

Consultation information sheet

FIREARMS AMENDMENT (COMMUNITY SAFETY) BILL 2023

The Tasmanian Government is committed to keeping Tasmanians safe from gun violence.

We must make sure that our laws are tough on crime and anticipate future potential criminal activity. We are committed to ensuring that our police and justice system have the powers to stamp out any dangerous activity and can penalise and prosecute unlawful or unsafe behaviours.

To achieve these goals, the Tasmanian Government is proposing amendments to the State's laws that govern gun ownership and usage in Tasmania.

The proposed changes in the *Firearms Amendment (Community Safety) Bill 2023* (the Bill) are being released for consultation before being considered by Parliament later this year.

The proposed changes are:

- refusal and cancellation of firearms licences for participants in outlaw motorcycle gangs (OMCGs) – an important amendment to ensure that dangerous gangs do not have access to violent weapons
- recognition of toy firearms as firearms when used in specific crimes - increasingly these 'toys' look more and more like real guns and can be used to intimidate and threaten the public, which is not acceptable
- extended auditing obligations for the Auditor-General to firearms disposal to enhance auditing of guns and gun parts
- extending the permanent firearms amnesty to enable firearm parts and ammunition to be surrendered to Tasmania Police without penalty, to make sure these potentially dangerous items are not lying around Tasmanian homes
- phasing in a re-classification of lever-action shotguns in line with the National Firearms Agreement, to make the licence category for this weapon more proportionate with the safety risk posed. This will be phased in to enable all current licenced owners of affected shotguns to be contacted in relation to the change
- automatic loss of all firearms for offences involving possession of shortened firearms - shortened firearms are illegal and highly dangerous
- increased capacity for Tasmania Police to issue infringement notices to enforce the safe storage of firearms
- including offences for the unlawful possession of digital blueprints for the manufacture of firearms, firearm parts and sound suppressors using modern technology such as electronic milling or 3D printing – this is to ensure that there is no unlawful manufacturing of firearms or firearm parts in Tasmania

- limit the exception to the application of the Act for Australian Defence Force personnel to circumstances where they are acting in the course of their duties
- provide an exception to the application of the Act for corrections officer similar to the possession and use exemption for police officers
- provide a limited possession offence exception to the application of the Act for persons handling firearms and ammunition in the course of their duties as state service employees.

Feedback on the Bill is invited from all members of the community. Consultation runs from 1 February 2023 to 17 March 2023. Information on consultation and a copy of the Bill is available at <https://fas.police.tas.gov.au/firearms-2023/>.

PROPOSED AMENDMENTS INCLUDE:

1. Categorisation of lever action shotguns in line with the National Firearms Agreement

Tasmania is implementing the decision, agreed to between Australian states and territories, to reclassify lever action shotguns as either:

- Category B firearms – for lever action shotguns with a magazine capacity of no more than five rounds of ammunition, or
- Category D - for lever action shotguns with a magazine capacity of more than five rounds of ammunition.

The commencement of this provision will be delayed, ensuring that all relevant licence holders can be contacted, and their licences transitioned to the appropriate category or other arrangements made.

2. Automatic refusal of firearms applications for persons associated with OMCGs

In line with the Tasmanian Government's commitment to community safety, this proposed amendment makes participation in an outlaw motorcycle gang (OMCG) a ground for mandatory refusal of a licence application.

It will also allow for the revocation of a firearms licence if a current firearms licence holder is found to be a participant in an OMCG.

The removal of firearms licences from people participating in OMCGs builds on the strong steps the Tasmanian Government has already taken to ban the wearing of gang insignias that causes the public to feel intimidated and threatened.

3. Alignment of the firearms amnesty with the national amnesty

There is a permanent firearms amnesty in Tasmania that means that unregistered or unwanted firearms can be surrendered to police or firearms dealers without any action being taken in relation to possession offences.

To ensure consistency and clarity, it is proposed that the firearms amnesty is extended to include that firearm parts and ammunition can be surrendered under the amnesty.

Under this proposed amendment, people who don't have a licence for the firearm part or ammunition can surrender the items without penalty. This will mean that members of our community have options available to them for the safe storage of these items while they seek appropriate possession licences.

The current amnesty provisions will apply to this amendment. This includes that a person can apply to re-acquire the surrendered item as long as they have the appropriate category of firearms licence in Tasmania and can justify their genuine need to possess that item.

4. Clarification of offence provision for carrying a firearm or toy firearm with criminal intent

There has been a global rise in the manufacture and distribution of lifelike 'toy' firearms, such as gel blasters. For this reason, and because gel blasters and other toy guns have an operating mechanism that is similar to an air rifle, they are considered firearms under Tasmanian law.

These 'toys' can be so well designed in weight, look and colour that they cannot be easily or quickly differentiated from real firearms. This means they can genuinely be used to intimidate or threaten the public.

The proposed amendment to the Act is to ensure that individuals who use an imitation ('toy') firearm to offend (e.g. threaten or steal) will be able to be convicted for that offence as if they had used an actual firearm.

5. Clarification of offence provision for aggravated assault

Currently, using a firearm, threatening to use a firearm, or carrying a firearm is an element of the offence of aggravated assault.

As described in #4 above, imitation firearms (or 'toys') can be so well designed in weight, look and colour that they cannot be easily or quickly differentiated from real firearms. This means they can genuinely be used to intimidate or threaten the public.

The proposed amendment to the Act is to make clear that possessing or displaying an imitation firearm that is also a toy will constitute the offence of aggravated assault.

Individuals who display an imitation firearm that is also a toy in the course of an assault cannot rely on the item being a 'toy' rather than a 'firearm' under the Act.

6. New offence provisions for possession of digital blueprints for the manufacture of firearms

There are emerging technological capacities to home manufacture firearms, firearm parts and sound suppressors using electronic milling machines or 3D printers.

The Bill proposes offences for the possession of digital blueprints for the unlawful manufacture of firearms, firearm parts and sound suppressors.

The manufacturing of firearms using either electronic milling or 3D printing is covered within the offence provisions for 'dealing', the definition of which includes manufacturing.

Exemptions for advanced manufacturing and other lawful manufacturing of firearms and firearm parts for national defence will be considered.

7. Extension of infringement notice offences

New offences have been proposed for inclusion in Schedule 1A that will provide more options to Tasmania Police to issue infringement notices, rather than a summons to attend court. These will relate to minor administrative offences only.

8. Clarifying the application of the Act to certain State Service employees and members of the Australian Defence Force

The legislation currently allows Australian Defence Force personnel to be exempt from provisions of the Act. The proposed amendments are aimed at ensuring clear obligations and exemptions for certain employees and service people under the Act, which predominantly apply only during the performance of their duties.

9. Providing an extended capacity to apply for disposal of firearms, firearm parts and ammunition

Currently, only a police officer or a person who claims to be the owner of any firearm or ammunition, may apply to a magistrate for a disposal order.

The proposed amendments extend the application capacity to individuals who have prosecuted an offence under the Act, and allow for the application to be heard by other relevant courts in Tasmania.

10. Clarifying the auditing obligations of the Tasmanian Auditor-General in relation to disposal of firearms

To ensure clear auditing of firearms, firearm parts and ammunition disposed of by the Crown in Tasmania, an amendment is proposed that provides a complete picture of the disposal capacities of the Crown under other Acts, to ensure that the Auditor-General can effectively carry out their auditing obligations.

For more information, and to have your say, go to <https://fas.police.tas.gov.au/firearms-2023/>