



LAW REFORM

The battle for gun control

The massacre at Port Arthur has led to a historic breakthrough in the battle for gun control. On 10 May 1996, the Australasian Police Ministers' Council agreed to a plan for national uniform gun laws put forward by Prime Minister John Howard and Attorney-General Daryl Williams.

Numerous previous attempts by the APMC to achieve uniform gun laws have been thwarted by some States' refusal to adopt such basic measures as gun registration (see (1991) 16 *Legal Service Bulletin* 265). Thus Australia has persisted until now with a patchwork of laws which were confusing to shooters, frustrating for police, and hazardous to public safety.

Most significantly, the new agreement is for laws that are not only nationally uniform but also stricter than the existing law in any one jurisdiction. Even Western Australia and the ACT, which are the strictest at present, will have to tighten their gun laws.

Who will be able to own guns?

The most important principle in the APMC resolutions is that Australia's gun laws should be unambiguously restrictive rather than permissive, to use the distinction drawn by criminologist Franklin Zimring. A permissive scheme allows any adult to own a gun unless they are disqualified, for example, by a violent criminal record. By contrast, under a restrictive system, gun ownership is a privilege: no-one can own a gun unless they affirmatively establish a case for it.

The APMC has resolved that anyone who wants a gun must show they have a 'genuine reason'. A person who cannot show a genuine reason will not be granted a licence to own or possess guns.

People with a genuine reason to own guns will be members of an approved shooting club; hunters who have permission from a landowner to hunt; people with an occupational need for a gun such as farmers, security employees or professional shooters; bona fide gun collectors; and people with special permission, for example, a film producer.

'Personal protection' or self-defence is not legally a genuine reason for buy-

ing or owning a gun. This is already the case under the existing law.

What types of guns will be banned?

The APMC decided generally to prohibit the ownership, sale, transfer, import and manufacture of semi-automatic rifles, as well as semi-automatic and pump action shotguns. These guns will only be available in exceptional circumstances for the military, police and certain types of occupational shooters, including some farmers. Competitive shooting involving prohibited guns will be banned.

How will the licensing system change?

The existing gun laws already require people who wish to buy or own guns to be licensed. Under the new laws there will be five classes of licences:

- Category A for air rifles, non self-loading rimfire rifles, single and double barrel shotguns.
- Category B for single shot, double barrel and repeating centrefire rifles, and break action shotgun/rifle combinations.
- Category C is limited to primary producers and covers guns which are prohibited except for occupational purposes. Category C includes semi-automatic rimfire rifles with a magazine capacity up to ten rounds, semi-automatic shotguns up to five rounds, and pump action shotguns up to five rounds.
- Category D for weapons which are prohibited except for official purposes. These include self-loading centrefire rifles (whether military-style or not), self-loading shotguns, pump action shotguns with a magazine capacity over five rounds, and self-loading rimfire rifles over ten rounds.
- Category H covers all handguns, including air pistols.

What are the qualifications for a licence?

In addition to demonstrating a genuine reason, an applicant for a gun licence will need to be aged 18 or over, a fit and

proper person, with multiple forms of identification, and will need to have undertaken adequate safety training. Applicants will need to acknowledge the safe storage requirements and agree to an inspection of their storage arrangements if the police request it.

A 28-day waiting period will apply to all licence applications. The APMC decided the maximum term of a licence should be five years; however those jurisdictions which currently have a maximum of two or three years will probably stay with the shorter term. When licensees apply for renewal they will have to demonstrate that they still meet all the licence criteria. Failure to comply with licence conditions will incur serious penalties.

An application for a licence may be refused for general reasons (for example, not of good character or convicted for an offence involving violence in the past five years); specific reasons (for example, being the subject of a domestic violence order or convicted for an assault with a weapon); or reasons relating to mental or physical fitness.

What about farmers? Primary producers who require a gun will normally have a genuine reason for a Category A or B licence. They may also be granted a Category C licence if they demonstrate a 'genuine need' that cannot be met by Category A or B. A Category C licence allows a farmer to own only one self-loading rifle and one self-loading or pump action shotgun.

What about collectors? The APMC resolved that bona fide collectors should be allowed to keep a gun collection if they comply with safe storage requirements. Firearms manufactured before 1 January 1946 may be left in working order; however firearms manufactured after that date must be rendered inoperable. Prohibited weapons (Category C or D) may not be kept in a collection. Collectors will not be allowed to keep any ammunition for guns in their collection.

Buying a gun: Each purchase of a gun will require a permit, which will take 28 days to obtain. All gun sales must be conducted through licensed gun dealers. Mail order sales will be banned except between licensed dealers.

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divided (the book has a comprehensive index.)

Part One — Access to Justice — introduces our legal system, its processes, participants, and our rights and responsibilities within that system. Topics include: Lawyers and Fees, Going to Court, Alternatives to Court, Dealing with the Government, etc.

Part Two — Personal Concerns — covers Your Family (which includes areas such as Domestic Violence, Custody and Access, Property Settlements, etc.), Health and Safety, Children and the Law, Your Job, etc.

Part Three — Property Concerns — covers Your Home, Your Neighbour-

hood, Purchaser's Problems (including Consumer Protection and Credit Issues), Wills, etc. The book's intention is not to be a substitute for legal advice, but a point of reference, outlining various options and allowing the reader to make the most of the legal services that are available.

Furthermore, the book does not attempt to address every legal issue that you might encounter. Rather, it covers the most common areas in greater depth and each section ends with suggestions for further reading should you wish to take your research to the next level.

I found the book to be extremely clear in its explanations of the legal

concepts involved in each area as well as offering a number of practical suggestions for dealing with the realities of the legal system.

So who will buy this book? Lawyers won't need it, and the general public would probably rather buy the latest Danielle Steele. This is a shame because this book has a lot to offer your typical Steele reader.

Perhaps, you could slip a copy into someone's Christmas stocking (better put in a CD as well). Recommended.

DAMIEN HOGAN

Damien Hogan is not a lawyer.

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The national firearms register: The APMC resolved that all jurisdictions should have integrated gun licence and registration systems linked through the National Exchange of Police Information. This will mean NSW, Queensland and Tasmania must establish registration systems. The other jurisdictions already have gun registration.

Safe storage of guns: The APMC agreed on a national standard for gun storage. Category A and B guns must be stored in a locked hardwood or steel receptacle weighing more than 150 kg or fixed to a building. Category C, D and

H guns must be stored in a steel safe fixed to the building. All ammunition must be stored in a locked container separate from the guns.

Amnesty and compensation: Anyone who currently owns a prohibited weapon will be able to hand it in and receive compensation during a 12-month amnesty. The compensation will be based on the value of the gun in March 1996. People who currently own guns without a licence will have 12 months to apply for a licence. After the amnesty, penalties for breaches of the law will be severe.

What happens next: These measures will reduce the private arsenal in

Australia by taking certain types of gun off the market, and by making many current owners ineligible to own guns, since they will be unable to prove genuine reason. But the laws are not secure. The agreement is only the start — now comes the implementation phase, in which each State and Territory will amend their laws. The gun lobby may still succeed in pressuring politicians to water down the agreement when it comes to drafting State laws.

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controlled right for convicted felons to institute 'any civil proceedings in any court'. Current moves to deny such rights would have to amend this Act and reverse this reform.

An international challenge to new legislation which seeks to extinguish prisoners' rights would argue against the necessarily discriminatory nature of such laws, and against the denial of equality before the law. Politicians who seek to deny universal rights by closing this alleged 'loophole' will distinguish themselves from their predecessors, who helped establish these universal rights.

Tim Anderson is a lecturer in social policy at the University of Western Sydney, and a committee member of the NSW Council for Civil Liberties.

MORE NOTICES . . .

'Pickle Street' Educational CD Rom

The New South Wales Board of Studies has released a CD Rom which 'brings Australian law to life'. By meeting the residents of Pickle Street, discussing and evaluating their problems, users become familiar with legal and non-legal solutions to issues in family, housing and criminal law. The disk also includes commentary on the law by a number of prominent Australian legal, political and popular culture personalities. In addition there is a reference database containing over 100 articles. The CD Rom is available from the Board of Studies (NSW), phone (02) 9927 8111.

Coalition for Class Actions News

The Coalition for Class Actions is a group of community organisations seeking to reform the law on class actions in NSW to bring it in line with Federal Court

procedure. It was formed after the High Court decision in *Carnie v Esanda* which made class actions more widely available by holding that a class action can still be launched where there are separate contracts and where damages are claimed. The Carnies returned to the NSW Supreme Court in September last year where Justice Young decided that the 'class' would be defined on an 'opt in' rather than 'opt out' basis. The Carnies, wheat farmers in NSW who are legally aided, were required to foot the bill for sending out the letters inviting people to opt in. The Coalition can be contacted through PIAC tel 02 299 7833.

SUPPORT GUN CONTROL IN AUSTRALIA

Send a donation to the Coalition for Gun Control, P.O. Box 167, Camperdown NSW 2050.
Tel 0419 603 527.