

# **Arms (Firearms Prohibition Orders) Amendment Bill (No 2)**

Member's Bill

As reported from the Justice Committee

## **Commentary**

### **Recommendation**

The Justice Committee has examined the Arms (Firearms Prohibition Orders) Amendment Bill (No 2) and recommends, by majority, that the bill not be passed. If the House decides, however, that the bill should proceed, we recommend that it adopt the amendments shown.

### **Introduction**

This bill is a Member's bill in the name of Simeon Brown MP. It seeks to amend the Arms Act 1983.

The purpose of the bill is to prevent the most dangerous gang members from accessing firearms. It would do this by empowering the Commissioner of Police to issue a firearms prohibition order (FPO) against any gang member who in the last 10 years had been convicted of a serious violence offence, an offence under the Domestic Violence Act 1995, or a firearms offence. A FPO could only be issued against a gang member if the Commissioner considered it necessary, in the public interest, to ensure that the gang member does not have possession of a firearm.

The bill would prevent firearms licences being issued to any person who is subject to a FPO or who, in the opinion of a commissioned officer of Police, is a gang member. It would also revoke the firearms licence of a person who becomes subject to a FPO and allow a commissioned officer of Police to revoke the firearms licence of a person who is, or seeks to become, a gang member.

The bill would make it a criminal offence for people subject to FPOs to access firearms, reside at, or enter certain premises where there are firearms. It would also make it an offence to supply a firearm to a person knowing that person is subject to a FPO.

## **Legislative scrutiny**

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We wish to bring the House's attention to issues raised by the Attorney-General, which we discuss in more detail later in this commentary.

## **Proposed amendments**

This commentary covers the main amendments we recommend to the bill as introduced. We do not discuss minor or technical amendments.

### **Persons disqualified from holding firearms licence**

Clause 5(1) and (2) of the bill provides that a firearms licence must not be issued to a person who in the opinion of a commissioned officer of Police is a gang member or a person who is subject to a FPO.

We consider that a provision preventing a gang member or person subject to a FPO from holding a firearms licence would be better located in section 22H of the Arms Act, which was inserted on 24 December 2020. That section sets out the circumstances in which a person would be disqualified from holding a firearms licence.

We recommend amending the bill by removing clause 5(1) and (2) and inserting new clause 4B. New clause 4B would amend section 22H of the Act to include gang members and persons subject to FPOs in the list of persons disqualified from holding a firearms licence.

### **Removal of provision regarding the issue of firearms licence**

Clause 5(3) of the bill amends section 24(2) of the Act to provide that a firearms licence must not be issued to a person if, in the opinion of a commissioned officer of Police, access to any firearm or airgun in the possession of that person is reasonably likely to be obtained by a person who is not a fit and proper person to be in possession of a firearm, or is a gang member, or a person who is subject to a FPO.

With the above amendment, this clause is no longer required. This is because section 24 of the Act has been replaced since the bill was introduced and new section 24(2)(a) and (c) of the Act now provides for these circumstances.

We therefore recommend deleting all of clause 5 from the bill as it is no longer required.

### **Fit and proper person to possess a firearm or airgun**

Section 24A(1)(k) of the Arms Act currently provides that the police may find a person not fit and proper to possess a firearm or airgun if the person is a member of, or has close affiliations with, a gang or organised criminal group. However, our recommended new clause 4B would disqualify a person from holding a firearms licence if they were a member of a gang before any consideration need be given to the fit and proper person test.

Consequently, we recommend inserting clause 4C to replace section 24(1)(k) of the Act so that it refers only to a person having close affiliations with a gang, or being a member of, or having close affiliations with, an organised criminal group. This will exclude a person being a gang member because they are automatically disqualified.

### **Revocation and surrender of firearms licence**

Clause 6(1) of the bill would amend section 27 of the Act to provide for the automatic revocation and surrender of a person's firearms licence if they became subject to a FPO. Clause 6(2) provides for the revocation and surrender of a person's firearms licence if they are or seek to become a gang member. Clause 6(3) provides for the revocation and surrender of a person's firearms licence if access to any firearm or air-gun in the possession of the person is reasonably likely to be obtained by a person whose licence is revoked, who is not a fit and proper person to be in possession of a firearm, or who is a member of a gang or subject to a FPO.

Clause 6(1) is no longer required in its present form because section 27B of the Act (inserted on 24 December 2020) provides that if a person becomes disqualified under section 22H from holding a firearms licence, their licence is immediately revoked.

Clause 6(2) is not required to the extent that it refers to a person who is a gang member. This is because, as a gang member will be disqualified under section 22H from holding a firearms licence, their licence will be immediately revoked under section 27B.

Clause 6(3), to the extent it proposes to insert new section 27(1)(b)(iii) and (iv), is no longer required as section 27(2)(c), as inserted on 26 June 2020, now deals with these matters.

Clause 6 is therefore replaced with a new clause 6 that does not include the above amendments that are no longer required.

### **Amendments to the Act affecting FPO provisions in the bill**

The bill as introduced would insert new sections 59A to 59E. As a result of amendments made to the Act in June 2020, including the insertion of new section 59A and 59B, the FPO provisions are renumbered as new sections 61 to 61F.

### **Who may be subject to a firearms prohibition order**

Clause 7, new section 61A, sets out when the Commissioner may issue a FPO against a person.

We recommend amending new section 61A so that a FPO may also be issued against a person who is a gang member and who has been convicted of an offence under the Family Violence Act 2018 within the last 10 years.

### **Definition of “firearm or related item” and “serious violent offence”**

We recommend inserting in clause 7 new section 61 to define “firearm or related item” to mean any firearm, pistol, restricted weapon, airgun, blank-firing gun, maga-

zine, part, prohibited item, or ammunition. This will mean that FPOs will apply in respect of all of these items.

### **Penalty for persons found in possession of a firearm or related item**

Renumbered section 61B(1), to be inserted by clause 7, would prohibit a person subject to a FPO from acquiring, possessing, or using any firearm or related item. Section 61B(2) provides that any person who contravened section 61B(1) would be committing an offence. If convicted, they would be liable to imprisonment for up to 14 years if the firearm or related item was a pistol, restricted weapon, or prohibited firearm. In any other case, the maximum sentence of imprisonment would be 5 years.

The Attorney-General reported on the bill under the New Zealand Bill of Rights Act 1990 (NZBORA). He expressed concerns about the severity of some of the penalties in the bill and stated that they were disproportionate to similar offences.

We recommend amending the bill to provide that the penalty for this offence be a term of imprisonment not exceeding 6 years, or a fine not exceeding \$8,000 (or both), in situations where the firearm or related item is a pistol, restricted weapon, or prohibited firearm. We consider that these penalties would be more appropriate and proportionate to similar offences.

### **Penalty for persons supplying firearm or related item to persons subject to firearms prohibition order**

Renumbered section 61C, to be inserted by clause 7, would make it an offence to supply a firearm or related item to another person knowing that the other person was subject to a FPO. A person convicted of this offence in any case where the firearm or related item was a pistol, restricted weapon, or prohibited firearm would be liable to imprisonment for up to 14 years.

We recommend changing the proposed maximum term of imprisonment for this offence to 10 years. We consider that this would be more proportionate to similar offences. Where the firearm or related item is not a pistol, restricted weapon, or prohibited firearm, we consider the penalty should remain unchanged.

### **Penalty for person subject to firearms prohibition order residing at premises where firearm or related item is present**

Renumbered section 61D would prohibit a person subject to a FPO from having any firearm or related item at their residence. If convicted, they would be liable to up to 12 months' imprisonment.

We consider that the penalty should be more consistent with other offences for breaches of orders. We recommend that the maximum term of imprisonment should not exceed 2 years.

**Penalty for person subject to firearms prohibition order attending certain premises**

Renumbered section 61E(1) would prohibit a person subject to a FPO from attending, without reasonable excuse, the place of business of a licensed dealer, a shooting range, or the premises of a firearms club.

We recommend that a penalty for this offence be inserted and that the appropriate penalty would be a term of imprisonment not exceeding 2 years.

**Cancellation of firearms prohibition order**

The bill does not have a provision to allow a person subject to a FPO to apply for the order to be cancelled.

We recommend amending clause 7 to insert a new section 61F to enable a person to apply for their order to be cancelled if it had been in place for at least 10 years. The order could be cancelled by the District Court if it was satisfied that all of the following conditions applied:

- any of the grounds for making the order no longer apply
- the person has not been convicted of an offence in respect of the order
- allowing the person to possess a firearm would not be contrary to the public interest or pose an undue risk to public safety.

**Amendments to other Acts**

We recommend inserting Part 2 to provide for a consequential amendment to the Policing Act 2008 to address the conflict that would otherwise arise between section 17(1) of that Act and clause 9 of the bill, and the amendment discussed below to the Search and Surveillance Act 2012.

**Search and Surveillance Act: warrantless search powers**

The general policy statement of the bill indicates that FPOs will provide new powers for a commissioned officer of Police to search persons, vehicles, and premises of specified serious and violent gang members for firearms at any time.

In his report on the bill under NZBORA, the Attorney-General expressed concern that warrantless searches could take place without reasonable cause. This would constitute a significant intrusion on the rights affirmed by section 21 of NZBORA.

The bill as introduced does not in fact create any new search powers, so the powers set out in section 18 of the Search and Surveillance Act would apply. The Attorney-General said that on this basis he believes the bill is consistent with section 21 of NZBORA. Section 18 of the Search and Surveillance Act provides that a constable may execute a warrantless search of a person, thing, place, or vehicle, where they have reasonable grounds to suspect that a person is in breach of the Arms Act.

Some submitters noted that, if the bill were amended to provide warrantless search powers in the Arms Act, there should be mandatory monitoring and reporting, alongside other protections. They also noted that the Commissioner of Police is required

under section 170 of the Search and Surveillance Act to report on the number of occasions on which warrantless search powers are exercised.

We recommend amending the bill to insert subsections (4) and (5) into section 18 of the Search and Surveillance Act so that a constable may execute a warrantless search if they have reasonable grounds to suspect that a person is subject to a FPO made under section 61A of the Arms Act or that a person is in breach of any of sections 61B, 61C, 61D, or 61E. Our proposed amendment would allow seizure of all firearms and related items. The Search and Surveillance Act currently only allows for seizure of arms. This would align with the intention of the bill.

### **Recommendation that the bill not be passed**

The majority of us do not recommend that the bill be passed as the Minister of Police and Minister of Justice have announced that a Government bill addressing FPOs will be introduced in the near future, as part of a wider suite of reforms to respond to organised crime.

### **New Zealand National Party differing view**

The National Party continues to support the Arms (Firearms Prohibition Orders) Amendment Bill (No 2), and recommends that it be passed through all remaining stages with the changes made to the bill at committee.

The National Party is of the view that this bill is urgently needed to address the significant increase in gang violence involving firearms. Gun crime is of increasing concern in New Zealand with the recent shooting at the Sofitel Hotel in Auckland's Viaduct Harbour, a high profile example of the risk gang violence is having in our community. Urgent action is required before innocent members of the public are caught in the cross-fire and lives are lost.

The National Party is disappointed that the Government has failed to work constructively with the Opposition on this issue. When this bill passed the first reading, then Police Minister Stuart Nash made it clear that Police should be able to provide full advice to the committee. However, Minister Poto Williams then changed this and only allowed Police to provide technical support. This significant change limited the ability for the select committee to consider the bill.

The Government has recently announced they will introduce legislation later this year to introduce Firearm Prohibition Orders. Whilst it is pleasing to see the Government is waking up to the serious issue of gang violence in New Zealand, it is disappointing they have been disingenuous regarding the process of this piece of legislation.

It would have been a far better use of Parliament's time and the committee's time for the Government to work with the Opposition to improve this piece of legislation rather than simply voting it down to introduce something similar at a later date. This legislation is needed now, not in 12 months' time.

### **Search powers**

We heard from the New Zealand Police Association that additional search powers are critical to ensure that the legislation can be effectively enforced. The introduction of a provision that provides for police to conduct warrantless searches is a necessity for Firearms Prohibition Orders (FPOs) to achieve their purpose, which is to take firearms quickly and effectively out of the hands of gang members.

The evidence presented by some submitters that warrantless searches conducted in some states of Australia have shown that few firearms are recovered from individuals subject to FPOs demonstrates that FPOs are a successful deterrent, and that individuals subject to FPOs are not associating with people who have firearms or are being found in possession of firearms due to the risk of being searched by police. This is the scenario we seek to achieve in New Zealand.

### **Firearms Prohibition Orders are prospective**

The National Party supports the power of placing a FPO on an individual vesting with the Commissioner of Police. FPOs are prospective in nature; they seek to prevent further offending. The current criteria of a gang member needing to have committed a serious violent offence within the last 10 years is reasonable and fair and is aimed at preventing firearm violence and protecting the public.

### **Gang members getting firearm licences**

The intent of the bill makes it crystal clear that gang members cannot get firearm licences. The committee heard evidence that some gang members do hold valid firearm licences. The committee also heard from the Police Commissioner during the annual review hearing that the new fit and proper person test adopted in the amended Arms Act would not be sufficient to prevent gang members from acquiring firearm licences, due to the jurisprudence demonstrating that being a gang member in itself is not a sufficient ground to fail the fit and proper test. We believe this bill settles the matter that gang members should not have firearm licences.

### **Inaction from Government**

The National Party notes that in 2017 FPOs were recommended to the incoming Minister of Police and nearly four years since he received that briefing the Government has failed to take action and implement any form of Firearm Prohibition Order regime. Gang violence is a serious problem facing New Zealand and action must be taken urgently. We note it may well be over a year before the Government's proposed FPOs will be enacted which is an unacceptable length of time to wait while gang violence continues to escalate.

### **ACT New Zealand differing view**

The ACT Party originally did not support this bill in its initial format as we felt that among a series of things there were civil liberty issues that would potentially impact those that are not the target of this legislation. While not all of those concerns have

been addressed to full satisfaction, they are by in large now targeting those with close gang relationships and affiliations.

After discussing our concerns with the National Party and through debate within the select committee, ACT believes this is now a bill that should be furthered.

The reality is that violent gun crime is on the rise by those in illegal possession of firearms. Recent laws passed under urgency in this House with the premise of keeping New Zealand safe have failed because they targeted the wrong group of firearms users, i.e., the law abiding, legal owners.

ACT believes that these Firearms Prohibition Orders (FPO) will assist police in reducing violent gun crime as well as delivering fairness in the way that a FPO is issued and removed from a gang member. This law would also prevent a firearms licence from being issued to any person who has such an order upon them and extends to any person recorded on the National Gang List.

Our concerns over the use of the term “possession” have been addressed. Concerns raised by the Attorney-General over the disproportionate penalties have also been satisfactorily addressed. We are also pleased with the revision that allows the removal of a FPO to be undertaken by the District Court, not the Commissioner of Police which should give fairness to any order removal proceeding. We are also assured by the knowledge that there are no added search and surveillance laws to come from this bill, rather a defined use of the current laws where a FPO has been placed on an individual.

Overall, we have the opportunity to introduce legislation that will be detrimental to gang possession and use of illegal firearms, finally targeting arms legislation in the right direction.

The ACT Party believes that targeting criminal misuse by gang members listed on the National Gang List by restricting access, use and therefore crime, is a positive step that all of Government should take.

It is ACT’s view that we go hard on gang crime now, with legislation such as this before we have innocent members of the public being caught up in gang or Police shoot outs. This is one of Government’s opportunities and it is disappointing although not surprising that Government will not support the bill through its amendment and into its next reading.

ACT supports this bill.

## **Appendix**

### **Committee process**

The Arms (Firearms Prohibition Orders) Amendment Bill (No 2) was referred to the Justice Committee of the 52nd Parliament on 21 July 2020. It was reinstated with this committee in the 53rd Parliament on 26 November 2020.

The closing date for submissions on the bill was 29 January 2021. We received and considered 36 submissions from interested groups and individuals. We heard oral evidence from 9 submitters.

We received advice on the bill from 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 Simon Bridges

Simeon Brown

Dr Emily Henderson

Nicole McKee

Willow-Jean Prime

Hon Dr Nick Smith

Vanushi Walters

Arena Williams



**Arms (Firearms Prohibition Orders)  
Amendment Bill (No 2)**

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**Key to symbols used in reprinted bill**

**As reported from a select committee**

text inserted unanimously

~~text deleted unanimously~~



*Simeon Brown*

# **Arms (Firearms Prohibition Orders) Amendment Bill (No 2)**

Member's Bill

## **Contents**

		Page
1	Title	2
2	Commencement	2
<b>Part 1</b>		
<b>Amendments to Arms Act 1983</b>		
3	Principal Act	2
4	Section 2 amended (Interpretation)	2
<u>4A</u>	<u>New cross-heading above section 22H inserted</u>	<u>3</u>
<i>Persons disqualified from holding firearms licence</i>		
<u>4B</u>	<u>Section 22H amended (Persons disqualified from holding firearms licence)</u>	<u>3</u>
<u>4C</u>	<u>Section 24A amended (Fit and proper person to possess firearm or airgun)</u>	<u>3</u>
5	Section 24 amended (Issue of firearms licence)	3
6	Section 27 amended (Revocation and surrender of firearms licence)	4
<u>6</u>	<u>Section 27 amended (Surrender and revocation of firearms licence)</u>	<u>4</u>
7	New sections <del>59A to 59E</del> <u>61 to 61F</u> and cross-heading inserted	4
<i>Firearms prohibition orders</i>		
<u>61</u>	<u>Interpretation</u>	<u>4</u>
<u>59A</u> <u>61A</u>	<u>Firearms prohibition orders</u>	<u>5</u>

**Arms (Firearms Prohibition Orders)  
Amendment Bill (No 2)**

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<u>59B</u> <u>61B</u>	<del>Offences in respect of firearms prohibition orders</del> <u>Prohibition on persons subject to firearms prohibition order acquiring, possessing, or using firearm or related item</u>	<u>5</u>
<u>59C</u> <u>61C</u>	<del>Prohibition on supplying firearms, parts, or ammunition</del> <u>firearm or related item to persons subject to firearms prohibition order</u>	<u>6</u>
<u>59D</u> <u>61D</u>	<del>Prohibition on person subject to firearms prohibition order residing at premises where firearms, parts, or ammunition are</del> <u>firearm or related item present</u>	<u>6</u>
<u>59E</u> <u>61E</u>	<del>Prohibition on person subject to firearms prohibition order attending certain premises</del>	<u>6</u>
<u>61F</u>	<u>Cancellation of firearms prohibition order</u>	<u>7</u>
<u>8</u>	<del>Section 62 amended (Right of appeal from official decisions)</del>	<u>7</u>
<u>8</u>	<del>Section 62B amended (Right of appeal to District Court)</del>	<u>7</u>
<u>9</u>	<del>Section 72 amended (Delegation of powers by Commissioner)</del>	<u>7</u>

**Part 2**

**Amendments to other Acts**

<u>10</u>	<u>Amendment to Policing Act 2008</u>	<u>7</u>
<u>11</u>	<u>Section 17 amended (Delegation of powers, functions, or duties of Commissioner)</u>	<u>8</u>
<u>12</u>	<u>Amendment to Search and Surveillance Act 2012</u>	<u>8</u>
<u>13</u>	<u>Section 18 amended (Warrantless searches associated with arms)</u>	<u>8</u>

**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Arms (Firearms Prohibition Orders) Amendment Bill **(No 2) 2020**.

**2 Commencement**

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

**Part 1**

**Amendments to Arms Act 1983**

**3 Principal Act**

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This Act Part amends the Arms Act 1983 (~~the principal Act~~).

**4 Section 2 amended (Interpretation)**

In section 2(1), insert the following definitions in their appropriate alphabetical order:

**firearms prohibition order** means an order made by the Commissioner under **section 59A 61A** of this Act

**gang** has the same meaning as in section 4 of the Prohibition of Gang Insignia in Government Premises Act 2013

**possess**, in relation to a firearm, part, or ammunition, includes a firearm, part, or ammunition that is subject to a person's control but that is in the custody of another person

**gang member** means an individual who is a member of a gang (including a prospective member of a gang)

**4A New cross-heading above section 22H inserted** 10

After section 22G, insert:

*Persons disqualified from holding firearms licence*

**4B Section 22H amended (Persons disqualified from holding firearms licence)**

After section 22H(b), insert:

- (c) the person is subject to a firearms prohibition order; or 15
- (d) the person is a gang member.

**4C Section 24A amended (Fit and proper person to possess firearm or airgun)**

Replace section 24A(1)(k) with:

- (k) the person has close affiliations with a gang:
- (ka) the person is a member of, or has close affiliations with, an organised criminal group: 20

**5 Section 24 amended (Issue of firearms licence)**

(1) In section 24(1), replace “subsection (2)” with “**subsections (1A) and (2)**”.

(2) After section 24(1), insert:

(1A) A firearms licence must not be issued to a person— 25

- (a) who, in the opinion of a commissioned officer of Police, is a member of a gang; or
- (b) who is subject to a firearms prohibition order.

(3) Replace section 24(2)(d) with:

- (d) who, in the opinion of a commissioned officer of Police, is not a fit and proper person to be in possession of a firearm or airgun; or 30
- (e) who, in the opinion of a commissioned officer of Police, is a member of a gang; or
- (f) who is subject to a firearms prohibition order.

**6 Section 27 amended (Revocation and surrender of firearms licence)**

(1) Before section 27(1), insert:

~~(1AA) If a person becomes subject to a firearms prohibition order, any firearms licence that has been issued to that person is revoked, and the person to whom that firearms licence has been issued must immediately surrender the licence to a member of the Police.~~

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(2) After section 27(1)(a), insert:

~~(ab) any person who has been issued with a firearms licence is, or is seeking to become, a member of a gang; or~~

(3) Replace section 27(1)(b)(iii) and (iv) with:

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~~(iii) whose firearms licence has been revoked in accordance with this section; or~~

~~(iv) who, in the opinion of a commissioned officer of Police, is not a fit and proper person to be in possession of a firearm or airgun, or is a member of a gang; or~~

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~~(v) who is subject to a firearms prevention order—~~

(4) In section 27(3), replace “subsection (1)” with “**subsection (1AA)** or (1)”

**6 Section 27 amended (Surrender and revocation of firearms licence)**

(1) After section 27(2)(a), insert:

~~(aa) the holder of the licence is seeking to become a gang member; or~~

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(2) After section 27(2)(c)(ii), insert:

~~(iii) who is subject to a firearms prohibition order; or~~

~~(iv) who is a gang member.~~

**7 New sections 59A to 59E 61 to 61F and cross-heading inserted**

After section 59 60C, insert:

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*Firearms prohibition orders***61 Interpretation**

For the purposes of **sections 61A to 61F**,—

**firearm or related item** means any firearm, pistol, restricted weapon, airgun, blank-firing gun, imitation firearm, magazine, part, prohibited item, or ammunition

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**serious violent offence** has the same meaning as in section 86A of the Sentencing Act 2002.

**59A61A Firearms prohibition orders**

- (1) The Commissioner may make a firearms prohibition order against a person if—
- (a) ~~in the opinion of the Commissioner, it is necessary, in the public interest, to ensure that the person does not have possession of a firearm; and~~ 5
  - (b) the person is a ~~member of a gang~~ gang member; and
  - (c) the person has, within the past 10 years, been convicted of—
    - (i) an offence under this Act; ~~or~~
    - (ii) an offence under the Domestic Violence Act 1995; ~~or~~
    - (ia) an offence under the Family Violence Act 2018; ~~or~~ 10
    - (iii) a serious violent offence; ~~and~~
  - (d) in the opinion of the Commissioner, it is necessary in the public interest to ensure that the person does not have possession of a firearm.
- (2) A firearms prohibition order takes effect when it has been served ~~on the person who is to be subject to the order in accordance with section 72A of this Act, in accordance with section 72A, on the person against whom it is made.~~ 15
- (3) The Commissioner may revoke a firearms prohibition order at any time.
- (4) ~~In this section, **serious violent offence** has the same meaning as in section 86A of the Sentencing Act 2002.~~

**59B61B ~~Offences in respect of firearms prohibition orders~~ Prohibition on persons subject to firearms prohibition order acquiring, possessing, or using firearm or related item** 20

- (1) A person who is subject to a firearms prohibition order must not acquire, possess, or use a any firearm or part related item.
- (2) A person who contravenes **subsection (1)** commits an offence and is liable on conviction,— 25
- (a) ~~where if the firearm or related item is a pistol, or restricted weapon, or prohibited firearm, to a term of imprisonment not exceeding 14 years 6 years or to a fine not exceeding \$8,000, or both:~~
  - (b) in any other case, to a term of imprisonment not exceeding 5 years. 30
- (3) ~~A person who is subject to a firearms prohibition order must not acquire or possess ammunition.~~
- (4) ~~A person who contravenes **subsection (3)** commits an offence and is liable on conviction to a term of imprisonment not exceeding 5 years.~~

**59C61C Prohibition on supplying firearms, parts, or ammunition firearm or related item to persons subject to firearms prohibition order**

- (1) ~~Every A~~ person ~~commits an offence if they~~ must not supply, or give possession of, a firearm or related item, ~~part, or ammunition~~ to another person knowing that the other person is subject to a firearms prohibition order. 5
- (2) A person who contravenes **subsection (1)** commits an offence and is liable, on conviction,—
- (a) ~~where if~~ the firearm or related item is a pistol, ~~or restricted weapon, or prohibited firearm,~~ to a term of imprisonment not exceeding ~~4~~ 10 years:
- (b) in any other case, to a term of imprisonment not exceeding 5 years. 10

**59D61D Prohibition on person subject to firearms prohibition order residing at premises where firearms, parts, or ammunition are firearm or related item present**

- (1) A person who is subject to a firearms prohibition order ~~commits an offence if a firearm, part, or ammunition is kept or found on premises at which the person is residing~~ must not have any firearm or related item at their place of residence. 15
- (2) A person who contravenes **subsection (1)** commits an offence and is liable, on conviction, to a term of imprisonment not exceeding ~~12 months~~ 2 years.
- (3) It is a good defence to a prosecution for an offence against **subsection (1) (2)** if the defendant proves— 20
- (a) ~~that he~~ they did not know, and could not reasonably be expected to have known, that the firearm, part, or ammunition or related item was at their place of residence on the premises; or
- (b) ~~that he~~ they took reasonable steps to prevent the firearm, part, or ammunition or related item from being at their place of residence on the premises. 25

**59E61E Prohibition on person subject to firearms prohibition order attending certain premises**

- (1) A person who is subject to a firearms prohibition order must not, without reasonable excuse, attend or be present at— 30
- (a) the place of business of a licensed dealer;
- (b) a shooting range;
- (c) the premises of a firearms club.
- (1A) A person who contravenes subsection (1) commits an offence and is liable on conviction to a term of imprisonment not exceeding 2 years. 35
- (2) For the avoidance of doubt, membership of a firearms club is not a reasonable excuse for the purposes of **subsection (1)**.

- 61F Cancellation of firearms prohibition order**
- (1) Not earlier than 10 years after a firearms prohibition order is made, the person against whom the order is made may apply to the District Court to have the order cancelled.
- (2) The District Court may cancel a firearms prohibition order if a District Court Judge is satisfied that— 5
- (a) any of the grounds in **section 61A** for the making of the order no longer apply in respect of the applicant; and
- (b) the applicant has not been convicted of an offence against **section 61B, 61D, or 61E** in respect of the order; and 10
- (c) allowing the applicant to possess a firearm would not—
- (i) be contrary to the public interest; and
- (ii) pose an undue risk to public safety or security.
- 8 Section 62 amended (Right of appeal from official decisions)** 15
- After section 62(1)(a), insert:
- (ab) a person who has had a firearms prohibition order made against them; and
- 8 Section 62B amended (Right of appeal to District Court)**
- (1) In section 62B(1), replace “paragraph (c)” with “paragraph (c) or (d)”.
- (2) After section 62B(1)(c), insert: 20
- (d) a person who has had a firearms prohibition order made against them under **section 61A**.
- (3) In section 62B(3), replace “subsection (1)” with “subsection (1)(a), (b), or (c)”.
- (4) After section 62B(3), insert:
- (3A) On the hearing of an appeal under **subsection (1)(d)**, the District Court Judge may confirm or cancel the firearms prohibition order. 25
- 9 Section 72 amended (Delegation of powers by Commissioner)**
- After section 72(1), insert:
- (1A) Subsection (1) does not apply to the making of firearms prohibition orders under **section 59A 61A**. 30

## Part 2

### Amendments to other Acts

- 10 Amendment to Policing Act 2008**
- Section 11** amends the Policing Act 2008.

- 11 Section 17 amended (Delegation of powers, functions, or duties of Commissioner)**  
In section 17(1), after “enactment”, insert “(other than the power to make a firearms prohibition order under **section 61A** of the Arms Act 1983)”.
- 12 Amendment to Search and Surveillance Act 2012** 5  
**Section 13** amends the Search and Surveillance Act 2012.
- 13 Section 18 amended (Warrantless searches associated with arms)**
- (1) In section 18(2)(a), after “1983”, insert “, other than **section 61B, 61C, 61D, or 61E** of that Act”.
- (2) After section 18(3), insert: 10
- (4) A constable who has reasonable grounds to suspect that a person is subject to a firearms prohibition order, or that a person is in breach of any of sections **61B, 61C, 61D, or 61E** of the Arms Act 1983, may, without a warrant, do any or all of the following: 15
- (a) search the person: 15
- (b) search any thing in the person’s possession or under the person’s control (including a vehicle):
- (c) enter a place or vehicle to carry out any activity under **paragraph (a) or (b)**: 20
- (d) seize and detain any firearm or related item: 20
- (e) seize and detain any licence under the Arms Act 1983 that is found.
- (5) In **subsection (4)**,— 25
- firearm or related item** has the meaning given to it in **section 61** of the Arms Act 1983
- firearms prohibition order**, in relation to a person, means an order made under **section 61A** of the Arms Act 1983 against that person.

### Legislative history

13 February 2020  
21 July 2020

Introduction (Bill 217–1)  
First reading and referral to Justice Committee