

Firearms and Crimes Legislation Amendment (Public Safety) Bill 2003

Explanatory note

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

Overview of Bill

The object of this Bill is to create new offences under the *Crimes Act 1900* and the *Firearms Act 1996* to improve public safety.

The new offences under the *Crimes Act 1900* are as follows:

- (a) firing a firearm at a dwelling-house or other building with reckless disregard for the safety of any person (the maximum penalty being imprisonment for 14 years),
- (b) stealing a firearm (14 years imprisonment),
- (c) possession by an unauthorised person of an unregistered firearm in a public place (10 years imprisonment) as well as a separate offence (14 years imprisonment) in aggravated circumstances (namely, if the offence involves more than one unregistered firearm, an unregistered prohibited firearm or an unregistered pistol).

The new offences under the *Firearms Act 1996* are as follows:

- (a) selling a firearm part to an unauthorised person (5 years imprisonment) as well as a separate offence (10 years imprisonment) of selling a firearm part that relates to any kind of prohibited firearm or pistol,
- (b) selling firearm parts illegally on an ongoing basis (20 years imprisonment),
- (c) using a false document (such as a document that purports to be a firearm licence or permit) in order to obtain a firearm (10 years imprisonment).

The Bill also makes other miscellaneous amendments (including amendments of a consequential nature) to the *Crimes Act 1900* and the *Firearms Act 1996* as well as to the *Criminal Procedure Act 1986* and the *Firearms (General) Regulation 1997*.

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.

Clause 3 is a formal provision that gives effect to the amendments to the *Crimes Act 1900* set out in Schedule 1.

Clause 4 is a formal provision that gives effect to the amendments to the *Firearms Act 1996* set out in Schedule 2.

Clause 5 is a formal provision that gives effect to the amendments to the *Criminal Procedure Act 1986* and the *Firearms (General) Regulation 1997* set out in Schedule 3.

Schedule 1 Amendment of Crimes Act 1900

Schedule 1 [1] makes it clear, for the purposes of the existing offences under the Act in relation to firearms as well as for the purposes of the new offence under proposed section 93I, that being in a public place includes being in a vehicle or vessel that is in a public place.

Schedule 1 [2] creates a new offence under proposed section 93GA of firing a firearm at a dwelling-house or other building with reckless disregard for the safety of any person. The maximum penalty for the new offence is imprisonment for 14 years.

Schedule 1 [3] creates a new offence under proposed section 93I of possession by an unauthorised person of an unregistered firearm in a public place. The maximum penalty for the new offence is imprisonment for 10 years. A separate

offence is also created (imprisonment for 14 years) if the offence is committed in circumstances of aggravation (namely, more than one unregistered firearm is involved or the unregistered firearm is a prohibited firearm or a pistol).

Schedule 1 [4] creates a new offence under proposed section 154D of stealing a firearm. The maximum penalty for the new offence is imprisonment for 14 years.

Schedule 2 Amendment of Firearms Act 1996

Schedule 2 [1] inserts proposed section 50AA to make it an offence for an unauthorised person to purchase a firearm part (the maximum penalty for the offence is imprisonment for 5 years). A separate offence is also created (imprisonment for 10 years) if a person purchases a firearm part that relates to any kind of prohibited firearm or pistol that the person is not authorised to possess.

Schedule 2 [2] modifies the existing offence under section 51B of selling firearms illegally on an ongoing basis so that the 3 occasions of sale that constitute the offence may occur over any consecutive period of 12 months (rather than any period of 30 days as currently provided under section 51B).

Schedule 2 [3] inserts proposed sections 51BA and 51BB. Proposed section 51BA makes it an offence to sell a firearm part to an unauthorised person (imprisonment for 5 years). A separate offence is also created (imprisonment for 10 years) if the firearm part relates to any kind of prohibited firearm or pistol. Proposed section 51BB creates an offence of selling firearm parts illegally on an ongoing basis (ie if a person contravenes proposed section 51BA on 3 or more separate occasions over any consecutive period of 12 months). The maximum penalty for the offence under proposed section 51BB is imprisonment for 20 years (which is the same penalty for the existing offence under section 51B of selling firearms illegally on an ongoing basis).

Schedule 2 [4] omits the existing offence of forging or fraudulently altering a firearms licence or permit (which has a maximum penalty of 50 penalty units or imprisonment for 2 years, or both). **Schedule 2 [5]** inserts a note that refers to the existing offence under section 300 of the *Crimes Act 1900* of making a false document (such as a forged firearms licence or permit) which has a maximum penalty of imprisonment for 10 years.

Schedule 2 [6] inserts proposed section 71A to make it an offence to use a false document (such as a forged or fraudulently altered firearms licence or permit) with the intention of obtaining a firearm. The maximum penalty for the offence is imprisonment for 10 years.

Schedule 2 [7] and [8] provide for the manner in which the new offences are to be dealt with.

Schedule 2 [9] will enable the Commissioner of Police to delegate the Commissioner's function of providing certificate evidence of certain matters in the ordinary manner.

Schedule 2 [10] and [11] provide for matters of a savings and transitional nature.

Schedule 3 Amendment of other legislation

Schedule 3.1 amends the *Criminal Procedure Act 1986* to specify the penalty for certain indictable offences under the *Firearms Act 1996* when they are dealt with summarily and also to specify the indictable offences created under the proposed Act that are to be dealt with summarily (unless the prosecution elects otherwise).

Schedule 3.2 [1] amends the *Firearms (General) Regulation 1997* to require a licence or permit holder to notify the Commissioner of the address where the holder keeps his or her firearms and also to notify the Commissioner of any change to that address.

Schedule 3.2 [2] is a consequential amendment.