

Tool 8: Arms Act 1983

Legal framework for firearms in schools

The Arms Act 1983 and Arms Regulations 1992 apply to everyone in New Zealand. This includes all schools (and school related activities, both on and off school sites) all school staff, students, visitors, displays of firearms and civil/emergency incidents. Legal restrictions involving various firearms include:

Firearms

It is an offence for anyone to **possess** a firearm unless they are:

- » 16 years of age or older; and
- » the holder of a firearms licence.

There is a defence to prosecution for this offence if:

- » that firearm was in that person's possession for use under the immediate supervision of the holder of a firearms licence; and
- » at all times while that person was in possession of the firearm, they were under the immediate supervision of a firearms licence holder.

[See page 10](#) for more on what 'immediate supervision' means in practice.

It is an offence to **sell** or **supply** a firearm to any person who is not the holder of a firearms licence or dealers licence or a permit to import. There is also a defence to prosecution for this offence where the "immediate supervision" scenario applies.

Airguns

It is an offence for anyone to **possess** an airgun unless they are:

- » 18 years of age or older; or
- » **aged between 16 and 18** years of age and are the holder of a firearms licence.

There is a defence to prosecution for this offence if:

- » that airgun was in that person's possession for use under the immediate supervision of either a person of or over the age of 18 years or the holder of a firearms licence; and
- » at all times while that person was in possession of the airgun, they were under the immediate supervision of either a person of or over the age of 18 years or the holder of a firearms licence.

See page 10 for more on what 'immediate supervision' means in practice.

This defence does not apply to "specially dangerous airguns", which are treated as firearms under the Arms Act 1983.

It is an offence to **sell** or **supply** an airgun to a person who is under the age of 18 years and is not the holder of a firearms licence. There is also a defence to prosecution for this offence where the 'immediate supervision' scenario applies.

Pistols, military style semiautomatic firearms and restricted weapons

There are additional legal requirements for pistols, military style semiautomatic firearms and restricted weapons. For example, in a civilian context:

- » pistols may only be used on the range of an incorporated pistol club range recognised by the Commissioner of Police
- » Other than for Defence or Police Force, restricted weapons (such as automatic firearms) must be maintained in an inoperable condition and can only be lawfully held by endorsed licence collectors, or for theatrical purposes, or in museums.
- » Pistols, military style semi-automatic firearms and restricted weapons may only be possessed by individuals with appropriate specific endorsements. It is a defence to a prosecution for the offence of unlawful possession of a pistol (but not a MSSA or restricted weapon) if the pistol was in the person's

possession for use both on a range of an incorporated pistol club recognised by the Commissioner and under immediate supervision of a licence holder with an endorsement permitting the supervisor to have possession of the pistol; and at all times while the person was in possession of the pistol, they were both on that range and under the immediate supervision of such a person.

Relevant sections of the Arms Act 1983 and Regulations are set out below

Section 20 Restrictions on possession of firearms

- (1) Except as provided in this Act or as otherwise provided in regulations made under this Act, no person shall have a firearm in his possession unless he is of or over the age of 16 years and is the holder of a firearms licence.
- (2) The holding of a firearms licence shall not in itself entitle any person to have a pistol or a military style semi-automatic firearm or a restricted weapon in that person's possession.
- (3) Every person commits an offence and is liable on conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$1,000 or to both who contravenes subsection (1).

Section 21 Restrictions on possession of airguns

- (1) Except as otherwise provided in this Act or as otherwise provided in regulations made under this Act, no person shall have an airgun in his possession unless—
 - (a) he is of or over the age of 18 years; or
 - (b) he is between 16 years and 18 years of age and is the holder of a firearms licence.
- (2) Every person commits an offence and is liable on conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$1,000 or to both who acts in contravention of subsection (1).
- (3) Nothing in this section applies in relation to the possession of specially dangerous airguns.

Section 22 Exemptions under the Arms Act 1983

- (2) It is a good defence to a prosecution for an offence against section 20 or section 21 if the defendant proves,—
 - (a) in the case of a prosecution relating to the possession of a firearm (not being a pistol or a restricted weapon) by any person,
 - (I) that the firearm was in the possession of that person for use under the immediate supervision of the holder of a firearms licence; and
 - (II) that at all times while that person was in possession of the firearm, that person was under the immediate supervision of the holder of a firearms licence; or
 - (b) in the case of a prosecution relating to the possession of an airgun (not being a specially dangerous airgun), -
 - (I) that the airgun was in the possession of that person for use under the immediate supervision of either a person of or over the age of 18 years or the holder of a firearms licence; and
 - (II) that at all times while that person was in possession of the airgun, that person was under the immediate supervision of either a person of or over the age of 18 years or the holder of a firearms licence.

Section 43 Selling or supplying firearm or airgun to unlicensed person

- (1) Every person commits an offence and is liable on conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$1,000 or to both who—
 - (a) sells or supplies a firearm (other than a pistol, military style semi-automatic firearm, or restricted weapon) to any person who is not the holder of a firearms licence or a dealer's licence or a permit issued for the purposes of section 16(1); or
 - (b) sells or supplies an airgun to any natural person who is under the age of 18 years and is not the holder of a firearms licence.

Section 45 Carrying or possession of firearms, airguns, pistols, restricted weapons, or explosives, except for lawful, proper, and sufficient purpose

- (1) Every person commits an offence and is liable on conviction to imprisonment for a term not exceeding 4 years or to a fine not exceeding \$5,000 or to both who, except for some lawful, proper, and sufficient purpose,—
 - (a) carries; or
 - (b) is in possession of— any firearm, airgun, pistol, restricted weapon, or explosive.
- (2) In any prosecution for an offence against subsection (1) in which it is proved that the defendant was carrying or in possession of any firearm, airgun, pistol, restricted weapon, or explosive, as the case may require, the burden of proving the existence of some lawful, proper, and sufficient purpose shall lie on the defendant.

Section 46 Carrying of imitation firearm, except for lawful, proper, and sufficient purpose

- (1) Every person commits an offence and is liable on conviction to imprisonment for a term not exceeding 2 years or to a fine not exceeding \$4,000 or to both who, except for some lawful, proper, and sufficient purpose, carries an imitation firearm.
- (2) In any prosecution for an offence against subsection (1) in which it is proved that the defendant was carrying an imitation firearm, the burden of proving the existence of some lawful, proper, and sufficient purpose shall lie on the defendant.

Section 54 Use or attempted use of firearm, airgun, pistol, imitation firearm, restricted weapon, ammunition, or explosive to resist or prevent arrest or commit offence

- (1) Every person commits an offence and is liable on conviction to imprisonment for a term not exceeding 7 years who makes or attempts to make any use whatsoever of any restricted weapon, imitation firearm, ammunition, or explosive with intent to resist or prevent the lawful arrest or detention of himself or another person.
- (2) Every person commits an offence and is liable on conviction to imprisonment for a term not exceeding 5 years who, at the time of his committing an offence punishable by imprisonment for a term of 3 years or more, has in his possession any firearm, airgun, pistol, imitation firearm, restricted weapon, ammunition, or explosive.
- (3) It is a good defence to a prosecution for an offence against subsection (2) if the defendant proves that he had the firearm, airgun, pistol, imitation firearm, restricted weapon, ammunition, or explosive in his possession for a lawful purpose.

Section 66: Occupier of premises or driver of vehicle deemed to be in possession of firearm, airgun, pistol, imitation firearm, restricted weapon, or explosive found therein

For the purposes of this Act every person in occupation of any land or building or the driver of any vehicle on which any firearm, airgun, pistol, imitation firearm, restricted weapon, or explosive is found shall, though not to the exclusion of the liability of any other person, be deemed to be in possession of that firearm, airgun, pistol, imitation firearm, restricted weapon, or explosive, unless he proves that it was not his property and that it was in the possession of some other person.

Exemptions (under Regulations) for NZ Police and Defence personnel

Members of the New Zealand Defence and NZ Police forces have an exemption under section 3(2)(a) of the Arms Act which allows them to have possession of firearms (Outside of the requirements of the Arms Act 1983) when they are in the course of their duties.

Police entering premises with firearms

Police may enter premises without a warrant if:

- (a) they have a reasonable ground to suspect that an offence is being committed, or is about to be committed, that would be likely to cause injury to any person, or serious damage to, or serious loss of, any property;
- (a) there is risk to the life or safety of any person that requires an emergency response. (Search and Surveillance Act 14(2).

They may carry firearms when they perceive that a situation involves, or is likely to escalate to involve a risk of death or Grievous bodily harm. This means that during an emergency or an armed offenders squad callout members of the NZ Police and Defence Forces may enter school grounds, often without notice.

Arms Act Regulations 1992

19 Conditions relating to security precautions

- (1) Every firearms licence shall be subject to the following conditions:
 - (a) the holder shall not put a firearm in such a place that a young child has ready access to it;
 - (b) the holder, where he or she has both a firearm and ammunition for it in his or her possession, either—
 - (I) shall take reasonable steps to ensure that the ammunition is not stored in such a way that a person who obtains access to the firearm also obtains access to the ammunition; or
 - (II) shall ensure that, where the ammunition is stored with the firearm, the firearm is not capable of being discharged;
 - (c) the holder shall take reasonable steps to ensure that any firearm in the holder's possession is secured against theft;
 - (d) the holder shall, where he or she has possession of a firearm that is—
 - (I) a flare pistol; or
 - (II) a humane killer; or
 - (III) a stock marking pistol,—
 - (IV) keep it in a locked container, except where it is under the holder's immediate and personal supervision.
- (2) On and after 1 July 1993 the reasonable steps required by subclause (1)(c) shall include—
 - (a) keeping on the holder's premises—
 - (I) a lockable cabinet, container, or receptacle of stout construction in which firearms may be stored; or
 - (II) a lockable steel and concrete strong-room in which firearms may be stored; or
 - (III) a display cabinet or rack in which firearms may be immobilised and locked so that none of them may be fired; and
 - (b) keeping locked or immobilised and locked in the cabinet, container, receptacle, strongroom, display cabinet, or rack required by paragraph (a) every firearm which is on the holder's premises and which is not under immediate and personal supervision of the holder or some other holder of a firearms licence; and
 - (c) ensuring that no firearm in the holder's possession is left in a vehicle that is unattended.