

FIREARMS AMENDMENT BILL 2003

Introduction

Bill introduced, on motion by Mrs M.H. Roberts (Minister for Police and Emergency Services).

Withdrawal of Remark

Several members interjected.

The SPEAKER: Order! Please resume your seat, minister. I direct the member for Hillarys to withdraw.

Mr R.F. JOHNSON: I withdraw, Mr Speaker.

First Reading

Bill read a first time, on motion by Mrs M.H. Roberts (Minister for Police and Emergency Services).

Second Reading

MRS M.H. ROBERTS (Midland - Minister for Police and Emergency Services) [2.21 pm]: I move -

That the Bill be now read a second time.

Several members interjected.

Mrs M.H. ROBERTS: The Gallop Government is committed to sending a strong message to criminals who possess, carry and use firearms that the danger they pose to the community will not be tolerated and that they will face tough penalties when police apprehend them.

Several members interjected.

The SPEAKER: Order, members!

Mrs M.H. ROBERTS: The Bill before the House advances that aim.

Several members interjected.

The SPEAKER: Order, members! This is a second reading speech. Question time has finished. Members indicated by their words that they did not wish it to continue after I directly put the proposition to the House.

Mr M.G. House: That's not right.

Several members interjected.

The SPEAKER: Order! I do not need interjections from any member of this House when I am on my feet.

Mrs M.H. ROBERTS: Earlier this year -

Several members interjected.

The SPEAKER: Order, members!

Mrs M.H. ROBERTS: Earlier this year, the member for Girrawheen raised concerns in this place about the number of offences being committed by armed offenders. She urged the Government to send a strong message of deterrence by introducing tough penalties for offenders who carry unlicensed firearms and drugs or money.

Several members interjected.

Mrs M.H. ROBERTS: If police currently arrest a person in possession of amphetamines, money and an unlicensed hand gun - the tools of trade of a drug dealer - the offender is likely to be able to be charged only under section 19 of the Firearms Act 1974 for not holding a firearm licence. This attracts a penalty of 18 months imprisonment or a fine of \$6 000. That is the same penalty as imposed on a pistol club member who simply forgets to renew his or her firearm licence.

Several members interjected.

The SPEAKER: Order, members!

Mrs M.H. ROBERTS: By means of another example, if police arrest people guarding a large cannabis crop with an unlicensed shotgun, the offender is also likely to be able to be charged in relation to the firearm only under section 19. On this occasion because the firearm is a shotgun and not a hand gun, the offence attracts a penalty of six months imprisonment or a fine of \$2 000, which is less than the penalty for the club pistol shooter who forgets to pay his licence. These scenarios are both incredible and unacceptable. This Bill introduces new and tough penalties to deal more effectively with such situations.

Clause 13 in part 3 of the Bill will introduce a new circumstance of aggravation to section 19 of the principal Act and a significantly higher penalty when a person is in possession of an unlicensed firearm and a prohibited drug or a prescribed amount of money.

Several members interjected.

The SPEAKER: Order, members!

Mrs M.H. ROBERTS: The proposed new penalty of imprisonment for 14 years is vastly more than the current maximum penalty of 18 months imprisonment or a fine of \$6 000, as established in 1996.

Analysis of crimes across Australia reveals sawn-off shotguns and rifles with shortened barrels to make them easily concealable are used disproportionately by criminals in violent crime involving firearms. This Bill provides for increased penalties for the use of such firearms by allowing the Firearms Regulations 1974 to prescribe other types of firearms that can be subject to the increased penalties applicable to hand guns.

Mr Speaker, last year following a shooting at Monash University that killed two people and injured another five, the Australian Police Ministers' Council and the Council of Australian Governments - COAG - agreed on a national approach to restrict the availability and use of hand guns. Irresponsibly, however, the Commonwealth Government failed to come to the party with a comprehensive range of initiatives to enhance border controls and to detect and deter the illegal importation of firearms. COAG endorsed restricting the classes of hand guns that can be imported or possessed for sporting purposes to those with a maximum calibre of .38, except for specially accredited sporting events where up to .48 calibre will be permitted; and semi-automatic hand guns with a barrel length of more than 120 millimetres and revolvers and single shot hand guns with a barrel length of more than 100 millimetres, except some specialised large and visually distinctive target pistols with a barrel length of less than 120 millimetres.

Representatives of Western Australian hand gun target shooters requested that the sport's International Practical Shooting Confederation competition, known as IPSC, be accredited to use the .45 calibre hand gun. Both the Premier and I supported this request, and the Premier sought the Prime Minister's agreement to accredit the event. Again, illogically, the Prime Minister refused. To compensate owners of previously lawful hand guns, it was also agreed that a buyback scheme would operate from 1 July 2003 to 1 January 2004. To date 1 117 licensed hand guns and 235 unlicensed hand guns have been submitted to police.

In Western Australia, the majority of the COAG resolutions, including the buyback, have been implemented by amendment to the Firearms Regulations 1974. The COAG resolutions implemented by part 3 of the Bill are -

Resolution 13 recommends that the Commissioner of Police be able to refuse and revoke hand gun licences and applications on the basis of criminal intelligence or any other relevant information with consideration to appropriate safeguards, including expert advice. Clause 11 of the Bill will enable the use, assessment and protection of criminal intelligence.

Resolution 15 endorses the requirement for shooting clubs to notify licensing authorities of concerns about club members' suitability to hold a licence. To provide appropriate support for clubs in fulfilling such requirements, officers of sporting, shooting or approved organisations are to be indemnified from civil or criminal action or remedy if they notify the Commissioner of Police in good faith of their concerns that a person is not a fit and proper person to possess, carry or use a firearm or has been expelled. Clause 19 implements this resolution.

Resolution 19 seeks to improve the reporting provisions for medical authorities, including medical practitioners, nurses, social workers, psychologists and professional counsellors, by indemnifying them from civil or criminal liability for reporting in good faith to police their concerns that a person may pose a danger if in possession of a firearm or applying for a firearm licence, and providing that to "medical authorities".

Resolution 26 supports the establishment of substantial penalties for the illegal possession of a firearm. The Bill includes the new circumstance of aggravation to section 19 and an increased penalty of 14 years imprisonment when a person traffics or sells three or more firearms without a licence or permit.

This part of the Bill was developed in consultation with the Sporting Shooters Association of Australia Inc, the Western Australian Pistol Association, the Western Australia Arms and Armour Society Inc and the International Practical Shooting Federation WA Inc. Although it cannot be said that these groups support COAG's decision to restrict access to certain hand guns, their representatives have nevertheless generously contributed their comments during the drafting of the Bill.

The State Government did not restrict itself to the COAG resolutions and it has taken the opportunity to make other necessary amendments to the Act. This has resulted in a broad suite of amendments, including increases to

other penalties, and implementation of the Machinery of Government Taskforce recommendation and provisions relating to paintball.

The penalties contained in the Firearms Act 1973 have not been reviewed since 1996, and it was considered timely to review their appropriateness. A number of penalties will be significantly increased through this Bill. For example, the offences relating to carrying, defacing and altering identification marks on a hand gun will be subject to seven years imprisonment - an increase from the current penalty of 18 months imprisonment or a fine of \$6 000 - and in the case of other types of firearms, a new penalty of five years imprisonment is recommended in place of the current penalty of six months imprisonment or a fine of \$2 000.

Dealers, repairers and manufacturers who do not appropriately secure all firearms or ammunition at the close of business will be subject to a fine of \$4 000 for the first offence, and two years imprisonment or a fine of \$8 000 for any subsequent offence - this more than doubles the existing penalty. Another significant penalty increase relates to the use of a silencer. The current penalty of 18 months imprisonment or a fine of \$6 000 does not reflect the seriousness of using such items. To reflect the true gravity of the situation, the Government recommends that the penalty be increased to seven years imprisonment.

The Bill also introduces a licensing regime to allow the game of paintball to be played in Western Australia. Paintball has been played in Australia since 1987 and it is estimated that there are now 70 playing fields and about 200 000 players annually. Although considered by police to be illegal in Western Australia, paintball is played here. The typical game of paintball consists of two teams and runs for about 10 to 30 minutes depending on the size of the field and the number of players. The object of the game is to capture the other team's flag whilst protecting one's own. Players also try to eliminate opposing players by tagging them with paintballs expelled from special gas-powered guns. Referees enforce safety and game rules.

Paintball guns are designed to fire a pellet containing a vegetable dye. They are powered by carbon dioxide contained in aluminium cylinders similar to those used in soda stream fountains. A paintball gun can fire a paintball about 40 metres. In Western Australia there is no known evidence that any serious injury has been sustained by a person playing the game of paintball. Protective clothing is worn by players and appropriate supervision is provided.

The Police Service considers paintball to be illegal by virtue of the fact that it involves pointing the paintball gun at another person, which is contrary to section 23(8) of the Firearms Act 1973. In March 2003, Mr Wheeler, stipendiary magistrate of the Fremantle court, ruled that paintball guns fell outside the definition of a firearm as provided in the Firearms Act 1973 and as such, in his opinion, a paintball gun was not a firearm. Notwithstanding Mr Wheeler's decision, following consultation with field owners and players it is considered appropriate to amend the Firearms Act 1973 to remove any ambiguity about the lawfulness of playing paintball and to provide an appropriate regulatory framework. Part 2 of the Bill will regulate paintball.

In summary, through the amendments outlined above and other provisions, this Bill -

- introduces a new circumstance of aggravation and penalty where a person carries an unlicensed firearm and drugs or money;

- implements the requirements of the Council of Australian Governments (COAG)-Australian Police Ministers' Council (APMC) resolutions on hand guns;

- modernises some provisions and penalties of the Act;

- removes any ambiguity about the lawfulness of playing paintball in Western Australia and provides for the licensing of paintball guns; and

- implements the Machinery of Government Taskforce recommendation to repeal the Firearms Advisory Committee.

The events of early this morning only serve to reinforce that firearms need to be controlled and regulated through an appropriate licensing regime to maximise community safety and confidence, with strong penalties to deter unlawful and criminal use of firearms. I commend the Bill to the House.

Debate adjourned, on motion by Mr R.F. Johnson.