

DRAFT SECOND READING SPEECH

HON FELIX ELLIS MP

Firearms Amendment (Community Safety) Bill 2023

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Mr Speaker, I move that the Bill now be read a second time.

The Firearms Amendment (Community Safety) Bill 2023 (the Bill) provides for a number of improvements to community safety through increased management and oversight of firearms licencing, manufacturing, use, storage, disposal, forfeiture and auditing in Tasmania, as well as stronger offence provisions.

The Bill includes specific provision for unlawful firearm manufacturing using emerging technology.

Further, the Bill brings Tasmania in closer alignment with the National Firearms Agreement and permanent national firearms amnesty.

The *Firearms Act 1996* was last amended in 2015 and, matters addressed in this Bill have been raised by the Chief Justice of the Supreme Court, Magistrates, the Director of Public Prosecutions, the Auditor-General, and the Department of Justice.

Reclassifying Lever Action Shotguns

In December 2016, the then Council of Australian Governments agreed to strengthen the National Firearms Agreement to reclassify lever action shotguns, which is reflected in the National Firearms Agreement. Since this time, other jurisdictions have also amended legislation to enact this reclassification.

Currently in Tasmania, category A firearms licences apply to lever action shotguns.

In this Bill, lever action shotguns with a magazine capacity of five or less rounds are now categorised as firearms licence category B, and licence category D will apply to lever action shotguns with a magazine capacity of greater than five rounds. This addresses Tasmania's need to amend legislation to align with the National Firearms Agreement.

Commencement of this amendment will be delayed, to allow time to prepare for the reclassification and for affected firearms owners to obtain a different firearms licence category.

Firearm 3D printing and manufacturing

In 2022, the issue of illegal firearm 3D printing capabilities was raised in national discussions on counter-terrorism and transnational, serious and organised crime. These issues have been, and are being, considered and addressed by other jurisdictions.

Action is required to prohibit the illegal manufacturing and possession of 3D printed firearms.

In developing this legislation, the Government has considered the approach taken by New South Wales and included electronic milling in the offence provisions.

Recognising the seriousness of this type of offending, the Bill creates an indictable offence for the possession of digital blueprints for the manufacture of firearms, firearm parts and sound suppressors on a 3D printer or electronic milling machine.

Digital blueprint is a defined term and includes any type of technical drawing of an object, or any electronic coding which, when applied, can manufacture an object. For the purposes of the offence, possession is also defined to include possession of the data by digital or electronic means.

Many members of the community were supportive of the proactive creation of a new offence to regulate unlawfully manufactured firearms, and in doing so, Tasmania is a leader with the Bill providing the most comprehensive offence provisions across the country.

Lawful manufacturing activities and those who are required to possess digital blueprints in the course of their employment or in a volunteering capacity are provided for in the Bill.

Defences are available for certain possession of digital blueprints, including the remaking of a firearm or firearm part if the blueprints came with the purchase of the firearm and the possession is solely for the remaking of the item. This defence was created to allow owners of high precision firearms to have replacement parts remade in accordance with the Act.

Further defences are available if the defendant can establish that their digital blueprint possession was only for public benefit and did not go beyond that benefit. Public benefit includes matters like law enforcement, compliance, investigation, or in the administration of justice.

The Bill also provides a mechanism for research approval using the digital firearm blueprints, authorised by the Minister responsible for the *Firearms Act*, for scientific, medical, educational, military or law enforcement research that has been approved in writing by the Minister.

These provisions anticipate the possible emergence of offending resulting from advances in technology.

National Firearms Amnesty

The *Firearms Act* currently provides for a general firearms amnesty in relation to the surrendering of firearms. However, the amnesty does not extend to firearm parts or ammunition to be surrendered. The Australian Government has instituted a policy of a Permanent National Firearms Amnesty for all unregistered firearms, firearms parts and ammunition.

The Bill meets this policy intention by providing for a more robust amnesty and will ensure that any person who has an unregistered firearm, firearm part, firearm sound suppressor or ammunition can safely hand it in without fear of legal recourse.

Auditing and disposal

Currently, only a police officer may apply to the Court for an order that a surrendered or seized firearm may be disposed of, resulting in avoidable inefficiencies.

For the purposes of applying for a firearm disposal order, the Bill's definition of prosecutor is expanded to include State Service employees, including police prosecutors and Crown prosecutors. This ensures that all those employed as prosecutors can seek necessary orders in court to apply for a firearm to be disposed, not only police officers.

Further, the Bill provides that the Supreme Court is a court to which a disposal order application may be made. This addresses an administrative issue in situations where the Supreme Court has convicted a person of an offence or crime involving a firearm, but the Supreme Court could not make a disposal order, because the Act prescribed that the order can only be made by a Magistrate.

In addition, the Bill extends the obligations of the Auditor-General to perform an audit on all firearms, firearm parts and ammunition disposed of by the Crown. This is in response to the Auditor-General's capacity currently being limited to audit only firearms disposed of by order of a Magistrate or determination of the Minister or the Commissioner. The amendment will ensure the Auditor-General can undertake a comprehensive audit of firearms and ammunition disposed of in all circumstances related to the Act or other legislation.

Further, where a person has been convicted of conveying a firearm or ammunition, and a court has ordered that the firearm or ammunition is forfeited, the Bill will allow the Commissioner of Police to determine the method of disposal. This removes the requirement for the Minister to determine the disposal of forfeited firearms or ammunition.

The Bill also provides that the disposal of firearms, firearm parts and ammunition surrendered through the firearms amnesty is a decision of the Commissioner of Police.

Amendments for classes of employees

The Bill excludes certain groups of employees from the application of the Act while in the course of their duties, subject to conditions. This allows them to use or possess firearms and ammunition required by their employment, as necessary. The standard conditions are that the employee does not consume any intoxicating liquor and they are not under the influence of alcohol or any other drug.

Employee groups include members of the Australian Defence Force, correctional officers who are members of the Tactical Response Group, ancillary constables, authorised persons (who are authorised by the Commissioner of Police), and relevant State Service employees or officers as required, for example, court staff where a firearm forms part of evidence.

Automatic Licence Cancellation – Outlaw Motorcycle Gangs

The Bill provides that the Commissioner of Police must not grant firearms licence to a person who is a participant of an identified organisation. Identified organisations are listed in the *Police Offence Regulations*, and the list only currently has Outlaw Motorcycle Gangs.

Under the current Act, a person who currently holds a firearms licence who is a participant in an identified organisation, may have their licence cancelled. This amendment is consistent with other legislative approaches to Outlaw Motorcycle Gangs.

Automatic Forfeiture – Shortened Firearms

The Bill makes provision for an illegally shortened firearm to be automatically forfeited to the Crown when a person is convicted of the shortening firearm offence. That is, a firearm that has been shortened to a length of less than 65 centimetres. This amendment is common sense as the firearm is illegal in its shortened form and cannot be returned to any individual.

Toy firearms

Under the current application of the *Firearms Act*, where an offender uses a “toy” firearm in an offence, the prosecution cannot always establish possession or use of a firearm as an aggravating factor. The belief of a victim that they are being threatened with an actual firearm, and the reliance that an offender places on such a belief, is the critical factor.

However, an offender’s culpability should not depend on whether an item is defined as a toy or a firearm when used to commit an offence.

To address this, the Bill amends the offences of carrying a firearm with criminal intent and aggravated assault to include toy firearms. It further provides for a definition of 'toy firearm' in the *Firearms Act*, includes toy firearms in the definition of 'use', and delineates toy firearm from the definitions of firearm or imitation firearm.

These changes are designed to ensure that where a toy firearm is used in the commission of an offence, the offender can be successfully prosecuted even if the item may be considered a toy.

For the avoidance of doubt, where the toy is not being used in the commission of an offence, or with the intent to commit a crime, it is not considered a firearm.

To accompany these changes, the definition of firearm in part 9 of the *Firearms Act* is expanded to include toy firearms, which will ensure a police officer can gather the evidence required to support an investigation or prosecution. This will also allow a police officer to require a person to hand over a purported toy firearm in a public place for examination.

Infringements

The Bill provides a new schedule of infringement notice offences, which are "on the spot" fines, that attract a prescribed number of penalty units.

The Bill introduces 12 new infringement notice offences, which attract a penalty of up to 2.5 penalty units or what currently equates to \$487.50.

The new infringement notice offences relate to minor failures of firearm storage, transportation, and safekeeping requirements, failing to notify Firearms Service of changes in information and for not meeting firearms dealer obligations.

The option for a police officer to issue an infringement notice for such offending or technical breaches of the *Firearms Act* will assist in enforcement and compliance actions and reduce time in court.

Administrative Amendments

The Bill relocates the definition of sound suppressors, previously referred to as silencers, to the definition section to ensure it can be referenced by other sections of the Act. Section 118 of the Act currently contains the definition within the offence provision, meaning that this definition does not apply across the whole Act.

Numerous written submissions were received from organisations and members of the public as part of public consultation on this Bill. They were each considered in their entirety, and I am pleased that consultation identified improvements to this important Bill. I thank everyone who considered the Bill and made a submission.

The Bill is to commence on a day, or days, to be proclaimed. This will ensure that the communication requirements of the Bill can be met, affected firearms owners can be contacted, the *Firearms Regulations 2016* can be amended as required, and Tasmania Police has adequate time to prepare for the implementation of the Bill.

Mr Speaker, this is an important Bill that amends legislation of great significance to Tasmanians and improves community safety measures regarding firearm possession and use.

Mr Speaker, I commend the Bill to the House.