

# Supplementary Departmental Disclosure Statement

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Arms Legislation Bill
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A supplementary departmental disclosure statement for a Bill the government is proposing to amend seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill in amended form.

It highlights material changes to previous disclosures relating to:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

The original disclosure statement for the Arms Legislation Bill, dated 13 September 2019, can be found at this link:

<http://disclosure.legislation.govt.nz/bill/government/2019/177/>

This supplementary disclosure statement was prepared by New Zealand Police.

New Zealand Police certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

31 October 2019

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## The Main Areas of Change to the Original Disclosures

This is a supplementary disclosure statement for the Arms Legislation Bill.

A supplementary disclosure statement supplements the original disclosure statement for the Bill by reporting the additions and changes that would need to be made to the original disclosure statement to accurately reflect the Bill with the proposed government amendments incorporated.

The main areas of change to the original disclosure statement result from a Supplementary Order Paper to the Bill introducing the following amendments:

- Prohibiting “short-barrelled semi-automatic rifles”;
- Prohibiting the possession, sale and importation of pistol carbine conversion kits, other than by pistol-endorsed licence holders;
- Prohibiting the importation of airsoft pistol carbine kits, other than by specified people with a permit to import;
- Prohibiting a firearm containing a semi-automatic capable centrefire lower receiver; and
- Expanding the regulation making power in the Arms Act 1983.

## Part One: General Policy Statement

This Supplementary Order Paper (SOP) amends the Arms Legislation Bill (the Bill). It seeks to build upon the broad policy implemented by the Bill (namely to increase public safety) by adjusting legislative frameworks to improve controls on the use and possession of firearms.

Specifically, the SOP proposes to make the following amendments to the Bill:

**Prohibit “short-barrelled semi-automatic rifles”** - The Arms Act 1983 contains an exception from the definition of prohibited firearm for pistols. Due to the definition of “pistol”, firearms that are essentially short-barrelled semi-automatic rifles are considered pistols and are therefore not prohibited. These firearms are capable of harm similar to that seen in the Christchurch terror attack and should therefore be prohibited.

**Prohibit the possession, sale and importation of pistol carbine conversion kits, other than by pistol-endorsed licence holders** – A pistol carbine conversion kit is used to convert a pistol into a firearm that is capable of being fired from the shoulder. When a pistol is attached to a conversion kit the resultant firearm has greater accuracy and firing distance. There are currently no restrictions on who may obtain a pistol carbine conversion kit. There is a concern that anyone who illegally obtained a pistol could also easily obtain a conversion kit and thus have a firearm capable of greater harm than a semi-automatic pistol used on its own.

**Prohibit the importation of airsoft pistol carbine conversion kits, other than by specified people with a permit to import** – Some air pistol (airsoft) conversion kits may be used with regular pistols. Import restrictions for these kits are necessary so as to not undermine the proposed restrictions on the use of the above pistol carbine conversion kits.

**Prohibit a firearm containing a centrefire lower receiver** – A centrefire lower receiver is a modular part of an AR-style firearm and a key part in dangerous semi-automatics. Due to a legislative technicality, it is not clear that such modular lower receivers result in a prohibited firearm when combined with a 0.22 calibre (or lower) rimfire upper receiver. The proposed amendment clarifies that any firearm containing a semi-automatic capable centrefire lower receiver is prohibited.

**Expand the regulation making power in the Arms Act 1983** - The regulation making power was drafted more narrowly than was intended, so that only semi-automatic firearms (other than pistols) and pump-action shotguns may be prohibited by Order in Council. However the intent of section 2A(b) is that any other firearm may be prohibited by Order in Council. This narrow drafting was discovered because currently pump-action centrefire rifles are not prohibited. However, pump-action centrefire rifles are capable of achieving near semi-automatic capability and can take detachable, high capacity magazines. They present a similar risk to public safety as the semi-automatic and high capacity firearms that have been prohibited, if in the wrong hands. The Supplementary Order Paper proposes that that the regulation making power be drafted in a manner consistent with the intent of section 2A. In addition, the regulation making

power has been expanded to include pistols so that pistols which circumvent the proposed definition of prohibited firearm in a manner that was not intended may be prohibited. This is intended to prohibit pistols which pose an undue risk to public safety (for example, those similar to “short-barrelled semi-automatic rifles”), not the types of pistols used on shooting ranges.

## Part Two: Background Material and Policy Information

### Published reviews or evaluations

<b>2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?</b>	<b>YES</b>
<ul style="list-style-type: none"> <li>• Review of Firearms Control in New Zealand – June 1997 (<a href="https://www.police.govt.nz/about-us/publication/review-firearms-control-new-zealand-june-1997">https://www.police.govt.nz/about-us/publication/review-firearms-control-new-zealand-june-1997</a>)</li> <li>• Arms Amendment Bill (No 3): Report of the Law and Order Committee – 2005 (<a href="https://www.parliament.nz/resource/en-NZ/50DBSCH_SCR5371_1/9e74261def8adc1d1643094dc8f46d819e6952ad">https://www.parliament.nz/resource/en-NZ/50DBSCH_SCR5371_1/9e74261def8adc1d1643094dc8f46d819e6952ad</a>)</li> <li>• Inquiry into issues relating to illegal possession of firearms in New Zealand: Report of the Law and Order Committee – April 2017 (<a href="https://www.parliament.nz/en/pb/sc/make-a-submission/document/51SCLO_SCF_00DBSCH_INQ_68642_1/inquiry-into-issues-relating-to-the-illegal-possession">https://www.parliament.nz/en/pb/sc/make-a-submission/document/51SCLO_SCF_00DBSCH_INQ_68642_1/inquiry-into-issues-relating-to-the-illegal-possession</a>)</li> </ul>	

### Relevant international treaties

<b>2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?</b>	<b>YES</b>
<p>The Bill contains amendments related to the United Nations Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition (the Firearms Protocol). This was outlined in the <a href="#">original disclosure statement</a> to the Bill.</p> <p>The Supplementary Order Paper does not propose any additional amendments that give effect to international treaties.</p>	

<b>2.2.1. If so, was a National Interest Analysis report prepared to inform a Parliamentary examination of the proposed New Zealand action in relation to the treaty?</b>	<b>YES</b>
<p>The National Interest Analysis for the Protocol was prepared in 2004 by New Zealand Police.</p> <p><a href="https://www.parliament.nz/en/pb/sc/reports/document/47DBSCH_SCR2875_1/protocol-against-the-illicit-manufacturing-of-and-trafficking">https://www.parliament.nz/en/pb/sc/reports/document/47DBSCH_SCR2875_1/protocol-against-the-illicit-manufacturing-of-and-trafficking</a></p>	

## Regulatory impact analysis

<b>2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?</b>	<b>YES</b>
<p>The following regulatory impact assessment was prepared for the Bill as introduced:</p> <p>Arms (Purpose, Licensing, Registry and Trading) Amendment Bill, New Zealand Police, June 2019 (<a href="https://www.police.govt.nz/arms-legislation-bill-regulatory-impact-analysis">https://www.police.govt.nz/arms-legislation-bill-regulatory-impact-analysis</a>)</p> <p>The following regulatory impact assessment was prepared for the SOP amendments relating to short-barrelled semi-automatic rifles and pistol carbine conversion kits:</p> <p><a href="https://www.police.govt.nz/about-us/publication/regulatory-impact-assessment-proposals-improve-risk-management-semi-automatic">https://www.police.govt.nz/about-us/publication/regulatory-impact-assessment-proposals-improve-risk-management-semi-automatic</a></p>	

<b>2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements?</b>	<b>YES</b>
<p>The RIA for the Bill as introduced as reviewed by the Treasury RIA Team who considered that it met the quality assurance criteria.</p> <p>The RIA for the SOP amendments was not subject to review by the Treasury RIA Team. A cross-agency Quality Assurance Panel, with representatives from the New Zealand Police and Customs New Zealand, has reviewed the Regulatory Impact Assessment (RIA) and considers that it meets the Quality Assurance criteria.</p>	

<b>2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?</b>	<b>NO</b>
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## Extent of impact analysis available

<b>2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?</b>	<b>YES</b>
<p>Stage 1 – Cost Recovery Impact Statement – Proposal to amend fee setting provision in the Arms Act 1983 (<a href="https://www.police.govt.nz/cost-recovery-impact-statement-proposal-amend-fee-setting-provision-arms-act-1983">https://www.police.govt.nz/cost-recovery-impact-statement-proposal-amend-fee-setting-provision-arms-act-1983</a>)</p>	

<b>2.5. For the policy to be given effect by this Bill, is there analysis available on:</b>	
<b>(a) the size of the potential costs and benefits?</b>	<b>YES</b>
<b>(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?</b>	<b>NO</b>
<p>Refer to pages 2-5 and 83-89 the Regulatory Impact Analysis (<a href="https://www.police.govt.nz/arms-legislation-bill-regulatory-impact-analysis">https://www.police.govt.nz/arms-legislation-bill-regulatory-impact-analysis</a>)</p> <p>For the SOP amendments, refer to <a href="https://www.police.govt.nz/about-us/publication/regulatory-impact-assessment-proposals-improve-risk-management-semi-automatic">https://www.police.govt.nz/about-us/publication/regulatory-impact-assessment-proposals-improve-risk-management-semi-automatic</a></p>	

<b>2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be affected by:</b>	
<b>(a) the level of effective compliance or non-compliance with applicable obligations or standards?</b>	<b>YES</b>
<b>(b) the nature and level of regulator effort put into encouraging or securing compliance?</b>	<b>YES</b>
<p>The costs and benefits will be affected by people’s compliance with the proposals and Police’s effort in encouraging compliance.</p> <p>For example, in relation to the amendments proposed by the SOP, the increased public safety from prohibiting “short-barrelled semi-automatic rifles” relies on owners of those firearms handing them in. The benefits also depend on Police’s efforts in making the hand-in of those firearms accessible and easy and its response to non-compliance.</p> <p>For examples in relation to the amendments proposed by the Bill as introduced, refer to the <a href="#">original disclosure statement</a>.</p>	

## Part Three: Testing of Legislative Content

### Consistency with New Zealand's international obligations

<b>3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?</b>
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The Bill as introduced contains amendments which, if passed, would enable New Zealand to accede to the Firearms Protocol.
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### Consistency with the government's Treaty of Waitangi obligations

<b>3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?</b>
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Police consider that the Bill does not affect Māori rights and interests protected by the Treaty of Waitangi.
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### Consistency with the New Zealand Bill of Rights Act 1990

<b>3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?</b>	<b>YES</b>
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Advice provided to the Attorney-General by the Crown Law Office is available on the Ministry of Justice's website. The advice determined that to the extent both new and amended offences limit the right in s25(c), the limits are reasonable and demonstrably justified in terms of s5.
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<a href="https://www.justice.govt.nz/assets/Documents/Publications/Arms-Amendment-Bill.pdf">https://www.justice.govt.nz/assets/Documents/Publications/Arms-Amendment-Bill.pdf</a>
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### Offences, penalties and court jurisdictions

<b>3.4. Does this Bill create, amend, or remove:</b>	
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<b>(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?</b>	<b>YES</b>
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<b>(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?</b>	<b>NO</b>
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The Bill as introduced proposed to create a number of new offences. These were covered in the <a href="#">original disclosure statement</a> on the Bill.
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The Supplementary Order Paper does not amend any offences or penalties. However it does amend the definition of prohibited firearm, to which existing penalty provisions will apply. The amendment means these provisions apply more broadly.
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<b>3.4.1. Was the Ministry of Justice consulted about these provisions?</b>	<b>YES</b>
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The Ministry of Justice was consulted on the Bill as outlined in the <a href="#">original disclosure statement</a> on the Bill. The Ministry of Justice has not been consulted on the proposals in the SOP as the SOP does not directly create or amend any offences and penalties.
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## Privacy issues

<b>3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?</b>	<b>YES</b>
<p>The Bill as introduced provides for the development of direct data access agreements for specified Government agencies to access registry information. It also includes a provision for health practitioners to consider notifying Police if they have concerns about the physical or mental health of persons whom they know have a firearms licence. Further information can be found in the <a href="#">original disclosure statement</a> on the Bill.</p> <p>The amendments in the SOP do not create, amend or remove any provisions relating to the collection etc of personal information.</p>	

<b>3.5.1. Was the Privacy Commissioner consulted about these provisions?</b>	<b>YES</b>
Yes, on the Bill – as outlined in the <a href="#">original disclosure statement</a> on the Bill.	

## External consultation

<b>3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?</b>	<b>YES</b>
<p>The Ministry of Foreign Affairs and Trade and New Zealand Customs were consulted on this paper.</p> <p>Targeted consultation was undertaken with a limited number of members of the firearms community who have special interest and knowledge relating to pistols and air pistols.</p>	

## Other testing of proposals

<b>3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?</b>	<b>YES</b>
The agencies consulted on the Bill consider the provisions related to their areas of interest are workable and complete.	

## Part Four: Significant Legislative Features

### Compulsory acquisition of private property

<b>4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?</b>	<b>NO</b>
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### Charges in the nature of a tax

<b>4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?</b>	<b>NO</b>
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### Retrospective effect

<b>4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?</b>	<b>YES</b>
The Bill as introduced contains some retrospective amendments, as outlined in the <a href="#">original disclosure statement</a> on the Bill.	

### Strict liability or reversal of the burden of proof for offences

<b>4.4. Does this Bill:</b>	
<b>(a) create or amend a strict or absolute liability offence?</b>	<b>YES</b>
<b>(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?</b>	<b>YES</b>
Refer to the <a href="#">original disclosure statement</a> on the Bill.	
The SOP does not contain any provisions that would result in a positive answer to these questions.	

### Civil or criminal immunity

<b>4.5. Does this Bill create or amend a civil or criminal immunity for any person?</b>	<b>YES</b>
The Bill as introduced proposes to provide immunity from prosecution for members of the Firearms Advisory Group and health practitioners who notify Police that their patient is unfit to use a firearm. Further information is in the <a href="#">original disclosure statement</a> on the Bill.	
The SOP does not contain any provisions that impact on a person's civil or criminal immunity.	

### Significant decision-making powers

<b>4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?</b>	<b>NO</b>
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## Powers to make delegated legislation

<b>4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?</b>	<b>YES</b>
<p>The Bill as introduced does not do this. However the SOP does as below:</p> <p><b>Supplementary Order Paper</b> <i>Nature and extent of power</i></p> <p>Clause 82A amends the regulation making power in section 74A(c) of the Arms Act 1983. It allows for an Order in Council to be made to declare any pump-action firearm (currently limited to pump-action shotguns) of a stated name or description to be a prohibited firearm for the purposes of the Arms Act 1983. It also removes the reference to “except pistols”, which allows an Order in Council to be made to declare any semi-automatic pistol to be prohibited.</p> <p><i>Why the power is necessary</i></p> <p>The power is necessary to ensure that changes can be made to restrict pump-action firearms and short-barrelled semi-automatic rifles (legally defined as pistols) that have the same capacity for harm as other prohibited firearms, but do not meet the existing definition of prohibited firearm.</p> <p><i>Safeguards</i></p> <p>Orders in Council are reviewed and approved through the Cabinet process and subject to the scrutiny of the Regulations Review Committee. The Orders are also a confirmable instrument and must be confirmed by Parliament or are revoked.</p>	

<b>4.8. Does this Bill create or amend any other powers to make delegated legislation?</b>	<b>YES</b>
<p>The Bill as introduced contains numerous regulation making powers. Refer to the <a href="#">original disclosure statement</a> on the Bill.</p>	

## Any other unusual provisions or features

<b>4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?</b>	<b>NO</b>
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