

Submission to the Select Committee on the Arms Legislation Bill:

Increase in Offence penalties

1. This Bill contains significant increases to penalties for existing and new offences. COLFO has compiled a table of the most significant, attached as Appendix A.
2. We are not aware of any evidence that should have persuaded the government that these increases will do anything to deter unsafe firearm use. It is likely to have the opposite effect – it will make criminals out of those people who in all other aspects have been law abiding citizens, generally ready and willing to support the Police and to play their part in reporting and deterring crime in their communities.
3. The Prime Minister’s former Chief Science Advisor, Sir Peter Gluckman, has stated in advice to the Government that there is no evidence of the supposed ‘deterrent’ effect of harsher sentences.¹ And the Government’s Safe and Effective Justice Advisory Group, Te Uepu Hapai i te Ora, advises that an overemphasis on punishment criminalises too many people.
4. In fact Te Uepu Hapai i te Ora, specifically drew attention to the punishment regime for minor driving offences stating –

“However, many people told us that the costs associated with complying with our driving laws (for example, obtaining a valid driver licence in rural areas where it is necessary to travel out of town to do so) can be prohibitively high. As a consequence, many people with limited resources end up breaking the law.”²
5. The penalty regime imposed by this Bill, which creates fines of up to \$10,000 for failing to update the gun registry will have at least the same effect. It will be another obstacle for people not to engage with the system and in fact operate outside of it. But it will now also extend to many people unwittingly. And of course, if it fails to obtain community consensus that it must be obeyed, it will shift many people to the ‘scoff-law’ category, who have previously considered it unthinkable to be conscious law-breakers.
6. COLFO is advised that judges are always disturbed by what appear to be disproportionate sentences. They will compare the apparent harm and wickedness of some of the new offences, with tariff penalties for other minor crime. The penalties imposed are significantly more than comparable offences. For example, the maximum fine for the usual offence of providing a false statement to police is \$2,000.³
7. Judges may decide tacitly to act on the new offences to become largely unenforceable. Discharging without conviction is common when judges consider the consequence of a

¹ Sir Peter Gluckman, “Using evidence to build a better justice system: the challenge of rising prison cost” (29 March 2018), page 10.

² Te Uepu Hapai i te Ora, He Waka Roimata (9 June 2019), page 48.

³ Summary Offences Act 1981, s24.



criminal record is disproportionate. That will fuel complaints of discrimination on the basis of class or race. They may convict and discharge without penalty, or use only the bottom of the penalty scale. COLFO is open to a more scale of graduated offences – where only those with criminal intent face higher penalties.

8. On the other hand, such is the hysteria that has been generated derivatively by people who tend to think that US social division is present in New Zealand, that the law may lead some judges to denounce firearm users with swinging penalties. That may contribute to user hostility to law generally, particularly in rural areas. It may also lead Police in such areas to 'de-emphasise' enforcement of firearms law, to avoid community hostility. Such law can still be used, however to target people who might be described as "usual suspects".