



New South Wales

# Firearms and Criminal Groups Legislation Amendment Bill 2013

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The object of this Bill is to amend the *Firearms Act 1996* (the **principal Act**) as follows:

- (a) to empower police officers without warrant to enter premises or a vehicle occupied by a person who is subject to a firearms prohibition order, and to conduct searches for firearms, firearm parts and ammunition, for the purposes of determining whether the person is complying with the order,
- (b) in addition to the existing prohibition on possessing or using a firearm, to prohibit a person who is subject to a firearms prohibition order from acquiring or possessing firearm parts or ammunition, from residing at premises where there are firearms and from attending certain other places such as gun shops and shooting ranges,
- (c) to make other amendments in relation to firearm prohibition orders,
- (d) to modify existing offences in relation to the sale and purchase of firearms, firearm parts and ammunition so that they apply instead to the supply (ie the transfer of ownership by sale, gift or otherwise) and acquisition (ie accepting or receiving by supply) of those things,
- (e) to create a new offence of giving possession (which would include lending) of a firearm or firearm part to a person who is not authorised to possess it,
- (f) 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:

- (a) the *Restricted Premises Act 1943* to increase penalties under that Act for offences relating to reputed criminals attending premises declared by the Supreme Court or the District Court

under that Act and to empower police officers without warrant to enter such premises and to conduct searches for firearms, and

- (b) 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 matter to relate specific offences or individuals.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

## Schedule 1 Amendment of Firearms Act 1996 No 46

### Firearms prohibition orders

At present under Part 7 of the principal Act, the Commissioner of Police may make an order prohibiting a person from possessing or using a firearm if the Commissioner is of the opinion that the person is not fit, in the public interest, to be permitted to have a firearm. **Schedule 1 [39]** substitutes that Part to expand the prohibitions resulting from the making of a firearms prohibition order and to make other changes in relation to such orders. Under the new Part:

- (a) a firearms prohibition order will take effect when a copy of it is served on the person against whom it is made (referred to below as a *relevant person*), and
- (b) it will be an offence by a relevant person to acquire, possess or use a firearm or to acquire or possess a firearm part or ammunition (currently it is only an offence if the relevant person possesses or uses a firearm) and the penalty for acquiring, possessing or using a firearm is increased to 14 years imprisonment if it is a pistol or prohibited firearm, and
- (c) the existing offence of selling a firearm to a relevant person (which will become an offence of supplying under other amendments made by the proposed Act) or of giving possession of a firearm to a relevant person is extended to the supply or giving possession of firearm parts and ammunition and the penalty for supplying or giving possession of a firearm to a relevant person is, if it is a pistol or prohibited firearm, increased from 10 years imprisonment to 14 years imprisonment, and
- (d) it will be an offence for a relevant person to reside at premises where there is a firearm, firearm part or ammunition or to attend premises such as gun shops or shooting ranges, and
- (e) the Commissioner will be able to exempt a relevant person from any of the prohibitions that apply as a consequence of the making of a firearms prohibition order, and
- (f) police officers will have the power, for the purposes of determining whether a relevant person is complying with a firearms prohibition order, to detain a relevant person, enter any premises occupied by a relevant person or stop and detain any vehicle occupied by a relevant person, and search for any firearms, firearm parts or ammunition, and
- (g) the Ombudsman will be required to monitor and report on the exercise of such entry and search powers during the first 2 years of their operation.

**Schedule 1 [17] and [18]** provide for the automatic revocation of a firearms permit held by a person if the person becomes subject to a firearms prohibition order. The principal Act already provides for the automatic revocation of a firearms licence in such an event.

**Schedule 1 [40]** provides that a person who is otherwise disqualified from being issued with a firearms licence or permit is not entitled to apply to the Administrative Decisions Tribunal for a review of a decision of the Commissioner to make a firearms prohibition order against the person. However, any such decision in the case of such a person is required to be internally reviewed by the police.

**Schedule 1 [41]** provides that the functions of the Commissioner in relation to firearms prohibition orders may be delegated only to a commissioned police officer (ie an officer of or above the rank of inspector).

**Schedule 1 [43]** is consequential on the substitution of section 74 of the principal Act by the proposed Act and the creation of new summary offences under that section.

**Schedule 1 [44]** provides that the amendments made by the proposed Act extend to existing firearms prohibition orders.

### **Offences relating to supply, acquisition and giving possession of firearms**

A number of existing offences under the principal Act relate to the sale or purchase of firearms, firearm parts and ammunition. **Schedule 1 [1]–[9], [11]–[16], [19]–[26], [28]–[34] and [36]–[38]** modify these existing offences so that they apply instead to the supply of firearms, firearm parts or ammunition or to the acquisition of those things, and make a number of consequential amendments (including new definitions). The definition of *supply* will cover not just selling but transferring ownership by gift or otherwise. *Acquire* will mean accept or receive supply of.

**Schedule 1 [27]** creates a separate offence of giving possession of a firearm or firearm part (eg by way of lending) to a person who is not authorised to possess it. **Schedule 1 [42]** provides that the offence may be prosecuted on indictment.

### **Miscellaneous**

**Schedule 1 [10]** reverses the order of the expression “prohibited firearm or pistol” that is used in the principal Act to make it clear that the expression covers all pistols and not just prohibited pistols.

**Schedule 1 [35]** provides that a person who attempts to commit an offence under a provision of the principal Act will be liable on conviction to the same penalty applicable to that offence.

## **Schedule 2 Amendment of Restricted Premises Act 1943 No 6**

**Schedule 2** amends the *Restricted Premises Act 1943* as follows:

- (a) to enable the Supreme Court or the District Court, in declaring premises to be premises to which Part 2 of the Act applies (Disorderly houses), to state that the declaration is made on the basis that reputed criminals attend the premises or control or manage the premises (a *reputed criminal declaration*),
- (b) to provide that a *reputed criminal* will include a person who has been convicted of an indictable offence (including the offence of consorting with convicted offenders), is engaged in an organised criminal activity or is a controlled member of a declared organisation within the meaning of the *Crimes (Criminal Organisations Control) Act 2012*,
- (c) to provide that, if a reputed criminal declaration is made in respect of premises, the penalty for an offence under the Act relating to the ownership or occupation of the premises will be 150 penalty units or imprisonment for 3 years, or both (the penalty for offences relating to declared premises is currently 50 penalty units or imprisonment for 6 months, or both),
- (d) to enable police officers without warrant to enter declared premises and search for, and seize, weapons or explosives,
- (e) to require the Ombudsman to monitor and report on the exercise of such entry and search powers and on the new offence provisions relating to reputed criminal declarations.

## **Schedule 3 Amendment of Crime Commission Act 2012 No 66**

**Schedule 3** amends the *Crime Commission Act 2012* to provide that the Crime Commission Management Committee may refer to the Crime Commission, and that the Commission may investigate, matters relating to the criminal activities of a specified criminal group (within the

meaning of the *Crimes Act 1900*) without the reference having to identify the actual offences and individuals to be investigated.

## **Schedule 4      Consequential amendment of Criminal Procedure Act 1986 No 209**

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



New South Wales

# Firearms and Criminal Groups Legislation Amendment Bill 2013

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New South Wales

# Firearms and Criminal Groups Legislation Amendment Bill 2013

No. , 2013

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## **A Bill for**

An Act to amend the *Firearms Act 1996* to make further provision with respect to firearms prohibition orders and offences; to amend the *Restricted Premises Act 1943* to make further provision with respect to premises attended by reputed criminals; to amend the *Crime Commission Act 2012* to provide for the investigation by the Crime Commission of the criminal activities of criminal groups; and for other purposes.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Firearms and Criminal Groups Legislation Amendment Act 2013</i> .	3
<b>2 Commencement</b>	4
This Act commences on a day or days to be appointed by proclamation.	5

<b>Schedule 1</b>	<b>Amendment of Firearms Act 1996 No 46</b>	1
<b>[1] Section 3 Principles and objects of Act</b>		2
	Omit “sales” from section 3 (2) (d). Insert instead “supply”.	3
<b>[2] Section 4 Definitions</b>		4
	Omit the definition of <i>acquire</i> in section 4 (1). Insert instead: <i>acquire</i> means accept or receive supply of.	5 6
<b>[3] Section 4 (1), definition of “firearms dealer”</b>		7
	Omit “purchases, sells, transfers” from paragraph (a). Insert instead “acquires, supplies”.	8
<b>[4] Section 4 (1), definitions of “purchase” and “sell”</b>		9
	Omit the definitions.	10
<b>[5] Section 4 (1), definition of “supply”</b>		11
	Insert in alphabetical order: <i>supply</i> means transfer ownership of, whether by sale, gift, barter, exchange or otherwise, and includes the following:	12 13 14
	(a) offer for supply, receive for supply, have in possession for supply or expose or exhibit for supply,	15 16
	(b) conduct negotiations for supply,	17
	(c) consign or deliver for supply,	18
	(d) cause or allow supply.	19
<b>[6] Section 4 (3) (b)</b>		20
	Omit “bought”. Insert instead “acquired”.	21
<b>[7] Section 4 (3) (b)</b>		22
	Omit “sold”. Insert instead “supplied”.	23
<b>[8] Sections 6A (4) and (5), 37 (1) (b), 45 (2) and (3), 51, 51A (2), 51B (2) and (8), 51BA, 51BB (2) and 54</b>		24 25
	Omit “sale” wherever occurring. Insert instead “supply”.	26
<b>[9] Sections 6A (4) and (5), 45 (2) and (3), 45A (3) and 52 (3)</b>		27
	Omit “purchase” wherever occurring. Instead “acquisition”.	28
<b>[10] Sections 7 (1) and (2) (a), 36 (1), 50, 50AA (2), 50A (2), 51 (1A) and (2A), 51A, 51BA (2), 51D (2), 70 and 72 (1)</b>		29 30
	Omit “prohibited firearm or pistol” wherever occurring.	31
	Insert instead “pistol or prohibited firearm”.	32
<b>[11] Section 8 Licence categories and authority conferred by licence</b>		33
	Omit “purchase, sell, transfer” where firstly and secondly occurring in the matter under the heading “ <b>Firearms dealer licence</b> ” in section 8 (1).	34 35
	Insert instead “acquire, supply”.	36



<b>[12] Section 8 (1)</b>	1
Omit “purchase or sell” wherever occurring in the matter under the heading “ <b>Firearms dealer licence</b> ”.	2
	3
Insert instead “acquire or supply”.	4
<b>[13] Section 8 (1)</b>	5
Omit “purchase, sell, transfer, supply” from the matter under the heading “ <b>Firearms dealer licence</b> ”.	6
	7
Insert instead “acquire, supply”.	8
<b>[14] Section 20 Firearms collector licences—special conditions</b>	9
Omit “sold, transferred or otherwise disposed of” from section 20 (c).	10
Insert instead “supplied”.	11
<b>[15] Section 20 (d)</b>	12
Omit “bought, or otherwise acquired,”. Insert instead “acquired”.	13
<b>[16] Section 28 General power to issue permits</b>	14
Omit “, selling or transfer” from section 28 (d). Insert instead “or supply”.	15
<b>[17] Section 30 General provisions relating to permits</b>	16
Insert after section 30 (3):	17
(3A) A permit that authorises a person to possess or use a firearm is automatically revoked if the holder of the permit becomes subject to a firearms prohibition order.	18
	19
	20
<b>[18] Section 30 (5)</b>	21
Insert “by the Commissioner” after “a permit”.	22
<b>[19] Sections 36 (1), 51 (1)–(2A), 51BA (1) and (2), 61 (1), 62 (1) (c), 64 (2) and 65A (1)</b>	23
Omit “sell” wherever occurring. Insert instead “supply”.	24
<b>[20] Sections 36 (1), 49 (1), 50, 50AA (1) and (2), 51A (2) and 65 (2)</b>	25
Omit “purchase” wherever occurring. Insert instead “acquire”.	26
<b>[21] Section 36 Unregistered firearms</b>	27
Omit “purchasing” from section 36 (3). Insert instead “acquiring”.	28
<b>[22] Sections 37 (1) (b), 45 (2) (d) (iii) and (6) (c) and 45A (7) (b)</b>	29
Omit “sold” wherever occurring. Insert instead “supplied”.	30
<b>[23] Sections 45 (6) (c), 45A (3) (a) and (7) (b) and 65 (2)</b>	31
Omit “purchased” wherever occurring. Insert instead “acquired”.	32
<b>[24] Section 45A Recording of ammunition transactions</b>	33
Omit “sales and purchases” wherever occurring in section 45A (1) and (6).	34
Insert instead “transactions involving the supply or acquisition”.	35

<b>[25] Section 45A (2)</b>	1
Omit the subsection. Insert instead:	2
(2) The record must contain the following particulars for each transaction involving the supply of ammunition by the dealer:	3
(a) the name and address of the other person to whom the ammunition was supplied,	4
(b) the number of the other person's licence or permit for a firearm that takes the ammunition or for a permit that authorises the person to acquire the ammunition,	5
(c) in the case of the supply of ammunition that is subject to the requirements of section 65A—the number of the relevant notice of registration for a firearm or permit to acquire a firearm that was seen by the dealer at the time of the supply,	6
(d) in the case of the supply of ammunition to a member of a shooting club by the club armourer for the club for use in a club firearm (as referred to in section 65A)—the number of the relevant notice of registration for the club firearm concerned,	7
(e) such other particulars as may be prescribed by the regulations.	8
<b>[26] Section 45A (4)</b>	9
Omit the subsection. Insert instead:	10
(4) A record under this section must, subject to the regulations, be made within 24 hours after the transaction to which it relates was made.	11
<b>[27] Section 50B</b>	12
Insert after section 50A:	13
<b>50B Giving possession of firearms or firearm parts to unauthorised persons</b>	14
(1) A person must not give possession of a firearm to another person unless the other person is authorised to possess the firearm by a licence or permit or is otherwise authorised to have possession of the firearm.	15
Maximum penalty: imprisonment for 14 years if the firearm concerned is a pistol or prohibited firearm, or imprisonment for 5 years in any other case.	16
<b>Note.</b> Offences relating to "supply" (ie transferring ownership) are set out elsewhere in this Part.	17
(2) A person must not give possession of a firearm part to another person unless the other person is the holder of a licence or permit for the kind of firearm to which the firearm part relates or is otherwise authorised to have possession of the firearm part.	18
Maximum penalty: imprisonment for 14 years if the firearm part relates solely to any kind of pistol or prohibited firearm, or imprisonment for 5 years in any other case.	19
<b>[28] Sections 51 (1) and (1A) and 51BA (1) and (2)</b>	20
Omit "seller" wherever occurring. Insert instead "supplier".	21
<b>[29] Sections 51 (1) and (1A) and 51BA (1) and (2)</b>	22
Omit " <i>(the purchaser)</i> " wherever occurring.	23

<b>[30] Sections 51 (1) and (1A) and 51BA (1) (b) and (2) (b)</b>	1
Omit “purchaser” wherever occurring. Insert instead “other person”.	2
<b>[31] Sections 51 (1) (b) and (1A) (b) and 51BA (1) (c) and (2) (c)</b>	3
Omit “purchaser’s” wherever occurring. Insert instead “other person’s”.	4
<b>[32] Section 51A Restrictions on acquiring firearms</b>	5
Omit section 51A (1). Insert instead:	6
(1) A person ( <i>the receiver</i> ) must not acquire a firearm from another person ( <i>the supplier</i> ) unless:	7
(a) the supplier is authorised to possess the firearm by a licence or permit,	8
and	9
(b) the supplier’s licence or permit has been produced to, and inspected by,	10
the receiver.	11
<b>[33] Sections 51B (2) and 51BB (3)</b>	12
Omit “selling” wherever occurring. Insert instead “supplying”.	13
<b>[34] Section 51B Supplying firearms on an ongoing basis</b>	14
Omit “selling” wherever occurring in section 51B (3)–(8). Insert instead “supply”.	15
<b>[35] Section 51CA</b>	16
Insert after section 51C:	17
<b>51CA Attempts</b>	18
Any person who attempts to commit an offence under another provision of this	19
Act is guilty of an offence under that other provision and is liable, on	20
conviction, to the same penalty applicable to an offence under that other	21
provision.	22
<b>[36] Section 65 Supply, acquisition and possession of ammunition</b>	23
Omit section 65 (1). Insert instead:	24
(1) A person must not supply or give possession of ammunition for any firearm to	25
another person unless:	26
(a) the other person is the holder of a licence or permit for a firearm which	27
takes that ammunition, or	28
(b) the other person is authorised to acquire it by a permit.	29
(1A) In addition to subsection (1), a licensed firearms dealer must not supply or give	30
possession of ammunition for any firearm to another person unless the	31
firearms dealer has seen:	32
(a) a licence or permit held by the other person for a firearm which takes	33
that ammunition, or	34
(b) a permit held by the other person authorising the person to acquire the	35
ammunition.	36
<b>Note.</b> Section 65A imposes additional requirements for the supply of ammunition by	37
licensed firearms dealers.	38
<b>[37] Section 65A Supply of ammunition by firearms dealers—additional requirements</b>	39
Omit “purchaser” wherever occurring in section 65A (1). Insert instead “person”.	40

<b>[38] Section 65A (3) and (4)</b>	1
Omit “a sale” wherever occurring. Insert instead “the supply”.	2
<b>[39] Part 7</b>	3
Omit the Part. Insert instead:	4
<b>Part 7 Firearms prohibition orders</b>	5
<b>73 Firearms prohibition orders</b>	6
(1) The Commissioner may make a firearms prohibition order against a person if, in the opinion of the Commissioner, the person is not fit, in the public interest, to have possession of a firearm.	7 8 9
(2) A firearms prohibition order takes effect when a police officer serves a copy of the order personally on the person against whom it is made.	10 11
(3) The Commissioner may revoke a firearms prohibition order at any time for any or no stated reason.	12 13
<b>74 Effect of firearms prohibition order</b>	14
(1) <b>Prohibition on persons acquiring, possessing or using firearms, firearm parts or ammunition</b>	15 16
A person who is subject to a firearms prohibition order must not acquire, possess or use a firearm.	17 18
Maximum penalty: imprisonment for 14 years if the firearm is a pistol or prohibited firearm, or imprisonment for 5 years in any other case.	19 20
(2) A person who is subject to a firearms prohibition order must not acquire or possess a firearm part.	21 22
Maximum penalty: imprisonment for 14 years if the firearm part relates solely to any kind of pistol or prohibited firearm, or imprisonment for 5 years in any other case.	23 24 25
(3) A person who is subject to a firearms prohibition order must not acquire or possess ammunition.	26 27
Maximum penalty: imprisonment for 5 years.	28
(4) <b>Prohibition on supplying firearms etc to persons subject to orders</b>	29
A person must not supply or give possession of a firearm or firearm part to another person knowing that the other person is subject to a firearms prohibition order.	30 31 32
Maximum penalty: imprisonment for 14 years if the firearm is a pistol or prohibited firearm or if the firearm part relates solely to any kind of pistol or prohibited firearm, or imprisonment for 5 years in any other case.	33 34 35
(5) A person must not supply or give possession of ammunition to another person knowing that the other person is subject to a firearms prohibition order.	36 37
Maximum penalty: imprisonment for 5 years.	38
(6) <b>Prohibition on persons residing at premises where there are firearms etc</b>	39
A person who is subject to a firearms prohibition order is guilty of an offence if a firearm, firearm part or ammunition is kept or found on premises at which the person is residing.	40 41 42
Maximum penalty: 50 penalty units or imprisonment for 12 months, or both.	43

(7)	It is a defence to a prosecution for an offence under subsection (6) if the defendant proves that the defendant:	1
		2
(a)	did not know, and could not reasonably be expected to have known, that the firearm, firearm part or ammunition was on the premises, or	3
		4
(b)	took reasonable steps to prevent the firearm, firearm part or ammunition from being on the premises.	5
		6
(8)	<b>Prohibition on persons attending certain premises</b>	7
	A person who is subject to a firearms prohibition order must not without reasonable excuse attend:	8
		9
(a)	the premises specified in a firearms dealer's licence, or	10
(b)	a shooting range, or	11
(c)	the premises of a firearms club, or	12
(d)	any other premises of a kind prescribed by the regulations.	13
	Maximum penalty: 50 penalty units or imprisonment for 12 months, or both.	14
(9)	Membership of a firearms club is not a reasonable excuse for the purposes of subsection (8).	15
		16
(10)	<b>Exemptions</b>	17
	The Commissioner may by order exempt a person, either unconditionally or subject to conditions, from a specified provision of this section.	18
		19
(11)	<b>Proof of possession of firearm parts and ammunition</b>	20
	For the purposes of any proceedings for an offence under this section, a reference in section 4A to a firearm is taken to include a reference to a firearm part or ammunition.	21
		22
		23
<b>74A</b>	<b>Powers of police to search for firearms in possession of person subject to firearms prohibition order</b>	24
		25
(1)	The powers of a police officer under this section may be exercised as reasonably required for the purposes of determining whether a person who is subject to a firearms prohibition order has committed an offence under section 74 (1), (2) or (3).	26
		27
		28
		29
(2)	A police officer may:	30
(a)	detain a person who is subject to a firearms prohibition order, or	31
(b)	enter any premises occupied by or under the control or management of such a person, or	32
		33
(c)	stop and detain any vehicle, vessel or aircraft occupied by or under the control or management of such a person,	34
		35
	and conduct a search of the person, or of the premises, vehicle, vessel or aircraft, for any firearms, firearm parts or ammunition.	36
		37
(3)	In this section, <i>premises</i> includes any place, whether built on or not.	38
<b>74B</b>	<b>Monitoring of police search powers by Ombudsman</b>	39
(1)	For the period of 2 years after the commencement of section 74A, the Ombudsman is to keep under scrutiny the exercise of powers conferred on police officers under that section.	40
		41
		42
(2)	For that purpose, the Ombudsman may require the Commissioner to provide information about the exercise of those powers.	43
		44

(3)	The Ombudsman must, as soon as practicable after the end of that 2-year period, prepare a report on the exercise of the powers conferred on police officers under section 74A and furnish a copy of the report to the Minister, the Attorney General and the Commissioner.	1 2 3 4
(4)	The Ombudsman may in the report identify, and include recommendations for consideration by the Minister about, amendments that might appropriately be made to this Act with respect to the exercise of functions conferred on police officers under section 74A.	5 6 7 8
(5)	The Minister is to lay (or cause to be laid) a copy of the report furnished to the Minister under this section before both Houses of Parliament as soon as practicable after the Minister receives the report.	9 10 11
(6)	If a House of Parliament is not sitting when the Minister seeks to lay a report before it, the Minister may present copies of the report to the Clerk of the House concerned.	12 13 14
(7)	The report that is presented to the Clerk of a House:	15
(a)	is, on presentation and for all purposes, taken to have been laid before the House, and	16 17
(b)	may be printed by authority of the Clerk of the House, and	18
(c)	if so printed, is for all purposes taken to be a document published by or under the authority of the House, and	19 20
(d)	is to be recorded:	21
(i)	in the case of the Legislative Council, in the Minutes of the Proceedings of the Legislative Council, and	22 23
(ii)	in the case of the Legislative Assembly, in the Votes and Proceedings of the Legislative Assembly,	24 25
	on the first sitting day of the House after receipt of the report by the Clerk.	26 27
<b>[40]</b>	<b>Section 75 Review by Administrative Decisions Tribunal of certain decisions</b>	28
	Insert after section 75 (1):	29
(1A)	Despite subsection (1), a person may not apply for a review of a firearms prohibition order made against the person if the person would be required under section 11 (5) or 29 (3) to be refused a licence or permit (a <i>disqualified person</i> ) had the person not been subject to a firearms prohibition order.	30 31 32 33
(1B)	However, the decision to make a firearms prohibition order against a disqualified person is taken to be a reviewable decision for the purposes of section 53 (Internal reviews) of the <i>Administrative Decisions Tribunal Act 1997</i> and that section applies, with such modifications as are necessary, in relation to the decision to make such an order.	34 35 36 37 38
<b>[41]</b>	<b>Section 81 Delegation</b>	39
	Insert after section 81 (2):	40
(2A)	Despite subsection (1), the functions of the Commissioner under section 73 or 74 may be delegated only to a police officer of or above the rank of inspector.	41 42 43
<b>[42]</b>	<b>Section 84 Proceedings for offences</b>	44
	Insert “50B,” after “50A (1),” in section 84 (2).	45

<b>[43] Section 84 (2)</b>	1
Omit “74”. Insert instead “74 (1)–(5)”.	2
<b>[44] Schedule 3 Savings and transitional provisions</b>	3
Insert at the end of the Schedule with appropriate Part and clause numbering:	4
<b>Part Provision consequent on enactment of Firearms and Criminal Groups Legislation Amendment Act 2013</b>	5 6 7
<b>Existing firearms prohibition orders</b>	8
Part 7 of this Act (as substituted by the <i>Firearms and Criminal Groups Legislation Amendment Act 2013</i> ) extends to a firearms prohibition order in force immediately before that substitution.	9 10 11

<b>Schedule 2</b>	<b>Amendment of Restricted Premises Act 1943 No 6</b>	1
<b>[1] Section 2 Definitions</b>		2
Insert in alphabetical order:		3
<i>associate of a reputed criminal</i> includes (without limitation) a person who has been given an official warning under section 93X of the <i>Crimes Act 1900</i> .		4
<i>explosive</i> has the same meaning as in the <i>Explosives Act 2003</i> .		5
<i>reputed criminal</i> includes (without limitation) a person who:		6
(a) has been convicted of an indictable offence (including an offence under section 93X of the <i>Crimes Act 1900</i> ), or		7
(b) is engaged in an organised criminal activity within the meaning of section 46AA of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> , or		8
(c) is a controlled member of a declared organisation within the meaning of the <i>Crimes (Criminal Organisations Control) Act 2012</i> .		9
<i>reputed criminal declaration</i> —see section 3 (3).		10
<i>weapon</i> means:		11
(a) a firearm, or an imitation firearm, within the meaning of the <i>Firearms Act 1996</i> , or		12
(b) a prohibited weapon within the meaning of the <i>Weapons Prohibition Act 1998</i> .		13
<b>[2] Section 3 Declaration by Supreme Court or District Court in relation to premises</b>		14
Insert after section 3 (2):		15
(3) The appropriate Court may, in declaring premises to be premises to which this Part applies, state that the reason (or the predominant reason) for the declaration is that:		16
(a) reputed criminals have attended or are likely to attend the premises, or		17
(b) a reputed criminal has, or takes part or assists in, the control or management of the premises.		18
Any such declaration is a <i>reputed criminal declaration</i> for the purposes of this Act.		19
<b>[3] Sections 8 (2) and 9 (2)</b>		20
Omit “this section” wherever occurring. Insert instead “subsection (1)”.		21
<b>[4] Section 8 Offence by owner of premises</b>		22
Insert after section 8 (2):		23
(2A) After the service of a notice under section 6 on the owner of premises of the making of a reputed criminal declaration, the owner is guilty of an offence if, while the declaration is in force, a reputed criminal:		24
(a) attends the premises, or		25
(b) has, or takes part or assists in, the control or management of the premises.		26
Maximum penalty: 150 penalty units or imprisonment for 3 years, or both.		27



(2B)	An owner of premises is not guilty of an offence under subsection (2A) if the owner proves that he or she has taken all reasonable steps to prevent a reputed criminal:	1
		2
		3
(a)	attending the premises, or	4
(b)	having, or taking part or assisting in, the control or management of the premises.	5
		6
(2C)	A person is not liable to be convicted of an offence under both subsections (1) and (2A) in respect of essentially the same facts.	7
		8
<b>[5]</b>	<b>Section 9 Offence by occupier of premises</b>	9
	Insert after section 9 (2):	10
(3)	After the service of a notice under section 6 on the occupier of premises of the making of a reputed criminal declaration, the occupier is guilty of an offence if, while the declaration is in force, a reputed criminal:	11
		12
		13
(a)	attends the premises, or	14
(b)	has, or takes part or assists in, the control or management of the premises.	15
		16
	Maximum penalty: 150 penalty units or imprisonment for 3 years, or both.	17
(4)	An occupier of premises is not guilty of an offence under subsection (3) if the occupier proves that he or she has taken all reasonable steps to prevent a reputed criminal:	18
		19
		20
(a)	attending the premises, or	21
(b)	having, or taking part or assisting in, the control or management of the premises.	22
		23
(5)	A person is not liable to be convicted of an offence under both subsections (1) and (3) in respect of essentially the same facts.	24
		25
<b>[6]</b>	<b>Section 10 Entry by police</b>	26
	Insert after section 10 (e):	27
(f)	search the premises for, and seize, any weapon or explosive.	28
<b>[7]</b>	<b>Section 12 Evidence of certain matters</b>	29
	Insert “or any weapon or explosive” after “section 10”.	30
<b>[8]</b>	<b>Section 13 Suspected premises—issue of search warrant</b>	31
	Insert “or any weapon or explosive” after “section 10 (e)” in section 13 (3) (b).	32
<b>[9]</b>	<b>Section 13A Forfeiture or disposal of seized articles</b>	33
	Omit “liquor, drug, drinking glass, vessel, container or device” wherever occurring.	34
	Insert instead “article”.	35
<b>[10]</b>	<b>Section 13A (5)</b>	36
	Insert after section 13A (4):	37
(5)	In this section:	38
	<i>article</i> means any liquor, drug, drinking glass, vessel, container or device or any weapon or explosive.	39
		40

<b>[11] Section 18A Proceedings for offences</b>	1
Insert at the end of the section:	2
(2) Despite subsection (1), an offence under section 8 (2A) or 9 (3) may be prosecuted on indictment. However, Chapter 5 of the <i>Criminal Procedure Act 1986</i> (which relates to the summary disposal of certain indictable offences unless an election is made by the prosecution to proceed on indictment) applies to and in respect of an offence under section 8 (2A) or 9 (3).	3 4 5 6 7
<b>[12] Section 20A</b>	8
Insert after section 20:	9
<b>20A Monitoring of police powers and new offence provisions by Ombudsman</b>	10
(1) For the period of 2 years after the commencement of the amendment made to section 10 of this Act by the <i>Firearms and Criminal Groups Legislation Amendment Act 2013</i> , the Ombudsman is to keep under scrutiny the exercise of powers conferred on police officers as a consequence of the amendments made to this Act by that amendment Act (the <b>relevant police powers</b> ).	11 12 13 14 15
(2) For that purpose, the Ombudsman may require the Commissioner of Police to provide information about the exercise of the relevant police powers.	16 17
(3) In that period, the Ombudsman is to also monitor the operation of sections 8 (2A) and 9 (3) (the <b>new offence provisions</b> ). For that purpose, the Commissioner of Police is to ensure that the Ombudsman is provided with information about any prosecutions brought under the new offence provisions.	18 19 20 21
(4) The Ombudsman must, as soon as practicable after the end of that 2-year period, prepare a report on the exercise of the relevant police powers and on the operation of the new offence provisions and furnish a copy of the report to the Minister, the Attorney General and the Commissioner of Police.	22 23 24 25
(5) The Ombudsman may in the report identify, and include recommendations for consideration by the Minister about, amendments that might appropriately be made to this Act with respect to the exercise of the relevant police powers and the new offence provisions.	26 27 28 29
(6) The Minister is to lay (or cause to be laid) a copy of the report furnished to the Minister under this section before both Houses of Parliament as soon as practicable after the Minister receives the report.	30 31 32
(7) If a House of Parliament is not sitting when the Minister seeks to lay a report before it, the Minister may present copies of the report to the Clerk of the House concerned.	33 34 35
(8) The report that is presented to the Clerk of a House:	36
(a) is, on presentation and for all purposes, taken to have been laid before the House, and	37 38
(b) may be printed by authority of the Clerk of the House, and	39
(c) if so printed, is for all purposes taken to be a document published by or under the authority of the House, and	40 41
(d) is to be recorded:	42
(i) in the case of the Legislative Council, in the Minutes of the Proceedings of the Legislative Council, and	43 44

(ii) in the case of the Legislative Assembly, in the Votes and Proceedings of the Legislative Assembly,	1
	2
on the first sitting day of the House after receipt of the report by the Clerk.	3
	4
<b>[13] Schedule 1 Savings, transitional and other provisions</b>	5
Insert at the end of clause 1 (1):	6
any other Act that amends this Act	7

<b>Schedule 3</b>	<b>Amendment of Crime Commission Act 2012 No 66</b>	1
<b>[1] Section 4 Interpretation</b>		2
	Insert in alphabetical order in section 4 (1):	3
	<i>criminal group</i> has the same meaning as in section 93S of the <i>Crimes Act 1900</i> .	4 5
<b>[2] Section 10 Principal functions of Commission</b>		6
	Insert after section 10 (1) (a):	7
	(a1) to investigate matters relating to the criminal activities of criminal groups referred to the Commission by the Management Committee for investigation,	8 9 10
<b>[3] Section 16 Definitions</b>		11
	Omit the definition of <i>things of a relevant kind</i> . Insert instead:	12
	<i>things of a relevant kind</i> means a thing or things of a particular kind:	13
	(a) connected with a matter relating to a relevant criminal activity or serious crime concern, or the criminal activities of a criminal group, into or in respect of which the Commission is conducting an investigation, or	14 15 16
	(b) that may be used in evidence in proceedings for the taking, by or on behalf of the Crown in right of the State, of civil remedies in respect of a matter connected with, or arising out of, an offence to which the relevant criminal activity, serious crime concern or criminal activity of the criminal group relates.	17 18 19 20 21
<b>[4] Section 17 Search warrants</b>		22
	Omit section 17 (5). Insert instead:	23
	(5) The statement must include a reference to the matter relating to a relevant criminal activity or serious crime concern, or the criminal activities of a criminal group, into or in respect of which the Commission is conducting an investigation and with which the things of the relevant kind are connected.	24 25 26 27
<b>[5] Sections 18 (2) (a) and 53 (a)</b>		28
	Omit “or serious crime concern” wherever occurring.	29
	Insert instead “, serious crime concern or criminal activity of a criminal group”.	30
<b>[6] Section 51 Functions of the Management Committee</b>		31
	Insert after section 51 (1) (b):	32
	(b1) to refer (by a written notice in accordance with section 54) matters relating to the criminal activities of a specified criminal group to the Commission for investigation, and	33 34 35
<b>[7] Sections 51 (2) and 54 (1) (b)</b>		36
	Omit “or serious crime concern” wherever occurring.	37
	Insert instead “, serious crime concern or criminal activity of the criminal group”.	38

<b>[8] Section 54 Notices referring matters for investigation</b>	1
Omit “or serious crime concern” where firstly occurring in section 54 (1).	2
Insert instead “, serious crime concern or criminal activity of a criminal group”.	3
<b>[9] Section 56 Commission may request reference</b>	4
Omit section 56 (1) (a). Insert instead:	5
(a) a matter relating to a relevant criminal activity, serious crime concern	6
or criminal activity of a criminal group for investigation, and	7
<b>[10] Section 58 Task forces to assist Commission</b>	8
Omit “or a serious crime concern” from section 58 (1).	9
Insert instead “, serious crime concern or criminal activity of a criminal group”.	10

<b>Schedule 4</b>	<b>Consequential amendment of Criminal Procedure Act 1986 No 209</b>	1
		2
<b>[1]</b>	<b>Section 268 Maximum penalties for Table 2 offences</b>	3
	Insert “50B,” after “50A (1),” in section 268 (2) (e).	4
<b>[2]</b>	<b>Section 268 (2) (e)</b>	5
	Omit “74”. Insert instead “74 (1)–(5)”.	6
<b>[3]</b>	<b>Section 268 (2) (k1)</b>	7
	Insert after section 268 (2) (k):	8
	(k1) for an offence under section 8 (2A) or 9 (3) of the <i>Restricted Premises Act 1943</i> —50 penalty units,	9
		10
<b>[4]</b>	<b>Schedule 1 Indictable offences triable summarily</b>	11
	Insert “50B,” after “50A (1),” in clause 7 of Table 2.	12
<b>[5]</b>	<b>Schedule 1, Table 2, clause 7</b>	13
	Omit “74”. Insert instead “74 (1)–(5)”.	14
<b>[6]</b>	<b>Schedule 1, Table 2, clause 10F</b>	15
	Insert after clause 10E:	16
<b>10F</b>	<b>Restricted Premises Act 1943</b>	17
	An offence under section 8 (2A) or 9 (3) of the <i>Restricted Premises Act 1943</i> .	18