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these discuss!
26/4/23*



NEW ZEALAND
POLICE
Ngā Pirihimana o Aotearoa

| BRIEFING FOR THE MINISTER OF POLICE | | | |
|-------------------------------------|---|-----|----------|
| Priority | <input type="checkbox"/> Urgent <input checked="" type="checkbox"/> Time-Sensitive <input type="checkbox"/> Routine | | |
| Subject | Arms Regulations - Extension of application date to prevent expiry of a firearms licence, dealer's licence, and endorsements affected by Cyclones Hale and Gabrielle | | |
| Date | 23 February 2023 | Ref | BR/23/35 |

Executive summary

- 1 Loss of power, connectivity and damage to homes and buildings caused by Cyclones Hale and Gabrielle means that some holders of firearms and dealer's licences may be unable to apply for a new licence or endorsement before their current licence expires.
- 2 People in this situation are not covered by the general extension provided in the Arms Act (1983) as amended in November 2022 which enables licences to remain current until a new licence is issued. For a firearms licence to remain current, the application must be made before the current licence expires (section 25A of the Act). When their licence expires, they will therefore be unlawfully in possession of any firearms they hold.
- 3 The Act enables regulations extending the expiry dates of licences and endorsements in the event of an emergency being declared under the Civil Defence Emergency Management Act 2002 (section 74(1)(ea) of the Act).
- 4 There have been two states of emergency declared under the Civil Defence Emergency Management Act 2022 since 10 January 2023 in relation to the impacts of Cyclone Hale. More have been declared or renewed in relation to Cyclone Gabrielle. On 12 February the Minister for Emergency Management declared a state of national emergency for the following Civil Defence Emergency Management Group (CDEMG) areas: Northland, Auckland, Waikato, Bay of Plenty, Tairāwhiti, Hawke's Bay, and Tararua.
- 5 We recommend extending the firearms and dealer's licences, and pest control endorsements of those living in the six CDEMG areas who had not applied for a new licence on or before 10 January and whose licence expired after 11 January due to inability to make an application through an internet site or at a police station. The extension would cease on 1 September 2023. This would give those living in the six CDEMG areas up to 11.59pm 31 August 2023 in which to complete an application and to remain compliant with licensing requirements.

*Overall extension?
up to 11.59pm 31 Aug 2023*

BRIEFING FOR THE MINISTER OF POLICE

- 6 This paper seeks your urgent decision to enable officials to provide the Parliamentary Counsel Office (PCO) with drafting instructions as soon as possible. It is proposed that the Firearms Community Advisory Forum (FCAF) and your Ministerial Arms Advisory Group (MAAG) will be consulted (in confidence) on the regulations before they are forwarded for your submission to the Cabinet Legislation Committee (LEG).
- 7 It is estimated that there are 2,081 licence holders that may be requiring an extension.

Recommendations

Police recommends that the Minister of Police:

- a) **Note** that, due to the impacts of Cyclones Hale and Gabrielle, there are a number of licence holders who may have had their current licence card destroyed by the floods or not able to apply for a new licence or pest control endorsement since 10 January 2023
- b) **Note** that without an extension to their licence or endorsement, these people will be in unlawful possession of any arms item requiring a firearms licence to possess and unable to purchase a firearm, firearm part or ammunition which they were able to legally under their previous licence or endorsements
- c) **Agree** to regulations being made pursuant to section 74(1)(ea) of the Arms Act to enable sufficient time for a licence holder whose address is within one of the six CDEMG areas declared from 10 January 2023 through to 26 February 2023 to make an application for a new licence, or pest control endorsement by extending the duration of a
- (i) firearms licences (and the endorsements on them), and endorsements issued to wild animal and animal pest controllers, that have expired or will be expiring due to an inability to make an application for a new licence or a new replacement firearms card by 5pm 31 August 2023
 - (ii) dealers' licences (and the endorsements on them) that have expired or will be expiring due to an inability to make an application by 5pm 31 August 2023
- d) **Agree**, because of the urgency of the situation the proposal in (c) above meets the exception provided for in section 74(4) where circumstances are such that it is not practicable to fully consult all those affected or likely to be affected by the regulations

Yes/No

s9(2)(g)(i)

Yes/No

s9(2)(g)(i)

BRIEFING FOR THE MINISTER OF POLICE

- e) **Authorise** Police to issue instructions to Parliamentary Counsel Office (PCO) by 3 March 2023 to draft this amendment to the Arms Regulations.

Yes/No

Minister's comments and signature



76 / 2 / 2023

Hon Stuart Nash
Minister of Police

PROACTIVE REL
ASE

Extension of application date to prevent expiry of a firearms licence, dealer's licence, and endorsements affected by Cyclones Hale and Gabrielle

Purpose

- 1 This paper seeks your agreement to amend the Arms Regulations to provide a temporary extension of the following documents that have expired or will expire due to the impacts of Cyclones Hale and Gabrielle and resulting in several emergency declarations made under the Civil Defence Emergency Management Act 2002 (CDEMA Act).
 - firearms licences (and endorsements on them)
 - dealers' licences (and endorsements on them)
 - endorsements made on the firearms licences of wild animal or animal pest controllers authorising them to possess prohibited firearms and prohibited magazines for employment purposes.
- 2 The extension is limited to those licence holders whose post code address, as notified to Police's Firearms Safety Authority - Te Tari Pūreke, is within one of the six Civil Defence Emergency Management Group (CDEMG) areas covered by the recently declared state of national emergency: Northland, Auckland, Waikato (Waitomo, Thames Coromandel), Bay of Plenty, Tairāwhiti, Tararua.

Background on firearms and dealers' licences

- 3 To legally possess firearms a person must have a current firearms licence issued by New Zealand Police. A firearms licence is valid for 10 years, or five years for first-time licence holders. A dealer's licence is valid for one year. Endorsements on those licences which enable holders to legally possess prohibited firearms, prohibited magazines, pistols and restricted weapons last for the duration of the licences, except for endorsements for possession of prohibited firearms for wild animal and animal pest control purposes, which last for up to two and a half years.
- 4 Before expiry of the licence, the firearms licence holder must have applied for and obtained a new "subsequent" licence in order to retain legal possession of their firearms. A dealer must have applied for a new dealer's licence before the current licence expires. The Act provides that the current licence continues in force until the application is determined if the application is made before the previous firearms or dealer's licence expires.
- 5 Possession of a firearm without a firearms licence is an offence with a penalty of not exceeding one year imprisonment or a fine not exceeding \$15,000. There are higher penalties for possession of prohibited firearms, pistols, and restricted weapons without an endorsement.

Some licence and endorsement holders directly affected by Cyclones Hale and Gabrielle are unable to complete an application and their licences and endorsements may expire

- 6 Applicants may not be able to make a new application due to an inability to provide their current licence card, or necessary photographs, or other identifying information, or do not have a fixed address for storage of any firearms, or are unable to pay the required fees either online or at a NZ Post shop. This prevents applicants from meeting the requirements for application.
- 7 If their licence expires they risk holding firearm illegally, being unable to purchase ammunition and if issued with a new firearm's licence that licence would be treated as a first-time five-year licence. Dealers and those holding pest-control endorsement would be required to cease their activities.

About 2,081 licence holders may be affected

- 8 As at 10 January 2023, there are 2,009 firearms licences and 62 dealer's licences due to expire after 10 January 2023 and before 1 September 2023. There are a further ten pest control endorsements also due to expire in the above timeframe in the declared CDEMG areas.

There is provision in the Arms Act to make regulations to extend the duration of licences

- 9 In 2020, due to the Covid-19 related lockdowns, provision was made in the Arms Act for extending the duration of licences and endorsements.
- 10 In anticipation of a further emergency situations arising, the Arms Legislation Act passed in June 2020 included an amendment to section 74(1) which enabled regulations to be made:

(ea) extending the expiry date of licences and endorsements in the event of a pandemic, an epidemic, or an emergency being declared under the Civil Defence Emergency Management Act 2002.

The Arms Regulations could be amended so that those firearm owners and dealers whose licences have expired remain compliant with the legislation

- 11 The impact of the cyclones on some firearms licence holders described above could be addressed through the above regulation-making power to temporarily extend expired licences so that licence holders remain compliant with the law.
- 12 We seek your agreement to amend the Arms Regulations 1992 to temporarily extend the duration of licences and endorsements of licence holders who have been unable to renew their licences and are within the six CDEMG areas. It is proposed that these licences and endorsements would continue in force until 31 August 2023¹ or until Police has made a decision on the application, whichever happens earlier.

¹ Provision will need to be made to extend this date if any of the current emergency declarations are extended for a further 7 days

- 13 The temporary licence extension would apply to any licence and associated endorsement or pest control endorsement held by a licence holder whose post-code address², lies within the six CDEMG areas, and the licence or endorsement was current prior to 10 January but application had not been made by midnight on 9 January 2023, and the licence or endorsement expired on or after 10 January and prior to 1 September 2023.
- 14 The extension will remain current provided an application for a new (replacement) licence, associated endorsement, or pest control endorsement is made no later than 5pm on Thursday 31 August 2023.
- 15 The proposed length of the extension is considered sufficient to accommodate expired licences during the event recovery period.
- 16 Your urgent consideration is required to enable officials to provide PCO with drafting instructions as soon as possible.

Financial Implications

- 17 There are no additional financial implications with this proposal.

Consultation

- 18 The proposed regulations have not been discussed with agencies as it is an operational and technical amendment to the Arms Regulations. The Department of the Prime Minister and Cabinet has been informed. Your Arms Advisory Group (MAAG) will be made aware of the possibility of regulations and Firearms Community Advisory Forum (FCAF) members will be consulted when the regulations are drafted. It is not proposed to have the full consultation process that section 74 of the Act normally requires. These regulations are considered to meet the exception provided for in section 74(4) where circumstances are such that it is not practicable to fully consult all those affected or likely to be affected by the regulations. This is because of the urgency of the situation and the difficulty of effective communication with all affected parties.

Communications

- 19 The amendment to the Arms Regulations, once gazetted, will be communicated directly to the public on the Police and the Firearms Safety Authority - Te Tari Pūreke websites and guidance provided on its application. We would expect it to gain some media attention.

Next steps

- 20 The next steps are for instructions on the amendments to the Arms Regulations to be issued to PCO as soon as possible to enable drafting over the following days. Draft regulations would then be consulted on with the MAAG and FCAF.
- 21 Following ministerial consultation on the draft regulations and accompanying LEG paper, the regulations would be lodged with LEG for agreement to submit

² Licence holders postcodes are those provided to Police's Firearms Safety Authority-TeTari Pūreke

them to the Executive Council. It is proposed to waive the 28-day rule and have the regulations come into force the day they are gazetted, so that compliance by licence holders can be provided for as soon as possible.



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Jeremy Wood
Executive Director, Policy and Partnerships

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