

[In confidence]

Office of the Minister of Police

Cabinet Social Wellbeing Committee

Arms Act 1983: Treating firearms licences as current where applications are made but cannot be processed before expiry

Proposal

- 1 This paper seeks agreement to progress an urgent amendment to the Arms Act 1983 (the Act) to enable firearms-licence holders to continue to lawfully possess and use firearms and ammunition, while their application for licence renewal is being processed by New Zealand Police (Police).
- 2 I am also proposing to use this opportunity to:
 - 2.1 bring the renewal of firearms licence and dealer's licence onto a similar basis, so that the new licence commences on the date it is issued not on the expiry of the previous licence
 - 2.2 make a minor technical change to enable the Police to arrange a visit for inspection or issue an improvement notice through electronic means.

Relation to government priorities

- 3 The proposed urgent amendment contributes to the Government's priority: 'Support healthier, safer and more connected communities' through enabling more timely delivery of firearms licensing services and mitigating against the risk of licence holders unlawfully possessing firearms through no fault of their own.

Executive summary

- 4 The demand for firearms licence applications from licence holders who apply for a new licence before their current licence expires is currently outstripping Police's ability to process the application and issue a new licence before their previous licence expires.
- 5 The firearms community has been increasingly concerned about the delays to obtaining a new licence and the impact on their lawful status and their shooting activities, when their licence expires prior to Police deciding on their application for a new licence. This has placed licence holders in a position where they must either transfer their firearms and ammunition to another licence holder or retain them unlawfully. During this period they would be unable to use their firearms lawfully.
- 6 The Act does not currently provide for the general extension of the length of a firearms licence. I propose to amend the Act to enable a firearms licence to

remain current while applications are being processed and a decision taken. This will enable Police to triage applications through a desk-based intelligence and security check and give priority to those where there are potential risks identified and who need a firearm for business or employment, while not disadvantaging those whose applications may receive lesser priority. The new licences will commence from the date the licence is issued.

7 The Act specifies a different process for a dealer's licence in that it is treated as current provided the application for a new licence was made before the previous licence expired.

8 I propose to bring the two processes onto a similar basis so that:

8.1 the firearms licence commences on the day it is issued not on the expiry date of the previous licence, and

8.2 the dealer's licence commences on the day it is issued not on the expiry date of the previous licence.

9 I am seeking your agreement to urgently progress this amendment so that it can be enacted before the House rises in December 2022.

10 I am also proposing to use this opportunity to make a minor technical change to enable the service of notices for Police to visit or issue an improvement notice through electronic means. Without this there is potential inconvenience for licence holders and representatives of clubs and range operators as well as administrative inefficiencies for Police.

The firearms licensing problem

11 In Budget 2022, this Government significantly increased its investment in the arms regulatory system. This enabled Police to implement the 2020 changes to the Act. Changes include the development of an arms information system required to support the Registry which must be available by 24 June 2023 and increasing Police's licence processing and compliance auditing capacity.

12 The number of firearms licence applications waiting to be processed remains high. Over two thousand applicants are holding an expired licence while waiting to be processed.

13 The firearms community has been understandably concerned about the impact on their lawful status and shooting activities, if their licence expires prior to Police deciding on their application for a new licence. The delays have had a direct impact on those who need licences for their work or business. It has also placed those with collections of pistols, prohibited firearms and restricted weapons in a difficult position, where they must continue to hold their collections unlawfully as alternative storage arrangements may not be readily available.

14 Representatives of the firearms community have asked for people to be given an extension to their firearms licence until their new licence application has been processed.

- 15 They warn of increasing loss of trust and confidence in the arms regulatory system, and non-compliance undermining the success of investment in a comprehensive register of all firearms held in the civilian community.
- 16 I share their concern, but, for sound public safety reasons, the Act does not allow the Minister of Police to use the regulation making power of the Act to generally extend the length of a licence unless it is in response to a pandemic, epidemic or an emergency declared under the Civil Defence Emergency Management Act 2002 [section 74(1) (ea)].
- 17 The Act provides that:

To be issued with a firearms licence

- 17.1 a person may apply for a firearms licence provided they are 16 years or older, have not had a licence revoked or been disqualified from holding a firearms licence
- 17.2 a person may be issued a licence if deemed fit and proper and has appropriate storage facilities for any firearms and ammunition they possess.

Duration of licence

- 17.3 for a successful first-time applicant the licence expires five years from the date the licence was issued
- 17.4 for successful second or subsequent applicants the licence expires ten years from the date the licence was issued. However, if the application were made after the expiry date of the previous licence, the new licence expires five years from the date the licence was issued.
- 18 The Act does not specify a period when an application for a new licence should be made in advance of the expiry date of a current licence.

Police are unable to keep up with the demand

- 19 Once a completed application is received, Police as part of the 'fit and proper assessment or ten-year re-assessment' must at a high level follow the following process:
- 19.1 undertake a desk-based intelligence security check
- 19.2 interview the applicant
- 19.3 visit to check the secure storage arrangement remains appropriate to the number of firearms held¹
- 19.4 interview the proposed or alternative referees if those proposed are not accepted by Police or are unavailable

¹ When the registry is complete there will be a better indication on the number of firearms held by an individual licence holder.

19.5 make a decision to refuse or issue a new licence.

Applicants for new second or subsequent licences are encouraged to apply early

- 20 An application can be made on the expiry date of the current licence.
- 21 Police advises me that it has set themselves a standard of 90 days to fully process applications² and has encouraged licence holders to apply 3 months in advance of their licence expiring. More recently this advice was amended to encourage licence holders to apply 6 months in advance of the licence expiry date.
- 22 Police is not currently able to meet its 90 day standard. I am told the reasons for the increased processing time are:
- 22.1 Police has applied a cautious approach to the processing of all licence applications (both first-time and subsequent applications) following the findings of the Royal Commission of Inquiry into the terrorist attack on Christchurch masjidain.
- 22.2 Covid lockdowns prevented face-to-face interviews and inspection of secure storage with those applications directly affected were statutorily³ deferred into the 2021/22 and quarter one of the 2022/23 financial years, creating a backlog.
- 22.3 Police has improved and modernised its licensing systems, but the tight employment market has negatively impacted the recruiting and training of staff.
- 23 The combined effect is a build-up of numbers in the processing pipeline. Table One below shows the situation as at 30 June 2022.

Table One: Applications as at 30 June 2022			
	Not yet expired	Expired	Total
Renew Applications awaiting Police action	3,452	2186	5,638
Renew Awaiting applicant action			444
Subtotal of renewals			6,082
First-time applicants awaiting Police action	NA ⁴	NA	4,335
First-time awaiting applicant	NA	NA	836
Subtotal of first-time			5,171

² Many applications are incomplete at time of lodging. As the fee is paid on application, Police do not refuse the application but put it on hold until all required information has been received

³ Arms (Extension of Licences and Endorsements) Amendment Regulations 2021, 2020 COVID extension new section 65I Of the Arms Act (now repealed) introduced by COVID-19 Response (Further Management Measures) Legislation Act 2020 (2020 No 13)

⁴ NA means not applicable

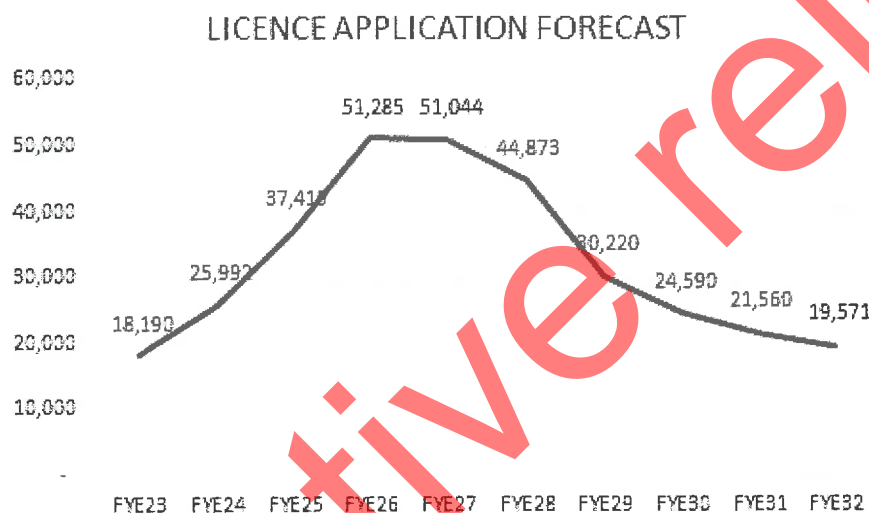
Total Applications awaiting Police action			11,253
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- 24 The carryover of some 11,253 applications (in Table One) added to anticipated demand of 18,190 in financial year 2022/23 (shown in Figure One below) gives a combined forecast of 29,443 applications to be processed in financial year 2022/23.

Uneven demand for licences adds to the resourcing challenges

- 25 As licences are issued for ten years, or since 2020 for five years for first-time applicants, it is possible to forecast annual demand as shown in Figure One below.

Figure One: Forecast Licence Applications Financial Year Ending 23-32⁵



- 26 At present applications are at the low point of the demand cycle and about to increase rapidly. The cycle is the legacy of the 1992 change to the Act which terminated lifetime licences and required firearms owners to apply for ten-year licences. No provision was made to stagger the approach, resulting in the peaks and troughs of the demand cycle. Assuming no other changes, the curve will flatten out in the next ten year (2036/37) and twenty year cycle (2046/47) as those who held a lifetime licence up to 1992, age out of the system.

Action is required to avoid the risk of an ever increasing number of licence holders becoming unlawful before their licence application can be fully processed

⁵ This forecast includes all licence application i.e. includes first time applications, five year licences up for renewal from FYE 25, all ten year licences, reinstated applications made after the expiry date and some allowance for attrition. The figure does not include applications carried over from FYE 22 (11,253).

- 27 The vast majority of licence holders wish to remain compliant with their statutory obligations. But the continuing licensing delays will likely increase frustration and the risk of greater non-compliance. Some may simply choose to not apply to renew their licence and to hold onto their firearms. I note that in his *'Review of Firearms Control in New Zealand'*, Justice Thorp reported that around 40% of licence holders failed to apply for a ten-year licence and estimated those people retained 100,000 firearms.
- 28 I expect the majority of retained firearms will not be held with criminal intent, but they may not be entered onto the firearms registry when it comes into law in 2023. Without a fully completed registry, Police's current legislative ability to identify and seize firearms retained unlawfully is limited and the effectiveness of the registry would be undermined.

Urgently amending the Act provides the best solution and will help restore trust and confidence in the arms regulatory system

- 29 To help address this issue, Police have led a significant national recruitment drive and created a dedicated Pipeline Reduction Project. This work looks at ways to reduce the backlog of new and renewal licence applications through new technology solutions and a streamlined renewal process for low-risk applications.
- 30 However, employing and training more vetting and processing staff, even if they were available in the current employment market, and a streamlined process will not resolve the issue due to the size of the upcoming demand for subsequent licences.
- 31 The simplest solution is to amend the Act, with urgency, so that those currently possessing firearms can continue to hold and use them lawfully, provided they have made application for a replacement licence prior to the previous licence expiring.
- 32 This will require Police to issue a specific document⁶ for each of the affected licence holders which can be produced as evidence that they have a licence application in the system and are considered as compliant until a decision is taken. Such advice will enable the purchase of ammunition and use of a firearm when hunting, in transport or on a range until a determination is made on their licence application. It will not, of course, prevent action from being taken if during that period they commit a firearms-related offence or are found to be non-compliant with their obligations as a licence holder.
- 33 The amendment would not extend the duration of a firearms licence, which will remain at ten years. When a decision on the application is made, a new licence card will be issued with an expiry date ten years from the date the new licence is issued. This gives Police the flexibility to manage demand and to prioritise its decision making based on the risk profile of the licence holder.

⁶ The document will include the applicant's identifying photograph current at the time of application.

34 Given the current issues for firearms licence holders and the knowledge that this situation is likely to get worse, I am seeking your agreement to introduce this proposed amendment with urgency.

35 I have considered whether to include a sunset clause. However, a sunset clause is not proposed because this would add complexity. The longevity of the amendment will be reviewed as part of the statutory review of the Act in 2026/27.

36 An urgent amendment provides the opportunity to bring the licence issue dates for a firearms licence and a dealer's licence onto a similar basis, and to fix a technical error.

Dealer's licence issue date

37 The dealer's licence is an annual licence. Currently the Act provides for a dealer's licence to be treated as current provided application has been made prior to the expiry date of the current licence. Once a decision is taken the new licence is issued as at the expiry date of the previous licence. In practice this means a dealer may have to make application for a new licence almost immediately after being issued a licence.

38 To avoid this, I propose that the expiry date of the new licence is one year after the date of issue of the new licence.

Technical error

39 The Act, when amended in 2020, introduced a number of changes to assist regulatory oversight in support of assuring the safe use of firearms. These changes include the ability to inspect firearms storage arrangements, visit a shooting club, inspect a shooting range and issue improvement notices. All of these actions must be on notice.

40 Section 72A of the Act specifies the various ways notice may be given. When providing for delivery by electronic means this was limited to delivery through the yet to be established registry. This failed to take into account that not all regulatory activities are to be taken through the registry and this was not the intent.

41 I propose that this technical error is fixed by allowing for general electronic delivery of notices which is increasingly preferred by the licensed community.

Implementation

42 The proposed amendments to the Act will take effect immediately from when it receives Royal assent. It will benefit all those applying for a new second or subsequent licence firearms licence or a dealer's licence where application is made before the expiry date of the most recently held licence.

Financial Implications

- 43 There are limited direct financial implications. Advice to licence holders that their licence is treated as unexpired will be conveyed by formal letter, at least until the registry comes into law in June 2023. After that, evidence of currency of licence is intended to be able to be verified electronically. Other than supporting these administrative requirements there is no new additional activity required of Police and therefore no additional cost.
- 44 I will be providing a separate paper shortly on *Proposed Changes to Schedule Fees in the Arms Regulations*. A decision to make this amendment may mean that licence holders may be more prepared to accept an increase in fees to enable further cost-recovery.

Legislative Implications

- 45 The Act must be amended to achieve the objective. The proposal does not currently hold a place on the Legislation Programme.
- 46 A majority agreement of the House Business Committee will be needed in order to have the proposed amendments progressed under urgency. For the amendments to take effect before the House rises in December, a significantly shortened select committee process will be required.
- 47 The proposed amendments have been discussed with the Parliamentary Counsel Office and they have indicated they have the capacity to undertake the required drafting changes.
- 48 The Act is binding on the Crown, subject to subsections 3(2) and 3(3), and so the proposed amendments will bind the Crown.

Impact Analysis

Regulatory Impact Statement

- 49 The Treasury's Regulatory Impact Analysis team has determined that the proposal to treat firearm licences as current while applications for renewals are being processed is exempt from the requirement to provide a Regulatory Impact Statement. The exemption is on the grounds that it has no or only minor impacts on businesses, individuals, and not-for-profit entities. The other proposed technical amendment is also exempt on the grounds of minor impacts.

Climate Implications of Policy Assessment

- 50 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as the threshold for significance is not met. Population Implications.

Population implications

- 51 The proposals benefit all firearms licence holders who apply for a new licence before their previous licence expires. On average this is around 24,000 each year. This number can vary greatly from as few as 12,000 at the low point of the renewal cycle and peaking around 51,000 [see Figure One above].
- 52 The benefits will accrue evenly to all applicants irrespective of ethnicity or gender. The safety outcomes of encouraging the registration of all lawfully held firearms will benefit the wider public through reducing the opportunity for firearms to be easily moved from licence holders into the black market.

Population group	How the proposals may affect this group
Māori	Of the 59% of firearms licence holders who have their ethnicity recorded I Police data, 90% are New Zealand European, and 7 % are Māori. Based on a 2018 sample, Māori represented 30% of victims of firearms offences ⁷ where there was an identified victim whose ethnicity was known. By 2020, this had increased to 37% ⁸ .
Gender	Approximately 91% of firearms licence holders are males. Determining how men and women are impacted as victims of firearms-related offence is difficult, as some offences have both male and female victims. From a sample of data covering 2011 to 2020, for firearms-related offences where there is a recorded victim (all genders) 66% had a recorded male victim and 43% a recorded female victim.

Human Rights

- 53 The proposals in this paper are not inconsistent with the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993.

Consultation

- 54 The following agencies are being consulted in parallel with ministerial consultation: the Treasury; Ministry of Justice; Department of Conservation; Department of Primary Industries; Department of the Prime Minister and Cabinet; Parliamentary Counsel Office; Ministry of Foreign Affairs and Trade; Te Puni Kōiri; Te Arawhiti Māori/Crown Relations; Ministry of Culture and Heritage, Te Kawa Mataaho.

Communications

- 55 I plan to make an announcement once I have received Cabinet agreement to the policy and House Business Committee's agreement to a shortened select

⁷ This only includes a sample of Police data on firearms-related offences. Only offences where a victim was recorded and the victim's identity recorded, and the victim's ethnicity was known, have been included.

⁸ In the 2018 census, Māori were recorded as 16.5% of the New Zealand population. Stats NZ estimates that this increased to 16.7% in 2020.

committee process. This will include direct communication from me to my Arms Advisory Group, and Police's Firearms Community Advisory Forum and Arms Engagement Group.

Proactive Release

- 56 This paper will be proactively released, subject to any appropriate redactions, after approval by Cabinet of the policy proposals and the draft amendment Bill is approved for Introduction to the House and agreement obtained to a shortened select committee process. This is intended to be achieved by the end of October and therefore outside the 30 working days of the Cabinet decision on the policy proposals.

Recommendations

The Minister of Police recommends that the Committee:

- 1 **note** that the demand for firearms licence decisions is outstripping the ability of Police to process applications
- 2 **note** that delays in Police processing all applications for a new firearms licence made by licence holders before their previous licence has expired, requires licence holders to transfer their firearms to another current licence holder or continue to possess their firearms unlawfully;
- 3 **note** the firearms community are calling for firearms licences to be extended and point to delays in licensing: impacting on those who need firearms for their work or business, increasing risk of loss of trust and confidence in the firearms regulatory system, resulting in potential non-compliance, and reluctance to register firearms in the Registry when it comes into law in June 2023;
- 4 **note** the Arms Act 1983 does not provide for extending the expiry date of licences unless in the event of a pandemic, and epidemic, or an emergency being declared under the Civil Defence Emergency Management Act 2002;

Applications for a firearms licence

- 5 **agree** to amending the Arms Act 1983 to enable a previously held firearms licence to be considered current until a decision is made on the application provided that application is made before the previous licence expires;
- 6 **note** that the expiry date of the subsequent licence will continue to be set at ten years after the date the licence is issued;
- 7 **note** that the continued need for this amendment will be assessed as part of the statutory review in 2026/2027.

Expiry date of a dealer's licence

- 8 **note** that the Arms Act 1983 provides for:

- 8.1 a dealer's licence to be treated as current provided application for a new licence is applied for before the previous licence expires
- 8.2 the expiry date of the new dealer's licence is one year after the expiry date of the previous licence

- 9 **note** the process described in recommendation 7 above results in a dealer having to apply their next licence almost immediately after receiving their new licence;
- 10 **agree** to avoid the situation described in recommendation 8 above and provide consistency with the amendments outlined in recommendation 6 above, to set the expiry date of a new dealer's licence to be twelve months after the date of issue of the new licence;

Minor technical amendment

- 11 **agree** to progress a minor technical amendment to allow for the electronic issue of notices that will not be undertaken through the Registry including notices proposing a Police visit to a shooting club or inspection of a shooting range;
- 12 **note** the proposed amendments to the Arms Act 1983 to maintain currency of a firearm licence and to allow for the electronic issue of notices, both under specified circumstances, have not previously been included in the Legislation Programme;

Timeline

- 13 **agree** to the proposed amendments being progressed urgently and, subject to the Leader of the House obtaining the House Business Committee's agreement to a shortened select committee process, to be passed and enacted before the House rises in December;
- 14 **authorise** Police to issue the Parliamentary Counsel Office with drafting instructions to amend the Arms Act 1983 to give effect to these proposals;
- 15 **invite** the Minister of Police to report back to the Cabinet Legislation Committee with a draft amendment bill;

- 16 **note** the implementation of the amendments will not require additional funding.
- 17 **note** that the Arms Act 1983 will be subject to a statutory review in 2026/27.

Authorised for lodgement

Hon Chris Hipkins
Minister of Police

Proactive release