

Arms (Shooting Clubs, Shooting Ranges, and Other Matters) Amendment Bill

Submission of the New Zealand Law Society Te Kāhui
Ture o Aotearoa

25 October 2024

1 Introduction

- 1.1 The New Zealand Law Society Te Kāhui Ture o Aotearoa (**Law Society**) welcomes the opportunity to comment on the Arms (Shooting Clubs, Shooting Ranges, and Other Matters) Amendment Bill (**Bill**), which seeks to amend the Arms Act 1983.
- 1.2 This submission has been prepared with input from the Law Society's Public Law Committee.¹
- 1.3 The Law Society does not wish to be heard in relation to this submission.

2 Definitions of 'pistol shooting' and 'non-pistol shooting' ranges

- 2.1 The definitions in new section 38A in clause 5 of the Bill seek to distinguish between 'pistol shooting' and 'non-pistol shooting' ranges: a 'non-pistol shooting range' is defined as a shooting range which is not a 'pistol shooting range', and a 'pistol shooting range' is then defined as 'a shooting range at which pistols can be used'. The latter definition is not exhaustive, it does not exclude the use of non-pistols at the range, or even require pistols primarily be used there. This would appear to raise issues of workability.
- 2.2 The clarity of these definitions could be improved by:
 - (a) Defining 'non-pistol shooting range' as 'a shooting range at which the use of pistols is not authorised.
 - (b) Alternatively, defining 'pistol shooting range' as 'a shooting range at which pistols *are authorised to be used*'. This revised drafting acknowledges that it is technically possible to *use* a pistol at a non-pistol shooting range, even though doing so may be contrary to the rules of a shooting club which uses that range.

3 Enrolment of non-pistol shooting clubs and ranges

Declining applications to enrol non-pistol shooting clubs

- 3.1 New section 380 in clause 5 of the Bill requires the Commissioner of Police (**Commissioner**) to enrol a non-pistol shooting club if they are satisfied the application for enrolment is 'complete and correct', and 'made in accordance with section 38M'.
- 3.2 The Bill does not give the Commissioner any discretion to decline an application, for example, where regulations require the applicant club to be of good character, and/or to have officers who are of good character, and the information provided to the Commissioner indicates those requirements are not met. This is unusual, particularly given the Commissioner's powers to:
 - (a) prescribe the form in which an application should be made (new section 38M(2)(a));
 - (b) make whatever inquiries the Commissioner considers necessary (new section 38N(a)); and

¹ More information about this Committee is available on the Law Society's website: <https://www.lawsociety.org.nz/branches-sections-and-groups/law-reform-committees/public-law-committee/>.

(c) request further information or documents (new section 38N(b)).

- 3.3 It would be appropriate to give the Commissioner some discretion to decline an application if, having exercised these powers, the Commissioner learns of anything which indicates the applicant has not met the relevant requirements for enrolment (including any character requirements prescribed in regulations). We therefore recommend amending new section 380 to provide that the Commissioner ‘may’ enrol a club (rather than ‘must’ enrol). This would provide a residual discretion to the Commissioner to decline applications in appropriate circumstances.

Cancellation of enrolment of non-pistol shooting clubs

- 3.4 New section 38Q requires the Commissioner to cancel a non-pistol shooting club’s enrolment upon request, or if the Commissioner is satisfied the club is no longer in operation. We invite the select committee to consider if the Commissioner should also have a discretionary power to cancel a club’s enrolment in certain other circumstances, such as when a matter relating to good character comes to the Commissioner’s notice after enrolment (for example, if the Commissioner learns about a club officer being convicted of an offence under the Arms Act).
- 3.5 If the Commissioner is to be given such a power, we suggest inserting a new provision which sets out some additional circumstances in which the Commissioner ‘may’ cancel a club’s enrolment.

Non-pistol shooting ranges

- 3.6 The Law Society’s concerns about the provisions relating to non-pistol shooting clubs (at [3.1] to [3.5] above) also extend to the provisions relating to:
- (a) The Commissioner’s consideration of applications to enrol non-pistol shooting ranges (new sections 38XE to 38XG); and
 - (b) The Commissioner’s powers to cancel the enrolment of non-pistol shooting ranges (new section 38XI).
- 3.7 The select committee should consider if these provisions should also be revised for the reasons given above.

4 Powers to inspect shooting clubs and shooting ranges

Powers to inspect, print, copy, or remove documents

- 4.1 New section 38XJ(1)(b) in clause 5 of the Bill empowers members of the Police to inspect, print, copy, or remove hard copy documents for the purpose of ensuring a shooting club or shooting range is operating in accordance with the statutory framework provided in the Bill.
- 4.2 The Explanatory Note of the Bill states these powers are confined to hard copy documents to ‘simplify the burden on operators (many of whom are volunteers)’. However, this provision could create considerable risk and difficulty for Police if, for example, a club or range chooses to delete any offending electronic evidence – in such

circumstances, Police would have no ability to obtain that information, or to prevent that information from being deleted.

- 4.3 We are also not aware of any comparable search powers which are similarly confined to hard copy documents, and it would be unusual to limit the scope of the proposed powers in the Bill in this manner.
- 4.4 We therefore recommend amending new section 38XJ(1)(b) by deleting the reference to 'hard copy'.

Time limits for inspections

- 4.5 New section 38XJ(2) in clause 5 of the Bill states that a shooting range can only be inspected at specified times, unless there is a change of circumstances 'that may affect its safety' (i.e., the safety of the range). We recommend broadening the scope of this provision to also allow inspections outside the specified times if there is a change of circumstances that may affect the safety of any person in the shooting range.
- 4.6 More generally, new section 38XJ focusses on constraining Police inspection powers to the times specified in the Bill. It is unclear why this is necessary, as the New Zealand Bill of Rights Act 1990 already prohibits unreasonable search and seizure.² If the drafting seeks to address concerns that Police should not be able to inspect shooting ranges without good reason, it would be more appropriate to specify those reasons in the legislation, rather than arbitrarily limiting the times at which Police are able to undertake inspections.

Application of Search and Surveillance Act 2012

- 4.7 We presume the inspection powers in new section 38XJ are not intended to affect the general powers of Police to search shooting clubs and shooting ranges when they have reasonable grounds to believe a crime has been committed.
- 4.8 However, we note new section 38XJ(4) provides that Part 4 of the Search and Surveillance Act 2012 (apart from subpart 3) applies. These provisions generally govern Police use of search warrants for obtaining evidence relating to an offence.
- 4.9 It is unclear why new section 38XJ(4), which relates to inspections for compliance purposes, refers to this Part of the Search and Surveillance Act, and whether this section:
- (a) Requires Police to obtain a warrant before searching a shooting range;
 - (b) Requires Police to provide grounds for said warrant (i.e. reasonable grounds to believe a crime has been committed) before searching a shooting range; and/or

² Section 21.

(c) Limits the general ability of Police to search shooting ranges where crimes may have been committed to the times specified in the Bill.

4.10 We therefore recommend deleting subsection (4) of new section 38XJ.



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