

27 November 2024

Department of Police, Fire and Emergency Management

Strategy and Support
2/47 Liverpool Street
Hobart 7000

By email: strategy.support@dpfem.tas.gov.au

RE: TasFarmers' Submission – Proposed Amendments to the *Firearms Act 1996* Relating to Antique Firearms

TasFarmers is the peak representative body for agriculture in Tasmania and is dedicated to advocating for Tasmanian farmers across a wide range of commodities. Agriculture is the key pillar of Tasmania's economy, and we are committed to ensuring the sector remains profitable and sustainable.

While Antique Firearms are by definition 'antiques', not used, and are held for historical, heirloom or financial investment reasons, TasFarmers are one of the state's largest stakeholders regarding the ownership and use of firearms and appreciates the invitation to provide feedback on the proposed amendments to the *Firearms Act 1996* relating to Antique Firearms.

Firstly, TasFarmers recognises the Government's commitment to certain conditions regarding changes to the circumstances of ownership of antique firearms after the Commissioner of Police suddenly and without consultation cancelled Exemption No.4 on 18th January this year.

The commitments being.

- no licencing requirement for possession of antique firearms
- no requirement for a firearms safety course
- no requirement for antique firearms to be engraved or stamped
- no fees involved at all
- antiques may be displayed if secured appropriately (as opposed to being kept in a safe)
- pre-1900 antique firearms are to be registered

While we do not agree on the need to register antique firearms, and in fact object to the concept of doing so, we acknowledge that this was also an election commitment and have therefore incorporated registration in our feedback suggestions.

The Consultation Paper distributed puts forward three propositions for discussion and feedback.

1. The requirement for an owner of an antique firearm to undergo a fit and proper person test in accordance with the *Firearms Act 1996*.

The whole concept of antique firearms is that they are valuable/historical/collectible antique curios that cannot or would not be capable of firing and are therefore inert, not potential weapons. This is the logic behind the reason why most of the Australian States have chosen to exclude antique firearms from the regulations imposed on firearms in general. It should be noted that those States have not experienced any significant manifestation of crimes committed with antique firearms.

Therefore, TasFarmers **do not** consider that an owner of an antique firearm should undergo a fit and proper person test.

2. The need for tags to be attached to the antique firearm, and whether removal of that tag should be considered an offence.

TasFarmers are of the opinion that only in the case of an antique firearm that bears no identifying number or makers' mark and has accordingly been attached with a unique identifying tag, that removal of that tag for nefarious purposes may constitute an offence.

3. Where an antique firearm is capable of being fired, the need for that firearm to be licenced appropriately under the *Firearms Act 1996*.

The distinction between 'capable of being fired' and 'reasonable likelihood of being fired' is the difference here. Some antique firearms may be 'capable' of being fired, such as a 1000-year-old Chinese fire lance, but this is not a reasonable interpretation of the meaning. The risk assessment of such activity would be considered low: the threat of someone firing an antique is low, the opportunity for someone to fire an antique is low given that ammunition is not commercially available, and the motive for someone to fire an antique is low given the risk of damage to the firearm and/or injury to the person firing it.

Therefore, TasFarmers **do not** consider where an antique firearm is capable of being fired, any need for that firearm to be licenced under the *Firearms Act 1996*.

Conclusion

While the cost of registration and administration of antique firearms is not to be charged to the owners of these firearms, the increased cost of resources allocated from Firearms Services Tasmania (FST) will be ultimately borne by tax payers in general including current firearm owners and Primary Producers.

There has not been a rash of criminal offences committed with antique firearms so the increased administrative burden and use of FST's limited resources in regulating them is an unnecessary waste. The resources would be better spent in moves to arrest the illegal importation and manufacture of the type of firearms associated with criminal activity.

As most antique firearms are privately held by collectors or as family heirlooms, they are valued and secured accordingly making it unlikely that they will end up in criminal hands. Given that most of the antique firearms in question are un-useable antiques and no more dangerous than a garden spade or a cricket bat the need for imposing stricter controls on the possession of antique firearms would appear unwarranted, unnecessary and a waste of resources.

Unlike most of the Australian States, the Tasmanian *Firearms Act 1996* does not include the exemption for pre-1900 antique firearms within the Act itself and instead pre-1900 Antique firearms have been covered by a blanket Commissioner's Exemption for the last 28 years. This is despite recommendations from other stakeholder groups over the intervening years to amend the Act to include the exemption for antiques.

TasFarmers have included a proposed draft amendment to the *Firearms Act 1996* as a suggestion as to how Antique Firearms could be treated and accounted for in line with most of the other Australian States. We have also included relevant extracts from those States' legislation.

TasFarmers thank you for the opportunity to provide feedback on the Consultation Paper and have outlined our position on the issues raised. We welcome ongoing consultation as required. Please contact us should you require further information.

Yours sincerely,



Nathan Calman
Chief Executive Officer
TasFarmers

Attachments

1. TasFarmers' proposed draft Amendment to the Tasmanian *Firearms Act 1996*
2. Extract New South Wales, *Firearms Act 1996*
3. Extract Victoria, *Firearms Act 1996*
4. Extract South Australia, *Firearms Act 2015*
5. Extract Queensland, *Weapons Act 1990*

Proposed Draft Amendment

FIREARMS ACT 1996 - SECT 155A

155A Exemption for certain firearms manufactured before 1900

- (1) A person is exempt from any requirement under this Act to hold a licence or permit in respect of the possession of an **antique firearm**.
- (2) A licence or permit will be required if there is intent to use an antique firearm.
- (3) An antique firearm is required to be registered, and
 - (a) there is no fee to be charged for registration
 - (b) there is no requirement to stamp, engrave or otherwise mark or deface the antique firearm, and
 - (c) there is no requirement for a safety course to possess or register an antique firearm.
- (4) A permit to acquire a firearm is not required in the case of an antique firearm.
- (5) The owner of an antique firearm must notify Tasmania Police (Firearms Services) if they sell or buy an antique firearm.
- (6) An antique firearm is not required to be stored in a safe but must be physically secured in such a manner as to prevent opportunistic theft.
- (7) In this section--
"antique firearm" means any firearm manufactured before **1900** that--
 - (a) is not capable of discharging breech-loaded metallic cartridges, or
 - (b) is a firearm the ammunition for which is determined by the Commissioner to be ammunition that is not commercially available.
- (8) Any determination by the Commissioner of the ammunition that is not commercially available for the purposes of this section must be published in the Gazette.

New South Wales, FIREARMS ACT 1996

FIREARMS ACT 1996 - SECT 6A

Exemption for certain firearms manufactured before 1900

6A Exemption for certain firearms manufactured before 1900

(1) A person is exempt from any requirement under this Act to hold a [licence](#) or [permit](#) in respect of the [possession](#) of an [antique firearm](#). However, the exemption provided by this subsection does not extend to an [antique revolver](#).

Note--: A [licence](#) or [permit](#) will still be required to [use](#) any such [firearm](#).

(2) An [antique firearm](#) is not required to be [registered](#). Accordingly, a person does not commit an offence under [section 36](#) or [37](#) (2) in relation to an [antique firearm](#).

(3) A [permit](#) under [section 31](#) to [acquire](#) a [firearm](#) is not required in the case of an [antique firearm](#).

(4) [Sections 50](#), [50AA](#), [51](#) and [51A](#) do not apply in relation to the [supply](#) or acquisition of an [antique firearm](#) or a [firearm part](#) for an [antique firearm](#). However, the exemption provided by this subsection does not extend to an [antique revolver](#) or a [firearm part](#) for an [antique revolver](#).

(5) [Sections 50](#) (b) and [51](#) (1) (b) (ii) and (1A) (b) (ii) do not apply in relation to the [supply](#) or acquisition of an [antique revolver](#).

(6) The [possession](#) of an [antique firearm](#) by a person in accordance with an exemption under this section is taken not to be [possession](#) for the purposes of [section 51D](#).

(7) In this section--

"**antique firearm**" means any [firearm](#) manufactured before **1900** that--

(a) in the case of a [firearm](#) other than a [pistol](#)--

(i) is not capable of discharging breech-loaded metallic cartridges, or

(ii) is a [firearm](#) the [ammunition](#) for which is determined by the [Commissioner](#) to be [ammunition](#) that is not commercially available, or

(b) in the case of a [pistol](#)--is not capable of discharging breech-loaded metallic cartridges.

"**antique revolver**" means an [antique firearm](#) that is a percussion lock [pistol](#) equipped with a revolving cylinder.

(8) Any determination by the [Commissioner](#) of the [ammunition](#) that is not commercially available for the purposes of this section must be published in the Gazette.

SECT 36. Unregistered firearms...

SECT 50. Acquisition of firearms...

SECT 51. Restrictions on supply of firearms...

Attachment 3

Victoria, FIREARMS ACT 1996

S. 3(4)

- (4) This Act does not apply to a [firearm](#) that was manufactured before 1900, if—
- (a) in the case of any such [firearm](#) that is a [longarm](#)—
 - (i) it does not take [cartridge ammunition](#); or
 - (ii) if it does take [cartridge ammunition](#), the [cartridge ammunition](#) that it takes is not commercially available; or
 - (b) the [firearm](#)—
 - (i) is not a [handgun](#) of a type that uses [percussion](#), or methods developed during or after the development of [percussion](#), as a means of ignition; or
 - (ii) is a [single shot antique handgun](#).

SECT 21B Issue of antique handgun collector's licences

- (1) The [Chief Commissioner](#) may licence a person to possess or [carry antique handguns](#) (that are not [single shot antique handguns](#)) for the purpose of collecting any such [handguns](#).
- (2) The [Chief Commissioner](#) must not issue a licence under subsection (1) unless the applicant—
 - (a) is and has been a member of an approved [firearms](#) collectors club that deals with the classes of [firearms](#) the person proposes to collect; and
 - (b) can demonstrate that the [firearms](#) collected will be of obvious and significant commemorative, historical, investment or thematic value; and
 - (c) is a member of an approved [firearms](#) collectors club, a nominated [officer](#) of which has endorsed the application, on behalf of the club.

Vic. FIREARMS ACT 1996 - SECT 3

Definitions

"**antique handgun**" means a [handgun](#)—

- (a) that was manufactured before 1 January 1900; and
- (b) that uses [percussion](#) as a means of ignition; and
- (c) that does not take commercially available [cartridge ammunition](#);

" **antique handgun collectors licence**" means a licence issued under [section 21B](#);

South Australia, FIREARMS ACT 2015

Sect. 4 (1)

"firearm" means—

- (a) a device designed to fire bullets, shot or other projectiles by means of burning propellant or by means of compressed air or other compressed gas; or
- (b) a device of a kind declared by the regulations to be a [firearm](#), and includes a [receiver](#) of a [firearm](#) and any device or devices which (whether or not rendered temporarily or permanently unusable) would, if in working order, or if assembled and in working order, be a [firearm](#) within the meaning of this definition but does not include—
- (c) an [antique firearm](#); or
- (d) a device of a kind declared by the regulations not to be a [firearm](#);

Sect. 5(2)

"antique firearm" means a [firearm](#) that—

- (a) was manufactured before 1900; and
- (b) is kept solely for curiosity, display, ornamental or investment purposes; and
- (c) is not used to fire projectiles; and
- (d) —
 - (i) in the case of a [firearm](#) other than a category H [firearm](#)—
 - (A) is designed to fire breech loading cartridges and is a [firearm](#) the [ammunition](#) for which is not ordinarily available for [purchase](#) by retail in Australia; or
 - (B) is not designed to fire breech loading cartridges; or
 - (ii) in the case of a category H [firearm](#)—is a [handgun](#) designed or altered to fire by means of a flintlock, matchlock, wheel-lock or other system used prior to the use of percussion caps as a means of ignition;

Queensland, WEAPONS ACT 1990

" **antique firearm**" means a thing, mentioned in *paragraph (a) , (b) (i) , (c) or (d) of the [definition](#)* "firearm" and manufactured before 1 January 1901, that is one of the following—

- (a) a muzzle loading firearm.
- (b) a cap and ball firearm.
- (c) a firearm in relation to which an authorised officer decides under [section 154](#) that ammunition is not commercially available.

" **antique handgun**" means an antique firearm, other than a pre-percussion handgun, that is less than 75cm in length.

SECT 154 Authorised officers may approve particular weapons to be of particular types

(1) An authorised officer, specially authorised by the commissioner for this section, may—

(a) decide that ammunition is not commercially available for a thing mentioned in *paragraph (a) , (b) (i) , (c) or (d) of the [definition](#)*

"**firearm**" and manufactured before 1 January 1901; or

(b) approve a [firearm](#) to be a pre-percussion handgun if the authorised officer reasonably believes the [firearm](#)—

- (i) is an antique [firearm](#) less than 75cm in length; and
- (ii) does not use percussion as a means of igniting a charge; and
- (iii) does not accept cartridge ammunition.

(2) The commissioner may specially authorise an authorised officer under this section if the commissioner is satisfied that the officer has the necessary qualifications or experience to be specially authorised for this section.

Antique firearms (Information Page)

You do not require a weapons licence or a permit to acquire to take possession of an antique firearm. However, you should ensure that the firearm you intend to acquire fits the definition of an antique.

An antique firearm is defined under the Weapons Act 1990 as a firearm manufactured before 1 January 1901 that is either:

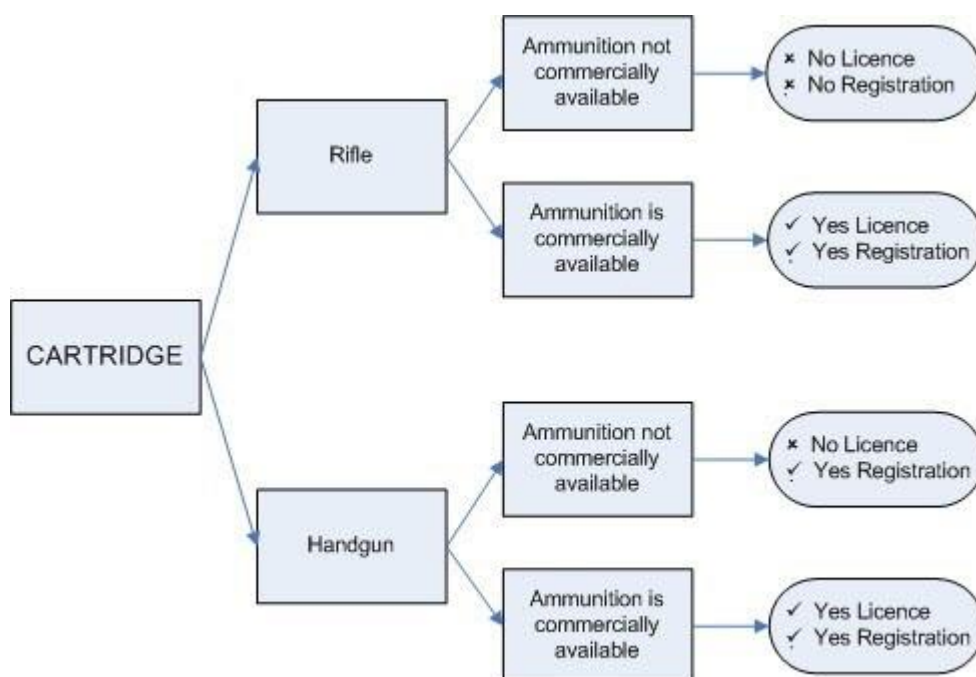
- a muzzle loading firearm.
- a cap and ball firearm; or
- a firearm in which an authorised officer decides that [ammunition is not commercially available](#).

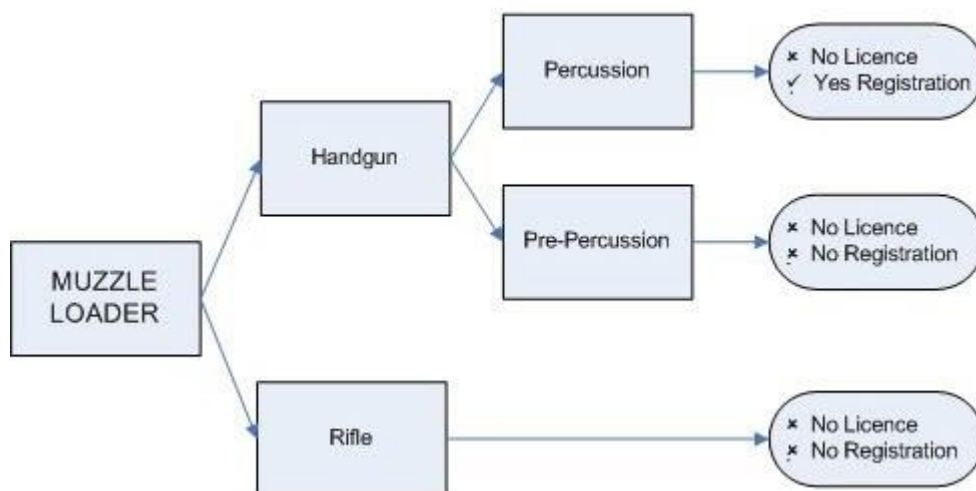
An antique handgun is defined as an antique firearm that is less than 75cm in length, other than pre-percussion handguns.

A pre-percussion handgun is an antique firearm less than 75 cm in length that is a muzzle loading firearm activated by fuse, matchlock, wheel lock, snaphaunce, flintlock or miquelet lock.

The diagram below provides a model for determining whether a firearm manufactured before 1901 requires a weapons licence or registration. Start by determining whether the firearm takes cartridge ammunition or is muzzle loading.

Year of manufacture before 1 January 1901?





Antique handguns

You do not need a weapons licence or a permit to acquire to take possession of an antique handgun. However, you are required to give written notice to Weapons Licensing within 14 days of acquiring the handgun with the following information:

- Your name and address
- The type, make, calibre, action, magazine capacity, serial number and the year of manufacture of the antique handgun, and
- The place where the antique handgun is generally kept.

The [antique firearms questionnaire](#) can be used for this purpose.

There are no fees payable for this transaction.

Registration does not apply where a person has taken possession of the handgun to:

- repair it
- store it, if the person is an armourer storing it for someone else, or
- store it on a temporary basis (not more than 3 months) without giving consideration for the acquisition of the handgun.

Handguns that do not fit the definition

If the handgun you wish to acquire does not fit the definition as described above (e.g. because ammunition is commercially available), you will need a weapons licence and a permit to acquire to obtain it.

If you believe the firearm you wish to acquire should be classed as an antique handgun, you can apply to Weapons Licensing to have it approved as such. The [antique firearms questionnaire](#) can be used for this purpose.