

# Regulatory Impact Statement: [Discussion Paper on proposed regulations for a firearms registry]

## Coversheet

### Purpose of Document

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|----------------------|---|
| Decision sought:     | <i>Analysis produced for the purpose of informing the release of a discussion document.</i> |
| Advising agencies:   | <i>New Zealand Police</i>   |
| Proposing Ministers: | <i>Minister of Police</i>   |
| Date finalised:      | <i>17 August 2022</i>   |

### Problem Definition

Changes to the Arms Act 1983 made by the Arms Legislation Act 2020 that come into force on 24 June 2023 provide for the establishment of a registry managed by New Zealand Police (Police) to store and link information on all firearms and other arms items and their licence holders. This will enable greater and more centralised oversight of the number and location of firearms and other arms items in New Zealand. The registry will contribute to the Act's purpose of promoting the safe possession and use of firearms and mitigate against their movement into criminal hands.

Currently there is no centralised oversight of the number and specifications of arms items held by firearms licence holders. This makes it difficult to track firearms from their manufacture or importation and link information on all firearms and other arms items with licence holders.

If standard (non-prohibited) firearms are on-sold or otherwise transferred after import by licence holders, there is currently no way of knowing who has transferred them and to whom or how securely they are held. This makes it easy for people with criminal intentions to get around the regulations through unrecorded changes of possession. To discourage this, the registry will store information on all regulated arms items held, obtained and transferred by all licence holders, as well as other information to be specified in regulations.

## Executive Summary

The Government is committed to strengthening the control and regulation of firearms in Aotearoa. From 24 June 2023, the Arms Act 1983 (the Act) will prescribe the staged gathering of information by the registry on firearms and other arms items possessed by licence holders after that date. This is a significant shift from the current regulated standard which provides little centralised oversight into the legally held firearms in the community and little way to track a firearm over its lifetime. The establishment of a registry requires regulations to specify what information firearms licence holders are required to enter into the registry.

Regulations must be made to provide clear and comprehensive directions on what is required to meet the new legislation on the arms registry. To implement the registry, we need regulations that set out the practical requirements for obtaining the information from licence holders that needs to be included in the registry.

Police has outlined all proposed regulations in its public consultation document: *Proposals for new regulations under the Arms Act 1983. Phase Three: Consultation on the Firearms Registry*.

For some proposals, there are no feasible alternative options. The reasons for this are two-fold:

1. The majority of options relate to lists of prescribed information that will be required to be provided to Police. The only alternative would be to require additional, or less, information. Police, however, has carefully considered all the information requirements and is proposing to regulate only for that information required to meet the purpose of the registry from a public safety perspective. This takes into account what is practical for licence holders to provide and Police to record, and the need to ensure accuracy of information linking arms items with licence holders. Any request for additional information would be unnecessary and only serve to increase compliance costs.
2. Some of the information required is already set out in the Arms Legislation Act 2020 (Arms Legislation Act).

Police has engaged with Police stakeholder groups, and in due course will consult with the public, on the proposed information we are requesting and is only seeking information that is either required through legislation or necessary for the effective regulation of firearms and licence holders.

We have identified two proposals which have feasible options - around the timeline for licence holders to provide information as opposed to the information itself and the duration for the retention of information. We consider that the preferred options identified balance the following the following criteria:

- contribution towards the purposes and principles defined in the Act, i.e.
  - promote the safe possession and use of firearms and other weapons
  - impose controls on the possession and use of firearms and other weapons
- practicality (clear, and able to be understood and followed)
- efficiency (giving effect to them is as easy as possible)
- cost effective (Yes/No).

### *Potential positive impacts of the proposals*

All of the proposed regulations are expected to provide the government and Police with more centralised oversight of the legally held firearms in the country. Data held by the registry will enable

greater visibility of the firearms environment so that Police can better carry out its regulatory and enforcement role, in the interests of public safety.

Dealers will have assurance that they are selling to legitimate licence holders. Similarly, the transfer of firearms by private sales will occur through the registry, assuring both buyers and sellers that they are dealing with legitimate licence holders.

#### *Potential negative impacts of proposals*

Police do not foresee any potential negative impacts of the proposals. It is possible there may be increased non-compliance with the new regulations however at this early stage in the proposals it is difficult to predict.

#### **Stakeholders and the general public's views**

All proposals were initially tested with the Minister's Arms Advisory Group (MAAG), and Police's own stakeholder's groups –the Arms Engagement Group (AEG) and the Firearms Community Advisory Forum (FCAF). These groups did not raise any major concerns, with feedback mainly concerned with clarifications, technical matters, or indicating a preliminary view.

It is difficult to anticipate the reaction of the wider firearms community to the proposed regulations, particularly as the substantive provisions relating to the establishment of the registry are already enacted. However, there have been a lot of changes to the firearms regulatory system since 2019. These changes have left the firearms community feeling disgruntled and as though there are increasing obligations being imposed on them despite being lawful users of firearms. It is likely some of this sentiment will be carried over in response to the proposals outlined in the registry public consultation document.

The non-firearms owning community, as represented by such groups as Gun Control NZ who have indicated strong support for a registry in the past, are likely to be generally in favour of the proposed regulations.

### **Limitations and Constraints on Analysis**

#### ***Timeframe constraints***

This is an interim Regulatory Impact Analysis (interim RIA) to support public consultation. At this stage we are not completing all the sections of a RIA. A full RIA will be completed when the final policy proposals are submitted to Cabinet for approval.

There are also major timeframe constraints for the proposals set out in this interim RIA. The implementation timeframe for the registry, including the registry regulations, is set to commence from 24 June 2023 as outlined in the Arms Legislation Act.

#### ***Public consultation***

We have not yet publicly consulted on these proposals. The public consultation document will provide an opportunity for the public to submit on the proposed regulations from late August to mid-October 2022. Although a six-week period for consultation does place some limit on feedback on the proposals, in previous consultations on amendments to Arms Regulations, we have not found this to be an issue. Any relevant feedback from public consultation will be considered in the development of the regulations.

#### ***Scope constraints***

Many of the proposed regulations centre around specific information, or data, that will need to be entered into the registry. This information has been tested with internal operational staff and we

consider it represents a balance between not making the provision of information onerous or impractical while still collecting the information required to make the registry efficient and effective. For this reason, the provision of alternative options involving lists of information is not possible without breaching the privacy act, creating a high compliance burden or not gathering enough information for the registry to be effective.

### ***Overall impact of these constraints***

The overall impact of the above constraints is not expected to substantially impact on the integrity of the analysis outlined in this interim RIA.

### **Responsible Manager(s) (completed by relevant manager)**

*Karen Threadwell*

*Manager*

*Firearms – Policy and Partnerships*

*New Zealand Police*

*[Signature]*

*[Date signed out]*

### **Quality Assurance (completed by QA panel)**

|                             |  |
|-----------------------------|--|
| Reviewing Agency:           | New Zealand Police   |
| Panel Assessment & Comment: | The discussion document partially meets the requirements for a regulatory impact statement due to the limited options available. |

## Section 1: Diagnosing the policy problem

### What is the context behind the policy problem and how is the status quo expected to develop?

Following the terrorist attacks on the Christchurch masjidain, a number of changes were made to the Act through the Arms Legislation Act to strengthen the control and regulation of firearms in Aotearoa. The next group of changes will come into force on 24 June 2023. These changes provide for the establishment of a registry to store and link information on all firearms and other arms items and their licence holders. The establishment of a registry requires regulations to specify what information firearms licence holders are required to enter into the registry.

Following these legislative changes, and given an increased focus on the Government's response to illegally held firearms, there is a strong need to have the resources to track firearms over their lifetime and to have a more centralised oversight of what legally held firearms are in the community.

Currently there is no oversight of what legally held firearms are in the community. At present, it is possible that a legally purchased firearm could be on-sold to someone without a firearm licence who may use that gun for criminal purposes. There is also no way to track stolen or recovered firearms back to their original owners. Other jurisdictions have addressed this problem through the establishment of a firearms registry. The proposed registry has been informed by registries and legislation in Canada and the Australian states.

From 24 June 2023, the Act will prescribe the staged gathering of information in the registry on arms items possessed by licence holders from that date. It requires licensed persons and any other persons specified in regulations to provide up-to-date information for the registry on all items in their possession following specified circumstances taking place during the first five years of the registry. Specified circumstances include when applying for a licence or endorsement, changing address, or buying or selling arms or ammunition).

The proposals outlined in the public consultation document will be open for submissions from late August to mid-October 2022. Consultation will assist the development of the registry with clarity on the information it will need to cater for and ensuring regulations are fit for purpose.

The registry links in with a wider need for Police to digitalise and modernise its information holding systems. Police is currently designing and establishing the 'Arms information system' which is a digital platform for firearms licence holders to be able to manage their licences and permits entirely digitally.

### What is the policy problem or opportunity?

Currently there is no centralised oversight of the number and specifications of arms items held by firearms licence holders. This makes it difficult to track firearms from their manufacture or importation and link information on all firearms and other arms items and their licence holders. This means that it is difficult for Police to track firearms moving into the criminal market. An increased capacity to track firearms increases public safety.

Police holds some information on all licence holders and any prohibited firearms, prohibited magazines, pistols and restricted weapons they may have. This information is collected through the endorsement requirements combined with the application and notification process for permits to possess or import. All firearms and other specified items need import permits. Police receives notifications from licence holders when they receive these imported items. However, if standard (non-prohibited) firearms are on-sold or otherwise transferred after import, there is currently no way of knowing who has transferred them and to whom (as this is not a requirement of current legislation), or how securely they are held. This makes it possible for people with criminal intentions to buy legally held firearms through unrecorded sales by firearms licence holders prepared to break the law. To

discourage this, the registry will store information on all regulated arms items held, obtained, and transferred by all licence holders, and other information to be specified in regulations.

#### *Stakeholders and how they will be affected*

While the public are likely to be affected by these changes, the requirement to enter information into the registry relates almost entirely to firearms licence holders and dealers, who are therefore the most affected by these proposed regulations. Police will clearly be affected through being responsible for the registry and having much greater oversight of the ownership of legally held firearms.

#### *The firearms community*

On 1 April 2022, there were 240,425 firearms licence holders in New Zealand. Approximately 92 percent of firearms licence holders are men, and 74 percent are currently aged 40 years or older. Of the 59 percent of firearms licence holders that have their ethnicity recorded by Police, 90 percent are Pākehā and seven percent are Māori.

Based on the demographics for firearms licence holders, it is likely that the proposals in the discussion paper would have the greatest effect on Pākehā men, aged 40 or older.

An online registry will have an impact on those who do not have ready access to the internet, or those who struggle with using technology. To address this, Police will also enable submission of information to the registry through non-electronic means (i.e., paper).

It is difficult to anticipate the reaction of the firearms community to the proposed regulations, particularly as the substantive provisions relating to the establishment of the registry are already enacted. This received a certain amount of negative comment from them. There have also been a lot of changes to the firearms regulatory system since 2019. These changes have left the firearms community feeling as though there are increasing obligations being imposed on them despite being lawful users of firearms. It is likely some of this sentiment will be carried over in response to the proposals outlined in the registry public consultation document.

#### *The public*

The impact that the firearms registry will have on the public is hard to predict at this stage. From a Police perspective, we anticipate that the registry will make the public safer from those using firearms illegally. For this reason, it appears as though the non-firearms owning community is mostly supportive of the establishment of the registry.

#### *Police as regulators*

Police has been anticipating the establishment of the branded business unit which will be the firearms regulator. Police has received funding through budget 2022 to establish the regulator to adequately equip it to do its job.

#### *Wider consultation*

Prior to public consultation, Police has consulted with the Minister's Arms Advisory Group, and its own stakeholder's groups – the Arms Engagement Group and the Firearms Community Advisory Forum. See above in regard to feedback.

Police are currently engaging with iwi across the country on a range of firearm-related topics, which includes discussion of the registry and the impact on Māori firearms users.

## What objectives are sought in relation to the policy problem?

The objective of establishing a firearms registry is to have greater, centralised oversight of the legally held firearms in the community and to be able to track them over their lifetime, reducing the risk that they fall into the hands of criminals. This means reducing the risk that a firearms licence holder sells to someone unlicensed or an illegally held arms item is unable to be tracked back to its owner. Police is also concerned that updating information in the registry is not onerous as we consider this is the best way to ensure compliance and therefore a more up-to-date registry.

## Section 2: Deciding upon an option to address the policy problem

In passing the Arms Legislation Act, Parliament acknowledged the firearms regulatory space had remained largely untouched for decades. The Act provided for new regulations that would be needed to support the new legislation.

### Options for proposed regulations

The status quo is not a valid option in this case. The legislation requires that an arms registry be established. Development of proposals has been limited for that reason. For most proposals there are not feasible options. For two proposals however we have provided some options around timelines. A list of proposals that do not have feasible options are attached at [annex one](#).

### What criteria will be used to compare options to the status quo?

We consider that the preferred options identified, balance the following the following criteria:

- contribution towards the purposes and principles defined in the Act, i.e.
  - promote the safe possession and use of firearms and other weapons
  - impose controls on the possession and use of firearms and other weapons
- practicality (clear, and able to be understood and followed)
- efficiency (giving effect to them is as easy as possible)
- cost effective (Yes/No).

### What scope will options be considered within?

The scope is limited to regulatory options as outlined in section 74(1) (pa) and (pc) of the Act. The Act refers to regulations prescribing particulars to be recorded in the registry and the manner and form in which information is to be provided.

In developing our proposals, Police has considered the regulatory landscape and firearms registry regimes in Australia and Canada.

#### ***Overseas registries***

New Zealand has the opportunity to benefit from the experience of other jurisdictions in establishing and operating a firearms registry.

#### ***Canadian federal firearms registry***

The Canadian firearms registry experience and context is characterised by frequent changes to the firearms laws, changes in governance of firearms registration between federal and provinces/territories, moves to centralise registry functions, and changes to the registration of long guns (rifles and shotguns). There are also significant differences in the views between urban and rural, east and west sides of the country, and political parties and advocates.

Canada has had varying registration requirements in place since 1934. These have changed over time, both in terms of scope and centralisation. The development of the federal registry was overshadowed by cost overruns, allegations of corruption, poor compliance, operational inefficiencies, and critical audit reports. While it has generally been accepted that restricted and prohibited firearms should be registered, opinions were strongly divided about long guns (non-restricted rifles and shotguns), which have only intermittently been required to be registered.



While Canada tracks the transfer of registered restricted and prohibited firearms through its registry, the success of the registry is undermined by the significant leakage of firearms (particularly handguns) into the illicit market as a result of smuggling across the Canada/USA border.

While registration of firearms has been centralised, licensing of people to possess firearms remains an activity controlled by each individual province.

### *Australian firearms registry*

Following the Port Arthur Massacre in 1996 there was nationwide policy change and the surrender and destruction of more than 1.1 million firearms. Amongst other things, the resolutions of the National Firearms Agreement (NFA) prohibited, and made provision to buy back and destroy, specific types of firearms; established firearm registration systems in all jurisdictions; established 'genuine reason' and 'genuine need' provisions for owning, possessing or using a firearm and developed uniform standards for the security and storage of firearms.

Four consecutive formal reports have now found that no Australian State or Territory has at any stage fully complied with the 1996 or 2002 firearm resolutions which collectively formed the National Firearms Agreement.

A decentralised registration system has meant that some Australian states (Western Australia, Queensland, Victoria and New South Wales) either do not, or only somewhat comply in legislation with an NFA requirement for an effective national firearm registry.

### *Key learnings from Canada and Australia*

Centralisation: Both Canada and Australia use decentralised systems. This has led to different provinces/states requiring different information than other provinces/states. The New Zealand firearms registry will be a centralised system with a clear set of regulations. This is more likely to be more effective than our overseas counterparts.

Clear regulations: In contrast to Canada, who have changed what is required to be entered into the registry, having clear regulations for the New Zealand firearms registry will ensure that firearms owners know what is required of them. The intent is to limit the compliance burden. This is likely to encourage more routine updating of the registry and therefore reduce more risk of firearms getting into criminal hands.

| Time after relevant event in which to provide information  |  |  |
|--|--|--|
| Proposed regulation  | Possible options   | Assessment   |
| <p>Regulations would require that details of specified arms items possessed by the licence holder must be provided to Police within <u>14 days</u> of certain events taking place. This means that following the date of a transaction such as the transfer of a firearm (which will be either recorded live in the registry or recorded in hard copy at the time and sent to Police for inclusion in the registry) there is a further <u>14 days</u> in which the licence holder must enter the arms items they already possess – over and above the items in the transaction – into the registry).</p> | <p>A shorter time frame <u>of 7 days</u>, halving the time to increase the extent to which the registry is up-to-date.</p> | <p><u>7 days</u>: This may not be long enough following purchase. In some instances, individuals may be purchasing ammunition or arms prior to attending a hunting trip or shooting competition. These events may take up to 7 days and therefore the individual would not have sufficient time to enter the items. The alternative of 14 days is therefore more practical</p> |
|  | <p>A longer timeframe <u>of 28 days</u>, doubling the time to practically a month</p>                                      | <p><u>28 days</u>: This time period is too long and could create risks and inefficiencies. Individuals may forget they have an obligation to enter their specified arms item into the registry and will probably require more follow-up actions by Police. This also leaves an extended period of time where the registry will not be up-to-date.</p>                          |

| Duration of records in the registry  |  |   |
|--|--|---|
| Proposed regulation  | Possible options   | Assessment  |
| <p>Regulations would require that the registry holds records relating to firearms licence holders and arms items that they have possessed for the duration of the licence holder's life <u>plus 5 years</u>.</p> | <p>A shorter timeframe: the duration of the licence-holder's life.</p> | <p><u>Shorter timeframe</u>: Police is keen to ensure they do not lose track of the firearms in the event of death. This could compromise Police's knowledge of who exactly is in possession of firearms that are in the registry. The registry needs to hold information for a</p> |

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sufficient time to adequately track the firearm to its next owner. The shorter timeframe may not effectively allow Police to ensure this.

A longer timeframe: the duration of the licence-holder's life plus 10 years.

Longer timeframe: We believe the 10-year after life option is longer than necessary for the integrity and purpose of the registry and that the shorter period of 5 years effectively gives police adequate time to track any firearms the deceased may have possessed to their next owner.

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## Section 3: Delivering an option

### How will the new arrangements be implemented?

The ongoing operation and enforcement of the new regulations and the registry will be managed by the branded business unit established within Police to be the new firearms regulator (SWC-22-MIN-0021 Arms Safety and Control: Endorsement of the Detailed Business Case).

The regulations and the registry itself will come into effect on 24 June 2023. The operational team is working on the development and establishment of the registry in parallel with the policy team to have the registry operational by its legislative deadline. Police has been, and will continue to, engage with its stakeholder groups and with the wider firearms community on the upcoming establishment of the registry. The operations team working on the development and the establishment of the registry is currently working to finalise different means for assisting the firearms community with education and compliance.

### How will the new arrangements be monitored, evaluated, and reviewed?

The Arms Regulator will provide the means for the public or the firearms community to raise issues or concerns with the registry once it is established. The Arms Regulator has a focus on system governance and performance monitoring. It will address any issues as they arise.

The Arms Legislation Act provides for a review of the amendments to the Arms Act with a specific provision to review the operation of the registry.