

In Confidence

Office of the Minister of Police

Chair, Cabinet

## ARMS ACT 1983 REFORMS – PAPER 1

### Proposal

1. The mass shooting in Christchurch has exposed a range of weaknesses in our current firearms regime that we need to address to improve public safety. This paper:
  - 1.1. Seeks remaining policy decisions for the prohibition on semi-automatic firearms that need to be included in the Arms Amendment Bill (No.1) 2019. Ministers with the Powers to Act have agreed to this Bill being considered under urgency in the next Parliamentary session.
  - 1.2. Seeks additional amendments to the Arms Act 1983 to strengthen the firearms regulatory regime (Paper 1). Subject to Cabinet agreement, these amendments will be included in the Arms Amendment Bill (No.2) 2019 that will be introduced in June for enactment by the end of 2019.
  - 1.3. Signals further work on amendments to the firearms regulatory regime for consideration at a Cabinet Committee in April 2019 (Paper 2). Subject to Cabinet agreement, these amendments will also be included in the Arms Amendment Bill (No.2) 2019.

### Executive Summary

2. In this paper I propose a series of reforms to the Arms Act 1983 and its associated regulations with the dual purpose of catering for the safe and responsible use of firearms, and significantly mitigating the risks of harm in the misuse of firearms.
3. The proposals build on our decision to ban assault rifles and Military Style Semi-Automatic (MSSA) firearms, large capacity magazines, and selected firearms parts. The paper falls into three parts. Part A of the paper recommends further policy decisions required to effectively put the ban in place under urgency.

#### *Part A – Further decisions to support the (banned semi-automatics) firearms Bill*

4. Part A sets out a small number of decisions remain to be made in order to amend the Act and support the decisions the Prime Minister announced on 21 March 2019. I propose to establish:
  - 4.1. **a small number of exemptions:** for professional culling, largely of wild animals on Crown Land; and for collectors and museums. I am not proposing to establish a sporting exemption at this stage. I am not yet clear on how to effectively define such an exemption or whether sporting competitions using assault rifles should be exempted. My current view is that if we do not want

these weapons in New Zealand, we should not allow such competitions in New Zealand, nor training for such competitions overseas.

- 4.2. **an amnesty regime** to ensure those who previously held weapons lawfully and will now find themselves in possession of unlawful weapons have a reasonable period of time to take action to hand over that weapon to the Police.
- 4.3. **the establishment of appropriate offences and penalties** to prevent people from retaining, using or selling the newly prohibited firearms, parts, magazines and ammunition.
- 4.4. **a ban on military-style (e.g. armour piercing) ammunition** to accompany the banning of assault rifles. I also propose we establish a requirement to hold an appropriate firearms licence and endorsement in order to purchase and possess ammunition.

#### *Part B – Strengthening the Arms Act's regulatory regime*

5. Part B outlines a range of further policy proposals to improve risk management at key points in the firearms regulatory system. The Act came into force 35 years ago, at a time when New Zealand was more isolated from the rest of the world, there were strong import controls and no internet market place or social media. Since this time, firearms technology has shifted, the market has become global and there is a significant online community and trading environment. To bring the firearms legislation more up to date and substantially reduce loopholes and risks in our firearms environment, reform is necessary in the licensing of firearms licence-holders, the firearms market and Police's ability to effectively enforce the regulatory regime.
6. Today I seek your agreement for the following proposals to be included in an Arms Amendment Bill to be introduced later this year:
  - 6.1. **Clarify the intent of the Arms Act** to make it clear that possession and use of a firearm is a privilege that brings with it a duty to public safety and an expectation of working in collaboration with Police.
  - 6.2. **Improve the determination of who is considered 'fit and proper'** to possess and use a firearm. I propose that certain serious offences would prevent applicants from gaining a licence. These would be set out in primary legislation. More discretionary factors that Police considers would be codified in regulation. I also propose to introduce a 'fit and proper' assessment for firearms dealers.
  - 6.3. **Establish a graduated set of interventions** for potential breaches of the licensing regime for users and dealers to encourage appropriate behaviour and a range of interventions for those that fail to comply, such as warnings, licence suspensions and permanent bans in exceptional circumstances.
  - 6.4. **Improve the inspection and monitoring regime** including enabling Police to inspect security and storage arrangements more regularly.

- 6.5. **Establish a register of firearms** through ensuring Police have access to all firearms sales data and can gather data on firearms at other points.
- 6.6. **Verify the information for a register** by requiring that dealers take 'reasonable steps' to verify the information needed for trading in firearms.
- 6.7. **Enable information-sharing for the register** for specified government agencies for specific purposes.
- 6.8. **Prohibit firearms licence holders from privately selling** or gifting firearms to others ensuring that only dealers can trade firearms.
- 6.9. **Update the offences and penalties regime** to ensure fines and penalties are both proportionate and dissuasive, where needed.
7. Part C outlines further work needed to complete the regulatory reform. Second tier proposals for the regulatory reform will be reported back to Cabinet in April 2019.

### Previous Decisions

8. Cabinet gave the Prime Minister, the Deputy Prime Minister, the Ministers of Finance, Police, Justice and Defence the Power to Act to make decisions on the development of a buy-back initiative. Police and Treasury are developing a separate paper on this for Ministers to consider at Cabinet in April.
9. The paper will include the implementation and operation of the scheme by Police and another agency to make the payments, (currently proposed to be Inland Revenue), and relevant funding requirements. Cabinet will be asked to consider the funding levels and funding source of the buy-back regime, and any operational funding implications, in due course.
10. Officials currently believe that no legislation is required for the buy-back scheme. However if this position changes, I seek approval for this group of Ministers with the Power to Act, to make necessary decisions so that it is included in Bill 1.

### PART A – Further decisions to support the (banned semi-automatics) firearms Bill

#### *Proposals for Bill 1: Exemption from prohibition for a legitimate purpose*

11. Cabinet approved the development of exemptions from the general prohibition of most semi-automatics [CAB-19-MIN-0105]. Officials have developed the exemptions further and this paper seeks your agreement to the proposals, as the majority of the exemptions should to be in place at the same time as the general prohibition comes into force. This is to avoid criminalising those who have a legitimate use for a prohibited firearm.<sup>1</sup>
12. Ministers with the Power to Act asked that the exemptions be narrow in scope to avoid creating loop holes for people to retain prohibited firearms. Ministers consider

<sup>1</sup> Current exemptions would continue to apply under section 3(2) of the Arms Act 1983. This section provides for the lawful possession of firearms and other weapons, by the New Zealand Police, the New Zealand Defence Force, and other people or groups (for example, people employed to train in firearms use, people employed in forensics).



that the Select Committee process can be used to check whether we have got the balance right between enabling legitimate use and avoiding inappropriate use.

13. I propose that there be four exemptions for a legitimate purpose:
  - 13.1. wild animal control activities;
  - 13.2. dealers, museums and collectors.
14. As well as fitting within a category of legitimate use, the exemption regime will also require the person or organisation that seeks an exemption to demonstrate that no other type of lawful firearm will be as effective for the particular purpose it is being sought.
15. Exemptions will include large capacity magazine use, where necessary and appropriate. Exemptions will take the form of an endorsement on a firearms licence. Those exempted will be subject to annual security checks and be required to submit their firearms inventory to the Police to be included on a register (discussed later in this paper).

#### *Exemption for wild animal control activities*

16. I propose an exemption for wild animal control activities undertaken by Department of Conservation (DOC) officers, or those specifically contracted or authorised by DOC,<sup>2</sup> or other legitimate commercial wild animal control businesses.
17. Activities that require semi-automatic firearms are likely to be limited to a small number of people or agencies. For DOC, for example, semi-automatic firearms are used to carry out specific aerial control operations targeted at larger wild animals (goats, deer and tahr) across open and inaccessible land. Under this exemption, prohibited firearms could be used on private land as well as DOC land, authorised under the Wild Animal Control Act 1977.

#### *Exemption for dealers, museums, and collectors*

18. I propose an amendment that will enable a dealer to act as an agent for a person who has the prohibited firearm endorsement on their licence. This would allow the dealer to import and handle the prohibited firearm. This action must be taken on behalf of a specific licence holder. Dealers will not be allowed to import prohibited items and store them for stock.
19. I also propose an exemption for museums who hold prohibited firearms. Museums will be required to disable the firearm so that it cannot be used, similar to what is required now. The disabled part can be retained and must be secured in a separate location. There are currently 64 museums with a C endorsed (collectors) licence.
20. I also consider that an exemption should apply to all collectors. There are currently 4,165 collectors (C endorsed licence holders), many of whom also trade in, or hire out, firearms (often for film or theatrical purposes). Police tells me that there were 561 MSSAs held by collectors, prior to the reclassification. The exemption would

<sup>2</sup> Wild animal as defined in the Wild Animal Control Act, Biosecurity Act and Wildlife Act.

mirror that for currently restricted weapons and collectors would therefore have to disable the firearm (and securely store the key part that disables the firearm separate from the firearm itself), not use the firearm with live ammunition and follow any other requirements for existing restricted weapons.

21. I am concerned that existing MSSA and semi-automatic firearms users could choose to become collectors in order to circumvent the ban. As a consequence I propose to consider requiring Police to undertake further assessments as to the reason for a person seeking a collector's endorsement and the addition of further oversight and control mechanisms for those with collectors' endorsements. Collectors are already subject to a higher level of oversight than A Category firearms holders, including three yearly inspections. Additional oversight could include a greater frequency of inspections and the possibility that, should a collector undertake more than a set number of commercial operations in any one year, they would be considered a dealer and have to seek such a licence. I propose that advice is prepared for Paper 2 on the collectors' regime.

#### *Further work required for international sporting competitions*

22. I have also considered whether mainstream international sporting competitions should be exempt. I note that there are no Olympic or Commonwealth Games events that require the type of firearms that we are proposing to ban.
23. However, we are aware there may be one competition that does require the use of these soon to be banned firearms. At this stage it is unclear how this type of exemption could be effectively managed, how many competitors will be affected and whether it can be justified. I am concerned that such an exemption will be exploited.

24. s 9(2)(g)(i)

My current view is that if we don't want these weapons in New Zealand, we should not allow such competitions in New Zealand, nor training in New Zealand for such competitions overseas.

25. I therefore do not propose to include this exemption in the Bill being passed under urgency in April. Instead I propose that we consider whether an exemption is needed for international sporting competitions as part of the second Bill. I will report back on this in Paper 2.

#### **Proposals for Bill 1: Amnesty regimes**

26. Cabinet agreed in principle to clarify, expand and promote the amnesty provisions in the Arms Act 1983 to include all firearms [CAB-19-MIN-0105]. Currently the Arms Act provides a narrow amnesty for a licensed dealer to receive pistols and restricted weapons from individuals who are not licence holders, as long as they pass them on immediately to Police for inspection and inquiries.

27. I propose three amnesties that will assist in the removal of these prohibited weapons from circulation.
28. At present, Police has the discretion whether to investigate and prosecute when members of the public hand firearms to Police or licensed dealers. There may be a range of circumstances why guns are handed in, including belonging to a deceased relative, or being held by a person whose licence has expired, or when a firearm is found. This discretion provides an amnesty of sorts for those who hold firearms that they should not, with no criminal intent.

#### *Limited amnesty for newly classified MSSAs*

29. The Arms (Military Style Semi-automatic Firearms) Order 2019 declared certain semi-automatic firearms to be MSSAs. The accompanying Arms Amendment Regulations 2019 provided an exclusion for these reclassified MSSAs from the unlawful possession offence. This removes the Police discretion to prosecute for the unlawful possession of these weapons (but does not affect its discretion to investigate and prosecute for the other offences, such as if the weapon was used in carrying out another crime). To incentivise the surrender of firearms, the Regulations enable an amnesty for people to dispose of these weapons that they no longer have lawful possession of.
30. I seek to incentivise these newly defined prohibited firearms being handed into the Police or licensed dealers. I therefore propose that a full amnesty be in place from the enactment date of the first Bill (being passed under urgency) to 31 December 2019, or the enactment date of the second Bill, whichever of these two dates comes first.

31. s 6(c)

#### *Amnesty for dealers in receipt of a newly defined prohibited weapons*

32. In addition to the current amnesty for a licensed dealer to receive pistols and restricted weapons from individuals who are not licence holders, dealers may currently be receiving and passing on to Police MSSAs in the absence of a legislative amnesty. I propose extending the licensed dealer amnesty currently in section 10 of the Arms Act to the receipt of prohibited firearms. This will encourage their surrender by persons who for any reason may not wish to surrender the firearms to Police, but prefer to provide these prohibited weapons to a dealer.

#### *Ongoing amnesty*

33. I propose in addition to this, a general and ongoing amnesty for all other firearms and ammunition should also be provided for in legislation. s 6(c)

Police will be able to exercise its general discretion regarding prosecution, based on the specific circumstances in each case. The reason for different treatment for these firearms is that at present these firearms are likely to be held unlawfully (although not necessarily for criminal intent), whereas in general, the newly



prohibited firearms will have been held lawfully prior to the legislation being amended.

### **Proposals for Bill 1: Offences for prohibited firearms, parts, ammunition and magazines**

34. Cabinet agreed to establish offences and penalties connected to the newly prohibited firearms, parts, ammunition and magazines [CAB-19-MIN-0105]. I propose new offences in relation to these items that would cover the:
  - 34.1. Possession, use and attempted use
  - 34.2. Carrying with criminal intent, or use or attempted use to commit an offence
  - 34.3. Selling, supplying, transferring, distributing or importing
35. I also propose that there are offences for manufacturing a prohibited part or magazine, or intentionally using any prohibited part or magazine to convert a non-prohibited firearm into one that would meet the definition of prohibited firearm. This would bolster sanctioning not only the holding of the prohibited items, but any attempts to create a semi-automatic weapon.
36. Police will consult with the Ministry of Justice in determining the appropriate burden of proof, knowledge and penalty levels for the new offences in the Bill. It is likely that some of the new offences could justifiably have a maximum period of imprisonment of seven years, commensurate with the other most serious offences in the Act. However, because section 66 of the Arms Act<sup>3</sup> places a burden of proof on the defendant in respect of possession that offence will likely either require a lower penalty, or the altering of the application of section 66 to this offence, in order to be consistent with human rights standards.

### **Proposal for Bill 1: Banning military-style ammunition**

37. Currently, it is lawful to import and buy ammunition that are designed for military use in New Zealand. This includes armour piercing, incendiary, tracer and similar types of military ammunition. This ammunition is designed primarily for military combat use and I see no justifiable reason for its civilian use in New Zealand.
38. Given the wider policy to prohibit weapons that can cause mass casualties and harm, I propose to prohibit these forms of ammunition that can contribute to this harm. Current exemptions for authority military-use applies. These forms of ammunition will be included in the amnesty to enable people to hand over to Police. However, I do not propose to include ammunition in the buy-back scheme.

### **PART B – Strengthening the Arms Act's regulatory regime**

39. Part B of this paper seeks additional amendments to the Arms Act 1983 to strengthen the firearms regulatory regime.

<sup>3</sup> Section 66 of the Arms Act provides that every person occupying any land or building or driving any vehicle in which any firearm is found, is deemed to be in possession of that firearm, unless they prove it was not their property and was in the possession of another person.

40. Cabinet noted my report back on further proposals to improve issues in relation to:
- 40.1. the licensing of firearms licence-holders;
  - 40.2. the relative ease of the purchase and sales of firearms; and
  - 40.3. Police's ability to effectively monitor and enforce the regulatory regimes.
41. I also include proposals for a firearms register, as Ministers with Powers to Act directed officials to provide additional advice on this.

#### *Issues with the current Act*

42. The Act seeks to promote the safe use and control of firearms. It does this by providing a framework to mitigate the risks to public safety posed by the use of firearms. It enables interventions at key points in the system, such as the licensing of individuals to safely use firearms, and controlling access to firearms with permit regimes for some clubs and for dealers, and controlling the manufacture, importation, sale and supply of firearms and ammunition. The Act provides for monitoring by Police and sanctions for non-compliance with the law.
43. The attack in Christchurch on 15 March 2019, highlighted the fact that the firearms regulatory regime is not sufficiently robust to prevent high impact criminal misuse of firearms. The Act came into force 35 years ago and has only had one significant amendment, in 1992. The Act was developed at a time when New Zealand was more isolated from the rest of the world and there were greater import controls on what came into New Zealand. When the Act was developed public use of the internet to source information, connect people, and purchase goods did not exist.
44. Since that time there has been significant changes to the market for use, manufacture, purchase and supply of firearms. In the ensuing years the regulatory framework's inflexibility to adapt to new and emerging risks has been challenged by:
- 44.1. rapid development of firearms and ammunition technology, all of which have increased the lethality of firearms available to civilians;
  - 44.2. globalisation of firearms markets, and the increased flow of commodities, like firearms which has fostered easier access and at lower costs;
  - 44.3. online trading which has reduced the ability to oversee both legitimate sales and illegal sales, such as on dark web firearms trading platforms; and
  - 44.4. global anonymous online information groups which have exacerbated the risk of the misuse of firearms. New Zealanders have exposure to the transnational networks of radical influencers that seek to incite harm.

#### **Proposals for Bill 2: Clarify the intent of the Arms Act**

45. The Act's purpose is currently set out in the Long Title – 'to promote both the safe use and the control of firearms and other weapons'. The intent of the Act has been challenged a number of times in the Courts by complainants asserting that there is a 'right to possess firearms' in New Zealand.



46. To provide clarification and remove any doubt, I seek your agreement to insert a statement in line with the Long Title of the Act, and the overarching objectives of the Act. Though not necessarily the exact wording, the statement will state:

46.1. the possession, ownership and use of a firearm is a privilege;

46.2. people with permissions to use, import, sell and supply firearms have a duty to public safety; and

46.3. having a safe firearms environment requires collaboration between Police and people with licences and permits issued under this Act.

## **Proposals for Bill 2: Measures to screen out those people who should not get a licence**

*Proposal: codify prohibition criteria*

47. The Act seeks to limit the possession of firearms by high-risk users by enabling only those persons considered 'fit and proper' to possess a firearms licence.<sup>4</sup> Current settings for the fit and proper person test (the test) include a mixture of legislative considerations and discretionary operational considerations that are set out in section 27A of the Arms Act (domestic violence) and the Police Arms Manual 2002.

48. Police exercises discretion as to whether a person is 'fit and proper'. This discretion has been largely decentralised to officers in Districts across the country. The design of the regime does not lend itself to consistent high quality decision-making and is regularly challenged in the Courts.

49. A key problem with the application of the test is that there are no criteria in statute to explicitly filter out high-risk applicants from holding licences. For example, at present, a person that Police knows has either a history of violence, domestic violence, terrorism-related offences or breaches of firearms offences cannot be automatically prohibited from holding a firearms licence.

50. People with a history of violence or of known violent intent should not be considered for a New Zealand firearms licence.

51. I seek Cabinet's agreement-in-principle to the development of a codified list of prohibition criteria.

52. I propose that the legislation be made clear that a person is **not** "fit and proper" if the person fulfils any of the following:

52.1. a history of serious violence revealed by a New Zealand or international Police vet.

52.2. convictions for offences in New Zealand or overseas relating to serious violence offending (as per the Sentencing Act and the Domestic Violence Act) and serious firearms related offending (as per the Arms Act).

<sup>4</sup> There is also discussion of the term "fit and proper" in a number of court cases, for example *Police v Cottle* [1986] 1NZLR 268; *Fewtrell v Police* 14 CRNZ 372; *Jenner v Police* [2016] NZDC 4102; *Innes v NZ Police* [2016] NZDC 4538.

- 52.3. assessed as a risk to a state's national security.
- 52.4. expressed, holds or supports extremist or discriminatory views that refer to the use or threat of violence or terrorism.
- 52.5. associated with, or has supported a group that is involved in, advocates or supports violent extremism, or a designated terrorist group.
- 52.6. has indicated intent to use firearms for self-defence or self-harm.
- 52.7. I also propose that further work be undertaken on whether a member, or associate of an organised crime group should also be deemed as not 'fit and proper' to hold a firearms licence. I will report back on this as part of Paper 2.

*Proposal: A new Commissioner of Police discretion for "other factors"*

- 53. There are a number of other factors that Police believe would assist them in filtering out potential applicants who are of unfit or high risk. For example, there is no clarity as to whether Police is able to require a medical or mental health check in certain circumstances to inform assessment of a person's state of mind. Neither is it clear whether Police may check the applicant's social media presence or whether there is an involvement in organised crime.
- 54. s 9(2)(g)(i) [REDACTED] However, where there is cause for concern, the Commissioner of Police should be given the authority to investigate further in order to be satisfied that a person is safe to be in the possession of a firearm.
- 55. I therefore propose an additional discretionary criteria for the Commissioner, for the purpose of demonstrating that a person is of good character to hold a licence.
- 56. If Cabinet agrees, to ensure there is sufficient oversight of this discretion, I propose that the criteria be set out in regulation and be able to be amended via an Order in Council. As an example, Appendix A sets out Police's initial criteria for consideration. I will report back on discretionary criteria and the associated authority to investigate as part of Paper 2.
- 57. If Cabinet agrees, I will report back on the new regulation as part of the second Bill.

*Further work required on "fit and proper" test*

- 58. Further work is required to strengthen the "fit and proper" test. This includes, consideration of the shift of the burden to prove a person's character from Police to the licence holder, the potential for dealers to be subject to a stricter character test, and who is eligible for a firearms licence (e.g. age restrictions, visitors to New Zealand, temporary licences). I will report back on this as part of Paper 2.

**Proposals for Bill 2: Improve safety in 'how' firearms are used**

- 59. The rapid growth in technology of firearms, firearm parts and ammunition has increased the adaptability of firearms as well as their speed, capacity and lethality.

The Bill being progressed under urgency will significantly restrict the personal use of dangerous firearms in New Zealand.

60. Additional changes to keep the public safe in how firearms and ammunition are used are set out below.

*Further work required on restricting the stock-piling of large quantities of ammunition*

61. Currently there are no limitations on the amount of ammunition that can be purchased or held by a person and there are no requirements for the safe storage of large amounts of ammunition.
62. s 6(c) [REDACTED] Police are of the view that the stock-piling of large quantities of ammunition can pose a significant risk to public safety.
63. However, there may be some legitimate reasons why large quantities of ammunition is required, for example target, clay, and duck shooting events require very large quantities of ammunition, and can often be purchased at specific times during the year.
64. At this stage, I do not propose a limitation on the quantity of ammunition purchased, as I would like further analysis on behavioural changes following the banning of MSSAs and potentially ammunition.
65. I do however propose further responsibilities on the dealer to assist with unusual purchasing behaviour. This is discussed further below.

**Proposals for Bill 2: Graduated tools for breaching licence conditions**

66. The majority of New Zealand firearms licence-holders want to use firearms responsibly. Responsible firearms owners should not face unduly onerous regulatory interventions, nor should they face the risk of imprisonment for minor or administrative breaches of conditions.
67. However, at the moment, most of the breaches of conditions are not even a fineable offence. Police's only recourse, in most cases is to have a 'licensing conversation' – because the breach on its own might not be sufficiently serious to warrant revocation of the licence, which is the first and often only recourse. Revocation of licences escalates matters that could be better dealt with administratively.

*Proposal: Graduated intervention system for offences*

68. I propose a more graduated set of interventions for potential breaches and administrative breaches of firearms licence requirements.
69. I expect Police to work collaboratively with licence-holders. For people at increasing risk of breaching the conditions of firearms licences I propose a broad range of interventions that are set out in statute including:



- 69.1. A warning by Police of a breach, along with notice of the remedial action needed to meet compliance. A formal Police warning would have standing, if needed, in the Court. This would be new early intervention tool in the regulatory framework.
- 69.2. A set of infringement fines for more significant breaches of licence, endorsement or exemption conditions. For example breaches around security can lead to the theft of firearms by a person who intends harm to others. At present, the fines are too low to be effective.
- 69.3. Immediate suspension, without notice, of a firearms-holder's licence and immediate removal of firearms, for serious breaches of licence conditions, or if a person no longer meets the 'fit and proper' criteria for a licence, endorsement or exemption
- 69.4. Clarify that any failure to observe conditions on an endorsed licence or an exempt licence is grounds for revocation of an endorsement or exemption, this is not currently explicit in law.
- 69.5. Maintain the provision for the revocation of a licence and enable removal of the firearms.
- 69.6. The Commissioner of Police having the option to establish a permanent ban on a person's ability to apply for a licence in exceptional circumstances.

*Proposal: Licence suspension process*

70. The establishment of an improved licence suspension process is required to support an early warning, and early infringement regime.
71. If Police considers a person no longer meets the 'fit and proper' criteria, it can revoke the person's firearms licence. However, Police must notify the licence-holder in advance of the revocation process. In the period between giving notice and a revocation decision being made, a firearms licence-holder can dispose of any firearms, ammunition and magazines or misuse them. There is little ability for Police to prevent this under current law and this creates a risk of transfer to criminal possession or risk of self-harm or harm to the community.

s 6(c)



72. I propose to establish a provision to provide for an immediate temporary suspension of a firearms licence (including a dealer's licence) if there is risk to personal or public safety. This would streamline the revocation process by providing for not only the

immediate suspension of a firearms licence, but also the immediate delivery of firearms to Police while the revocation process is underway.

## **Proposals for Bill 2: Increased inspections**

73. To meet the public safety objective of the Act, Police uses a combination of inspections (giving notice) to ensure compliance and search warrants if there are grounds to indicate breaches.
74. Inspections are a critical tool in meeting the public safety objectives of the Act. However, once a standard firearms licence is granted, the next monitoring point is at 10 years, on re-application for firearms licence (or sooner only if Police is advised of a change of address by the licence-holder). Currently, Police inspects a licence applicant's security as part of the process for determining whether the person is 'fit and proper'. Frequently this is at a time when a person does not possess any firearms because they do not yet have a firearms licence. However, having face to face time and checking the security meets the standards is still important.
75. In the main, the ability to monitor endorsed items works well (with appropriately resourced arms offices). The standard conditions on all endorsed licences require the endorsement-holder to produce their endorsed items to Police on demand, and permit Police to inspect those items and the place where they are kept. However, a clear statutory authority to require the inspection on notice of security at the time of application, and for non-endorsed items at other times as required during the ten year licensing period, are missing. However, endorsed firearms holders are not required to identify or show the security arrangements they have for their A Category firearms.
76. There are three critical points that I propose for additional inspections:
  - 76.1. at the point of applying for and the purchase of the relevant firearm, to ensure the applicant can provide for the secure storage of firearms and ammunition held<sup>5</sup>
  - 76.2. during a licence if there are material changes in the licence circumstances, such as the purchase of an additional firearm, or a change of address, or reported unusual behaviour, such as the purchase of large quantities of ammunition
  - 76.3. at any time if there are grounds, including if the licence-holder receives a warning or an infringement notice issued under the Arms Act from Police, or where the licence-holder does not comply with requirements and further remedial action is needed.
77. I recommend amendments to give effect to the above changes be included as part of Bill 2.

<sup>5</sup> Officials have identified that current security standards set out in Regulations will need updating as a consequence of changes to the main Act.

## Proposal for Bill 2: Firearms register

78. One of the key criticisms of the New Zealand firearms regime is that there is no registration, or information held by Police on firearms that fall within the current A Category.
79. Data on firearms is not generally collected outside of that collected on endorsed licence categories (B (pistols), C (collectors), E (MSSAs)). Further, people who conduct private sales are not required to provide any information to Police, except for trading in items subject to the permit to procure process.
80. The lack of a register that includes A Category firearms causes two issues:
- 80.1. Police is not able to track the possession of firearms. At present Police does not know how many, or what types, of firearms are held on a licence-holder's property. Police is unable to check whether the licence-holder's 'originally approved' security is still sufficient for additions to their armoury, or if any newly acquired firearms align with the stated intention given when applying for a firearms licence; and
- 80.2. Police cannot properly take stock of the national holdings of firearms or determine the full extent of the firearms risk, or where the risks lie – in order to target any necessary interventions.
81. Licensed dealers currently collect information on all firearms transfers, including A Category firearms. However, while dealers are required to collect this information they are not required to proactively provide it to Police. Further, while dealers are required to keep a record of all sales for five years, at the end of five years the information is lost. As well for cases in which a dealer's business ceases for any reason, the dealer is not required to transfer their records to Police.
82. There are three options for establishing a register over time:
- 82.1. require Police to request information from dealers periodically (status quo);
- 82.2. require dealers to proactively transmit information to Police at least six monthly
- 82.3. require the firearm holder to provide information on all the firearms they possess or hold at the time of inspection, licence application or any other oversight opportunity
83. I propose that any person who buys or sells firearms should be required to proactively provide Police with information on firearms importation and firearms trading. This will enable Police to build a nationwide register of firearms and licence-holders over time.
84. Below I propose that the private sale of firearms in New Zealand is prohibited. In the event of private sales continuing, there would need to be a new regime requiring individual licence-holders to provide second-hand sales details directly to Police.



85. This proposal does not prevent Police from requesting retrospective information from dealers. I propose an empowering provision in statute, along with details of the information requirement to be provided in regulation. Police is developing a system to enable automated information transfers to reduce compliance costs as much as possible.
86. I also propose that Police be given authority to gather information on firearms and their ownership at any point in which Police have identified concerns.
87. Internationally there are a number of models of registration. I will also report back on the models of registration that I consider New Zealand should move towards in Paper 2, if this analysis shows that there is a better practice than what is proposed in this paper.

*Proposal: Verify the information for a register*

88. The Anti-money Laundering and Countering the Financing of Terrorism (AML/CFT) Act has demonstrated that the requirement to collect information provides no guarantee that the information is correct and that this action is sufficient to prevent criminality. A step introduced in the AML/CFT reforms is that information provided to a business by customers should be verified. People who present with false identities or false licences are either deterred from trying to do so because they know they will be exposed, or otherwise they will be screened out by the dealer, and potentially reported to Police.
89. While dealers are required to collect data on firearms imports and transfers there is no obligation on them to verify that the information provided to them by buyers and sellers, (including the validity of a licence), is correct. There is currently no system for dealers doing this (other than in the case of Trademe).
90. I propose that we introduce this obligation on dealers. I understand that this change will marginally increase compliance costs. However, I do not propose an onerous verification process. This regime is far less complex than the AML/CFT regime. For example, dealers might be expected to check with Police to check the identity of the licence-holder and its endorsements. There may be situations in which a dealer might request additional identity and address information to ensure the veracity of a customer's credentials.
91. I envisage that the legislation would require that dealers take 'reasonable steps' to verify the information provided to them. Any minimum standards for taking 'reasonable steps' to verify information would be codified in regulations.
92. This proposal requires further work to design a useful, but not onerous, verification and reporting model. I propose to come back to Cabinet in Paper 2 with more detailed advice on an appropriate model.

*Proposal: Future-proofing a register to enable information sharing*

93. A national firearms register, once established will become an important repository for monitoring the integrity of the firearms regime. It is not only Police that has a role in

monitoring firearms activity. For example, New Zealand Customs will need to access to the information to monitor imports and exports accurately.

94. I propose to include the ability for future information sharing of the information contained in the register in appropriate circumstances, such as access by government agencies for specific purposes relevant to the firearms regime. Paper 2 will discuss this further.

## **Proposals for Bill 2: General ban on private sales**

95. New Zealand's organised crime activity and illicit drugs market is enabled through the possession and use of firearms. Organised crime groups use the threat of firearms use and other types of violence to 'enforce' illicit drugs markets and trades. This is evidenced in that Police regularly discovers caches of illegal firearms in the possession of organised crime groups independent from and alongside significant illicit drugs busts.
96. The fact that firearms are able to get into the wrong hands with relative ease is indicative that there is an illicit market operating in tandem with a weakly controlled legal market. Police is aware of an illegal firearms market in New Zealand and of illegal 'dark net' trading platforms available to New Zealanders online.

s 6(c)



97. A key weakness in the legitimate market includes that private licence-holders are permitted to trade A Category firearms provided the sale is to a licenced person. There are two key problems with this:
- 97.1. the system relies on individuals being responsible for complying with the legal requirement that requires both buyer and sell having valid licences. There is no way of knowing for sure whether a person selling their firearm will sight the licence of the purchaser. In addition, a member of the public selling their firearm, when sighting the licence of the purchaser, has no real way of knowing if the licence is valid or genuine; and
- 97.2. there are no obligations on licence-holders to inform Police of the firearms trade for A Category firearms and so Police is unable to register information on who holds which firearms – and to therefore further understand the risk landscape for firearms at a national level.
98. Other similar jurisdictions, including Australian jurisdictions and 8 of the 50 US states, prohibit or control private trade in firearms. Police needs better oversight of, and information on, firearms trading. I consider that the legislation should provide that only licensed dealers would be able to import, broker and trade in firearms, firearm parts, ammunition, and restricted weapons.

99. I intend to prohibit firearms trading except through licensed dealers. I understand this will have a significant impact on licence-holders who would otherwise sell privately. This prohibition will shift the market dynamics in the following ways:
- 99.1. individual licence-holders will face increased costs of transacting second-hand firearms. The more significant cost increase would fall on private individuals;
  - 99.2. collectors, if they wish to trade, would also seek their dealers' licences. Note that collectors who have 'museum licences' would be exempted because the firearms are rendered inoperable;
  - 99.3. the number of dealers will increase alongside a sales growth in second-hand sales sector given an increase volumes of trading and commissions on sales; and
  - 99.4. licence-holders such as collectors and clubs may have greater uptake of dealers' licences to provide trading services to their clients and club members.
100. On balance, I consider the information and assurance benefits are significant and outweigh the minor losses of higher transaction costs for second-hand trading. I therefore recommend that New Zealand's regime shift away from enabling private individuals to trade in firearms.

#### **Proposals for Bill 2: The offences and penalties regime**

101. Serious breaches by both firearms licence-holders and dealers have the potential to cause serious public safety risk. Along with early intervention tools, there needs to be swift escalation for serious breaches and criminal offences.
102. At present, the level of fines for administrative and regulatory fines are too low to be a deterrent. The maximum fine for either a firearms licence-holder or a dealer is \$1000. Many fines are in the range of \$100 - \$300. Further, the criminal penalties are disproportionately low given the potential impact of breaches on public safety. For example, there is a maximum three month imprisonment period for discharging a firearm in a public place so as to endanger, annoy or frighten any person. The maximum term of imprisonment for dealers for any offence is three months and this is only for the specific offence of carrying on business after a dealer's licence is revoked.
103. I directed my officials in December 2018 to work on a wider firearms penalty review. Given the recent events, I consider there is merit in Officials progressing this work to be included in the second Amendment Bill and I will report back in Paper 2 on potential amendments.

#### **PART C – Further work to be progressed as part of Paper 2**

104. In addition to further work that is specifically outlined in Part B, there are also a number of other areas that will require additional Cabinet decisions for inclusion in the second Arms Amendment Bill.
105. I intend to report back to Cabinet Committee by late April on:



105.1. the licensing of firearms licence-holders and dealers

In particular analysis on:

additional discretionary test for dealers;

the shift of the burden to prove “fit and proper” from Police to the applicant;

eligibility around firearm licences (age, skills-development, residency status, and restrictions on the period a licence needs to be renewed)

105.2. the relative ease of the purchase and sales of firearms

In particular analysis on:

Threshold on the number of firearms a licence holder can have possession or control of.

Threshold on the management and quantity of ammunition

Consideration of the prohibition of the use of 0.50 and above calibre weapons and ammunition in New Zealand

Controls on the manufacturing of firearms (for example, 3D printing)

105.3. Police’s ability to effectively monitor and enforce the regulatory regimes.

In particular analysis on:

Search warrant provisions under the Arms Act and the Search and Surveillance Act.

Licensing for shooting and target clubs.

New reporting requirements around high risk persons for dealers

Exemptions for gifting and online sales

Greater interventions to help dealers and clubs comply

106. Further information on the above is set out in Appendix B.

107. If Cabinet agrees in principle to further work being developed on the above policy issues, s 9(2)(g)(i)

[REDACTED] I consider that Cabinet can now publically signal these areas to demonstrate the extent of further work to be done.

**Consultation**

108. The Department of Conservation, The Treasury, the Department of the Prime Minister and Cabinet were consulted on aspects of this paper.

## Financial Implications

109. The decisions Cabinet has already made on firearm controls and these additional proposals (including the development of a register) will generate a considerable increase in costs to Police. However, the firearms work is only part of the broader implications of the terrorist attack in Christchurch. Police are currently in discussion with Treasury about the wider funding implications and will be providing advice to Ministers in April.
110. This may include advice around an increase to the Vote Police Baseline; funding to cover significant design and implementation costs, and the establishment of a cost recovery model, either partial or full, which generates sufficient income from users of the licensing and permitting system, to cover the costs associated with oversight of the regulatory regime. Some work in relation to full cost recovery under the existing regime has been undertaken over the last few months.

## Legislative Implications

111. Cabinet approved the banning of semi-automatic firearms (with some exemptions), and some types of parts, ammunition and magazines in New Zealand. A Bill is currently being drafted and Cabinet approval will be sought on 1 April 2019 for the Bill's introduction. The Bill will be considered under urgency and it is the intention that the amendments will come into force no later than 11 April 2019.
112. The proposals in this paper require further amendments to the Arms Act 1983, and including enabling powers to make further Regulations. Following decisions on the proposals in this and subsequent Cabinet papers, a further Bill will be drafted and introduced in June 2019, for a four month Select Committee process, with the amendments coming into force by the end of this year.
113. An Arms Amendment (Penalties) Act is already in the 2019 legislation programme. I propose this work be included in the broader set of amendments proposed for inclusion in the second Arms Amendment Bill 2.

## Impact Analysis

114. The paper signals an increase in compliance costs for persons who operate under the firearms regime. Further analysis of the regulatory impacts will be submitted to Cabinet as a Supplementary Analysis Report when approval is sought for the First and Second Amendment Bills to be introduced.

## Human Rights

115. The human rights and natural justice implications of redesigning the offences and penalties for the Arms Act will be developed in consultation with the Minister of Justice. The 'fit and proper' test may have privacy implications and human rights implications.

## Gender Implications

116. There are no gender implications with this paper.

## Disability Perspective

117. There are no disability implications with this paper.

## Publicity

118. Police will develop communications for these proposals.

## Proactive Release

119. I will discuss any proposals for proactive release in Paper 2.

## Recommendations

1. **Authorise** the Ministers with delegated Powers to Act, to make consequential policy decisions which are consistent with the overall approach of the overall recommendations, including how any buyback arrangements may work for amendments that need to be included in the first Arms Amendment Bill 2019.

### Exemptions

2. **note** that Cabinet approved the development of exemptions from the general prohibition of most semi-automatics [CAB-19-MIN 0105]
3. **agree** an exemption for wild animal control activities undertaken by Department of Conservation (DOC) officers, or those specifically contracted or authorised by DOC, or other legitimate commercial wild animal control businesses
4. **agree** that the exemption regime include a requirement that every person or organisation on behalf of employees seeking an exemption will be required to demonstrate that no other type of lawful firearm will be as effective for the particular purpose it is being sought
5. **agree** an exemption for dealers, museums and collectors
6. **agree** to provide advice on options for further controls and oversight of collectors
7. **agree** to no exemption for international sporting competitions to be included in the first Arms Amendment 2019 Bill.
8. **agree** to the consideration of whether an exemption for international sporting competitions be included as part of the second Arms Amendment 2019 Bill.

### *Amnesty*

9. **note** that Cabinet agreed in principle to clarify, expand and promote the amnesty provisions in the Arms Act 1983 to include all firearms [CAB-19-MIN-0105]
10. **agree** that from the enactment of the first Bill prohibiting most semi-automatics, until the enactment of the second Bill, there will be a full amnesty for the possession of the newly defined prohibited weapons and ammunition to enable and incentivise these



newly prohibited firearms and ammunition to be handed in to Police or licensed dealers.

11. **agree** to extend the licensed dealer amnesty in section 10 to the receipt of newly prohibited firearms.
12. **agree** to establish a general and ongoing amnesty for all other firearms in legislation, with the Police able to exercise its general discretion regarding prosecution, based on the specific circumstances in each case

#### *Offences and penalties for prohibited firearms, parts, ammunition and magazines*

13. **note** that Cabinet agreed to establish offences and penalties connected to the newly prohibited firearms, parts, ammunition and magazines [CAB-19-MIN-0105]
14. **agree** to establish offences in relation to firearms, parts, ammunition and magazines for:
  - 14.1. Possession, use and attempted use.
  - 14.2. Carrying with criminal intent, or use or attempted use to commit an offence.
  - 14.3. Selling, supplying, transferring, distributing or importing.
  - 14.4. Intentionally using any prohibited part or manufacturing any prohibited part to convert a non-prohibited firearm into one that would meet the definition of prohibited firearm.
15. **note** that Police will work with the Ministry of Justice to provide advice on the appropriate burden of proof, knowledge and penalty levels for the new offences.

#### *Banning military-style ammunition*

16. **agree** to prohibit in Regulations to the Arms Act 1983 armour piercing, incendiary, tracer, and similar types of military ammunition for non-military use.

#### *Arms Amendment Bill*

17. **agree** that the urgent Bill amending the Arms Act 1983 will bind the Crown, subject to the existing exceptions in the Act that apply to the Crown (for example for purposes of Police and the New Zealand Defence Force operations).
18. **authorise** the Minister of Police to issue drafting instructions to the Parliamentary Counsel Office to amend the Arms Act 1983 under urgency to give effect to the recommendations agreed in Part A above.

#### PART B – Strengthening the Arms Act's regulatory regime

19. **note** that the Minister of Police signalled a report back to Cabinet with further proposals to improve the regulatory framework for the safe use and control of firearms

### *Clarifying the intent of the Act*

20. **agree** to amend the Arms Act 1983 to clarify its intent by:

- 20.1. introducing a purpose statement consistent with the current Long Title of the Act
- 20.2. introducing overarching objectives signalling the sentiment that:
- 20.3. the possession, ownership and use of a firearm is a privilege
- 20.4. people with permissions to use, import, sell and supply firearms have a duty to public safety
- 20.5. having a safe firearms environment requires collaboration between Police and people with licences and permits issued under this Act

### *Codify prohibition criteria*

- 21. **agree** to include in the Arms Act 1983 non-discretionary prohibitions on the issue of a firearms licence.
- 22. **note** the Minister will undertake further work of potential “unfit” disentitling criteria, that may include:
  - 22.1. History of serious violence revealed by a New Zealand or International Police vet.
  - 22.2. convictions for offences in New Zealand or overseas relating to serious violent offending (Section 86A Sentencing Act)
  - 22.3. assessed as a risk to a state’s national security
  - 22.4. expressed, holds or supports extremist or discriminatory views that refer to the use or threat of violence or terrorism
  - 22.5. associated with, or has supported a group that is involved in, advocates or supports violent extremism, or a designated terrorist group
  - 22.6. has indicated intent to use firearms for self-defence or self-harm
- 23. **note** that further work will be undertaken on whether a member of an organised crime group should also be deemed as unfit to hold a firearms licence.
- 24. **agree** to include in Regulations to the Arms Act 1983, a discretionary criteria for the Commissioner of Police.
- 25. **note** the Minister will report back on the new regulation as part of the second Arms Amendment Bill 2019.
- 26. **note** the Minister will report back on further steps required to strengthen the “fit and proper” test in late April.

### *Ammunition quantities*

- 27. **agree** not to place a limit on the quantities of ammunition purchased until we understand better the impact of the banning of MSSAs.

28. **note** the Minister will report back on further responsibilities on dealers to assist with detecting unusual purchasing behaviour.

*Interventions to help people comply with licences*

29. **agree** to establishing a graduated set of interventions for breaches by licence-holders, including warnings, infringement fines, immediate suspension without notice and removal of firearms, revocation of a licence and exemption and removal of firearms, and a permanent licence-ban.
30. **agree** to establish a provision to provide for an immediate temporary suspension of a firearms licence, including dealers, if there are imminent risk to personal or public safety.

*Increased inspections*

31. **agree** that Police should carry out inspections at the outset of getting a licence, at purchase of a firearm, when material changes in circumstances occur, there is reported unusual behaviour, or at any other time if the licence holder does not comply with licence requirements.

*A national firearms register*

32. **agree** to improve the firearms information collection and verification systems to assist Police to build a national register over time through an empowering provision in the Arms Act 1983 and details of the information requirements in Regulations
33. **agree** to require dealers to proactively transmit information on all firearms transfers to Police at least six monthly
- agree** to require individual licence-holders to provide second-hand sales information details directly to Police if banning private sales is not agreed to.
34. **agree** to require dealers to take 'reasonable steps' to verify information provided to them by customers.
35. **agree** to an information sharing mechanism for the register to provide access to government agencies for specified purposes.

*Private sales*

36. **agree** to prohibit private sales of firearms, and provide that only licensed dealers can import and trade in firearms, parts, magazines, ammunition, and restricted weapons.

*Offences and penalties*

37. **note** that the offences and penalties in the Arms Act are disproportionately low given the potential impact of breaches on public safety.



38. **agree** to further work and a report back to Cabinet on an appropriate offences regime for further consideration in the second Arms Amendment Bill 2019.

PART C – Further work to be progressed

39. **note** there are a number of other firearms policy areas that will require additional Cabinet decisions for inclusion in the second Arms Amendment Bill 2019.
40. **agree** that the Minister continue work to strengthen the firearms regime and for the Minister to report back on these policy areas in late April.
41. **agree** that if Cabinet agrees-in-principle to this further work, that Cabinet can publically signal such areas as direction of where further work is to be done.

*Further work*

42. **agree** to further work in the areas outlined in Part C of this paper and a report back to Cabinet in late April.

*Drafting instructions*

43. **authorise** the Minister of Police to issue drafting instructions to the Parliamentary Counsel Office to amend the Arms Act 1983 to give effect to the work agreed in Part B above.

## APPENDIX A – Discretionary criteria for firearms licence applicants

1. The Commissioner may consider the following factors in determining whether a person is fit and proper person to hold a firearms licence (either in New Zealand or for similar behaviours or offences overseas):
  - i has a previous conviction for a serious drug offence – in New Zealand a Class A or Class B drug conviction under the Misuse of Drugs Act 1975 or the Psychoactive Substances Act 2013;
  - ii has a history of substance use or abuse;
  - iii been the subject of a protection order in New Zealand or similar requirements overseas;
  - iv has affiliations with an organised crime group or gang that is, or has been, involved in committing violent offences or threats of violence; or
  - v is, or has been, involved in intimate partner discord involving violence or threats of violence;
  - vi has exhibited signs of mental ill health;
  - vii has attempted suicide or other self-injurious behaviour;
  - viii has recently participated in, or is affiliated with an extremist group known as a national security risk, whether in person or online;
  - ix has consumed material supporting or advocating extremism or terrorism multiple times without legitimate purpose (e.g. academic research, journalism);
  - x has committed a series of offences against the Arms Act, minor or otherwise;
  - xi has previously not complied with firearms security and storage conditions;
  - xii if they have possession of firearms or airguns which may be accessed by a person who is not considered 'fit and proper';
  - xiii has a personal or social relationship with people who may be deemed to be unsuitable to obtain access to firearms
  - xiv any other matter the Commissioner considers appropriate.
120. The Commissioner shall give consideration to the time at which the relevant factor (above) last occurred.
121. The Commissioner may, at his discretion, require the applicant to present health and psychological reports and consider their findings.

## APPENDIX B – information on further work required for Paper 2

### The licensing of firearms licence-holders and dealers

#### *Additional discretionary test for dealers*

1. As at 30 September 2018 there were 485 licensed firearm dealers operating in New Zealand with licences of one year duration with an annual renewal. The business operating model of dealers is integral to ensuring that the firearms trading market is conducted safely and responsibly. The system relies on high business integrity. I am considering an additional 'fit and proper' test for dealers, alongside their requirement that they must meet the firearms licence-holders' standards. I expect that the dealers' criteria will include largely standard business probity checks, and would help to ascertain the dealer is a genuine dealer. This will be important to ensure given many individuals will be prohibited from possessing semi-automatics and some will look for ways to circumvent the law. Firearms dealers who trade in firearms responsibly will be unaffected by any new criteria. I will report on potential criteria for dealers in Paper 2.

#### *The shift of the burden to prove "fit and proper" from Police to the applicant*

122. At present, the legislation places the burden of proof on Police to disprove in Court that the person is not 'fit and proper'. It is challenging to disprove a person's fitness for a licence, even if there are significant concerns. In recognition that it is a privilege not a right to obtain a firearms licence I am considering amendment to create an expectation that applicants should be able to demonstrate they are a 'fit and proper' person. I will consider this further in Paper 2.

#### *Eligibility around firearm licences (age, skills-development, residency status, and restrictions on the period a licence needs to be renewed)*

123. New Zealand's firearms licensing regime does not regulate well for age, skills-development or residency status in the same way as, for example, the driver licensing regime. Some of these vulnerabilities were exposed by the Christchurch attack. Other jurisdictions such as Australia, United Kingdom, Ireland and Canada have legislated to reduce risk in these areas.
124. A New Zealand firearms licence is valid for 10 years, unless sooner surrendered or revoked, or if the applicant is a visitor to New Zealand.<sup>6</sup> Apart from a 16 year minimum age requirement for a full licence, the Act does not limit any person from obtaining a firearms licence. Once a licence is issued, there are currently no checkpoints for assessing licence-holders' ongoing skills and safety practices, especially for young people. Any person may be a dealer from age 16 onwards.
125. There are gaps in the regime for people who have recently arrived in New Zealand and for visitors. I have particular concerns about the process and requirements for visitor licences; there are approximately 3,000 visitors licences currently and many are issued on the basis that a person has a firearms licence offshore. However,

<sup>6</sup> A visitor's licence is valid for one year, or an earlier date, as specified in the licence, or when the visitor leaves New Zealand, whichever comes first.



some countries, such as the United States do not have a licensing system and so a visitor's licence may be issued on the basis of a criminal history check, alone.

126. There are different approaches that we could consider, including:

126.1.1. reducing the period of a licence from 10 years to five;

126.1.2. introducing a 'first-time' licence, similar to a restricted driving licence, for an initial period of two years, and moving to a 10 year licence if no issues arise;

126.1.3. introducing a youth licence for 12 months or two years, for those under the age of 18; and

126.1.4. introducing a requirement for new arrivals in New Zealand and for temporary visitors licences that their skills and safety practices need to be comparable to those in New Zealand.

127. I propose presenting further work on licence types and durations for Paper 2.

### **The relative ease of the purchase and sales of firearms**

#### *Threshold on the number of firearms a licence holder can have possession of*

128. At present, there are limited controls over the number of firearms licence-holders can possess at any one time. The Act currently controls the numbers of firearms able to be imported by dealers or individuals by enabling the Commissioner to refuse an application for an import permit. The Commissioner must be satisfied there is good reason to import pistols, MSSAs, restricted airguns or restricted weapons. I do not plan to alter these controls for importation regime.

129. However, once in New Zealand there is no limit on the number of firearms anyone can purchase or possess, although there is a permitting process for people who wish to trade in pistols, MSSAs, or restricted weapons. The Commissioner must give explicit permission for these types of weapons to be endorsed on a licence. There are no limits on any other type of firearm. The problem with large armouries is that they are commonly targeted for theft. In the June 2016 to June 2018 period there were 1 120 reports of stolen firearms. A random sample of 246 cases were examined to determine the licence holders' compliance with storage guidelines. Of the number where storage had been assessed, 70% (81/116) were held insecurely or stored carelessly and in a manner inconsistent with recommended guidelines. Further, 33% of them were stolen from vehicles. A number of people who did not hold licences also reported firearms thefts. Police is concerned this pathway results in illicit firearms being concentrated in organised crime groups – as evidenced by large caches of firearms regularly turning up alongside illicit drugs busts.

130. At this stage I consider 4-5 to be a sensible threshold beyond for most recreational use, but I recognise that there are several types of users that genuinely need more, such as clubs, collectors, pest controllers and farming businesses. There is no reason to restrict normal practices in this way. However, along with greater numbers of firearms comes an increased need for security to ensure firearms do not end up in

the wrong hands. I wish to manage this risk and will report more on the details of a threshold limit in Paper 2.

*Threshold on the management and quantity of ammunition*

131. Currently there are no limitations on the amount of ammunition that can be purchased or held by a person and there no requirements for the safe storage of large amounts of ammunition
132. s 6(c) [REDACTED] Police are of the view that the stock-piling of large quantities of ammunition can pose as a significant risk to public safety.
133. At this stage, I do not propose a limitation on the on the quantity of ammunition purchased, as I would like further analysis on the behavioural changes due to the banning of MSSAs and potentially the dangerous ammunition.
134. I do however propose further responsibilities on the dealer to assist with unusual purchasing behaviour.

*The potential to prohibit the 0.50 calibre and above firearms and ammunition*

135. Large calibre firearms are currently lawfully held in New Zealand. These weapons are primarily designed as military sniper weapons. They are capable of killing a person at 5-7kms, although these are not currently utilised as a weapon of choice by criminals. However, the purchase of a sniper rifle by the shooter in the Las Vegas attack demonstrates that such a scenario is feasible. There are a relatively small number of these high cost firearms in New Zealand and I propose to undertake further work to consider whether these should be prohibited in future. I will provide further advice on this in the next Cabinet paper.

*Controls on the manufacturing of firearms (for example, 3D printing)*

136. There are currently no controls on the manufacture of firearms in New Zealand, except where a firearm, airgun, pistol or restricted weapon is intended for sale. Manufacturing a firearm for sale currently requires a person to hold a dealer's licence, but this does not prevent individuals from manufacturing their own firearms and firearm parts for their own use. This risk is exacerbated by rapid changes in technology (e.g. 3-D printing) which has made the manufacturing of firearms more straightforward. Without greater restrictions on manufacturing, there is reduced oversight of the overall availability of firearms in New Zealand. I will address the controls on the manufacture of firearms and firearm parts in Paper 2.

**Police's ability to effectively monitor and enforce the regulatory regimes.**

*Search warrant provisions under the Arms Act and the Search and Surveillance Act*

137. Importantly, Police needs to be able to search if there are reasonable grounds to do so. Police can undertake searches if reason for concern and can undertake searches (warrantless for arms and warranted for evidence of offending) under the



Search and Surveillance Act. However, I am aware there is an interaction between the Search and Surveillance Act's search powers and the Arms Act in that the search powers can be dependent on the level of penalty. This interaction will be considered in the development of the offences and penalties regime in Paper 2.

#### *Licensing for shooting and target clubs*

138. The Christchurch attacker gained target shooting skills at a local shooting club using a long range high-calibre rifle. The intent of the legislation is that Police has oversight of clubs that operate pistol and rifle ranges. Some types of clubs fall under the ambit of the regulatory regime (e.g. for pistols) most others do not. This is due to the outdatedness of the law which has created gaps in the definitions of shooting clubs. The oversight regime needs to be expanded to include all clubs and there need to be obligations on clubs to ensure they are mindful of any public safety risks in their operations and membership. Paper 2 will present more detail on improvements to the regulatory regime for clubs.

#### *New reporting requirements around high risk persons for dealers*

139. Firearms dealers are in a position to observe whether a customer is exhibiting unusual purchasing behaviour above what is needed for a genuine purpose. I expect dealers to have a duty of care with respect to ammunition including requirements to be mindful of the quantities purchased and any unusual behaviours by customers and to report concerning behaviours to Police. I will provide recommendations on this in Paper 2.

#### *Exemptions for gifting and online sales*

140. Given that people may wish to gift A Category firearms to other licence-holders such as in estate collections or as one-off gifts. If there is a prohibition on private sales, there needs to be provision for gifting. However, the risk in enabling gifting without any controls is the potential for 'in kind' trading and bartering in firearms. There are two options for amendment:

140.1. Option 1 would ensure that licence-holders who gift firearms to other licence-holders may do so if they have gained formal permission from Police.

140.2. Option 2 would prohibit gifting of firearms, with the implication that gifting could only be effected through a licenced dealer.

141. I do not want to hinder lawful commerce in the online environment. However, currently dealers can advertise and sell firearms online, and transport them to the buyer, without any face-to-face interaction and without any personal verification of the buyer. This presents significant risk if uncontrolled, but given that other regulatory regimes, such as the alcohol regime and the AML/CFT regime, the risks inherent in online trading are manageable. I expect that trading platforms such as TradeMe would be able to apply for a dealer's licence and transact online. Further work will be needed to determine systems of checking information on authenticity of licences, licence-holders and firearms and also on safe transport.



142. I will explore the above options further in Paper 2.

*Greater interventions to help dealers and clubs comply*

143. To improve the compliance of firearms dealers, I recommend introducing more gradation in regulatory tools available to Police. This would include more punitive interventions reserved for the very few at serious risk of misuse of the regime. At present the Commissioner or his delegate can revoke dealers' and clubs' licences and an Inspector can authorise the seizure of firearms without reference to Court. Currently the interventions escalate quickly to revocation for many situations, without intermediary steps available. Along the same lines as the suite of interventions for licence-holders I aim to enable the following graduated responses for dealers and clubs, including:

143.1. a warning by Police, along with the remedial action needed to comply with the conditions of the licence or permit;

143.2. a set of infringement fines for more significant breaches. e.g. security breaches;

143.3. provision to immediately suspend a dealer's licence and secure the firearms if needed; and

143.4. revocation of dealer's licence

143.5. permanent ban.

144. I recommend further work be undertaken to establish relevant amendments to the intervention tools for dealers and clubs including consideration of the above changes, where relevant in law.

Authorised by:

Hon Stuart Nash

Minister of Police