



Submission from Gun Control NZ to the Finance and Expenditure Select Committee on the Arms Legislation Bill

Who supports this submission?

As at 1am 17 October 2019, 7,104 people support the summary submission set out below. These people have signed up to the summary submission on our website at www.guncontrol.nz We are gathering signatures up until the deadline for submissions on 23 October. Just before submissions close, we will separately provide a total number and a list of these people to the Select Committee secretariat to verify the number. All signatories have valid email addresses.

We also commissioned an opinion poll from UMR, which shows that 70% of Kiwis support strengthening New Zealand's existing gun laws. Only 16% of those surveyed were opposed to stronger gun laws. The full results are attached to this submission and are also available at <https://www.guncontrol.nz/media/most-new-zealanders-back-stronger-gun-laws>

About Gun Control NZ

Gun Control NZ advocates for stronger gun laws to make us safer. Gun Control NZ provides a voice for the majority of New Zealanders who want change. The ban on most semi-automatic weapons was a good first step but much more needs to be done. The gun lobby is fighting hard to oppose the stronger gun laws wanted by most New Zealanders. We need to ensure they don't succeed, as they have done in the past.

We are not opposed to gun ownership. We support properly vetted people being able to own registered rifles and shotguns, so long as those guns are not semi-automatic.

Gun Control NZ is a not-for-profit organisation run by volunteers. We are not aligned with any political party or government body. The leadership team have backgrounds in public health, public policy and social change. Hera Cook is a public health researcher at the University of Otago. Nik Green started a petition to ban semi-automatic weapons. Philippa Yasbek has significant experience in regulation and legislation. Jerome Mika has spent 15

years working for Pacific and Maori communities, in various political, business and community advocacy roles.

A summary of our views on key points in the Arms Legislation Bill

Purpose statement

We support the proposed addition of a purpose statement. The current 1983 Act lacks a purpose statement. It is important to emphasise that the purpose of the legislation is safety. It will also be useful to explicitly state that firearms ownership is a privilege and not a right.

Creation of a register

We support the creation of a register. Registers make firearms owners more accountable for their weapons and more likely to store them appropriately¹. They also reduce the flow of guns to unlicensed people and have been shown to reduce firearms thefts. Registers are useful for solving crimes and are an important tool for improving the safety of police officers and other frontline workers.

Licensing - fit and proper person test

We support the inclusion of specific factors to be considered in assessing someone's suitability for a firearms licence. The list of factors indicating that someone is not a fit and proper person should be expanded to include offences that demonstrate a reckless disregard for the safety of others. This would include offences such as drunk driving and dangerous driving.

Licensing - length of licence period

We support shortening the licence period. People's circumstances can change significantly over 10 years. Canada and the UK both have 5 year licenses. Australian states have a range of terms depending on the firearm. Some are as short as 1 year. We recommend a 3 year license term. This was at the bottom of the range recommended by Thorp but is appropriate given the rapid changes (such as online radicalisation) that are possible in a short period of time.

¹ See Gun Control NZ's review of the literature on gun registers attached to this submission.

Control of ammunition sales

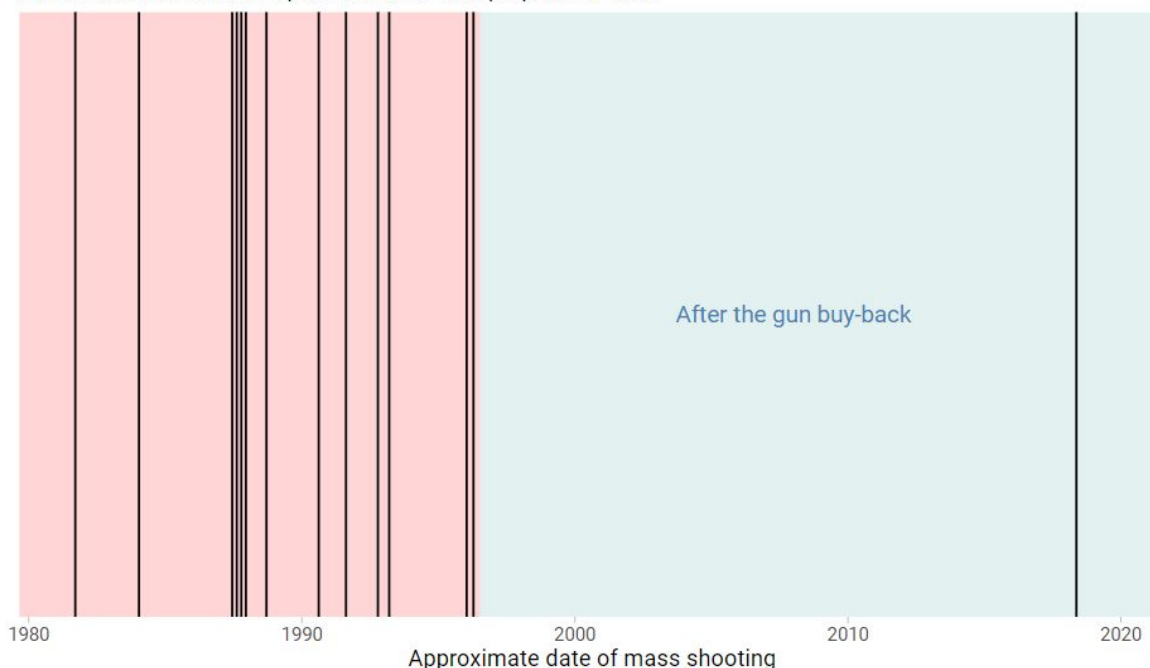
We support the provisions that create stronger controls on ammunition sales. Only licensed firearms owners should be allowed to purchase ammunition. Licensed firearms owners should also only be allowed to purchase ammunition that is suitable for their registered firearms. Ammunition sales should be recorded on the register.

A detailed analysis of the Arms Legislation Bill

We are broadly supportive of the Bill. It will largely align our legislation with the Australian laws introduced after the Port Arthur massacre in 1996. The Australian laws have been extremely successful in reducing the incidence of mass shootings in Australia. This is demonstrated in the following infographic²:

Firearm-related homicides in Australia, to September 2019

Events in which at least 5 persons other than perpetrator died



² Peter Ellis "Poisson point processes, mass shootings and clumping" *Free Range Statistics* <http://freerangestats.info/blog/2019/09/07/mass-shootings-oz> accessed 14 October 2019, based on data from Chapman S, Stewart M, Alpers P, Jones M. *Fatal Firearm Incidents Before and After Australia's 1996 National Firearms Agreement Banning Semiautomatic Rifles*. *Ann Intern Med*. 2018;169:62–64. doi: 10.7326/M18-0503.

We note that this Bill still does not go as far as some elements of the Australian National Firearms Agreement³ in limiting access to firearms.

We have highlighted the following elements of the Bill as worthy of further comment or discussion. All recommendations for changes to the Bill have also been included in a summary table at the end of this submission. We have focussed on the issues in the Bill. We have generally not commented on issues of secondary or tertiary legislation, or operational implementation.

We sought feedback from our members and submission signatories on the content of this detailed submission.

Purpose statement (clause 5, new section 1A)

We support the proposed addition of a purpose statement. For too long, the Courts have suffered from a lack of Parliamentary guidance on the interpretation of the Arms Act. This has led to decisions that have overly privileged the interests of individual gun owners at the expense of public safety. The new purpose statement will correct that imbalance by acknowledging the responsibility that all firearms users have to ensure both personal and public safety.

We also believe that it is useful to explicitly state that firearms ownership is a privilege and not a right. The legal position is clear: in New Zealand there is no right to own a firearm⁴. Emphasising that the ownership and possession of firearms is a privilege will further shift the balance towards public safety. For too long, the law has prioritised the convenience of individual gun owners over public safety, with horrific consequences.

Definitions (clause 6)

The dictionary definition of manufacture is to “make (something) on a large scale using machinery”. The definition of the word “manufacture” should be amended to define it as making on any scale. This clarification is important to ensure that custom made firearms and parts are captured by the legislation, whether produced by a gunsmith using conventional techniques or printed on a 3D printer.

³ The Australian National Firearms Agreement is an agreement concerning firearm control made by the Australasian Police Ministers' Council (APMC). The laws to give effect to the Agreement were passed by Australian State governments.

⁴ The Kiwi Party Incorporated v The Attorney General [2019] NZHC 1163 [27 May 2019]

Registry to store information on firearms and licence holders (clause 83, new sections 91-93)

Establishing a register of firearms in New Zealand is a key priority for Gun Control NZ. We have undertaken an extensive literature review on the benefits of registration, which we have attached to this submission.

There is a strong case for firearms to be centrally registered to facilitate tracing the ownership of specific firearms to individuals as part of an integrated registration/licensing regime.

Firearm registration serves to increase the accountability that firearm owners have for their firearms by linking firearms to licensees. There is evidence that when firearm registration is adopted as part of a comprehensive licensing regime it can have a positive impact on reducing firearm-related injuries and crime, that registration makes it more difficult for criminals to access firearms and that it may also help reduce suicide rates. Internationally, information from registration schemes is highly valued by police because it improves officer safety (e.g. when executing search warrants), supports criminal investigations (e.g. by tracing weapons recovered from crime scenes), and improves public safety (e.g. enabling seizure of weapons in cases of domestic violence).

Our literature review draws on lessons from overseas and notes a number of steps to minimise the establishment and operational costs of a registry, the importance of focusing on data integrity in the design of the scheme, that firearm registration needs to be modern and user friendly, and the need for supporting programmes to ensure widespread registration.

The world has certainly changed since 1983 when New Zealand decided to abandon universal firearm registration. The development of IT systems since the 1980s makes it much easier and more efficient to trace firearms. Firearms registration can generate useful information for police, and there is now much clearer evidence from overseas that firearm registries are having positive effects.

The gun lobby frequently cite the Canadian gun registration scheme as a failure. This scheme became a political football, due to substantial cost-overruns from the project. The Canadian government disestablished the registration scheme for long-guns (e.g. rifles and shotguns) in 2012, despite a formal evaluation finding the registry was cost-effective. The gun lobby generally don't talk about the registration schemes in Australian states and EU member countries. These jurisdictions have acknowledged the benefits from universal firearm registration schemes and are continuing to invest in improving their schemes.

We should take advantage of international experience in the design and implementation of the register. The design of the register should maximise usability, minimise barriers to registration and limit potential sources of human error such as free text responses. Paper-based forms and records should be eliminated due to the risks of duplication and human error in data transposition.

We recommend that private sales of firearms should not be allowed to continue because of the risks to data integrity in the register if both parties fail to complete the transaction. We understand that the motor vehicle registry has gaps in it where one of the parties has failed to complete their part of the online sales transaction. All sales should be recorded by a dealer or potentially an online broker. In Australia, sales of firearms can only occur through licenced firearms dealers.

Licensing - general comment

No licensing system on its own can protect public safety. Licensing screens large numbers of people to try and prevent relatively rare events (such as homicides and suicides). It's not possible to predict *ex ante* who will commit crimes or suicide, we can only screen out those with obvious red flags. While there are improvements that can be made to the current system, this needs to be supported by other public safety measures such as the semi-automatic ban and registration of firearms.

Licensing - fit and proper person test (clauses 33 and 36)

We support the clause 33 (new section 22G) list of factors that would disqualify an individual from holding a firearms licence.

Clause 36 (new section 24A(1)(a)) could disqualify licence applicants who have criminal convictions overseas. An issue faced by the New Zealand Police is that they do not necessarily have the ability to obtain criminal records from overseas jurisdiction. We propose that all applicants who have lived for more than 6 months in another country be required to produce a police certificate from that country. This system is already used by Immigration NZ to check the criminal records of prospective immigrants.

We recommend that the new section 24A(1)(f) is amended to simply refer to any behaviours, or physical or cognitive functioning of the applicant that may affect their ability to safely use or possess firearms. The section unnecessarily stigmatises those with mental illness and may deter gun owners from seeking mental health support. These issues are discussed further in the section on health practitioner notification. Specific diagnoses are also not helpful in legislative drafting and may limit the effectiveness of the provision. It is important to include physical functioning as a factor, not just cognitive functioning. What matters for public safety is the behaviour and functioning of an individual, not the specific label of their diagnosis. Medical practitioners are better able to assess this than legislative drafters.

The list of factors in clause 36 (new section 24A(1)) indicating that someone may not be a fit and proper person should be expanded to include convictions for offences that demonstrate a reckless disregard for the safety of others. This would include offences such as drunk or dangerous driving or offences under the Health and Safety at Work Act 2015. There is evidence that those who drive while drunk are more likely to commit violent crimes. A longitudinal study tracked more than 79,000 handgun buyers in California for 13 years. Nine percent of the gun owners with prior convictions for drunk driving were later arrested for

murder, rape, robbery, or aggravated assault. Only 2% of those with no prior convictions, went on to be arrested for these types of crimes⁵

The list in this section is not definitive of somebody's fitness to hold a licence, the final decision is still at the discretion of the police.

The Arms Code currently states that a person who indicates an intent to use firearms for self defence is unlikely to be assessed as a fit and proper person. The Arms Legislation Bill is intended to provide legislative guidance for the "fit and proper" person test. We recommend that any indication of an intention to use firearms for self defence should be added as an additional factor under section 24A(1).

Some elements of the factors in clause 36 (new section 24A(1)) should be shifted to the new section 22G. They are factors that should automatically disqualify an individual from holding a firearms licence, rather than being discretionary factors. In particular, automatic disqualification should apply to anyone in the following circumstances:

(i) the applicant is a member of a gang or an organised criminal group: (those with close affiliations should remain in the discretionary category of section 24A(1))

(j) the applicant has convictions for behaviour demonstrating the exhibition, encouragement, or promotion of violence, or hatred, or extremism: (those who have just shown general tendencies in this direction should be considered under the discretionary category of section 24A(1)).

The factors in the new section 24A(2)(a) should be mandatory considerations. Police "must" (rather than "may") take into account whether an applicant has a sound knowledge of the safe possession and use of firearms, and an understanding of the conditions of their licence.

Licensing - length of licence period (clause 37, amendment of section 25)

We support shortening the licence period from 10 years to 5, though we believe that 3 years would be better than 5. A person's circumstances can change significantly over 10 years. There are also practical issues with a longer licence period such as changes of address or the death of the licence holder. New Zealanders have some of the highest rates of moving house in the developed world. Moving house is not just about a change of address: it means a change in storage arrangements. Canada and the UK both have 5 year licenses. Australian states have a range of terms depending on the firearm. Some are as short as 1 year.

⁵ Kagawa RMC, Stewart S, Wright MA, et al. Association of Prior Convictions for Driving Under the Influence With Risk of Subsequent Arrest for Violent Crimes Among Handgun Purchasers. *JAMA Intern Med*. Published online September 30, 2019. doi:10.1001/jamainternmed.2019.4491

It is worth quoting at length from the Regulatory Impact Assessment attached to this Bill (highlights are ours):

Fifty percent of first time licence applicants are aged between 16 and 30 years of age. Twenty-two percent of these are in the 16-19 year age range. The next fit and proper assessment will be held when the age range of these people is 26 to 40 years. It can be expected that the circumstances of these applicants will have changed significantly in terms of residence, income security, financial obligations, relationships, marital status and family obligations. Some of these changes may have impacted on their fit and proper status.

Data shows that, of those aged 16-19 when first issued a firearms licence, thirty-one percent had been convicted of an offence by the time they reach 20 years of age. **By the time licence holders reach the age of 30 years, forty-five percent have been convicted of an offence.** These convictions are predominantly driving convictions with the largest proportion alcohol related driving offences. The two next biggest groups are drugs and anti-social behaviour, followed by violence related convictions.

This data shows that young firearms licence holders are more prone to criminal activity than the rest of the population. The average rate of criminal convictions for those aged 40 is 25%⁶. This evidence contradicts the gun lobby's claim that licence holders are law abiding and the problems are all with criminals: many licence holders are criminals.

At the very least, licence holders under the age of 30 should be vetted every 3 years. We know that criminal offending is much more common in young people: people tend to age out of crime⁷. We now also know that young firearms licence holders are much more likely than the general population to be committing offences. Unfortunately many of these offences are related to factors, such as drugs, alcohol and violence, which indicate their unsuitability to have a firearms licence.

Given this data, we also recommend that a higher minimum age is established for holding a firearms licence. There is not a clearly established age for adult responsibility in New Zealand law: it varies between 16 and 20 depending on the issue. We recommend that the minimum age should be at least 18, but the evidence suggests a higher minimum age is more appropriate.

⁶ For the cohort born in 1978. Source: Bridgman, Andrew *Criminal Justice Stats and Facts* Lawtalk 920, 3 August 2018
<https://www.lawsociety.org.nz/practice-resources/practice-areas/criminal-law/criminal-justice-stats-and-facts> Accessed 14 October 2019.

⁷ See for example Ulmer, J. T., & Steffensmeier, D. J. (2014). The age and crime relationship: Social variation, social explanations. In *The Nurture Versus Biosocial Debate in Criminology: On the Origins of Criminal Behavior and Criminality* (pp. 377-396). SAGE Publications Inc..
<https://doi.org/10.4135/9781483349114.n23>

Licensing - health practitioner notification (clause 83, new section 91)

We are supportive of the new section 91 that would require health practitioners to consider notifying the Police if they believe that someone is unsuitable to hold a firearms licence.

On one hand, this provision is less stringent than section 18 of the Land Transport Act 1998. Section 18 requires medical practitioners to inform the land transport authorities if in their opinion any of their patients should not be allowed to drive a motor vehicle. The provision in this Bill only requires that health practitioners consider notifying the Police of a person's suitability to hold a firearms licence. On a per use basis, guns are much more dangerous than cars. This would justify amending the proposed section 91 to require reporting, not just to consider reporting.

On the other hand, perpetrators of gun violence are frequently characterised as mentally ill, even when they have no underlying mental health issues. This is a gross mischaracterisation and stigmatisation of the mentally ill. For crimes such as homicide, only a small percentage of offences are carried out by those suffering from serious mental illness:

"Results indicate that homicide [by those with serious mental illness] comprised 8.7% of all homicides in New Zealand over the study period. Psychotic illness is present more often than expected on a population rate basis, confirming that homicide is a rare but recognised complication of serious mental illness.

Across the period studied, homicide [by those with serious mental illness] has fallen as a proportion of total homicide from approximately 19% in 1970 to 4% in 2000, or an annual reduction of 4.2%.

The absolute numbers of homicide [by those with serious mental illness] each year have remained static over the period 1970-2000.

Of those with serious mental illness who committed homicide, 28.6% had no prior contact with mental health services, and 10.3% had been admitted within the month preceding the homicide."⁸

⁸ Simpson, A. I. F., McKenna, B., Moskowitz, A., *et al* (2003) *Myth and Reality: The Relationship Between Mental Illness and Homicide in New Zealand*. Auckland: Health Research Council of New Zealand. Accessed at: https://s3.amazonaws.com/academia.edu.documents/39949211/Myth_and_Reality_The_relationship_between20151112-19172-20174y.pdf?response-content-disposition=inline%3B%20filename%3DMyth_and_Reality_The_relationship_between.pdf&X-Amz-Algorithm=AWS4-HMAC-SHA256&X-Amz-Credential=AKIAIWOWYYGZ2Y53UL3A%2F20190927%2Fus-east-1%2Fs3%2Faws4_request&X-Amz-Date=20190927T232505Z&X-Amz-Expires=3600&X-Amz-SignedHeaders=host&X-Amz-Signature=14256b5949f2fa3c5c0402b0598544f86c629d9ca603b01fdc020f18c7978f03

We also recognise that the demographic of firearms license holders (older men) are some of the least likely to acknowledge and seek professional help for mental health problems.

Thorp⁹ also considered this question in some depth and sought the views of different medical practitioners and health policy groups. There was no consensus amongst those he consulted but this Bill implements Thorp's recommendations of voluntary disclosure by health practitioners.

We also note that most of the factors (dementia or other cognitive decline, loss of eyesight, physical inability to control a motor vehicle) that would lead to the removal or restriction of a driver's licence are also relevant to a person's ability to safely use firearms. For these reasons, we recommend that the Police are automatically notified when someone is disqualified from driving under section 19 of the Land Transport Act 1998. This may require a data sharing agreement with the NZ Transport Agency.

We note that section 19 of the Land Transport Act 1998 enables the suspension of the driver's licences of those subject to Compulsory Treatment Orders under the Mental Health (Compulsory Assessment and Treatment) Act 1992. Thorp recommended that the Police should be notified of Compulsory Treatment Orders for the purposes of suspending the subject's firearms licences. We recommend that the Select Committee consider implementing Thorp's recommendation on this issue.

We are unsure how appropriate it is for clause 34 (new section 23(2A)) to require that a licence applicant give details of their health practitioner to Police. Nothing in the Bill enables the Police to seek information directly from the health practitioner so it is unclear what the purpose of this clause is. If the Police have specific concerns about the health of an applicant, it would be more appropriate for there to be provision for the Police to require the applicant to produce a health certificate from a medical practitioner to allay those concerns.

Licensing - inspection of security arrangements (new section 24B(2)(a))

A Police analysis of firearms thefts has identified that in nearly two-thirds (62%) of the cases for which there was information, the owner had not conformed to security requirements and a third (32%) were stolen from unattended vehicles, some with keys left inside the car. Many firearms owners are not storing their weapons in compliance with the law.

In the UK, the police can make unannounced inspections of firearms storage. Unannounced inspections create a genuine risk of detection of non-compliance. The possibility of unannounced inspections is likely to increase owners' compliance with security requirements. We also acknowledge that there are some human rights issues with

⁹ Review of Firearms Control in New Zealand: Report of an Independent Inquiry Commissioned by the Minister of Police. June 1997

unannounced warrantless searches by the Police. We do not have any significant expertise on the human rights implications of search and surveillance powers.

We support the Bill's provisions to enable announced inspections of firearms storage. If these changes do not lead to improvements in the rate of compliance with storage requirements, we would recommend the possibility of unannounced inspections. This issue should be examined in the review of the law, undertaken within 5 years after its enactment.

Control of ammunition sales

We support the provisions that create stronger controls on ammunition. Controls on ammunition make it more difficult for the owners of illicit firearms to obtain ammunition. Only licensed firearms owners should be allowed to purchase ammunition. We strongly support the new section 22B restricting the possession of ammunition.

We also recommend a new provision which only enables licensed firearms owners to purchase ammunition that is suitable for their registered firearms. This creates a strong incentive to register all firearms.

Ammunition sales should be recorded on the register. This would both ensure that the ammunition is only sold to those with registered weapons that require that calibre of ammunition. It would also enable the Police to detect any suspicious patterns of ammunition purchases that warrant further investigation. This requirement could be added to the new section 93(1).

Dealers licensing regime (clause 10, new sections 5-6)

The Regulatory Impact Assessment highlights a number of problems with the current dealer licensing regime. The current standard is that dealers should be of "excellent character". Despite this requirement, the Police appear to have found it very difficult to revoke dealer licences in all but the most egregious cases. Examples of clearly unsuitable dealers include (from the RIA):

- In 2016, a dealer's licence was revoked after the licence holder was found to own 172 cannabis plants, be in possession of cocaine and possessing a 0.22 rifle that was insecure and not stored in a manner compliant with the Arms Regulations.
- A dealer had their licence revoked after being sentenced to 4 years imprisonment for 17 charges of GST fraud.
- Other revocations have included where dealers were convicted of firearms offences, possession of banned substances, or for temporary protection orders (ie family violence).

Given the standard for dealers has been "excellent character" there are clearly some shortcomings in the regulatory regime if dealers are committing such serious offences before their licences are revoked.

We have also discovered some threatening and probably illegal behaviour by ammunition dealers. The details are all laid out in an NZ Tahr Foundation Facebook post listing the firearms dealers who have agreed not to supply DOC with ammunition, unless the government changes its policy on tahr management. The Facebook post is reproduced below:



NZ Tahr Foundation

September 28, 2018 · 🌐

We have been speaking to all the major ammunition importers and manufacturers in the country and below is the list of those that have given us their word they will not supply ammunition for the tahr cull, until the minister has agreed to the GAC's tahr management plan that has now been signed off by all of the hunting sector. Some of these guys have also donated to the give a little page, so have a look down the list of donators and support those that support us!

Hunting and Fishing NZ

Steve's Wholesale

Reloaders Supplies

Belmont Ammunition

Sportways

Target Products

Kilwell

Outdoor brands

NZ Ammo

Gun City (have recently supplied some ammo, but was all lead ammo which the minister stated in the house yesterday could not be used for the cull)

Ammo Direct

We have not spoken to the individual retail shops, only the importers and the retail chains large enough to supply the 100,000 rounds that DoC are after. Everyone now is on board with this ammo boycott. If anyone feels they have been unfairly left off this list, please get in touch, give us your assurance you won't supply the ammo until the minister agrees to the GAC

This agreement appears to violate the cartel provisions in section 30 of the Commerce Act 1986. Violations of section 30 carry the possibility of substantial pecuniary penalties and from April 2021 will also be subject to criminal sanctions with a maximum sentence of 7 years imprisonment.

There is also a high degree of hypocrisy for firearms dealers who have expressed no remorse over selling ammunition to mass murderers to then turn around and refuse to sell ammunition to the government.

It is clear that some firearms dealers do not meet the “excellent character” standards. This appears to be at least partly a problem with the ability to enforce that standard.

We strongly support the improvements to the dealers licensing regime. In particular, it’s important that there are greater regulatory obligations on gunsmiths. Currently, they are less tightly regulated than secondhand dealers and pawnbrokers. Given their ability to manufacture and modify firearms, it is important that they are properly regulated.

We recommend that if a body corporate is engaged in the dealing of firearms (via a senior manager with a dealer’s licence), then the directors or officers of that body corporate must also each hold a firearms licence. This new provision would mirror clause 15 (new section 11) which requires that the employees of a licensed dealer cannot undertake any dealer activity without a firearms licence. The senior manager of a body corporate is accountable to the directors or officers for their dealing (and other business) activity and so it is important that those directors or officers are also judged to be fit and proper people.

We also recommend that the shareholders of a privately-held body corporate that deals in firearms should have to hold a firearms licence.

These provisions for directors and owners would ensure that someone who is disqualified from holding a dealers licence is unable to continue in the trade via a body corporate. It would also ensure that a body corporate with a firearms dealing business is not subject to the control or influence of unfit or improper people.

Record keeping

Clause 16 (new section 12) requires dealers to record information about their transactions and to store that information for at least 10 years. They are exempted from recording that information if it is provided to the Police for inclusion in the registry. We recommend that dealers should be required to provide that information to Police for inclusion into the registry. The value of the registry is undermined if it doesn’t include all available information. Obviously, records need to be kept separately in the transition period before the registry is established.

The new section 22D requires ammunition sellers to keep records of ammunition sales. These records should also be provided to the Police for inclusion in the registry (see discussion above on ammunition sales).

Acceding to United Nations Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition

Gun Control NZ supports acceding to United Nations Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition. The Protocol is a legally binding instrument to counter the illicit manufacturing of and trafficking in firearms at the global level. It forms part of global efforts to combat trans-national crime and terrorism.

Blank firing guns

We support the closing of the loophole around the importation of blank firing guns. Unethical dealers have been importing blank firing guns that could be easily converted to fire live ammunition. These blank firing guns can be sold to people without a firearms licence. This subverts the intent of the Arms Act and enables people to procure pistols outside of the current strict pistol regulatory regime.

Data sharing (new Part 7)

We support the provisions enabling data sharing between DOC, MFAT, Customs and Police on firearms. These measures are necessary to create a consistent, coherent and effective regulatory regime for firearms.

There may also need to be provisions for the NZ Transport Agency to share information with the Police on drivers who have been disqualified from driving due to their physical or mental state (see discussion above on health practitioner notification).

Cost recovery (clause 83, new sections 79-85)

The amendments update the fees setting and cost recovery powers in the Act. While this is not an issue for the legislative design, we wish to reiterate our view that there should be full cost recovery (ie user pays) for the licencing system. We think that the cost of the register should be made free or very low cost for users to encourage maximum compliance. We think it's appropriate for taxpayers to subsidise the cost of the register, given the large public benefits from the system.

We also note that the marginal cost of licencing is high (ie each individual choosing to be vetted imposes a significant additional cost, whereas the marginal cost of registration is low (ie there is a substantial fixed cost for the IT system, but the additional cost of registering a

weapon is relatively low). It is most appropriate to fully cost recover where the marginal cost is high.

Firearms Advisory Group (new sections 88-90)

We support the Firearms Advisory Group including representatives of the non firearms-owning community. This provides an opportunity for some members of the Firearms Advisory Group to provide a perspective on public safety.

Review of Act (new section 95)

We support a review of the Act after 5 years of operation to identify ways in which it can be improved.

In our view, this Bill largely addresses issues that were known about and understood in the 1990s. Since then, manufacturing technologies have changed with the emergence of 3D printing. 3D printing technologies have not yet produced cheap and reliable firearms but it is only a matter of time before this becomes a possibility. We recommend that the Bill be amended to explicitly require that the review of the Act also consider the need for legislative changes to manage the risks from emerging technologies in firearms manufacturing.

Shooting clubs and shooting ranges (new Part 6)

We support the regulation of shooting clubs and shooting ranges from a public safety perspective. The emergence of activities such as long range shooting (the target is anywhere from 600 to 1800 metres from the shooter) create different risks to public safety than traditional shooting ranges.

Shooting ranges also create public health risks by exposing shooters (and those who maintain the ranges) to lead, as well as environmental risks from lead accumulation. Lead absorption is a notifiable disease under the Health Act 1956. There is no safe level of lead exposure. Firing ranges, particularly indoor ones, expose shooters, spectators and range workers to lead dust and particles. Range officers/ workers may also be exposed when cleaning out bullet traps and stop-banks. We recommend that, at a minimum, the mitigation of risks from lead exposure and accumulation should be considered when approving shooting ranges.

The sections covering the regulation of shooting ranges are relatively vague as to the purpose of the regulation. It may be more appropriate for shooting ranges to be regulated under the Health and Safety at Work Act 2015 (HSWA), which is a well understood regulatory system. Some ranges are already subject to the HSWA. Shooting ranges that are run by volunteers and do not employ any staff are exempt from the Health and Safety at

Work Act 2015. It may be more appropriate to classify all shooting ranges as Persons Conducting a Business or Undertaking (PCBU) under the HSWA.

Different agencies can undertake regulatory functions under the HSWA. Worksafe is the main regulator but other agencies are the regulator in different domains (eg Maritime NZ administers the HSWA on board ships). We don't claim any great expertise in regulatory arrangements under the HSWA but there are options for either Worksafe or the Police (or both) to regulate shooting ranges under the HSWA. The HSWA also enables cooperation with the EPA and local government on environmental issues. Police may not be best placed to regulate shooting ranges, given that the major risks, in our view, are the environmental and public health risks from lead accumulation, with secondary risks around ricochet and range design.

Advertising (new sections 74(1)(ja))

We support restrictions on the advertising of firearms. Advertising restrictions are a commonly used public health tool to restrict the glamourisation of harmful things such as cigarettes and alcohol.

We also recommend that the Bill include a power similar to section 12 of the Prostitution Reform Act 2003. This would empower local government to regulate the signage of firearms dealers.

Minimum Age for Use of Firearms

The Arms Act 1983 currently restricts possession of firearms to those with a licence. However, anybody can use a firearm, provided that they are under the supervision of someone who holds a firearms licence (section 22(2)(a)). There are currently no restrictions on the age at which someone can use a firearm. This has led to situations where children use firearms when they are as young as three years old¹⁰. Children this young obviously lack the mental and physical capabilities to safely use a firearm, even under close supervision. We recommend that the Arms Act 1983 is amended to introduce a minimum age for the use of firearms. In Australia, the minimum age is 10 years old. We do not have a specific age in mind, but believe that it should be in the range of 10-13 years.

Comment on National Party proposals

¹⁰ Woolf, Amber-Leigh "Home on the Range: Shooting teaches respect to children as young as 3" *Stuff* 10 December 2017. Accessed 13 October 2018
<https://www.stuff.co.nz/sport/other-sports/99636424/home-on-the-range-shooting-teaches-tranquility-and-respect-to-children-as-young-as-3>

We also provide some comments below on the National party's 13 proposals, if the subject is not already addressed above.

Firearms Protection Orders

Firearms Protection Orders are based on a similar provision in the Victorian law. However, they appear to have been imported completely by the National party without consideration of the context of other provisions in the Arms Act 1983.

Despite their claims, as currently drafted, the Firearms Protection Orders (FPO) in the National party bill are not automatic: they are at the discretion of the Police Commissioner. Individuals can already have their licences revoked for serious offences. The extra measure that FPOs would create is the ability to ban particular individuals from living in a house where firearms are stored or being on the premises of a gun dealer or shooting range. The FPOs would also be limited to gang members.

In our view, it could be useful for any individual who has their firearms licences revoked, to also be banned from living in a house where firearms are stored or visiting dealers or shooting ranges. These extra prohibitions shouldn't be limited to gang members though. They could provide an extra layer of protection in cases of domestic violence or where one family member is considered unsuitable for a firearms licence but still accesses the firearms of others in the family (which was the case with the Raurimu massacre in 1997).

We have not yet examined the interaction between FPOs and search and surveillance powers (these are not mentioned in the National Party Bill).

Regulation Making Powers from Tranche One

This is a technical law-making issue, rather than a policy one. We would defer to those with superior legal expertise such as the Law Society or the Bar Association.

Exemptions for Sports Shooting

The Regulatory Impact Statement analyses this issue in some depth. Our main comment is that the shooters affected by these changes do not compete in the Olympics or Commonwealth Games. The shooters affected are those who partake in the euphemistically named "Practical Shooting". "Practical shooting" is better described as combat shooting. Here is a description of practical shooting by Philip Alpers¹¹:

"Practical" shooting is almost the complete opposite of traditional target shooting sports. Competitors conduct their activities over a "run-and-gun" obstacle course where they face a variety of "real-world" or "practical" shoot/don't shoot situations,

¹¹ Alpers, P and Sugarmann J *Gold Medal Gunslingers: Combat Shooting Targets the Olympic Games* July 1999
<https://www.gunpolicy.org/fr/documents/890-gold-medal-gunslingers-shoot-to-kill-at-the-olympic-games/file> Accessed 14 October 2019.

such as firing at the human silhouette of a "hostage-taker" while sparing the "hostage." Unlike traditional target sports, the weapons used are most often large caliber pistols, assault rifles, and riot shotguns. And although participants use the more innocuous term "practical" when dealing with the general public, among enthusiasts routinely refer to their pastime as "combat" or "tactical" shooting.

In a typical "course of fire," contestants begin with a rapid draw from a holster, and are then timed as they run, crawl, and sometimes climb through a shoot-'em-up scenario, all while firing at human-scaled head-and-torso targets. Human targets intended to be shot are often referred to as "bad guys." "No-shoot" targets are often called "hostages." The highest scores are awarded to "head shots" and "heart shots" because of their heightened lethality, with points awarded for speed of shooting as much as for accuracy.

A landscape of wrecked cars, dangerous dark alleyways, ubiquitous home invasions, and crime-ridden businesses dominates the world of the combat shooter. With titles like "Save the Bank," "The Bodyguard," "Cartel House Raid," and "Carjacked by Gang Members," courses of fire often reflect the self-defense fantasies of the combat shooter.

We also recommend Pistol NZ's 3 Gun and Multi Gun promotional video, available at <https://youtu.be/5NxxeE1DX58> for an insight into the nature of the "sport".

We strongly oppose exemptions for Practical Shooting sub-disciplines that require the use of banned semi-automatic firearms. We note that not all Practical Shooting sub-disciplines are affected by the semi-automatic weapon ban.

Pest Control Exemptions

The pest control exemptions in the current legislation have not yet been implemented. In our view, the 5 year review of the legislation will be the right time to assess the impact on pest numbers and pest control costs.

Collector Exemptions

We are concerned that the current collector exemption is too weak and creates a number of risks to public safety. In our view, all semi-automatic weapons held by collectors should be permanently disabled, as they are in Australia. There are a variety of ways to permanently disable a firearm, such as inserting a steel rod into the barrel and welding it in place.

There have been some serious crimes committed by collectors in the past. During the Napier siege (2009), one Police officer was shot dead, and two were seriously injured, as well as a neighbour. The perpetrator was a gun collector whose licence had lapsed. The double murder of the Thomases in Wellington in 1994 was also perpetrated by a collector.

People who continue to own prohibited semi-automatics (but have a collector or memento exemption) are now required to remove a "vital part" of the gun to make it inoperable. The vital part has to be stored at a separate address. However, the vital part could easily be retrieved from the separate address. If the vital part is a firing pin, these can easily be bought online (and are unlikely to be picked up by Customs because they look similar to other non-gun hardware) or manufactured. We therefore recommend that the collector exemption is amended to require that all semi-automatic weapons held by collectors are permanently disabled.

Banning visitors from purchasing firearms

As currently worded, we do not understand the specific details of the proposal.

Comment on COLFO submission

We have seen the COLFO submission but do not have time to comment on it in detail. Should the Select Committee want our comment on it, we will be happy to provide it at a later date, or advise on any other issues.

We have one general comment to make on the COLFO submission. Up until now, COLFO have been pushing the line that gun owners are law abiding citizens. Their submission now implies that some gun owners (presumably COLFO members) will only follow the law if they agree with it. They are threatening Parliament with non-compliance if the law changes. This is an unusual position for a lobby group to take, particularly when they have been so strident in their claims that they represent only law abiding citizens.

This may be why more than a third of gun owners do not trust the pro-gun lobby.¹²

¹²Prickett, Kate and Chapple, Simon "Survey reveals a third of NZ gun owners distrust gun lobby" 13 August 2019, *The Conversation*
<https://theconversation.com/survey-reveals-a-third-of-nz-gun-owners-distrust-gun-lobby-121736>
Accessed 14 October 2019.

Summary of Gun Control NZ's position on specific aspects of the Bill

Topic	Reference	Position
Purpose statement	Clause 5, new section 1A	Support.
Definitions	Clause 6	The definition of the word "manufacture" should be amended to define it as making on any scale.
Registry	Clause 83, new sections 92-94	Support. Recommend that all sales must be recorded by a dealer or online broker: no private sales.
Licensing: fit and proper person	Clause 33, new section 22G	Support. Recommend also including: <ul style="list-style-type: none"> the applicant is a member of a gang or an organised criminal group the applicant has convictions for behaviour demonstrating the exhibition, encouragement, or promotion of violence, or hatred, or extremism
	Clause 36, new section 24A(1)	Recommend including as additional factors: <ul style="list-style-type: none"> convictions for offences that demonstrate a reckless disregard for the safety of others (such as drunk or dangerous driving, or offences under the Health and Safety at Work Act 2015) any indication by the applicant of an intention to use firearms for self defence
	Clause 36, new section 24A(1)(a)	Support. Recommend enabling Police to require the production of a police certificate from any country where an applicant has lived for more than 6 months, once over the age of 18
	Clause 36, new section 24A(1)(f)	Recommend re-wording to solely refer to any behaviours, or physical or cognitive functioning of the applicant (as assessed by a medical practitioner) that may affect their ability to safely use or possess firearms.
	Clause 36, new section 24A(2)(a)	Recommend that these factors should be mandatory considerations. Police "must" (rather than "may") take into account whether an applicant has a sound knowledge of the safe possession and use of firearms, and an understanding of the conditions of

		their licence.
Licensing: length of licence period	Clause 37, amendment of section 25	Support a shorter licence period but recommend 3 years. At a minimum, licence holders under the age of 30 should only have a 3 year licence.
Licensing: minimum age	Amend section 23 of Arms Act	Recommend a minimum age for licence holders of at least 18 years, preferably 20.
Licensing: health practitioner notification	Clause 83, new section 91	Support. Also recommend that Police are automatically notified when someone is disqualified from driving under section 19 of the Land Transport Act 1998. Also recommend that Police should be notified of Compulsory Treatment Orders under the Mental Health (Compulsory Assessment and Treatment) Act 1992.
	Clause 34, new section 23(2A)	Recommend deletion.
Licensing: inspection of security arrangements	Clause 36, new section 24B(2)(a)	Support.
Control of ammunition sales	Clause 31, new section 22B	Support.
	New provision	Recommend only allowing licensed firearms owners to purchase ammunition that is suitable for their registered firearms
	Clause 83, new section 93(1)	Recommend requiring ammunition sales to be recorded on the registry.
Dealer licensing	Clause 10, new sections 5-6	Support. Recommend that directors or officers of a body corporate engaged in the dealing of firearms must also hold a firearms licence. Shareholders of a privately-held body corporate that deals in firearms should also have to hold a firearms licence.
Record keeping	Clause 16, new section 12	Support. Recommend that dealers must provide that information to Police for inclusion into the registry.
	Clause 31, new section 22D	Support. Recommend that ammunition sellers must provide that information to Police for inclusion into the registry.
Acceding to United Nations Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition	Various	Support.

Blank firing guns	Various	Support.
Data sharing	Clause 53, new part 7	Support
Cost recovery	Clause 83, new sections 79-85	Support.
Firearms Advisory Group	Clause 83, new sections 88-90	Support.
Review of Act	Clause 83, new section 95	Support. Recommend that the review of the Act also consider the need for legislative changes to manage the risks from emerging technologies in firearms manufacturing.
Shooting clubs and shooting ranges	Clause 53, new part 6	Support the regulation of shooting clubs and ranges. Recommend that all shooting ranges are defined as Persons Conducting a Business or Undertaking (PCBU) under the Health and Safety at Work Act 2015, instead of creating a bespoke regulatory system.
Advertising	Clause 82, new section 74(1)(ja)	Support.
	New provision	Recommend that the Bill include a power similar to section 12 of the Prostitution Reform Act 2003 to empower local government to regulate the signage of firearms dealers.
Minimum age for use of firearms	New provision amending section 22(2)(a) of the Arms Act 1983	Recommend a minimum age of 10-13 years for anyone to be in possession of a firearm under the immediate supervision of the holder of a firearms licence.