

# DRAFT FOR CONSULTATION

## Arms (Repeal for Practical Use) Amendment Bill

Member's Bill

### Explanatory note

#### General policy statement

The policy objective of this Bill is to create a better balance in the regulation of firearm use in New Zealand by removing the inflexible and burdensome amendments made by the Arms Legislation Act 2020.

It is the first and easiest step towards creating a better and more comprehensive firearms regime.

That Act made a number of changes to the Arms Act 1983 that went too far, undermined trust in the firearms community and did not present changes to make New Zealand a safer place. In a number of areas, the amendments have the potential to create more harm.

The changes made by the Arms Legislation Act 2020 have made complying with the law onerous and costly to many, including clubs and organisations that run on volunteer time and manpower to run effectively.

Repealing these unnecessary burdens will appropriately balance the provisions that do successfully manage firearm use in New Zealand and remove those provisions that create inflexibility in the regime and place costs on law abiding firearm users.

This Bill therefore removes provisions that (a) do not assist in keeping New Zealand safe; (b) make New Zealand a less safe place; (c) create unnecessary cost with no benefit to the wider community.

In particular the Bill —

- removes provisions relating the yet to be established firearms register;
- removes the new provisions and requirements on clubs and ranges;
- removes the excessive regulation making powers contained in sections 74A and 74B;
- rationalises a number of penalties for offences;

- removes the new offence for the possession of ammunition; and
- imposes a higher standard for medical practitioners to talk to Police.

These changes will help to restore trust and confidence between the firearms owning community, Police and Government. Offences around prohibited ammunition are removed and better catered for under other Legislation such as the Hazardous Substances and New Organisms Act 1996.

The policy objective of the Bill is achieved through amendment to remove or reform the provisions of the current Act that (a) do not assist keeping New Zealand safe; (b) make New Zealand a less safe place; (c) impose unnecessary costs on New Zealanders.

This Bill will help to restore trust and confidence between a community of quarter of a million people with Police and Government.

### Clause by clause analysis

*Clause 1* is the title clause.

*Clause 2* is the commencement clause. It provides for the Bill to come into force on the day after the date of which it receives the Royal assent.

## Part 1

### Amendments to Arms Act 1983

*Clause 3* provides that *Part 1* amends the Arms Act 1983 (the **principal Act**).

*Clause 4* amends section 2 of the principal Act to amend the definition of **ammunition seller** to remove an exclusion for a member of a shooting club, and to repeal the definitions of **registry** and **shooting club**.

*Clause 5* amends section 2A of the principal Act to repeal a provision that refers to Orders in Council made under section 74A of the principal Act, which is necessary because of the repeal of section 74A (see *clause 22*).

*Clause 6* amends section 2B of the principal Act to repeal a provision that refers to Orders in Council made under section 74A of the principal Act, which is necessary because of the repeal of section 74A (see *clause 22*).

*Clause 7* repeals section 2D of the principal Act, which is necessary because of the repeal of section 74A (see *clause 22*).

*Clause 8* amends section 3 of the principal Act to repeal provisions that refer to the registry, which is necessary because of the repeal of the provisions that would establish the registry (see *clause 34*).

*Clause 9* amends section 8C of the principal Act to delete a reference to the registry, which is necessary because of the repeal of the provisions that would establish the registry (see *clause 34*).

*Clause 10* amends section 9B of the principal Act to delete a reference to the registry, which is necessary because of the repeal of the provisions that would establish the registry (see *clause 34*).

*Clause 11* amends section 16 of the principal Act to remove references to prohibited and non-prohibited ammunition.

*Clause 12* repeals section 16A which establishes an offence to import prohibited ammunition.

*Clause 13* amends section 18 of the principal Act to remove references to prohibited and non-prohibited ammunition.

*Clause 14* amends section 18C of the principal Act to remove references to prohibited and non-prohibited ammunition.

*Clause 15* repeals section 22B which places restrictions on the possession of ammunition and makes it an offence to contravene those restrictions without reasonable excuse.

*Clause 16* amends section 22E of the principal Act to repeal a provision that refers to the registry, and to delete a further reference to the registry. These amendments are necessary because of the repeal of the provisions that would establish the registry (see *clause 34*).

*Clause 17* amends section 42 of the principal Act to reduce the maximum penalties that apply to offences in respect of licences. The maximum term of imprisonment is reduced from 2 years to 3 months, and the maximum fine is reduced from \$20,000 to \$1,000.

*Clause 18* amends section 43 of the principal Act to reduce the maximum penalties that apply to the offence of selling or supplying a firearm or airgun to an unlicensed person. The maximum term of imprisonment is reduced from 2 years to 3 months, and the maximum fine is reduced from \$20,000 to \$1,000.

*Clause 19* repeals section 43AA which provides that a person is liable on conviction to imprisonment for a term not exceeding 2 years if the person, without reasonable excuse, sells or supplies prohibited ammunition.

*Clause 20* amends section 44 of the principal Act to reduce the maximum fine that applies to the offence of selling or supplying a pistol or restricted weapon to a person who does not hold a permit to import or a permit to possess. The maximum fine is reduced from \$30,000 to \$4,000.

*Clause 21* repeals section 50CA which provides that a person commits an offence and is liable on conviction to imprisonment for a term not exceeding 2 years if the person— (a) is in possession of prohibited ammunition; and.

*Clause 22* amends section 52 of the principal Act to reduce the maximum penalties that apply to the offence of presenting a firearm, airgun, pistol, or restricted weapon at another person. The maximum term of imprisonment is reduced from 6 months to 3 months, and the maximum fine is reduced from \$10,000 to \$1,000.

*Clause 23* amends section 55B of the principal Act to reduce the maximum penalties that apply to the offence of failing to produce a prohibited firearm on demand or to permit inspection of prohibited firearm. The maximum term of imprisonment is reduced from 6 months to 3 months, and the maximum fine is reduced from \$10,000 to \$1,000.

*Clause 24* amends section 62B of the principal Act to repeal provisions that refer to shooting clubs and shooting ranges, which is necessary because of the repeal of the provisions that would regulate shooting clubs and shooting ranges (see *clause 32*).

*Clause 25* amends section 66A of the principal Act to repeal a provision that refers to the registry, which is necessary because of the repeal of the provisions that would establish the registry (see *clause 34*).

*Clause 26* amends section 72A of the principal Act to repeal a provision that refers to the registry, which is necessary because of the repeal of the provisions that would establish the registry (see *clause 34*).

*Clause 27* amends section 74 of the principal Act to repeal provisions that refer to the registry, shooting clubs, shooting ranges, and Orders in Council made under section 74A.

*Clause 28* repeals section 74A of the principal Act which provides for the Governor-General to make Orders in Council relating to the definitions of prohibited firearm and prohibited magazine, and declaring prohibited ammunition.

*Clause 29* repeals section 74B of the principal Act which provides that orders made under section 74A are confirmable instruments.

*Clause 30* amends section 80 of the principal Act to remove references to shooting clubs and shooting ranges, which is necessary because of the repeal of the provisions that would regulate shooting clubs and shooting ranges (see *clause 32*).

*Clause 31* amends section 87 of the principal Act to repeal a provision that refers to shooting clubs and shooting ranges, which is necessary because of the repeal of the provisions that would regulate shooting clubs and shooting ranges (see *clause 32*).

*Clause 32* amends section 92 of the principal Act to alter the threshold at which a health practitioner who has attended or been consulted in respect of a person who is a firearms licence holder must consider notifying Police. The health practitioner will be required to consider notifying the Police as soon as practicable if the health practitioner considers that the health condition of the licence holder is such that the licence holder poses an immediate or imminent danger or self-harm or harm to others.

*Clause 33* amends section 96 of the principal Act to repeal a provision that refers to the registry, which is necessary because of the repeal of the provisions that would establish the registry (see *clause 34*).

## Part 2

### Amendments to Arms Legislation Act 2020

*Clause 34* provides that *Part 2* amends the Arms Legislation Act 2020 (the **principal Act**).

*Clause 35* amends section 2 of the principal Act to repeal the commencement provisions of the sections of the principal Act which are repealed by the Bill.

*Clause 36* amends section 21 of the principal Act to delete a provision that refers to the registry, which is necessary because of the repeal of the provisions that would establish the registry (see *clause 34*).

*Clause 37* amends section 49 of the principal Act to repeal a provision that refers to new section 38G of the Arms Act 1983, which is repealed by the Bill (see *clause 32*).

*Clause 38* repeals section 63 of the principal Act. Section 63 would have inserted new Part 6 (which deals with shooting clubs and range), and new Part 7 (which deals with direct access by certain government agencies to the registry) into the Arms Act 1983.

*Clause 39* repeals section 84 of the principal Act. Section 84 would have inserted new section 58A into the Arms Act 1983 establishing offences relating to the registry.

*Clause 40* amends section 104 of the principal Act, to delete new sections 93 to 95 of the Arms Act 1983, and the cross-heading above new section 93. These new sections would have established an obligation for the Commissioner of Police to keep and operate a registry for the purposes of the Arms Act, set out the content of the registry and created an obligation for certain persons to provide information to the registry.

*Clause 41* amends Schedule 1 of the principal Act, to delete new clauses 12–14 that would have been inserted into a new Part 2 of Schedule 1 of the Arms Act 1983. These new clauses relate to shooting clubs, shooting ranges, and obligations relating to the registry.

*Clause 42* amends Schedule 2 of the principal Act, to delete an amendment to regulations that refers to section 38P of the Arms Act 1983, which is repealed by the Bill (see *clause 32*).

## Part 3

### Revocation of legislative instruments

*Clause 43* revokes the Arms (Prohibited Ammunition) Order 2019 (LI 2019/137) and the Arms (Prohibited Magazine) Order 2019 (LI 2019/289). These orders were made under section 74A of the Arms Act 1983 which is repealed by the Bill (see *clause 22*).



*Nicole McKee*

## **Arms (Repeal for Practical Use) Amendment Bill**

Member's Bill

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Arms (Repeal for Practical Use) Amendment Act **2021**.

**2 Commencement**

This Act comes into force on the day after the date on which it receives the Royal assent.

**Part 1**  
**Amendments to Arms Act 1983**

**3 Principal Act**

This Part amends the Arms Act 1983 (the **principal Act**).

**4 Section 2 amended (Interpretation)**

- (1) In section 2(1), definition of **ammunition seller**, delete (b)(ii).
- (2) In section 2(1), repeal the definition of **non-prohibited ammunition**.
- (3) In section 2(1), repeal the definition of **prohibited ammunition**.
- (4) In section 2(1), repeal the definition of **registry**.
- (5) In section 2(1), repeal the definition of **shooting club**.

**5 Section 2A amended (Meaning of prohibited firearm)**

Repeal section 2A(1)(b).

**6 Section 2B amended (Meaning of prohibited magazine)**

Repeal section 2B(c).

**7 Section 2D repealed (Meaning of prohibited ammunition)**

Repeal section 2D.

**8 Section 3 amended (Act to bind the Crown)**

Repeal section 3(5)(c) and (d).

**9 Section 8C amended (Effect of expiry or surrender of dealer's licence)**

In section 8C(1)(c), delete “that have not been entered in the registry”.

**10 Section 9B amended (Effect of revocation of dealer's licence)**

In section 9B(1)(c), delete “that have not been entered in the registry”.

**11 Section 16 amended (Offence to import firearms, etc, without permit)**

(1) In section 16(1)(c), delete “non-prohibited”.

(2) Repeal section 16(1)(g).

**12 Section 16A repealed (Offence to import prohibited ammunition)**

Repeal section 16A.

**13 Section 18 amended (Issue of permit to import firearms, etc)**

(1) In section 18(2)(d), delete “non-prohibited”.

(2) Repeal section 18(4)(h).

(3) Repeal section 18(5)(c).

**14 Section 18C amended (Export of specified items not corresponding with sample or otherwise approved for importation)**

In section 18C(4), delete “non-prohibited”.

**15 Section 22B repealed (Restriction on possession of ammunition)**

Repeal section 22B.

**16 Section 22E amended (Ammunition seller to keep record of ammunition sales)**

(1) Repeal section 22E(2)(b).

(2) In section 22E(6), delete “that have not been included in the registry”.

**17 Section 42 amended (Offences in respect of licences)**

(1) In section 42, replace “2 years” with “3 months”.

(2) In section 42, replace “\$20,000” with “\$1,000”.

**18 Section 43 amended (Selling or supplying firearm or airgun to unlicensed person)**

(1) In section 43(1), replace “2 years” with “3 months”.

(2) In section 43(1), replace “\$20,000” with “\$1,000”.

**19 Section 43AA repealed (Selling or supplying prohibited ammunition)**

Repeal section 43AA.

**20 Section 44 amended (Selling or supplying pistol or restricted weapon to person who does not hold permit to import or permit to possess)**

In section 44(1), replace “\$30,000” with “\$4,000”.

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- 21 Section 50CA repealed (Unlawful possession of prohibited ammunition)**  
Repeal section 50CA.
- 22 Section 52 amended (Presenting firearm, airgun, pistol, or restricted weapon at other person)**  
(1) In section 52, replace “6 months” with “3 months” in each place.  
(2) In section 52, replace “\$10,000” with “\$1,000” in each place.
- 23 Section 55B amended (Offence of failing to produce prohibited firearm, etc, on demand or to permit inspection of prohibited firearm, etc)**  
(1) In section 55B, replace “6 months” with “3 months”.  
(2) In section 55B, replace “\$10,000” with “\$1,000”.
- 24 Section 62B amended (Right of appeal to District Court)**  
(1) Repeal section 62B(1)(a)(ix) and (x).  
(2) Repeal section 62B(1)(b)(viii) and (ix).
- 25 Section 66A amended (Loss, theft, or destruction of firearm, etc)**  
Repeal s66A(1)(b).
- 26 Section 72A amended (Service of documents)**  
Repeal section 72A(1)(d).
- 27 Section 74 amended (Regulations)**  
(1) Repeal section 74(1)(ga) to (gd), (pa), (pc), and (ra).  
(2) Repeal section 74(3).
- 28 Section 74A repealed (Order in Council relating to definitions of prohibited firearm and prohibited magazine, and declaring prohibited ammunition)**  
Repeal section 74A.
- 29 Section 74B repealed (Orders under section 74A are confirmable instruments)**  
Repeal section 74B.
- 30 Section 80 amended (Activities that may be subject to cost recovery)**  
(1) In section 80(1), delete “shooting club, or shooting range”.  
(2) Repeal section 80(2)(a)(viii).
- 31 Section 87 amended (Guidance notices)**  
Repeal section 87(1)(d).

**32 Section 92 amended (Health practitioners may give Police medical reports of persons unfit to use firearm)**

- (1) In section 92(1), replace “, in the interests of the safety of individuals or the public, the licence holder—” with “the licence holder poses an immediate or imminent danger of self-harm or harm to others.”.
- (2) Repeal section 92(1)(a) and (b).
- (3) Repeal section 92(2)(c).

**33 Section 96 amended (Review of this Act)**

Repeal section 96(2)(a).

## **Part 2**

### **Amendments to Arms Legislation Act 2020**

**34 Principal Act**

This Part amends the Arms Legislation Act 2020 (the **principal Act**).

**35 Section 2 amended (Commencement)**

- (1) Repeal section 2(4)(a) to (d).
- (2) Repeal section 2(5)(a) to (d).

**36 Section 21 amended (Section 12 amended (Record of dealings by licensed dealers))**

In section 21(3), delete new section 12(3)(b).

**37 Section 49 amended (Section 29 amended (Application for endorsements in respect of pistol or restricted weapon))**

Repeal section 49(3).

**38 Section 63 repealed (New Parts 6 and 7 inserted)**

Repeal section 63.

**39 Section 84 repealed (New section 58A inserted (Offences relating to registry))**

Repeal section 84.

**40 Section 104 amended (New sections 79 to 96 and cross-headings inserted)**

In section 104, delete new sections 93 to 95 and the cross-heading above new section 93.

**41 Schedule 1 amended**

In Schedule 1, delete new clauses 12 to 14 of new Part 2 of Schedule 1.

**42 Schedule 2 amended**

In Schedule 2, delete the amendment to regulation 22(1)(a) of the Arms Regulations 1992.

**Part 3**  
**Revocation of legislative instruments**

**43 Orders revoked**

The following orders are revoked:.

- (a) Arms (Prohibited Ammunition) Order 2019 (LI 2019/137);
- (b) Arms (Prohibited Magazine) Order 2019 (LI 2019/289).