



Submission on Arms Act review – January 2025

Introduction

1. This submission is made by the New Zealand Council of Fish & Game New Zealand on behalf of all Fish & Game Regions. We support changes to the Arms Act which enhance public safety and which enable those people who hunt and shoot to do so safely, efficiently and without unnecessary bureaucracy and cost.
2. This submission relates to matters most relevant to Fish & Game licence holders as in game bird hunters, and to Fish & Game Councils compliance and law enforcement work.

Fish & Game organisation

3. Fish & Game is a statutory body established by Parliament under the Conservation Act 1987 to manage, maintain, and enhance sports fish and game birds and their habitats throughout New Zealand in the interests of anglers and hunters. The organisation comprises 12 regional autonomous Fish & Game councils, and the 13th council is the NZ Fish & Game Council, made up of appointees from each regional council. Fish & Game reports annually to the Minister of Conservation.
4. Fish & Game directly represents around 150,000 licence holders. Approximately 40,000 of these are game bird hunting licence holders, i.e., they are recreational game bird hunters. Game bird hunting in New Zealand may only be undertaken with shotguns by licenced hunters and by landowners, who must also comply with other hunting regulations. Around 20% of our angling licence holders also hold a firearms licence.
5. Fish & Game has the statutory mandate to manage the following game bird species:
 - a. Black swan.

- b. Grey duck.
- c. Mallard duck.
- d. Paradise shelduck.
- e. Shoveler duck.
- f. Pukeko.
- g. Chukar.
- h. Red legged partridge.
- i. Pheasant.
- j. Australian or brown quail.
- k. Californian quail.
- l. Virginian or bobwhite quail.

Submission Points

Theme 1: Purpose of regulating firearms access, possession, and use

6. We agree with the current purposes and principles of the Arms Act as set out in Section 1A. In our view the main principles and purposes should be to promote the safe use and control of firearms, and that possession and use of firearms is a privilege. However, we submit that while possession and use of firearms is a privilege, it is a privilege that should not be unreasonably denied to persons who are deemed to be fit and proper persons to possess and use firearms. The Arms Act and administration of the Act should also encourage compliance with the Act, and a key part of that is to make compliance fair, reasonable and affordable.

Theme 2: Products Controlled by the Act

7. **Does the Act define 'firearms' well?**

We agree with the definitions of a firearm as set out in the Act.

8. **Is regulation based on a risk profile of products an appropriate approach to the maintenance of public safety?**

We agree that a risk-based approach is appropriate, and that is reflected in the range of regulation imposed from low-risk air guns, which do not require a firearms licence except for those aged 16 and 17 years old, through to the restrictions for example, imposed on pistols and prohibited firearms.

9. **Review of product definitions in Appendix 5**

The term 'Prohibited firearms' is arguably misleading, as many of the firearms which are currently prohibited can be possessed and used under specified conditions with appropriate permits or authorisation, for example, semi-automatic centrefire rifles used for pest control. Essentially those firearms are 'restricted', and we suggest that they instead be defined with another wording to make it clear that they are not altogether prohibited in entirety but under certain conditions can be possessed and used legally, as can for example, pistols.

Of note, the product definitions in the appendix do not include a definition for semi-automatic shotguns (magazine capacity of five cartridges or less) and semi-automatic rimfire rifles (magazine capacity of 10 cartridges or less). These firearms are important tools for our rural community, and we would not like to see these types of firearms inadvertently included in the prohibited firearms definition.

The fact that there is no current definition of 'ammunition' is a gap in the Act, especially given that it is a requirement to hold a firearms licence to possess ammunition, and in our view, for completeness, this should be a simple matter to define what constitutes ammunition.

10. Firearms Amnesty and buy-back provisions. Should there be options to support surrender dispose of, or modify firearms products that the licence holder can no longer legally use?

Our view is that it would be in the public interest for the Act to specify that licence holders, or even the public generally, can surrender firearms or arms items without risk of prosecution where, in the circumstances, there may only be evidence of a technical offence of possession of a firearm or item without a licence. This will encourage surrender and disposal of old or unsafe firearms or those which are not wanted any further by owners or those in possession of them without fear of prosecution.

Theme 3: Responsible possession and use

11. Fit and Proper Person Test

The fit and proper person requirements as set out in Sections 24 and 24A of the Act are in our view fit for purpose and achieve the objectives to ensure only suitable persons can obtain a firearms licence.

As statutory managers of game birds and game bird hunting, we agree with the situation set out where a person who is charged or convicted of an offence against the Wildlife Act 1953 may be

found not fit and proper to hold a firearms licence. This is a powerful incentive for hunters to comply with the Wildlife Act and Regulations made under that Act. We however would not like to see situations where this is used in an excessively punitive manner without good cause. We recognise that in some cases, a Wildlife Act offence may be the tip of the iceberg, and unknown to us, there may be a raft of other issues relating to that individual, such as a pattern of lawbreaking or anti-authority behaviours.

12. Minimum age

There is no evidence that the minimum age to hold a firearms licence, of 16 years old, is problematic. We submit that it should remain at 16 years old. Game bird hunting is a sport that is often 'passed down' from generation to generation, and many young hunters are keen to obtain their own firearms licences when they can so that they can legally hunt either independently or with their mentors without having to be supervised as an unlicensed person using a firearm under a licence holders' immediate supervision. The advantage of those younger persons being able to obtain a firearms licence is that they must undergo safety training, testing, and vetting processes, all of which are positives in respect of promoting the safe use and control of firearms, as set out in the purposes of the Act.

13. Manufacturing under a standard licence

Some hunters reload their own ammunition for reasons as various as making custom ammunition through to doing so for cost saving or simply for the enjoyment of doing so. Hunting waterfowl over open water is only able to be legally done using non-toxic shot, e.g, steel, bismuth, or tungsten shot. Bismuth and tungsten shot ammunition is expensive to purchase, and hunters who wish to reload this type of shot should be able to do so. Additionally, many centrefire rifle shooters and hunters reload ammunition, and thus manufacture their own ammunition. There is no evidence that this is problematic, and this should be able to continue without restriction. Some firearm parts may be able to be manufactured by persons with the skill and means to do so, and this can be a better option than having to import parts with delays and expense and permits. We submit that this type of manufacture should remain permitted by persons who hold a standard firearms licence, for their own use, and that the controls are currently adequate. Where criminality in terms of manufacture has occurred, it is evident that those responsible have had no regard for what is legal or illegal in any event, such as illegal 3D printing of firearms. In those cases, illegal manufacture should be prosecuted, and deterrent sentences imposed.

14. Firearms Licence Compliance Requirements

The role of the Firearms Safety Authority in ensuring compliance

The first gatekeeping for licence holders is the vetting and fit and proper tests. Our view is that the best way the Firearms Safety Authority can ensure licence holders follow the rules is to provide adequate education and encouragement, along with enforcement as and when required. If vetting of licence applicants is done well, then the vast majority of licence holders should be responsible and keen to ensure that they do not jeopardize holding their firearms licence.

15. Licence Compliance

We agree that it is appropriate for first time licence holders to be issued a 5-year licence and then 10-year licences thereafter. This ensures a period where the first-time licence holder can be more easily monitored after the 5-year period concludes, and then those who are deemed fit and proper can hold licences for 10-year periods which reduces bureaucracy. Overall, it is not difficult for licence holders to comply with the current licence requirements as set out in the Arms Act and Regulations, but it is essential that there is a good flow of information to licence holders from the Firearms Safety Authority especially when there are legislative or regulatory changes.

16. Security and Storage

We agree that storage and security should be inspected prior to issue or renewal of a firearms licence, including that even those persons who hold a firearms licence but do not own or possess a firearm should have a minimum security and storage facility so that they are equipped if they do find themselves in possession of a firearm at some time.

The current security provisions do not allow for the increasing number of renters who may not be able to install a safe to obtain a Firearms licence. Providing a process that Firearms licence holders can store guns or use a storage facility that is not at their home is important as our society quickly transitions from homeowners to renters as many first-time FA licence applicants don't have their own home.

We note that other than inspection of security and storage at the time of issue of a firearms licence, other inspections under Section 24B of the Act must be carried out with 7 days' notice. In our view this is fair and reasonable and encourages compliance with the requirements of the Act.

17. Role of Health Practitioners

Given that a licence holders mental health can change over time we view the current requirements around this as fair and reasonable. However, this can in some cases perhaps cause some people to be reluctant to seek mental health care if they are worried about that leading to a loss or suspension of their firearms licence. We note that the Firearms Safety Authority has been doing a lot of good work around this aspect to reassure licence holders that simply requiring mental health care does not necessarily mean that they will lose their firearms licence. At present, we suggest in the absence of evidence that the current legislation is not working, that it is left as is.

18. Unlicensed Use of Firearms

In our view, the current law around unlicensed use of firearms is working. New and young hunters and shooters need to be able to learn in a safe environment, and enabling an unlicensed person to shoot under the supervision of a licence holder is essential to promoting the safe use of firearms. Many young people (under the age of 16 years) accompany their parents or mentors to hunt game birds during the game season, and they are able to learn and use firearms legally under the provisions of the exemption from holding a firearms license as set out in Section 22(2) of the Act. The ability for new and young hunters to learn to hunt and shoot without a licence while under the supervision of a licence holder is essential for the next generation of hunters and shooters coming on. In most cases, those people will wish to obtain their own firearms licences in any event, as they are able to.

19. International Visitors

Some international visitors come to NZ to hunt, and the current legislation around this seems to be working; we are not aware of any issues with this.

20. Resources on Using Firearms Safely

The resources provided and maintained by the Firearms Safety Authority are valuable for promoting the safe use and possession of firearms. We support the development and updating as required of information and resources, particularly around storage, transportation, and use of firearms by hunters.

Theme 4: Supplying, Importing and Buying Products

21. Standard Licence Holders Ability to sell privately

Our view is that private sales of firearms products by standard licence holders should be able to continue when they are selling a firearm that they own personally to another licence holder. The

registry will capture the details of such transactions and the sale – and purchase- can be tracked. This keeps such transactions simple and does not have to involve a dealer.

22. Dealers Licences

We are not aware of any issues with the current situation around dealers' licences, as is defined in the Act in Section 5.

Theme 5: Compliance, Offences, and Penalties

23. Do current offences and penalties contribute to public safety?

Our view is that for the law-abiding licence holders, current offences and penalties do contribute to public safety in that licence holders who legitimately wish to use firearms to hunt and shoot do not wish to put themselves in positions where they may face prosecution and subsequent penalties, and loss of their firearms licence. However, the criminal element who illegally use firearms generally have no regard for the offences and penalties they may face for criminal use of firearms, and creating more offences or increasing penalties may have little effect on such people. The only thing which will deter criminal use of firearms is enforcement and subsequent prosecutions which holds them accountable, which ultimately are subject to the courts sentencing. In that regard, it is the sentencing of offenders for offences which is most crucial, and deterrent sentencing is where the most important effects will be achieved.

24. Offence and Penalty Levels

Offences and penalties are currently in our view mostly adequate. Maximum sentences for most offences are at significant levels to signal the potential severity of the offences as passed into law. An area which we have noted that there are no offences created – but simply breaches of licence conditions, is around breaches of storage and security requirements as set out in the Arms Regulations in Regulations 19, 19A and 19B. Breaches of these requirements only relate to licence holders, and there are no offences created, instead breaches invariably result in a review of the licence holders' firearms licence. And the mere act of breaching the Arms Regulations security provisions does not necessarily meet the criteria of an offence against Section 53 of the Arms Act. Section 53 offences require more than just leaving a firearm unattended or in breach of security requirements. This is in our view a gap which should be remedied, and the ability for prosecution action against a person who leaves a firearm in breach of security requirements should be an enforcement tool.

Additionally, the Search and Surveillance Act 2012 in Section 18 provides constables with powers of search and seizure of arms in certain circumstances in breach of the Arms Act. Breaches of the Arms Regulations – as in for example breaches of security requirements fall outside of that, and therefore appear to lack a power of seizure. An example may be a firearm left in a vehicle in breach of security requirements. This is again a gap in legislation which in our view requires a fix.

25. Encouraging Compliance

In our view education is the best tool to encourage compliance along with deterrent penalties for those who are non-compliant. The Firearms Safety Authority is doing a lot of good work around education, and we support that continuing. Non-compliant people however, especially where offending is wilful and deliberate need to be held accountable with deterrent penalties, including if they are licence holders a review of their licence status.

Theme 6: Cost Recovery

26. We have previously submitted on the review of costs and fees (February 2023). Essentially, our view is that costs and fees must be kept at levels which are fair and reasonable, and which encourage compliance. Many firearms users especially in rural areas hunt to supply food for families, and especially those who are in lower incomes brackets would struggle to pay what is said to be cost recovery for firearms licencing. We accept that fees for firearms licences have not increased for many years, and it is inevitable that they will increase however excessive fee increases will have the perverse effect of driving some licence holders ‘underground’ if they simply cannot afford the increased fees. Additionally, we have many game bird hunters who only shoot a few times each season, and excessive fees for those people also has a significant impact on the cost of their recreation. The firearms licencing system and associated functions is for the societal social good, and the costs of this should not be borne solely by licence holders. The bottom line is fees need to be at levels which will encourage compliance. An incremental increase in line with CPI is arguably a fair way to increase fees.

Theme 7: Agencies that control the possession and use of firearms

27. Ministers Arms Advisory Group.

We support the Ministers Arms Advisory Group; this is a useful mechanism to advise and give feedback to the Minister on Arms matters.

Firearms Safety Authority

We have noticed an increase in interaction between ‘the Regulator’ with the firearms and hunting and shooting community since the introduction of the Firearms Safety Authority (FSA), along with much better availability of information and resources. As an enforcement agencies Fish & Game Councils have had increased communication and interaction with the FSA and this is a good thing to have a flow of information and dialogue between our agencies.

We suggest that if logistically possible firearms licence holders themselves receive information from the FSA perhaps in emails if nothing else to keep them information and educated.

The Firearms Community Advisory Forum and Arms Engagement Group are also useful means of consultation and advisory tools for Police and FSA.

Firearms Safety Authority and Police roles

Our view is that matters which are of a criminal enforcement nature should be retained by Police, where constabulary powers are required to deal with those matters. Non criminal matters and were non – constabulary powers are adequate for enforcement could be dealt with satisfactorily by the FSA. Matters which FSA deal with that elevate to criminality can then be referred to the Police to resolve.

28. Other Matters – Fish & Game NZ as enforcement agency relating to firearms

Fish & Game councils have responsibilities under the Wildlife Act 1953 to carry out enforcement functions in relation to game bird hunters. This includes powers of seizure of firearms from hunters who are found to be breaching the Wildlife Act in various ways, including hunting game birds without a licence, or other breaches of the Wildlife Act and Regulations. Consequently, Fish & Game does have responsibilities also to advise FSA of seizure of firearms, and to consult around the subsequent possession and disposal or return to hunters of firearms at the conclusion of enforcement or prosecution action. Fish & Game works with FSA to ensure in cases where hunters are dealt with for offences that subsequent assessments are made around the fit and proper test requirements.

Some Fish & Game Regions also own firearms for bird/animal control purposes, which are used only by staff who hold firearms licences. Currently, the Arms Act does not recognise in any respect firearms which are departmentally or organisationally owned and used by staff. This has

implications in areas such as security and storage and the registry requirements which also need to be addressed.

Currently, organisationally owned firearms will have to be registered to staff members, who then have responsibility for those firearms that may be accessed and used by other staff. This is an undesirable situation, and we suggest that an alternative is that organisational or departmental firearms are able to be registered to the organisation, with details and firearms licence information of staff who can access those firearms also recorded. This will then enable the FSA to have a record of where those firearms are stored and to carry out security inspections, which at present may slip through the gaps.

Alcohol Thresholds

Currently, when a firearm is in use (loaded or made ready state), whilst the Firearms Safety Code 2022 says alcohol should be avoided, there is no provision in the Arms Act for the measuring and enforcing that. The Arms Act includes section 47 that provides a penalty for being under the influence of alcohol or drugs, but there are no threshold limits specified. For NZ Police, this then becomes a very subjective test of the firearms user and, in many cases, difficult to enforce due to there being no set alcohol limit for a person who is handling or in possession of firearms. To prove an offence, it must be proven evidentially that the person was incapable of proper control of a firearm. We recommend that the NZ Police be given clear threshold levels like the drink driving thresholds to enforce. Plus, there is a vast amount of research on the impacts of alcohol impairment on drivers of motor vehicles that references the loss of fine motor skills and coordination, which would make the transferring of these limits applicable to the fine motor skills and muscle coordination involved in firearms handling.

Contact Details

Richie Cosgrove,
Deputy Chief Executive,
New Zealand Fish and Game Council
E: rcosgrove@fishandgame.org.nz
P: 021646245

on behalf of

A handwritten signature in black ink, appearing to be 'C. Jordan', on a light grey background.

Corina Jordan Chief Executive
New Zealand Fish and Game Council

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Sent online and by email to firearms@justice.govt.nz