

Weapons and Other Legislation Amendment Bill 2012

Report No. 17

Legal Affairs and Community Safety Committee

November 2012

Legal Affairs and Community Safety Committee

Chair	Mr Ray Hopper MP, Member for Condamine
Deputy Chair	Mr Peter Wellington MP, Member for Nicklin
Members	Miss Verity Barton MP, Member for Broadwater Mr Bill Byrne MP, Member for Rockhampton Mr Sean Choat MP, Member for Ipswich West Mr Carl Judge MP, Member for Yeerongpilly Mr Trevor Watts MP, Member for Toowoomba North Mr Jason Woodforth MP, Member for Nudgee
Staff	Mr Brook Hastie, Research Director Mrs Sharon Hunter, Principal Research Officer Mrs Ali Jarro, Principal Research Officer Ms Kelli Longworth, Principal Research Officer Mrs Gail Easton, Executive Assistant
Technical Scrutiny Secretariat	Ms Renée Easten, Research Director Ms Marissa Ker, Principal Research Officer Ms Tamara Vitale, Executive Assistant
Contact details	Legal Affairs and Community Safety Committee Parliament House George Street Brisbane Qld 4000
Telephone	+61 7 3406 7307
Fax	+61 7 3406 7070
Email	lacsc@parliament.qld.gov.au
Web	www.parliament.qld.gov.au/lacsc

Acknowledgements

The Committee acknowledges the assistance provided by the Queensland Police Service and the Queensland Parliamentary Library.

Contents

Abbreviations	iv
Categories of Weapons referred to in this Report	iv
Chair's foreword	v
Recommendations	vi
1. Introduction	1
1.1 Role of the Committee	1
1.2 Inquiry process	1
1.3 Policy objectives of the Weapons and Other Legislation Amendment Bill 2012	1
<i>Mandatory Minimum Sentences</i>	1
<i>Red Tape Reduction</i>	2
1.4 Consultation on the Bill	3
1.5 Should the Bill be passed?	4
2. Examination of the Weapons and Other Legislation Amendment Bill 2012	5
2.1 Mandatory Minimum Sentence Amendments	5
<i>Mandatory sentences in general</i>	5
<i>How does this relate to the proposed firearms offences?</i>	7
2.2 Possession of weapons	10
<i>Specific reference to the use of firearms in the commission of an offence</i>	11
<i>Reasonable Excuse</i>	12
2.3 Unlawful supply of weapons	13
2.4 Unlawful trafficking of weapons	14
2.5 Firearms Amnesty	14
2.6 Supporting Amendments to other Acts	15
2.7 Red Tape Reduction Initiatives	15
<i>Extend the term of a category A and B firearms licence to up to ten years</i>	15
<i>Remove the obligation for an approved pistol club to provide an annual report</i>	16
<i>Extend the reporting time for licensed dealers to provide an annual return</i>	16
<i>Extend the reporting time for theatrical ordnance suppliers to provide an annual return</i>	16
<i>Club representative to delegate functions</i>	17
<i>Extend the term of a Permit to Acquire to six months</i>	17
<i>Reporting a change in circumstances to the authorised officer</i>	17
<i>Recognising an interstate and international licence as adequate knowledge of a weapon</i>	17
<i>Extend the term under which a licensee with an expired licence is required to demonstrate an adequate knowledge of a weapon</i>	18
2.8 Other unrelated weapons issues	18
3. Fundamental legislative principles	20
Appendices	21

Abbreviations

Bill	Weapons and Other Legislation Amendment Bill 2012
Committee	Legal Affairs and Community Safety Committee
Minister	The Honourable Jack Dempsey MP, Minister for Police and Community Safety
QLS	Queensland Law Society
QNU	Queensland Nurses' Union
QPS	Queensland Police Service
WAP	Weapons Advisory Panel
Weapons Act	<i>Weapons Act 1990</i>

Categories of Weapons referred to in this Report

Category A weapon see the Weapons Categories Regulation 1997, section 2.
Category B weapon see the Weapons Categories Regulation 1997, section 3.
Category C weapon see the Weapons Categories Regulation 1997, section 4.
Category D weapon see the Weapons Categories Regulation 1997, section 5.
Category E weapon see the Weapons Categories Regulation 1997, section 6.
Category H weapon see the Weapons Categories Regulation 1997, section 7.
Category M weapon see the Weapons Categories Regulation 1997, section 7A.
Category M crossbow means a crossbow that is a Category M weapon under the Weapons Categories Regulation 1997, section 7A(n).
Category R weapon see the Weapons Categories Regulation 1997, section 8.

Chair's foreword

This Report presents a summary of the Legal Affairs and Community Safety Committee's (Committee) examination of the Weapons and Other Legislation Amendment Bill 2012 (Bill).

The Committee's task was to consider the policy outcomes to be achieved by the legislation, as well as the application of fundamental legislative principles – that is, to consider whether the Bill had sufficient regard to the rights and liberties of individuals, and to the institution of Parliament.

On behalf of the Committee, I thank both organisations who lodged written submissions on this Bill. I also thank the Committee's Secretariat and the Queensland Police Service.

I commend this Report to the House.



Mr Ray Hopper MP

Chair

November 2012

Recommendations

Recommendation 1

4

The Weapons and Other Legislation Amendment Bill 2012 be passed.

Recommendation 2

19

The Minister for Police and Community Safety consider the proposal by the Queensland Nurses' Union through a separate review of the provisions in the *Weapons Act 1990*, with the aim of strengthening the protections for frontline workers in their place of work.

1. Introduction

1.1 Role of the Committee

The Legal Affairs and Community Safety Committee (Committee) is a portfolio committee of the Legislative Assembly which commenced on 18 May 2012 under the *Parliament of Queensland Act 2001* and the Standing Rules and Orders of the Legislative Assembly.¹

The Committee's primary areas of responsibility include:

- Department of Justice and Attorney-General;
- Queensland Police Service; and
- Department of Community Safety.

Section 93(1) of the *Parliament of Queensland Act 2001* provides that a portfolio committee is responsible for examining each bill and item of subordinate legislation in its portfolio areas to consider:

- the policy to be given effect by the legislation;
- the application of fundamental legislative principles; and
- for subordinate legislation – its lawfulness.

The Weapons and Other Legislation Amendment Bill 2012 (Bill) was introduced into the Legislative Assembly and referred to the Committee on 31 October 2012. In accordance with the Standing Orders, the Committee of the Legislative Assembly required the Committee to report to the Legislative Assembly by 22 November 2012.

1.2 Inquiry process

On 1 November 2012, the Committee wrote to the Queensland Police Service (QPS) seeking advice on the Bill, and invited stakeholders and subscribers to lodge written submissions.

The Committee received written advice from the QPS and received 2 submissions (see **Appendix A**).

Due to the short timeframe in which the Committee had to report, the Committee determined not to hold a public hearing on the Bill.

1.3 Policy objectives of the Weapons and Other Legislation Amendment Bill 2012

The Bill implements two distinct initiatives of the Government in relation to the use of firearms within Queensland:

- the introduction of mandatory minimum sentencing to continue the Government's strong stance on cracking down on crime and keeping the community safe; and
- reducing the regulatory burden on legitimate firearms owners without compromising the principles of the *Weapons Act 1990* (Weapons Act).

Mandatory Minimum Sentences

Shortly after the March 2012 election, The Honourable Campbell Newman MP, Premier of Queensland announced the Government's intention to introduce minimum penalties for weapons offences in an effort to address the unlawful use of firearms.²

¹ *Parliament of Queensland Act 2001*, section 88 and Standing Order 194.

² Weapons and Other Legislation Amendment Bill 2012, *Explanatory Notes*, page 1.

The announcement followed a number of firearm offences that occurred within Queensland in the month after the election. The Premier stated at that time:

These changes will send the clearest message to the community that the trafficking, supply, unlawful possession and use of illegal firearms will not be tolerated.

... We will do what's necessary to protect innocent Queenslanders and reduce crime.³

The Honourable Jack Dempsey MP, Minister for Police and Community Safety (Minister) stated in his introductory speech:

The bill fulfils the government's commitment to crack down on the unlawful use of firearms by introducing mandatory minimum sentencing for serious firearm offences. The introduction of this new sentencing regime will give Queenslanders the toughest gun laws in Australia. The bill amends the Weapons Act to introduce mandatory minimum periods of imprisonment where a person unlawfully and without a reasonable excuse carries on the business of trafficking weapons where one of those weapons is a firearm; supplies firearms where one of those firearms is a short firearm; possesses a firearm that has been used in the commission of an indictable offence; possesses a firearm for the purpose of committing or facilitating an indictable offence; and possesses a short firearm in a public place including a vehicle.

The mandatory penalties dovetail into the existing tiered penalty regime. The new provisions are supported by amendments to the Corrective Services Act and the Penalties and Sentences Act to ensure that any date set for parole does not fall before the expiry of the mandatory minimum term of imprisonment. The mandatory minimum sentencing will not apply to any person under the age of 18 years. The new sentencing regime is not intended to capture licensed firearms owners who fail to renew their licence or find themselves unlicensed due to administrative processes beyond their control.⁴

Accordingly, the primary policy objective of the Bill is to:

- impose mandatory minimum periods of imprisonment where the following offences are committed in certain circumstances:
 - unlawful possession of weapons (s 50);
 - unlawful supply of weapons (s 50B);
 - unlawful trafficking of weapons (s 65); and
- impose mandatory penalties on individuals possessing a firearm for the purpose of committing or facilitating an indictable offence.⁵

Red Tape Reduction

The Bill also gives effect to the Government's commitment to reduce red tape and the regulatory burden associated with time consuming and non-essential rules, forms, regulations and procedures. Eighteen initiatives in this area were identified for implementation through a review of the Weapons Act and relevant subordinate legislation.

Nine of these initiatives will be implemented through this Bill with a further nine initiatives to be addressed through policy and subordinate legislation.⁶

³ Media Statement, *New Minimum Penalties for Gun Crime*, The Honourable Campbell Newman MP, Premier of Queensland, 30 April 2012.

⁴ *Transcript of Proceedings*, 31 October 2012, page 2301.

⁵ Weapons and Other Legislation Amendment Bill 2012, *Explanatory Notes*, page 1.

⁶ Weapons and Other Legislation Amendment Bill 2012, *Explanatory Notes*, page 2.

The initiatives to be given effect by the Bill are:

- *extend the term of category A and B licenses from five years to a term of not more than 10 years;*
- *remove the obligation for an approved pistol club to provide an annual participation report to an authorised officer;*
- *extend the reporting time for a licensed dealer to give an annual return to an authorised officer;*
- *extend the reporting time for a theatrical ordnance supplier to give an annual return to an authorised officer;*
- *allow a shooting club representative to delegate functions;*
- *extend the term of a Permit to Acquire (PTA) from three months to six months;*
- *allow a licensee to report a change in circumstances in a manner prescribed by Regulation;*
- *recognise an interstate or international firearms licence as adequate knowledge of a weapon for the purposes of obtaining a Queensland firearms licence; and*
- *extend the time frames under which a licensee with an expired licence is required to demonstrate an adequate knowledge of weapon from six months to 12 months.*⁷

1.4 Consultation on the Bill

In August 2012, the Minister announced he had established a Ministerial Weapons Advisory Panel (WAP) to provide advice on a number of issues including how to ‘*reduce the red tape, delays and bureaucracy legitimate firearms users face when applying for a licence or new weapon*’ and other related firearms matters.⁸

When setting up the WAP, the Minister stated:

The current system inconveniences legal firearms users, like sporting shooters and primary producers, while illegal firearms users are inadequately punished for their disregard of the law.

I have created this panel to advise what legal firearms users require and any improvements that are needed, so they can safely enjoy their sport without experiencing mountains of forms and months of delays.

We will also be sending a strong message to illegal firearms users that their actions will not be tolerated and they will face harsh punishments for the misuse of weapons.

*I’m confident this panel will be able to help me strike a balance between being tough on illegal firearms while understanding of occupational and sporting shooters needs.*⁹

⁷ Weapons and Other Legislation Amendment Bill 2012, *Explanatory Notes*, pages 2-3.

⁸ Media Release, *Panel created to help cut weapons red tape*, Minister for Police and Community Safety, The Honourable Jack Dempsey MP, 27 August 2012.

⁹ Media Release, *Panel created to help cut weapons red tape*, Minister for Police and Community Safety, The Honourable Jack Dempsey MP, 27 August 2012.

The membership of the WAP is made up members from the following groups:

- Sporting Shooters Association of Queensland;
- Queensland Shooters Association;
- International Coalition for Women in Shooting and Hunting;
- Firearms Dealer's Association of Queensland;
- Halls Firearms;
- Shooters Union of Queensland Incorporated; and
- The Queensland Police Union of Employees.

As set out in the Explanatory Notes, the members of the WAP met on 18 September 2012 and 24 October 2012 to consider the contents of the Bill and also further red tape reduction initiatives.¹⁰

Consultation on the development of the Bill also occurred with the Queensland Law Society, the Historical Arms Collectors Incorporated and AV Ballistics, prior to it being introduced into the Legislative Assembly. Stakeholder views on the Bill coming out of the consultation will be addressed later in this Report.

While the Committee only received a short period for consideration of the Bill, the Committee is pleased to see that the Minister has consulted widely with stakeholders in the developmental phase of the Bill and notes that a number of minor amendments were identified by the WAP prior to introduction of the Bill.

The Committee considers that the creation of the WAP and the early engagement by the Minister with interested stakeholders is a positive step for the development of legislation.

The Committee looks forward to seeing the WAP continue to be involved in the development of future legislation brought to the House.

1.5 Should the Bill be passed?

This Bill delivers on the Government's election promise to keep the community safe and get tough on crime. The introduction of mandatory sentencing for firearms offences will act as a strong deterrent for those members of society who unlawfully use firearms to engage in criminal activities.

The Bill also contains a series of provisions that will streamline the processes for legitimate firearms owners to go about their business without compromising the safety of the general public.

The Committee has no hesitation in recommending that this Bill be passed.

Recommendation 1

The Weapons and Other Legislation Amendment Bill 2012 be passed.

¹⁰ Weapons and Other Legislation Amendment Bill 2012, *Explanatory Notes*, page 8.

2. Examination of the Weapons and Other Legislation Amendment Bill 2012

The principles and object of the Weapons Act are:

- *Principle 1: weapon possession and use are subordinate to the need to ensure public and individual safety; and*
- *Principle 2: public and individual safety is improved by imposing strict controls on the possession of weapons and requiring the safe and secure storage and carriage of weapons.*
- *Object: to prevent the misuse of weapons.*¹¹

2.1 Mandatory Minimum Sentence Amendments

Consistent with the object and principles of the Weapons Act, the Bill will impose mandatory penalties to apply to adults who unlawfully:

- *carry on the business of trafficking in weapons without a reasonable excuse, where at least one of the weapons is a firearm;*
- *supply weapons without a reasonable excuse, where at least one of the weapons is a short firearm;*
- *possess a firearm where the firearm is used in the commission of an indictable offence;*
- *possess a firearm where the possession of the firearm is for the purpose of committing or facilitating an indictable offence; and*
- *possess a short firearm in a public place without a reasonable excuse.*¹²

The Bill therefore amends the Weapons Act, the *Corrective Services Act 2006* and the *Penalties and Sentences Act 1992* in order to implement the new mandatory minimum periods of imprisonment.

Mandatory sentences in general

As stated in the Explanatory Notes, this new regime represents significantly greater punishment in order ‘to reduce the current rate at which firearms are being unlawfully possessed and used by creating a greater deterrence through the imposition of mandatory periods of imprisonment.’¹³

The Explanatory Notes acknowledge that in relation to the consistency with fundamental legislative principles, ‘the imposition of mandatory minimum penalties may have the practical effect of rendering offenders liable to a greater punishment than they would have received under the [current] law’.¹⁴

In its submission on the Bill, the Queensland Law Society (QLS) stated:

The Society has long maintained its strong stance against any form of mandatory sentencing. In our view, mandatory sentencing laws are unfair, unworkable and run contrary to Australia’s international treaty obligations.

The Society opposes the proposed legislation on the grounds that it unduly fetters judicial discretion. The removal of judicial discretion by the proposed mandatory sentencing scheme will greatly hinder the courts ability to bring about justice in

¹¹ Weapons Act 1990, section 3.

¹² Weapons and Other Legislation Amendment Bill 2012, *Explanatory Notes*, page 1.

¹³ Weapons and Other Legislation Amendment Bill 2012, *Explanatory Notes*, page 3.

¹⁴ Weapons and Other Legislation Amendment Bill 2012, *Explanatory Notes*, page 7.

individual cases. All cases consist of discreet facts and circumstances. There may be any number of contributing factors that lead to the commission of a crime. A mandatory sentencing scheme would be unable to take these factors into account. Mandatory sentencing laws are arbitrary, contravening the principles of proportionality and necessity because they do not allow consideration of either the seriousness of the offence or the circumstances of the offender. They have the potential to lead to serious miscarriages of justice, exacerbated by virtue of the fact that mandatory sentences, by definition, are not reviewable on appeal. It is our view that judges are in a better position to administer justice through judicial reasoning and comprehensive understanding of the offence and the circumstances surrounding its commission. Therefore, the Society maintains that sentencing decisions should rest with highly trained judicial officers.

The empirical evidence against mandatory sentencing is well documented. There is a lack of cogent and persuasive data to demonstrate that mandatory sentences provide a deterrent effect. Furthermore, these schemes have consistently failed to achieve the stated objectives of deterrence and crime reduction in Queensland, New South Wales, other Australian State and Territory and international jurisdictions.

We also note the compelling reasons for opposing mandatory sentencing:

- To the extent that mandatory sentencing is perceived as a democratic response to the public perceptions of crime, the most appropriate response is to educate the public about sentencing, not to impose an inflexible and unfair sentencing regime. This is demonstrated by Australian and overseas research. A study published by Professor Kate Warner from the University of Tasmania asked jurors (who were fully informed about the facts of the case) to assess the appropriateness of the judge's sentence. More than half the jurors surveyed would have imposed a more lenient sentence than the trial judge imposed. When the jurors were informed of the actual sentence, 90% said that the judge's sentence was (very or fairly) appropriate.¹⁵*
- In addition, mandatory sentencing encourages judges, prosecutors and juries to circumvent mandatory sentencing when they consider the result unjust. In some circumstances when an offender is faced with a mandatory penalty, juries have refused to convict. Furthermore, prosecutors have deliberately charged people with lesser offences than the conduct would warrant to avoid the imposition of a mandatory sentence. In effect, this shifts sentencing discretion from an appropriately trained and paid judicial officer to a prosecutor. This process is called 'de-mandatorising'.*
- The inevitable increase in prison population as a result of the mandatory sentencing is one of many additional costs to the community without any commensurate benefit.*
- Mandatory sentencing reduces the proportion of pleas of guilty, thus increasing court costs, court delays, prosecution costs, defence costs and the stress upon victims and other witnesses.*
- Mandatory sentencing could impact disproportionately on the most marginalised members of society which include many Aboriginal & Torres Strait Islander people.*

¹⁵ Warner, K., *Public judgement on sentencing: final result from the Tasmanian Jury Sentencing Study. Trends and issues in crime and criminal justice*, Australian Institute of Criminology, February 2011; as cited by Queensland Law Society, Submission 2, page 2.

*Therefore the Society opposes the introduction of mandatory sentencing regimes for all offences, including weapons offences.*¹⁶

Similar comments were made in relation to mandatory sentencing in submissions on the Committee's previous examination of the Criminal Law (Two Strike Child Sex Offenders) Amendment Bill 2012. For example, Potts Lawyers submitted *'the dispensation for justice needs to be fair. This involves a court imposing penalties that can accommodate the individual merits of a case. An approach that requires all penalties to be 'equal' (i.e. subject to a minimum) strikes at the very heart of this principle.'*¹⁷

Potts Lawyers added:

Every citizen is entitled to expect equal access to justice and to be treated fairly. This does not translate into equal penalties.

*Every single criminal case, defendant and victim that come before the court have their own individual features. To suggest that it would be fair for every defendant charged with a particular type of offence to receive the same minimum punishment ignores this fundamental truth.*¹⁸

In *Australian Criminal Justice* (4th ed), it is stated that legislative provision for mandatory penalties restricts the traditional role of the courts of effecting individualised criminal justice:

*The main criticism against mandatory sentences is that they ignore the sentencing principle that offenders must be examined individually and that prescribed penalties should be mitigated in some cases depending on the outcome of the examination... [I]t has been traditionally left to the courts to impose individualised sentences to ensure that the punishment not only fits the crime but the offender as well.*¹⁹

How does this relate to the proposed firearms offences?

In relation to consistency with the fundamental legislative principles, the Explanatory Notes set out that the potential infringement of those principles is justified with reference to the potential harm associated with the criminal misuse of firearms and the resultant need to denounce and deter such offending.²⁰

The Explanatory Notes go on to state the specific mandatory sentences are limited to:

... the trafficking of firearms, the supply of short firearms, the possession of short firearms in a public place and the possession of a firearm that is used in, or possessed for the purpose of facilitating an indictable offence. The Bill's targeted focus on serious criminal conduct with firearms limits the potential impact of the Bill on the rights and liberties of individuals.

Further, the Bill employs a tiered approach to sentencing that ensures that the mandatory period imposed is reflective of the type and number of weapons possessed, supplied or trafficked. This approach ensures that penalties imposed reflect the seriousness of the conduct involved and further ensures that any impacts on the rights and liberties of individuals is justified in the context of the gravity of the offending conduct.

¹⁶ Queensland Law Society, Submission 2, pages 1-2.

¹⁷ Criminal Law (Two Strike Child Offences) Bill 2012, Potts Lawyers, Submission 17, page 1.

¹⁸ Criminal Law (Two Strike Child Offences) Bill 2012, Potts Lawyers, Submission 17, page 1.

¹⁹ Mark Findlay et al, *Australian Criminal Justice* (4th ed, 2009), page 298.

²⁰ Weapons and Other Legislation Amendment Bill 2012, *Explanatory Notes*, page 7.

The Bill's potential impact on rights and liberties is further constrained by the operation of a reasonable excuse defence. Where a reasonable excuse exists, a person will not be liable to the mandatory minimum penalties that apply for trafficking, supply or possession of a firearm in a public place.

....

Limiting the application of mandatory minimum penalties to those offenders, who cannot make out a reasonable excuse, further reduces the scope for unjustified infringement on the rights of individuals who do have a reasonable excuse and seeks to strike a balance between such rights and community safety.²¹

In relation to issues raised by the QLS on mandatory sentencing, the QPS responded:

Clauses 15 - 17 consider both the seriousness of the offence and the circumstances of the offender through a tiered penalty regime and reasonable excuse defence.

A tiered penalty regime has been dovetailed into the existing regime with the term of imprisonment proportionately linked to the type of offence committed and the number and type of weapon(s) involved in the offence.

A person charged with a mandatory minimum penalty offence will have the opportunity to raise a reasonable excuse defence. What constitutes a reasonable excuse will be objectively determined by the courts.

Where the court determines a reasonable excuse exists, the court may impose an alternative penalty under the Penalties and Sentences Act 1992.

...

A reasonable excuse defence provides an additional layer of protection and allows the courts to impose a penalty other than a mandatory penalty where a reasonable excuse is successfully made.²²

Specifically in relation to the QLS assertion that mandatory sentencing may result in an inevitable increase in prison population, the QPS stated:

Statistics anticipate only a marginal (21 prisoners) increase in the prison population as a result of the new mandatory minimum penalty regime prescribed in clauses 15 - 17. Under normal circumstances, prison numbers can fluctuate by up to 50 prisoners per week. Taken alone this increase will not see an exponential rise in prison population or costs to the community.²³

In response to the QLS submission that mandatory sentencing reduces the proportion of pleas of guilty, thus increasing court costs, court delays, prosecution costs, defence costs and the stress upon victims and other witnesses, the QPS provided:

Statistics anticipate that the mandatory minimum penalty regime will impact on approximately 21 offences per year.

The new offences in clause 15 linking firearm possession to the commission or facilitation of an indictable offence will not incur any greater pleas of not guilty than is currently experienced for indictable offences such as armed robbery.²⁴

²¹ Weapons and Other Legislation Amendment Bill 2012, *Explanatory Notes*, pages 7-8.

²² Letter from the Minister for Police and Community Safety, 15 November 2012, pages 8-9.

²³ Letter from the Minister for Police and Community Safety, 15 November 2012, page 11.

²⁴ Letter from the Minister for Police and Community Safety, 15 November 2012, page 12.

Finally, in relation to the assertion that mandatory sentencing could impact disproportionately on the most marginalised members of society which include many Aboriginal and Torres Strait Islander people, the QPS submitted:

It is not anticipated that the introduction of mandatory minimum sentencing in the context of clauses 15 – 17 will disproportionately impact on Aboriginal and Torres Strait Islander people.

A reasonable excuse defence has been included in the new sentencing regime as an additional layer of protection to guard against unwanted capture. A person who successfully raises a reasonable excuse will not be liable to a mandatory term of imprisonment. What constitutes a reasonable excuse defence will be objectively determined by the courts.²⁵

The members of the WAP were consulted individually on the contents of the Bill. In relation to mandatory minimum sentences, the majority of those stakeholders supported the move toward harsher penalties for criminal misuse of firearms.²⁶

The Committee notes that the Bill and its policy objectives represent a departure from previous sentencing practices in Queensland. The Committee is also mindful of the compelling reasons raised by submitters for opposing mandatory sentencing. While the Committee does not consider that firearms offences in Queensland are out of control, the facts and figures simply cannot be ignored.

The following table outlines the number of offences in the past two years for unlawful possession of firearms throughout the state:²⁷

Offence Type	2010/2011	2011/2012
Unlawful Possession of concealable firearm	116	148
Unlawful Possession of firearm (other)	489	540

Coupled with the total of approximately 525 firearms reported stolen in 2011/2012,²⁸ the Committee considers the proposed amendments to strengthen the Weapons Act to act as a deterrent to potential firearms offenders are warranted. The amendments contained in the Bill symbolise the Government's strong stance on making the community safer for all Queenslanders and this Bill will toughen sentences for serious firearm offences and will give Queenslanders the toughest gun laws in Australia.²⁹

²⁵ Letter from the Minister for Police and Community Safety, 15 November 2012, page 13.

²⁶ Weapons and Other Legislation Amendment Bill 2012, *Explanatory Notes*, page 9.

²⁷ Figures supplied by the Queensland Police Service, compiled as at 21 September 2012.

²⁸ Figures supplied by the Queensland Police Service, compiled as at 21 September 2012.

²⁹ *Transcript of Proceedings*, 31 October 2012, page 2301.

The following table provided by the QPS summarises the application of the mandatory minimum penalties which will apply:³⁰

Unlawful possession of a short firearm in a public place	Minimum of 1 year in custody
Possession of firearms <ul style="list-style-type: none"> • for 13, 10, 7, or 4 year offences <ul style="list-style-type: none"> ○ if firearm possessed is used to commit an indictable offence ○ if firearm possessed for the purpose of committing or facilitating an indictable offence • for 2 year offence <ul style="list-style-type: none"> ○ if firearm possessed is used to commit an indictable offence ○ if firearm possessed for the purpose of committing or facilitating an indictable offence <p><i>Note – the penalty for this offence is dependent upon the number and types of weapon possessed</i></p>	minimum of 18 months in custody minimum of 1 year in custody minimum of 9 months in custody minimum of 6 months in custody
Unlawful supply of firearms <ul style="list-style-type: none"> • 5 or more including at least one short firearm • less than 5 including at least on short firearm 	minimum of 3 years in custody minimum of 2 ½ years in custody
Unlawful trafficking in firearms <ul style="list-style-type: none"> • category H (concealable firearms) and category R (military grade firearms) firearms • all other categories of firearms 	minimum of 5 years in custody minimum of 3 ½ years in custody

It can be seen that these proposed penalties will send the age old strong message to offenders - that if you do the crime, you will do the time. The Committee endorses the proposed penalties without amendment.

A closer examination of each of the new offences contained in the Bill follows below.

2.2 Possession of weapons

Section 50 of the Weapons Act sets out that it is an offence to unlawfully possess a weapon. The provision currently applies various maximum penalties - dependent on the category and number of weapons of which a person is found to be in possession. The penalties range from 2 years imprisonment to 13 years imprisonment.³¹

³⁰ Letter from the Queensland Police Service, 5 November 2012, pages 1-2.

³¹ *Weapons Act 1990*, section 50.

Clause 15 of the Bill will insert new sections 50(1)(d) and (e) into the section, which will impose mandatory minimum penalties of:

- 50(1)(d)(i) **18 months imprisonment** for unlawful possession of a firearm to commit an indictable offence in circumstances involving:
- 10 or more weapons where at least five of which are category D, E, H or R weapons; or
 - 10 or more weapons; or
 - a category D, H or R weapon; or
 - a category C or E weapon.
- (ii) **1 year imprisonment** for unlawful possession of a firearm to commit or facilitate the commission of an indictable offence in circumstances involving:
- 10 or more weapons where at least five of which are category D, E, H or R weapons; or
 - 10 or more weapons; or
 - a category D, H or R weapon; or
 - a category C or E weapon.
- (iii) **1 year imprisonment** for unlawful possession of a short firearm in a public place without a reasonable excuse in circumstances involving:
- 10 or more weapons where at least five of which are category D, E, H or R weapons; or
 - 10 or more weapons; or
 - a category D, H or R weapon; or
 - a category C or E weapon.
- 50(1)(e)(i) **nine months imprisonment** for unlawful possession of a category A or B firearm to commit an indictable offence; or
- (ii) **six months imprisonment** for unlawful possession of a category A or B firearm to commit or facilitate the commission of an indictable offence.

The Committee considers the proposed penalties to be appropriate and consistent with the Government's tough stance on firearms offences within Queensland.

Specific reference to the use of firearms in the commission of an offence

With specific reference to the wording used in new sections 50(1)(d) and (e), relating to the use of firearms in the commission of an indictable offence, the QLS submitted:

The Society is concerned with one aspect ... This clause states, "If the person unlawfully possesses a firearm and uses the firearm to commit an indictable offence..." In order to clarify the position, we consider that the clause should be reworded to state, "If the person unlawfully possesses a firearm and uses the firearm to commit and is convicted of an indictable offence."³²

The QPS responded with:

The purpose of clause 15 is to address the criminal misuse of firearms by imposing a mandatory minimum penalty of imprisonment where an adult has unlawfully possessed a firearm and used that firearm to commit an indictable offence. A person need not be found guilty of committing the indictable offence to be liable to a mandatory minimum term of imprisonment.

³² Queensland Law Society, Submission 2, page 3.

Rewording the provision in the manner suggested by the Queensland Law Society would circumvent the intent of the provision.

*The QPS recommends no change to the clause.*³³

The Committee does not consider that the additional wording proposed by the QLS is required. As the Committee understands the proposed provision, the offence requires the elements of the commission of the indictable offence to be proved, but it does not require a guilty finding or conviction to take place as suggested by the QLS. It would appear to the Committee that multiple charges would simply be brought before the court and tested at the same time, it should not be the case that the indictable offence be tried first, and then only on a conviction of that offence that the charge under section 50 is put to the Court.

This would potentially add to the backlog in the courts and it is possible that if an offender appealed the conviction, the possession charge could not then proceed until the appeal process was exhausted. The suggested additional words could complicate the process of what the Committee considers to be a straightforward charge under the Weapons Act.

The Committee does not endorse the QLS recommendation.

Clause 15(2) of the Bill inserts a new subsection 1A into section 50 which expressly provides that a person will have a *reasonable excuse* for the purposes of determining the applicability of the mandatory minimum penalties relating to possession of a short firearm in a public place if:

- (a) a licence was in force within 12 months immediately before the day the person committed the offence but was not in force at the time of the offence; and
- (b) the person would have been authorised under the Weapons Act to possess a short firearm in the public place at the time of the offence if the licence was still in force; and
- (c) it was not a reason for the licence being no longer in force that the licence had been surrendered, suspended or revoked under the Weapons Act.

Clause 15(2) also inserts a new subsection 1B into section 50 which specifically excludes self-defence as a reasonable excuse to possess a short firearm in a public place.

Reasonable Excuse

The Shooters Union of Queensland raised concerns that the mandatory sentencing provisions had the potential to capture law abiding citizens and should only be applied in circumstances where a firearm has actually been used in a crime or where there is a manifestation of criminal intent.³⁴

The Firearm Dealers Association of Queensland considered that the mandatory sentencing had the potential to unintentionally capture legitimate firearms owners.

The Minister stated in his introductory speech:

... the bill provides each person charged with an offence to which a mandatory minimum sentence applies with the opportunity to raise a reasonable excuse. While what constitutes a reasonable excuse for the purposes of the mandatory sentencing provisions will be objectively determined by the courts, the bill explicitly states that it will be a reasonable excuse to a charge under the new mandatory sentencing provisions for a person to show that in the 12 months preceding the commission of the offence the person possessed a valid and appropriate licence and that licence had not been surrendered, suspended or revoked under the act. This reasonable excuse does not abrogate a person's obligations under the Weapons Act and so where a person raises a

³³ Letter from the Minister for Police and Community Safety, 15 November 2012, page 4.

³⁴ Weapons and Other Legislation Amendment Bill 2012, *Explanatory Notes*, page 9.

*reasonable defence the court will retain the capacity to impose a penalty from the existing sentencing provisions.*³⁵

In relation to what would constitute a reasonable excuse, the QLS submitted:

*The Society is supportive of a broad interpretation of what a 'reasonable excuse' could constitute in the context of possession of a weapon. However, there could be scope to develop non-exhaustive legislative guidance to assist in clarifying the position.*³⁶

The QPS responded:

The purpose of a reasonable excuse defence is to allow the court to objectively determine what constitutes reasonable based on the facts and circumstances of each individual case.

*A non-exhaustive list has the capacity to unintentionally narrow the scope of what the courts may consider to be a reasonable excuse.*³⁷

The Committee agrees with the QPS and considers that a broader interpretation of what is a reasonable excuse is not required. The provision provides a very specific exemption to the application of the minimum sentence which is designed to ensure that legitimate firearms owners or dealers whose licenses have inadvertently lapsed are not caught by the mandatory sentencing provisions. The Committee considers that courts may also still objectively determine what is a reasonable excuse based on individual circumstances and considers no change is necessary in this regard.

The Committee considers the proposed penalties to be appropriate and consistent with the Government's tough stance on firearms offences within Queensland.

The Committee considers the express definition of what constitutes a reasonable excuse i.e. allowing for the occasion where a licensed firearms holder has held a licence, but it has lapsed – is appropriate and shows that the penalties are not aimed at legitimate firearms holders but targeted at those elements in society who have not complied with the regulatory requirements.

2.3 Unlawful supply of weapons

Section 50B of the Weapons Act sets out that it is an offence to unlawfully supply weapons to another person. The provision currently applies various maximum penalties - dependent on the category and number of weapons of which a person is found to have unlawfully supplied. The penalties range from 4 years imprisonment to 13 years imprisonment.³⁸

Clause 16(1) of the Bill will amend section 50B to introduce mandatory minimum penalties for an offence of unlawfully supplying a firearm. New section 50B(1)(d) provides that an adult who unlawfully supplies five or more weapons where at least one of the weapons supplied is a short firearm, without a reasonable excuse, is liable to 3 years imprisonment.

Additionally, new section 50B(1)(e) provides that an adult who unlawfully supplies less than five weapons, where at least one of the weapons supplied is a short firearm, without reasonable excuse, is liable to 2½ years imprisonment served wholly in a corrective services facility.

Similar to the amendments above in relation to unlawful possession of weapons, clause 16(2) inserts a new subsection 1A that expressly provides that a person has a reasonable excuse if:

³⁵ *Transcript of Proceedings*, 31 October 2012, page 2301.

³⁶ Queensland Law Society, Submission 2, page 3.

³⁷ Letter from the Minister for Police and Community Safety, 15 November 2012, page 5.

³⁸ *Weapons Act 1990*, section 50B.

- (a) a licence was in force within the 12 months immediately before the day the person committed the offence and the licence is no longer in force; and
- (b) the person would have been authorised under the Weapons Act to supply the weapon at the time of the offence if the licence was still in force; and
- (c) it was not a reason for the licence being no longer in force that the licence had been surrendered, suspended or revoked under the Weapons Act.

As stated above, the Committee considers the proposed penalties to be appropriate and consistent with the Government's tough stance on firearms offences within Queensland. The Committee considers the express definition of what constitutes a reasonable excuse i.e. allowing for the occasion where a licensed firearms holder has held a licence, but it has lapsed – is appropriate and shows that the penalties are not aimed at legitimate firearms holders but targeted at those elements in society who have not complied with the regulatory requirements.

2.4 Unlawful trafficking of weapons

Section 65 of the Weapons Act provides that it is an offence to unlawfully carry on business of trafficking in weapons or explosives. The provision currently applies two different maximum penalties – of 15 years or 20 years imprisonment dependent on the category of weapons of which a person is found to have been in the business of trafficking.³⁹

Clause 17 of the Bill amends section 65 to introduce mandatory minimum penalties for an offence of unlawfully trafficking in weapons. The new section 65(c) provides that an adult who unlawfully traffics in category H or R weapons, without a reasonable excuse and at least one of the weapons is a firearm is liable to 5 years imprisonment.

Additionally, new section 65(d) provides that an adult who unlawfully traffics in category A, B, C, D or E weapons, a category M crossbow or explosives without a reasonable excuse and at least one of the weapons is a firearm, is liable to 3½ years imprisonment.

Similar to the amendments to the previous two offences, clause 17(2) of the Bill expressly provides that a person has a reasonable excuse if:

- (a) a *dealer's* licence was in force within the 12 months immediately before the day the person committed the offence but is no longer in force at the time of the offence; and
- (b) the person would have been authorised under this Act to carry on the business at the time of the offence if the licence was still in force; and
- (c) it was not a reason for the licence being no longer in force that the licence had been surrendered, suspended or revoked under the Act.

The Committee echoes its earlier comments that the proposed penalties are appropriate and consistent with the Government's tough stance on firearms offences within Queensland. The Committee considers the express definition of what constitutes a reasonable excuse i.e. allowing for the occasion where a licensed firearms holder has held a dealer's licence, but it has lapsed – is appropriate and shows that the penalties are not aimed at legitimate firearms holders but targeted at those elements in society who conduct illegal firearms businesses.

2.5 Firearms Amnesty

The introduction of the new sentencing regime is being coupled with a firearms amnesty to encourage the return of illegally held weapons for a set period of time.

³⁹ *Weapons Act 1990*, section 65.

The Minister stated in his introductory speech:

*A firearms amnesty will coincide with the introduction of the new sentencing regime. The amnesty will comprise a voluntary hand-back and registration scheme. Any member of the community who does not hold a firearms licence will be able to surrender their firearms during the amnesty period without penalty. Similarly, a person with an unregistered firearm will, during the amnesty period, have the opportunity to register that firearm without penalty. Previous firearms amnesties have proved successful in Queensland.*⁴⁰

The Committee endorses the firearms amnesty and notes the amendment to section 168B will extend the amnesty to offences under section 50A (possession of unregistered firearms) in addition to section 50 (possession of weapons). The Committee considers it appropriate that both unlicensed persons in possession of firearms and licensed persons in possession of unregistered firearms may be afforded protection against prosecution when surrendering weapons during the initial period of the amnesty declared under s 168B of the Weapons Act.

2.6 Supporting Amendments to other Acts

The Bill also amends the *Corrective Services Act 2006* and the *Penalties and Sentences Act 1992* to support the amendments to the Weapons Act imposing the mandatory minimum periods of imprisonment.

This is achieved primarily by inserting a new section 185B into the *Corrective Services Act 2006* to explicitly state that a person who is serving a term of imprisonment for an offence against sections 50, 50B or 65 of the Weapons Act, will not be eligible for parole until the day after the mandatory minimum sentence for the offence ends.⁴¹

Part 3 (clauses 6-7) of the Bill amends the *Penalties and Sentences Act 1992*. Section 160A of the *Penalties and Sentences Act 1992* clarifies that a court cannot fix a date for parole eligibility or parole release under sections 160B to 160D which will reduce the mandatory minimum period that an offender must serve under a relevant provision.⁴²

The Committee considers these amendments are necessary to give proper effect to the objects of the Bill and endorses the supporting amendments to these other Acts.

2.7 Red Tape Reduction Initiatives

As stated by the Minister in his introductory speech, the WAP has identified a number of initiatives to be implemented by the Bill that demonstrate the Government's commitment to reducing the red tape associated with legitimate firearms ownership. No submissions were received relating to these initiatives.

An overview of each of the initiatives being implemented under the Bill is set out below.

Extend the term of a category A and B firearms licence to up to ten years

Clause 11 of the Bill amends section 20 of the Weapons Act, doubling the current term of a firearms licence for a category A and a category B firearm from five years to a period of up to ten years.

There are currently 144,000 firearms licenses issued for the 551,535 category A and category B firearms registered in Queensland. The Explanatory Notes indicate that '*extending the term of*

⁴⁰ *Transcript of Proceedings*, 31 October 2012, page 2301.

⁴¹ Weapons and Other Legislation Amendment Bill 2012, *Explanatory Notes*, page 11.

⁴² Weapons and Other Legislation Amendment Bill 2012, *Explanatory Notes*, page 11.

*category A and B licences from five years to a period of up to ten years is expected to result in processing efficiencies and financial benefits to licensees.*⁴³

To discourage the habitual possession of category A and B firearms, the QPS has introduced a number of initiatives such as real time probity, assessment of licensees upon application for a Permit To Acquire and state-wide random auditing of weapons storage facilities.

The Committee does not see any issues with this proposed initiative and considers the significant processing efficiencies will be achieved by the amendment.

Remove the obligation for an approved pistol club to provide an annual report

Clause 20 of the Bill amends section 140 of the Weapons Act to remove the requirement for pistol clubs to provide an annual participation report to the authorised officer before 31 August of each year. In lieu, the amendment allows for random and targeted auditing to be undertaken by the QPS Weapons Licensing Branch.⁴⁴

The Committee notes that this amendment does not amend a licensee's obligation under the Weapons Act to maintain individual participation reports and provide that information annually to each pistol club of which the person is a member.

The Committee considers that this amendment will still allow appropriate oversight of pistol clubs by the QPS, but remove the requirements for the pistol clubs to undertake the onerous and time consuming task that is currently required of them.

Extend the reporting time for licensed dealers to provide an annual return

Clause 18 of the Bill amends section 72 of the Weapons Act to allow a licensed dealer to provide an annual return of their weapons inventory no later than two months after the anniversary date of the licence. Currently, the Weapons Act requires an annual return to be given to the authorised officer before 31 July of each year.⁴⁵

Where a licensed dealer cannot meet these timeframes, the Bill allows the licensed dealer to apply to the authorised officer for an alternative date for that year if there are reasonable grounds for the extension of that date.

The Committee considers these amendments to be a sensible addition to the reporting regime for licenced dealers and supports the amendments. Tying the reporting date to the anniversary of the licence rather than the financial year appears to be an appropriate amendment.

Extend the reporting time for theatrical ordnance suppliers to provide an annual return

Similarly, clause 19 of the Bill amends section 121 of the Weapons Act to allow a theatrical ordnance supplier to give the authorised officer an annual return of all weapons held in stock no later than two months after the anniversary date of the licence.⁴⁶

Where a theatrical ordnance supplier cannot meet these timeframes, the Bill allows an application to be made to the authorised officer for an alternative date that year.

The Committee echoes its comments above in relation to the amendments to section 72 and supports the amendment.

⁴³ Weapons and Other Legislation Amendment Bill 2012, *Explanatory Notes*, page 4.

⁴⁴ Weapons and Other Legislation Amendment Bill 2012, *Explanatory Notes*, page 4.

⁴⁵ Weapons and Other Legislation Amendment Bill 2012, *Explanatory Notes*, page 4.

⁴⁶ Weapons and Other Legislation Amendment Bill 2012, *Explanatory Notes*, page 5.

Club representative to delegate functions

Section 90 of the Weapons Act requires that an application for a shooting club permit must nominate an adult to be the shooting club's representative. The person nominated is responsible for the conduct of club activities and obligated to exercise reasonable diligence to ensure the club complies with the requirements set out in the Weapons Act.⁴⁷

Clause 10 of the Bill will insert a new section 18D into the Weapons Act which will introduce a new power of delegation for the club's representative. The delegation under the new section will apply to declarations required for new and renewal firearms licence applications in circumstances where the function is delegated to a member of the club's governing body or board.

The Committee notes the section requires the person to whom the delegation is granted must still be a member of the governing body or the body of the club and to no other person. The Committee considers that the ability to delegate a matter under this section is a simple improvement that retains appropriate levels of accountability but lessens the burden on shooting clubs. The Committee supports the amendment.

Extend the term of a Permit to Acquire to six months

Clause 14 of the Bill amends section 45 by extending the current term of a Permit to Acquire application from three months to six months. This is intended to address delays associated with the importation of weapons, remote locations, unavailability of particular weapons, employment obligations or loss of a Permit to Acquire.⁴⁸

The Committee considers the timeframe to be appropriate and supports this amendment.

Reporting a change in circumstances to the authorised officer

Section 24(1) of the Weapons Act requires a licensee to advise the officer in charge of police of any changes in the licensee's circumstance. The licensee must also provide the licence to the officer when advising of the changes.⁴⁹

Clause 12 of the Bill amends section 24(1) of the Weapons Act by removing the obligation on licensees to automatically deliver their firearms licence to the officer when a change in circumstance occurs. The licensee will now have a range of options available to them which are prescribed by Regulation.

The Committee also considers this to be a sensible and practical amendment to the Weapons Act and supports the amendment.

Recognising an interstate and international licence as adequate knowledge of a weapon

Currently, section 10A of the Weapons Act specifies the criteria for determining whether a person possesses an adequate knowledge of firearm safety when applying for a new licence.⁵⁰

A recent amendment made in 2011 imposes an unintended obligation on licence holders in interstate and international jurisdictions to complete an approved safety course before licensing can occur in Queensland. Clause 9 of the Bill remedies this by allowing an interstate or international weapons licence to be used as a criterion in deciding whether an applicant has the requisite knowledge of a firearm.

The Committee considers that this amendment will assist holders of a comparative licence in another jurisdiction to obtain a licence in Queensland and supports the amendment.

⁴⁷ Weapons and Other Legislation Amendment Bill 2012, *Explanatory Notes*, page 5.

⁴⁸ Weapons and Other Legislation Amendment Bill 2012, *Explanatory Notes*, page 5.

⁴⁹ Weapons and Other Legislation Amendment Bill 2012, *Explanatory Notes*, pages 5-6.

⁵⁰ Weapons and Other Legislation Amendment Bill 2012, *Explanatory Notes*, page 6.

Extend the term under which a licensee with an expired licence is required to demonstrate an adequate knowledge of a weapon

Clause 9 of the Bill will also amend the Weapons Act to address an inconsistency in section 10A. This section currently requires an applicant for a new firearms licence to undertake an appropriate safety training course within 12 months of applying for a licence.⁵¹

Conversely, an experienced firearms licensee must undertake a safety training course if an application for a renewal licence occurs six months after the licence has expired. This places licensees who may have a valid reason for failing to make a licence application within the six month time frame in an unfavourable position.

The Bill will increase the time available to a person with an expired licence, from six months to twelve months. The Committee considers this to be a more appropriate timeframe and is consistent with other timeframes in the Bill. The Committee supports the amendment.

Overall, the Committee considers that the initiatives outlined above will actively contribute to the Government's ongoing commitment to reduce red tape and cut the unnecessary regulatory burden that has continued to increase over time. The Committee considers the initiatives are practical, sensible and do the job without compromising the safety of Queenslanders and furthering the objectives of the Weapons Act.

2.8 Other unrelated weapons issues

The Queensland Nurses' Union (QNU) took the opportunity to provide a submission to the Committee raising a specific issue of concern about the definition of 'public place' used in the Weapons Act.

The QNU stated:

An incident in a public hospital ED [Emergency Department] has prompted the QNU's submission to this and previous reviews. The particulars of this incident relate to an emergency nurse reporting that a patient had made threats against her and produced a knife whilst in the ED.

On contacting the Queensland Police Service, discussion between hospital staff and police revealed an ambiguity around the meaning of a 'public place' as defined under the Weapons Act 1990.

... An ED was not considered a 'public place' as defined under the Act as access to such an area requires an 'invitation', essentially voiding its status as a public place.

...[T]he QNU again makes the following recommendation:

*The Queensland government amends section 51 of the Weapons Act 1990 to read 'person must not physically possess a knife in a public place or a school, **or a health service facility** unless the person has a reasonable excuse.'*

For the purposes of defining 'a health service facility', the QNU suggests that an appropriate definition for these circumstances is set out under Part 6 Section 94 of Schedule 2 to the Hospital and Health Boards Act 2011 which reads:

health service facility means-

- (a) a public sector health service facility; or*
- (b) a private health facility.⁵²*

⁵¹ Weapons and Other Legislation Amendment Bill 2012, *Explanatory Notes*, page 6.

The QPS responded to the QNU submission:

The submission made by the Nurses Union is outside the scope of the Weapons and Other Legislation Amendment Bill 2012.

*The QPS recommends no change.*⁵³

The subject Bill deals with mandatory minimum sentences in relation to firearms offences and other red tape reduction initiatives as detailed earlier in this report. The Committee agrees that the suggestion by the QNU does not appear to be within the scope of the Bill.

However, the Committee notes that the definition of *public place* contained in Schedule 2 of the Weapons Act means:

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.

The Committee would be concerned if the definition did not cover areas of a public hospital such as an emergency department where incidents, as described by the QNU, could occur. The Committee considers it is imperative that the state's frontline nurses working in emergency departments of hospitals are able to carry out their duties safely.

The Committee considers the proposal by the QNU needs to be addressed, albeit under a different process than through this Bill and recommends that the Minister take appropriate steps to ensure that appropriate provisions are put in place to punish those wrongdoers who threaten the hard working frontline workers throughout the State.

Recommendation 2

The Minister for Police and Community Safety consider the proposal by the Queensland Nurses' Union through a separate review of the provisions in the *Weapons Act 1990*, with the aim of strengthening the protections for frontline workers in their place of work.

⁵² Queensland Nurses' Union, Submission 1, page 4.

⁵³ Letter from the Minister for Police and Community Safety, 15 November 2012, page 3.

3. Fundamental legislative principles

Section 4 of the *Legislative Standards Act 1992* states that ‘fundamental legislative principles’ are the ‘principles relating to legislation that underlie a parliamentary democracy based on the rule of law’. The principles include that legislation has sufficient regard to:

- the rights and liberties of individuals, and
- the institution of Parliament.

The Committee has examined the application of the fundamental legislative principles to the Bill and has highlighted those issues in part 2.1 of this Report relating to mandatory sentencing in general.

Appendices

Appendix A – List of Submissions

Sub #	Submitter
001	Queensland Nurses' Union
002	Queensland Law Society