

In Confidence

Office of the Minister of Police

Chair, Cabinet Social Wellbeing Committee

Strengthening the framework for the safe use and control of firearms

Proposal

1. This paper seeks agreement to a number of proposals to strengthen the framework for the safe use and control of firearms, set out in the Arms Act 1983 (the Act).

Executive Summary

2. The Act has seen limited change in the last 36 years. In that time the firearms industry, the market place and the threat environment has changed considerably. The primary focus of the proposals in this paper is to reduce the likelihood of firearms getting into the wrong hands and being misused.
3. Many people in New Zealand have access to firearms. The majority of users are legitimate and law abiding. However, firearms are inherently dangerous. They are designed to kill and inflict damage and, when in the wrong hands, that creates real risk to our community. This risk arises in two main ways. First, when a person obtains a licence who should not have one (lawful possession). Second, when criminals gain access to firearms (unlawful possession). In both cases the risk increases that an innocent member of the public will be hurt or killed.
4. Our current regulatory regime is light touch and does not manage these risks as well as it could. In relation to lawful possession, our licensing system could be clearer about when a person can be refused a licence, and could provide for better intervention when circumstances change. In relation to unlawful possession, we don't know how many guns are in New Zealand, who has them, who is selling them and to whom, or how secure they are. This makes it easy for firearms to be acquired by criminals – whether through a sale or through theft. Those criminals can then hold the firearms outside of the regulatory system. In both cases the checks and balances we currently rely on to promote safety are open to serious compromise.
5. I want to make New Zealand safer by making it harder for firearms to get into the wrong hands. We have already made a real difference to the safety of our community by banning a set of firearms that when misused can kill and injure many people very quickly, as we saw in the 15 March terror attack. The next step is to ensure high risk people do not have access to firearms. I propose to strengthen the licensing regimes to have more focus on high risk behaviour, to make it harder for criminals to steal firearms, and to make it harder for people in the illegal market to buy or obtain a firearm. We can do this this by tightening our approach to licensing and by having better oversight of storage and security. I also propose creating a registry to keep better track of firearms - making it harder for them to move from the legal market into the illegal market.

6. Firearms are used by a wide variety of people in New Zealand, largely for recreation, but also as an everyday tool in some professions. The amendments I propose will establish a regulatory system designed to ensure firearms remain accessible only to appropriate people acting in the interests of personal and public safety while minimising the risk of misuse or transfer into the wrong hands. This system requires a set of interlocking points of oversight and control establishing reasonable constraints around importation, sale and resale, ownership, use and security. The amendments I propose will establish a regime that gets the balance right – making it harder for firearms to be in the wrong hands, while making sure that the burden we place on lawful and legitimate owners of firearms is reasonable.
7. This new regime will clearly establish that possessing a firearm is a privilege and not a right, and will reflect the harm that firearms can cause. The coordinated collection of reforms I propose when taken together and managed carefully will deliver a sustainable, fair, and effective firearms control system for New Zealand. It will reduce the risk of firearm misuse and improve the safety of New Zealanders

Structure of the paper

8. Part A of this paper seeks agreement to amendments to strengthen the purpose of the Act by explicitly: reflecting that the possession and use of a firearm is a privilege obtained only through the successful granting and retention of a firearms licence; requiring persons to act in the interests of personal and public safety; and introducing a collective responsibility to promote and protect personal and public safety. A new purpose statement in the Act anchors all actors in the firearms regime to a set of clear expectations, and will help the Courts interpret the Act. More importantly, the inclusion of a purpose statement supports a shift in mind-set from being a predominantly enforcement regime to a predominantly regulatory regime, underpinned by more clarity about the kind of behaviours we want to see in relation to firearms ownership.
9. Part B seeks agreement for the establishment of an online registry to collect information on all firearms and link them to licence holders. At various points in the system, for example when applying for a licence or an endorsement, or selling or purchasing a firearm or weapon, as well as if a firearm is stolen or goes missing, the licensed firearms owner will be obliged to update and maintain their information and information pertaining to their firearms. A registry will mean that over time we know how many firearms there are in New Zealand, and where they are, throughout their lifecycle. This will enable Police to better deliver its regulatory and enforcement role, in the interests of public safety. The registry will go live by the end of 2020.
10. Part C seeks agreement to strengthen and make more transparent the licensing requirements for individuals and dealers. It also proposes a new licensing regime for shooting clubs and ranges. The suite of changes to licensing requirements will have the overall effect of tightening who gets a licence, and strengthening licence holders' obligations, in the interests of public safety.
11. Part D seeks agreement to strengthen the Act to improve and rebalance the tools available to Police in order to better function as a regulator. These tools include: a more graduated and proportionate set of regulatory interventions to monitor and support compliance and enforce the regime; creating notice-making powers to

provide additional technical detail; introducing a stakeholder advisory group; and enabling information sharing to improve decision-making. This part also seeks agreement to strengthen current cost recovery provisions, to increase penalties for wrongdoing, and to build into statute a requirement to commence a review of the Act within five years.

12. Part E seeks agreement to a range of matters derived from the recent prohibition of semi-automatic firearms and those with large capacity magazines. These matters relate to an exemption for competitive shooting using prohibited firearms, improvements to advertising requirements, enabling manufacturing in some circumstances, and prohibiting some ammunition.
13. The cost of administering the Arms Act in 2017/18 was \$13.0m per year. Of this, Police received \$4.1m in fees from firearms users, with the remainder funded by Vote Police. The changes proposed in this paper will increase the amount to be funded from Vote Police, and will have implications for any future fees collected from firearms users of the system. ^{s 9(2)(f)(iv)}
[REDACTED]
14. Officials will continue to refine costs estimates as the policy settings are finalised and the Bill progresses through select committee. I will report back to the Cabinet on final costs for the proposals at the end of this year and options for cost recovery through fees. I propose the release of a cost recovery discussion document at the end of this year or early next year. ^{s 9(2)(f)(iv)}
[REDACTED]
15. ^{s 9(2)(f)(iv)}
[REDACTED] The addition of new types of offences may increase Court involvement, particularly in the short-term. Settings such as the more robust and transparent fit and proper test and the improved interventions regime (e.g. Improvement Notices) may reduce pressure on the Court system over time.
16. If Cabinet agrees to these proposals, a Bill will be drafted for introduction in August. A shortened select committee of three months will mean the Bill could pass in December 2019.

Background

17. Following the 1990 Aramoana homicide of 13 people, amendments were made to the Act in 1992 to restrict access to semi-automatic firearms that were qualified as Military Style Semi-Automatic firearms (MSSAs). In 1996, following two fatal shootings by Police, Justice Thorp undertook a review of firearms control in New Zealand and made a number of recommendations, including the prohibition of MSSAs, the automatic disqualification of people convicted of serious violent offences from obtaining a licence for five years, voluntary disclosure of mental health conditions by medical practitioners, a firearms licence period of three years, the registration of firearms, and the regulation of firearms ranges. These proposals did not reach legislation.

18. Since then, weaknesses in the Act have been identified by the courts, a parliamentary select committee, and successive governments. An attempt to strengthen the Act in 2005 did not progress. A comprehensive Bill was introduced and submissions received but the Bill was not reported back by select committee until 2012, after a change in government. The committee recommended the Bill not be passed and the new government discharged the Bill.
19. In 2012, an amendment Act addressed some definitional concerns with pistol grips of MSSAs and set import controls over airguns that looked like pistols, MSSAs or restricted weapons. In 2017, the Law and Order Committee Inquiry into the illegal possession of firearms in New Zealand made 20 recommendations, 17 of which involved strengthening legislation.
20. The risk of firearms harm was brought to the forefront by the 15 March terror attack. As seen on this day, misuse of semi-automatic firearms can have a devastating impact on human life, in a short space of time. In the interests of protecting the public from low likelihood but high harm incidences, the Arms (Prohibited Firearms, Magazines, and Parts) Amendment Act 2019 was passed. This law change will remove most semi-automatic firearms and those with large capacity magazines from circulation and use by the general population.
21. On 25 March 2019, Cabinet considered the paper Arms Act 1983 Reforms – Paper 1 [CAB-19-MIN-0124]. The paper outlined proposals that could strengthen the Arms Act regulatory regime. Cabinet invited the Minister of Police to continue work on the proposals. This paper reports back on this work, and seeks agreement to a number of proposals to strengthen the Arms Act.
22. Attached at Appendix A is a comparison of my key proposals with what happens in some other jurisdictions.

Key issues with the firearms regulatory regime

23. Weaknesses in the Act have been identified over a number of years. The Act has not seen any substantial reform in the last 36 years and it is no longer fully fit for purpose.

Established in a different regulatory era

24. The Act was designed at a time when New Zealand strictly controlled all imports, exports, people and money flows. In this environment, effective import controls together with controls over dealers meant less emphasis was needed on risk management approaches at key points in the system, such as licensing, storage and the monitoring of compliance. Since then, changes in the marketplace have been significant. The internet, explosion of online social network sites and trading, and ease of transfer of money means that individuals are significantly less reliant on importers and dealers. There are now significant gaps in the risk management framework, and clear evidence that the gaps are being readily exploited, resulting in increased risk to public safety.

Limited oversight of trading

25. The Act operates on a series of different licences and endorsements that each enable access to different types of firearms and weapons. There is a ten year general licence and a one year dealer's licence. Endorsements in addition to a licence are held for pistols, restricted weapons, and prohibited firearms, and a permit to possess (issued by Police) is required to take possession of these items.
26. Given the ability of individuals to trade with each other, and with limited oversight of this trading, this approach places significant onus on licence holders in understanding each licence and endorsement category, and sighting and complying with the correct licence and endorsement requirements at the point of sale. The inability to monitor sales or transfers of firearms on A Category licences enables a flow of firearms between the white, grey and black markets.
27. Weak licensing settings also enable a flow of firearms between the white and black markets and fuel crime. For example, in 2013 a licence holder bought bulk quantities of rifles and shotguns, modified them into pistols and shortened weapons, and sold at least 69 firearms to s 9(2)(a) members and associates. There was no means of identifying this stockpiling or transfer of firearms. It only came to light following an investigation for other matters. By the time the licence was removed the person no longer possessed any firearms.

Regulatory intervention tools need strengthening

28. The regulatory intervention tools need strengthening to address the risks from the flow of firearms between licenced and unlicensed people. For example, in 2018 a licence holder threatened a Regional Council with "lethal force" and posted a video on Facebook making threats to organisations. The licence holder was sent a notice advising that his licence could be revoked. Written notice is required by law. The licence holder did not respond in the 28 days provided to him. Police called on him to advise him of his licence revocation, to be told he had given his firearms away. He refused to name to whom the firearms were given.
29. Regulatory tools to inspect security on an ongoing basis where required also need strengthening, as do the consequences for lack of secure storage. For example, in 2018 three safes not secured to the floor as required and containing 17 firearms were taken from a residential property of a person who had held a licence for nine years. The security arrangements were inspected in 2008 at the time the person was applying for a licence, and therefore prior to the person having possession of firearms. In 2008 the house had a monitored alarm system, which by 2018, had been disconnected. There is no explicit ability to inspect security arrangements for holders of A Category firearms between the issue and reissue of a licence.
30. There are no express limitations on the number of firearms that an individual may own, although the requirement for them to be securely stored, if appropriately adhered to, provides some limitations. However, as the above example demonstrates, there is little or no ability for Police to enforce existing storage obligations. The current regime kicks in only after unsafe practices become evident and either enforcement action or licence revocation is necessary.

Threats from access to firearms including through organised crime

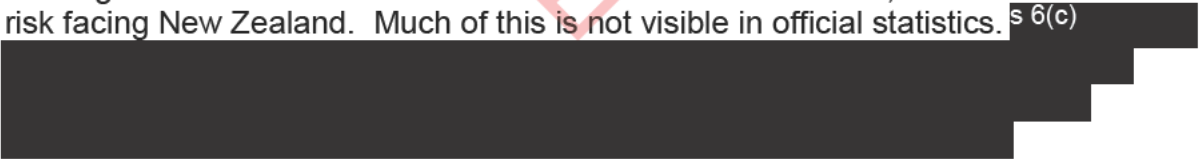
31. We know that increasing numbers of firearms, and more high-risk firearms, are being accessed and used by criminals. In recent years there has been an increase in the number of fatal shootings involving gang members or criminals.
32. The prevalence of large volumes of firearms is a key feature among organised crime groups. The use and illegal possession of firearms by organised crime groups continues to increase. For example, although the number of proceedings for firearms related offences among the general population has steadily decreased since 2010, firearms-related offences committed by gang members have increased every year since 2013 (from 7.6% in 2013 to 11.1% in 2017/2018). The most significant increase since 2010 is in the number of offences of unlawful possession of a firearm (from 635 in the five years 2010/11 to 2014/15 to 821 offences in the three years – 2015/16 to 2017/18).
33. Because of this and other factors, the government has invested in increased Police staffing to combat organised crime specifically. Police received additional funding in Budget 18 for 1,800 extra staff, 700 of which will be allocated to combatting organised crime. The proposals in this paper strengthen the ability of Police as the regulator of the firearms system, to complement the investment in Police to enforce the law.
34. Given the limited data about the numbers and possession of firearms in the general population, both legal and illegal, Police relies on data and intelligence drawn from investigations and firearms identified in the course of its duties, to assess the relative risk facing New Zealand. Much of this is not visible in official statistics. s 6(c)

35. Firearms were involved in almost 11% of serious violent offences over the last 6 financial years. They remain persistently high in aggravated robbery and increasingly represented in other acts intended to cause injury, often associated with domestic violence and drug-related criminal activities. As shown in the table below, the number of offences where firearms are involved in serious violence remains consistently high.

Table One: Firearm-related offences as percent of total number of violent offences

	2012/13		2013/14		2014/15		2015/16		2016/17		2017/18		Six year Total	
	#	% of total	#	% of total	#	% of total	#	% of total	#	% of total	#	% of total	#	% of total
Murder	4	7.8	8	16.3	7	12.5	6	9.7	7	15.9	13	32.5	45	14.9
Attempted murder	4	19.0	6	30.0	3	23.1	9	34.6	3	17.7	10	43.5	35	29.2
Aggravated robbery	215	9.6	181	8.4	197	9.8	223	10.1	300	11.6	233	9.7	1349	9.8
Other acts intended to cause injury	13	31.7	12	28.6	26	44.8	19	38.0	25	40.3	36	43.3	131	39.0
Total, all serious violent offences*	236	10.1	207	9.0	233	10.9	257	10.9	335	12.3	292	11.4	1560	10.8

*As defined in Sentencing Act for the 3 strikes provisions

Source: New Zealand Police Crime Statistics

Cost recovery

36. The Act provides for fees to be charged for the administration of regulatory functions and services. However, costs to licence holders and importers have not increased for 20 plus years resulting in insufficient revenue to cover the cost of service delivery, monitoring, auditing and inspection. The cost of administering the Arms Act in 2017/18 was \$13.0m per year. Of this, Police received \$4.1m in fees from firearms users, with the remainder funded by Vote Police.

Key goal of proposed reforms

37. The key goal of the proposals in this paper is to establish a more appropriate balance between ease of legitimate use and risk management of misuse. Government needs to maintain the ability of appropriately licensed people to legitimately use firearms in their work and recreation without over-burdening users with checks and balances. However, it is also important to put in place sufficient regulatory controls, risk management abilities and enforcement powers to give the public confidence that the government can minimise the likelihood of misuse and consequent harm to the wider community.

PART A: A PURPOSE STATEMENT FOR THE ACT

38. The long title of Act states that its intention is to promote both the safe use and the control of firearms and other weapons. However, there is no purpose statement in the Act. A purpose statement is a key aid to interpreting the Act, as the other provisions should be interpreted consistently with it.

39. Setting out a purpose statement in the Act also anchors all actors in the firearms regime to a set of clear and transparent expectations. It helps users of the legislation to understand their role and obligations within the regime.
40. The inclusion of a purpose statement supports a shift in mind-set and behaviours over time – it underpins the values as a society we want to reflect.
41. I consider three broad themes should form a purpose statement for the Act:
- 41.1. Possession and use is a privilege not a right - there is no automatic right to own or possess firearms in New Zealand, including for the purposes of self-defence.
 - 41.2. Promote actions in the interest of personal and public safety - along with privileges come responsibilities. Currently, the Act and regulations place a number of obligations on licence holders, such as requirements to securely store firearms. The obligations are often prescriptive requirements. This type of regulation is input focused rather than outcome focused and can have the effect of setting a minimum standard that people are required to reach. Conversely, a principle that makes all licence holders responsible for personal and public safety aims to lift expectations and drive behaviours towards the desired outcome.
 - 41.3. Promote co-operation of all - the majority of firearms licence holders are sound members of our communities. The intention of this principle is to leverage the good to bring about a shared culture and common understanding of safe practice. This principle also underpins, and will help the public and decision-makers to understand better, the role and functions of a 'regulator' alongside the functions of a law enforcement agency.
42. I seek your agreement that the Act include a purpose statement that reflects that:
- 42.1. the possession, ownership and use of a firearm, weapon or ammunition is a privilege;
 - 42.2. people with permissions to possess, use, import, sell and/or supply firearms, weapons and ammunition have a responsibility to act in the interests of personal and public safety; and
 - 42.3. everybody works together to promote and protect personal and public safety.

PART B: REGISTRY

43. A significant problem in New Zealand is that the open market with limited regulation and oversight mean there is no way of knowing how many firearms there are, or where they are. Firearms transfer freely between individuals in New Zealand. All that is required is the sighting of a firearms licence. However, most members of the public would not know if the firearms licence was genuine or not. Moreover, there is no way of knowing the extent of compliance with this requirement. Currently, it is easy for a person with criminal intent to get access to a firearm in New Zealand.

44. What we do know is that access to, and use of, firearms by non-licence holders is increasing significantly. In 2017, Police seized 1,317 illegally possessed firearms, compared to 739 firearms in 2008/09.
45. In South Auckland alone, over the period 1 Jan 2018 to 27 May 2019, Police recorded 2,324 firearms seized under the Search and Surveillance Act (sections 6 or 18). Forty-six percent were rifles, 27% shotguns, 15% airguns, 7% handguns, 3% MSSAs, 3 % imitation. Both imitation and handguns could include blank firing.
46. Another problem with not knowing where or who might have firearms, is the significant risk this exposes to Police officers and other first responders. Again, what I do know is that Police is more likely to encounter a firearm when called out to respond to an incident than ever before. In recognition of the increasing risk Police face each day the Gun Safe programme was introduced as a mechanism to report and analyse gun seizures. Drawing on this data, since 1 March 2019, 662 firearms have been seized or located by Police. This equates to roughly 50 per week and is higher than the number handed in during the current amnesty running since the 15th March terror attack.
47. Police intelligence analysis indicates burglaries (aided by poor security) are the most frequent source for unlawfully obtaining firearms. The number of firearms being stolen in burglaries is increasing. There were 782 firearms recorded as stolen in burglaries in 2017, compared to 440 in 2010. There are also likely a number of firearms that are not reported as stolen, particularly if they are held by an unlicensed person.

A registry of information on licence holders and their firearms

48. New Zealand presently has a partial firearms registry, including all licence holders and certain firearms (prohibited firearms, pistols and restricted weapons). The Thorp report recommended the establishment of a complete registry in the 1990s. In the late 1990s when this recommendation was made, a registry would have included an inventory of firearms linked to licence holders using a basic searchable database. However, much of it would have relied on paper records and manual data entry. Research into registry models used in other jurisdictions has indicated that a firearms registry should be positioned to take advantage of current and future technology. Attached at Appendix B is a summary of the lessons that can be learnt from other jurisdictions.

Completing a modernised online registry of firearms and licence holders

49. I seek your agreement to establish a full registry that collects information on all firearms and that this is linked to licence holders. The timing is right as Police is already building the centralised technology for a firearms information platform. It will manage not only the information about licence holders and their firearms, but will also enable online self-service for licence holders, payment systems, and firearms registration and transfer processes. The firearms platform was rolled out for online visitors' licences on 16 May 2019.
50. Taking advantage of current and future technology, means that New Zealand does not need to use a paper-based, manual data entry system to establish a full register

of firearms. Much of the information can be collected directly from licence holders through the online self-service platform. However, Police will continue to offer paper-based options to recognise the uncommon situation in which some people have either connectivity barriers or otherwise lack access or capability to use the internet. As for any online Government system, assistance would be given to people who are unable to access or use the online platform.

51. The establishment of a firearms registry will improve public safety and reduce the risk of harm, because we will have the means to:
- 51.1. understand at a national level the number and types of all firearms in New Zealand;
 - 51.2. know, in near real time, where firearms are located and who is in possession so that day to day risks can be managed;
 - 51.3. deter illicit trading in firearms;
 - 51.4. significantly improve the ability to trace the history and ownership of firearms in the case they are used in offending;
 - 51.5. return firearms to owners in the case of loss or theft;
 - 51.6. establish accountability for firearms owners who will be more aware of obligations and risks around losses and thefts¹; and
 - 51.7. ensure law enforcement and other agencies are able to understand the risks of visiting premises or responding to incidents.

Information for a completed firearms registry

52. The information that will be collected to populate the registry will be set out in statute and in regulations. I seek your agreement to collect information necessary to build a coherent registry, such as:
- 52.1. every licence holder's details, including full name, date of birth, address;
 - 52.2. the licence holder's licence number, term of licence (date of expiry), other licences or endorsements linked to the person, and any conditions on any endorsements;
 - 52.3. the make, model and a firearm identifier (and any other information) for each firearm possessed by a licence holder; and
 - 52.4. the ability to include the make, model and identifier of parts, magazines and ammunition.
53. I note information previously collected about MSSAs, restricted weapons and pistols included an applicant's name and address, licence number, a description of the

¹ As has been the experience in Australia, some firearms will remain in the black market and will not be identified on a registry. However, by keeping track of legitimately held firearms, it will be easier to track those that fall into the wrong hands.

firearm (including its make, model calibre and serial number), the reason for acquisition and the firearm's location.

54. I intend to assess the benefits to public safety, and the costs, of collecting information about parts, magazines and ammunition. Inclusion in the registry will also depend on Cabinet's agreement to change the law so that only those with a firearms licence can purchase magazines and parts. Currently, a firearms licence is not required to make these purchases.
55. I recommend completion of the firearms registry on the basis that:
 - 55.1. the risks to personal and public safety of not knowing where firearms are and who has them are too great to sustain; and
 - 55.2. the technology exists to collect firearms information efficiently and in a low cost way.
56. The firearms platform will adhere to the Privacy Act. This includes that licence holders will be able to access their own information through self-service systems, but will not be able to see another licence holder's information. A Privacy Impact Assessment (PIA) is underway and the proposals in this paper will be consulted with the Office of the Privacy Commissioner during the drafting phase.

Capturing changes of firearms ownership during buying, selling and transfers

57. Firearms change ownership with relative frequency. In the current environment where individuals can buy and sell firearms to each other, the integrity of the registry would rely on people updating their information when they further obtain, and/or dispose of, firearms.
58. I have considered three options to capture information at the point of transfer, to ensure the registry is kept up to date:
 - 58.1. the removal of the ability of people to trade privately in second-hand firearms and have all trading go through dealers (dealers would be required to provide the registry with sales information, so the registry will be kept up to date – which is the approach adopted in Australia in the 1990s);
 - 58.2. requiring pre-approval by Police for any proposed transaction between individuals before it occurs, to enable greater oversight of every transfer²; and
 - 58.3. enabling buyers and sellers to independently notify the registry of the purchase and sale transaction after it has occurred.

² One type of pre-approval is through the current 'permit to possess' process enabling possession and trading of restricted weapons, pistols, and prohibited firearms.

59. Each of these options will also include obligations on the seller to establish and maintain a unique firearms identifier in the uncommon cases in which there is no existing manufacturer's serial number.
60. I propose to retain the ability for people to conduct private sales, and to not require pre-approval. A requirement to trade exclusively through dealers, or to seek pre-approval for a transfer of a firearm, would impose both a financial cost, and inconvenience cost, on firearms users. Dealer only trading may drive the cost of second-hand firearms up, and pre-approvals would impose an administrative burden on owners and Police.
61. I seek your agreement to enable buyers and sellers to independently notify the registry of the purchase and sale transaction after it has occurred. This is similar to the way motor vehicle trades are currently managed, where both the buyer and the seller are required to independently inform NZTA of the trade. NZTA use this information to reconcile the information it holds on the vehicle and its legal owner, and to trace the owner for vehicle registration purposes. In the same way, the buyer and the seller of a firearm would be required to provide information about the trade (predominantly through online processes, but also possibly on a form provided) so that the legal owner of the firearm is verified and updated in the registry. Online systems are also able to build in quality control systems that prevent fraudulent or inappropriate trades and the use of false identities.
62. An online platform for managing transfers of prohibited firearms, pistols and restricted weapons is already in development.³ The platform for firearms services is being progressively released during 2019. For example, overseas visitors may now apply online for their permits and notify Police of their firearms.
63. Police will not need a new IT system to register all firearms because the current platform is being built with much of the functionality needed to do so. However, there would be additional costs associated with upscaling the technology and tailoring the specific information requirements to support the expanded firearms registry.
64. There are also timing implications. Following the new Act coming into force regulations will need to be developed. By mid-2020, the precise information requirements for the online platform will be known. Therefore, the current platform could be enhanced and ready to include all firearms by, at the latest, the end of 2020.
65. In the past, groups representing farmers and hunters have been opposed to the establishment of an inventory-style registry. This is still likely to be the case. Concerns are centred on the administrative cost versus a perceived uncertain benefit. I consider a self-service online registration platform that enables private sales to continue may be a compromise acceptable to the firearms community.
66. I have also considered the request to investigate whether a cap on the maximum number of firearms per licence holder is needed. Given the registry will have visibility over the number of firearms a licence holder has, and the number of firearms being

³ The legislation provides the means to collect this information with respect to these firearms through the current 'permit to possess' processes, which I intend to retain for more dangerous and restricted firearms and weapons.

traded, there will be the means to sufficiently monitor risks. Instead, I will simply place an obligation on firearms users to register their existing and future firearms.

The timing and manner of collecting firearms registrations online

67. The timing of registering firearms online will be at natural touch points. As well as collecting information obtained through the trading of firearms, there are other points in the licensing system that can be used to populate the registry, including:
 - 67.1. at the firearms owner's licensing stage;
 - 67.2. when required to notify a change in circumstances, such as a change in address;
 - 67.3. when applying for an endorsement on a licence; and
 - 67.4. when issued with monitoring or enforcement action or otherwise at the request of Police.
68. Licence holders will be required to provide the registry with their firearms inventory as and when these points arise. As a catch-all, any person who has not registered their firearms will be required to do so within five years of the registry going live. As was the case in Australia, I expect the majority of licensed firearms owners will complete the registry as required.

International obligations in organised crime and illicit drugs – the Firearms Protocol

69. The Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition to the United Nations Convention against Transnational Organised Crime (Firearms Protocol) is one of the principal international legal instruments aimed at preventing and combatting the illegal manufacturing of and international trafficking in firearms, parts, components and ammunition. It forms a core part of the United Nations transnational organised crime framework.
70. New Zealand has not signed or ratified the Firearms Protocol. There is an opportunity to review whether New Zealand should ratify the Firearms Protocol, in light of the amendments proposed in this paper. I have asked my officials to provide further advice and I seek agreement to myself and the Minister of Foreign Affairs being delegated the authority to issue any drafting instructions required to enable New Zealand to ratify the Firearms Protocol. Cabinet confirmation will be sought when seeking approval to introduce the Bill.

PART C: LICENSING SYSTEM DESIGN

71. One of the most important entry points to the firearms regulatory regime is through licensing. How you get a licence, how you keep a licence, its duration, the conditions that are placed on licences, and the ability of the regulator to monitor and enforce the licensing regime are all important considerations. There are some weaknesses around each of these settings that require strengthening to give greater confidence that public safety is ensured.

Licensing of individuals

72. Police will issue a licence if they are satisfied the applicant is a fit and proper person to be in possession of a firearm or airgun, and access to any firearm is not reasonably likely to be obtained by anyone who is not a fit and proper person.
73. Police satisfy themselves whether someone is fit and proper to possess firearms through information provided by the applicant, through interviews of referees, and through wider enquiries and checks (such as criminal record searches and inspections of security arrangements).
74. Criteria as to what makes a person fit and proper, or not, are not set out in legislation. The Arms Manual sets out factors that may make an applicant unlikely to be fit and proper. It does not provide any standards of knowledge, skills and behaviours that could weigh in favour of a person being assessed as fit and proper. The framing of the fit and proper criteria in the negative may be having the effect of lowering standards, rather than assisting determinations to be about applicants' positive patterns of safe and responsible behaviour.
75. I propose to strengthen the licensing process to provide assurance that it is robust enough to help ensure only those who are genuinely fit and proper can possess and access firearms. Having more guidance set out in legislation will assist with consistent high quality decision making.

Positive behaviours, skills, and knowledge indicative of being fit and proper

76. I seek your agreement that the Act set out some broad direction as to what positive behaviours, skills, and knowledge may contribute to an assessment that a person is fit and proper to obtain a firearms licence. These positive factors align with the proposed purpose statement for the Act centred around personal and public safety. Applicants may be more likely to be fit and proper if they can demonstrate:
 - 76.1. the knowledge and skills, or access to the knowledge and skills, for the safe use and possession of firearms;
 - 76.2. behaviour consistent with the personal and public safety objectives of the Act; and
 - 76.3 knowledge of, and adherence with, their legal obligations (such as registering all firearms), and any set conditions on their licences.
77. There will be many ways to demonstrate these criteria. Young people may learn hands-on safe firearms skills under supervision in a family or whānau environment. Alternatively, a common route to learning skills and knowledge is through target shooting and hunting clubs. There are also various training courses in New Zealand. The safety test that must be passed by first-time applicants will be relevant. A fit and proper assessment would involve determining the patterns of behaviour consistent with the knowledge and skills element of the fit and proper test. I expect that Police may issue further guidance as required to assist applicants.

Persons who should not be able to apply for a licence

78. I consider that there are a clear set of behaviours that are not consistent with the proposed personal and public safety objective of the Act and should therefore disqualify a person from being able to get a licence for a specified period of time. This should be made clear and transparent in legislation by removing the ability to apply for a licence, reflecting the approach taken in legislation in Australia. As this would remove any decision making from Police there would be no review or appeal rights.
79. I seek your agreement that the Act set out the criteria that would disqualify a person from being able to apply for a licence when, in the 10 years prior, they have:
- 79.1. been convicted of, or released from custody after being convicted of:
- 79.1.1. serious offences relating to the misuse of drugs;
- 79.1.2. an offence relating to participation in an organised crime group (s98A of the Crimes Act);
- 79.1.3. serious offences involving the use or threatened use of violence; or
- 79.1.4. serious offences involving the use, carriage, discharge or possession of a firearm or weapon;
- 79.2. when a protection order, other than a temporary protection order, has been made against them.
80. A person's licence would be immediately revoked (without review or appeal rights) if, after obtaining a licence, they are convicted of any offence listed above, or are issued with a protection order. In most cases it is likely that a revocation process would have been commenced prior to the conviction, and in these cases (prior to a conviction) the review and appeal rights would stand.
81. I also considered making the immediate revocation retrospective. This would have meant that if any person had, in the past 10 years, been convicted of the above offences or had had a protection order made against them their licence would be immediately revoked. However, I do not consider this is necessary as it is unlikely that such a person would hold a licence. In the event that they did, Police already has the power to commence a revocation process.

Indicators that a person may not be fit and proper

82. I seek your agreement that the Act articulate discretionary behaviours indicative that a person may not be fit and proper. These may not necessarily disqualify an applicant or existing licence holder, but empower Police to seek further information to establish if there is a concerning pattern of behaviour. The existing discretionary criteria set out in the Arms Manual have informed this list, as have additional factors reflective of modern day circumstances.
83. Whether or not any one of these criteria affects the fit and proper assessment will depend on the nature and timing of any events giving rise to a particular risk factor

and whether the risk is manageable or not. Importantly mental health factors are common in the general population and much of the risk associated with mental health conditions can be managed with appropriate care or treatment.

84. The discretionary indicators will be where a person:
- 84.1. has been the subject of a protection order;
 - 84.2. has shown no regard for the Arms Act or Arms Regulations;
 - 84.3. has a pattern of substance abuse;
 - 84.4. has committed a serious offence against the Arms Act;
 - 84.5. has committed any serious offence against any other Act;
 - 84.6. has committed a series of minor offences against the Arms Act;
 - 84.7. has committed crimes involving violence or drugs or alcohol;
 - 84.8. is a member of, or has close affiliations with, an organised crime group or gang involved in committing violent offences;
 - 84.9. has been or is involved in serious family violence incidents;
 - 84.10. has shown patterns of behaviour demonstrating a tendency to, or encouraging or promoting, violence, hatred or intolerance;
 - 84.11. has exhibited significant mental ill health or attempted suicide or other self-injurious behaviour;
 - 84.12. has shown disregard for people's property and land or Crown property and land;
 - 84.13. has been assessed as a risk to a state's national security; or
 - 84.14. any other discretionary criterion as defined in regulations.
85. The above discretionary criteria are intended to screen for the highest risk behaviours. I consider that making the criteria transparent in the Act will help applicants understand the standard they must meet, and enable Police to take into account patterns of behaviour over time to attest to the character of a person. There may be a perception the discretionary criteria are far reaching and intrusive. However, I consider the proposed level of discretion is justified given the high risk to public safety of the misuse of firearms. Furthermore, the Act provides the right to appeal decisions made to decline applications, and as discussed below, I also propose a new review step.

Ongoing disclosure requirement for licence holders as a condition of their licence

86. Recognising that circumstances can change over the course of the licence period, I propose that the Act also provide, as a condition on a licence, a requirement to disclose material changes in circumstances, including:
- 86.1. serious mental health changes or any temporary or permanent physical hindrance that might prevent the applicant from safely using a firearm; and
 - 86.2. any changes relating to the set of discretionary factors that are considered as part of the fit and proper test, e.g. drug abuse, gambling addiction or violence.
87. The need to ensure that someone remains fit and proper during the period of their licence is inextricably linked to the proposed purpose of the Act – that firearms use is a privilege not a right, and that the interests of personal and public safety are paramount. This approach places the onus of responsibility on the firearms owner to make safe and responsible choices in line with the overarching purpose of the Act. If a person does not advise Police about a material change in circumstance, this would be a ground for licence revocation.
88. Similarly, health practitioners would be required to, as soon as practicable, provide written notice that a firearms licence holder should not be permitted to use firearms, or should only use firearms subject to certain limitations. This provision would be akin to requirements on medical practitioners and optometrists to notify the New Zealand Transport Authority of concerns as set out in the Land Transport Act. The driver licensing system also provides for the suspension of a licence in this circumstance and for the licence holder to be assessed. I propose that the firearms regime adopts a similar system

Protections for applicants and licence holders

89. The purpose of a fit and proper assessment is to ensure personal and public safety. I propose that any information used in an assessment must be relevant to managing these risks.
90. A fit and proper assessment involves the use of both conviction information and non-conviction information. Given that applicants may not know about non-conviction information, there should be transparency around its use. I propose clarity in legislation that non-conviction information must be substantiated if it is used in a fit and proper assessment.
91. Applicants and licence holders will self-declare any mental health issues. If well-managed, mental health issues are not a barrier to obtaining a firearms licence. However, the assessment will also use information derived from police attendance incidents, suicide attempts or threats, self-harm incidents, or notification by an individual, family member or health professional. This information would only be used in an assessment if it is both substantiated and if the nature and timing of any incidents are relevant to risks. I consider that legislative clarity about the circumstances in which mental health information may be used is warranted.

92. In most cases the registry will enable an applicant to have access to the results of a fit and proper assessment, as this will be the repository for information. This will enable them to supply additional information and/or to correct information that may be incorrectly held by Police or any other agency. However, there may be situations in which the assessment cannot be shared with the applicant such as if there is suppression, non-publication orders, or if there are risks to personal and public safety.
93. Furthermore, some information relating to whether an applicant is a threat to a state's national security may not be able to be shared with the applicant or licence holder given it may be classified national security information. The ability to use national security information in proceedings (e.g. if the outcome of an application is appealed) is directly linked to work led by the Ministry of Justice regarding the development of a regime to manage national security information in proceedings.
94. In addition to basic information being provided for the online registry the fit and proper test information will be held in electronic format on Police's files (such as PDF documents). An important point to note is that any documents held electronically will be held separately from the online registry. However, licence holders will be able to obtain any information that they themselves have provided to the registry as well as the fit and proper assessment (if it is able to be released).
95. Other Government agencies may be able to receive documentary information on a case-by-case basis in accordance with the Privacy Act and the Official Information Act. If this information is requested by third parties, those Acts also apply.

Duration of an individual firearms licence

96. The current duration of an individual licence is ten years after which time a further licence is applied for. Seeking a further licence is a re-commitment to being a responsible and safe firearms owner. In this context I consider the ten year cycle is too long to provide confidence that licence holders continue to act responsibly and are fit and proper.
97. I seek your agreement that the individual firearms licence be issued for five years. Changing to a five year period would enable a more regular reassessment of a licence holder's patterns of behaviour, living and security arrangements, and whether anything material has changed. I propose that current licence durations be grandfathered - if someone has nine years left on their licence they will not be required to relicense before that date.
98. This proposal will increase both administrative and inspection costs to Police, as the key cost of this regime is driven by the fit and proper person assessments and in inspecting the storage on premises. There will also be an increase in costs to licence-holders. While licence holders will still be required to provide information to Police to support their licence application, this proposal will mean they are required to do so every five years rather than every ten years. They will also need to pay for a licence every five years rather than every ten. s 9(2)(f)(iv)
- [REDACTED]

99. s 9(2)(f)(iv)

100. However, I consider that the personal and public safety benefits of more regular licensing, enabling more regular touchpoints with licence holders, outweigh these costs.

Conditions on licence

101. Under the new purpose statement there is a responsibility of all firearms licensees to take reasonable steps to act in the interests of public and personal safety. This is also shown by following the requirements under existing firearms regulations such as security, and safe use of firearms. I propose the Act provides that all licence holders have a responsibility to take reasonable steps to act in the interests of personal and public safety and that this be expressed as a specific condition of all firearms licences (including dealers, clubs and shooting ranges licences).

102. A breach of the conditions of licences at present may lead to licence revocation. Under a new regime, a breach would not necessarily attract serious consequences, rather Police envisages early engagement with licence-holders. Discussions or warnings may be given, with an Improvement Notice issued, if appropriate, that could identify remedial steps that should be taken.

Inspection of licence holders premises on notice

103. The Act provides for conditions on dealers' licences that enable Police to inspect pistols, restricted weapons, prohibited firearms or prohibited magazines on demand, and to inspect the place where these items are kept (including the ability to enter premises at all reasonable times to do so). Similar powers are provided in relation to endorsement holders with pistols, restricted weapons, prohibited firearms and prohibited magazines

104. I seek your agreement that a similar condition be extended to all licences and for all other firearms (this would include collectors and clubs and ranges). Currently inspections of the security arrangements for A Category firearms (or the plans for such security arrangements) are only done when a licence is issued, which is currently every 10 years. I propose ensuring that Police has the ability to inspect all firearms and their security arrangements (before obtaining a licence and after obtaining a firearm). This ability would be extended to enable Police to inspect vehicles when firearms are in transit. This extended inspection ability is important in light of my decision to not limit the number of firearms that can be held by a person. It also provides the ability to inspect security arrangements outside licence reapplication times (e.g. every five years as proposed in this paper).

105. This extended inspection ability will provide an important touchpoint for Police, and will provide more certainty that firearms are being held in a safe and secure manner. Most gun-related crime is undertaken by non-licensed people. Non-licensed people, including gang members, commonly obtain firearms through theft of poorly secured

firearms. Police will be able to check on the security arrangements for firearms to lower the flow of firearms from the legitimate to the illegitimate economy.

106. For example, the registry may flag a purchase of a number of firearms, or the new total of firearms held by a person. Police would be able to check the records of the security arrangements a person has (i.e. that they can securely store up to 10 firearms). If this was firearm number 11 or more, Police may want to exercise the power to ensure security has been upgraded. This may only require communication with the licence holder, but in other circumstances an inspection may be required.
107. Notice does not need to be given when exercising the current power related to dealers, though it must be exercised at a reasonable time. However, as this extended ability to inspect will relate to less dangerous firearms, I propose it should be exercised on notice, as well as at a reasonable time.

Licensing of visitors

108. Anyone may apply for a New Zealand firearms licence. The above proposals for individual licence holders, including a more robust fit and proper person test, will also apply to new arrivals in New Zealand (whether on a residents visa, on a student visa or on a visitor's visa). The onus will be on the applicant to provide evidence supporting the positive aspects of the test, and confirming absence of factors that would exclude the person getting a licence. If the applicant cannot do so adequately, they will not be issued with a licence.
109. For people who indicate that they are a visitor to New Zealand and intend to reside here for less than one year, they are issued what is called in practice a 'visitor licence'. Currently, there are approximately 4,000 visitor licences issued each year. Many are issued for hunting. A visitors licence is issued for a maximum of 1 year (specified by Police) or the duration of the stay (whichever is shorter), and allows the holder to use, possess and purchase firearms.
110. I seek your agreement to prohibit visitors from purchasing firearms in New Zealand (though they may purchase ammunition). Approximately 80% of visitors who apply for a licence bring their own firearm, which must be registered as they are imported. Others shoot accompanied by a licence holder under close supervision, or borrow or hire firearms while they are here. There is therefore no need to purchase a firearm in New Zealand.

Licensing for dealers

Clarifying the current definition of a dealer

111. The Act's definition of a dealer is broad in that it includes those 'in the way of business' who sell or manufacture firearms, weapons, magazines or parts.
112. Police has extended, operationally, the requirement to obtain a dealer's licence to those who hire out firearms (for instance for movie making purposes), to some gunsmiths who repair pistols or restricted weapons (many gunsmiths hold just a standard licence or in some cases no licence), and to some collectors who trade to enhance the value of their collections. However, the legislation does not explicitly

provide for this approach, and the extension of these licences to different categories is ad hoc.

113. I seek your agreement that the Act provides for a broader set of circumstances, whereby people may require a specific licence to be in the business of buying, selling, supplying, hiring, manufacturing, repairing, investing in, or otherwise carrying out commercial transactions involving firearms. This would become a broader category than what exists in statute now, largely clarifying and codifying operational practice. It will mean there are no arbitrary distinctions that prevent dealing-type behaviour being appropriately regulated. It would apply to all collectors who are in the business of investing in and trading firearms, and also to auctioneers and all gunsmiths.

Dealers should be of excellent character and capability

114. Dealers are the vehicle by which large numbers of firearms are imported into New Zealand. They are the primary source for trade, repair or hire of firearms. Police information shows a large number of individuals buying their first firearm go to a dealer for advice and to purchase a firearm. Given the risk of thefts and/or the outflow of firearms into the criminal system, the position of a dealer is pivotal in upholding the integrity of the trading system. This means that a dealer should be of excellent character.
115. Before a one year dealer licence can be issued the Act requires applicants to have a standard firearms licence. This means they will have been assessed as fit and proper, and under the new proposals, will be subject to a more robust test.
116. In addition to this, the Arms Manual further requires the applicant to be of 'excellent character'. However, there is no guidance or any criteria outlining what constitutes excellent character, and there are no specific requirements for dealers to have any technical knowledge of firearms.
117. I seek your agreement to strengthen and expand upon the dealer's 'fit and proper' person test in the Act. It should provide for a dealer to have an excellent character and sound technical capabilities. The Act can specify that positive examples of this may include:
- 117.1. sound knowledge of firearms and their purposes;
 - 117.2. understanding of own legal obligations;
 - 117.3. understanding of, and ability to communicate, firearms law and obligations of individual licence and endorsement holders;
 - 117.4. financial probity and an ability to manage financial and record-keeping systems;
 - 117.5. business partners and close associates who are also fit and proper persons; and

- 117.6. a minimum technological capability to meet any required safety plans, record-keeping, reporting obligations and any other interface with the registry as required.

Licensing for clubs and shooting ranges

118. There are at least 260 rifle and shooting clubs that do not have any firearms licensing requirements or Police oversight. There is some quasi-regulatory oversight of pistol clubs through licence endorsement conditions placed on those holding pistol licences, and through a Letter of Agreement between Pistol New Zealand and Police. Licence holders seeking to hold an endorsement to possess a pistol must be members of a pistol club which must be recognised by the Commissioner of Police.
119. Club operators are not required to be a firearms licence holder, nor do they need to have any specific knowledge or expertise of firearms. They could simply be a landowner or lessee who has set up a range as a commercial enterprise, charging private members or the public to practice shooting. However, if the club or range wants to hold, store or lend firearms on the premises the operator would need a firearms licence.
120. Police has produced a manual titled *Principles for the Design and Development of Shooting Ranges*. Among other things this addresses the risk of ricochet from a range that is not adequately designed when members of public may be in the vicinity. This becomes a particular concern as urban areas encroach upon rural areas. There is no legal enforceability of these principles and they act only as guidelines for operators.
121. s 6(c) [REDACTED]
122. I seek your agreement that the Act provide that shooting clubs (including pistol clubs) and ranges be licensed. The Act will specify a definition of a club or range in order that licensing requirements apply. As the Arms Act is constructed on the premise that individuals are licensed, the licensing regime for clubs and ranges will be based around the types of activity that can be undertaken, the design of the club and range, and obligations to, and by, members.
123. The licensing regime would provide for those that need to train, and are endorsed to shoot, prohibited firearms. The licensing regime would place greater obligations on clubs to meet planning and reporting requirements and to have inspections undertaken. In addition, licensing would require clubs and ranges to:
- 123.1. provide ongoing training programmes for operators, users, instructors and supervisors;
 - 123.2. have a charter around the safe operation and healthy attitudes to firearms ownership and use, published in visible locations at the club;
 - 123.3. ensure all users have agreed to abide by the rules as a pre-requisite of using the club and range and show evidence that they are enforced; and

123.4. provide the Commissioner with information on request.

124. The club or range will require a licensed person to be present to operate the club or range at all times when it is open. In order to receive a club or shooting range licence, the operator will need to satisfy Police that they have an excellent character and the technical capability to be a club or range operator. I expect operators to be held to a higher standard of behaviour and character than everyday users because of the leadership role they play in the firearms community. The Act would provide grounds that will assist with such an assessment, including:
- 124.1. sound knowledge of the types of firearms the operator allows shooters to use on their premises or land;
 - 124.2. knowledge of the NZ Police Range Manual, Principles for the Design and Development of Shooting Ranges and/or the Target Shooters of New Zealand Target Shooting Range Manual and Range Operation Manual or other relevant equivalent;
 - 124.3. completion of a range officer course;
 - 124.4. patterns of behaviour consistent with operating a club or range in the interests of personal and public safety; and
 - 124.5. understanding and communicating firearms obligations to members including, but not limited, to security of storage and transport of firearms, as well as supervision.
125. I seek your agreement that the principal requirements of the licensing regime, as above, be outlined in legislation and more detail set out in regulations. This will enable clubs and ranges subject to this new regulatory regime to have input into the requirements placed on them, including whether to graduate licensing requirements based on the size and nature of the club or range.

Licensing decision review process

126. At present a person whose licence application is declined or whose licence is revoked may appeal to the court. I seek your agreement to provide for review step in the Act prior to a court appeal. This is intended, over time, to lower the burden on the courts.
127. The review would be undertaken by a delegate of the Commissioner of Police who was not involved in the original decision making. This would provide an opportunity to ensure that decisions are robust. Outcomes could be that the decision is changed (avoiding court), the decision is explained better (which may avoid a court appeal), or Police and the applicant would be better prepared to bring or defend an appeal.

PART D: PROPOSALS TO STRENGTHEN THE ACT AND THE REGULATOR

Compliance and enforcement

128. Most licence-holders want to possess and use firearms safely. Amongst the majority of those users some will self-comply without any input, some may need education and awareness-raising to comply, and some may need more active assistance to comply. At the other end of the compliance spectrum, there may be a small number who willingly possess and use firearms with little regard for public safety and those who want to intentionally use firearms to harm themselves or others – whether lawfully possessed or otherwise.
129. I seek your agreement to the following compliance and enforcement tools that will strengthen and enhance the regulatory toolkit available to Police, and improve the safe use and control of firearms.

Improvement Notice

130. Under the current system, there is very little that can be done to effect remedial action for minor infringements. Real intervention (such as prosecution or revocation of licences) only occurs when there are serious concerning behaviours or offending. A range of behaviours require a response that falls in between and yet these tools are not available.
131. I seek your agreement that the Act enable the issue of an Improvement Notice to licence holders. The Improvement Notice will identify the requirements not being met and may include remedial steps that should be taken by a particular date. If the licence holder fails to meet the identified requirements, a licence revocation process may be commenced.

Suspension pending revocation

132. Revocation is often a time consuming process, and once a licence is revoked the person has months to sell or otherwise dispose of their firearms.
133. I seek your agreement that the Act enables the immediate suspension of a licence at the commencement of a revocation process. I propose that the Act enable firearms to be seized immediately, or surrendered by a certain date. Which circumstance applies will depend on the nature and reason behind the revocation. Seized firearms would be securely stored by Police until such time as the revocation process is finalised.


Offences and penalties

134. I consider the offences and penalties in the Act are no longer fit for purpose and require updating.
135. Some have not seen change since the Act was passed in 1983, and our understanding of offending and offence construction has changed. For example, some penalty levels were often set at a level reflecting more administrative type offending (i.e. lax record keeping) whereas in the context of the firearms system

some of these behaviours are actually more criminal in nature. Some other issues arise from the use of out-dated language.

136. The Ministry of Justice has raised issues around the use of reverse onus in the construction of some of the current offences in the Act. This relates to evidential issues – with the burden of proof falling on the defendant – and is largely reflective of the era and age of the Act. This needs to be addressed.
137. In addition to updating the current offences and penalties, new offences and penalties will be introduced as a result of changes to the Act, for example relating to the registry and licensing.
138. I propose that my officials work with the Ministry of Justice on the construction of existing and new offences and penalties. I seek your agreement that the Minister of Justice and myself as Minister of Police be delegated the authority to make decisions on new offences and penalties to enable drafting, with Cabinet confirmation being sought when seeking approval to introduce the Bill.

Clarification to fee setting powers for cost recovery

139. The benefits of holding and using firearms largely accrue to individuals and private businesses. However most of the costs of managing the public safety risks that arise from the use of firearms are being met by the taxpayer. That is, the fees charged for regulatory services, such as licensing, are not fully cost recovered from the firearms licence holder.
140. The Act currently provides for fee setting through regulation. However, fees have been adjusted infrequently. Current fees were set in in the early nineties at a level that did not reflect the full cost of the service. For example, the issue of a permit to import does not attract a charge to the applicant. In 2017/18 the Crown cross-subsidised the firearms regulatory regime by approximately \$10 million (through Vote Police baselines). s 9(2)(g)(i)

141. In addition, the Act is silent on the scope and nature of the regulatory functions and services for which a fee can be set. For example, it is unclear if a fee can be prescribed for enforcement and inspection activities relating to the regulation of firearms, or whether the full cost of administering the regulatory functions of the Act can be recovered. There is currently no charge for the issue of a permit to import firearms, or the issue of a permit to procure a prohibited firearm, pistol or restricted weapon. This cost is met by the taxpayer.
142. There should be a clearer position to be able to recover costs on a broader range of current and proposed functions and services, and at different stages of its regulatory activity, and not just at the licensing stage. It would also allow Police to recover a greater proportion of its costs of administering the Act than it currently does.
143. I seek your agreement to amend the fee setting provisions in the Act to clarify that a broader range of functions and services can attract a fee, including the:

143.1. principles for setting fees to recover direct and indirect costs;

143.2. methods for cost recovery (e.g. fixed fees, fees charged on an hourly basis, differential fees based on risk, on-charging third party charges);

143.3. regulatory activity where a fee may be charged, including:

- 143.3.1. assessing firearms licence holders' fit and proper status and the issue of a licence;
- 143.3.2. issuing dealer, and club and range licences;
- 143.3.3. issuing including endorsements;
- 143.3.4. issuing permits, such as permits to import and permits to possess;
- 143.3.5. registering firearms, including the costs of establishing and maintaining the register;
- 143.3.6. monitoring and recording sale and purchase transactions;
- 143.3.7. undertaking inspections and other compliance checks; and
- 143.3.8. monitoring compliance with licence, endorsement, and permit conditions when for example, issued with Improvement Notices.

143.4. principles for fee exemptions, waivers or refunds;

143.5. the time any fee becomes payable; and

143.6. how fees may be paid.

144. At present the manner of collecting fees is at the point of licensing and application for endorsements. Fees are set as fixed average fees. The current 10 year licence fee is \$126.50. I expect that cost recovery should allow for both fixed and variable fees where it is efficient to do so. This will allow for fees to cover the time and resource required to administer the service. This would minimise cross subsidisation inherent in fees set through averaging.

145. I also seek your agreement that regulations can provide for differential fees to be set, where an applicant can demonstrate a reduced level of risk. For example, Police could develop a list of licence holders who were considered low risk licence holders due, for example, because of the type of firearms held or the nature of their storage facilities. Reduced fees could apply to such licence holders.

146. I am not seeking approval to change the current fees, rather this paper seeks your agreement to amend the fee setting provisions in the Act. Police is developing a cost recovery model to estimate the costs of providing services including those that may be needed due to proposals in this paper. Based on this work, Cabinet approval will be sought to release a consultation document with fee options this year or early next

year. Any new fees decided will be set out in regulations that will likely come into effect in 2020.

147. A Stage 1 Cost Recovery Impact Statement supporting the proposed amendment to the Arms Act is attached to this paper.

New notice-making powers

148. The firearms regime has not adapted to emerging risk and technology change over time. The Arms Manual is currently used for setting out some extra detail of the firearms regime. It can be changed quickly, but it has no legal status. Several regulatory regimes in New Zealand use tertiary instruments such as Notices, or enforceable Codes of Practice and other disallowable instruments that can be updated relatively easily and which also have legal effect. Powers to make such instruments are generally delegated to Ministers or the Secretary/Chief Executives of the relevant agencies.
149. The Act has a wide suite of regulation-making powers but at present there is no other enforceable instrument that operates as tertiary legislation. Notice-making powers would be a useful mechanism in a regulatory toolkit. They can be used quickly, flexibly and consistently to provide the following:
- 149.1. further detail to the Act (for example further detail about conditions that may be placed on licence holders); and
- 149.2. further detail to expand on regulations (for example, minimum standards or performance standards for security requirements).
150. An advantage of a notice is that it may be expressed prescriptively (for higher risk situations) or flexibly (where individuals are best placed to manage risks). At present, much of the regulatory regime is prescriptive. This is not always the best approach in settings where there are a wide variety of choices for maintaining safety, especially where the resources around those options are within the control of the licensee. For example, when a licensee is transporting their firearms.
151. I seek your agreement that the Act provides for notice-making powers to be delegated to the Commissioner of Police, in circumstances anticipated by the Act where further technical detail may be required. Any notices would be developed and promulgated after consultation with industry and stakeholder groups, which would be a statutory prerequisite.

Technology-enabled information sharing (Direct Data Access)

152. People who apply for firearms licences provide personal information to do so. In managing that information, the Arms Act is intended to operate within the bounds of the Privacy Act with much of the information being provided with the consent of the applicant. However, sound decisions on firearms users are needed to protect personal and public safety and this means using information beyond that provided by the applicant. As well as seeking information from referees, Police will need additional information from other government departments, such as identity information, business and companies' information, and customs and excise

information – and potentially a range of other information. It is costly to collect information on a case by case, manual basis between government agencies.

153. Therefore the firearms platform should be enabled to collect and access information directly from agencies through the use of technology as and where this is appropriate. This must only be done where the implications for privacy are carefully managed.
154. As well as the purpose of collecting sufficient information to satisfy a fit and proper test, there are also reasons why other agencies should have access to information on the firearms platform. A range of other public-facing agencies may need this information in real time, depending on whether there are incidents or urgent situations at hand. In particular, this affects the law enforcement and social agency context. Having access to firearms information can help them to assess safety risks in any situation. For example, if an agency is involved in home visits and they wish to assess risks surrounding those premises, or if a person in their care is at risk of harm to themselves or to others. Furthermore, as well as needing the information for public facing situations, the information on the firearms platform may also influence the decisions of other agencies about how to proceed in a particular situation and/or whether to alert Police about firearms concerns.
155. Police's firearms platform could be developed so that it can interact with other data repositories. I seek your agreement that the Arms Act provide a mechanism for agencies to share information in real time. Direct Data Access (DDA) mechanisms have now become a feature of similar recent legislation including the Customs and Excise Act 2018 and the Intelligence and Security Act 2017 (I&S Act). A DDA mechanism formally enables one agency to directly access another agency's data repository in real time. The added technology costs of DDA are inexpensive.
156. In legislation, these types of DDA are typically expressed as a high level framework for, and processes for developing an Information Sharing Agreement (ISA). A DDA – type framework would set out in law:
 - 156.1. the purposes for which the information would be accessed, as discussed above
 - 156.2. types of information that may be accessed and by which agencies; access to the firearms platform would be the limited set of information held;
 - 156.3. use of information by agencies, the limits on which would be set out in an ISA;
 - 156.4. the processes for developing and agreeing ISAs, which would include consultation with the Office of the Privacy Commissioner;
 - 156.5. the level of authority for entering into ISAs, which in this case would be the Ministers of the agencies concerned; and
 - 156.6. the arrangements for transparency of any ISA, which in this case ISAs would be published online unless exceptions under the Official Information Act apply or if information in an ISA is otherwise classified.

157. As discussed a PIA is in development and will be consulted with the Office of the Privacy Commissioner (OPC).
158. I seek your agreement to a DDA-type mechanism being provided for in the Bill and that the specific detail will be further developed during drafting. I propose that officials work through the detail of any DDA legislative framework with the OPC and other agencies that may need to access the firearms platform. I particularly expect the legislation to be transparent about which agencies may access the firearms platform and vice versa and for what purposes.

Consequential amendment to enable DDA for intelligence agencies

159. As indicated above, the I&S Act already provides for a DDA mechanism. In the I&S Act, Schedule 2 lists the Government agency data repositories that may be accessed by the two intelligence and security agencies. However, Schedule 2 can only be changed by statute. At present, Police's firearms and licensing repository is not listed in Schedule 2.
160. I seek your agreement to a consequential amendment to the I&S Act to add firearms and licensing information to Schedule 2 Databases accessible to intelligence and security agencies in relation to the NZSIS. This would enable the NZSIS to negotiate a DDA with NZ Police regarding firearms and licensing information in order to support NZSIS to achieve its functions under the I&S Act. Note that this would provide NZSIS access to the firearms registry only after an ISA is approved. It would not empower Police's firearms registry to directly access any information repositories held by intelligence and security agencies and this is not the intention.

Commissioner's stakeholder group

161. Police has a stakeholder advisory group comprising members of the firearms industry. There are no wider community members, non-firearms users, or laypeople on the reference group. A stakeholder group is important for assisting Police to balance the views and perspectives of different stakeholders in a transparent way. In the development of regulations and notices, as well as in day-to-day operations, a stakeholder group could provide critical independent advice.
162. I seek your agreement that the Act enables the Commissioner of Police to establish a stakeholder Advisory Group. I expect they will meet two to four times per year and have the following features:
- 162.1. membership representing a balance of people from both the firearm-owning and the non-firearm-owning community, including those who are concerned about the mitigation of harm from firearms from a health perspective, and including Maori representatives;
 - 162.2. having up to nine members, with terms of office to be renewable and for up to three years each time, and a Chair appointed by the Minister of Police;
 - 162.3. undertaking an advisory role to the Commissioner of Police, from a public interest perspective, including making recommendations relating to regulating New Zealand's firearms regime and undertaking research;

- 162.4. the power to regulate their own procedure;
- 162.5. administrative assistance provided by Police, with an annual budget coming from Police appropriations;
- 162.6. fees and expenses to be paid in accordance with the Fees and Travelling Allowances Act 1951 (and the Advisory Group and any sub-committee deemed a Statutory Board for the purposes of that Act);
- 162.7. requirement to prepare an annual report of its operations for the year; and
- 162.8. member indemnity for any act done in good faith in the course of the operations of the Advisory Group.

Five year review

- 163. The proposals in this paper, and the new prohibition regime introduced in April this year will see significant change in the approach to regulating firearms.
- 164. I seek your agreement to determine whether a review of the Act should be required to be commenced within three years or five years of the new Act coming into force. My preference would be to commence the review within five years, to enable the new regulations to bed in and to give time for data to be collected. In either case I propose the review should be completed within 18 months. I expect a review would cover the effectiveness of the regime including the impacts of the current amendments.

PART E: FOLLOW-UP MATTERS

Competitive shooting using prohibited firearms

- 165. The recent amendments to the Arms Act did not provide for an exemption to possess and use prohibited firearms for sporting competitors or competitions. There were a number of public submissions noting that the proposed amendments would mean that certain sports competition shooters would no longer be able to compete in national and international events using semi-automatic rifles and shotguns.
- 166. Submissions noted that sports competition shooters, most of whom hold B (pistol) or the previous E (MSSA) endorsements, are a responsible and legitimate user group that should continue to be able to participate in their sport, especially to attend international sporting competitions.
- 167. I undertook to reconsider whether an exemption should apply for sports competitors or competitions. I note that Australia did not provide for sport shooters to continue to compete using MSSAs when they changed their gun laws in 1996. Therefore my preference is no exemption for sports shooters (that is, the status quo).
- 168. However, I have asked my officials to consider what a sporting exemption could like for Cabinet consideration.

Narrow exemption for international competitors

169. There are several classes of national-level competitions that involve now prohibited firearms, run by three umbrella organisations. Accounting for the likelihood that some members will have competed in more than one type of competition, these organisations informed officials that there are approximately 3,000 to 5,000 members recently competing with prohibited firearms at local and regional club and interclub competitions.
170. Some members compete in international competitions. It is difficult to estimate number of users who, prior to 12 April 2019, competed regularly in international sports involving now prohibited firearms. The recent Pistol New Zealand National 3-Gun event involved 90 participants (of which 10 were from Australia) and the New Zealand Service Rifle Association national event involved 100 participants (of which 14 were from overseas).
171. Given the large number of people currently participating in shooting events using prohibited firearms, I consider that a wide exemption potentially covering all members who competed in competitions prior to the first Arms Amendment Bill would result in a significant number of prohibited firearms remaining in circulation among the general population. There is a risk that a wide exemption could, over time, increase the number of prohibited firearms in circulation if there is growth in this sport. This creates too great a risk of theft, misuse and other means of firearms ending up in the wrong hands, which undermines the objectives of the new law.
172. However if Cabinet were accommodating of an exemption, to balance public safety and to allow for those who compete at an international level, a more narrow option would be to grandfather international competitors. This option would exempt people who, over the last five years can show that they have already travelled overseas to compete in international competitions using the newly prohibited firearms.
173. Officials understand that there are approximately 10 people who currently fall within this category. This would enable a very small group of people to continue competing internationally
174. Under this narrow option, a group of people would be allowed to continue their training and competitions in New Zealand for the purposes of preparing for international events respectively. The number of people with endorsements would reduce over time as people retired from competition.

Requirements

175. Eligibility for the narrow exemption would apply to existing competitors only. I also propose that conditions be added to the endorsement that require more rigorous security standards, including during transportation, and evidence of ongoing training and competing.
176. If Cabinet agrees to an exemption, I propose:
- 176.1. that these competitors can only train at regulated pistol clubs;
- 176.2. an endorsement for competitive shooting is renewed annually;

- 176.3. that if a sports shooter does not compete in over two years, their endorsement is not to be renewed; and
- 176.4. when the exempt sports shooter no longer meets the criteria or no longer wishes to compete, they would be required to surrender their firearms to Police, or provide evidence to Police (through the registry) that the prohibited firearm has been transferred to a person who has a permit to possess the firearm and the correct endorsement.
177. This will ensure that the prohibited firearms are tightly controlled and minimise risk to public safety.

Transitional arrangements

178. If an endorsement for sports shooting is progressed, it is proposed that a regulation providing a transitional exemption for sports shooters is urgently developed. Under the current Act, people would be able to keep their firearms once the Arms Act is amended, but not before, as the firearms are currently prohibited. The regulation could enable sports shooters to legally retain, but not use, their prohibited items until the law is changed. This will give sports shooters the ability to retain their firearms, and not surrender them during the amnesty and buy-back period.

Duration of endorsements

179. The Act provides endorsements so that in appropriate circumstances pistols, restricted weapons and prohibited firearms can be held by those granted the endorsement. The Act is silent about the duration of the endorsements, but in practice they last as long as the licence they endorse.
180. I seek your agreement that the Act clarify that the endorsement lasts for the length of time left on the licence that is being endorsed, and that a new application for an endorsement must be made when an application is made for a new licence.

Pest-controller related endorsements

181. A further protection that I have considered relates to the duration of an endorsement that a pest-controller may have to use prohibited firearms. In these cases, the endorsement may be on a licence with a number of years to run that will be unrelated to the business needs.
182. Given the frequently seasonal nature of pest-control related work, I have considered whether an endorsement received by pest-controllers should only last for two years (or the length of the licence, whichever is shorter) before they must be reapplied for.
183. The other option is to keep the status quo and have the endorsement length aligned with the licence length. Over time this will mean they could last for five years (should there be agreement to licence duration being shortened). In the first instance though, the endorsement could last for up to ten years (or however long is left on a licence).
184. Conditions can assist with both the two year option and the licence length option. It is possible to prescribe conditions to put the onus on endorsement holders to notify Police if the grounds under which they received the endorsement no longer exist (for

example if they are no longer employed as or contracted as a pest-controllers). In this case, or any other case where Police is aware that grounds have changed, the endorsement may be revoked.

Advertising

185. Individual licence holders are able to sell firearms and anyone may sell ammunition. However, there is no obligation placed on any advertiser to advise potential buyers of the licence requirements and obligations that are required to be met by the purchaser. Many advertisers do note these legislative obligations, but not all. It is particularly important that these reminders are placed on advertising inserts/brochures/billboards that are made publicly available to people who may be unfamiliar with Arms Act requirements. This will enhance compliance with the Act.
186. I seek your agreement that the Act provides for a regulation making power to prescribe requirements for advertising. I expect these regulations will require any seller of any firearm, ammunition or prohibited item, to include with each item advertised advice as to the legal age of purchase. I also expect the licence or endorsement requirements for lawful purchase will need to be advertised, including reference to any additional conditions such as storage requirements.

Exemption for manufacturing

187. New Zealand has at least two businesses that currently manufacturing firearms parts, such as suppressors and magazines, which until now have been unregulated. The suppressors are being exported for use in hunting, pest control, and by police and defence agencies in various countries. The magazines, which include large capacity magazines, have been designed for the domestic market.
188. The manufacture of suppressors requires the use of a small number of semi-automatic firearms to test the product prior to export, which now fall under prohibited firearms.
189. A transitional provision was included in the first law change to enable existing manufacturers to continue to use prohibited firearms or manufacture prohibited magazines in order to continue to operate their business. The exemption expires in December 2020, so a decision is required as to whether the exemption should be made permanent and provided for in legislation (rather than regulations).
190. I seek your agreement that the exemption in the transitional arrangements for the manufacturing of prohibited magazines not be made permanent and that the Act prohibit the manufacture of large capacity magazines over the size allowed for in the Act or regulations.
191. I seek your agreement that the exemption in the transitional arrangements for the manufacturing of parts for prohibited firearms and allowing the use of prohibited firearms for the testing of those parts be made a permanent exemption under section 4A of the Act (along with the exemptions for dealers, collectors and pest-control).

Ammunition import permit and sales requirements

192. The Arms regime places heavy emphasis on the management of high risk firearms, high risk users and high risk use. However, there is limited recognition of the risk to public harm that results from the ready access to small arms ammunition.
193. There are several gaps in the Act over the controls of small arms ammunition:
- 193.1. no one is required to seek a permit to import ammunition and any person can bring ammunition in their luggage;
 - 193.2. any person may sell and supply ammunition without a firearms licence or dealer's licence;
 - 193.3. a seller or supplier is not required to keep records of sale of ammunition or of the buyer's licence number, or to report unusual ammunition purchasing behaviour to Police;
 - 193.4. there are no restrictions on ammunition quantities that may be bought or sold; and
 - 193.5. any person may possess non-prohibited ammunition.
194. The combined effect is that overall the importation, sale, supply and possession of ammunition is weakly regulated.
195. I seek your agreement to three changes that will strengthen the ammunition regime:
- 195.1. introduce a requirement to have an import permit to import any quantity of ammunition (this would enable oversight of ammunition importation and would prevent the civilian importation of prohibited ammunition);
 - 195.2. require a seller of ammunition to hold a current firearms licence and establish conditions on the licence, with record-keeping requirements for those who sell ammunition (this will strengthen the opportunity to ensure ammunition is only sold to licence holders and set obligations appropriate to the activity); and
 - 195.3. create an offence for possessing ammunition without an appropriate firearms licence.

Imitation blank firing firearms

196. If an imitation firearm that fires blanks is readily convertible to a firearm that shoots projectiles then it will fall under the Act's definition of a firearm. Some imitation firearms may be readily converted and others not. Police will not know until the Police Armourer has tested them.
197. Currently there are no import controls over imitation blank firing firearms. This means that these items are entering New Zealand and being sold legally to people who may not have a firearms licence. There is no means to test them prior to arrival.

198. While it may be possible to test them after arrival, the processes around this are unclear. If the imitation blank firing firearm was determined to be an actual firearm (as defined by the Act) this could mean that people without firearms licences were now, through no fault of their own, unlawfully possessing them. Issues around recall and buy back may arise. It would be preferable to manage these imitation blank firing firearms prior to arrival to avoid these issues.
199. I seek your agreement to require a permit to import for imitation blank firing firearms. This will enable the Police Armourer to receive a sample of the firearm prior to import to enable testing to determine whether it is readily convertible or not. It will then be clear whether it is a firearm or not, and which regulations it should be subject to.

s 9(2)(f)(iv)

Consultation

202. This paper was consulted with the New Zealand Customs Service, the Treasury, the Ministry of Justice, the Department of Conservation, the Department of Corrections, the Ministry for Primary Industries, the Government Communications Security Bureau, the New Zealand Security Intelligence Service, and the Department of Prime Minister and Cabinet.*
203. Police also discussed some of the publicly known proposals in the paper with the Firearms Community Advisory Forum, s 9(2)(a), and Gun Control NZ, a new not-for-profit group advocating for stronger gun laws.
204. I seek Cabinet's approval to enable me to share text from drafts of the Amendment Bill with the above interest groups if I consider it would be useful, and time allows.

Financial Implications

205. The cost of administering the Arms Act in 2017/18 was \$13.0m per year. Of this, Police received \$4.1m in fees from firearms users, with the remainder funded by Vote Police. The changes proposed in this paper will increase the amount to be funded from Vote Police, and will have implications for fees if additional costs are to be recovered.

s 9(2)(f)(iv)

* Note that the New Zealand Customs Service were not consulted on this paper in it's entirety, but were included in this section in error.

s 9(2)(f)(iv)

s 9(2)(f)(iv)

s 9(2)(f)(iv)

209. I will report back to the Cabinet on final costs for the proposals at the end of this year, and options for cost recovery. As discussed above, I propose the release of a cost recovery discussion document at the end of this year or early next year. If full cost recovery is not implemented next year, Police will need to seek additional funding to meet the costs associated with the proposals.
210. The proposed changes may have some cost implications for other Justice sector agencies but these have not been fully worked through. The addition of new types of offences may increase Court involvement, particularly in the short-term. Settings such as the more robust and transparent fit and proper test and the improved interventions regime (e.g. Improvement Notices) may reduce pressure on the Court system over time.

Legislative Implications

211. I propose that a new Bill is introduced in August and that it is assigned a Category 2 status for the Legislation Programme, to be passed in 2019.

212. s 9(2)(h)
213. I consider that the Bill should be binding on the Crown, noting several existing exceptions for Government agencies with responsibilities for policing and defence.
214. I note the consequential amendment required to the I&S Act to add firearms and licensing information to Schedule 2 databases accessible to intelligence and security agencies in relation to the NZSIS, as discussed above.

Impact Analysis

215. The Impact Analysis requirements apply and a Regulatory Impact Assessment has been prepared and is attached to the Cabinet paper.
216. A cross-agency Quality Assurance Panel, with representatives from the Ministry of Justice, the Ministry for Primary Industries and the Treasury, has reviewed two iterations of the Regulatory Impact Assessment (RIA) Arms (Purpose, Licensing, Registry and Trading) Amendment Bill. The panel has not had the opportunity to quality assure the latest iteration of the RIA, received on 5 June, which has a number of significant changes, before lodgement of the Cabinet Paper on 6 June. However, the panel will provide a quality assurance statement before Cabinet Social Wellbeing Committee (SWC) on Wednesday 12 June.
217. A cross-agency Quality Assurance Panel with representatives from the Ministry of Justice, the Ministry for Primary Industries and the Treasury has reviewed the Cost Recovery Impact Statement (CRIS) Proposal to amend fee setting provision in the Arms Act 1983, produced by the New Zealand Police and dated May 2019. The panel considers that it meets the Quality Assurance criteria.
218. The review Panel notes that a stage 2 CRIS will need to be completed when approval is sought for specific proposals for cost recovery fees and charges.

Human Rights

219. A number of provisions of the New Zealand Bill of Rights Act 1990 are engaged by the proposals in this paper. I consider that where rights are engaged there are appropriate justifications. However, this will not be confirmed until the Amendment Bill is drafted and subject to a Bill of Rights vet by the Ministry of Justice.
220. The right to be free from discrimination may be engaged by the proposals related to the fit and proper person test for licences, in particular the discretionary grounds that may indicate that someone is not fit and proper. Some of the factors that may, in some circumstances, exclude people could include disability (mental and physical health), religious and ethical beliefs, or political opinion. The mental health criterion will apply to serious concerns about a person's mental wellbeing, not minor or manageable conditions. To assist with considering mental health there will be a self-declaration and if the condition is manageable there should be no reason to decline an application.
221. The over-arching public policy objective is to protect the right to life for New Zealanders. The use of disqualifying factors that indicate a person may be a risk to public and personal safety must be considered in this context and this paper

proposes taking a precautionary approach. In this context, I consider the limitations are proportionate and justified. There are to be protections around the use of information in decisions to not issue, or revoke, a licence based on discretionary factors. Further, as a safeguard to ensure decision making is appropriate and not overly broad, the decision to not grant a licence will be reviewable and then appealable to the courts.

222. The right to be free from unreasonable search and seizure may be engaged by the proposed inspection powers. However, the inspection powers will only extend to those persons who have voluntarily engaged in firearms ownership and there is a public interest in ensuring that firearms that have the power to cause great harm are safely stored and transported.
223. The right to freedom of expression may be engaged by the proposals about advertising. It may be a requirement of the advertisement to inform buyers about their obligations, such as age or storage requirements. However, this will help ensure that everyone is familiar with the Act and obligations on them

Gender Implications

224. Most of the victims of gun violence are men (from self harm and intentional harm) so benefits will accrue to that population group. Domestic violence victims may also be at risk of firearms violence and we also expect benefits for this target group as well (primarily women).

Disability Perspective

225. Shooting is a sport in which many people with physical disability participate. For people with physical disability there is no change to current policy, the intent of which is to foster ongoing participation for those with disabilities.
226. Submitters on the previous firearms Bill commented that for some people with psychological disability, hunting in the bush is a beneficial activity. Mental health matters can be both transient and may also be of no personal or public concern if managed in conjunction with a health professional. The fit and proper test is not based on a stereotype that people with mental illness are prone to violence. Based on the anecdotal experience of Police's Arms Officers, the majority of firearms licence revocations are in response to incidents of self-harm.
227. To help firearms users to keep themselves safe, the new regime will place more emphasis on ensuring firearms users' mental state remains stable. This means many people with psychological disabilities can also participate safely in firearms activity. However, a primary purpose of the new fit and proper regime is to screen out applicants who may be prone to committing violence or terror. While the international research on the mental state of mass shooters and terrorists remains unclear, there are likely underlying serious mental health illnesses and/or suicidal motives. A precautionary approach to approving people with co-existing violence and mental health issues will be applied so that there is greater assurance that New Zealanders are safe.

Publicity

228. The timing of decisions on this paper also coincide with Cabinet approval of the regulations to implement the buy-back scheme. During this same week public announcements will be made about details of the buy-back scheme, including the pricing schedules, to support the prohibition of semi-automatic firearms. I do not want announcements about the proposals in this paper to interfere with the important messaging around the buy-back. s 9(2)(g)(i)

229. I propose that announcements are made about the proposals in this paper once the buy-back scheme is well underway, in mid to late July.

Proactive Release

230. I recommend that the proactive release of this paper is timed with the announcements of the proposals in this paper. I propose I release the Cabinet paper following the launch of the buy-back programme as discussed above and prior to the Bill being introduced to Parliament. I expect the Bill to be referred to Select Committee for a three month period. I see it in the public interest to provide advance notice of the proposals to enable members of the public to engage in a public discussion on the proposals and prepare to provide appropriate submissions to the Select Committee.

Recommendations

231. The Minister of Police recommends that the Committee:

1. **note** that on 25 March 2019, following consideration of the paper *Arms Act 1983 Reforms – Paper 1* [CAB-19-MIN-0124], Cabinet directed the Minister of Police to report back on proposals to strengthen the firearms regulatory regime;
2. **note** the Arms Act 1983 (the Act) has not seen any substantial reform in the last 36 years and it is no longer fully fit for purpose, and the proposals in this paper seek to balance safe and legitimate use with managing the risk of harm to public safety;

Part A: A Purpose Statement for the Act

3. **agree** that a new Purpose Statement for the Arms Act be introduced to reflect that:
 - 3.1. the possession and use of a firearm, weapon or ammunition is a privilege;
 - 3.2. people with permissions to possess, use, import, sell and/or supply firearms, weapons and ammunition have a responsibility to act in the interests of personal and public safety; and
 - 3.3. everybody works together to promote and protect personal and public safety;

Part B: Registry of information and online registration platform

4. **note** that a significant problem in New Zealand is that the open market and limited regulation of that market mean there is no way of knowing how many firearms there are, or where they are;
5. **agree** that an online registration platform be established with the capability to monitor, track and record the lifecycle of a firearm, by being a repository of the following types of information:
 - 5.1. every licence holder's details, including full name, date of birth, address;
 - 5.2. the licence holder's licence number, term of licence (date of expiry), other licences or endorsements linked to the person, and any conditions on any endorsements;
 - 5.3. the make, model and a unique identifier (and any other information) for each firearm possessed by each licence holder and certain information on parts, magazines, items and ammunition;
 - 5.4. the address or location of the firearms;
 - 5.5. firearms transfers by recording the purchase and sale transactions and of both new and second hand firearms, with the buyer and the seller required to independently confirm the trade along with imports, exports and firearms disposals; and
 - 5.6. any other relevant information that is prescribed by regulations;
6. **note** that the registry will be designed as an online self-service platform that will enable identify verification and payment processes;
7. **note** that paper-based systems will continue to enable those without the ability to access an online self-service platform can meet their obligations to register their firearms and firearms transfers;
8. **note** that a licence is not currently required to purchase or possess magazines or parts;
9. **agree** that a licence be required when purchasing magazines and parts;
10. **agree** that the registry be enabled to collect information on ammunition, magazines and parts;
11. **agree** that trading between individuals should be allowed to continue because the online registration platform provides for a mechanism to better manage the firearms market;
12. **agree** that buyers and sellers of firearms will be required to transfer ownership through the registry (or through a paper-based form in limited circumstances);

13. **note** that sellers are currently required to check the buyers licence credentials before the sale proceeds and that this obligation will remain;
14. **note** that the online registry will not enable the sale to proceed if the seller and buyer licences or the firearms numbers are not correct, which will help to prevent fraudulent or inappropriate trades and the use of false identities;
15. **note** that the online registry will enable a follow-up if a buyer has not confirmed possession of firearms and that Police will also have a role in ensuring transfers have been completed;
16. **agree** that the registry will be populated over a five year period by collecting information from firearms owners at the licensing and re-licensing stage, when they register firearms during sale and purchase, notify of a change in circumstances, and when subject to compliance or enforcement action;
17. **agree** that if none of the circumstances in recommendation 16 have arisen within 5 years of the registry going live, there will be a requirement for licence holders to populate the registry by that date;
18. **agree** that regulations will set out the detail of the scope and types of information collected into the registry as anticipated by the recommendations above;
19. **note** that the online registration platform should be made available for use by the end of 2020 and that obligations to provide information to the registry at touch points would not apply until the platform is ready;
20. **note** that New Zealand is not currently signatory to the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition (the Firearms Protocol);
21. **note** that the Firearms Protocol is a principal international legal instrument aimed at preventing and combatting illicit manufacturing of and trafficking in firearms, parts, components and ammunition;
22. **agree** that should the Minister of Police and the Minister of Foreign Affairs decide that acceding to the Protocol is in the national interest, the Ministers be delegated the authority to issue any drafting instructions required to enable New Zealand to become signatory, with Cabinet confirmation being sought when seeking approval to introduce the Bill;

Part C: Licensing system design

Individual licensing

23. **note** there is an opportunity to strengthen licensing processes to ensure only those who are genuinely fit and proper can possess firearms, reflecting the new public safety elements of the Purpose Statement of the Act;
24. **agree** the Act set out the following broad direction on the positive behaviours, skills, and knowledge a person may demonstrate to help show they are fit and proper to obtain a firearms licence;

- 24.1. the knowledge and skills, or access to the knowledge and skills, for the safe use and possession of firearms;
- 24.2. behaviour consistent with the personal and public safety objectives of the Act; and
- 24.3. knowledge of, and adherence with, their legal obligations and any conditions of their licences;
25. **note** that Police may issue further guidance as required to assist applicants to meet the above tests, which could include but not be limited to, acquiring skills through hands-on safe firearms use under supervision, learning skills and knowledge through target shooting and hunting clubs, or other firearms training courses;
26. **agree** that the Act specify that a person meeting the following criteria in the 10 years prior, will be disqualified from obtaining a licence:
- 26.1. when they have been convicted of, or released from custody after being convicted of (whatever is the later):
- 26.1.1. serious offences relating to the misuse of drugs;
- 26.1.2. an offence relating to participation in an organised crime group (s98A of the Crimes Act);
- 26.1.3. serious offences involving the use or threatened use of violence;
- 26.1.4. serious offences involving the use, carriage, discharge or possession of a firearm or weapon; and
- 26.1.5. when a protection order, other than a temporary protection order, has been made against them;
27. **agree** that the Act specify that a person who meets the above criteria after obtaining a licence will have their licence revoked;
28. **note** that the above criteria remove any decision making from Police and as such there would be no review or appeal rights;
29. **agree** that the Act specify indicators that enable Police to seek further information to establish any concerning pattern of behaviour that can be taken into account in an assessment of a person's likelihood of being fit and proper:
- 29.1. has been the subject of a protection order;
- 29.2. has shown no regard for the Arms Act or Arms Regulations;
- 29.3. has been involved in substance abuse;
- 29.4. has committed a serious offence against the Arms Act;
- 29.5. has committed any serious offence against any other Act;

- 29.6. has committed a series of minor offences against the Arms Act;
- 29.7. has committed crimes involving violence or drugs or alcohol;
- 29.8. is a member of, or has close affiliations with, an organised crime group or gang involved in committing violent offences;
- 29.9. has been or is involved in serious family violence incidents;
- 29.10. has shown patterns of behaviour demonstrating a tendency to, or encouraging or promoting, violence, hatred or intolerance;
- 29.11. has exhibited significant mental ill health or attempted suicide or other self-injurious behaviour;
- 29.12. has shown disregard for others property and land or Crown property and land;
- 29.13. has been assessed as a risk to a state's national security; or
- 29.14. any other discretionary criterion as defined in regulations;
30. **agree** that, given circumstances can change over a licence period, the Act require licence holders to disclose on an ongoing basis material changes, including:
- 30.1. serious mental health changes or any temporary or permanent physical hindrance that might prevent the applicant from safely using a firearm; and
- 30.2. any changes relating to the set of discretionary factors that are considered as part of the fit and proper test, for example drug abuse, gambling addiction or violence;
31. **note** that the above obligation places onus on the firearms owner to make safe and responsible choices in line with the overarching purpose of the Act in ensuring personal and public safety;
32. **agree** that health practitioners be required to notify Police if in their professional view a firearms licence holder should not be permitted to use a firearm or should use a firearm under limited circumstances;
33. **agree** that the legislation sets out a process for a licence holder to be further assessed by a health practitioner if a health practitioner has notified their concerns;

Protections for applicants and licence holders

34. **agree** that information must be substantiated if it is to be used to inform a fit and proper assessment;
35. **agree** that information used to inform a fit and proper assessment must consider the timing and nature of situations to which information and must be relevant to the personal and public safety risks, including national security;

36. **agree** that the registry may supply an applicant with the results of a fit and proper assessment unless there are grounds to withhold, including whether there are suppression, non-publication orders or if there are risks relevant to personal and public safety, including national security;

Duration of individual firearms licence

37. **note** that I consider the 10 year licence period is too long to provide confidence that licence holders are continuing to act responsibly, to ensure the safety and security of firearms storage, and to ensure general public safety;
38. **agree** that the individual firearms licence be issued for five years;
39. **agree** to grandfather those that have 10 year licence durations and once their current licence period expires they will transition to a five year licence;
40. **note** that the application for a licence every five years will mean licence holders pay a licence fee more often;
41. **note** that licence fees will also need to increase, because currently, the full cost of obtaining a licence is not covered by firearms users, but is instead covered by the Crown;
42. **note** Cabinet's decisions about cost recovery next year will establish whether full or partial cost recovery will be put in place, and what proportion of the increased fees will be paid by applicants;

Conditions on licence

43. **agree** that the Act provides that all licence holders have a responsibility to take reasonable steps to act in the interests of personal and public safety, expressed as a specific condition on a firearms licences;

Inspection of licence holders premises on notice

44. **note** the Act currently provides for the inspection of the security arrangements for people who have pistols, restricted weapons, prohibited firearms or prohibited magazines, at a time reasonable to do so;
45. **note** that in light of the registry and other proposals in this paper I do not think it is necessary to limit the number of firearms that can be held by a person;
46. **agree** that, instead, the Act introduce a similar provision for the inspection of security arrangements, including in vehicles, of all licence holders and firearms (before obtaining a licence and after obtaining a firearm) with notice, and at a reasonable time;
47. **agree** that Police will be required to give notice of an inspection, and undertake the inspection at a reasonable time;

48. **note** that this provision is important in order to provide assurance that firearms are being securely stored on an ongoing basis, to stem to flow of firearms into the illegitimate economy through theft;

Licensing of visitors

49. **note** that someone on a Visitor's Visa may be able to gain a firearms licence in the same way as anyone else can;
50. **note** that the licence is issued for up to one year or for the duration of the stay;
51. **note** that 80% of visitors bring their own firearms, which must be registered as they are imported, and others shoot under the supervision of a licence holder;
52. **agree** that a visitor with a licence be prohibited from purchasing firearms in New Zealand;

Licensing for dealers

53. **note** that the definition of a 'dealer' in the Act does not clearly cover all circumstances when someone is in fact acting in a manner consistent with dealing;
54. **agree** the Act clarifies that dealing covers people in the business of buying, selling, supplying, manufacturing, repairing, investing in, or otherwise carrying out commercial transactions involving firearms;
55. **note** the Act requires a one year dealer's licence to be issued only if Police is satisfied the applicant is fit and proper person to carry on the business of a dealer;
56. **agree** to strengthen and expand upon the fit and proper test so that Police must be satisfied that a dealer has an excellent character and sound technical capabilities;
57. **agree** the Act specifies that positive examples that may demonstrate a person has an excellent character and sound technical capabilities are:
- 57.1. sound knowledge of firearms and their purposes;
 - 57.2. understanding of own legal obligations;
 - 57.3. understanding of, and ability to communicate, firearms law and obligations of individual licence and endorsement holders;
 - 57.4. financial probity and an ability to manage financial and record-keeping systems;
 - 57.5. business partners and close associates who are also fit and proper persons; and
 - 57.6. a minimum technological capability to meet any required safety plans record-keeping, reporting obligations and any other interface with the registry as required;

Licensing for clubs and shooting ranges

58. **note** there are at least 260 rifle and shooting clubs that do not have any firearms licensing requirements or Police oversight;
59. **note** there is a Letter of Agreement between Pistol New Zealand and Police and that elements of this are more appropriately included in statute;
60. **note** operators are not required to be a firearms licence holder, nor do they need to have any specific knowledge or expertise of firearms;
61. **agree** the Act provide that shooting clubs and ranges, including pistol clubs, be licensed by specifying:
- 61.1. the definition of a club or range;
 - 61.2. the requirements of the licensed owner, manager, or person in charge at any one time (the operator);
 - 61.3. a monitoring regime over members, who must be licence holders, including ensuring all users have agreed to abide by the rules as a pre-requisite of using the club and range and show evidence that they are enforced;
 - 61.4. planning and reporting requirements in relation to risk management and public safety plans, and a charter around the safe operation and healthy attitudes to firearms ownership and use published in visible locations at the club;
 - 61.5. a monitoring, inspection and intervention regime;
 - 61.6. ongoing training programmes for users, instructors and supervisors; and
 - 61.7. a requirement to provide the Commissioner with information on request;
62. **agree** that the licensing regime would provide for those that need to train, and are endorsed or enabled to shoot, prohibited firearms;
63. **agree** that the Act require the licensed operator be assessed as being of excellent character, such that they have:
- 63.1. sound knowledge of the types of firearms the operator allows shooters to use on their premises or land;
 - 63.2. sound knowledge of the NZ Police Range Manual, Principles for the Design and Development of Shooting Ranges and/or the Target Shooters of New Zealand Target Shooting Range Manual and Range Operation Manual, or other relevant equivalent;
 - 63.3. completion of a Range officer course;
 - 63.4. patterns of behaviour consistent with operating a club or range in the interests of personal and public safety; and

- 63.5. understanding and communicating firearms obligations to members including, but not limited, to security of storage and transport of firearms, as well as supervision etc;
64. **agree** that the principal requirements of the licensing regime, as above, be outlined in legislation and more detail set out in regulations, so that the regime can be designed with club and shooting ranges, and can be tiered based on the size and nature of the club or range;

Licensing decision review process

65. **note** a person whose licence application is declined or whose licence is revoked may appeal to the court;
66. **note** I consider that there is value in building in a legislatively provided for review step prior to a court appeal;
67. **agree** the Act provides a decision review process to be undertaken by a person delegated by the Commissioner of Police who was not involved in the original decision making;

Part D: Proposals that clarify and strengthen the Act

Compliance and enforcement

68. **note** that Police as a regulator require a wider and more graduated suite of compliance and enforcement tools;
69. **agree** that the Act provide for the:
- 69.1. issue of Improvement Notices to licence holders that will identify the requirements that are not being met, and may include remedial steps that should be taken to comply with requirements, by a particular date;
 - 69.2. revocation of a licence if the licence holder fails to meet the identified requirements;
 - 69.3. immediate suspension of a licence when a revocation process commences and the immediate seizure of firearms, or a requirement to surrender firearms;

Offences and penalties

70. **note** that the offences and penalties in the Act need updating and that new offences and penalties will be required as a result of changes to the Act;
71. **note** that my officials will consult with the Ministry of Justice about the existing and new offences and penalties;
72. **agree** that the Minister of Police and the Minister of Justice be delegated the power to make decisions on the details of the offence and penalty proposals, including penalty levels;

73. **agree** that Cabinet confirmation of such decisions will be sought when seeking approval to introduce the Bill;

Clarification of fee setting powers for cost recovery

74. **note** that the current fee setting provision in the Act is narrow and does not allow Police to charge for a full range of its regulatory services and does not provide for administrative matters such as fee exemptions, payment and fee waivers;

75. s 9(2)(f)(iv)

76. **agree** to amend the Act to provide for:

- 76.1. the principles for setting fees to recover direct and indirect costs;
- 76.2. methods for cost recovery (e.g. fixed fees, fees charged on an hourly basis, or on-charging third party charges, differential fees based on risk);
- 76.3. regulatory activity for which Police may charge fees including, but not limited to:
 - 76.3.1. assessing firearms licence holders' fit and proper status and the issue of a licence;
 - 76.3.2. issuing, dealer, and club and range licences
 - 76.3.3. issuing endorsements;
 - 76.3.4. registering firearms, including the costs of establishing and maintaining register;
 - 76.3.5. monitoring and recording sale and purchase transactions; and
 - 76.3.6. undertaking inspections and compliance checks;
 - 76.3.7. monitoring compliance with licence, endorsement, and permit conditions when for example, issued with Improvement Notices;
- 76.4. principles for fee exemptions, waivers or refunds;
- 76.5. regulation making power to set detail related to the above, including:
 - 76.5.1. the time any fee becomes payable; and
 - 76.5.2. how fees may be paid;

New notice-making powers

77. **note** the Act has a wide suite of regulation-making powers but at present there is no other enforceable instrument that operates as tertiary legislation, and that notice-making powers are a useful mechanism in a regulatory toolkit;

78. **agree** that the Act provide for a notice-making power, with notices approved by the Minister of Police, to provide:

78.1. further detail to the Act (for example, further detail about conditions that may be placed on licence holders);

78.2. further detail to expand on regulations (for example, minimum standards or performance standards for security requirements);

Technology-enabled information sharing (Direct Data Access)

79. **note** that people who apply for firearms licences provide personal information to Police, and in managing that information, the Arms Act is intended to operate within the bounds of the Privacy Act 1993;

80. **note** that Police is likely to need additional information from other government departments, such as identity information, travel history information, customs and excise information, and it is very inefficient to collect this kind of information using case by case enquiries and manual systems;

81. **note** a Direct Data Access (DDA) type mechanism formally enables one agency to directly access another agency's data repository in real time;

82. **agree** that to enable a technology-enabled registry, DDA type provisions similar to those in the Intelligence and Security Act 2017 are included in the Arms Act;

83. **note** there may be a range of agencies which may need to access the firearms platform and Police may need direct access to their information;

84. **note** Police will undergo further consultation with the Privacy Commissioner and these of agencies to determine purposes and types of information sharing;

85. **agree** to a consequential amendment to the Intelligence and Security Act 2017 to add firearms and licensing information to Schedule 2 databases accessible to intelligence and security agencies in relation to the New Zealand Security Intelligent Service (NZSIS), thereby allowing the NZSIS to negotiate a Direct Access Agreement with Police regarding firearms and licensing information in order to support NZSIS to achieve its functions under the Intelligence and Security Act 2017;

Commissioner's stakeholder group

86. **agree** that the Act require the establishment of a stakeholder advisory group with invited members from the firearms community and wider non-firearms community to undertake an advisory role to the Commissioner of Police, from a public interest perspective, including making recommendations relating to regulating New Zealand's firearms regime and undertaking research;

87. **note** the stakeholder group will provide critical independent advice to the Commissioner on matters relating to the operation of the firearms regime;

88. **agree** that the establishment of the group include the following features:

- 88.1. up to nine members with terms of office to be renewable and for up to three years each time;
- 88.2. a Chair appointed by the Minister of Police;
- 88.3. the power to regulate their own procedures;
- 88.4. administrative assistance provided by Police, with an annual budget coming from Police appropriations;
- 88.5. fees and expenses to be paid in accordance with the Fees and Travelling Allowances Act 1951 (and the advisory group and any sub-committee deemed a Statutory Board for the purposes of that Act);
- 88.6. a requirement to prepare an annual report of its operations for the year; and
- 88.7. member indemnity for any act done in good faith in the course of the operations of the group;

Five year review

- 89. **note** that I expect a review of the Act and wider Arms regime to be undertaken;
- 90. **EITHER**
 - 90.1. **agree** that the Act requires the review be started three years after the Amendment Act is passed and tabled within 18 months;
- OR**
- 90.2. **agree** that the Act requires the review be started five years after the Amendment Act is passed and tabled within 18 months;

Part E: Follow up matters

Competitive shooting using prohibited firearms

- 232. **note** that recent amendments did not provide for an exemption to possess and use prohibited firearms for sporting competitors and as a result sports shooters would no longer be able to compete in national and international events using semi-automatic rifles and shotguns;
- 233. **note** that it is estimated that approximately 3,000 to 5,000 club members recently competed with prohibited firearms at local and regional club and interclub competitions and there is a risk that a wide exemption could increase the number of prohibited firearms in circulation;
- 234. **note** that Australia did not provide for sport shooters to continue to compete using military style semi-automatics when they changed their gun laws in 1996;
- 91. **note** that, while my preference is no exemption for sports shooters (the status quo) because of risks to public safety of continuing to enable use of prohibited firearms, I

undertook to reconsider whether to provide an exemption for sports shooters to enable them to compete using prohibited firearms;

92. **note** however, that a narrow exemption that grandfathered the approximately 10 current international competitors may strike the right balance;

93. **EITHER:**

93.1. **agree** to retain the status quo and not enable an exemption for sports shooters to use prohibited firearms in competitions;

OR

93.2. **agree** to exempt current international competitors to use prohibited firearms in competitions on the following grounds:

93.2.1. they will be able to continue to train (at regulated pistol clubs only) and compete in New Zealand for the purposes of preparing for international events;

93.2.2. the endorsement is renewed annually, and that conditions be added to the endorsement that require more rigorous security standards, including during transportation, and evidence of ongoing training and competing;

93.2.3. if a sports shooter does not compete in over two years, their endorsement is not to be renewed;

93.2.4. when the exempt shooter no longer meets the criteria or no longer wishes to compete, they would be required to surrender their firearms to Police, or provide evidence to Police (through the registry) that the prohibited firearm has been transferred to a person who has a permit to possess the firearm and the correct endorsement; and

93.2.5. that a transitional exemption for sports shooters be enabled in regulations so that people that fall within this category are able to keep, but not use, their prohibited items until the Act is changed to provide for this exemption (so they do not have to surrender them during the amnesty and buy-back period);

Duration of endorsements

94. **note** there are endorsements on licences that enable individuals to possess restricted weapons, pistols and prohibited firearms;

95. **agree** to clarify that the endorsement lasts for the length of time left on the licence that is being endorsed, and that a new application for an endorsement must be made when an application is made for a new licence;

96. **note** that due to the seasonal nature of pest control work, I have considered whether a pest-control related endorsement to use prohibited firearms should be treated differently and last for a shorter period of time;

97. **EITHER**

97.1. **agree** that the pest-control related endorsement will only last for two years (or the length of the licence, whichever is shorter);

OR

97.2. **agree** that the pest-control related endorsement will be treated the same as other endorsements and last for the same length of time that is left on a licence (which means they could last for five years if a five year licence duration is agreed to, but in the first instance could last for up to ten years);

98. **note** that whether the endorsement is for two years or the licence length left, if the grounds under which the endorsement was given no longer exist (for example if the person is no longer employed as or contracted as a pest-controller) the endorsement may be revoked earlier;

Advertising

99. **note** there are no obligations relating to advertising for the sale of firearms and ammunition;

100. **agree** the Act provides a regulation making power to prescribe requirements for advertising;

Exemption for manufacturing

101. **note** a transitional provision was included in the Arms (Prohibited Firearms, Magazines, and Parts) Amendment Act 2019 to enable existing manufacturers to continue to use prohibited firearms or manufacture prohibited magazines in order to continue to operate their business;

102. **agree** that the exemption in the transitional arrangements that expire in December 2020 for the manufacturing of prohibited magazines not be made permanent in the Act and the Act prohibit the manufacture of large capacity magazines over the size allowed for in the Act;

103. **agree** that the exemption in the transitional arrangements that expire in December 2020 for the manufacturing parts for prohibited firearms and allowing the use of prohibited firearms for the testing of those parts be made a permanent exemption;

Ammunition import permit and sales requirements

104. **note** that there is limited recognition in the Act of the risk to public harm that results from the ready access to ammunition and as such, ammunition is weakly regulated;

105. **agree** to three changes to the Act to strengthen the ammunition regime:

105.1. introduce a requirement to have an import permit to import any quantity of ammunition;

105.2. require a seller of ammunition to hold a current firearm's licence and establish conditions on the licence with record-keeping and unusual behaviour reporting requirements for those who sell ammunition; and

105.3. create an offence for possessing ammunition without an appropriate firearms licence;

Imitation blank firing firearms

106. **note** that some imitation firearms that fire blanks are readily convertible to a firearm that shoots projectiles, and this means they are actually firearms under the Act;

107. **note** there are no import controls over imitation blank firing firearms, which means there is no means to test them before they are sold legally to people who may not have a firearms licence;

108. **agree** that a permit to import will be required for imitation blank firing firearms to enable Police to receive a sample of the firearm prior to import to test it, to determine whether it is readily convertible or not, and therefore a firearm or not;

s 9(2)(f)(iv)

Financial implications

111. **note** the current costs of administering the Arms Act is \$13.0 million per annum, of which Police recover \$4.1 million through fees and the remainder is funded from within Vote Police baselines;

s 9(2)(f)(iv)

116. **agree** that the Minister of Police report back to Cabinet at the end of the year on the final costs of operating the firearms regulatory regime and on options for cost recovery;

117. **note** that a discussion document on options for cost recovery will be released for public consultation following Cabinet approval at the end of the year and after final costs have been determined;
118. **note** that if the proposed cost recovery setting powers are agreed these will be reflected in fee options;

Publicity and proactive release

119. s 9(2)(f)(iv) [REDACTED]
120. **agree** that announcements are made about the proposals in this paper once the buy-back scheme is well underway, in mid to late July;
121. **agree** to the proactive release of this paper at time announcements are made on the proposals in this paper;
122. **note** that I expect the Bill to be referred to select committee for a three month period and that there is public interest in providing advance notice of the proposals to enable members of the public to prepare to provide appropriate submissions to the select committee;

Legislative implications

123. **agree** that the Amendment Bill be assigned a Category 2 status for the 2019 Legislation Programme (to be passed in 2019);
124. **agree** that the Act should be binding on the Crown, noting several existing exceptions for Government agencies with responsibilities for policing and defence;

Targeted exposure draft

125. **agree** that I may share text from drafts of the Amendment Bill with targeted stakeholders and experts (for example the Firearms Community Advisory Forum) if I consider it would be useful and time allows;

Drafting instructions

126. **agree** to modernising language where appropriate;
127. **authorise** the Minister of Police to issue drafting instructions to the Parliamentary Counsel Office to amend the Arms Act 1983 to give effect to the decisions above;
128. **agree** that the Minister of Police has Power to Act on any matters requiring policy decisions, and any minor and technical changes required.

Authorised for lodgement

Hon Stuart Nash
Minister of Police

PROACTIVE RELEASE