

Queensland Community Safety Bill 2024

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SUBMISSION

Queensland Community Safety Bill 2024



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Introduction

We appreciate the opportunity to comment on the Queensland Community Safety Bill 2024, but we are concerned at the extremely short period allowed in light of the complexity of the proposed legislation and the high risk of unintended consequences. Requests for an extension of time for submissions have been rejected and it would seem that the time frame is more a sign of political rhetoric rather than a genuine attempt to legislate effectively.

We offer comment on the possibility of unintended consequences and the potential for misuse of police power in applying the legislation as proposed.

Authors

Shooters Union Queensland Pty Ltd Executive Committee.

Intended Audience

- Legal and Safety Committee, Queensland Parliament
- The Hon Mark Ryan, Minister for Police and Community Safety
- Executive members Shooters Union Qld Pty Ltd

Background and authority to comment

Shooters Union of Qld Inc was formed in 2005, obtaining Weapons Licensing club approval in that year. In 2018, the organisation was restructured to become a proprietary limited liability company because of rapidly increasing membership numbers. Shooters Union Queensland Pty Ltd is the second largest shooting organisation in Queensland.

Shooters Union Australia Inc was formed in 2013 in answer to requests by members in other states. The organisation was changed to a company limited by guarantee in 2018, again because of rapidly increasing membership Australia-wide.

Shooters Union has been represented at all Ministerial Advisory groups since formation, both in Queensland and in other states. Shooters Union Australia Ltd is represented on the Commonwealth Firearms Advisory Council.

General Comments

The proposed legislation primarily aims to define additional offences and impose more severe penalties, facilitating the declaration of individuals as not "fit and proper" to hold a firearm. Including relatively minor offences under this legislative framework will effectively reduce the number of firearms in the community, decrease the number of licensed shooters, and diminish the number of firearms dealers in the trade.

Most of the offences that the legislation considers as grounds for precluding a person from holding a firearm licence are unrelated to firearms and, in many cases, unrelated to violence. There is no clear correlation between these proposals and an increase in public safety. In fact, there is no statistical evidence indicating that holders of legitimate firearms licences pose a risk to public safety.

The Explanatory Notes accompanying the Bill state that:

Queensland has experienced an increase of more than 60% in the number of registered firearms within the community since 2013, with the number of registered firearms increasing to over 1 million firearms in early 2024. The increased availability of firearms within the community grants further opportunities for these deadly weapons to be misappropriated. The rate of firearms reported as stolen has also increased by at least 21% within the last decade, with over 779 firearms reported stolen in 2023. Coupled with continuing challenges in recovering stolen firearms and the longevity of a functioning firearm, there is a corresponding increase in the risk that these weapons come into the possession of high-risk individuals and are used in the commission of an offence. The risk to the community is apparent when considering the Queensland Community Safety Bill 2024 Page 3 increased number of reported offences involving firearms in Queensland, which has risen at least 30% in the last decade, with approximately 3,352 reported firearm offences in 2023.

The proposed legislation does not effectively address the core issues of firearms theft or the enhancement of penalties for such thefts.

There is no conclusive evidence showing how many legally owned firearms have been diverted and used in criminal activities. Simply stating this risk does not validate it; concrete evidence should accompany such claims.

The increased number of reported offences involving firearms in Queensland, is cited as justification for the proposed legislation. However, it is crucial to differentiate how many of these offences involved stolen firearms and to consider that most incidents result in multiple charges.

The assertion that a higher number of legally held firearms leads to more thefts and offences lacks substantiation and appears to be driven by political motives rather than factual evidence. This rationale is reminiscent of similar arguments used in Western Australia, where the government attempted to convince the public of the safety benefits of reducing the number of firearms and licences, despite the proven ability of lawful owners to safely use and comply with restrictive legislation.

The proposed legislation seeks to broaden the definition of a firearm to include antique firearms and replicas. This raises significant concerns about the practicalities and fairness of enforcing such regulations.

Firstly, how can a dealer or an antique shop selling antique firearms determine if a buyer is subject to a firearms prohibition order (FPO)? There is no available list or mechanism to verify this information unless the purchaser voluntarily discloses it. This lack of transparency places an unreasonable burden on sellers.

Additionally, individuals selling antique firearms face similar challenges. Currently, no firearms licence is required to own an antique firearm or a replica. If the owner of an antique firearm unknowingly sells it to someone with an FPO, they could face a severe penalty of up to 13 years in prison under the proposed changes. This is disproportionate and unjust, given the lack of accessible information about FPOs.

Furthermore, the proposed legislation's ambiguity regarding items such as Gel Blasters exacerbates these concerns. Gel Blasters are presently classified as restricted items. However, if they are redefined as replicas of firearms, suppliers who sell them to individuals with FPOs could be prosecuted, despite having no means to verify their customers' FPO status.

The legislation also defines a "firearm-related item" broadly to include:

- (a) Ammunition;
- (b) Magazines for firearms;
- (c) Silencers or any device intended to reduce the noise of a discharged firearm;
- (d) Other items prescribed by regulation.

This definition could extend to innocuous items such as a flint for a flintlock firearm, potentially leading to a 5-year prison term for its sale. Additionally, any firearm parts or other components (e.g., springs, screws) would only be sellable to licensed individuals as they would be classified as firearm-related items. While there is an exemption for individuals unknowingly selling to someone with an FPO on their premises, this does not extend to the supply of firearm-related items.

These proposed regulations place an impractical and unjust burden on legitimate dealers and private individuals, creating a risk of severe penalties for actions they cannot reasonably prevent.

Proposed Amendments –

Police Powers & Responsibilities Act

Chapter 21A: Police may order the removal of online (social media) posts and impose penalties for non-compliance, irrespective of whether procedural fairness was followed. This could lead to arbitrary censorship and infringe on freedom of expression.

Section 26B: Adding publishing offensive content on social media (excluding journalists) as a summary offence with a 3-year jail term could deter individuals from sharing important information and opinions, thus impacting public discourse.

Section 69: Defining publishing content as "going armed so as to cause fear" with a 3-year jail term is overly broad and could result in wrongful convictions based on subjective interpretations.

Section 328A: Criminalising the publication of dangerous driving (hooning or bad driving) with a 5-year jail term could discourage the public from sharing vital evidence like dashcam footage, which is often crucial for law enforcement.

Section 335: Making the publication of common assault a summary offence with a 4-year jail term could interfere with community and police reliance on shared footage to solve crimes.

Section 339: Adding a 9-year jail term for publishing an assault occasioning bodily harm is excessively punitive and could prevent individuals from coming forward with critical information.

Section 419: Criminalising the publication of burglary with a 16-year jail term is disproportionately harsh and may dissuade public cooperation in crime reporting.

These amendments could result in severe penalties for individuals sharing information to assist law enforcement, undermining community efforts to solve crimes and reducing the flow of valuable information to the police.

Section 715: Weapons not claimed by their owners within 3 months are forfeited to the state. Owners must prove ownership within this timeframe, which is difficult given current administrative inefficiencies in the Commissioner's register and the Weapons Licensing Branch's responsiveness.

Weapons Act

Firearms Prohibition Orders (FPOs):

Division 1: Introducing new offences under FPOs, disqualifying individuals with FPOs in Queensland or other states. This places an unreasonable burden on suppliers who cannot verify a customer's FPO status across different states.

Section 10B: Fit and Proper provisions disqualify individuals with certain domestic violence orders (DVOs) or other offences from obtaining a firearms licence for 5 to 10 years, regardless of whether the offence occurred in Queensland or another state. This lack of a reliable verification method disadvantages dealers.

Section 10C: Imposing retrospective legislation by disqualifying dealer associates convicted of new offences within the past 10 years. This unfairly penalises businesses and individuals for actions that were not offences at the time.

Section 27B: Extending serious offence amendments to dealers' licences and associates, potentially revoking licences due to an associate's offences. This could impact entire families, as associates often include family members.

Section 53: Restricts excluded persons from using a shooting range. Range Operators or Range Officers cannot practically verify exclusion status without individuals' honest disclosure on the approved form, including for interstate shooters.

Section 67: Prohibits individuals with FPOs from possessing replicas, toys, gel blasters, and other similar items, criminalising the possession of innocuous items.

Section 93: Introduces confusing distinctions between fit and proper persons, appropriate persons, persons of good repute, and disqualified persons, complicating compliance and enforcement.

The authority granted to the Commissioner of Police and courts to issue FPOs, and the broad criteria for doing so, pose significant risks. Emergency FPOs issued by police should be subject to immediate court review to prevent misuse.

Judicial Review Act

Clause 44: Removes the requirement to provide reasons for declaring someone not fit and proper or for applying an FPO. This lack of transparency undermines the right to information and fair treatment.

Explosives Act

Section 43A: Requires sighting a customer's licence and verifying it online before selling ammunition. Given the lack of interstate licence verification technology, this imposes an undue burden on dealers and interstate visitors, potentially hindering lawful transactions.

Summary Offences Act

The addition of approximately 70 new charges to Schedule 1AA, Class B serious offences, will result in automatic rejection or revocation of licences. These charges include:

- Unlawful assembly, riot, and mutiny
- Riot
- Threatening violence
- Habitually consorting with recognised offenders
- Dangerous operation of a vehicle
- Wearing or carrying prohibited items in public places
- Sending dangerous goods under false descriptions
- Assaults occasioning bodily harm

Individuals convicted of these offences will be unable to hold a shooter's licence or act as an associate on a dealer's licence for 10 years after release or parole completion. Dealers will need to immediately verify that their associates have not been convicted of these offences in the last 10 years to avoid business suspension.

Associates, often family members, could face FPOs affecting the entire family. The broad definition of an associate includes anyone with financial interest, relevant power, or position in the business, complicating compliance and potentially jeopardising business operations.

In summary, the proposed legislation's broad and extensive amendments are likely to result in severe unintended consequences, penalising innocent individuals and obstructing community involvement in crime reporting and resolution. It is essential to reassess these provisions to ensure they are fair, practical, and effective in enhancing public safety without infringing on individual rights.

Unintended Consequences

Firearms Prohibition Orders

Firearms Prohibition Orders (FPOs) can be applied to associates of individuals, not to be confused with a Dealer's Associate. This results in a lifetime ban from obtaining a shooter's licence or a dealer's licence. Every FPO issued, regardless of the reason or length of time, disqualifies the person for life because the person is considered not fit and proper to obtain a licence.

A person with a firearms licence who accepts a Facebook friend who has an FPO will lose their licence and have an FPO applied to themselves. This excessively punitive measure could lead to individuals being unfairly penalised for innocuous social media interactions.

Consorting Offence

Under section 77B, a person commits an offence if they habitually consort with two or more recognised offenders, whether together or separately, after receiving an official warning. This could apply to family members or close friends and result in an FPO for attending family gatherings, weddings, or other social events.

Prohibited Items in Public Places

Carrying prohibited items, such as pocket knives, in a public place where they are visible can result in an FPO. This includes items carried in a car or on a belt. The definition of a public place is so broad that it encompasses almost every location except private dwellings, leading to potentially unfair penalisation for ordinary activities.

Assault Occasioning Bodily Harm

An assault occasioning bodily harm includes any assault causing minor harm, such as a bruise or scratch. Police sources indicate that these incidents are common and currently incur minor penalties, such as a \$150 fine. The proposed legislation could impose disproportionately severe consequences for minor incidents.

Matters to Consider for Making Firearm Prohibition Orders—Adults

Section 141E defines an individual as an associate of a recognised offender if they have a romantic or familial relationship with the offender or if they associate with the offender in any capacity, including electronically. This could include Facebook friends, posts, or even electronic payment of an account. Such broad definitions lack common sense and could lead to unfair and unreasonable applications of FPOs.

In summary, the proposed legislation's wide-ranging amendments are likely to result in severe unintended consequences, penalising innocent individuals and obstructing community involvement in crime reporting and resolution. It is crucial to reassess these provisions to ensure they are fair, practical, and effective in enhancing public safety without infringing on individual rights.

Recommendations

Extended Consultation Period

The proposed legislation encompasses amendments to numerous Acts of Parliament, making comprehensive analysis within the given timeframe unfeasible. Therefore, we recommend the following actions to ensure thorough consideration and fair application of the law:

The consultation period should be extended by at least three months to allow stakeholders sufficient time to analyse and provide detailed feedback on the proposed legislation.

Ministerial Forum Discussion

The legislation should be presented to and discussed by the Ministerial Forum, as has been repeatedly promised for all legislation relating to firearms. This forum can provide a platform for constructive dialogue and expert input to refine the proposed amendments.

These recommendations aim to ensure that the proposed legislation is practical, fair, and effective, addressing the key issues without imposing undue burdens on lawful firearm owners and dealers.