

HOUSE OF REPRESENTATIVES

Supplementary Order Paper

Tuesday, 22 September 1992

ARMS AMENDMENT BILL

Proposed Amendments

Hon. JOHN BANKS, in Committee, to move the following amendments:

Clause 1: To omit from line 9 on page 2 the word "July", and substitute the word "November".

Clause 2: To omit from lines 15 and 16 on page 4 the words "inserting, after the definition of the term 'restricted weapon', the following definition: ", and substitute the words "adding, after the definition of the term 'specially dangerous airgun', the following definitions:".

To add, after line 30 on page 4, the following definition:

" 'Working day' means any day of the week other than—

"(a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign's birthday, and Waitangi Day; and

"(b) A day in the period commencing with the 25th day of December in any year and ending with the 15th day of January in the following year."

Clause 3: To omit this clause, and substitute the following clause:

3. Act to bind the Crown—(1) Section 3 (2) of the principal Act (as amended by section 2 of the Arms Amendment Act 1989) is hereby amended by repealing paragraph (a), and substituting the following paragraph:

"(a) By any person in the course of that person's duties as—

"(i) A member of the New Zealand Defence Force or a member of the Cadet Forces; or

"(ii) A member of the Police or an armourer employed by the Police; or

"(iii) An employee of the Institute of Environmental Health and Forensic Sciences Limited; or

"(iv) An officer or agent of Government Supply Brokerage Corporation (N.Z.) Limited:".

(2) The Arms Amendment Act 1989 is hereby consequentially repealed.

Clause 3A: To insert, after *clause 3*, the following clause:

3A. Gun shows—The principal Act is hereby amended by inserting, after section 7, the following section:

“7A. (1) Notwithstanding anything in sections 6 and 7 of this Act, a dealer’s licence may, with the consent of a commissioned officer of Police, apply from time to time, for a period not exceeding 5 days at any one time, in respect of a place of business other than the place of business in respect of which the dealer’s licence was issued.

“(2) A commissioned officer of Police may give his or her consent under **subsection (1)** of this section only if satisfied—

“(a) That the licensed dealer will, during the period in respect of which the consent is sought, use the place of business in respect of which the consent is sought only for the purposes of conducting a gun show; and

“(b) That the security of the place of business in respect of which the consent is sought will be sufficient.

“(3) Any consent given under **subsection (1)** of this section shall be given subject to the condition specified in **subsection (4)** of this section and to such other conditions (if any) as are specified by the commissioned officer of Police.

“(4) It shall be a condition of any consent given under **subsection (1)** of this section that the licensed dealer close, for the duration of the period in respect of which the consent is given, the place of business in respect of which the dealer’s licence was issued.”

Clause 6: To omit from line 21 on page 7 the word “January”, and substitute the word “May”.

Clause 7: To omit the new subsection (3) of section 23 (all the words in lines 32 to 34 on page 7), and substitute the following subsection:

“(3) A person who is the holder of a firearms licence may, before the expiration of that firearms licence, apply for a new firearms licence.”

Clause 7A: To omit this clause, and substitute the following clause:

7A. Duration of firearms licence—The principal Act is hereby amended by repealing section 25, and substituting the following section:

“25. Every firearms licence shall come into force on a date to be specified in the licence and, unless sooner revoked or surrendered, shall continue in force for the period of 10 years beginning on that date.”

Clause 8: To omit this clause, and substitute the following clause:

8. Application for endorsements in respect of pistol or restricted weapon—Section 29 (2) of the principal Act is hereby amended by repealing paragraph (e), and substituting the following paragraph:

“(e) An approved employee or approved member of any body, being—

“(i) A broadcaster within the meaning of the Broadcasting Act 1989; or

“(ii) A bona fide theatre company or society or cinematic or television film production company or video recording production company; or”.

Clause 8A: To insert, after *clause 8*, the following clause:

8A. Power to make endorsement in respect of pistols or restricted weapons—Section 30 (c) (iii) of the principal Act is hereby amended by inserting, after the words “television film”, the words “or making a video recording”.

Clause 12A: To insert, after *clause 12*, the following clause:

12A. New sections inserted—The principal Act is hereby amended by inserting, after section 34, the following heading and sections:

“Photographs

“34A. Power to require or take photographs of applicants—Regulations made under this Act or a member of the Police may require an applicant for a dealer’s licence or an applicant for a firearms licence or a person who applies under section 29 (1) or section 29 (2) or **section 30A** or section 36 of this Act for an endorsement—

“(a) To supply, for the purposes of the application, a photograph or photographs of the applicant or person; or

“(b) To permit a member of the Police to take or to cause to be taken, for the purposes of the application, a photograph or photographs of the applicant or person; or

“(c) To comply with both paragraph (a) and paragraph (b) of this section.

“34B. Effect of non-compliance with requirements in relation to photographs or to calling-in of licences—Without limiting the generality of the provisions of sections 5, 9, 24, 27, 29, **30A**, **33B**, and 36 of this Act, it is hereby declared that a commissioned officer of Police may, under any of those provisions, refuse an application or revoke a licence or an endorsement if that commissioned officer of Police is satisfied, that the applicant or licence holder—

“(a) Has wilfully failed to comply with any requirements imposed by or under this Act in relation to the affixing to dealers’ licences or firearms licences of photographs of licence holders or to the imaging into such licences of such photographs; or

“(b) Has, on having his or her firearms licence called in by the Commissioner under **section 22** of the Arms Amendment Act 1992, wilfully failed to deliver his or her firearms licence to an Arms Office in accordance with a notice given to that licence holder under that section.”

Clause 15A: To omit the expression “section 21” from line 34 on page 12, and also from line 30 on page 13, and substitute in each case the expression “section 22 (1)”.

Clause 19: To omit from lines 12 and 13 on page 16 the expression “section 29 or **section 30A**”, and substitute the expression “section 30 or **section 30B**”.

Clause 19B: To insert, after *clause 19A*, the following clause:

19B. Service of documents—The principal Act is hereby amended by inserting, after section 72, the following section:

“72A. (1) Any notice or other document required or authorised by this Act to be served on or given to any person

shall be in writing and shall be sufficiently served on or given to that person if it is—

“(a) Delivered to that person; or

“(b) Left at that person’s usual or last known place of abode or business or at an address specified by that person for the purpose of any application made under this Act; or

“(c) Posted in a letter addressed to that person by name at that person’s last known place of abode or business or at an address specified by that person for the purpose of any application made under this Act.

“(2) Without limiting the provisions of **subsection (1)** of this section, any notice or other document required or authorised by this Act to be served on or given to any person shall be deemed to have been duly served on or given to that person if it is given—

“(a) To any person appearing to have attained the age of 16 years and to be residing at the place of residence of that person; or

“(b) To any solicitor or other agent of that person who is duly authorised by that person to receive the same.

“(3) If the person is deceased, the notice or other document may be served on or given to that person’s personal representatives.

“(4) If the person is absent from New Zealand and his or her place of abode or business outside New Zealand is not known to the person by whom the notice or other document is to be served or given, the notice or other document shall (unless it can be served on or given to an agent in New Zealand of the person who is absent from New Zealand) be served or given in such manner as may be directed by an order of a District Court.

“(5) Where any notice or other document is sent by post in accordance with **subsection (1) (c)** of this section,—

“(a) It shall, if sent to an address in New Zealand, be deemed, in the absence of evidence to the contrary, to have been served or given on the 4th working day after the date on which it was posted; and

“(b) It shall, if sent to an address outside New Zealand, be deemed in the absence of evidence to the contrary, to have been served or given on the 60th working day after the date on which it was posted; and

“(c) In proving service, it shall be sufficient to prove that the letter was properly addressed and posted.

“(6) Notwithstanding anything in the foregoing provisions of this section, a District Court may in any case make an order directing the manner in which any notice or other document is to be served or given, or dispensing with the service or giving thereof.

“(7) This section does not apply to notices or other documents served or given in any proceedings in any Court.”

Clause 20: To omit this clause, and substitute the following clause:

20. Regulations—(1) Section 74 (1) of the principal Act is hereby amended by inserting, after paragraph (b), the following paragraph:

“(ba) Providing for photographs of licence holders to be affixed to or imaged into dealers licences or firearms

licences or both and prescribing requirements in relation to those photographs.”.

(2) Section 74 (1) of the principal Act is hereby further amended by inserting, after paragraph (l), the following paragraph:

“(la) Declaring any firearm to be an antique firearm for the purposes of this Act:”.

(3) Section 74 (1) (o) of the principal Act is hereby amended by inserting, after the word “ammunition”, the words “or parts of firearms or restricted weapons”.

Clauses 21 to 29: To add, after *clause 20*, the following heading and clauses:

Transitional Provisions

21. Duration of existing firearms licences—Every firearms licence in force on the 1st day of November 1992 shall, unless sooner cancelled, revoked, or surrendered, expire with the close of the 31st day of October 2002.

22. Calling-in of existing firearms licences—(1) At any time before the close of the 31st day of October 2002, the Commissioner may, by notice given to any person who was on the 1st day of November 1992 the holder of a firearms licence, call-in that person’s firearms licence.

(2) Where any person who was the holder of a firearms licence on the 1st day of November 1992 is given a notice under subsection (1) of this section, that person, if then the holder of a firearms licence, shall, by the close of such date as is specified in the notice (which date shall be not less than 2 months after the date of the notice), comply with section 23 or section 24 of this Act.

(3) The notice shall, among other things, inform the licence holder of the substance of section 34B of the principal Act and of section 27 of this Act.

23. Surrender of firearms licences—If the holder of the firearms licence does not wish to continue to be the holder of a firearms licence, he or she shall surrender his or her firearms licence by delivering it or causing it to be delivered to a member of the Police at an Arms Office.

24. Applications for new firearms licences—(1) If the holder of the firearms licence wishes to continue to be the holder of a firearms licence, he or she—

(a) Shall attend in person at an Arms Office and there deliver to a member of the Police—

(i) The holder’s firearms licence or a letter explaining why the holder is unable to deliver his or her firearms licence; and

(ii) Two photographs of the holder of the firearms licence; and

(b) Shall, at the same time as he or she complies with paragraph (a) of this subsection, complete at the Arms Office—

(i) An application for a new firearms licence; and

(ii) Such applications (if any) as are required under any of the provisions of sections 29 (1), 29 (2), 30A (1),

and 36 of the principal Act in respect of endorsements.

(2) The photographs of the holder of the firearms licence (which shall be identical) shall comply with such other requirements (including requirements as to size) as are specified in the notice.

25. Re-issue of firearms licences—Where a person who was the holder of a firearms licence on the 1st day of November 1992 and who wishes to continue to be the holder of a firearms licence complies with section 24 of this Act by the close of the date specified in the notice given to that person under section 22(1) of this Act, a member of the Police shall consider whether that person is a fit and proper person to be in possession of a firearm or airgun, and, if satisfied that that person is such a person, shall cancel that person's existing firearms licence and, subject to section 24(2) of the principal Act and to compliance by that person with any notice given to that person under section 26(2) of this Act, issue a new firearms licence to that person.

26. Photographs of holders of firearms licences or dealers' licences—(1) Every member of the Police who issues a firearms licence or a dealers' licence on or after the 1st day of November 1992 shall ensure that a photograph of the holder of the licence is affixed to or imaged into the licence.

(2) Notwithstanding that an applicant for a firearms licence or a dealers' licence, or a person to whom a notice has been given under section 22(1) of this Act, has supplied photographs of himself or herself to an Arms Office, a member of the Police may give to that person a notice requiring that person to attend at an Arms Office for the purpose of having his or her photograph taken.

(3) Every notice given to a person under subsection (2) of this section shall specify the days on which and the times during which that person may have his or her photograph taken at the Arms Office.

27. Effect of failure to respond to calling-in of firearms licence—(1) Where a notice under section 22(1) of this Act is given to a person who was the holder of a firearms licence on the 1st day of November 1992 and that person does not, within the period of 6 months beginning with the date on which that notice was given to that person, comply with section 23 or section 24 of this Act, that licence, unless sooner cancelled, revoked, or surrendered, shall be deemed to be revoked as from the close of that period.

(2) Where a licence is deemed to be revoked by subsection (1) of this section, the person to whom the licence was issued shall cease to be licensed to possess firearms, airguns, pistols, or restricted weapons by virtue of that licence or any endorsement on it.

28. Power to reinstate licences deemed to be revoked—(1) Notwithstanding anything in section 27 of this Act, where a person whose firearms licence has been revoked by section 27(1) of this Act satisfies a member of the Police, before the close of the 31st day of October 2002, that—

- (a) That person did not receive the notice sent to that person under **section 22 (1)** of this Act; or
 - (b) That person has a reasonable excuse for failing to comply with **section 24** of this Act that member of the Police may direct that that person's firearms licence be reinstated as from the time when it was deemed to be revoked.
- (2) No member of the Police shall give a direction under **subsection (1)** of this section for the reinstatement of any person's firearms licence unless that member of the Police is satisfied that that person has delivered to an Arms Office—
- (a) That firearms licence or a letter explaining why that person is unable to produce that firearms licence; or
 - (b) The photographs required by that notice.
- (3) Where a firearms licence is reinstated under **subsection (1)** of this section, a member of the Police shall forthwith proceed to consider under **section 25** of this Act whether that person is a fit and proper person to be in possession of a firearm or airgun and **sections 25 and 26** of this Act shall, with all necessary modifications, apply accordingly.

EXPLANATORY NOTE

Clause 1: The proposed amendment changes the date of commencement of the Bill from 1 July 1992 to 1 November 1992.

Clause 2: The proposed amendment inserts into section 2 of the principal Act a definition of the term "working day". The definition is required for the purposes of the new *section 72A* (which is set out in this Supplementary Order Paper).

Clause 3: The proposed amendment recognises the abolition of the Department of Scientific and Industrial Research and the establishment of the Institute of Environmental Health and Forensic Sciences Limited.

Clause 3A makes special provision in relation to gun shows. Under section 7 of the Arms Act 1983 a dealer's licence may be issued in respect of one place of business only. The proposed new section 7A will establish a procedure under which a licensed dealer may, with the consent of a commissioned officer of Police and for the purposes of conducting a gun show for a period not exceeding 5 days at any one time, carry on the licensed dealer's business at a place of business other than that in respect of which the licence was issued.

It will be a condition of any such consent that the dealer close, for the duration of the period for which the consent is given, the place of business in respect of which the dealer's licence was issued.

Clause 6: The proposed amendment changes the date of commencement of *clause 6* from 1 January 1993 to 1 May 1993.

Clause 7: The new *section 23 (3)* (which is set out on page 7 of the Bill) requires the Police to take photographs of every applicant for a firearms licence. As it stands, the new section precludes the supply of photographs by the applicant. The proposed new *section 34A* (which is to be inserted into the Act by the new *clause 12A*) is designed to make the procedure more flexible. Regulations made under the Act or a member of the Police may require an applicant to supply photographs or to permit photographs to be taken or to do both.

Clause 7A repeals section 25 of the principal Act, and substitutes a new section. Under that section, as enacted in 1983, firearms licences were issued for life. Under the proposed new section 25, every firearms licence will be issued for a period of 10 years.

Clause 8: The amendment made by the new subclause (1) recognises—

- (a) The abolition of the Broadcasting Corporation of New Zealand; and
- (b) The need for the Police to be able to approve the use of pistols and restricted weapons by an employee or member of a video recording production company in the making of video recordings.

Clause 8A: The proposed amendment is related to the making of video recordings and is related to the amendments made by the new *clause 8 (1)*.

Clause 12A: This clause inserts new *sections 34A and 34B* into the principal Act. Both of the new sections relate to photographs of licence holders. The new sections are designed to ensure that an application for a licence can be refused

and an existing licence can be revoked if the applicant or the holder, as the case may be, wilfully fails to comply with the new requirements in relation to the affixing to licences, or the imaging into licences, of photographs of licence holders.

Clause 15A: The proposed amendments correct two cross-references.

Clause 19: The proposed amendment corrects two cross-references.

Clause 19B: The proposed new *clause 19B* inserts a new *section 72A* into the principal Act. The new section sets out methods by which notices and documents may be served or given under the principal Act.

Clause 20 is new to the extent that it authorises the making of regulations providing for photographs of licence holders to be affixed to or imaged into dealers' licences or firearms licences or both and prescribing requirements in relation to those photographs.

Clases 21 to 28 contain transitional provisions in relation to existing licences.

All existing lifetime licences are to become 10-year licences.

During the period of 10 years, which expires with the close of 31 October 2002, all existing firearms licences are to be called-in in batches and reviewed.

Where the licence holder is still qualified to hold a firearms licence and an application for a new firearms licence is made, a new 10-year licence will be issued. A photograph of the licence holder will be affixed to or imaged into the licence.

If the licence holder no longer wishes to hold a firearms licence, he or she will be required to surrender his or her firearms licence.

If the licence holder is no longer qualified to hold a firearms licence, his or her firearms licence will be revoked.

All endorsements on firearms licences will also be reviewed and either renewed or revoked. Endorsements entitle the holder of a firearms licence to have possession of weapons such as pistols, restricted weapons, and military style semi-automatic firearms.

Where a firearms licence or an endorsement is revoked, the holder of the firearms licence may appeal under section 62 of the principal Act.