

FIREARMS AMENDMENT BILL 2021

Committee

Resumed from 7 April. The Deputy Chair of Committees (Hon Steve Martin) in the chair; Hon Stephen Dawson (Minister for Emergency Services) in charge of the bill.

Clause 6: Section 4 amended —

Progress was reported after the clause had been partly considered.

Hon MARTIN ALDRIDGE: It is great to be back on the consideration of the Firearms Amendment Bill 2021 after an unusual four-week recess of the Legislative Council, I must say, at this time of the year. Nevertheless, let us make some progress, minister.

Minister, when we were last contemplating clause 6, we were nearly finished and we were tying up a couple of issues. One of those was a quite lengthy discussion that commenced on clause 1, but also continued on clause 2, about the repair of firearms. It was not strictly a definitional issue. I think it was a matter of interpretation. During the course of the debate, the minister indicated the government's preference, which was not to clarify the law, but he gave some assurance about what constitutes a repair and what constitutes perhaps maintenance or other activities. The minister indicated to the house then that the government via the Western Australia Police Force would improve the advice and guidance provided to firearms licence holders in Western Australia. In the four weeks that have elapsed, what progress has been made on that matter? Is the minister today in a position to provide that renewed guidance?

Hon STEPHEN DAWSON: I am told that we are waiting for Parliament to finish this process before the website can be updated.

Hon MARTIN ALDRIDGE: Minister, I am surprised by that answer because I thought we had reached some agreement that this matter would not be amended by the bill. In fact, I think the government's argument was that this is a status quo position of the act, and that people had been acting contrary to the act and that the advice and information provided to firearms licence holders needed to be improved in that regard. I struggle to see how the matter requires an outcome from the passage of this bill because we were assured repeatedly that indeed it had nothing to do with this bill.

Hon STEPHEN DAWSON: The comment has been noted, honourable member.

Hon MARTIN ALDRIDGE: Hopefully, before not too long, some further information will be available in that regard. I think this reflects some comments that I made in my second reading contribution that suggested that the WA Police Force could be doing a lot more to improve firearms safety, and also provide advice and guidance to licensed firearm holders, that does not necessarily require legislative action. I think this is one of those instances.

Before we were interrupted on the last sitting Thursday, 7 April, at clause 6, we were contemplating, among other issues, the concept of "things" and the government's newfound appreciation for "things" in legislation. I think there are some 88 references to "a thing" or "things" in the bill before us. This matter is strictly related to clause 6, which will amend section 4 of the act. We were contemplating to what extent "things" were constrained in their definition as they were applied in the various sections of this bill as we go through them. Hopefully, we can conclude the matter now rather than address it throughout the course of the clauses. When we last sat, we were looking at proposed section 29I for example. Proposed section 29I(6) reads —

If the prohibited person cannot immediately surrender a thing referred to in subsection (2), (3) or (4) (for example, because the thing is located or stored at a different place) —

Obviously, that is an example of a thing being limited by what is described in proposed sections 29I(2), (3) or (4). Before I ask my next question, can I just make sure I am on the right path and that the minister agrees with that assessment? Would a "thing" as described in this section be open-ended and allow the police officer to seize or require the seizure of any possible thing or will it be constrained by subsections (2), (3) and (4) in proposed section 29I?

Hon STEPHEN DAWSON: I am advised it is constrained, honourable member.

Hon MARTIN ALDRIDGE: Is there another instance, within the 88 instances to which I have referred, of a thing that will not be constrained by its relevance? I might draw an example here to proposed section 26C(3), which reads —

A member of the Police Force who enters or searches a place or a vehicle may do the following —

- (a) stop and detain the vehicle being searched for so long as is reasonably necessary to conduct the search;
- (b) seize a thing relevant to an offence under this Act.

I assume in this instance the thing that is to be seized must be relevant to an offence under this act. Therefore, it will not allow an officer to seize anything. It will need to be a thing relevant to an offence. My question is: where there

is a reference to “thing”, some 88 of them, are there any references in terms of these types of powers whereby that reference is unconstrained?

Hon STEPHEN DAWSON: As the honourable member pointed out, the bill makes 88 references to the word “thing”. The references to “thing” fall into several categories: specifically defined terms such as “relevant things”, “surrendered thing” and “thing relevant to an offence”, and these are clearly defined in the bill. It is used in headings throughout the bill and features in 13 headings. “Thing” is commonly used in headings of divisions or sections throughout the bill, particularly when referring to “firearms and other things”. The use of “other things” in these headings has been for the simple reason of simplifying the headings so that they can be condensed. In each instance, the divisions or sections outline what “other things” specifically refers to under each heading. Generally, it refers to a collection of firearms-related items such as major firearm parts, ammunition and prohibited firearms accessories. It would be onerous to list these items in each heading, so when sections refer to these items or a portion of these items, the headings often simply refer to “firearms and other things”.

For example, the bill will introduce proposed section 4A, “Possession of firearms and other things”. The section outlines that other things in this context means —

... major firearm part, prohibited firearm accessory, sound suppressor, firearms precursor ... or ammunition ...

Another category is used to define a list of items to the bill. The bill will introduce several sections that make reference to “thing”. In each instance the proposed section and its proposed subsections elaborate on what is meant by the term “thing”. For example, “thing” is used in the definition of “firearms technology”. “Firearms technology” is defined at proposed section 23AG(1), which is introduced by clause 43 of the bill. Proposed section 23AG(1) outlines —

... *firearms technology* —

- (a) a thing that is programmed, configured or otherwise enabled —
- (i) to carry out a step in the manufacture or repair of a firearm ...

Proposed section 23AG(2) further defines —

... a reference to any machinery, equipment, object or device, including the following —

- (a) a 3D printer ...
- (b) a moulding device;
- (c) a milling device;
- ...
- (g) any other prescribed thing.

Another category is to allow for regulations to provide for further things to be prescribed. The bill includes provisions to make regulations. In these instances, as is common practice, the bill refers to “any other prescribed thing”. For example, this is to allow for regulations to prescribe additional things for the purposes of the definitions of “firearm”, “major firearm part”, “prohibited firearm accessory” or “firearms precursor”.

A further category is amendments to other acts. The bill amends several other acts and some of these make reference to a “thing”. To align to the drafting conventions of those acts, the bill also refers to the term “thing” when making amendments. For example, section 378 of the Criminal Code outlines the offences and penalties of stolen things. Clause 68 of the bill increases the penalty for the section 378 offence if the thing that is stolen is a firearm.

Hon Martin Aldridge seemed particularly concerned about the term “thing relevant to an offence”. This term is referenced only three times in the bill—namely, in the defined terms, and in proposed sections 26C and 26D, which are introduced at clause 50 of the bill. These new sections outline what can be seized by police when conducting a search under a firearms prohibition order. That includes a “thing relevant to an offence” as defined in the Criminal Investigation Act 2006.

Hon MARTIN ALDRIDGE: I thank the minister. That is a helpful clarification. On the last occasion on which we considered this bill, Hon Wilson Tucker raised the example of a police officer who discovered a piece of evidence in relation to another crime, such as a drug offence. That obviously is not a “relevant” offence under this bill, but it is probably a relevant offence under other acts. I think the minister’s explanation at that time was that there are provisions in the Criminal Investigation Act that would allow a police officer to make a seizure in those circumstances to, I guess, distinguish between those two likely events.

The last question I have on clause 6 is about the definition of “sound suppressor”. Recommendation 14 in point 3.7 of the Law Reform Commission report was that an amendment be made to the Firearms Act to permit the wider use of silencers, or, in other words, sound suppressors, subject to a number of requirements, which I will not read into

Hansard, but I refer members to that recommendation. Will this bill in any way give effect to recommendation 14 of the Law Reform Commission report by changing the regulations with respect to sound suppressors?

Hon STEPHEN DAWSON: This bill does not deal with recommendation 14. I am advised that that will be part of the rewrite and the other work that is going on.

Hon MARTIN ALDRIDGE: I thank the minister. Deputy Chair, just before you put the question, I do not know whether it will be helpful, but I have an interest in clauses 7, 8, 9, 10 and 12.

Clause put and passed.

Clause 7: Section 4A inserted —

Hon MARTIN ALDRIDGE: Clause 7 seeks to insert a new section 4A titled “Possession of firearms and other things”. This will obviously be relevant later when we talk about firearms prohibition orders, and possession. Proposed section 4A states in part —

A person is in *possession* of a firearm, major firearm part, prohibited firearm accessory, sound suppressor, firearms precursor (other than a firearms precursor that is firearms technology) or ammunition if any of the following circumstances apply —

...

(d) the person occupies, or has care, control or management of, a place where it is found;

Will there be a defence to this provision? I am thinking about how this might implicate an owner or landlord of an investment property if they have a tenant who is a licensed firearm holder but that may not be known to them. No defences are outlined in this proposed section, such as providing a reasonable or lawful excuse. This provision could unknowingly entrap a person who occupies, or has care, control or management of, a place where it is found.

Hon STEPHEN DAWSON: I will give the honourable member an answer by asking his question in a different way: will someone be taken to be in possession of a firearm if they genuinely have no knowledge of being in possession or control of that firearm? I think that is essentially what the member is suggesting. A prima facie case would need to be established that the person was in possession of the firearm. If that prima facie case was not able to be established, it would not be pursued.

Hon MARTIN ALDRIDGE: That is not necessarily a legislative protection; it is an explanation of how WA Police Force would implement and enforce this provision. The person would need to knowingly possess a firearm within the provisions of proposed section 4A(e), and, if that was done unknowingly, it is unlikely that an offence would be prosecuted, notwithstanding that an offence technically or legally has likely occurred?

Hon STEPHEN DAWSON: What the honourable member has just outlined is correct.

Clause put and passed.

Clause 8: Section 5A amended —

Hon MARTIN ALDRIDGE: According to the explanatory memorandum, this clause seeks to amend section 5A of the act to permit the Commissioner of Police to delegate certain powers under the Firearms Act. It provides that the powers to make or revoke a firearms prohibition order may be delegated only to a police officer who holds the rank of commander or above. We discovered on our last sitting day that the firearms branch will not be enforcing FPOs or, indeed, even considering them; the state crime unit will be responsible for that task. How many officers in WA Police hold the rank of commander or above? I recall that the minister said that there are roughly 15 commanders in WA Police. Can the minister clarify how many officers we are talking about?

Hon STEPHEN DAWSON: It would be a maximum of 15. There are currently 15 commander positions within WA Police. It would be up to the commissioner. The commissioner may or may not issue all of those with the ability to do what has been suggested in this clause.

Hon MARTIN ALDRIDGE: There are 15 commanders. These things can change, obviously. The officers ranked above commander would be eligible persons as well. Based on the minister’s last response, the commissioner would have discretion to approve only a subset of those ranks, so only one commander out of the 15 might be authorised as a delegate of the commissioner?

Hon STEPHEN DAWSON: The honourable member is correct, although the intention is to afford the delegation to two commanders within the state crime portfolio. The state crime portfolio includes the serious and organised crime division, which deals with outlaw motorcycle gangs and other serious crimes.

Clause put and passed.

Clause 9: Section 6 amended —

Hon MARTIN ALDRIDGE: I did have a question about sound suppressors, but I think the minister answered that during the debate on clause 6; namely, that apart from changing the language from “silencer” to “sound suppressor”, this bill will make no other substantial change, and it will be contemplated as part of the next stage of the reforms. This clause seeks to amend section 6 of the Firearms Act, which refers to prohibition. I have a question about the Governor’s powers. Section 6(1) of the act will state —

The Governor, on the recommendation of the Commissioner, may make regulations to prohibit the acquisition, sale, possession, or use of any firearm, major firearm part, sound suppressor or ammunition, whether licensed under this Act or not, either —

Then it goes on. Usually the Governor makes recommendations on the advice of government ministers in Executive Council. Is this perhaps an exception to that norm, in that a commissioner will directly instruct the Governor to make regulations, or is this some sort of historical drafting language?

Hon STEPHEN DAWSON: Certainly, we are not proposing a change to the current situation. There are many cases whereby the commissioner, in this portfolio, sends things to the Governor for a decision. That is what happens generally. I cannot say definitely—I think the Minister for Police does—but there are certain things that the commissioner sends to the Governor to make regulations on. That is the language and that is how it happens.

Hon MARTIN ALDRIDGE: I guess that is probably a function of the appropriate independence of the WA Police Force from government. Indeed, there may be matters that are decisions of government, otherwise there may well be matters that are decisions of the commissioner with respect to that person’s independence from government. I have no further questions on clause 9.

Clause put and passed.

Clause 10: Section 7 amended —

Hon MARTIN ALDRIDGE: Clause 10 amends section 7 of the act, a provision titled “Governor may order delivery of firearms by dealers and manufacturers in cases of emergency”. There are a number of changes in this section of the act; some are stylistic and some are definitional. I am wondering whether this provision, section 7 of the act, has ever been invoked.

Hon STEPHEN DAWSON: Not that we know of, honourable member, but although the people around the table are very knowledgeable, we could not be confident that it has not been used historically.

Hon MARTIN ALDRIDGE: Thanks, minister. Obviously, it is a 1973-vintage act, so I would not imagine a fulsome account could be provided. This is obviously a matter of interest, because the minister may recall that the State Emergency Coordinator, who is also the Commissioner of Police, issued a direction that, effectively, closed dealers of firearms and ammunition as a result of the state of emergency. I wonder why this provision, which it seems could have applied in that circumstance, was not used by the Commissioner of Police in cases of emergency and, indeed, his preference was to rely on the Emergency Management Act. That is obviously a much more recent example. Could some advice be provided with regard to that matter?

Hon STEPHEN DAWSON: Sorry, could the member ask the question again? We were talking about the earlier point that he made.

Hon MARTIN ALDRIDGE: Proposed section 7 of the act that we are amending will state —

- (1) Where the Governor is of opinion that any emergency has arisen, or is likely to arise, the Governor may by proclamation declare that all dealers and manufacturers and repairers of firearms in the State, or in any specified portion of the State, having firearms, major firearm parts or ammunition in their possession —
 - (a) shall render the same innocuous by a method to be specified in the declaration;
 - (b) shall deliver the same, or any parts or kinds of the same specified in the declaration, within a time and at a place so specified, to the Commissioner or any specified member of the Police Force, for the purpose of safe keeping.

This is obviously contemplating a situation in which there could be a particular emergency event in Western Australia. Not all that long ago the State Emergency Coordinator issued a direction, pursuant to the Emergency Management Act, which effectively closed and prevented the sale of firearms and ammunition and the like in this state during the then-current state of emergency. Why was this provision of the Firearms Act deficient in any respect with regard to the Governor’s powers to achieve the same?

Hon STEPHEN DAWSON: I am told that this power is held by the Governor and the Governor alone. No-one can direct the Governor to do what this clause suggests. In terms of the state of emergency and the closure of

a premises during the COVID emergency, I am advised that that was based on the closure of the premise and was not based on firearms. The decision was made in that regard.

Hon MARTIN ALDRIDGE: That is an important clarification. I am not quite sure that the minister's comment that nobody can do it but the Governor is accurate. Whenever a Governor appears within an act, it has to reference the Interpretation Act, that the government cannot use or exercise any of his powers, or many of them at least, without direction by government in Executive Council. Is that not the case with this section, and is this the Governor's prerogative alone?

Hon Stephen Dawson: The government may well give a recommendation to the Governor; however, the Governor retains the power.

Clause put and passed.

Clause 11 put and passed.

Clause 12: Section 8 amended —

Hon MARTIN ALDRIDGE: Clause 12 amends section 8 of the act, entitled, "Exemptions from licensing requirements". There are quite significant changes, some of them definitional, but others, found at paragraphs (f) and (fa), have obviously more substantial changes in this quite lengthy section. There are two exemptions provided from licensing requirements. The two that I have an interest in are paragraphs (b) and (d)(ii).

Paragraph (b) is an exemption, strangely, for the Governor to not require a firearms licence. As we know, the next Governor of this state will be the current Commissioner of Police, who I have heard on ABC Radio confirm that he is a firearms licence holder. According to this strange quirk, when he assumes the office of Governor, he will no longer be required to renew or even have a firearms licence whilst serving in that office. Is that correct?

Hon STEPHEN DAWSON: That is correct. This has been a historical issue; however, the intention is that the rewrite of the act would likely tidy this part up.

Hon MARTIN ALDRIDGE: I am sure there is some interesting history around why the Governor would be exempt from such a requirement, given, I mean, obviously the important —

Hon Stephen Dawson interjected.

Hon MARTIN ALDRIDGE: It will be interesting to hear how the government will deal with this when we have a licensed firearm holder assuming the office, and how it will then treat them, given this section. Anyway, we move on.

The other paragraph of section 8 that I am interested in is (d)(ii), which is about an employee of the department. I completely appreciate why a member of the police force would be exempt from having a firearms licence, given the nature of the work that police officers do, but I have a lesser understanding of why an employee of the department would have the protection of an exemption from holding a firearms licence. Could the minister provide some advice?

Hon STEPHEN DAWSON: The bill before us will not change that part of the act. I do not know why it was in there initially. Certainly, there are members who work for the department who are not sworn officers and it might be that they need this power to enable them to do certain parts of their job. I am not sure, but what is before us today will not change the act.

Hon MARTIN ALDRIDGE: I appreciate that, minister, but I think a later clause reaffirms this exemption. It might be when we get to firearms prohibition orders or a later clause that reasserts the exemptions for these two categories— a member of the police force and a member of the department. If I am not mistaken, we will come to that. There may be an unsworn officer in the firearms branch of the police force who may need to be involved in the handling of firearms and the like or even a customer service officer at a police station. They could be circumstances in which somebody who is not a sworn officer of the police force may need to possess and handle a firearm.

Hon Stephen Dawson: I am advised that what you are saying is correct.

Clause put and passed.

Clauses 13 and 14 put and passed.

Clause 15: Section 11 amended —

Hon MARTIN ALDRIDGE: Clause 15 seeks to amend section 11 of the Firearms Act. I have just one question about the inspection requirement. In the blue bill, section 11(7) says —

Without limiting the other grounds on which an application may be refused, the Commissioner may refuse an application if satisfied that the applicant has —

...

- (c) refused to permit a member of the Police Force to inspect, at a reasonable time, the storage facilities for any firearms or ammunition that the applicant would be entitled to possess.

We are removing the words “requested in writing” in this subsection and inserting the words “inspect, at a reasonable time”. I wonder what practical implications this may have and how the word “reasonable” may be applied by a member of the WA Police Force in conducting an inspection.

Hon STEPHEN DAWSON: I am told that this clause will remove a significant administrative burden. However, in relation to “reasonable”, my advisers tell me that it is generally thought that the hours of darkness is not a reasonable time to visit somebody.

Hon MARTIN ALDRIDGE: I am just trying to think. We have had similar debates on other bills about what is and is not reasonable for inspections, visits and the like. It obviously leaves it quite open to interpretation. To be honest, I was not aware that there was a written requirement, and I appreciate the administrative burden that that could place on an inspection. In fact, it could well be counterproductive to the inspection itself; for example, it could give somebody who may not be compliant advance notice of an inspection to become compliant. It worries me a little that it leaves it quite open to interpretation, if the only assurance that the minister can give us is that it would be during daylight hours and not three o’clock in the morning or something of that nature, when it clearly would not be reasonable. I probably cannot take that issue any further, apart from taking the minister’s assurance that officers will use the appropriate discretion in ensuring that it is indeed reasonable and appropriate.

Hon STEPHEN DAWSON: That is all I can give the member, unfortunately. I cannot comment on other bills, but my advisers from the police tell me that once it gets dark, it is unlikely that a visit would be made to somebody’s property.

Clause put and passed.

Clauses 16 to 19 put and passed.

Clause 20: Section 15B amended —

Hon MARTIN ALDRIDGE: According to the explanatory memorandum, clause 20 will amend the wording of section 15B to make clear that it is an obligation for an accredited society of collectors to inform the commissioner following the expulsion of one of its members. This is a rather niche amendment and I wonder whether the minister could provide any more guidance on whether this issue has arisen and perhaps the context of the problem that we are addressing.

Hon STEPHEN DAWSON: There was a recommendation from the Law Reform Commission for a small wording change in section 30B from “is required to” to “must”. We are just copying that in this section.

Hon Martin Aldridge: So that was one of the recommendations listed?

Hon STEPHEN DAWSON: Yes, that was indeed. I am told further that it is a more modern way to draft such a provision by using the word “must” as opposed to “is required to”.

Clause put and passed.

Clause 21 put and passed.

Clause 22: Sections 16 and 16A replaced —

Hon MARTIN ALDRIDGE: Clause 22 will replace sections 16 and 16A of the Firearms Act. It is quite a substantial change in clause 22. Sections 16A and 16B relate to firearms licences and approvals in relation to firearms licences. Will there be any material change in the way in which different licences are described and applied? Because it is such a significant change—the amendment goes over many pages and is a complete rewrite of current sections 16 and 16A—what will the material differences be? If, for example, I hold a shooting gallery licence or a manufacturer’s licence, will the principles that apply now still apply with the passage of the bill or will there be any transformational change in this respect?

Hon STEPHEN DAWSON: It is a major firearm part; there will not be any changes. Can I just put this on the record: clause 22 repeals the existing sections 16 and 16A and incorporates them in modified content into different subsections for different types of licences and approvals to allow greater clarity between the different types of licences, and to include the concept of a major firearm part. The only significant changes are to sections 16B and 16E, which introduce an ability for individuals to apply to possess replacement or additional major firearms parts, and section 16J, which introduces an ability for individuals to apply to create, develop and be in possession of firearms technology.

Clause put and passed.

Clauses 23 and 24 put and passed.

Clause 25: Section 17B amended —

Hon MARTIN ALDRIDGE: Clause 25 is one of the changes with respect to the issue that I spoke about earlier, the issue of silencers, or sound suppressors as they are now referred to. This clause is, in a quite significant way, the replacement of the word “silencer” with “sound suppressor”. I have a question on this clause. I recognise that the government is contemplating the Law Reform Commission’s work on the more significant reforms that are coming. Under the current section 17B(3)(f), the inspector must surrender a sound suppressor obtained by the inspector to a member of the police force at the nearest police station. I was a little confused when reading this clause with respect to how police currently regulate sound suppressors. The way I read the current section is that there are legitimate reasons for a sound suppressor being used, largely for vermin control and those types of activities. Is it the case that if a person is approved, the sound suppressor, when not in use, needs to be held by a police station, or does the police station provide a sound suppressor for that purpose?

Hon STEPHEN DAWSON: I am told that it is only agricultural inspectors who can have a sound suppressor that is approved by the minister in Western Australia. Only if they are asked to be relinquished would they go to a police station.

Hon MARTIN ALDRIDGE: Perhaps the more relevant section is section 17B(3)(a), which states that an agriculture inspector to whom an authority has been granted shall, when he requires the use of a silencer, obtain one from a member of the police force at the police station nearest to the area in which he proposes to use the silencer. Is it the case that the agriculture inspector will simply keep the sound suppressor for safekeeping at the nearest police station and access it as required, or will the police force provide that person with a sound suppressor?

Hon STEPHEN DAWSON: The bill before us has not changed what the act currently says. I am told that it is the agriculture department that has the sound suppressors, not the police station or the police in this regard. That is the current practice.

Clause put and passed.

Clause 26 put and passed.

Clause 27: Section 18 amended —

Hon MARTIN ALDRIDGE: This is a very small change to a large section, section 18 of the act. According to the explanatory memorandum, this clause amends section 18(6) to extend the commissioner’s licensing power to include granting an approval within the scope of this provision. That obviously makes some sense, but I am trying to understand what the existing problem is that we are trying to resolve here. The previous words were “issue to the applicant a licence or permit”, and we are changing it to “grant or issue to the applicant a licence, permit or approval”. Why was this change required? Are we expanding or, indeed, constraining the commissioner’s powers?

Hon STEPHEN DAWSON: I am advised that the issue was brought up through case law. A judge made a decision that it should be read as if it confers a power to grant an approval, so a change was made subsequent to that decision.

Clause put and passed.

Clause 28 put and passed.

Clause 29: Section 19 amended —

Hon MARTIN ALDRIDGE: Clause 29 amends section 19. Under section 19(1), any person who sells, delivers or disposes of any firearm, major firearm, part or ammunition and is not the holder of a licence or permit under the act entitling them to do so will commit a crime unless subsection —

Hon Stephen Dawson: Honourable member, what are you reading from?

Hon MARTIN ALDRIDGE: I am looking at proposed section 19(1) of the blue bill. We are amending section 19, and I am looking at proposed section 19(1), and the amendments here, which refer to subsection (1ad)(a). If they commit a crime, unless subsection (1ad)(a) or (1ac) or section 19AA provides otherwise, section 8 applies. I am wondering why subsection (1ad)(a) is relevant now. Is that a subsection that we are inserting and is relevant to the new provisions?

Hon STEPHEN DAWSON: Clause 20 inserts proposed subsection (1ad)(a) into section 19 to clarify that it is not an offence to be in possession of a firearm, major firearm part or ammunition, if the person is in charge of either the vehicle or place where the item was found, and the item was in the lawful possession of another person at the time.

Hon MARTIN ALDRIDGE: The issue I have is that I cannot locate proposed subsection (1ad)(a) in the bill. I assume that is because it does not refer to another act but refers to a section in the current act. But subsection —

Hon Stephen Dawson: By way of interjection —

Hon MARTIN ALDRIDGE: Sorry; I just worked it out! All good; thanks, minister.

Clause put and passed.

Clauses 30 to 34 put and passed.

Clause 35: Section 22 amended —

Hon MARTIN ALDRIDGE: Clause 35 will amend section 22 of the act quite significantly. The heading will be renamed “Reviews by State Administrative Tribunal”. My interest here, minister, is an amendment to this section, which was not present before, for the so-called clause 5 matter protections. What is the purpose of issuing this clause 5 matter protection? As I understand it from the explanatory memorandum, a clause 5 matter relates to confidential intelligence information identified by the commissioner. Why is there a need for this to be inserted in this review provision now?

The second part of that question is: are there examples of this in other areas within the statutes that provide for these similar exemptions to apply?

Hon STEPHEN DAWSON: The grounds for making an FPO are likely to be supported by confidential intelligence information and information from sources that must remain protected. This confidential intelligence information, identified by the commissioner, is referred to in the bill as “clause 5 matter” and is information that is currently exempt from disclosure under schedule 1, clause 5 of the Freedom of Information Act 1992. Information that is intended to be captured by the definition of “clause 5 matter” includes, but is not limited to, all information regarding content and sources that is contained within Western Australia Police Force state intelligence holdings. In relation to the member’s second question, I am advised that this has been taken from the Criminals Organisations Control Act—another piece of legislation.

Hon MARTIN ALDRIDGE: If this new protection, under this drafting, is put in place, will it be the case that when an FPO decision is made and somebody seeks a review from the SAT of that decision, would this new protection prevent the tribunal from requiring certain documents or information from the WA Police Force to make its decision? If that occurs, how will that advantage or disadvantage the applicant or, indeed, the respondent? If significant proportions of the information that police rely upon are clause 5 matter-protected information, it may prove difficult for the police, in seeking to uphold a decision of the tribunal, if a significant proportion of its evidence is protected matter. I am not sure whether the minister follows where I am going but perhaps if he could respond to that. The other thing I am contemplating is: would it allow the commissioner, notwithstanding these protections, to voluntarily provide clause 5 matter to the tribunal?

Hon STEPHEN DAWSON: The commissioner would provide the material to the tribunal, but the information cannot be made public, essentially. The tribunal can make a decision or a determination based on all available information, but just that information—that clause 5 matter—cannot be made public.

Hon MARTIN ALDRIDGE: That is an important clarification because I can see situations in which it could disadvantage the state’s defence of an application. In terms of protecting that information, obviously it prevents the publication of that information, but would it also prevent the applicant from having access to that information? Is it literally the tribunal member or members who would have access to that protected information but would not allow the applicant—the person seeking review—to prosecute an argument or defend anything that is said or discovered during that process?

Hon STEPHEN DAWSON: Yes, the member is correct.

Hon MARTIN ALDRIDGE: I have one last question. Given that this protection does not exist, as I see it, in the current section 22, does the protection exist in a different perhaps inferior form, or is it the case that if the police wish to defend an application for review now, they have to do so knowing that they either provide the information and it potentially becomes public or they do not provide the information, therefore weakening the state’s defence in the review application?

Hon STEPHEN DAWSON: That information is not provided at the moment because protection does not exist.

Clause put and passed.

Clauses 36 to 41 put and passed.

Clause 42: Section 23 amended —

Hon MARTIN ALDRIDGE: Clause 42 amends section 23, “General offences”, of the act. It is quite a significant section over a number of pages. However, I have some discrete inquiries in this area. Page 21 of the explanatory memorandum states —

- the person is considered to be in possession of the sound suppressor merely because they occupy or manage the place where it was found, as long as it is in the lawful possession of another person at that time. The same applies to a person in charge of a vehicle.

The preceding paragraph states —

Section 23(6), (7) and (7a) contain two offences relating to the unlawful possession and use of a silencer. These offences are repealed and replaced with updated terminology (“sound suppressor”). An exemption to these offences is inserted in respect of members of the armed forces or other specified disciplined forces acting in the course of their duty. Furthermore, a person is not considered to be in unlawful possession of a sound suppressor if:

- the person is permitted to receive a sound suppressor being surrendered;

Then the second dot point, which I just read out, states —

- the person is considered to be in possession of the sound suppressor merely because they occupy or manage the place where it was found ...

This is a different approach to the one taken earlier in that it will be an offence for a person to manage, control or occupy a place that has a firearm, firearm part or a couple of other things if they are under a firearms prohibition order. Why is this being treated differently—or on my reading it appears to be treated differently—from sound suppressors in that it is okay to be in the company of one as long as it is in the lawful possession of another person at the time?

Hon STEPHEN DAWSON: Honourable member, we are struggling to understand the question, so perhaps you might ask it in a different way.

Hon MARTIN ALDRIDGE: This proposed section is about offences relating to the unlawful possession and use of a silencer. In the explanatory memorandum, the second dot point for proposed sections 23(6), (7) and (8), refers to a carve-out. It states —

- the person is considered to be in possession of the sound suppressor merely because they occupy or manage the place where it was found, as long as it is in the lawful possession of another person at that time.

The preceding sentence states —

Furthermore, a person is not considered to be in unlawful possession of a sound suppressor if:

...

- the person is considered to be in possession of the sound suppressor merely because they occupy or manage the place where it was found, as long as it is in the lawful possession of another person at that time. The same applies to a person in charge of a vehicle.

It seems to me as if a different approach is being taken with this carve-out for sound suppressors. The minister may recall that in debate on an earlier clause I asked a question—I may have difficulty locating it now—about somebody who manages, controls or occupies a place, and we talked about knowingly or unknowingly being aware of that. I am just wondering why it would be okay for someone subject to a firearm possession order. It would not be okay for them to be in the company of somebody who possesses a firearm or a firearm part or ammunition, but it would be okay to be in the company of somebody who lawfully possessed a sound suppressor. Perhaps I am misreading this. I am just trying to understand or reconcile those points of view.

Hon STEPHEN DAWSON: I think I remember we were talking about clause 29 and why proposed subsection (1ADA) had been added in as an exemption to the offence. Clause 29 will add subsection (1ADA) into section 19 to clarify that it is not an offence to be in possession of a firearm, major firearm part or ammunition if the person is in charge of a vehicle or place where the item is found and the item was in the lawful possession of another person at the time. I am told in relation to what is before us now that it is the essentially same. It has just been re-termed because it has to do with the sound suppressor.

Hon MARTIN ALDRIDGE: I think my confusion may be coming from the fact that these are general offence provisions that apply to any person, not just a person to whom an FPO has been served. We were talking before about somebody subject to an FPO not being able to do certain things such as be in possession of something, be in the company of someone or be in or occupy a place that has such a thing. I think my confusion may arise here because these offence provisions apply generally and not just to somebody who is subject to an FPO. Proposed sections 23(6) onwards relate to a series of matters related to sound suppressors and this culminates in proposed subsection (7C), which says —

(7C) A person does not commit an offence under subsection (7) if —

- (a) the person is in possession of a sound suppressor in a place or vehicle solely by reason of section 4A(d) or (e); and
- (b) the sound suppressor is in the lawful possession of another person at that time.

Unless the minister tells me that I am on the wrong track, I think that my confusion arose because this applies generally as opposed to just somebody subject to an FPO.

Hon STEPHEN DAWSON: The member is correct. And, of course, sound suppressors are particularly dangerous.

Hon MARTIN ALDRIDGE: I have another question about—this is such a long clause—proposed section 23(9)(e), which again goes to storage. We did discuss this. I will not revisit the same issues about what is reasonable and not reasonable or the written notice requirement that is going, but I have one question here. Could the minister provide some advice about the current approach taken by the WA Police Force for a member of the police inspecting storage facilities? Is it something triggered at particular stages? Is somebody applying for a licence for the first time? Would it be triggered when somebody applies for an additional firearm? Is there an approach taken to random inspections of storage facilities? Could the minister provide some guidance on this matter? I think we learnt earlier in debate on clause 1 and, indeed, in the minister’s second reading reply that quite a significant number of the examples that have been used in the course of this debate relate to licensed but stolen firearms. I wonder whether the minister could shed some light on the approach taken with these types of inspections.

Hon STEPHEN DAWSON: Currently, random inspections are based on a risk matrix. A letter is sent two weeks ahead of time and then contact is made just before the attempt. So potentially the day before they say, “We’re coming tomorrow; we’re going to be in at two o’clock. Have your stuff ready.” I think the suggested changes probably give the community a lot more confidence than currently exists.

Hon MARTIN ALDRIDGE: The minister can take this as a comment. I think this is an area where there could be improved compliance. I know this is probably done by ordinary officers in the course of their duties, so these types of tasks will probably only ever be prioritised when sufficient resources allow them to be prioritised. I am not aware of a class of officer who traverses the state conducting storage facility inspections. This is one of the areas, one of the non-legislative improvements, that the government could consider to improving community safety, particularly in the context of the examples we have contemplated during the course of debate on this bill so far, which I think in the main have involved licensed yet stolen firearms.

Hon STEPHEN DAWSON: I am told that there are compliance officers dedicated to the law currently.

Clause put and passed.

Clause 43: Part 5 Divisions 2 to 4 inserted —

Hon MARTIN ALDRIDGE: I have one discrete question, minister. It is probably easiest to refer to page 22 of the explanatory memorandum, which reads —

Section 23AF Participating in unauthorised manufacture, repair or dealing in firearms and other things

Section 23AF creates an offence for a person to participate in a “firearms activity” without a valid licence. The offence is realised whether or not all steps in the activity are completed. The penalty for this offence is imprisonment for 14 years.

This question will be similar to one that I asked earlier. The explanatory memorandum continues —

To provide clarity, “**participates**” in a firearms activity includes:

It then lists three dot points but I am particularly interested in the third dot point that states —

- providing a place (that the person has in some way care of) for any part of the process.

In my earlier example, a person who owns a property, whether it be commercial or residential, might then lease that property to a person who unlawfully engages in a firearms activity. Technically and legally that person who owns the property could well be committing an offence under proposed section 23AF in terms of their participation. Can the minister again provide some assurance with respect to the approach that the police force might take in that example of someone knowingly versus unknowingly participating in such an activity?

Hon STEPHEN DAWSON: I am told that the evidentiary burden would be on the Western Australia Police Force to show that it is a prima facie case in this regard.

Clause put and passed.

Clauses 44 to 46 put and passed.

Clause 47: Section 24 amended —

Hon MARTIN ALDRIDGE: Again, this is another discrete inquiry. It is probably best to reference the explanatory memorandum at page 24, which states —

Clause 47(3) inserts new sections 24(3A) and (3B) to provide Police with powers to access devices that may store firearms technology. If Police suspect on reasonable grounds that any person is in possession of firearms technology, Police may direct the person to provide a password or other required information to access the technology.

Failure to comply with this direction is a crime and the penalty is imprisonment for 10 years. The summary conviction penalty is imprisonment for 3 years.

This amends section 24 of the Firearms Act. I will now turn to the blue bill in which proposed section 24(3B) states —

A person who refuses or fails without lawful excuse to comply with any direction given by a member of the Police Force under subsection (3A) commits a crime.

In the blue bill proposed subsection (3A) states —

A member of the Police Force who suspects on reasonable grounds that a person is in possession of firearms technology may direct that the person provide a password, device or some other information or thing to enable the member of the Police Force to access the firearms technology.

I will make two points here. This is one example that is not constrained with relevance to an offence or some other matter; it is very open-ended. The other point that I will make is that clearly, when we are dealing with offences relating to firearms technology, the power of seizure will need to be much broader than that for perhaps traditional firearms, firearms parts and the like given the nature of manufacture and related matters. What would be a lawful excuse for refusing to comply with this section?

Hon STEPHEN DAWSON: I am told that that would depend on the time, place or circumstance of the issue. I am not able to give the member an example.

Hon MARTIN ALDRIDGE: Perhaps I will give the minister a couple of examples and see where we might be on these. One example involves legal professional privilege. If we could imagine the types of people to whom a firearms prohibition order might apply, or, indeed, just generally with respect to the offence of manufacture and firearms technology—again, these are general enforcement matters that are not necessarily strictly related to the FPO scheme, which we will shortly come to. These people may well be involved in other legal matters given the nature of these types of offences. Would legal professional privilege be one example of where a lawful excuse may well exist? How would WA police deal with the circumstance in which the compulsion to provide access to a device may well divulge material that is subject to legal professional privilege?

Hon STEPHEN DAWSON: I am told that it would, again, depend on the time, place and circumstance as to whether that might be reasonable.

Hon MARTIN ALDRIDGE: I suspect that I will get the same answer to this next question. The other example that I had to offer was where a claim of parliamentary privilege was made to an officer who sought to use powers under proposed subsection 3A and require that a person provide a device or a password to a device. How would an officer react to a situation in which a person claims that the device is subject to parliamentary privilege?

Hon STEPHEN DAWSON: In that case it would be up to the court or the Parliament to decide whether it was an appropriate excuse.

Clause put and passed.

Clauses 48 and 49 put and passed.

Clause 50: Part 7 Division 2 inserted —

Hon MARTIN ALDRIDGE: For the minister's benefit, the only clauses that I have left to ask questions on are clauses 50 and 53, which both relate to the FPO scheme. Other members might be interested in this section as well. Clause 50 inserts into the Firearms Act part 7, division 2 titled "Enforcement powers relating to firearms prohibition orders". Later in clause 53 we will consider the scheme itself, which will be inserted as part 8 of the Firearms Act. I probably have more questions on clause 53, but with respect to the enforcement powers—in fact, I probably have a question that applies to both clauses so I best ask it here to not miss the opportunity. The report of the Law Reform Commission of Western Australia stated under recommendation 127 that the Firearms Act 1973 should be amended to provide for firearms prohibition orders. The report, obviously, canvassed how these schemes operate in other jurisdictions—namely South Australia and New South Wales. That resulted in recommendation 127 and a number of sub-recommendations, which I will not read in the interests of time. The minister identified at clause 1 that this was one of the clauses of the bill that will implement a recommendation of the Law Reform Commission report. I am just wondering to what extent we are creating an FPO scheme that is consistent with the Law Reform Commission report and to what extent we may be deviating from its recommendations.

Hon STEPHEN DAWSON: The Law Reform Commission report came down in 2016 and there have been reviews of FPO schemes in other jurisdictions since that time. The state government believes that it has largely met the spirit of the Law Reform Commission's recommendations, but it has taken on board learnings from those other jurisdictions that have had reviews since 2016.

Hon MARTIN ALDRIDGE: There is an obvious difference that I think is probably more relevant to clause 53, which is the application of an order. I think the Law Reform Commission recommended five years, but I am pretty

sure that under the bill before us it is a period of 10 years. However, I think that matter is contained in part 8, which we are coming to.

Hon Stephen Dawson: Honourable member, I am happy to answer that. Although the Law Reform Commission did recommend a five-year duration, through liaison with other jurisdictions, the WA Police Force learnt that five years was not adequate, particularly for members of serious and organised crime groups, where it is not uncommon to be a lifelong member. The bill aligns with the Victorian scheme, in which an FPO is in place for 10 years. The essence of going for 10 years is to give people enough opportunity to change and be in a position to potentially get back their licences. In New South Wales, FPOs do not have an expiry date. It should be noted that under the bill, the commissioner will be able to revoke an FPO at any time. This power might be used in instances in which an individual's circumstances have changed and they no longer pose a threat to the community.

Hon MARTIN ALDRIDGE: I thank the minister. I am just looking at recommendation 127.3, which states —

The entry, search and seizure powers in respect of firearms prohibition orders should be as contained under the current section 24 of the *Firearms Act 1973* ... that is, the powers may be exercised as reasonably required for the purpose of ensuring compliance with a firearms prohibition order and can be exercised without warrant if:

- a. the member of the WA Police is reasonably of the opinion that there is an immediate threat of harm being suffered by a person;
- b. the delay that would be involved in obtaining a warrant would be likely to increase the risk or extent of such harm; and
- c. gives the Police Commissioner, after the powers are exercised, a written report explaining the reason for that opinion.

If an officer exercises powers without a warrant, will there be any requirement for that officer to give the police commissioner, after the exercise of those powers, a written report explaining the reasons for that opinion?

Hon STEPHEN DAWSON: If section 24(2)(a) is used, then section 24(7) requires a report. In relation to other instances, a threshold will need to be met. In regard to a prohibited person, the search must be reasonably required for the purposes of determining whether a prohibited person has committed an offence under part (a), and for a person in the company of the prohibited person, if the police officer suspects on reasonable grounds that the person has committed an offence under part 8. These thresholds align with recommendation 8 of the report published by the New South Wales Legal Affairs Committee, which was tasked with reviewing the New South Wales Firearms and Weapons Legislation Amendment (Criminal Use) Bill 2020. The requirement to prepare a report for the Commissioner of Police after a search under this power would be unnecessary considering that a threshold test must be met. It would also be onerous on police resources and would prevent the legislation from being effectively used.

Hon MARTIN ALDRIDGE: I think the section the minister just quoted with respect to the two tests was proposed section 26C(1)(a) and (b), which states —

- (a) may be exercised only if reasonably required ...; and
- (b) may be exercised at any time after the service of a firearms prohibition order ...

I am not sure to what extent that recommendation has been adopted, because I cannot see a specific requirement in the bill. In fact, there may be good reasons that there should not be. I think that could flow from the number of FPOs that are likely to be implemented, which we will come to at clause 53. The other question I had was about recommendation 127.5. Actually, I might leave that question until we get to clause 53, because it is more relevant to the scheme itself than to the current clause that we are on, which concerns enforcement powers. I will leave that question until then.

Clause put and passed.

Clauses 51 and 52 put and passed.

Clause 53: Part 8 inserted —

Hon MARTIN ALDRIDGE: I might ask that question now before I get to my other questions. Recommendation 127.5 of the Law Reform Commission report states —

A decision to make a firearms prohibition order should be reviewable, unless such person would already have been ineligible to possess or use a firearm under another non-reviewable provision of the *Firearms Act 1973* (WA).

Of course, this is part of a recommendation that I do not think has been implemented, because there is no such restriction. In fact, I think it is unrestricted in that any person subject to an FPO can apply for a review whether or not they are an eligible firearm licence holder. That is because the scheme we are considering at the moment will apply

to both people who hold a firearms licence and those who do not hold a firearms licence, and will prohibit them from being in the company of certain people and devices.

Hon Stephen Dawson: By way of interjection, you are correct.

Hon MARTIN ALDRIDGE: That is good. Clause 53 will insert part 8, titled “Firearms prohibition orders”, into the act. There was quite a bit of discussion of the FPO scheme during the debate on clause 1. If I am not mistaken, Hon Wilson Tucker asked some questions about the oversight or protections there will be in terms of the application of an FPO. Obviously, and clearly, one of those is that every FPO decision will be subject to review by the tribunal if such a person desires. I think the minister’s response also made reference to proposed section 29A(1), which is —

- (1) The Commissioner may make an order (*a firearms prohibition order*) against a person if the Commissioner is satisfied that —
 - (a) possession of a firearm, major firearm part, prohibited firearm accessory or ammunition by the person would likely result in undue danger to life or property; or
 - (b) the person is not a fit and proper person to possess a firearm, major firearm part, prohibited firearm accessory or ammunition; or
 - (c) it is otherwise in the public interest to make a firearms prohibition order against the person.

I am pretty sure that mirrors the recommendation of the Law Reform Commission report or at least largely follows what those three limbs follow.

We have heard a lot of commentary about the types of people who are likely to be subject to a firearms prohibition order. Organised motorcycle gangs, terrorists and family violence offenders are the three categories that we quite often hear reported as the targets of this legislation. I am wondering whether the minister can provide any further explanation of how the commissioner or his or her delegate will make judgements with respect to proposed section 29A(1)(b), “the person is not a fit and proper person” and (c), “is otherwise in the public interest”. The second reading speech referred to —

The FPO scheme will give the Commissioner of Police or his delegate the power to make an FPO against a person who should not be in possession of a firearm. Although members of OMCGs are clearly target candidates for FPOs, terrorist suspects and serious family violence offenders are among others who will also fall within their remit.

The second reading speech clearly identified those three categories. I am pretty sure people who might be characterised by those three definitions would fall foul of all three tests, but I am wondering whether the minister could provide any guidance on who is a fit and proper person and what is in the public interest.

Hon STEPHEN DAWSON: If I take family violence offenders for example, some people who experience family violence may not go through the court process. For example, if the police have been involved and they decide that for whatever reason they will not proceed, the judiciary would have no knowledge of that family violence having taken place. The police, however, would and so that could be an example of someone not being fit and proper.

The police may have intelligence that a right-wing extremist, for example—it might not be a terrorist—has potentially been following terrorist organisations or whatever, and they may decide it is not appropriate for them to continue to go to the shooting range to continue to get lessons or whatever. That would be another example.

Hon MARTIN ALDRIDGE: I think that is helpful, particularly with respect to the family violence example. Is this where the clause 5 matter of protection will be quite beneficial? If police have regular interactions with a particular family, they may have particular intelligence about offending, but that offending has not resulted in a charge, a prosecution or a conviction; that would all be relevant information in perhaps defending on application to the tribunal and would not necessarily on the face of it be a public conviction of a person for an offence against the Criminal Code or something of that nature. I guess bringing that family violence example that the minister has provided would allow the commissioner, or his or her delegate, to form a view that a person is not a fit and proper person without necessarily having an arbitrary or a restricted definition that would require somebody to be effectively charged or convicted of an offence or offences to be judged as a person who is not fit and proper to have or have access to firearms.

Hon STEPHEN DAWSON: The short answer is yes. This will essentially protect the victim from being re-victimised.

Hon MARTIN ALDRIDGE: Three examples of particular offences were given in the second reading speech. One was with respect to an incident that occurred at Perth Motorplex. The others were an incident linked to organised crime in which a man was arrested in East Perth after holding a motorist at gunpoint and a drive-by shooting in the suburb of Port Kennedy. Three examples in support of an FPO scheme were given in the second reading speech. A further three examples of firearm-related offences were given in the clause 1 debate. One was a mass shooting at Osmington, near Margaret River. The other was the execution of a search warrant in Helena Valley where an

illegal firearm–manufacturing facility was located. The third one was a search warrant executed in Warnbro where five illegally manufactured firearms were located.

Section 20 of the Firearms Act is the appropriate section for revocation. In fact, the section is called, “Revocation, cancellation, refusal to renew and variation”. I think section 20 is the relevant section under which a person who holds a licence can indeed have their licence suspended or indeed removed from them for a range of reasons. The subsection goes over two pages. I think what I have heard in the course of the public debate—when I say the “public debate”, I mean the debate outside the chamber is this section is deficient in many respects. This section can apply only to someone who is a firearm licence holder.

The FPO scheme is superior in that it can apply to a person who is not a firearm licence holder. We have heard that the FPO scheme will seek in part to address the particular circumstance in which the police have revoked or suspended a firearm licence, particularly in the context of family violence, and that has not been upheld by the State Administrative Tribunal on review. Can the minister provide any advice, or even confirmation, about the challenges that police face in the application of the current section 20 of the Firearms Act in that context, and why we need an FPO scheme to allow the police to use these powers in those circumstances?

Hon STEPHEN DAWSON: Section 20 is a short-term solution. FPOs are in place for 10 years, so for a long period of time; therefore, they provide more protection. We have already touched on the fact that section 20 relates solely to a licensed firearm holder. FPOs can apply to a person who is not a licensed holder. The proposed change in the bill before us is that it will help protect the information that forms the basis of the revocation. At the moment, there is no protection of that information.

Hon MARTIN ALDRIDGE: The specific circumstance that I have heard articulated is that police have revoked or suspended firearm licences from family violence offenders or people who are alleged to have committed heinous crimes, and that has been overturned by SAT. That is what has been put forward publicly. Is that situation correct? Is that actually occurring; and, if it is, to what extent is it occurring? How will clause 5 of this bill, which deals with the FPO scheme, address that concern?

Hon STEPHEN DAWSON: I cannot comment on what the honourable member has heard outside of the Parliament and what is happening in SAT. Under clause 53, police have to build an application, and that needs to be approved by the commissioner. An inspector is involved in that work. Approval then has to be provided by a superintendent, and then by a delegate of the commissioner, that being one of those commanders whom we spoke about earlier. I am further advised that a new quality and assurance unit is being established at WA Police Force to focus on the guidelines around this area.

Hon MARTIN ALDRIDGE: We learnt during the debate on clause 2 that some information technology infrastructure upgrades will be required with respect to, I think, the FPO scheme or the introduction of the FPO scheme.

Hon STEPHEN DAWSON: The whole bill will have some IT requirements.

Hon MARTIN ALDRIDGE: Okay. I did not think the other aspects of the bill were that significant in comparison with this new FPO scheme. Is there any update on when the FPO scheme might be implemented? I think the minister had suggested to us that it would be in the second half of this year, closer to Christmas, and that that was subject to a tendering and development process to build or rebuild the appropriate IT infrastructure. Is the government still working towards that time line for when this FPO scheme will come into effect?

Hon STEPHEN DAWSON: We remain on the same time line, honourable member.

Hon MARTIN ALDRIDGE: I refer to proposed section 29K, “Prohibition on prohibited persons entering, or remaining or residing at, certain places”. I will read proposed subsection (2) first —

A prohibited person commits a crime if the person enters or remains at any of the following —

...

- (f) a commercial premises where a firearm, major firearm part, prohibited firearm accessory or ammunition is stored;

Proposed subsection (1) states —

In this section —

commercial premises means any premises (including premises that are also a residence) —

- (a) named and identified in a Dealer’s Licence, a Repairer’s Licence or a Manufacturer’s Licence; or
(b) used by an approved warehouseman to store a firearm, major firearm part or ammunition for another person;

My interest is more in proposed subsection 1(b); I think 1(a) is pretty straightforward. Can I get some understanding of what circumstances or situations would meet the definition of “approved warehouseman to store a firearm, major firearm part or ammunition for another person”?

Hon STEPHEN DAWSON: I am told that the Commissioner of Police has issued a number of approvals to licensed holders to enable them to store the licensed firearms of another person. That is what this refers to.

Hon MARTIN ALDRIDGE: I was thinking that police regulate the commercial transportation of firearms. Companies such as Australia Post, Toll and other courier companies may well be approved by WA Police Force in the transportation of firearms between, say, manufacturers, dealers, and repairers. That is regulated by WA police and they have to be approved for that purpose. Would their warehouses not be captured by this definition? Is it more a place where someone can securely store their firearm, and that is what is being referred to in proposed section 29K(1)(b), as opposed to those types of places that I just described?

Hon STEPHEN DAWSON: I am told they are two different things. The member has referred to approved carriers. They have to be responsible for the firearm all the way through, from pick up and storage, to where it is being delivered. The approved warehouseman—that is a bit of an issue, but anyway, that is what it says—is as I previously explained.

Hon MARTIN ALDRIDGE: The minister pre-empted my next question. I do not want to pause at clause 66 of the bill, but it is a clause that amends various references to gendered language in the Firearms Act. The explanatory memorandum states —

Clause 66 provides a summary table outlining the various changes to gender-biased language throughout the act.

I am wondering why we are inserting a definition that appears to be gendered?

Hon STEPHEN DAWSON: I am told that will be looked at in the more fulsome review of the act.

Hon MARTIN ALDRIDGE: Or, minister, we could resolve this problem right now and the government could move an amendment.

Hon STEPHEN DAWSON: I am very uneasy about making amendments on the fly without seeing whether any other circumstances might be affected. I am very happy to place on the record that we should, in modern contemporary legislation, use gender-neutral language, but my guarantee to this chamber is that this matter will be looked at as part of the broader review into the act.

Hon MARTIN ALDRIDGE: It is certainly not the most significant issue we have dealt with, but this bill will correct some of these issues.

I have just one last question, going back to those six examples. If the minister recalls, the contribution I made during the second reading debate outlined that we obviously want the scheme to be effective. Three examples were given in the second reading speech and three examples were given during the clause 1 debate of types of events that have occurred, some of which have resulted in the death and injury of others that have certainly compromised, to varying extents, community safety, that relate to firearms. They were obviously very different circumstances. Some of them were committed by licensed firearm holders; some were not. Some were committed with stolen licensed firearms; some were not. Is the minister in a position, particularly given those examples have been proffered by the government, to give the chamber some confidence that this scheme will address those types of events from occurring? It would appear that the assassination that occurred at the Perth Motorplex was committed by a person who was both licensed and using a licensed firearm. That being the case, why had that person not had their firearms licence revoked, pursuant to section 20, and how would a firearms prohibition order scheme necessarily have avoided that circumstance from occurring?

Hon STEPHEN DAWSON: I am told that the FPO scheme would have assisted in each of those circumstances, without going into the specifics of each case. I am further advised that the brightest of minds have contributed to the bill before us, and so I am certainly hopeful that this is very good legislation that will stand the test of time and do what was suggested it would do in the second reading speech.

Hon MARTIN ALDRIDGE: Is the Kwinana motorplex incident, which was identified in the second reading speech, still a matter before the courts?

Hon STEPHEN DAWSON: I cannot be confident that the appeals process in relation to the case has come to a conclusion.

Hon MARTIN ALDRIDGE: Without knowing that, I will not seek to pursue that matter any further, but I will say, based on the government’s assurance, that if these type of offenders were known to the government and they were licensed firearm holders, there certainly were powers available to the government in the existing Firearms Act. I appreciate the deficiencies that exist, particularly with persons who are not licensed firearm holders and how

that will improve, but we should not leave this place thinking that these types of events are not likely or not possible to occur, simply by the creation of this FPO scheme. It will still require police to identify and serve, and for that service of the notice to be effective in preventing these types of people who we are trying to address from accessing and using firearms into the future.

Hon STEPHEN DAWSON: One thing we can be confident about, honourable member, is that regardless of the laws that the state has in place, nefarious people will be out there trying to circumvent them. Certainly, I stand behind the legislation that is before the chamber, I commend it to the chamber and hopefully the chamber will support it.

Clause put and passed.

Clauses 54 to 85 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Emergency Services) [4.18 pm]: I move —

That the bill be now read a third time.

HON PETER COLLIER (North Metropolitan) [4.19 pm]: I will make a few comments on the third reading of the Firearms Amendment Bill 2021. I made my contribution to the second reading debate and also the committee stage prior to the four-week recess in what I thought was constructive debate on the bill. I want to make one thing perfectly clear: the opposition alliance is very supportive of this bill, particularly with regard to the notion that we want to take guns away from outlaw motorcycle gangs. We made that quite clear. We are emphatically supportive of that; however, unintended consequences have been presented to the opposition over a sustained period by a plethora of different organisations and individuals, and to me personally. For example, a number of gun associations and organisations, farmers and legitimate gun owners expressed concerns that they were, in fact, going to be caught up in the unintended consequences of this legislation. We were told constantly and unambiguously by the minister that that was not the case and that it would have no impact on them whatsoever. However, this chamber revealed exactly why we needed this element of scrutiny. During the very short committee stage of the bill held prior to the four-week recess, we found that thousands of legitimate gun owners in Western Australia are currently breaking the law by repairing their own guns. The representative minister reinforced that that is the case. Yet again, that shows the value of the committee stage in this place.

Quite frankly, it was frustrating in the extreme to be ridiculed by the Minister for Police over the last few days when he said that we were somehow filibustering on this piece of legislation. Not only was it frustrating, but also it was completely and absolutely wrong. I will explain a couple of things to the minister, because three days ago he said that it was the Liberal Party—not the Nationals WA or the alliance or the crossbench—that was filibustering and delaying this piece of legislation. He said that we had delayed this legislation for six weeks. In politics, you pick your fights, but this is not one of them. We support this legislation. We support taking guns away from outlaw motorcycle gangs, but we also have a legitimate right and an obligation to members of the community who feel that their voices are not being heard, so that is what we did.

The representative minister, who, as always, is very good in this respect, answered all the questions and it was revealed that a lot of legitimate gun owners have been misled. The information that they have been provided means that they have in fact been breaking the law. That is what came out of the committee stage. I make no apology for that. We tried to expedite the legislation as much as we possibly could—I certainly did. I ask members to make a value judgement on whether we filibustered on this bill. The bill was brought on for debate on Wednesday, 6 April, and we have parlous, little time for orders of the day on Wednesdays. I made a 39-minute speech during the second reading debate, Hon Dr Steve Thomas made a 46-minute speech and Hon Martin Aldridge made a 55-minute speech, so the total contribution by the alliance to the second reading debate was two hours and 20 minutes. That is hardly filibustering. Hon Dr Brian Walker spoke for seven minutes and Hon Wilson Tucker spoke for 18 minutes, so that was another 25 minutes. The total duration of the second reading debate on this bill was two hours and 45 minutes—and we filibustered! Give me a break! We spent an exorbitant amount of one hour and 57 minutes in committee before the government's four-week break. I am glad that we did that, because if we had not, legitimate gun owners would have been knocking on our doors and texting us to say that this was not correct. They would have still been confused because they thought that they could repair their guns. That is why it was good. This house performed its role. Sometimes, guys, believe it or not, what we say has not only legitimacy, but credence, and in this instance it most definitely did.

Let us look at what happened then. The assistant police commissioner said on TV on Sunday night that the police desperately needed these guns laws to come in.

A member interjected.

Hon PETER COLLIER: Will you be quiet!

A member interjected.

Hon PETER COLLIER: I am not adding to it at all. I am adding to the debate. If you have a point of order, make it, mate!

A member interjected.

Hon PETER COLLIER: Make your point of order.

The ACTING PRESIDENT: Order, members!

Hon PETER COLLIER: Delay it longer. I will talk for an hour if you like.

The ACTING PRESIDENT: Order! Hon Peter Collier has the call.

Hon Sue Ellery interjected.

Hon PETER COLLIER: No, I am not actually. I have been very accommodating on this bill.

Hon Sue Ellery interjected.

Hon PETER COLLIER: The Leader of the House will want to control her members. I am talking about the time taken for the debate on this piece of legislation, which is entirely within the standing orders.

The government is now using the Western Australia Police Force to present its argument. It is inconceivable to me that the government would put WAPOL in that situation. Why would it do that? If the Minister for Police wants to present the nonsense that we have somehow delayed the passage of this bill, he should not use WAPOL to do his dirty work. That is exactly what happened two days ago, I can assure members. I have enormous respect for WAPOL. Having held the education portfolio, I think we have the best teachers and the best public and non-government education system in the nation, and I say exactly the same about WAPOL. Our police are phenomenal, so the government should not use them for political purposes.

During the committee stage, the final part of the debate that we have just had, there were another two hours of legitimate scrutiny by Hon Martin Aldridge. I do not deny the fact that they were completely legitimate points. He used the opportunity. He did not filibuster. He did not ask any inappropriate questions. He asked some questions for clarity about the legislation—that is all he did. Let me tell members that the sum total amount of time that the opposition used for this bill was six hours and 42 minutes. I would hardly call that filibustering. In an entire week, there is 10 and a half hours for orders of the day—11 hours if we push it and there is no formal business each day. We could have well wrapped up the debate on this piece of legislation in that one week if it had been brought on on the Tuesday. Instead, we did not get it done by the Thursday, and then we got accused of filibustering on it and delaying it for six weeks. It was not six weeks. The minister cannot count. The bill was brought in one week and then there was the government's four-week recess, which made it five weeks. But that is not the point. The point is that what the minister said was manifestly inaccurate. Let me make this perfectly clear: we, as an opposition, totally support the endeavours of the government to take guns out of the hands of outlaw motorcycle gangs. That is why we support the intent of this legislation, but we wanted to identify some issues that had been raised with us by dozens upon dozens of legitimate gun owners. We raised those issues and, as a result, the views that were raised by those legitimate gun owners were seen to be founded.

I thank the representative minister for the manner in which he has handled this bill. The opposition in the alliance is very supportive of the intent of the bill and we most definitely did not filibuster on it; we performed our legitimate right, and that was to identify the issues that were provided to us by relevant members of the community.

Question put and passed.

Bill read a third time and passed.