

April 2019

Arms (Prohibited Firearms, Magazines, and Parts) Amendment Bill

Submissions by ADLS

ADLS welcomes the opportunity to make submissions on the Arms (Prohibited Firearms, Magazines and Parts) Amendment Bill (“Bill”). The ADLS Criminal Law Committee (“Committee”) would like to express support for this Bill. In view of this and the short time available to review the Bill, the Committee makes submissions on selected matters raised under headings below.

1.0 General Prohibition on Military-Style Semi-Automatic (MSSA) Firearms

- 1.1 There are a number of vocal detractors who would oppose this Bill, or see it neutered significantly. The principal basis of their objection would appear to be that the majority of firearm owners are responsible, law-abiding people, who use firearms for farming, hunting, and sport. They say that their ability to use the firearms which are the subject of this Bill should not be curtailed as a result of a single bad actor.

The Committee’s view is that the availability of MSSAs, and parts used to modify non-MSSAs so that they function as an MSSA, is simply not necessary for the vast majority of ordinary lawful purposes. Responsible individuals will still be able to use firearms in hunting, farming and sport.

- 1.2 Outside of the specific use exemptions provided for in the legislation (licensed dealers, authorised pest controllers, firearms collectors, museum curators, firearms used during dramatic productions, and police and defence force personnel), MSSAs are at best of recreational or hobby value. However, the risks associated with the lethal applications of such firearms by far outweighs the value they might otherwise provide to the general firearm-licenced public.
- 1.3 The harm to society as a consequence of the easy availability of such weaponry has the potential to be catastrophic. The recent events in Christchurch are one recent example. Sadly, there are many others from around the world.

2.0 Creation of new offences

- 2.1 The Bill creates two distinct regimes of offences which separate offending relating to prohibited firearms and firearm parts on the one hand, and non-prohibited firearms on the other.
- 2.2 The offences relating to prohibited firearms would be new, while the existing Arms Act offences would be modified to apply only to non-prohibited firearms.
- 2.3 If enacted as currently drafted, the new offence regime would create a number of serious offences for prohibited firearms, when the equivalent offence in respect of a non-prohibited firearm would be comparatively much less serious. One example which illustrates the point relates to presentation of a firearm.
- 2.4 The proposed offence of presentation of a prohibited firearm would carry a maximum penalty of 7 years imprisonment,¹ whereas presentation of a non-prohibited firearm would carry a maximum penalty of 3 months imprisonment or a \$1,000 fine.² While the Committee acknowledges that the emotional distress caused by the presentation of a prohibited weapon over a non-prohibited one is more significant, if the weapon is not discharged at, or used to injure or kill, another person³, then the actual harm (and therefore the criminal culpability) associated with the presentation and discharge of prohibited and non-prohibited weapons are arguably similar. The disparity in maximum penalties may not therefore be justified.
- 2.5 In terms of new offences created, the Committee submits that focus should primarily lie on the importation, creation, modification, sale, supply and possession of prohibited firearms.
- 2.6 Unfortunately, the limited amount of time available to make submissions on the proposed legislation has prevented a full analysis of the entire range of proposed offences, but we are concerned that the significant disparity between maximum penalties for offences relating to prohibited and non-prohibited firearms throughout the Bill may not be justified.

3.0 Licencing

- 3.1 We also consider that each firearm in New Zealand should be registered to a licensee. We realise that will add costs because of the need to maintain and update a firearms register and consider that like car licencing this cost should be passed on to licensees.

4.0 Conclusion

- 4.1 The Committee supports the Bill insofar as it seeks to remove MSSAs and those parts that can convert firearms into MSSAs from circulation in New Zealand. It is no longer appropriate to sanction the easy availability of military-style weaponry in modern New Zealand.

¹ Arms (Prohibited Firearms, Magazines, and Parts) Amendment Bill, cl 51.

² Arms (Prohibited Firearms, Magazines, and Parts) Amendment Bill, cl 52 and Arms Act 1983, s 52.

³ Where separate and more serious Crimes Act offences would be available.

- 4.2 The Committee queries whether significant distinctions in maximum penalties for offences relating to prohibited and non-prohibited firearms is always justified. It also submits that focus should primarily lie on deterring the importation, creation, modification, sale, supply and possession of prohibited firearms.
- 4.3 The Committee submits that each firearm in New Zealand be registered to a licensee, with the cost of creating and maintaining the registration system being passed on to licensees.

Thank you for the opportunity to make our submissions. If you have any questions or queries please contact the Professional Services Manager, Melissa Fini, by email: melissa.fini@adls.org.nz or DDI: 09 306 5744.

Yours faithfully,

pp.



Marie Dyhrberg

Convener

ADLS Criminal Law Committee

