

**FIREARMS AND CRIMINAL GROUPS LEGISLATION AMENDMENT BILL 2013**

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**Bill introduced on motion by Mr Barry O'Farrell, read a first time and printed.****Second Reading**

**Mr BARRY O'FARRELL** (Ku-ring-gai—Premier, and Minister for Western Sydney) [4.09 p.m.]: I move:

That this bill be now read a second time.

The Government is pleased to introduce the Firearms and Criminal Groups Legislation Amendment Bill 2013. This bill amends the Firearms Act 1996 as follows: 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; 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; 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 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. Firearms prohibition orders are an order issued by the NSW 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 firearms prohibition orders, which I will outline.

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. New sections 74 (1) and (2) expand the existing offence for a person subject to an order to acquire, possess or use a firearm to make it an offence also 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 increase to a maximum of 14 years imprisonment. New sections 74 (3) and (4) expand the existing offence of giving a firearm to a person subject to an order to include also the supply of firearm parts and ammunition, and increases the maximum penalties for the supply of pistols or prohibited firearms to 14 years imprisonment.

New section 74, subsections (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. 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.

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. Item [39] of schedule 1 provides that a person who is otherwise already disqualified from being issued with a firearms licence 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. 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.

The 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. 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 defined more broadly 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 that 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.

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. 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. Schedule 2 to the bill relates to the Restricted Premises Act 1943. This Act provides for police to apply to the District Court 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 club houses. 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 that the exercise of police powers under these new provisions will also be kept under scrutiny by the independent Ombudsman. 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. 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. This bill will equip the NSW Police Force with powerful new weapons to help tackle criminals with guns. This legislation has been put together with the advice of the NSW Police Force to ensure that police have the power, the resources and the powerful new weapons to help tackle criminals with guns, in particular to target gun crime across Sydney. I say again: Nothing in this legislation affects legitimately licensed gun owners. Nothing in this legislation should concern innocent citizens of this State. This legislation will concern those who are involved in criminal activities involving guns. This legislation will ensure that those people have no place to hide. I commend the bill to the House.

**Debate adjourned on motion by Mr John Robertson and set down as an order of the day for a future day.**