

EXPLANATORY STATEMENT

Select Legislative Instrument 2005 No. 41

Issued by the authority of the Minister for Justice and Customs

National Handgun Buyback Act 2003

National Handgun Buyback Amendment Regulations 2005 (No. 1)

Section 10 of the *National Handgun Buyback Act 2003* (the Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The Act enables the Commonwealth to appropriate funds for the purpose of providing financial assistance to the States (defined to include the Australian Capital Territory and the Northern Territory), in connection with the implementation of the handgun buyback. The aim of the handgun buyback is to compensate individuals who surrendered eligible firearms to States and Territories.

Section 3 of the Act provides that the 'buyback period' in relation to a State means the period from 1 July 2003 until 31 December 2003, unless a later time for the end of the period is prescribed in relation to the State by regulations.

The *National Handgun Buyback Regulations 2003* (the Principal Regulations) provide for extensions of the buyback period in all Australian jurisdictions. The length of the extension of the handgun buyback in each jurisdiction, as prescribed in those Regulations, was determined in accordance with requests from each State and Territory ranging from the end of January 2004 to the end of June 2004.

The effect of the Principal Regulations is that Commonwealth reimbursement may continue to be available under the Act to those jurisdictions for qualifying payments made until the prescribed end date for each prescribed jurisdiction. 'Qualifying payment' is defined in the Act as being the payment made by a State in accordance with a written agreement between the Commonwealth and the State, being either: a payment for compensation for the surrender of handguns, parts or accessories; or a payment made in direct connection with the administration of the handgun buyback or related education or awareness raising strategies.

The purpose of the Regulations is to extend the buyback period applying to Western Australia by a period of three months.

Western Australia sought a further extension to its buyback period, from the original end date of 31 March 2004 to 30 June 2004. Western Australia advised an extension was required as administrative delays prevented Western Australia Police from being able to receive and process all items surrendered under the buyback before 31 March 2004. The extension enables Commonwealth reimbursements to be made with respect of qualifying payments made by Western Australia up to the end 30 June 2004.

Details of the amendments are set out in the Attachment.

The Act specifies no conditions that need to be met before the power to make the Regulations may be exercised.

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulations are taken to have commenced on 30 March 2004.

The retrospective commencement of the Regulations ensures that the buyback period in Western Australia remains continuous. The Office of Legislative Drafting and Publishing has advised that the amendments do not contravene subsection 12 (2) of the *Legislative Instruments Act 2003*, as the amendments are beneficial in nature, and do not affect the rights of any person (other than the Commonwealth) so as to disadvantage that person. Nor do the regulations impose any liabilities on any person (other than the Commonwealth) in respect of anything done, or omitted to be done, before the date of registration.

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ATTACHMENT**Details of the *National Handgun Buyback Amendment Regulations 2005 (No. 1)*****Regulation 1 - Name of Regulations**

Regulation 1 provides for the regulations to be named the *National Handgun Buyback Amendment Regulations 2005 (No. 1)*.

Regulation 2 - Commencement

The Regulations are taken to have commenced on 30 March 2004.

Regulation 3 – Amendment of *National Handgun Buyback Regulations 2003*

Regulation 3 stipulates that Schedule 1 to the Regulations amends the *National Handgun Buyback Regulations 2003*.

Schedule 1**Item 4 – Regulation 4, table, column 3**

Item 4 replaces 31 March 2004 with 30 June 2004 as the end date for the buyback period in Western Australia.