

Arms Act 1983

Information for Health Practitioners

NOVEMBER 2020



NEW ZEALAND
POLICE
Ngā Pirihimana o Aotearoa

The Arms Legislation Act 2020 introduced changes to the Arms Act 1983 which come into effect from 24 December 2020. The changes aim to reduce harm from firearms.

The December 2020 amendments will mean:

1. Health practitioners must consider notifying Police of health concerns related to their patient's firearms access,
 2. Police will notify health practitioners when their patient has been issued with a firearms licence.
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When health practitioners need to consider notifying Police

Section 92 requires the health practitioner to **consider** notifying Police as soon as practicable if:

- ▶ The health practitioner has attended or been consulted in respect of a person who the practitioner knows or has reason to believe is a firearms licence holder and
- ▶ The health practitioner considers that the health condition of the licence holder is such that, in the interests of the safety of individuals or the public, the licence holder—
 - (a) should not be permitted to use or possess a firearm; or
 - (b) should only be permitted to use or possess a firearm subject to any limitations that may be warranted by the health condition of the licence holder.

Health conditions that might lead a practitioner to consider notification are any that, in the opinion of the health practitioner, for the interests of the safety of individuals or the public, means that the licence holder should not be permitted to use or possess a firearm.

There is no exhaustive list of health conditions that may be relevant to safe possession and use of firearms. What is important is whether the health condition is developing or manifesting itself (or likely to) in such a way that, in the interests of individual or public safety, the person should not continue to possess firearms (or, should only do so on certain conditions).¹ Examples of the sorts of health conditions, where the development of which may lead to a consideration of referral to Police (depending on public and individual safety considerations) could include:

1. Acute stress reactions caused by physical, emotional or mental trauma
2. The development of suicidal thoughts or feelings
3. Depression or anxiety

4. Mania, Bipolar disorder, psychotic illness such as Schizophrenia
5. Dementia
6. Neurological conditions such as Parkinson's Disease, Huntington's Disease, epilepsy, multiple sclerosis, Amyotrophic Lateral Sclerosis or Multi System Atrophy
7. Personality disorder
8. Alcohol abuse/dependency
9. Drug abuse/dependency
10. Traumatic brain injury
11. Any physical condition that would make handling firearms unsafe.

This is not intended to be an exhaustive or prescriptive list of conditions that might give rise to a clinician's concern about ongoing access to firearms by one of their patients. Rather this is a list designed to emphasise the wide spectrum of medical conditions and health states that may impact significantly on the ongoing propriety of an individual having a firearms licence.

The decision to notify Police can sometimes be a difficult one. Practitioners are encouraged to consult with other health practitioners involved in the patient's care and seek medicolegal advice from their insurer or indemnifier if they desire. Any decisions, and the reasons for them, should be carefully documented on the clinical record in case the practitioner(s) are subsequently called upon to justify their actions.

¹ For example suggesting that firearms should only be used under supervision or that firearms only be stored under another licence holder's control.

How to notify Police

Notification of the health practitioner's concerns can be through three different mechanisms.

1. Notification can be completed online (<https://forms.police.govt.nz/firearmshealthnotification>) if there is no particular urgency.
2. Phone the non-emergency Police number 105.
3. If the health practitioner believes that the licence holder poses an immediate or imminent danger of self-harm or harm to others call 111 and ask for Police.

Information to provide when notifying Police

Where a health practitioner decides to notify Police, the following information should be provided:

- ▶ their opinion – that in the interests of individual or public safety the person should not be permitted to use or possess firearms (or only if subject to certain limitations); and
- ▶ the grounds on which that opinion is based; and
- ▶ whether the practitioner believes that the licence holder poses an immediate or imminent danger of self-harm or harm to others.

The grounds on which that opinion is based may include, the nature of the person's health condition and how that is impacting on, or is likely to impact on, the licence holder and their ability to safely use and possess firearms. If limitations are recommended, explain how those limitations are warranted with reference to the health condition. The only information that should be provided is that relevant to the practitioner's opinion.

Protection for health practitioners who notify Police

Health practitioners are not liable to criminal, civil, or disciplinary proceedings by disclosing personal information in the course of performing any of the notifications under the new Act, as long as they act in good faith. This protection is provided under section 92(5) of the Arms Act.

Police notification

From 24 December 2020 all firearms licence applicants (whether they have held a licence previously or not) will need to supply Police with the name and contact details of their health practitioner.²

When Police issue a firearms licence, Police are required to notify the nominated health practitioner as soon as reasonably practicable that a firearms licence has been issued to their patient. The purpose of sending firearms licence information to health practitioners is to make them aware their patient may have access to firearms.

It is hoped that the health practitioner will, upon receipt of this notification, enter the holding of a firearms licence into the individual's medical records. This information should be stored so it is readily visible whenever the patient record is accessed.

When notifying health practitioners that the licence has been issued, Police will also provide the date on which the licence expires. Police will notify the health practitioner if the licence ends earlier than the original expiry date (for example, it is surrendered or revoked), so that the information can be updated. Police will also notify health practitioners if a new licence is issued on the expiry of the old one.

If a health practitioner receives notification regarding a person who is not their patient, they should notify Police immediately so Police can obtain the correct health practitioner details. This can be done using the online

² For the purposes of the Act a Health Practitioner is defined as: **Health practitioner** means a health practitioner registered with the Medical Council of New Zealand, a nurse practitioner registered with the Nursing Council of New Zealand, a psychologist registered with the New Zealand Psychologists Board, or a Duly Authorised Officer under the Mental Health (Compulsory Assessment and Treatment) Act 1992.

form located on the Police website (<https://forms.police.govt.nz/firearmshealthnotification>) or by contacting the non-emergency 105 call centre.

Information that an individual has a firearms licence is considered sensitive information. Therefore the information must be kept securely, just as all the rest of a person's health records are secured.

How will a health practitioner know if a patient is a firearms licence holder?

It is important to note, health practitioners will only gradually receive licence holder information as licences are issued from 24 December 2020. Firearms licences can last for up to 10 years and existing licence holders will only need to provide their health practitioner details to Police when they apply to renew their licence. This means health practitioners will only receive licence holder information for new or renewed licences issued from 24 December 2020 and only for patients who have nominated them as their health practitioner (for example, some patients consult with more than one health practitioner). Health Practitioners should therefore not assume that their patient(s) are not a firearm licence holder, purely on the basis they have not received a notification from the Police.

The term "reason to believe" is not defined in the Arms Act 1983. However, it can be interpreted to mean that the health practitioner must form their belief based on facts - the belief need not be proven correct at a later time.

Examples of other facts which could lead to a practitioner having reason to believe a patient is a firearms licence holder include:

- ▶ notification by the patient themselves that the patient holds a firearms licence
- ▶ the firearms licence status is recorded in the patient's medical records
- ▶ the patient owns, or suggests they have access to firearms, and the practitioner does not have any reason to believe this ownership or access is unlawful; in which case they must be a licence holder. Certain leisure activities (e.g. membership of a pistol club)

or occupations (e.g. wild animal or animal pest controller) would be strongly suggestive of firearm access and/or ownership.

This information is supplied so that health practitioners who become aware that their patients have or develop health conditions incompatible with access to firearms may notify Police of this concern.

Police responses to notifications of concern

Police responses to notification could be to:

1. require a licence holder to undergo a further medical assessment by a health practitioner who is independent from the practitioner who made the initial assessment and, in that case, the licence holder must either—
 - (a) undergo the further assessment; or
 - (b) surrender their licence under section 27(1).
- Or:
2. commence suspension or revocation actions under the Arms Act.

Other situations where a health practitioner may consider it necessary to provide information to Police

The Health Information Privacy Code guides health practitioners on their privacy obligations and should be consulted when considering making reports to Police in other situations (for example, if the safety concern isn't related to a health condition, or the safety concerns are about a patient who isn't a licence holder). Decisions to notify are often complex and guidance should always be sought from the health practitioner's insurer or indemnifier in such circumstances.



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