



ANALYSIS

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1976, No. 151

An Act to amend the Arms Act 1958

[14 December 1976]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title—This Act may be cited as the Arms Amendment Act 1976, and shall be read together with and deemed part of the Arms Act 1958 (hereinafter referred to as the principal Act).

2. Interpretation—Section 2 of the principal Act is hereby amended by inserting, in its appropriate alphabetical order, the following definition:

“‘Imitation firearm’ means anything that has the appearance of being a firearm capable of discharging any shot, bullet, or other missile, whether or not it is capable of discharging any shot, bullet, or other missile:”.

Cf. Firearms Act 1968, s. 57 (4) (U.K.)

3. Permit for import of firearms or unlawful weapons—(1) Section 6 of the principal Act is hereby amended by omitting the words “commissioned officer of” wherever they occur, and substituting in each case the words “member of the”.

(2) Section 6 of the principal Act is hereby further amended by repealing subsection (2A) (as inserted by section 3 of the Arms Amendment Act 1964), and substituting the following subsection:

“(2A) Notwithstanding anything in subsection (1) of this section, but without limiting the discretion conferred by subsection (2) of this section, a permit under this section in respect of a pistol shall be issued only by a commissioned officer of Police and no such officer shall issue any such permit unless he is satisfied that there are special reasons why the pistol in respect of which the permit is granted should be allowed into New Zealand.”

(3) Section 3 of the Arms Amendment Act 1964 is hereby consequentially repealed.

4. Permits for possession—Section 7 (5) of the principal Act is hereby amended by inserting, after the word “section”, the words “(other than a permit in respect of a shotgun, which permit may be expressed to remain in force indefinitely)”.

5. Offence to permit or allow unauthorised person to procure possession of firearm—The principal Act is hereby amended by inserting, after section 7A (as inserted by section 3 of the Arms Amendment Act 1971), the following section:

“7B. (1) Every person commits an offence and shall be liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$200, or to both, who, being a person who has a firearm in his possession, permits or allows any other person to procure possession of it unless that other person is authorised or permitted expressly or by implication, by or pursuant to this Act or by or pursuant to regulations made under it, to be in possession of that firearm.

“(2) For the purposes of this section a person using a firearm under the immediate supervision of the owner of the firearm or under proper supervision on a properly constructed firing range is a person permitted to be in possession of it.”

6. Certificate of registration may be refused or existing certificate may be revoked—The principal Act is hereby amended by repealing section 10, and substituting the following section:

“10. (1) No person shall be registered as the owner of any firearm if, in the opinion of a commissioned officer of Police,—

“(a) That person is not a fit and proper person to be in possession of the firearm; or

“(b) Access to that firearm is reasonably likely to be obtained by any person—

“(i) Whose application for a certificate of registration as the owner of any firearm has been refused on the ground set out in paragraph (a) of this subsection; or

“(ii) Whose certificate of registration as the owner of any firearm has been revoked on the ground set out in paragraph (a) of subsection (2) of this section; or

“(iii) Who, in the opinion of a commissioned officer of Police, is not a fit and proper person to be in possession of the firearm.

“(2) Where, in the opinion of a commissioned officer of Police,—

“(a) Any person who is registered as the owner of any firearm is not a fit and proper person to be in possession of the firearm; or

“(b) The firearm is unsafe; or

“(c) Access to any firearm in respect of which a certificate of registration is in force is likely to be obtained by any person—

“(i) Whose application for a certificate of registration as the owner of any firearm has previously been refused on the ground set out in paragraph (a) of subsection (1) of this section; or

“(ii) Whose certificate of registration as the owner of any firearm has been revoked on the ground set out in paragraph (a) of this subsection; or

“(iii) Who, in the opinion of a commissioned officer of Police, is not a fit and proper person to be in possession of the firearm,—

the commissioned officer may by notice in writing under his hand revoke the certificate of registration, and the person so registered shall upon demand surrender the certificate to a member of the Police.

“(3) On the revocation of a certificate of registration pursuant to this section the person to whom the certificate was issued shall cease to be the registered owner of the firearm to which it relates, whether or not the certificate has been surrendered.”

7. Firearms which are not registerable may be required to be surrendered to Police—(1) Section 11A of the principal Act (as inserted by section 4 of the Arms Amendment Act 1968) is hereby amended by inserting, after subsection (3), the following subsection:

“(3A) Where any person is served with a notice pursuant to subsection (1) (a) of this section, that person shall, on demand, deliver to a member of the Police any permit issued to him under section 7 of this Act in respect of a shotgun.”

(2) Section 11A of the principal Act (as so inserted) is hereby further amended by inserting in subsection (4), after the words “subsection (2)”, the words “or subsection (3A)”.

8. Right of appeal against official decisions—Section 14 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) Notwithstanding anything in subsection (1) of this section, where any certificate of registration has been refused or revoked on the ground set out in section 10 (1) (b) or section 10 (2) (c) of this Act, the Magistrate may, notwithstanding that he finds any such ground established, vary or reverse the decision appealed against if he is satisfied that, since that decision was given, adequate measures have

been taken to deny access to the firearm to the person whose likelihood of access to it was the basis of the refusal or revocation.”

9. Carriage of imitation firearms, except for proper and sufficient purposes, prohibited—Section 16 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) No person shall carry any imitation firearm except for some lawful, proper, and sufficient purpose, and the burden of proving the existence of any such purpose shall lie upon the defendant.”

10. New sections inserted—(1) The principal Act is hereby amended by inserting, after section 18, the following sections:

“18A. **Use of firearm, imitation firearm, unlawful weapon, ammunition, or explosive to resist arrest**—(1) Every person commits an offence and is liable on conviction on indictment to imprisonment for a term not exceeding 7 years who makes or attempts to make any use whatsoever of any firearm, imitation firearm, unlawful weapon, ammunition, or explosive with intent to resist or prevent the lawful arrest or detention of himself or another person.

“(2) Every person commits an offence and is liable on conviction on indictment to imprisonment for a term not exceeding 5 years who, at the time of his committing an offence punishable by imprisonment for a term of 3 years or more, has in his possession any firearm, imitation firearm, unlawful weapon, ammunition, or explosive:

“Provided that it shall be a defence to a charge under this subsection if the person charged proves that he had the firearm, imitation firearm, unlawful weapon, ammunition, or explosive in his possession for a lawful purpose.

Cf. Firearms Act 1968, s. 17 (U.K.)

“18B. Carrying firearm, imitation firearm, unlawful weapon, ammunition, or explosive with criminal intent—

(1) Every person commits an offence and is liable on conviction on indictment to imprisonment for a term not exceeding 5 years who has with him any firearm, imitation firearm, unlawful weapon, ammunition, or explosive, with intent to commit an offence punishable by imprisonment for a term of 3 years or more or to resist arrest or prevent the arrest

of another, in either case while he has the firearm, imitation firearm, unlawful weapon, ammunition, or explosive with him.

“(2) In proceedings for an offence against this section proof that the accused had any firearm, imitation firearm, unlawful weapon, ammunition, or explosive with him and intended to commit an offence, or to resist or prevent arrest, is evidence that he intended to have it with him while doing so.”

Cf. Firearms Act 1968, s. 18 (U.K.)

(2) Section 235 of the Crimes Act 1961 is hereby amended by adding, as subsection (2), the following subsection:

“(2) For the purposes of this section a firearm or imitation firearm shall, notwithstanding that it is not loaded or is otherwise incapable of discharging any shot, bullet, or other missile, be deemed to be an offensive weapon or instrument.”

11. Occupier of premises to be deemed to be in possession of firearms, imitation firearms, unlawful weapons, ammunition, and explosives found thereon—Section 23 of the principal Act is hereby amended by inserting, after the word “firearms” wherever it appears, the words “imitation firearms, unlawful weapons,”.

12. Power of search in respect of imitation firearms and unlawful weapons—(1) Sections 24 (1) and 25 of the principal Act are hereby amended—

(a) By inserting, after the word “firearm” wherever it appears, the words “imitation firearm, unlawful weapon,”;

(b) By inserting, after the word “firearms” wherever it appears, the words “imitation firearms, unlawful weapons,”.

(2) Section 24 (2) of the principal Act is hereby amended by inserting, after the word “firearm” wherever it appears, the words “unlawful weapon”.

13. Restoration of articles seized under this Act—Section 28 of the principal Act is hereby amended by omitting the words “firearms, ammunition, or explosives”, and substituting the words “firearm, imitation firearm, unlawful weapon, ammunition, or explosive”.

14. Forfeitures—Section 29 of the principal Act is hereby amended by inserting, after the word “arms” wherever it appears, the words “imitation firearms, unlawful weapons,”.

15. Authorising disposal of firearms, etc., detained by Police—Section 30 of the principal Act is hereby amended by omitting the words “firearms, ammunition, or explosives” wherever they appear, and substituting in each case the words “firearm, imitation firearm, unlawful weapon, ammunition, or explosive”.

16. Delegation of powers by Commissioner of Police—The principal Act is hereby amended by inserting, after section 30, the following section:

“30A. (1) The Commissioner of Police may from time to time, by writing under his hand, either generally or particularly, delegate to such member or members of the Police, of a rank not less than Inspector, as he thinks fit all or any of his powers under this Act.

“(2) Every person purporting to act pursuant to any delegation under this section shall be presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary.

“(3) Subject to subsection (1) of this section, any delegation under this section may be made to a specified member of the Police or to members of the Police of a specified rank or class, or may be made to the holder or holders for the time being of a specified office or class of offices.

“(4) Every delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Commissioner of Police.

“(5) Any such delegation shall, until revoked, continue in force according to its tenor, notwithstanding the fact that the Commissioner of Police by whom it was made may have ceased to hold office, and shall continue to have effect as if made by the successor in office of the Commissioner.

“(6) The revocation of any such delegation shall not affect in any way anything done under the delegated authority.”

17. Regulations—(1) Section 32 (1) of the principal Act is hereby amended as from its commencement by adding to paragraph (a) the words “or renewal, and the duration of any such permit, licence, or certificate”.

(2) Section 32 (1) of the principal Act is hereby further amended as from its commencement by inserting, after paragraph (g) the following paragraph:

“(gg) Conferring, or providing for, exemptions from any provision of any regulation made under this Act:”.

(3) Section 32 (2) of the principal Act (as amended by section 7 of the Decimal Currency Act 1964) is hereby amended by omitting the expression “\$40”, and substituting the expression “\$200”.

18. Consequential amendments—(1) The First Schedule to the Summary Proceedings Act 1957 (as amended by section 10 of the Arms Amendment Act 1974) is hereby amended by omitting from Part II so much thereof as relates to the Arms Act 1958, and substituting, in the appropriate columns and in the appropriate alphabetical order, the following words:

“The Arms Act 1958	7A	Unlawful possession of pistols
		16B	Unlawful carriage of, or possession in a public place of, firearms, ammunition, explosives, or unlawful weapons
		18A (1)	Use of firearm, imitation firearm, unlawful weapon, ammunition, or explosive to resist arrest
		18A (2)	Possession of firearm, imitation firearm, unlawful weapon, ammunition, or explosive at time of commission of offence
		18B	Carrying firearm, imitation firearm, unlawful weapon, ammunition, or explosive with criminal intent.”

(2) Section 10 of the Arms Amendment Act 1974 is hereby consequentially repealed.

This Act is administered in the Police Department.
