



**Amnesty International Aotearoa New Zealand
Submission to the Justice Committee on
The Arms (Firearms Prohibition Orders) Amendment Bill (No 2) 2020**

29 January 2021

EXECUTIVE SUMMARY

1. This submission is made on behalf of Amnesty International Aotearoa New Zealand (AIANZ) to provide a human rights lens on the *Arms (Firearms Prohibition Orders) Amendment Bill (No 2) 2020* [hereafter “the Amendment Bill”], which seeks to amend the Arms Act 1983. Amnesty International is a global movement of over 10 million people who protect human dignity and defend human rights. In Aotearoa New Zealand, there are approximately 40,000 members and we work on a wide range of human rights issues of both national and international significance.
2. AIANZ supports robust legislation and systems for regulating firearms and licensing. AIANZ has advocated for improved firearms regulation, in line with international research and human rights standards. AIANZ submitted in favour of passing both the *Arms (Prohibited Firearms, Magazines and Parts) Amendment Bill* and the *Arms Legislation Bill*.¹ AIANZ also submitted on the *Firearm Prohibition Orders Consultation*.²
3. The misuse of firearms by private individuals results in a range of human rights abuses in Aotearoa New Zealand, including family violence, gender-based and sexual violence. The Government has a clear obligation to prevent and reduce firearm violence, including threats of violence, through the implementation of strict, robust and effective systems for regulating the possession and use of firearms and ammunition.³
4. AIANZ supports strict, robust arms legislation that protects rights, such as the right to life and to health, and creates reasonable, necessary and proportionate limitations on any other rights it may impact. **However, we do not support the Amendment Bill as it stands, as it unjustifiably impinges on human rights.**
5. AIANZ agrees with the findings of the Attorney-General, both in 2018 and again in 2020,⁴ that the Amendment Bill creates unjustifiable limitations on freedom of

¹ Amnesty International Aotearoa New Zealand, *Submission to the Finance and Expenditure Committee on the Arms (Prohibited Firearms, Magazines and Parts) Amendment Bill*, 4 April 2019, <https://www.amnesty.org.nz/sites/default/files/Amnesty%20International%20submission%20to%20Arms%20Amendment%20Bill.pdf>; Amnesty International Aotearoa New Zealand, *Submission to the Finance and Expenditure Committee on the Arms Legislation Bill*, 23 October 2019, https://www.amnesty.org.nz/sites/default/files/Amnesty%20International%20NZ%20submission%20to%20Arms%20Legislation%20Bill%20_0.pdf

² Amnesty International Aotearoa New Zealand, *Submission on the Firearm Prohibition Orders Public Consultation*, 15 January 2020, <https://www.amnesty.org.nz/sites/default/files/AIANZ%20submission%20to%20Firearm%20Prohibition%20Orders%20Submission.pdf>

³ See [9] – [11] of this submission.

⁴ New Zealand Parliament, Hon. D. Parker, *Report of the Attorney-General under the New Zealand Bill of Rights 1990 on the Arms (Firearms Prohibition Orders) Amendment Bill 2018*, 15 May 2018, para. 2,



association and the right to be presumed innocent in the New Zealand Bill of Rights.⁵

AIANZ urges that any amendment to the Arms Act must be in line with the New Zealand Government's human rights and *Te Tiriti o Waitangi* responsibilities.

6. This submission outlines AIANZ's particular concerns about:
 - a. The purpose and scope of the Amendment Bill;
 - b. The Amendment Bill's impact on the right to freedom from discrimination;
 - c. The Amendment Bill's impact on the right to freedom of association;
 - d. The criteria for becoming subject to a Firearm Prohibition Order;
 - e. The Amendment Bill's disproportionately severe penalties for Firearm Prohibition Order offences, especially given the inclusion of reverse onus offences;
 - f. The Amendment Bill's potential to limit the right to freedom from unreasonable search and seizure; and
 - g. The potential for Firearm Prohibition Orders to apply to young people.

RECOMMENDATIONS

7. AIANZ recommends that:
 - a. The Amendment Bill's purpose and scope are reviewed and that the sole focus on gang members is removed.
 - b. Any amendment to the Arms Act is in line with both the New Zealand Government's human rights and *Te Tiriti o Waitangi* responsibilities.
8. That if Firearm Prohibition Orders (FPOs) are progressed, AIANZ recommends that:
 - a. The severity of the penalties is reduced to make them reasonable, proportionate and necessary;
 - b. The FPOs are not applied indefinitely, but have clear limitations and review periods (and discretion outside these periods to end the FPOs) to ensure that the FPOs continue to be necessary, proportionate and reasonable;
 - c. That the criteria for an FPO is amended. We are concerned that the current wording is not sufficient to capture all people who have the highest risk of committing firearm violence. We would like to see a more appropriate threshold for what qualifies a person for an FPO and that any discretion that is used must be within an appropriate framework that ensures proportionality and necessity;
 - d. The FPOs cannot be applied to those under 18;
 - e. The defendant has a fair opportunity to respond to and appeal an FPO. Under the current Amendment Bill, the reverse onus offense is inconsistent with the right to be presumed innocent;

www.parliament.nz/resource/enNZ/PAP_78210/9309fe3158b76723db7459bd68e3d35351cc3209 (hereinafter: Hon. D. Parker, *Report of the Attorney-General under the New Zealand Bill of Rights 1990 on the Arms (Firearms Prohibition Orders) Amendment Bill 2018*);

New Zealand Parliament, Hon. D. Parker, *Report of the Attorney-General under the New Zealand Bill of Rights 1990 on the Arms (Firearms Prohibition Orders) Amendment Bill (No 2)*, March 2020, para. 2, <https://www.justice.govt.nz/assets/Documents/Publications/Arms-Firearms-Prohibition-Orders-Amendment-Bill-No-2.pdf> (hereinafter: Hon. D. Parker, *Report of the Attorney-General under the New Zealand Bill of Rights 1990 on the Arms (Firearms Prohibition Orders) Amendment Bill (No 2) 2020*);

⁵ Sections 17 and 25(c) of the New Zealand Bill of Rights.



- f. That the use of FPOs search and seizure powers are clearly limited and defined, including:
 - i. requiring reasonable grounds for search and seizure;
 - ii. mandatory monitoring and reporting of how the powers are used and against whom, with adequate oversight and the ability to challenge the use of powers;
 - iii. robust Police guidelines, education and training regarding the meaning of 'reasonable' and a rights-compliant application of FPOs;
 - iv. a mandatory independent monitoring and review function built into any new legislation, to occur within the first two years of operation.

HUMAN RIGHTS AND FIREARM VIOLENCE IN AOTEAROA NEW ZEALAND

9. The misuse of firearms in a weak regulatory regime can have grave impacts on individuals, families and communities. The misuse of firearms can result in violations of the right to life, health, security and physical integrity, freedom from discrimination, an adequate standard of living and the right to participate in cultural life.⁶ The very presence of a firearm can be used to intimidate and threaten, particularly in the context of domestic violence.
10. It is concerning that firearms are a feature of a range of serious offences in Aotearoa New Zealand. Between 2017 and 2018, firearms were used “in relation to 33.3% of murders (13), 43.5% of attempted murders (10), and 9.6% of aggravated robberies (231).”⁷ The Family Violence Death Review Committee found that between 2009 and 2015, there were 9 or 10 intimate partner violence deaths in which the method of killing was a gun. In eight of these, the primary aggressor or suspected primary aggressor was a male who killed his female partner.⁸
11. As a signatory to multiple international human rights conventions that guarantee human rights that can be impacted by firearm violence,⁹ the Government has clear obligations to take steps to prevent firearm violence. This requires that particular attention is paid to the protection of those most at risk of such harm, be they individuals or marginalised communities; and specific measures are taken to prevent discriminatory violence, violence against children, gender-based violence, and the use of firearms in suicides, unintentional and accidental deaths.¹⁰

⁶ See Amnesty International, *In the line of fire: Human Rights and the US gun violence crisis* (Index number: AMR 51/9547/2018), Chapter 4 pp. 93-104, www.amnesty.org/en/documents/amr51/9547/2018/en/

⁷ New Zealand Police, *Consultation document: Firearms Prohibition Orders*, 11 November 2019, p. 8, www.police.govt.nz/sites/default/files/publications/firearms-prohibition-orders-public-consultation-document.pdf

⁸ Family Violence Death Review Committee, *Fifth report data: January 2009 to December 2015*, 2017, p. 50.

⁹ Including the International Convention on Civil and Political Rights (ICCPR), the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD), the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), the Convention on the Rights of the Child (CRC), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

¹⁰ Amnesty International, *In the line of fire: Human Rights and the US gun violence crisis* (Index number: AMR 51/9547/2018), p. 4, www.amnesty.org/en/documents/amr51/9547/2018/en/



Arms Act 1983 (the principal Act)

12. AIANZ supports the purposes of the principal Act, and the regulatory regime it establishes, which seeks to promote the safe possession and use of firearms and other weapons, and impose controls on this possession and use. These purposes reflect the principles:
- (a) that the possession and use of arms is a privilege; and
 - (b) that persons authorised to import, manufacture, supply, sell, possess, or use arms have a responsibility to act in the interests of personal and public safety.¹¹

Purpose of the Amendment Bill

13. The Amendment Bill's Explanatory Note states it provides “strong new powers for Police to make sure the most dangerous gang members don’t have firearms, while not putting unnecessary restrictions on legal gun owners.” The Amendment Bill creates a blanket ban on gang members having a firearm license and establishes an FPOs regime, which only applies to certain gang members.
14. AIANZ is concerned about the sole singling out of gangs in the Amendment Bill. We caution against using ascribed gang-affiliation as a legal or regulatory category and believe restrictions to keep individuals safe from gun violence should not be focused on gang members alone. AIANZ also notes that the Prime Minister’s Chief Science Advisor Report stated that only taking a “law and order” approach to addressing gang membership, without community investment, has proven “largely ineffective” both domestically and internationally.¹²
15. A focus only on gang membership, and not organised crime or the most dangerous individuals more broadly, may exclude individuals who could be committing serious firearm offenses. The March 15 shootings showed the necessity of robust legislation and safeguards, and this must extend beyond gangs.
16. The Amendment Bill’s purpose particularly impacts on the right to freedom of discrimination and the right to freedom of association (these rights are detailed below). **AIANZ recommends that the Amendment Bill’s purpose is reviewed and that the sole focus on gang members is removed.**

FREEDOM FROM DISCRIMINATION¹³

¹¹ Section 1A of the Arms Act 1983.

¹² Office of the Prime Minister’s Chief Science Advisor, Prof. Sir P. Gluckman, *Using evidence to build a better justice system: The challenge of rising prison costs*, 29 March 2018, para. 98 (hereinafter: Prof. Sir P. Gluckman, *Using evidence to build a better justice system: The challenge of rising prison costs*).

¹³ Freedom from discrimination is affirmed under Section 19 of the New Zealand Bill of Rights:

(1) Everyone has the right to freedom from discrimination on the grounds of discrimination in the Human Rights Act 1993.

(2) Measures taken in good faith for the purpose of assisting or advancing persons or groups of persons disadvantaged because of discrimination that is unlawful by virtue of Part 2 of the Human Rights Act 1993 do not constitute discrimination.



17. AIANZ is concerned that solely targeting gangs as a grouping could have discriminatory effects on communities who are already disproportionately impacted by crime and criminalization.¹⁴ AIANZ notes that it has been estimated that Māori make up approximately 90% of the two largest adult gangs in Aotearoa New Zealand.¹⁵ AIANZ cautions that the Amendment Bill could further entrench and worsen existing discrimination, and lead to disproportionate scrutiny of particular communities.
18. The Amendment Bill's Explanatory Note states that about "600 gang members will initially be eligible for an FPO... Police will decide how to prioritise the most serious offenders within that group." The FPOs could result in a significant increase in the prison population, which is likely to disproportionately impact Māori, who are already over represented in the prison system. The impact of the Amendment Bill's FPOs would be particularly severe, given the extensive imprisonment that offences could result in.
19. In March 2016, the United Nations Committee on Human Rights stated that it:
- ...remains concerned about the disproportionately high rates of incarceration and overrepresentation of Māori and Pasifika, and particularly women and youth, at all levels of criminal justice process... [It recommended that the Government] eliminate direct and indirect discrimination against Māori and Pasifika in the administration of justice, including through human rights training programmes for law enforcement, the judiciary and penitentiary personnel.¹⁶
20. AIANZ notes that in the Amendment Bill, the criteria to reject an applicant from receiving a licence is that the individual is, in the opinion of the Police officer, a member of a gang, and a firearm licence can be revoked if an individual is seeking to become a member of a gang.¹⁷ AIANZ questions how such decisions would be made and notes the potential for discriminatory decisions to be made that impact on the right to freedom of association. AIANZ notes that in a 2020 interview with the Hui, Police Commissioner Andrew Coster "agreed that unconscious bias still exists within police."¹⁸
21. In 2018, Amnesty International reviewed the use of the "Gangs Matrix" in the United Kingdom and found that:

¹⁴ Māori are more likely to be victims of violence (18.9% Māori, compared to 10.4% of the average population) - Prof. Sir P. Gluckman, *Using evidence to build a better justice system: The challenge of rising prison costs*, para. 91. In 2017, the Waitangi Tribunal found that the Crown had "breached the principle of active protection by not sufficiently prioritising the protection of Māori interests in the context of persistently disproportionate Māori reoffending." Waitangi Tribunal, *Tū Mai te Rangī! Report on the Crown and Disproportionate Reoffending Rates*, 2017, p. x.

¹⁵ Prof. Sir P. Gluckman, *Using evidence to build a better justice system: The challenge of rising prison costs*, para. 91; see Ministry of Justice, Department of Corrections and New Zealand Police, *Maintaining a safe NZ and working towards a more humane and effective criminal justice system*, 2017.

¹⁶ *Concluding observations on the sixth periodic report of New Zealand*, UN Human Rights Committee, UN Doc. CCPR/C/NZL/6 (23 March 2016).

¹⁷ Sections 5 and 6 of the *Arms (Firearms Prohibition Orders) Amendment Bill (No 2) 2020*.

¹⁸ The Hui, Mihingarangi Forbes, *Police Commissioner Andrew Coster agrees unconscious bias still exists within police*, 14 June 2020, <https://www.newshub.co.nz/home/new-zealand/2020/06/police-commissioner-andrew-coster-agrees-unconscious-bias-still-exists-within-police.html>



All available evidence indicates that the vagueness of the gang label and the degree of discretion officers have to assign it mean that it is assigned haphazardly. In practice, it is disproportionately assigned to BAME people [people of “black, Asian and minority ethnic” communities], reflecting a historic pattern of over-policing of BAME communities.¹⁹

22. AIANZ opposes any measures that would result in the disproportionate targeting of Māori communities by the criminal justice system. The firearm regime should be effective and robust, and AIANZ urges that any amendment to the Arms Act is in line with both the New Zealand Government’s human rights obligations and Te Tiriti o Waitangi.

FREEDOM OF ASSOCIATION

23. As the Amendment Bill seeks to treat gang members differently to others, it impacts the right of freedom of association, which is affirmed under section 17 of the New Zealand Bill of Rights and Article 22 of the International Covenant on Civil and Political Rights. The right of freedom of association recognises “that people should be free to enter into consensual arrangements with others and promote the common interests of the group.”²⁰

24. Any limit on the freedom of association must be reasonable, necessary and proportionate for achieving the Amendment Bill’s purpose.

Licensing

25. AIANZ queries what impact the Amendment Bill will have on licensing in practice. Currently, whether an applicant is a “member of, or has close affiliations with a gang or organised criminal group” is a consideration when awarding a license,²¹ which enables a case-by-case decision to be made. Given this, we question whether the Amendment Bill’s licensing reform is necessary.

Firearm Prohibition Orders

26. Being in possession of a firearm without a license is already an offence, but the Amendment Bill establishes an additional FPO regime for particular gang members.

27. AIANZ holds that the proposed Firearm Prohibition Orders are an unjustifiable limit on the right to freedom of association, as:

- a. The FPOs do not have an end point, or a point in which they must be renewed.
 - a. AIANZ believes that an indefinite lifetime period for a FPO would not meet the criterion of proportionality and necessity.
 - b. AIANZ notes that the New South Wales Ombudsman has advised that their FPO regime should not apply indefinitely, but should instead expire after a five year period. The majority of the public submissions on the FPOs in New

¹⁹ Amnesty International United Kingdom Section, *Trapped in the Matrix: Secrecy, stigma, and bias in the Met’s Gangs Database*, May 2018, p. 29.

²⁰ Hon. D. Parker, *Report of the Attorney-General under the New Zealand Bill of Rights 1990 on the Arms (Firearms Prohibition Orders) Amendment Bill 2018*, para. 8.

²¹ Section 24A of the Arms Act 1983.



- South Wales also expressed serious concern about the indefinite application of the FPOs.²²
- c. AIANZ notes that the restrictions on where an individual can reside under the Amendment Bill also infringe on the freedom of association and to the right to freedom of movement, and can isolate individuals from family networks.
- b. The penalties for breaching FPOs are disproportionately severe, including a term of imprisonment not exceeding 14 years.²³
 - a. As the Attorney-General highlighted, the penalties in the Amendment Bill are “severe and appear to be highly disproportionate to similar offences”.²⁴ For example, in the Arms Act, the offence of unlawful possession of a pistol or restricted weapon can result in a maximum of three years imprisonment or a fine not exceeding \$4,000 or both.²⁵ The proposed maximum 14 year imprisonment period for a breach of the FPO is equivalent to sexual conduct with a child under 12,²⁶ attempted murder²⁷ or aggravated wounding or injuring.²⁸
 - b. The severity of the penalties are further increased as it will be a reverse onus offence, which is inconsistent with the right to be presumed innocent (see below).
 - c. The criteria for a Firearm Prohibition Order is not sufficiently relevant, as the FPO regime could apply to a significant number of gang members, while excluding some of the most dangerous offenders because they are not members of gangs.²⁹

RIGHT TO BE PRESUMED INNOCENT

28. AIANZ agrees with the Attorney-General that the Amendment Bill is unjustifiably inconsistent with the right to be presumed innocent until proven guilty affirmed in

²² New South Wales Ombudsman, *Review of police use of the firearms prohibition order search powers: Section 74A of the Firearms Act 1996*, August 2016, para. 8, www.ombo.nsw.gov.au/_data/assets/pdf_file/0016/37132/Review-of-police-use-of-firearms-prohibition-order-search-powers.pdf

²³ Sections 59B and 59C of the Amendment Bill.

²⁴ Hon. D. Parker, *Report of the Attorney-General under the New Zealand Bill of Rights 1990 on the Arms (Firearms Prohibition Orders) Amendment Bill 2018*, p. 6.

²⁵ Section 50 of the Arms Act 1983. Also see Section 49A of the Arms Act Unlawful possession of firearm, prohibited magazine, prohibited part, or airgun after revocation of firearms licence: “Every person commits an offence and is liable on conviction to imprisonment for a term not exceeding 1 year or to a fine not exceeding \$4,000 or to both”.

²⁶ 38 Section 132 of the Crimes Act 1961.

²⁷ Section 173.

²⁸ Section 191.

²⁹ 59A of the Amendment Bill: 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

(b) the person is a member of a gang; and

(c) the person has, within the past 10 years, been convicted of—

(i) an offence under this Act:

(ii) an offence under the Domestic Violence Act 1995:

(iii) a serious violent offence.



section 25(c) of the Bill of Rights. As section 59B (read with section 66 of the principal Act) creates a reverse onus offence, the defendant must rebut the presumption of possession on the balance of probabilities, rather than the prosecution having to prove guilt beyond reasonable doubt.

29. The purpose of section 25(c) is “to protect the fundamental liberty and dignity of those accused of offences in light of the grave consequences a criminal charge and conviction may entail.”³⁰ The consequences of a reverse onus offence are particularly disproportionate and unreasonable due to the lengthy imprisonment a conviction can result in.³¹ A reversal of the onus of proof is usually more justifiable in public welfare regulatory offences, not in “truly criminal” matters like in the Bill, especially given the high severity of the penalties.³²

FREEDOM FROM UNREASONABLE SEARCH AND SEIZURE

30. Any powers of search and seizure, whether being created or exercised, must be reasonable, proportionate and legitimate. Section 21 of the New Zealand Bill of Rights affirms that “everyone has the right to be secure against unreasonable search or seizure, whether of the person, property, or correspondence or otherwise.”

31. We note that the Amendment Bill’s Explanatory Note states that the Bill provides Police with new statutory powers for search and seizure of specific gang members at any time, however the Bill itself does not appear to create additional search and seizure powers. As a result, the Attorney-General has held that the Amendment Bill did not breach the right to be secure against unreasonable search or seizure,³³ as the powers would continue to operate under section 18 of the Search and Surveillance Act 2012.

32. We caution against any breach of the right to be secure against unreasonable search or seizure in the implementation of FPOs.

33. In 2013 in New South Wales (NSW), Police were given strengthened powers to conduct searches in aid of FPO orders. Given the breadth of the new powers, the NSW Parliament required the NSW Ombudsman to keep under scrutiny the exercise of the new FPO search powers for the first two years of their operation, and prepare a report on the way police have exercised their FPO search powers, and make recommendations for any changes that they considered necessary after the first two years.³⁴

34. The NSW Ombudsman’s report found that whilst some searches conducted by Police on these powers appeared to be generally consistent with Parliament’s intention (“to enhance the ability of police to prevent and control crime, and gun crime”), Police also

³⁰ Hon. D. Parker, *Report of the Attorney-General under the New Zealand Bill of Rights 1990 on the Arms (Firearms Prohibition Orders) Amendment Bill (No 2)*, para. 32.

³¹ Para. 42.

³² Para. 38.

³³ Paras 43-48.

³⁴ New South Wales Ombudsman, *Review of police use of the firearms prohibition order search powers: Section 74A of the Firearms Act 1996*, August 2016, p. iv, www.ombo.nsw.gov.au/__data/assets/pdf_file/0016/37132/Review-of-police-use-of-firearms-prohibition-order-search-powers.pdf



conducted searches on over 200 people who were not subject to an FPO at the time of the search. It is particularly concerning that the NSW Ombudsman noted that:

Police conducted those searches on what appeared to be an erroneous application of the new FPO search powers and, as such, the searches may have been unlawful. We also found a lack of clarity in police understanding of when they may conduct an FPO search on an FPO subject.

35. Domestically, AIANZ notes that when Armed Response Teams (ARTs) were trialled for six months in Counties Manukau, the Waikato and Christchurch, the Police’s review of the trial found that:

The evidence-based policing principles of targeting, testing and tracking were missing from the trial and it is recommended that this approach is more firmly adopted in setting up and implementing future operational trials.³⁵

36. The review also found that:

- a. Incidents were not properly reported on. It was intended that ART Team Leaders would submit an ‘end of deployment’ form after every incident that ARTs attended. However, the number of forms submitted only accounted for 23% of the incidents that ARTs were deployed at, and only 14% of the incidents in the Waikato.³⁶
- b. 25.4% (2195) of the incidents recorded for ART deployments were “turnover” incidents (a stop or search of a car or person), and in the Waikato 36.3% (1834) of recorded ART deployments were for “turnover” incidents.³⁷
- c. 53% of the 49 times use of force was recorded (including involving taser, OC spray and firearm presentation), it was used on a person of Māori ethnicity.³⁸

37. AIANZ recommends that in any FPO regime, the use of the FPO search and seizure powers must be clearly limited and defined, including:

- a. requiring reasonable grounds for search and seizure;
- b. mandatory monitoring and reporting of how the powers are used and against whom, with adequate oversight and the ability to challenge the use of powers;
- c. robust Police guidelines, education and training regarding the meaning of ‘reasonable’ and a rights-compliant application of FPOs;
- d. a mandatory independent monitoring and review function built into any new legislation, to occur within the first two years of operation.

JUVENILE JUSTICE

38. AIANZ submits that if an FPO regime is introduced, it should not be able to apply to those under the age of 18.

³⁵ New Zealand Police, *Armed Response Team Trial: Evaluation Report*, 2020, p. 19.

³⁶ P. 46

³⁷ P. 42

³⁸ P. 65.



39. International human rights standards, including the Children’s Convention, require that young people under the age of 18 are not treated the same as adult offenders.³⁹ Principles under section 208 of the Oranga Tamariki Act 1989 include that “the vulnerability of children and young persons entitles a child or young person to special protection”. Youth offenders are often particularly vulnerable members of society and AIANZ is concerned about their potential inclusion under an FPO regime, particularly given the severity of the consequences, the issue of a reverse onus, and the isolating impacts of the orders.
40. The potential inclusion of youth under the FPO regime would disproportionately impact Māori. The Prime Minister’s Chief Science Advisor’s 2018 Report observed that “at all points along the prison pipeline, from the arrest of a young person through to imprisonment, rates are disproportionately higher for Māori than for similar offences by non-Māori peers.”⁴⁰ The Ministry of Justice reported that from 2019 to 2020, 62% of the children and young people (aged between 10 and 17 years old) who had charges finalised in court were Māori, which is up from 54% a decade ago.⁴¹
41. AIANZ submits that if an FPO regime is introduced, it should not be able to apply to those under the age of 18.

SUMMARY

42. AIANZ advocates for robust firearms legislation and systems for regulating firearms and licensing in Aotearoa New Zealand that is in line with domestic and international human rights standards and *Te Tiriti o Waitangi*, to prevent the illegal use of firearms. Any reforms must be clearly defined in law, and be reasonable, necessary and proportionate.
43. **However, as it stands, the Amendment Bill creates unjustifiable limitations on freedom of association and the right to be presumed innocent, and it could have discriminatory impacts. AIANZ criticises the Amendment Bill’s limited purpose and scope, the indefinite time period and insufficient criteria of the FPOs, and the disproportionately severe penalties under the FPOs. AIANZ also cautions against the potential use of unreasonable search and seizure in practice, and the Amendment Bill’s potential application to youth.**

³⁹ See Articles 3 and 37 of the UN Convention on the Rights of the Child.

⁴⁰ Prof. Sir P. Gluckman, *Using evidence to build a better justice system: The challenge of rising prison costs*, p. 19.

⁴¹ Ministry of Justice, *Children and young people in court Data notes and trends for 2019/2020*, p. 3, <https://www.justice.govt.nz/assets/Documents/Publications/fdkfss-Children-and-young-people-data-notes-and-trends-jun20-v1.0.pdf> note that 17 year olds were included in the 19/2020 statistics.