

# Regulatory Impact Statement: Arms Amendment Regulations 2021: Policy Decisions

## Coversheet

Purpose of Document	
Decision sought:	<p>This Regulatory Impact Statement (RIS) has been prepared by New Zealand Police.</p> <p>The analysis and advice has been produced for the purpose of informing policy decisions to be taken by Cabinet on regulatory reform for the firearms licensing system.</p>
Advising agencies:	New Zealand Police
Proposing Ministers:	Minister of Police
Date finalised:	28 July 2021
Problem Definition	
<p>Changes to the Arms Act 1983 made by the Arms Legislation Act 2020 have created a need to update and improve the regulatory tools to address the safe possession and use of firearms and mitigate against their movement into criminal hands.</p> <p>The primary focus of the options assessed in this paper is on strengthening the requirements for licensing of firearms holders and dealers and the secure storage of firearms, to reduce the likelihood of firearms being misused.</p>	
Executive Summary	
<p>The Arms Legislation Act 2020 (Arms Legislation Act) strengthened the Arms Act 1983's (the Arms Act) risk management framework so as to deliver improvements to the safe possession and use of firearms and mitigate against their movement into criminal hands. The amendments provide greater oversight of, and strengthen, the critical control points in the Arms Act: the licensing of firearms holders and dealers, and the import, transfer, and storage of firearms.</p> <p>Changes in the Arms Legislation Act concerning the licensing of dealers, conditions on their licences, and their record keeping requirements, came into force on 24 June 2021, and have created a need for the Arms Regulations 1992 (the Arms Regulations) to be updated. The administration of the Arms Act could also be improved by adjusting or clarifying some existing regulations, including changes that reflect amendments to the Act that came into force in December 2020.</p>	

## Overview of proposed regulations

A number of changes to regulations are required to align with changes to the Arms Act that have already received policy approval (or which only involve some adjustment or clarification to improve administration of the Arms Act and better safeguard the public). These are not assessed in this paper. The amendments to the regulations will form the basis for forms, conditions on licences, permits, endorsements, and operational processes.

Those changes to regulations that are enabled by the changes to the Act but which are more substantive policy changes requiring approval, are assessed in this paper and are those which relate to:

- Conditions related to security precautions (dealers)
- Carriage and use of firearms by dealers
- General security of firearms (all firearm licence holders)
- Firearms in vehicles (all firearm licence holders)
- Carriage of firearms in public places by licence holders
- Supply of particulars by applicants for firearms licences
- Criteria for finding a person is not fit and proper to possess firearms.

## Costs and Impacts

It is not possible to quantify the cost impacts for firearms owners and dealers on an individual basis, due to the lack of baseline data. The expected cost impacts relate to (in particular) the potential cost on dealers and firearms licence holders to make any necessary additional security modifications for storage of firearms, including security of firearms in vehicles. Police has been unable to quantify these impacts because of the number of variables at play, including: the existing storage facilities used by firearms and dealer licence holders, the number of firearms held, and the extent of any modifications that would be needed to existing storage facilities. Additional costs on Police as a result of increased inspections of firearms storage and record keeping, and other administrative functions are also not possible to quantify, but we believe they are likely to be moderate.

Where there are increased costs to firearms owners, Police considers these are outweighed by the public safety benefits.

## Stakeholder views

The regulatory proposals in this paper have been developed following a public consultation process which involved seeking submissions on a consultation document. Feedback was received from numerous firearm groups whose members are likely to be directly impacted by the proposals (e.g. COLFO) and non-firearms community advocacy groups (e.g. Gun Control).

In general, firearm organisations were opposed to many of the proposed regulations, either because they considered that the Arms Act already covers the issue, or that the regulations will go further than necessary. However, there was some acknowledgement that the regulations had to be aligned with/reflective of changes to the Act.

Many individual submitters took a negative view to having any additional regulations, although the majority of these offered no explanation for their view. However, more than

half of the 'agree/disagree' proposals were supported by 50 percent or more of submitters.<sup>1</sup> Those submitters who opposed and provided additional comment often suggested the changes added unnecessary complexity and/or compliance to the obligations of firearms and dealer licence holders. Many submitters specified they did not support a proposal because they did not agree that a problem had been identified, and therefore the cost would outweigh the benefit. These views can be taken to apply to each of the proposals that is discussed below.

Organisations outside of the firearms community were broadly supportive of the proposals. Three main concerns put forward by the non-firearms community were the need to tighten requirements for the security of firearms, to extend the period for which overseas criminal history checks are required if licence applicants have spent significant times overseas, and to extend the period for which applicants must provide details on previous spouses or partners.

### Implementation and Operation

The proposed new regulations would not require a complex implementation process. Apart from making the regulations the key implementation tasks would be:

- Amending forms
- Designing processes for licence applications and renewals and for inspections of security
- Developing standards for assessing whether an applicant is fit and proper to hold a dealer's licence.

When the new provisions in the Arms Legislation Act relating to dealers came into force on 24 June 2021 there is some time before many of the dealer licences under the new regime can be granted. Prior to the new regulations coming into force, Police is operationalising transitional arrangements for dealers and those who now need a dealer's licence. Many of the provisions in the new regulations do not need to be applied until the regulations come into force.

## **Limitations and Constraints on Analysis**

### **Options limited by changes to the Act in June 2021**

Regulatory options are constrained by the Arms Act, as amended by the Arms Legislation Act.

Regulations are needed for amendments that came into effect from 24 June 2021 onwards, and to assist with the implementation of amendments that came into force in

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<sup>1</sup> There were 45 agree/disagree proposals. This excludes three additional proposals that provided 'options' to choose from and those that asked for general comments rather than agree/disagree.

June 2020 and December 2020, to make the law clear about both existing and new obligations on holders of firearms licences and dealers' licences.

The majority of the regulatory changes are required to assist compliance with the new provisions in the Act. They will largely simply reflect policy changes that have already been approved, with the impacts assessed in the previous RIS that accompanied those changes to the Act.

The regulatory options assessed in this RIS are therefore limited to those changes that are considered to constitute new policy beyond the policy changes that were given effect by the Arms Legislation Act. For these policy changes, the RIS considers the option of regulating against the option of not regulating (i.e. maintaining the status quo).

### **Police consulted on the detail of proposed regulations, which involved seeking views as to whether to regulate or not on certain matters**

Police tested regulatory proposals with stakeholders through a public consultation process from March-April 2021. This process involved seeking submissions on a consultation document, supported by targeted engagement with members of representative groups such as the Firearms Community Advisory forum and the Arms Engagement Group.

While the consultation sought feedback from the wider public, most of the proposals are technical and have a direct impact only on those with firearm licences, or more specifically dealers' licences, or those who are applying for such licences. The consultation document considered the status quo against the option of amending the regulations, and sought views on whether to regulate or not on certain matters. Feedback was received from numerous firearms groups whose members are likely to be directly impacted by the proposals and from advocacy agencies.

The following Government agencies were consulted on the proposals: the Ministry of Justice, Ara Poutama Aotearoa Department of Corrections, Department of Internal Affairs, New Zealand Customs Service, Ministry of Transport, Te Puni Kokiri, Inland Revenue Department, the Treasury, the Department of the Prime Minister and Cabinet, Ministry of Foreign Affairs and Trade, Department of Conservation, Ministry of Primary Industries, the New Zealand Defence Force, Ministry of Culture and Heritage, and Te Arawhiti.

### **Difficulties in assessing and quantifying impact of regulatory proposals**

While Police is confident that it has scoped the problems effectively, and that there is sufficient evidence to support this, the analysis was impacted by tight timeframes limiting the ability to provide a full cost-benefit analysis.

There is also a lack of baseline data, other than data on licensing and endorsements, to support the analysis. This makes it difficult to assess the impact of regulatory changes or to quantify the impacts for firearms owners and dealers on an individual basis. The impacts that are likely to materially change the operating environment for a number of affected parties, and which may have cost impacts, relate to (in particular) the cost on dealers and firearms licence holders for potential modifications needed to secure their firearms, including to secure them in vehicles.

Quantifying these impacts is complex because of the numbers of variables at play, including: the existing storage facilities used by firearms dealers and licence holders, and the number of individuals who as a result of the changes to the Arms Act will now require a dealer's licence (and will be required to comply with the corresponding licence conditions). In particular the numbers of firearms, outside of prohibited firearms, pistols and restricted weapons, held by firearm licence holders is not known (and won't be known until a firearms registry is fully up and running). Any additional costs on Police as a result of increased inspections of storage and record keeping, and other administrative functions are also difficult to quantify.

For firearms owners, many of the impacts identified through consultation are based on qualitative evidence because quantitative evidence was not provided. For example, in many cases submitters said that a proposal would have a financial impact on them, but did not quantify the impact.

Where there are increased costs to firearms owners, Police considers these are outweighed by the public safety benefits. Further discussion about the impact of the proposals is outlined in **section 2**.

### Conclusion

Overall, Police is satisfied that within the above limitations the analysis in this RIS provides an adequate indication of the impact of the regulatory approaches recommended.

### Responsible Manager(s) (completed by relevant manager)

This RIS is authorised by:

Gillian Ferguson  
 Director  
 Policy and Partnerships  
 New Zealand Police

### Quality Assurance (completed by QA panel)

Reviewing Agency:	New Zealand Police
Panel Assessment & Comment:	<p>The RIS appropriately and accurately describes the nature of the issues that need addressing through the introduction of new regulations, where new policy decisions are required. The analysis of the options takes into account relevant assessment criteria and justifies why the preferred option has been selected for each proposal.</p> <p>The panel considers that this RIS meets the quality assurance criteria.</p>

## Section 1: Diagnosing the policy problem

**What is the context behind the policy problem and how is the status quo expected to develop?**

### **The safe possession and use of firearms is important for New Zealanders**

The majority of people who have access to firearms in New Zealand 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 communities. This risk arises in two main ways. First, when a person obtains a licence who should not have one (allowing lawful possession by unsuitable people). Second, when criminals gain access to weapons (unlawful possession). In both cases, the risk increases that an innocent member of the public will be hurt or killed.

Our current regulatory regime is 'light touch' and does not manage these risks as well as it could.

The Arms Act was recently amended by the Arms Legislation Act, with the key goal being to establish a more appropriate balance between ease of legitimate use and risk management of the misuse of arms. Firearms are used by a wide variety of people in New Zealand, largely for recreation, but also as a tool in some professions and for legitimate business purposes. Government needs to maintain the ability for appropriately licenced people to legitimately use firearms in their work and recreation within a system that protects the wider New Zealand public.

Proportionate checks and balances such as sufficient regulatory controls, risk management abilities and enforcement powers give the public confidence that the government can ensure firearms remain accessible only to appropriate people acting in the interests of personal and public safety, minimise the likelihood of, and mitigate against the risk of firearms falling into criminal hands and the consequent harm to the wider community.

The system requires a set of interlocking points of oversight and control, establishing reasonable constraints around importation, sale and resale, ownership, use and security. The proposed approach seeks to establish a regime that is balanced – making it harder for firearms to be in the wrong hands, while making sure that the burden placed on lawful and legitimate owners of firearms is reasonable.

### **The Act provides a framework for safe possession and use of firearms**

The Arms Legislation Act sets out the newly stated purpose of the Arms Act, which is to promote the safe possession and use of firearms and impose controls that reflect that the possession and use of arms is a privilege and that persons who manufacture, supply, sell, possess, or use arms have a responsibility to act in the interests of public safety.

The amendments in the Act aimed to provide greater oversight of, and strengthen, the critical control points in the Arms Act 1983: licensing, import, transfer and storage.

The main changes were:

- adding to the types of firearms that are prohibited
- extending activities requiring a dealer's licence and setting out criteria for determining if a person is fit and proper to hold a dealer's licence
- requiring permits to import ammunition, blank-firing guns, parts of firearms, and pistol carbine conversion kits
- requiring a firearms licence to sell or possess ammunition
- requiring those in the business of selling ammunition to have secure storage and keep records
- disqualifying certain individuals from holding a firearms licence
- setting out the criteria that can be the basis of a Police decision that a person is not fit and proper to be in possession of a firearm or airgun and may not be issued with a firearms licence
- reducing the duration of a firearms licence for first-time licence holders and those whose previous licence was surrendered, revoked or expired
- introducing additional conditions on firearm licences
- enabling Police to issue improvement notices and notices that immediately suspend an individual's firearms or dealer's licence pending revocation
- enabling individuals to seek a review by the Commissioner of decisions to refuse an application for, or to revoke, a firearms licence
- enabling the Commissioner to issue guidance notices
- establishing a Ministerial arms advisory group
- requiring Commissioner approval of shooting clubs and certification of ranges (from June 2022)
- establishing a registry (from June 2023 or earlier by Order in Council)
- requiring a review of the changes to the Arms Act 1983 after all sections of the Arms Legislation Act 2020 (with 2 minor exceptions) have been in force for three years.

Regulation-making powers are set out in section 74 of the Arms Act 1983. Regulations may be made prescribing conditions on licences, endorsements and permits, or authorising the Commissioner to prescribe such conditions. There is provision for regulations relating to security precautions, record keeping and the marking of firearms. The general model is to put generic conditions into regulations, with more specific conditions being prescribed on licences by the Commissioner based on the specified activities or arms-items of the licence holder. There is also guidance provided by Police on applying the regulations.

The current Arms Regulations have provisions relating to applying for dealers' licences, record keeping by dealers, the secure storage of firearms by dealers, the security of firearms possessed in a personal capacity, with additional security precautions for higher-risk items (pistols, prohibited firearms, prohibited magazines and restricted weapons), and the marking of firearms that are imported, manufactured or assembled.

### **What is the policy problem or opportunity?**

The Arms Legislation Act 2020 (Arms Legislation Act) strengthened the Arms Act's risk management framework so as to deliver improvements to the safe possession and use of firearms and mitigate against their movement into criminal hands. The amendments provide greater oversight of, and strengthen, the critical control points in the Arms Act: the licensing of firearms holders and dealers, and the import, transfer, and storage of firearms.



Changes in the Arms Legislation Act concerning the licensing of dealers, conditions on their licences, and their record keeping requirements, come into force on 24 June 2021, and have created a need for the Arms Regulations 1992 (the Arms Regulations) to be updated. The administration of the Arms Act 1983 (the Arms Act) could also be improved by adjusting or clarifying some existing regulations, including changes that reflect amendments to the Act that came into force in December 2020.

The regulatory proposals assessed in this paper cover those involving **new policy changes**, involving new obligations on holders of firearms licences and dealer licences. They are enabled by the changes to the Arms Act but require consideration of choices for regulatory intervention to support implementation of changes to the Arms Act.

### **Changes to align the regulations with the Arms Act that are not assessed in this impact assessment**

In respect of those changes that do little more than align the regulations with the Arms Act, there is no new policy. The relevant policy approvals have already been obtained and the impacts of those changes assessed at the time; **there is therefore no impact assessment of these changes in this paper**. Any minor adjustments or clarification of existing regulations are also not covered in this paper.

Those changes to regulations that are **not assessed** in this paper are to:

- reflect the wider range of activities that under the Act will require a dealer's licence, e.g. amendments to the dealer licence application regulation.
- provide that dealer's licence holders be sent a document that sets out all the conditions of their licence and endorsements when their licence is issued, modified or renewed.
- set out the types of standard conditions that will be specific to each type of dealer activity. Extending the activities needing a dealer's licence necessarily involves different licence conditions for different activities, and for the different types of arms items that are involved.
- cover dealers' record-keeping of transactions involving arms items and ammunition. The Act now requires records extending to pistol carbine conversion kits, air pistol carbine conversion kits, magazines and parts by those selling arms items.
- cover dealers' record-keeping of specified information relating to the various types of dealer activities (such as supply of firearm/airguns and associated ammunition for shooting events or at commercial sports venues).
- cover the surrender of a dealer's licence if they no longer wish to carry on their business or if they can no longer comply with one or more of the licence conditions. This is stating what the Act already requires since dealer licences are clearly only for the conduct of activities for which the licence was issued and only authorise dealers to conduct activities according to the conditions on that licence.
- enable Police inspection of arms items and storage of arms items at a dealer's place of business. This follows from the Act requiring secure storage appropriate for the class and number of arms items that the dealer is licensed to deal in.



- make it a condition of every dealer's licence that a dealer must notify Police and arrange a new security inspection if they are intending to change the location of business premises, or alter their premises in a way that will impact on their established security arrangements.
- make it a condition of every dealer's licence that any alteration to the dealer's approved activities or to their approved classes of arms items must be authorised by Police.
- address the licensing of persons who are a business manager type of licensed dealer (for a body corporate or another dealer) to reflect the changes in the Act allowing dealers to operate from more than one place of business provided there is a manager holding a dealer's licence at each place of business.
- cover that employees with endorsements must notify Police if they cease to be employed by a dealer, and dealers must also notify Police. This follows from the amendment to the Act that clarified that any endorsement on the employees' firearms licence to enable them to carry on their duties as an employee is only valid for the duration of their employment.
- cover a discrete endorsement for theatrical armourers. This arises from amendments to the Act which establish a new class of person – a theatrical armourer who supervises the use of specified items for theatrical/cinematic productions - who needs an endorsement to possess these specified items.
- cover storage requirements for ammunition. This arises from the Act now requiring a firearms licence for the possession of ammunition, and firearms licence holders needing to have secure storage facilities for ammunition.
- establish a requirement for ammunition sellers (which excludes dealers) to provide notification to Police of being in business and, to manage the risks associated with ammunition, address the maintenance of their records of transactions involving ammunition and the secure storage of the ammunition they stock. The Amendment Act created security and record-keeping obligations for those firearms licence holders who are selling ammunition as a business activity and the regulations do not cover ammunition sellers.
- establish a requirement that some key parts that are major components of firearms need to be marked at the time of import or manufacture to support the oversight of these items coming into the country. This reflects the requirements now for all parts (as defined in the Act) to obtain a permit for their import, not just parts for specified firearms and restricted weapons, and for all parts that are manufactured by a dealer to be recorded.
- update the language relating to the purchase of specified arms items through mail order or over the internet to reflect the amendments to section 43A.
- to include references to PCCKs that reflect new controls over PCCKs (import permits, permits to possess) in the Act.
- Minor or technical changes to certain sections of the regulations to remedy existing drafting errors or reflect recent amendments made to the Arms Act.

## Changes to align the regulations with the Arms Act that are assessed in this impact assessment

The options that this impact statement seeks to assess relate to changes that are enabled by the changes to the Arms Act. These constitute a mix of technical and policy changes and relate to:

- conditions related to security precautions for dealers
- carriage and use of firearms by dealers
- security precautions for all firearms licence holders (non-dealer)
- firearms in vehicles all firearms licence holders (non-dealer)
- supply of particulars by applicants for firearms licences
- new criteria for finding a person is not fit and proper to be in possession of a firearm.

The primary focus of the options assessed in this paper is to establish a regime that reduces the likelihood of firearms getting into the hands of criminals and being misused, while making sure that the burden placed on lawful and legitimate owners of firearms is reasonable. We can do this by tightening the approach to licensing and by having better controls and oversight of storage and security. For instance, there is a need to define what constitutes adequate security for firearms in vehicles because unsafe storage of firearms in vehicles has become commonplace, and the requirements for safe storage of firearms in vehicles are currently unclear.

This is particularly important in the case of dealers. Dealers hold more stock than the average firearms licence holder, so there is a greater risk to the community if their arms items are not secured against theft. The majority of firearms in the illicit market are sourced through theft of firearms from legitimate firearm owners. There are also more regular times when dealers are not in occupation of the premises where they store firearms. This requires stricter controls on the security they must maintain and detailed record keeping. This is the reason that dealer licences are more closely monitored than firearm licences, with renewals required annually.

Currently, there is little or no ability for Police to enforce the existing storage obligations of firearm licence holders during the tenure of their licence. Current auditing outside of when a licence is issued or renewed or there is a change of address generally occurs only after unsafe practices become evident and either enforcement action or licence revocation is necessary.

Further, there is a need to define what constitutes adequate security for firearms in vehicles because unsafe storage of firearms in vehicles has become commonplace, and the requirements for safe storage of firearms in vehicles are currently unclear.

For the purpose of determining whether a person is a fit and proper person to be in possession of a firearm, while Police may seek and receive any information that they think appropriate and consider information from any source, this is currently done on a case-by-case basis, which is leading to ad-hoc processes and possible inconsistencies.

Within the overall problems identified above there are several distinct sub-issues. These are set out in **Section 2**.

## *Stakeholders*

Firearms regulation impacts a large sector of New Zealand. In addition to New Zealand Police, the following agencies and groups have an interest in the regulatory system:

- Department of Conservation – pest control activities
- Customs NZ – managing cross border trade and preventing illegal imports
- Ministry of Foreign Affairs and Trade – controls on the export of firearms and international obligations
- NZSIS – national security impacts and information sharing
- Department of Internal Affairs – information sharing
- Ministry of Justice – offences and penalties, criminal history checking and human rights
- Ministry of Primary Industry – animal welfare, biosecurity
- Department of Culture and Heritage – museums
- New Zealand Defence Force – exclusions from, or compliance with, requirements in the Act
- Local authorities – pest control, noise and environment management
- Firearms dealers
- Firearms Associations and shooting clubs/ranges
- Rural Women
- Federated Farmers
- Broadcast and theatrical agencies
- Sports shooting competition organisers and competitors
- Firearms collector clubs and re-enactment societies
- Hunting clubs and organisations
- Recreational and professional firearms users
- Otago University School of Public Health
- Gun Control NZ
- Police’s Arms Engagement Group.

## *Consultation*

Under section 74(3), regulations may be made only on the recommendation of the Minister of Police. The Minister must be satisfied that the Commissioner of Police has done everything reasonable to consult with individuals and organisations (or representatives of those organisations) that appear to be affected or likely to be affected by such regulations.

On 22 March a public consultation document “Proposals for new Regulations under the Arms Act 1983” was released and the public had until 25 April to make submissions. Submissions received up until 30 April were also accepted.

Stakeholders views were sought and considered via submissions during the public consultation, and are broadly summarised below, and in more detail in **Section 2**. The feedback submitted by stakeholders has informed Police’s understanding of the potential impacts of the proposed changes, and in some cases have informed the final policy proposals.

## *Summary of submissions*

538 submissions were received, 64 indicated they were from organisations (representative groups and companies), and 463 from individuals.

The organisations that submitted were predominantly firearm community organisations such as Council of Licensed Firearms Owners (COLFO), NZ Service Rifle Association, NZ Antique and Historical Arms Association, Hunting and Fishing NZ, Federated Farmers, NZ Deerstalkers Association and its branches. Those from the non-firearms owning community included Gun Control NZ, Peace Movement Aotearoa, Victim Support NZ, and Royal NZ College of General Practitioners. Police also provided the discussion document to the Māori Commissioner's Focus Forum.

In general, firearm organisations were opposed to many of the proposed regulations, either because they considered that the Arms Act already covers the issue, or that the regulations went further than necessary. Although there was some acknowledgement by those providing a considered response that the regulations had to be aligned with/reflective of changes to the Act.

Most individual submitters took a negative view to having any additional regulations, although the majority of these offered no explanation for their view. Those submitters that provided additional comment suggested the changes added unnecessary complexity and/or compliance to the obligations of firearms and dealer licence holders. This view can be taken to apply to each of the proposals that is discussed below.

Organisations outside of the firearms community were broadly supportive of the proposals, with their main concern being the need to tighten requirements for the security of firearms.

Some proposals, or some aspects of the proposals, received a significant amount of engagement, such as:

- the carriage and use of firearms by dealers outside of their business premises
- the security precautions that all firearm licence holders must take for their personal firearms and ammunition
- the carriage of firearms in vehicles
- the carriage of firearms in public places or on public transport
- the proposals to require marking of major firearm parts
- provision by firearm licence applicants of criminal history checks for countries they have spent more than 6 months in over the previous 10 years
- provision by firearm licence applicants of details of previous spouses or partners over the previous 5 years
- the recording of the numbers and types of firearms when their storage is inspected by Police.

Most of the proposals in the consultation paper set standards and procedures that reflect changes to the Arms Act. Others clarify established provisions. The proposals are likely to have a relatively minor impact on those holding firearms and dealers' licences.

#### *Population implications*

The table on page 30 refers.

### **What objectives are sought in relation to the policy problem?**

The proposals aim to:

- support the purpose and principles of the Arms Act 1983

- give effect to the changes in the Arms Legislation Act 2020 relating to:
  - types of dealer activities
  - conditions on dealers' licences
  - security for firearms (including in vehicles)
  - ammunition sales and the secure storage of ammunition
  - marking of firearm parts
  - pistol carbine conversion kits
  - mail and internet orders
  - review of decisions to refuse to issue a licence or to revoke a licence (section 62 of the Arms Act 1983)
- give transparency and legitimacy to conditions required to be met by licence holders
- establish the basis for the format and content of required forms and documents
- update those current regulations that do not provide clear and comprehensive directions on expectations around legislative requirements
- address some technical matters.

## Section 2: Deciding upon an option to address the policy problem

### What criteria will be used to compare options to the status quo?

Each of the proposals is designed to support the high-level objectives of the Arms Act 1983, and is assessed against the following criteria:

- public safety (achieve safety outcomes);
- practicality (clear, consistent and easy to understand and follow);
- efficiency (giving effect to them isn't harder than it needs to be); and
- cost effective (high, medium or low).

In each case there will be a comparison with the status quo or an enhanced status quo.

### What scope will options be considered within?

#### ***Constraints***

The proposals are constrained by the Arms Act 1983, as amended by the Arms Legislation Act 2020.

#### ***Dependencies***

Achieving the safety and control outcomes of the proposed regulations depends on adequate resourcing by Police to ensure there is sufficient capacity to provide early support and interventions for all firearms licence holders. It also depends on investment in improved firearms management systems, auditing firearms security standards, and Police's detection and risk management protocols and processes.

Police, the firearms sector, and external agencies will need to work collaboratively and share information to support effective risk management.

## What options are being considered?

### Substantive policy changes enabled by the Arms Act requiring approval

Those changes to regulations that are enabled by the changes to the Act but which are more substantive policy changes requiring approval, are assessed in this paper and are those which relate to:

- Conditions related to security precautions (dealers)
- Carriage and use of firearms by dealers
- General security of firearms (firearms licence holders)
- Firearms in vehicles (firearms licence holders)
- Carriage of firearms in public places by firearms licence holders
- Supply of particulars by applicants for firearms licences
- Criteria for finding a person is not fit and proper to possess firearms

The amendments to the regulations will form the basis for forms, conditions on licences, permits, endorsements, and operational processes.

In each case the proposed policy change is assessed against the status quo. The proposed policy change is preferred in all cases.

## Dealers

This section assesses two policy issues:

- Conditions on dealers licences related to security precautions
- Carriage and use of firearms by dealers.

### What is the problem?

It is through dealers that a 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.

One of the most important entry points to the firearms regulatory regime is through licencing, including the licensing of dealers. 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.

Currently a dealer's licence is required by anyone who:

- in the way of business sells any firearm, prohibited magazine, prohibited part, airgun, pistol, or restricted weapon; or



- manufactures for sale any firearm, prohibited magazine, prohibited part, airgun, pistol, or restricted weapon.

From 24 June 2021, the arms items-related activities that will need a dealer's licence are:

- selling, hiring, lending or otherwise supplying;
- possessing for the purpose of auctioning;
- repairing or modifying in the course of business;
- displaying as the director or curator of a bona fide museum;
- manufacturing for sale, hire, lending or other supply; and
- manufacturing for permitted supply prohibited parts and using prohibited items to test and demonstrate prohibited parts.

This means that those classified as a 'dealer' will go beyond just those who sell firearms, airguns, and restricted weapons - or manufacture these items for sale. Activities that would also require a dealer's licence will include, for example, gunsmiths (repairing and modifying), those hiring firearms, and directors or curators of museums (displaying).

The dealers' requirements for record keeping and security against theft are very important to public safety in view of the quantities of stock they hold. While there are regulations setting out requirements for dealers, these regulations are generalised.

The broadening of the activities needing a dealer's licence means that different requirements relating to storage and record keeping (for instance) are needed for the various dealer operations. Regulations set out the process for applying to Police for a dealer's licence, including the information required by Police, and record keeping and security requirements.

The current regulations do not cover all activities of dealers, or the new provisions that enable dealers to operate from more than one place of business. They do not provide for the enhanced management of risks and improved public safety envisaged by the new dealer regime and for Police to have oversight of all aspects of that regime. The next sections set out the specific details in relation to the proposed new / amended regulations relating to dealers.

## **Conditions related to security precautions (dealers)**

### *Context*

Under the new section 5B of the Arms Act, before a dealer's licence can be issued, a commissioned officer of Police must be satisfied that each dealer's place of business has secure storage facilities appropriate for the proposed class and number of arms items and ammunition they will have in stock.

Regulation 8 sets out the conditions relating to security precautions that apply to all dealers. These include (for example) requirements relating to the building structure of their business premises, the condition of doors, windows and skylights, and how firearms must be stored. There are references to firearms being displayed to customers either in secure cabinets or racks or under supervision. Regulation 28 separately covers the secure storage requirements

of pistols, prohibited firearms, and restricted weapons although it is not totally clear that this applies to dealers as well as firearm licence holders.

Police has also created, with the assistance of the Firearms Community Advisory Forum, a secure storage guidance for firearms document. This is directed at firearm licence holders and endorsement holders but some of the recommendations as to technical specifications have relevance for dealers.

## **What options have been considered to address the problem?**

### **Option One – Enhanced status Quo**

Currently, the conditions relating to security precautions are located across multiple regulations, forms, and the Police Secure Storage Guidance document. This makes it difficult for dealers and their employees to know their obligations and complicates their application of these requirements.

This option would make minimal changes to the current regulations and continue to rely on Commissioner's guidance notices (based on Police's Secure Storage Guidance for firearms document) to provide more specific details as to what would meet the required security precautions for each type of activity.

Regulations would only be amended so that current storage requirements also apply to magazines, parts and ammunition, and to require Police to approve all of the necessary security features on a case-by-case basis.

#### *Advantages*

Would be relatively easy to make this regulatory change.

#### *Disadvantages*

Continues to rely heavily on the regulations being supplemented by guidance documents that take time to develop, and conditions on dealers' licences that must be worked through with each dealer. It is riskier from a public safety perspective to have secure storage conditions set out in non-enforceable guidance, which could end up being ignored by a small portion of dealers. It is not unlikely that some dealers will comply only with what is explicit in the law.

### **Option Two – Regulatory change (Preferred)**

This option proposes that regulation 8, which is the principal regulation on a dealer's licence conditions relating to security precautions, be amended as follows:

- clarifying that the security standards in regulation 28 which apply to pistols, prohibited firearms, prohibited magazines, and restricted weapons must be complied with by dealers who hold those items.
- magazines and major parts that are not under the immediate supervision of the dealer or a member of their staff or in a secure display cabinet must be locked in steel boxes, cabinets, safes or a steel and concrete strongroom
- ammunition must be stored securely with the standard being what is proposed for ammunition sellers

- each dealer's building and its security features and the security of the dealer's arms items need to be inspected and approved by a member of Police in every case
- a condition of every dealer's licence that when a dealer alters their security arrangements, or needs new security arrangements because their business activities change, they must notify Police immediately to arrange a new security inspection.

More specific advice on standards, involving technical details, could continue to be set out in Commissioner's guidance notices.

#### *Advantages*

This option would improve the transparency as to what security measures are required in relation to different classes of arms items and ammunition, and provides for Police to reassess these measures when circumstances change.

#### *Disadvantages*

There is still a degree of reliance on the regulations being supplemented by non-enforceable guidance documents.

#### *Impact*

More detail on secure storage requirements and the need for Police approvals on a case-by-case basis in regulations will assist with the application of consistent standards across all dealers to improve the safe possession of firearms. Having more enforceable standards on arms items will contribute to public safety. This would not add to costs for Police. It could involve additional costs for some dealers who need to take remedial action to fully comply with the requirements particularly now that the Act requires greater oversight of the storage and trading in ammunition.

### **Submissions**

Secure storage was seen by some submitters as something that could be reinforced by regulations making more standards that are enforceable. However, there were other submitters who raised concerns over setting standards that are too inflexible and submitted that inclusion of more details of security standards in regulations would benefit from further discussion with stakeholders. As a result of these concerns the preferred option proposes only limited amendments to regulation 8.

## **Carriage and use of firearms by dealers**

### **Option One – Status quo**

The Arms Act 1983 makes it an offence to possess or carry firearms, without lawful purpose, in a public place (section 50D). It also makes it an offence to carry or be in possession of a firearm or imitation firearm except for some lawful, proper and sufficient purpose (sections 45 and 46).

Both the Act and the regulations are silent on the dealers' carriage of arms items outside the curtilage of their place of business and the use of firearms they have in their possession when conducting business.

Under this option there is no change to the regulations; the carriage of firearms outside of a dealer's place of business and any use of firearms in their role as a dealer, would be subject to conditions of their dealer's licence prescribed by the Commissioner (under regulation 28D).

#### *Advantages*

This provides flexibility to prescribe conditions on dealer licences that take into account the needs of the particular dealer activities.

#### *Disadvantages*

This provides only limited consistency around the movement and use of firearms by dealers.

### **Option Two – Regulatory change (Preferred)**

The inclusion of a new regulation that sets out conditions on dealers' licences in relation to the carriage and use of firearms by dealers. This regulation would:

- require that any firearm, prohibited magazine, restricted weapon, or pistol carbine conversion kit possessed pursuant to a dealer's licence must remain on the dealer's business premises at all times, except
  - when being delivered to the address (where there is security) of a licenced firearms holder authorised to take possession
  - when the dealer's licence conditions or specific permits authorise the dealer to carry these arms items (in a secure manner) between that place of business and another location such as a licensed gunsmith, another store, another dealer's premises, or a Police authorised gun show, or
  - when there is written permission from Police in a particular instance to remove the item to another location (such as for a theatrical production)
- set out that a dealer is only permitted to test fire a prohibited firearm or pistol (target pistol) at a Police approved firearms range or in a bullet trap at their business premises; and may be fired only for the purposes of carrying on an activity authorised by their dealer's licence.

#### *Advantages*

This provides both transparency and clarity as to the lawful carriage and use of firearms by dealers. It clarifies that removal of dealers' firearms from their premises is by exception through licence conditions and written approvals from Police, consistent with what applies to licence holders generally. These conditions provide for the expanded types and circumstances of dealer licences and activities over and above the gun shop scenario.

#### *Disadvantages*

This creates a requirement for dealers to occasionally make an additional application (or applications) to the Police should they wish to move or use firearms in situations outside that covered by their licence conditions. This is not considered to create many difficulties for dealers.

## *Impact*

Most of the required approvals would be of an ongoing basis (through licence conditions), but there would be additional administration for Police and dealers on occasions when additional approvals were required from Police. Tightening up circumstances when dealers' firearms and ammunition are taken from dealer's premises where they may be more vulnerable to theft will mitigate against the risks to public safety.

## **Submissions**

Although some submitters thought it unnecessary and burdensome, clarifying that the removal of dealers' firearms from their premises is by exception through licence conditions and written approvals from Police is consistent with what applies to licence holders generally.

## **Security precautions for firearm licence holders**

This section assesses three policy issues:

- General security of firearms (firearms licence holders)
- Firearms in vehicles (firearms licence holders)
- Carriage of firearms in public places by firearms licence holders

## **What is the problem?**

The current regulations set out the security precautions that apply to all licence holders (regulation 19) and the security precautions that must be taken in relation to pistols, prohibited firearms and restricted weapons (see regulation 28).

However, an analysis of a sample of 246 reported cases of stolen firearms between 1 July 2016 and 30 June 2018 indicated that the firearms were adequately stored in only 15 percent of cases, that the firearms had not been adequately stored in 33 percent of cases, and there was no record of storage conditions in 52 percent of cases.

The cases where there was inadequate storage involved:

- the victim leaving the firearm unattended in an insecure location (72%)
- the offender being able to remove the locks/hinges off the storage to gain access (14%)
- the storage unit not permanently fixed to wall/floor and therefore taken (10%)
- the keys for storage unit not securely stored (4%).

While only a sample of cases, the above outcomes indicate there are a range of practices where licence holders are leaving a firearm in an insecure location, and this increases the risk of unauthorised access to the firearm, and an increased risk to the community.

Police, with assistance from the Firearms Community Advisory Forum (FCAF), produced a [Secure Storage Guidance](#) document that recommended standards such as technical specifications that would enable compliance with the regulations.

## General security of firearms

### Option One: Status quo

The regulations set out licence holders' requirements for securing their firearms, but leave certain aspects open to interpretation (for instance, what constitutes 'stout construction' in relation to arms items, and what standards a display cabinet or rack must meet to ensure the firearms are reasonably secured against theft). Police's Secure Storage Guidance document provides guidance on how the security conditions can be met to facilitate national consistency.

In relation to the higher security requirements for prohibited firearms, pistols, prohibited magazines and restricted weapons, the regulations set out that measures are to be approved in writing either generally or in the particular case by a member of Police. General approvals for products, such as types of safes, can create difficulties over time owing to the manufacturer's product changes.

This option involves no change to regulations.

#### *Advantages*

Making no changes to regulations provides for details to be flexibly dealt with through guidance that is consulted with stakeholders.

#### *Disadvantages*

The regulations currently leave certain key aspects open to interpretation which does not lead to consistency of best practice. Guidance that falls short of regulations does not have the same enforceability of compliance. There is also no material in the existing regulations or guidance material that covers the situations of mobile homes or caravan units.

### Option Two: Regulatory Change (Preferred)

Under this option it is proposed that the regulations are amended to provide that:

- all locked cabinets, containers etc in which firearms are stored must be secured to the building
- standards on which Police will consider approvals will be based on those set out in the Commissioner's guidance notices (when these are published) and until then those set out in Secure Storage Guidance on Police's website.
- that each licence holder's total storage facilities need to be approved by a member of Police at the time their licence is issued (or renewed), following a full inspection of individuals' storage boxes, cabinets, safes, racks and similar and the manner in which they are locked and/or secured to the building containing them. This is also to be the case when Police is conducting an inspection under s24B.

It is also proposed that the regulations set out that the standard security provisions above apply to firearms stored in mobile homes, campervans, and caravan units (with any necessary vehicle-related variations) and be approved by Police.

### *Advantages*

Approvals of arrangements for the secure storage of firearms and ammunition that must comply with standards (that are currently only in Police guidance documents or will be in Commissioner's guidance notices) should lead to greater consistency of compliance with those standards.

### *Disadvantages*

May reduce flexibility to modify standards, although this risk can be minimised by retaining many of the detailed standards in guidance material.

### *Impact*

Requiring approvals by Police in each particular case that must be based on standards in official Guidance documents will help to establish and maintain standards that more effectively prevent the theft of firearms from licence holders. This will improve public safety.

## **Submissions**

A range of organisations supported the proposals in the consultation document, including approvals by Police on a case-by-case basis. There were mixed views as to whether this was something that should be reinforced by regulations making more standards that are enforceable or whether details could remain included in guidance material. On balance, it was decided to only make limited amendments to regulations, leaving additional details to be set out in Commissioner's guidance notices at a later date that are enforceable through the regulations.

There were submissions that thought storage regulations applying to permanent dwellings should apply to motor-camper and motor-home owners. Others thought that they should apply to temporary places of residence like boarding schools, university halls of residence, and holiday homes, and to the storage of firearms on school property. This can be looked at when developing guidance.

## **Firearms in vehicles**

### **Option One: Status Quo**

Section 24B(1)(d) sets out that a licence holder must permit Police to inspect the security arrangements in any vehicle used by the holder to transport firearms.

The regulations are silent on what security arrangements are appropriate for firearms being transported in a vehicle, such as being in secure containers. Regulation 19(2)(c) sets out that a firearm cannot be left in a vehicle unattended.

This option involves no change to regulations.

### *Advantages*

Provides for details to be flexibly dealt with through guidance that is consulted with stakeholders.



## *Disadvantages*

There is a lack of enforceability with standards that will remain at the level of guidance. Regulation 19(2)(c) has led to some taking the view that, unless the vehicle remains always in sight, a person always has to take the firearm with them whenever they leave the vehicle, which can involve them carrying the firearm in public view and into public premises. This needs to be balanced against the fact that firearms are particularly vulnerable to theft when left in unattended vehicles.

## **Option Two: Regulatory change (Preferred)**

Under this option it is proposed that, unless permitted to do otherwise by Police, when firearms/ammunition are transported in a vehicle on a public road/access way:

- ammunition should be concealed from view from the outside, preferably in a locked boot, locked glovebox or similar compartment that can secure the items
- firearms must be concealed from view from the outside, preferably in a locked boot and made inoperable if readily possible by removing the bolt or another vital part, or if this cannot be done (for example a lever action or semi-automatic or single shot firearm) then fitted with a trigger lock
- firearms must not be loaded with ammunition in the magazine or the breech
- firearms should be stored separately from any bolt, vital part, or ammunition which is to be out of sight.

The vehicle storage requirements are not to apply to a firearms licence holder who is using a vehicle when employed on a farm and undertaking farm-related duties, or when actively engaged in hunting, or when undertaking wild animal or pest control and the vehicle and firearm remain in the user's possession or in the immediate proximity to the firearms licence holder.

Motorcyclists carrying firearms must render the firearms incapable of operation and contained within a locked case or carry bag.

Firearms and/or ammunition may be left unattended in a vehicle during a break in a journey for up to 30 minutes if the owner is in the immediate area/vicinity of the vehicle, the firearms and/or ammunition are secured and out of sight, where possible a vital part of the firearm remains in the possession of the licence holder, the vehicle is locked, the windows closed and the keys remain in the possession of the licence holder. If the vehicle is to be left unattended for more than 30 minutes, the firearms and/or ammunition must be removed from the vehicle to a more secure location or under the direct possession and control of the licence holder.

There is to be an exception when travelling on a vehicle and passenger ferry (consistent with legal requirements of the ferry) when the vehicle may be left unattended for the duration of the journey if drivers and passengers are required to be removed from the vehicle decks, provided the vehicle is locked, the windows closed, and the keys are not in the vehicle.

### *Advantages*

These proposals would help to clarify and consolidate the rules around the carriage of firearms in vehicles, and more practically take into account the issues around carriage and storage of firearms in vehicles, particularly when licence holders leave their vehicles with firearms in them during breaks in a journey.

### *Disadvantages*

There would not be the same flexibility as there would be if left to guidelines.

### *Impact*

Changes to current regulations would give licence holders clarity on how they can act lawfully when transporting firearms in vehicles where previously this was not clear. It would reduce thefts of firearms from vehicles (and Police data shows that about a third of all firearms stolen are stolen from unattended vehicles) and so improve public safety. There would be some compliance costs for licence holders who cannot currently meet the proposed standards.

### **Submitters**

There was some support for allowing firearms to be left in vehicles for short periods if the firearms are out of sight and the vehicle is secure as this avoids the owner having to remove the firearm from the vehicle during short stops.

There was a range of submissions critical of one or more aspects of the proposal and /or suggested modifications to the proposals.

In particular, there were concerns raised by submitters over needing to have each firearm in a vehicle secured to an anchor point and that vehicles containing firearms, and which are left unattended for short periods of time, must have an immobiliser and/or alarm fitted. These concerns are acknowledged and the original proposals have been modified accordingly.

## **Carriage of firearms in public places**

### **Option One: Status quo**

Sections 50D and 51 set out the offences of carrying or possessing firearms, restricted weapons, ammunition or explosives in a public place without lawful purpose.

There will be occasions when a person has a lawful purpose for carrying a firearm in a public place (including on public transport); for instance, when carrying the firearm to and from a place where they can lawfully be used (such as a shooting range).

This option involves no change to regulations, with the possibility that best practice for carriage of firearms in public can be dealt with through guidance.

### *Advantages*

Provides for details to be flexibly dealt with through guidance that is consulted with stakeholders.

### *Disadvantages*

There are no regulated safe practices for when firearms are carried in public places or on public transport. There is a lack of enforceability if there is reliance on guidance only.

### **Option Two: Regulatory change (Preferred)**

It is proposed that regulations set out that when firearms are carried on public transport (where that is not excluded by the conditions of carriage of the transport provider) or in public places where the use of firearm is not permitted (and not including shooting ranges) they must be unloaded, rendered inoperable by removal of bolt or affixing a trigger lock, carried in a locked carrying case or bag and remain with the holder at all times.

The public places covered by this rule will exclude individuals authorised to provide pest control services who are on public land and licenced firearms owners undertaking legal hunting or shooting activities when they are on public lands or on shooting ranges that may occupy publicly-owned land.

### *Advantages*

This will provide clear rules for those needing to carry firearms on public transport or on public land, and at the same time addresses safety considerations. Regulations have greater force and enforceability than guidelines or Guidance Notices.

### *Disadvantages*

Not the same flexibility as there would be if left to guidelines.

### *Impact*

Will give licence holders clarity on how they can act lawfully and safely when carrying firearms in public where previously this was not clear. Compliance costs for licence holders would be low.

### **Submissions**

There was some support for the proposed rules for the carriage of firearms in public places provided hunting on the conservation state is not also unwittingly captured.

Other submitters raised concerns about the impracticality of having a firearm bag or case that does not identify the contents and the need to clarify the position of hunters on public land. These have been noted and the original proposal was modified.

## **Amendments to implement recommendation 23 of the report of the Royal Commission of Inquiry into the terrorist attack on Christchurch masjidain on 15 March 2019**

This section assesses two policy issues:

- Supply of particulars by applicants for firearms licences
- New criteria for finding a person is not fit and proper to be in possession of a firearm.

## What is the problem?

Recommendation 23 of the RCOI report directed New Zealand Police (or other relevant entity) to require two new processes in the case of applicants who have lived outside of New Zealand for substantial periods of time in the ten years preceding the application:

- a. Applicants should be required to produce police or criminal history checks from countries in which they have previously resided; and
- b. Firearms Vetting Officers should interview family members or other close connections in other countries using technology if the applicant does not have near relatives or close associates living in New Zealand.

## Supply of particulars by applicants for firearms licences

### Option One - Status quo

For the purpose of determining whether a person is a fit and proper person to be in possession of a firearm, a member of Police may seek and receive any information that they think appropriate, and consider information from any source (section 24A(3)).

Regulation 15 sets out the particulars that an application for a firearms licence must include.

Police may, as a matter of operational practice, use technology to interview overseas family members or other close connections, and on a case-by-case basis request information on overseas stays (or other information), or ensure that the applicant has referees based in New Zealand. Also, regulation 28B allows the Commissioner to prescribe forms of applications required for the purposes of the Act.

#### *Advantages*

Making no new regulations, and leaving to operational practice, or the Commissioner's power to prescribe forms, to request additional particulars from applicants for licences, keeps it more open ended as to what information Police may receive to help them determine if a person is fit and proper.

#### *Disadvantages*

On a case-by-case basis Police could request travel history or foreign criminal record checks. However, the application may be delayed if the fact that someone has lived or travelled overseas does not come to light until the interview stage. There is also a risk that critical information relevant to a fit and proper person test is ignored or goes unchecked. Changing the application form without changing the regulations may lead to challenges that Police is requiring information that does not legally have to be provided in order to obtain a licence.

### Option Two – Regulatory change (Preferred)

To avoid ad-hoc processes and possible inconsistencies, and put standard practice into regulations, Police considers it is better to be transparent from the beginning about what information is required when applying for a firearms licence. The combination of section 24A(1)(n) and section 74(1)(bb) enables regulations to provide criteria, not inconsistent with the Act, for finding that a person is not a fit and proper person to be in possession of a firearm.

Under this option it is proposed that regulation 15 is amended to require the following information to be supplied when completing an application form:

- a) a list of countries travelled to (excluding transits) or lived in over the previous 10 years, with total time visited or resident in each country (*new requirement*)
- b) a criminal record check for each overseas country in which the applicant has lived for over 6 months (not necessarily consecutive) in the past 10 years at the applicant's cost (*new requirement*)
- c) the name and address and contact details of a spouse, partner, or near relative (which may include someone who is residing overseas) who knows the applicant well of whom inquiries can be made about whether the applicant is a fit and proper person to be in possession of a firearm (*the requirement to give the name is in the Regulations, that inquiries are to be made of them is standard practice but not currently specified in Regulations*)
- d) the details of all parents and legal guardians if the applicant is 16 or 17 years of age (*standard practice but not currently specified in Regulations*)
- e) where the applicant does not have a spouse, partner, or near relative who knows them well they will need to provide a close associate who knows them well (*standard practice, but not currently specified in the Regulations*)
- f) the name and address and contact details of any ex-spouse or ex-partner from the 5 years immediately preceding the application of whom inquiries can be made about whether the applicant is a fit and proper person to be in possession of a firearm (*standard practice, but not currently specified in the Regulations*)
- g) the name and address and contact details of a person (in addition to the above) who resides in New Zealand and who knows the applicant well of whom inquiries can be made about whether the applicant is a fit and proper person to be in possession of a firearm (*the requirement to reside in New Zealand is a new specification*)
- h) if the spouse, partner, near relative, or close connection is overseas, a further New Zealand-based referee will be required - whether or not Police is able to interview the overseas person (*new requirement*).

It is also proposed that Regulation 15 makes it clear that the Commissioner may also request other information on the application forms. This is in line with current practice.

#### *Advantages*

This fills in what is otherwise a potential gap in full background checks on firearms licence applicants that are needed to bring to light behaviour (otherwise not disclosed or uncovered) that will affect an assessment of an individual's suitability to be in possession of firearms.

#### *Disadvantages*

This will lengthen the licensing process timeframe for some applicants.

#### *Impact*

There are additional compliance costs for licence applicants required to produce criminal histories from overseas jurisdictions, but this is considered appropriate in order to put in place

further safeguards for the safe possession and use of firearms at the control point of issuing firearms licences. This will contribute to public safety.

## Submissions

The majority of submitters supported all the above proposals except for providing information on previous partners of the last 5 years (where concerns were raised over privacy considerations and the potential for misrepresentation by previous partners). Police considers that these concerns can be managed through good interviewing practices. There were no strong arguments from the submissions that identified any issues with the proposals.

## New criteria for finding a person is not fit and proper to be in possession of a firearm

### *Context*

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.

Criteria as to what makes a person **not** fit and proper to possess a firearm are now set out in the Arms Act. Under the Arms Act, Police is empowered to seek further information to establish if there is a concerning pattern of behaviour. It is important that it is clear in the legislation (and, in this case, the regulations) about the consequences of Police not being satisfied with the information provided by firearms licence applicants.

### Option One – Status quo

Section 24A(1)(a) to (m) provide the grounds upon which Police may find a person is not fit and proper to possess firearms and paragraph (n) along with section 74(1)(bb) provides for regulations to provide additional criteria. There are currently no regulations setting out when Police may decide an applicant is not fit and proper.

### *Advantages*

Although it could be left to operational decisions that a person cannot be determined as fit and proper if Police lack information considered necessary for that determination, there are no apparent advantages with not using the regulation-making power to regulate for this.

### *Disadvantages*

Without regulations that clearly and publicly set out the consequences of inadequate information, there is a risk the current decision-making process for applications can become ad-hoc and inconsistent.

### Option Two – Regulatory change (Preferred)

Police considers it is better to be transparent from the beginning about the consequences of Police not being satisfied with the information provided.

It is proposed that regulations specify that Police may find an applicant to not be fit and proper to possess firearms if any of the following apply:

- the applicant has spent time outside New Zealand in the last 10 years and Police has sought reasonable information about this to inform a decision as to whether the person is fit and proper to possess firearms and has not received it from the applicant, or been able to verify the information provided
- referees are unable to provide sufficient information to enable Police to be satisfied that a person is fit and proper to possess firearms (this will apply to all applicants)
- the identity of any overseas referee cannot be confirmed or the referee cannot be contacted.

#### *Advantages*

This reinforces the need for Police to have sufficient information on firearms licence applicants through full background checks before determining an individual's suitability to be in possession of firearms.

#### *Disadvantages*

None apparent as this is essentially codifying best practice.

#### *Impact*

More licence applications will be declined as this will include those where information on overseas residency by an applicant that could be relevant to their fit and proper status is not available. This provides an additional safeguard for ensuring the safe possession and use of firearms at the control point of issuing firearms licences. This will contribute to public safety.

#### **Submissions**

The majority of submitters supported the proposal in the document. There were no substantive issues raised by the submitters.



## Distributional impacts

Population group	How the proposals may affect this group
Māori	<p>Of the 59% of firearms licence holders that have their ethnicity recorded in police data, 7% are Māori. Most of the proposals in this paper are technical regulations that will impact on those already involved in the sale and supply of firearms and ammunition, particularly licensed dealers. Police does not hold data on the ethnicity of the approximately 468 licensed dealers. However all dealers are required to hold a standard licence and therefore their demographics are likely to be similar to the general licence holder population. It is therefore expected that the impact on Māori of the majority of the proposed changes will be minimal.</p> <p>The proposals, particularly those concerning the secure storage of firearms, are aimed at the critical control points in the system for improving public safety by preventing criminal misuse of firearms. Consequently, reducing the opportunity for firearms to get into criminal hands should reduce the opportunities for people to become victims of firearms crime. Based on a sample of data, in 2018, Māori represented 29.6% of victims of firearms offences<sup>2</sup> where there was an identified victim whose ethnicity was known, and by 2020 this had increased to 37.3%.<sup>3</sup></p>
Women	<p>There are around 250,000 licence holders and 468 dealers in New Zealand. Approximately 91% of firearms licence holders are men. Of the 468 dealers, 94% are men and 6% are women. However, when households are considered, a sample survey shows the proportion of women living in households where there is a gun owner, increases to 13.7 percent.<sup>4</sup></p> <p>The proposals in this paper would have a greater direct impact on men with regard to compliance, but their impact in increasing safety in the possession and use of firearms and less firearm offending will impact more equally on men and women with regard to victimisation.</p> <p>Determining precisely how men and women respectively are impacted as victims of firearms-related offences is difficult as some offences will have both male and female victims. However, from a sample of data held from 2011 to 2020, on offences with a firearm where there is a</p>

<sup>2</sup> This only includes a sample of Police data on firearms-related offences more likely to have an identified victim and does not include possession-only offences. Only offences where a victim was recorded, and the victim's ethnicity was known, have been included.

<sup>3</sup> In the 2018 census, Māori were recorded as 16.5% of the New Zealand population. Stats NZ estimates that this increased to 16.7% in 2020.

<sup>4</sup> Prickett K.C. and S. Chapple (2021) "Over the barrel of a gun? Trust, gun ownership and the pro-gun lobby in Policy quarterly – Vol 17, Issue 2- May 2021.

	recorded victim (all genders) 65.8% had a recorded male victim, while 42.5% had a recorded female victim.
Rural communities	Individuals with ready access to rural areas frequently use firearms for hunting/recreational/pest control purposes (although we are unable to provide an estimate of the number of firearms holders in rural areas). Police has made exceptions for this type of use in the regulations in various cases (e.g. transport of firearms in vehicles and in public places).

## How do the options compare to the status quo/counterfactual?

This section provides an assessment of each option against the criteria. In the table below, 'Option 1' refers to the status quo and 'Option 2' refers to the proposed

### Example key for qualitative judgements:

- ++ much better than doing nothing/the status quo/counterfactual
- + better than doing nothing/the status quo/counterfactual
- 0 about the same as doing nothing/the status quo/counterfactual
- worse than doing nothing/the status quo/counterfactual
- much worse than doing nothing/the status quo/counterfactual

regulatory change.

Issue	C1: Public safety		C2: Practicality		C3: Efficiency		C4: Cost effective	
	Option 1	Option 2	Option 1	Option 2	Option 1	Option 2	Option 1	Option 2
Conditions related to security precautions (dealers)	0	++ Secure storage is a key control point for preventing firearms being diverted from legitimate owners to the black market and would be reinforced by regulations. Ensures all dealer activities are covered by conditions relating	0	+ Limited amendments to regulations, with detail to be set out in Commissioner's guidance notices at a later date.	0	+ Ensures that security precautions are clarified in one regulation, instead of across multiple regs, forms and guidance, (with further detail to be included in guidance at a later date).	0	+ The additional security and storage requirements are likely to involve some low to moderate additional costs for dealers and administrative costs for Police. However, these costs are more than balanced by the costs saved by preventing thefts of firearms (police costs, costs of criminal consequences)

		to security precautions.						
Carriage and use of firearms by dealers	0	<p>++</p> <p>This is consistent with what applies to licence holders generally. Provides for the expanded types of dealer activities.</p>	0	<p>+</p> <p>Some submitters consider requirements for prior notification of carriage and use burdensome, impractical and restrictive. But most of the required approvals would not require written approval by Police on each occasion.</p>	0	<p>+</p> <p>Most of the required approvals, such as for sighting, test firing, repairing and modification would be of an ongoing basis (through licence conditions) so would not require particular written approval by Police for each of those occasions</p>	0	<p>0</p> <p>This is codifying what is best practice, so there are minimal cost implications</p>
General security of firearms (firearm licence holders)	0	<p>++</p> <p>Secure storage is a key control point for preventing firearms being diverted from legitimate owners to the black market</p>	0	<p>+</p> <p>Limited amendments to regulations, with detail to be set out in Commissioner's guidance notices at a later date.</p>	0	<p>+</p> <p>The proposal for case by case approval does not envisage all storage containers need to be inspected at time they are purchased or installed.</p>	0	<p>+</p> <p>The security and storage requirements are likely to involve minimal additional costs as they reflect existing secure storage requirements in guidance. May be additional costs for firearms stored in mobile homes, campervans, caravan units for which there is no existing security guidance. Costs are more than balanced by the costs</p>

								saved by preventing thefts of firearms (police costs, costs of criminal consequences)
Firearms in vehicles (firearm licence holders)	0	++ Clarifies in regulations what security arrangements are appropriate for firearms/ammunition being transported in a vehicle and imposes requirements around firearms left unattended in a vehicle.	0	+ Provides practical exceptions for: licence holders using vehicles on farms or actively engaged in hunting; for leaving firearms unattended in a vehicle for a short time; and for those travelling on a passenger ferry.	0	0 Imposes clear rules for security requirements on firearms transported in vehicles.	0	0 Likely minimal costs involved given the proposed requirement to secure firearms to anchor points in vehicles is not being pursued at this time.
Carriage of firearms in public places (firearm licence holders)	0	++ Introduces requirements for safe practices for when firearms are carried in public places or on public transport.	0	+ Provides practical exclusions for individuals authorised to provide pest control services and hunting activities on public land.	0	0 Provides clear rules for carriage of firearms in public places without lawful purpose.	0	0 Compliance costs for licence holders would be low.
Supply of particulars by applicants for firearms licences	0	+ Fills in potential gap in full background checks for firearms licence applicants to	0	+ Replaces current ad-hoc processes and possible inconsistencies in	0	+ Minimises ad hoc processes and inconsistencies, but will lengthen the	0	- Will create additional compliance costs for

		bring to light behaviour that will affect an assessment of a person's suitability to possess a firearm/s. Will contribute to public safety.		information requested with clear requirement in regulations. May be difficult for applicants to obtain criminal record checks from overseas.		licencing process timeframe for some applicants.		licence applicants required to produce criminal histories from overseas jurisdictions.
Criteria for finding a person is not fit and proper to possess a firearm	0	<p style="text-align: center;">+</p> Provides transparency in regulations about circumstances whereby Police may find an applicant to be not fit and proper to possess firearms. Additional safeguard in licencing process that will contribute to public safety.	0	<p style="text-align: center;">+</p> Essentially codifies best practice.	0	<p style="text-align: center;">+</p> Replaces ad-hoc processes and possible inconsistencies with greater transparency in regulations.	0	<p style="text-align: center;">+</p> More licence applications will be declined as this will include those where information on overseas residency is not available. May create an additional cost on licence applicants. Saves on possible costs arising from firearms being legally owned by unsafe people.

### **What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?**

At present, the regulatory settings in the Arms Regulations do not provide sufficient clarity for managing the risk of potential misuse of firearms. At the same time, legitimate firearms use is widespread and popular, both recreationally and for business purposes. The controls on firearms need to be comprehensive as they apply to items generally designed for lethal purpose. Society has allowed people to use these items but subject to assurance that there are tight controls commensurate to the risk they represent. This is because when things go wrong the impacts on third parties can be serious. The impact of firearms misuse falls on the families of victims, the communities in providing the support needed, and the costs to the taxpayer and government in the response required to deal with the situation.

Our conclusions and proposals therefore reflect this. Having a strengthened licencing system across the board through additional regulations would enable more consistent decision making. For firearms licence applicants and existing licensees, it will mean greater transparency and certainty.

The recommendations are those that best fit with the assessment criteria, in particular to protect personal and public safety. They are also the options that best address the specific policy problems identified.



## What are the marginal costs and benefits of the option?

<b>Affected groups</b> <i>(identify)</i>	<b>Comment</b> <i>nature of cost or benefit (e.g. ongoing, one-off), evidence and assumption (e.g. compliance rates), risks.</i>	<b>Impact</b> <i>\$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.</i>	<b>Evidence Certainty</b> <i>High, medium, or low, and explain reasoning in comment column.</i>
<b>Additional costs of the preferred dealer options compared to taking no action</b>			
Regulated groups (Firearm and airgun dealers)	The proposed security and storage requirements for some dealers are likely to involve some low to moderate additional costs – in particular for those (most likely gunsmiths) who do not currently hold a dealer’s licence but who would be required to under the proposed regulations.	Low - Medium	Medium  Feedback from submitters was that security requirements would impose additional costs on dealers, but no examples given.
Regulators (Police)	Should the additional security and storage requirements be the chosen option, then Police would incur administrative costs of security inspections.	Low - Medium	High  The expanded range of activities captured by dealer licences would require Police to inspect a greater number of premises.
Wider government	N/A	N/A	N/A
<b>Total monetised costs</b>	<i>Unable to be quantified</i>	Medium	Medium
<b>Non-monetised costs</b>	<i>The requirements for storage and security (including Police inspections) would make dealing firearms more restrictive</i>	Low	Medium

	<i>(particularly for gunsmiths).</i>		
<b>Additional <b>benefits</b> of the preferred <b>dealer</b> options compared to taking no action</b>			
Regulated groups	The proposed changes relating to security and storage by dealers would clarify the requirements for dealers.	Low - Medium	Medium
Regulators (Police)	The security changes would reduce the risk of firearms being stolen, and resultant risks to Police of firearms in criminal hands; and reduce need for Police follow up to stolen firearms.	Medium	Medium
Wider government	N/A	N/A	N/A
Other parties (General Public)	The general public would benefit from there being less potentially dangerous items in circulation, due to stricter security requirements on dealers to prevent their firearms being stolen.	Medium	Medium
<b>Total monetised benefits</b>	Unable to be quantified.	Medium	Medium
<b>Non-monetised benefits</b>	Increased safety for both the Police and the general public.	<i>Medium</i>	<i>Medium</i>
<b>Additional <b>costs</b> of the preferred <b>licence holders</b> option compared to taking no action</b>			
Regulated groups (Firearm licence holders)	The general security and storage requirements for firearm licence holders would be likely to involve minimal additional costs as they reflect existing secure storage requirements in guidance. There may be additional	Low	Low  Some submissions indicated that there would be additional costs on licence holders.

	costs on those who wish to store firearms in mobile homes, campervans, caravan units for which there is no existing security guidance.		
	The proposed changes relating to transport of firearms in vehicles are likely to involve minimal costs given the proposed requirement in the consultation document to secure firearms to anchor points in vehicles is not being pursued.	Low	Medium  The main feedback in submissions was that the cost of attaching firearms to anchor points in vehicles would be prohibitive, hence the decision not to pursue this change.
	Should the proposed requirements for carriage of firearms in public places by licence-holders be introduced, the compliance costs are likely to be low.	Low	High  This would not impose new costs on licence holders.
	The proposal relating to the supply of additional particulars by applicants for firearms licences will create additional compliance costs for licence applicants required to produce criminal histories from overseas jurisdictions.	Low - Medium	High  Feedback in submissions was that this change would impose additional costs on licence applicants.
	Should the criteria for finding a person not fit and proper be introduced, more licence applications will be declined as these will include	Low - Medium	Medium

	those where information on overseas residency is not available. May create an additional cost on licence applicants seeking to provide this information.		
Regulators	There will be additional administrative costs on Police associated with processing additional information provided as part of licence applications.	Low	Medium
Others (e.g. wider govt, consumers, etc.)	N/A	N/A	N/A
<b>Total monetised costs</b>	<i>Not able to be quantified.</i>	<i>Low-Medium</i>	<i>Medium</i>
<b>Non-monetised costs</b>	<i>The non-monetised costs on individuals include the additional time required to apply for firearms licences; inconvenience from having licence applications declined; and inconvenience from modifications that may be required to implement any new storage/security requirements</i>	<i>Low-Medium</i>	<i>Low-Medium</i>
<b>Additional <b>benefits</b> of the preferred <b>licence holders</b> option compared to taking no action</b>			
Regulated groups	The proposed changes would clarify the storage and security requirements for firearms licence holders and the requirement to supply additional information as part of licence applications.	Low	Medium
Regulators	The security changes would reduce the risk	Medium	Medium

	of firearms being stolen, and resultant risks to Police of firearms in criminal hands; and reduce need for Police follow up to stolen firearms.		
Others (e.g. wider govt, consumers, etc.)	The safety of the general public would benefit from the stricter security requirements on licence-holders and the requirement to supply additional information as part of licence applications.		
<b>Total monetised benefits</b>	<i>Not able to be quantified</i>	<i>Medium</i>	<i>Medium</i>
<b>Non-monetised benefits</b>	<i>Increased safety for both the Police and the general public.</i>	<i>Medium</i>	<i>Medium</i>

## Section 3: Delivering an option

### How will the new arrangements be implemented?

The proposed new regulations will not require a complex implementation process. Apart from making the regulations the key implementation tasks will be:

- Amending forms
- Designing processes for licence applications and renewals
- Developing standards for assessing whether an applicant is fit and proper to hold a dealer's licence

When the new provisions in the Arms Legislation Act relating to dealers come into force on 24 June there will be a gap before the earliest point at which new dealer licences can be granted under the new regime. To address this, there will be transitional provisions in the regulations.

There will be a gap between the coming into force of the Act's new provision and the regulations proposed in this paper relating to dealer licences. Police will operationalise what is in the regulations regarding transitional arrangements for dealers ahead of their coming into force.

## How will the new arrangements be monitored, evaluated, and reviewed?

Police will monitor the consistent application of the regulations through:

- Information collected by Police during the dealer licence application process which takes place annually for each dealer and includes an audit of their security
- Information collected by Police during firearm licence applications relating to applicants' overseas travel and overseas-based referees
- Recording the outcome of inspections of licence holders' firearms and their storage
- A database that records all licence suspensions and revocations.

Measures which will be used to assess the performance of the regulations, include:

- Numbers and outcomes of reviews of licence refusals, suspensions, and revocations
- Numbers and outcomes of firearm licence applications where overseas travel, or overseas-based referees, were a consideration in determining whether to issue a licence
- Numbers and outcomes of appeals to District Court on licensing decisions
- Numbers and outcomes of licence holder security inspections, including secure storage in vehicles
- Numbers and outcomes related to burglaries at licence holder properties and at non-licence holder properties where firearms were taken.

Consistent with a recommendation from the Controller and Auditor-General's report of May 2020 on Implementing the firearms buy-back and amnesty scheme, Police is designing and implementing a framework to evaluate the extent to which changes to firearms regulations have made New Zealand safer.

In addition to ongoing monitoring of licensing decisions and audits / inspections outlined above, the regulations will need to be reviewed as part of the review of the Arms Act that needs to take place after three years of the changes in the Arms Legislation Act being in force.