



New South Wales

# Firearms and Weapons Prohibition Legislation Amendment Bill 2015

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

The *Security Industry Amendment (Regulation of Training Organisations) Bill 2015* is cognate with this Bill.

## Overview of Bill

The object of this Bill is to amend the *Firearms Act 1996* (the **Firearms Act**) as follows:

- (a) to enable the Commissioner of Police to consider spent convictions when dealing with applications for firearms licences and permits,
- (b) to increase the maximum penalty for certain offences concerning pistols, prohibited firearms, shortened firearms or converted firearms from 10 years' imprisonment to 14 years' imprisonment,
- (c) to increase the maximum penalty for the offence of defacing or altering numbers, letters or identification marks on a firearm or firearm barrel, or possessing such a defaced or altered firearm or firearm barrel, from 5 years' imprisonment to 14 years' imprisonment,
- (d) to extend the operation of the offence of defacing or altering numbers, letters or identification marks on firearm barrels, or possessing such a defaced or altered firearm barrel, to other firearm parts,
- (e) to create a new offence of using, supplying or acquiring such defaced firearms (or defaced firearm parts) or giving possession of them to another person and an offence of supplying, acquiring or possessing defaced firearm parts or giving possession of such parts to another person,
- (f) to create a new offence of possessing digital blueprints for the manufacture of firearms on 3D printers or electronic milling machines,

- (g) to create a new offence of using, supplying, acquiring or possessing a stolen firearm or firearm part or giving possession of a stolen firearm or firearm part to another person.

This Bill also:

- (a) amends the *Weapons Prohibition Act 1998* to create a new offence of possessing digital blueprints for the manufacture of prohibited weapons on 3D printers or electronic milling machines, and
- (b) makes consequential amendments to the *Criminal Procedure Act 1986*.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on the date of assent to the proposed Act.

## Schedule 1 Amendment of Firearms Act 1996 No 46

**Schedule 1 [1] and [2]** amend sections 10 (Applications for licences) and 30 (General provisions relating to permits) of the Firearms Act to enable the Commissioner of Police to consider the spent convictions of applicants for firearms licences and permits. The amendments provide that section 12 (What are the consequences of a conviction becoming spent?) of the *Criminal Records Act 1991* will not apply in relation to an application for a firearms licence or permit. That section sets out the consequences of a conviction becoming spent, being that:

- (a) a person is not required to disclose to any other person for any purpose information concerning a spent conviction, and
- (b) a question concerning the person's criminal history is taken to refer only to any convictions of the person which are not spent, and
- (c) in the application to the person of a provision of an Act or statutory instrument:
- (i) a reference in the provision to a conviction is taken to be a reference only to any convictions of the person which are not spent, and
- (ii) a reference in the provision to the person's character or fitness is not to be interpreted as permitting or requiring account to be taken of spent convictions.

**Schedule 1 [3]–[6] and [12]** amend various offence provisions of the Firearms Act to provide that if the firearm concerned is a pistol or prohibited firearm the offence is to carry a maximum penalty of 14 years' imprisonment (rather than 10 years' imprisonment).

**Schedule 1 [7]** inserts proposed sections 51F and 51G into the Firearms Act. Proposed section 51F contains a new offence to prohibit the possession of a digital blueprint for the manufacture of a firearm on a 3D printer or on an electronic milling machine. The offence is to carry a maximum penalty of 14 years' imprisonment. Proposed section 51G contains a number of defences to the new offence, including defences relating to innocent production, dissemination or possession, conduct for the public benefit and approved research.

**Schedule 1 [8]** inserts proposed section 51H into the Firearms Act to prohibit the use, supply, acquisition or possession of a stolen firearm or firearm part or giving possession of a stolen firearm or firearm part to another person. The offence is to carry a maximum penalty of 14 years' imprisonment. The proposed section provides for a defence to a prosecution if the defendant can prove that the defendant did not know and could not reasonably be expected to have known that the firearm or firearm part concerned was stolen.

**Schedule 1 [9]** amends section 62 of the Firearms Act to increase the maximum penalty for offences relating to shortening firearms, or possessing, supplying or giving possession of shortened firearms to others, from 10 years' imprisonment to 14 years' imprisonment.

**Schedule 1 [10]** amends section 63 of the Firearms Act to increase the maximum penalty for offences relating to converting firearms from 10 years' imprisonment to 14 years' imprisonment.

**Schedule 1 [11]** substitutes section 66 of the Firearms Act so as to:

- (a) increase the maximum penalty for defacing or altering any number, letter or identification mark on any firearm or firearm barrel, or possessing such a defaced or altered firearm or firearm barrel, from 5 years' imprisonment to 14 years' imprisonment, and
- (b) extend the operation of that offence so that it also applies to all such numbers, letters and identification marks on other firearm parts, and
- (c) make it an offence, carrying a maximum penalty of 14 years' imprisonment, to do any of the following without the authorisation of the Commissioner of Police:
  - (i) use, supply or acquire a defaced or altered firearm or give possession of such a firearm to another person,
  - (ii) supply or acquire a defaced firearm part or give possession of a defaced firearm part to another person.

It is a defence to a prosecution if the defendant can prove that the defendant did not know, and could not reasonably be expected to have known, that the firearm or firearm part was a defaced firearm or defaced firearm part (as the case requires).

**Schedule 1 [13]** makes a consequential amendment.

## **Schedule 2      Amendment of Weapons Prohibition Act 1998 No 127**

**Schedule 2 [1]** inserts proposed sections 25B and 25C into the *Weapons Prohibition Act 1998*. Proposed section 25B contains a new offence to prohibit the possession of a digital blueprint for the manufacture of a prohibited weapon on a 3D printer or on an electronic milling machine. The offence is to carry a maximum penalty of 14 years' imprisonment. Proposed section 25C contains a number of defences to the new offence, including defences relating to innocent production, dissemination or possession, conduct for the public benefit and approved research.

**Schedule 2 [2]** makes a consequential amendment.

## **Schedule 3      Amendment of Criminal Procedure Act 1986 No 209**

**Schedule 3 [1]–[4]** make consequential amendments to section 268 (Maximum penalties for Table 2 offences) of, and Schedule 1 (Indictable offences triable summarily) to, the *Criminal Procedure Act 1986*.