



**Comment submission on proposed *Counter Terrorism Legislation
Amendment (Prohibited Hate Symbols and Other Measures) Act 2023***

Prepared for

**Commonwealth Government Parliamentary Joint Committee on
Intelligence and Security**

By

Shooters Union Queensland Collector's Branch

July 2023



Introduction and Authority to comment:

Shooters Union Queensland Collectors Pty Ltd (“Shooters Union Collector’s Branch”; “Shooters Union Collectors”) is the Collector’s Branch of Shooters Union Queensland, and is an Approved Historical Society (No. 49001015) in Queensland per Division 2 of *Weapons Act 1990 (Qld)*.

We have more than 320 members and our president, Royce Wilson, is a noted and respected firearms historian who has written extensively on the subject for nearly two decades.

We welcome the opportunity to make a submission on the proposed *Counter Terrorism Legislation Amendment (Prohibited Hate Symbols and Other Measures) Act 2023 (Cth)*.

General observations and recommendations:

As a historical society we are concerned that a prohibition on the Nazi and terrorist organisation symbols would inadvertently capture legitimate ownership of items by collectors and historians – people who are owning those items because of the history they represent, not so they can use them to incite hatred or vilification of other people.

A number of our members collect WWII-era firearms, including German firearms from the period 1933-1945, as well as related militaria (such as bayonets, uniforms, equipment, and similar items).

Many people with these items own them as heirlooms; the items themselves having been captured as war trophies by a family member serving their country during WWII or other conflicts.

For the avoidance of doubt, Shooters Union Australia (including the Collector’s Branch) does NOT support, condone, or advocate Nazi or terrorist organisation atrocities, violence, ideology, or their incitement of hatred generally.

German military acceptance marks of the Nazi era involved an eagle atop a Swastika¹ and these are commonly found on WWII German military firearms including, but not limited to the Mauser Karabiner 98k bolt-action rifle, the Luger P08 semi-automatic pistol, and the Walter P-38 semi-automatic pistol.

German military uniforms of the era also contain Swastikas and, in some cases, the SS double runes.²³

¹ Fowkes, Paul and Skennerton, Ian *Proof, Stamps & Trade Marks for Rifles, Pistols, Shotguns: An International Guide Edition of 2023*, pgs 88-89

² [https://en.wikipedia.org/wiki/Uniforms_of_the_German_Army_\(1935%E2%80%931945\)](https://en.wikipedia.org/wiki/Uniforms_of_the_German_Army_(1935%E2%80%931945)),
[https://en.wikipedia.org/wiki/Uniforms_of_the_Luftwaffe_\(1935%E2%80%931945\)](https://en.wikipedia.org/wiki/Uniforms_of_the_Luftwaffe_(1935%E2%80%931945))

As the “Eagle-atop-a-Swastika” was the official emblem of Nazi Germany, it also appears in the logos, uniforms and miscellaneous items of a number of non-military government entities of the Third Reich era, including *Deutsche Reichsbahn* (the German railway service)⁴, and *Deutsche Reichspost* (the German post office/postal system)⁵.

As we read the Bill, it seems that it will be illegal to sell *anything* containing a Nazi Swastika (“Hakenkruz”) or the “Double Lightning Bolts” SS Rune – including books, uniforms, militaria, firearms, coins, medals, and even postage stamps.

It is our belief that as it is currently written in the legislation, trading in a firearm (or similar historic item) with Nazi ownership markings would fall afoul of the Bill, despite the markings being historical in nature and not readily visible to the average person.

This issue does not apply purely to items such as firearms and bayonets, either. For example, a leather magazine pouch may have Nazi military acceptance markings stamped on it in a non-prominent way – yet under the proposed legislation, it would be illegal to sell these items due to their presence.

There are countless other items from the era which a reasonable person would agree are completely innocuous in a modern sense – for example, a Nazi-era coin or banknote, or a teaspoon – yet trading in them would also apparently be prohibited under the proposed legislation.

This is an undesirable state of affairs with significant flow-on consequences for a range of law-abiding members of the community including licensed firearms dealers, licensed firearms owners, militaria collectors and researchers, among others.

Looking to the future, while the atrocities of groups such as ISIS are still fresh in our minds in 2023, decades from now they will be a subject of historical interest and there will doubtless be future generations of collectors with an interest in the era who wish to purchase or collect items with the prohibited symbols on them (for the same reasons legitimate collectors own or collect Nazi-marked items), yet will find themselves barred from doing so as a result of this legislation.

We submit that a formless public sense of distaste for certain historical items which they will never see or be exposed to anyway (unless they go out of their way to find them) does not warrant Commonwealth-level legislation banning their trade.

We also note that most of these collectible items, particularly original examples from the Third Reich era, are not cheap and are well out of the budget of your garden-variety Neo-Nazi or Hate Group member.

³https://en.wikipedia.org/wiki/Uniforms_and_insignia_of_the_Schutzstaffel

⁴ <https://www.cowanauctions.com/lot/german-wwii-deutsche-reichsbahn-german-railway-visor-cap-122679>

⁵ <https://www.ima-usa.com/products/original-german-wwii-reichspost-imperial-mail-postschaffner-grouping-wool-tunic-with-armband-and-garrison-side-cap?variant=40031964364869>

1. We urge the Committee to recommend the Bill be amended to explicitly note that no offence is committed by people owning or trading items (be they historical or modern reproductions of same) items with the prohibited symbols as part of a legitimate collection or genuine interest in the Third Reich era, WWII, or other military conflicts.
2. We also urge the Committee to recommend the Bill be amended to explicitly note that no offence is committed where the prohibited symbol is an ancillary element of the item being traded (eg a proof/ownership marking on a rifle or other weapon, or a small ownership marking on another piece of equipment.)
3. We note that in Germany itself the sale of historical (and reproduction thereof) Nazi-marked items is permitted, provided the Swastika is covered with a sticker or digital blurring etc when advertising or displaying the item in public, and suggest such an allowance should be incorporated into the proposed legislation here.

Specific Comment On Explanatory Memoranda

- *Paragraph 46: The offences would not apply in circumstances where the prohibited Nazi and Islamic State symbols are displayed or traded for a legitimate purpose that is not contrary to the public interest. This would include circumstances, for example, where a reasonable person would consider that the display or trade was done for a legitimate religious, academic, educational, artistic, literary or scientific purpose. This would ensure that the limitations on the right to freedom of expression are reasonable and proportionate.*

While we are pleased to see that no offence would be committed where the symbols are traded for a “legitimate purpose that is not contrary to the public interest” – for example, in a museum display – we feel it is necessary to request the inclusion of an explicit acknowledgement that no offence is committed where the symbols form part of a proof or ownership marking on a firearm, or similar provenance marking on another item (eg on a ceremonial dagger, or military equipment/ uniform), along with a request that private collection be explicitly noted as a legitimate purpose that is not contrary to the public interest.

We feel a “reasonable person” test alone is too subjective, especially given the lukewarm public attitude towards anything firearm related. When that is combined with an understandable distaste for anything with Nazi iconography, we suggest it does not leave much room for reasoned discussion or interpretation.

For similar reasons, we feel a broad “Public Interest” test alone is also insufficient – it only takes a single court or Civil Administration Tribunal ruling that private individuals collecting “problematic” historical items is not in the public interest, or a future ruling that civilian firearms ownership is “not in the public interest” and huge numbers of Australians will become criminals overnight as a result.

While it is easy to handwave the concerns of legitimate collectors and historians away with a “Well, that’s not what the legislation is intended for, you’ve got nothing to worry about,” the fact of the matter is that unless it is explicitly in the legislation that firearm proof/ownership marks and items with Nazi or terrorist insignia held as part of a legitimate collection are not “prohibited”, the potential remains for otherwise law-abiding people with no hateful intentions to be captured under the provisions of the proposed legislation.

- *Schedule 1, Paragraph 38: The term public place would include any place to which the public, or a section of the public, have access as of right or by invitation.*
- *Schedule 1, Paragraph 39: New subsection 80.2F(3) would provide that a thing is also considered to be publicly displayed if the thing is included in a document that is available, or distributed, to the public or a section of the public by means of connection with a telegraphic, telephonic or other like service within the meaning of paragraph 51(v) of the Constitution including, for example, by means of the internet.*

This excessively broad definition of the term “public place” is especially concerning to us. The idea that people who are, for example members of a private discussion group on the internet relating to WWII history or firearms might be committing a crime by sharing an image of a prohibited symbol, perhaps to ascertain if the item the symbol is on is genuine, is extremely worrying and will almost certainly have a chilling effect on the legitimate discussion of the history of the Third Reich, especially from those wishing to collect firearms and militaria of the era.

We are also concerned the proposed legislation would make it illegal for a dealer in military antiques to advertise items they had for sale – be it a rifle with Nazi military ownership markings, or a bayonet for that same rifle (also with Nazi ownership markings), or other WWII German militaria (including modern reproductions of same).

The Explanatory Memoranda makes mention (paragraph 121) of “a museum trading in Nazi artefacts which bear prohibited symbols in order to educate people about the atrocities of the Nazi party should not be criminalised” but fails to take into account the many legitimate reasons for owning or trading in Nazi artefacts which do not involve educating people about Nazi atrocities (which are well documented and well-known to pretty much everyone in 21st century Australia anyway).

For example, a licensed firearms user who purchases a 1941-dated Mauser Karabiner 98k rifle for its WWII connection may find themselves afoul of the law for “displaying” the rifle with

(small and ancillary) Nazi iconography on it every time they take it to the shooting range, while the dealer who sold the gun may find themselves in breach of the legislation for having traded the firearm in the first place – despite the sale being subject to a police Permit To Acquire for the firearm, and being made between two licensed individuals who have conclusively been established by the authorities to be “fit and proper persons”.

The item is not being traded with any intent to glorify, celebrate, or promote Nazi atrocities or National Socialism, and we suggest that it, and other historical items (including reproductions held in good faith as part of a genuine collection) should not be subject to prohibition under the Bill. This would include someone selling or collecting reproduction WWII uniforms, even those containing prohibited symbols such as the Nazi Swastika and the SS runes.

The people trading and owning these items are not goose-stepping through major thoroughfares dressed as an SS officer while flying Nazi flags and advocating violence against minority groups, and they are generally only sharing their interest with others who either share an interest in history or are at least aware the symbols are being displayed in historical context.

Concluding remarks:

While we understand the goal of the legislation (to prevent Neo-Nazis and other modern-day hate groups publicly intimidating others), we are concerned the proposed legislation does not adequately recognise the fact that the overwhelming majority of people wishing to own or trade in goods with these symbols on them are law-abiding collectors, amateur historians, and antique/militaria dealers, and their intent in purchasing these items in no way involves promoting the tenets of National Socialism or glorifying the Nazis and their many atrocities.

We note that World War II ended in 1945 with a decisive Allied Victory – indeed, Adolf Hitler committed suicide in his bunker in Berlin on April 30, 1945 to avoid capture by the advancing Russian Army. This act conclusively demonstrated the failure of Nazism as an ideology, and we question why, nearly 80 years later, historically contextual symbols of this discredited ideology are now suddenly so dangerous they must be banned from trade.

We further note the Swastika was widely used by numerous cultures and religions for millennia prior to its misappropriation by the Nazis⁶, and in particular has strong links to Hinduism, Buddhism, and Jainism – religions for whom peace and tolerance are among their keystones.

Neo-Nazis and other modern-day hate groups are not looking to acquire Third Reich-era antiques; these items are extremely expensive and dealers take steps to ensure they are not knowingly being sold to Neo-Nazis or hate group members.

⁶ <https://en.wikipedia.org/wiki/Swastika>

While as an organisation we do not condone racial hatred or vilification, we feel this legislation is mis-targetted and is more about “easy win” positive optics for the Government than about addressing real issues of racial hatred and extremism in Australia, and question its effectiveness as a result – especially given the very real probability of adverse impacts on a very large number of law-abiding, community-minded people throughout Australia.

APPENDIX: EXAMPLE OF A WWII GERMAN FIREARM WITH NAZI OWNERSHIP MARKING



A 1943-manufactured Walther P-38 9mm calibre semi-automatic service pistol with Nazi ownership marking (circled, inset; physically located on right-hand side of firearm)

Source: https://commons.wikimedia.org/wiki/File:Walther_P38_1943_Whermacht.jpg

