

**Submission
No 259**

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

Name: Mr B Burdett
Date Received: 11 August 2020

The Hon Robert Borsak MP

Dear Minister,

I am writing to you as I have significant concerns over the “Firearms and Weapons Legislation Amendment (Criminal Use) Bill 2020”, currently before the NSW Parliament.

Thank you for the opportunity to provide feedback. As a law-abiding firearms licence holder I support legislation that helps to prevent the criminal use of firearms.

Unfortunately, the current legislation draft has several deficiencies that are likely to cause unintended consequences.

I passionately believe that the provisions of this Bill are too ambiguous and open to misinterpretation and abuse of power.

As it stands the Bill does NOT differentiate between licensed firearm owners and criminals and creates a serious threat to all licensed firearm owners and other persons.

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”.

If I manufacture, modify or adapt a component or surface is that illegal “manufacture of a part” under this proposed legislation?

For example a screw to secure the sight or grip to my firearm, because an original component is not available or take part in the machining of a firearm component to repair or adapt different options or mountings.

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.

Section 51J(3) provides a definition of what a firearm precursor is and 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-

- . moulds for making firearm parts.**
- . milling, casting or rifling equipment,**

. digital blueprints within the meaning of Section 51F'

. computer software or plans.

This definition is very broad and could include many everyday items.

The listing of “computer software and plans” as precursors could be troublesome. Most firearms owners are students of their development and history. A lot of computer files and books have been published many of which show drawings or plans to explain the workings of firearms with the primary purpose of educating users on their safe operation and maintenance.

Having full information of the method of operation and maintenance of a firearm is critical to using it correctly and safely.

This proposed legislation could have the unintended effect of making any published material on firearms and their maintenance a “precursor” to illegal activity.

Furthermore, the requirement in section 51K (2) compelling a person to provide assistance or information to police could very well breach the common law right to silence. 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.

Changes required to the Bill are:

1. 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.

2. 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))

3. 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))

4. 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.

5. Remove Section (51 K (2)) which breaches common law.

6. Add a requirement that internal reviews of decisions involving firearms matters have to be completed within a reasonable, defined period of time.

I hope the above comments will help in improving the feedback on this proposed legislation.

If I can help further, please let me know.