

10 June 2024

Our ref: [LP:CLC]

Committee Secretary
Community Safety and Legal Affairs Committee
Parliament House
George Street
Brisbane QLD 4000

By email: [REDACTED]

Dear Committee Secretary

Queensland Community Safety Bill 2024

Public hearing 24 May 2024 – QLS Response to Question on Notice

Thank you for the opportunity to appear before the Legal Affairs and Safety Committee on 24 May 2024 to discuss our submission on the Queensland Community Safety Bill 2024 (**Bill**).

At the public hearing, the Society took as a question on notice regarding the operation of the proposed firearms prohibition scheme.

Question

What would that mean for an individual who potentially unwittingly had a person with an FPO living on their property but was unaware of the situation of that person and therefore they themselves then had no guilt in terms of that person whilst they still had a weapons licence? Under this legislation that would mean that that person potentially would lose his livelihood if he was a farmer or if he was a sporting shooter who culls vermin and feral species.

What is your opinion on that?

How would that affect these individuals?

If a landowner has an individual who comes to live or work on this property and he did not know that the person had an FPO against them, under the notion of what the member for Cooper said with regard to a guilty mind and common law, what would happen to that individual in a court?

Answer

If passed, the new FPO scheme will prohibit an individual, subject to a FPO, from possessing, using or acquiring a firearm or firearm related item and empowers police officers to conduct warrantless searches of the individual, their vehicle or residence to ensure compliance with the order.

The FPO offence provisions are primarily directed at the person the subject of a FPO. Section 141Z is the only FPO offence provision that contemplates the involvement of another person,

not the subject of an FPO. Critically, in order to succeed in a charge of this offence, the prosecution is required to provide that the person knew the individual was the subject of a FPO.

New section 141Z makes it an offence for a person, who is not the subject of a FPO, to supply a firearm or firearm related item to an individual subject to a FPO if the person knows the individual is subject to the order. The maximum penalty for supply of a firearm or a firearm related item, is 500 penalty units or 13 years imprisonment and 200 penalty units or 5 years imprisonment, respectively.

Accordingly, the mere unwitting employment of an individual, the subject of an FPO, by a person who owns firearms or firearm related items does not constitute an offence set out in new section 141Z.

However, it is not as clear whether or not, the unwitting employer, in this scenario, may become the subject of a FPO where the person is considered an associate of a recognised offender¹ as contemplated in section 141D (2) (d). While a Commissioner must take into account the public interest test in section 141G (2), the application of this provision is connected with warrantless stop, search and detain powers. As such, the interaction of these provisions may result in unintended consequences including the risk that a property owner with a weapons license may become the subject of an FPO if they unwittingly employ an individual the subject of an FPO.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Legal Policy team via policy@qls.com.au [REDACTED]

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President

¹ Defined in section 77 of the Criminal Code 1899 (Qld) as meaning 'an adult who has a recorded conviction, other than a spent conviction, for a relevant offence (whether on indictment or summary conviction)'.