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## National Handgun Buyback Bill 2003

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I N F O R M A T I O N   A N D   R E S E A R C H   S E R V I C E S

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No. 155 2002-03

National Handgun Buyback Bill 2003

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# National Handgun Buyback Bill 2003

**Date Introduced:** 15 May 2003

**House:** House of Representatives

**Portfolio:** Justice and Customs

**Commencement:** On the day on which the Act receives the Royal Assent

## Purpose

The purpose of the Bill is to appropriate funding for a national handgun buyback program commencing on 1 July 2003.

## Background

### Shooting Incident at Monash University: 21 October 2002

On 21 October 2002 at about 11am a shooting incident occurred at Monash University in Melbourne. A person entered a tutorial room on the sixth floor of the Sir Robert Menzies building and allegedly fired indiscriminately into a tutorial group. Two people were killed and five wounded before the alleged gunman was subdued by a lecturer and students.<sup>1</sup> It was subsequently reported that the alleged gunman was a licensed pistol owner with access to several handguns, including semi-automatic pistols and a .357 magnum revolver.<sup>2</sup>

On 22 October 2002, the Prime Minister, the Hon. John Howard MP, in Question Time in the House of Representatives commented on the tragedy and foreshadowed that he would raise with the State Premiers and the Chief Ministers of the Territories a proposal to further strengthen gun laws in Australia.<sup>3</sup> The Prime Minister's stated objective in raising the matter at intergovernmental level was to see 'whether there are additional things we can do to take more weapons out of society...consistent with protecting the rights of sporting shooters in a legitimate sense...'.<sup>4</sup>

The Prime Minister also noted that there was independent evidence that the guns buyback (of certain long guns—such as rifles) that followed the Port Arthur shooting tragedy in 1996 had been successful in reducing the murder rate involving guns in Australia.<sup>5</sup> A similar observation was made in the Senate at Question Time by Senator the Hon.

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Christopher Ellison, Minister for Justice and Customs and Senator Andrew Bartlett of the Australian Democrats.<sup>6</sup>

It is important to note a distinction between homicides committed with firearms and firearm offences that did not result in death, such as armed robberies and gun threats. It is reported that Australia has seen an increase in crimes committed with handguns combined with a concern over trafficking in illegal handguns.<sup>7</sup> The Minister for Justice and Customs, Senator the Hon. Christopher Ellison, issued a Media Release on 16 May 2003 stating that the issue of trafficking in illegal handguns '...remains one of the utmost importance at the ACC, which has indicated it remains the subject of a Special Investigation'.<sup>8</sup> The ACC is the newly created Australian Crime Commission which is the combination of the functions of the former National Crime Authority, the Australian Bureau of Criminal Intelligence and the Office of Strategic Crime Assessments.

### Budget 2003–2004—The Attorney-General's Portfolio: Handgun buyback

The details on the levels of appropriation and an outline of the method for implementing the handgun buyback scheme are found in the 2003-2004 Budget documentation (see Fact Sheet 2 – *Fighting Crime* for the Attorney-General's Portfolio).

The outline below for the proposed handgun buyback program indicates a legislative response at the Commonwealth (e.g. importation controls) and State level (e.g. possession and use) to reduce the availability of handguns:

#### HANDGUN BUYBACK AND TIGHTER GUN CONTROLS

Budget 2003-04 has committed funding to one of the Government's high priorities: strict controls of firearms and a reduction in the number of handguns in the community.

In accordance with an agreement between the Commonwealth and State and Territory Governments, a buyback of prohibited handguns will be conducted from 1 July 2003 until 31 December 2003. The Council of Australian Governments (COAG) agreed to prohibit the importation, possession and use by sporting shooters of handguns that have:

a barrel length of less than 100mm for revolvers and 120mm for semi-automatics;

calibre in excess of .38" (except for specially accredited events agreed by COAG which will be able to use handguns up to .45" calibre); and

a shot capacity in excess of 10 rounds.

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These measures complement a range of handgun reforms proposed by the Australasian Police Ministers Council, endorsed by COAG, and being implemented nationally by the States and Territories.

The cost of funding the compensation scheme will be met, firstly, by \$15 million left over from the 1996 buyback and then on two-thirds: one-third basis between the Commonwealth and States and Territories. The indicative cost of the scheme to the Commonwealth is \$69 million. Legislation in support of the Commonwealth's two-thirds share of the cost of the buyback will be introduced in the winter sittings of Parliament.

Measure	2003–04 \$m	2004–05 \$m	2005–06 \$m	2006–07 \$m	Total* \$m
Firearms permit and policy administration	0.9	0.9	1.0	1.0	3.9

\* The total is the rounded total of unrounded numbers for each year.<sup>9</sup>

### The 1996 buyback: The Port Arthur tragedy

The Government's Budget statement, above, includes reference to '\$15 million left over from the 1996 buyback'. This is a reference to the *National Firearms Program Implementation Act 1996* which appropriated funding to provide compensation to firearms owners and dealers under buyback schemes established to implement the national firearms program directed at long guns. This program was a response to the shooting tragedy at Port Arthur in Tasmania on 28 April 1996 when 35 people were killed and others wounded by a lone gunman.<sup>10</sup>

### Compensation for gun dealers' stock and not for loss of business

Gun dealers have expressed concern that the buyback of handguns compensates them for surrender of stock but it does not compensate them for on-going loss of business as a result of future reduced sales. While there may be a reduction in overall trade, the buyback is aimed at certain types of weapons. Gun dealers will still be able to sell legal firearms to licensed sporting shooters.<sup>11</sup>

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## Main Provisions

**Clause 3** provides definitions applicable under the legislation. The 'buyback period' covers the period 1 July 2003 to 31 December 2003, unless extended by Regulation for a particular State (to allow for any delay in passing relevant State legislation). The aim is to complete the buyback in 6 months.

A 'qualifying payment' made by a State as part of the buyback scheme covers handguns, handgun parts or handgun accessories. A qualifying payment can also include payments directly connected with handgun buyback administration and education or awareness raising strategies. A 'State' includes the Australian Capital Territory and the Northern Territory.

**Clause 4** enables the Minister for Justice and Customs to authorise reimbursements to the States for qualifying payments. The payments can only be approved if they fall within agreed criteria including a time period of within 12 months of the completion of the buyback period in a particular State.

**Clause 5** enables the Minister to approve additional payments directly connected with the handgun buyback program. These include payments for administration and education or awareness raising strategies. These payments may also include the funding of Commonwealth initiatives such as a communications strategy and reporting and analysis of the buyback scheme. Payments may also be made to external territories that may be unable to fully fund their component of the national strategy.

**Clause 7** requires the Minister for Justice and Customs to table in Parliament a copy of the written agreement with each State relating to the handgun buyback program.

**Clause 9** appropriates funding for the national handgun buyback program.

**Clause 10** is a Regulation making power to enable the Governor-General to give effect to the legislation.

## Concluding Comments

The purpose of the Bill is to provide funding to the States to enable the Commonwealth to participate with the States in a national program aimed at removing from the community handguns that are not used in genuine sports shooting. Sporting shooters and dealers will receive compensation.

Of concern, however, is the reported theft rate of firearms in Australia. The Australian Institute of Criminology is reported as stating in June 2002 that approximately 4200 guns, including about 600 handguns, are stolen in Australia each year.<sup>12</sup> It is also reported that, in a two year period to January 2003, New South Wales police have taken more than 4 000

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firearms, including 680 illegal handguns off the street.<sup>13</sup> It appears that the black market in illegal handguns is significant. The continued availability of illegal handguns also indicates the likelihood of gun-running across Australia's coastline.

A handgun buyback scheme will not entirely remove the threat of firearm misuse in Australia but it is an important and worthwhile initiative. Support should also be given to the continued monitoring of the adequacy of the banned list of guns compared with the specifications of recognised sports shooting disciplines.<sup>14</sup>

## Endnotes

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- 1 See Amanda Keenan, 'Students die in campus shooting spree', *Australian*, 22 October 2002. Barclay Crawford, Gosia Kaszubska and James Madden, 'A tutorial room drenched in blood', *Australian*, 22 October 2002.
- 2 See The Hon John Tingle M.L.C. 'Bad News', Newsletter of the Shooters Party, Parliament House, Sydney, 23 October 2002. Phillip Hudson, 'Only two Monash guns on the banned list', *Age*, 11 November 2002.
- 3 Question without Notice, 'Law Enforcement: Gun Control', *Debates*, House of Representatives, 22 October 2002: p. 8229.
- 4 *ibid.*
- 5 *ibid.*
- 6 Question without Notice, 'Law Enforcement: Firearms Control', *Debates*, Senate, 22 October 2002, p. 5581.
- 7 John Crook, *A Curse Called Handguns*, Gun Control Australia, Melbourne, 2003.
- 8 *Media Release (E51/03)*, 'Labor Attack on Federal law enforcement doesn't stack up', Senator the Hon. Christopher Ellison, Minister for Justice and Customs, 16 May 2003.
- 9 Fact Sheet 2 - *Fighting Crime*, Budget 2003-2004, the Attorney-General's Portfolio.
- 10 For more details on the *National Firearms Program Implementation Act 1996* refer to Bills Digest No. 48 (26 September 1997) by Brendan Bailey and Bills Digest No. 224 (2 June 1998) by Jennifer Norberry of the Law and Bills Digest Group of the Parliamentary Library.
- 11 Phillip Hudson, 'Gun dealers want levy to fight ban', *Age*, 12 December 2002.
- 12 Peter Lalor and Vanessa McCausland, 'Why ban won't stop this pistol', *Daily Telegraph*, 11 January 2003.
- 13 *ibid.*
- 14 See for example the comments in the article by Phillip Hudson, 'Only two Monash guns on the banned list', *Age*, 11 November 2002.

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