

## Inquest into the death of Johann Ofner

Mr Ofner died whilst employed as a stunt actor filming a music video. He was shot with a firearm he believed was inoperable. He died as a result of being struck in the chest by projectiles from the firearm.

Coroner Donald MacKenzie delivered his findings of inquest on 25 January 2022.

The Queensland Government responds to recommendations directed to government agencies at inquests by informing the community if a recommendation will be implemented or the reason why a recommendation is not supported.

The departments named in this response will provide implementation updates until the recommendations are delivered. Further information relating to the implementation of recommendations can be obtained from the responsible minister named in the response.

### Recommendation 1

The Queensland Government review the relevant provisions of the Weapons Act (Qld) and Weapons Act Regulations (Qld) as it relates to:

- iv. the definition of 'blank-fire' munitions, and their practical use in theatrical productions
- v. the establishment of a section of the Queensland Police Service specific to review the role of theatrical armourers; defining their lawful rights and obligations, the serious penalties facing Weapons Act offenders and introduce standards for qualification including training and testing, in order to obtain a theatrical ordinance supplier, firearms dealer and/or an armourers Licence
- vi. making it absolutely clear that operable firearms and non-blank firing weapons cannot be used in theatrical performances.

Response and action: recommendation is implemented

Responsible agency: Queensland Police Service.

On 7 May 2023 the Minister for Police and Corrective Services and Minister for Fire and Emergency Services responded:

The QPS has reviewed the relevant provisions of the *Weapons Act 1990* and Weapons Act Regulation (Qld). As a result of this process, QPS is satisfied that the existing provisions meet the intent of the recommendation as firearms that are capable of discharging a projectile are not blank-fire firearms and cannot be used in theatrical productions under the current law.

The QPS Weapons Licensing has reviewed the *Weapons Act 1990* and the definitions of 'blank-fire' munitions and their practical use in theatrical productions. The *Weapons Act 1990* allows for the issue of a blank-fire firearms licence which is defined as a firearm incapable of discharging a projectile and allows an individual or organisation to possess and use blank-fire firearms. Furthermore, the *Weapons Act 1990* states firearms capable of discharging a projectile are not blank-fire firearms and are not to be used in theatrical productions.

The QPS Weapons Licensing assesses each armourer application on a case-by-case basis and requires applicants to have a combination of practical experience and knowledge which may include, but is not limited to, a qualification in the field. The criteria for the issue of a licence to an armourer, dealer or theatrical ordinance supplier also includes the requirement for the completion of a safety training course approved by the Commissioner of Police.—Armourers and dealers are also required to keep a register which can be used as an indicator of experience.

Section 39 of the *Weapons Regulation 2016* is specific and only authorises the supply of blank-fire firearms of permanently inoperable firearms in the production of a theatrical, film or television production.

### **Recommendation 2**

The Office of Industrial Relations consider creating a code of practice for armourers and the use of firearms in the film industry, modelled from the Chapter E, Section 1 of The National Guidelines for Screen Safety, in consultation with the requisite industry stakeholders.

Response and action: implementation is not supported and will not be implemented.

Responsible agency: Office of Industrial Relations

On 16 March 2023 the Minister for Education, Minister for Industrial Relations and Minister for Racing responded:

The Office of Industrial Relations is considering this recommendation together with the findings of the inquest.

### **On 24 August 2023 the Minister for Education, Minister for Industrial Relations and Minister for Racing responded:**

The recommendation to consider creating a code of practice for armourers and the use of firearms in the film industry has been considered by the Office of Industrial Relations (OIR).

The work health and safety regulatory framework in Queensland is comprised of the *Work Health and Safety Act 2011 (WHS Act)*, the *Work Health and Safety Regulation 2011 (WHS Regulation)* and approved Codes of Practice as notified in the *Work Health and Safety (Codes of Practice) Notice 2011*. The WHS Act and the WHS Regulation commenced on 1 January 2012 and gave effect to national model work health and safety (WHS) laws that jurisdictions agreed to implement under an inter-governmental agreement. Codes of practice can be approved under section 274 of the *Work Health and Safety Act 2011*. The framework is supported by a range of guidance material published by government and/or industry bodies.

The development of a code of practice may be warranted where a gap in the regulatory framework is identified. The circumstances of Mr Ofner's death have been carefully considered. The WHS Act and WHS Regulation already imposes on those responsible for managing or controlling workplaces, including those involved in screen productions involving the use of theatrical firearms, primary duties to ensure, so far as reasonably practicable, the health and safety of workers and other persons. In the case of screen productions, this framework is now supported by the National Guidelines for Screen Safety (the national guidelines) developed by Screen Safe Australia, a joint initiative of the Media, Entertainment and Arts Alliance (MEAA – the union for people working across the arts, entertainment, sports, outdoor, music and events industries) and Screen Producers Australia (SPA) in response to the death of Mr Ofner.

Chapter E of the national guidelines deals with high-risk production activities. Section 1 specifically deals with firearms/armourers. Other hazards covered in chapter E include: weapons other than firearms; pyrotechnics and other special effects; stunts; motor vehicles; children and young people; animals; boats/maritime; diving and drones. This comprehensive repository of industry specific guidelines is subject to ongoing review monitored by two nominees from the MEAA and SPA.

There is also a specific separate regulatory regime governing the use of firearms through the *Weapons Act 1990* and *Weapons Regulation 2016* that also applies to persons involved in screen production that involve the use of theatrical firearms.

Taking into account the duties imposed upon persons involved in screen production by the WHS regulatory framework, the comprehensive national guidelines developed in response to Mr Ofner's

death and the specific regulatory regime that already applies to firearms there is no gap in the regulatory coverage that calls for the development of a Queensland code of practice under the WHS Act.

OIR has provided a link from the WorkSafe Queensland website to the national guidelines published on the screen safety website established by the MEAA and the SPA: [www.worksafe.qld.gov.au/safety-and-prevention/hazards/workplace-hazards/firearms-weapons-and-stunts-on-set/](http://www.worksafe.qld.gov.au/safety-and-prevention/hazards/workplace-hazards/firearms-weapons-and-stunts-on-set/) and will promote screen safety issues through eSafe publications.

### **Recommendation 3**

The Minister for Police liaise with his interstate counterparts to ensure that there is a consistent Australia-wide legislative code for theatrical armourers outlawing the use of operable firearms and nonblank firing weapons in theatrical performances.

Response and action: recommendation is implemented

Responsible agency: Queensland Police Service

On 7 May 2023 the Minister for Police and Corrective Services and Minister for Fire and Emergency Services responded:

The Honourable Mark Ryan, Minister for Police and Corrective Services and Minister for Fire and Emergency Services attended the Ministerial Meeting on Counter-Terrorism and Transnational, Serious and Organised Crime on 18 March 2022 and this matter was raised in that forum.

The Minister for Police will continue to liaise with his interstate counterparts on this matter.