

Submission to the Select Committee on the Arms Legislation Bill:

Dealers

1. Licensed firearms owners should feel that buying their firearms, ammunition and parts through reputable licensed dealers is in the interests of both parties. COLFO is concerned that the regulatory burden of this Bill on dealers will mean higher costs. If dealers are disadvantaged, users will have less competition among dealers, and gaps with prices in the informal or black market may foster dealings away from licensed dealers.
2. Buying through reputable dealers ensures that only licensed firearms owners are purchasing the goods. Knowledgeable staff engage with users. As well as customer service and advice, especially to inexperienced buyers (to match and build their needs and experience) that helps dealers build knowledge of potential problem customers.
3. The Bill instead loads dealers with pointless licensing procedures and demands. They appear to have no proportionate connection to safety or any other legitimate regulatory purpose. For example, s12 requires dealers to hold at their place of business a list of all transactions going back 10 years. This is in addition to entering the information in the registry. If the registry is dependable and secure, dealers should be able to rely on it. They will have business reasons for keeping some information, for example to deal with warranty claims. But the rest is not explained.
4. It is unclear who will be caught by the requirement to have a dealer licence, and how the law will be applied to them. The Bill requires that a licence must be sought if, for various firearms activities, you are doing so “in the course of carrying on business”. Does that mean trading in the hope of profit? Many firearm owners, particularly collectors, regularly buy and sell firearms. They try out different models and building their collections. The law is not clear at what point hobbyists must apply for the dealer’s licence.
5. The new stated responsibilities of a dealer seem like something from the rules of an anti-competitive guild. It is entirely unclear what the Police should want to enforce with the business standard provisions of Section 6(b).¹
6. Inserting an over-riding criterion of pertinence to law compliance, or safety, could narrow the new needs for ‘suitable staff’ and ‘appropriate oversight and control of the proposed dealer

¹ Section 6(b) - in the case of an applicant who is a senior manager of a body corporate, and who, in reliance on section 5(3), is applying for a dealer’s licence to enable the body corporate to carry on a dealer activity, the commissioned officer of Police must take into account whether—

- (i) the body corporate has suitable staff; and
- (ii) the body corporate has appropriate record-keeping systems and other systems to comply with the requirements of this Act and any regulations made under this Act; and
- (iii) the applicant will have appropriate oversight and control of the proposed dealer activity or activities for which the dealer’s licence is sought; and
- (iv) may take into account any other matters the commissioned officer of Police considers relevant.

activity'.² But even with such an overlay, the provision seems designed to generate a new super-structure of Police interest in business delivery methods, without any safeguards against pointless hostility to change that becomes the hallmark of most unconstructed licencing regimes. For example, recent Police activity under wide discretions in the administration of liquor licensing laws have seen Police become political advocates campaigning for and against local authority policies. They have harassed particular licensees in renewal proceedings, to scare others into adopting Police preferred operating hours, despite formal Council and Authority decisions to the contrary. Parliament should not further encourage such constitutional impropriety by the Police.

7. The dealers' licences will require that a dealer must have specific activities approved (s5A). This provision is highly likely to be used for informal exercise of Police zealotry, so that they get extra-legal de facto power. The consequences are likely to be more trading outside the formal market.
8. It is common, particularly in rural areas where there are limited firearm outlets, for customers to bring in unusual models of firearm to be sold 'on behalf'. The Bill may require that the dealer only accept those items for which they have previous approval.
9. This provision may end up favouring the major national chain dealers and restrict competition in the market. Chains have the scale and resources to ensure they get the widest possible licensing. If the purpose is to get more people trading their firearms in a legal manner through reputable channels, this requirement will discourage people from doing so. If a person has been found of a fit and proper standard to deal in firearms, applying an additional regulatory layer for approval of specific business lines does nothing to enhance safety but rather limits it.
10. Dealer licensing requirements are another area where Police and regulation drafters are being given authority that should be reserved for Parliament. COLFO sees no justification for not reserving the licence conditions to Parliament. The Minister will have power to put further requirements on dealers that could result in large penalties, without the scrutiny of Parliament. There has been no justification – of expediency or efficiency – provided to require this. Regulation making power that could require sellers to tell customers about legal obligations (s74 (2)(jb)) and the ability to regulate advertising or promotion of firearms or parts (s74(2)(ja)) should be defined in law.
11. Furthermore Police under s7A(3), may impose "any conditions" on consent to participate in a gun show, Parliament should prescribe the objectives and constraints on all these powers is completely arbitrary and without any transparency.
12. The Government has indicated it may wish to restrict promotion of firearms in that same way that tobacco is restricted. The Smokefree Environments Act 1990 provides for restrictions in

² Arms Legislation Bill, s6(b)



legislation. There is no policy justification for treating firearms like tobacco. There is no evidence that dealer advertising is a material influence on choices to use firearms in crime, nor that there is an inherent harm to a user from use. There is no justification for that level of restriction. And if there was, there is certainly no justification for anything that enables the Police to make things up as they go along, when even the boundaries on tobacco restrictions are established by Parliament, not taken outside of this Act.