
c2025-355B
SFF--Shooters, Fishers and Farmers Party

LEGISLATIVE COUNCIL

Terrorism and Other Legislation Amendment Bill 2025

Second print

Proposed amendments

No. 1 **Firearms Ombudsman**

Page 10, Schedule 2. Insert after line 5—

[24A] Part 8A

Insert after Part 8—

Part 8A Firearms Ombudsman

76 Objects of part

The object of this part is to improve decisions of the Commissioner by—

- (a) establishing a Firearms Ombudsman, and
- (b) providing for the Firearms Ombudsman to—
 - (i) review decisions of the Commissioner in relation to licences, and
 - (ii) address complaints or concerns raised by members of Parliament and members of the public in relation to firearms licensing.

77 Appointment of Firearms Ombudsman

- (1) The Governor may appoint a Firearms Ombudsman.
- (2) Schedule 2 contains provisions relating to the Firearms Ombudsman.

77A Functions

- (1) The Firearms Ombudsman has the following functions—
 - (a) to review decisions of the Commissioner in relation to licences, and
 - (b) to address complaints or concerns raised by members of Parliament and members of the public in relation to firearms licensing.
- (2) The Firearms Ombudsman must, when exercising functions, consider the objects and principles of this Act, and the needs of the following—

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- (a) farmers,
 - (b) hunters,
 - (c) sporting shooters,
 - (d) firearm collectors.

77B Powers

The Firearms Ombudsman—

- (a) is entitled to full access to the records of the NSW Police, including police intelligence, and may make copies of, or take extracts from, the records, and
- (b) may visit and examine the Firearms Registry at any time, and
- (c) may require Firearms Registry staff and police officers to supply information or produce documents and things in relation to—
 - (i) decisions of the Commissioner under this Act, or
 - (ii) the operation of the Firearms Registry, and
- (d) may refer matters relating to the operation of the Firearms Registry to other agencies if necessary, and
- (e) may do anything necessary or incidental to the other powers.

77C Duty to report to LECC

- (1) The Firearms Ombudsman has the same duty to report to the Law Enforcement Conduct Commission a matter the Firearms Ombudsman suspects on reasonable grounds concerns or may concern officer misconduct or serious maladministration as the principal officer of a public authority has under the *Law Enforcement Conduct Commission Act 2016*, section 33.
- (2) The Firearms Ombudsman must not exercise functions in relation to a matter referred to in subsection (1).

77D Duty to report to ICAC

- (1) The Firearms Ombudsman has the same duty to report to the Independent Commission Against Corruption a matter the Firearms Ombudsman suspects on reasonable grounds concerns or may concern corrupt conduct as the principal officer of a public authority has under the *Independent Commission Against Corruption Act 1988*, section 11.
- (2) The Firearms Ombudsman must not exercise functions in relation to a matter referred to in subsection (1).

77E Annual report to Parliament

- (1) The Firearms Ombudsman must prepare a report for each reporting year about the activities of the Firearms Ombudsman for the reporting year.
- (2) The report must also include recommendations for the improvement of this Act and the administration of this Act.
- (3) The report must be prepared as soon as practicable after the end of the reporting year.
- (4) The Firearms Ombudsman must give the report to the Minister.
- (5) The Minister must table the report in each House of Parliament no later than 3 months after the end of the reporting year.
- (6) In this section—
reporting year means the year ending on 30 June.

77F Obstruction

A person must not—

- (a) without reasonable excuse, wilfully obstruct, hinder, resist or threaten the Firearms Ombudsman in the exercise of functions under this Act, or
- (b) without reasonable excuse, refuse or wilfully fail to comply with a lawful requirement of the Firearms Ombudsman, or
- (c) wilfully make a false statement to or mislead, or attempt to mislead, the Firearms Ombudsman in the exercise of functions under this Act.

Maximum penalty—50 penalty units or imprisonment for 12 months, or both.

77G Protection of complainant against retribution

- (1) A person must not take or threaten to take detrimental action against another person because a person gives, or proposes to give, information to the Firearms Ombudsman in relation to the exercise of functions under this Act.

Maximum penalty—50 penalty units or imprisonment for 12 months, or both.

- (2) It is a defence to a prosecution for an offence under this section if it is proved that the information was given or proposed to be given in bad faith.

- (3) In this section—

detrimental action means action causing, comprising or involving any of the following—

- (a) injury, damage or loss,
- (b) intimidation or harassment,
- (c) discrimination, disadvantage or adverse treatment in relation to employment,
- (d) dismissal from, or prejudice in, employment,
- (e) disciplinary proceedings.

information includes documents and evidence.

77H Personal liability

- (1) A protected person is not personally subject to liability for anything done—

- (a) in good faith, and
- (b) for the purpose of exercising a function under this Act or the regulations.

- (2) The liability instead attaches to the Crown.

- (3) In this section—

done includes omitted to be done.

liability means civil liability and includes an action, claim or demand.

protected person means—

- (a) the Firearms Ombudsman, or
- (b) a person acting under the direction of the Firearms Ombudsman.

77I Sharing of information with Ombudsman

- (1) The Firearms Ombudsman may give the Ombudsman information obtained by the Firearms Ombudsman in exercising functions under this Act if, in the Firearms Ombudsman's opinion, the information relates to conduct that could be the subject of a complaint under the *Ombudsman Act 1974*.
- (2) The Ombudsman may give the Firearms Ombudsman information obtained by the Ombudsman in exercising functions under the *Ombudsman Act 1974* or any other Act if, in the Ombudsman's opinion the information relates to firearms.
- (3) Information may be given under this section at any time.
- (4) However—
 - (a) the Firearms Ombudsman must not disclose information that could not otherwise be disclosed under this Act or could not be obtained by the Ombudsman under the *Ombudsman Act 1974* or any other Act, and
 - (b) the Ombudsman must not disclose information that could not otherwise be disclosed under the *Ombudsman Act 1974* or could not be obtained by the Firearms Ombudsman under this Act or any other Act.

No. 2 **Costs**

Page 11, Schedule 2. Insert after line 8—

[30A] Section 87A

Insert after section 87—

87A Costs before Supreme Court

- (1) The section applies to judicial review proceedings before the Supreme Court in relation to decisions under this Act.
- (2) The parties must bear their own costs except in special circumstances.
- (3) The Supreme Court must consider the following in deciding if there are special circumstances—
 - (a) whether a party has conducted the proceedings in a way that unnecessarily disadvantaged another party to the proceedings,
 - (b) whether a party has been responsible for prolonging unreasonably the time taken to complete the proceedings,
 - (c) the relative strengths of the claims made by each of the parties, including whether a party has made a claim that has no tenable basis in fact or law,
 - (d) whether the proceedings were frivolous or vexatious or otherwise misconceived or lacking in substance.

No. 3 **Firearms Ombudsman**

Page 11, Schedule 2. Insert after line 16—

[31A] Schedule 2

Insert after Schedule 1—

Schedule 2 Provisions relating to Firearms Ombudsman

section 77

1 Acting Firearms Ombudsman

- (1) The Governor may, from time to time, appoint a person to act in the office of Firearms Ombudsman during the illness or absence of the Firearms Ombudsman.
- (2) The person, while so acting, has all the functions of the Firearms Ombudsman and is taken to be the Firearms Ombudsman.
- (3) The Governor may, at any time, remove a person from the office to which the person was appointed under this clause.
- (4) A person while acting under this clause is entitled to be paid remuneration, including travelling and subsistence allowances, as the Governor may from time to time decide.
- (5) For this clause, a vacancy in the office of Firearms Ombudsman is taken to be an absence from the office of Firearms Ombudsman.

2 Basis of office

- (1) The office of Firearms Ombudsman may be a full-time or part-time office, according to the terms of appointment.
- (2) The holder of a full-time office referred to in subclause (1) is required to hold it on that basis, except to the extent permitted by the Governor.

3 Terms of office

- (1) Subject to this schedule, the Firearms Ombudsman holds office for the term, not more than 5 years, specified in the instrument of appointment, but is eligible, if otherwise qualified, for reappointment.
- (2) A person may not hold the office of Firearms Ombudsman for terms totalling more than 10 years.

4 Remuneration

The Firearms Ombudsman is entitled to be paid—

- (a) remuneration in accordance with the *Statutory and Other Offices Remuneration Act 1975*, and
- (b) travelling and subsistence allowances as the Minister may from time to time determine.

5 Vacancy in office

- (1) The office of Firearms Ombudsman becomes vacant if the holder—
 - (a) dies, or
 - (b) completes a term of office and is not reappointed, or
 - (c) holds office for longer than the relevant term mentioned in clause 3, or
 - (d) resigns the office by written notice addressed to the Governor, or
 - (e) becomes personally insolvent, or
 - (f) becomes a mentally incapacitated person, or
 - (g) is convicted in New South Wales of an offence punishable by imprisonment for 12 months or more, or

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- (h) is convicted other than in New South Wales of an offence that, if committed in New South Wales, would be punishable by imprisonment for 12 months or more, or
 - (i) is removed from office by the Governor.
 - (2) The Governor may remove the Firearms Ombudsman from office for incapacity, incompetence, misbehaviour or unsatisfactory performance.

6 Filling of vacancy

If the office of Firearms Ombudsman becomes vacant, a person must, subject to this Act, be appointed to fill the vacancy.

7 Effect of certain other Acts

- (1) The office of Firearms Ombudsman is a statutory office and the *Government Sector Employment Act 2013*, including Part 6, does not apply to that office.
- (2) The following provisions of an Act do not operate to disqualify a person from holding another office and the office of Firearms Ombudsman or from accepting and retaining remuneration payable to the person under this Act as Firearms Ombudsman—
 - (a) a provision requiring a person who is the holder of a specified office to devote the whole of the person's time to the duties of the office,
 - (b) a provision prohibiting the person from engaging in employment outside the duties of the office.