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**FIREARMS AND DANGEROUS WEAPONS (AMENDMENT)
BILL, 1985**

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The following Bills are cognate with this Bill:—

Security (Protection) Industry Bill, 1985;

Commercial Agents and Private Inquiry Agents (Amendment) Bill, 1985.

Under the Firearms and Dangerous Weapons Act, 1973 ("the Act"), as presently in force, a person is required to have a pistol licence in respect of a particular pistol, if the person is to possess or use a pistol, or a shooter's licence, if the person is to possess or use a firearm other than a pistol or a spear gun. Certain exceptions are made in the case of antique pistols and blank fire pistols, where a person may be authorised to possess (but not to use) an antique pistol by being the holder of an antique pistol collector's licence or to possess and use a blank fire pistol by being the holder of a blank fire pistol licence. In the case of other firearms, such as rifles and shotguns, a person is not at present required to have a shooter's licence to possess or use any such weapon if the person is an occupier of land, or invited on to land by the occupier, and does so on that land.

There is no existing statutory requirement that any firearm be registered and, at present, a person holding a shooter's licence may possess and use firearms of any type, other than pistols and certain prohibited weapons, unless the person is the subject of a firearms prohibition order.

When amended by the proposed Act, the Act will, among other things, provide for—

- (i) the registration of all firearms, other than pistols (for which individual pistol licences will continue to be required) and certain other firearms, such as antique firearms (for which collectors' firearm licences will be required);
- (ii) further restrictions to be placed on the issue of pistol licences and shooters' licences and for limitations to be placed on the type of firearm the holder of a shooter's licence may possess and use;

- (iii) the replacement of antique pistol collectors' licences by collectors' firearm licences, not necessarily restricted to authorising the possession of antique pistols;
- (iv) the making of regulations under the Act with respect to the possession and use of firearms by persons engaged in the protection of persons or property, which regulations may require a permit to be held by any such person;
- (v) the increase of penalties for certain offences against the Act, and an increase in the maximum penalty that may be imposed by regulations made under the Act; and
- (vi) other obligations and restrictions relating to the possession, use, carrying and disposition of firearms, particulars of which are set forth hereunder.

The object of this Bill is to amend the Act so as—

- (a) to require the Commissioner of Police ("the Commissioner") to maintain a Register of Firearms in which will be kept certain particulars relating to firearms, including pistols, and other prescribed particulars (Schedule 1 (2)—proposed section 23A);
- (b) to provide for the registration of certain firearms by the Commissioner and impose restrictions on the person in whose name any such firearm may be registered (Schedule 1 (2)—proposed section 23B);
- (c) to enable the Commissioner to cancel the registration of a firearm in prescribed circumstances (Schedule 1 (2)—proposed section 23C);
- (d) to permit appeals to be made against the refusal of registration or the cancellation of registration under the Act (Schedule 1 (3));
- (e) to create an offence of using, carrying or being in possession of an unregistered firearm, where the firearm is required by the Act to be registered (Schedule 1 (4)—proposed section 40A);
- (f) to impose obligations on a person in whose name a firearm is registered—
 - (i) to produce the firearm to a member of the police force, where a demand for its production is made by a member of the police force;
 - (ii) to report to the Commissioner the sale, loss or theft of the firearm within 7 days of its sale, loss or theft; and
 - (iii) to advise the Commissioner within 14 days of any change in the person's ordinary place of residence,
 (Schedule 1 (4)—proposed section 40B);
- (g) to prohibit the alteration of particulars on a notice of registration issued in respect of a firearm (Schedule 1 (4)—proposed section 40C);

- (h) to provide for certificate evidence to be given as to whether a firearm is registered or unregistered (Schedule 1 (5));
- (i) to empower the making of regulations under the Act relating to the registration of firearms (Schedule 1 (6));
- (j) to require that a shooter's licence issued under the Act specifies the firearm or class of firearms the holder of the licence is authorised to possess and use (Schedule 2 (1) (a));
- (k) to enable the Commissioner to issue a shooter's licence which is subject to prescribed conditions (Schedule 2 (1) (a));
- (l) to prohibit the issue of a shooter's licence to a person—
 - (i) who has been convicted of a prescribed narcotics offence or a prescribed offence involving violence committed less than 10 years before application is made for the licence;
 - (ii) who is subject to a recognizance to keep the peace;
 - (iii) who does not have good reason for holding the licence; or
 - (iv) who the Commissioner has reasonable cause to believe may not personally exercise continuous and responsible control over the firearms to which the application relates,
 (Schedule 2 (1) (c), (e) and (g));
- (m) to declare that an applicant for a shooter's licence to be issued in respect of firearms has good reason for holding the licence in certain circumstances where the applicant—
 - (i) is a rural property owner;
 - (ii) is a member of a club approved by the Commissioner; or
 - (iii) is engaged in a lawful business requiring the use of firearms,
 (Schedule 2 (1) (g));
- (n) to enable the Commissioner to refuse to grant an application for a shooter's licence if the applicant for the licence has been convicted of a prescribed offence relating to the possession or use of firearms (Schedule 2 (1) (h));
- (o) to require shooters' licences to be issued for 1 or 3 years, rather than 1, 2 or 3 years, as presently provided (Schedule 2 (1) (i));
- (p) to prohibit the purchase or sale of a firearm, other than a blank fire pistol, a pistol or a spear gun, unless the purchaser holds a permit issued under the Act or a firearms dealer's licence and to require the purchaser or vendor of any such firearm to notify the Commissioner of the purchase (Schedule 2 (3)—proposed sections 39A and 39B);

- (q) to require occupiers of land and employees or invitees of any such occupier to hold a shooter's licence or another licence or a permit under the Act if they are to carry, use or possess a firearm, other than a spear gun (Schedule 2 (4));
- (r) to provide that a person may carry or use a firearm without being the holder of a shooter's licence in respect of the firearm—
 - (i) if the person, being under the age of 18 years, holds a permit under the Act and carries or uses the firearm under the personal supervision of another person who is the holder of a shooter's licence in respect of the firearm or is otherwise authorised under the Act; or
 - (ii) if the person is a member of an approved firearms club and does so in the course of target shooting as a member of the club while under the supervision of a range officer who is the holder of a shooter's licence in respect of the firearm,(Schedule 2 (4));
- (s) to empower the Commissioner to issue permits referred to in paragraph (r) to a person of or above the age prescribed by the regulations made under the Act and to revoke any such permit (Schedule 2 (5)—proposed section 71A);
- (t) to empower the Commissioner to issue permits referred to in paragraph (p), but only if the person to whom the permit is issued has good reason for purchasing the firearm to which the permit relates and is the holder of a shooter's licence or collector's firearm licence in respect of the firearm (Schedule 2 (6)—proposed section 72A);
- (u) to provide that written or oral tests relating to the applicant's knowledge of safety procedures, applicable to the use, etc., of firearms, may be required to be satisfactorily completed by an applicant before a licence or permit is issued to the applicant under the Act or regulations made under the Act (Schedule 2 (7)—proposed section 73A);
- (v) to replace the class of licences under the Act presently known as antique pistol collectors' licences with licences for collectors' firearms, which expression includes antique firearms and firearms of any class prescribed by the regulations made under the Act (Schedule 3 (1)–(4));
- (w) to confine the firearms to which a collector's firearm licence relates to firearms, or firearms of a prescribed class, specified in the licence (Schedule 3 (4));
- (x) to enable collectors' firearm licences to be issued for an indefinite period or for a period of up to 3 years specified in the licence (Schedule 3 (7) (a) and (b));
- (y) to provide that a person may purchase a pistol which is a collector's firearm or have any such pistol in possession, if the person is the holder of a pistol licence in respect of the pistol (Schedule 3 (9) (a));
- (z) to require a person who uses a pistol referred to in paragraph (y) to hold a pistol licence in respect of the pistol (Schedule 3 (9) (b));

- (aa) to create an offence if the holder of a collector's firearm licence does not keep certain records, produce those records on the demand of a member of the police force or make certain written returns to the Commissioner (Schedule 3 (13));
- (bb) to empower the Commissioner to issue permits to a person whose ordinary place of residence is outside New South Wales authorising the purchase of a collector's firearm which is a pistol, but only if the person from whom the pistol is purchased is the holder of a pistol dealer's licence, a pistol licence or a collector's firearm licence in respect of the pistol (Schedule 3 (14));
- (cc) to enable regulations to be made with respect to the obligations of employers, employees and other persons engaged in the protection of persons or property or other prescribed activities involving the possession of firearms, including obligations with respect to the training and supervision of persons to be in possession of those firearms and the maintenance and storage of those firearms (Schedule 4);
- (dd) to increase the maximum penalties which may be imposed for offences arising under the Act in the majority of cases (Schedule 5 (1)-(32));
- (ee) to increase the maximum penalty which may be imposed by the regulations made under the Act for an offence arising under those regulations (Schedule 5 (33));
- (ff) to include in the definition of "firearm" for the purposes of the Act any air gun, other than an air gun excepted by the regulations, instead of an air gun of a prescribed make, type, class or description (Schedule 6 (2) (c));
- (gg) to include in the definition of "prohibited article" for the purposes of the Act an article or a device that is capable of being used to prevent bodily harm to persons and certain attachments to other articles (Schedule 6 (2) (f));
- (hh) to provide that a pistol licence, blank fire pistol licence or collector's firearm licence shall not be issued to a person who has been convicted in New South Wales or elsewhere of certain offences concerning narcotics or involving violence, being offences committed less than 10 years before application is made for the licence (Schedule 6 (3) (a));
- (ii) to require the Commissioner to refuse to issue a pistol licence to a person if the Commissioner has reasonable cause to believe, because of the existence of prescribed grounds, that the applicant may not personally exercise continuous and responsible control over the firearm (Schedule 6 (3) (b));
- (jj) to empower the Commissioner to refuse to grant an application for a pistol licence or a blank fire pistol licence if the applicant has been convicted of a prescribed offence relating to the possession or use of firearms (Schedule 6 (3) (c));
- (kk) to impose further restrictions on the issue of pistol dealers' licences and firearms dealers' licences under the Act (Schedule 6 (5));
- (ll) to provide a right of appeal to a Local Court against a refusal to issue a permit under the Act or the regulations made under the Act (Schedule 6 (6) (a));

- (mm) to enable a person to appeal to a Local Court where a firearms prohibition order imposed on the person has been in force for 5 years or more (Schedule 6 (6) (d));
- (nn) to restrict the use of the mail for forwarding firearms to cases in which the recipient is situated outside New South Wales and will be lawfully in possession of the firearm at the place to which it is sent or in which the forwarding of firearms by mail is authorised by the regulations (Schedule 6 (14)—proposed section 41);
- (oo) to prohibit the taking of firearms and spare barrels into pawn (Schedule 6 (10) and (14)—proposed section 41A);
- (pp) to require a person to establish that reasonable precautions were taken to ensure the safe keeping of a firearm, if the firearm is stolen or lost or accidentally discharged, and in certain other cases (Schedule 6 (15));
- (qq) to prohibit the possession of a blank fire firearm which is not a pistol, unless a permit authorising that possession is held under the regulations made under the Act (Schedule 6 (16)—proposed section 42A);
- (rr) to restrict the sale of ammunition designed to be used in pistols or certain other firearms, cartridges designed to be used in blank fire firearms and projectiles designed to be used in air guns by requiring the sale to be made to the holder of an appropriate licence or permit issued under the Act or the regulations made under the Act (Schedule 6 (19)—proposed section 47A);
- (ss) to require numbers allotted by the Commissioner with respect to firearms other than pistols to be allotted to, and imprinted on those firearms by, persons other than firearms dealers licensed under the Act (Schedule 6 (21) and (28));
- (tt) to create an offence where a person in possession of a firearm fails, upon the demand of a member of the police force, to provide particulars of the person from whom the firearm was received (Schedule 6 (23));
- (uu) to provide that a person who is the subject of a firearms prohibition order is guilty of an offence if the person has in possession any firearm, other than a blank fire firearm (Schedule 6 (25) (a));
- (vv) to make it clear that a firearms prohibition order may be made in respect of a person from whom a firearm has been seized under the Act (Schedule 6 (25) (b)—proposed section 69 (1A));
- (ww) to enable the Commissioner to issue permits—
 - (i) under section 71 of the Act, authorising a person residing in another State or a Territory of the Commonwealth to purchase an unregistered firearm (Schedule 6 (26)); and
 - (ii) under section 72 of the Act, authorising a person who ordinarily resides outside New South Wales to use an unregistered firearm for the purpose of target shooting at an approved range within New South Wales (Schedule 6 (27));

- (xx) to empower a member of the police force to search for, seize and detain a firearm in certain circumstances in which the member suspects or believes a domestic violence offence has been committed or may be committed (Schedule 6 (29)—proposed section 77 (3) and (4));
- (yy) to make further provision with respect to the return or forfeiture to the Crown of firearms seized and detained under the Act (Schedule 6 (30) (a) and (b));
- (zz) to require a firearm seized and detained in the circumstances referred to in paragraph (xx) to be returned, 21 days after its seizure, to an occupant of the dwelling-house in which it was seized or to the person from whom it was seized, unless it has become the subject of criminal proceedings or possession of the article by the person to whom it would be returned would constitute an offence (Schedule 6 (30) (c)—proposed section 78 (2));
- (aaa) to enable a Local Court to order forfeiture to the Crown of a dangerous article, including a firearm, which has been in the possession of the Crown for more than the prescribed period (Schedule 6 (31)—proposed section 78A (1));
- (bbb) to provide for the disposition of dangerous articles forfeited to the Crown by an order made as referred to in paragraph (aaa) (Schedule 6 (31)—proposed section 78A (2) and (3)); and
- (ccc) to extend the power of the Governor to make regulations under the Act with respect to firearms and enable regulations to be so made providing for exemptions from requirements made by the Act or the regulations so made (Schedule 6 (32)).

The Bill also makes certain savings and transitional provisions (Schedule 7) and contains other provisions of a minor, consequential and ancillary nature.

