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# Public consultation draft

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New South Wales

## Weapons Prohibition Regulation 2009

under the

Weapons Prohibition Act 1998

[*The following enacting formula will be included if the Regulation is made:*]

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Weapons Prohibition Act 1998*.

Minister for Police

### Explanatory note

The object of this Regulation is to remake, with some amendments, the provisions of the *Weapons Prohibition Regulation 1999*, which is repealed on 1 September 2009 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation inserts a provision that prescribes apprehended violence orders from other jurisdictions that cause a permit under the *Weapons Prohibition Act 1998* (the *Act*) to be revoked.

This Regulation also makes provision with respect to the following:

- (a) the issue of permits under the Act including exemptions from the requirement for a permit, offences that disqualify persons from applying for permits, conditions to which permits are subject and fees payable for permits,
- (b) additional types of general permit that authorise the possession or use of prohibited weapons in specified circumstances (including for the purposes of sport, collections, productions, re-enactments, arms fairs and RSL club displays),
- (c) weapons dealer permits and theatrical weapons armourer permits including restrictions and conditions in relation to those permits,
- (d) notifying the Commissioner of Police if a prohibited weapon is lost, stolen or destroyed,
- (e) savings and formal matters.

This Regulation is made under the *Weapons Prohibition Act 1998*, including sections 4 (1), 6 (4), 8 (2) and (3), 9 (2), 10 (3) (a) and (5), 14 (3), 21 (2), 48 and 50 (the general regulation-making power).

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# Public consultation draft

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Weapons Prohibition Regulation 2009

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## Contents

	Page
<b>Part 1 Preliminary</b>	
1 Name of Regulation	4
2 Commencement	4
3 Definitions	4
<b>Part 2 General provisions relating to permits</b>	
4 Persons exempt from requirement for permit	5
5 Offences that disqualify applicants	5
6 Application for permit	7
7 Notification of change of premises where weapons kept	7
8 Notification of lost, stolen or damaged permit	8
9 Pending application for subsequent permit	8
10 Duplicate permit	8
11 Applicant's understanding of storage and safety requirements	8
12 General conditions of permit	8
13 Fees payable for permit	9
<b>Part 3 Types of general permit</b>	
14 Types of general permit	10
15 Instructor permit	10
16 Sporting permit	10
17 Overseas competitor permit	11
18 Production permit	11
19 Collector permit	13
20 Public museum permit	14
21 Re-enactment event permit	14
22 Arms fair permit	15
23 RSL display permit	17
24 Heirloom permit	18
25 Animal management permit	18
26 Scientific purposes permit	19
<b>Part 4 Weapons dealer permit—special provisions</b>	
27 Additional restrictions on issuing permit	20
28 Change of premises	20

---

# Public consultation draft

---

Weapons Prohibition Regulation 2009

Contents

---

	Page
<b>Part 5</b>	
<b>Theatrical weapons armourer permit—special provisions</b>	
29 Authority conferred by permit on person under 18 years	21
30 Additional restrictions on issuing permit	21
31 Additional conditions of permit	22
32 Requirement to keep register of prohibited weapons	22
33 Change of premises	22
<b>Part 6</b>	
<b>Miscellaneous provisions</b>	
34 Apprehended violence orders and interim apprehended violence orders of other jurisdictions	24
35 Notification of lost, stolen or destroyed prohibited weapons	25
36 Savings	25
<b>Schedule 1</b>	
<b>Persons exempt from requirement for permit</b>	26

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# Public consultation draft

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Clause 1            Weapons Prohibition Regulation 2009

Part 1              Preliminary

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## Weapons Prohibition Regulation 2009

under the

Weapons Prohibition Act 1998

### Part 1    Preliminary

#### 1    Name of Regulation

This Regulation is the *Weapons Prohibition Regulation 2009*.

#### 2    Commencement

This Regulation commences on 1 September 2009 and is required to be published on the NSW legislation website.

**Note.** This Regulation replaces the *Weapons Prohibition Regulation 1999* which is repealed on 1 September 2009 by section 10 (2) of the *Subordinate Legislation Act 1989*.

#### 3    Definitions

(1) In this Regulation:

***fired*** from a prohibited weapon includes propelled from a prohibited weapon.

***prohibited weapons—sporting permit*** means a permit issued under clause 16.

***projectile*** includes a bullet, arrow or dart.

***the Act*** means the *Weapons Prohibition Act 1998*.

(2) Notes included in this Regulation do not form part of this Regulation.

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# Public consultation draft

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Weapons Prohibition Regulation 2009

Clause 4

General provisions relating to permits

Part 2

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## Part 2 General provisions relating to permits

### 4 Persons exempt from requirement for permit

For the purposes of section 6 (4) of the Act, a person specified in a provision of Schedule 1 is exempt from the requirement under the Act to be authorised by a permit to possess or use a prohibited weapon, but only to the extent and in the circumstances so specified, and only in relation to the prohibited weapon or weapons so specified.

### 5 Offences that disqualify applicants

For the purposes of section 10 (3) (a) of the Act, the following offences are prescribed offences regardless of whether they are committed in New South Wales:

- (a) an offence relating to the possession or use of a firearm, or any other weapon, committed under:
  - (i) the law of any Australian jurisdiction, or
  - (ii) the law of any overseas jurisdiction (being an offence that, had it been committed in Australia, would be an offence under the law of an Australian jurisdiction),
- (b) an offence in respect of a prohibited plant or prohibited drug within the meaning of the *Drug Misuse and Trafficking Act 1985*, or a prescribed restricted substance within the meaning of the *Poisons and Therapeutic Goods Regulation 2008*, in respect of which the maximum penalty is imprisonment for 6 months or more, or a penalty of \$2,200 or more, or both, committed under:
  - (i) the law of any Australian jurisdiction, or
  - (ii) the law of any overseas jurisdiction (being an offence that, had it been committed in Australia, would be an offence under the law of an Australian jurisdiction),
- (c) an offence committed under the law of any Australian or overseas jurisdiction, being:
  - (i) an offence involving the infliction of actual bodily harm upon a person in respect of which the penalty imposed was imprisonment for 28 days or more, or a penalty of \$200 or more, or both, or
  - (ii) an offence involving kidnapping or abduction, or
  - (iii) an offence involving stalking or intimidation, or
  - (iv) an offence of attempting to commit, threatening to commit or conspiring to commit an offence referred to in subparagraphs (i)–(iii),

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## Public consultation draft

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Clause 5            Weapons Prohibition Regulation 2009

Part 2              General provisions relating to permits

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- (d) an offence of a sexual nature, being:
  - (i) an offence under Division 10 of Part 3 of the *Crimes Act 1900*, or
  - (ii) an offence under section 38, 111, 112 or 113 of the *Crimes Act 1900* that has been committed with intent to commit an offence referred to in subparagraph (i), or
  - (iii) an offence under Division 15 or 15A of Part 3 of the *Crimes Act 1900*, or
  - (iv) an offence under section 11G of the *Summary Offences Act 1988*, or
  - (v) an offence committed elsewhere than in New South Wales that, if committed in New South Wales, would be an offence referred to in subparagraphs (i)–(iv), or
  - (vi) any other offence that, at the time it was committed, would have been an offence referred to in subparagraphs (i)–(iv), or
  - (vii) an offence of attempting to commit, threatening to commit or conspiring to commit an offence referred to in subparagraphs (i)–(vi),
- (e) an offence under the law of any Australian or overseas jurisdiction involving fraud, dishonesty or stealing, being an offence in respect of which the penalty imposed was imprisonment for 3 months or more,
- (f) an offence under the law of any Australian or overseas jurisdiction involving robbery (whether armed or otherwise),
- (g) an offence relating to terrorism, being:
  - (i) an offence under Part 6B of the *Crimes Act 1900* or against Part 5.3 of the Criminal Code set out in the Schedule to the *Criminal Code Act 1995* of the Commonwealth, or
  - (ii) an offence committed elsewhere than in New South Wales that, if committed in New South Wales, would be an offence referred to in subparagraph (i),
- (h) an offence committed under section 93T or 351A of the *Crimes Act 1900*.

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# Public consultation draft

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Weapons Prohibition Regulation 2009

Clause 6

General provisions relating to permits

Part 2

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## **6 Application for permit**

- (1) In making an application for a permit (including a duplicate permit), the applicant must do either of the following:
  - (a) send the application to the following address:  
NSW Firearms Registry  
Locked Bag 1  
Murwillumbah NSW 2484,
  - (b) lodge the application in such other manner as may be approved.
- (2) For the purposes of section 9 (2) (b) of the Act, an application for a permit must be accompanied by the following information:
  - (a) the type, and number, of prohibited weapons proposed to be authorised under the permit,
  - (b) each purpose for which each such weapon is required,
  - (c) the arrangements for the storage and safe keeping of each such weapon (including particulars of the premises at which each such weapon is to be kept).
- (3) An application for a permit that confers authority on persons (in addition to the permit holder) who are specified in the permit must provide the following information in respect of each additional person proposed to be specified in the permit:
  - (a) full name,
  - (b) residential address,
  - (c) date of birth,
  - (d) employee authority number (if applicable).

## **7 Notification of change of premises where weapons kept**

A permit holder must, if there is any change in the location of the premises at which the prohibited weapons to which the permit relates are kept, provide the Commissioner with the following information in writing within 14 days after the change of location occurs:

- (a) the address of the new location,
- (b) particulars of the arrangements that have been made by the permit holder for complying with the requirements of the Act and this Regulation in relation to the storage and safe keeping of the prohibited weapons concerned.

Maximum penalty: 50 penalty units.

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# Public consultation draft

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Clause 8 Weapons Prohibition Regulation 2009

Part 2 General provisions relating to permits

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## **8 Notification of lost, stolen or damaged permit**

A person to whom a permit is issued must, within 14 days after becoming aware that the permit has been lost, stolen, destroyed, defaced or mutilated, notify the Commissioner in writing of that occurrence.

Maximum penalty: 20 penalty units.

## **9 Pending application for subsequent permit**

If a person applies for a subsequent permit before the term of the person's current permit expires (referred to in this clause as the *old permit*), and the application has not been dealt with by the time the old permit expires, the authority conferred by the old permit continues until such time as the person is notified of the issue of, or the refusal of, the subsequent permit.

## **10 Duplicate permit**

The Commissioner may issue a duplicate permit if satisfied that the permit has been lost, stolen, destroyed, defaced or mutilated.

## **11 Applicant's understanding of storage and safety requirements**

- (1) The Commissioner must not issue a permit unless the Commissioner is satisfied of the following matters:
  - (a) that the applicant is aware of, and understands, any applicable requirements of the Act and this Regulation in relation to the storage and safe keeping of prohibited weapons,
  - (b) that the applicant will, if issued with a permit, be able to comply with those requirements,
  - (c) if an inspection is required under subclause (2), the fee specified in clause 13 (1) (c) has been paid.
- (2) For the purposes of subclause (1) (b), the Commissioner may order an inspection by a police officer (in accordance with such arrangements as are agreed on by the applicant and the Commissioner) of the proposed storage site for a prohibited weapon.

## **12 General conditions of permit**

For the purposes of section 14 (3) of the Act, a permit is subject to the following conditions:

- (a) the permit holder must comply with any special requirements that are notified to the permit holder in writing by the Commissioner and that relate to the security, storage and safe keeping of the prohibited weapons to which the permit relates,

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# Public consultation draft

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Weapons Prohibition Regulation 2009

Clause 13

General provisions relating to permits

Part 2

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- (b) any conveying of a prohibited weapon to which the permit relates must be in accordance with the following safety requirements:
  - (i) the permit holder must take all reasonable precautions to ensure that the prohibited weapon is not lost or stolen while it is being conveyed,
  - (ii) any projectile designed to be fired from a prohibited weapon must be kept separate from the prohibited weapon while it is being conveyed,
  - (iii) if the conveying is by person, or by public transport, the prohibited weapon must be contained in an unobtrusive locked container,
  - (iv) if the conveying is by vehicle other than public transport, the prohibited weapon must be kept in a locked compartment within the vehicle, or in a locked container within or properly secured to the vehicle, and must not be able to be seen while it is being transported,
- (c) any prohibited weapon to which the permit relates that is referred to in clause 2 (1) of Schedule 1 to the Act must be certified, by the holder of a theatrical weapons armourer permit, as having been deactivated (unless the Commissioner otherwise authorises the permit holder in writing).

## **13 Fees payable for permit**

- (1) The following fees are payable for the matters to which they relate:
  - (a) application fee for an initial or subsequent permit—\$127,
  - (b) application fee for a duplicate permit:
    - (i) \$40—if a photograph is required in accordance with the Act, or
    - (ii) \$25—if no such photograph is required,
  - (c) fee for inspection of premises under clause 11, 19, 20, 28 or 33 (but only if carried out by a police officer)—\$100,
  - (d) administration fee for specifying in the permit persons (apart from the permit holder) who are authorised under the permit—\$25.
- (2) The Commissioner may refuse to exercise any function in respect of which a fee is specified under this clause until the relevant fee has been paid.
- (3) The Commissioner may, for such reason as the Commissioner considers sufficient, exempt a person from the requirement to pay a fee in relation to a permit, or waive or wholly or partly refund a fee that would otherwise be payable or has been paid.

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# Public consultation draft

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Clause 14 Weapons Prohibition Regulation 2009

Part 3 Types of general permit

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## Part 3 Types of general permit

### 14 Types of general permit

- (1) For the purposes of section 8 (2) of the Act, the permits referred to in this Part are prescribed as types of general permit.
- (2) Nothing in this Part limits the types of general permit that may be issued under the Act.

### 15 Instructor permit

- (1) The Commissioner may, on application by a person, issue a prohibited weapons—instructor permit that authorises the person to possess and use a prohibited weapon to which the permit relates for the purposes of instructing, training or competing in a sport or recreation specified in the permit.
- (2) A prohibited weapons—instructor permit also authorises those persons receiving instruction from the permit holder to possess and use a prohibited weapon to which the permit relates for the purposes of receiving instruction or competing in the sport or recreation, but only while under the direct supervision of the permit holder.
- (3) The Commissioner must not issue a prohibited weapons—instructor permit unless the applicant satisfies the Commissioner that:
  - (a) the applicant's ranking in the relevant sport or recreation, as verified by an approved sporting organisation for that sport or recreation, qualifies the applicant to instruct in that sport or recreation, and
  - (b) the applicant:
    - (i) is accredited as an instructor by an approved body, or
    - (ii) is a registered training organisation (within the meaning of the *Vocational Education and Training Act 2005*) that conducts a prohibited weapons training course that is accredited under that Act, and
  - (c) it is necessary for the applicant in carrying out instruction in the sport or recreation that he or she possess or use the prohibited weapon for which the permit is sought.
- (4) An application for a prohibited weapons—instructor permit must nominate the premises at which the instruction is to occur.

### 16 Sporting permit

- (1) The Commissioner may, on application by a person, issue a prohibited weapons—sporting permit that authorises the person to possess and use

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# Public consultation draft

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Weapons Prohibition Regulation 2009

Clause 17

Types of general permit

Part 3

---

a prohibited weapon to which the permit relates for the purposes of training or competing in a sport or recreation specified in the permit.

- (2) The Commissioner must not issue a prohibited weapons—sporting permit unless the applicant produces evidence from an approved sporting organisation that verifies, to the Commissioner’s satisfaction, that the applicant needs to possess and use the prohibited weapon for which the permit is sought because the applicant’s ranking in the sport or recreation concerned requires the applicant to use the prohibited weapon to train or compete in the sport or recreation.

## **17 Overseas competitor permit**

- (1) The Commissioner may, on application by or on behalf of a person:
  - (a) who is not a resident of Australia, and
  - (b) who is visiting, or who is intending to visit, New South Wales for the purpose of competing in a competition, involving any prohibited weapon, conducted by an approved sporting organisation,issue a prohibited weapons—overseas competitor permit that authorises the person to possess and use the prohibited weapon for that purpose.
- (2) A prohibited weapons—overseas competitor permit may be issued to a person before the person arrives in New South Wales.
- (3) A prohibited weapons—overseas competitor permit authorises the permit holder to possess and use the prohibited weapon to which the permit relates only for the purpose of competing in the competition and for related purposes that are connected with the competition.
- (4) The Commissioner must not issue a prohibited weapons—overseas competitor permit unless the Commissioner is satisfied that the person to whom the application relates is authorised, under the law of the country in which the person ordinarily resides, to possess and use the type of prohibited weapon for which the permit is sought.

## **18 Production permit**

- (1) The Commissioner may, on application by a person on behalf of a film, television or theatrical production that will involve prohibited weapons, issue the person with a prohibited weapons—production permit that authorises the possession and use of prohibited weapons for the purposes of the production specified in the permit.
- (2) A prohibited weapons—production permit authorises the permit holder to possess and use the prohibited weapons to which the permit relates, but only in connection with the production concerned.

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## Public consultation draft

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Clause 18      Weapons Prohibition Regulation 2009

Part 3          Types of general permit

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- (3) The authority conferred by a prohibited weapons—production permit also authorises any other person directly involved in the production who:
- (a) has been nominated by the permit holder, and
  - (b) has not been convicted of an offence referred to in clause 5, and
  - (c) is authorised in writing by the Commissioner,
- to possess and use a prohibited weapon to which the permit relates for the purposes of the production concerned, but only while under the direct supervision of the permit holder.
- (4) The requirements referred to in subclause (3) (a)–(c) are taken to be satisfied if the permit relates only to a prohibited weapon referred to in clause 3 (1) or (2) of Schedule 1 to the Act.
- (5) The Commissioner must not issue a prohibited weapons—production permit unless the Commissioner is satisfied that:
- (a) the production concerned requires the possession or use of the prohibited weapons for which the permit is sought, and
  - (b) the applicant has adequate training in relation to the security and safe handling of the prohibited weapons, and
  - (c) the applicant’s main duty in connection with the production is that of controlling, and being responsible for the security and safe handling of, the prohibited weapons, and
  - (d) adequate security will be maintained over the prohibited weapons at all times, and
  - (e) the permit holder will supervise the possession and use of the prohibited weapons by those persons authorised under subclause (3).
- (6) The holder of a prohibited weapons—production permit must:
- (a) keep in the approved form a register in which particulars of the following matters are kept:
    - (i) the type, and number, of prohibited weapons authorised under the permit,
    - (ii) the name of each person authorised to possess and use any such weapon, and the periods for which each such person had possession or use of the weapon,
    - (iii) the periods for which any such weapon was removed from safe storage, and
  - (b) ensure that the register is kept in a place of safe keeping (not being a place in which any prohibited weapons are kept), and

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# Public consultation draft

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Weapons Prohibition Regulation 2009

Clause 19

Types of general permit

Part 3

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- (c) ensure that each entry that is made in the register is maintained for not less than 3 years after it is made, and
- (d) if requested to do so by a police officer at any time, immediately produce the register to the police officer and allow the police officer to inspect, and make copies of any entry contained in, the register.

Maximum penalty: 50 penalty units.

- (7) A prohibited weapons—production permit is subject to the condition that all prohibited weapons to which the permit relates (other than a prohibited weapon referred to in clause 2 (1) of Schedule 1 to the Act) must be maintained in a safe working condition.

## **19 Collector permit**

- (1) The Commissioner may, on application by a person, issue a prohibited weapons—collector permit that authorises the person to possess the prohibited weapons to which the permit relates for the purposes of either or both of the following:
  - (a) maintaining the weapons as a collection,
  - (b) displaying the weapons for educational, historic or commemorative purposes.
- (2) The Commissioner must not issue a prohibited weapons—collector permit unless:
  - (a) the Commissioner is satisfied that:
    - (i) the applicant's collection of prohibited weapons has a genuine commemorative, historical, thematic or financial value, and
    - (ii) the applicant is a current member of a weapon collectors' society or weapon collectors' club, and
  - (b) local police have inspected (in accordance with such arrangements as are agreed on by the applicant and the Commissioner) and approved of the proposed storage site and storage arrangements for the collection of prohibited weapons.
- (3) A prohibited weapons—collector permit is subject to the following conditions:
  - (a) any proposed display of any prohibited weapon to which the permit relates must be approved,
  - (b) any such display must be conducted in the approved manner.

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# Public consultation draft

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Clause 20      Weapons Prohibition Regulation 2009

Part 3          Types of general permit

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## **20 Public museum permit**

- (1) The Commissioner may, on application by a person on behalf of a public museum containing a collection of prohibited weapons, issue the person with a prohibited weapons—public museum permit that authorises the possession of the prohibited weapons to which the permit relates.
- (2) The authority conferred by a prohibited weapons—public museum permit authorises:
  - (a) the holder of the permit, and
  - (b) any other person who:
    - (i) is employed or engaged by the public museum, or who is otherwise involved in the operation of the public museum, and
    - (ii) is specified in the permit, and
    - (iii) has not been convicted of an offence referred to in clause 5, to use and possess the prohibited weapons to which the permit relates for the purposes of preserving, maintaining and displaying the weapons, but only while on the premises of the public museum or for purposes reasonably connected with the operation of the public museum.
- (3) The Commissioner must not issue a prohibited weapons—public museum permit unless the Commissioner is satisfied that:
  - (a) the public museum’s prohibited weapons collection has a genuine commemorative, historical, thematic or financial value, and
  - (b) local police have inspected (in accordance with such arrangements as are agreed on by the applicant and the Commissioner) the public museum, the prohibited weapons in the collection and the facilities for the storing and safe keeping of those weapons, and have approved of those facilities.
- (4) A prohibited weapons—public museum permit is subject to the following conditions:
  - (a) any prohibited weapon to which the permit relates must be maintained in a safe condition,
  - (b) any proposed display of any prohibited weapon that is to take place away from the public museum must be approved and the display must be conducted in the approved manner.

## **21 Re-enactment event permit**

- (1) The Commissioner may, on application by a person on behalf of an historic or commemorative club or society (or other organisation) that

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# Public consultation draft

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Weapons Prohibition Regulation 2009

Clause 22

Types of general permit

Part 3

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proposes to conduct an historical or commemorative re-enactment event or events involving the possession and use of prohibited weapons, issue the person with a prohibited weapons—re-enactment event permit that:

- (a) authorises the club, society or organisation to conduct and supervise the re-enactment event or events specified in the permit and to possess the prohibited weapon to which the permit relates for the purposes of those events, and
  - (b) authorises participants to possess and use the prohibited weapon to which the permit relates for the purposes of participating in those events.
- (2) The Commissioner must not issue a prohibited weapons—re-enactment event permit unless the Commissioner is satisfied that the historic or commemorative nature of the event concerned requires participants in the event to use and possess the prohibited weapons specified in the application.
- (3) A prohibited weapons—re-enactment event permit is subject to the following conditions:
- (a) the permit holder must give local police reasonable notice of the re-enactment event,
  - (b) in conducting and supervising the event, the permit holder must take all reasonable precautions to ensure that any prohibited weapon involved in the event does not come into the possession of a person who is not authorised to possess the weapon,
  - (c) if the permit relates to a prohibited weapon that operates by the firing of a projectile with which it is loaded, the weapon may only be possessed or used for the purposes of the event if it is not loaded with any such thing.

## **22 Arms fair permit**

- (1) The Commissioner may, on application by a person who proposes to conduct an arms fair that involves displaying, buying or selling prohibited weapons, issue a prohibited weapons—arms fair permit that:
- (a) authorises the person to use the premises specified in the permit (the *authorised premises*) for the purposes of conducting and supervising the arms fair, and

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## Public consultation draft

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Clause 22      Weapons Prohibition Regulation 2009

Part 3          Types of general permit

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- (b) authorises any person who:
    - (i) is an employee of the permit holder, and
    - (ii) is specified in the permit, and
    - (iii) has not been convicted of an offence referred to in clause 5, to assist the permit holder in the conducting and supervising of the arms fair, and
  - (c) authorises a holder of a prohibited weapons—weapons dealer permit or a prohibited weapons—theatrical weapons armourer permit to display, buy and sell prohibited weapons, to which the holder's permit relates, for the purpose of participating in the arms fair.
- (2) The Commissioner must not issue a prohibited weapons—arms fair permit unless the Commissioner is satisfied that:
- (a) the applicant is the holder of a prohibited weapons—weapons dealer permit or a prohibited weapons—theatrical weapons armourer permit, and
  - (b) having regard to the following considerations, the premises nominated by the applicant are suitable to be used for an arms fair:
    - (i) the nature of the activities proposed to be conducted on the premises,
    - (ii) the types of prohibited weapons involved,
    - (iii) whether adequate provision has been made for the safe keeping of the prohibited weapons,
    - (iv) the security of the premises against unauthorised entry.
- (3) A prohibited weapons—arms fair permit is subject to the following conditions:
- (a) the permit holder is responsible for the conduct of all persons authorised to display and trade prohibited weapons at the authorised premises,
  - (b) the permit holder must ensure that each participant is provided with a code of conduct specifying participants' responsibilities in relation to the supervision and security of the participant's allocated space and stock at the authorised premises,
  - (c) the permit holder must ensure that sufficient security staff and facilities are provided at the authorised premises, and that a satisfactory security program is established and maintained, to enable the monitoring of the conduct of participants and the public and to ensure the security and safe keeping of the prohibited weapons,

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# Public consultation draft

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Weapons Prohibition Regulation 2009

Clause 23

Types of general permit

Part 3

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- (d) the permit holder must ensure that sufficient security (involving at least one person who holds a licence that authorises the person to carry out a security activity referred to in section 4 (1) (c) of the *Security Industry Act 1997* and who has phone or radio contact (or both) to a base or to local police (or both)) is provided to ensure the security of any prohibited weapons retained at the authorised premises outside of operating hours,
  - (e) the permit holder must ensure that any person leaving the authorised premises with a prohibited weapon is requested to provide proof of their purchase by security staff (or other staff so authorised by the permit holder) stationed at an exit or exits to the authorised premises,
  - (f) the permit holder must ensure that all unsupervised exits to the authorised premises are secured,
  - (g) the permit holder must ensure that all prohibited weapons are contained in locked display cases or are secured to a display table in such a manner as would reasonably prevent their removal otherwise than by persons authorised to remove them.
- (4) The prohibited weapons—weapons dealer permit or prohibited weapons—theatrical weapons armourer permit of a person who participates in the arms fair is subject to the following conditions:
- (a) the permit holder must comply with the code of conduct provided to participants in the arms fair, and with any reasonable direction and instruction given by the organiser of the arms fair or by any authorised employee of the organiser,
  - (b) the permit holder must exercise and maintain close supervision over any prohibited weapon to which the permit relates and any projectile designed to be fired from any such weapon.

## **23 RSL display permit**

- (1) The Commissioner may, on application by the secretary or other relevant office holder of:
  - (a) the RSL, or
  - (b) any club or association that is an affiliated member of the RSL or a member of the RSL and Services Clubs Association Limited,issue a prohibited weapons—RSL display permit that authorises the club to possess and display on the club premises a prohibited weapon to which the permit relates.
- (2) The Commissioner must not issue a prohibited weapons—RSL display permit unless the Commissioner is satisfied that any prohibited weapon for which the permit is sought has been used as a weapon of war.

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# Public consultation draft

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Clause 24      Weapons Prohibition Regulation 2009

Part 3          Types of general permit

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- (3) A prohibited weapons—RSL display permit is subject to the condition that the Commissioner must be advised in writing of the acquisition or disposal of any prohibited weapon by the RSL, club or association that occurs during the currency of the permit.
- (4) In this clause:  
**RSL** means the Returned and Services League of Australia (New South Wales Branch).

## **24 Heirloom permit**

- (1) The Commissioner may, on application by a person who has acquired a prohibited weapon as an heirloom, issue a prohibited weapons—heirloom permit that authorises the person to possess the prohibited weapon.
- (2) The Commissioner must not issue a prohibited weapons—heirloom permit unless the Commissioner is satisfied that the prohibited weapon for which the permit is sought:
  - (a) has been inherited by the applicant, and
  - (b) is of genuine sentimental value to the applicant.

## **25 Animal management permit**

- (1) The Commissioner may, on application by a person, issue a prohibited weapons—animal management permit that authorises the person to possess and use a prohibited weapon referred to in clause 2 (8) or (9) of Schedule 1 to the Act for the purpose of managing any animal in the care of the permit holder.
- (2) The authority conferred by a prohibited weapons—animal management permit also authorises any person who:
  - (a) is an employee of the permit holder or who is otherwise engaged in the operation of the practice or organisation of the permit holder, and
  - (b) is specified in the permit, and
  - (c) has not been convicted of an offence referred to in clause 5, to use and possess any such prohibited weapon for the purpose of managing an animal in the care of the permit holder.
- (3) The Commissioner must not issue a prohibited weapons—animal management permit unless the Commissioner is satisfied that:
  - (a) the applicant is:
    - (i) a veterinary practitioner (within the meaning of the *Veterinary Practice Act 2003*), or

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# Public consultation draft

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Weapons Prohibition Regulation 2009

Clause 26

Types of general permit

Part 3

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- (ii) a student enrolled in a course of study referred to in section 21 (1) (a) of that Act, or
  - (iii) a person who is applying on behalf of an organisation whose primary object is or includes responsibility for the management of animals, and
- (b) the possession and use of any such prohibited weapon is necessary in the conduct of the applicant's responsibilities for animal management, and a necessary part of the occupation of the person or persons who will be authorised to possess and use the weapon, and
  - (c) all persons who are authorised under the permit to possess and use any such prohibited weapon have adequate training in its safe handling and use and are suitably qualified to carry out the functions that involve its possession and use.

## **26 Scientific purposes permit**

- (1) The Commissioner may, on application by a person, issue a prohibited weapons—scientific purposes permit that authorises the person to possess and use a prohibited weapon to which the permit relates for the purpose of conducting scientific research.
- (2) The authority conferred by a prohibited weapons—scientific purposes permit also authorises any person who:
  - (a) is employed to assist the permit holder in the scientific research in respect of which the permit is sought, and
  - (b) is specified in the permit, and
  - (c) has not been convicted of an offence referred to in clause 5,to use and possess a weapon to which the permit relates for the purpose of assisting in the conduct of the scientific research concerned.
- (3) The Commissioner must not issue a prohibited weapons—scientific purposes permit unless the Commissioner is satisfied that:
  - (a) the scientific research in respect of which the permit is sought is legitimate scientific research, and
  - (b) any prohibited weapon for which the permit is sought is necessary in the conduct of that research.

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# Public consultation draft

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Clause 27            Weapons Prohibition Regulation 2009

Part 4                Weapons dealer permit—special provisions

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## **Part 4    Weapons dealer permit—special provisions**

### **27    Additional restrictions on issuing permit**

- (1) A weapons dealer permit that authorises a weapons dealer to carry on business at specified premises must not be issued unless the Commissioner is satisfied that:
  - (a) the applicant is carrying on or proposes to carry on the business of a weapons dealer at those premises, and
  - (b) those premises are suitable for carrying on the business of a weapons dealer.
- (2) In considering whether or not the premises are suitable for such purposes, the Commissioner is to have regard to the following:
  - (a) the nature of the activities proposed to be conducted on the premises,
  - (b) the kinds of prohibited weapons to which the permit relates,
  - (c) whether adequate provision has been made for the safe keeping of the prohibited weapons by means of a safe, strongroom or otherwise,
  - (d) the security of the premises against unauthorised entry,
  - (e) in the case of a permit that authorises the testing of prohibited weapons on the premises—whether adequate provision has been made to ensure the safe conduct of such testing.

### **28    Change of premises**

- (1) The holder of a weapons dealer permit must apply to the Commissioner if the holder proposes to change the premises to which the permit relates.
- (2) Any such application is to be made in the approved form and to be accompanied by the fee specified in clause 13 (1) (c) for inspecting the new premises.
- (3) After taking into account the same relevant matters as would have to be considered in assessing an application for a weapons dealer permit, the Commissioner may approve or refuse the application.
- (4) A refusal may be made on any of the grounds on which an application for a weapons dealer permit may be refused.
- (5) If the application is approved, the Commissioner is to impose a new condition on the permit changing the premises at which the business is to be carried on.

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# Public consultation draft

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Weapons Prohibition Regulation 2009

Clause 29

Theatrical weapons armourer permit—special provisions

Part 5

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## **Part 5 Theatrical weapons armourer permit—special provisions**

### **29 Authority conferred by permit on person under 18 years**

- (1) A theatrical weapons armourer permit does not operate to confer authority on a person who is less than 18 years old (being a person who is involved in a film, television or theatrical production) to possess and use a prohibited weapon to which the permit relates unless the person is first authorised in writing by the Commissioner to possess and use the weapon concerned.
- (2) Subclause (1) does not apply if the permit concerned relates only to a weapon referred to in clause 3 (1) or (2) of Schedule 1 to the Act.

### **30 Additional restrictions on issuing permit**

- (1) A theatrical weapons armourer permit that authorises a theatrical weapons armourer to carry on business at specified premises must not be issued unless the Commissioner is satisfied that:
  - (a) the applicant is carrying on or proposes to carry on the business of a theatrical weapons armourer at those premises, and
  - (b) those premises are suitable for carrying on the business of a theatrical weapons armourer, and
  - (c) if the applicant currently holds a theatrical weapons armourer permit, the applicant can demonstrate that he or she:
    - (i) has been employed as a theatrical weapons armourer or has actively participated in the business of theatrical weapons armoury for a significant proportion of the term of that permit, or
    - (ii) has not been able to be so employed or to participate because of illness, redundancy or other reason satisfactory to the Commissioner.
- (2) In considering whether or not the premises are suitable for such purposes, the Commissioner is to have regard to the following:
  - (a) the nature of the activities proposed to be conducted on the premises,
  - (b) the kinds of prohibited weapons to which the permit relates,
  - (c) whether adequate provision has been made for the safe keeping of the prohibited weapons by means of a safe, strongroom or otherwise,
  - (d) the security of the premises against unauthorised entry,

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# Public consultation draft

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Clause 31 Weapons Prohibition Regulation 2009

Part 5 Theatrical weapons armourer permit—special provisions

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- (e) in the case of a permit that authorises the testing of prohibited weapons on the premises—whether adequate provision has been made to ensure the safe conduct of such testing.

### **31 Additional conditions of permit**

A theatrical weapons armourer permit is subject to the following conditions:

- (a) any prohibited weapon to which the permit relates must be maintained in a safe condition,
- (b) the permit holder must ensure that any employee who is authorised by the permit to possess and use any prohibited weapon to which the permit relates is properly trained in the safe handling of the weapon and is suitably qualified to carry out the functions of a theatrical armourer.

### **32 Requirement to keep register of prohibited weapons**

The holder of a theatrical weapons armourer permit must:

- (a) keep in the approved form a register in which particulars of the following matters are kept:
  - (i) the type, and number, of prohibited weapons authorised under the permit,
  - (ii) the name of each person authorised to possess and use any such weapon, and the periods for which each such person had possession or use of the weapon,
  - (iii) the periods for which any such weapon was removed from safe storage, and
- (b) ensure that the register is kept in a place of safe keeping, and
- (c) ensure that each entry that is made in the register is maintained for not less than 3 years after it is made, and
- (d) if requested to do so by a police officer at any time, immediately produce the register to the officer and allow the officer to inspect, and make copies of any entry contained in, the register.

Maximum penalty: 50 penalty units.

### **33 Change of premises**

- (1) If a theatrical weapons armourer permit authorises a theatrical weapons armourer to carry on business at specified premises, the permit holder must apply to the Commissioner if he or she proposes to change the premises.

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## Public consultation draft

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Weapons Prohibition Regulation 2009

Clause 33

Theatrical weapons armourer permit—special provisions

Part 5

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- (2) Any such application is to be made in the approved form and to be accompanied by the fee specified in clause 13 (1) (c) for inspecting the new premises.
- (3) After taking into account the same relevant matters as would have to be considered in assessing an application for a theatrical weapons armourer permit, the Commissioner may approve or refuse the application.
- (4) A refusal may be made on any of the grounds on which an application for a theatrical weapons armourer permit may be refused.
- (5) If the application is approved, the Commissioner is to impose a new condition on the permit changing the premises at which the business is to be carried on.

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# Public consultation draft

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Clause 34            Weapons Prohibition Regulation 2009

Part 6                Miscellaneous provisions

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## Part 6    Miscellaneous provisions

### 34    Apprehended violence orders and interim apprehended violence orders of other jurisdictions

- (1) For the purposes of paragraph (c) of the definition of **apprehended violence order** in section 4 (1) of the Act, the following orders or decisions are prescribed:
- (a) an injunction under section 68B or 114 of the *Family Law Act 1975* of the Commonwealth,
  - (b) a protection order under the *Domestic and Family Violence Protection Act 1989* of Queensland,
  - (c) a restraining order under the *Summary Procedure Act 1921* of South Australia,
  - (d) a domestic violence restraining order under the *Domestic Violence Act 1994* of South Australia,
  - (e) a restraint order under the *Justices Act 1959* of Tasmania,
  - (f) a family violence intervention order under the *Family Violence Protection Act 2008* of Victoria,
  - (g) a restraining order under the *Restraining Orders Act 1997* of Western Australia,
  - (h) a protection order under the *Domestic Violence and Protection Orders Act 2008* of the Australian Capital Territory,
  - (i) a domestic violence order under the *Domestic and Family Violence Act* of the Northern Territory.
- (2) For the purposes of paragraph (b) of the definition of **interim apprehended violence order** in section 4 (1) of the Act, the following orders are prescribed:
- (a) a temporary protection order under the *Domestic and Family Violence Protection Act 1989* of Queensland,
  - (b) an interim restraint order under the *Justices Act 1959* of Tasmania,
  - (c) an interim order under the *Family Violence Protection Act 2008* of Victoria,
  - (d) an interim order under the *Domestic Violence and Protection Orders Act 2008* of the Australian Capital Territory.

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## Public consultation draft

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Weapons Prohibition Regulation 2009

Clause 35

Miscellaneous provisions

Part 6

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### **35 Notification of lost, stolen or destroyed prohibited weapons**

A person to whom a permit has been issued must, within 24 hours after becoming aware that any prohibited weapon to which the permit relates has been lost, stolen or destroyed, notify the Commissioner in writing of that loss, theft or destruction.

Maximum penalty: 50 penalty units.

### **36 Savings**

Any act, matter or thing that, immediately before the repeal of the *Weapons Prohibition Regulation 1999*, had effect under that Regulation, continues to have effect under this Regulation.

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# Public consultation draft

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Weapons Prohibition Regulation 2009

Schedule 1      Persons exempt from requirement for permit

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## **Schedule 1      Persons exempt from requirement for permit**

(Clause 4)

### **1      Possession and use of explosives and incendiaries by dangerous goods inspectors**

An inspector under the *Explosives Act 2003* is exempt from the requirement under the Act for a permit to possess or use a prohibited weapon referred to in clause 2 (1) of Schedule 1 to the Act, but only when acting in the course of employment as such an inspector.

### **2      Possession and use of blow guns by National Parks and Wildlife officers and Zoological Parks Board employees**

An officer of the Service within the meaning of the *National Parks and Wildlife Act 1974*, and a person employed in the Zoological Parks Board Division of the Government Service, are exempt from the requirement under the Act for a permit to possess or use a prohibited weapon referred to in clause 2 (8) or (9) of Schedule 1 to the Act, but only when acting in the course of employment as such an officer or employee.

### **3      Possession and use of handcuffs and extendable batons by non-police law enforcement and security personnel**

(1) The following persons are exempt from the requirement under the Act for a permit to possess or use a prohibited weapon referred to in clause 2 (17A) or 4 (2) of Schedule 1 to the Act, but only when acting in the course of employment (or in the course of carrying on business) as such, and only if the Commissioner is satisfied that the person has been trained in the use of the prohibited weapon:

- (a) a correctional officer within the meaning of the *Crimes Administration of Sentences Act 1999* who is engaged in court security and escort duties,
- (b) a sheriff's officer within the meaning of the *Sheriff Act 2005*,
- (c) an Officer of Customs within the meaning of the *Customs Act 1901* of the Commonwealth,
- (d) a special constable appointed under the *Police (Special Provisions) Act 1901*,
- (e) a fisheries officer within the meaning of the *Fisheries Management Act 1994*,

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# Public consultation draft

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Weapons Prohibition Regulation 2009

Persons exempt from requirement for permit

Schedule 1

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- (f) a person appointed under the *Local Government Act 1993* as:
    - (i) an authorised person for the purpose of enforcing any of the provisions of Part 2 of Chapter 16 of that Act, or
    - (ii) an enforcement officer for the purposes of section 642 of that Act,
  - (g) an administrative officer within the meaning of the *Police Act 1990*,
  - (h) a person employed in the Office of the Police Integrity Commission Division of the Government Service to carry on security activities within the meaning of the *Security Industry Act 1997*,
  - (i) a person employed to carry on a security activity referred to in section 4 (1) (c) (i), (iv) or (v) of the *Security Industry Act 1997* and who hold a class 1A, 1D, 1F or P1F licence under that Act,
  - (j) a person carrying on a security activity referred to in section 4 (1) (j) or (k) of the *Security Industry Act 1997* and who hold a class 2D licence under that Act.
- (2) A person employed in the Department of Juvenile Justice Division of the Government Service who is engaged in custodial duties is exempt from the requirement under the Act for a permit to possess or use a prohibited weapon referred to in clause 4 (2) of Schedule 1 to the Act, but only when acting in the course of that employment and only if the Commissioner is satisfied that the person has been trained in the use of the prohibited weapon.
- (3) It is a condition of an exemption referred to in this clause that the person to whom the exemption relates must store or keep the prohibited weapon concerned in a safe and secure manner when it is not being used.
- (4) Failure to comply with the condition under subclause (3) is an offence.  
Maximum penalty: 50 penalty units.

#### **4 Possession and use of capsicum spray by Sheriff's officers**

- (1) A sheriff's officer within the meaning of the *Sheriff Act 2005* is exempt from the requirement under the Act for a permit to possess or use a prohibited weapon referred to in clause 2 (22) (d) of Schedule 1 to the Act, but only when acting in the course of employment as a sheriff's officer, and only if the Commissioner is satisfied that the officer has been trained in the use of the prohibited weapon in a manner approved by the Commissioner.

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# Public consultation draft

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## Weapons Prohibition Regulation 2009

### Schedule 1 Persons exempt from requirement for permit

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- (2) It is a condition of the exemption referred to in this clause that the person to whom the exemption relates must store or keep the prohibited weapon concerned in a safe and secure manner when it is not being used.
- (3) Failure to comply with the condition under subclause (2) is an offence. Maximum penalty: 50 penalty units.

#### **5 Possession and use of firearm magazines by certain persons**

- (1) The holder of a category D licence under the *Firearms Act 1996* (as referred to in section 8 of that Act) is exempt from the requirement under the Act for a permit to possess or use a prohibited weapon referred to in clause 4 (4) (a)–(d) of Schedule 1 to the Act, but:
  - (a) only in relation to its use in a registered firearm to which the licence applies, and
  - (b) only for the purpose established by the licensee under that Act as being the genuine reason for possessing or using the firearm, and
  - (c) subject to such restrictions as may be imposed on the licence by or under the *Firearms Act 1996*.
- (2) The holder of a category H licence under the *Firearms Act 1996* (as referred to in section 8 of that Act) issued for the genuine reason of business or employment is exempt from the requirement under the Act for a permit to possess or use a prohibited weapon referred to in clause 4 (4) (e) of Schedule 1 to the Act, but:
  - (a) only in relation to its use in a registered pistol to which the licence applies, and
  - (b) only in connection with that genuine reason, and
  - (c) subject to such restrictions as may be imposed on the licence by or under the *Firearms Act 1996*.

#### **6 Possession and use of brass catchers by persons holding firearms licence**

The holder of a licence or permit under the *Firearms Act 1996* is exempt from the requirement under the Act for a permit to possess or use a prohibited weapon referred to in clause 4 (5) of Schedule 1 to the Act, but only in relation to its use in connection with a firearm to which the licence or permit under the *Firearms Act 1996* applies.

#### **7 Possession of prohibited weapons by off-duty police officers**

- (1) A police officer who is in possession of a service prohibited weapon while the police officer is not on duty as a police officer is exempt from the requirement under the Act for a permit to possess the weapon, but

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# Public consultation draft

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Weapons Prohibition Regulation 2009

Persons exempt from requirement for permit

Schedule 1

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only if the police officer complies with such guidelines as may be issued by the Commissioner with respect to the off-duty possession of service prohibited weapons by police officers.

- (2) In this clause:  
*service prohibited weapon* means a prohibited weapon possessed or used by a police officer in his or her capacity as a police officer.

## **8 Exemption for interstate sporting permit holders**

A person who:

- (a) is a resident of another State or Territory, and
- (b) is the holder of the equivalent of a prohibited weapons—sporting permit issued under the law in force in that State or Territory,

is exempt from the requirement under the Act for a permit to possess or use a prohibited weapon to which the equivalent permit (as issued by the other jurisdiction) relates, but only for the purpose of enabling the person to participate in a State or national sporting competition that involves the possession and use of the weapon.

## **9 Exemption for interstate residents moving to this State**

- (1) A resident of another State or a Territory who is the holder of the equivalent of a permit issued under the law in force in that State or Territory may notify the Commissioner in writing that he or she intends to reside on a permanent basis in this State.
- (2) If the Commissioner is notified under subclause (1), the person is exempt from the requirement under the Act for a permit to possess or use the prohibited weapon to which the person's interstate permit relates, but only:
  - (a) for a period of 3 months from the time the person notified the Commissioner, or
  - (b) until the person's application for a permit under the Act in respect of that weapon is granted or refused,whichever is sooner.

## **10 Possession and use of laser pointers**

A person who is (or has been within an approved period) a member of an approved astronomical organisation is exempt from the requirement under the Act for a permit to possess or use a prohibited weapon referred to in clause 4 (8) of Schedule 1 to the Act, but only for the purpose of enabling the person to take part in activities associated with astronomy.