

89

Firearms.

EXPLANATORY MEMORANDUM.

The main objects of this Bill are—

- (a) to regulate and restrict the use of firearms, pea rifles, and air guns by young persons;
- (b) to make it an offence—
 - (i) to knowingly supply a firearm to a person who is intoxicated or of unsound mind;
 - (ii) to discharge firearms on private property without the consent of the owner;
- (c) to throw on the parent or guardian of a child under fourteen an obligation to see that the child does not have or use a firearm except under supervision, and for these and other purposes amendments of the Police Offences Act, 1901, are made.

The Bill also amends the Pistol License Act, 1927, by altering the definition of "pistol." It was found by experience that the provisions of that Act might be evaded by making the length of the barrel slightly longer than the length stated in the definition. An amendment dealing with the defacing or altering numbers or identification marks on pistols is also included.

Certain other amendments in the Pistol License Act, 1927, based on the recommendations of an Interstate Police Conference, held at Perth in 1930, are included. These relate to the provision of licensing without fee a pistol held as a trophy, to the transfer or loan of pistols, and the necessity for an applicant for a pistol dealer's license to satisfy the police that he is a fit and proper person to hold the same.

And amendment is also made in the Crimes Act, 1900, designed to inflict a penalty when any firearm is found in the possession of a person apprehended for any crime or offence.

No. , 1932.

A BILL

To restrict the use by young persons of firearms and air guns; and to regulate in certain respects the sale, use, and possession of firearms; to amend the law relating to concealable weapons; to amend the Crimes Act, 1900; the Police Offences Act, 1901, the Pistol License Act, 1927, and certain other Acts; and for purposes connected therewith.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Firearms Act, 1932."

Short title and commencement.

(2)

(2) Section two of this Act shall not come into operation until a day appointed by the Governor and notified by proclamation published in the Gazette.

2. (1) The Police Offences Act, 1901, as amended by subsequent Acts, is amended—

Amendment of Act No. 5, 1901. New Part II.A. (Firearms, &c.)

(a) by inserting next after section forty-one the following new Part:—

PART IIA.—FIREARMS, &C.

41A. The provisions of this Part shall apply and be in force in every part of New South Wales.

Application of this Part to the whole State.

41B. In this Part of this Act unless inconsistent with the context or subject-matter,—

Interpretation.

“Air gun” means a rifle or gun of any kind, whether rifled or not, irrespective of the length of barrel, which is known or described as an air gun, and which is capable of propelling a projectile of any kind by means of compressed air the force of which is released by means of a trigger or similar device.

cf. Vict. Acts 1912 No. 2,380; 1915 No. 2,708; 1922 No. 3,262.

“Firearm” means any weapon from which a shot may be discharged by an explosive, and includes a gun, rifle, pistol, pea rifle or saloon gun.

“Prescribed” means prescribed by this Part or the regulations under this Part.

“Shooting gallery” means any room, gallery, saloon, land or premises used for the purpose of practising shooting with pea rifles or saloon guns whether on payment or otherwise.

41c. (1) No person under the age of fourteen years shall use, discharge, carry, buy, sell, keep or knowingly have in his possession a firearm or air gun.

Penalty on using, buying, selling or having a firearm.

(2) No person shall sell, let or hire, give or lend any firearm or air gun to any person under fourteen years of age. (3)

(3) No person shall knowingly sell, let or hire, give or lend a firearm to a person who is intoxicated or of unsound mind.

(4) No person who is intoxicated shall use, carry or have in his possession any firearm or air gun.

(5) No person shall discharge a firearm or air gun on private property without the consent previously obtained of the owner or occupier of such property.

(6) Any person who is guilty of a contravention of this section shall be liable to a penalty not exceeding *ten* pounds.

(7) Subsection one of this section shall not apply to—

(a) any officer or member of the Commonwealth naval or military cadets using or carrying a firearm in the performance of his duty or when engaged in target practice at an authorised range or travelling thereto or therefrom; or

(b) any employee of a gunsmith or gun seller; or any other employee under the age of fourteen years who carries or has in his possession a firearm in the ordinary course of his employer's business; or

(c) the proprietor or lessee of any shooting gallery, his agent or servant, while employed therein, or any person shooting at a target or figure in such gallery.

(d) a person under the age of fourteen years using a firearm or air gun under the personal supervision of a responsible adult.

41D. When a firearm or air gun is carried in parts by two or more persons, each and every one of such persons who is under the age of fourteen years shall be deemed to carry a firearm or air gun (as the case may be).

When firearm carried in parts.

41E.

41E. Any person who—

- (a) sells to any person under the age of fourteen years any cartridges or any bulleted caps ;
- (b) being under the age of fourteen years is found in possession of any such cartridges or bulleted caps ; or
- (c) gives or disposes of any such cartridges or any bulleted caps to any person under the age of fourteen years,

Restriction on sale of certain cartridges to young persons.

shall be guilty of an offence under this Part and shall be liable to a penalty not exceeding *ten* pounds.

41F. Any person who uses any contrivance commonly called or in the nature of a maxim silencer shall be liable to a penalty not exceeding *twenty* pounds.

Maxim silencer.

41G. A firearm, air gun, cartridge or bulleted cap which is being used or carried by or which is in the possession of any person apparently in contravention of this Part, may be seized by any member of the police force, and shall be retained possession of by him until a court of petty sessions makes an order (which it is hereby authorised to do) with regard to the forfeiture, disposal, destruction or return to the owner of the firearm, air gun, cartridge or cap.

Seizure of firearm.

41H. Any person who has a firearm or air gun in his possession and who does not take all reasonable precautions to ensure the safe keeping of such firearm or air gun shall be liable to a penalty not exceeding *ten* pounds.

Precaution to be taken by owners.

41I. If a justice is satisfied by information on oath that there is reasonable ground for suspecting that any firearm is concealed or lodged in any premises or place in breach of this Act, he may grant a search warrant authorising any member of the police force named

Power to search premises for firearms.

named therein to enter at any time if necessary by force and to search any premises or place named in such warrant and every person found therein, and to seize and detain any firearm which he may find on the premises or place, and in respect of which he has reasonable grounds for suspecting that there has been or is a breach of this Act.

41J. (1) The Minister may by order in writing appoint persons to exercise all powers and authorities conferred by this Part on members of the police force; and every person so appointed shall until such appointment is revoked by the Minister have and may exercise, subject to such order, all or any of the said powers and authorities.

Power to appoint persons to execute Act.

(2) Every person so appointed shall, if demanded, produce his authority from the Minister when exercising any of the powers conferred upon him pursuant to this section.

41K. In every prosecution for an offence against this Part where it is averred in the information that a person is under the age of fourteen years this shall be deemed to be proved in in the absence of proof to the contrary.

Proof of age.

41L. If any child under the age of fourteen years uses or has in his possession any firearm or air gun, the parent or guardian of the child shall be liable to a penalty not exceeding ten pounds.

Liability of parent or guardian.

It shall be a sufficient defence to any proceedings under this section if the person charged proves that the use or possession was without his consent or knowledge, and that he took all reasonable precautions to prevent the use or possession of the firearm or air gun by the child, or that the child was using the firearm or air gun under the personal supervision of a responsible adult.

41M.

41M. Whosoever discharges a firearm or air gun in or near a street or public place without lawful excuse shall be liable to a penalty not exceeding *ten* pounds. Discharging firearms in street, &c.

41N. (1) The Governor may make regulations for carrying out the provisions of this Part, and may in such regulations prescribe any penalty not exceeding *ten* pounds for any breach thereof. Regulations.

(2) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in the regulations; and
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and, if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before such House disallowing any regulation or part thereof such regulation or part shall thereupon cease to have effect.

- (b) by inserting in section one thereof after the words and figures "PART II.—OFFENCES GENERAL TO THE WHOLE STATE—ss. 5-41" the following:—"PART IIA.—FIREARMS, &c.—ss. 41A-41N"; Sec. 1.
- (c) by omitting from section nine the words "discharges any firearm without lawful cause; or,"; Sec. 9.
- (d) (i) by omitting from section seventy-five the words "discharges any firearm without lawful cause or"; Sec. 75.
- (ii) by omitting the proviso to the same section;
- (e) by omitting the Fourth Schedule. Fourth Schedule.

Firearms.

(2) The Police Offences Act, 1901, as amended by subsequent Acts and this Act, may be cited as the Police Offences Act, 1901-1932.

3. The Pistol License Act, 1927, is amended—

Amendment of Act No. 10, 1927.

- (a) by omitting from section three the definition of "Pistol" and by inserting in lieu thereof the following new definition :—

Sec. 3. (Interpretation.)

"Pistol" means any lethal weapon of any length of barrel from which any shot, bullet, or other missile can be discharged, designed for aiming and firing from one hand, and which is reasonably capable of being carried concealed about the person, but does not include a toy pistol or an antique pistol which is kept or sold as a curiosity or ornament.

- (b) (i) by omitting from paragraph (b) of subsection three of section four the words "six months" and inserting in lieu thereof the words "two years";

Sec. 4. (License.)

- (ii) by omitting subparagraph (v) of paragraph (c) of the same subsection;

- (c) by inserting at the end of section five the following new subsections :—

Sec. 5. (License fees.)

(6) No license fee shall be chargeable under subsection four of this section in respect of a pistol acquired or held as a trophy and which has been rendered incapable of being discharged to the satisfaction of the police officer to whom application is made for the license.

(7) Where the Minister is satisfied upon application made to him in the manner and form prescribed that a pistol is kept or used by the applicant solely for scientific, historical, or educational purposes he may, by writing under his hand, exempt the applicant from the payment in respect of such pistol of the fee prescribed by subsection four of this section.

An

An exemption granted by the Minister under this subsection may be cancelled by the Minister for any cause which he deems sufficient.

- (d) (i) by inserting in subsection one of section ^{Sale or hire, &c.} ten after the words "let on hire" the words "transfer or lend";
- (ii) by inserting in the same subsection after the words "sale hire" the words "transfer loan";
- (iii) by inserting in subsection two of the same section after the words "or lets on hire" the words "transfers or lends";
- (iv) by inserting in the same subsection after the words "sold, let on hire" the words "transferred, lent";
- (v) by inserting in the same subsection after the words "such sale hire" the words "transfer loan";
- (vi) by inserting in the same subsection after the words "address of the purchaser hirer" the words "transferee borrower";
- (vii) by inserting in the same subsection after the words "produced by the purchaser hirer" the words "transferee borrower";
- (viii) by inserting in the same subsection after the words "such purchaser hirer" the words "transferee borrower";
- (ix) by inserting in paragraph (b) of subsection three of the same section after the words "on the sale hire" the words "transfer loan";

(x) by inserting at the end of the same section the following new subsection:—

(4) No person shall sell, let on hire, transfer or lend a pistol to, or repair, prove, or test a pistol for any person whom he knows or has reasonable grounds for believing to be intoxicated or of unsound mind.

Any

Any person who acts in contravention of this subsection shall be liable on summary conviction in respect of each offence to a penalty not exceeding *twenty* pounds or to imprisonment for a term not exceeding *three* months.

- (e) by inserting at the end of section eleven the following new subsection :— Sec. 11.
(Registration of pistol dealers.)

(3) Such officer may decline to issue a certificate to any person unless such person satisfies him that he is a fit and proper person to be a registered pistol dealer.

But any person to whom such officer declines to issue a certificate shall have a like right of appeal to that provided for a person who is refused a pistol license.

- (f) by omitting from section seventeen the words "within the boundary of any municipality"; Sec. 17.
(Maxim silencers.)

- (g) by inserting next after section seventeen the following new section :—

17A. Any person who—

- (a) defaces or alters any number or identification mark upon any pistol; or Defacing identification marks, &c.
- (b) has in his possession any pistol in respect of which a license has been taken out, the numbers or identification marks whereon have been defaced or altered,

shall be guilty of an offence against this Act, and liable on summary conviction to a penalty not exceeding *fifty* pounds or to imprisonment for a term not exceeding *six* months.

(2) The Pistol License Act, 1927, as amended by this Act, may be cited as the Pistol License Act, 1927-1932. Citation.

4. The Crimes Act, 1900, as amended by subsequent Acts, is further amended by inserting after section 353B the following new section :— Amendment of Act No. 40, 1900.
New s. 353c.

353c. Where a person is in lawful custody upon a charge of committing any crime or offence, and is apprehended carrying loaded arms. Person apprehended carrying loaded arms.

Firearms.

is found to have been carrying at the time or immediately before he was apprehended, any loaded arms, he shall, unless the court is satisfied that he was carrying the same for a lawful purpose, the proof of which shall lie upon the accused, be liable to penal servitude for *five* years.
