

Firearms and Crimes Legislation Amendment (Public Safety) Bill

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Subjects - [Firearms](#); [Crime](#); [Sentencing and Parole](#); [Police: New South Wales](#); [Shootings](#); [Fines and Penalties](#)

Speakers - [Hatzistergos The Hon John](#); [Rhiannon Ms Lee](#); [Wong The Hon Dr Peter](#)

Business - [Bill, Second Reading, Motion](#)

FIREARMS AND CRIMES LEGISLATION AMENDMENT (PUBLIC SAFETY) BILL

Page: 4737

Second Reading

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [2.35 p.m.]: I move:

That this bill be now read a second time.

This bill introduces a range of new firearms and gun crime offences and tough new penalties. It also provides police with the tools they need to crack down on firearms crime. New South Wales has the toughest firearms laws in Australia, with penalties for serious gun offences in the Firearms Act and the Crimes Act of up to 20 years imprisonment, and a range of offences specifically targeted at illegal trafficking. According to the Bureau of Crime Statistics and Research, during the two years to 31 December last year assault "shoot with intent" incidents involving a handgun fell by 26 per cent and assaults with a handgun fell by 36 per cent, and the downward trend between 2001 and 2002 has continued in the first half of 2003.

However, as recent incidents have shown, there is never any room for complacency in illegal gun crime, and there is clearly more work to be done. That is why on 23 September a package of measures was released to improve the comprehensive, co-ordinated approach taken by New South Wales Police to illegal gun availability, detection, apprehension, and prosecution. The initiatives in the package provide for increased detection and enforcement, legislative changes, improved security industry controls, better safe storage, and the need for greater national controls. The Firearms and Crimes Legislation Amendment (Public Safety) Bill implements the legislative changes announced as part of the package. They include changes to the Crimes Act 1900, such as clarifying that a firearm which is inside a motor vehicle which is in a public place is considered to be in a public place for the purposes of the current Crimes Act offence of possessing a loaded firearm in a public place. Recently a court decided that a firearm inside a private vehicle in a public place is not necessarily itself within that public place. This is clearly nonsense, and proposed section 93F amends the Crimes Act to clarify that.

Proposed section 93GA creates a more specific offence in the Crimes Act of firing at a dwelling house or building with disregard for the safety of persons. The maximum penalty for this offence is to be 14 years. This will allow police to more accurately target persons who commit so-called drive-by shootings. It also represents an increase of the current 10-year penalty for the less specific offences of causing danger with a firearm or spear gun, and trespassing with or dangerous use of a firearm or spear gun, which are currently in sections 93G and 93H of the Crimes Act. The bill also amends the Crimes Act. Proposed section 93I introduces a new offence whereby an unlicensed person carrying an unregistered firearm in a public place is liable to a maximum penalty of 10 years imprisonment, as well as a new aggravated carriage offence with a maximum penalty of 14 years. Proposed section 154D provides for the new offence of stealing a firearm, with a maximum penalty of 14 years imprisonment.

Schedule 2 amends the Firearms Act by inserting new sections 50AA and 51BA, which make it an offence to illegally purchase or sell a firearm part, with a maximum penalty of five years for non-prohibited firearm parts and 10 years for a pistol or prohibited firearm part. New section

51B increases the time period for establishing the current ongoing trafficking offence from three illegal firearm sales in 30 days to three illegal sales in 12 months. This recognises that the modus operandi of illegal firearm sales is very different from that of prohibited drugs, on which the three sales in 30 days time frame was originally modelled; and it introduces a new offence of ongoing supply for major parts of a firearm in new section 51BB. This section is modelled directly on the current offence of ongoing illegal sale of a whole firearm, with the addition of the extension of the offence period to three sales in 12 months.

Schedule 2 also amends the Firearm Act to clarify the offence regime for forging licences and using a forged licence. A new offence of using a forged firearm licence or permit in an effort to illegally obtain a firearm is introduced in new section 71A. This will attract a maximum penalty of 10 years imprisonment. The bill also increases the penalty of forging a firearm licence or permit from \$5,500 to a maximum of 10 years imprisonment, by deleting the current offence in section 71 (b) of the Firearms Act and making it clear via insertion of a note that the existing offence in section 300 (1) of the Crimes Act applies to forgery of a firearm licence. The penalty for such forgery is a maximum of 10 years.

Schedule 3 amends clause 14 of the Firearms (General) Regulation to provide that licence holders must notify police of the address where their firearm will be stored, and any subsequent change in that address, within seven days of the change. The amendments to section 87 of the Firearms Act and to clause 107 of the Firearms (General) Regulation will enable the Commissioner of Police to more generally delegate the power to sign a certificate of evidence to an authorised registry officer, rather than the current requirement that requires the regulation to be amended each time the commissioner wants to exercise a delegation.

This bill is part of the package of measures to improve the comprehensive, co-ordinated approach taken by NSW Police to illegal gun availability, detection, apprehension, and prosecution. It does not constitute the entire package. In the area of increased detection and enforcement a new 47-member mobile team of Operation Viking police began high-visibility, high-impact raids in the first week of October, targeting criminals and thugs carrying concealed handguns in hot spots. The unit has held operations in Campsie, Bankstown, Rosehill, Fairfield, Cabramatta, Burwood, and City Central local area commands. An additional 20 firearm detector dogs are also to be deployed from the 2004-05 financial year to support searches, high-profile street policing, crime scene investigations, and screening of public places and vehicles.

The Government is seeking stronger sentences for handgun crimes and, to address consistency in sentencing, it will ask the newly formed **Sentencing Council** to examine sentencing trends for serious firearms offences with a view to implementing standard minimum sentences. The Government is also considering making more serious firearm crimes strictly indictable, so that such crimes will be tried in the District or the Supreme Court and attract higher sentences. It is examining measures to ensure that more cases are dealt with on indictment, and it is ensuring that the Commissioner for Police instructs prosecutors to instigate immediate appeals if firearms criminals receive sentences that the community views as inappropriate.

In addition, a review of the use of firearms in the security industry is approaching finalisation. This review includes an examination of increased safe storage requirements, limiting the calibre and magazine capacity of firearms being purchased by the industry, limiting access to firearms to certain types of security work, and examining whether certain sectors of the industry need to be armed, the ratio of guns held by companies relative to the number of employees, and examining better enforcement of annual training requirements. The Operation Vulcan illegal firearms phone-in campaign has been reactivated, with callers eligible for increased rewards of up to \$5,000 for information leading to a conviction. NSW Police is to have an additional five sworn positions provided to the State Crime Command's firearms and regulated industries crime squad to conduct proactive intelligence gathering on gun crime, develop better education for police on gun handling and licensing procedures, and lead co-ordinated force-wide efforts in training and in developing intelligence plans.

The Government is leading the way in the fight against illegal firearms. The Carr Government has provided NSW Police with more resources than ever before to fight gun crime. A total of \$2.073 billion was allocated to meet the recurrent and capital expenses of NSW Police in 2003-04. This is the ninth consecutive record police budget. The Firearms and Crimes Legislation

Amendment (Public Safety) Bill will provide police with the tools they need to investigate, apprehend, and prosecute illegal gun traffickers and criminals who use guns. I commend the bill to the House.

The Hon. HENRY TSANG [Parliamentary Secretary] [5.45 p.m.]: The Government does not support the amendments. As part of the illegal handgun package released by the Government on 23 September the **Sentencing Council** has been asked to examine all serious firearms offences with a view to implementing standard minimum sentences. The **Sentencing Council** will consider consistent minimum sentences for all serious firearms offences in addition to drive-by shootings. The new drive-by shooting offence will allow police to specifically target and prosecute criminals who use guns to intimidate and threaten others by shooting into buildings. The act of shooting at a building is sufficient to establish the offence. It does not require that any person be injured as a result of the shooting, or that there even be an intent to injure a person. The police retain the option of charging the offender with attempted murder or murder, which raises the maximum penalties to 25 years and life....