

Weapons (Digital 3D and Printed Firearm) Amendment Bill 2014

Explanatory Notes

Title of the Bill

Weapons (Digital 3D and Printed Firearm) Amendment Bill 2014

Objectives of the Bill

The Weapons (Digital 3D and Printed Firearm) Amendment Bill 2014 (the Bill) amends the *Weapons Act 1990* for particular purposes. The policy objectives of the Bill are:

- To create a licensing scheme for persons who make, acquire, possess and/or distribute digital 3D firearms as well as for licensed armours involved in the manufacturing of firearms using an additive manufacturing process;
- To provide transitional provisions for the licensing scheme;
- To create offences and punishment provisions for persons who unlawfully make, acquire, possess and/or distribute digital 3D firearms; and
- To amend the *Weapons Act 1990* to include new definitions as necessary.

Reasons for the Bill

It is now possible for digital 3D firearm technology to be applied in conjunction with an additive manufacturing process (i.e. 3D printing) to make a physical and operative firearm. Technology advancements associated with the application of digital 3D models and 3D printers are increasing and cost inhibitors are reducing. Nowadays digital 3D model technology can be extensively applied.

There are many positive uses of such technology including for medical, scientific and industrial purposes. The same technology can also be applied though for criminal purposes. Accordingly, it is emphasised that laws must keep pace with technology to effectively protect the community and all citizens alike.

The possibility and affordability to actually print a physical and operative firearm may be enticing to some persons, particularly those who participate in a range of criminal activity. From this perspective it is important to recognise that the making, acquisition, possession and/or distribution of a digital 3D firearm and/or use of an additive manufacturing process to make a firearm inherently exposes the community to very real and significant risk. Unauthorised activities of this kind must therefore be considered as a crime and dealt with fittingly.

Achievement of the Objectives

The Bill achieves the stated policy objectives by way of the proposed amendments.

Alternative ways of achieving policy objectives

There are no alternative ways of achieving the criminal law reform.

Estimated Cost for Government Implementation

Any costs in relation to the amendments will be met from existing agency resources.

Consistency with Fundamental Legislative Principles

It is recognised that legislation should have sufficient regard to the rights and liberties of individuals. The Bill effectively creates a licensing scheme and introduces a number of new offences into the *Weapons Act 1990*.

Overall the Bill is consistent with Fundamental Legislative Principles.

It is timely to create a licensing scheme in relation to digital 3D firearms including for the use of an additive manufacturing process. It is also necessary to create a number of new offences. In particular, to prosecute those who choose to expose the community to very real and significant risk through non-compliance and offending behaviour as described under the Bill.

To this end it is recognised that the Bill may impact on the rights and liberties of individuals. Specifically the Bill subjects people to a licencing scheme and may also subject offenders to fines or to serve a period of actual incarceration. These measures are of overriding importance though and the licencing scheme and penalties are each consistent and proportionate with the existing provisions of the *Weapons Act 1990*.

Sanctions that restrict rights and liberties of individuals, particularly through incarceration, are only applied to those persons who actively engage in harmful and/or disruptive behaviour. This serves to protect citizens whose rights and liberties would be adversely and unjustifiably restricted or impacted by such behaviour. Sanctions also serve to prevent the continuation of this type of behaviour.

Despite the justification for the use of sanctions based on deterrence, punishment or reduction of the opportunity to re-offend, it is recognised that offenders still remain citizens in society and retain rights and liberties which should not be curtailed any more than is needed. In consideration and respect of these important principles, it is maintained that the licensing scheme and new offences and punishments introduced through the Weapons (Digital 3D and Printed Firearm) Amendment Bill 2014 are reasonable and justified.

Consultation

There has been no formal consultation.

Notes on Provisions

1 Short title

Clause 1 states that, when enacted, the Bill will be cited as the *Weapons (3D Digital and Printed Firearms) Amendment Act 2014*.

2 Act amended

Clause 2 states the *Weapons (3D Digital and Printed Firearms) Amendment Act 2014* will amend the *Weapons Act 1990*.

3 Insertion of new 69A

Clause 3 inserts a new section 69A in the *Weapons Act 1990* to require licensed armourers to be authorised under a condition of the armourers licence to manufacture firearms using an additive manufacturing process and sets penalties for any non-compliance offence(s).

4 Insertion of new pt 5

Clause 4 inserts a new pt 5A 'Digital 3D firearms' after existing section 141B 'Disclosure requirements' and creates new divisions and sections:

Division 1 Preliminary

- 141C 'Application of pt 5A' lists certain persons or activities that are exempt;
- 141D 'Definitions for pt 5A' provides new definitions as necessary;

Division 2 Digital firearm licences

- 141E 'Digital firearm licences' provides that a licence authorises the holder to do activities stated in the licence (i.e. acquire, distribute, possess and/or make a 3D firearm);
- 141F 'Digital firearm licence applications' describes the application process for a digital firearm licence;
- 141G 'Deciding digital licence applications' sets out the decision process and period for authorising a digital firearm licence;
- 141H 'Notices of decisions' explains obligations upon an authorised officer to give notice of a decision to grant or refuse an application including the period for doing so;
- 141I 'Issue of digital firearm licence' specifies the form, conditions and duration of a digital firearm licence;
- 141J 'Renewal of digital firearm licences' describes the renewal process for a digital firearm licence and obligations upon an authorised office to give notice of a decision to grant or refuse a renewal application including the period for doing so; and
- 141K 'Revocation of digital firearm licences' details obligations upon a licensee to give an authorised officer written notice in certain circumstances and, in turn, explains obligations upon an authorised officer to give a notice to show cause (i.e. show cause notice) why the licence should not be revoked and respective periods for doing so.

Division 3 Offences relating to digital 3D firearms

- 141L ‘Making of digital 3D firearms’ prohibits a person from making a digital 3D firearm unless authorised and sets out categories and corresponding punishments;
- 141M ‘Acquisition and possession of digital 3D firearms’ prohibits a person from knowingly acquiring or having possession of a digital 3D firearm unless authorised and sets out categories and corresponding punishments; and
- 141N ‘Distribution of digital 3D firearms’ prohibits a person from distributing a digital 3D firearm unless authorised and sets out categories and corresponding punishments.

5 Amendment of section 142 Right to apply for review of decisions

Clause 5 inserts new provisions (142(1)(g), (h) and (i)) to provide a right to apply for review of a decision relating to refusing either an application for or renewal of a digital firearm licence as well as a decision revoking a digital firearm licence.

6 Insertion of new pt 8, div 6

Clause 6 inserts a new Part 5 ‘Transitional provision for Weapons (3D Digital and Printed Firearms) Amendment Bill 2014’ specifying that a licenced armourer using an additive manufacturing process has a 3 month period to amend the armourer’s licence to include a condition authorising the armourer to manufacture firearms in this way.

7 Amendment of Schedule 2 Dictionary

Clause 7 amends ‘Schedule 2 Dictionary’ to provide new definitions as necessary.