

To: submissions.strategy.support@DPFEM.tas.gov.au

Re: Feedback on questions relating to Antique firearms legislation.

26th November, 2024.

To whom it may concern,

I am providing feedback on the three matters raised by FAS that are being considered in drafting the next set of firearms amendments. The consultation letter introduces the pre-election commitments made by Minister Felix Ellis. This is then followed by the three matters being considered insofar as they may conflict with the commitments.

It is my opinion that question 1 & 3 would be viewed by most to be back flipping on the pre-election commitment. Question 2 is straight forward in supporting the addition of identity tags rather than permanent firearms marking. The method of ensuring compliance however needs consideration.

My view is that the pre-election commitment is that owners of pre 1900 antique firearms that do not use commercially available ammunition will not require licencing. To then require all owners to obtain a 'Fit & Proper' assessment as this is required by the Act to hold a licence is overreach. If they do not require a licence then this requirement does not apply to them. The requirement to be considered a fit & proper person is expanding with the proposed new licence application form. To meet these criteria will be a lengthy & possibly expensive process. The cost to owners for approval as fit & proper persons conflicts with the commitment to make it cost free. I note that the submission says that membership of an outlaw motorcycle gang would preclude a person from holding a firearms licence. The Firearms Act 1996 makes no mention of outlaw motorcycle gangs; it instead uses the term 'prescribed organisations'. At this stage the Minister determines what is a prescribed organisation. In future a prescribed organisation may become a trade union or sporting organisation, or a wider section of society.

As noted earlier, matter 2 relating to tags is straight forward. The proposal made regarding this is 'that removal, falsification or modification be made a finable offence'. While I acknowledge that a method will be needed to ensure compliance, it should be proportional to the risk of altering the proposed tag. My concern is that part 124. Of the Act will be applied here. This covers 'defacing or altering identification marks'.

124. Defacing or altering identification marks

(1) A person must not, either intentionally or recklessly, deface or alter any number, letter or identification mark on any firearm or firearm part.

Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 3 years, or both.

(2) A person must not possess any firearm, or firearm part, on which any number, letter or identification mark has been defaced or altered.

Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 3 years, or both.

(3) If, at any time, a number, letter or identification mark on a firearm is defaced or altered, the firearm is –

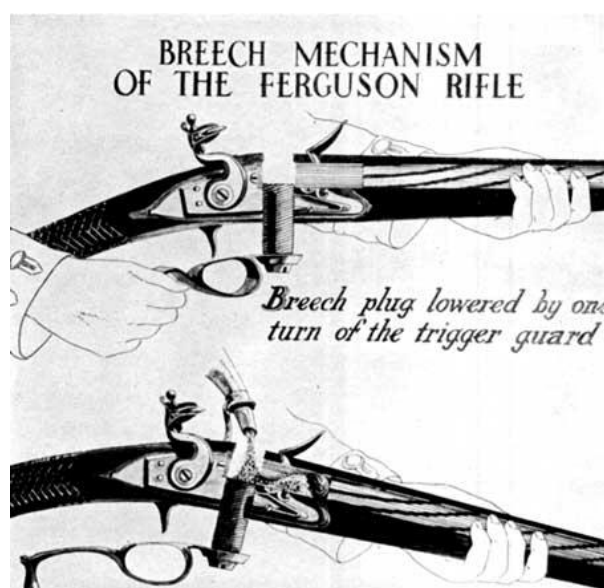
(a) if it was registered at that time, automatically de-registered but may be re-registered if the Commissioner considers it appropriate; or

(b) if it was not registered at that time, incapable of being registered.

The penalties given for interfering with a stamped serial number may be proportional, as a degree of wilfulness would be required. There is vagueness here relating to firearms with multiple, defaced, or over stamped serial numbers that are encountered. An issued tag would be prone to inadvertent loss or damage not found with stamped numbers. A 100 penalty point fine and or 3 years imprisonment would not be proportional for someone losing a tag or removing it on sale of a firearm out of Tasmania. I would think that these tags are covered by a separate amendment to the act, with a requirement to notify loss within two weeks, a method for identifying inadvertent damage & means of issuing a replacement. Compliance should be ensured with a minimal infringement notice.

Question 3 of the submission would be most likely seen as a back-flip. It appears that the definition of antique firearms previously covered by exemption 4 has shifted from being capable of using commercially available ammunition, to cartridge ammunition, to being breach loading, to then being capable of firing. This looks like classic goal post moving. A Brown Bess musket is mostly loaded with cartridge ammunition in the form of powder & ball. Would this now be included or does this apply to self-contained metallic cartridges? If all antiques capable of being fired are included then this would sweep up the vast majority of them. All that is required is a reasonably sound barrel. A missing lock or mechanism only means that a match may be used instead. Making a determination of what can, & cannot be fired would be very subjective. Airing on the safe side via the precautionary principle would take in almost everything.

If requiring all breach loading antiques to be registered, a similar large proportion of firearms would then require registering. The first breach loading arms appeared in the 16th century, by the 18th century the Ferguson rifle (1776) was in use.



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The requirement to register & be licenced for breech loading antiques would be seen as 'goal post moving', and be a breach of the pre-election commitment. Similarly, including early cartridge arms from muskets to pin fires for which commercially made ammunition is not available would overreach from what was previously covered by exemption 4.

I agree that antique firearms should be brought into the firearms Act 1996. This should be in the form used by most other Australian states of an exemption or requirement not to be registered & the owner be licenced. The introductory letter for the submission states that this is about changing antique firearms laws. I believe this is incorrect. As there are no laws applying to antique firearms in Tasmania at present, it will be impossible to change them. I think what we are looking at here is covering antique arms with legislation; this legislation should not impose onerous conditions on owners and should measure a very low community safety risks while also preserving our heritage.

The pre-election commitments were a sensible way of mitigating the gross overreach caused by the cancelation of exemption 4. I believe that these commitments must be met rather than back flipping or moving goal posts in an attempt to appease non-elected authorities.

Yours Sincerely,

Gareth Gunn.