



Firearms and Criminal Groups Legislation Amendment Bill 2013 (Proof)

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Extract from NSW Legislative Council Hansard and Papers Tuesday 15 October 2013 (Proof).

FIREARMS AND CRIMINAL GROUPS LEGISLATION AMENDMENT BILL 2013

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Second Reading

The Hon. MICHAEL GALLACHER (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [3.11 p.m.]: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

The Government is pleased to introduce the Firearms and Criminal Groups Legislation Amendment Bill 2013. This bill amends the Firearms Act 1996 as follows:

- (a) to empower police officers to enter and search premises occupied by a person who is subject to a firearms prohibition order in order to determine whether the person is complying with the order,
- (b) to prohibit such persons from acquiring or possessing firearms, firearm parts or ammunition, and from residing at premises where firearms are present, and from attending certain other places such as gun shops and shooting ranges,
- (c) to modify existing offences in relation to the sale of firearms, firearm parts, and ammunition, so that they apply instead to the supply (which includes disposal by gift), and to create an offence to give possession of a firearm or firearm part to a person who is not authorised to possess it, and
- (d) to provide that any person who attempts to commit an offence under the principal Act is liable to the penalty for that offence,

The bill also amends the Restricted Premises Act 1943 to increase penalties for offences relating to reputed criminals attending premises declared by the Supreme Court or the District Court under that Act, and to allow police to search such premises for firearms and other weapons.

The bill also amends the Crime Commission Act 2012 to enable the Crime Commission to investigate matters relating to the criminal activities of a specified criminal group without the need for the reference to relate specific offences or individuals.

Firearm Prohibition Orders

Firearms prohibition orders are an order, issued by the Police Force, preventing a person from possessing a firearm if they are considered not fit, in the public interest, to possess a firearm. The new part 7 of the Act, set out at item [38] of schedule 1, contains a number of substantial amendments to the operation of firearm prohibition orders which I will outline.

Service of an order

The new section 73 of the Act provides that a firearms prohibition order takes effect when a copy of it is served personally on the relevant person by any police officer. This amendment will facilitate service by ensuring that the original order will not be required to be served on a person of interest.

Prohibition on possessing and supplying firearms, etc

The new section 74 (1) and (2) expands the existing offence for a person subject to an order to acquire, possess or use a firearm to also make it an offence to acquire, possess or use a firearm part or ammunition. The maximum penalty for possession of a pistol or prohibited firearm in contravention of an order will be increased to a maximum 14 years imprisonment.

The new section 74 (3) and (4) expands the existing offence of giving a firearm to a person subject to an order to also include the supply of firearm parts and ammunition, and increases the maximum penalties for the supply of pistols or prohibited firearms to 14 years imprisonment.

Reside at or attend premises with guns

The new section 74 (5) to (8) makes it an offence for a person who is subject to a firearms prohibition order to reside at a premises on which a firearm, ammunition or firearm part is kept or found, or to attend without a reasonable excuse the business premises of a licensed firearms dealer, a shooting range, the premises of a firearms club or premises of a kind prescribed by the regulations. These amendments are intended to ensure that a person who is subject to a firearms prohibition order is not in a position to access or use a firearm.

Powers of search and entry

The proposed new section 74A empowers police officers, without a warrant, to detain a person who is subject to a firearms prohibition order, enter any premises occupied by such a person, stop and detain a vehicle occupied or controlled by such a person and conduct a search of the person, premises or vehicle for the purposes of determining whether the person has committed an offence in respect of the order.

Ombudsman's scrutiny

The new section 74B requires the Ombudsman to monitor and report on the exercise of the new powers of police officers after 24 months, in recognition that the bill creates significant new powers, penalties and offences.

Appeals to the Administrative Decisions Tribunal

Item [39] of schedule 1 provides that a person who is otherwise already disqualified from being issued with a firearms license or permit due, for example, to having been convicted for specified offences, will no longer be able to apply to the Administrative Decisions Tribunal for a review of the decision of the commissioner to make a firearms prohibition order against the person. These amendments are intended to help ensure that the appeals process is not abused by criminals making vexatious or frivolous appeals.

Delegation of powers

Item [40] of schedule 1 provides that the functions of the commissioner in relation to firearms prohibition orders may be delegated only to a commissioned police officer (that is an officer of the rank of inspector or above).

Other amendments to the Firearms Act 1996

This bill also provides for a number of broader reforms to the Firearms Act 1996 to help police combat those who would trade in firearms or attempt to commit crimes under the Act.

Supply of firearm

Items [1] to [9], [11] to [15], [18] to [25], [27] to [33] and [35] to [37] of schedule 1 update the existing offences relating to the illegal or improper sale of a firearm so that they capture the supply of a firearm. "Supply" is more broadly defined than "sale" and includes the disposal of a firearm even if money does not change hands.

These provisions have been carefully drafted to ensure that "supply" has been deliberately and exhaustively defined with the intent of capturing only those transactions which involve intent to permanently dispose of a firearm. These provisions will not affect licensed firearm owners who may lend or otherwise temporarily hand over a firearm to another appropriately licensed person.

Give possession of firearm

Item [26] of schedule 1 creates an offence of giving possession of a firearm or firearm part to a person who is unauthorised to possess it. This offence will, for example, capture the distribution of firearms between members of criminal groups or other criminals where a financial transaction does not take place.

Attempt an offence

Item [34] of schedule 1 provides that any person who attempts to commit any offence under the Act shall be liable to the penalty for that offence. This provision is modelled on section 344A of the Crimes Act 1990. This new provision will provide the NSW Police Force with significant additional opportunities to prosecute persons who deal with illegal firearms.

Restricted Premises Act 1943

Schedule 2 of the bill relates to the Restricted Premises Act 1943. This Act provides for police to apply to the District or Supreme Court to declare premises as a disorderly house.

Items [1] and [2] of schedule 2 provide a definition of such criminals to provide certainty and guidance for police officers in preparing applications for a declaration. These amendments will make it easier for police to get premises declared on the grounds that they are routinely used by serious criminals—such as gang clubhouses.

Such a declaration triggers increased search powers for police, which will also be expanded at item [6] of schedule 2, so they can specifically search for firearms and other weapons on the premises.

Items [4] and [5] of schedule 2 will increase penalties for offences under the Act for premises declared on these grounds, to bring them into line with similar offences. Item [12] of schedule 2 requires the exercise of police powers under these new provisions will also be kept under scrutiny by the independent Ombudsman.

Crime Commission to investigate criminal groups

I now turn to schedule 3 of the bill which relates to the Crime Commission Act 2012.

Item [1] of schedule 3 inserts a definition of "criminal group" into the Act in line with that found at section 93S of the Crimes Act 1900. Items [2], [3] and [6] of schedule 3 will allow the management committee to refer to the commission, and for the commission to investigate, matters related to the criminal activities of a criminal group. In effect, this will allow the commission to investigate the activities of a criminal group, without the reference specifically identifying all of the criminal offences and particular persons to be targeted.

Consequential amendments

Schedule 4 of the bill makes consequential amendments to provisions of the Criminal Procedure Act 1986 that deal with the procedure for prosecuting indictable offences.

Conclusion

This bill will equip the NSW Police Force with powerful new weapons to help tackle criminals with guns.

I commend the bill to the House.