



## Firearms Amendment (Gun Safety) Bill 2012

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**Bill introduced, and read a first time and ordered to be printed on motion by Mr David Shoebridge.**

#### Second Reading

**Mr DAVID SHOEBRIDGE** [12.03 p.m.]: I move:

That this bill be now read a second time.

This amendment to the firearms laws in New South Wales has a very simple purpose. As the explanatory note makes clear, the object of the Firearms Amendment (Gun Safety) Bill 2012 is to amend the Firearms Act 1996 to remove the exemption that allows unlicensed persons to possess and use firearms on approved shooting ranges. The bill also amends the Firearms Regulation 2006 to reinstate and limit the exemption under the Act that allows unlicensed persons to possess and use firearms while participating in a firearms safety training course. The law in relation to the unlicensed access to firearms was changed in 2008 and the new section 6B was put in place. The amendment was contained in a private member's bill, introduced by the then member of the Shooters and Fishers Party the late Hon. Roy Smith. It passed through Parliament in June 2008. Section 6B provided exemptions for unlicensed persons shooting on approved ranges and for persons undertaking firearms safety training courses, allowing such persons not to have a firearms licence. The Act, as amended, provides:

(1) A person is exempt from any requirement under this Act to be authorised by a licence or permit to possess or use a firearm ... if the person possesses or uses the firearm only:

- (a) at a shooting range approved by the Commissioner in accordance with the regulations and while under the direct supervision of a person who is authorised by a licence to possess or use a firearm of that kind, or
- (b) while participating in a firearms safety training course.

The effect of this amending bill will be to limit that exemption to only those persons who are participating in a firearms safety training course. The reason for that limitation is the necessity to have firearms laws in New South Wales that promote and protect public safety. Section 6B is a gaping hole in firearms regulation in New South Wales. When the amending bill—the Firearms Amendment Bill 2008—was introduced in this House, the Hon. Roy Smith said this about the changes:

Proposed section 6B will enable unlicensed persons to shoot on approved ranges whilst under supervision and subject to the requirements set out in the regulations. The proposed section also exempts supervised persons who are handling firearms as part of an approved firearms safety course.

He continued:

This proposed amendment streamlines the current procedures by which unlicensed persons can experience target shooting by extending the system that currently applies to open day participants.

That is, people who walk in off the street. He went on:

Under the proposed amendment, unlicensed persons wishing to experience target shooting may do so on approved ranges whilst under supervision, but only after having received appropriate instructions and after having completed and signed a declaration to the effect that they are a person who would be eligible for the issue of a licence or permit under the Act.

In conclusion, the Hon. Roy Smith noted:

All the proposed amendments have been carefully drafted so as to ensure that they do not compromise the principles and objects of the Firearms Act 1996 or negatively impact on public safety.

Those words were echoed by Mr Peter Draper in the other place when he made the second reading speech on the bill. He said:

At present people wishing to try shooting as a sport may only do so if they join a club and then obtain a temporary exemption through the Firearms Registry. Such exemptions apply for a maximum of three months. The amendments will enable unlicensed persons to shoot under supervision at approved ranges without these restrictions. Such persons will have to make a written declaration that they have committed no offences that would make them ineligible for the issue of a licence under the Act. They will be able to shoot only under supervision of a licensed adult, and they cannot purchase or take a firearm or ammunition home.

Mr Draper also echoed the words of the Hon. Roy Smith when he said:

The amendments do not reduce public safety; however, they will remove anomalies and bring New South Wales more into line with procedures in other States ...

He concluded by saying:

The amendments do not seek to dilute laws designed to protect the general community but are designed to encourage sport and competition ...

Unfortunately, that is not what has occurred in relation to section 6B. The declaration that is now contained in the regulations and has been formalised in what is called a P650 form, which can be found at almost any gun club across New South Wales, is a self-assessment by people that they are a fit and proper person to have access to a firearm. It is a self-assessment that they do not suffer any mental incapacity or have a criminal record such as would disqualify them from having access to a firearm. But nobody checks. Obviously the gun clubs are not in a position to check that self-certification, and they do not. There is no requirement on gun clubs to check whether a person has a criminal record, to check with the local police, or to check whether the person has a troubling mental history such that they should not be allowed to have access to a firearm.

The law does not require it, the regulations do not require it and so what we have in New South Wales is the capacity for people to walk into a gun club off the street and fill in their P650 form, which includes a confirmation from the person that they do not have any mental illness or other disorders that may prevent them from using a firearm safely. They self-assess that they do not have a criminal record and they effectively self-assess that they are a fit and proper person. No-one checks and they are handed a firearm under very loose supervision in many gun clubs. They can access and purchase ammunition once they are in the club and their P650 form has been accepted by the club. That might seem like a reasonably modest change to the law, but these changes to our firearms laws have real impacts in the community. Only a little more than two years after the section 6B change was introduced it had a real-life impact in New South Wales—a tragic impact.

A little more than two years and two months after this Parliament amended the Firearms Act apparently to protect public safety and streamline things, a young woman used section 6B, filled in her P650 form and went to a number of gun clubs and received training in how to use a semiautomatic handgun. Not only did she learn how to use a semiautomatic handgun, she also learned how to fix the gun if it became jammed and make sure it was working properly. She got all that training and access with no-one checking the police records or this young lady's mental health records. That was because she self-certified under P650. Tragically, this young lady had a very troubled mental health history. She had been in and out of institutions. She should never have been given access to a firearm. She harboured paranoid delusions about her father and was a clear risk to him and to her family. Yet as a result of section 6B she was given access to a semiautomatic weapon and trained in its use and how to stop it jamming.

She used that access and training when on 22 August 2010, after having been given the gun at the Sydney Pistol Club and been told by the club that the only safe way of carrying a gun around was to put it in her bag—effectively concealing it as she walked around the club—she got access to 100 bullets. It appears she fired about 70 of them at the range and then walked out of the gun club with a semiautomatic handgun and 30 rounds of ammunition. She contacted her father and invited him to come to her place and fix her computer. Her father was of course very pleased to have contact from his daughter and he went around to her place. When he was at her computer she walked behind him and tried to shoot him with the semiautomatic handgun. It jammed, but because she had been trained by the gun club she went back into her bedroom and fixed the jam. She got the gun in good order and then went and killed her father. Her father had no idea what was happening. This woman only had access to a semiautomatic handgun and the capacity to fix it when it jammed because of section 6B of the New South Wales Firearms Act. It was a result of that change in 2008, which did not streamline our firearms laws but directly impacted upon public safety and had tragic outcomes in the community.

This is a matter that the young woman's family has raised persistently with this Government, with the broader

community and with me. They have every right to see that their personal tragedy at least has a positive impact and makes this Government and this Parliament realise that our Firearms Act needs to be amended and that section 6B needs to be repealed. We need to get rid of this gaping hole in public safety relating to firearms that allows deeply troubled people to walk into any gun club in New South Wales and self-certify, regardless of their mental history and their criminal history, that they are a fit and proper person to have a gun. They can self-certify that they do not have a mental illness and then get access to and training in the use of semiautomatic handguns and ammunition. Private gun clubs are private gun clubs, not Long Bay jail, and they have ad hoc security arrangements. It is clear from the cases that followed this tragedy—I invite members to read the review of the Administrative Decisions Tribunal, which looked very critically at the safety arrangements in place at that gun club and the woefully inadequate systems to protect the community and ensure that firearms are properly stored and checked—that this does not apply only to one gun club; it applies across New South Wales.

Section 6B means that public safety is now dependent on this ad hoc system in gun clubs. There are no police checks and no mental health checks; anyone can walk in off the street and get access to semiautomatic weapons once they fill in the P650 form. It is not good enough and this Government should have acted before now to amend section 6B. I understand that section 6B has been referred to the Firearms Consultative Committee by the Minister for Police. Should that give us any comfort? The short answer is, no. Who is on the Firearms Consultative Committee?

There is only one voice on that committee, recently established by this Government after pressure from the Shooters and Fishers Party to stand up for gun safety and proper gun laws, and that is the NSW Police Force. The balance of the committee is stacked with the pro-gun lobby. It includes the Sporting Shooters Association, the Game Council, the NSW Farmers Association—they are probably neutral on the issue—the Firearms Dealers Association, the Shooters and Fishers Party and the Amateur Pistol Association. It is absolutely stacked with the gun lobby. That is the committee that is going to consider whether we get rid of section 6B? That is the committee that is going to conduct a reasonable review of firearms safety? That is a committee where any proposal to get rid of section 6B will inevitably die.

This week the Firearms Consultative Committee rejected a new set of firearms regulations that were proposed and supported by the NSW Police Force to protect public safety. The regulations were rejected by the Firearms Consultative Committee and sent back to first base. Firearms regulation and policy in New South Wales is no longer in the hands of the O'Farrell Government; it has been handed over to the pro-shooting lobbyists in the form of the Firearms Consultative Committee. No firearms legislation is passed through Parliament until it is passed by the pro-gun, pro-hunting lobby group, which is the key decision-maker on firearms safety and firearms regulations in New South Wales. Is it any wonder the Shooters and Fishers Party is happy with this Government? No measure will tighten our firearms laws when it has to go first through the Firearms Consultative Committee.

The only piece of legislation in the past 10 years that has tightened firearms control was the Firearms Amendment (Ammunition Control) Bill 2012. It passed by this House after an extremely inflated debate about its likely impact. Opposition members effectively spoke against the Firearms Amendment (Ammunition Control) Bill 2012 but then voted for it. Government members spoke against the bill but then reluctantly voted for it. I give Shooters and Fishers Party members credit for speaking against the bill and then voting against it. The bill was assented to in June yet it still has not come into force. The legislation has not come into force because it has not yet been proclaimed. The reason is that the Government cannot get the regulations through the pro-gun, pro-shooting, pro-hunting Firearms Consultative Committee so the Act can come into force.

There was a great brouhaha that the Firearms Amendment (Ammunition Control) Bill 2012 was going to change the law in terms of firearms regulations in New South Wales. Barry O'Farrell and the Minister for Police and Emergency Services said they were cracking down on bkie gang crime by putting controls on ammunition. But the watered-down, weak firearms controls have not come into force because of the Firearms Consultative Committee. This is the same committee that is reviewing section 6B. The Firearms Consultative Committee will never recommend the removal of section 6B. That is the reason I have introduced this private member's bill. It is a matter of public importance and public safety. I commend the bill to the House.

**Debate adjourned on motion by the Hon. Amanda Fazio and set down as an order of the day for a future day.**