



SUBMISSION

Police Powers and Responsibilities and Other Legislation Amendment Bill 2019

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Part 9 Amendment of Weapons Act 1990

Clause 78 Amendment of s 28 (Suspension of licence by giving suspension notice)

Section 28(2)(c)(ii), '30 days'—

omit, insert— 90 days

The existing section 78 says:

28 Suspension of licence by giving suspension notice

- (1) An authorised officer may, by a suspension notice given to a licensee, suspend the licence if the authorised officer—
 - (a) is satisfied that the licensee—
 - (i) has been charged with an offence against any law in force in Queensland or elsewhere—
 - (A) relating to the misuse of drugs; or
 - (B) involving the use or threatened use of violence; or
 - (C) involving the use, carriage, discharge or possession of a weapon; or
 - (ii) is temporarily unable to comply with a condition of the licence; or
 - (b) considers, on reasonable grounds, that the licensee may no longer be a fit and proper person to hold a licence. Note— Section 10B states matters for consideration.
- (2) The licence is suspended until—
 - (a) if subsection (1)(a)(i) applies—
 - (i) the proceeding for the charge ends; or
 - (ii) the suspension is lifted by an authorised officer; or
 - (b) if subsection (1)(a)(ii) applies—the authorised officer is satisfied the licensee is able to comply with the condition and lifts the suspension; or
 - (c) if subsection (1)(b) applies—the earlier of the following days—
 - (i) the day the authorised officer is satisfied the person is a fit and proper person to hold a licence and lifts the suspension;
 - (ii) the day 30 days after the licence is suspended.
- (3) If a licensee whose licence is suspended under this section holds a permit to acquire, the permit is also suspended.
- (4) However, if the authorised officer is acting on the basis of criminal intelligence or other information of the kind mentioned in section 10B(1)(ca) or 10C(1), the authorised officer may suspend the licence because the licensee is not a fit and proper person only if the commissioner or deputy commissioner, acting personally, approves the licence be suspended on that basis.

FDAQ Comment 1:

On the basis that there are safeguards and reasons for licence suspension and there is an ability for the Authorised Officer to lift the suspension earlier than the 90 days proposed, we support the amendment, which apparently seeks to assist licensees in establishing or re-establishing their eligibility for licence.

Clause 79 Insertion of new s 70A After section 70—

insert—

70A Obligations of armourers when modifying firearm to become different category of weapon

- (1) This section applies if a person asks a licensed armourer to modify a firearm so that the firearm becomes a different category of weapon (the new weapons category).
- (2) Before modifying the firearm, the licensed armourer must be satisfied the person holds a licence authorising the person to possess a firearm in the new weapons category.

Maximum penalty—100 penalty units.

FDAQ Comment 2:

This seems an odd place to insert this section. The preceding section 70 relates to employees of dealers and armourers.

FDAQ does not support this amendment. Where an armourer is asked to modify a firearm to a different category, the firearm will be held by the armourer until a permit-to-acquire (PTA) is issued for the different category. The firearm is therefore in safe hands with the armourer and the firearm will not be released to the licensee until a PTA is presented. The Explanatory Notes which accompany the proposed amendments state, in relation to this amendment:

Currently, armourers who modify a firearm in such a way that it changes the category the firearm would fall into under the Categories Regulation are under no obligation to ensure the owner has the required licence to possess the modified firearm. Nor do they have a

responsibility to notify the WL about the modification. This creates two problems. Firstly, it means a person may come into possession of a category of firearm they are not lawfully entitled to possess. Secondly, it makes it difficult for the police commissioner to perform the role imposed by section 49 of the Weapons Act to maintain an accurate register of all firearms, including their category.

Whilst this may be technically true, the practical application currently provides the safeguard. Armourers must notify Weapons Licensing when they modify a firearm to change the calibre or change the category. An armourer is currently required by law to release a modified firearm only to a person with a licence for the new category and in the case of a modification which changes the category, a PTA must be presented since the firearm is now completely different and requires a PTA in the new category. This pre-supposes that Weapons Licensing will not issue a PTA in a category that the licensee does not possess. Further, the penalty is excessive for a routine modification which is already governed by existing legislation.

Clause 80 Amendment of s 71 (Licensed dealers and armourers to keep register)

(1) Section 71(2) and (5), 'under a'— 1 2 Clause 3 4 C omit, insert—

by

FDAQ Comment 3:

FDAQ has no problem with this amendment, being simply better wording of the section.

(2) Section 71— insert—

(3A) A licensed armourer must, for each modification of a firearm under section 70A, enter immediately in the weapons register the particulars prescribed by regulation.

Maximum penalty—20 penalty units or 6 months imprisonment.

(3B) A licensed armourer must notify an authorised officer in the approved form of each modification of a firearm under section 70A within 14 days after the modification happens.

Maximum penalty—20 penalty units or 6 months imprisonment.

(3) Section 71(5), 'subsection (4)'— omit, insert—

subsection (6) (4) Section 71(3A) to (6)— renumber as section 71(4) to (8).

The existing section 71 states:

71 Licensed dealers and armourers to keep register

(1) A licensed dealer or licensed armourer must keep at the premises stated on the licence a weapons register.

Maximum penalty—20 penalty units or 6 months imprisonment.

(2) A licensed dealer or licensed armourer must, for each transaction involving a weapon, enter immediately in the weapons register the particulars prescribed under a regulation.

Maximum penalty—20 penalty units or 6 months imprisonment.

(3) A licensed dealer or licensed armourer must notify an authorised officer in the approved form of each transaction involving a weapon within 14 days after the transaction happens.

Maximum penalty—20 penalty units or 6 months imprisonment.

(4) A person must not remove a part of the weapons register, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units or 6 months imprisonment.

(5) Subsection (4) does not prevent the correction of the weapons register in a way specified under a regulation.

(6) In this section— remove includes make illegible or unintelligible, erase or disguise. transaction means receipt, acquisition, sale or transfer. weapons register means—

- (a) a book in the approved form, bound in a way satisfactory to an authorised officer;
- or
- (b) a computer register approved by the commissioner.

FDAQ Comment 4:

FDAQ does not support this amendment in its current form. The penalties are far too severe when the term "immediately" is not defined. We therefore look at the Oxford Dictionary for a definition. As an adverb, which is the context of existing and proposed legislation, the term means "instantly". To do something instantly in a business or workshop situation may not be practically possible. As a conjunction, the term means "as soon as". The legislation needs to be changed to clarify that the term is used as an conjunction, or better yet, replace the word with the meaning of the conjunction, which would read "as soon as possible".

This amendment would be better placed in the Weapons Regulation with the abovementioned modification.

Oxford Dictionary:

ADVERB

- 1 **At once; instantly.**
'I rang immediately for an ambulance'
- 2 **Without any intervening time or space.**
'she was sitting immediately behind me'
- 2.1 In direct or very close relation.
'they would be the states most immediately affected by any such action'

CONJUNCTION

British

- **As soon as.**
'let me know immediately she arrives'

Clause 81 Amendment of s 132 (Conditions for concealable firearms licence)

Section 132(1)(d) and (e)— omit, insert—

(d) a weapon with a magazine capacity of more than 10 rounds.

Clause 82 Amendment of sch 2 (Dictionary)

(1) Schedule 2, definition magazine—
omit.

(2) Schedule 2—
insert—

detachable magazine, in relation to a weapon, means a receptacle for holding ammunition, that can be detached from the weapon, from which ammunition is loaded into the chamber of the weapon.

integral magazine, in relation to a weapon, means a receptacle for holding ammunition, that cannot be easily removed from the weapon, from which ammunition is loaded into the chamber of the weapon.

magazine, in relation to a weapon, means—

- (a) a detachable magazine; or
- (b) an integral magazine.

magazine capacity, of a weapon, means the maximum number of rounds of ammunition of a particular calibre that are designed to be held in—

- (a) if the weapon has an integral magazine—the integral magazine; and
- (b) if the weapon has a detachable magazine—the detachable magazine.

FDAQ Comment 5:

FDAQ supports the amendment of the Dictionary.

Part 10 Amendment of Weapons Categories Regulation 1997

Clause 83 Regulation amended

This part amends the Weapons Categories Regulation 1997.

Clause 84 Omission of s 1A (Definition)

Section 1A— omit.

Clause 85 Amendment of s 3 (Category B weapons)

Section 3(1)(f), 'not greater'— omit, insert—

not more

Clause 86 Amendment of s 4 (Category C weapons)

Section 4, 'no greater'— omit, insert—

of not more

Clause 87 Amendment of s 5 (Category D weapons)

Section 5, 'greater'— omit, insert—

more

FDAQ Comment 6:

FDAQ has no problem with the above proposed amendments.

Part 11 Amendment of Weapons Regulation 2016

Clause 88 Regulation amended

This part amends the Weapons Regulation 2016.

Clause 89 Amendment of s 8 (Additional particulars to accompany application for licence)

(1) Section 8, from 'prescribed' to 'follows'— omit, insert—

the following particulars for each firearm owned by the applicant are prescribed

(2) Section 8(a), from 'each'— omit, insert—

the firearm;

(3) Section 8(b)— omit, insert—

(b) the chamber capacity and magazine capacity of the firearm;

Existing legislation states:

8 Additional particulars to accompany application for licence

For section 13(1)(c)(iii) of the Act, the prescribed particulars are as follows—

(a) the type, action, make, model, serial number and calibre of each firearm owned by the applicant;

(b) the magazine or chamber capacity of the firearm;

(c) if the application relates to proposed recreational shooting—enough information about the location, area and surrounding features of the rural land on which the shooting is to be done to enable the land's suitability for recreational shooting to be assessed.

FDAQ Comment 7:

FDAQ understands the reason for the change of "or" to "and" but this proposed amendment will have enormous consequences. It means that the chamber capacity and the magazine capacity will have to become a part of the description of the firearm, therefore it will

become a part of the register and will need modification to official forms (eg form 10, form 16, form 31 etc) and will require modification to all PTAs issued, to the online PTA process and also to online licence application and renewal processes. Is the problem being experienced such that this small amendment will require massive overhaul of all systems?

Clause 90 Amendment of s 24 (Prohibition on possession of particular magazine for category H weapons)

(1) Section 24, heading, from 'magazine'— omit, insert—

detachable magazines

(2) Section 24(2)— omit, insert—

(2) The holder must not possess a detachable magazine for the weapon that is capable of holding more than 10 rounds of ammunition.

Maximum penalty—10 penalty units.

Existing legislation says:

24 Prohibition on possession of particular magazine for category H weapons

(1) This section applies to the holder of a concealable firearms licence for sports or target shooting who is the registered owner of a category H weapon held under the licence.

(2) The holder must not possess a magazine, with a maximum capacity of more than 10 rounds, for the weapon.

Maximum penalty—10 penalty units.

Clause 91 Replacement of s 34 (Prohibition on possession of magazine for particular category B weapons)

Section 34— omit, insert—

34 Prohibition on possession of particular detachable magazines

(1) This section applies to the holder of a firearms licence who is the registered owner of a category B weapon held under the licence.

- (2) The holder must not possess a detachable magazine for the weapon that is capable of holding more than—
- (a) for a weapon that has a lever action but is not a lever action shotgun, or has a pump action—10 rounds of ammunition; or
 - (b) for a weapon that is a repeating centre fire rifle—15 rounds of ammunition.

Maximum penalty—10 penalty units.

- (3) However, subsection (2) does not apply in relation to a detachable magazine for a category B weapon if—
- (a) a condition of the firearms licence authorises the holder to possess the magazine; or
 - (b) the holder is the registered owner of a category D or R weapon, held by the holder under another licence, in which the magazine may be lawfully used.

Existing legislation says:

34 Prohibition on possession of magazine for particular category B weapons

- (1) This section applies to the holder of a firearms licence who is the registered owner of a category B weapon held under the licence.
- (2) The holder must not possess a magazine for the weapon—
- (a) if the weapon has a lever or pump action—with a maximum capacity of more than 10 rounds; or
 - (b) if the weapon is a repeating centre fire rifle—with a maximum capacity of more than 15 rounds.

Maximum penalty—10 penalty units.

- (3) This section does not apply if—
- (a) the holder is the registered owner of a category D or R weapon, held by the holder under another licence, in which the magazine may be lawfully used; or
 - (b) a condition of the licence mentioned in subsection (1) authorises the holder to possess a magazine, for a category B weapon, with a maximum capacity of more than—
 - (i) if the weapon has a lever or pump action—10 rounds; or
 - (ii) if the weapon is a repeating centre fire rifle—15 rounds.

FDAQ Comment 8:

FDAQ has no problem with this amendment being simply a clarification of detachable and integral magazines.

Clause 92 Amendment of s 37 (Conditions of minor's licence)

- (1) Section 37(1)(c) and (d)— omit, insert—
 (c) a category H weapon with a magazine capacity of more than 10 rounds;
- (2) Section 37(1)(e)—
 renumber as section 37(1)(d).
- (3) Section 37(2), 'subsection (1)(e)'— omit, insert—
 subsection (1)(d)

Existing legislation says:

- (c) a category H weapon with a magazine with a maximum capacity of more than 10 rounds;
- (d) a category H weapon, designed to be used without a magazine, that has a maximum capacity of more than 10 rounds;
- (e) a category H weapon that has a calibre of more than .38 inch.
- (2) Despite subsection (1)(e), an authorised officer may, by a condition endorsed on the licence, authorise the licensee to possess and use a category H weapon, that has a calibre of more than .38 inch, if the authorised officer is satisfied the applicant is to possess the weapon for use in an accredited event.

FDAQ Comment 9:

FDAQ has no problem with these amendments, being better wording and renumbering

Clause 93 Amendment of s 57 (Other particulars licensed dealer or licensed armourer to enter in weapons register)

Section 57(1)(c)— omit, insert—

- (c) the chamber capacity and magazine capacity of the weapon.

Clause 94 Amendment of s 59 (Particulars to be entered in collection register kept by licensed collector)

Section 59(1)(c)— omit, insert—

(c) the chamber capacity and magazine capacity of the weapon;

Clause 95 Amendment of s 103 (Information licensed dealer involved in acquisition of weapon to give to authorised officer)

Section 103(1)(e)— omit, insert—

(e) the chamber capacity and magazine capacity of the weapon.

Clause 96 Amendment of s 104 (Information particular persons who have sold or otherwise disposed of weapon to give authorised officer)

Section 104(1)(e)— omit, insert—

(e) the chamber capacity and magazine capacity of the weapon;

FDAQ Comment 10:

Clauses 93 to 96 require the chamber AND magazine capacity to be entered into dealers, armourers and collectors registers and other information relating to PTAs rather than the previous legislation which required the chamber OR magazine capacity to be recorded. This change in legislation will require massive changes to registers, forms, reporting, databases etc (as per our previous comment). We do not believe that the problems currently being encountered because of existing wording are sufficient to warrant the enormous repercussions of these amendments.

Clause 97 Amendment of s 161 (Handgun shooting competition that is prescribed to be an accredited event)

Section 161(a), 'magazine with a maximum capacity'— omit, insert—
magazine capacity

FDAQ Comment 11:

FDAQ supports this amendment as a simple improvement to wording.