

TASMANIA

FIREARMS AMENDMENT (COMMUNITY SAFETY) BILL 2023

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FIREARMS AMENDMENT (COMMUNITY SAFETY) BILL 2023

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

LAURA ROSS, *Clerk of the House*
2 November 2023

(Brought in by the Minister for Police, Fire and Emergency Management, the Honourable Felix Ashton Ellis)

A BILL FOR

An Act to amend the *Firearms Act 1996*

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

1. Short title

This Act may be cited as the *Firearms Amendment (Community Safety) Act 2023*.

2. Commencement

The provisions of this Act commence on a day or days to be proclaimed.

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3. Principal Act

In this Act, the *Firearms Act 1996** is referred to as the Principal Act.

4. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

- (a) by omitting “firearm, other than a toy” from paragraph (e) of the definition of *firearm* and substituting “firearm”;
- (b) by inserting the following definition after the definition of *firearm part*:

firearm sound suppressor means any implement designed to suppress the sound caused by the discharge of a firearm, whether or not the implement forms part of the firearm or can be attached to, or removed from, the firearm;

- (c) by omitting “article” from the definition of *imitation firearm* and substituting “article, other than a toy firearm,”;
- (d) by inserting “firearm sound suppressor,” after “firearm,” in paragraph (a) of the definition of *manufacture*;
- (e) by inserting the following definition after the definition of *sell*:

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toy firearm includes an item of any material or colour that –

- (a) has the appearance of a firearm; and
- (b) is marketed to, or commonly used by, persons as something that may be used in play; and
- (c) could reasonably be mistaken for a firearm;
- (f) by inserting “or toy firearm” after “a firearm” in the definition of *use*;
- (g) by inserting “or toy firearm” after “firearm” in paragraph (a) of the definition of *use*.

5. Section 6 amended (Application of Act)

Section 6 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1)(a) “, possessing or using a firearm while acting in the course of the member’s duties as such a member, if the member does not, while possessing or using the firearm, consume any intoxicating liquor and is not under the influence of alcohol or any other drug” after “Commonwealth”;

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- (b) by inserting the following paragraphs after paragraph (a) in subsection (1):
 - (ab) a correctional officer, within the meaning of the *Corrections Act 1997*, possessing or using, in accordance with subsection (1A) –
 - (i) a firearm that may be possessed or used under a licence referred to in Division 2 of Part 2; or
 - (ii) a thing that is prescribed, under paragraph (f) of the definition of *firearm* in section 3, as a firearm; or
 - (ac) a person appointed as an ancillary constable under section 14 of the *Police Service Act 2003* possessing or using a firearm, in accordance with subsection (1B), that may be possessed or used under a Category H firearms licence; or
 - (ad) a person, to whom an authorisation under section 157 of this Act relates, possessing or using a firearm, in accordance with subsection (1B), that may be possessed or used under a Category D firearms licence; or

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(c) by inserting the following subsections after subsection (1):

(1A) A correctional officer, within the meaning of the *Corrections Act 1997*, possessing or using a firearm under subsection (1) –

(a) must not consume any intoxicating liquor or be under the influence of alcohol or any other drug; or

(b) may only possess or use the firearm while acting in the course of the member's duties as a member of –

(i) a group deployed at the request of the Director, or under the standing orders of the Director, made under the *Corrections Act 1997* for the purposes of the management, security or control of prisons under that Act; or

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- (ii) a prescribed unit, or other group, that performs the functions of a group referred to in subparagraph (i).

(1B) A person appointed as an ancillary constable under section 14 of the *Police Service Act 2003*, or a person to whom an authorisation under section 157 of this Act relates, possessing or using a firearm under subsection (1) –

- (a) may only possess or use the firearm if the person is authorised under the appointment, or authorisation, to possess and use the firearm; and
- (b) may only possess or use the firearm –

- (i) if the person is appointed as an ancillary constable, while acting in the course of the person's duties under this Act or any other Act, as

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specified in the
person's
appointment, and
in accordance with
that appointment;
or

- (ii) if the person is
authorised under
section 157 of this
Act, while acting
in the course of
the person's duties
under the
authorisation and
in accordance with
that authorisation;
and
- (c) must comply with the
safekeeping and storage
requirements, that apply
under this Act in relation
to the firearm, except
when the firearm is in a
holster, being worn by the
person, that is intended
for use with that firearm;
and
- (d) must not consume any
intoxicating liquor or be
under the influence of
alcohol or any other drug,
except where the firearm
is not kept at premises in

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accordance with the safekeeping and storage requirements that apply under this Act in relation to the firearm.

(d) by inserting the following subsection after subsection (3):

(3A) This Act does not apply to a State Service employee, or State Service officer, in relation to the possession of a firearm, firearm part or ammunition, in the course of the employee's or officer's duties, as such an employee or officer, in relation to –

(a) enforcing or administering a law of the State, or of another State, a Territory or the Commonwealth; or

(b) monitoring compliance with, or investigating a contravention of, a law of the State, or of another State, a Territory or the Commonwealth; or

(c) the administration of justice –

if the employee or officer does not consume any intoxicating liquor, and is not under the

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influence of alcohol or any other drug, while the firearm is in the employee's or the officer's possession.

6. Section 14 amended (Category A firearms licence)

Section 14(1)(c) of the Principal Act is amended by inserting “, lever action” after “action”.

7. Section 15 amended (Category B firearms licence)

Section 15(1) of the Principal Act is amended by inserting after paragraph (b) the following paragraph:

(ba) lever action shotgun with a magazine capacity of no more than 5 rounds of ammunition; and

8. Section 17 amended (Category D firearms licence)

Section 17(1)(c) of the Principal Act is amended by inserting “, or lever action,” after “action”.

9. Section 29 amended (General restrictions on granting licence)

Section 29(3) of the Principal Act is amended by inserting after paragraph (a) the following paragraph:

(ab) is, within the meaning of section 6A(1) of the *Police Offences Act 1935*, a

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participant in an identified organisation
within the meaning of that section; or

10. Section 104 amended (Conveying firearms and ammunition)

Section 104(4) of the Principal Act is amended
by omitting “Minister” and substituting
“Commissioner”.

11. Section 114 amended (Carrying firearm, or toy firearm, with criminal intent)

Section 114 of the Principal Act is amended as
follows:

- (a) by omitting from subsection (1)
“firearm” and substituting “firearm, or a
toy firearm,”;
- (b) by omitting from subsection (2)(a)
“firearm” and substituting “firearm or a
toy firearm”;
- (c) by omitting from subsection (2)
“firearm” second occurring and
substituting “firearm, or toy firearm,”.

12. Section 115 amended (Aggravated assault)

Section 115(1) of the Principal Act is amended
as follows:

- (a) by inserting in paragraph (a) “or toy
firearm” after “firearm”;

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- (b) by inserting in paragraph (b) “or toy firearm” after “use a firearm”;
- (c) by inserting in paragraph (b) “or toy firearm” after “carrying a firearm”;
- (d) by inserting in paragraph (c) “or toy firearm” after “firearm”.

13. Section 118 amended (Silencers and magazines)

Section 118(1) of the Principal Act is amended by omitting “any implement designed to suppress the sound caused by the discharge of a firearm, whether or not the implement forms part of the firearm or can be attached to, or removed from, the firearm” and substituting “a firearm sound suppressor”.

14. Section 119A inserted

After section 119 of the Principal Act, the following section is inserted in Division 3:

119A. Possession of digital blueprints for manufacture of firearms

- (1) A person is guilty of an indictable offence punishable under the Criminal Code if the person possesses a digital blueprint for the manufacture, on a 3D printer or on an electronic milling machine, of a firearm, a firearm part or a firearm sound suppressor.

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- (2) Subsection (1) does not apply to a person, in relation to a digital blueprint that relates to a firearm, firearm part, or firearm sound suppressor, if the person is –
 - (a) authorised by a licence, or is otherwise permitted under this Act, to manufacture the firearm, firearm part, or firearm sound suppressor; or
 - (b) acting in the ordinary course of the person's duties as a police officer, a State Service employee or a State Service officer; or
 - (c) employed or engaged by, or is a volunteer in respect of, a person referred to in paragraph (a) or (b) and is in possession of the digital blueprint as part of that employment, engagement or volunteering.
- (3) It is a defence to a prosecution for an offence against subsection (1) in relation to a digital blueprint if the defendant proves that –
 - (a) the defendant did not know, and could not reasonably be expected to know, that the defendant possessed the digital blueprint; or
 - (b) the digital blueprint came into the defendant's possession

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unsolicited and the defendant, as soon as the defendant became aware that it was a digital blueprint, took reasonable steps to ensure that the digital blueprint ceased to be in the defendant's possession; or

- (c) the defendant purchased a firearm, a firearm part or a firearm sound suppressor and the digital blueprint came into the defendant's possession as part of that purchase solely to enable that firearm, part or suppressor to be remade in accordance with this Act.
- (4) It is a defence to a prosecution for an offence against subsection (1) in relation to a digital blueprint if the defendant proves that the conduct of the defendant in relation to the digital blueprint was of public benefit and did not extend beyond conduct that was of public benefit.
- (5) For the purposes of subsection (4), conduct is of public benefit only if the conduct is necessary for, or of assistance in –
 - (a) enforcing or administering a law of the State, or of another State, a Territory or the Commonwealth; or

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- (b) monitoring compliance with, or investigating a contravention of, a law of the State, or of another State, a Territory or the Commonwealth; or
 - (c) the administration of justice.
- (6) The question of whether a person's conduct is of public benefit is a question of fact and the person's motives for engaging in the conduct are irrelevant.
- (7) It is a defence to a prosecution for an offence against subsection (1) in relation to a digital blueprint if the defendant proves that the conduct of the defendant in relation to the digital blueprint –
 - (a) was necessary for, or of assistance in, conducting scientific, medical, educational, military or law enforcement research that has been approved by the Minister in writing for the purposes of this section; and
 - (b) did not contravene any conditions of that approval.
- (8) In this section –

digital blueprint means –

- (a) any type of digital, or electronic or photographic,

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reproduction of a
technical drawing of the
design of an object; or

- (b) any electronic coding by
the application of which
an object may be
manufactured;

possession, in relation to a digital
blueprint, includes the following:

- (a) possession of a computer,
or data storage device,
holding or containing the
digital blueprint;
- (b) possession of a document
in which a digital
blueprint is recorded;
- (c) control of the digital
blueprint held in a
computer, or contained in
a data storage device, that
is in the possession of
another person (whether
the computer or data
storage device is in, or
outside, this jurisdiction).

15. Section 129 substituted

Section 129 of the Principal Act is repealed and
the following section is substituted:

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129. Amnesty

(1) If a person –

- (a) who is not authorised under this Act to have possession of a firearm, firearm part, firearm sound suppressor or ammunition has possession of a firearm, firearm part, firearm sound suppressor or ammunition; or
- (b) has possession of a firearm, firearm part, firearm sound suppressor or ammunition which the person is not authorised to possess under this Act –

and that person voluntarily brings the firearm, firearm part, firearm sound suppressor or ammunition to a police station and surrenders it to the Commissioner, no action is to be taken against that person in respect of the unauthorised possession of the firearm, firearm part, firearm sound suppressor or ammunition by that person.

- (2) A firearm, firearm part, firearm sound suppressor or ammunition that is surrendered to the Commissioner is to be disposed of as the Commissioner determines.

16. Section 133A amended (Interpretation of Part)

Section 133A of the Principal Act is amended by omitting the definition of *firearm* and substituting the following definition:

firearm includes –

- (a) a weapon falling within paragraph (a) of the definition of *ordnance* in section 3; and
- (b) a toy firearm.

17. Section 149 amended (Disposal of surrendered or seized firearms)

Section 149 of the Principal Act is amended as follows:

- (a) by omitting subsection (1) and substituting the following subsection:
 - (1) If a firearm, firearm part or ammunition is surrendered, or seized, under this Act –
 - (a) a police officer; or
 - (b) a person who claims to be the owner of the firearm, firearm part or ammunition; or
 - (c) a prosecutor who has prosecuted an offence

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under Part 5, or Part 7, in respect of which the firearm, firearm part or ammunition has been seized –

may apply to a court or a magistrate for an order under this section.

- (b) by inserting in subsection (2) “court or a” after “A”;
- (c) by inserting in subsection (2) “, firearm part” after “that the firearm”;
- (d) by inserting in subsection (2) “to which an application under subsection (1) relates” after “that the firearm, firearm part or ammunition”;
- (e) by inserting in subsection (2)(b) “, firearm part” after “firearm”;
- (f) by inserting in subsection (2)(c) “that the court or” after “manner”;
- (g) by inserting in subsection (2A) “court or a” after “A”;
- (h) by inserting in subsection (2A)(a) “, firearm part” after “owner of the firearm”;
- (i) by inserting in subsection (2A)(a)(i) “, firearm part” after “firearm”;

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- (j) by inserting in subsection (2A)(a)(ii) “, firearm part” after “firearm”;
- (k) by inserting in subsection (2A)(b) “, firearm part” after “firearm”;
- (l) by inserting in subsection (2A)(c) “, firearm part” after “the firearm”;
- (m) by inserting in subsection (2A)(c) “, firearm part” after “that firearm”;
- (n) by inserting the following paragraph after paragraph (d) in subsection (2B):
 - (da) section 116;
- (o) by inserting in subsection (3) “, firearm part” after “any firearm”;
- (p) by inserting in subsection (3) “, firearm part” after “seized firearm”;
- (q) by inserting in subsection (3A) “, firearm part” after “firearm”;
- (r) by omitting subsection (5) and substituting the following subsection:
 - (5) The Auditor-General is to arrange to be carried out once every year an independent audit of all firearms, firearm parts and ammunitions that are –
 - (a) disposed of in accordance with an order or direction

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- of a court, a judge, a magistrate or a coroner; or
 - (b) disposed of under this Act or disposed of in accordance with the directions of the Commissioner under another Act; or
 - (c) disposed of, with the consent of the owner, by a person acting on behalf of the Crown; or
 - (d) forfeited to, owned by, or in the possession of, the Crown and disposed of in accordance with a determination of the Commissioner; or
 - (e) forfeited to, or in the possession of, the Crown and otherwise dealt with under this Act or any other Act.
- (s) by omitting “in section 3.” from the definition of *firearm* in subsection (7) and substituting “in section 3;”;
- (t) by inserting the following definition after the definition of *firearm* in subsection (7):

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prosecutor means a police prosecutor
or a Crown prosecutor.

18. Schedule 1A substituted

Schedule 1A to the Principal Act is repealed and
the following Schedule is substituted:

**SCHEDULE 1A – INFRINGEMENT NOTICE
OFFENCES**

	Section of Act	Description of offence	Section 157A Penalty (Penalty units)
1.	23(2)	Fail to provide document within required period	1
2.	48	Fail to comply with conditions of licence	2.5
3.	57	Fail to notify of change of particulars	1
4.	80(1)	Fail to notify of firearm sale within 7 days	1
5.	82	Fail to produce registered firearm for inspection	1
6.	84(3)	Fail to take reasonable precaution, where the offence does not relate to a prohibited firearm	2.5

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	Section of Act	Description of offence	Penalty (Penalty units)
7.	85(1)	Fail to comply with prescribed storage requirement (Category A and B)	1
8.	85(2)	Fail to comply with prescribed storage requirement (Category A-D 10+ firearms)	2.5
9.	85(3)	Fail to comply with prescribed storage requirement (Category H)	2.5
10.	87A(1)	Fail to comply with requirements in relation to safekeeping and premises (militaria)	2
11.	89(1)	Fail to keep record in approved form	1
12.	91	Alter dealings record otherwise than by interlineation or striking out	1
13.	92	Fail to provide copy of dealings record on ceasing to hold dealer licence	2.5
14.	93(1)	Fail to forward quarterly return	2.5

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	Section of Act	Description of offence	Penalty (Penalty units)
15.	93A(2)	Fail to provide business management declaration within required period	2
16.	94(1)	Fail to affix prescribed label	1
17.	95(1)	Fail to notify of loss, theft or destruction of firearm within required period	1
18.	96(2)	Fail to provide particulars as required, within required period	1
19.	97	Display firearm otherwise than in accordance with requirements	2.5
20.	98(1)	Take possession for repair of firearm without seeing licence, permit or certificate of registration	1
21.	98(2)	Repair firearm that is not registered	2.5
22.	99	Fail to keep records as required	1
23.	103	Knowingly transport firearm (or firearm part) and ammunition	2.5

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	Section of Act	Description of offence	Penalty (Penalty units)
24.	104(1)	Fail to comply with prescribed safety requirements (convey firearm or ammunition)	2.5
25.	106	Advertise sale of firearm otherwise than as required	1
26.	106A	Advertise for sale non-compliant firearms storage receptacle	1
27.	108(2)	Fail to state name and place of residence	2.5
28.	109(3)	Fail to deal with firearm in prescribed manner	2
29.	122(1)	Fail to produce licence or permit for inspection	2.5
30.	122(2)	Holder of licence or permit fail to state name and place of residence	2.5
31.	138(2)	Fail to provide information as requested	0.5
32.	147(7)	Fail to comply with obligations as keeper of firearm	2.5

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19. Repeal of Act

This Act is repealed on the first anniversary of the day on which the last uncommenced provision of this Act commenced.