

EXECUTIVE COUNCIL

RESTRICTED

Title of Report: Change to Firearms Policy
Paper No: 215/09
Date: 17 September 2009
Report of: Inspector Len S McGill - Royal Falkland Islands Police
Mr David Pickup - Attorney General

1.0 Purpose

- 1.1 To obtain approval for a change in the policy of the Chief Police Officer with regard to the licensing conditions, to be imposed under Section 4 (4) of the Firearms and Ammunition Ordinance 1987 on the grant of licences under that Ordinance
- 1.2 To obtain agreement to the Attorney General drafting proposed amendments to the Firearms and Ammunition Ordinance 1987

2.0 Recommendations

2.1 It is recommended that:—

2.1.1 1) His Excellency the Governor be advised to approve a change in the policy of the Chief Police Officer With regard to the licensing conditions which the Chief Police Officer may impose under Section 4(4) of the Firearms and Ammunition Ordinance 1987 as follows:

(a) **Licensing Conditions**

Revised licensing conditions to be –

- No conditions attached;
- For use only on an approved range or place;
- For sporting practices – with permission from relevant landowner (or their representative);
- For use only as a slaughtering instrument – with permission from relevant landowner (or their representative);
- In public must be transported in an appropriate manner;
- When transported in a vehicle any firearm must be in an unloaded condition;
- Storage must be by secure means;

- Must not be discharged within Stanley town boundaries;
- See Supplementary Conditions

(b) **Firearms Security**

That there should be two levels of security imposed, as appropriate, upon licence holders as follows:-

- **Minimum Security** - All firearms must be stored in an internal solid cupboard with a suitable locking method. Within that cupboard firearms may be openly stored. Ammunition must be stored separately from the firearms in a metal container with a suitable locking method.
- **Enhanced Security** - All firearms must be stored in an internal solid cupboard with a suitable locking method. Within that cupboard firearms may be openly stored. Ammunition must be stored separately from the firearms in a metal container with a suitable locking method. The premises will be protected by an alarm system which will have an audible and visual capability to the exterior, located in such a way as to attract the attention of any person in the area. Such an alarm system may also be connected by telephone to Stanley Police Station.

(c) **Handguns**

That as a matter of general policy with regard to handguns:-

- All applicants must be members of an approved club, organisation, or be an authorised user (i.e. authorised by the Chief Police Officer and then only in specified circumstances. An example may be the authorisation of a farmer to use a handgun for the humane destruction of animals in distress or as a slaughtering instrument);
- No authorisation will be given for hunting purposes;
- Authorisation will only be given for use on an approved range or place (i.e. as approved by the Chief Police Officer).
- Authorisation, by way of a supplementary licensing condition, may be given for the use of handguns on farms to scare sheep when gathering from difficult areas such as steep unstable slopes and cliffs.

(d) **Rifles Exceeding .22 Calibre**

That as a matter of general policy with regard to rifles exceeding .22:-

- Authorisation will only be given for use on an approved range, place or land (i.e. as approved by the Chief Police Officer who will take into account the relevant circumstances).

2.1.3 His Excellency the Governor be advised to agree that if the above recommendations are approved, then the Attorney General draft proposed amendments to the Firearms and Ammunition Ordinance 1987.

3.0 Summary of Financial Implications

3.1 There are no immediate financial implications. The reduction of the firearms licence period from life to 5 years will result in an increase in licensing revenue when existing licence holders renew their licences from 2014 onwards.

4.0 Background

4.1 A sub-committee of the Police Committee was formed to review the firearms' policy of the Chief Police Officer in relation to the exercise of his discretion under Section 4(4) of the Firearms and Ammunition Ordinance 1987 on the inclusion of conditions in licences issued under that Ordinance.

4.2 The sub-committee membership is made up of Inspector Len McGill and Sergeant Thomas Whistler of the Royal Falkland Islands Police, Mr David Pickup, Attorney General, Mr Andrew Brownlee, Justice of the Peace, Mr Nicholas Pitaluga, East Falkland Farming Community, Mr Nigel Knight, West Falkland Farming Community, Mr Derek Goodwin, Rifle Club, Mr Nevin Middleton, Gun Club, and Councillor Janet Robertson.

4.3 Section 14 of the Firearms and Ammunition Ordinance 1987 creates criminal offences relating to the possession of firearms or ammunition without a licence. Such a licence can be obtained under Section 13 of the Ordinance and Section 4 governs the grant, variation and revocation of licences. There are currently 682 firearms licences issued by the Chief Police Officer. There are 1588 registered firearms made up of the following;

Rifles	- .22 calibre	619
Rifles	- Over .22 calibre	258
Shotguns	- All calibres	426
Pistols	- All calibres	178
Revolvers	- All calibres	107
Total		1588

4.4 Section 4(4) of the Firearms and Ammunition Ordinance 1987 states that the Chief Police Officer may include in any licence such conditions as he considers necessary in the interests of defence, internal security, public safety, public order and the peace, and may during the currency of any licence introduced, add to, delete or vary any such conditions, for which purpose he may give the holder of the licence written notice to deliver his licence to the Chief Police Officer within 21 days for amendment.

4.5 Under the terms of the current unwritten policy the Chief Police Officer advises licence holders with regard to security arrangements he would like them to have in place. It is the opinion of the sub-committee that the Chief Officer should instead require licence holders to meet appropriate security arrangements as specified by him in the interests of the safety of the licence holder and the general public.

Licensing Conditions

4.6 In addition to his advice as to security arrangements the Chief Police Officer approaches the inclusion of conditions to a licence by considering the following possibilities:-

- No conditions attached;
- For use only on an approved range;
- For use only under the supervision of an approved person;
- For use only as a slaughtering instrument;
- In public must be transported in an appropriate container;
- Storage must be by secure means;
- Must not be discharged within Stanley town boundaries;
- For use as a slaughtering instrument only with the permission of the relevant farmer.

4.7 It is the opinion of the sub-committee that these should be amended as follows:-

- No conditions attached;
- For use only on an approved range or place;
- For sporting practices – with permission from relevant landowner (or their representative);
- For use only as a slaughtering instrument – with permission from relevant landowner (or their representative);
- In public must be transported in an appropriate manner;
- Storage must be by secure means;
- Must not be discharged within Stanley town boundaries;
- See Supplementary Conditions

4.7.1 It is envisaged that definitions will be provided during the drafting process to adequately define phrases in the above conditions that are not already defined in the Firearms and Ammunition Ordinance. Examples may be ‘sporting practices’, ‘relevant landowner’ and ‘appropriate manner’.

4.7.2 Stanley Town Boundaries are described in the first schedule of the Stanley Rates Ordinance.

Section 3 of the Interpretation and General Clauses Ordinance provides that “Stanley” means the area defined in the Stanley Rates Ordinance. Section 2 of the Stanley Rates Ordinance states that “Stanley” means the area described in the First Schedule of the Stanley Rates Ordinance.

4.7.3 Special Exemptions are made for the discharge of firearms within Stanley town boundaries by the Firearms (Special Exemption) Order. Persons named in the schedule to the Order and any agent or employee of such persons acting on their authority, are exempted from the prohibition as to the discharge of firearms contained in section 25(1) of the Firearms and Ammunition Ordinance, so far as is necessary to render it lawful to discharge ammunition in the places and for the purposes specified in the said Schedule. An example is the control of vermin, (such as geese), on property owned or used by Stanley Growers Ltd

Firearms Security

4.8 It is the opinion of the sub-committee that there should be two levels of security imposed, as appropriate, upon licence holders as follows:-

4.8.1 Minimum Security

All firearms must be stored in an internal solid cupboard with a suitable locking method. Within that cupboard firearms may be openly stored. Ammunition must be stored separately from the firearms in a metal container with a suitable locking method.

4.8.2 Enhanced Security

All firearms must be stored in an internal solid cupboard with a suitable locking method. Within that cupboard firearms may be openly stored. Ammunition must be stored separately from the firearms in a metal container with a suitable locking method. The premises will be protected by an alarm system which will have an audible and visual capability to the exterior, located in such a way as to attract the attention of any person in the area. Such an alarm system may also be connected by telephone to Stanley Police Station.

4.9 The rationale for the above security proposals are firstly that the current largely unregulated arrangements may allow licence holders and the general public to be put in danger, whether through deliberate action or accident, and secondly that the current arrangements leave licence holders, and hence the general public, vulnerable to the consequences of the theft of firearms by those with criminal intent.

4.9.1 Minimum Security would apply to all firearms holders. The sub-committee concluded that this level of security was achievable, inexpensive, uncomplicated, could be complied with easily and in a short time frame and would provide adequate security given the local situation.

4.9.2 Enhanced Security would only apply to Gun Dealerships, where quantities of firearms were held within premises, or a Gun Club, where quantities of firearms are stored.

Handguns

4.10 The sub-committee further recommends that as a matter of general policy with regard to handguns:-

- All applicants must be members of an approved club, organisation, or be an authorised user (i.e. authorised by the Chief Police Officer and then only in specified circumstances. An example may be the authorisation of a farmer to use a handgun for the humane destruction of animals in distress or as a slaughtering instrument);
- No authorisation will be given for hunting purposes;
- Authorisation will only be given for use on an approved range or place (i.e. as approved by the Chief Police Officer);

- Authorisation, by way of a supplementary licensing condition, may be given for the use of handguns on farms to scare sheep when gathering from difficult areas such as steep unstable slopes and cliffs.
- 4.11 In making the recommendation at 4.10 the sub-committee has had regard to the ease of concealment, the potential for accidental discharge, and ease of physical use.
- 4.11.1 A member of the sub-committee has argued strongly that the supplementary licence condition to allow the use of handguns on farms to scare sheep should be extended to include all firearms. At present rifles not exceeding .22 and shotguns may be used for this purpose as there are no restricting conditions applied. This effectively means that the member is arguing that rifles exceeding .22 should be included along with handguns in the proposal to allow their use for scaring sheep.
- 4.11.2 The use of rifles exceeding .22, with their greater range and power, presents a far higher risk of injury to the sheep themselves or other animals and persons in the vicinity. The recommendation at the forth bullet point at 4.10 is made as supported by all but one member of the sub-committee. If it is considered appropriate to extend the licence condition to rifles exceeding .22, then the inclusion of the condition of licence, in the same form as the above, should be applied to 4.12.

Rifles Exceeding .22 Calibre

- 4.12 Further the sub-committee recommends that as a matter of general policy with regard to rifles exceeding 0.22 calibre:-
- Authorisation will only be given for use on an approved range, place or land (i.e. as approved by the Chief Police Officer who will take into account the relevant circumstances).
 - No authorisation will be given for hunting purposes;
 - Authorisation will be given for use to slaughter animals for human consumption or culling if such animals cannot be slaughtered using any other humane means;
- Authorisation for the culling of animals, other than in controlled situations, will only be given on condition that:
- a. Notification is given to all neighbouring farms;
 - b. The General public is informed e.g. through the Falkland Island Radio Service;
 - c. The Royal Falkland Islands Police is informed as to the proposed time, date, and place of destruction;
 - d. In the event of an animal requiring destruction to prevent its suffering, e.g. an injured animal in a minefield emergency, the animal may be destroyed without authorisation.

- 4.17 The sub-committee recommends that a condition be applied to all firearms licences enabling the examination of firearms storage facilities so as to satisfy the Chief Police Officer that they comply and remain compliant, with the appropriate level of security.
- 4.18 In making the recommendation at 4.17 the sub-committee has had regard to the need to effectively regulate the proposed security of firearms to enhance the safety of the general public.

Gunpowder

- 4.19 At present the Chief Police Officers policy on the amount of gunpowder allowed to be held by an individual is 50lbs. Mr Christopher Burgess in his Thematic Inspection Report on the Police Use of Firearms recommended that the amount of gunpowder, (50lbs), allowed to be held by an individual under the present policy be amended to an agreed lesser amount. In the opinion of the sub-committee 50lbs (23kgs) is an inordinate amount of gunpowder to be safely held.
- 4.20 The sub-committee recommends that the policy on the amount of gunpowder allowed to be held by an individual be amended to 15lbs (7kgs).
- 4.21 In making the recommendation at 4.20 the sub-committee has had regard to the safety of the general public and their property.
- 4.22 In the opinion of the sub-committee it would further be appropriate for the Chief Police Officer to impose a condition that all out of date or unwanted gunpowder is destroyed by such method and by such arrangements as the Chief Police Officer requires.

Firearms Licence

- 4.23 The sub-committee has considered, in accordance with the recommendation of Christopher Burgess in his Thematic Inspection Report, whether it is appropriate for firearms' licences to be granted for life. The Finance Ordinance 1995 amended the Firearms and Ammunition Ordinance 1987 to state at Section 13(2)

“Such a licence shall have effect until it is revoked under the provisions of this Ordinance, and if not revoked, until the death of the holder and a fee in respect of such a licence shall be prescribed. A licence in force at the commencement of this subsection as an annual licence in respect of a firearm shall continue in force as if this subsection had been in force on the date on which the licence was granted”.

- 4.24 The sub-committee recommends that all categories of firearms licences no longer be valid for life, but be renewable every 5 years.
- 4.25 In making the recommendation at 4.24 the sub-committee considered that licences for life were inappropriate having regard to the changes in physical, mental, and emotional health which can occur over an extended period. In the event that this proposal is accepted the sub-committee recommends that existing licence holders should have 5 years from the date of commencement of the amendment to apply for a new licence. The licence shall fall due for renewal on the date of birth of the holder during the fifth year of implementation.

- 4.25.1 A member of the sub-committee disagrees with the renewal of firearms licences every five years. They believe that this proposal is nothing but a fund raising venture rather than public safety. They believe that the Chief Medical Officer will advise the Chief Police Officer if a person is not fit to hold a firearm. They do not see the need for the Falkland Islands to follow the UK just because they have such a policy.

Chief Police Officers Written Policy

- 4.26 In the event that the proposed amendments to policy are approved it is recommended that the Chief Police Officer prepare a written policy as to the general exercise of his discretion under s.4(4) of the Firearms and Ammunition Ordinance 1987.
- 4.27 In the event that the proposed amendment to the Firearms and Ammunition Ordinance 1987 is approved it will be necessary for the Attorney General to draft the proposed amendments.

5.0 Financial Implications

- 5.1 No additional costs are expected for the above proposals. All forms and licences are computer generated. The cost of issuing new licences will be met from the Royal Falkland Islands Police departmental budget. Reduction of licence period from life to 5 years will result in an increase in licensing revenue, when licences are renewed from 2014 onwards.
- 5.2 The current licence fee is £32 for life. A fee for the 5 year licence has not yet been agreed, however a fee of £20.00 is suggested, (In the UK a 5 year firearms licence costs £50 for first grant and £40 for renewal)

6.0 Legal Implications

- 6.1 The Attorney general was on the working group that proposes changes to the Firearms Ordinance. If the above recommendations are approved, then the Attorney General will draft proposed amendments to the Firearms and Ammunition Ordinance 1987.

7.0 Human Resources Implications

- 7.1 The additional requirement to examine security arrangements and renew firearms licences on a five year basis will create additional work for police officers and the licensing clerk. However the additional work is well within the scope of existing arrangements and staff levels.