



2007

**PARLIAMENT OF TASMANIA**

**JOINT STANDING COMMITTEE ON  
COMMUNITY DEVELOPMENT**

**REPORT**

**ON**

**FIREARMS ACT 1996 – PART 3, DIVISIONS  
1 AND 2  
MINOR'S PERMITS AND THE  
GRANTING OF PERMITS TO ACQUIRE  
FIREARMS**

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**Membership of the Committee**

Hon. Kerry Finch, MLC (Chair)  
Hon. Allison Ritchie, MLC  
Hon. Jim Wilkinson, MLC  
Hon. Terry Martin, MLC

Mrs Heather Butler, MHA  
Mr Brenton Best, MHA  
Mr Brett Whiteley, MHA  
Mr Tim Morris, MHA

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## FINDINGS AND RECOMMENDATIONS

### Findings

In respect to the adequacy of current provisions for the use of firearms by minors the Committee found that firearms are a legitimate ‘tool of trade’ in primary production and young people using firearms under supervision in this context is a legitimate use of firearms. The Committee also sees the participation of young people as members of an approved hunting club with appropriate supervision as a legitimate sporting pursuit.

The Committee recognises that other jurisdictions have allowed firearms training in the field for children as young as ten years of age and accepts that contingencies that may arise in the field cannot be practically addressed on a firing range for training purposes.

However the Committee is mindful of the evidence presented by Dr Burton-Smith and others on the possible negative affects that may arise for emotionally immature children using firearms in the field.

For this reason the Committee would like to see the use of firearms by children aged between 12 and 14 years restricted to an approved range.

In respect to the current provision of the *Firearms Act 1996* for a 28 day cooling-off period when purchasing a second or subsequent firearm, the Committee found this to be appropriate and recommends its retention.

The Committee feels that as firearms licences in Tasmania are issued for a relatively long period of five years, the requirement for a 28 day ‘cooling-off’ period in respect to the purchase of subsequent firearms will provide an additional opportunity for background checks to be carried out to identify any changed circumstances that would disqualify the applicant.

The Committee believes that this provision is not too onerous as firearm users can avoid any inconvenience through better planning of their activities. The Act does allow a licensed firearm owner to borrow a firearm of the same category from another licensed firearm owner, thus any urgent need can be met without delay.

The Committee has some concern in respect to the lending of firearms and sees the need for some form of record-keeping to ensure that police are aware of the firearm’s location at all times.

The Committee found that the *Firearms Act 1996* is non-compliant with the Nationwide Agreement on Firearms in that minors permits have been incorporated into the Act as is the case in all other jurisdictions and that this was not the intent of the original agreement. There are also inconsistencies between States and Territories in respect to the application of the 28 day cooling-off period for the purchase of a second or subsequent firearm.

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## Recommendations

The Committee recommends that:

- (1) The *Firearms Act 1996* should be amended to allow 14 to 18 year olds who are engaged in primary production or who are members of a recognised hunting club to receive instruction in the safe use of firearms in the field under the constant supervision of an appropriately qualified adult.
- (2) The consent of both parents/guardians must be given when applying for a minor's permit and in cases where only one parent/guardian is actively involved in the upbringing of the child, a responsible adult who is familiar with the child must confirm that the child's temperament is compatible with the use of firearms.
- (3) Prior to any field instruction a 12 to 18 year old must complete a firearm safety course as a member of a recognised shooting club on an approved range and remain an active member of the club for at least two years.
- (4) The licensed adult supervisor of a minor undertaking instruction in the use of firearms in the field must have completed the TAFE Tasmania Firearms Safety Training course and must provide close and continuous supervision of the minor.
- (5) A minimum penalty for failure to appropriately supervise a minor who is being instructed in the use of firearms should include the cancellation of the instructor's firearms licence.
- (6) The 28 day cooling-off period for the purchase of a second or subsequent firearm should be maintained.
- (7) A record of firearms on loan should be established in order maintain the accuracy of the firearms database in respect to the location of all firearms.
- (8) The issue of national consistency in firearm regulation should be placed on the agenda of the Australasian Police Ministers' Council.
- (9) Tasmania Police, Firearm Services should be notified of all instances where a person fails the firearm safety training course due to the instructor's concerns in respect to the applicant's motivations and/or mental health status.
- (10) A Tasmanian database should be established to centralise the records of all adverse incidents involving firearms and it is recommended that the Australasian Police Ministers' Council seek agreement for a similar development on a national level.

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## **INQUIRY INTO PART 3, DIVISIONS 1 and 2 of the FIREARMS ACT 1996**

Pursuant to the Order of both Houses of Parliament establishing the Joint Standing Committee on Community Development and the terms of reference therein, the Committee received a reference from the Minister for Police and Emergency Management to inquire into and report upon certain provisions of the *Firearms Act 1996* with the following terms of reference:

### **Terms of Reference**

The Committee will inquire into and report upon the current provisions of Part 3, Divisions 1 and 2 of the *Firearms Act 1996* dealing with minor's permits and the granting of permits to acquire a firearm.

In particular the inquiry should report upon:

1. The adequacy of the current provisions of the *Firearms Act 1996* to allow junior shooters to be given appropriate training under supervision in the field;
2. The need for a cooling-off period for the purchase of a second and subsequent firearms;
3. National consistency regarding the legislative provisions in other States and Territories pertaining to training requirements and 'cooling off' periods; and
4. Any matters incidental thereto.

## **1. INTRODUCTION**

### **Conduct of the Inquiry**

- 1.0 The Committee met on seven occasions to consider this reference and to hear evidence.
- 1.1 The Committee received from the Minister for Police and Emergency Management 11 written submissions from individuals and organisations with concerns in respect to minor's permits and the 28 day cooling-off period. These submissions had initially been submitted to the Minister's general review of the *Firearms Act 1996*.
- 1.2 The Committee invited 16 witnesses to appear before the Committee to give evidence including the Minister for Police and Emergency Management, the Commissioner for Children, Tasmania Police, Tasmanian Farmers and

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Graziers Association, representatives of shooting and hunting associations, legal practitioners and academics.

## Background

1.3 The tragic shootings at Port Arthur in 1996 precipitated a nationwide resolve for stronger and more uniform gun laws across Australia. The primary elements of this reform centred on: a reduction in the number of firearms in the community; limiting access to firearms to ‘fit and proper persons’ with a legitimate need, and more closely regulating the conditions of sale and ownership of firearms.

1.4 The preamble to the *Firearms Act 1996* reflects the sentiment of the time:

“(a) following the tragic events which occurred at Port Arthur on 28 April 1996, the three political parties represented in the Parliament, namely the Australian Labor Party, the Liberal Party of Australia and the Tasmanian Greens, have agreed together that the laws relating to the control of firearms in Tasmania should be consistent with the laws applying in other States and Territories of the Commonwealth of Australia; and

(b) the Australasian Police Ministers’ Council has adopted a set of resolutions specifying common standards which are to be applied in all States and Territories, and those three parties have agreed to support the implementation of those standards in Tasmania.”

1.5 Resolution 4 of the Nationwide Agreement on Firearms reached by the Australasian Police Ministers’ Council in 1996 deals with basic licence requirements. Resolution 4(a) requires that in addition to the demonstration of a “genuine reason” a licence applicant should be required to be aged 18 years or over.

1.6 Warner and Sherwood note that-

“ Despite the requirement in resolution 4(a) that all applicants be at least 18 years of age, all states and territories have somewhat undermined this by allowing (in varying degrees) special licences or permits for persons under the age of 18. Assuming the intention of resolution 4(a) was to restrict the possession and use of firearms to adults, the [underage permit] provisions are contrary to this intention.”<sup>1</sup>

1.7 In respect to the 28 day waiting period when purchasing a firearm, the Tasmanian *Firearms Act 1996* currently complies fully with the Australasian Police Ministers’ Council resolution. This is not the case in some States and Territories where the 28 day cooling-off period only applies to the purchase of

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<sup>1</sup> Document 2 – Firearms Legislation in Australia A Decade After the Nationwide Agreement, July 2006, Professor Kate Warner and Simon Sherwood, Faculty of Law, University of Tasmania, p. 31

the first firearm. Whilst some checks still apply, the 28 cooling-off period in respect to the purchase of a second or subsequent firearm has been waived.

- 1.8 In Tasmania firearm users groups have lobbied in recent years for amendments to the *Firearms Act* to allow minors as young as 12 years of age to engage in firearm training in the field and for the 28 day cooling-off period applying to firearms purchases to be abolished in respect to the purchase of a second or subsequent firearm.

## 2. MINOR'S PERMITS

- 2.0 *Section 68* of the *Firearms Act 1996* provides:

(1) A person under the age of 18 years must not possess or use a firearm unless the person is the holder of a minor's permit.

(2) A person may apply to the Commissioner for a minor's permit if the person is at least 12 years and under 18 years of age.

- 2.1 Parental consent is required for the approval of a minor's permit and it is subject to any condition the Commissioner considers appropriate.
- 2.2 *Section 70(1)* provides for a person of 16 years and under 18 years to be granted a minor's permit to possess or use a firearm of a specified category under the supervision of a firearm licence holder or an approved person for the purpose of receiving instruction in the safe use of the firearm or for target shooting on an approved range.
- 2.3 *Section 70(2)* provides for a person of 12 years and under 16 years of age to be granted a minor's permit to possess or use a firearm of a specified category only on an approved range under the supervision of a firearm licence holder or an approved person for the purpose of receiving instruction in the safe use of a firearm or target shooting.

### Other Jurisdictions

- 2.4 Although the Nationwide Agreement on Firearms, Resolution 4(a) requires that all gun licence holders be age 18 years or over, all States and Territories have provisions in legislation which allows persons under 18 years of age to use firearms in varying circumstances. (See Appendix 1)
- 2.5 In the Australian Capital Territory and New South Wales 12 to 18 year olds may be granted a minor's firearms training permit or a minor's pistol training permit. Minors are required to complete a firearms safety course and be under the personal supervision of an authorised person while receiving instruction or competing in an approved event. Legislation does not limit instruction to on-range training.
- 2.6 In Victoria the Commissioner may issue a minor's licence to a person aged between 12 and 18 years to use firearms for the purpose of receiving

instruction in the use of such firearms or for engaging in competition under the supervision of a licensed adult. The minor must have completed an approved firearm safety course and must be a member of an approved club. Instruction is not limited to on-range training.

- 2.7 In South Australia the *Firearms Act 1977* allows a person aged between 15 and 18 years to apply for a firearms permit if they are a member of a farming family or an employee involved in primary production. Unlicensed minors aged between 10 and 14, and between 14 and 18, may also use firearms under certain conditions, not limited to on-range use.
- 2.8 In Western Australia the *Firearms Act 1973* does not provide for a licence or permit to be issued to persons under the age of 18. However an unlicensed person may be exempt from the licensing requirements if they are using a firearm in the context of primary production and are a family member or employee of a primary producer. An unlicensed person may also use a firearm on an approved range with the permission of the licensed owner of the firearm. If the unlicensed person is under 18 years of age they may use a firearm, not a hand gun, under the direct supervision of the licensed owner.
- 2.9 In Queensland a minor's licence authorises a person aged 11 to 18 year to use a firearm at an approved range under the supervision of a range officer or for use in primary production. An unlicensed minor may use a firearm under the direct supervision of a parent or guardian, if that person is licensed. This is not limited to on-range use.
- 2.10 In the Northern Territory the firearms legislation provides for a firearms club junior licence which authorises the possession and use of a firearm under the supervision of a licence holder for the purpose of instruction in the safe use of firearms at an approved range or for competing in an approved event. No minimum age limit is prescribed, although there is an agreed policy that 12 should be the minimum age.

## **Issues Raised in Evidence**

- 2.11 Firearm user groups in Tasmania have lobbied for changes to the current minor's permit provisions to address the perceived anomaly whereby juniors aged between 12 and 16 years may obtain a minor's permit to be instructed in the use of firearms and participate in target shooting activities under supervision on an approved range but not in the field.
- 2.12 Arguments presented in evidence in support of lowering the permissible age for minors using firearms in the field include: the need to maintain cultural and traditional practices through hunting; the importance of hunting as a wildlife management tool; the need to recruit younger shooters due to the ageing of the hunting community, and the effectiveness of early training.
- 2.13 Submissions in support of maintaining the existing provisions in respect to the use of firearms by minors emphasised the need to adhere to the precepts of the Nationwide Agreement on Firearms, public safety, the immaturity of 12 year



olds, the inappropriateness of shooting animals in the name of firearm safety training and the adequacy of existing provisions that allow minors to use firearms on an approved range.

- 2.14 A submission received from an experienced hunter and firearms dealer suggested that allowing minors to participate in firearm activities in the field would simply formalise the existing situation. He notes that -

“Whilst minors are at the moment supervised by licensed adults at an approved range, many other youngsters are using firearms on hunting trips with their father in attendance and so the request [for a change to this provision] is to formalise a situation that has gone on for many years and I expect will most likely continue.”<sup>2</sup>

- 2.15 Members of the Tasmanian Deer Advisory Committee Inc. (TDAC) indicate in their submission that there is a need for more hunters in order to better manage wildlife. They note that –

“It has recently been recommended to the State Government that 1080 be eventually removed as a wildlife management tool in Tasmania, to be replaced by Property-based Wildlife Management Plans...which necessarily requires an active hunting community. To provide adequate recruitment of young hunters, TDAC recommends that supervised field instruction of junior hunters should be permitted from the age of 12 years when our young people most readily adopt safe instruction...It is illogical to allow range instruction at an early age to educate young shooters, but not permit field instruction of young hunters in not only responsible firearm use, but also the principles of wildlife management which are similarly important.”<sup>3</sup>

- 2.16 A further submission received in support of reducing the minor’s permit age to 12 years argues that –

“Hunting is a key part of our traditional cultural heritage and should be highly valued as such within our community...Hunters should receive every encouragement to promote and advance hunting as a valuable game control tool that forms part of our traditional cultural heritage and provides valuable assistance to a multitude of primary producers.”<sup>4</sup>

- 2.17 In evidence presented to the Committee the Tasmanian Farmers and Graziers Association (TFGA) submits that –

“We find that people who are trained earlier have a better understanding of firearms and the danger and the use of them than people who, quite often, come in at 16 and 18 when they are a little bit more flamboyant.”<sup>5</sup>

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<sup>2</sup> Submission No 4, p. 2

<sup>3</sup> Submission No. 6 p. 1, 2

<sup>4</sup> Submission No. 8 p. 1

<sup>5</sup> Transcript 6/7/2007 p. 18

- 2.18 The TFGA also suggests that firearm safety training in the field gives a more comprehensive set of experiences to minors as they are exposed to more variables that they have to learn to deal with. The Committee was told:

“... firearms on a range and firearms on a farm are totally different. On a range you have a range officer in control who says, you come in line, you put your gun there, you load it now, you pick it up and you fire, and that is a set procedure. In a rural atmosphere you are moving about, you are encountering farm animals, feral animals and native animals... You encounter shooting from motor vehicles, [and] probably motor bikes, that are moving around on the farm.”<sup>6</sup>

- 2.19 Mr Noel Wilson, President of the Deer Advisory Committee, told the Committee of the need to increase the number of hunters in the State as the average age of shooters has reached 53 years of age. He also suggests that there is a need for the development of training support programs to offer comprehensive hunting education to young people. Such courses would provide instruction in shooting safety, responsible hunting on private property, hunting ethics, and animal welfare and humane harvesting of game animals.

- 2.20 Evidence presented to the Committee in support of maintaining existing provisions noted the fact that minor’s permits were not part of the national firearms agreement and also stressed the need to consider public safety.

- 2.21 Professor Warner told the Committee:

“I would be very much in favour of sticking to the 1996 agreement as much as possible, but I appreciate that in the community there is a lot support for allowing junior shooters to be given the opportunity for appropriate training ... I know the existing legislation allows minor permits, but it does restrict them when they are under the age of 16 to being trained and to competitions on authorised ranges. I think that is perfectly appropriate.”<sup>7</sup>

“I just think a firearm is a lethal weapon and we should wait until children are more mature to allow them to handle it in that kind of situation [in the field].”<sup>8</sup>

- 2.22 Professor Warner further stated:

“It is fairly clear that the restrictions on firearms in Australia have led to a decline in gun-related crime and also suicide and accidents. I think that seems to be reasonably well established ... I cannot see that liberalising a position in relation to young people with firearms could help us in any way to discourage firearm violence.”<sup>9</sup>

- 2.23 Mr Roland Browne, Chair of the National Coalition for Gun Control, expressed a similar view and told the Committee:

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<sup>6</sup> Transcript 6/7/2007 p. 19

<sup>7</sup> Transcript 6/7/2007 p. 9

<sup>8</sup> Transcript 6/7/2007 p. 15

<sup>9</sup> Transcript 6/7/2007 p. 11, 12

“When the 1996 firearms agreement went through the States, Territories and the Commonwealth, it was crystal clear from resolution 4 that the minimum age for a gun licence was 18. It was not contemplated by any of those governments, as far as I know, or by the Commonwealth that there was going to be use of firearms by anybody in the community under the age of 18. The States and Territories have not broken the letter of the agreement but they have broken the spirit of it. Every State has chosen not to allow licensing of minors but they have introduced permits for minors ... most have an age of 11 or 12 ... The position in Tasmania is probably as good a compromise as exists in Australia because at least kids are confined to a range ... If the aim is for kids to be schooled in the use of firearms, in terms of firearm safety and use of the firearm, I would have thought that use on the range would have been an ideal location for people to learn. In other words, why do we want to be encouraging kids under 18 to be shooting animals all in the name of safety? I would also like the Committee to ask itself why we should start the process of watering down the laws we have, in breach of the national agreement.”<sup>10</sup>

- 2.24 The Commissioner for Children, Mr Paul Mason, brought another perspective to the debate, arguing that –

“... children are individual citizens with rights of their own under the United Nations Convention on the Rights of the Child and rights inherent in the *Anti-Discrimination Act 1988* ... if it is lawful for a competent adult to use a firearm in sport or primary industry ... so should [it be for] a competent child. The key there is competence, not age.”<sup>11</sup>

- 2.25 The Commissioner for Children also made the point that as 12 to 18 year olds were able to participate in firearms training on an approved range, the question was not whether a 12 year old should use firearms but where they should be used. The Commissioner suggests that whilst firearm instruction on a range was valuable it did have some limitations.

“This may be a good starting point for a child receiving instruction in the safe use of firearms, however the restrictions imposed by the range do not translate into the circumstances that the child may encounter in the future when using the firearm in a less restrictive setting and training solely provided on a shooting range does not therefore provide a broad enough skill base from which the child can draw upon when using the firearm in less controlled situations.”<sup>12</sup>

- 2.26 The Commissioner acknowledged that there may be a level of community antipathy towards the training of minors in the use of firearms, but also recognised the reality that many children in rural areas grow up around firearms and there is a legitimate need for the use of firearms in primary production.

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<sup>10</sup> Transcript, 6/7/2007, p. 34

<sup>11</sup> Transcript, 20/7/2007, p.2

<sup>12</sup> Submission No. 11, p 4

2.27 The Commissioner advised that if off-range firearm use by minors was approved it should be limited to the eradication of pests as part of an involvement in primary production as this would lessen the likelihood of injuries and deaths.

2.28 The Commissioner also emphasised the importance of competent and constant supervision of minors using firearms:

“... a licensed parent showing a kid how to use a gun out on a farm ... may be as well-meaning as they like, but they may not have the pedagogic skills, the educational skills ... It is one thing to teach a kid to clean a gun, load it and fire it; it is another to teach a kid at various ages about the seriousness of using a firearm – it is not just a toy like any other toy...

... the law should provide for education in safe use of firearms for persons aged 12 to 18 and also education in the seriousness of the consequences of misuse... My ... submission is that that education about safe use and seriousness should take place in an environment that emphasises that aspect, namely on an approved range ..

... once trained in the way suggested, my suggestion is that persons under 18 should be permitted to use a firearm only under continuous supervision of a parent licensed to use that class of firearm or a person approved to supervise the use of firearms by children...the licensed owner should be liable for penalties for intentionally or recklessly allowing a child to have a firearm or ammunition without continuous supervision.”<sup>13</sup>

2.29 As the level of competence and cognitive maturity of 12 year old children and their ability to safely use firearms in the field had been used as an argument on both sides of this debate, the Committee invited Dr Rosanne Burton-Smith, Department of Psychology, University of Tasmania to provide a more informed opinion on the capacities of 12 year old children and the affect that the use of firearms may engender.

2.30 In her appraisal of the arguments for and against the use of firearms in the field by 12 year olds, Dr Burton-Smith pointed to the interests of the child as an important consideration that had not received sufficient attention. Dr Burton-Smith told the Committee that –

“The thing that struck me ... is that the arguments have been very pragmatic and very much from an adult point of view, and also I think from a societal point of view. Examples are: ‘Is a 12 year old with a firearm a physical danger to himself or herself or others? Is he or she likely to maliciously or accidentally shoot another person? At what age is a person more likely to be “safe”?’ ... I think the lobbyists are also looking at pragmatics: ‘How do we encourage the next generation of shooters? We need to train them at an early age to capture their interest and commitment’. ... from a psychologist’s point

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<sup>13</sup> Transcript 20/7/2007, p. 2-3

of view my question was where is the child and the child's interests in all [of this]. ...

We know that in our society children of about 11 or 12 start to think in abstract and more adult ways. The depth and quality of their thought processes improve and increase, but they are not as advanced as in an older adolescent. There is a lot of trial and error and learning still to take place in those years, cognitively and particularly in the social emotional domain, which are interwoven very much together. ... While a 12 year old might be physically as capable as a 16 year old or even an 18 year old in handling and firing a gun, his or her cognitive or emotional development might not be matched by the physical ability. You can get big differences in kids of that age.

Shooting as an activity or recreation differs fundamentally from most activities in the community in that it involves the taking of the life of another animal ... While a 12 year old might be capable of this action and can carry it out quite competently, probably as competently as a 16 year old, 18 year old or a 56 year old, he or she might not have the emotional maturity to deal with this quite profound act.”<sup>14</sup>

- 2.31 Dr Burton-Smith explained that the current provisions of the Act that prohibit 12 and 16 year olds from using firearms in the field serve as a protection for vulnerable children:

“We protect immature members of society from acts and activities which, developmentally speaking, would be harmful or detrimental to development – for example, smoking, drinking alcohol and under-age sex, which in fact are criminalised...From the point of view of a developmental psychologist, the current legislation is protective in that it shields young persons from 12 to 16 from the active act of killing. They are able to hone their shooting skills in a vicarious situation under supervision...They are shooting at targets; they are not shooting at live animals. I think there is a world of difference in that act in terms of emotional impact. The argument that young persons cannot learn in such artificial situations, I believe, are quite spurious.”<sup>15</sup>

## Findings

- 2.32 In considering the arguments put before the Committee in respect to minor's permits the Committee found that firearms are a legitimate 'tool of trade' in primary production and that the supervised use of firearms by young people in this context is a legitimate use. The Committee also sees the participation of young people in hunting clubs with appropriate supervision as a legitimate sporting pursuit.
- 2.33 The Committee recognises that other jurisdictions have allowed firearms training in the field for children as young as ten years of age and accepts that

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<sup>14</sup> Transcript, 10/8/2007, p. 1-2

<sup>15</sup> Transcript, 10/8/2007, p. 2-3

contingencies that may arise in the field cannot be practically addressed on a firing range for training purposes.

- 2.34 However the Committee is mindful of the evidence presented by Dr Burton-Smith and others in respect to emotionally immature children, highlighting the possible negative effects that may arise through the use of firearms in the field.
- 2.35 For this reason the Committee would like to see the use of firearms by children aged between 12 and 14 years restricted to an approved range.

## Recommendations

The Committee recommends that:

- (1) The *Firearms Act 1996* should be amended to allow 14 to 18 year olds who are engaged in primary production or who are members of a recognised hunting club to receive instruction in the safe use of firearms in the field under the constant supervision of an appropriately qualified adult.
- (2) The consent of both parents should be required when applying for a minor's permit and, in cases where only one parent is actively involved in the upbringing of the child, a suitable responsible adult such as a teacher or family doctor who is familiar with the child may provide the additional authority.
- (3) Prior to any field instruction a 12 to 18 year old must complete a firearm safety course as a member of a club on an approved range and remain an active member of the club for at least two years.
- (4) The licensed adult supervisor of a minor undertaking instruction in the use of firearms in the field must have completed the TAFE Tasmania Firearms Safety Training course and must provide close and continuous supervision of the minor.
- (5) A minimum penalty for failure to appropriately supervise a minor who is being instructed in the use of firearms should include the cancellation of the instructor's firearms licence.

### 3. 28 DAY COOLING-OFF PERIOD

- 3.0 The *Firearms Act 1996* of Tasmania complies with the Nationwide Agreement on Firearms in that it provides for a 28 day cooling-off period for the purchase of a firearm and any subsequent purchases.

Section 61 states:

The Commissioner may grant an application for a permit –

(b) only after the end of 28 days following the day on which the application is lodged ...

### **Other Jurisdictions**

- 3.1 Appendix 1 of this report gives a comparison of the provisions in other jurisdictions in respect to the 28 day cooling-off period as it applies to the purchase of a second or subsequent firearm.
- 3.2 Tasmania, New South Wales, and the Australian Capital Territory, comply with the national agreement for a 28 day period after application is made for a permit to purchase a firearm.
- 3.3 Victoria, Western Australia and the Northern Territory comply with the national agreement by imposing a 28 day waiting period for the purchase of a first firearm, but allow a shorter period for the purchase of a subsequent firearm. Queensland and South Australia both specify a waiting period of 28 days, but also allow for a shorter period in certain circumstances.

### **Issues Raised in Evidence**

- 3.4 Firearm user groups put forward several arguments in relation to reducing or abolishing the 28 day cooling-off period for the purchase of a second or subsequent firearm including:
  - Consistency with other States that have relaxed this requirement;
  - The fact that a licence holder has already been recognised as a fit and proper person and the application for a permit to acquire a first firearm should be a sufficient check for the purchase of a second firearm;
  - This requirement creates unnecessary difficulties for shooters who may need to quickly replace damaged firearms when involved in competition or when hunting game with a limited season.
- 3.5 The TFGA put its position before the Committee in respect to the 28 day cooling-off period stating that -

“ ... the cooling-off period was brought in to stop the potential suicides or domestic violence and things of that nature and...it is right in doing so. There are no qualms about that. But with a second and subsequent firearm, that scenario would not apply because if a person wanted to be involved in that situation, he would not go out and buy another gun to do that. The 28 day cooling-off period is an inconvenience to a lot of people. For instance, guns wear out and guns get updated. ...[If] I sell my firearm tomorrow I cannot get another for 28 days...that is something detrimental that is not intended in the purpose or the principle of the Act.”<sup>16</sup>

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<sup>16</sup> Transcript 6/7/2007 p. 27

- 3.6 Tasmania Police informed the Committee that the time involved in processing an application for a permit to acquire a firearm is such that it may be seen as a cooling-off period in itself.

“Essentially to apply for the permit to acquire there is a process that is gone through ... it takes generally a minimum of seven to 14 days for that process to go through before they can actually get the firearm. So there is that period of seven to 14 days to wait anyway, purely because of administrative arrangements and other checks that need to be conducted. I guess it’s a case of whether that is seen as a cooling-off period or whether it is formalised in some way with some period set down in legislation.”<sup>17</sup>

- 3.7 Mr Roland Browne expressed concern at any suggestion to reduce the 28 day cooling-off period for the purchase of a second firearm. He told the Committee that -

“...it is very important to have a cooling-off period for the purchase of second and subsequent weapons. It has been one of the cornerstones of the national firearms agreement.

...The bottom line is that all States have the 28 day period and for those States or Territories that have gone for a lesser period – particularly Victoria and Western Australia – the requirement is that the police still conduct checks.

...People’s mental and physical states change over time. We have long-term licences in this State and the opportunity for the police to conduct checks is a damn good thing because it enables them to satisfy themselves that a person still has a suitable need for the firearm and the type of firearm, that they are fit mentally to the extent that police can assess that, and they are fit physically. I do not understand why a person applying for a firearm should not be satisfied to go through a test like that.”<sup>18</sup>

- 3.8 Mr Browne also pointed out that if licence holders were insufficiently organised to apply for a firearm permit 28 days before they needed to use the firearm the Act did allow them to borrow a firearm from another licence holder.

- 3.9 Furthermore Mr Browne reminded the Committee that the *Firearms Act* represents a control on the use of firearms directed at public safety and the greater good of society.

“It is very important to remember that control of firearms, like any other particular tool or good in our society involves a matrix of regulation ... we do not regulate dangerous things by looking at holes in the area of regulation or by exemption. We regulate across the board, and as a result of which some people experience difficulties. There are people who could probably drive very well at a blood alcohol reading of 0.07, but we do not allow them to prove that to us, we have a cut-off of 0.05 and that’s it.

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<sup>17</sup> Transcript 12/6/2007 p. 18

<sup>18</sup> Transcript 6/7/2007 p. 30, 31



Firearm regulation is, in my submission to you, no different. We have a matrix of regulation and that is because we are controlling an [aspect] of our society that has a track record of being a threat to public health ...

We are trying to deal with a plethora of ways that firearms can be misused and at the same time recognise that there are people who have legitimate uses and needs for firearms ... However, it is not going to be an answer to the need to protect the public by just looking at one use and finding one area where you can lower the bar.”<sup>19</sup>

## Findings

- 3.10 In respect to the current provision of the *Firearms Act 1996* for a 28 day cooling-off period when purchasing a second or subsequent firearm the Committee found this to be appropriate and recommends its retention.
- 3.11 The Committee feels that as firearms licences in Tasmania are issued for a relatively long period of five years, the requirement for a 28 day cooling-off period in respect to the purchase of subsequent firearms will allow for background checks to be carried out to identify any changed circumstances that would disqualify the applicant.
- 3.12 The Committee believes that this provision is not too onerous as firearm users can avoid any inconvenience through better planing of their activities. The Act does allow a licensed firearm owner to borrow a firearm of the same category from another licensed firearm owner, thus any urgent need can be met without delay.
- 3.13 The Committee has some concern in respect to the lending of firearms and sees the need for some form of record-keeping to ensure that police are aware of the firearm’s location at all times.

## Recommendations

The Committee recommends that:

- (5) The 28 day cooling-off period for the purchase of a second or subsequent firearm should be maintained.
- (6) A record of firearms on loan should be established in order maintain the accuracy of the firearms database in respect to the location of all firearms.

## 4. CONSISTENCY WITH OTHER STATES

- 4.0 The Committee found that the *Firearms Act 1996* is non-compliant with the Nationwide Agreement on Firearms in that minor’s permits have been incorporated into the Act as is the case in all other jurisdictions and that this

<sup>19</sup> Transcript 6/7/2007 p. 29, 30

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was not the intent of the original agreement. There are also inconsistencies between States and Territories in respect to the application of the 28 day cooling-off period for the purchase of a second or subsequent firearm.

- 4.1 The Committee believes that because of the ad hoc changes which have been made to firearms legislation by the States and Territories since 1996 the issue of national consistency of gun laws needs to be re-visited by the Australasian Police Ministers' Council.

### **Recommendation**

The Committee recommends that:

- (7) The issue of national consistency in firearm regulation should be placed on the agenda of the Australasian Police Ministers' Council.

Parliament House  
Hobart  
3 October 2007

The Hon. K. Finch MLC  
CHAIRMAN

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**APPENDIX I – FIREARMS LEGISLATION – INTERSTATE COMPARISON**
**Cooling-off period**

<b>State/Territory</b>	<b>Legislation</b>	<b>Cooling-off period</b>
<b>Tasmania</b>	<i>Firearms Act 1996</i>	28 days (s.61)
<b>ACT</b>	<i>Firearms Act 1996</i>	28 days (s. 48)
<b>New South Wales</b>	<i>Firearms Act 1996</i>	28 days (s. 31)
<b>Northern Territory</b>	<i>Firearms Act 1997</i>	28 days for first firearm; earlier for subsequent firearms allowing time for prescribed (if any) checks to be carried out. (s.35)
<b>Queensland</b>	<i>Weapons Act 1990</i>	28 days or earlier if applicant already owns a firearm or there are exceptional circumstances. (s.42 & reg.56)
<b>South Australia</b>	<i>Firearms Act 1977</i>	28 days unless the Registrar is satisfied there are special reasons. (s.15)
<b>Victoria</b>	<i>Firearms Act 1996</i>	28 days for first firearm; in other cases, sufficient time to allow for the application to be considered properly. (s.107)
<b>Western Australia</b>	<i>Firearms Act 1973</i>	28 days for first firearm licence in relation to firearm purchase. (s. 18(5)(c)) Approval can be expedited for subsequent purchases where Commissioner is satisfied. (s.18(10))

**Minor's permits**

<b>State/Territory</b>	<b>Conditions</b>
<b>Tasmania</b>	16 to 18 years – must be under the supervision of a licence holder or a person approved to supervise the use of firearms by minors for the purpose of instruction or target shooting. 12 to 16 years – as above, but instruction must be on an approved range. Written permission of parent or guardian. (s.68 - s.73)
<b>ACT</b>	12 to 18 years, completed a firearm safety training course, member of approved shooting club, under personal supervision of authorised person, written consent of parent or guardian. 2 types – firearms training permit and target pistol training permit. Act does not limit training to a range. (s.41)
<b>New South Wales</b>	12 to 18 years, completed a firearm safety training course, under personal supervision of adult licensed person, for the purpose of instruction or competition, written consent of parent or guardian. 2 types – firearms training permit and target pistol permit. Act does not limit training to a range. (s.32)
<b>Northern Territory</b>	12 to 18 years (agreed policy between NT Firearms Council and NT Police), under personal supervision of person authorised to possess or use firearms of same category, for receiving instruction at shooting range or competing in an approved event. (s.28)
<b>Queensland</b>	11 to 18 years for transport to and use at approved range under supervision of range officer, or to use in primary production in course of employment, or for clay target shooting. (reg.23) An unlicensed minor may possess and use a firearm: - under supervision of parent or guardian or someone acting as parent or guardian if that person is licensed (not confined to a range); - at an approved range under direct supervision of a range officer (s.52) An unlicensed person (including minors) may possess and use a firearm at an approved range if eligible to obtain a licence, for primary production purposes with certain conditions, and at a shooting gallery. (s.53-55)

State/Territory	Conditions
<b>South Australia</b>	<p>15 to 18 years if the minor is the spouse, child, sibling or employee of a person who holds a firearm licence and carries on a primary production business. (<i>s.12(4)</i>)</p> <p>An unlicensed person aged between 14 and 18 may possess and use a firearm under certain conditions set out in <i>reg.20</i> –</p> <ul style="list-style-type: none"> <li>- must be under the constant supervision of a licensed parent or guardian or person approved by parent or guardian, recognised firearms coach or examiner, or registered owner of the firearm being used (not confined to a range);</li> <li>- in relation to sports institute training, recognised clay target clubs and theatrical and film productions;</li> <li>- a minor of 10 to 14 years may use a class A firearm under the constant supervision of a parent or guardian who holds a firearms licence.</li> </ul>
<b>Victoria</b>	<p>12 to 18 years for receiving instruction or engaging in sport or target shooting competitions, must have completed an approved firearm safety course, must be a member of an approved club. (<i>s.18</i>)</p> <p>Act does not limit receiving instruction to a range.</p> <p>An unlicensed minor may receive instruction in the use of longarm rifles at an approved range under the immediate supervision of a longarm licence holder with written permission of parents. (<i>Schedule 3</i>)</p>
<b>Western Australia</b>	<p>Cannot obtain a firearm licence until 18 years of age. (<i>s.10</i>)</p> <p>Under <i>s.8</i> exemptions from licensing include:</p> <ul style="list-style-type: none"> <li>- for the purposes of primary production if a family member of or employed by a primary producer;</li> <li>- on an approved range with the permission of the licensed owner of the firearm;</li> <li>- if under 18 years of age can use a firearm, not a handgun, under the supervision of the licensed owner.</li> </ul>

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APPENDIX II – WITNESSES

Mr Noel Wilson, President, Tasmanian Deer Advisory Committee Inc

Professor Kate Warner, Faculty of Law, University of Tasmania

Mr Nick Steel, Executive Officer, Tasmanian Farmers and Graziers Association

Mr Alan Cameron, Tasmanian Farmers and Graziers Association

Mr Ken Perkins, Tasmanian Farmers and Graziers Association

Mr Donald Jones, Tasmanian Farmers and Graziers Association

Mr George Mills, Tasmanian Farmers and Graziers Association

Mr Roland Browne, Chair, National Coalition for Gun Control

Mr Allan Kenny, President, Tasmanian Clay Target Association

Ms Katie Martin, Manager Firearm Services, Tasmania Police

Assistant Commissioner, Mr Scott Tilyard, Tasmania Police

Inspector Wayne Moore, Tasmania Police

Hon. D. E. Llewellyn, MHA, Minister for Police and Emergency Management

Mr Graham Wilson, Head of Office, Minister for Police and Emergency Management

Mr Paul Mason, Commissioner for Children

Mr Graeme Norris, Firearms and Security Training Coordinator, TAFE Tasmania

Mr Peter John Darke, Tasmanian Field and Game Association

Dr Rosanne Burton-Smith, Department of Psychology, University of Tasmania

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**APPENDIX III - SUBMISSIONS RECEIVED AND TAKEN INTO EVIDENCE**

1. Mr Jared Rattray,  
10/32 Cato Avenue, West Hobart 7000
2. Mr Damien C. Kay, Firearms Manager,  
Kays Service Station Pty Ltd. & Top Shot, 19 Nelson Street, Smithton 7330
3. Mr Peter R. Rockliff,  
274 Chapel Road, Sassafras 7307
4. Mr Ray Williams, New Norfolk Gunshop,  
27 Stephen Street, New Norfolk 7140
5. Ms Samara McPhedran, Chair,  
International Coalition for Women in Shooting and Hunting (WiSH)  
PO Box 184, Ballarat, Vic 3353
6. Mr John Bruce, Secretary, Tasmanian Deer Advisory Committee Inc,  
PO Box 10, Stanley 7331
7. Mr Rod Hill,  
Rod.Hill@forestrytas.com.au
8. Mr Alan Stewart,  
Silver Plains Hunting Group (No address)
9. Mr Nick Steel, Executive Officer, Natural Resource Management,  
Tasmanian Farmers & Graziers Association,  
PO Box 193, Launceston 7250
10. Mr Matthew Allen, Tasmanian Branch President,  
Australian Deer Association,  
PO Box 388, Prospect 7250
11. Mr Anthony Berne, State President, Australian Dear Association, PO Box 388,  
Prospect 7250
12. Ms Shan Rayner, 130 Smarts Road, Mount Hicks 7325
13. Mr. Paul Mason, Commissioner for Children, Tasmania.

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**APPENDIX IV - DOCUMENTS RECEIVED AND TAKEN INTO EVIDENCE**

1. Australasian Police Minister's Council - Special Firearms Meeting - Canberra  
10 May, 1996: Resolutions
2. Firearms Legislation in Australia A Decade after the Nationwide Agreement -  
July 2006: Prepared for the National Coalition of Gun Control, Professor Kate  
Warner and Simon Sherwood, Faculty of Law, University of Tasmania
3. AIM: A Firearm Safety Training Course for juniors aged 12 to 18 years  
providing qualifications to hunt with a firearm under supervision with a  
licensed adult shooter.
4. Firearms Legislation - Interstate Comparison
5. Comparison of Interstate Firearm Laws
6. Fire Arms Amendment Bill 2003 - Fact Sheet
7. Australian Institute of Criminology Report –  
Firearm theft in Australia 2004-05.
8. The Auditor-General's Special Report No. 55 – Gun Control in Tasmania –  
May 2005.
9. Map and list of approved firearm ranges in Tasmania.