

Review of Firearms Control in New Zealand
Sir Thomas Thorp, June 30 1997

Recommendations:

Part 4.3 The arguments against further
controls—the “firearms debate”

- 1 That the new Firearms Act specifically provide that self-defence is not a legitimate purpose for the acquisition of firearms.

Part 6.1.1 Restricting the availability of high-risk
firearms

Restricted Weapons

- 2 That all restricted weapons be permanently disabled.

Handguns

- 3 That no handgun endorsee be permitted:
 - a) to own more than two handguns during the first 12 months after gaining his or her endorsement; or
 - b) to own more than six handguns (not including muzzle-loading handguns) at any time unless his or her club and the NZPA certify that the standard of performance attained by that endorsee and the nature of the competition(s) in which he or she has attained that standard warrant approval of the purchase of additional handguns up to a maximum of 12.

Military Style Semi-Automatics

- 4.1 That MSSAs, including those in sporting configuration (as defined by a list of makes and models), be banned and made the subject of a buy-back.
- 4.2 That an exemption be extended to those professionally engaged in animal pest control who can establish that no other firearm would be equally effective for their particular business.

- 4.3 That a technical committee be formed to settle the list of makes and models of firearm within the MSSA class.

Sporting Centrefire Semi-Automatics

- 5 That all other centrefire semi-automatics be limited to a magazine capacity of seven cartridges.

Semi-Automatic and Pump-Action Shotguns

- 6.1 That semi-automatic and pump-action shotguns be limited to a magazine capacity of two cartridges.
- 6.2 That the cost of limiting their magazine capacity be met by Government.
- 6.3 That a technical committee settle an approved method or methods of magazine limitation.

Details of Proposed Buy-Back

- 7.1 That the duration of the buy-back of MSSAs be approximately six months.
- 7.2 That compensation be paid at market value for banned firearms and accessories which can be used only with banned firearms.
- 7.3 That compensation be paid to firearms dealers for any proven loss of profits.
- 7.4 That a procedure be settled for assessing, paying and dealing with disputes over compensation.

Part 6.1.2 Recovering surplus guns

- 8.1 That a general amnesty be declared for a period of 12 months commencing at the earliest convenient date.
- 8.2 That the authority presently given to dealers by s 10(2) of the Arms Act be extended to cover all types of firearm.
- 8.3 That consideration be given:
- a) to police providing firearm storage facilities for a moderate fee; and
 - b) to the establishment of prototype armouries in two metropolitan centres for a trial period of up to two years.

Part 6.1.3 Improved security

- 9.1 That the present security regulations be replaced by provisions which fix levels of security proportionate to levels of hazard.
- 9.2 That a standing committee, including representatives of the Police, the security industry, the NZ Insurance Council, firearms users and firearms dealers, be set up to recommend new security standards, review these annually and recommend appropriate amendments.
- 9.3 That adequate provision be made in any new firearms control system for regular and consistent monitoring of security conditions.
- 9.4 That the practice of granting licences on the basis of assurances of compliance with security conditions without inspection of security be discontinued.

Part 6.1.4 Ensuring the suitability of firearms licensees

- 10.1 That the new Firearms Act specifically require every applicant for a firearms licence to produce evidence of:
 - a) satisfactory security arrangements; and
 - b) the successful completion of an approved course in firearms safety.
- 10.2 That the Firearms Authority endeavour to define, in consultation with representatives of the Police, psychiatrists, firearms users and family violence workers, a list of characteristics which are likely to make a person unsuitable to possess firearms, such list to be used to guide the exercise of the discretionary powers to refuse and revoke firearms licenses.

Disqualification Periods

- 11.1 That:
 - a) any person convicted of a “serious violent offence” be disqualified from holding a firearms licence for five years;
 - b) any person convicted of a violent offence involving a firearm, including the threatened use of a firearm, be

disqualified from holding a firearms licence for three years;

- c) any person convicted of a violent offence against someone with whom he or she is in a domestic relationship, within the meaning in the Domestic Violence Act 1995, be disqualified from holding a firearms licence for two years;
- d) any person against whom a final protection order under the Domestic Violence Act has been made be disqualified from holding a firearms licence for two years.

11.2 That:

- a) any person convicted of a violent offence other than one in any of the above categories be disqualified from holding a firearms licence for two years;
- b) any person convicted of an offence against the Arms Act punishable by imprisonment be disqualified from holding a firearms licence for three years—

unless the Court declares the person to be suitable to hold a firearms licence.

11.3 That the expiration of a disqualification period not in itself be taken as evidence that the person is suitable to possess a firearm.

Improving the Vetting Process

- 12.1 That in all but exceptional cases two referees be consulted as part of the vetting process.
- 12.2 That the police family violence database be consulted in relation to each firearms licence applicant.
- 12.3 That the Firearms Authority confer with the National Collective of Women's Refuges as to the practicality of including a check with the local women's refuge in relation to each firearms licence applicant.
- 12.4 That in those cases where there are concerns about the suitability of a firearms licence applicant, the Police endeavour to consult an independent referee.
- 12.5 That the Firearms Authority seek to develop a procedure for the automatic notification of relevant convictions.

Part 6.1.5 Reducing the risk of misuse by the mentally disordered

- 13.1 That the new Firearms Act include provisions:
 - a) permitting voluntary disclosure by health professionals, generally along the lines of the model legislation recently approved by the APMC, but in addition requiring that any opinion so disclosed be formed “on reasonable grounds”; and
 - b) directing that the making of a Compulsory Treatment Order under s 28 of the Mental Health (Compulsory Assessment and Treatment) Act 1992 be notified to the Police forthwith and have the effect of suspending any firearms licence during the continuance of the order, such suspension to be lifted on proof that the condition underlying the making of the order no longer exists and that the person concerned is again a suitable person to possess a firearm, and that in considering suitability for the purpose of that procedure consideration be given to the certificate of a “responsible clinician”.
- 13.2 That within six months the Police:
 - a) take appropriate steps to set up, in collaboration with the Ministry of Health and other governmental and professional organisations involved in the mental health system, a working party to establish protocols to enable the sharing of information regarding persons with a mental health problem who have possession of or access to firearms; and
 - b) consider introducing a training programme for police along the lines of that introduced in the State of Victoria as Project Beacon.

Part 6.2.1 Registration and licensing system

- 14.1 That the present licensing system be replaced by a combined licensing/registration system based upon three-year firearm-specific

licenses, the new system to be introduced over three years, commencing on 1 July 1999.

- 14.2 That after the introduction of the new system any person who wishes to acquire a firearm and who still holds a 1992 licence be required to re-register under the new system.

Death of Licensees

- 15 That further provision be made for notification of the death of licensees, this to take into account the length of licenses under any new system.

Part 6.2.2 Training of shooters

- 16 That a steering committee be formed, including representatives of the Firearms Authority, Police, Mountain Safety Council, Association of Polytechnics in New Zealand, and shooting groups to develop an approved syllabus and delivery method for a firearms safety course, which would include a practical training component.

Part 6.2.3 Sanctions for the misuse of firearms

- 17 That the new Firearms Act create offences for:
- a) the breach of any security provision in a firearms licence; and
 - b) the breach of the obligations created by any combined licensing/registration system
- and provide a range of penalties appropriate to the seriousness of such offending.

Part 6.2.5 Clear and comprehensible law

- 18.1 That the Arms Act 1983 and Arms Amendment Act 1992 be repealed and replaced with a new Firearms Act.
- 18.2 That the new statute be drafted in plain language with the goal of making the law in relation to firearms as clear and accessible as possible.

Part 6.3.1 Airguns

- 19.1 That the discretion controlling specially dangerous airguns presently contained in s 4 of the Arms Act 1983 be retained, but in addition an appropriate level be fixed above which high powered airguns be classified as firearms.
- 19.2 That less powerful airguns not be classified as firearms.
- 19.3 That the minimum age for the use of low-powered airguns be reduced to 14 years, but that the minimum age for the purchase of such guns remain at 18 years.
- 19.4 That provision be made for either:
 - a) requiring vendors of airguns to deliver to purchasers a safety brochure and to obtain an undertaking from the purchaser that no child under the age of 14 will be permitted to use the airgun except under direct adult supervision, and that any child aged 14 or over given control of the airgun will first be instructed in its proper use and be required to read and study the safety brochure; or
 - b) a “junior licence” category for persons 14 years and over who wish to use airguns.

Part 6.3.3 Controls on the sale of ammunition

- 20 That purchases of ammunition be limited to those types of ammunition appropriate to the firearms licensed to the purchaser.

Part 6.3.4 Limiting the size of collections

- 21.1 That, provided Recommendations 2 and 9 are approved, no restriction be placed on the size of firearms collections.
- 21.2 That, if those recommendations are not approved, the role and purpose of C endorsements be reconsidered.

Part 6.3.5 Amendments proposed by NZ Customs Service

- 22.1 That the new Firearms Act incorporate the present effect of s 16 of the Arms Act 1983 after deleting s 16(2) and adding a proviso to the following effect:
 “Nothing in s 16 of this Act makes it an offence to import a firearm where –
- a) such importation is made by the arrival of a vessel in New Zealand territorial waters from a point outside New Zealand; and
 - b) all firearms are included in an Inwards Report made in accordance with s 26 Customs and Excise Act 1996; and either
 - i) remain secured on that vessel in a place and manner directed by a customs officer or member of the Police; or
 - ii) are removed to a place of security in accordance with s 141(b) Customs and Excise Act 1996.”
- with consequential amendments to the legislation by including in the definition clause the following definitions:
 “Importation” means the arrival in New Zealand of a firearm or part of a firearm in any manner whatever, whether lawfully or unlawfully, from a point outside New Zealand; and “to import” and “imported” have corresponding meanings.
 “Ship” means a vessel used in navigation not being a vessel propelled only by oars; and includes a hovercraft or submarine.
- 22.2 That the new Firearms Act incorporate the present effect of s 3(2)(a) of the Arms Act 1983 with the additional words:
 “(v) An officer or agent of the New Zealand Customs Service.”

Part 6.3.6 Importation of undesirable weapons

- 23 That the new Firearms Act provide the Commissioner with a discretion to refuse the importation of any specially dangerous weapon unless the applicant for the permit can show a need which cannot reasonably be met save by the use of such a weapon.

Part 6.3.7 Communication with the public and the use of technology

- 24.1 That the Firearms Authority coordinate publicity and educational campaigns on an on-going basis.
- 24.2 That the Firearms Authority consider the use of:
 - a) a free-call telephone service;
 - b) an internet home page;
 - c) an on-line system linking its database to firearms dealers; and
 - d) an electronic imaging system to manage licensees' files and associated documents.

Part 6.3.8 Miscellaneous police recommendations

Search and Seizure

- 25 That the search and seizure provisions be amended to authorise police to search for and seize a firearms licence under the same conditions as relate to firearms and ammunition.

Range Safety

- 26 That the new Firearms Act include power for the Firearms Authority to fix conditions for the establishment and operation of ranges, and to monitor and enforce such conditions.

Part 6.4: The administration of firearms control

- 27 That Government set up a Firearms Authority either:
 - a) with a five-year sunset clause, administration then reverting to the Police; or
 - b) if it be thought that competition with other police business after re-integration would involve unacceptable risk of the problems which have affected arms control in the past recurring, on a permanent basis.

Part 7: The way forward

- 28.1 That the present Relicensing Project be completed and the number of 1992 licences be settled by revocation of those 1983 licenses where there is continuing non-compliance with call-in notices, by 30 June 1998.
- 28.2 That the proposed Firearms Authority be established as soon as practicable and not later than 31 December 1997.
- 28.3 That a general amnesty be declared for a period of 12 months commencing at the earliest convenient date.
- 28.4 That the extent and terms of any buy-back be decided and the Firearms Authority be authorised to manage it.
- 28.5 That the Firearms Authority be directed to assist in the drafting of a new Firearms Act based on the recommendations of this Review by 31 December 1998 with the intention of bringing the new Act into force by 1 July 1999.