

CLAUSE NOTES

Firearms Amendment (Community Safety) Bill 2023

- Clause 1** **Short title**
- Specifies the name of the proposed Act.
- Clause 2** **Commencement**
- The Act commences on a day or days to be Proclaimed.
- Clause 3** **Principal Act**
- Provides that the Principal Act that is being amended is the *Firearms Act 1996*.
- Clause 4** **Section 3 amended (Interpretation)**
- This clause moves the definition of *firearm sound suppressor* from section 118 to section 3 of the Principal Act.
- The definition of *manufacture* is amended to include the manufacture of firearm sound suppressors.
- A definition of *toy firearm* has been added into the Principal Act which allows the offences in sections 114 and 115 to include toy firearms. The definition is also referenced in amendments to part 9 of the Principal Act to ensure a toy firearm in a public place can be inspected by a police officer.
- The definition of *use* is amended to include toy firearms.
- Clause 5** **Section 6 amended (Application of Act)**
- This clause amends section 6 of the Principal Act to exclude 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 employed by the Tasmania Prison Service who are members of the Tactical Response Group, ancillary constables, authorised persons and relevant State Service employees or officers as required.
- Clause 6** **Section 14 amended (Category A firearms licence)**
- This clause amends section 14 of the Principal Act to exclude lever action shotguns from category A firearms licences.
- Clause 7** **Section 15 amended (Category B firearms licence)**

This clause amends section 15 of the Principal Act to include lever action shotguns with a magazine capacity of no more than 5 rounds in category B firearms licences.

Clause 8 Section 17 amended (Category D firearms licence)

This clause amends section 17 of the Principal Act to include lever action shotguns with a magazine capacity of more than 5 rounds in category D firearms licences.

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

This clause amends section 29 of the Principal Act to restrict the granting of a firearms licence to a person who is a participant in an identified organisation. Identified organisations are listed at section 7A of the *Police Offence Regulations 2014*. Participants of identified organisations who currently hold a firearms licence may have their licence cancelled under section 51(2)(a) of the Principal Act.

Clause 10 Section 104 amended (Conveying firearms and ammunition)

This clause amends section 104 of the Principal Act so that following an order from a court to forfeit unlawfully conveyed firearms or ammunition, the method of disposal is determined by the Commissioner of Police.

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

This clause amends section 114 of the Principal Act to include a person carrying a toy firearm with criminal intent in the offence.

Clause 12 Section 115 amended (Aggravated assault)

This clause amends section 115 of the Principal Act to provide that a person using a toy firearm to carry out an assault will be guilty of the crime of aggravated assault under section 183 of the *Criminal Code*.

Clause 13 Section 118 amended (Silencers and magazines)

This clause amends section 118(1) of the Principal Act by referencing the newly inserted definition of firearm sound suppressor, rather than defining the term in the offence.

Clause 14 Section 119A inserted (Possession of digital blueprints for manufacture of firearms)

This clause inserts a new section 119A into part 7, division 3 of the Principal Act.

Section 119A at subsection (1) creates a new indictable offence punishable under the *Criminal Code* if a person possesses a digital blueprint for the

manufacture of a firearm, firearm part or firearm sound suppressor on a 3D printer or electronic milling machine.

New subsection 119A(2) provides that the new offence does not apply to a person if they are authorised by licence or under the Principal Act to manufacture firearms, firearm parts or sound suppressors. It also does not apply if a person is acting in accordance with their duties employed as a police officer, State Service employee or State Service officer. This includes volunteers engaged by those employees, in accordance with their duties.

New subsection 119A(3) provides for a defence in relation to a defendant who did not know, or could not reasonably be expected to know, that they possessed the digital blueprint. A second defence is available if the blueprint came into the defendant's possession unsolicited, and they then took reasonable steps to remove it from their possession. A third defence is available if the defendant came into possession of the digital blueprint when they purchased a firearm, firearm part or sound suppressor solely to allow the item to be remade in accordance with the Principal Act.

New subsection 119A(4) provides for a defence for a defendant who can prove their conduct in relation to a digital blueprint was of public benefit, and did not extend beyond conduct that was of public benefit.

New subsection 119A(5) provides that conduct is only of public benefit for subsection 119A(4) if necessary for, or of assistance in: enforcing or administering a State, Territory or Commonwealth law, monitoring compliance with or investigating a contravention of a law of the State, another State, a Territory or the Commonwealth, or the administration of justice.

New subsection 119A(6) provides that the assessment of whether conduct is of public benefit is a question of fact, and the motives of the person are irrelevant.

New subsection 119A(7) provides for a defence for a defendant whose conduct in relation to a digital blueprint was necessary for, or assisting in, scientific, medical, educational, military or law enforcement research that has been approved in writing by the Minister. The defence is available so long as a defendant did not contravene any conditions of the research approval.

New subsection 119A(8) provides for the definitions of the term digital blueprint and possession that apply in the section. Digital blueprint is defined to mean any type of digital or electronic reproduction of a technical drawing of the design of an object, or any electronic coding by the application of which an object may be manufactured.

Possession is defined to include possession of a computer or data storage device that holds or contains the blueprint. It includes possession of a document in which a digital blueprint is recorded, or control of the digital

blueprint held in a computer or data storage device that is in the possession of another, whether in Tasmania or elsewhere.

Clause 15 Section 129 substituted (Amnesty)

This clause substitutes section 129 of the Principal Act, which is replaced. New subsection 129(1) expands the firearms amnesty to include a person who has unauthorised possession of a firearm, firearm part or ammunition under the Principal Act. The new section provides that if the person voluntarily brings the firearm, firearm part or ammunition to a police station for surrender to the Commissioner, no action is to be taken against them for unauthorised possession.

New subsection 129(2) provides that a surrendered firearm, firearm part or ammunition is to be disposed of as the Commissioner determines.

Clause 16 Section 133A amended (Interpretation of Part 9)

This clause expands the definition of firearm in part 9 to include toy firearms. Under section 134, this allows a police officer to require a person to hand over a firearm or toy firearm for examination if the officer reasonably believes they have it in their possession in a public place.

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

This clause amends section 149 of the Principal Act. New subsection 149(1) provides that if a firearm, firearm part or ammunition is surrendered or seized under the Principal Act, specified people may apply to a court or magistrate for an order under section 149. Those people are a police officer, a person who claims to be the owner of the firearm, firearm part or ammunition, or a prosecutor who has prosecuted an offence under Part 5, or Part 7, in respect of which the firearm, firearm part or ammunition has been seized.

The clause amends subsection 149(2) to include: references to the court as a decision-making body, references to a firearm, firearm part or ammunition, and clarifies that an order may only relate to a firearm surrendered or seized under subsection 149(1).

The clause amends subsection 149(2A) to include: references to the court as a decision-making body and references to a firearm, firearm part or ammunition.

The clause amends subsection 149(2B) to provide for automatic forfeiture of an unlawfully shortened firearm to the Crown for an offence against section 116.

The clause amends subsection 149(3) and 149(3A) to include references to a firearm, firearm part or ammunition.

The clause substitutes subsection 149(5) and the new subsection makes provision for the Auditor-General to carry out an annual independent audit of all firearms, firearm parts and ammunition that are disposed of under the following circumstances: in accordance with an order or direction of a court, justice or coroner; under the Principal Act or in accordance with the Commissioner's directions under another Act; disposed of by the Crown with the consent of the owner; or forfeited to, owned by, or in the possession of the Crown and otherwise dealt with under this Act or any other Act.

The clause inserts a new definition of prosecutor to subsection 149(7) so that, for the purposes of section 149, a prosecutor includes a police prosecutor or a Crown prosecutor.

Clause 18 Schedule 1A substituted (Infringement notice offences)

This clause substitutes schedule 1A of the Principal Act and sets out the new schedule of infringement notice offences and penalty units, made under section 157A. The new Schedule contains 32 infringement notice offences, with penalties ranging from 0.5 – 2.5 penalty units.

Clause 19 Repeal of Act

This clause automatically repeals the amending legislation after the first anniversary of the day on which the last provision of the Act commenced. This accounts for the delayed commencement of some provisions. The provisions that the amending legislation inserts into the Principal Act remain in force after the repeal of the Amending Act.