

Firearms Community Advisory Forum

Notes from a Meeting at Police National Headquarters

Wednesday 3 December 2014, 1030 – 1330 hrs

Name	Role	Organisation
Paul Clark	Chair	Council of Licensed Firearm Owners Inc.
John Howat		Wellington Sporting Arms Co Ltd Firearms Dealers
Awaiting Rep	Chair	National Rifle Association of New Zealand
Steve Privett	National President	New Zealand Antique and Historic Arms Association
Trevor Dyke (Bill O'Leary)	Former National President	New Zealand Deerstalkers' Association
Nicole McKee	Programme Manager Firearms & Hunter Safety	New Zealand Mountain Safety Council
Andrew Edgcombe	Observer	National Vice President NZAHAA
John Herbert	President	New Zealand Service Rifle Association
Debbie Wakker (Apology)	President	Pistol New Zealand

Members from Police:

Catherine Petrey, National Manager Policy (Chairperson)

Inspector Garth Den Heyer

Paul Gatland, Firearms Control Adviser

Robert Ngamoki, Senior Armourer

Mike Cole, Arms Officer, Wellington

Geoffrey Dunn, Team Leader, Policy Group

Sandra Keenan, Policy Group

Invitees:

Ministry of Foreign Affairs and Trade

Anais Kedgley Laidlaw

Rosalind Dawson

New Zealand Customs Service

Kirsty Marshall

1. Welcome and Introductions

New Zealand Police welcomed everyone present and thanked them for their attendance. It was noted that the Chair would be attending the meeting later.

Apologies from Debbie Wakker.

John Howat introduced himself as a new member to the Forum, and gave a brief rundown of his experience.

Inspector Garth Den Heyer, who is taking over Operational management of the Arms Act, introduced himself.

2. Update from last Forum meeting

The Arms (Military Style Semi Automatic Firearms and Import Controls) Amendment Act 2012, which came into effect on 11 December 2013, along with the Arms (Military Style Semi-automatic Firearms: Pistol Grips) Order, have now been in force for nearly a year. A question was asked about the 'bedding in' of the MSSA definition and pistol grip with the comment that it did not look as if any major areas of issue had arisen. This was thrown open to discussion. No issues were brought up from the members.

By unanimous decision, the Regulations Review Committee did not uphold the complaint against the Arms (Military Style Semi-automatic Firearms: Pistol Grips) Order. It considered that the making of the Order was consistent with the object of the Act, and the intentions of the Arms Act as a whole, and did not breach the Standing Orders grounds. In its view, there cannot be a trespass against personal rights or liberties, as there is no statutory right to possess or own a component of a firearm. It found that the order does not exclude the jurisdiction of the Courts as claimed. It considered that the Order does not contain matters of broad policy or substance more appropriate to primary legislation, on the basis that it simply describes a component of a definition in the Arms Act, in accordance with the legislative power delegated by Parliament in section 74A(a) of the Act and does not introduce new policy.

3. Arms Trade Treaty (ATT) progress and discussion (MFAT)

MFAT covered off the background and current situation regarding the ATT:

New Zealand ratified the Arms Trade Treaty in September 2014 and was among the first 50 signatories. The ATT is an international treaty to regulate the international movement of conventional weapons, including arms. The ATT now has 123 signatories, well past the 50 it needed to come into force, which will occur on 24 December 2014. There were no changes required to current NZ legislation before New Zealand ratified. However, consistent with New Zealand's obligations under the ATT, the Government is currently developing legislative controls on brokering - which is the negotiation or arrangement of a transaction involving the international movement of arms and/or military equipment. The intention is for these controls to be introduced in 2015.

A discussion on the process of these brokering controls and areas to consider was undertaken.

It was noted that it would be very important for the legislation to articulate very clearly what an arms broker is – so that it is clear that the legislation does not apply to brokers of other types of goods.

Related to the above, it was stated that the legislation would need to make clear the situation regarding people who provide transportation or administrative support (e.g. help with Customs paperwork/approvals) for a transaction involving arms, but who do not actually arrange/broker the deal. The members said they would like the legislation to make clear that such persons are not brokers and are thus not covered by the regime.

Customs asked that it be clear from the paperwork required who was listed as the supplier and who was a manufacturer. After discussion it was concluded that paperwork was being completed as it should be.

The group all felt strongly that any brokering regime should not apply to domestic arms transactions, and should be clearly separate from the licensing and control regime established under the Arms Act. MFAT advised that the regimes of most likeminded countries, including Australia, only apply to international transactions. If New Zealand was to follow this approach it would mean that there would be a clear delineation with the current Arms Act regime, with the Arms Act covering domestic sale and use of arms, and the brokering regime covering only international transactions.

The group also stated that any brokering regime should not affect, or create any additional bureaucracy around, existing import and export rules.

It was also noted by some participants that it would be important to keep fees for brokering registrations and permits low, and not follow the US approach.

MFAT emphasised that no decisions have yet been taken by Cabinet on the legislative regime, but that all the group's suggestions were consistent with the approach taken by likeminded countries that NZ is looking to as a guide, such as Australia and the UK.

The group was invited to submit any further questions and comments to MFAT's export controls email address.

4. Firearms Prohibition Orders

On 23 June 2014 Cabinet directed Police and the Ministry of Justice to provide advice to Cabinet Social Policy Committee (SOC) by December 2014 on options, including a preferred option, for Firearm Prohibition Orders (FPOs). The FPOs could prohibit serious gang offenders from possessing or obtaining firearms, and also penalise anyone who knowingly supplies firearms to someone subject to an FPO. This work was being completed as part of a raft of measures to combat gangs.

Three Australian States have FPOs in varying forms: NSW, SA and Tasmania.

The Commissioner of Police within the respective states issues the FPO to people whom he/she considers it is not in the public interest for them to own or possess firearm/s. There are a range of resulting offences for breaching the order and quite heavy penalties. The person with an FPO cannot reside at an address where a firearm is and cannot go to a shooting range or club. Additionally, a person who supplies a firearm to any person with an FPO is liable to a maximum of 14 years imprisonment.

In South Australia there is a public register of those with FPOs.

NSW Police have wide ranging entry and search powers under the FPO legislation to ensure compliance with the legal restrictions associated with FPOs.

In New South Wales there have been 200 FPOs issued since 2013.

The targets are gangs and other high risk individuals.

Discussion

It was asked if it would not be better to increase the penalties in the Arms Act for unlicensed people possessing firearms as these seemed too low?

Another discussion was around the possibility of a dealer becoming an unwitting 'offender' and criminalised if a person with a FPO comes onto their property where firearms are stored. The response was that in the Australian jurisdictions the dealer would have to 'knowingly' supply a firearm to a person with a FPO for an offence to be committed, and a defence of not knowing and could not reasonably be expected to know that a FPO applied to that person is part of those regimes.

It was noted that Australia is a very different landscape in many ways, including the firearms control regimes, gang culture and their legislation including the absence of a Bill of Rights Act.

A view was expressed that criminals do not care about laws and having another order would not deter their criminal offending. It was suggested that these may in fact encourage specialist suppliers for short term 'rentals' of firearms where they can be used for an offence and then given back to be sanitised for the next 'job'.

It was noted that in Australia the FPOs appeared to have an isolation effect whereby other criminals did not want the person with a FPO near them due to the high likelihood of Police interest/search and having their 'goods' seized and themselves subject to high penalties.

It was noted that the key to changing offending behaviour is targeting the thing that matters to offenders for example car impounding for boy racers.

There was a sentiment expressed by several people that the current regime needed fixing including increasing penalties in the Arms Act and better administration before looking for new solutions.

The FPO Cabinet paper is now likely to be completed in February 2015.

It was noted that it looks to be a 'political' issue and that the question remains: is it of use to the firearms community OR will it harm the firearms community? There seemed to be a general acknowledgement that FPOs would not harm the legitimate firearms owning community provided that no associated difficulties are created for dealers or firearm owners in respect of those with FPOs.

Customs mentioned that the matter of persons with FPOs not being able to import would need to be explicit in any legislation including in respect to parts (parts for A category firearms, except for the actions, do not require an import permit).

5. Arms Amendment Bill

It was advised that there is likely to be an Arms Amendment Bill in 2015, if the Government decides to introduce FPOs. Other things that might be considered for inclusion in an Arms Amendment Bill were changes to some of the penalties in the Arms Act, and some clarifications around permits in the case of the manufacturing of MSSAs and the conversion of A category firearms to MSSAs.

Discussion:

If dealer to dealer suppliers of firearms are exempt from requirements in s43A(1) for mail order sales to require Police endorsement this needs to be spelt out in legislation.

The matter of not needing import permits for all firearm parts probably needs reviewing. This is because Police is not in a position to provide individual letters to importers stating that permits are not required in NZ law for the importing of A category parts (other than actions). Attendees commented on the impact on business as most export countries need government paperwork before they will release firearm parts for export.

It was asked if the group could receive a copy of the revenue from fees from licensing and endorsements used to finance the administration of the Arms Act. Also some information on what the administration and staffing costs are. Police Operations Group will organise the provision of this information.

There was a discussion on a review underway of the way the firearms group is run within Police. A lot is open to discussion including self-funding and ring fencing funds, and an 0800 number to cutdown paperwork, staff or offices.

There were comments regarding 'e' category firearms and the fact that no-one else can technically handle the firearm. It was advised that Police was aware of the need for some technical amendment in this area.

6. Customs

It was discussed that members are welcome to contact Customs with any suggestions as to how Customs might best deliver within the law, or when dealers or users have issues or questions. Emails can also be directed to the Customs website.

7. Other Matters

It was suggested that the Forum should be publicised more widely than on Police's website and the minutes sent out to Firearms Magazines. Mountain Safety undertook to send the contact details for editors of these magazines.

It was decided that a Communications Strategy for the Forum be developed and discussed at the next meeting.

In closing, the Chair again thanked everyone for coming and reiterated that Police wants this Forum to be a genuine attempt to have an opportunity to hear about everyone's challenges.

The Chair reiterated that, as for previous meetings of the Forum, the meeting would be run under strict Chatham House Rules – everyone should feel free to express their views, but no names will be attributed to any comments reported from the meeting on the Police website.

It was also noted that it was originally hoped to have two meetings of the Forum per year, so next year the first meeting will be around May/June or earlier if everyone thought it was necessary due to important developments.

The meeting closed at 13.10 pm.