

Weapons Legislation Amendment Regulation 2019

Explanatory notes for SL 2019 No. 43

made under the

Weapons Act 1990

General Outline

Short title

The short title of the regulation is *Weapons Legislation Amendment Regulation 2019*

Authorising law

Section 172 of the *Weapons Act 1990*

Policy objectives and the reasons for them

The objectives of the *Weapons Legislation Amendment Regulation 2019* (the Amendment Regulation) are to:

1. prevent the risk of public harm caused by use of devices known as ‘bump stocks’;
2. facilitate the use of laser pointers for helicopter rescue activities;
3. enhance the security of firearms stored in private safes; and
4. streamline the importation of warfare items by museums and collectors.

Bump stock

Devices such as ‘bump stocks’ are designed to enable the recoil from firing a firearm to be used to increase the weapon’s rate of fire. This increased firing speed may replicate that of higher category weapons, including fully-automatic weapons. The use of the device may result in a firearm having the firing speed of a weapon the person may be otherwise unauthorised to possess.

Increasing a firearm’s firing speed greatly increases the harm that may be caused and poses a significant risk to public safety. Possession of such a device undermines the national prohibition on fully-automatic weapons, as well as the firearm registration system, which aims to control the type and capacity of any firearm an individual may possess.

Rescue helicopters use of laser pointers

Laser pointers are restricted items under the *Weapons Act 1990* (the Act) and may not be possessed without a reasonable excuse. Section 67(3)(b) of the Act provides that possession of a laser pointer to take part in activities associated with a recognised occupation is a reasonable excuse if the laser pointer has a power output of less than 20 milliwatts.

Laser pointers assist rescue helicopter activities by enabling crews to accurately identify and illuminate people in need of rescue. Use of the devices enables pilots to manoeuvre helicopters into an optimum position to facilitate a rescue. This is particularly important in situations of low visibility or difficult to access locations. Laser pointers improve target identification and reduce the time taken to accomplish a rescue. In turn, this reduces risks to the crew and the person being rescued.

Storage of safe key

The *Weapons Regulation 2016* requires that effective measures be maintained to minimise the risk of firearms coming into the possession of unauthorised people. Any firearm possessed by an individual is required to be stored in a compliant, locked safe. The effectiveness of such storage is, however, dependent on restricting access to the safe key or combination.

Police frequently sight keys stored in, or near, gun safes when conducting storage inspections, creating a risk of unauthorised people accessing the stored firearms. Increasing the security of safe keys not only helps to prevent thefts but also helps to safeguard children and other vulnerable people in the home.

Deactivation of warfare items

From time to time deactivated warfare items, such as tanks or cannons, are imported into Australia for purposes such as museum display. Prior to being imported such items must be deactivated in such a way as to ensure they may not again be made operable.

The amendment is intended to rectify a technical discrepancy between Australian Border Force and Queensland regulatory requirements regarding such deactivation. The *Weapons Regulation 2016* reference to achieving deactivation by compliance with the 'Guide on Deactivating Warfare Items', published by the Australian Government, does not take account of any additional or alternative requirements that may be made by Australian Border Force.

This discrepancy at times makes complete compliance with both Australian Government and Queensland Government requirements problematic for proposed importations. The amendment allows for closer alignment of Queensland standards with Australian Border Force requirements.

Achievement of policy objectives

To achieve its objectives, the Amendment Regulation will:

- amend section 8 of the *Weapons Categories Regulation 1997* to incorporate devices that allow recoil generated by the firing of a firearm to be used to increase the firearm's rate of fire (such as bump stock), as category R weapons;
- insert a new provision in the *Weapons Categories Regulation 1997* confirming search and rescue helicopter pilots and crews as recognised occupations;
- insert new provisions in the *Weapons Regulation 2016* that create offences for failing to take reasonable precautions to prevent a key or combination for a gun safe coming into the possession of unauthorised people; and
- amend the provisions relating to making weapons permanently inoperable to incorporate additional customs requirements that may be made.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the object of the *Weapons Act 1990*, which is to prevent the misuse of weapons.

The underlying principles of the Act are:

- that weapon possession and use are subordinate to the need to ensure public and individual safety; and
- that 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.

Each of the amendments support this aim and principles. This is demonstrated in that:

- the classification of 'bump stock' type devices prevents the misuse of firearms;
- the confirmation of helicopter search and rescue pilots and crews as recognised occupations continues the strict controls around the use of laser pointers while facilitating this vital service;
- safeguarding a key or combination for a gun safe directly supports the aim of preventing the misuse of weapons stored in safes. It also supports the principle of requiring the safe and secure storage of weapons; and
- amending deactivation requirements for imported warfare items allows for the reasonable collection of such items while not diluting precautions around their deactivation.

Inconsistency with policy objectives of other legislation

The Amendment Regulation is consistent with the policy objectives of other legislation.

Benefits and costs of implementation

Negligible costs will be associated with the implementation of the proposed changes.

Consistency with fundamental legislative principles

The Amendment Regulation is generally consistent with fundamental legislative principles.

While on face value restricting the possession of 'bump stock' type devices may appear to impact on personal liberties, doing so is consistent with the national prohibition on the possession of fully-automatic firearms as the use of such a device may replicate the firing speed of category R weapons. Furthermore, any potential impact in Queensland is limited by the fact that the importation of the devices into Australia is already restricted by the *Customs (Prohibited Imports) Regulations 1956* (Cth). The public safety benefits in restricting possession of such devices in the community is seen to outweigh any infringement on personal liberties.

Requiring firearms owners to safeguard the key or combination of a safe imposes a new obligation on licensees that could be considered an infringement on personal liberties. However, this policy formalises a reasonable expectation of the responsible storage of a firearm. Again, the public interest in ensuring that firearms do not fall into the hands of unauthorised people outweighs any minor imposition on licensees.

Consultation

The Minister for Police and Minister for Corrective Services consulted members of the weapons community about policies contained in the Amendment Regulation through the Ministerial Firearms Advisory Forum. Forum members expressed general support for the amendments.

The Queensland Police Service has concluded that the Amendment Regulation is exempt from regulatory impact analysis as it falls within the following exclusion category outlined in the *Queensland Government Guide to Better Regulation*:

- *category (j) – Regulatory proposals relating to police powers and administration, general criminal laws, the administration of courts and tribunals and corrective services).*

Consequently, the Office of Best Practice Regulation was not consulted regarding the Amendment Regulation.