

**INQUIRY INTO PROVISIONS OF THE FIREARMS AND
WEAPONS LEGISLATION (CRIMINAL USE) BILL 2020**

Name: Name suppressed

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Partially
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Submission to the Review of Firearms and Weapons Legislation Amendment (Criminal Use) Bill 2020.

The Firearms and Weapons Legislation Amendment (Criminal Use) Bill 2020 is yet another round of the legislative mechanisms designed to make the lawful ownership of firearms so onerous and fraught with danger of prosecution as to make it unpalatable for law abiding citizens to acquire and use firearms. It does nothing to further the deterrent against current or future criminal activity involving firearms.

Currently under section 8 of the NSW Firearms Act 1996 a licence holder is “is authorised to possess or use a registered firearm of the kind to which the licence applies” but that does not authorise the repair, maintenance or testing of the firearm to which the licence applies – that requires a firearms dealer’s licence. By repairing, maintaining (which includes cleaning) or testing of a firearm a firearm’s owner is in breach of the current legislation. This amendment goes further and applies a penalty commensurate with murder for the maintenance or repair of a firearm.

The amendment specifically makes the “manufacture of firearms or firearms parts” an offence, however nowhere is “manufacture” defined. If a firearms owner adjusts or removes burrs by mechanical abrasion (filing), is that considered to be “manufacturing” the firearm’s part to fit?

Section 51J (d) makes it an offence for a person to merely possess a firearm precursor. The wide definition of “firearms precursor” is defined as “ANY object, device, substance, material or document..... capable of being used in the process of manufacturing a firearm or firearm part” (emphasis added). That means that the ownership of metal, metal working tools, lathes, milling machines, books, etc will be illegal as section 51J(4) applies “regardless of whether a firearm or firearm part is actually manufactured”. This section is dangerous as it applies regardless of whether an offence has been committed (ie. the manufacture of a firearm or firearm part). It also makes the mere possession of knowledge in the form of books, videos and construction diagrams an offence, regardless of how the person intends to use that knowledge.

Section 51K adds substantial new powers to a Police officer to not only seize any item that they believe “on reasonable grounds” to be, inter alia, a precursor but also requires the providing of password or code relating to any storage device that has been seized. The penalty is 2 years imprisonment for failing to comply. This section has no protections and is open to abuse by officers to gain access to devices they would not normally have the legal authority to access because of the wide definition of “precursor”.

Section 73 gives the Commissioner unrestricted powers without adequate judicial review. The Civil and Administrative Review is not sufficient recourse as the burden of proof is with the person whom the order has been made against. The section is based solely on the “opinion of the Commissioner” that the “person is not fit, in the public interest, to have possession of a firearm”. This section may be used vindictively and without justification as it is based solely on the “opinion” of the Commissioner. There is no objective test nor is there any proper oversight of this power to ensure that it is not abused.

The proposed legislation is dangerous in that it has many unintended consequences and does not have the necessary legal safeguards to ensure that it is used appropriately. It further restricts the already onerous requirements relating to the lawful ownership of firearms and places increasing and unnecessary power within the Police force. Moreover, it will have absolutely no affect on criminal activity it purportedly seeks to address and should be rejected.