

# FIREARMS (AMENDMENT) BILL.

## EXPLANATORY PAPER.

### INTRODUCTORY.

The principal objects of this Bill which is identical with the Bill introduced in the last Session are—

- (1) to transfer to the *Firearms Act* 1958 certain “firearms” provisions at present contained in the Police Offences Act. This has been done as a result of various recommendations by the Statute Law Revision Committee. The provisions referred to are—

- (a) Division 2 of Part VII. which relates to carrying, use, possession, &c. of pea rifles, saloon guns and air guns by persons under eighteen years of age. See paragraph 5.5 of the Committee’s report of 1963.

- (b) Division 7 of Part VII. which relates to Trespass to Farms. This matter is referred to at paragraph 5.5 of the Statute Law Revision Committee’s report of 1963.

- (c) The general provisions prohibiting shooting for pleasure, sport or profit on a Sunday and the carrying of firearms on that day.

The Bill provides a defence for a person who is carrying a firearm on Sunday for a lawful purpose as suggested by the Statute Law Revision Committee in its 1966 report.

The Bill also exempts members of shooting clubs whilst—

- (i) engaged in target practice on the occasion of a shoot approved in writing by the Chief Secretary ;
  - (ii) carrying a firearm in the course of travelling to or from any such shoot.

The Statute Law Revision Committee refers to this matter at paragraph 12.24 of its report of 1963.

- (d) The provisions of Section 25 which relate to the possession of a loaded firearm while drunk. This was suggested by the Statute Law Revision Committee at paragraph 12.10 of its 1963 report ;

- (2) to create the offence of discharging a firearm on any street, road, lane, bridge, thoroughfare or place open to or used by the public for passage with vehicles without the permission of a Justice or a member of the Police Force for the time being in charge of the nearest police station. The Committee refers to this at paragraph 12.39 of its 1963 report ;

- (3) to restrict the manufacture of pistols to licensed gun dealers ;

- (4) to make it an offence for any person to wilfully make a statement for any purpose under the *Firearms Act* 1958 knowing that statement to be false or misleading in a material particular ;

- (5) to empower the Chief Commissioner to revoke any firearm certificate in respect to the application for which the holder wilfully made a statement which he knew to be false or misleading in a material particular ;

- (6) to restrict the use of steel jacketed army type rifle ammunition. See paragraph 8 of the Committee’s 1966 report ;

- (7) to remove control over the use of air guns and air rifles generally. The Statute Law Revision Committee in paragraph 9 of its 1966 report referred to the limited power and range of air guns, and questioned the need for their registration.

## DETAILED EXPLANATION OF CLAUSES OF THE BILL.

### Clause 1.

This Clause contains the usual Short Title, Citation and Commencement provisions.

### Clause 2.

This Clause adjusts the Division Table contained in Section 1 of the Principal Act.

### Clause 3.

#### *Paragraph (a).*

This paragraph amends the definition of "firearm" in two respects.

#### *Sub-paragraph (i).*

By repealing the word "again" from the definition, all weapons which have never previously been capable of firing a shot, bullet or missile and which have subsequently been made capable of doing so, will fall within the definition.

#### *Sub-paragraph (ii).*

The present proviso places outside the definition, a smooth bore shot gun which is not less than 30 inches long overall and has a barrel which is not less than 16 inches long, certain air guns and air rifles and industrial tools.

The repeal of the proviso brings all lethal firearms and all other weapons from which any shot, bullet or other missile can be discharged within the definition. In various provisions of this Bill shot guns, and pea rifles are excluded from the operation of specified Parts of the *Firearms Act 1958*.

#### *Paragraph (b).*

The word "again" is repealed from the definition of "machine gun" for the same reason as those referred to in paragraph (b) (i) above.

#### *Paragraph (c).*

In the present definition of "firearm" and "pistol" industrial tools are specifically excluded. This paragraph removes reference to industrial tools from those definitions and enacts a new sub-section (3A) to be inserted in Section 4 of the Principal Act. The effect of this sub-section is to place industrial tools outside the operation of the *Firearms Act*.

The word "again" is repealed from the definition of "pistol" for the same reasons as those referred to in paragraph (b) (i) above.

### Clause 4.

#### *Sub-clause (1).*

This is a consequential amendment. The Museum of Applied Science is now called the Institute of Applied Science.

#### *Sub-clause (2).*

This sub-clause inserts a new provision into the Principal Act which places industrial tools outside the provisions of the *Firearms Act 1958*.

### Clause 5.

Part II. of the Principal Act relates to Gun Dealers Licences. This Clause places outside the provisions of that Part smooth bore shot guns having a barrel of not less than 16 inches in length. This will continue the situation pertaining under the existing Part.

### Clause 6.

Part III. of the Principal Act relates to Firearm Certificates. This Clause makes the provision of this Part inapplicable to smooth bore shot guns having a barrel of not less than 16 inches in length, and pea rifles. This preserves the existing situation with respect to registerable firearms.

Pea rifle has been re-defined.

*Clause 7.*

Section 22 (7) of the Principal Act provides for the revocation of firearm certificates. The addition of paragraph (d) as referred to in this Clause will empower the Chief Commissioner or an authorized officer of Police to cancel a firearm certificate if the holder in his application for that certificate wilfully made a statement which he knew was false or misleading in a material particular.

*Clause 8.*

This Clause transfers the present provisions of Division 7 of Part VII. of the Police Offences Act to the *Firearms Act* 1958.

The definition of "firearm" for the purposes of that Division includes a shot gun, or pea rifle. This position has not been changed by the Bill.

The penalties provided for the various offences have been increased as recommended by the Statute Law Revision Committee.

Sub-section (7) of the present Section 230 of the Police Offences Act, which enables the Court to order the person convicted of an offence under the Section, to pay compensation for any injury done to any property, has not been reproduced in this Bill. The general provisions relating to the payment of compensation are now to be found in Section 546 of the *Crimes Act* 1958.

*Clause 9.*

This Clause substitutes six new sections for the present Section 29.

*The new Section 29.*

Section 209 of the Police Offences Act provides that no person under the age of eighteen years shall use, discharge, carry, buy, sell, keep or knowingly have in his possession a pea rifle, saloon gun or air gun. That section also provides that no person shall sell or lend a firearm to a person under eighteen.

Section 29 of the Firearms Act provides that a person under eighteen years of age shall not purchase, have in his possession or carry a firearm. The Section does not include an ordinary shot gun.

This Clause extends the prohibition to all firearms including shot guns. However, the exceptions provided in the substituted sub-section (3) enables a person under the age of eighteen to possess or carry a shot gun.

The new sub-section (2) has been extended to make it clear that it includes not only the person who sells a firearm to a person under the age of eighteen years, but also any one who lets, hires, gives, lends, transfers or otherwise gives possession of a firearm to such a person. This is in accord with the provisions of Section 3 (2) of the Principal Act.

*New Section 29A.*

Section 209 of the Police Offences Act also makes it an offence for any person to make use of a pea rifle, saloon gun or air gun on private property without the consent of the owner or occupier of such property. This provision supplements the Trespass to Farm provisions which only operate in relation to proclaimed areas. The new section transfers the provisions now contained in Section 209 to the *Firearms Act* 1958.

*New Section 29B.*

Section 51 (2) of the Police Offences Act makes it an offence for any person to engage at shooting at any pigeon match or for pleasure, sport or profit of any kind whatsoever on a Sunday. The sub-section also prohibits, subject to certain exceptions, any person from carrying a firearm on that day. The new Section 29B reproduces the prohibition against shooting on a Sunday in the Firearms Act but provides an exemption for members of shooting clubs whilst they are engaged in target practice at a shoot approved by the Chief Secretary.

*New Section 29C.*

This new Section brings within the provisions of the Firearms Act the provisions relating to the carrying of firearms on a Sunday and extends the exceptions referred to in Section 51 of the Police Offences Act to members of shooting clubs whilst travelling to or from a shoot approved by the Chief Secretary.

A defence is provided to a prosecution under this section if a defendant satisfies the court that he had not used and that he did not intend to use the firearm on Sunday. This permits the transport of firearms on Sunday for lawful purposes.

*New Section 29D.*

Section 5 (1) (y) of the Police Offences Act amongst other things makes it an offence for any person to discharge a firearm in any city, town or borough without the permission of the local authority. The new Section brings those provisions into the Firearms Act and extends those provisions to include the discharge of a firearm on any street, road, lane, bridge, thoroughfare or place open to or used by the public for passage with vehicles. It is considered that it is more realistic to substitute the permission of a Justice or the officer in charge of the nearest police station for that of the local authority.

*New Section 29E.*

Section 25 of the Police Offences Act makes it an offence for any person who is drunk to be in possession of a loaded firearm. The new Section brings those provisions into the Firearms Act.

*Clauses 10 and 11.*

These amendments are consequential upon the inclusion of various provisions of the Police Offences Act relating to vagrancy into the one Act entitled *Vagrancy Act 1966*.

*Clause 12.*

Section 33 of the Principal Act makes it an offence for any person other than a gun dealer to bring any pistol into Victoria except under the authority of Her Majesty, the Governor in Council or pursuant to a permit issued by the Chief Commissioner of Police or an authorized officer of Police. This Clause re-enacts Section 33 to make it an offence also for any person other than the holder of a gun dealer's licence to manufacture a pistol.

*Clause 13.*

This clause inserts a new section in the Principal Act which in effect bans the use of fully jacketed rifle ammunition except for use on rifle ranges. Other exceptions are members of the defence forces police forces or gaol staffs while acting in the course of their duty and licensed gun dealers while acting in the ordinary course of their trade or business.

*Clause 14.*

These are consequential amendments.

*Clause 15.*

This clause extends the operation of section 39 of the Principal Act to permit a member of the police force to search for fully jacketed ammunition where he has reasonable cause to believe that it is being carried or is in the possession of the person contrary to the provisions of the Act.

*Clause 16.*

This Clause inserts a new Section in the Principal Act which makes it an offence punishable by a penalty of not more than One hundred pounds for any person who in any application for any purpose of the Firearms Act, makes a statement knowing it to be false or misleading in a material particular.

*Clause 17.*

This Clause makes it clear that offences against the Firearms Act which are to be heard by a Court of Petty Sessions are restricted to those offences which are punishable on summary conviction.