

18<sup>th</sup> October 2019

**SUBMISSION  
ARMS LEGISLATION BILL**



## **Executive Summary and Recommendations**

The Game Animal Council (GAC) supports increasing public safety and is supportive of measures that can clearly demonstrate doing that, but there are provisions within this Bill that do not do that and unfairly impact hunters.

### **Registration of Firearms**

A convincing case for full registration of firearms has not been made. There is no evidence that it will make the public or Police safer as 100 percent compliance is required for it to work and criminal elements will inevitably not engage with it. Concerns also exist over cost recovery and practicality of the change of possession and temporary transfer rules.

#### Recommendations

- That the Select Committee commission an independent assessment of whether a firearms registry as proposed in the Bill will achieve the stated objectives of increasing public safety and reducing the number of firearms falling into criminal hands.
- Remove change of possession and temporary transfer provisions or insert a provision to determine an appropriate time period of say 30 days so that short-term temporary transfers are not affected by the requirement to register change of possession.

### **Licensing System Design and Operation**

Legislation and regulations must facilitate the safe use of firearms and the provision of adequate training and not be a barrier to them. Legislation must also uphold fundamental principles of justice and fairness. It is also important that costs are kept to a reasonable and fair level so as to not encourage non-compliance.

#### Recommendations

- That the Bill be amended to remove being charged for an offence or being the subject of a temporary protection order as an automatic failure of the fit and proper person test. The fit and proper person provisions also require greater legislative direction so that they are objective, unambiguous and do not provide room for over-zealous manipulation.
- The implementation of a more reasonable audit regime where entry can be made with 24 hours' notification at a reasonable time, unless Police have just cause to suspect that a person is illegally possessing or using firearms.

- Retain the current 10-year licence period and in place of a full renewal a 5-yearly audit is undertaken of each license holder's fitness to hold a licence and adequacy of storage facilities. This would also satisfy the stated objective of more regular assessment of licensees and would be at a lower cost than a full renewal.
- Licence renewals should only be subject to direct cost recovery and those costs should be transparent and minimised.

## **Licensed Dealers**

### Recommendation

- Requiring a dealer's licence for anyone selling, hiring, lending, or otherwise supplying a firearm in a business capacity could have major unintended consequences for guided hunting and farming. This can be remedied by removing the words, 'lending, or otherwise supplying' from the provision.

## **Shooting Clubs and Shooting Ranges**

Being a safe and successful hunter requires the ability to access places to safely train with and discharge firearms. Ranges that are run well benefit public safety, encourage compliance and maximise training opportunities. We want to see greater access to firearms safety and training opportunities and oppose onerous compliance provisions that limit the existence and use of ranges.

### Recommendation

- Remove the duty manager and public liability obligations due to the negative impact they will have on access to ranges and the extra cost associated with them. That the word 'primary' be replaced in the definition of 'shooting range' by the stronger word 'predominant' and that the words 'shooting on land for which the predominant use is not shooting' is excluded from the provisions of the Act" be inserted.

## **Other Provisions**

### Recommendations

- Remove provisions that enable the Commissioner of Police to make policy through guidance notices. Alternatively making these disallowable instruments provides the necessary parliamentary oversight.
- It is appropriate for the Firearms Advisory Committee to report to the Minister of Police rather than the Police Commissioner. Committee representation should include the Game Animal Council as the statutory representative of recreational and commercial game animal hunters.
- Remove the clause that relates to regulation of advertising, promotion and display of firearms for sale and hire. This is overly prohibitive and has no public safety benefit.

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# **Hunting in New Zealand**

## **The Game Animal Council**

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The Game Animal Council, established under the Game Animal Council Act 2013, is a statutory organisation with responsibilities for, *inter alia*, representing game animal hunters, and advising on and managing aspects of game animal hunting. Game animals are feral pigs, chamois, tahr, and all species of deer. The Council has a number of statutory functions that relate directly to the ownership and use of firearms under Section 7 of the Game Animal Council Act 2013. These are:

- **to advise and make recommendations to the Minister:**
- **to provide information and education to the hunting sector:**
- **to promote safety initiatives for the hunting sector, including firearms safety:**
  - to advise private landowners on hunting:
  - to develop, on its own initiative or at the direction of the Minister, voluntary codes of practice for hunting:
- **to raise awareness of the views of the hunting sector:**
  - to liaise with hunters, hunting organisations, representatives of tangata whenua, local authorities, landowners, the New Zealand Conservation Authority, conservation boards, and the Department of Conservation **to improve hunting opportunities:**

## **The Role of Hunting**

New Zealand's game animals are an important recreational, social and economic resource. Over 150,000 people harvest small game, large game or gamebirds at some time during each year. All game species in New Zealand are harvested for food, and while deer farming accounts for the vast majority of game meat exports, shot wild game is significant in both export statistics and domestic consumption.

The combination of recreational hunting and aerial recovery allows privately funded control and management of New Zealand's big game animal populations at no cost to the government.

The guided hunting industry has earnings of approximately \$40 to \$50 million annually and has considerable potential for expansion. Internationally, New Zealand is considered to be the world's premier destination for hunted red deer stags and Himalayan tahr and is increasingly recognised for the quality of its other game species. It is considered a safe, stable, unpolluted country and attracts a discerning, influential hunting clientele.

The total gross sales effect of New Zealanders participating in hunting has recently been calculated to be in the order of \$350 million annually (Kerr and Abell 2014). Large game species are a major focus of that hunter spend. Less easy to quantify, but probably of greater significance, is the role hunting plays in national health and wellbeing as a form of recreation enjoyed by tens of thousands of New Zealanders.

The game animal sector provides many benefits to conservation in New Zealand. This includes wild animal management, significant predator trapping projects and back country hut building and maintenance as provided by the Rakiura Hunters Huts Trust, New Zealand Deerstalkers' Association and Safari Club International.

## **Firearms and Hunting**

Firearms are an essential tool for hunters and without them the majority of hunting would cease. Hunters take the responsibility of owning a firearm seriously and the majority are law abiding firearms owners.

The GAC's 5-year strategic plan sets out the importance of maintaining or increasing the number of hunters, increasing their success rates and maintaining a viable commercial game animal harvesting industry.

Firearms legislation that is overly restrictive would be an impediment or a barrier to retaining existing hunters and recruiting new ones. This will reduce the contribution that hunting makes to recreation, commerce and conservation and significantly increase the public costs of animal management.

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## Arms Legislation Bill

This submission is made pursuant to the GAC's statutory functions prescribed in the Game Animal Council Act 2013, its 5-year strategic plan and with the objective of improving hunting opportunities.

### General Policy Statement

The GAC supports increasing public safety and will broadly support measures that can clearly demonstrate doing that, but provisions that do not and unfairly impact hunters cannot be supported.

The quantum of the increase in public safety should also be commensurate with the costs, imposition and other negative effects of implementing any measures. The GAC supports the role of Government to enable a regulatory regime that provides for licence holders to legitimately use firearms in their work and recreation. The GAC would add to this "without unnecessary restrictions."

The Bill's provisions should be tested against the following premise:

***"Can the measure proposed clearly demonstrate that it will improve public safety, by minimising the likelihood of firearms misuse and consequential harm to the wider community"***

### Registration of Firearms

The general policy statement sets out that the rationale for a full registry is that:

*"Currently, there is limited knowledge of how many firearms are in New Zealand, who has them, who is selling them and to whom, and how secure they are. This situation makes it easy for firearms to be acquired by criminals, via sale or theft, who then hold them outside the regulatory system."*

This statement is not entirely correct.

The police already know how secure firearms are since the inspection of storage facilities takes place at the time of licensing or renewal. Any storage facilities that do not meet the standards will prevent a licence being issued. Similarly, registering firearms will not prevent them from being stolen. The case for registration must therefore be to prevent the supposed flow of firearms from licensed firearms owners to criminals. We cannot find any evidence that quantifies the significance or quantum of this in the supply of illegal firearms. Criminals obtain firearms in a number of ways, illegal importation, theft, from other unlicensed persons

or from licensed firearms owners. Even with registration it is a simple matter to remove identifying marks from a firearm therefore rendering the proposed traceability ineffective.

### **Will knowing how many and what type of firearms a person has make the public safer?**

In the case of a licenced firearms owner who is a fit and proper person and stores their firearms in accordance with the regulations, the answer is 'no' due to the extremely low likelihood of such a person misusing a firearm causing consequential harm.

The key issue with the proposal is captured in the [Regulatory Impact Statement on page 9 under Key Limitations or Constraints on Analysis](#). Tight timeframes, options limited by the Minister of Police, data constraints and limited consultation are identified as limitations on the adequacy of the analysis.

A convincing case for full registration of firearms has not been made meaning the proposal risks being an expensive, intrusive and onerous mistake.

***Recommendation: That the Select Committee commission an independent assessment of whether a firearms registry as proposed in the Bill will achieve the stated objectives of increasing public safety and reducing the number of firearms falling into criminal hands***

### **Fair and transparent cost recovery**

The lack of detail and certainty as to the composition and operation of the registration system leaves us unable to make meaningful assessments on its fitness for purpose and cost. Further information on this needs to be provided, however, some important principles apply. Only real and actual costs should form part of any cost recovery program. All costs must be transparent and cost must be minimised whilst still ensuring any system is fit for purpose.

### **Change of possession and temporary transfer rules impractical**

A register based solely on possession is totally unworkable for hunters. Clauses 94(1)(c) and 94(2)(a) are totally impractical as temporary possession when on a hunting trip, guided hunting or in a farming situation may transfer fluidly between licenced firearms holders as the situation dictates. This makes compliance impossible and incentivises non-compliance. This situation also arises when firearms are sent for repair or modification.

***Recommendation: Remove these provisions or insert a provision to determine an appropriate time period of say 30 days so that short-term temporary transfers are not affected by the requirement to register change of possession.***

### **Concerns over accuracy of register, access to register and data security**

The register relies on its integrity and therefore must be 100 percent accurate to be of any use. The GAC has serious concerns given the confirmation that both a paper and an electronic system will be required to be maintained due to many firearms owners being unable to access or use electronic media. This leaves significant scope for error both at the source and data transfer stages of the registry.

The Bill proposes that a number of government agencies are to have direct access to the database. It cites the rationale for the Department of Conservation as being required for

hunting permits. The Department of Conservation abandoned the requirement for providing firearms licence details many years ago and to our knowledge there is no intention to bring this back.

Data security is also major issue. Providing a central register of all firearms is a magnet for cyber-crime. Any breach could provide criminals with a shopping list of firearms and where to get them, placing licenced firearms owner's person and property at risk.

## **Licensing System Design and Operation**

The GAC's goal is for all hunters to be adequately trained and licensed when using firearms for hunting unless under the direct supervision of a license holder. Regulations must facilitate this and not be a barrier to adequate training or safe participation.

The Council supports the direction of ensuring that only fit and proper persons are licensed to own and use firearms and the need to identify changes to people or their circumstances that might render them no longer fit and proper. However, the changes proposed are alarmingly subjective, ignore fundamental principles of justice, do not contemplate temporary changes to a person or their circumstances and give too much discretionary decision-making powers and rights of entry to the police. The role of the police is to apply the law not make the law. That is the role of Parliament and the judiciary.

There are also issues with reducing the proposed duration of licences, increasing licence fees and requirements around the possession of ammunition and parts.

### **Fit and proper person test**

S24A(1)(a)(b)(c). the Game Animal Council strongly opposes the notion that a person is not fit and proper if they have been charged with an offence as set out in these provisions. Persons may be charged and subsequently found innocent yet will be automatically captured by this legislation as not being a fit and proper person. This contradicts the fundamental premise of our justice system. The bar must be set at being convicted not charged.

We are similarly opposed to (d) as it relates to temporary protection orders. Temporary protection orders are as they are set out temporary and most often relate to one-off situations that are later resolved. The provision focusses on family violence but ignores harassment and stalking of unrelated persons. This is inconsistent. To punish someone again by precluding them from holding a firearms licence is excessive in our view. Again, the bar is too low and should be set at either breaching a temporary protection order or having a permanent protection or restraining order placed against them. Doing so would be consistent with Part 5 22G persons disqualified from Holding a firearms licence

S24A(1)(c). The Council supports the inclusion of offences against the Wild Animal Control Act as there have been limited mechanisms in the past to deal with illegal hunting. For completeness the Game Animal Council Act 2013 should be included in this provision

S24A(2)&(3). Is a wide-open door for police to take into account any matters at all and information from any sources. The Council opposes the lack of direction in these provisions and seeks greater clarity on the types and sources of information that may constitute a reason to determine that someone is not fit and proper.

***Recommendation: That the Bill be amended to remove being charged for an offence or being the subject of a temporary protection order as an automatic failure of the fit and proper person test. The fit and proper person provisions also require greater***

**legislative direction so that they are objective, unambiguous and do not provide room for over-zealous manipulation.**

### **General conditions of firearms license and right of entry**

The Game Animal Council opposes the expansion of the police powers under 24B(c) to enter a premises solely because a person is a licensed firearms owner. This power is not accorded to the Police where a person does not have a firearms licence.

***Recommendation: to implement an audit regime where entry can be made with 24 hours' notice at a reasonable time, unless Police have just cause to suspect that a person is illegally possessing or using firearms.***

### **Duration of firearms licence**

The GAC does not see how reducing the duration of a firearms license from the current 10 years to the proposed 5 years will improve public safety.

***Recommendation: Retain the current 10-year licence period and in place of a full renewal a 5-yearly audit is undertaken of each license holder's fitness to hold a license and adequacy of storage facilities. This would also satisfy the stated objective of more regular assessment of licensees and would be at a lower cost than a full renewal.***

### **Cost of licences**

Again, the objective should be to have everyone who uses firearms trained and licensed unless under direct supervision. Cost should not be a barrier. Many hunters hunt to put food on the table, especially in rural communities. Young people starting out in hunting similarly are resource poor and we need to incentivise people to become licensed.

The GAC strongly believes that a person's first firearms licence should ideally be free of charge or at a minimum heavily subsidised. As we set out at the beginning of this submission firearms and hunting make significant monetary contributions to recreation, commerce and conservation and this would more than offset subsidising a person's first licence.

***Recommendation: Licence renewals should only be subject to direct cost recovery and those costs should be transparent and minimised.***

### **Licences required to purchase and possess ammunition and parts**

The GAC supports the provisions requiring a firearms license in order to purchase and possess ammunition and parts. However there needs to be provision for persons to transport those items from one licence holder to another without fear of prosecution.

### **Licensed dealers**

There are serious impacts for guided hunting, farming and training organisations from new clause 5(1)(a) that requires a dealer's licence for anyone selling, hiring, lending, or otherwise supplying a firearm in a business capacity. In the case of guided hunting or farming as a business, very often a firearm is temporarily loaned to a client or employee for a short period of time. Guides, farmers and trainers are not trading (dealing) in these firearms but are lending them as part of their business.

***Recommendation: GAC believes this is a simple drafting error that could have major unintended consequences and can easily be remedied by removing the words, 'lending, or otherwise supplying' from the provision.***

## **Shooting Clubs and Shooting Ranges**

Being a safe and successful hunter requires access to safe places to discharge firearms. This serves a number of purposes:

- Allows hunters to have practical training in the safe use of firearms
- Allows hunters to practice correct shooting techniques
- Allows hunters to ensure their firearms are correctly sighted in, which directly impacts hunting success rates and minimises animal welfare concerns
- Allows hunters to check firearms in a safe environment before going hunting.

Ranges that are run well benefit public safety, encourage compliance and maximise training opportunities.

The Game Animal Council wants to see more safe places for hunters to train in safe firearms operation and to check the accuracy of their firearms. This can be on certified formal ranges but as is the case in many rural areas it is likely to be done on non-certified informal ranges on private property. It is important that we make this distinction and that these important informal ranges are not caught up in burdensome regulation that will limit their establishment and use.

A central register of ranges and clubs with contact details etc including auditing and monitoring by police is not opposed as long as the regulatory regime is not onerous thereby reducing or limiting the existence and use of ranges.

Examples of onerous provisions are the requirement to have a duty manager and public liability obligations. These are opposed on the grounds that it will result in a loss of access to ranges and the current system for operating ranges is working well and there have been little or no safety issues. Regulation and the powers of police in this process needs to be set out in the legislation and not as policy set out by the Police. There needs to be a clearer definition of what constitutes a range by clarifying the meaning of "primary purpose" of the land.

***Recommendation: Remove the duty manager and public liability obligations due to the negative impact they will have on access to ranges and the extra cost associated with them. That the word 'primary' be replaced in the definition of 'shooting range' by the stronger word 'predominant' and that the words 'shooting on land for which the predominant use is not shooting is excluded from the provisions of the Act' be inserted***

## **Other Provisions**

**New powers for the Police Commissioner to effectively make policy via guidance notices that interpret the law**

The Game Animal Council opposes provisions that enables the Commissioner of Police to issue guidance notices under 87(1). This effectively interprets the law and usurps the role of Parliament and the judiciary.



***Recommendation: Delete from guidance notices clause 87(1)(g) as that is already covered by Section 74(j)(c) of the Bill. S87(1)(h) is far too broad and should be removed. Another option is to amend S87(4) to make guidance notices disallowable instruments thus giving parliamentary oversight of them.***

### **Firearms Advisory Committee**

The Game Animal Council supports the establishment of a new Firearms Advisory Committee. However, the committee should report directly to the Minister of Police and not the Commissioner of Police as it is the Minister who is responsible for the Act.

The Committee requires appropriate expertise and experience, which should include recreational and commercial hunting and rural users. Representation should include the Game Animal Council as one of the two statutory game management agencies.

***Recommendation: It is appropriate for the Firearms Advisory Committee to report to the Minister of Police rather than the Police Commissioner. Committee representation should include the Game Animal Council as the statutory representative of recreational and commercial game animal hunters.***

### **Consultation**

Remove S82(3) as allowing the Commissioner to make regulations regarding fees and charges without requiring consultation with firearms owners is undemocratic and dictatorial.

### **Section 74 amended (Regulations)**

The GAC strongly opposes 82(7)(ja) as this clause is unnecessarily prohibitive and does not have a demonstrable public safety benefit. It will overly restrict the legitimate advertising and marketing of firearms. This is akin to the current situation with cigarettes in that they are required to be not on display, locked in a plain unbranded cupboard. This would render many hunting publications uneconomic to operate and remove one of the most effective communications mechanisms for promoting the safe use of firearms.

GAC supports 82(7)(jb) as a sensible provision to enhance reasonable information sharing with firearms users.

***Recommendation: Remove clause 82(7)(ja) as it is overly prohibitive and has no public safety benefit.***

### **Review of the Act**

The Game Animal Council strongly supports reviewing the Act in 5 years' time. This review should be carried out by an independent review panel with terms of reference that include assessing the performance of the Act against the objectives in the policy statement.

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## **Role of the GAC**

The GAC has a history of working constructively and cooperatively with many agencies. The Council offers its assistance and expertise to the select committee on any relevant issues.

The Game Animal Council welcomes the opportunity to speak to this submission. If you have any queries relating to this submission, please contact me on 0274885940.



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