



8 June 2005

S05.29

**Submission to the Law and Order Select Committee  
on the Arms Amendment Bill (No 3)**

The National Council of Women of New Zealand (NCWNZ) is an umbrella organisation representing 40 nationally organised societies. It has 33 branches throughout the country attended by representatives of those societies and some 150 other societies. NCWNZ also represents a number of individual women. The Council's function is to serve women, the family and the community at local, national and international levels through research, study, discussion and action.

Our concerns have been and continue to be for the well being and safety of all people. Strong effective controls on firearms can only be an advantage to our communities and will enhance the safety of all those living in them, including firearms users.

NCWNZ was one of the organisations asked in 1981 to study and comment on versions of the draft Arms Act. Some of our suggestions on content and wording of clauses were incorporated into the second draft, and later into the Bill. We were pleased with the general direction of the Bill requiring the control of firearms within the community by the introduction of the system of licensing **persons** who use firearms. We have reiterated our concerns about aspects of the licensing system and the capacity of the police to monitor it through further submissions to relevant legislation in 1983, 1988, 1990, 1991, 1992, 1994, 1995, 1996, 1997 and 1998. We have always been particularly concerned about the role of firearms in domestic violence situations. Freedom from Violence is a targeted focus for NCWNZ in 2005.

The Public Issues Standing Committee of NCWNZ reviewed these earlier expressions of membership opinion and consulted with representatives of interest groups, including registered firearms users. We acknowledge that the intention of this Bill is to replace the 1999 Bill which did not proceed due to lack of unanimity. Some of the proposed amendments will enable New Zealand to sign the Firearms Protocol supplementing the United Nations Convention against Transnational Organised Crime (TOC). Other amendments will improve the effectiveness and clarity of the principal Act and address operational issues that have emerged since it was last significantly amended in 1992. We support all these objectives.

In commenting on this Bill, the Public Issues Committee has also considered the Arms Amendment Bill (No 3) Supplementary Order Paper No 354 which seeks to recognise as a legal defence the use of firearms in self-defence of person or property provided that a lawful, proper and sufficient purpose has been established. We consider that this SOP covers a different focus and that the issue of self-defence needs to be considered separately from the Arms Amendment Bill (No 3).

We would like to comment on the following specific aspects of the Arms Amendment Bill (No 3) 2005. Our comments largely focus on the need for greater clarity in some clauses and on a belief in the importance of upholding the rule of law. This means that penalties for any offence committed





under the Arms Act by any person not a holder of a firearms or dealer's licence should be greater in scale than penalties for licence holders.

### **General purpose**

This Bill establishes three new offences relating to:

- the illicit manufacture of firearms, and their parts, and ammunition;
- the illicit trafficking of firearms, parts and ammunition;
- the removal or altering of firearm markings without lawful excuse.

Offences carry penalties of imprisonment and fines, or both.

Existing penalties – mainly fines - are being significantly increased, along with new penalties of suspension and endorsement of licenses.

People selling or manufacturing firearms must hold a dealer's licence and the new Bill prohibits importation of firearms without a permit.

New Zealand already complies with obligations in the Firearms Protocol that relate to international law enforcement, co-operation, training and technical assistance, and information sharing with other countries. Other aspects of the Protocol include such things as the import/export and manufacture of firearms, maintaining controls and records, international law enforcement and information sharing.

It follows that maintaining the status quo is not an option if New Zealand wishes to become a party to the Protocol.

NCWNZ totally supports the proposed alterations, increases in penalties and more stringent application of the requirements of the Principal Act.

We believe that there needs to be consistent application of the Act throughout the country, particularly in regard to security and seizure. We have previously submitted our concerns in regard to haphazard storage of firearms, in private homes on rural properties or places of work. All firearms should be in a locked secure storage preferably a secure metal cabinet. We have been informed of some inconsistencies in the interpretation of safe storage. For example, in one dwelling where firearms were stored in a room with concrete block walls and a steel door, the homeowner was also required to fix steel rods between the floor joists of the room above to prevent access from that area. However, in more recent years it seems that this monitoring of security has eased and approval was given for firearms to be stored in a wooden hall cupboard.

### **Part 1. Clause 3 Interpretation**

#### **(1) (a) (ii) Antique firearm**

We draw attention to the phrase "is not designed for firing". All firearms manufactured prior to 1900 would be designed for firing unless they are a copy or a replica and these are included in (i) above. This definition requires rewording for clear interpretation by those charged to deliver the requirements of the Act and individuals.

A wording change to "is not designed to fire, and is not capable of firing." would provide clarity.

#### **Part 1. Clause 3 (2)**

Section 2 of the Principal Act is amended by inserting in the definition of "firearm" the subparagraph "(iia) any airgun with a muzzle energy of more than 34 joules; and..."

NCWNZ passed a resolution in 1974 in support of this. However the measurement of muzzle energy in joules is not one that generally many people would be familiar with. Feet or pounds would be a more commonly understood and used measure.



If joules is thought to be more precise it would be appropriate for conversion tables to be publicly available for airgun owners and users to ascertain if they would now require a licence and secure storage.

**Part 1. Clause 20**

The Principal Act is amended by repealing Section 41 and substituting a new section “**41(1) (a)** is not a holder of a firearms licence or a dealer's licence”

We submit that penalties for any offence committed under the Arms Act, as amended, by any person not a holder of a firearms or dealer's licence, should be greater in scale than penalties for licence holders. Of significant concern is where a firearm is used by an unlicensed person in crime involving violence or threats of violence.

This scaling of penalties would reinforce the legislative requirement that all firearms owners must hold a current updated licence and does not seek to weaken the requirement for licence holders to uphold and know the law.

**Part 2 Amendments relating to criminal activity.**

**Clause 38 New Section 59A to 59G to be inserted**

**59A Unlawful Manufacture of Firearms (a) (ii)**

NCWNZ considers that public notification of this section will require extensive public notification for it to be upheld. Small local engineering firms could easily be found to be in breach if asked to turn any gun parts.

**59C. Unlawful modifications of firearm marking.**

NCWNZ recommends that for consistent application of this clause definitions of “lawful, proper, and sufficient purpose” should be included in the Act or guidelines developed and consulted on. The penalties for this section are high and correspondingly the risk is high. It is noted that the simple addition of new sights can obliterate markings.

**Clause 41 New section 61 and 61A substituted.**

“**61 (1) (b)** Seize and detain anything found there to which subsection (2) applies”

NCWNZ questions the use here and elsewhere of the word “**thing**” despite the subsequent definitions in subsection 2. Replacement with a more precise word, such as components, would reinforce and assist in the consistent application of the Act throughout the country and avoid the potential for litigation when prosecutions are filed under the Act.

Thank you for the opportunity to comment on this legislation.

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Mary Gavin  
**Convener, Public Issues Standing Committee**