

LEGISLATIVE COUNCIL

Firearms and Criminal Groups Legislation Amendment Bill 2013

First print

Proposed amendments

- No. 1 Page 8, Schedule 1 [39], proposed section 74A. Insert after line 37:
- (3) Despite subsection (2), a police officer may not conduct a search under this section in relation to a person the subject of a declaration under section 74B, at any time during the period determined by the Local Court under that section.
- No. 2 Page 8, Schedule 1 [39], proposed section 74A. Insert after line 38:
- (4) This section is repealed on the fifth anniversary of its commencement.
- No. 3 Page 8, Schedule 1 [39]. Insert after line 38:
- 74B Declaration that search is unlawful**
- (1) A person in relation to whom a search has been conducted pursuant to section 74A (2) may apply to the Local Court for a declaration that the search was unlawful.
 - (2) The Local Court may make such a declaration if satisfied that the conduct of the search was unreasonable, unjust, oppressive or otherwise an abuse of power.
 - (3) On making such a declaration, the Local Court must determine, and notify the Commissioner of, the period during which section 74A (3) is to apply in relation to the person, being a period that starts on the day of notification and does not exceed 3 months.
 - (4) A declaration under this section renders any evidence obtained from the search the subject of the declaration inadmissible as evidence in any legal proceedings.
 - (5) The Local Court may revoke a declaration made under this section on the application of the Commissioner if the Local Court is satisfied that it is appropriate to do so in the circumstances.
 - (6) An application under subsection (1) may only be made within 3 months of the date of the conduct of the search the subject of the application (or, where the application relates to a series of searches, within 3 months of the date of the most recent of those searches).