



## The New Zealand Arms Control Regime

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### Introduction

This paper provides an overview of the New Zealand arms control regime<sup>2</sup>. The writing of this paper is motivated both by a desire to share with others the strengths of that regime, and, following from this, to address what appears to be misunderstandings arising from the much publicised perspective of a very small group of commentators who hold a particular view on arms control<sup>3</sup>. The New Zealand regime is placed within an international context.

### The New Zealand arms control regime

Firearms in New Zealand are primarily controlled by the Arms Act 1983; Arms Regulations 1992 and the Arms (Restricted Weapons and Specially Dangerous Airguns) Order 1984 (see [www.legislation.govt.nz](http://www.legislation.govt.nz)). These are expanded by policy directions collated in the New Zealand Arms Manual 2002. These documents need to be read together for a more complete understanding of the New Zealand arms control regime (see [www.police.govt.nz](http://www.police.govt.nz), look under 'service units', 'firearms').

Central to the New Zealand arms control regime is the licensing of individuals as fit and proper to possess firearms. Those who wish to possess pistols, restricted weapons or military style semi automatic firearms (MSSAs) may apply for an endorsement on their firearms licence. In order to have the endorsement granted they must demonstrate that they are both fit and proper and have cause to possess that firearm<sup>4</sup>. The issuing of any such endorsement is subject to the direction of the Commissioner<sup>5</sup>.

Pistols, restricted weapons and MSSAs may only be sold or supplied to a person holding a permit to procure issued by a member of Police. Individuals are required to confirm having taken possession of these firearms where such a permit has been issued. Police use information from the permit to procure process to record the details of the pistol, restricted weapon or MSSA against the person's firearms licence.

Firearms licenses and endorsements are renewable ten yearly on application. This application is as for a new licence, with full vetting and security inspection being a requirement. In short, in order to renew their firearms licence the applicant must demonstrate that they continue to be fit and proper to possess firearms.

Individuals applying for a firearms licence are determined as being, or not being fit and proper by a vetting process that includes but is not limited to:

1. Information held on Police computer systems, including criminal records, intelligence data and Court Orders such as Family Violence Protection Orders.
2. Face to face interview with the applicant's partner, spouse or next of kin (for both first time applicants and applicants to renew).

3. For first time applicants, face to face interview with an unrelated referee. For renewals this interview may be carried out by telephone.
4. Face to face interview with the applicant.
5. Physical inspection of security in place for firearms. Security requirements are set by regulation.
6. The recording of information about sporting long arms (make, model, serial number, calibre). This is voluntary, with about 90% of firearms licence applicants providing this information<sup>6</sup>.
7. Any other inquiry that the Arms Officer considers necessary. This may include obtaining a doctor's certificate.

Those wishing to have an endorsement must further satisfy Police as to their fit and proper status and the reason they wish to possess a pistol, restricted weapon or MSSA. This process includes:

1. Evidence of bona fide interest in possessing that pistol, restricted weapon or MSSA.
2. Interview of referees who already possess pistols, restricted weapons or MSSAs.
3. For target pistol shooting; confirmation as being the member of a pistol shooting club recognised by the Commissioner of Police.
4. Security commensurate with the type of firearm to be possessed. Security standards for pistols, restricted weapons and MSSAs are of a higher standard than for sporting long arms and are set by regulation.
5. On renewal of the licence/endorsement, a physical audit of pistols, restricted weapons and MSSAs recorded against the applicant's licence
6. Any other inquiry the Arms Officer considers necessary.

Arms Officers are directed in the vetting process by the Vetting Guide and the Vetting Master Guide.

Those wishing to sell or manufacture firearms by way of business are required to apply to Police for a dealers licence. The arms dealers licence is issued on the basis that a person demonstrates that they are fit and proper to carry out this business. Dealers and their employees are also required to hold a firearms licence, and if selling pistols, restricted weapons or MSSAs the requisite endorsement. Security and recording requirements for Dealers are set by Regulation. The Dealer's licence is renewable annually.

The New Zealand legislative framework establishes as offences the unlawful use or possession of firearms. These are included in both arms control legislation and the criminal code.

### **Actions of fit and proper persons**

Having been determined as fit and proper to use, possess or sell and manufacture firearms indicates that an individual is likely to possess and use firearms lawfully. Individuals who do not do so are no longer fit and proper.

A person is not considered fit and proper if:

1. They are subject to a protection order under domestic violence legislation. Protection orders have as a standard condition the 'deemed revocation' of the respondent's firearms licence. This standard condition may be discharged by a Judge on application from the respondent.
2. In the opinion of a Commissioned Officer of Police there are grounds for making such an order.
3. They have had their firearms licence revoked on the grounds they are not a fit and proper person.

4. A person who is not fit and proper is likely to have access to their firearms.
5. They fail to secure their firearms as required by the Arms Regulations 1992.
6. They demonstrate any other behavioural based problems, such as substance misuse, routine offending against the law, violence, attempted suicide and mental ill health such that it might cause concern.

Firearms licenses, endorsements and dealers licenses may be revoked where a person is considered no longer fit and proper to use or possess firearms, or as dealer they fail to exercise due control over their business.

Where Police have revoked a firearms licence they may, when the person has demonstrated themselves fit and proper reinstate the licence. A revoked firearms licence may be reinstated on appeal to the Courts.

### **The development of legislation and policy - a consultative approach**

In setting the principles of modern policing in 1829 Peel stated that 'the extent to which the cooperation of the public can be secured diminishes proportionally the necessity of the use of physical force and compulsion for achieving police objectives'. One mechanism to gain public cooperation is to include them fully in the law and policy making process.

The outcome of legislation developed in a consultative process is better law and enhanced public acceptance, and ultimately compliance with that law.

In the same way it is important to include interested parties in the development of policy. The New Zealand Mountain Safety Council, as an independent organisation very focussed on safety is central to this consultative process. The Mountain Safety Council branch network of instructors is pivotal to explaining law and policy to the wider firearm using public.

It is also important to acknowledge that firearm users tend to be the good people in the community. This is especially so in rural and small town communities. They will be the same people who support Neighbourhood Support, Victim Support, youth education and other policing initiatives. They will also be the people police officers rely on for support and back up!

### **Different States, different needs**

Arms control internationally is agreed by instruments such as the UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons (SALW) in All Its Aspects (referred to in what follows as the 'POA'). Commentators tend to compare jurisdictions such as New Zealand, with a well developed and long-standing arms control legislative framework, with other jurisdictions that have a history of armed insurrection, violence and terrorism<sup>7</sup>. These jurisdictions are only just putting in place legislative frameworks to control access to and use of SALW, and thereby appear to be taking more action in relation to the POA. Such comparisons are not necessarily valid, as New Zealand does not face the same issues in relation to SALW<sup>8</sup>.

An arms control regime is likely to be more effective therefore if it takes into account the differing histories, cultures, environments and patterns of firearms possession and use that are apparent in different States. A 'one size fits all' approach is likely to be less effective than approaches that address these differences.

The POA itself appears to support this view, committing States to take steps that bear in mind the 'different situations, capacities and priorities of States and regions' (POA, II (1)).

Given this, States are more justified in putting energy into developing strategies that they consider are more likely to be effective, given their own particular circumstances.

New Zealand supports, and has implemented an arms control regime that places added controls on those firearms that are most likely to have military application. This includes maintaining a database recording the possession and transfer of these firearms.

### **Conclusion**

This paper has provided an overview of the New Zealand arms control, sharing with others the strengths of that regime. Arms control in New Zealand has been placed within an international context and the reason for the New Zealand view explained.

The New Zealand arms control regime can be more fully understood by referring to the following key documents:

- The Arms Act 1983
- The Arms (Restricted Weapons and Specially Dangerous Airguns) Order 1984
- The Arms Regulations 1992
- The Arms Code (Firearms Safety Manual Issued By the New Zealand Police)
- The Arms Manual 2002
- The Vetting Guide
- The Vetting Master Guide

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<sup>1</sup> Joe has been a Police officer for 22 years, working at all ranks in both administrative and operational roles to his current rank of Inspector. Since November 1998 he has managed the Licensing and Vetting Service Centre. This Service Centre is responsible, among other things for the national coordination of firearms control. He has advised a Parliamentary Select Committee on one Arms Amendment Bill, has developed policy which is within the Arms Manual 2002, and is advising on the Arms Amendment Bill #3. He is also the Deputy Chair of the New Zealand Mountain Safety Council, which is the civilian organisation responsible for the nation wide training of all firearms licence applicants. In practice this means that he has been associated with the design, administration and enforcement of firearms control systems on a full time basis for seven years. This is backed by operational policing experience.

<sup>2</sup> New Zealand has a very low crime rate with firearms, being approximately 1.5% of all violent crime, a very low accidental injury and death rate, with 7 injuries and 1 death during 2004, and a reducing suicide rate with firearms as the choice of method (in the 15-24 age group for males, suicide by firearm decreased from 6.9 deaths per 100 000 in 1977 to 2.9 per 100 000 in 1996). The culture of firearm use in New Zealand is such that Police do not routinely carry firearms.

<sup>3</sup> In his paper *Global Deaths from Firearms* (2003: page 2) David Kopel comments on statements that take on a truth of their own as 'factoids' that 'gain strength through repetition, often without any (or very slim) empirical basis'. It could be argued that the repeated comment about New Zealand's 'permissive' firearms regime by certain commentators is such a 'factoid' – see for example Alpers and Twyford, *Small Arms in the Pacific* (March 2003), page xvii.

<sup>4</sup> The cause to possess pistols and restricted weapons is determined by statute. The applicant must be a target pistol shooter (member of a club recognised by the Commissioner of Police), or a bona fide collector, or a person to whom the pistol or restricted weapon has special significance as an heirloom or memento, or the Director or Curator of a museum, or an approved employee or member of a bona fide theatre, film or television company or society. For MSSAs the applicant must satisfy Police they have reason to possess the MSSA. Most

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common reasons include pest destruction, competitive service rifle shooting and film production.

<sup>5</sup> Acting on the 'direction of the Commissioner (of Police)' is an aspect of New Zealand legislation that makes it important to include Police policy, collated in the Arms Manual, as part of the overall arms control regime. In this sense New Zealand legislation is less prescriptive than some other legislative frameworks. Being less prescriptive should not be interpreted as being less restrictive.

<sup>6</sup> New Zealand does not have a universal registration regime. In 1983 a decision was made to move from such a regime to a comprehensive licensing regime, as outlined in this paper. This change was made on the basis that the registration system suffered from inaccuracy, had indications of low compliance, did not assist crime prevention and detection, was of high cost with the money of maintaining such a system better spent on other essential police duties (Judge Thorp; 1997, pages 13-16 *Review of Firearms Control in New Zealand*). A licensing system with more intensive vetting was considered to provide effective arms control. This view has not changed. Despite recommending a universal registration regime in his 1997 *Review of Firearms Control in New Zealand* Judge Thorp noted that in order to be effective a threshold of 90% compliance was necessary. Judge Thorp (page 178) concluded that 'at this time there is insufficient evidence to conclude that the assistance which registration would provide to crime prevention and detection would in itself support the costs involved in establishing it'. The observation of the outcome of legislative changes in other common law jurisdictions has not encouraged New Zealand to change the 1983 decision.

<sup>7</sup> It is problematic that international discourse includes 'farmers, sporting shooters, criminal gangs, armed insurgents, collectors, private security guards and private citizens of all ages' within the definition of 'civilian' (*Missing Pieces*, Centre for Humanitarian Dialogue 2005: 15). The misuse of firearms by each sector has its own contributing factors, and each needs to be addressed in a different way. It is also problematic that the discussion about arms control internationally does not appear to include the use of firearms in situations that might be described as the 'liberation of peoples', and which has been instrumental in the development of States.

<sup>8</sup> There seems to be some support for a view that the POA applies in the first instance to military firearms. The context set by the preamble to the POA arguably supports such a view, as does the more recent opinion of the UN Group of Governmental Experts' report that any instrument for the marking and tracing of SALW focus on weapons manufactured to military specifications for use as lethal instruments of war. It also makes sense when one considers that sporting long arms in civilian possession are generally unsuitable for use in armed conflict the POA seeks to address. Primary reasons for this include a multiplicity of calibres, often within the same make and model, and durability and general robustness of operation. The strength of firearms designed for military purposes is mass production with very limited calibres, durability and ease of handling. Limited calibres enables mass production of ammunition with reduced likelihood of mismatching of firearm and ammunition in the field. The small arms and light weapons (SALW) included in the POA are most likely to refer to pistols, and what are known in New Zealand as restricted weapons and military style semi automatic firearms, these being the firearms with direct military application. This view is supported by the recent Pacific experience. The firearms of primary concern in the Pacific are those of military application that have originated from State stockpiles.