

# TERRITORY OF COCOS (KEELING) ISLANDS

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## Importation of Arms, Ammunition and Explosives Ordinance 1992

No. 6 of 1992

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia,  
acting with the advice of the Federal Executive Council, make the  
following Ordinance under the *Cocos (Keeling) Islands Act 1955*.

Dated 17 December 1992.

BILL HAYDEN  
Governor-General

By His Excellency's Command,

WENDY FATIN  
Minister of State for the Arts and Territories

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An Ordinance to control and regulate the importation of arms, ammunition  
and explosives into the Territory

### Short title

1. This Ordinance may be cited as the *Importation of Arms,  
Ammunition and Explosives Ordinance 1992*.<sup>1</sup>

### Commencement

2. This Ordinance comes into operation on a date to be fixed by  
the Minister by notice published in the *Gazette*.

### **Interpretation**

3. (1) In this Ordinance, unless the contrary intention appears:

**“aircraft”** includes aeroplanes, seaplanes, airships, balloons or any other means of aerial locomotion;

**“ammunition”** includes anything specifically manufactured as a component of ammunition designed for discharge from a firearm but does not include ammunition rendered inoperative for the purpose of a collector’s item;

**“applicant”** means an applicant for a permit or a temporary import permit;

**“authorised person”** means a person authorised under section 28;

**“Commissioner”** means the Commissioner of Police in the Territory;

**“court”** means any court of competent jurisdiction in the Territory;

**“explosives”** includes:

- (a) any components of an explosive; and
- (b) any ancillary device relating to an explosive; and
- (c) any incendiary device; and
- (d) fireworks; and
- (e) any substance or thing prescribed for the purposes of this paragraph;

**“firearm”** includes any lethal firearm and any other weapon of any description from which any shot, bullet or other missile can be discharged or propelled or which, by any alteration in the construction or fabric of the weapon can be made capable of discharging or propelling any shot, bullet or other missile;

**“import”** means import into the Territory;

**“Magistrate”** means a Special Magistrate or Magistrate appointed under the Courts Ordinance;

**“master”**, in relation to a vessel, means any person in command or charge of the vessel, except a pilot of the vessel;

**“missile”** means any solid substance or liquid chemical which, when discharged or propelled from any weapon from any distance, is capable of causing physical injury to persons;

**“permissible firearm, ammunition or explosives”** means any firearm, ammunition or explosives other than any prohibited firearm, ammunition or explosives;

**“permit”** means a permit granted under section 8;

**“permit condition”** means:

- (a) in the case of a permit—any condition specified in the permit and any condition prescribed in relation to the permit; and

- (b) in the case of a temporary import permit—any condition specified in the temporary import permit and any condition prescribed in relation to the temporary import permit;

**“pilot”**, in relation to an aircraft, means any person in command or charge of the aircraft;

**“police officer”** means a member of any police force that is empowered to provide police services in the Territory under a law in force in the Territory;

**“prescribed”** means prescribed by regulations made under section 29;

**“prohibited firearm, ammunition or explosives”** means any firearm, ammunition or explosives, the importation of which is prohibited under section 5;

**“temporary import permit”** means a temporary import permit granted under section 14;

**“vessel”** means any ship, boat or any description of vessel used for any purpose on the sea or in navigation.

(2) For the purposes of this Ordinance, a vessel or aircraft is in transit if it is in the Territory in the course of a voyage from a place outside the Territory to another place outside the Territory.

### **Application of Ordinance**

4. (1) This Ordinance does not apply to the importation of any firearm, ammunition or explosives by:

- (a) a police officer; or
- (b) a member of the Defence Force;

for use in the course of the officer’s or member’s duty.

(2) This Ordinance does not apply to the importation of any firearm, ammunition or explosives on board a vessel or an aircraft if:

- (a) the firearm, ammunition or explosives form part of the ordinary armament of the vessel or aircraft, or are required for the service of the vessel or aircraft or the personal use of the crew or the passengers of the vessel or aircraft; and
- (b) the vessel or aircraft is in transit.

### **Importation of prohibited firearms, ammunition or explosives**

5. (1) The importation of any of the following is prohibited:

- (a) an automatic firearm;
- (b) a semiautomatic firearm;

- (c) any firearm or ammunition of a type prescribed for the purposes of this paragraph;
- (d) any explosives prescribed for the purposes of this paragraph;
- (e) any ammunition for a firearm referred to in paragraph (a), (b) or (c).

(2) A person who intentionally or recklessly imports any prohibited firearm, ammunition or explosives is guilty of an offence and is liable on conviction to a fine not exceeding \$12,000 or to imprisonment for a term not exceeding 2 years, or to both.

### **Importation of permissible firearms, ammunition or explosives**

6. A person who intentionally or recklessly imports any permissible firearm, ammunition or explosives except:

- (a) under a valid permit granted to the person for the importation of the firearm, ammunition or explosives; and
- (b) in accordance with the permit conditions;

is guilty of an offence and is liable on conviction to a fine not exceeding \$6,000 or to imprisonment for a term not exceeding 1 year, or to both.

### **Application for a permit**

7. (1) A person may apply to the Commissioner in the prescribed manner for a permit to import any permissible firearm, ammunition or explosives.

(2) An application must be accompanied by the prescribed fee for the application.

### **Grant of a permit**

8. (1) Subject to subsections (2), (3) and (4) and to section 13, the Commissioner may in his absolute discretion grant or refuse to grant to an applicant a permit to import any permissible firearm, ammunition or explosives.

(2) The Commissioner must not grant a permit to an applicant if, in the opinion of the Commissioner:

- (a) the applicant is not a fit and proper person to be granted a permit; or

- (b) the applicant does not have a good reason for importing the firearm, ammunition or explosives to which the application relates; or
- (c) it is not desirable in the public interest to grant the permit.

(3) If, pursuant to subsection 30 (3) of the *Australian Heritage Commission Act 1975*, the Commissioner informs the Australian Heritage Commission that an application for a permit has been made, the Commissioner must take into account the Commission's comments about the application before making a decision to grant or refuse to grant the permit.

(4) The Commissioner must not grant a permit except on payment of the prescribed fee for the permit.

(5) If the Commissioner refuses to grant a permit to an applicant the Commissioner must:

- (a) give notice in writing of the decision to the applicant; and
- (b) include in the notice:
  - (i) reasons for the decision; and
  - (ii) a statement to the effect that the applicant may, in accordance with section 13, appeal to the Minister against the decision.

#### **Conditions, etc. applicable to permits**

9. (1) The Commissioner may grant a permit:

- (a) for:
  - (i) any firearm, ammunition or explosives specified in the permit; or
  - (ii) firearms, ammunition or explosives of a type specified in the permit, in a specified quantity; and
- (b) for a particular purpose specified in the permit; and
- (c) subject to any conditions (which may apply before or after, or both before and after, importation) specified in the permit.

(2) A permit is subject not only to the conditions (if any) specified in the permit, but to any prescribed conditions.

(3) A permit is not transferable.

### **Duration of a permit**

**10.** A permit that is validly granted is valid for the period specified in the permit unless it is earlier revoked.

### **Variation of a permit**

**11. (1)** The Commissioner may, by notice in writing to the permit holder, vary a permit by doing one or more of the following:

- (a) varying the terms of the permit; or
- (b) varying any condition specified in the permit; or
- (c) revoking any condition specified in the permit; or
- (d) specifying any new condition.

**(2)** A permit has effect as varied from the time notice of the variation is given to the permit holder.

### **Revocation or suspension of a permit**

**12. (1)** The Commissioner may, by notice in writing to the permit holder, revoke a permit, or suspend a permit for a period specified in the notice, if in the Commissioner's opinion:

- (a) the permit holder has not complied, or is likely not to comply, with this Ordinance, the regulations, or a permit condition; or
- (b) there are other reasonable grounds.

**(2)** If the Commissioner revokes or suspends a permit, the Commissioner must:

- (a) give notice in writing of the decision to the permit holder; and
- (b) include in the notice:
  - (i) reasons for the decision; and
  - (ii) a statement to the effect that the permit holder may, in accordance with section 13, appeal to the Minister against the decision.

### **Appeals to the Minister**

**13. (1)** A person who is given notice in writing of a decision by the Commissioner:

- (a) to refuse to grant a permit; or

(b) to suspend or revoke a permit;  
may, within 14 days after the notice is given, appeal to the Minister against the decision.

- (2) On an appeal under subsection (1), the Minister may:
  - (a) confirm the decision of the Commissioner; or
  - (b) vary or revoke that decision, and, if the decision was to refuse a permit, require the Commissioner to issue a permit.
- (3) The Minister's decision under subsection (2) is final.

### **Temporary import permits**

**14. (1)** The Commissioner may, on the application of a person arriving in the Territory, grant a temporary import permit to the person for the importation of any permissible firearm, ammunition or explosives specified in the temporary import permit.

(2) An application must be accompanied by the prescribed fee for the application.

(3) The Commissioner may grant a temporary import permit subject to any conditions (which may apply before or after, or both before and after, importation) specified in the temporary import permit.

(4) Without limiting the scope of subsection (3), conditions specified under that subsection may include conditions relating to:

- (a) removal of the firearm, ammunition or explosives from the Territory within a specified period; and
- (b) custody of the firearm, ammunition or explosives in the Territory.

(5) A temporary import permit is subject not only to the conditions specified in the temporary import permit, but to any prescribed conditions.

(6) The Commissioner must not grant a temporary import permit except on payment of the prescribed fee for the temporary import permit.

(7) A temporary import permit that is validly granted is valid for the period specified in the temporary import permit.

(8) Upon the grant of a temporary import permit, the person to whom the temporary import permit is granted ceases to be liable to prosecution for a contravention of paragraph 6 (1) (a) in relation to the firearm, ammunition or explosives to which the temporary import permit relates.

(9) A person who:

- (a) is granted a temporary import permit; and
- (b) intentionally or recklessly contravenes a permit condition relating to the temporary import permit;

is guilty of an offence and is liable on conviction to a fine not exceeding \$6,000 or to imprisonment for a term not exceeding 1 year, or to both.

### **Register of applications and permits**

15. The Commissioner must keep, or cause to be kept, a register containing particulars of:

- (a) applications made for permits and temporary import permits; and
- (b) permits and temporary import permits granted.

### **Production of permit or temporary import permit**

16. (1) A police officer or an authorised person may, for the purposes of monitoring compliance with this Ordinance, require any person to whom a permit or temporary import permit has been issued to produce the permit or temporary import permit.

(2) A person who, without reasonable excuse, fails to comply with a requirement under subsection (1) is guilty of an offence and is liable on conviction to a fine not exceeding \$1,000.

### **False statements**

17. A person who intentionally or recklessly makes, in, or in connection with, an application for a permit or a temporary import permit, a statement that is false or misleading in a material particular, is guilty of an offence and is liable on conviction to a fine not exceeding \$3,000 or to imprisonment for a term not exceeding 6 months, or to both.



**Removal of firearms, ammunition or explosives from a vessel or aircraft in transit**

**18.** A person who intentionally or recklessly removes from a vessel or an aircraft referred to in paragraph 4 (2) (b) any firearm, ammunition or explosives referred to in paragraph 4 (2) (a) is guilty of an offence and is liable on conviction to a fine not exceeding \$6,000 or to imprisonment for a term not exceeding 1 year, or to both.

**Concealment of firearms, ammunition and explosives unlawfully imported**

**19.** A person who conceals any firearm, ammunition or explosives knowing that the firearm, ammunition or explosives were imported in contravention of this Ordinance is guilty of an offence and is liable on conviction to a fine not exceeding \$6,000 or to imprisonment for a term not exceeding 1 year, or to both.

**Powers of arrest**

**20. (1)** A police officer may, without warrant, arrest:

- (a) any person found committing or attempting to commit an offence under this Ordinance; and
- (b) any person whom the police officer reasonably suspects has committed, or has attempted to commit, an offence under this Ordinance.

**(2)** A police officer must take a person arrested to a police station, and, as soon as is reasonably practicable, bring the person before a court to be dealt with according to law.

**Powers of entry and search**

**21. (1)** If a Magistrate or Justice of the Peace has reason to believe:

- (a) that a person has contravened or is contravening this Ordinance in relation to any firearm, ammunition or explosives; and
- (b) that the firearm, ammunition or explosives are to be found in or upon any premises, place or conveyance;

the Magistrate or Justice of the Peace may grant to a police officer a warrant to enter and search the premises, place or conveyance for firearms, ammunition and explosives and to seize and take any firearm, ammunition or explosives reasonably suspected to be the firearm, ammunition or explosives referred to in paragraph (a).

(2) A police officer to whom a warrant is granted in respect of any premises, place or conveyance, may:

- (a) if it is necessary to do so; and
- (b) with any reasonable and necessary assistance;

use reasonable force to gain access and entry to all or any part of the premises, place or conveyance.

(3) In this section “**conveyance**” includes a vehicle, a vessel and an aircraft.

### **Seizure of firearms, ammunition and explosives**

22. (1) A police officer may, if he reasonably suspects that a person has contravened or is contravening this Ordinance in relation to any firearm, ammunition or explosives in the possession of that person, require the person to produce:

- (a) a permit or temporary import permit that relates to the firearm, ammunition or explosives; or
- (b) other evidence to satisfy the police officer that the person has not and is not contravening this Ordinance in relation to the firearm, ammunition or explosives; or
- (c) both a permit or temporary import permit and other evidence referred to in paragraph (b).

(2) If, upon a requirement made under subsection (1), no permit, temporary import permit or evidence referred to in paragraph (1) (b) is produced, the police officer may, without warrant, seize and take the firearm, ammunition or explosives.

### **Obstruction of persons exercising powers**

23. A person who resists or obstructs the exercise by a police officer or authorised person of a power vested in the police officer or authorised person by this Ordinance or the regulations is guilty of an offence and is liable on conviction to a fine not exceeding \$5,000.

**Custody, etc. of seized firearms, ammunition and explosives**

**24.** Any firearm, ammunition or explosives seized under this Ordinance:

- (a) must be kept in the custody of a police officer or an authorised person; and
- (b) unless returned to any person entitled to possession within a period of 60 days after seizure, must be taken to a court to be dealt with according to law.

**Forfeiture and disposal of firearms, ammunition and explosives**

**25. (1)** On the conviction of a person for an offence under this Ordinance, a court may order that any firearm, ammunition or explosives to which the offence relates be forfeited.

**(2)** Subject to any directions of the court, the Commissioner may dispose of any forfeited firearm, ammunition or explosives in the prescribed manner.

**Averments**

**26.** In a prosecution for a contravention of this Ordinance, an averment made by the complainant and contained in the complaint:

- (a) that at a particular time a person was not the holder of a permit or a temporary import permit; or
- (b) that a particular firearm or ammunition is of a particular type or calibre, or that any substance or thing is an explosive or is an explosive of a particular type;

is evidence of the matter averred.

**Delegation by the Commissioner**

**27. (1)** The Commissioner may, in writing, delegate any power or function conferred on the Commissioner by this Ordinance to any person or authority, either generally or in relation to a particular matter or class of matters or a part of the Territory.

**(2)** A person to whom a power or function has been delegated under subsection (1) may, in writing and to the same extent, delegate that power or function to any other person or authority.

(3) A person to whom a power or function has been delegated under subsection (1) or (2) must exercise that power or perform that function (as the case may be) in accordance with the terms of the delegation.

(4) If the exercise of a power that is to be delegated depends upon the opinion, belief or state of mind of the Commissioner, the power is exercisable, on delegation, upon the opinion, belief or state of mind of the person or authority to whom the power is delegated.

(5) The Commissioner:

- (a) may exercise a power or perform a function delegated under subsection (1) despite the delegation of that power or function; and
- (b) may at any time vary or revoke the delegation.

(6) A person to whom a power or function is delegated under subsection (1) and who delegates that power under subsection (2):

- (a) may exercise the power or perform the function despite the delegation under subsection (2); and
- (b) may at any time vary or revoke that delegation.

### **Authorised persons**

**28.** The Commissioner may, in writing, appoint persons to be authorised persons for the purposes of sections 16 and 24.

### **Regulations**

**29. (1)** The Minister may make regulations prescribing all matters:

- (a) required or permitted by this Ordinance to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance.

(2) Without limiting the scope of subsection (1), regulations may:

- (a) prescribe any substance or thing for the purposes of paragraph (e) of the definition of “explosives” in subsection 3 (1);
- (b) prescribe any type of firearm or ammunition for the purposes of paragraph 5 (1) (c);

- (c) prescribe any explosives for the purposes of paragraph 5 (1) (d);
- (d) prescribe the manner of making applications for permits and temporary import permits;
- (e) prescribe conditions to which permits and temporary import permits are subject;
- (f) prescribe the fees payable for applications for, and for the grant of, permits and temporary import permits;
- (g) prescribe the manner of payment and collection of, and accounting for, fees;
- (h) prescribe the particulars to be included in permits and temporary import permits;
- (i) prescribe the manner of disposal of any forfeited firearm, ammunition or explosives;
- (j) prescribe the duties of authorised persons within the scope of their authorisation;
- (k) empower the Minister to approve forms for the purposes of this Ordinance and the regulations.

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**NOTE**

1. Notified in the *Commonwealth of Australia Gazette* on 18 December 1992.