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Arms Legislation Bill – Supplementary Order Paper 408

Submission for the Council of Licenced Firearms Owners

Background

1. The New Zealand Council of Licenced Firearms Owners Incorporated (COLFO) is the overarching organisation for firearms users in New Zealand. Many of the estimated 250,000 New Zealanders who have firearms (and the hundreds of thousands more who occasionally use them) do not belong to organisations, but our membership represents the views of those who organise to hunt, target shoot, and collect firearms. We also represent people who work in the industry, including professional guides. From experience, we are confident that we represent the predominant views of firearms owners in this country.
2. Our board includes representatives of six of the major member organisations including Pistol NZ, the NZ Deerstalkers Association, the National Rifle Association of NZ, NZ Antique and Historical Arms Association, NZ Service Rifle Association and Sporting Shooters Association NZ. Other members include the International Military Arms Society, Target Shooting New Zealand, New Zealand Shooting Federation, Airsoft New Zealand, NZ Black Powder Shooters Federation and NZ Clay Target Association. COLFO has renowned and published authors on the subject of firearms and has ready access to technical experts.
3. We are a UN-accredited organisation and have represented New Zealand internationally at the UN Arms Trade Treaty and the UN Programme of Action. We are a member of the World Forum on Shooting Activities (WFSA). We are predominantly funded by NZ individual memberships, their associations, and there is a small contribution from retailers.

Introduction

4. This SOP casually requires the surrender for destruction, of potentially thousands of historically significant firearms that would never be of interest to a mass murderer, in order to secure the surrender of between 50 and 100 recently bought MSSA carbines. Police know where those MSSA carbines are. Their owners are already known and licensed under a stricter regime than the ordinary License Firearm Owners (LFOs) due to them being under the pistol (B) or collector endorsements (C). They are held on conditions that make them not useable, and they are currently registered.

5. The SOP therefore exemplifies much that is wrong with the firearms law 'reform'. This SOP is a further opportunist and incompetent exploitation of the well-meant pledges made after the terrorist mosque attacks.
6. When Parliament passed the immediate response to the Christchurch mosque terrorist attacks, the speeches and public explanations showed an intention to ban firearms that were particularly suited for mass murder terror attacks. In the shared climate of grief there was a common determination to help prevent further such atrocities in this country. COLFO and its members saw why there were moves to further restrict the availability of some semi-automatic firearms for public safety.
7. The ambition has recently been well summarised by the Prime Minister in discussion this month with Stephen Colbert.

"We have a legitimate need [for guns] in New Zealand. We...identified what guns were legitimately needed [for pest control] and those were kept out and they still remain, but we have removed the ones that are designed to take peoples' lives en masse"

8. In COLFO's opinion some persons charged with implementing that political objective have distorted it, or taken advantage of opportunity to ignore the reassurance. There never has been a clear boundary between sporting arms, pest control arms and arms used for police and military purposes. Indeed, many shooting competitions originated for military training and practice purposes. Hunting and deerstalking in NZ developed on the back of ex-military and ex-police rifles.
9. COLFO cooperated in good faith. We assumed that every effort would be made in the fine print to minimise disrupting sports and valuable pest elimination uses of arms. COLFO previously worked alongside Police to ensure we had a safe firearms regime. For example, since 2009, COLFO had recommended restricting high capacity magazines to endorsed licenced holders.
10. We did not expect the wholesale criminalisation of people with arms and parts and ammunition that no terrorist would ever seek to use. We did not expect to see historical treasures over 100 years old that have not been fired for decades, to be confiscated for destruction. We did not expect to see tens of thousands of sporting shotguns made unlawful because they can take 7 cartridges instead of 5. We did not expect to see foreshadowed many other restrictions and rules that have nothing to do with public safety.
11. COLFO considers that the Police have taken improper advantage of the wave of genuine and New Zealander willingness to respond to the terrorist outrage. They have abused that shared wish, and the unfamiliarity of many Parliamentarians with firearms. They have grasped powers to legislate, to make up the rules as they go, that should never be given to a police or military force in peacetime. The discretions granted are extraordinarily broad.
12. SOP 408 is yet another illustration of the abuse or bungling of this reform process.

Submission

13. We have not set out to outline the technical issues with this SOP. We recommend that the Committee pay close attention to the submission of Antique Arms Association which includes the advice of Nicholas Taylor, a specialist firearms lawyer, who provides significant detail on these ramifications.

Timing of Bill and SOP

14. COLFO is puzzled about the timing of this SOP and the refusal so far to delay the Bill until the Royal Commission reports. We are throwing out a successful arms control regime, sacrificing the mutual respect between firearms users and Police, to try prohibition that has failed conspicuously in Canada, and other countries with similar heritage. We are doing so while the public are in the dark about the events that preceded the March 15 attack. They have not been informed of how irrelevant the current Bill is to the terrorist's conduct. And there has been no informed discussion on how to prevent it happening again.
15. This Bill process has been further frustrated by a limited submission period. The few minutes allocated to international and domestic experts for their oral submissions showed contempt for research evidence. In regard to this particular SOP, it was only through multiple follow ups to Police, Treasury and the Select Committee, were we able to gain a copy of the Regulatory Impact Statement [RIS]. Our efforts to gain information through the Official Information Act have been frustrated by long overdue requests. Some of our requests to NZ Police are currently 8 weeks overdue. The relevant Cabinet papers were only put online one day before this submission was due.
16. The RIS and Cabinet papers display a woeful lack of capacity to ensure Cabinet, and Parliament could properly understand the problem and the option for addressing it.

Extension of Regulation-making powers

17. COLFO is adamantly opposed to the provisions in this SOP that extend Police powers to change the rules. Only Parliament should be able to make laws that criminalize people with penalties of up to five years. It is no excuse that the Bill itself, and the changes in the Arms Act earlier this year gave Police extraordinary powers to make up the rules as they go without evidence of operational requirements. This SOP and the Bill should be the vehicle for revoking those delegated powers. They might have been understandable in the rush to be seen to respond to the Christchurch outrage. Parliament should not be doubling down on these powers when it now has time for cool consideration.
18. We now have the experience of the use made of the regulation powers by the Police and their Minister. Those powers should have been reserved to Parliament. We have regulations and definitions that are incomprehensible, oppressive, and destined to frustrate Parliament's purpose. The Order in Council defining prohibited ammunition is unclear and goes well beyond what is necessary to reduce harm.
19. COLFO agrees that much of the equipment targeted by the SOP be regulated with more controls than sporting long arms, as they currently are. This legislative response is unnecessary.

Compensation

20. This SOP means that many collectors and sport shooters will have to put in an additional application to hold a P license endorsement to retain them. The vast majority of LFOs will have already made an application and are in the process of receiving the appropriate endorsement. However, s 30(2)(a) of the Arms Act requires that a new application, with new application fees be made for these additional items.
21. For those that wish to surrender their firearm, rather than apply for the additional endorsement, will have to do so without compensation. The RIS for the SOP makes it clear that the Police anticipate a new compensation process should this additional prohibition occur¹, however the Minister has not confirmed that this will occur. The Committee should recommend provision in the Bill for additional compensation schedules to be required should further firearms become prohibited in the future.

Semi-Automatic Pistols

22. The Police know who holds the type of pistols that they are seeking to restrict by this SOP. These items are held on a B or C endorsed licence - the shortened firearm or carbines.² This endorsement currently requires registration of these items.
23. A significant part of the legislation is to include semi-automatic pistols that are either under 101 mm or over 400mm in the definition of prohibited firearms. It appears that this is an afterthought and indicative of the rushed nature of this Bill. There is a well-established definition of a pistol in NZ, and this change will have ramifications well beyond the operation of this Act.
24. We have seen no evidence that prohibiting this type of firearm will reduce public harm.
25. The definition is unclear and inconsistent. For example, a Webley M 1913 Automatic Pistol and a Browning Hi Power fall within the definition. However, a FM Detective does not despite there being little difference in the impact of use of these firearms. These kinds of problem could have been avoided if Police had consulted more widely with firearm experts on these changes.
26. The consequences of getting this definition wrong are significant for the community as the penalties for dealing with a prohibited firearm are up to five years in jail.

Pistol Carbine Conversion Kits

27. The Government has stated that the purpose of these changes is to regulate those firearms that can cause mass harm. This issue has arisen as while there has been three types of kit in the market, the Police only required registration on one type – despite them having the same use.
28. However, the way that these changes are drafted will have a significant impact on collectors, who by and large do not, or rarely, fire their collections. It is ridiculous to state, even by inference that a person planning mass harm, would seek out such firearms.

¹ Regulatory Impact Statement, page 15.

² <https://www.police.govt.nz/advice-services/firearms-and-safety/new-zealand-firearms-licence-application>

29. For a number of these firearms, cartridges have not been produced for decades, and so the ability to even use them is limited. For example, the expansive definition captures any butt stock that is capable of fitting to a pistol or revolver such as those fitted to a Webley MK VI revolver, Webley Flare pistol, Browning Hi Power or Artillery Luger – to name a few.



30. If carbine firearms currently avoid controls on military style semi-automatic firearms with high capacity magazines, the right response is to extend the current controls on MSSA to include carbine firearms. The current definition is so broad that it has affected considerably more firearms than what is necessary to achieve the aim.
31. The RIS for this SOP does not explain either the problem, or why the banning solution would not apply equally to many pistols presumably expected to remain under the current regime. The latter omission is an ominous portent for our law-abiding pistol shooting members.

Conclusion

32. The building and deserved mistrust of the Police will be a factor in the looming failure of the confiscation scheme. From current indications on 20 December it will be seen to have failed. The true cost will not lie in the failure to collect the majority of the targeted firearms. It will lie in the fact that the 25% or so collected will have come from the safe storage and hands of the most law-abiding citizens. Meanwhile, an unknown proportion of the at least 100,000 or so that have not been collected will have moved from people not willing to risk prosecution, but unwilling to see their firearms destroyed. Some will innocently and genuinely not realise they are caught by this law. Others will have gone underground and some will reach criminal hands.
33. Since making our original written submission over a month ago on the Arms Legislation Bill, we have been disappointed in the response of the Government to the concerns raised by not only us but the wider shooting community. It is significant that the vast majority of submitters do not believe that this Bill will do anything to make our community safer.
34. COLFO reaffirms its commitment to working with the Government on fair and reasonable firearm reform that is proven by evidence to make our community safer. However, despite

this, the Government have chosen to introduce Supplementary Order Paper 408 that will further target licensed firearm owners, while failing to target the real source of firearm harm – criminals.

35. Any further prohibition of firearms should be evidence based and provide fair and reasonable compensation to LFOs, and incorporate the lessons in the Royal Commission report.