

Passed by both Houses



New South Wales

Firearms and Weapons Prohibition Legislation Amendment Bill 2015

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I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney,*

, 2015



New South Wales

Firearms and Weapons Prohibition Legislation Amendment Bill 2015

Act No , 2015

An Act to amend the *Firearms Act 1996* and the *Weapons Prohibition Act 1998* to make further provision with respect to the regulation and control of firearms and prohibited weapons; and for other purposes.

See also the *Security Industry Amendment (Regulation of Training Organisations) Act 2015*.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Firearms and Weapons Prohibition Legislation Amendment Act 2015*.

2 Commencement

This Act commences on the date of assent to this Act.

Schedule 1 Amendment of Firearms Act 1996 No 46

[1] Section 10 Applications for licences

Insert after section 10 (3):

- (4) Section 12 of the *Criminal Records Act 1991* does not apply in relation to an application for a licence.

[2] Section 30 General provisions relating to permits

Insert after section 30 (9):

- (10) Section 12 of the *Criminal Records Act 1991* does not apply in relation to an application for a permit.

[3] Section 36 Unregistered firearms

Omit “imprisonment for 10 years” from section 36 (1).

Insert instead “imprisonment for 14 years”.

[4] Section 50 Acquisition of firearms

Omit “imprisonment for 10 years”. Insert instead “imprisonment for 14 years”.

[5] Section 50AA Acquisition of firearm parts

Omit “imprisonment for 10 years” from section 50AA (2).

Insert instead “imprisonment for 14 years”.

[6] Section 51BA Restrictions on supply of firearm parts

Omit “imprisonment for 10 years” from section 51BA (2).

Insert instead “imprisonment for 14 years”.

[7] Sections 51F and 51G

Insert after section 51E:

51F Possession of digital blueprints for manufacture of firearms

- (1) A person must not possess a digital blueprint for the manufacture of a firearm on a 3D printer or on an electronic milling machine.
Maximum penalty: imprisonment for 14 years.
- (2) Subsection (1) does not apply to a person who is:
- (a) authorised by a licence or permit to manufacture the firearm concerned, or
 - (b) acting in the ordinary course of the person’s duties as a member (other than a police officer) of the Police Force.
- (3) In this section:
digital blueprint means any type of digital (or electronic) reproduction of a technical drawing of the design of an object.
possession, of a digital blueprint, includes the following:
- (a) possession of a computer or data storage device holding or containing the blueprint or of a document in which the blueprint is recorded,

- (b) control of the blueprint held in a computer that is in the possession of another person (whether the computer is in this jurisdiction or outside this jurisdiction).

51G Defences for offences under section 51F

(1) **Innocent production, dissemination or possession**

It is a defence to a prosecution for an offence under section 51F if the defendant proves that the defendant did not know, and could not reasonably be expected to have known, that the defendant possessed the digital blueprint concerned.

- (2) It is a defence to a prosecution for an offence under section 51F if the defendant proves that the digital blueprint concerned came into the defendant's possession unsolicited and the defendant, as soon as the defendant became aware of its nature, took reasonable steps to get rid of it.

(3) **Public benefit**

It is a defence to a prosecution for an offence under section 51F if the defendant proves that the conduct engaged in by the defendant:

- (a) was of public benefit, and
- (b) did not extend beyond what was of public benefit.

- (4) Conduct is of public benefit if, and only if, the conduct is necessary for or of assistance in:

- (a) enforcing or administering a law of the State, or of another State, a Territory or the Commonwealth, or
- (b) monitoring compliance with, or investigating a contravention of, a law of the State, or of another State, a Territory or the Commonwealth, or
- (c) the administration of justice.

- (5) The question of whether a person's conduct is of public benefit is a question of fact and the person's motives for engaging in the conduct are irrelevant.

(6) **Approved research**

It is a defence to a prosecution for an offence under section 51F if the defendant proves that the conduct engaged in by the defendant:

- (a) was necessary for or of assistance in conducting scientific, medical, educational, military or law enforcement research that has been approved by the Attorney General in writing for the purposes of this section, and
- (b) did not contravene any conditions of that approval.

[8] Section 51H

Insert in appropriate order:

51H Stolen firearms or firearm parts

- (1) A person must not use, supply, acquire or possess a stolen firearm or firearm part or give possession of a stolen firearm or firearm part to another person.
Maximum penalty: imprisonment for 14 years.
- (2) It is a defence to a prosecution for an offence under this section if the defendant proves that the defendant did not know, and could not reasonably be expected to have known, that the firearm or firearm part concerned was stolen.

- (3) This section applies in relation to a stolen firearm or firearm part whether it was stolen before or after the commencement of this section.

[9] Section 62 Shortening firearms

Omit “imprisonment for 10 years” from section 62 (1).

Insert instead “imprisonment for 14 years”.

[10] Section 63 Converting firearms

Omit “imprisonment for 10 years” wherever occurring.

Insert instead “imprisonment for 14 years”.

[11] Section 66

Omit the section. Insert instead:

66 Defaced or altered firearms or firearm parts

- (1) A person must not, unless authorised by the Commissioner to do so:
- (a) deface or alter any number, letter or identification mark on any firearm or firearm part, or
 - (b) use, supply, acquire or possess a defaced firearm or give possession of a defaced firearm to another person, or
 - (c) supply, acquire or possess a defaced firearm part or give possession of a defaced firearm part to another person.

Maximum penalty: imprisonment for 14 years.

- (2) It is a defence to a prosecution for an offence under subsection (1) (b) or (c) if the defendant proves 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).

- (3) In this section:

defaced firearm means a firearm on which any number, letter or identification mark has been defaced or altered.

defaced firearm part means a firearm part on which any number, letter or identification mark has been defaced or altered.

[12] Section 70 False or misleading applications

Omit “imprisonment for 10 years”. Insert instead “imprisonment for 14 years”.

[13] Section 84 Proceedings for offences

Insert “51F, 51H,” after “51E,” in section 84 (2).

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

[1] **Sections 25B and 25C**

Insert after section 25A:

25B Possession of digital blueprints for manufacture of prohibited weapons

- (1) A person must not possess a digital blueprint for the manufacture of a prohibited weapon on a 3D printer or on an electronic milling machine.
Maximum penalty: imprisonment for 14 years.
- (2) Subsection (1) does not apply to a person who is:
 - (a) authorised by a permit to manufacture the prohibited weapon concerned, or
 - (b) acting in the ordinary course of the person's duties as a member (other than a police officer) of the Police Force.
- (3) In this section:
digital blueprint means any type of digital (or electronic) reproduction of a technical drawing of the design of an object.
possession, of a digital blueprint, includes the following:
 - (a) possession of a computer or data storage device holding or containing the blueprint or of a document in which the blueprint is recorded,
 - (b) control of the blueprint held in a computer that is in the possession of another person (whether the computer is in this jurisdiction or outside this jurisdiction).

25C Defences for offences under section 25B

- (1) **Innocent production, dissemination or possession**
It is a defence to a prosecution for an offence under section 25B if the defendant proves that the defendant did not know, and could not reasonably be expected to have known, that the defendant possessed the digital blueprint concerned.
- (2) It is a defence to a prosecution for an offence under section 25B if the defendant proves that the digital blueprint concerned came into the defendant's possession unsolicited and the defendant, as soon as the defendant became aware of its nature, took reasonable steps to get rid of it.
- (3) **Public benefit**
It is a defence to a prosecution for an offence under section 25B if the defendant proves that the conduct engaged in by the defendant:
 - (a) was of public benefit, and
 - (b) did not extend beyond what was of public benefit.
- (4) Conduct is of public benefit if, and only if, the conduct is necessary for or of assistance in:
 - (a) enforcing or administering a law of the State, or of another State, a Territory or the Commonwealth, or
 - (b) monitoring compliance with, or investigating a contravention of, a law of the State, or of another State, a Territory or the Commonwealth, or
 - (c) the administration of justice.

(5) The question of whether a person's conduct is of public benefit is a question of fact and the person's motives for engaging in the conduct are irrelevant.

(6) **Approved research**

It is a defence to a prosecution for an offence under section 25B if the defendant proves that the conduct engaged in by the defendant:

- (a) was necessary for or of assistance in conducting scientific, medical, educational, military or law enforcement research that has been approved by the Attorney General in writing for the purposes of this section, and
- (b) did not contravene any conditions of that approval.

[2] Section 43 Proceedings for offences

Insert "25B (1)," after "25A (1)," in section 43 (2).

Schedule 3 Amendment of Criminal Procedure Act 1986 No 209

- [1] Section 268 Maximum penalties for Table 2 offences**
Insert “51F, 51H,” after “51E,” in section 268 (2) (e).
- [2] Section 268 (2) (f)**
Insert “25B (1),” after “25A (1),”.
- [3] Schedule 1 Indictable offences triable summarily**
Insert “51F, 51H,” after “51E,” in clause 7 of Table 2.
- [4] Schedule 1, Table 2**
Insert “25B (1),” after “25A (1),” in clause 8.