

Agreement in Principle

Ms ANGELA D'AMORE (Drummoyne—Parliamentary Secretary) [10.51 a.m.]: I move:

That this bill be now agreed to in principle.

I am pleased to introduce the Weapons and Firearms Legislation Amendment Bill 2010. This bill formalises the recommendations arising out of a substantive review of the Weapons Prohibition Act 1998. A report on this review was tabled in the House in June 2009. The bill amends and modernises the Weapons Prohibition Act 1998 by providing a more comprehensive range of appropriate offences and penalties to ensure effective control of prohibited weapons. This is of particular importance as, unlike firearms, prohibited weapons are not registrable items. The offences and penalties have been designed to reflect this and to provide for greater alignment with equivalent offences and penalties in the Firearms Act 1996. As members may be aware, the Weapons Prohibition Act has the following functions: to outline those weapons that can only be lawfully owned with a permit; to outline the conditions for a prohibited weapons permit; and to provide offences applicable to the misuse or unlawful possession of prohibited weapons.

The items currently classed as prohibited weapons range from certain types of specialist knives to tasers and knuckledusters. The list is a dynamic one and additions are made in response to operational feedback from police. For example, over the past few years items such as road spikes and laser pointers have been included as prohibited weapons. Through this bill, improvised explosive devices and taser-proof clothing are proposed additions to the schedule of prohibited weapons. As well as providing clear guidelines for the New South Wales Police Force, the schedule of prohibited weapons serves as guidelines for the Australian Customs and Border Protection Service. In order to import any item on the schedule, Customs will require proof of police authorisation. This process is undertaken using a prescribed form.

The bill amends the definitions of a number of items already on the schedule of prohibited weapons following operational feedback on the effectiveness of existing definitions. For example, handcuffs designed as children's toys or theatrical props have been specifically excluded from the definition contained in the schedule of prohibited weapons. Another important initiative in the bill is the introduction of a separate schedule of military-style prohibited weapons. These will include bombs, rocket launchers and flamethrowers. The bill introduces a higher level of control around these items by prescribing more stringent safe storage requirements. The bill also includes offences relating to military-style prohibited weapons as offences for which there is a presumption against bail in the Bail Act 1978. The bill changes the regulatory model governing the lawful possession and use of "imitation firearms". Currently the terms "imitation firearm" and "replica firearm" are used interchangeably in New South Wales legislation. The bill amends the use of these terms and in so doing brings New South Wales into line with other Australian States and Territories.

The bill adds a new section 4D to the Firearms Act 1996 relating to imitation firearms. This provision includes a definition of "imitation firearm", which essentially means something that would reasonably be taken to be a firearm but is incapable of firing a projectile and therefore does not meet the definition of "firearm". Objects that are produced and identified as children's toys are specifically excluded from the definition of "imitation firearm". As part of the new section 4D, registration will not be required for imitation firearms. However, as is the case today, a permit will be required for their possession and use and they must be stored according to prescribed safe storage guidelines. The bill is silent on the definition of "replica firearm". However, as agreed through the Ministerial Council of Police Emergency Management—Police, this will be taken to refer to firearms that are exact replicas of recognised brands of firearm that are capable of firing a projectile. As replica firearms meet the threshold for the definition of a firearm, they are controlled under the Firearms Act 1996 and require no additional regulatory controls. The bill also removes existing references to imitation and replica firearms from the Weapons Prohibition Act, as these items will be solely regulated through the Firearms Act 1996.

Criminal intelligence is a vital tool for police not only in the investigation and prosecution of criminal activity but also in decision-making processes for the issuing of licences and permits. To this end, the bill inserts sections 10 (3A) and 10 (3B) into the Weapons Prohibition Act so as to provide the Commissioner of Police with the authority to rely on criminal intelligence in determining applications for prohibited weapons permits. The Police Commissioner may refuse a weapons permit on the basis of criminal intelligence that is held about an applicant for a permit when that person is considered a risk to public safety. So that the contents of police criminal intelligence reports are protected, the Police Commissioner is not required to give reasons for decisions based on the contents of these reports. The bill also notes that any such grounds for not issuing a permit may also be grounds for suspending or revoking the permit. With respect to weapons clubs, the bill ensures the regulation may make provision for the approval of clubs societies or organisations in relation to the possession or use of prohibited weapons. I commend the bill to the House.