

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

Name: Name suppressed
Date Received: 14 August 2020

Partially
Confidential



Dear Members,

Thank you for the opportunity to provide feedback. As a law-abiding firearms licence holder, I support legislation that punishes the criminal use of firearms in the community and across the state of NSW. As a licensed shooter and Law-abiding firearm owner I have significant concerns over the "Firearms and Weapons Legislation Amendment (Criminal Use) Bill 2020", currently before the NSW Parliament.

Unfortunately, the current legislation draft has several deficiencies that are likely to cause unintended consequences to law abiding and licensed firearm owners. As it stands the Bill creates a serious threat to all licensed firearm owners and other persons, whom may not even be involved with the legal or illegal use of firearms. People who own and possess everyday tools which could now be perceived as firearm precursors used to make firearm parts, could be significantly and negatively impacted by this Bill.

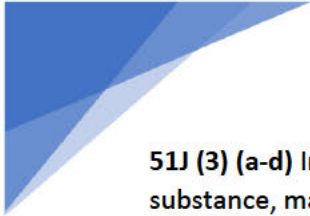
Such is my concern, I have sought seek legal advice on what the proposed legislation could mean for registered and lawful firearms, lawfully owned, and licensed to a fit and proper person. Based on advice received I find the following aspects, of the proposed legislation, troubling.

Section 51J establishes the offence of "take part in the manufacture a firearm or firearm part". Subsequent paragraphs explain the meanings of "Take Part" and what constitutes a "precursor", but they do not determine what constitutes "manufacture". Have the drafters and supporters of this bill considered the following common scenarios that would normally be exercised in the course of lawful firearm ownership:

- Does the alteration of a stock to allow the fitting of a cheek support or a bipod constitute manufacture?
- If I alter or adapt a non-pressure bearing component that allows me to fit, for example, a modern telescopic sight to an older firearm, is that illegal "manufacture of a part" under this proposed legislation?
- If I modify a screw to secure the sight or grip to my firearm, because an original component is not available, am I guilty of illegal "manufacture of a part" under this proposed legislation?

These are common options on legal firearms as used for sport and target competition and are not currently illegal but could be under this proposed legislation. As written, this could easily lead to misinterpretation

Section 51J, (2), (d) establishes the intent that "the person possesses a firearm precursor for the purposes of manufacturing a firearm or firearm part" but does not differentiate between legal (by licenced firearms users, as mentioned above) or illegal possession. As mentioned above, there are many alterations/additions/parts/substances that are commonly used legally on firearms by licenced users and pose no increased public risk.



51J (3) (a-d) In this section and in section 51K—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 too broad and ambiguous and again open to misinterpretation by the Police. Given the ambiguity of the definition it is open to include materials such as a piece of metal or devices such as a drill, lathe or even something as simple as a screwdriver; whilst substances could be viewed as a lubricating oil such as WD-40. All these materials and objects can be found in any workshop or garage across Australia for innocuous reasons in support of lawful activities.

This bill should be amended to include for provisions which make it clear that licensed firearms owners who have a legitimate need to make a part or make minor modifications, to non-pressure bearing components, to a registered firearms or a firearm, not required to be registered, are not captured by this Bill.


Should be amended to confirm that the mere possession of everyday items and hardware possessed by LAFOs is not an offence under this Bill. This could be addressed by the insertion of the words "without reasonable excuse" into the Bill.

Section 51K (2) and (3) compels a person to provide assistance or information to Police. This breaches the Common Law principle of a person's right to silence. This Common Law principle has been enshrined in Section 89 of the Evidence Act 1995, which states that no adverse interest can be drawn against a person if that person fails or refuses to answer any questions put to them by a Police Officer investigating the commission, or possible commission of an offence.

These sections, Sections 51K (2) and (3) should be amended to provide appropriate safeguards to protect a citizen's fundamental right to silence.

In summary

- The Bill does NOT differentiate between licensed firearm owners and criminals.
- The Bill entitles police to act on suspicion of an offence or without probable cause. With impact on the lawful activities of law-abiding people
- Remove the presumption that persons who rent premises, supply finance, materials or equipment are involved in the manufacture of firearms or firearm parts. (Section (51 J (2) (a)-(c))
- Remove the presumption that materials and equipment are firearm precursors, where police have no evidence of firearms or parts being manufactured. (Section 51 J (2) (d))
- Amend the bill to make it perfectly clear that (a) the mere possession of everyday items or tools, published materials and other instructional materials in any form, by license firearm owners is not an offence under this bill; (b) licensed firearm owners who have a legitimate need to make a part or minor modification to a registered firearm, or a firearm that is not required to be registered under the Act, are not captured by this Bill.

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- **Remove section (51 K (2) & (3)) which compels a person to provide assistance or information to police, as this breaches the right to silence under common law**

Thanks, you for your consideration of the above amendments. The removal of illicit firearms is a worthy and sensible goal of law enforcement activities and efforts. However, some provisions of this bill, in its current form, allow for law abiding people undertaking law abiding activities, to be unreasonably affected and undermine fundamental common law principle.

Yours faithfully