New South Wales Police Force

Proposed amendments to the Firearms Regulation 2017

Submission August 2020
Introduction

We understand that the consultation regarding the proposed amendments to the NSW Firearms Regulation 2017 is limited to a few issues and does not undertake to review the National Firearms Agreement or the Firearms Act 1996. However, we note that many submissions to the Committee have already strayed into these areas. Those submissions regurgitate many of the same themes propagated by gun advocates such as questioning the need for licensing, registries, or broader controls.

The Australian community has made it very clear that they support Australia’s strong gun safety framework and indeed many would like it strengthened. Australians cringe at the apparent laissez-faire approach to firearms in countries like the USA and are thankful that we have a culture that respects the safety of the community ahead of the recreation pursuits of a few.

The Australian Gun Safety Alliance supports the principle on which our National Firearms Agreement is based:

“….that firearms possession and use is a privilege that is conditional on the overriding need to ensure public safety, and that public safety is improved by the safe and responsible possession, carriage, use, registration, storage and transfer of firearms.”

We appreciate the opportunity for input to the proposed amendments to the Firearms Regulation 2017. It has only been relatively recent that gun safety advocates have been consulted in the formulation or amendment to firearm policy and regulations.

We were involved in the consultation process with Asst. Minister Jason Wood MP in Canberra where the ban on bump stocks and the national amnesty were discussed. We were very supportive at that time and we are pleased to support efforts by NSW to implement these initiatives.

The Australian Gun Safety Alliance

Despite the National Firearms Agreement being reaffirmed in 2017 by all jurisdictions, none are entirely compliant. This is primarily due to the influence of those with a self-interest in the firearms community. Whether they be importers, retailers, manufacturers or represent shooters, as a group they are well resourced, organised, and influential.

Despite the evidence that demonstrates the public benefit of Australia’s gun reforms there is a persistent effort to undermine or water down the Agreement. This is despite regular reports that show nearly 90% of the Australian population support our gun safety framework, or indeed would like it strengthened.

In order to provide governments with greater insights from safety advocates, a credible coalition of concerned individuals and like-minded organisations have come together to publicly hold all governments to account for compliance with the National Firearms Agreement. Together we will provide a balanced debate in support of firearm safety and withstand the continued pressures on governments by the “gun lobby” in terms of influence and donations.

We offer the following comments on the proposed amendments.
3.1 Clause 19 Application for subsequent licence or permit

Clause 19(1) provides that if a person’s application for a licence or permit renewal is made before the current licence or permit expires, the authority conferred by the licence / permit continues until the application for renewal is determined.

We were surprised to read that the Security Industry Act 1997 provides a 90-day grace period for the renewal of expired licenses.

We don’t accept that simple replication is sufficient reason to make this amendment. In other circumstances we would raise what evidence is available to justify the grace period.

The National Firearms Agreement (NFA) makes it very clear in the preamble ....“that firearms possession and use is a privilege that is conditional on the overriding need to ensure public safety, and that public safety is improved by the safe and responsible possession, carriage, use, registration, storage and transfer of firearms.”

Part of that conditional privilege is responsibility to maintain a firearm licence, and we don’t agree that an additional period of 90 days over the usual 2 or 5 year period allowable in NSW is a reasonable one.

We contacted all other jurisdictions and this issue seems to be another area where there is no national conformity and is one where consistency would seem to offer benefit to licensed firearm owners, the general public and regulators. In our enquiries most jurisdictions that we contacted do not seem to allow a 90 day grace period for expired firearm licences.

As the NFA says, possession and use should be based on the overriding principle of ensuring public safety. We see no public safety benefit in allowing a 90 day grace period for licensed firearm owners who should be completely responsible for the burden of license compliance.

We are seriously concerned that the introduction of an arbitrary grace period by one jurisdiction will create a precedent where other jurisdictions are lobbied to extend the same leniency thereby effectively creating a de facto longer license period. This act of constantly undermining the existing Agreement is a serious threat to the agreed national framework and is strenuously opposed by those committed to a strong and consistent national framework.

We recommend that the Minister take this particular issue to the National Firearms and Weapons Policy Working Group and seek to find national consistency rather than further contributing to a confusing regulatory environment.
Clause 19(2) provides that, where a person has renewed a licence or permit and they fail to collect the licence or permit in accordance with approved arrangement within 60 days or longer period as approved in the particular case, the licence or permit is taken to be surrendered. Under this clause, NSWPF requires applicants to have their photo taken when they collect their licence / permit.

We agree that reducing the burden on remote and rural Australians is important. There may be many ways that this can be done.

The use of online technologies including digital photo loading etc. should be explored for those unable to easily attend a Service NSW centre.

We would like the NSWPF to consider the potential for criminal or illegal identity fraud by just relying on extending or re-starting time frames.

We don’t think that simply extending the timeframe is the only option to resolving this issue.

### 3.2 Clause 33 Licence and permits extend to authorise sighting in, patterning and related activities

Clause 33 provides that licences and permits authorising the use of a firearms include “sighting in” the firearm.

We agree with the tightening of Clause 33 to ensure that shooting activities on private properties are not conducted under the guise of “sighting in” a firearm.

### 3.3 Clause 38 Requirements for storage of firearms on residential premises

Clause 38 provides that the holder of a licence must not store a firearm on land used wholly or partly for residential purposes unless the residential premises is a principal place of residence of a person (not necessarily the licensee), or a person (not necessarily the licensee) is residing at the premises when the firearm is stored there.

Safe storage (ii): Include a new clause that provides for arrangements for the storage of firearms on non-residential premises (e.g. industrial warehouses or farm sheds).

The recent Australian Institute of Criminology Statistical Report on firearm theft in Australia¹ found an increase in firearm theft incidents and stolen firearms increased in the 10-year period from 2008–09 to 2018. A 15 percent increase in reported theft incidents was accompanied by a 35 percent increase in stolen firearms.

Most incidents resulted in the theft of multiple firearms. Most thefts were burglaries of residential premises, however around one in five thefts targeting a garage, shed or similar.

The proportion of thefts occurring in major cities has decreased substantially, with a corresponding increase in theft in inner regional, outer regional and/or remote locations depending on jurisdiction.

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The Report showed that concentration of thefts in regional, rural, and remote settings suggested a deliberate relocation of effort, where larger numbers of firearms may be stolen at lower risk of detection.

The shift in the pattern of theft to regional and remote locations supports the NSWPF concern over the threat of firearms located in unattended properties, such as hobby farms.

We therefore support the clarification of Safe Storage requirements for storage of firearms on non-residential premises (e.g. industrial warehouses or farm sheds). We assume that this will be at Level 7 or above.

3.4 Clause 71 Arms Fair permit

Clause 71 provides that the Commissioner may, on application by a licensed firearms dealer or a licensed club official, issue an arms fair permit authorising the firearms dealer or official to conduct an arms fair on specified premises.

We agree that people subject to a Firearm Prohibition Order be prohibited from attending an arms fair.

While the Minister has been quite clear that this consultation is limited and not the broader issues of the National Firearms Agreement or the Firearms Act 1996, the issue of Clause 71 Arms Fair Permit is an important one if being amended.

The availability of Arms Permits in local government facilities, in proximity to schools, being broadly advertised within communities and openly encouraging the sale of firearms and ammunition must be reconsidered.

Once again, community Arms Fairs provide no benefit to the public and do nothing to enhance public safety. There are ample opportunities for those interested in perusing or purchasing firearms to do so in licensed and authorised retail outlets.

Having Arms Fairs in the general community, often without community consultation bears no public benefit.

We encourage the Minister to review Clause 71 and ensure a much broader public and community consultation is included in the process before an Arms Permit is allowed.

3.5 Clause 73 RSL display permit

Clause 73 provides that the Commissioner may issue an RSL display permit authorising RSL clubs to display firearms of a kind that has been used as a weapon of war.

We accept that subject to the conditions imposed within the regulations that an RSL display be regulated consistent with that of museums.
3.6 Clause 89 Additional requirements relating to security guards

Clause 89 provides that a security guard who possesses a firearm must undertake annual firearms training safety clauses.

The rational for the proposed amendment seems a rather specific and rare circumstance. If the evidence shows that security guards are regularly unable to complete their training because they are overseas or in hospital, then a greater examination of the reasons should be undertaken.

Based on that evidence, if the Regulations require amending in order to allow for this unique circumstance, we will not oppose it. However, we fail to see how every possible circumstance can be anticipated in the writing of legislation and regulation.

We would expect that the Commissioners discretion already lies in the application of the regulations.

3.7 Clause 97(3)(d) Approval of club

Clause 97 provides the Commissioner may approve a firearms club, if amongst other things the club is affiliated with a firearms association.

We would recommend the removal of the list of Clubs.

Clause 97(4) & (5) should give the Commissioner sufficient ability to approve a club application. Otherwise the Regulations will be subject to this type of process for the purpose of editing the list.

In addition, we object to the continuation of the term “peak firearm association” in Clause 97(5)(d). There is no such thing and none of those Associations could be regarded as a peak association. If it is to be the case, then we propose that the Australian Gun Safety Alliance also be considered a peak firearm association.

3.8 Clause 124 Exemption for ADF, Police and public servants posted outside NSW

Clause 124 exempts ADF, police officers from other states and public servants who are posted outside of NSW from the requirement that their firearms licence must be revoked when the person ceases to be a resident of NSW.

We accept this clarification
3.9 Clause 143 AVO and IAVO of other jurisdictions

Section 11 of the Act provides that licence cannot be issued to a person who is subject to an apprehended violence order or an interim apprehended violence order. Clause 143 provides that this includes an injunction issued under section 68B or section 114 of the Commonwealth Family Law Act 1975 (Family Law Act).

We agree that the Amendment should reflect accurate sections of the Commonwealth *Family Law Act 1975*. In principle we agree with the automatic disqualification following Personal Protection Injunctions.

However, the *Family Law Act 1975* provides for a range of injunctions to protect children and family members in a variety of ways and we would ask the Minister to review the wording of the Amendment to ensure that all circumstances where the wellbeing of a child or family member may be threatened to be covered and not excluded as a result of being limited to Personal Protection Injunctions.

We would seek greater consultation with the family violence sector before agreeing to a final amendment.
3.10 Weapons Prohibition Act Schedule 1
Schedule 1 of the Act lists prohibited weapons.

3.11 Provisions to provide for the national permanent amnesty
Part 14 of the Firearms Regulation deals with amnesties.

We were very pleased to be part of the consultation process with Asst. Minister Jason Wood in Canberra that discussed the issue of bump stocks and a National Amnesty.

Therefore, we support the inclusion of bump stocks on the prohibited item list in NSW.

The note in the National Firearms Amnesty 2017 Report by the National Firearms and Weapons Policy Working Group that in the previous national amnesty, NSW contributed to 43% of the submitted firearms and parts. This included 792 semi-automatic weapons and 61 weapons previously reported stolen. It would seem that a significant part of the success was the participation of licensed firearm dealers who collected around 67% of submitted items.

We hope that the amendment’s being considered will ensure that licensed firearm dealers are fully engaged in the amnesty process. Also, sufficient resources are made available by the NSWPF and the responsible Department for the advertising and promotion of the amnesty.

We also note the required amendments to the Weapons Prohibition Regulation 2017.
This submission is on behalf of the following members of the Australian Gun Safety Alliance:

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- Dr Phill Pullinger, President, Medics for Gun Control
- Assoc Prof Philip Alpers, Director
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