

Submission

Tasmanian Firearms Amendment (Community Safety) Bill 2023

March 2023

Department of Police, Fire and Emergency Management
Strategy & Support
GPO Box 308
Hobart, TAS 7001

Tasmanian Firearms Amendment (Community Safety) Bill 2023

The Shooting Industry Foundation of Australia welcomes the opportunity to contribute to the Firearms Amendment (Community Safety) Bill 2023.

The Shooting Industry Foundation of Australia (SIFA) is the peak body representing the major importers, wholesalers and retailers of firearms and related accessories.

In 2019, our industry was conservatively estimated to contribute \$2.4 billion to Australia's GDP and supported some 19,500 jobs.

It must be reiterated that the primary objectives of firearms regulation in Australia are to ensure public safety and to facilitate the safe and lawful sale, possession, and use of firearms.

The foundation principle of the National Firearms Agreement (NFA), which Tasmania is a signatory to, is uniformity in how the management of firearms is undertaken across jurisdictions.

The needs of industry are often overlooked when proposed changes to regulation are developed. Our submission highlights several such occurrences which must be addressed before the proposed amendments are enacted.

There are a range of additional and equally compelling topics which the proposed amendments do not address. The specifics of those topics are beyond the scope of this submission.

SIFA is always available for meaningful engagement and dialogue with the view to improving the efficiency and effectiveness of Tasmania's firearms regulations from an industry perspective.

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Proposed change	SIFA position	SIFA response
<p>4. Section 3 amended (Interpretation)</p> <p>Section 3 of the Principal Act is amended by inserting after the definition of firearm part the following definition:</p> <p>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;</p>	<p>Opposed.</p>	<p>We note that this is item is not linked to the stated objectives of the proposed amendments. SIFA advocates for data driven firearms policy. Regulation must target real risks and not risks which are perceived or imagined.</p> <p>There is no objective data that we are aware of which supports the proposition that firearm suppressors in the hands of fit and proper (i.e., licensed) persons represent a public safety risk. In many overseas jurisdictions (NZ, UK) their use is assumed.</p> <p>There is peer reviewed literature which supports the case for firearm suppressors in certain circumstances. For example, the National Feral (sic) Deer Action Plan promotes the use of suppressors.</p> <p>The proposed definition could be applied to ear muffs or sound deadening panelling often used at shooting ranges.</p>
<p>5. Section 6 amended (Application of Act)</p> <p>Section 6 of the Principal Act is amended as follows:</p> <p>(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";</p>	<p>Supported if appropriate corrections are made before being enacted.</p>	<p>Whilst SIFA fully supports steps to ensure that access to firearms whilst intoxicated or under the influence of inappropriate drugs is prevented, Section 6 of the Act fails to recognise that much of the work previously undertaken by government personnel has been outsourced to employees of commercial entities such as defence contractors or professional pest controllers. The application of the Act needs to be revised to accommodate Government suppliers.</p> <p>It cannot be assumed that these entities are headquartered (and thus are licensed) in Tasmania.</p> <p>These providers operate within a national market, and must have consistency across jurisdictions for ease of compliance when carrying out their contractual obligations.</p> <p>The exemptions in this section need to be broadened beyond the defences in S109.</p>

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<p>(b) by inserting the following paragraph after paragraph (a) in subsection (1): (ab) a correctional officer, within the meaning of the Corrections Act 1997, possessing or using a firearm while acting in the course of the member's duties as a member of – (i) the Tactical Response Group; or (ii) a prescribed unit that performs the functions of the Tactical Response Group – if the officer does not, while possessing or using the firearm, consume any intoxicating liquor and is not under the influence of alcohol or any other drug; or</p>	<p>Supported if appropriate corrections are made before being enacted.</p>	<p>Whilst SIFA fully supports steps to ensure that access to firearms whilst intoxicated or under the influence of inappropriate drugs is prevented, Section 6 of the Act fails to recognise that much of the work previously undertaken by government personnel has been outsourced to employees of commercial entities such as defence contractors or professional pest controllers. The application of the Act needs to be revised to accommodate Government suppliers. It cannot be assumed that these entities are headquartered (and thus are licensed) in Tasmania. These providers operate within a national market, and must have consistency across jurisdictions for ease of compliance when carrying out their contractual obligations. The exemptions in this section need to be broadened beyond the defences in S109.</p>

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<p>(c) by inserting the following subsections after subsection (3):</p> <p>(3A) This Act does not apply, in relation to the possession or use of a firearm, to a person to whom an appointment as an ancillary constable under section 14 of the Police Service Act 2003 relates, or to a person to whom an authorisation under section 157 of this Act relates, if –</p> <p>(a) the person is authorised under the appointment, or authorisation, to possess and use a firearm; and</p> <p>(b) the possession and use by the person of a firearm occurs in the course of the person's duties under the appointment or authorisation and in accordance with the appointment or authorisation; and</p> <p>(c) where the person, outside work hours, keeps the firearm at the person's residence, the firearm is kept at the residence in accordance with the safekeeping and storage requirements that apply under this Act in relation to the firearm; and</p> <p>(d) if the firearm is in a vehicle, it is only in the vehicle in the course of the person's duties under the person's appointment or authorisation and is, while in the vehicle, kept in accordance with the safekeeping and storage requirements that apply under this Act in relation to the firearm; and</p> <p>(e) if the person does not consume any intoxicating liquor, and is not under the influence of alcohol or any other drug, while the firearm is in the person's possession otherwise than while being kept at premises in accordance with the safekeeping and storage requirements that apply under this Act in relation to the firearm.</p>	<p>Supported if appropriate corrections are made before being enacted.</p>	<p>Whilst SIFA fully supports steps to ensure that access to firearms whilst intoxicated or under the influence of inappropriate drugs is prevented, Section 6 of the Act fails to recognise that much of the work previously undertaken by government personnel has been outsourced to employees of commercial entities such as defence contractors or professional pest controllers. The application of the Act needs to be revised to accommodate Government suppliers.</p> <p>It cannot be assumed that these entities are headquartered (and thus are licensed) in Tasmania.</p> <p>These providers operate within a national market, and must have consistency across jurisdictions for ease of compliance when carrying out their contractual obligations.</p> <p>The exemptions in this section need to be broadened beyond the defences in S109.</p>

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<p>(3B) 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 –</p> <p>(a) enforcing or administering a law of the State, or of another State, a Territory or the Commonwealth; or</p> <p>(b) monitoring compliance with, or investigating a contravention of, a law of the State, or of another State, a Territory or the Commonwealth; or</p> <p>(c) the administration of justice – if the employee or officer does not consume any intoxicating liquor, and is not under the influence of alcohol or any other drug, while the firearm is in the employee's or the officer's possession.</p>	<p>Supported if appropriate corrections are made before being enacted.</p>	<p>Whilst SIFA fully supports steps to ensure that access to firearms whilst intoxicated or under the influence of inappropriate drugs is prevented, Section 6 of the Act fails to recognise that much of the work previously undertaken by government personnel has been outsourced to employees of commercial entities such as defence contractors or professional pest controllers. The application of the Act needs to be revised to accommodate Government suppliers.</p> <p>It cannot be assumed that these entities are headquartered (and thus are licensed) in Tasmania.</p> <p>These providers operate within a national market, and must have consistency across jurisdictions for ease of compliance when carrying out their contractual obligations. The exemptions in this section need to be broadened beyond the defences in 5109.</p>
<p>6. Section 14 amended (Category A firearms licence)</p> <p>Section 14(1)(c) of the Principal Act is amended by inserting ", lever action" after "action".</p>	<p>Supported if appropriate corrections are made before being enacted.</p>	<p>It would be most helpful for industry and the interests of national consistency if the terminology used to describe items in legislation was exactly the same as used in the Customs (Prohibited Imports) Regulations 1956. This act was recently updated to accommodate self-opening repeating action shotguns. The amendments proposed for Tasmania do not support consistency across the end to end supply chain.</p> <p>It would also be beneficial if all firearm categorisations in Tasmania were consistent with the ACIC National Firearms Information Database (NFID).</p>
<p>7. Section 15 amended (Category B firearms licence)</p> <p>Section 15(1) of the Principal Act is amended by inserting after paragraph (b) the following paragraph:</p> <p>(ba) lever action shotgun with a magazine capacity of no more than 5 rounds of ammunition; and</p>	<p>Supported if appropriate corrections are made before being enacted.</p>	<p>It would be most helpful for industry and the interests of national consistency if the terminology used to describe items in legislation was exactly the same as used in the Customs (Prohibited Imports) Regulations 1956. This act was recently updated to accommodate self-opening repeating action shotguns. The amendments proposed for Tasmania do not support consistency across the end to end supply chain.</p> <p>It would also be beneficial if all firearm categorisations in Tasmania were consistent with the ACIC National Firearms Information Database (NFID).</p>

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<p>8. Section 17 amended (Category D firearms licence)</p> <p>Section 17(1)(c) of the Principal Act is amended by inserting ", or lever action," after "action".</p>	Supported if appropriate corrections are made before being enacted.	<p>It would be most helpful for industry and the interests of national consistency if the terminology used to describe items in legislation was exactly the same as used in the Customs (Prohibited Imports) Regulations 1956. This act was recently updated to accommodate self-opening repeating action shotguns. The amendments proposed for Tasmania do not support consistency across the end to end supply chain.</p> <p>It would also be beneficial if all firearm categorisations in Tasmania were consistent with the ACIC National Firearms Information Database (NFID).</p>
<p>9. Section 29 amended (General restrictions on granting licence)</p> <p>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 participant in an identified organisation within the meaning of that section; or</p>	Supported	SIFA is fully supportive of any and all efforts to prevent the inappropriate and illegal use of firearms.
<p>10. Section 104 amended (Conveying firearms and ammunition)</p> <p>Section 104(4) of the Principal Act is amended by omitting "Minister" and substituting "Commissioner".</p>	Opposed.	The devolution of responsibility for the disposal of private property (unless voluntarily surrendered) to anyone other than an elected representative is opposed on principle.
<p>11. Section 114 amended (Carrying firearm, or toy firearm, with criminal intent)</p> <p>Section 114 of the Principal Act is amended as follows:</p> <p>(a) by omitting from subsection (1) "firearm" and substituting "firearm, or an imitation firearm that is a toy,";</p> <p>(b) by inserting in subsection (2)(a) ", or an imitation firearm that is a toy" after "firearm";</p> <p>(c) by omitting from subsection (2) "firearm" second occurring and substituting "firearm, or the imitation firearm that is a toy,".</p>	Opposed.	<p>This provision suffers from the same challenges as appearance provisions. So called "appearance laws" are problematic for industry due to the inadequately defined powers they provide regulators, and the potential for those powers to be reinterpreted and abused.</p> <p>Not all imitation firearms could be considered to be toys, and toys have no place in regulations dealing with firearms.</p> <p>SIFA understands the need to address intimidation, but feels that this amendment could be much better expressed.</p>

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<p>12. Section 115 amended (Aggravated assault)</p> <p>Section 115(1) of the Principal Act is amended as follows: (a) by omitting from paragraph (c) "firearm," and substituting "firearm; or";</p> <p>(b) by inserting the following paragraph after paragraph (c):</p> <p>(d) displays, whether by carrying it or otherwise, an imitation firearm that is a toy with the intention that another person believes that the toy is a firearm.</p>	<p>Opposed.</p>	<p>This provision suffers from the same challenges as appearance provisions. So called "appearance laws" are problematic for industry due to the inadequately defined powers they provide regulators, and the potential for those powers to be reinterpreted and abused.</p> <p>Not all imitation firearms could be considered to be toys, and toys have no place in regulations dealing with firearms.</p> <p>SIFA understands the need to address intimidation, but feels that this amendment could be much better expressed.</p>
<p>13. Section 118 amended (Silencers and magazines)</p> <p>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".</p>	<p>Opposed.</p>	<p>We note that this item is not linked to the stated objectives of the proposed amendments. SIFA advocates for data driven firearms policy. Regulation must target real risks and not risks which are perceived or imagined.</p> <p>There is no objective data that we are aware of which supports the proposition that firearm suppressors in the hands of fit and proper (i.e., licensed) persons represent a public safety risk. In many overseas jurisdictions (NZ, UK) their use is assumed.</p> <p>There is peer reviewed literature which supports the case for firearm suppressors in certain circumstances. For example, the National Feral (sic) Deer Action Plan promotes the use of suppressors.</p> <p>The proposed definition could be applied to ear muffs or sound deadening panelling often used at shooting ranges.</p>

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<p>14. Section 119A inserted</p> <p>After section 119 of the Principal Act, the following section is inserted in Division 3: 119A. Possession of digital blueprints for manufacture of firearms</p> <p>(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.</p> <p>(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 –</p> <p>(a) authorised by a licence to manufacture the firearm, firearm part, or sound suppressor; or</p> <p>(b) acting in the ordinary course of the person's duties as a police officer, a State Service employee or a State Service officer.</p> <p>(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 –</p> <p>(a) the defendant did not know, and could not reasonably be expected to know, that the defendant possessed the digital blueprint; or</p> <p>(b) the digital blueprint came into the defendant's possession 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.</p>	<p>Supported if appropriate corrections are made before being enacted.</p>	<p>As a general principle, firearms manufacture should be treated in the same way that the manufacture of drugs is treated. There are both legitimate and illegitimate situations in both examples, and legitimate endeavours should not be hampered by ill targeted regulation. Blueprints are only one thing needed to manufacture, there also needs to be intent and capability, all 3 add up to an offence, not just the blueprints.</p> <p>The defence that someone is "(a) authorised by a licence to manufacture the firearm, firearm part, or sound suppressor" should be applied consistently to other sections of this act as indicated in our comments.</p>
<p>(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.</p>	<p>Supported if appropriate corrections are made before being enacted.</p>	<p>The definition of public benefit is too narrowly defined. Licensed firearm dealers and gunsmiths provide a public benefit but are not protected by this section. Increasingly, the servicing and repair of lawful firearms will rely upon the use of modern manufacturing techniques, including the use of digital blueprints and exploded diagrams (e.g., parts catalogues).</p> <p>Note also our earlier comments regarding an increased reliance upon the private sector for what were once "in house" government functions and necessity of enabling interstate trade.</p>

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(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 (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.	Supported if appropriate corrections are made before being enacted.	The definition of public benefit is too narrowly defined. Licensed firearm dealers and gunsmiths provide a public benefit but are not protected by this section. Increasingly, the servicing and repair of lawful firearms will rely upon the use of modern manufacturing techniques, including the use of digital blueprints and exploded diagrams (e.g., parts catalogues). Note also our earlier comments regarding an increased reliance upon the private sector for what were once "in house" government functions and necessity of enabling interstate trade.
(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.	Opposed.	As written, without modifications to (4) and (5) above, this section removes any defence for licensed firearms dealers and gunsmiths to go about their lawful business and to innovate.
(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.	Supported if appropriate corrections are made before being enacted.	The definition of public benefit is too narrowly defined. Licensed firearm dealers and gunsmiths provide a public benefit but are not protected by this section. Increasingly, the servicing and repair of lawful firearms will rely upon the use of modern manufacturing techniques, including the use of digital blueprints and exploded diagrams (e.g., parts catalogues). Conducting business as a licensed firearm dealer or gunsmith must be added to the specific list of defences.
(8) In this section – digital blueprint means – (a) any type of digital, or electronic, reproduction of a technical drawing of the design of an object; and (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).	Opposed.	This proposal as written is, quite simply, unworkable. This proposal captures any number of online reference sites legitimately accessed by firearm retailers, collectors and enthusiasts. It captures user guides provided by manufacturers or wholesalers to dealers and consumers necessary for safely maintaining firearms. It captures the staff of firearm importers and wholesalers accessing technical documents held by international manufacturers for the purposes of informing regulators in Australia (e.g. when categorisation decisions are being made). It precludes current and future generations of gunsmiths from gaining and maintaining the knowledge required to safely perform their jobs.

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<p>15. Section 129 substituted</p> <p>Section 129 of the Principal Act is repealed and the following section is substituted:</p> <p>129. Amnesty</p> <p>(1) If a person –</p> <p>(a) who is not authorised under this Act to have possession of a firearm, firearm part or ammunition has possession of a firearm, firearm part or ammunition; or</p> <p>(b) has possession of a firearm, firearm part or ammunition which the person is not authorised to possess under this Act –</p> <p>and that person voluntarily brings the firearm, firearm part 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 or ammunition by that person.</p> <p>(2) A firearm, firearm part or ammunition that is surrendered to the Commissioner is to be disposed of as the Commissioner determines.</p>	<p>Supported.</p>	<p>SIFA is fully supportive of any and all efforts to rid our streets of illegal firearms. It is noted that Tasmania was astute enough to allow for the registration and sale of suitable firearms handed in under the permeant national amnesty, and it is hoped that the Commissioner will continue to support this common sense approach towards the improvement of public safety.</p>

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<p>16. 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 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"; (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>	<p>Supported</p>	<p>SIFA is fully supportive of any and all efforts to rid our streets of illegal firearms.</p> <p>It is noted that Tasmania was astute enough to allow for the registration and sale of suitable firearms handed in under the permeant national amnesty, and it is hoped that the Commissioner will continue to support this common sense approach towards the improvement of public safety.</p> <p>It would benefit informed policy development if the Auditor-General differentiated between legally held firearms, surrendered firearms and illicit firearms (and parts) when reporting on the findings of the annual independent audit.</p>
<p>17. Schedule 1A substituted Schedule 1A to the Principal Act is repealed and the following Schedule is substituted: (REFER TABLE SCHEDULE 1A – INFRINGEMENT NOTICE OFFENCES)</p>		<p>No comment</p>
<p>18. Repeal of Act This Act is repealed on the first anniversary of the day on which the last uncommenced provision of this Act commenced.</p>		<p>No comment</p>