

# Coversheet: Implementation of Arms Amnesty: Compensation for individuals and Dealers and Prohibition of certain types of ammunition

Advising agencies	<i>New Zealand Police</i>
Decision sought	<i>To approve legislative instruments to give effect to the arms amnesty and prohibitions of certain types of ammunition</i>
Proposing Ministers	<i>Minister of Police, Hon Stuart Nash</i>

## Summary: Problem and Proposed Approach

### Problem Definition

**What problem or opportunity does this proposal seek to address? Why is Government intervention required?**

Following the mass shooting in Christchurch on 15 March 2019, the Arms (Prohibited Firearms, Magazines, and Parts) Amendment Act 2019 prohibited most semi-automatic firearms, and magazines and parts that could be used to assemble such firearms. The Amendment Act also provided for an amnesty for prohibited firearms, magazines and parts to be surrendered.

The Arms (Prohibited Firearms, Magazines, and Parts) Amendment Regulations 2019 and the Arms (Prohibited Ammunition) Order 2019 seek to implement provisions of the Amendment Act. This impact statement will either refer specifically to one of the legislative instruments or, where appropriate, to both as the “regulations”.

### Proposed Approach

**How will Government intervention work to bring about the desired change? How is this the best option?**

The regulations implement Government’s intentions to increase the safety and security of New Zealanders by reducing the risk of death or injury from particular types of firearms, magazines and parts, as well as high-risk ammunition. They do this by:

- amending the Arms Regulations 1992 to provide a basis for a compensation scheme for newly prohibited items surrendered during the amnesty period (amnesty and buy-back)
- declaring, through an Order in Council, certain types of ammunition with no valid civilian purposes to be prohibited ammunition
- amending the Arms Regulations 1992 to exclude some people and organisations from the offence of possessing prohibited ammunition, specifically bona fide collectors of small arms ammunition, museum curators and directors, and people

conducting research into prohibited ammunition for the New Zealand Defence Force or the Institute of Environmental Science and Research (ESR)

- amending the Arms Regulations 1992 to clarify the permit to possess process for an already-held firearm to ensure that a firearm is lawfully held in compliance with the Arms Act 1983
- clarifying provisions introduced by the Arms (Prohibited Firearms, Magazines, and Parts) Amendment Act 2019 including security requirements for the secure storage of vital parts for collectors.

## Section B: Summary Impacts: Benefits and costs

### Who are the main expected beneficiaries and what is the nature of the expected benefit?

The people of New Zealand will be the main beneficiaries of the proposed changes as the regulations support the prohibition of firearms, magazines and parts through the amnesty and buy-back provisions, as well as high-risk ammunition through the Arms (Prohibited Ammunition) Order. These changes are aimed at reducing the risk of death or injury from these types of firearms and items, particularly the high human cost experienced in Christchurch.

### Where do the costs fall?

The costs of the proposals fall primarily on the Crown (through Police) from the cost of operating the buy-back scheme and compensating firearms owners for the firearms surrendered. This is estimated to be:

- between \$75-\$233 million to \$170-\$526 million for buy-back of firearms (based on weighted average and 75<sup>th</sup> percentile estimates respectively), depending on the compensation to be paid to individuals, and the number of firearms surrendered, based on independent pricing calculated by KPMG
- while a separate costing for prohibited parts has not been done due to the difficulty of identifying the number and types of parts in New Zealand, an early, high level estimate by Police indicated compensation for parts could increase the overall cost by \$33-\$99 million
- between \$2-\$17 million for magazines (based on the assumption that one magazine was surrendered with every newly prohibited firearm)
- between \$2.6-\$9 million in compensation to be paid to dealers for prohibited items held in stock (this is likely to be a low estimate as it is based on limited and incomplete information)
- \$6.2 million in administrative fees to be paid to dealers acting as collection agents (based on the assumption that all licenced firearms holders have newly prohibited firearms and that 50% of owners would prefer to use a dealer surrender channel).

s 6(c)

Firearms owners may also experience some minimal one-off costs associated with surrender of newly prohibited firearms, parts, magazines, or ammunition, such as travelling to a surrender/collection point. They may also experience non-financial costs, for instance, from the emotional impact of the ban, and amnesty/buy-back. Police is aware the ban and amnesty is a potential source of stress for some firearms owners and continue to promote the 1737 mental health helpline service.

There will be no compensation for economic loss to firearms dealers. Dealers will receive compensation for newly prohibited firearms, parts, and magazines stock based on eligibility, and that compensation will be limited to the price they paid (wholesale or import costs) plus other direct costs, such as freight.

There is no compensation for prohibited ammunition.

#### **What are the likely risks and unintended impacts, how significant are they and how will they be minimised or mitigated?**

There is a risk the prohibition of certain firearms could increase the trade of illegal firearms in New Zealand. For this reason, Government has agreed to implement an amnesty and buy-back scheme to encourage the surrender of prohibited firearms.

While the amnesty/buy-back will take significant number of illegal, unwanted and unused firearms out of circulation, there will be a residual risk that it does not remove all of the prohibited firearms from the community. Police will use touch point opportunities (such as relicensing) to check for any non-surrendered items.

As part of a second round of policy proposals to strengthen the Arms Act 1983 [working title: Arms (Purpose, Licensing, Registry and Trade) Amendment Bill], Police is proposing to review offences and penalties, including penalties for offences relating to newly prohibited firearms, parts and ammunition.

#### **Identify any significant incompatibility with the Government's 'Expectations for the design of regulatory systems'.**

There is no significant incompatibility identified. Police has read and followed the Government's 'Expectations for the design of regulatory systems'.

## **Section C: Evidence certainty and quality assurance**

#### **Agency rating of evidence certainty?**

Police has information on the number of military style semi-automatic firearms in New Zealand (as defined prior to 21 March 2019), and the number of licence holders permitted to own these items. Police, however, does not have any information on the number of other newly prohibited firearms, nor more generally, the number of prohibited parts and magazines, nor the level of newly prohibited ammunition. Nor does Police know how

many licence holders own these items as these firearms and items do not need to be registered.

The costings for the amnesty and buy-back is based on independent price estimates developed by KPMG, and assumptions as to the number of newly prohibited firearms and items currently in New Zealand, the number of licence holders who have these items, and the number of licence holders who would prefer to surrender these items to a dealer.

*To be completed by quality assurers:*

**Quality Assurance Reviewing Agency:**

A cross-agency Quality Assurance Panel with representatives from the Ministry of Justice, the Ministry for Primary Industries and the Treasury.

**Quality Assurance Assessment:**

The panel considers that it **meets** the Quality Assurance criteria.

**Reviewer Comments and Recommendations:**

The RIA is clear and concise. The problem and objectives have been clearly outlined, supported by convincing evidence. The analysis and costings are comprehensive, and implementation considerations and risks have been discussed. Police have engaged with the gun community, and continue to engage. It will be important for Police to keep working closely with the gun community throughout the amnesty and buy-back process to ensure successful implementation and compliance".



# Impact Statement: Implementation of Arms Amnesty: Compensation for individuals and Dealers and Prohibition of certain types of ammunition

## Section 1: General information

### Purpose

New Zealand Police is solely responsible for the analysis and advice set out in this Regulatory Impact Statement, except as otherwise explicitly indicated. Police contracted KPMG to provide independent pricing options and a price list for the firearms buy-back component.

This analysis and advice has been produced for the purpose of informing final decisions to be taken by or on behalf of Cabinet.

### Key Limitations or Constraints on Analysis

The overall financial cost to the Crown will depend on: the number of licence holders who hold newly prohibited firearms, parts or magazines or prohibited ammunition; the numbers of such items held and their agreed compensation levels; and the percentage of these people surrendering firearms through a Police or dealer channel. Each of these are relative unknowns. The costings are therefore based on assumptions as to the number of these firearms and items currently in New Zealand.

Police expects thousands of firearms, parts and magazines to be surrendered through the amnesty, although not all will be within scope of the buy-back scheme. Police has consulted with experts in the field of firearms regulation from Australian jurisdictions in the development of the proposal and design for the amnesty and buy-back scheme. The original buy-back policy decisions paper was consulted with the Department of Prime Minister and Cabinet, The Treasury, Inland Revenue, NZDF, the Ministry of Defence, the Ministry of Justice, the Ministry for Primary Industries, the Ministry of Foreign Affairs and Trade, and the New Zealand Customs Service. More recently proposals in relation to dealers have been consulted with the Ministry of Business, Innovation and Employment, the New Zealand Customs Service, Inland Revenue, and dealer representatives. Police has also engaged with Crown Law.

As part of developing the list of prohibited ammunition proposals, Police engaged with the NZDF, the Department of Conservation, Wellington Zoo, key contacts in Fire and Emergency New Zealand, and some members of the firearms community including small arms ammunition collectors. The final proposals were also tested with the NZDF.

### Responsible Manager (signature and date):

s 9(2)(a)

New Zealand Police

7 June 2019

PROACTIVE RELEASE

## Section 2: Problem definition and objectives

### 2.1 What is the context within which action is proposed?

On 15 March 2019, a lone gunman entered two locations, killing 51 people and injuring 49 more in less than one hour. Following this terrorist attack, the Government passed the Arms (Prohibited Firearms, Magazines, and Parts) Amendment Act 2019, which prohibited most semi-automatic firearms, magazines and parts that could be used to assemble such firearms. The Amendment Act also provided for an amnesty for prohibited firearms, magazines and parts to be surrendered.

The Arms (Prohibited Firearms, Magazines, and Parts) Amendment Regulations 2019 implements the Amendment Act by amending the Arms Regulations 1992 to provide a basis for a compensation scheme for newly prohibited items surrendered during the amnesty period (eligibility being based on particular criteria). It also makes other changes and clarifications including:

- excluding some people and organisations from the offence of possessing prohibited ammunition, specifically bona fide collectors of small arms ammunition, museum curators and directors, and people conducting research into prohibited ammunition for the NZDF or ESR
- clarifying the permit to possess process for an already-held firearm to ensure that a firearm is lawfully held in compliance with the Arms Act 1983
- clarifying the security requirements for the secure storage of vital parts for collectors.

The Arms (Prohibited Ammunition) Order 2019 also implements the Amendment Act by declaring that certain types of ammunition are prohibited.

*Note: This impact statement will either refer to Arms (Prohibited Firearms, Magazines, and Parts) Amendment Regulations 2019 and the Arms (Prohibited Ammunition) Order 2019 specifically, or where appropriate refer to both as the “regulations”.*

A second round of policy proposals to strengthen the Arms Act 1983 are being developed [working title: Arms (Purpose, Licensing, Registry and Trade) Amendment Bill]. These include a proposal to require an import permit to import ammunition, as currently anyone can bring ammunition into New Zealand, for instance, in their luggage. This policy proposal will help prevent these forms of ammunition from entering New Zealand illegally. Other proposals include strengthening the licensing and permitting regime; establishing a registry of firearms and licence holders to enable real time tracking of firearms numbers, locations and ownership including at point of purchase and sale; s 9(2)(f)(iv)

and refreshing Police’s cost recovery provisions to enable fees to better reflect actual costs and ensure firearms owners are paying their fair share of firearms licencing provisions.

## 2.2 What regulatory system, or systems, are already in place?

The Arms Act 1983 and supporting legislative instruments set out the rules around the possession, use, import, sale and supply of arms.

These regulations assist with the implementation of the prohibitions in the Amendment Act as well as the amnesty and buy-back scheme for newly prohibited firearms, parts, and magazines.

The following Government agencies also have an interest in the firearms regulatory system:

- Department of Conservation – for pest control activities
- New Zealand Customs Service – for preventing illegal imports
- Ministry of Foreign Affairs and Trade – for controls on the export of firearms
- New Zealand Security Intelligence Service – for national security impacts and information sharing
- Department of Internal Affairs – for information sharing
- Ministry of Justice – for offences, penalties and criminal history checking
- Ministry of Primary Industry – for animal welfare and biosecurity
- Department of Culture and Heritage – for museums
- Local authorities – for pest control, noise and environment management.

The firearms community, those seeking additional firearms control (such as Gun Control New Zealand), and the general public of New Zealand also have a significant interest in the regulatory system. As the events of 15 March 2019 show, firearms have the potential to significantly and negatively impact on the safety and wellbeing of a large number of New Zealanders, and visitors to New Zealand.

## 2.3 What is the policy problem or opportunity?

The majority of people who have access to firearms in New Zealand are law abiding. However, firearms are inherently dangerous. They are designed to kill and inflict damage, and when in the wrong hands, this creates real risk to our communities as shown in the terror attack on 15 March 2019.

Following that event, the Arms (Prohibited Firearms, Magazines, and Parts) Amendment Act 2019 prohibited most semi-automatic firearms, magazines and parts that could be used to assemble such firearms.

The Amendment Act provided for an amnesty for prohibited firearms, magazines and parts to be surrendered. The Amendment Act also provided for the ability to declare, through an Order in Council, certain types of ammunition to be prohibited ammunition. To give effect to these provisions, Police must implement regulations.

## 2.4 Are there any constraints on the scope for decision making?

The Government, through the Arms (Prohibited Firearms, Magazines, and Parts) Amendment Act 2019, has indicated that it wishes to heavily restrict the possession of high-



risk firearms, parts, magazines and ammunition in the interests of public safety. The regulations implement the Act.

Communication and stakeholder engagement will continue to be critical to ensure the ongoing support and participation of the firearms community.

## 2.5 What do stakeholders think?

The key stakeholders are the firearms community, who have an interest in being able to purchase, possess, use and sell firearms, and the general (non-firearms owning) public, who have an interest in being protected from the risk presented by firearms.

While the general (non-firearms owning) public is typically not involved in discussion on firearms legislation, 60% of submissions received during the Select Committee process for the Arms (Prohibited Firearms, Magazines, and Parts) Amendment Act 2019 supported the proposal to prohibit particular firearms, magazines and parts. While some submitters (including firearms owners) wanted the Government to go further, the firearms community on the whole were opposed to the changes.

Police recognises that support from the firearms community will be critical to the success of the removal of newly prohibited firearms, parts and magazines, and high-risk ammunition, from the broader community. Police will keep in regular contact with the firearms community throughout the amnesty and buy-back process. Police has a long running consultative group of firearms users, dealers and other community representatives, the Firearms Community Advisory Forum, which it will continue to engage with throughout the buy-back. Police also now regularly meet with other groups of interested parties such as dealers and gunsmiths.

The views of the non-firearms owning public - and those seeking more gun control will also need to be considered, especially in light of the establishment of a new special interest group, Gun Control New Zealand, on 28 May 2019. This group has been established to counter pro-gun groups, and advocate for tighter firearms control laws, and is of the view the current prohibitions should go further.

## Section 3: Options identification

### 3.1 What options are available to address the problem?

The overarching objective of the regulations is to implement the prohibitions in the Arms (Prohibited Firearms, Magazines, and Parts) Amendment Act 2019 as well as the amnesty and buy-back scheme for newly prohibited firearms. Without regulations, the compensation (buy-back) scheme could not be enacted, nor would the named types of ammunition be prohibited.

This section discusses the amnesty and buy-back scheme before discussing the prohibition of certain types of ammunition.

#### **Amnesty and buy-back scheme**

The Arms (Prohibited Firearms, Magazines, and Parts) Amendment Regulations 2019 seek to implement the amnesty and buy-back scheme by:

- implementing a compensation scheme for the surrender of eligible newly prohibited items
- enabling newly prohibited items to be surrendered to an approved dealer as one of four different types of collection points (the other three being community-based collection points, bulk pick-ups and Police stations)

There are three key components of the buy-back scheme: compensation for individuals, compensation for dealers, and payment to support the use of dealers as collection agents.

#### Compensation for individuals

The buy-back proposal supports the ban by incentivising people to hand in newly prohibited firearms, parts and magazines. Advice from Australian colleagues indicates that what is paid for, and the level of payment could impact the participation rates in the amnesty and buy-back.

#### *Newly prohibited firearms*

Police has information on the number of military style semi-automatic firearms in New Zealand (all of which are newly prohibited) as these were required to be registered before 15 March 2019. However Police does not know the number of other newly prohibited firearms, such as firearms that have non-detachable magazines holding more than five rounds and pump action shotguns that are capable of being used with a detachable magazine. These types of firearms were not required to be registered. Police has estimated costs based on the premise that, in addition to the known number of military style semi-automatic firearms, there could be approximately 1-2% of all shotguns and 5-20% of all rifles that would be newly prohibited. As these are estimated proportions, the number could be higher, and Police will continue to refine estimates where possible.

KPMG provided the following options:

- Single value compensation:
  - zero compensation per firearm – cost \$0
  - single price per firearm regardless of make model or type – estimated cost between \$87-\$346 million depending on price paid per firearm (between \$500

- \$2,000)

- five categories of firearms types with a fixed price per category (set at 75<sup>th</sup> percentile price based on type regardless of condition) – estimated to cost \$752 million.
- Make and model valuation with four options:
  - single New Zealand price point per firearm (simplified catalogue grouping many types and brands together with a single price point regardless of condition) – estimated cost between \$91-\$283 million using a weighted average or \$205-\$639 million based on 75<sup>th</sup> percentile valuation
  - single New Zealand price point per firearm (more detailed catalogue based on type, brand and model, but with single price point regardless of condition) – estimated cost between \$107-\$333 million based on a weighted average or \$242-\$752 million based on 75<sup>th</sup> percentile valuation
  - discount single New Zealand price point by discount factor to fit buy-back within a budget – estimated cost between \$54-\$167 million based on a weighted average or \$121-\$376 million based on 75<sup>th</sup> percentile valuation
  - depreciation-based pricing (initial value of firearm based on detailed catalogue but depreciated at 20% per year from year of purchase and deemed to have no value after 5 years) – estimated cost between \$18-68 million based on weighted average or \$18-\$150 million based on 75<sup>th</sup> percentile valuation.
- Condition-based valuation:
  - compensation based on detailed catalogue with discount based on condition of firearm (five price tiers) – estimated cost between \$86-\$267 million based on weighted average and \$194-\$601 million based on 75<sup>th</sup> percentile
  - **compensation based on detailed catalogue with discount based on condition of firearm (three price tiers) – estimated cost between \$75-\$233 million based on weighted average and \$170-\$526 million based on 75<sup>th</sup> percentile)**
  - multiple US price points per firearm based on external condition and using the US 'Blue Book' to determine prices – estimated cost to be 10-20% lower than five price tier option but difficult to estimate because of complex nature of the 'Blue Book'.

Australian buy-back schemes have used a pricing approach where each specific firearm make and model is itemised, using two price points per firearm (a new or pristine firearm which would attract the new price, and everything else which would receive an average or used price). In line with the Australian approach, Police's preferred option (bolded above) is compensation based on a detailed catalogue (type, brands and models), with a three-tier price system based on the condition of the firearm (new, near-new, used, and poor condition). While KPMG engaged with a range of stakeholders in developing these options, preferred options were not specifically discussed.

Some firearms owners will consider the value of their firearm exceeds that set out in the pricing schedules. Police has proposed an option for owners to apply to the Commissioner of Police for valuation of firearms where the following criteria is met:

- the item is a lawfully acquired newly prohibited item
- the item is not on price list or is substantively different from the model the price list

- because it has been modified, or is an antique or otherwise exceptional
- the value of the item is increased by at least 30% above the base price list recommended by KPMG.

Police also proposes to use the existing provision in section 63 of the Arms Act 1983 which provides for appeal to a District Court Judge in respect of compensation as the price lists will not be able to be fully inclusive and there may be some items which are substantially different from the manufacturer model. Section 64 of the Act provides the standard second appeal on points of law to the High Court. These provisions apply to the buy-back generally, and Police consider they will achieve the objective of public confidence in the scheme as well as natural justice.

#### *Newly prohibited parts and magazines*

Police does not know the number of newly prohibited parts and magazines or the level of high-risk ammunition currently in New Zealand because these items do not need to be registered.

Separate costings have not been carried out for parts due to the difficulty of identifying the number and types of newly prohibited parts currently in New Zealand. Police previously undertook a fairly rudimentary costing exercise, leading to a broad estimate of total costs being \$33-\$99 million for parts and accessories.

Police recommended compensation for firearms be based on the KPMG provided price list, and adjusted based on condition (new, near new or used). Ministers have agreed to use the base price list provided by KPMG for prohibited parts and magazines, and apply a condition adjustment of 70% of the base price for used prohibited parts and magazines, and 25% of the base price for prohibited parts and magazines in poor condition. Again, while KPMG engaged with a range of stakeholders in developing broad compensation options, this has not been specifically discussed with stakeholders.

The cost of magazines is estimated as between \$2-\$17 million based on the assumption that one magazine would be handed in with each newly prohibited firearm.

#### Compensation for dealers

There are currently 493 licenced firearms dealers in New Zealand. The impact on dealers is likely to differ depending on their circumstances, and whether they have been able to return prohibited stock to suppliers. Police does not have any information on what proportion of stock is likely to be able to be returned, or has already been returned, to suppliers.

Police has considered the following options on the application of the compensation scheme for unreturnable stock held by licenced dealers:

- No compensation
- Compensation at wholesale price (excluding freight)
- Compensation at wholesale price (including freight and other proven direct costs associated with the stock)**
- Compensation at wholesale price plus a nominal percentage as a proxy for freight and direct costs
- Compensation at wholesale price plus a percentage (such as 10 or 20%) as a proxy for freight, direct costs and lost business element



- Compensation at full retail price or value identified by KPMG.

Australian buy-back schemes have always paid compensation to dealers and importers. However the scope and application have varied, with later schemes paying compensation to dealers or importers for the surrender of firearms but no compensation for loss of business. The options set out above are in line with the legislative provisions which allows for regulations to not account for economic or consequential loss. Police's preference was to compensation dealers for stock at hand and a flat percentage (eg 10%) on top as a proxy for other costs associated with the stock (eg freight). Ministers' preferred option is for compensation to be at wholesale (or import) price, including freight and other proven direct costs (excluding overheads) associated with stock. This specific option has not been discussed with stakeholders.

#### Use of firearms dealers as collection agents for buy-back

Police proposes to use four different surrender channels as part of the amnesty and buy-back scheme: local community collection points, via a firearms dealer, bulk pick-ups and at Police stations. While all newly prohibited items could be surrendered to any licenced dealer, an approved dealer would be one who has been contracted by Police to become a collection point for the purposes of the buy-back. Contracted dealers would be eligible to receive an administrative fee for their services.

Dealers are an important part of the firearms community. They are in frequent communication with their customers and are in many cases 'trusted voices' of local firearms communities. They are also based widely around the country and have wide opening hours often including weekends. Australia has tended to use its dealer networks for amnesties and buy-back schemes because of their community connections, geographical locations, opening hours and knowledge of firearms. Based on the experience in Australia and recognition of the role dealers play in the New Zealand firearms community, Police considers the dealer channel will increase community engagement, build trust and confidence in the process, and improve the surrender of firearms.

Police also considered whether dealers should receive a small administrative fee to support the use of dealers as a 'channel' for people surrendering firearms. Police estimates that processing a buy-back application at a police station would take two staff approximately half an hour, at a cost of approximately \$50.

The following administrative fee options have been considered per successful buy-back application (not the number of prohibited items):

- No compensation
- \$25
- **\$50 (reflects estimated police cost)**
- \$75 (includes a small loading fee to reflect the likely additional storage and insurance costs)

Dealers in New Zealand have expressed an interest in being involved in the buy-back scheme, but expressed concern about the impact it may have on their business. Specific options for administrative fees have not been discussed with them.

Ministers' preferred option, bolded above, is for the payment to reflect the estimated cost to

Police of this element of the buy-back scheme: \$50 per buy-back application. The estimated cost of the preferred option depends on the number of licence holders who hold newly prohibited firearms, parts and magazines, and the percentage of people surrendering firearms who prefer to do so through the dealer channel. Both of these are unknowns. However, based on a maximum likely outcome, assuming that all active firearms licence holders hold newly prohibited firearms, and that 50% of those would prefer to use the dealer channel, the estimate cost for the dealer fee would be \$6.2 million.

#### **Prohibiting certain types of ammunition**

Police consulted stakeholders on a broad range of ammunition available for purchase in New Zealand (or which could be imported into New Zealand). The final list (set out in the Arms (Prohibited Ammunition) Order 2019) represents those forms of ammunition viewed as having no valid civilian use, such as armour piercing ammunition (designed to penetrate armour plate), and explosive ammunition (designed to explode on impact). Without prohibition through legislative instrument, it would not be possible for Police nor Customs to prevent these forms of ammunition from coming into New Zealand.

Policy proposals for the second Arms Act Bill [working title: Arms (Purpose, Licensing, Registry and Trade) Amendment Bill] include a proposal to require an import permit to import ammunition, as currently anyone can bring ammunition into New Zealand, for instance, in their luggage. This proposal will help prevent these forms of ammunition from entering New Zealand illegally in the future.

### **3.2 What criteria, in addition to monetary costs and benefits, have been used to assess the likely impacts of the options under consideration?**

#### **Amnesty and buy-back scheme**

There is a need to be open and transparent in regulating how compensation will be determined for newly prohibited items in order to effect removal of as many as possible from the community and potential black market (and to reduce the likelihood of legal challenges). Firearms owners and dealers also need to be assured that decisions on compensation are fair and consistently applied, and understand the basis for value assessments.

#### Compensation – individuals

Police considered the following criteria when considering compensation for individuals:

- fairness to owners (for instance, payments are fair and reasonable and consistently applied)
- fairness to the public (for instance, a good use of Government's limited funding while supporting the removal of these firearms from the community)
- transparency (easy for the firearms community and general public to understand)
- administrative simplicity.

#### Compensation – Dealers

Police considered the following criteria when considering compensation for dealers:

- cost
- operational simplicity
- fairness and effectiveness in meeting business costs
- impact on willingness of dealers to engage as positive partners in the buy-back

scheme and broader firearms reform (this recognises the relationships and influence that dealers have with firearms owners)

- risk of litigation.

#### Paying dealers an administrative fee for use as collection agents during the buy-back

Police considered the following criteria when considering the idea of an administrative fee for dealers:

- cost
- impact on willingness of dealers to act as collection agents.

s 9(2)(f)(iv)

These criteria are not mutually exclusive although some may involve a trade-off against other criteria – for instance, what is perceived as fair to owners may not be perceived as fair to the public. Likewise, some criteria (such as operational simplicity) may be achieved as a trade-off against other criteria (such as the willingness of dealers to engage as positive partners or the risk of litigation).

#### **Prohibiting certain types of ammunition**

The key criteria used to assess whether a particular type of ammunition should be prohibited was whether, in the views of Police and the NZDF, there was no valid civilian use. The list included in the Arms (Prohibited Ammunition) Order 2019 represents the final list using that criterion.

### **3.3 What other options have been ruled out of scope, or not considered, and why?**

#### **Amnesty and buy-back scheme**

Police did not develop options for individual buy-back as Government asked for independent advice on the buy-back pricing and KPMG was contracted to provide that advice. For dealers, the legislation clearly states that compensation regulations need not include consequential economic loss. Compensating dealers for loss in profits for newly prohibited items would run counter to the legislation and also place an unfair burden on the general public.

#### **Prohibiting certain types of ammunition**

Over 50 different ammunition types and subtypes were considered originally on a range of considerations (including calibre and size). The final list included in the Arms (Prohibited Ammunition) Order 2019 represents the final list using the criterion of no valid civilian use.

## Section 4: Impact Analysis – Compensation for individuals

**Marginal impact:** How does each of the options identified at section 3.1 compare with the counterfactual, under each of the criteria set out in section 3.2? *Add, or subtract, columns and rows as necessary.*

		Fairness to owners	Fairness to public	Transparency	Administrative simplicity	Overall assessment
Single value	Zero compensation per firearm	-- (likely to be perceived as unfair)	- (may be perceived as unfair)	++ (easy to understand)	++ (very easy to administer)	-
	Single price per firearm	- (likely to undervalue some / incentivise surrender of low value firearms)	0 (likely to be mixed views)	+ (easy to understand)	+ (easy to administer)	+
	Five categories of firearm	- (likely to under /over value some firearms)	- (unfair if overcompensates owners)	+ (easy to understand)	+ (easy to administer)	0
Make and Model valuation	Single price point per firearm	+ (closer to value / incentivises surrender)	- (unfair if overcompensates owners)	+ (easy to understand)	+ (easy to administer)	+
	Single price point (detailed catalogue)	+ (closer to value / incentivises surrender)	0 (likely to be mixed views)	+ (easy to understand)	0 (neutral)	+
	50% discount of single price point	-- (under values most firearms)	+ (seen as not overpaying for firearms)	+ (easy to understand)	0 (neutral)	--
	Depreciated based pricing	-- (under values most firearms)	+ (seen as not overpaying for firearms)	0 (may not be clear rationale why)	- (increasing complexity)	--
Condition based valuation	Compensation (five price tiers)	++ (closer to value / incentivises surrender)	0 (likely to be mixed views)	+ (easy to understand)	-- (increasing complexity)	+
	Compensation (three price tiers) (*preferred option)	++ (closer to value / incentivises surrender)	0 (likely to be mixed views)	+ (easy to understand)	- (increasing complexity)	++
	US price points	0 (US prices generally lower)	0 (likely to be mixed views)	- (process not transparent)	-- (very complex to administer)	0/-

**Key:**

++ much better      + better      0 neutral      - worse      -- much worse



## Section 4: Impact Analysis – Compensation for dealers

**Marginal impact:** How does each of the options identified at section 3.1 compare with the counterfactual, under each of the criteria set out in section 3.2? *Add, or subtract, columns and rows as necessary.*

	Costs	Operational simplicity	Fairness and effectiveness in meeting business costs	Impact on dealers' willingness to engage	Reduced risk of litigation	Overall assessment
<b>No compensation</b>	++ (cheapest)	++ (easiest)	-- (not meet business costs)	- (dealers highly unlikely to engage)	-- (high litigation risk)	--
<b>Wholesale price excl freight</b>	+ (next cheapest)	+ (relatively easy to apply)	-- (not meet business costs)	- (dealers unlikely to engage)	- (may be some risk)	-
<b>Wholesale price incl freight</b>	0 (mid costs)	- (difficult to identify freight component)	0 (meets some business costs)	0 (neutral in terms of engagement)	- (may be some risk)	0/-
<b>Wholesale price plus nominal percentage for direct costs (*preferred option)</b>	0 (mid costs)	- (difficult to identify direct costs)	+ (meets direct business costs)	+ (dealers likely to engage)	+(reduces litigation risk)	+
<b>Wholesale price plus percentage for direct costs and lost business</b>	- (may be seen as funding dealers)	- (difficult to judge lost business)	- (may overcompensate for business costs)	+ (dealers likely to engage)	+(reduces litigation risk)	-
<b>Retail price</b>	-- (significant mark-up)	- (difficult to apply given mark-ups)	-- (overcompensate for business costs)	++ (dealers more likely to engage)	++ (reduces risk of litigation)	--

**Key:**

- ++ much better
- + better
- 0 neutral
- worse
- much worse

## Section 4: Impact Analysis – Administrative fee for dealers (to act as collection agents)

**Marginal impact:** How does each of the options identified at section 3.1 compare with the counterfactual, under each of the criteria set out in section 3.2? *Add, or subtract, columns and rows as necessary.*

	Costs	Impact on dealers' willingness to engage	Overall assessment
No administrative fee	++ (cheapest)	-- (dealers highly unlikely to engage)	0
\$25	+ (next cheapest)	- (dealers unlikely to engage)	0
\$50 (*preferred option)	0 (broadly reflects Police costs)	+(dealers likely to engage)	+
\$75	-- (most costly option)	++(dealers highly likely to engage)	0

**Key:**

- ++ much better
- + better
- 0 neutral
- worse
- much worse

## Section 5: Conclusions

### 5.1 What option, or combination of options, is likely best to address the problem, meet the policy objectives and deliver the highest net benefits?

The Arms (Prohibited Firearms, Magazines, and Parts) Amendment Act 2019 provided for an amnesty for prohibited firearms, magazines and parts to be surrendered. While some of the specific proposals may not be supported by the firearms community, the overwhelming support at Select Committee following the events of 15 March 2019 is for increased control and prohibition of high risk firearms and ammunition.

The costs associated with the particular components, such as the amnesty and buy-back scheme, can be considered against the high harms and costs to the public by the misuse of such firearms and ammunition, and, in particular, the high human costs of events such as the 15 March terror attack. While final options have not been discussed with the general public, Māori, or the firearms community, there is a fine line between compensating at a level supported by the firearms community, and a perception by the general public of overcompensation in light of the events in Christchurch.

#### Compensation for individuals

The preferred option is compensation based valuation, based on a detailed catalogue with discount based on condition of firearm (three price tiers). The estimated cost would be between \$75-\$233 million based on weighted average and \$170-526 million based on 75<sup>th</sup> percentile). This option is viewed as removing the prohibited firearms and items from the community, while paying close to the value of firearms (while not over-valuing the items). It would also be relatively transparent and while not administratively easy, avoids some of the complexities of other options.

Compensation for newly prohibited parts and magazines would be additional to the above cost and Ministers have agreed to use the base price list provided by KPMG for prohibited parts and magazines, and apply a condition adjustment of 70% of the base price for new, near-new, or used prohibited parts and magazines, and 25% of the base price for prohibited parts and magazines in poor condition. While separate costings have not been carried out for parts due to the difficulty of identifying the number and types of newly prohibited parts currently in New Zealand, Police has previously provided a broad estimate of \$33-\$99 million for compensation for parts and accessories.

The cost of magazines is estimated to be \$2-\$17 million based on the assumption that one magazine would be handed in with each newly prohibited firearm.

#### Compensation for dealers

Ministers have agreed that compensation would be paid on the basis of wholesale price (including freight and other proven direct costs associated with the stock). The estimated cost for compensation to be paid to dealers for newly prohibited items held in stock is between \$2.6 and \$9 million. This is likely to be a low estimate as it is based on limited and incomplete information.

#### Use of dealers as collection agents for buy-back

Ministers have agreed that dealers should receive an administration fee of \$50 per successful buy-back application. Based on the outside costing assumptions that all active

firearms licence holders hold newly prohibited firearms, and that 50% of those would prefer to use the dealer channel, the estimate cost for the dealer fee would be \$6.2 million.

## 5.2 Summary table of costs and benefits of the preferred approach

Affected parties (identify)	Comment: <i>nature of cost or benefit (eg ongoing, one-off), evidence and assumption (eg compliance rates), risks</i>	Impact \$m present value, for monetised impacts; high, medium or low for non-monetised impacts	Evidence certainty (High, medium or low)
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### Additional costs of proposed approach, compared to taking no action

Regulated parties  Firearms owners / licence-holders	Firearms owners may incur minimal one-off costs associated with surrender of newly prohibited firearms, parts, magazines, or ammunition, such as travelling to a surrender/collection point. These costs are likely to be minimal and have not been costed.	Low	Medium
Regulated parties  Dealers	Firearms dealers may incur some one-off costs, which will be largely mitigated: <ul style="list-style-type: none"> <li>the return of stock that can no longer be sold in New Zealand will depend on contract arrangements and will be up to the dealer to negotiate. Where imported stock is returned at a discounted rate, compensation will be paid for the difference between the price paid and the price refunded, as well as the freight costs incurred.</li> <li>costs incurred by receiving and passing on to Police firearms and parts received from firearms owners as part of the amnesty will be mitigated by the payment of \$50 per successful buy-back application (one per firearms owner).</li> </ul>	Low-Medium	Medium
Regulators  Police	The main costs of the proposals will fall on Police, which fund and operate the amnesty and buy-back scheme. Police has been provided an initial one-off increase to its baseline to undertake this work, but the costs may outweigh this already allocated budget.	Estimated costs range from \$85.8-\$265.2m to \$180.8-\$558.2m [not including costs for parts]	High



	<p>Based on Police's preferred option, the estimated costs for compensation is \$75-\$233m to \$170-\$526m for buy-back of firearms (based on weighted average and 75<sup>th</sup> percentile estimates), \$2-\$17m for magazines, and \$2.6-9m for dealers. An administrative fee for dealers acting as collection agents, this is estimated to cost an additional \$6.2m.</p> <p>There would also be an additional cost for parts, which cannot currently be accurately estimated, but Police has previously provided broad estimates of \$33-\$99m.</p> <p>There will also be some initial operational costs from increased checking on licence holders to ensure all newly prohibited items have been surrendered.</p>		
Wider government	<p>s 6(c)</p> <p>There may also be some costs to Customs from increased checking on the legality of firearms and ammunition entering the country.</p>	Low-Medium (not costed)	Medium
Other parties  General Public	<p>The General Public will generally bear the costs of the amnesty and buy-back scheme as it will be paid for by Government. These costs have been incorporated under the regulators and wide government costs and can be balanced against the higher costs (including human costs) of not setting out a compensation system in regulations that is effective, fair and transparent.</p>	Medium	High
<b>Total Monetised Cost</b>	<p><i>Estimated cost of amnesty/buy-back scheme based on estimated costs for buy-back of firearms, magazines, dealers stock and administrative fee for dealers' acting as collection agents.</i></p> <p><i>(Operational costs additional)</i></p>	<p>Estimated costs range from \$85.8-\$265.2m to \$180.8-\$558.2m [not including costs for parts and buy-back operating costs]</p>	
<b>Non-monetised costs</b>		Low-Medium	

Expected benefits of proposed approach, compared to taking no action			
Regulated parties  Firearms owners / licence-holders  Dealers	Firearms owners and dealers will receive compensation for newly prohibited firearms, parts and magazines. They also benefit from being able to off-load unwanted firearms, parts and ammunition throughout the amnesty period.	Low-Medium	Medium
Regulators  Police	Police will be able to reduce the number of 'unknowns', primarily the number of newly prohibited firearms, parts, magazines and ammunition within the community. Police will also face reduced potential threat from now prohibited firearms in day to day business.	Medium-High	High
Wider government	The proposals will reduce the risk that the wider government should have to deal with an event like Christchurch again – both in financial and non-financial costs.  No mass shootings of this nature have occurred in Australia since they banned these firearms.	High	Medium
Other parties  General Public	The general public will be safer through the reduction in the number of high-risk firearms and ammunition within the community.	High	High
<b>Total Monetised Benefit</b>	<i>Benefits of removing prohibited firearms through buy-back scheme is improved public safety for all New Zealanders.</i>	Medium-High	
<b>Non-monetised benefits</b>	<i>Immediate reduction in the availability of prohibited firearms and improved public safety for all New Zealanders.</i>	High	

### 5.3 What other impacts is this approach likely to have?

Following the mass shooting in Christchurch on 15 March 2019, the Arms (Prohibited Firearms, Magazines, and Parts) Amendment Act 2019 prohibited most semi-automatic firearms, magazines and parts that could be used to assemble such firearms.

These regulations assist with the implementation of the prohibitions in the Amendment Act as well as the amnesty and buy-back scheme for newly prohibited firearms, parts, and magazines by:

- amending the Arms Regulations 1992 setting out the basis for a compensation scheme for newly prohibited items surrendered during the amnesty period (amnesty and buy-back)
- declaring, through an Order in Council, certain types of ammunition to be prohibited ammunition.

There is a risk the prohibition of certain firearms could increase the trade of illegal firearms in

New Zealand. It is for this reason the Government is implementing an amnesty and buy-back scheme to encourage the surrender of prohibited firearms.

While the amnesty/buy-back will take significant number of illegal/unwanted/unused firearms out of circulation, there will be a residual risk that it does not remove all of the prohibited firearms from the community. Police will use licensing touch point opportunities (such as relicensing) to check for any non-surrendered items. As part of a second round of policy proposals to strengthen the Arms Act 1983 [working title: Arms (Purpose, Licensing, Registry and Trade) Amendment Bill], Police is proposing to review offences and penalties, including penalties for offences relating to newly prohibited firearms, parts and ammunition.

There is also a risk that if dealers disengage from the process, Police will lose a valuable influencer in the buy-back process, and other, ongoing operations and firearms reforms. Compensation to individual firearms owners and dealers therefore needs to be fair to support the surrender of firearms and to engage productively with the firearms community in the successful removal of these firearms and in any future reforms.

#### **5.4 Is the preferred option compatible with the Government's 'Expectations for the design of regulatory systems'?**

There is no significant incompatibility identified. Police has read and followed the Government's 'Expectations for the design of regulatory systems'.

## Section 6: Implementation and operation

### 6.1 How will the new arrangements work in practice?

Together, these regulations assist with implementing Government's intentions, as set out in the Arms (Prohibited Firearms, Magazines, and Parts) Amendment Act 2019, to increase the safety and security of New Zealanders by reducing the risk of death or injury from particular types of firearms, magazines and parts, as well as high-risk ammunition. The preferred option is being implemented through the regulations and will be supported by extensive communications and messaging.

The ability of Police to implement the regulations depend in part on:

- appropriate level of funding being made available for the amnesty and buy-back scheme (including compensation to firearms owners for newly prohibited firearms). In Budget 2019, the Government set aside \$150 million specifically for the buy-back component, noting that additional funding may be needed. Additional resource was also allocated to Police to administer the buy-back.
- the willingness of the firearms community to participate in the amnesty and buy-back scheme, including surrendering the proposed prohibited firearms, parts and ammunition.
- appropriate resourcing to ensure Police is able to use licensing touch points to check for any newly prohibited firearms, parts, magazines or high-risk ammunition.

Police recognises that support from the firearms community will be critical to the success of removing prohibited firearms, parts, magazines, and ammunition from the broader community. Police has established connections over many years with the firearms community. These will be utilised to assist individuals, businesses and organisations within that community to understand and comply with the proposed changes. Police meets two-three times per year with a broad section of representatives of the firearms community through its Firearms Community Advisory Forum. Police will keep in regular contact with the firearms community throughout the amnesty and buy-back process.

#### ***Amnesty and buy back logistics***

##### Surrender forms

To support the amnesty and buy-back, Police has a notice of intent to surrender form on its website to enable licensees with newly prohibited firearms to notify Police as part of the amnesty process. These forms are helping Police plan how best to collect and receive these items, s 6(c)

As at 4 June 2019, 3,366 forms (covering 4,432 firearms) have been completed while 579 firearms, not all newly prohibited, have already been surrendered. In the meantime, any person who wishes to surrender a firearm without compensation can do so at any police station.

##### Planning and engagement

The planning and engagement phase has been aimed at addressing the risks associated with the amnesty and buy-back, including risks of firearms owners being unaware of new statutory obligations, or how to meet them to avoid being criminalised.

A significant programme of work is underway to build the infrastructure, information technology (IT), logistics, workforce and security required to undertake the amnesty and



buy-back successfully and safely.

As part of this phase, police has tried to identify as many areas as possible where support and assistance can be given to help owners of prohibited items comply with the law and to successfully retrieve from general circulation as many prohibited firearms as possible. Police is engaging with dealers, the firearms community (including emailing firearms licence holders to directly advise them of changes, updating the Police website to provide advice and information and the provision of call centre support services), iwi partners (to help reach rural and isolated communities), other organisations and statutory agencies with experience of firearms (such as the Game Animal Council, Fish and Game, and the Hunting Guides Association).

Police has also sought to address risks around the emotional impact of the ban. Police has, and continues to, promote the 1737 mental health helpline service. Police is aware the ban and amnesty have been a source of stress for some firearms owners who will need professional support.

s 6(c)

Police is establishing the workforce and logistics support required to engage directly with a potentially very large number of firearms owners, in their own communities and via dealers to ensure the buy-back and amnesty are straightforward for owners and dealers and that firearms can be received, made safe, stored and transported to ultimate destruction.

Finally, Police is building an IT system that can manage the end-to-end logistical process and financial transactions. This IT system will manage the information and processes through the life-cycle of the firearm or item being surrendered.

#### Communication

Strategic communications and engagement will support the amnesty and buy-back programme. Communications material will reflect the principles of pragmatism, positive engagement, and fostering of a sense of collective responsibility as New Zealanders. The intention is to encourage people to work with Police to see how they can be part of, and ultimately drive, change.

Communications will be two way, with forums for affected firearms owners to have their say so Police can quickly pick up issues that need resolving, and enable Police to adjust its messaging in an agile way.

## **6.2 What are the implementation risks?**

There is a risk the prohibition of certain firearms could increase the trade of illegal firearms in New Zealand. It is for this reason that Police is implementing an amnesty and buy-back scheme to encourage the surrender of prohibited firearms.

While the amnesty/buy-back will take significant number of illegal/unwanted/unused firearms out of circulation, there will be a residual risk that it does not remove all of the prohibited firearms from the community. Police recognises that support from the firearms

community will be critical to the success of removing prohibited firearms, parts, magazines, and ammunition from the broader community. Dealers, in particular, will be an important part of this process as they are in frequent communication with their customers and are in many cases 'trusted voices' of local firearms communities.

Police is aware of risks associated with the security of firearms during the amnesty process, particularly in light of the theft of firearms from a Palmerston North police station in April. The logistics, staffing and security of the amnesty and buy-back is being developed outside of normal Police practice and has high levels of programme management, oversight and quality assurance. Police has developed in-depth operating procedures with Districts to ensure they are knowledgeable with best-practice and policies to ensure security is commensurate with security risk. Police has worked with NZDF and firearms experts in the planning of the amnesty and buy-back scheme. This includes a range of security processes around collection points, dealers, bulk-pick ups, stations, storage and containers, and transportation and disposal. Significant communication effort is going into preparing firearms owners and receiving points for a planned and managed handover. Police is seeking to avoid walk-in, unprepared handovers and sees Police stations as its least preferred channel.

Prior to any agreement to use a dealer as a collection agent, Police will review its security arrangements and their capacity to participate in the programme. Finally, where possible, firearms will be partially destroyed on site so they are non-operational and armed Police staff will also be deployed to collection points (all channels) to support constant monitoring of transportation in addition to other security measures.

Police will keep in regular contact with the firearms community throughout the amnesty and buy-back process. Police will also use licensing touch point opportunities (such as relicensing) to check for any non-surrendered items.

As part of a second round of policy proposals to strengthen the Arms Act 1983 [working title: Arms (Purpose, Licensing, Registry and Trade) Amendment Bill], Police is proposing to review offences and penalties, including penalties for offences relating to newly prohibited firearms, parts and ammunition.

## Section 7: Monitoring, evaluation and review

### 7.1 How will the impact of the new arrangements be monitored?

Overall, the success of the changes made by the Arms (Prohibited Firearms, Magazines, and Parts) Amendment Act 2019 and these regulations, supported by other measures still to come, will be that no mass shooting of the nature that occurred on 15 March 2019 will happen again.

While Police has information on the number of military style semi-automatic firearms in New Zealand, it has no information on the number of other firearms that are now newly prohibited, or the number of licence holders who now own newly prohibited firearms. Part of the success of the amnesty and buy-back process will be measured by the number of firearms surrendered during the process (in a context where Police knows the numbers of military style semi-automatic firearms, but has estimated that 1-2% of all shotguns and 5-20% of all rifles are now newly prohibited firearms). Further measures would be the numbers of prohibited firearms subsequently used in offending or found during police routine checks on licence holders (for instance, during relicensing) or during normal police investigation processes.

### 7.2 When and how will the new arrangements be reviewed?

As part of a second round of policy proposals to strengthen the Arms Act 1983 [working title: Arms (Purpose, Licensing, Registry and Trade) Amendment Bill], there is a proposal to review the new information systems and operating models for regulatory stewardship of the firearms regime after five years.

This review may cover the structure of the Arms Act 1983, its regulatory effectiveness, the offences and penalty scope and level of penalties, and considerations of the system for cost recovery. Further decisions about the review (including who would lead it and stakeholder involvement) would be made closer to the time.