

Weapons Legislation Amendment Regulation (No. 1) 2017

Explanatory notes for SL 2017 No. 117

made under the

Weapons Act 1990

General Outline

Short title

Weapons Legislation Amendment Regulation (No. 1) 2017

Authorising law

Section 172 of the *Weapons Act 1990*.

Policy objectives and the reasons for them

The policy objective of the *Weapons Legislation Amendment Regulation (No. 1) 2017* (the Amendment Regulation) is to amend the *Weapons Regulation 2016* and the *Weapons Categories Regulation 1997* to improve the administration of weapons legislation in Queensland and to streamline processes and reduce red tape for licenced weapons holders.

The Regulation introduces a number of policy changes which do not substantially alter existing provisions relating to the licencing and categorisation of weapons but do however provide benefits for both the administration and practical application of weapons legislation. This is achieved without any reduction in public safety.

Weapons Categories Regulation 1997

The Amendment Regulation amends the *Weapons Categories Regulation 1997* by:

- Amending sections 2, 3, 4, and 5 to require all blank-fire firearms of 75 centimetres or more in length to remain in their respective weapons categories (Clauses 3 to 6 relate).
 - The *Weapons Categories Regulation 1997* generally classifies firearms according to their calibre, capacity and action. However, blank-fire firearms are classified according to their length with the result that all blank-fire firearms under 75cm are Category H weapons and those that are longer are placed in Category A.
 - The amendments mean that a blank-fire firearm of 75cm or more that would otherwise be a category B, C, D or R firearm if it were operational

- will be placed in that category rather than being classified as a Category A weapon. Shorter weapons would continue to be Category H weapons.
- Placing blank-fire firearms in categories that they would be in if made operational addresses the potential for some blank-fire firearms to be unlawfully reverted back to fully functioning firearms. Without the amendment, such weapons would not be appropriately categorised or licensed or subject to the more stringent storage requirements of other weapons in that category.
 - The change will mean that a person will need to possess an appropriate licence for the category of weapon a fully operational weapon of that type would belong. This will require the licensee to demonstrate a genuine need to possess the particular firearm which is not required by the current Category A licence.
- Amending the definition of 'electric antipersonnel devices' in section 8 by removing the bodily harm test and instead inserting examples of what might qualify as an antipersonnel device (Clause 7 relates).
 - Currently the definition provides that a device is an electrical antipersonnel device, and therefore a category R weapon, if it is of an intensity capable of causing bodily harm. There are practical limitations with this definition as there is no accepted standard or means to determine a threshold at which bodily harm will occur from such a device. Queensland Police Service ballistics officers have no reliable means of determining whether a device meets this criteria, short of activating it against a person.
 - Numerous devices are seized by investigating officers each year which must then be examined and categorised for evidentiary purposes. The new definition provides a more practical and reliable means of providing this categorisation.

Weapons Regulation 2016

The Amendment Regulation amends the *Weapons Regulation 2016* by:

- Amending section 5 to allow a licensed minor to transport a category A, B or H weapon to or from a firearms range outside of Queensland (Clauses 9 and 10 relate). This will improve logistical arrangements for licenced minors and their families in situations such as a minor participating in interstate shooting competitions. The amendment is consistent with the current provisions governing the movement of weapons by licensed adults.
- Inserting a new Division and subdivisions into Part 26 to provide for exemptions by the Commissioner of Police (Commissioner) from obtaining a 'Permit to Acquire' in relation to acquiring a weapon in certain circumstances (Clause 11 relates).
 - A Permit to Acquire is a permit giving authority for a person with an appropriate licence to obtain a particular new weapon. The licensee must currently make application and pay an application fee to obtain this permit. Removal of this requirement, in certain circumstances, will reduce red tape for licensees and the administrative burden involved in

processing requests for permits. This policy shift is achieved in the following ways:

- New sections 154A and 154B provide for the Commissioner to provide a standing exemption for a licenced weapons holder from obtaining a 'Permit to Acquire' when replacing an old weapon with a new one, or when replacing a weapon under a manufacturer's warranty. The exemption would apply when the new weapon was of the same category, action, cartridge, and calibre as the original one and did not increase the number of weapons the licensee held.
- The Commissioner's exemption will only apply when certain criteria are met, including: the person must be the holder of the appropriate firearms licence; the person must be the registered owner of the firearm; and the firearm must be of the same calibre, category, capacity and action as the firearm they are seeking to acquire.
- New sections 154C–154K provide that a licensee may apply to the Commissioner for an exemption from obtaining a 'Permit to Acquire' when replacing a stolen firearm or when coming lawfully into possession of a weapon as the result of a will or intestacy. To apply for such an exemption the person must already possess an appropriate licence for the weapon and in the case of replacing a stolen weapon the replacement must be of the same category, action, cartridge, and calibre.
- Insertion of new section 172 to provide transitional provisions to cater for any undecided applications for blank-fire firearms licences that may exist at the time the Amendment Regulation is made (Clause 12 relates). These provisions are required to aid implementation of Clauses 3, 4, 5, and 6 which amend the *Weapons Categories Regulation 1997*.
- Inserting a definition of 'deactivating guide' into Schedule 4, part 1, to refer to the document entitled '*Guide on Deactivating Warfare Items*' published by the Australian Government (Clauses 13 to 22 relates). This contains guidelines required by the Department of Immigration and Border Protection for the deactivation of particular weaponry. Furthermore amendments are made to a number of sections in Schedule 4 to refer to this 'deactivating guide' as the means of making various weapons permanently incapable of being discharged.
 - Currently no guidelines for deactivation are provided in Queensland legislation. The amendments provide a nationally consistent approach to deactivating large warfare items and removes any uncertainty regarding the required processes for such deactivation.

Achievement of policy objectives

The Amendment Regulation achieves the objectives by amending the *Weapons Regulation 2016* and the *Weapons Categories Regulation 1997* in the ways outlined above.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the principles and objectives of the *Weapons Act 1990*. The object of the *Weapons Act 1990* is to prevent the misuse of weapons and its principles include ensuring that weapon possession and use is subordinate to the need to ensure public and individual safety. The amendments support these principles while also reducing the administrative burden on licensed weapons holders.

Inconsistency with policy objectives of other legislation

The Amendment Regulation has no inconsistencies with the policy objectives of other legislation.

Benefits and costs of implementation

The Amendment Regulation does not impose any additional cost on Government as any new processes arising from the changes will be incorporated into current operating systems of the Queensland Police Service, Weapons Licencing Branch.

It is anticipated that the amendments regarding the granting of exemptions from obtaining a Permit to Acquire will result in a reduction in the administrative burden on the Queensland Police Service, Weapons Licensing Branch in processing such applications, due to the expected reduction in volume of such applications being received.

Consistency with fundamental legislative principles

The Amendment Regulation has been drafted with regard to the fundamental legislative principles outlined in the *Legislative Standards Act 1992*.

Amendments to sections 2 to 8 of the Weapons Categories Regulation 1997

The amendments retain blank-fire firearms in their original weapons category. While the amendments will not impact on any current weapons licensees they will impose an obligation on anyone who intends to make an application to acquire a blank-fire firearm of at least 75cm, to have an appropriate licence for the particular category of firearm.

The amendments are justified given the potential for some blank-fire firearms to be reverted back to fully functioning firearms thus posing a potential risk to the community if not appropriately licensed. The amendments will increase public safety by ensuring that blank-fire firearms will be required to be stored and licensed according to the category of a fully operational weapon of its type.

Amendment to section 8(1)(f) of the Weapons Categories Regulation 1997

The new definition of antipersonnel device has the potential to capture additional devices, for example, malfunctioning devices. The amendment places an obligation on any person who possesses any device which has the capacity to produce an electrical current between the inner and outer probes, to possess an appropriate licence.

To safeguard the rights of those members of the community who legitimately require an antipersonnel device for medical or primary production purposes, the amendment will not extend to medical devices or items used in agriculture or animal processing facilities.

The amendment provides a more practically applicable definition for the purposes of classification by Queensland Police Service, Ballistics Unit officers. Certification will be able to be made on the basis of the device design features and functionality.

Insertion of new section 172 in the Weapons Regulation 2016

The transitional provisions applicable to blank-fire firearms is retrospective and requires any undecided application for a blank-fire firearm of least 75cm in length to be considered under the amended legislation. While the provision acts retrospectively this is warranted as it aligns with the objects of the Act and addresses a public safety issue regarding the conversion of firearms from blank-fire to a fully operational state.

Consultation

Consultation was undertaken with key stakeholders through the Minister's Firearms Advisory Forum. The forum included members of: Sporting Shooters, John Vichie Firearms, Nioa Firearms, Shooters Union Queensland, Queensland Rifle Association, Shooters Union, AgForce Queensland, Queensland Law Society, and Queensland Homicide Victims Support Group. Forum members have given general support to the amendments.