

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

Name: Name suppressed
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Partially
Confidential

Submission to committee conducting the inquiry into
Provisions of the Firearms and Weapons Legislation Amendment (Criminal Use) Bill 2020.

Dear Chairperson,

I wish to make a submission on: **Provisions of the Firearms and Weapons Legislation Amendment (Criminal Use) Bill 2020.**

Summary

This Bill are too ambiguous and open to police misinterpretation and abuse of power. As it stands the Bill creates a serious threat to all licensed firearm owners and other persons.

People who own and possess everyday tools which could now be perceived as firearm precursors used to make firearm parts, could be significantly negatively impacted by this Bill.

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.

The broad nature of the definitions contained in the proposed bill and the removal of a person's fundamental rights under Common Law are deeply concerning to any person who is concerned with a just and fair society.

Amendments to the bill need to be made or the bill will have significant adverse impacts on licensed firearm owners.

Changes required to the Bill

1. Remove the presumption that persons who rent premises, supply finance, materials or equipment are actually involved in the manufacture of firearms or firearm parts. (Section 51 J (2) (a)-(c))
2. 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))
3. Decisions to confiscate firearms and equipment suspected of being firearms precursors, should only be made by police of the rank of Inspector and above, and only after careful consideration and such decision must be documented in writing.
4. 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

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5. Add a requirement that internal reviews of decisions involving firearms matters have to be completed within a 30 days
6. 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.

Questions I would like the enquiry to answer

1. Does the machining of a handgun slide to adapt different sights constitute manufacture?
2. Does the threading of a barrel or the machining of sight mounting surface constitute manufacture?
3. If I alter or adapt a 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?
4. 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 an offence?

The specifics of the legislation that have informed this submission.

51J 2 (a)-(c) Offence of taking part in unauthorized manufacture of firearms or firearm parts

51J 2 (a)-(c) As presently drafted, these provisions are open to misinterpretation by the Police. It could be argued that a financier for providing a loan or a landlord for providing premises unbeknownst to what their tenant was doing in those premises could be in breach of this section of the Act.

51J 3 — 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,

As presently draft the broad scope of this amendment may include, mild steel round bar, mild steel bar, scap steel, timber working machines, lathes, millers, drilling machines and many other materials and tools and equipment that could be found in a garage, tool shed or workshop.

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Substances could be things like WD40 lubricant or timber polish, and **Devices** could be Screwdrivers under this definition could be caught as they can both be used in the process of manufacturing a firearm.

Many items which are kept for repairs and maintenance of many things that are not a firearm. Things like washers, pins, spring screws, might have the same dimensions as those used in a firearm. This is true also for universal application kits bought from AutoOne or Repco.

One of the many responsibilities as licenced firearms owner, as set out in the Firearms (Long Arms) User Guide published and distributed by the New South Wales Firearms registry is a **responsibility of maintaining a firearm in a safe condition.**

The proposed amendments appear to make owning the necessary tools and parts to fulfil my responsibility to maintain my firearms in safe and serviceable condition legally ambiguous if not actually illegal.

The question might occur to those who do not own firearms: "Why do you as a licenced firearm owner need to do minor repairs, maintenance and even minor modifications?"

The short answer is – I have a responsibility to maintain my firearm in a safe and serviceable condition and doing that is relatively straight forward with a few tools and spare parts.

The longer answer is, there is a serious shortage of licenced gunsmiths in NSW and Australia. The last Gun Smithing courses in Australia were shut down the year I started University (1990). If you can find a Gun Smith you will wait for months as they work through their back log of work. Touching up metal finishes, fitting sights and many other tasks are simple tasks that do not require trade qualifications.

Much the same way I can change the tires and light bulbs, or install driving lights or new wiper blades in my car, there are a number of tasks that I can do to maintain firearms in safe serviceable condition.

Just as Auto stores and other retailers provide Car Owners with kits and materials to do basic maintenance and modification to my vehicle, firearm retailers provide equipment and kits to enable us to maintain our firearms in safe and serviceable condition.

Under the proposed amendment a range of product from the most basic maintenance equipment through to more advanced tools, like head space gauges, chamber reamers (to ensure correct chamber clearance) which are very important for ensuring firearm safety would be defined as **precursors to manufacture**. So basic maintenance tool would be classed as precursors to manufacture.

The amendment also presumes that a person takes part in the manufacture of a firearm or firearm

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part merely by possessing a firearm precursor. Again, the presumption that a firearm precursor is possessed for the purpose of manufacturing a firearm or firearm part is open to misinterpretation by the Police and utterly false and unreasonable.

51j (c)-(d) Blue print/software or plans

When you buy a new firearm & often when purchased second hand the firearm will come with schematics. The user manual contains diagrams of the parts and assembly of the firearm to assist the new owner to care and maintain the firearm in safe and serviceable condition. Again this is similar to the manual provided by my vehicle manufacture, sold in auto store and available for down load of the web.

More over there are various publications from Service Handbooks for firearms, to historical and coffee table books that have details of firearm components and assembly. Under the current drafting it would appear all of these documents could be plans or diagrams.

At a very bare minimum the words **with out reasonable excuse** must be inserted into the amendment.

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

The term “reasonable grounds” is open to interpretation. What one police officer determines to be reasonable grounds may not constitute reasonable grounds by a second police officer.

The individual police officers knowledge and experience with what is and is not required to manufacture a firearm will vary wildly and introduce an unacceptable variability in the application of the powers.

The Bill, as currently written applies to both licensed and unlicensed firearm owners, registered and unregistered firearms, including firearms that are not required to be registered under the Act.

This introduces a highly random application of the law, and result in significant increase in the amount of administrative and other challenges to the application of the law.

Given the documented length of delays present in finalising internal reviews and other firearm related decisions by the Firearms Registry this amendment will lead to unreasonable and unjust impositions on licenced firearms owners.

Poor decision making by Police Officers inappropriately seizing registered firearms, firearm parts and firearm precursors can have major consequences, particularly for Primary Producers and Professional Shooters and impost on the tax payer who will foot the bill for appeals and legal challenges.

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For these reasons, any decision to seize firearms, firearms parts or firearm precursors should not be left to inexperienced or misinformed Police Officers.

Decisions to seize items should only be allowed to be made by Officers of very senior rank and demonstrated experience in firearm law and manufacture and must be justify, in writing why the items where seized.

51K (2) & (3) providing assistance or information

This can not be seem as anything blatantly contrary to Section 89 of the Evidence Act 1995.
“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”

This fundamental right to silence should not be removed by any amendment to legislation. No person should be coerced by the threat of a penalty to make any comment or provide assistance or information to Police without first obtaining independent legal advice.

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

Yours sincerely