

**Submission  
No 107**

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

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Firearms and Weapons Legislation Amendment (Criminal Use) Bill 2020

I am a target shooter, hunter and have an interest in the safe use of firearms along with an interest in the technology and engineering used in their manufacture. Apart from reloading of ammunition I have no interest in manufacturing any component but do have an interest in how the manufacturing processes may impact on the performance of firearms.

I am grateful for the opportunity to respond to the proposed "Firearms and Weapons Legislation Amendment (Criminal Use) Bill 2020".

I would like to comment on the following terms of reference:

Sections 51J(2)(a)-(c) as they are written could potentially see a bank manager (for arranging finance) or a landlord (for providing premises) in breach of this section of the Act. Section 51J(2) is open to misinterpretation by police. This does not reasonably address many situations such as property investors who operate at arm's length (as required if contained in a self-managed superfund) and who rely on third parties such as Real Estate Agencies to manage letting of properties it is not reasonable or just that a property owner be held responsible in this way when there is no intent by the owner to deliberately or inadvertently to breach the law.

Section 51J(2)(d) presumes that a person takes part in the manufacture of a firearm part merely by possessing a firearm precursor. The presumption that a firearm precursor is possessed for the purpose of manufacturing a firearm or firearm part is open to misinterpretation by police.

(3) In this section firearm precursor means any object, device, substance, material or document used or capable of being used in the process of manufacturing a firearm or firearm part, including (but not limited to) the following:

- (a) moulds for making firearm parts,
- (b) milling, casting or rifling equipment,
- (c) digital blueprints within the meaning of section 51F, (d) computer software or plans.

The definition of firearm precursor is very broad and includes any object (e.g. piece of metal), device (e.g. screwdriver, electric drill) or any substance (e.g. lubricating or cutting oil) found in any residential garage in NSW. The definition of firearm precursor is open to misinterpretation by police.

While the Minister for Police stated in his second reading speech "this bill does not criminalise legitimate firearms owners" this is not explicitly stated in the bill. It is therefore extremely important that the bill be amended to include safeguard provisions making it perfectly clear that:

- (a) Licenced firearms owners that have a legitimate need to make a part or make minor modifications to a registered firearm, or a firearm that is not required to be registered under the Act, are not captured by this Bill; and
- (b) The mere possession of everyday items or hardware by licenced firearm owners is not an offence under this bill.

## Section 51K Power to seize firearms, firearms parts and firearm precursors

From the Law Enforcement Conduct Commission (LECC) enquiry into strip searches it seems that NSW Police have a poor understanding and application of the “reasonable grounds” test under the Law Enforcement (Powers and Responsibilities) Act 2002.

Given the extremely lengthy delays in obtaining internal reviews of decisions involving firearm matters, the consequences of inappropriately seizing registered firearms, firearm parts and precursors from licenced firearm owners are profound.

Given the Bill as it currently stands, (a) applies equally to both licenced and unlicenced firearms owners and (b) applies equally to both registered (and firearms that do not need to be registered under the Act) and unregistered firearms, any decision to seize firearms, firearm parts or firearm precursors under section 51K(1) should only be made by an experienced police officer of the rank of inspector or above, and then only after careful consideration.

The requirement in Section 51K(2) compelling a person to provide assistance or information to police breaches the common law right to silence. It is my belief that every person has the right to silence and should not be coerced by threat of penalty to make any comment, or to provide assistance or information to police without first obtaining independent legal advice.

Sections 51K(2) and (3) should be amended to provide appropriate safeguards and protect the fundamental right to silence.

## Conclusion

The Firearms and Weapons Legislation Amendment (Criminal Use) Bill 2020 in its current form is extremely broad and, in many respects, unreasonable and unjust in its potential reach.

Further it seems to have the potential for anyone with a legitimate interest in firearms to be treated as a potential criminal with the onus of proof potentially shifting to a law-abiding firearm owner rather than the police being required to meet a high standard of proof before taking action.

The requirement compelling a person to provide assistance or information against the common law right to silence is repulsive along with being unjust and should be removed.

## Recommendation

Rewrite the bill to clearly target unlicensed and criminal activities relating to the manufacture of firearms ensuring there are protections for law abiding firearms owners and any minor modifications they may wish to make in addition to any documents in their possession which may be used to increase their knowledge of firearms technology, safety, reloading guides and training materials should also be exempted.

Remove or amend Sections 51K(2) and (3).

## References:

Shooters Fishers and Farmers Document “Key Points Firearms and Weapons Legislation Amendment (Criminal Use) Bill 2020”