

## **Submission to the Select Committee on the Arms Legislation Bill:**

### **Fix the original Bill**

1. This Bill is far more reprehensible after close study than was feared from the Government announcements. But among the disappointments is that it has not taken the opportunity to fix obvious problems from the rushed Arm (Prohibited Firearms, Magazines, and Parts) Amendment Act 2019 [the Amendment Act]. That Act was made in a climate of political excitement. It did not follow good legislative processes. It did not benefit from proper consultation. This Bill gives the Committee the opportunity to fix these issues now.

### ***Compensation***

2. COLFO is now confident that the current disastrously low collection rate of prohibited firearms under the amnesty is a reflection of owners contemplating not handing them in under the current compensation regime. There is no good reason to delay, if they think the offer is fair. We were initially told by many that they feel outraged, but still expect to surrender the prohibited arms at the end of the period if no improvement has been made to the compensation. That sentiment seems to be shifting. We now hear more of a resigned or defiant preparedness to give prohibited arms to others more willing to run with the risk of being outside the law, or with better access to hiding places. Others say they are still intending to surrender the arms, but only because they have convinced themselves that the offer will change to be more fair. They are talking to each other and persuading themselves that the law cannot be enforced against so many people who are only holding out for their rights.
3. COLFO has no way to know where predominant sentiment is now, and we are reluctant to poll or otherwise formally test the water, in case the questions themselves become influential. But we warn the Committee and the Government, that we think New Zealand is on track to a surrender rate well below the low rate achieved in Australia. And our compensation is less fair or reasonable.
4. We think the current approach is catapulting prohibited weapons into the unlawful sector. The RIA claimed that the Bill would build trust and confidence with the firearms community. That is the Orwellian joke of the year. The compensation scheme must be made more fair. The Police said to the Justice Select Committee that collecting these firearms is likely to take years.<sup>1</sup>
5. Currently, many firearm owners are receiving up to 70% of market value for their firearms and a lot are receiving much less. Firearms are valuable items. People have invested in them, the way others invest in rare books, or paintings, or beautiful ceramics, because they feel they are triumphs of human workmanship. People have always coveted and prized weapons and decorated them and polished and loved them. Taiaha and mere are valued by New Zealanders.

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<sup>1</sup> See comments by Deputy Police Commissioner Mike Clements at the Justice Select Committee, 12 September 2019.

And thousands have deep knowledge of firearms in the same way. They love them for what they see as their intrinsic beauty. Under respectable approaches internationally to property rights, a premium would be paid to compensate for the sense of hurt involved in confiscation of property lawfully held by a law-abiding person.

6. The Amendment Act empowered the Minister to regulate for compensation. It did not oblige him to exclude compensation for economic loss.<sup>2</sup> He chose to regulate for a blanket denial of such compensation. COLFO urges MPs to correct the situation. People who want to follow the law and hand in their weapons, are instead being encouraged to nurse resentment, and to listen to urgings to civil disobedience. It is material that this is occurring at a time when many other groups appear to be largely immune to Police enforcement of law against unlawful occupations of land, and other breaches of law, in the name of protest.
7. No evidence has been put forward by the government to explain why the rates of compensation seem deliberately set to punish firearm owners. Some conspiracy theories among owners see it as calculated to generate news stories that will inflame relations between firearms owners and the rest of the community. The RIA for the regulations state that there must be balance with the views of the non-firearms user community who will not want to see the firearms owners 'overcompensated'<sup>3</sup>. This can only reflect an underlying opening prejudice that firearms ownership is wrongdoing that deserves punishment.
8. The Government cannot complain if owners generally see as a denunciation, an approach that they are inherently wrongdoers. Such hostility does not build "trust and confidence." It appears to foreshadow eventual outlawing of firearms. Whether that is the objective, or the less offensive objective of just being effective in removing prohibited firearms from circulation, firearms owners should at the very least receive fair market value.
9. Firearms owners are being doubly penalised by not receiving any compensation for ammunition that is either now prohibited (under the Amendment Act) or useless because they have no suitable firearm to use the ammunition in. This is particularly detrimental to sport shooters who may have large stores of now useless practice ammunition. They are grossly out of pocket.
10. The Committee should take this opportunity to fix the compensation debacle. That may require an extension to the current amnesty – to maximise the potential for people to hand in firearms.

### ***Pest Control Exemption***

11. The rushed Amendment Act meant that MPs did not appreciate the pressing legitimate needs for pest control use of semi-automatics.

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<sup>2</sup> See Reg 28I of the Arms (Prohibited Firearms, Magazines, and Parts) Amendment Regulations 2019.

<sup>3</sup> NZ Police, Regulatory Impact Assessment: Implementation of Arms Amnesty: Compensation for individuals and dealers and Prohibition of certain types of ammunition, page 19.

12. The Amendment Act allows for already established pest control companies to apply for endorsed licences. The framework set up for this exemption does not reflect the realities of how pest control actually works. Farmers carry out much of it, regularly, on their own land, and with their neighbours. They do it as and when they find concentrations. They choose the times to maximise the reduction in pests, by knowing conditions and striking when the right combination presents. It is frequently not feasible to rely on contractors, even if they were available.
13. Recreational hunters also carry out a large amount of pest control – as volunteers and at their own expense. An example we are aware of a hunter who last year culled 1000 goats, and 2,000 – 3,000 turkeys. Since the prohibition, they have not culled any.
14. Pest control exemptions should be more widely and easily available, subject only to secure storage and use in accordance with permit conditions. They should not be limited to 2 year renewals which increases business uncertainty, increases non-productive work hours and increases costs. Farmers must be able to immediately react to pests, such as Canadian geese. The damage done by these pests to crops, to water quality (pollution) and stock feeding options can be substantial. They must be dealt with when the flocks arrive. A farmer who realises they are on their property cannot be expected to wait for days for an exempted pest control company to arrive.
15. COLFO has been told of a recent case where wild pigs attacked a flock of sheep and their lambs. The farmer could not destroy the herd of pigs. The farmer’s semi-automatic firearm would have quickly stopped the slaughter, but it had been surrendered.
16. New Zealand has a goal of Predator Free 2050, and the Coalition agreement calls for alternative use to 1080 as a means of getting there.<sup>4</sup> We should be taking the opportunity to increase our efforts in this area, not limit them.

### ***Sporting Exemption***

17. The Government has failed to listen to sport shooters who have now been unfairly penalised. We are a sporting nation with a strong emphasis on encouraging people to get outside. There is no reason why we cannot continue to support our world class shooters.
18. We note that the Minister of Police received advice in May that provided a number of options that would have allowed for the continuation of the sport.<sup>5</sup> They were not carried in to the current Bill. We strongly recommend that the Committee refer to the submissions from the NZ Service Rifle Association and Pistol New Zealand for more detailed discussion on this issue.

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<sup>4</sup> See Labour NZ First Coalition Agreement, page5.

<sup>5</sup> NZ Police, Sporting Exemptions Options Discussions (<https://www.police.govt.nz/sites/default/files/publications/ipr-19-130-sporting-exemptions-options-discussion-03-06-19.pdf>), accessed 9 October 2019.

***Definition of Ammunition***

19. The Arms Legislation Act 2019, provided for the first time a definition of ‘prohibited ammunition’ -

*2D Meaning of prohibited ammunition*

*In this Act, prohibited ammunition means any ammunition declared by the Governor-General by Order in Council made under section 74A to be prohibited ammunition for the purposes of this Act.*

20. It failed to provide a definition of ‘ammunition’. The ramifications of this loose drafting has implications for clauses in the current Bill (as outlined elsewhere in this submission). COLFO strongly recommends that the Committee seek to correct this issue that provide a definition for ammunition that relies on the four common elements of ammunition
- a. Casing
  - b. Projectile
  - c. Detonator (primer)
  - d. Propellant
21. It is important in any drafting of a definition that it is clear that ammunition does not include Class 1<sup>6</sup> goods like fireworks and flares. Nor should it catch deactivated ammunition (for example those without a propellant or detonator).

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<sup>6</sup> Hazardous Substances and New Organisms Act 1996