

Firearms Bill, 1935.

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;
- (d) to tighten up the law as to the carrying of firearms and to facilitate proof of possession in certain cases.

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 of 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.

Other amendments relate to the issue of permits to overseas and interstate visitors, the return of a license on its revocation, the provision of records to be kept by dealers, the prohibition of the taking pistols in pawn, and other matters of a machinery character.

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1935.

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 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, 1935."

Short title
and com-
mencement.

77099

—(4)

(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. (Firearms, etc.)

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

PART II.A.—FIREARMS, ETC.

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. 2,330; 1915 No. 2,708; 1922 No. 3,262.

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

“ Hurtful material ” includes any noxious or irritant liquid, powder, gas, chemical or substance capable of causing bodily harm.

“ 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.

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

41D.

Firearms.

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. (1) Any person who sells, gives or disposes to any person under the age of fourteen years any cartridges or any bulleted caps shall be guilty of an offence under this Part and shall be liable to a penalty not exceeding *ten* pounds.

Restriction on sale of certain cartridges to young persons.

(2) It shall be a sufficient defence to any charge under this section that the sale, gift or disposal was made upon the written authority of some responsible adult person.

41F. Any person who uses any contrivance commonly called or in the nature of a maxim silencer shall be liable for a first offence to a penalty not exceeding *one hundred* pounds or to imprisonment for a term not exceeding *six* months and for any subsequent offence to imprisonment for the term of *twelve* months.

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.

Power to search premises for firearms.

this Act, he may grant a search warrant authorising any member of the police force 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 Part.

(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 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, etc.

41N. Whosoever having previously been convicted of an offence punishable in a summary jurisdiction or on indictment or who, being found consorting with criminals or known prostitutes, has in his possession or carries in a public street, highway, or public place a firearm, except for some lawful, proper and sufficient purpose, the proof of which purpose shall lie upon him, shall be liable on summary conviction for a first offence to a penalty not exceeding *one hundred* pounds or to imprisonment for a term not exceeding *two* years, and for any subsequent offence to imprisonment for *two* years without the option of a fine.

Illegal possession of firearms.

41O. Whosoever shall carry or have in his possession in any public street, highway or public place, any article or instrument capable of discharging in any way any irritant liquid, gas, powder or any substance capable of causing bodily harm except for some lawful purpose the proof of which purpose shall lie upon him, shall be liable on summary conviction to a penalty not exceeding *one hundred* pounds or imprisonment for a term not exceeding *six* months for a first offence, and for a subsequent offence to imprisonment for a term of *six* months without the option of a fine.

Illegal possession of gas pencil, etc.

41P. (1) A firearm found in a motor-car or other vehicle shall be deemed in the absence of proof to the contrary to be in the possession of any person who at the time of the finding or recently thereto is or was in the motor-car or vehicle where such person is one who has previously been convicted of an indictable offence or where such person at the time of the finding or recently thereto is or was consorting with criminals or known prostitutes.

Possession of firearms in motor or other vehicle.

(2).

(2) Any person in whose possession in a motor-car or other vehicle a firearm is or is deemed to be pursuant to subsection one of this section shall be liable on summary conviction to imprisonment for a term not exceeding *three* months or to a penalty not exceeding *one hundred* pounds.

(3) In any proceeding for a contravention of this section the burden of proof that a firearm was in the motor-car or vehicle for some lawful purpose shall lie upon the person accused.

41q. (1) A firearm found in any shop, room or office shall be deemed in the absence of proof to the contrary to be in the possession of any person who at the time of the finding or recently thereto is or was in occupation of the shop, room or office where such person is one who has previously been convicted of an indictable offence or where such person at the time of the finding or recently thereto is or was consorting with criminals or known prostitutes.

Possession of firearms in room, shop or office.

(2) Any person in whose possession in a shop, room or office a firearm is deemed to be, pursuant to subsection one of this section, shall be liable on summary conviction to imprisonment for a term not exceeding *three* months or to a penalty not exceeding *one hundred* pounds.

(3) In any proceeding for a contravention of this section the burden of proof that the firearm was in the room, shop or office for some lawful purpose shall lie upon the person accused.

41r. Any officer of police who on reasonable grounds suspects that any person in a public place is carrying or has in his possession an unlicensed firearm may without warrant search such person or any vehicle, package or other receptacle there in his possession or under his control and may detain such person for the purposes of such search and any unlicensed firearm found on such search.

Search of suspected persons, etc.

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

(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 Section 1. words and figures “PART II.—OFFENCES GENERAL TO THE WHOLE STATE—SS. 5-41” the following:—PART IIA.—FIREARMS, ETC.—SS. 41A-41s”;
- (c) by omitting from section nine the words Section 9. “discharges any firearm without lawful cause; or,”;
- (d) (i) by omitting from section seventy-five the Section 75. words “discharges any firearm without lawful cause or”;
- (ii) by omitting the proviso to the same section;
- (e) by omitting the Fourth Schedule. Fourth Schedule.

(2) The Police Offences Act, 1901, as amended by Citation. subsequent Acts and this Act, may be cited as the Police Offences Act, 1901-1935.

3. (1) 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:—
- Section 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";
- Section 4.
(License.)
- (ii) by omitting subparagraph (v) of paragraph (c) of the same subsection and by inserting in lieu thereof the following new subparagraph;
- (v) a person temporarily in the State to whom a permit to carry a pistol has been issued in pursuance of the regulations during the currency of the permit;
- (iii) by inserting at the end of the same section the following new subsection:—
- (4) Where a pistol is carried in parts by two or more persons each and every one of such persons shall be deemed to carry a pistol.
- (c) (i) by inserting in subsection two of section five after the words "eighteen years" the following words:—"or to a person who has been convicted upon indictment of any crime and sentenced to penal servitude or imprisonment for twelve months or more and who has been released from such penal servitude or imprisonment less than five years
- Section 5.
(License fees.)
cf. Gas Act,
1932, s. 8.

years or to any person who is subject to any recognizance to be of good behaviour or to keep the peace”;

- (ii) by inserting at the end of the same section the following new subsections:—

New sub-secs. (6) (7).

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

- (d) by inserting in section six after the word “refusal” where secondly occurring the words “within twenty-one days thereafter”;

Sec. 6. (Appeal against refusal of license).

- (e) by inserting at the end of section eight the following new paragraphs:—

Sec. 8.

Where a license has been so revoked the holder thereof shall, within forty-eight hours from receipt of such notice of revocation, return such license to the said officer in charge.

Return of revoked license.

Any person who fails to so return such license shall be liable on summary conviction to a penalty not exceeding *ten* pounds.

(f)

(f) by inserting next after section eight the following new section:— New sec. 8A.

8A. (1) Where a license is revoked or where a holder of a pistol license does not desire to renew the license the pistol shall be handed to the officer of police in charge of the police station in or nearest to the place where the owner of the pistol usually resides to be held by him pending the sale or other lawful disposal of the pistol. Pistol to be handed to police upon revocation of license, etc.

(2) Any person who fails to comply with the provisions of subsection one of this section shall be liable to a penalty not exceeding *twenty-five* pounds.

(3) The regulations may provide for the disposal or sale by the Commissioner of Police of any pistol handed to an officer of police under this section, failing the sale or lawful disposal by the owner thereof, within a period of six months.

Where a pistol handed in under this section is sold or disposed of by the Commissioner of Police pursuant to the regulations made in that behalf the net proceeds of the sale shall, upon the prescribed application made within the prescribed time, be paid to the owner of the pistol, and, failing such application, shall be paid to the Police Superannuation and Reward Fund.

(g) (i) by inserting in subsection one of section ten after the words "let on hire" the words "transfer, lend, or repair"; Sec. 10.
(Sale or hire, etc.)

(ii) by inserting in the same subsection after the words "sale, hire" the words "transfer, loan, delivery for repair";

(iii) by inserting in subsection two of the same section after the words "or lets on hire" the words "transfers, lends, or repairs";

(iv) by inserting in the same subsection after the words "sold, let on hire" the words "transferred, lent, repaired";

(v)

- (v) by inserting in the same subsection after the words "such sale, hire" the words "transfer, loan, repair";
- (vi) by inserting in the same subsection after the words "address of the purchaser, hirer" the words "transferee, borrower, customer";
- (vii) by inserting in the same subsection after the words "produced by the purchaser, hirer" the words "transferee, borrower, customer";
- (viii) by inserting in the same subsection after the words "such purchaser, hirer" the words "transferee, borrower, customer";
- (ix) by inserting in paragraph (b) of subsection three of the same section after the words "on the sale, hire" the words "transfer, loan, delivery for repair";
- (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 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.

- (h) by inserting after section ten the following new section:—

10A. (1) It shall be the duty of every importer or dealer who sells or purchases either by wholesale or by retail any pistol to keep a book in which he shall record or cause to be recorded a true record of all purchases and sales of pistols for the possession of which a license is required by this Act.

New section 10A.

Record to be kept by importers and dealers of pistol dealings.

Such

Such record shall set out in respect of each sale or purchase the date thereof and the name, occupation and address of the purchaser or vendor and the particulars of the articles purchased or sold, and such other information as is prescribed.

(2) Every such importer or dealer shall at all times permit any officer of police to inspect and make copies of any entries in the book so kept by him as aforesaid and shall at all times on demand afford to any officer of police all further information in his possession with respect to any sales or purchases made by him of pistols.

(3) Every person who fails to keep such record or permit such inspection or furnish such information shall be guilty of an offence against this section and shall be liable on summary conviction to a fine not exceeding *twenty* pounds or to imprisonment for a term not exceeding *three* months.

- (i) 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.

- (j) by inserting at the end of section fifteen the following new subsection:—

Sec. 15.
(Precautions to be taken by pistol owners.)

(2) An information for an offence against this section may, in a case where the informant is a member of the police force, be laid at any time within twelve months of the commission of the offence.

- (k) by omitting from section seventeen the words "within the boundary of any municipality";

Sec. 17.
(Maxim silencers.)

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

New secs.
17A, 17B.

17A. Any person who—

Defacing
identifica-
tion marks,
etc.

- (a) defaces or alters any number or identification mark upon any pistol; or
- (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 *one hundred* pounds or to imprisonment for a term not exceeding *twelve* months, and for a subsequent offence to imprisonment for a term of *twelve* months.

- 17B. (1) It shall not be lawful for any pawnbroker to take any pistol in pawn from any person.

Prohibition
of taking
pistols in
pawn.

(2) If a pawnbroker takes any pistol in pawn from any person he shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding *one hundred* pounds or imprisonment for a term not exceeding *six* months.

- (m) by inserting in section ten after the word "him" wherever occurring the words "before the commencement of the Firearms Act, 1935";

Sec. 10.
(Consequen-
tial.)

- (n) (i) by omitting from subsection one of section eighteen the words "prescribing all forms under this Act and generally" and by inserting in lieu thereof the words "not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed";

Section 18.
(Regula-
tions.)

(ii)

- (ii) by omitting paragraph (i) of the same subsection and by renumbering paragraphs (ii), (iii) and (iv) as paragraphs (i), (ii) and (iii) respectively;
- (iii) by inserting next after subsection one of the same section the following new subsection:—

(2) Without limiting the generality of the power conferred by subsection one of this section regulations may be made in regard to all or any of the following matters:—

- (a) the forms of licenses or permits under this Act and the conditions and manner of their grant;
- (b) the fees payable on the issue of such licenses;
- (c) making provision for the marking of pistols with identifying marks prior to the issue of licenses if necessary;
- (d) the delivery up and recovery of any licenses cancelled or revoked or lapsed on death or for any other reason;
- (e) the issue by inspectors of police to overseas tourists of permits limited in duration to a period of not more than six months to carry pistols, the conditions to be observed, the fees to be paid, and the revocation of such permits for any breach of conditions;
- (f) the issue by officers in charge of police stations of permits to visitors from other States who are holders of licenses to carry a pistol issued in another State, the duration of such permits, the conditions to be observed, the fees payable for the issue thereof, and the revocation of such permits for any breach of conditions.

(2)

66

(2) The Pistol License Act, 1927, as amended by this Act, may be cited as the Pistol License Act, 1927-1935. Citation.

(3) Any regulation made under the Pistol License Act, 1927, and in force at the commencement of this Act shall continue in force until repealed or replaced by regulations made under this Act.
