

PROHIBITED WEAPONS BILL 1988

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

This Bill is cognate with the Firearms Bill 1988.

The object of this Bill is to prohibit the possession of certain dangerous firearms and other weapons and articles. The proposed Act will replace similar provisions presently contained in the Firearms and Dangerous Weapons Act 1973 (the "1973 Act") which is intended to be repealed by the proposed Firearms Act 1988.

PART 1—PRELIMINARY

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act is to commence on a day or days to be appointed by proclamation.

Clause 3 defines certain terms used in the proposed Act. "Prohibited weapon" means anything described in Schedule 1 to the proposed Act. Regulations may be made to add items to that Schedule.

Clause 4 states that the proposed Act will bind the Crown, with certain exceptions (such as members of the Police Force or prison officers acting in the course of their employment as such).

PART 2—PROHIBITED WEAPONS AND PROHIBITED ARTICLES

Clause 5 makes it an offence for a person to possess or use a prohibited weapon, unless authorised by a permit or the regulations. The maximum penalty is a fine of \$5,000 or imprisonment for 2 years, or both (on summary conviction) or imprisonment for 14 years (on conviction on indictment).

Clause 6 makes it an offence for a person to possess a prohibited article (at present confined to handcuffs), unless authorised by a permit or the regulations. The maximum penalty is a fine of \$5,000 or imprisonment for 2 years, or both (on summary conviction) or imprisonment for 7 years (on conviction on indictment).

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Clause 7 requires a person who possesses a prohibited weapon or article to produce it and any permit authorising its possession on demand by a member of the Police Force. An appropriate caution must be given by the member. The maximum penalty for not complying is a fine of \$2,000 or imprisonment for 1 year, or both.

Clause 8 requires a person who has or comes into possession of a prohibited weapon or article, and who ceases to be or is not authorised to possess it, to deliver the weapon or article to a person who is so authorised or surrender it to a member of the Police Force. The maximum penalty for not complying is a fine of \$5,000 or imprisonment for 2 years, or both.

PART 3—PERMITS

Clause 9 enables the Minister to issue a permit authorising possession of a prohibited weapon or article. The permit may be subject to conditions and may be revoked for any reason the Minister considers sufficient.

Clause 10 makes it an offence for a person to give false or misleading information when making an application under the proposed Act. The maximum penalty is a fine of \$5,000 or imprisonment for 2 years, or both.

Clause 11 makes it an offence for the holder of a permit to contravene its conditions. The maximum penalty is a fine of \$5,000.

Clause 12 requires the holder of a permit, on demand by a member of the Police Force, to produce the permit for inspection or to state the holder's name and address. An appropriate caution must be given by the member. The maximum penalty for not complying is a fine of \$2,000 or imprisonment for 1 year, or both.

Clause 13 requires the holder of a permit to surrender it as soon as it is revoked or expires. The maximum penalty for not complying is a fine of \$2,000 or imprisonment for 1 year, or both.

PART 4—SUPPLEMENTARY

Clause 14 requires a person who possesses a prohibited weapon or article acquired from another person to state the name and address of the other person and the date on which it was acquired on demand by a member of the Police Force. The maximum penalty for not complying is a fine of \$2,000 or imprisonment for 1 year, or both.

Clause 15 enables an application to be made to a Local Court in relation to a prohibited weapon or article surrendered or seized under the proposed Act or the proposed Firearms Act 1988. The Court may decide whether the weapon or article is to be forfeited, returned or otherwise disposed of.

Clause 16 makes the parent or guardian of a person under 18 who contravenes the proposed Act or the regulations made under it liable to the same penalty as that to which that person is liable, whether or not proceedings are taken against that person. A parent or guardian is so liable only if he or she knowingly authorised or permitted the contravention.

Clause 17 provides that offences against the proposed Act or the regulations are to be dealt with summarily before a Local Court. A Local Court may hear and determine proceedings for an offence summarily where a penalty is provided for conviction for the offence on indictment only if the prosecutor consents and the Court thinks it proper for the offence to be so dealt with. In any other case, any such offence is to be dealt with on indictment.

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Clause 18 provides that an offence against the proposed Act or the regulations may be dealt with summarily before a Local Court if the information is laid within 1 year of the date on which the offence is alleged to have been committed.

Clause 19 allows certain certificates given by the Commissioner of Police to be admissible in evidence.

Clause 20 enables regulations to be made by the Governor-in-Council for the purposes of the proposed Act. The regulations may create an offence with a maximum penalty of \$5,000.

Clause 21 gives effect to Schedule 2 which contains savings and transitional provisions.

SCHEDULE 1—PROHIBITED WEAPONS

Schedule 1 contains a list of prohibited weapons.

SCHEDULE 2—SAVINGS AND TRANSITIONAL PROVISIONS

Schedule 2 contains provisions of a savings or transitional nature which convert permits for prohibited weapons or articles under the Firearms and Dangerous Weapons Act 1973 to permits under the proposed Act. Pending applications for permits may be treated as applications for permits under the proposed Act. Weapons or articles surrendered under section 56 of the 1973 Act are to be disposed of in accordance with the proposed Act.
