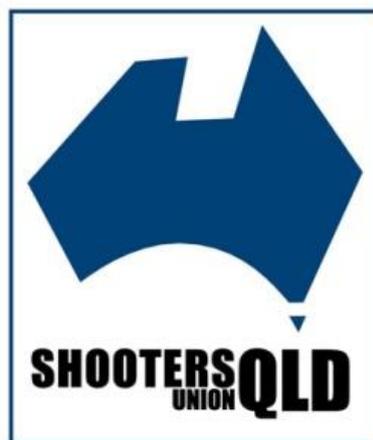


# SUBMISSION

## Corrective Services and Other Legislation Amendment Bill 2020



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## 1. General Comment

## 2. Authors

Jan Linsley on behalf of Shooters Union Queensland Pty Ltd Executive Committee.

## 3. Intended Audience

Legal Affairs and Community Safety Committee;  
Executive members Shooters Union Qld Pty Ltd

## 4. Background and authority to comment

- 4.1 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 company limited by guarantee because of rapidly increasing membership numbers. Shooters Union Queensland Pty Ltd is the second largest shooting organisation in Queensland.
- 4.2 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.
- 4.3 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.

## 5. Amendments to the Weapons Act 1990

### 5.1 Clause 62

*Amendment of s 67 (Possessing and acquiring restricted items)*

Insertion of Section 67 (3A)

*(3A) It is a reasonable excuse for a person to possess or acquire a restricted item that is a replica firearm if -*

The existing definition of a restricted item in the current Weapons Regulation

#### 9 *Restricted items (Act, s 67)*

*The following items are restricted items for section 67 of the Act—*

*Editor's note— Section 67 (Possessing and acquiring restricted items) of the Act*

- (a) handcuffs, thumbcuffs or other similar restraints;*
- (b) nunchaku or kung-fu sticks or any similar device which consists of 2 hard non-flexible sticks, clubs, pipes or rods connected by a length of rope, cord, wire or chain constructed or designed to be used in connection with the practice of a system of self-defence and which if used offensively against a person is or are capable of causing bodily harm;*
- (c) a billy club, a baton or any device constructed or designed as a telescopic baton, not being a toy or a category M weapon, that if used is capable of causing bodily harm;*
- (d) any studded glove which if used offensively against a person is capable of causing bodily harm;*
- (e) a laser pointer.*

By definition, therefore, a replica firearm is not currently a restricted item. However, we note from the Explanatory Notes that:

*The Bill contains amendments which support a new policy regulating the acquisition and possession of replicas of firearms introduced in response to a rise in the number of incidents of the misuse of such items in the community. The regulation of replica firearms is brought about through amendments to the Weapons Categories Regulation 1997 by classifying replicas of firearms as 'restricted items'. These amendments are to be made separately to this Bill.*

It is unreasonable to present the Amendment Bill until the Weapons Categories Regulation 1997 has been amended. First, the Amendment Bill is meaningless unless and until the Weapons Categories Regulation 1997 is amended. Secondly, it is impossible to properly assess the efficacy and impact of the Bill unless and until the Weapons Categories Regulation 1997 is amended and the proposed definition of 'replica' is articulated. There are good reasons to believe that it may be impracticable adequately to distinguish between replicas that should be restricted and replicas that are merely toys.

The Amendment Bill does not represent good or reasonable regulatory policy. It does not represent a justifiable balance between the interests of public safety and the liberty of individuals. The inclusion of replicas within the category of restricted items could quite conceivably include what by any other standard are regarded as toys. The requirements to belong to a club or have a collectors licence in order to possess a toy does not contribute in any way to the interests of public safety and is patently ridiculous. There is no evidence that replicas are a threat to public safety (as opposed to causing Police some inconvenience) or are such a threat that cannot be adequately addressed by existing legislation. Threatening behaviour and using any object to cause fear are already criminal offences. The addition of replicas in the definition of restricted items is, therefore, unnecessary and should be deleted.

It would appear that the proposed amendment intends to regulate gel blasters. If this is the case, they should be mentioned by name (and defined) and replicas should be specifically excluded.

## 5.2 Clause 62

### *Amendment of s67 (Possessing and acquiring restricted items)*

Insert Section 67 (3A) (a)(i)

- (a) *both of the following apply -*
- (i) *the person is a member of an association, whether or not incorporated, that provides recreational activities involving replicas of firearms and the activities are conducted other than in, and in a way not reasonably able to be seen from, a public place;*

The definition of a public place in the current Weapons Act 1990, sch 2:

*public place means any place that the public is entitled to use, is open to the public, or used by the public, whether on payment or otherwise.*

In relation to conduct involving a weapon in a public place, s 57 of the Weapons Act 1990 provides:

- (1) *In this section—*  
*public place includes a vehicle that is in or on a public place.*  
*weapon includes—*
- (a) *an antique firearm, spear gun, longbow or sword; and*  
 (b) *a replica of a weapon; and*  
 (c) *a replica of a thing mentioned in paragraph (a); and*  
 (d) *a slingshot or shanghai.*
- (2) *A person must not, without reasonable excuse, carry a weapon exposed to view in a public place. Maximum penalty—40 penalty units or 6 months imprisonment.*
- (3) *A person must not, without reasonable excuse, carry in a public place a loaded firearm or a weapon capable of being discharged. Maximum penalty—120 penalty units or 2 years imprisonment.*

*(4) A person must not, without reasonable excuse, discharge a weapon in, into, towards, over or through a public place. Maximum penalty—200 penalty units or 4 years imprisonment*

The structure and breadth of the definition is such that “public place” could include a shooting range or private property where it is legal to carry a firearm:

- a shooting range may be a place that is “*used by the public*”;
- activities on a shooting range may be visible to members of the public from other land. Thus, a person on a shooting range may “carry a weapon exposed to view in a public place” while carrying out lawful and safe shooting activities.

The definition of public place should be changed to reflect what is the generally accepted view of a public place.

Shooters Union Qld Pty Ltd further suggests that the legislation includes a provision for the granting of an exemption for public and historical displays, including re-enactments.

### **5.3 Clause 62**

#### *Amendment of s67 (Possessing and acquiring restricted items)*

Insert Section 67 (3B)

*(3B) It is a reasonable excuse for a person to possess or acquire a weapon that is permanently inoperable and would be, if it were not permanently inoperable, a category A, B or C weapon if—*

*(a) the person is the holder of a collector’s licence; and*

*(b) the person’s reason for possession or acquisition of the weapon is for it to be part of the holder’s collection of weapons.*

Currently, no licence is required for a permanently inoperable firearm of those categories. The effect of this section is, therefore, to create by a side-wind an additional licence requirement for a permanently inoperable category A, B or C weapon. If it is intended that an additional category of firearms licence be created then this must be done directly and on sound reasons of policy.

The creation of an additional licence requirement is not good or reasonable regulatory policy. The licence required is a collector's licence which has specific requirements similar to a category H licence. This would be justified only if there is evidence that a permanently inoperable category A, B or C firearm presents a threat to public safety that can only be mitigated by forcing an individual to go through the numerous obstacles required to obtain any sort of licence. The requirement that the holder of a permanently inoperable category A, B or C firearm be required to have a collection in order to hold a permanently inoperable category A, B or C firearm is an unjustifiable regulatory burden.

## 5.4 Clause 63

Replacement of s168B (Amnesty declaration)

Shooters Union Qld Pty Ltd supports the establishment of a permanent amnesty and we agree that firearms should be disposed to licensed firearms dealers and police stations.

*168B(4) The approved licensed dealer must surrender the firearm or prescribed thing to a police officer.*

We do not support the requirement for a dealer to surrender the firearm to a police officer. This was not required during the last two amnesties because it was recognised that dealers were providing a service to the community and to police by removing illegal firearms from circulation and repurposing them to legal firearms available for sale. There is no incentive for a dealer to take an illegal firearm and give it away. This clause completely negates the whole purpose of an amnesty.

## 6. Conclusion

It would seem that the Bill falls short of sensible amendment and therefore increases red tape for responsible users of firearms.