

Weapons Amendment Bill 2011

Explanatory Notes

Short title

The short title of the Bill is the Weapons Amendment Bill 2011 (the Bill).

Policy objectives

The objective of the Bill is to amend the *Weapons Act 1990* (the Act) and Regulations to give affect to key issues identified through the review of the weapons legislation. The amendments contained in the Bill include amendments which have been previously been announced by the Government.

The Bill:

- increases the penalties for behavioural offences involving weapons;
- extends the current definition of bladed weapons to accord with national standards;
- regulates the possession and use of laser pointers with an output greater than 1 milliwatt;
- regulates the possession and use of high capacity magazines for category B firearms;
- defines an approved safety training course and what the Commissioner of Police (commissioner) may consider in approving such a course for the purposes of obtaining a firearms licence;
- clarifies that a person may have physical possession of a knife in a public place, other than a school, for a genuine religious purpose;
- removes licensing and registration requirements for permanently deactivated public monuments;
- exempts off-duty members of the Queensland Police Service (QPS) and special constables required to possess service issued weapons and exhibits;

- clarifies that incorporated shooting clubs must nominate a representative;
- clarifies that range officers cannot be minors;
- permits range officers from another State or Territory to officiate on ranges;
- introduces additional genuine reasons for the possession of a weapon to include medieval re-enactments, paint pellet sports and for the collection, preservation and study of weapons;
- allows an exemption from a provision of the Act to be revoked if the exemption is breached;
- adopts the Australian Federal Police Firearm Deactivation Standards;
- amends the the *Weapons Categories Regulation 1997* (Categories Regulation) to better define body armour; and
- amends Schedule 2 of the *Weapons Regulation 1996* (Weapons Regulation) to reflect changes to government service entities and prescribed functions.

Achievement of policy objectives

The Bill achieves the objectives by implementing key issues identified through the review of the Act, election commitments and other public statements announced by the Government. The Bill gives effect to those changes by proposing increases to penalties for behavioural offences associated with the misuse of weapons. The existing penalty regime has not had the required deterrent effect. It is anticipated that doubling the existing penalties will send a clear message that offences involving weapons will not be tolerated.

The Bill also strengthens provisions relating to knives in line with the National Prohibited Weapons Agreement and the National Prohibited Weapons List. Consistent with other behavioural offences under the Act, penalties for offences involving knives will double.

Furthermore, category M weapons under the Categories Regulation will be extended to include ballistic knives, butterfly knives, flick knives, push knives, sheath knives, star knives, trench knives and other items and accessories where knives are able to be concealed. These accessories include walking sticks, canes or riding crops. Clothing, apparel and accessories designed to disguise any cutting or piercing instrument such as

a bowen knife belt or a credit card knife will also be the subject of regulation as a category M weapon.

The amendment will mirror the definitions provided by the National Prohibited Weapons Agreement. Arguably a number of the knives on the Prohibited Weapons List may be adequately provided for under section 7A(c) and (d) (Category M weapons) of the Categories Regulation. However the amendment will clarify beyond doubt that the possession of these knives without a licence is unlawful.

Daggers will not be included as a category M weapon in the Categories Regulation. A dagger is defined under the National Prohibited Weapons List as *'a sharp, pointed stabbing instrument made of any substance that has a flat blade with a cutting edge, whether or not serrated, on each side; or a needle-like blade, a cross section of which is elliptical or has at least three sides and is ordinarily capable of concealment on the body'*. This definition of dagger would inadvertently extend the parameters of category M weapons to capture knives used for hunting or fishing, which is beyond the intent of the Bill. Section 51 (Possession of a knife in a public place or a school) of the Act will continue to apply where a person is in possession of a knife in a public place or a school without a reasonable excuse.

The Bill restricts the possession and use of a laser pointer with an output greater than 1 milliwatt to persons with a genuine reasonable excuse. A reasonable excuse is defined in the Bill and allows members of recognised astronomical organisations and people who have genuine occupational reasons to have possession of a laser pointer with a power output of less than 20 milliwatts. Firearms licensees who have possession of a firearm that has the capacity to use a laser pointer with a power output of less than 10 milliwatts will also be considered a reasonable excuse. The possession and use of laser pointers for any purpose will not be restricted where the laser pointer is less than 1 milliwatt. The regulation of laser pointers will align Queensland with other Australian jurisdictions and the *Customs (Prohibited Imports) Regulation 1956* (Cth) which restricts the importation of laser pointers.

Additionally, the Bill restricts the possession of high-capacity detachable magazines for category B centre fire rifles, in line with the (then) Australian Police Ministers Council (APMC) 2005 resolution. The Bill will prohibit the possession of high capacity detachable magazines with more than a 10 shot capacity for pump and lever action centre fire rifles and more than a 15 shot capacity for repeating centre fire rifles.

Currently, all prospective weapons licensees must undertake a safety course to meet the requirements of sections 10A (Adequate knowledge of weapon) and 124 (Training course for security guards) of the Act. This requirement is to ensure an applicant has adequate knowledge of the safety practices for the use, storage and maintenance of a weapon. However the Act does not outline the components required in a safety course. Accordingly, the Bill defines an ‘*approved training course*’. Consistency in training is achieved by requiring training providers to use the units of competence and assessment materials approved by the commissioner.

The Bill also clarifies that a person may possess a knife in a public place, other than a school, for a genuine religious purpose. An amendment to section 51 (Possession of a knife in a public place or a school) of the Act specifies a genuine religious purpose as a reasonable excuse to possess a knife in a public place. However, the reasonable excuse will not extend to the possession of a knife in a school.

Clause 6 of the Bill creates a provision applicable to permanently inoperable artillery items that are publicly displayed. The term ‘public monument’ will include items under section 8(a), (c), (i) or (j) (Category R weapons) of the Categories Regulation. These items will not be classified as either a weapon or a firearm, and as such, will not require licensing or registration.

Section 2(1)(e) (Application of the Act) of the Act and section 8 (Exempt government entities) of the *Explosives Regulation 2003* (Explosives Regulation), provides an exemption for police personnel, for the purpose of possessing or storing service issued weapons, ammunition or exhibits, whilst on duty. However, the definition of ‘possession’ in Schedule 2 (Dictionary) of the Act arguably applies in circumstances where a police officer may be in possession a weapon, but is off-duty. Further, the exemption in section 8 of the Explosives Regulation does not apply to an officer who is not acting in the course of the officer’s official duties. For example, in a one-officer station where the officer has unfettered access to the station, the weapons safe, the weapon and ammunition, or where a police officer is off-duty while on transfer leave and carries the weapon and ammunition from the original station to the new station under circumstances that may require an overnight stay in a motel.

It is unlikely that it was ever the intention of the original legislators to create situations where it is unlawful for a police officer to possess a stored service issued weapon or exhibit whilst off-duty and complying with the commissioner’s directions. Hence, the Bill amends both sections 2 of the

Act and 8 of the Explosives Regulation to clarify that police personnel are exempt from prosecution for possession and storage of service issue weapons or exhibits when off-duty and complying with the directions of the commissioner. The Bill also extends the exemption to police officers from other states and territories appointed as special constables to assist Queensland police during incidents, such as the recent floods, as the definition of police officer in the *Police Service Administration Act 1990* does not include a 'special constable'.

Section 86 (Application for shooting club permit) of the Act sets out the manner in which an application for a shooting club permit is to be made, with section 90 (A representative is required for some applications) of the Act requiring the nomination of an individual as the club representative responsible for the conduct of activities at the club. Currently, section 90 only requires a nomination where an application is made by an unincorporated body or association. Incorporated clubs or associations are not required to nominate a representative responsible for the conduct of activities at the club. The Bill amends the Act to ensure that all clubs or associations are required to nominate a representative responsible for the diligent conduct of activities.

The Bill will amend section 108 (Responsibilities of a range operator) to clarify that a person undertaking the duties of a range officer must be an adult. An anomaly in section 23 (Minors licence) of the Weapons Regulation potentially allows a minor to undertake the role of a range officer.

The responsibilities of range officers are provided under sections 108 (Responsibilities of range operator) and 109 (Responsibilities of range officer) of the Act. Currently, range officers are effectively restricted to Queensland residents due to the requirement for a range officer to hold a Queensland firearms licence. This becomes problematic during interstate shooting events where there are often more licensees using the ranges than the club has available range officers under normal circumstances. In this regard, the Bill contains an amendment to section 108 of the Act to allow interstate approved range officers to officiate in Queensland at interstate shooting events, and thereby supporting the safe and efficient management of interstate shooting events held in Queensland.

In order to possess a weapon in Queensland, a person must have a genuine reason. Section 11 (Genuine reason for possession of a weapon) of the Act lists the various reasons that are considered genuine reasons when applying for a weapons licence under Part 2 of the Act. Section 11 allows the

expansion of genuine reasons by regulation (see section 4 (Additional genuine reason for possession of a weapon of the Regulation)).

The recent growth in medieval re-enactments, paint pellet sports and the collection, preservation and study of weapons has placed an increased administrative burden on authorised officers in terms of the approval process. In this regard, the Bill will expand the genuine reasons for the possession of a weapon. Section 4 of the Regulation will include medieval re-enactments, paint pellet sports and the collection, preservation and study of weapons.

Currently the commissioner may grant, upon application, an exemption from a provision of the Act under section 66 of the Regulation. In cases where an exemption holder breaches the conditions of the exemption he or she commits an offence and is subject to a maximum of 10 penalty units. However, there are no provisions to suspend revoke or modify the exemption as a result of the breach. The Bill contains an amendment to the Regulation to remedy this by allowing the commissioner to suspend, revoke or modify an exemption that has previously been issued. An exemption that has been suspended, revoked or modified by the commissioner will take effect when the notice advising that the exemption has been suspended, revoked or modified is either given to the exemption holder, or if the date in the notice is later than the date the notice is given to the exemption holder, the date stated in the notice. The maximum penalty for a breach of an exemption in section 66 of the Act has been increased from 10 penalty units to 20 penalty units.

The Bill will introduce standards of firearm deactivation consistent with the Australian Federal Police Firearm Deactivation Standards (Deactivation Standards). The Deactivation Standards were endorsed by the (then) APMC on 16 November 2006. The APMC recognised that there is a risk of reactivating firearms by making the firing capabilities operational again.

It was noted by the APMC that the *'diversion of firearms to the illicit market is assisted when deactivation standards do not ensure that a firearm can not be reactivated and where the deactivation is not inspected by qualified police. On a national level this applies to all jurisdictions except NT and SA. Further, where jurisdictions do not require records of deactivated firearms to be maintained (for example, through registration), the serial numbers from deactivated firearms can be transferred to functional firearms to disguise their identity'*. Implementation of the Deactivation Standards aligns Queensland with other Australian

jurisdictions, thus fulfilling its commitment to the APMC resolution to introduce nationally consistent firearms deactivation standards.

The Bill will also amend section 6 (Category E Weapons) of the Categories Regulation to provide a clear definition of what constitutes body armour. The definition is consistent with the National Uniform Prohibited Weapons List and ensures that items such as helmets and other articles used for eye or hearing protection are not captured by the definition of body armour. Currently, section 6 deems a bulletproof vest, a protective body vest and body armour as category E weapons.

Schedule 2 of the Regulation provides an exemption from the Act for certain government service entities and prescribed functions. These entities and functions currently refer to Queensland Corrections, Australasian Correctional Management Pty Ltd, Corrections Corporation of Australia and the Queensland Fire and Rescue Service (QFRS). The references to Australasian Correctional Management Pty Ltd and Corrections Corporation of Australia are no longer current and an amendment is required to reflect the organisations currently undertaking these roles.

Additionally, section 4 of the Schedule provides an exemption from the Act to the QFRS for the purposes of possessing, using or acquiring incendiary devices that are category M weapons. However, the provision is limited to employees of the Rural Fire Service. With the growth of urban/rural interface zones, there is the potential for incendiary devices to be used by urban fire fighters. To recognise the changes in interface zones, Schedule 2 will be amended to exempt all employees of the QFRS where those employees are performing a function that necessitates the possession, use and acquisition of an incendiary device that is a Category M weapon, to prevent and control fires.

Alternative ways of achieving policy objectives

There are no other alternatives that would achieve the policy objectives other than through legislative reform. This review is the first time the legislation has been comprehensively reviewed since its enactment in 1990.

In 2006, the (then) Minister for Police and Corrective Services signalled the intention to review the Act by forming a Committee to consult with Government departments, industry representatives and members of the community. In August 2010, the Government released an exposure draft

Weapons Bill 2010 for further community consultation. The exposure draft Bill attracted over 2,500 online comments and submissions.

Estimated cost for government implementation

All costs associated with the implementation of the amendments will be met through existing (QPS) budgets. There are no anticipated additional costs to the State Government.

Consistency with fundamental legislative principles

The Bill has been drafted with due regard to the Fundamental Legislative Principles (FLP's) as outlined in the *Legislative Standards Act 1992* (the LSA). Section 4(2) (Meaning of fundamental legislative principles) of the LSA requires that legislation has sufficient regard to the rights and liberties of individuals. An overarching theme of the Bill is the continued balance between the competing rights and liberties of individuals: 1) the rights and liberties of individuals to possess and use weapons; and 2) the rights and liberties of individuals to be protected from individuals who seek to misuse weapons.

Laser pointers

Clause 18 of the Bill regulates the possession and use of a laser pointer with an output of more than 1 milliwatt. Laser pointers are a prohibited item under the *Customs (Prohibited Imports) Regulation 1956*. The possession of a laser pointer is regulated in all other Australian States and Territories attracting penalties of up to two years imprisonment.

The risks associated with laser pointers have been highlighted in recent years by incidents involving shining laser pointers into the cockpits of aircraft and cabins of vehicles. In 2008, the Australian Government introduced a prohibition on the importation of laser pointers with a maximum output of 1 milliwatt in response to these incidents. In this regard, Schedule 2 of the *Customs (Prohibited Imports) Regulation 1956* (Cwth) prohibits the importation of laser pointers with an output greater than 1 milliwatt unless approved by the Minister or an authorised person.

While Queensland and the Commonwealth have offence provisions (section 26 (Endangering the safe use of a vehicle by throwing an object or by a similar activity) of the *Summary Offences Act 2005* and section 24 *Civil Aviation Act 1988* (Cwth)) to address behavioural offences with laser

pointers, they are targeted to specific acts and do not address the misuse of laser pointers generally within the community.

The Bill captures behavioural offences involving the misuse of laser pointers that are not currently captured under existing legislation. The Bill will prohibit the possession of a laser pointer with a capacity greater than 1 milliwatt without a reasonable excuse. For the purposes of the Act, it will be a reasonable excuse to possess a laser pointer where a person is a member of or is being personally supervised by a member of a recognised astronomical organisation, if the person is taking part in activities associated with astronomy, if the person requires a laser pointer to take part in activities associated with a recognised occupation or the person holds a licence that authorises the possession of a firearm in relation to which a laser pointer may be used.

Laser pointers are a newly restricted item in Queensland. To ensure the correct parameters are set in determining which astronomical associations or occupations are recognised for the purposes of acquiring or possessing a laser pointer, a list of astronomical associations and occupations will be published on the QPS internet site, rather than immediately prescribed by Regulation. Publication will be for a six month period only. After this time, those published astronomical associations and occupations meeting the requirements for recognition, will be prescribed in the Regulation.

Furthermore, the Bill will classify a laser pointer as a weapon for the purposes of section 58 (Dangerous conduct with weapon prohibited generally). Clause 34 of the Bill will introduce a laser pointer as a restricted item under section 9 (Restricted items, Act s. 67) of the Regulation.

Possession of knives

Clause 10 of the Bill amends section 51 (Possession of a knife in a public place or a school) to clarify that a person may physically possess a knife in a public place for a genuine religious purpose. The Bill examples the Sikh religion which requires baptised members to carry a kirpan (a small blunted sword that is worn underneath the persons clothing). A potential FLP breach is created in the clause by excluding a genuine religious purpose as a reasonable excuse for a knife to be physically possessed in a school.

While the potential breach has the capacity to interfere with an individual's freedom to undertake genuine religious practices, the safety and welfare of children attending Queensland schools is of paramount importance.

Between 2009 and 2010 there were 164 offences involving knives (including one homicide) committed on Education Queensland premises. In March 2011, a student was stabbed in the stomach with a knife at a Gold Coast school while attending the school's administration building.

The Department of Education and Training (DET) advises that students are not permitted to bring knives or any other thing that could be considered a weapon to a school. Further, the DET's 'Guidelines for developing a Responsible Behaviour Plan for Students', deem the use of weapons as an unacceptable behaviour for which a student could expect to be recommended for exclusion.

Restrictions on the physical possession of knives, including knives carried for genuine religious purposes, currently exist in relation to commercial air travel. Sections 48 (Weapons on board an aircraft—strict liability) and 49 (Weapons on board an aircraft—general) of the *Aviation Transport Security Act 2004* (Cth) contain strict liability provisions prohibiting the carriage of a weapon, including a knife, on board an aircraft. The maximum penalty for a contravention of these provisions is 100 penalty units for an offence under section 48 and 7 years imprisonment for an offence under section 49. A person required to carry a knife for a genuine religious purpose must place the knife in checked luggage, prior to boarding the plane.

On 28 July 2008, the Premier and the (then) Minister for Police and Corrective Services publicly announced their intention to strengthen the definition of bladed weapons to meet national standards and reduce the number of knife related offences in Queensland. In 2009/10, knives were used in the following offences where those offences involved the use of a weapon:

- 36% of all homicides;
- 22% of all assaults;
- 23% of all sexual offences;
- 53% of all robberies; and
- 30% of all offences against the person.

Clause 32 facilitates this commitment by amending section 7A (Category M weapons) of the Categories Regulation to include the following knives, and knife related items, in line with the National Prohibited Weapons Agreement:

- ballistic knife;

- butterfly knife;
- flick knife;
- push knife;
- sheath knife;
- star knife;
- trench knife;
- riding crop that contains, conceals or disguises a knife;
- walking stick or cane that contains, conceals or disguises a sword; and
- any clothing, apparel, accessory or other thing designed to disguise any cutting or piercing instrument capable of causing bodily harm.

The amendment to section 7A of the Categories Regulation will mirror the definitions of the Prohibited Weapons List. Arguably, a number of the knives on the Prohibited Weapons List may be adequately provided for under subsections (c) and (d), however, the amendment will clarify beyond doubt that the possession of these knives, without a licence, is unlawful.

The Bill does not extend category M weapons to include daggers. The definition of a dagger provided under the National Prohibited Weapons List extends the parameter of category M weapons to capture knives including those used in hunting or fishing. The inclusion of a dagger in the legislation is not required to meet the minimum standards of the National Prohibited Weapons List.

High capacity detachable magazines

Clause 44 of the Bill introduces a new section 68CA (Prohibition on possession of particular magazines – Category B weapons) of the Weapons Regulation. The clause regulates possession of high capacity detachable magazines with a maximum capacity of more than 10 rounds for pump or lever action centre fire rifles and high capacity magazines with a maximum capacity of more than 15 rounds for repeating centre fire rifles. The clause is aimed at reducing the overall firepower of weapons on the market and also meets the 2005 APMC resolution to tighten weapons laws to restrict the acquisition and possession of high capacity detachable magazines.

The new section does not affect a person's capacity to possess or use a high-capacity detachable magazine, where the person is the registered owner of a category D or R weapon held under another licence which allows the use of a high-capacity detachable magazine, or where a

condition on a person's firearms licence authorises the possession of a high-capacity detachable magazine.

Increased penalties

The Bill increases the penalties for 22 offences found in the current Act and Regulation. The increase in penalties for these offences is designed to express greater condemnation of offences involving weapons and send a strong message of deterrence to the community. While statistics obtained by the QPS indicate that between 2004-05 and 2009-10 minor decreases have occurred in the rate of offending involving weapons, they do not show that the current penalty regime has made any significant difference to the rate of offending where knives or firearms are used.

Institution of Parliament—Legislative Standards Act Delegation (s 4(4)(a) LSA)

Clause 18 of the Bill creates a potential breach of the principle of the institution of Parliament by delegating a function of Parliament to the commissioner. The clause will allow the publication of a 'recognised astronomical organisation' and a 'recognised occupation' on the

Laser pointers will be a newly regulated item in Queensland and it is anticipated that a number of organisations will seek to be recognised under the new legislation. Prior to regulating an organisation as recognised, the QPS will identify parameters and implement a framework to ensure consistency in the selection process.

Consultation

In 2006, the (then) Minister for Police and Corrective Services announced a review of the Act and subordinate legislation and established a Review Committee. The Committee membership included the Sporting Shooters Association of Australia (Qld), Queensland Rifle Association, QLD Amateur Pistol Club, QLD Shooting Association, Firearms Dealers Association of Queensland Inc, Arms Collectors Guild of Queensland Inc, Historical Arms Collectors Incorporated, and Film Ordinance Industry. The Committee considered over 550 proposals from the public and the weapons industry which resulted in over 440 proposed legislative amendments.

In July 2010, the Government supported the release of the Weapons Bill 2010 as an exposure draft for community consultation. The exposure draft Bill was published on the QPS internet website between 4 August and 14

September 2010. Additional stakeholder consultation was undertaken with AgForce Queensland, Astronomical Society in Queensland, Asia-Pacific, BLP Training & Services, Sunshine Coast Shooting Club, Southern Astronomical Society in Queensland and the Queensland University of Technology Students Guild Medieval Society. Over 2,500 online comments and submissions were received from individuals and organisations, raising a number of significant and legitimate concerns on some aspects of the proposed changes.

As a result, the amendments proposed in the exposure draft will now be progressed in two stages, allowing further consideration of those aspects which have drawn adverse comment.

Consistency with legislation of other jurisdictions

The Bill is specific to Queensland as no other jurisdiction has the legislative structure of a Weapons Act and two subordinate Regulations. However, approaches in other jurisdictions as proposed by the Commonwealth Heads of Government and the APMC were taken into consideration in the development of the Bill to achieve, where possible, a national standard.

Notes on provisions

Part 1 Preliminary

Clause 1 states that when enacted the Bill will be cited as the *Weapons Amendment Act 2011*.

Clause 2 provides that the *Weapons Amendment Act 2011* will commence on a date to be fixed by proclamation.

Part 2 **Amendment of *Weapons Act 1990***

Clause 3 clarifies that Part 2 amends the *Weapons Act 1990*.

Clause 4 amends section 2(1)(e) (Application of Act) to extend an exemption to a police officer, special constable or trainee member of the QPS, or any other member of the QPS authorised by the commissioner to possess or use a weapon off-duty where the person is acting in compliance with the directions of the commissioner.

Section 2(1)(g) is also amended through clause 4 to provide that the Act does not apply to a person who is undergoing an '*approved training course*' with respect to the possession or use of a weapon. This is an amendment of terminology only and replaces the term '*a training course approved by the commissioner*'.

The amendment to section 2 supports the new definition of an '*approved training course*' which is located in Schedule 2 (Dictionary) and will align with the new section 10AA which will articulate the learning components required for a course to be approved by the commissioner. For a training course to be approved by the commissioner, it must contain specific key units of competence and assessment materials.

Clause 5 inserts a new section 6C (Public monument) to address a gap in the current Act which requires deactivated war related weapons or imitations of those weapons which are on public display, to be licensed and registered. The new section will define a '*public monument*' as a prescribed category R weapon that is permanently incapable of being discharged and permanently and lawfully displayed in a public place for memorial or commemorative purposes.

To clarify the parameters of a *public monument*, the clause provides examples of permanently deactivated WWI artillery permanently displayed in the foyer or grounds open to or visible by the public, of a Returned Services League club and a permanently deactivated Bofors anti-aircraft gun mounted on a concrete platform in a public park.

The clause provides that only a prescribed category R weapon such as a machine gun, bazooka, mortar or artillery including an imitation of such a weapon may be permanently displayed and then only if the weapon is displayed in a way that prevents its removal by an unauthorised person.

A '*public monument*' is neither a weapon nor a firearm for the purposes of the Act and will not be required to meet the same licensing and registration provisions which currently apply to other weapons under the Act.

Clause 6 amends section 10A (Adequate knowledge of weapon) to create consistency in the standard of safety training required to be undertaken by applicants for a weapons licence. The term '*approved safety course*' replaces the term '*a training course approved by the commissioner*'.

The change in terminology is a minor technical amendment which will not have an operational effect on those training providers who are currently approved by the commissioner to deliver safety training courses. This amendment does not impact on the requirements of existing weapons licence holders.

Clause 7 inserts section 10AA (Approval of training courses) which details criteria about which the commissioner must be satisfied when approving a training course. A training course must include training about the safe use, storage and maintenance of the weapon that is to be authorised by the person's licence. Where a person is applying for a security guard licence, the safety training course must also include training on any restricted item, such as handcuffs or batons, if the use of those items is to be authorised by the person's licence.

Clause 8 amends section 11(d) (Genuine reasons for possession of a weapon) to provide that it is a genuine reason to possess a weapon if that reason is for the collection, preservation or study of weapons. The amendment removes collectors as a genuine reason to possess a weapon and expands the provision to take into account the recent growth in the areas of weapons preservation and study by historical societies and other groups and organisations.

Clause 9 amends section 50A (Possession of unregistered firearms) by doubling the penalty for possessing an unregistered firearm from 60 penalty units to 120 penalty units.

Clause 10 amends section 51 (Possession of a knife in a public place or a school) to clarify that a person may physically possess a knife in a public place for a genuine religious purpose. The Bill examples the Sikh religion, which requires baptised members to carry, among other things, a kirpan, which is a small blunted sword worn underneath the persons clothing.

However, clause 10 excludes a genuine religious purpose as a reasonable excuse where the possession of the knife is in a school. The carriage of any

weapon onto school premises is not permitted and is deemed an unacceptable behaviour which has the potential to significantly violate the rights of students.

The maximum penalty for possessing a knife in a public place or a school, without a reasonable excuse is doubled from 20 penalty units or 6 months imprisonment to 40 penalty units or 1 year imprisonment.

Clause 11 amends section 56(2) (Discharge of weapon on private land without owner's consent prohibited) by doubling the penalty for discharging a weapon on or across private land without the express consent of the owner from 20 penalty units or 3 months imprisonment to 40 penalty units or 6 months imprisonment.

The maximum penalty for section 56(3) is also doubled from a maximum of 20 penalty units to a maximum of 40 penalty units were a person carries a weapon that can be readily discharged on private land, without the express consent of the owner or without a reasonable excuse.

Clause 12 amends section 57(2) (Particular conduct involving a weapon in a public place prohibited) by doubling the maximum penalty for carrying a weapon in a public place without a reasonable excuse from 20 penalty units or 3 months imprisonment to 40 penalty units or 6 months imprisonment.

Sections 57(3) and 57(4) will also be amended to reflect an increase in penalty. The maximum penalty associated with carrying a loaded firearm that is capable of being discharged in a public place under section 57(3) is doubled from 60 penalty units or 1 year imprisonment to 120 penalty units or 2 years imprisonment. Likewise, the maximum penalty associated with discharging a weapon, in, into, towards, over or through a public place under section 57(4) increases from 100 penalty units or 2 years imprisonment to 200 penalty units or 4 years imprisonment.

Clause 13 amends section 58(1) (Dangerous conduct with weapon prohibited generally) by including a laser pointer as a weapon for behaviours which are likely to cause death or injury to a person or unlawful destruction or damage to property or alarm to another person.

The clause also amends section 58(2) by increasing the maximum monetary penalty for dangerous conduct with a weapon from 100 penalty units or 2 years imprisonment to 200 penalty units or 4 years imprisonment.

Clause 14 amends section 59 (Possession or use of weapon under the influence of liquor or a drug prohibited) by doubling the maximum penalty

where a person has possession of a weapon while under the influence of liquor or a drug from 20 penalty units to 40 penalty units.

Clause 15 amends section 61 (Shortening firearms) by increasing the maximum monetary penalty from 100 penalty units or 2 years imprisonment to 200 penalty units or 4 years imprisonment where a person shortens a firearm or possesses a firearm that has been shortened or acquires or sells a firearm that has been shortened.

Clause 16 amends section 62(1) by increasing the maximum monetary penalty for modifying the construction or action of a firearm, possessing a firearm that has had the construction or action modified or acquiring or selling a modified firearm without a reasonable excuse from 100 penalty units or 2 years imprisonment to 200 penalty units or 4 years imprisonment.

Clause 16 will also increase the maximum penalty under section 62(2) for making operable, a firearm that has previously been made permanently inoperable without a reasonable excuse. The maximum penalty for this offence is increased from 100 penalty units or 2 years imprisonment to 200 penalty units or 4 years imprisonment.

Clause 17 amends section 63 (Altering identification marks of weapons) by increasing the maximum penalty for defacing or altering any identifying serial number or mark on a weapon, or possessing a weapon that has had the identifying serial number or mark defaced or altered, or acquiring or selling a weapon that has had the identifying serial number or mark altered or defaced without a reasonable excuse. The maximum monetary penalty for this offence is increased from 100 penalty units or 2 years imprisonment to 200 penalty units or 4 years imprisonment.

Clause 18 amends section 67 (Possessing or acquiring restricted items) to include a reasonable excuse provision for the acquisition or possession of a laser pointer with an output greater than 1 milliwatt. It is a reasonable excuse to acquire or possess a laser pointer with an output greater than 1 milliwatt if the person acquiring or possessing the laser pointer is a member of a recognised astronomical organisation, employed in a recognised occupation, or the person possesses a licensed firearm which utilises a laser. The maximum milliwatt output associated with laser pointers for astronomical or occupational purposes is 20 milliwatts, or for a firearm, 10 milliwatts.

Section 67 is amended to provide that a recognised astronomical organisation and a recognised occupation will be prescribed under a

regulation or published on the QPS website for the purposes of possessing or acquiring a laser pointer.

Clause 19 amends section 87(e) (Authorised officer may grant or refuse a shooting club permit) by amending the reference to section 90(2) and replacing it with 90(1). This amendment supports an amendment to section 90 to clarify that incorporated shooting clubs must nominate a representative when making an application for a shooting club permit.

Clause 20 amends section 90 (A representative is required for some applications) to clarify that a representative must be nominated in an application for a shooting club permit. Currently, a representative is only required to be nominated by an unincorporated body or association or a shooting club prescribed by a regulation.

Clause 20 will extend the current provision to include all incorporated shooting clubs and will remove the reference to a '*shooting club prescribed by regulation*' by omitting subsection 1 of section 90.

The heading of section 90 is amended to reflect the changes to the content of the provision.

Clause 21 amends section 100 (Limits on approvals) by removing the reference to '*a training course approved by the commissioner*' for section 10A(2) or 124 and replacing it with an '*approved training course*'. This is a technical amendment to facilitate the introduction of the new term '*approved training course*' and does not affect the application of the provision.

Clause 22 amends section 101 (Authorised officer may grant or refuse range approval) by removing the term '*a training course approved by the commissioner*' and replacing it with an '*approved training course*'. This is a technical amendment that facilitates the introduction of the new term '*approved training course*' and does not affect the application of the provision.

Clause 23 amends section 108 (Responsibilities of range operator) by clarifying that a person can only be a range officer if that person is an adult firearms licence holder. This amendment addresses an anomaly in the legislation which potentially allows a minor to undertake the duties of a range officer.

Section 108(2)(b) is extended by clause 24 to allow an adult who holds a corresponding firearms licence from another State to undertake duties as a range officer in Queensland.

Clause 24 amends section 110(1) (Responsibilities of person attending an approved range) by doubling the maximum penalty from 20 penalty units to 40 penalty units, where a person attends a firearm range and possesses or uses a weapon that the person, including a minor, is not licensed to use, or if the person is unlicensed, has not complied with section 53 by producing photographic identification and completed the requisite approvals.

The maximum penalty under section 110(2) is also doubled where a person uses a weapon on a range in a way that is likely to cause death or injury to person or unlawful destruction of or damage to property from 20 penalty units to 40 penalty units.

Clause 24 also increases the maximum penalty where a person fails to comply with a direction of a range officer under section 110(3) from 10 penalty units to 20 penalty units.

Clause 25 amends section 115 (Theatrical ordnance suppliers to be licensed) by doubling the maximum penalty where a person supplies a replica or a weapon for the production of a theatrical, motion picture or television production, without a licence, from 60 penalty units to 120 penalty units.

Clause 26 amends section 124 (Training courses for security guards) removing the term '*a training course approved by the commissioner*' and replacing it with '*an approved training course (security guard)*'. This is a technical amendment that facilitates the introduction of the new term '*approved training course*' and does not affect the application of the provision.

Clause 27 amends section 127(2) and (3) by correcting a previous drafting error by providing a penalty for a security organisation that allows an employee to possess or have physical possession of a weapon if the organisation is not licensed. The maximum penalty of 200 penalty units is consistent with the new penalty provisions for the remainder of section 127.

The clause also amends section 127(4) by doubling the maximum penalty for a security organisation that allows an employee to physically possess or use a weapon contrary to the way prescribed by regulation, from 100 penalty units to 200 penalty units.

Clause 28 amends Part 8 of the Act by including new transitional provisions as they apply to the amendments included in the *Weapons Amendment Act 2011*.

Section 187 clarifies that the transitional provisions included in division 4 apply upon commencement of section 187 (Definition for div 4). The provisions are not retrospective and will not apply prior to the proclamation date.

Clause 28 also supports clause 53 and changes to Schedule 2 of the *Weapons Regulation 1996* (Government service entities and prescribed functions for them and their employees for the Act's non-application) to reflect changes to entities currently acting as government service entities. Clause 28 inserts section 188 into the Act to declare that for the period 1 January 2008 to the commencement of the *Weapons Amendment Act 2011*, Serco Australia Pty Ltd (Serco):

- was taken to be a government service entity and a prescribed entity for the purposes of s 2(9) of the Act;
- the functions of Serco were taken to have been authorised by the Chief Executive (Corrective Services) under s 272 of the *Corrective Services Act 2006* for the purposes of s 2(2) of the Act; and
- the functions of Serco employees were taken to have been the functions of a corrective services officer that the employee performs for Serco whilst Serco is performing functions under s 272 of the *Corrective Services Act 2006* for the purposes of s 2(2) of the Act.

Clause 28 inserts section 189 into the Act, similar to the new section 188, with respect to the GEO Group Australia Pty Ltd (GEO Group) for the period 15 January 2004 to the commencement of the *Weapons Amendment Act 2011*.

Clauses 188 and 189 have been inserted to put beyond any doubt, the lawful status and functions of Serco and the GEO Group and their employees, over the interim period.

Clause 28 inserts section 190 (Training courses) to clarify that any training course approved by the commissioner prior to the commencement of the *Weapons Amendment Act 2011* will automatically continue to be an approved training course after commencement of the Act.

Section 191 (Amendment of regulations) provides that any amendment of the *Explosives Regulation 2003*, *Weapons Categories Regulation 1997* or the *Weapons Regulation 1996* by the *Weapons Amendment Act 2011* does not affect the power of the Governor in Council to further amend or repeal those regulations.

Clause 29 amends Schedule 2 of the Act by providing definitions for new terms.

Part 3 **Amendment of the *Weapons Categories Regulation 1997***

Clause 30 provides that part 3 of the Weapons Amendment Bill 2011 amends the *Weapons Categories Regulation 1997*.

Clause 31 amends section 6 (Category E weapons) by defining body armour. This amendment is a clarifying provision outlining what is and what is not deemed to be body armour under the *Weapons Categories Regulation 1997*.

Clause 32 amends section 7A (Category M weapons) of the *Weapons Categories Regulation 1997* by including the following knives as category M weapons:

- ballistic knife - a knife that propels or releases a knife-like blade of any material by any means other than an explosive;
- butterfly knife - a knife known as a ‘*balisong*’, a pantographic knife, or a similar device that consists of a single-edged or multi-edged blade or spike that fits within 2 handles attached to the blade or spike by transverse pivot pins or pantographic linkage and is capable of being opened by gravity or centrifugal force;
- flick knife or a similar device of any material that has a blade folded or recessed into the handle that opens automatically by gravity or centrifugal force or if pressure is applied to a button, spring or device in or attached to the handle of the device;
- push knife or similar device designed as a weapon that consists of a single-edged or multi-edged blade or spike that allows the blade or spike to be supported by the palm of the hand so that stabbing blows or slashes can be inflicted by a punching or pushing action;
- sheath knife or similar device of any material that has a sheath which withdraws into its handle by gravity or centrifugal force or if pressure is applied to a button, spring or device attached to or forming part of the sheath, handle or blade of the device;

- star knife or a similar device that consists of more than 1 angular point, blade or spike, of any material, disposed outwardly about a central axis point and that is designed to spin around the central axis point in flight when thrown at a target;
- trench knife or a similar device that consists of a single-edged or multi-edged blade or spike of any material that is fitted with a handle made of any hard substance that is designed to be fitted over the knuckles of the hand of the user to protect the knuckles and increase the effect of a punch or blow;
- riding crop that contains, conceals or disguises a knife stiletto or any other single-edged or multi-edged blade or spike of any length or of any material; and
- a walking stick or cane that contains, conceals or disguises a sword or any other single-edged or multi-edged blade, knife or spike of any length or of any material.

The clause also amends section 7A by extending a category M weapon under subsection (a) to include any clothing, apparel, adornment, accessory or other thing that is designed for use as a weapon or a cutting or piercing implement capable of causing bodily harm. The wording of subsection (a) has been altered to better reflect the definition contained in the National Prohibited Weapons List.

Furthermore, Clause 32 removes subsection (b) which refers to items such as predicide ejectors which are designed to control native or feral animals. Predicide ejectors contain a cyanide capsule used to euthanase animals without undue harm to humans, other animals or the environment.

Clause 33 amends section 8 (Category R weapons) of *the Weapons Categories Regulation 1997* by prescribing that for the purposes of the Act the items mentioned in subsection 1(a), (c), (i) or (j) are public monuments.

Clause 34 amends section 9 (Restricted items (Act, s67)) of the *Weapons Categories Regulation 1997* by including a laser pointer as a restricted item.

Part 4 **Amendment of *Weapons Regulation 1996***

Clause 35 provides that Part 4 of the Weapons Amendment Bill 2011 amends the *Weapons Regulation 1996*.

Clause 36 amends section 3 (Possession or use of a weapon unlawful to extent another licence is needed to authorise that possession or use) by inserting example (g) '*to provide an approved training course a firearms licence (instructor) is needed*'. An approved training course for a person wishing to apply for a firearms licence must include components for the safe use, storage and maintenance of firearms. Therefore a person providing this training must have the requisite qualifications, including a firearms instructor's licence, to deliver this training.

Clause 37 inserts section 3B (Requirements for training courses – Act, s. 10AA) to support section 10AA of the Act by specifying the requirements of an approved training course. The training course must contain content that will give a person, who completes the course, the knowledge required to safely use, store and maintain a weapon, to which the course relates. Alternatively, if the course relates to a person seeking to be licensed as a security guard, the knowledge required to safely use, store and maintain the weapon or restricted item to which the course relates.

Clause 38 amends section 4 (Additional genuine reasons for possession of a weapon) to include medieval re-enactments and paint pellet sports as a genuine reason to possess a weapon.

Clause 39 amends section 22 (Firearms licence (instructor)) by removing references to '*a course in firearms safety training approved by the commissioner*' and '*a training course approved by the commissioner*' under section 124 of the Act and replaces it with '*an approved training course*'. This is a technical amendment that facilitates the introduction of the new term '*approved training course*'.

Clause 40 extends the parameters of section 25A (Miscellaneous weapons licence) to allow a person to apply for a miscellaneous weapons licence for a category M weapon, which is a knife or something that conceals a knife. This clause supports the introduction of amendments to section 7A of the *Weapons Categories Regulation 1997*.

The clause requires that a miscellaneous weapons licence may only be issued for a category M weapon if there is a special occupational need for the weapon and that the person who is issued with a licence to possess a category M weapon uses the weapon only for that occupational need.

Clause 41 amends section 26(4) (What dealer's licence authorises) to include the new category M knives as '*restricted category M weapons*' for the purposes of a dealer's licence.

Clause 42 amends section 47 (Security guard to complete training course annually, Act, s 124)) by removing the term '*a training course approved by the commissioner*' and replacing it with '*an approved training course*'. This is a technical amendment that facilitates the introduction of the new term '*approved training course*'.

Clause 43 amends section 66(3) (Exemption from provision of Act) by increasing the maximum penalty for non-compliance with the conditions of an exemption from 10 penalty units to 20 penalty units. Furthermore, clause 43 will allow the commissioner to amend or cancel an exemption from a provision of the Act at any time. An amendment or cancellation of an exemption must be given to the exemption holder and takes effect on the day the notice to amend or cancel and exemption is given to the exemption holder or if the amendment or cancellation commences on a later date, the date stated in the notice.

Clause 44 inserts section 68CA (Prohibition on possession of particular magazines – category B weapons) to give effect to the AMPC resolutions by restricting the possession of detachable magazines with a maximum capacity of more than 10 rounds for weapons which are pump action or lever action centre fire rifles, and a maximum capacity of more than 15 rounds for repeating action centre fire rifles. The new section does not affect a person's capacity to possess and use a high-capacity detachable magazine, where the person is the registered owner of a category D or R weapon held under another licence which allows the use of a high capacity detachable magazine, or where a condition on a person's firearms licence authorises the possession of a high capacity detachable magazine. A maximum penalty of 10 penalty units applies where a person contravenes section 68CA

Clause 45 amends the title of section 68D (Amendment of s 68D (Prohibition on possession of magazine with more than 10 rounds)) to better reflect the content of the provision. The heading will be changed to '*Prohibition on possession of particular magazines – category H weapons*'.

This is a technical amendment which has no affect on the application of the provision.

Clause 46 amends section 68E (Prohibition of possession on certain magazines) to take into account the new provision 68CA which limits the possession and use of high capacity detachable magazines for category B weapons. The amendment to section 68E requires a person to take into account both the provisions of sections 68CA (Prohibition on possession of particular magazines – category B weapons) and 68D (Prohibition on possession of magazine with more than 10 rounds) prior to applying the restrictions of section 68E on magazines.

Clause 47 amends section 73 (Modifying a firearm to make it permanently inoperable – Act, s. 7) to recognise the introduction of the Deactivation Standards as endorsed by the APMC in November 2006. Clause 49 removes subsections (1) to (5) which provides the standards for deactivating firearms. A new subsection (1) provides that the manner in which a firearm is to be modified, to make it permanently inoperable, is contained in Schedule 2A (Ways of modifying firearms to make them permanently incapable of being discharged).

Clause 47 does not affect an authorised officer's power to approve another method of permanently deactivating the firearm under subsections (2) and (3).

Clause 48 amends section 79(a) (Entities prescribed as government service entities and functions prescribed for them and their employees for the Act's non-application) by removing the reference to section 2(8) and replacing it with section 2(9). This amendment is a technical amendment which clarifies what constitutes a government service entity for the purpose of section 2 of the Act.

Clause 49 (Amendment of sch 1A) reflects the new weapons licensing conditions required as a result of the amendments contained in the *Weapons Amendment Act 2011*.

Schedule 1A, column 2, entry for TR2 of the *Weapons Regulation 1996* applies to a firearms instructor's licence and authorises a licensee to possess and use registered weapons of the category endorsed on the licence to provide training.

The Bill amends Schedule 1A, column 2, entry for TR2 of the *Weapons Regulation 1996* by replacing the term '*approved by the commissioner of*

the police service with *‘an approved training course’* to facilitate the introduction of the term which is used throughout the Act and Regulations.

Clause 50 amends Schedule 2 (Government service entities and prescribed functions for them and their employees for the Act’s non-application) to reflect changes to entities currently acting as government service entities. The amendment to Schedule 2 ensures that the prescribed government service entities are afforded an exemption under section 2 (Application of the Act) of the Act.

Furthermore, clause 50 will extend the application of prescribed functions for the QFRS to allow all employees of the QFRS to acquire, possess and use incendiary devices that are category M weapons for the purposes of preventing and controlling fires. Currently, only members of the Rural Fire Service may lawfully acquire, possess and use incendiary devices that are category M weapons for the purposes of preventing and controlling fires.

Clause 51 inserts schedule 2A (Ways of modifying firearms to make them permanently incapable of being discharged) for the purposes of section 73(1)(a) of the Act. Clause 54 meets the requirements of the Deactivation Standards by providing how each firearm is to be modified to make in permanently incapable of being discharged.

Clause 52 omits the reference to *QPS website* contained in schedule 3 of the Regulation. The reference to *QPS website* has been relocated to the Act.

Part 5 Consequential and minor amendments of other legislation

Clause 53 provides that Schedule (Other minor and consequential amendments) amends the legislation that it refers to for section 53 of the Act. Amendments are made to the *Domestic and Family Violence Protection Act 1989*, the *Explosives Regulation 2003*, the *Security Providers Act 1993* and the *Transport Operations (Passenger Transport) Act 1994*.

Schedule	Other minor and consequential amendments
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Amendment of *Domestic and Family Violence Protection Act 1989*

Clause 53 provides that Part 5 amends the *Domestic and Family Violence Protection Act 1989*.

Section 23(1)(a) of the *Domestic and Family Violence Protection Act 1989* is amended to provide that the provisions of the *Weapons Act 1990* applies to a person who is a respondent in a domestic violence matter despite the provisions of section 2(1)(e) (Application of Act) of the *Weapons Act 1990*. Section 2(1)(e) of the *Weapons Act 1990* provides an exemption for police personnel for the purposes of possessing or storing service issued weapons, ammunition or exhibits, whilst on duty.

An amendment to section 23(1)(a) of the *Domestic and Family Violence Protection Act 1989* addresses a potential gap in the application of section 23 as a result of an amendment to section 2(1)(e) of the *Weapons Act 1990* to extend the exemption to off-duty officers acting in accordance with the directions of the commissioner.

Amendment of *Explosives Regulation 2003*

Clause 53 provides that Part 5 amends the *Explosives Regulation 2003*.

Clause 53 amends section 8 of the *Explosives Regulation 2003* to exempt off-duty members of the QPS, in relation to the possession of small arms ammunition or any explosive that is an exhibit for the use of a court. The member must be acting in accordance with the directions of the commissioner in relation to the off-duty possession of ammunition or exhibits for the exemption to apply.

The amendment to the *Explosives Regulation 2003* supports an amendment to section 2(1)(e) of the Act which will allow member fo the QPS to possess firearms while off-duty when complying with the directions of the commissioner.

Part 8

Amendment of *Security Providers Act 1993*

Clause 53 provides that Part 5 amends the *Security Providers Act 1993*.

Clause 53 inserts a new Part 8 (Transitional provisions for *Weapons Amendment Act 2011*) applying transitional provisions to the *Security Providers Act 1993* which have occurred as a result of the *Weapons Amendment Act 2011*. Consequently, an offence under section 51 (Possession of knife in a public place or school) of the Act is now a disqualifying offence (an offence committed under the *Weapons Act 1990* that is punishable by imprisonment for 1 year or more) under the *Security Providers Act 1993*. The maximum penalty for this offence is 40 penalty units or 1 year imprisonment (clause 12).

Clause 53 amends the *Security Providers Act 1993* by inserting a new section 65 (Meaning of disqualifying offence) to clarify that an offence committed under section 51(1) (Possession of a knife in a public place or school) cannot be taken to be a disqualifying offence if the offence was committed prior to the commencement of the *Weapons Amendment Act 2011*.

Part 12

Amendment of *Transport Operations (Passenger Transport) Act 1994*

Clause 53 provides that Part 12 will amend the *Transport Operations (Passenger Transport) Act 1994*.

Clause 53 inserts a new Chapter 13, Part 11 (Transitional provisions for *Weapons Amendment Act 2011*), applying transitional provisions to the *Transport Operations (Passenger Transport) Act 1994* which have occurred as a result of the Weapons Amendment Bill 2011. Consequently, an offence under section 51(1) (Possession of knife in a public place or school) is now a disqualifying offence (an offence committed under the *Weapons Act 1990* that is punishable by imprisonment for 1 year or more) under the *Transport Operations (Passenger Transport) Act 1994*. The

maximum penalty for this offence is 40 penalty units or 1 year imprisonment (clause 12).

Clause 53 amends the *Transport Operations (Passenger Transport) Act 1994* by inserting section 189 (Meaning of disqualifying offence) an offence committed under the *Weapons Act 1990* that is punishable by imprisonment for 1 year or more) to clarify that an offence committed under section 51(1) (Possession of a knife in a public place or school) cannot be taken to be a disqualifying offence if the offence was committed prior to the commencement of the *Weapons Amendment Act 2011*.