a lower receiver;
  - h. a revolving cylinder;
  - i. a bolt carrier;
  - j. something, other than a complete firearm, that includes one or more of the items mentioned in paragraphs (a) to (i).

*Practical effect*—handgun slides, revolver cylinders and bolt carriers are now firearm parts for the purposes of the Regulations. Other changes (trigger mechanism, lower receiver and upper receiver) clarify existing controls.

- vii. **firearm accessory** means any of the following devices, whether or not complete, damaged, temporarily or permanently inoperable, or unfinished:
- a. a silencer, sound moderator, sound suppressor or any other device designed to, or capable of, reducing the noise of the discharge of the firearm;
  - b. a device designed to modify, or capable of converting, a firearm to give it any of the following capabilities:
    - i. burst fire;
    - ii. semi-automatic operation;
    - iii. fully automatic operation;
  - c. a folding stock;
  - d. a detachable stock;
  - e. an adjustable stock;
  - f. a firearm part to which a firearm accessory is attached or is integral.

*Practical effect*—clarifies existing controls.

- viii. **firearm**:
- a. means a device designed or adapted to discharge shot, bullets or other projectiles by means of an explosive charge or a compressed gas, whether that device is fitted with a magazine or other feeding device designed to be used with it or not; and
  - b. includes the following devices:

- i. a deactivated firearm;
  - ii. a blank-fire firearm;
  - iii. any flare gun or signalling device, except a flare gun or signalling device mentioned in subparagraph (c)(iii); and
- c. does not include the following devices:
- i. a nailing or stapling gun;
  - ii. an explosive-powered fixing tool;
  - iii. a flare gun or other signalling device, designed for emergency or life-saving purposes;
  - iv. a line-thrower;
  - v. a hand-operated device that uses blank cartridges to propel objects for retrieval in connection with the training of dogs;
  - vi. a tranquilliser gun;
  - vii. a gun that operates a captive bolt for the slaughter of animals;
  - viii. a device for the casting of weighted nets;
  - ix. large calibre armament, weapons, launchers, throwers and projectors, designed for grenades, bombs, rockets or any other missile, ammunition or substance to which item 1 of Part 2 of Schedule 13 applies;
  - x. a sidewall core gun designed for geological purposes, mining purposes, or both;
  - xi. an expandable casting perforation gun designed for geological purposes, mining purposes, or both.

*Practical effect*—**blank-fire firearms** are excluded from the definition of an imitation firearm and controlled as firearms. However, like deactivated firearms, they will be exempt from safety testing.

**Underwater powerheads** are no longer exempt from the definition of a firearm and are controlled under Item 24 of Part 2 of Schedule 6 of the Regulations and can be imported under the police certification test. They will not require a serial number and will be exempt from safety testing.

The change to **flare guns** clarifies existing controls, making it clear that flare guns or other signalling devices that are designed for purposes other than emergencies or life-saving purposes will be treated as a firearm.

### **Transshipment requirements (Items 2 and 3)**

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The new Regulation 3D provides the criteria in relation to transshipment. Those criteria are:

- if the goods are only imported into Australia for the purposes of transshipment to another country; and

- if the goods are goods to which regulation 13E of the Customs (Prohibited Exports) Regulations 1958 applies, then either a licence or permission to export the goods has been produced to the Collector; and
- the goods remain under the effective control of the Collector while in Australia.

*Practical effect (Cargo)*—for cargo transhipped through Australia, there will no longer be a requirement for an import permit, only a permit or licence issued by the Department of Defence.

*Practical effect (Passengers)* —for bona fide travellers transhipping low risk firearms through the passenger stream, a restricted goods permit (RGP) may be issued to facilitate the exportation, subject to the conditions of Regulation 3D and the *Customs (Prohibited Exports) Regulations 1958*.

This will streamline the provision of import permission, whilst still maintaining regulatory controls in relation to articles which are being exported from Australia

#### **Review provision (Item 4)**

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Subregulation 4F(3A) places an obligation on the Minister to review those items in part 2 of schedule 6 of the Regulations concerned with parts, accessories and magazines.

#### **Amendment to the specified purposes test (Item 11)**

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A new limb has been added to the specified purposes test to facilitate the importation of firearms for the purpose of testing ammunition.

#### **Amendment to the specified person test (Items 12 and 90)**

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Items 12 and 90 recognise there are appropriately licensed shooters who cannot satisfy the current requirement that pest control is their 'principal' or 'only' occupation. This item amends the specified person test to permit the importation of firearms and related articles by professional vertebrate pest controllers who have multiple sources of income.

#### **Category D dealer stock scheme**

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Amendments have been made to the dealer test so that import permission under the test can be granted for Category D articles. However, unlike Category C articles, demonstration stock cannot be imported under this test.

*Practical effect* – Category D articles imported under the dealer test must be held by ACBPS until the requirements under the dealer test – category D articles are met. Category D articles can only be disposed of to the government of the Commonwealth, or a State or Territory, or to a specified person (pest controller).

## **Amendments to Category C dealer stock scheme**

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Amendments have been made to address the issue of category C firearms held in dealer stock and now permit release of such articles for demonstration purposes by the importer.

## **Amendments to Part 2 of Schedule 6**

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A number of changes have been made to the Part 2 of Schedule 6, which defines the requirements for specific firearms, firearm accessories, firearm parts, firearm magazines, ammunition, components of ammunition and imitations.

A summary of those changes are as follows:

- a) **all automatic firearms (excluding paintball markers) and firearms to which a firearm accessory is attached or is integral** are subject to Item 12;
- b) **all shotguns, excluding semi-automatic and repeating action shotguns**, are subject to Item 1 (Category A) – for example, triple barrel shotguns;
- c) **dealer test** has been added to Items 6 and 7 (dealer test – category D);
- d) **all paintball markers** (pump action, semi-automatic, fully automatic, burst fire, paintball marker handguns, etc.) and their parts are subject to Item 14A. However those paintball markers that are substantially the same in appearance to a fully automatic firearm (conventional firearms such as an M16, AK47), and paintball markers to which a firearm accessory is attached or is integral, will remain subject to Item 12;
- e) **all handguns (excluding paintball markers)** are subject to Item 9;
- f) **underwater powerheads** are subject to Item 24;
- g) **all imitation firearms** are subject to Item 1A;
- h) **all firearm accessories** are subject to Item 14;
- i) **self-loading firearms** are now referred to as semi-automatic firearms in the Regulations;
- j) an **electro-shock cartridge** is subject to Item 19;
- k) item numbers that relate to **firearm parts and magazines** have been amended—further details below.

*Practical effect*—clarifies existing controls and facilitates legitimate importations of paintball markers and other goods

## **Amendments addressing the decision of CEO of Customs v Powell [2007] QCA 106**

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A number of amendments address the Powell decision as it relates to firearm parts and firearm magazines, consistent with the intent of the Regulations and details under the National Firearms Agreement (NFA).

Firearm parts which previously were subject to multiple item numbers and may have been subject to higher controls are now controlled as a firearm part for the lower controlled firearm, other than

those parts that are capable of converting, either on its own or in conjunction with other parts, a firearm to a semi-automatic or fully automatic firearm.

*Example A—a trigger mechanism for the Ruger 10/22 semi-automatic rimfire (category C and D) and the Ruger 22/10 Charger (category H) will be subject to Item 10 and can be imported under the police certification test.*

*Example B—a trigger mechanism for an M16 assault rifle (category R), while it could be fitted to a AR15 semi-automatic rifle, will be subject to the higher control of Item 13, being a part that is capable of converting, either on its own or in conjunction with other parts, a firearm to a fully automatic firearm.*

Firearm magazines with a capacity of ten (10) or less for semi-automatic and fully automatic centrefire rifles are subject to the police certification test under Item 17.

*Example C—a ten (10) round magazine to suit a Remington 7615 pump action centrefire rifle and an AR15 semi-automatic centrefire rifle will be subject to Item 17.*

### **Safety requirements (Items 52-54)**

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Items 52-54 gives effect to a risk based approach for safety testing of firearms at the time of import. The basic requirement will be that at the border, Customs will inspect the article for a safety switch or device, an effective trigger guard and unique serial numbers. Customs will determine if further testing is required. This provides the flexibility for Customs and Border Protection Officers to undertake any of a suite of tests to determine the safety of a firearm, within clearly defined legislative parameters.

*Practical effect*—these amendments require no change on the part of importers and only affect Customs and Border Protection business processes.

### **Conditions relating to import permissions (Item 58)**

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Item 58 amends the Regulations to remove references to ‘as soon as practicable’ from the conditions of import and instead give the Attorney-General the power to stipulate specific time periods.

### **Category H Scheme - removal of category H stock limits (Items 68–81)**

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Items 68-81 amend item 5 of Part 3 of Schedule 6 of the Regulations which deals with category H dealer stock. Category H relates to handguns. The purpose of these amendments is to remove ‘stock limit’ requirements which resulted out of a review by AGD under the direction of the Minister.

The amendments also remove the requirement for the dealer acquiring newly imported handguns from the importing dealer to be certified (although they must be appropriately licensed in all instances).

*Practical effect*—there are a number of changes that will impact importing dealers, as described below:

## **Certification and Stock Limits**

Only the importing dealer is required to be certified by ACBPS to hold category H articles imported under the dealer test—category H (dealer test). The requirement for the dealer purchasing from the importing dealer to be certified has been removed. Additionally, all references to stock limits have been removed.

On the presentation of a valid certificate, and where all other import requirements have been met, a certified dealer can collect all category H articles imported under the dealer test from ACBPS—this applies to category H articles previously imported under the dealer test and are currently held by ACBPS. (Note: all previously issued certificates issued by ACBPS remain valid unless expired or revoked.)

Certified importing dealers should contact their local ACBPS Firearm Cell to schedule an appointment to collect any remaining dealer stock held by ACBPS.

Certified dealers are still required make a declaration (B709CA Form) under paragraph 5.3(a)(ii) of Part 3, Schedule 6 of the Regulations when receiving category H articles from ACBPS imported under the dealer test.

### **B709F Form**

Category H articles held by certified importing dealers can now be disposed to a person who is a licenced firearm dealer who is not certified by ACBPS.

The B709F Form (Dealer Declaration) was a document provided by ACBPS to assist certified dealers purchasing from importing dealers in providing their declaration under the legislation.

As the requirement for the dealer purchasing from the importing dealer to be certified (commonly referred to as the second tier dealer) to be certified has been removed, and more specifically, the requirement for importing dealers to only dispose of category H articles to certified dealers, any disposal from 13 July 2013 will not require the importing dealer to attain this declaration (B709F Form) from other dealers.

However, if sold to a certified dealer prior to 13 July 2013, the previous legislative requirements still apply and any disposal reporting over the next few weeks must still include that document.

### **Reporting disposals (B709CA Form)**

The reporting of disposals (paragraph 5.6, Part 3, Schedule 6 of the Regulations) still remains, however there have been the following changes:

- the certified dealer is now required to report all disposals with thirty (30) days to ACBPS, no longer seven (7); and
- all reporting should be submitted to the relevant ACBPS Firearm Cell, and not to ACBPS in Central Office.

## **Sports shooters (Item 82 and 83)**

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Items 82 and 83 amend the Regulations to change the definition of a 'certified sports shooter' for restricted category C firearms, to include New Zealand citizens who hold a special category visa under the *Migration Act 1958* (Cth).

*Practical effect*—New Zealand citizens who hold a special category visa under the *Migration Act 1958* will be eligible for certification as a certified sports shooter.

### **Further Information**

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For further information relating to the changes, please contact either:

- Firearms & Fraud Section  
Australian Attorney-General's Department  
  
Ph: (02) 6141 2730 Email: [firearms@ag.gov.au](mailto:firearms@ag.gov.au).
  
- Weapons and Regulated Trade Strategies Section  
Australian Customs and Border Protection Service  
  
Ph: (02) 6275 5875 Email: [WARTS@customs.gov.au](mailto:WARTS@customs.gov.au).