

WEAPONS (HANDGUNS AND TRAFFICKING) AMENDMENT BILL 2003

EXPLANATORY NOTES

FOR

AMENDMENTS TO BE MOVED IN COMMITTEE BY THE HONOURABLE THE MINISTER FOR POLICE AND CORRECTIVE SERVICES AND MINISTER ASSISTING THE PREMIER ON THE CARPENTARIA MINERALS PROVINCE

Title of the Bill

Weapons (Handguns and Trafficking) Amendment Bill 2003

Objectives of the Amendments

The proposed Committee amendments are consistent with the objectives of the Bill as a whole. The proposed amendments are refinements only.

Estimated Cost for Government Implementation

The proposed Committee amendments do not have any additional cost implications.

Consistency with Fundamental Legislative Principles

The proposed Committee amendments do not raise any new FLP issues.

Consultation

The Department of Justice and Attorney-General, and the Department of the Premier and Cabinet were consulted about the proposed Committee amendments.

NOTES ON PROVISIONS

1. After clause 22 (inserts new clause 22A – Amendment of s 29B (Arrangements for surrender of suspended or revoked licences and weapons))

Clause 39 proposes the replacement of s 71(2) to (5). This amendment clarifies the register and reporting requirements applying to dealers and armourers. Section 29B currently includes a cross reference to s 71(2)(b), which will not exist after the amendment commences.

The Committee amendment will update the cross reference in s 29B, to instead refer to s 71(3).

2. Clause 31 Replacement of s 53 (An unlicensed person may use a weapon at an approved range)

The Bill proposes the replacement of s 53. The new section allows an unlicensed person to use a firearm at a range under supervision, and so enables an unlicensed person to satisfy the new 3 competition shoot requirement before applying for a handgun licence. However, a person who is an “excluded person” may not use a firearm under the proposed section. Under the proposed section the definition of “excluded person” includes, under paragraph (g), a person who in the last 5 years has had a licence application refused or whose licence has been revoked.

Paragraph (g) of the definition “excluded person” was intended to exclude persons who have been refused a licence or have had their licence revoked because they are not ‘fit and proper’ to hold a licence. However, there are several other reasons for licence refusal or revocation. These include where the person does not establish a genuine reason for possession of a firearm at the time of making a licence application. It is proposed to narrow the focus of paragraph (g) to refer to licence refusal or revocation because the person was not fit and proper to hold a licence.

3. Clause 40 Amendment of 72 (Annual returns by licensed dealers)

Section 72 of the Act imposes the following reporting obligation on weapons dealers:

“Before 31 July in each year each licensed dealer is to furnish in or to the effect of the approved form to an authorised officer, particulars of all weapons held in stock as at midnight on 30 June of that year.”

Clause 40 updates the drafting style and inserts a specific penalty, as the ‘catch all’ offence provision under s 156 is omitted. However, the Bill inadvertently omits all words after “stock”, rather than only inserting the words “by the licensed dealer”. Consequently, under the Bill the relevant inventory date would be omitted.

It is proposed to remove the instruction in *Clause 40(2)* of the Bill to omit any words.

4. Clause 74 Amendment of s 163 (Evidentiary provisions)

The Bill confers a power on the Commissioner and Deputy Commissioner to approve a licence application, including an application for renewal, being refused, and a licence being suspended or revoked. The basis of such a decision must be criminal intelligence or other information that indicates the person is a risk to public safety or that allowing the person to possess a weapon is contrary to the public interest.

The Bill amends s 163 to allow a document to be produced as evidence of the Commissioner’s or Deputy Commissioner’s approval to take the action. The Commissioner or Deputy are then not required to personally attend court and give evidence of the approval if the decision to refuse, suspend or revoke is challenged.

The evidentiary aid as drafted only applies where the approval is to refuse a licence. The aid also needs to apply to approvals to refuse to renew a licence [s 18(7)], approval to suspend [s 28(4)] and revoke a licence [s 29(3)].

5. Clause 78 Amendment of sch 2 (Dictionary)

Another definition required for “category M” weapon. As is the case with other category definitions the new definition refers to the particular section number of the categories regulation.