



# SUBMISSION

## Corrective Services and Other Legislation Amendment Bill 2020

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## Introduction

The Firearm Dealers Association – Queensland Inc. (FDAQ) was established in 1983. It is an industry body, whose members are required to be the holders of a current Firearm Dealers, Armourers or Theatrical Ordnance Suppliers Licence as issued by the Weapons Licensing Branch of the Queensland Police Service.

Members are located in every area of the State. A quarterly meeting is held in Brisbane and regular newsletters advise members of industry, technical and legislative developments.

FDAQ members are daily in touch with the news and needs of shooters throughout Queensland.

The FDAQ Inc is pleased to have the opportunity to respond to the provisions encompassed in the document entitled Corrective Services and Other Legislation Amendment Bill 2020.

## Author

This submission is prepared by the Secretary (Jan Linsley) with the approval and oversight of the Executive Committee of Firearm Dealers Association - Qld Inc.

Inquiries may be directed to the Secretary at the mailing address on the front page or to email: [REDACTED]

## Proposed Amendments –

### Amendment of Weapons Act 1990

#### Clause 62 Amendment of s 67 (Possessing and acquiring restricted items)

We note the intention to amend the Weapons Categories Regulation 1997 by classifying replicas of firearms as 'restricted items'. The amendments to the Weapons Categories Regulation are to be made separately to this Bill.

We are concerned that the definition of "restricted items" will include replicas which are currently unrestricted and are, in many cases, regarded as toys. We understand that gel blasters are to be included as restricted items because of the increase in community incidents involving gel blasters, however the inclusion of replicas of category A,B,C,D, H replicas and A, B & C deactivated firearms as restricted items is not supported by any increase in community incidents, and certainly not in a volume that requires their inclusion as restricted items.

We would suggest that Air Soft be included as restricted items on the basis that they are essentially the same as gel blasters and are used in the same setting. This would allow Airsoft to be used in Queensland under the same conditions as gel blasters, and specifically categorise them regulating their use for future sporting events if authorised.

As always, the inclusion of a public place requires amendment to reflect community expectations.

The Act currently states:

***“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.

- (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 definition of a public place should be termed in a way to exclude a range or private property with the appropriate licences and permissions.

### **Insertion of s67 (3B)**

We understand the intention of this section is to provide a reasonable excuse for the holder of a collector's licence to acquire or possess a replica firearm, or a deactivated firearm that would, if not deactivated, be a category A, B, or C weapon, if it is possessed as part of their collection. This provision will enable museums and other licensed weapons collectors to acquire and retain possession of these items under their licence.

The change to the Weapons Act 1990 requiring permanently inoperable category A, B or C weapons to be held on a collector's licence does not achieve this. All it does is require a licence for items for which no licence was previously required. It would be better to delete this section and exempt museums from the requirement to hold a licence at all.

The FDAQ would like to know whether there will be compensation paid to persons that are not members of a prescribed club that are legally in possession currently of A,B & C deactivated firearms. What incident has there been to justify regulating these currently unregulated items? Will there be an announced amnesty period by the Government for people to comply with the new regulation? What advertising will take place to inform people currently in legal possession of these items? What time period will they have to comply with the new regulation?

### **Clause 63 Replacement of s 168B (Amnesty Declaration)**

FDAQ Inc fully supports the establishment of a permanent amnesty however the requirement in section 168B(4) to surrender the firearm or prescribed thing to a police officer offers no incentive for licensed dealers to accept amnesty firearms. The previous two amnesties in Queensland allowed licensed dealers to retain firearms anonymously surrendered. This provides a possible income stream for dealers who are otherwise not compensated for accepting illegal or unwanted firearms where the person surrendering fails to provide personal details. This is an extremely valuable service both to the community and to police.

Police would still have the ability of investigation if a firearm is handed in anonymously, through the licensed dealer network. The hugely documented success of the last two amnesties in Queensland is a testament to how crucial it is to allow people to anonymously hand in firearms that can be kept by dealers to recoup staff costs,. to dealers.

Why would dealers accept amnesty firearms anonymously if they have to surrender them to police officers and under s168C, those firearms then become the property of the State?. This would result in dealers just referring those customers who don't want to give their details, directly to the Police Station to save on handling costs, and as past experience indicates, less firearms would be handed in/registered.

Section 168B(4) should be deleted. completely.

## Additional Proposals

### 1. Amendment to the definition of a Primary Producer.

Although legally this is not relevant, according to legal opinions obtained by the FDAQ (Barrister Stephen Forrester - 2017), FDAQ would like the word "primarily" removed from the definition to align with Australian Taxation Office and other federal regulations. This section is now being applied by Weapons Licensing Branch to category C firearms through the renewal process. That policy or interpretation causes a lot of confusion and considerable delays in licence renewals for primary producers.

Previous interpretations of this section by Weapons Licensing did not cause an issue. Recent interpretation of the current wording has changed, causing renewed licences to be rejected, refused, or applicants being advised to change their "genuine reason" from primary production to either occupational or recreational, when nothing has changed in the way of the applicant's circumstances.

Over recent years, it has become normal for a primary producer to have multiple jobs and sources of income, especially in view of recent droughts, floods, fires and natural disasters, experienced firsthand by rural Queenslanders. Those individuals so affected who require multiple income streams, should not be treated differently from those primary producers whose income source is solely or primarily related to their properties. No individual should be penalised for wanting to work harder or be placed in a unfair position by legislation because he has to take up multiple sources of income to make ends meet through times of natural disaster.

The suggested change is relevant now, more than any other time, because of the results of climate change on rural Queensland. Such a change exemplifies the great importance of getting legislation right the first time, because of the example of this definition that has been interpreted differently as administrators and/or governments change.

The removal of this single word will allow WLB Authorized Officers to make an accurate decision when issuing licenses, and ensure that the correct job description codes are listed on an individual's license. Whether a person has two jobs or not does not change the "genuine" need for the firearm.

In very recent times we have seen primary producers unable to purchase ammunition, due to public health Covid restrictions, and rural dealers close their doors from loss of trade. This is the direct documented effect of this word as it is currently interpreted.

#### **Suggested definition:**

*primary producer means a person (not being a person engaged in primary production as an employee on wages or piecework rates) engaged in the occupation of*

- (a) *dairy farmer; or*
- (b) *wheat, maize, or cereal grower; or*
- (c) *cane grower; or*
- (d) *fruit grower; or*

- (e) *grazier; or*
- (f) *farmer,*

*whether engaged in general or mixed farming, cotton, potato, or vegetable growing, or poultry or pig raising.*

## **2. Change to s71 (2)**

*A licensed dealer or licensed armourer must, for each transaction involving a weapon, enter immediately in the weapons register the particulars prescribed by regulation.*

The use of the word "immediately" causes problems for industry where registers may be updated at the end of the day in bulk. FDAQ Inc suggests a change to "as soon as practicable".

## **Conclusion:**

The proposed changes do not, in several circumstances, achieve the goals stated in the Explanatory Notes and could be problematic. FDAQ Inc asks again, to be shown the amendments before presentation to the Parliament. We could save a lot of time and effort by demonstrating the real and unintended implications of any legislation relating to firearms.