



COMMISSIONER FOR
BETTER REGULATION

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19 December 2017

Ms Kate Houghton
Deputy Secretary
Police and Crime Prevention
Department of Justice and Regulation
121 Exhibition Street
MELBOURNE VIC 3000

Dear Ms Houghton

I would like to thank the staff of the Police Policy and Governance team in the Department of Justice and Regulation for working with the staff at the OCBR on the preparation of the Regulatory Impact Statement (RIS) for the proposed Firearms Regulations 2018. These Regulations are proposed due to the sunset of current arrangements in April 2018.

Under section 10 of the *Subordinate Legislation Act 1994*, the Commissioner for Better Regulation is required to provide independent advice on the adequacy of all RIS prepared in Victoria. The Commissioner's role is to advise on the adequacy or otherwise of the analysis presented in the RIS, rather than the merits or otherwise of policy or regulatory proposals. A RIS is deemed to be adequate when it contains analysis that is logical, draws on relevant evidence, is transparent about assumptions made, and is proportionate to the proposal's expected effects. The RIS also needs to be clearly written so that it can be a suitable basis for public consultation.

I am pleased to advise that the final version of the RIS received by us on 19 December 2017 meets the adequacy requirements of the *Subordinate Legislation Act 1994*.

The proposed Regulations prescribe a range of matters, including:

- devices that are excluded from the definition of 'firearm';
- the information to be entered on firearm dealers' and collectors' registers;
- offences for which infringement notices may be issued;
- requirements for certain uses of firearms on private land;
- the manner in which 'searches without warrant' may be conducted; and
- fees for the issue and renewal of licences and permits and for applications for review of decisions.

For regulations other than those that set fees, the Department explains in the RIS the rationale for proposed changes including:

- requiring anyone seeking to possess a handgun chassis kit to obtain a permit;
- exempting arborist line throwers and dog-training devices from the definition of 'firearm';
- increasing the maximum amount a dealer can charge for acting as agent from \$25 to 3 fee units (equivalent to \$42.66 in 2017-18);
- prescribing new infringement offences: failure by a dealer to record all prescribed information in their register of transactions, and failure to securely store a category A or B longarm or its ammunition; and
- permitting Class 2 licence holders to sell category C longarms, and creating a standalone dealer's licence for paintball markers.

The Department estimates that the total cost of the proposed Regulations, including these changes, is around \$400,000 per year, and that for this reason the main focus of the analysis in this RIS is on the setting of fees and charges aimed at recovering the \$13.7 million annual cost of administering and enforcing the regulation of firearms.

To estimate the efficient cost of administering and enforcing these Regulations, and to review the current fees as part of the sunseting process, the Department undertook an activity-based costing exercise. This found that some fees were recovered more and some less than the cost of the services being provided.

In line with the Victorian Government's *Cost Recovery Guidelines*, the RIS considers the option of setting each fee for a specific service to fully recover the cost of that service. It then examines specific options that involve setting some fees above or below full cost recovery.

The Department's preferred option, as reflected in the proposed Regulations:

- keeps several fees (for junior licences, provisional licences and review of decisions) at current levels, resulting in the under-recovery of \$640,000 per year;
- retain the waiver for primary production licences, resulting in the under-recovery of \$2 million per year;
- introduces a new discount for certain concession card holders and those over 70 years of age, resulting in the under-recovery of around \$430,000 per year;
- retains the current fee levels for any fee that would decrease if moving to full cost recovery, resulting in the over-recovery of around \$1.3 million per year, which is used to cross-subsidise other services.

The proposal also limits the increase in any fee to half of the increase that would occur if fees were being set to fully recover costs, resulting in the under-recovery of costs of around \$850,000 per year; and.

The net effect of the proposed Regulations on cost recovery is that the prescribed fees are estimated to raise around \$11.1 million in revenue, per year or around 81% of the cost of administering and enforcing the regulation of firearms, with the remaining \$2.6 million per year to be funded through consolidated revenue.

The Department assessed options for setting fees against the following criteria:

- whether each fee was set to reflect the cost of the relevant service;
- whether the cost of regulatory activities was borne by those who gave rise to or benefited from those activities;
- whether the fees would have effects that were consistent with government objectives; and
- whether the fees would result in administrative complexity for the regulated community or for government (e.g. any increased complexity and associated costs for Victoria Police).

In general, the decision to set fees at levels below cost recovery and to subsidise those services either using revenue raised from other firearms users or from all Victorians was based on the Department placing a priority on avoiding:

- the risk that firearms users facing large increases or new fees might deter them from participating in compliant, regulated use of firearms; and
- the need for Victoria Police to change its current licensing and registration systems.

The decision to introduce concessions for certain concession card holders and those over 70 years of age was based on the Department's view that there are social benefits in older Victorians

participating in sports shooting and, and would require Victoria Police to make only minor changes to its current systems.

The proposed Regulations also introduce an application fee for all licence applications. They will provide that an application fee is payable when an application is lodged, and that a licence fee is payable if the application is approved, recovering some of the costs of processing applications from unsuccessful applicants. Application fees vary from one type of licence to another, ranging from around \$26 for an application for a junior licence for an individual to around \$1,057 for an application for a body corporate dealer's licence to deal in all categories of firearms .

The Department notes in the RIS its plan to evaluate the proposed Regulations with specific data collected in regard to the revenue forgone and any change in behaviour relating to fees that are set to under-recover costs, and that this will be undertaken five years into the life of the Regulations.

Should you wish to discuss any issue raised in this letter, or the implications of new information or policy options identified through the public consultation process for your proposal, please do not hesitate to contact me on (03) 9092 5800.

Yours sincerely



Anna Cronin

Commissioner for Better Regulation