

Arms (Licence Holders' Applications for New Licences) Amendment Bill

Government Bill

As reported from the Justice Committee

Commentary

Recommendation

The Justice Committee has examined the Arms (Licence Holders' Applications for New Licences) Amendment Bill and recommends that it be passed. We recommend all amendments unanimously.

About the bill as introduced

The bill would amend the Arms Act 1983. It seeks to address concerns raised by the firearms community about delays in processing applications from current licence holders for new firearms licences. The delays are attributed to a range of factors and are resulting in firearms owners having expired licences through no fault of their own. The factors include the legislative regime that creates peaks in the licensing process, changes to the licence process following the terrorist attack on Christchurch masjidain, and a constrained labour market as a result of COVID-19.

At present, if a firearms licence holder applied for a new licence but their licence expired before the new one was issued, they would not be licensed to retain their firearms.

Under the bill, new section 25A provides that a firearms licence would be treated as current until the Police determined the application for a new licence. However, the licence holder would need to have applied for the new licence while holding a current licence.

For a dealer's licence, the bill provides that if the renewal was issued after the licence had expired, the renewal would take effect from the date it was issued, not the date of expiry.

The bill would also enable the Police to issue notices and documents to an electronic address.

Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We have no issues regarding the legislation's design to bring to the attention of the House.

Proposed amendments

This commentary covers the three amendments we recommend to the bill as introduced.

Transitional provisions

Clause 6 would amend Schedule 1 of the Act by inserting new Part 3. New Part 3 sets out the transitional arrangements for a licence holder who had applied for a new licence before this bill was enacted and came into force (the commencement day) but whose application had not been determined by commencement day. It provides that if the applicant held a current firearms licence when making the application, that licence would continue in force pending determination of their application. It would not matter whether the licence held by the applicant at the time of making the application expired before or after the commencement day.

We recommend inserting a new transitional provision (clause 21) to specifically provide that, if a licence continued in force under clause 20, the endorsements on that licence would also continue in force, as would any conditions on the endorsements. Those endorsements would, however, remain subject to section 33C of the Arms Act 1983, which deals with the duration of endorsements.

Extension of licences due to COVID-19 outbreak

In 2021, regulation 28ZB(4) to (6) was inserted into the Arms Regulations 1992 by the Arms (Extensions of Licences and Endorsements) Amendment Regulations 2021. The new regulation aimed to address delays due to vetters being unable to process applications during COVID-19 lockdowns.

Regulation 28ZB(5) applied to firearms licences that expired between 17 August and 30 November 2021. It enabled the licence to be treated as extended for a period of 4 months and then for a further period of 12 months if, within the first four-month period, the licence holder applied for a new licence to replace the extended licence.

We believe the transitional provisions should also apply to licence holders who had their licence extended under this regulation and who applied for a new licence while holding an extended licence. Therefore, we recommend amending the transitional provision in clause 20 to include this group of persons.

Serving documents electronically

Clause 7 would amend section 72A of the Act, which relates to serving documents. Proposed new section 72A(1)(ca) would enable any notice or other document required to be served or given to a person to be transmitted to their electronic address.

We consider that there is a risk that a person who should be receiving documents may be unaware that they may be delivered to a specific email address. We therefore recommend amending section 72A(1)(ca) to require that the electronic address be one that the person has given as an address for service.

ACT New Zealand differing view

The ACT Party supports the licensing extension aspect of this bill. The current situation where those with expired licences must find another licensed person to hold their firearms, parts, and ammunition because they have been deemed no longer fit and proper to hold themselves, based on the expiry date on a plastic card, needed to stop.

The safety concerns of both owners and the temporary holders had been pointed out to Police and successive Ministers for several years. The adverse effects on licensed owners have included loss of work, inability to participate in sport as well as not being able to hunt and gather, the latter being an essential food source for many during the current cost of living crisis. House and contents insurance has been affected, with financial increases on policies of owners trying to help others with expired licences. None of these outcomes have been because of the licensed firearm community. ACT acknowledges the patience and sheer will of this community to seek better outcomes from the resulting rushed legislative arms changes of 2019 and 2020.

The clarification that the extension applies to endorsements and dealer licences will be of some relief to those owners affected.

This bill also attempts to flatten the anticipated increase in licence renewal applications expected to peak in 2026 as an estimated 43,000 people apply in that year alone. After 40 years of that known bell curve, it is great to see a Government attempting to do something about it, and this, ACT also supports.

We have raised concerns, however, both in select committee and directly with the Minister of Police to the addition to Part 2, Other Amendments, where clause 7 will be introduced. This clause amends Section 72A in relation to service of documents. The clause seeks to include allowing email service of documents, notably without acknowledgment of receipt to take place. The ACT Party are against this clause in its current form and we do not support Police advice that they will indicate to an applicant that their email address will be used for service of documents and that in making this statement it is deemed efficient.

Police were questioned as to whether a person who finds no other way to communicate with the Police for an application for a licence other than by email and who uses another person's email address for that communication, will understand the severity of then allowing that email to be used for service of any Arms Act documentation that

may occur in the future. The answer to the line of questioning did not satisfy ACT's concerns and in fact made those concerns worse. The potential privacy issues that arise within this scenario have not been alleviated by Police commentary.

This bill is being heard in the House under urgency and the submission period was only open for 24 hours. The addition of this clause to the bill has potential wide-ranging effects that could determine whether or not armed offender squads turn up at a person's home or place of business as well as potentially impacting a person's security of information. ACT prefers that the clause be removed from this Arms Licencing Amendment bill as no full and adequate consideration time has been afforded to it nor adequate consultation time with the community affected by it.

Appendix

Committee process

The Arms (Licence Holders' Applications for New Licences) Amendment Bill was referred to the committee on 8 November 2022.

We called for submissions on the bill with a closing date of 9 November 2022. We received and considered submissions from 143 interested groups and individuals. We heard oral evidence from 12 submitters at hearings by videoconference.

We received advice on the bill from the New Zealand Police. The Office of the Clerk provided advice on the bill's legislative quality. The Parliamentary Counsel Office assisted with legal drafting.

Committee membership

Ginny Andersen (Chairperson)

Hon Paul Goldsmith

Emily Henderson

Nicole McKee

Hon Mark Mitchell

Simon O'Connor

Willow-Jean Prime

Vanushi Walters

Arena Williams

**Arms (Licence Holders' Applications for New Licences)
Amendment Bill**

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Chris Hipkins

Arms (Licence Holders' Applications for New Licences) Amendment Bill

Government Bill

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Schedule

New Part 3 of Schedule 1 inserted

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Arms (Licence Holders' Applications for New Licences) Amendment Act **2022**.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

3 Principal Act

This Act amends the Arms Act 1983.

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Part 1 Applications for new licences

4 Section 8A amended (Renewal of dealer's licence)

Replace section 8A(5) with:

- (5) The renewal of a dealer's licence takes effect from— 10
- (a) the date on which the licence expires, if the renewal is issued before the licence expires; or
 - (b) the date on which the renewal is issued, if the renewal is issued after the licence expires.

5 New section 25A inserted (Application for new firearms licence made by holder of current licence) 15

After section 25, insert:

25A Application for new firearms licence made by holder of current licence

- (1) The holder of a current firearms licence (**licence A**) may, before the expiry of licence A, apply for a new firearms licence. 20
- (2) If an application for a new firearms licence is made but not determined before the expiry of licence A, licence A continues in force, unless it is sooner surrendered or revoked, until the date on which the licence holder is notified of the determination of the application.
- (3) A new licence issued on an application made under this section takes effect from— 25
- (a) the date on which licence A expires, if the new licence is issued before licence A expires; or
 - (b) the date on which the new licence is issued, if the new licence is issued after licence A expires. 30

6 Schedule 1 amended

In Schedule 1,—

- (a) insert the Part set out in the **Schedule** of this Act as the last Part; and
- (b) make all necessary consequential amendments.

Part 2
Other amendments

7 Section 72A amended (Service of documents)

After section 72A(1)(c), insert:

- (ca) transmitted to the person's an electronic address that the person has provided as an address for service; or 5

Schedule
New Part 3 of Schedule 1 inserted

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Part 3	
Provisions relating to Arms (Licence Holders' Applications for New Licences) Amendment Act 2022	
20	Application made by firearms licence holder for new licence pending on commencement date
(1)	This clause applies in respect of an application for a new firearms licence that—
(a)	was made before the commencement date by an applicant—
(i)	who at the time of making the application held a current firearms licence; and —
(A)	<u>a current firearms licence; or</u>
(B)	<u>a firearms licence treated as continuing in force under regulation 28ZB(5) of the Arms Regulations 1992; and</u>
(ii)	whose firearms licence was not revoked or surrendered before the commencement date; and
(b)	was not determined before the commencement date.
(2)	Section 25A(2) and (3) (as inserted by the Amendment Act) applies in respect of the application and it does not matter if the firearms licence held by the applicant at the time of making the application expired before the commencement date, or expires after the commencement date.
(3)	In this clause,—
	Amendment Act means the Arms (Licence Holders' Applications for New Licences) Amendment Act 2022
	commencement date means the date on which the Amendment Act commences.
21	<u>Endorsements to continue in force</u>
(1)	<u>This clause applies if—</u>
(a)	<u>an endorsement was made under section 30 or 30B on a firearms licence and that endorsement has not been surrendered or revoked; and</u>
(b)	<u>the firearms licence is treated as continuing in force under clause 20.</u>
(2)	<u>If this clause applies,—</u>
(a)	<u>the endorsement continues in force, subject to section 33C; and</u>

(b) any conditions on the endorsement continue in force while the endorsement remains in force.

Legislative history

3 November 2022
8 November 2022

Introduction (Bill 183–1)
First reading and referral to Justice Committee