

## **Submission on - Arms Legislation Bill 2019**

This submission has been approved by the association's elected executive committee.

### **We wish to speak to this submission.**

The Sporting Shooters Association of New Zealand Inc, (SSANZ) was established in 1992 and is a voluntary advocacy group for licensed firearm owners; our members participate in a wide range of shooting disciplines and are located throughout New Zealand. SSANZ is an active member of COLFO, Council of Licensed Firearm Owners and FSCANZ, Firearm Safety Council of Aotearoa New Zealand. Many of our members have a life time experience of shooting and safe firearm ownership and prior to their disestablishment in 2018 were MSC firearm safety instructors who acted for New Zealand police training new firearms license applicants in firearm safety and conducting the safety test.

We contend that arms control should be conducted in a spirit of cooperation between those who administer that control and those who own firearms. It is through cooperation that the best compliance with the law is achieved. As a result of the first Arms Amendment Bill passed after the Christchurch attack on 15 March there is now a deep sense of mistrust of the police hierarchy and government by many licensed firearm owners, who now see the police as their enemy. This mistrust is further exacerbated by this current Bill which for many will destroy their opportunities and enjoyment of shooting sports. It is also disappointing to note that in drafting this Bill the declared purpose of which is public safety, the Minister did to consult with the Firearm Safety Council of Aotearoa New Zealand.

We oppose this Bill for the following reasons:

1. It is premature, since the Royal Commission of Inquiry into the Christchurch terror attack on 15 March has yet to publish its report.
2. The period set aside for public submissions is too short to allow for careful consideration and comment on an extremely complex Bill.
3. The Government's stated intent to pass this Bill into law in time for the anniversary of the Christchurch terror attack is distasteful political grandstanding, which is likely to further reduce acceptance of this Bill by those most affected
4. The stakeholders, the firearms community, were not consulted in any meaningful way in its drafting.
5. It targets Licensed Firearm Owners rather than criminals who use firearms unlawfully.
6. We have great concerns that under New Zealand's Arms Act Police have a conflict of interest in that they both administer the law and enforce it. There is nothing in this Bill that addresses that issue.
7. It confers too many powers to make regulations on the Commissioner of Police.
8. Regulations associated with this Bill have not been made public.
9. This new Bill and its raft of new regulations is very complex and will prove hard for the average person to comprehend all of its requirements, leading to many unjust prosecutions of firearm owners for genuine mistakes.
10. It has unintended consequences that will have an adverse effect on public safety. For example range closures will result in people shooting in less safe locations.
11. The 1983 Arms Act, which has served New Zealand well for the past 3 decades, only requires minor adjustments in order to keep New Zealanders safe.

In addition to the above general comments we refer you to our opposition or comments on the following specific clauses:

Clause 2. We object to the staggering of dates at which sections of this Act will commence, (the day after Royal Assent, following various Orders in Council, on 1 December 2021) since this will cause confusion among those

people, clubs and dealers most affected. We recommend that the whole act only commence after a 2 year transition period, preceded by intensive publicity.

Clause 5. We oppose this statement “that the possession and use of arms is a privilege; and” because a privilege is something that is awarded for conduct or performance above and beyond the norm. All normal New Zealanders should be eligible to own a firearm unless they are shown to be unfit to do so for specific reasons (shown to be not “fit and proper”). In addition a firearm is a tool of trade for some people, such as farmers and pest controllers.

Clause 7. In the light of recent losses and thefts of firearms by and from the Police, we recommend that the exemptions to the Crown referred to in Section 3 (5) be deleted.

Clause 10. We oppose Section 5 1 (e) manufacturing for sale, hire, lending, or other supply a class of arms items, because it is too all inclusive. We recommend that arms item be replaced with firearm, as written it precludes engineers who do not operate as a business, such as retired or hobby engineers from providing any form of gun repair services, when there is a known shortage of qualified gunsmiths in New Zealand. For example manufacturing something as simple as a spring or a screw for a firearm for another person would be unlawful. This is unnecessarily restrictive.

We would also point out that whatever legislation parliament puts in place it will not stop criminals and terrorists from making firearms. Almost anyone with hand tools can make a simple firearm, as demonstrated by the offender in the recent random shooting in Halle Germany, and only basic machine tools are required to construct a submachine gun.

Clause 11. We oppose Section 6 B because it allows the Commissioner of Police to stifle any New Zealand arms manufacturing or assembly industry, without any logical justification. A dealer should be free to manufacture any class of firearm that he is licensed to deal in and that his customer base may lawfully possess. In addition, it precludes the development of any viable export industry for the manufacture of sporting or target firearms. We draw your attention to 6B (2) as it relates to (1) c Parts, this requires a dealer wishing to manufacture such things as screws, springs, slings, butt stocks and many other simple parts to obtain written permission from the Commissioner of Police. Not only is this a totally unnecessary burden on the dealer it adds to the administrative workload of police for no good reason.

Clause 14. We recommend that provision be made so that a dealer may receive any class of firearm, magazine or part from any person provided that it is surrendered to police within 5 working days, who should carry out checks to determine if it is stolen or involved in some crime. If not stolen it may be returned to the dealer via a permit to possess, thus allowing an avenue for illegal firearms to be returned to the legal market. This provision was previously part of the Act.

Clause 27. Recognising that owners of Prohibited Firearms are required to keep a vital part removed at the address of another person licensed to possess prohibited items and this pool of suitably endorsed people is likely to be small in a given location we recommend that Section 19B 1 (b) ii be amended to read “ the holder of a firearm’s licence that bears an endorsement made under section 30B that permits the holder to possess a prohibited firearm or prohibited magazine” In addition, this clause has a disproportionate negative impact on rural communities.

Clause 33 Section 22 G. In justifying the reduction in licence period it is argued that a person’s behaviour can change for the worse over a 10 year period. The converse is also true. We therefore recommend that the licence disqualification period in this section be reduced to 5 years, at which time an applicant will have to undergo the full vetting process and be assessed as fit and proper before being granted a licence.

Clause 34 Section 23 2A. We oppose this section recognising that not every person has a nominated health practitioner, especially in rural communities. It should be tested against privacy and Bill of Rights legislation. In addition otherwise law abiding citizens who consider their health records a private matter are more likely to become unlicensed firearms owners, especially if the use of a firearm is also considered part of their cultural heritage or the

source of protein for the family. Again this clause could have a negative impact on small towns and rural New Zealand.

Clause 36 Section 24A. We oppose this section as it may lead to Police simply using it as a tick the box way of denying a licence application, rather than judging each individual case on its merits. We also recommend the deletion of the words “charged with or” from 1 a, b and c since people are supposed to be innocent until proven guilty.

Clause 36 Section 24B 1 (e). We oppose this section because it removes an inherent human right for a person to remain silent over matters that may incriminate themselves.

Clause 37 Section 25 1. We oppose the reduction in the term of a Licence from 10 to 5 years, because this will double the workload of licensing for police and cost to licence holders for no measurable benefit. Recognising that Passport duration has been returned to 10 years after reducing to 5 years and a drivers licence is valid for 10 years, despite road deaths and injuries being many times greater than from misuse of firearms. The claim that an individual’s conduct and behaviour may change over a 10 year period is adequately covered by other opportunities to alert Arms Officers of changing circumstances for example Section 22G or 27 A and the routine security checks carried out by Police.

Clause 53 Section 38 A to 38 V. We strongly oppose the requirement to register and certify shooting clubs and ranges. There is absolutely no justification for this overbearing bureaucracy to be imposed upon the activities of licensed firearm owners. No evidence has been offered by police to indicate that the activities of clubs and ranges contribute a risk or hazard to public safety. Official Information Act Requests to Police show only one accident resulting in injury in the past 10 years, and two ranges closed due to safety concerns, one temporarily. In general terms NZ clubs and ranges are well managed and conduct their activities to best practice. They provide a focal point for communities of shooters to gather, where attitudes to safety can be monitored and improved. Many small clubs use ranges on private rural land where shooting is a permitted activity. It is a certainty that many of the host landowners will not wish to be involved in this proposed bureaucracy due to added costs and responsibilities, thus resulting in the closure of many such ranges. Closure of clubs and ranges, which are already in short supply will lead to a decline in public safety, as firearm owners seek less formal shooting opportunities, and the opportunity for mentoring new shooters and peer oversight of behaviour and attitudes will be lost. Opportunities for teaching young people safe handling of firearms, which many clubs undertake, will be lost. The statement in the Regulatory Impact Statement that clubs may harbour and encourage radicals and extremists is a false and insulting accusation. We remind the Select Committee that at the time Brenton Tarrant accessed a club rifle range he was considered by police to be a fit and proper person, no evidence has been provided that the club involved aided and abetted his extremist views.

Clause 53 Section 38W to 38 ZF. We recommend that an offence, with appropriate penalties, be created for this section such that: 1. Accessing the registry without just cause and authority is an offence, and 2. Sharing any information obtained from the registry with an unauthorised third party is an offence.

Clause 59 Section 43A 1 (b). This item should be qualified with the addition of “if known” since many arms items are not marked with a unique number for example: small parts such as springs and screws, stocks and slings and even some old firearms.

Clause 70 Section 55C (b). We recommend adding ...or to enter that place at a reasonable time.

Clause 70 Section 55 D (1) c (ii) and (1) d (ii). Since the April Arms Amendment a part has been defined as any thing that is part of any firearm (see Section 2 Part (d)). Therefore this section makes it an offence for any person who is not a dealer to manufacture such things as a spring, screw, pin, stock, sling, and many other minor parts in order to supply to another person. This is far too restrictive on the activities of retired and hobby craftsmen who provide a valuable service to firearm owners. We recommend that these two items be deleted or the definition of a part as defined in the Act be amended such that Part (d) only refers to semi automatic firearms, thus making the receiver or action of a standard A Cat firearm the only regulated part as defined in sub para c.

Clause 75. We support the provision for Improvement Notices and Temporary Suspension notices. As this provides a graduated opportunity for poor performance to be corrected before a licence is revoked.

Clause 83 Section 79 to 86. The justification for the Arms Act is to ensure public safety, it is therefore appropriate that the cost of its administration is shared equally between the public purse (Crown) and users (Licensed Firearm Owners). It should also be recognised that licensed firearm owners contribute other benefits to the Crown in the form of pest animal management and conservation, for which credit should be given to offset costs, noting that the outcome could be a net benefit to the public purse. Forest and Bird quoted wallabies as currently costing \$28 million a year in economic losses. That figure does not include other environment damaging species such as goats, feral pigs, rabbits, turkeys or Canada Geese. Even if private citizens manage only 35% of one species they are already saving NZ Inc. more than they are costing the public purse. When calculating costs there should also be an offsetting credit for the savings to the taxpayer due to the police training that is done on private firearms ranges throughout New Zealand. This arrangement has largely operated under a goodwill arrangement with Police only paying a peppercorn rental. These savings to the public purse should also be offset against the cost of administering the Arms Act. Note that Police have advised that they do not know how much the cost would be to build and maintain additional firearms ranges which they would need to do if the ability to use private ranges ceased. Also credit should be given for the loss of use of private sports facilities during Police training as the members of those clubs also lose the use of their sports facility at this time. We also note that in the past funds allocated to Arms Administration have often been used for other police activities. Funding allocated for Arms Administration must be used solely for that purpose. We also recommend that fines imposed as a result of conviction against Arms Offences should be paid to Arms Act Administration.

Clause 83 Section 87. We support and welcome the issue of Guidance Notices, especially when prepared in consultation with the firearm community.

Clause 83 Section 88 to 90. We support and welcome the creation of the Commissioner's Firearms Advisory Group, but do not wish to see this replace the Firearm Community Advisory Forum which should continue. We believe that those who are appointed to the Advisory Group must have genuine expertise in firearms and hold a firearm licence, to establish their credibility. Further that the group should have the power of veto over the regulating powers of the Commissioner.

Clause 83 Section 91. While we recognise that some of the worst shooting incidents have been perpetrated by people who were clearly suffering from mental disorder, we have grave concerns that this section may discourage firearm owners from seeking medical assistance for fear of losing their licence and firearms. Thus it could lead to mental illness going undetected and result in an increase in suicides or worse. At a time when there is a growing awareness of mental health issues this requirement runs counter to the government's message for people to seek medical help. It also breaches Doctor patient confidentiality.

At the very least we recommend adding a new 91 2 (d) that the Medical Practitioner has discussed the relevant issues with the patient who has been notified of the intention to inform the police.

Clause 83 Section 92 to 94. We strongly oppose the creation of a registry of all firearms held by a licence holder for the following reasons:

- It is an expensive process to set up, \$ 53 Million over 10 years for no practical advantage.
- It has been shown by other jurisdictions to be ineffective and costly, Canada being a prime example.
- It will divert police resources from their prime function of crime prevention and detection.
- The argument that it will allow police to know where firearms are stored is false, since they already have the name and address of every licensed owner. The biggest risk to police attending an address is where there is no firearm licence present, so they have no way of knowing if firearms are on the premises.

- Data stored on the registry will be at risk of hacking, thus providing a shopping list for organised criminals, as witnessed by the recent hacking of DHB databases. To quote the Otago Daily Times:

*A mass hack has placed in jeopardy the medical details of one million people. The Ministry of Health is in the dark over what - if anything - was taken in the cyber attack two months ago. It has admitted the hack attack revealed previous cyber intrusions going back to 2016.*

- Criminals won't register their guns or have licences.
- Many firearm owners have been alienated and aggrieved by the first round of legislation following the Christchurch attack, therefore it is likely that there will be a significant non compliance with the registry, leading to many more guns disappearing into the grey and black market. This will not improve public safety. It will also lead to many more offences and convictions especially among rural communities and Maori who our enquiries have shown are largely ignorant of the new law changes; this runs contrary to the government's policy of reducing prisoner numbers, especially among Maori.
- Many firearm owners see, with just cause, registration as the first step towards further confiscation of other classes of firearm.
- To be effective arms control measures need to be conducted in a spirit of cooperation between those who administer and those who own firearms. Sadly as a result of the way that arms legislation, following the Christchurch attack, has been introduced and its devastating impact on licensed firearm owners there is a growing distrust between the firearm community and senior police/ government. This is not conducive to improving public safety.

Clause 83 Section 95. We support a review of the Arms Act after 5 years, provided the firearm community is fully consulted.

## **OFFENCES AND PENALTIES**

Some 19 new offences have been created by this Bill, with additional disproportionate increases in penalties for existing offences. Many of these are designed to catch out normally law abiding firearm owners for oversights in attending to administration and licensing, while few target those who choose to use firearm in the committing of crimes.

## **ORAL SUBMISSIONS**

We note with disappointment the committee's decision, once again, to only call for oral submissions from pre selected invited guests to attend in Wellington, denying the opportunity to many others to speak to their concerns.

## **CONCLUSION**

This Bill is complex, poorly drafted and will do nothing to improve public safety. It drives a further wedge between those who administer the Arms Act and those who must live by its provisions.

We recommend that the Select Committee reject this Bill, sit down with the firearm community and debate how the existing Arms Act may be best improved to achieve real improvements in public safety.

We wholeheartedly support the submission made by the Council of Licensed Firearm Owners (COLFO).

Thank you for the opportunity to provide our feedback on this Bill.

Yours sincerely,

Phil Cregeen, Secretary