

# Stage 1 - Cost Recovery Impact Statement - Proposal to amend fee setting provision in the Arms Act 1983

This Cost Recovery Impact Statement (CRIS) has been prepared by NZ Police. It provides support for, and recommends, an amendment to section 74(1)(f) of the Arms Act 1983 to modernise the provision and provide certainty about the services that can be charged a fee for.

## Status Quo

### Some regulatory services can be charged for under section 74(1)(f) of the Arms Act

Police administers the regulatory functions and services set out in the Arms Act 1983 (the Act). The Act promotes the safe use and control of firearms and other weapons.

The Act's licensing, endorsement and permit system aims to deliver on a number of key outcomes contributing to the safe use and control of firearms by:

- Providing for firearms licences to be issued to people who are "fit and proper";
- Promoting the safe use of firearms through the provision of education;
- Reducing the likelihood of theft and injury from inadequate storage through on-site security inspections;
- Controlling the availability of high-risk firearms and weapons through the issue of permits for import, and to procure;
- Allowing the legitimate use of firearms by visitors to New Zealand through a visitor licence and permit process; and
- Enabling the legitimate trade of firearms between licence-holders.

The Act currently includes a regulation making power empowering the collection of fees for firearms licensing, and some other activities under the Act. Specifically, section 74(1)(f) of the Act provides for fee setting through regulations:

*"prescribing or providing for the fixing of fees payable in respect of any licence, application, or other matter under this Act, the manner of assessing any such fee, and the other matters in respect of which fees are to be payable".<sup>1</sup>*

Fees have been set for licences, endorsements and some permits. Appendix 1 sets out the current fees schedule.

## Section I: Revised provision to set fees

### Cost recovery is appropriate in supporting the delivery of private benefits

The policy rationale for charging a fee is that the issue of a firearms licences, licence endorsements and permits predominantly convey a private good (or benefit) to a licence

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<sup>1</sup> The Policing Act 2008, Part 4A also empowers Police to recover costs of some policing services referred to as "Demand Services". Police are not proposing any changes to these provisions.

holder. The licence, endorsement or permit is specific to the person to whom it is provided. In addition they are generally excludable, in that the use of a licence or permit is specific to the licence holder. For those firearms deemed of lesser risk a non-licence holder may use the firearm under supervision. Even in this situation the benefit does not extend beyond the user of the firearm.

Police consider it appropriate for it to recover the costs incurred in providing these private goods. This view is supported by Treasury guidance, which states that: “*There is a strong case for recovering costs of a private good from those who benefit from it. Recovery of these costs would most likely take the form of a fee*”.<sup>2</sup>

An important step in determining an appropriate cost recovery model is to consider whether any externalities, positive or negative are generated by the supply of good or service. In the case of firearms licencing some positive externalities may exist, for example benefits generated through public pest eradication programmes. Negative externalities would be caused by a firearm’s licence holder causing unintentional and intentional injury (including homicide and suicide) or the use of a firearm in other criminal activities.

## Problem definition

Although section 74(1)(f) establishes a broad power to set fees in respect of “*any licence, application, or other matter under this Act*”, the section is outdated and imprecise.

The section is open to differing interpretations about the services that can be charged for, and it is unclear in respect of various matters relating to fee administration. For example, it is unclear if a fee can be prescribed for enforcement and inspection activities relating to the regulation of firearms, or whether the full cost of administering the regulatory functions of the Act can be recovered. There is currently no charge for the issue of a permit to import firearms, or the issue of a permit to procure a prohibited firearm, pistol or restricted weapon. This cost is fully met by the taxpayer.

Fees have not changed to any significant extent in most cases for over 20 years. As a result, the proportion of costs met by the taxpayer has grown significantly. Prior to any changes to the regime following the 15 March terror attack, Police has calculated that fees generate only around 32% of costs, requiring public funding of around \$8.9 million per year to administer the Act.<sup>3</sup>

## *Proposed gun control reforms strengthen the case for modernisation*

Following the 15 March 2019 terror attack, the Arms (Prohibited Firearms, Magazines, and Parts) Amendment Act was passed. This purpose of this Amendment Act is to remove most semi-automatic firearms from circulation and use by the general population. In addition, the changes also introduced a new endorsement regime to enable some groups of people to continue to use prohibited firearms, and alongside this, new requirements around storage, and inspection of storage by Police. These changes impose additional cost on Police without a clear mandate to set fees and recover the costs. Police does not and would not seek to recover the costs associated with general policing and the enforcement of the law.

The Government is currently considering a range of other proposals to strengthen the Act’s regulatory regime. The proposals aim to more effectively manage risk and provide for greater

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<sup>2</sup> Treasury Guide: Guidelines for Setting Charges in the Public Sector.

<sup>3</sup> For the 2017/18 financial year.

controls and oversight, in the interests of personal and public safety. Proposals include strengthening current standard licensing requirements, and introducing new licensing requirements for dealers, clubs and ranges. Alongside these changes it is proposed that there be a much stronger suite of regulatory functions and tools available, such as a registry of firearms, new inspection provisions, and the ability to issue Improvement Notices. It is also proposed that additional permits be issued, for example, for the importation of ammunition. As mentioned above, it is unclear whether the costs associated with the issue of permits can be recovered through fees.

It is necessary in this context to have a fee setting provision that is clear and transparent in its scope, to ensure there is sufficient resourcing to deliver the intended public safety benefits and harm minimisation envisaged by the changes to the Act.

## Objective

To update and expand the scope of fee setting provisions in section 74(1)(f) of the Arms Act, to provide for a modern, clear and transparent power to set fees for a wide range of current and proposed regulatory functions and services, administered by Police. This reflects the approach taken in the Policing Act 2008 and to be more specific.

## Options

### ***Option 1: Status quo***

Under this option fees would continue to apply. However given the unclear scope of the fee setting provision, it is likely that a range of regulatory functions and services will not attract a fee.

The Crown already meets approximately 68% of the cost of administering the current regulatory regime. Should proposals to change the Act proceed, the cost of delivering the regime will increase significantly - the additional costs of which would need to be covered by the Crown. This would mean that the taxpayer is paying for a regime for which the primary benefit falls to licence-holders and firearms users.

In addition, there is a risk that the quality and effectiveness of the regulatory functions and services are compromised due to insufficient resource allocation. This may have an impact on public safety.

### ***Option 2: Revised section 74(1)(f)***

A revised section 74(1)(f) would empower the setting of fees for a broader range of regulatory functions and services, at different stages of its regulatory activity, and not just at the licencing stage.

It would enable the recovery of a greater proportion of the costs of administering the Act than it currently does. It will enable the delivery of a high quality and effective regulatory regime that meets its objectives in ensuring the safety of the public and the minimisation of firearms related crime.

To fully reflect the current and proposed scope of the Act, an updated fee setting provision should cover a wide range of matters including the:

- Principles for setting fees to recover direct and indirect costs;

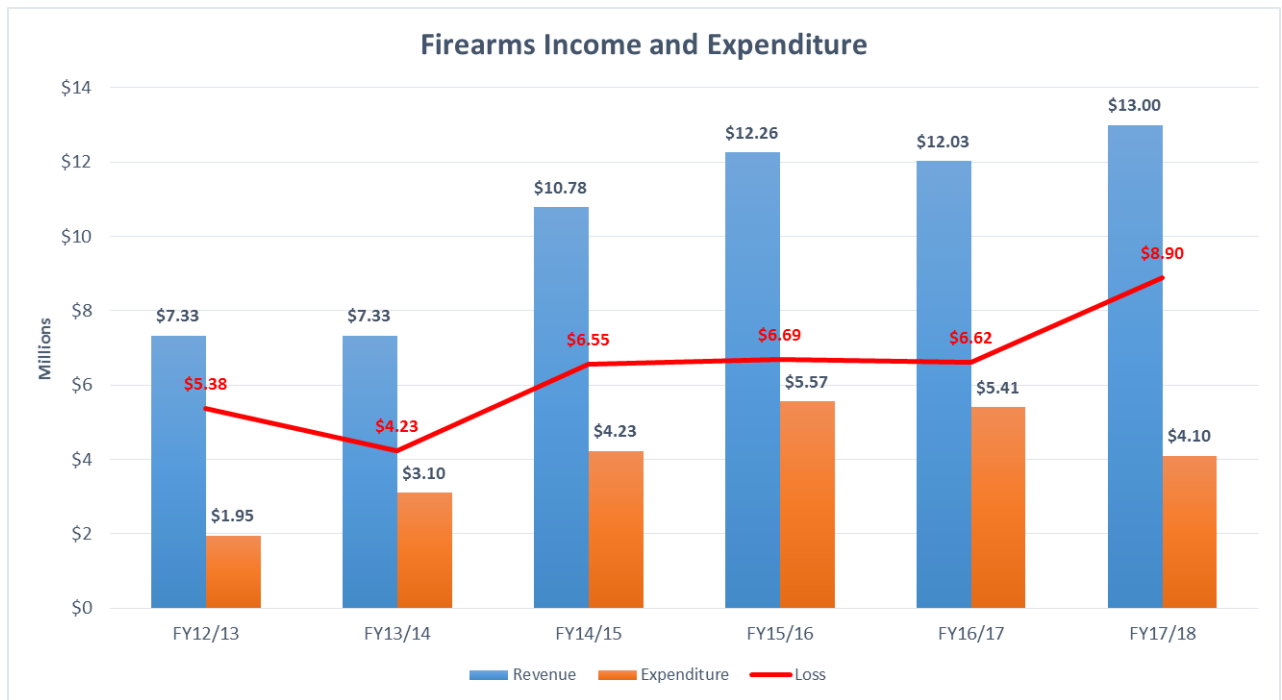
- Methods for cost recovery (e.g. fixed fees, fees charged on an hourly basis, or on-charging third party charges);
- Regulatory activity where a fee may be charged, including:
  - assessing firearms licence holders' fit and proper status;
  - issuing dealer, club and range licences;
  - issuing endorsements;
  - issuing permits, such as permits to import, procure, possess;
  - registering firearms, including the costs of establishing and maintaining the registry;
  - monitoring compliance with licence, endorsement, and permit conditions;
  - undertaking inspections and other compliance checks;
  - monitoring and recording sale and purchase transactions;
  - monitoring compliance with licence, endorsement, and permit conditions when for example, issued with Improvement Notices
- Fee limitations, for example no fee should recover more than actual and reasonable costs;
- Principles for fee exemptions, waivers or refunds;
- The time any fee becomes payable; and
- How fees may be paid.

## Section II: Review of fees schedule

It is not intended that changes are made to current fees at this time. Following approval of the proposals to amend the Arms Act, a full review of fees for regulatory functions and services will be undertaken. A cost recovery model and revised fee schedule will be developed and consulted on with stakeholders. Following consultation the government will make final decisions. A Stage 2 Cost Recovery Impact Statement will be prepared to inform these decisions.

A full review of fees will also take into consideration that current fees are out-of-date. Endorsement fees for visitors and dealers were set in 1992 and licence fees were last set in 1999. Fees set for firearm licences and endorsements are currently relatively inexpensive and provide low-cost access to firearm ownership in New Zealand. For example, a 10-year firearms licence is \$126.50, or \$12.65 a year.

In 2017/18 the cost of firearms regulatory activity was approximately \$13 million, with \$4.1 million covered by fees. The table below illustrates the cost and cost recovery profile for the firearms regulatory regime over the last six years.



### Proposed principles underlying the review of the fees schedule

The intention is to pursue increased cost recovery for administration of the Act. This will require financial analysis to determine the cost of delivering various services (outputs) and implementation of fee setting under cost recovery model. New management and monitoring practices will be required to achieve efficiency, equity goals and avoid over/under charging.

It is proposed that the review of fees schedule will be apply the following principles:

- a. Authority – having the statutory or legal basis for the services delivered and the imposition of fees;
- b. Efficiency – using funding in a way that achieves value for money;
- c. Equity – ensuring those who benefit from an activity are those who should pay for it; and
- d. Accountability – transparency to Parliament, the sector, and to taxpayers about how fees are determined and spent.

These principles have been developed using Treasury and Office of the Auditor-General guidelines. They may change or be further refined once any review commences.

## Appendix 1: Current Schedule of fees

The schedule below is reproduced from the Arms Act Regulations.

### *Firearms Licences*

Application for a Firearms Licence—	
• (a) by any person visiting New Zealand for a period not exceeding 12 months	25.00
• (b) by any person whose previous Firearms Licence either—	
• (i) expired; or	
• (ii) was deemed to be revoked by section 38(1) of the Arms Amendment Act 1992, and was not reinstated under section 39 of that Act	236.25
• (c) by any other person	126.50
Application for replacement of Firearms Licence	25.00

### *Dealers licences*

Application for a dealer's licence	204.00
Application for renewal of a dealer's licence	204.00
Application under section 7A of the Act for consent in respect of a gun show	50.00

### *Endorsements*

Application for 1 or more endorsements under section 29 or section 30A of the Act provided that no fee is payable—

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|---|--------|
| • (a) if the firearms licence to be endorsed is held by a visitor to New Zealand who wishes to use a pistol for international competitive shooting on a pistol range in New Zealand; or                 | 204.00 |
| • (b) if the firearms licence to be endorsed is held by a visitor to New Zealand who wishes to use a military style semi-automatic firearm for competitive shooting on a shooting range in New Zealand. |        |

Notes: The fees shown include GST