

**Submission
No 238**

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

Name: Mr Mitch Newbery

Date Received: 14 August 2020

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

12 August 2020

The Secretary
Committee of Inquiry
NSW Legislative Council

Honourable Members,

As a concerned, licensed firearms owner with just over fifty years of involvement in the shooting sports I wish to present the following as my submission.

The amendments proposed under this Bill present some very disturbing issues, which if not resolved, or better removed completely will have serious implications for law abiding, licensed firearms owners and the wider community.

The consequences, whether intended or not, will be far reaching and will make participation in our already heavily regulated sport even more burdensome. I would like to believe that the Bill was put together without any malintent towards the sport with the intention of achieving better results in charging and convicting the criminal element. It certainly appears to be a Prosecutors wish list.

The Proposed Prohibited Weapons Amendment mirrors the Firearms Amendment, thus presenting the same consequences. My comments below relate directly to Firearms but may be viewed equally with the proposed amendments for Prohibited Weapons.

Definition of “*Firearm precursor*”

A ***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.

This also includes common items and materials, such as basic tools and workshop equipment. This definition is so broad that it well may result in a dire outcome for any person with a workshop, shed or any common hand tools such as a file or hacksaw, or possess any offcuts or other pieces of metal.

Does simple possession of the above-mentioned “precursors” automatically indicate conduct of unlawful activity? Under the proposed amendment it would certainly appear to be the case.

As a comparison, precursors for illicit drug manufacture are highly regulated chemicals not found in the possession of the average citizen. Equipment used in drug manufacture – pill press, laboratory glassware, burners, certain gas cylinders, large scale hydro set up and so on are not commonly available to or possessed by the general public. The list of precursors in regard to drug manufacture is very specific and relevant whereas those in the proposed Bill could be anything found at home.

The term “Takes part”

A person who knowingly takes part in the manufacture of a firearm or firearm part, and knows, or ought reasonably to know, that the manufacture of the firearm or firearm part is not authorised by a licence or permit, is guilty of an offence.

A person **takes part** in the manufacture of a firearm or firearm part if the person takes, or participates in, any step, or causes any step to be taken, in the process of that manufacture, or the person provides or arranges finance for any step in that process, or the person provides the premises in which any step in that process is taken, or suffers or permits any step in that process to be taken in premises of which the person is the owner, lessee or occupier or of which the person has the care, control or management, or the person possesses a firearm precursor for the purposes of manufacturing a firearm or firearm part.

One concern is that if a person engages the service of a licensed firearms dealer to supply a part and that dealer has the part made by an out of industry manufacturer that is not licensed in NSW. The LAFO ordering the part would be seen as taking part in manufacture.

This appears to be all encompassing and leaves everyone open to prosecution. A person unwittingly renting a home to someone with anything that could be deemed precursor for example.

Maximum penalty

A maximum penalty of imprisonment for 20 years for a person to knowingly take part in the manufacture of a firearm or firearm part knowing that the manufacture of the firearm or firearm part is not authorised by a licence or permit under the principal Act.

The offence will apply regardless of whether a firearm or firearm part is actually manufactured or not.

The maximum penalty of 20 years gaol far exceeds that for murder or other heinous crime.

Looking at the consequences which will follow if the draft Bill becomes law.

General public

Any person with a workshop, shed or any common hand tools such as a file or hacksaw, or possess any offcuts or other pieces of metal now to be known as “precursors” for whatever innocent reason could find themselves charged with firearm (or prohibited weapons) parts manufacture whether or not parts are actually made.

This will also affect hobby knife makers, steam engine enthusiasts, tradesmen and anyone in the automotive industry just to name a few.

Every person that I have known or met have possessed what would be recognised as “precursors” under this proposed amendment.

Licensed Firearms Owners

It is common for licensed firearm owners to either make or repair firearm parts as it is often the only way to maintain firearms in good working order or tune for competition use. In many

cases parts are not available due age of firearms and lack of modern production. There is no criminal intent or risk to public safety.

Licensed firearm owners who have a legitimate need to make a part, undertake minor modifications or repairs to a registered firearm, or a firearm that is not required to be registered under the Act, must not be not captured by this Bill. Any amendment going forward should ensure that will be allowed to conduct any such minor work on their lawfully owned firearms.

Licensed Firearms Dealers

A common misconception is that firearms dealers are automatically gunsmiths. This is a fallacy; it's simply not true. A licensed firearms dealer does not necessarily gain the knowledge or ability to manufacture parts or maintain firearms simply by possessing a dealer's licence. Most are retail only with barely a handful capable of conducting parts manufacture or firearms repair.

Gunsmiths

As a direct result of the introduction of the NFA and the following sweeping changes to firearms laws across Australia in 1996 the future of gunsmithing in this country was effectively destroyed.

Whilst all other recognised trades continued to benefit from training and further education those interested in becoming a gunsmith had to find an indirect path through fitting and machining or tool making with no firearm specific training available. There are few if any new gunsmiths coming through the ever-thinning ranks, and those that managed to operate at a "backyard" level have been legislated out of business.

The blind call from those in authority to *"take your firearm to a dealer or gunsmith for parts and repair"* falls far short of reality. Who is left to take your firearm to?

A look from another angle –

Imagine you are an amateur racing car enthusiast and have an important race meeting on the coming weekend. Your car develops a minor engine problem. It is something you can fix by making or altering a part but by law you are not allowed to do so. In a world where motor mechanics are as readily available as gunsmiths you will have to wait at least six to ten months before your car can even be looked at. This is the reality faced by LAFOs under this amendment.

Firearms Manufacturers

Government constantly calls to the community to buy local goods and support local manufacturers. This Bill if passed will destroy the already struggling firearms manufacturing business. Whilst the major mechanical parts can be made inhouse there is a need to source parts from non-industry manufacturers/suppliers.

An example is a local firearms manufacturer that relies upon the services of a plastic injection molding company to make his stocks. The plastic molding company is not a licensed firearms dealer and only makes stocks. As making these stocks forms a minor part of business to the plastic company it has no interest in jumping through the hoops to become a licensed firearms dealer for such a small job. The stock however forms a major part of the completed firearm and the firearm manufacturer can't make it himself. The same applies to the sourcing of springs, screws and other minor parts.

This Bill will kill the local firearms manufacturing industry. Only a company that can do everything inhouse such as Lithgow Arms (Thales) will survive.

Amendments to Weapons Prohibition Act 1998

Same issues as above with precursors, taking part, penalties etc.

Conclusion

The main issue lies in the definition of *precursors* and *taking part*, however the Bill in its entirety as currently worded appears to be nothing more than a prosecution tool which would disregard collateral consequences to both licensed firearms owners and the general public. I believe that if it were to pass into law it would present a great injustice.

Changes can be readily made to the existing Acts which would reduce the dramatic negative impact of the proposed Bill. However, any amendment must very clear be in its intent not to leave licensed shooters and the general public exposed to prosecution and punishment in such vague, all-encompassing manner.

I thank you for considering my concerns.

Sincerely,