

Domestic Violence Orders (National Recognition) Bill 2016

SASS Submission

May 2016

Introduction

Sexual Assault Support Service Inc (SASS) welcomes the opportunity to provide feedback on the draft *Domestic Violence Orders (National Recognition) Bill 2016* (the Bill). We commend the Tasmanian Government on being second after NSW in drafting a bill in response to this priority issue, which was identified by the Council of Australian Governments (COAG). For the purpose of preparing this submission, we compared the wording of the draft Tasmanian Bill with NSW's model legislation, i.e. *Crimes (Domestic and Personal Violence) Amendment (National Domestic Violence Orders Recognition) Act 2016* No 9 [NSW]¹, and noted that they are largely in alignment.

Weapons licences and permits

SASS would like to make submissions with regard to weapons licences and permits. The draft Tasmanian Bill includes a section on recognition of disqualification to hold a firearms licence, as follows:²

- (1) If a non-local DVO that is a recognised DVO disqualifies a person from holding a non-local firearms licence, or type of non-local firearms licence, the person is also disqualified from holding a local firearms licence or local firearms licence of the same type (as the case requires).
- (2) The Commissioner of Police must cancel or suspend a local firearms licence held by a person, or refuse to issue a local firearms licence to a person, if the person is so disqualified from holding the firearms licence by a recognised DVO.
- (3) A recognised DVO disqualifies a person from holding a non-local firearms licence or type of non-local firearms licence if the DVO expressly –
 - (a) disqualifies the person from holding a non-local firearms licence or type of non-local firearms licence; or
 - (b) revokes or requires the person to surrender a non-local firearms licence or type of non-local firearms licence held by the person.

¹ Act was assented to on 6 April 2016. Accessed at:

http://www.austlii.edu.au/au/legis/nsw/num_act/capvadvora2016n9880.pdf

² See s.21 of draft Bill, pp 24-25.

(4) In this section –

local firearms licence means a licence, permit or other authorisation under the *Firearms Act 1996*; and

non-local firearms licence means a licence, permit or other authorisation to possess a firearm (within the meaning of the *Firearms Act 1996*) issued under the law of another jurisdiction or country.

However, the draft Bill does not include an equivalent section to address other types of weapons, which fall outside the scope of the *Firearms Act 1996* (Tas). The NSW legislation addresses licenses and permits for firearms and other types of prohibited/dangerous weapon, as follows:³

98ZI Recognition of disqualification to hold firearms licence

- (1) If a non-local DVO that is a recognised DVO disqualifies a person from holding a non-local firearms licence, or type of non-local firearms licence, the person is also disqualified from holding a local firearms licence or local firearms licence of the same type (as the case requires).
- (2) The Commissioner of Police must revoke any local firearms licence held by a person, or refuse to issue a local firearms licence to a person, if the person is so disqualified from holding the firearms licence by a recognised DVO.
- (3) A recognised DVO disqualifies a person from holding a non-local firearms licence or type of non-local firearms licence if the DVO expressly:
 - (a) disqualifies the person from holding a non-local firearms licence or type of non-local firearms licence, or
 - (b) revokes or requires the person to surrender a non-local firearms licence or type of non-local firearms licence held by the person.
- (4) In this section:

local firearms licence means a licence, permit or other authorisation under the *Firearms Act 1996*.

non-local firearms licence means a licence, permit or other authorisation to possess a firearm (within the meaning of the *Firearms Act 1996*) issued under the law of another jurisdiction or country.

³ Accessed at: http://www.austlii.edu.au/au/legis/nsw/num_act/capvadvora2016n9880.pdf

98ZJ Recognition of disqualification to hold weapons permit

- (1) If a non-local DVO that is a recognised DVO disqualifies a person from holding a non-local weapons permit or type of non-local weapons permit, the person is also disqualified from holding a local weapons permit or local weapons permit of the same type (as the case requires).
- (2) The Commissioner of Police must revoke any local weapons permit held by a person, or refuse to issue a local weapons permit to a person, if the person is so disqualified from holding the weapons permit by a recognised DVO.
- (3) A recognised DVO disqualifies a person from holding a non-local weapons permit or type of non-local weapons permit if the DVO expressly:
 - (a) disqualifies the person from holding a non-local weapons permit or type of non-local weapons permit, or
 - (b) revokes or requires the person to surrender a non-local weapons permit or type of non-local weapons permit held by the person.
- (4) In this section:

local weapons permit means a permit under the *Weapons Prohibition Act 1998*.

non-local weapons permit means a licence, permit or other authorisation to possess a prohibited weapon (within the meaning of the *Weapons Prohibition Act 1998*) issued under the law of another jurisdiction or country.

We respectfully submit that the Tasmanian Bill should include a specific section on ‘Recognition of disqualification to hold weapons permit’, to ensure consistency across jurisdictions and reduce confusion about licencing implications of domestic and family violence protection orders for offenders, when they relocate. We are concerned that without the inclusion, a person who is subject to an interstate protection order that prohibits access to firearms *and* prohibited weapons of other types will only be required to abide by the firearms restriction, should they move to Tasmania or reside here temporarily.

In addition, we submit that for a Tasmanian equivalent to Section 98ZJ to be meaningful and effective, additional legislation on prohibited weapons should be drafted, to support the existing *Firearms Act 1996*, *Police Offences Act 1935*⁴ and the *Criminal Code Act 1924*. For the purpose of this submission, we accessed South Australia’s *Summary Offences Act 1953* and *Summary Offences (Weapons) Regulations 2012*,⁵ Victoria’s *Control of Weapons Act 1990* and the *Control of Weapons*

⁴ This Act covers crossbows and some other potentially harmful items such as laser pointers, but not weapons such as knives, extendable batons, and knuckle-dusters.

⁵ Accessed at: http://www.austlii.edu.au/au/legis/sa/consol_act/soa1953189/ and [https://www.legislation.sa.gov.au/LZ/C/R/SUMMARY%20OFFENCES%20\(WEAPONS\)%20REGULATIONS%202012/CURRENT/2012.228.UN.PDF](https://www.legislation.sa.gov.au/LZ/C/R/SUMMARY%20OFFENCES%20(WEAPONS)%20REGULATIONS%202012/CURRENT/2012.228.UN.PDF)

Regulations 2011;⁶ and New South Wales's *Weapons Prohibition Act 1998*.⁷ The NSW Act is a good example of clear and comprehensive legislation on prohibited weapons, permits, and enforcement processes. Section 3 explains that:

(1) The underlying principles of this Act are:

- (a) to confirm that the possession and use of prohibited weapons is a privilege that is conditional on the overriding need to ensure public safety, and
- (b) to improve public safety by imposing strict controls on the possession and use of prohibited weapons.

(2) The specific objects of this Act are as follows:

- (a) to require each person who possesses or uses a prohibited weapon under the authority of a permit to have a genuine reason for possessing or using the weapon,
- (b) to provide strict requirements that must be satisfied in relation to the possession and use of prohibited weapons,
- (c) to provide an amnesty period to enable the surrender of prohibited weapons.

Schedule 1 covers:

- 'Knives', including flick knife, ballistic knife, and sheaf knife;
- 'Military-style weapons';
- 'Miscellaneous weapons', including slingshot, cat-o'-nine-tails whip, and knuckle-dusters;
- 'Imitations, concealed blades etc'; and
- 'Miscellaneous articles', including handcuffs.

The Act makes clear that a person who is subject to an interim or full Apprehended Violence Order (AVO) is ineligible to possess a weapons permit.

We are also aware that in some states (e.g. South Australia, New South Wales, and Queensland), prohibited weapons legislation is complemented by easy-to-understand information on police websites about different classes of weapon, relevant restrictions, and permit/exemption eligibility.⁸

⁶ Accessed at: http://www.austlii.edu.au/au/legis/vic/consol_act/cowa1990216/ and http://www.austlii.edu.au/au/legis/vic/consol_reg/cowr2011325/sch3.html

⁷ Accessed at: <http://www.legislation.nsw.gov.au/#/view/act/1998/127/whole#%2Fpart2%2Fdiv2%2Fsec17>

⁸ See: <https://www.police.sa.gov.au/services-and-events/firearms-and-weapons/weapons>, http://www.police.nsw.gov.au/services/firearms/permits/prohibited_weapon_permits and <https://www.police.qld.gov.au/programs/weaponsLicensing/licenceApplication/weapons/categories/categories.htm>

The Tasmanian Police website provides detailed information on firearms licences,⁹ but does not appear to cover other types of weapons.

Conclusion

As outlined in this submission, SASS makes the following submissions in response to the draft Tasmanian *Domestic Violence Orders (National Recognition) Bill 2016*:

- i. The Bill should include a specific section on 'Recognition of disqualification to hold weapons permit', to ensure consistency of weapons-related provisions across jurisdictions; maximise the safety of victims; and support the overall effectiveness of the national Domestic Violence Order (DVO) scheme, as proposed by COAG.
- ii. The Government should consider drafting new/supporting legislation on prohibited weapons, in the form of a statute or set of regulations. SASS believes that this action will have a strong violence prevention function; and will complement planned enhancements to family violence intervention services and safety systems, in Tasmania.

Thank you for considering this submission.

Reference List

Legislation:

Control of Weapons Act 1990 (Vic).

Control of Weapons Regulations 2011 (Vic).

Crimes (Domestic and Personal Violence) Amendment (National Domestic Violence Orders Recognition) Act 2016 No 9 (NSW).

Criminal Code Act 1924 (Tas).

Domestic Violence Orders (National Recognition) Bill 2016 (Tas).

Firearms Act 1996 (Tas).

Police Offences Act 1935 (Tas).

Summary Offences Act 1953 (SA).

Summary Offences (Weapons) Regulations 2012 (Tas).

Weapons Prohibition Act 1998 (NSW).

⁹ See: <http://www.police.tas.gov.au/services-online/firearms/firearms-licence-categories/>



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Web pages:

New South Wales Police Force. Prohibited weapon permits. Accessed May 2016 at:
http://www.police.nsw.gov.au/services/firearms/permits/prohibited_weapon_permits

Queensland Police. Category of weapons. Accessed May 2016 at:
<https://www.police.qld.gov.au/programs/weaponsLicensing/licenceApplication/weapons/categories/categories.htm>

South Australia Police. Prohibited weapons. Accessed May 2016 at:
<https://www.police.sa.gov.au/services-and-events/firearms-and-weapons/weapons>

Tasmania Police. Firearms licence categories. Accessed May 2016 at:
<http://www.police.tas.gov.au/services-online/firearms/firearms-licence-categories/>

All hyperlinks in footnotes and reference list current as at 25 May 2016.

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