

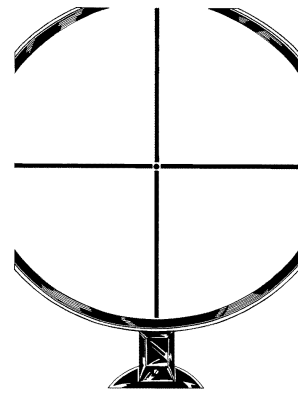


The Practical Firearms Control System

Working to
Make Canada Safer!

Canada's National
Firearms Association

Let's Make Canada Safer!



For the past 35 years, successive Canadian Governments have tried to make Canada a safer country for all of us to live in... by enacting firearms control laws.

THE RESULTS -- more Canadians feel unsafe in their homes, offices and streets than at any time in our history.

The **Practical Firearms Control System** is a proven method that will make Canada a safer country -- it attacks the criminal use of weapons - - it requires more effective firearms training -- **and** it is much more cost effective.

Working together, we can make Canada a safer country to live in...

and isn't that the goal?

It's all about SAFETY!

For many years now many groups and individuals including our governments, have been professing they want a safer Canada. They say firearms registration will accomplish this.

Worldwide studies since 1965 show this is not the route to go. Qualification of owner-users - by the professionals in the field (the shooting sports) does work towards greater safety. This is done in every other area of public safety concern -- why not firearms?

A second commonality in areas of reduced violence or danger is meaningful criminal penalties only where violence/danger is threatened or caused. Instead our governments and court systems either do not apply such penalties at all or make them so lenient as to be useless.

The Firearms community wants Canadians to be safer. They also have parents and families. Further studies have shown this is really what Canadians want.

Following is the proven method to accomplish this which has been presented by us to our governments since 1966.

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It is now widely recognized that successive governments have operated on the theory that things will improve if "the most dangerous firearm" is made prohibited and "the second most dangerous" is restricted. It is also quite clear that such a policy leads--slowly but absolutely inevitably--through prohibition of "most dangerous firearm" after "the most dangerous firearm" to a point where the most dangerous firearm" is the only firearm left.

The affected members of the public now perceive the instability in firearms control regulatory law--embedded in the criminal law. It is widely seen as a long-term government policy designed to take lawfully acquired and owned property from its owner without paying compensation and to criminalize the innocent enjoyment of recreational firearms activities.

It is that perception--now very wide-spread--that has led to the unprecedented level of militant resistance to Bill C-68. As has been amply demonstrated by the events following the passage of Bill C-68 and its predecessor Bill C-17, the continuing reaction now includes political activism, frequent court battles, civil disobedience, criminal charges against civil servants and lawsuits against both the government and individual civil servants.

That unhealthy situation will continue until stability is re-established.

Human behaviour is either innocent behaviour or criminal behavior.

When a person, deliberately or through criminal negligence, injures or seriously threatens

a fundamental right of another with regard to personal security, personal liberty, or personal property, that behavior is universally recognized as criminal. The criminal law describes such behavior, criminalizes it, and sets a penalty for engaging in it.

The criminal law is our most serious sanction against those whose behavior is damaging to the community. It involves a criminal record for every convicted person, and it authorizes taking away the convicted person's Charter right to liberty. A criminal record--particularly a criminal record for a firearms offence--prevents the convicted person from being bonded, and frequently even from visiting another country. A criminal record for a firearms offence is not just a minor social stigma--it has major social, financial and international repercussions, often for the rest of that person's life.

Criminal charges and criminal penalties are--or should be--restricted to cases where the threat to society from the prohibited behavior is both real and serious--not petty or theoretical.

There is a strong tendency for bureaucrats to "push the envelope" by creating new "criminal" offences, offences that do not threaten anything more vital than the bureaucrat's desire to exercise a fussy administrative control over society. Where such laws are enacted, the reaction of the public is generally the same as public reaction to other regulatory law and quite unlike the public reaction to proper criminal law.

Where a criminal law prohibits behavior that deliberately, or through criminal negligence, injures or seriously threatens a fundamental



right of another with regard to personal security, personal liberty, or personal property, then the public will generally support that law, and turn in a lawbreaker.

Where a regulatory law prohibits behavior in the interests of orderliness or efficient bureaucratic record keeping, or controlling who may and who may not do some innocent thing, the public is much less supportive and frequently will not turn in a lawbreaker.

Therefore, the mixing of regulatory law and criminal law is fraught with hazard. If it is done with ham-fisted ineptitude, as it is in most firearms control law, the result will be a reduction of public support for the criminal law. And that is a profound societal evil.

In many areas--of which the possession, handling and use of firearms is one behavior intended to be innocent can have damaging effects. That can happen when the individual engaging in the behavior is untrained or incompetent, and therefore can cause effects as damaging as if the behavior were the result of malice.

Where innocent behavior can have evil effects as a result of the incompetence or lack of training of the person engaging in that behavior, the behavior is behavior that Parliament may choose to regulate. That is, Parliament may enact law limiting the right of individuals to engage in that behavior until the person has demonstrated competence, knowledge of laws, regulations and rules, and an absence of detectable intent to break the rules.

Where behavior is regulated by regulatory law embedded in criminal law; the purpose of the regulatory portion of that law is to criminalize behavior beyond the demonstrated training

and competence of that individual. It is usually accompanied by the usual criminalization of behavior that is malicious or that constitutes criminal negligence by related purely criminal law. This results in an undesirable blurring of the distinction between regulatory and criminal law.

It is usually difficult to draw the dividing line between legal and illegal behavior. In normal, provincially enacted regulatory law, the distinction is between legal actions and actions that are outside the regulatory law, but are not criminal behavior. The dividing line set in provincially enacted regulatory law is both easier to draw and of less consequence than the dividing line in a firearms control law situation, where it differentiates innocent behavior from criminal behavior.

Because Parliament has judged that the consequences of improper use of firearms can have serious consequences, Parliament has chosen to embed a complex regulatory scheme in the criminal law.

In order to gain access to the power to enact regulatory law in this area, which the Constitution says is a power belonging to the provincial legislatures, it was necessary for Parliament to conclude that firearms control is an overriding matter of public safety. That understanding is demonstrated by the many repetitions of the clause, "in the interests of the safety of the applicant [or licensing document holder] or any other person..." in the existing law and in Bill C-68. Because the variety of innocent behavior with firearms is wide and the variety of criminal behavior with firearms is also wide, it is necessary to draw the dividing line between them with great care. Before tackling that aspect of the overall problem of firearms control, however, it is necessary to



describe how a regulatory system for use in this area works.

REGULATORY LAW

The regulatory portion of the law must describe the system used to determine whether or not a particular person qualifies for legal, unsupervised access to and use of equipment--equipment that is dangerous in the hands of a person who is untrained, incompetent or malicious. The system must create a licensing document, describe qualification requirements, and set the testing arrangements applicable to applicants for licensing documents.

Determination of whether or not it is safe to allow a person legal, unsupervised access to and use of equipment that would be dangerous if used by a person who was untrained, incompetent or malicious is normally done by testing. The usual test--as applied to those who wish to have legal unsupervised access to aircraft, explosives, certain pesticides, racing cars, etc. is designed to answer three basic questions:

1. Is this applicant trained and competent enough to use this class of equipment safely for this class of purpose?

This question deals with whether or not the applicant has the training and competence necessary to be able to use the equipment safely, or whether licensing legal, unsupervised access to the equipment for the applicant may put the safety of the applicant or some other person at risk. This question often requires a graduated answer. For example, certification that an applicant is sufficiently trained and competent to be qualified to fly a light aircraft on a nice day is not certification that the applicant is trained and competent to be qualified to fly a jet aircraft loaded with

passengers through a thunderstorm at midnight. If the answer is graduated, the licensing document needs to be graduated.

Obviously, the person who has most thoroughly observed the applicant (and therefore has the most to contribute in answering this question) is the instructor who trained the applicant. Certification of the applicant in this area requires the meeting of set and objective standards. The actual testing may be done by the instructor or by someone else, at Parliament's discretion.

2. Does this applicant know the rules?

This question deals with whether or not the applicant has sufficient knowledge of relevant laws, regulations and other rules to be able to obey them--particularly in situations that may put the safety of the applicant or some other person at risk. Certification of the applicant in this area requires the meeting of set objective standards. The actual testing may be done by the instructor or by someone else, at Parliament's discretion.

3. Is this applicant the kind of person who obeys the rules?

This question requires an analysis of the character and habits of the applicant, and therefore requires careful examination of the applicant's behavior when being trained (e.g., the applicant may demonstrate an unacceptable tendency to believe that the rules do not apply to him or her) and of the applicant's past history (e.g., a major criminal record, for example, may indicate an applicant's contempt for generally accepted rules of behavior).

Certification of the applicant in this area can be done partly by the instructor, who has ob-



served the behavior of the applicant while actually using firearms--under supervision--for some time, and partly by the police following a check of the applicant's criminal record. The police check should be the last check, as it should also include police perusal of the applicant's certification by the instructor (and possibly also by secondary testing officials).

The police certification, which recognizes the instructor's certification, can then authorize the issuance of the licensing document, but it would be a waste of scarce and costly police resources to use the police as clerks to issue the licensing document itself.

Once the certification has been done by the instructor (and possibly by secondary testing officials) and the police, as specified by the regulatory part of the law, then the actual issuance of the licensing document is a formality. It can therefore be done at low cost by utilizing an issuing office that also issues other similar licensing documents. Issuance can be controlled through a requirement that the final police certification be presented.

The Form of the Licencing Document

The main licensing document should be graduated. Any attempt to cover the entire range of innocent behavior with firearms in a single document without graduations would be as silly as licensing a pilot to fly any and every aircraft, anywhere, as soon as he or she has mastered a primary-trainer aircraft in fine weather conditions, or, alternatively, refusing to allow the pilot to fly unsupervised until every possible aircraft and every possible weather condition have been mastered.

There are two aspects that must be considered in designing the graduated licensing

document: classes of firearms and classes of use. Together, they suggest a licensing document in the form of a grid.

The use of a grid brings stability to firearms control. Ever since 1934, firearms control has been governed by incoherent and confusing law consisting mainly of "patches on the patches." There has been a consistent pattern of attacking the "most dangerous firearm" by more regulation of it or by outright banning of it. Neither registration nor prohibition has worked. Both have succeeded only in driving more and more firearms underground.

Canadian firearms control law has never been based on principles; it has been based on some perceived requirement to do something about this area or that area of firearms control law. Usually, amendments have been enacted without enough thought being given to basic principles of law, how various provisions interact with each other, and the practicality of doing what the new law proposes to do. Too often, new firearms control laws have apparently been designed to allow police forces to find "crimes" and lay charges where there is only innocent behaviour.

Defective legislation inevitably has counterproductive results that outweigh any possible benefits. It erodes public support for the law, the lawmakers, and law enforcement agencies.

The use of a grid stabilizes firearms control law. It is very difficult to alter legislation that has a grid at its core, because the alteration will have side effects all over the grid when the intent is to affect only one or two boxes in the grid.

Faced with that complicating factor, the bureaucrats will probably opt to leave it alone,



and the grid will remain unchanged for very long periods.

In general, the public likes, will accept, and will help enforce any law that criminalizes behavior that deliberately, or through criminal negligence, injures or seriously threatens a fundamental right of another with regard to personal security, personal liberty, or personal property. Generally, the public recognizes that sort of law as “proper” criminal law.

What comes next?

It has become quite clear that Bill C-68 will fail. It is a sadly defective bill, riddled with errors, inconsistencies, omissions and Charter violations.

In the near future, we can expect frequent court actions seeking reinterpretation of the meaning of various sections, and many Charter challenges. Some of them will succeed, and some will fail. Many decisions will be in conflict, thereby bringing the law into dispute.

A movement toward work-to-rule activism is building within the firearms community, bringing with it major cost increases for the future of firearms control administration.

There are, as there must be, appeal provisions in Bill C-68, for use when the applicant for, or holder of, some licensing document is aggrieved by the behavior of a firearms control official. The government will face the use of all available appeal procedures when a firearm is seized-- a pattern that will sharply escalate costs. All the other cost-raising mechanisms that can be legally employed by outraged firearms community members will undoubtedly be used. The accumulated cost of all those court actions and other militant ac-

tivities will be very high.

The March 1998 Regulations have attempted to correct some of the glaring deficiencies of Bill C-68, but have only made things worse. They have duplicated faults found in Bill C-68, and their attempts to amend the bill itself constitute a legal nonsense--an Act of Parliament cannot be amended by a regulation made through Order in Council.

It is also clear that the defective firearms registration system will soon collapse as firearms community members take advantage of the opportunities inherent in Bill C-68 and the March 1998 Regulations. The reasons for the existence of a firearms registration system will crumble as evidence from it fails in the courts. Firearms community experts will be pointing out that the system's information is entirely untrustworthy, and so cannot be used as evidence in a court of law. Proof of that position is now very widely available.

If any federal government had attempted to communicate and cooperate with the firearms community regarding what an ideal, cost-effective firearms control law would look like, this government would not be faced with the embarrassing failure that is Bill C-68.

It is unfortunate, but true, that much of the firearms community itself has little more inhouse capability when it comes to designing firearms control law than has the Department of Justice (DoJ). One result of that has been confusion ...when the firearms community is consulted, most of what it offers is impractical, so the discarding of all proposals emanating from the firearms community has been the norm. Often, the DoJ has not even considered such material seriously before discarding it.



The DoJ is primarily involved in writing criminal law, so its understanding of regulatory law is understandably poor. The DoJ apparently does not understand the reasons for, or the nature of, regulatory law provisions that are embedded in the Criminal Code. The DoJ apparently has little or no understanding of the ways in which regulatory law masquerading as criminal law can bring the criminal law into disrepute.

To understand what firearms control law embedded in the criminal law should look like, it is necessary to understand the nature of such law. Firearms may be lawfully owned and used for hunting, target practice, and self-protection. They may also be owned as valuable collectors' items. The behavior inherent in such activities is innocent behavior and attempting to criminalize it by excessive law and regulation is bound to have negative effects.

Firearms may also be unlawfully used as tools employed in robbery, murder, and threats; and as tools to facilitate criminal acts or to protect criminals from interventions by police.

The differences between innocent behavior and criminal behavior are clear. It should, therefore, be possible to define criminal behavior and innocent behavior in less than the 137 pages of criminal law plus 142 pages of Regulations required by Bill C-68. It should not be necessary to issue a 1370-page "Firearms Regulations and Associated Criminal Code Desktop Manual" to explain those 279 pages of complex and internally contradictory rules.

It is not possible to replace the existing law or Bill C-68 with nothing. Firearms control law is useful and valuable if it makes sense to the people who have to live with it. Therefore, as C-68 fails, something must be created to re-

place it.

Bill C-68 itself is nothing more than a continuation of the old "patches on the patches" method of firearms control law modification. Firearms control law is long overdue for a major overhaul-- one in which a clean sheet of paper is taken, and all lessons learned from research and experience are applied.

The new bill should include recognition of all forms of innocent behavior involving the possession and/or use of firearms. It should feature a clear and understandable dividing line between innocent behavior and criminal behavior. It should specify what constitutes criminal behavior.

The new bill should not include powers granted to a single minister to change criminal law by Order in Council--firstly, because the power to seriously alter the Criminal Code and take property without compensation should not lie in the hands of a single minister, thinly disguised as the "Governor in Council," and secondly because there can be no stability in such a system.

Where there is no stability in the criminal law, there can be no reliance placed in it, and that brings the law into disrepute. The new bill should establish clear definitions of what constitutes criminal behavior where weapons are involved, and the provisions dealing with armed crime should include weapons other than firearms. It makes no sense to deal with crimes involving firearms with extra severity when Statistics Canada data clearly proves that the victim is much more likely to be killed or wounded in an armed crime where the weapon is NOT a firearm. (Those interesting statistics are due to the fact that "otherweapons" require the criminal to be



within arms length of the victim, and the fact that a firearm makes a loud noise which will call attention to the crime in progress. Both factors affect the likelihood of actual use of the weapon when anything starts to go wrong.

The new bill should be clear and easily understandable, so that firearms control law will no longer attract adverse comments like these:

Mr. Justice Gibbs, Supreme Court of British Columbia, 1986, in Hurley v. Dawson:

"This is a difficult case. Not the least of the difficulties is due to the tortuous language of the gun control provisions of the Criminal Code."

In Regina v Neil (1985) Kamloops Registry No. 25175, Gordon, Provincial Court Judge, was moved, with some justification, to refer to those provisions as 'one of the most horrifying examples of bad draftsmanship that I have had the misfortune to consider,' as 'so convoluted that even those responsible for enforcing the provisions are unable to understand them' and as 'a challenge to one's sense of logic. "'

Judge D. G. Scott, Ontario Court (Provincial Division), 1996, in Her Majesty v. Terence Birkett:

"There certainly can be made a very good argument that the sections under consideration here are far from being expressed in clear language. Indeed, this entire Part of the Code containing several of these sections is a monumental piece of obscurity. I think that is a charitable interpretation to put upon it "

It is long past time for the "bad draftsmanship" "tortuous language" and "obscurity" to be replaced with legislation that is clear, understandable and reasonable.

Examples of Firearms Permit Entry Patterns

Example 1:

22 Rimfire target/ range only shooter

Q = Qualified, I = Instructor

Type/Usage	Possess	Basic	Advanced	Field	Professional	Police
Class A						
Class B						
Class C						
Class D	Q	Q				
Weapon						

Example 2:

Police Officer/Expert Witness; Hunter; PPC Shooter

Type/Usage	Possess	Basic	Advanced	Field	Professional	Police
Class A					Q	
Class B	Q	Q	Q	Q	Q	Q
Class C	Q	Q	Q	Q	Q	Q
Class D	Q	Q	Q	Q	Q	
Weapon						Q

Example 3: IPSC Range Officer; Instructor; Recreational Hunter

Type/Usage	Possess	Basic	Advanced	Field	Professional	Police
Class A						
Class B	Q	QI	QI	QI	Q	
Class C	Q	QI	QI	QI		
Class D	Q	QI	QI	QI	Q	
Weapon						



THE PRACTICAL FIREARMS CONTROL SYSTEM

Firearms, motorcycles and old fighter planes are examples of equipment that are dangerous if used by incompetent, malicious, or untrained people. Many people have such equipment--for recreational purposes. Others are afraid of anyone who has such equipment. A control system can deny legal unsupervised access to such equipment to a person who should not have it. It cannot deny illegal access, or prevent misuse of the equipment.

Analysing the successful methods used to deal with problems where such equipment is in common use, this paper applies them to the design of a practical firearms control system. The proposed system is based on the pilot's license, which is also a system designed to control unsupervised legal access to equipment. That system works; anyone who gets a pilot's license is not, and is not seen as, a menace to the safety of others.

This system uses a graduated Firearms Permit as the control for acquisition, possession, movement, use, and disposition of firearms. The graduated method is necessary; adequate training to use a single shot .22 rifle on a basic range is not adequate training for complex practical hand gun competitions.

While this method may seem cumbersome at first glance, it works well, reduces costs, and benefits the public, the police, and the recreational firearms owner--in that order of precedence.

1. When a first-time applicant wishes to have legal and unsupervised access to firearms, he or she first applies to an Instructor. Such an Instructor is a person certified by one of the many

existing firearms bodies and is not paid by tax money, but is registered in the system for recognition purposes. The Instructor is qualified to certify only for specified units.

2. The Instructor trains and tests the applicant; the applicant has no legal unsupervised access to firearms in this period.

3. The Instructor certifies and recommends the applicant as eligible for a Firearms Permit with specified entries, certifying that this applicant

(a) is trained and competent to use firearms of this class safely for this class of use,

(b) knows the rules of safety and safe handling, and the laws that apply, and

(c) is the kind of person who obeys the rules.

NOTE: That certification is meaningful; the Instructor is in effect saying, "I trust this person to stand next to me, unsupervised, with a loaded firearm." He bets his life on the training level, competence and good will of the applicant. Effective screening can only be done by someone who sees and considers the applicant's behavior with a firearm over an extended period.

4. The applicant then applies to the police, who check his criminal record. They then issue or refuse to issue a Police Clearance Certificate (PCC), which authorizes issuance of a Firearms Permit and specifies the Firearms Permit entries.

5. The applicant takes the PCC to the issuing office (which may be a motor vehicle license office) for routine issuance of the Firearms Permit. The actual issuer has no decisions to make.

NOTE: This procedure has the advantage of using scarce and costly police resources only in



those areas where they are needed, instead of wasting them on routine Firearms Permit issuance, registration and all the "red tape" paperwork. In the city of Edmonton, for example, this change alone will free one sergeant, one constable, two clerks, and three rooms of the police station for other, real-police-work duties—a great financial saving. It should be noted that the criminal record check is the only thing currently done by the police which is truly police work and cannot be done more cost effectively and efficiently elsewhere.

6. The Firearms Permit is in the form of a grid, with firearms classes down the left edge and firearms usage across the top.

7. The Firearms Permit authorizes possession, acquisition, carriage, transport and use, with control appropriate to the holder's status in the law; control not forever being retyped on permits.

8. The Firearms Permit is required for licit possession of any firearm and offers a thumbnail sketch of the holder's status. Being able to determine the status of the possessor by a required document is useful for the police. A display of the status of the firearm (particularly where it is an unrestricted firearm) is not nearly as useful.

9. The system sets national minimum standards for local police, security guards, and anyone else licensed to carry a loaded firearm to protect human life from criminal violence. This is done by making the Armed Forces and the RCMP exempt, then using the standards an RCMP Constable must meet as criteria for issuing "Police" endorsements.

10. Instructors will not certify people who act unsafely with firearms, and the police will not issue PCCs to people with bad criminal records.

11. Police are protected because absence of a Firearms Permit is grounds to seize any firearm (no such document exists in the current system) and a Firearms Permit provides much meaningful information as to the holder's character and status.

12. Firearms owners are protected, because they can demonstrate who they are and what they're qualified to have and use.

13. This system uses "grandfathering" for firearms owners and users who have already proven that they are not a menace to society; such people may use past history to gain a Firearms Permit, without "going through the hoops".

DEFINITIONS OF LICENSING TERMS USED ON THE FIREARMS PERMIT

POSSESS: To simply possess the firearm, unused, as a collector might require.

BASIC: To use on a basic shooting range.

ADVANCED: To use on an advanced range, where one moves about with a loaded firearm or draws a loaded firearm from a holster.

FIELD: To use at any place, other than a shooting range, where a firearm may lawfully be fired.

PROFESSIONAL: To carry and use for professional reasons, as a dealer, salesman, expert witness, etc., might require.

POLICE: To carry and use for protection of human life from criminal violence; requires meeting all relevant standards required of an RCMP Constable.

CLASS A: Full automatic firearms.



CLASS B: Centerfire rifles and shotguns.

CLASS C: Handguns; everything under 660mm (26") overall.

CLASS D: Rimfire rifles and shotguns and all muzzle-loading firearms.

WEAPONS: Weapons which are not firearms, such as police batons. (This category is needed for the POLICE column.) The Firearms Permit authorizes its holder to acquire, possess, and transport firearms of each specified CLASS for the purposes of each specified type of USAGE. It thus replaces the Firearms Acquisition Certificate, Permit to Carry, and Permit to Transport. Each entry on the Firearms Permit is subject to specific rules:

A "CLASS C/POLICE" endorsement, for example, licenses a local police detective for loaded concealed handgun carriage on the person to protect human life from criminal violence.

"CLASS C/FIELD" endorsement licenses a geologist for loaded handgun carriage on the person only in the FIELD (see above) to protect human life from animal attack, for survival hunting and for signalling.



Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

FIREARMS ACT

1. The Firearms Act is repealed.

CRIMINAL CODE

2. The definition "firearm" in section 2 of the Criminal Code is repealed.

3. The definitions "offensive weapon" and "weapon" in section 2 of the Criminal Code are repealed, and the following substituted therefor:

"offensive weapon" means any weapon which has been used, is used, or is intended for use, by the person who has it in his possession, to threaten, injure, or kill any person without lawful excuse;

"weapon" means any thing which has been used, is used, or is intended for use, by the person who has it in his possession, to threaten, injure, or kill any person, whether it was designed for that purpose or not and without restricting the generality of the above, for the purposes of this paragraph, the word "thing" includes any substance or device, or any firearm as defined in section 84;

4. Part III of the Criminal Code is repealed, and the following substituted therefor:

DEFINITIONS FOR THE PURPOSES OF PART III

184.(1) For the purposes of this Part,

"acquire" and "acquisition" mean taking possession of through borrowing, renting, importation, bartering, finding, gift, or purchase, or by manufacture, alteration, or adaptation;

"barrel" means any tube which forms part of a firearm, and through which the firearm's projectiles are normally driven and projected when the firearm is fired;

"blank-firing firearm" means a device resembling a firearm, including a firearm which has been durably altered and adapted, and which uses high pressure gases produced by the



burning, deflagration or detonation of a chemical substance or mixture to make a loud noise but which is not capable of discharging a solid projectile capable of causing serious injury or death to a person;

"capable" means able, as found, to do what is described, without alteration or adaptation and with a reasonable degree of reliability;

"carriage" and "carry" and "carries" mean the moving of a firearm or weapon from place to place, including, but not limited to, loaded, and including, but not limited to, carried by, or on, the person;

"cartridge" means any device designed and intended to impart velocity to a projectile by the action of high pressure gases generated by the burning, deflagration, or detonation of propellant material, while contained within a firearm, and which is designed to be normally ignited by a primer device, and notwithstanding that, a device is not a cartridge under this definition unless the primer device, propellant material, and projectile all form part of the cartridge;

"cartridge firearm" means any firearm that is designed, altered, or intended to use any cartridge to fire projectiles, but, notwithstanding that, any device purported to be a cartridge firearm which, when tested using only cartridges normally intended for use in that purported cartridge firearm, or found within that purported cartridge firearm, fails to impart to its projectile an energy of over 50 foot pounds, is not a firearm for the purposes of this Act;

"Commissioner" means the Commissioner of the RCMP, to whom the administrative control of the operation of the firearms control system has been delegated;

"deactivated firearm" means a device which was formerly a firearm which has been durably altered and adapted to make it not capable of firing a cartridge, or a blank cartridge, or discharging any projectile capable of causing serious injury or death to a person;

"deliver" and "delivery" mean transferring possession by way of lending, renting, bartering, gift, or sale;

"endorsement" means a specific standard proviso added to a firearms permit which authorizes the holder to possess or use firearms or weapons as allowed by that endorsement;

"field" means any area where firing a firearm is lawful for the purposes of sport, recreation, business, personal survival, etc., and excluding all other places where that is not lawful;



"firearm" means:

(a) any device which utilizes high pressure gases produced by the burning, deflagration, or detonation of propellant material to discharge a projectile or projectiles through a tube and which is capable of causing serious injury or death to a person; and

(i) "class A firearm" means any cartridge firearm which is designed, altered, or adapted to be capable of firing cartridges in rapid succession during one pressure of the trigger and which is demonstrably so capable; and

(ii) "class B firearm" means any cartridge firearm which is longer than 660mm, which is not demonstrably capable of firing cartridges in rapid succession during one pressure of the trigger, and which uses centerfire cartridges or electrically ignited cartridges; and

(iii) "class C firearm" means any cartridge firearm which is not demonstrably capable of firing cartridges in rapid succession during one pressure of the trigger, which has an overall length equal to or less than 660mm, and which is capable of being aimed and fired while less than 660mm long, and, notwithstanding that, any part of the firearm which is so firmly affixed as to require the use of tools to remove it shall be counted as part of the length of that firearm, except that any such part which extends the length of the barrel by more than 76mm shall only have 76mm of that part counted as part of the overall length of the firearm; and

(iv) "class D firearm" means any cartridge firearm which is not demonstrably capable of firing cartridges in rapid succession during one pressure of the trigger and which is longer than 660mm and which is capable of using only rimfire cartridges or cartridges of an obsolete type other than rimfire, centerfire, or electrically ignited, or any firearm which is not capable of using cartridges; and

(b) notwithstanding the above, any firearm which lacks certain parts remains a firearm if the remaining parts include the frame or receiver, and, in the case of a firearm so designed that two or more parts might be considered as the frame or receiver and where the serial number of the firearm appears on more than one such part, the Commissioner may prescribe in the National Firearms Manual which single part is to be considered the frame or receiver of that firearm and of related types of firearms; and

(c) notwithstanding the above, any device purported to be a cartridge firearm which, when tested using only cartridges normally intended for use in that purported firearm, or found within that purported firearm, fails to impart to its projectile an energy of over 50 foot pounds, is not a cartridge firearm for the purposes of this Act; and



(d) notwithstanding the above, any device purported to be a firearm which, when tested, using only things and methods normally intended for use with that purported firearm, or found within that purported firearm, fails to impart to its projectile an energy of over 50 foot pounds, is not a firearm for the purposes of this Act; and

(e) notwithstanding the above, any device designed and intended for use primarily for signaling, line throwing, or notification of distress applications, or for tranquilizing animals, or for slaughtering domestic animals, or for firing stud cartridges, or which has been prescribed by the Commissioner in the National Firearms Manual as an industrial device, is not a firearm for the purposes of this Act; and;

(f) notwithstanding the above, any device or firearm which has been manufactured, altered or modified to be capable of using only blank ammunition, in accordance with reasonable methods or principles prescribed by the Commissioner in the National Firearms Manual, is not a firearm for the purposes of this Act; and

(g) notwithstanding the above, a deactivated firearm which has been deliberately rendered incapable of firing by major alterations to its parts in accordance with reasonable methods or principles prescribed by the Commissioner in the National Firearms Manual is not a firearm for the purposes of this Act; and

"firearms business" means a continuing commercial enterprise which includes the buying or selling at wholesale or retail, manufacture, importation, exportation, repairing, altering or modifying, renting, commercial storage, or taking in pawn of firearms; and

"firearms business permit" means a firearms permit issued by a firearms clerk under the authorization of a police clearance certificate and including the appropriate endorsements regarding each type class of firearms in which the business may deal, and which authorizes the holder to operate a firearms business; and

"firearms permit" means a document issued by a firearms clerk under the authorization of a police clearance certificate and which includes the appropriate endorsements regarding each type class of firearms, and weapons which are not firearms, and which authorizes the holder

(a) by a "possess" endorsement to acquire, possess, and transport relevant firearms for the purposes of collecting, restoration, repair, evaluation, and display at a lawful display, trade show, or demonstration in which firearms are included, but not to use in any way which includes loading or firing of the firearm so held; and

(b) by a "basic" use endorsement to use and transport relevant firearms only on the premises of a shooting range, for the purposes of any target firearms shooting discipline which does not include the moving from place to place with or the drawing from a holster of a loaded firearm, issued on the basis of basic safe handling certification, but not skill certification; and



(c) by an "advanced" use endorsement to use and carry relevant firearms only on the premises of a shooting range, for the purposes of any target firearms shooting discipline which does include the moving from place to place with, or the drawing from a holster of, a loaded firearm, issued on the basis of certification at higher than basic safe handling certification, but not skill certification; and

(d) by a "field" use endorsement to use and carry relevant firearms, only in the field or on the premises of a shooting range, for the purposes of any field firearms discipline which includes the moving from place to place with, or the drawing from a holster of, a loaded firearm or which includes the possibility of the lawful usage of firearms to shoot birds or animals, issued on the basis of certification at higher than basic safe handling levels plus reasonable relevant skill certification; and

(e) by a "professional" use endorsement to possess, transport, and use only on a shooting range or in a proper test facility, relevant firearms or weapons which are not firearms for the purposes of any properly authorized museum, firearms business, police armorer, expert witness, or other similar purposes; and

(f) by a "police" use endorsement to possess, carry, and use relevant firearms or weapons which are not firearms for the purpose of protection of human life from criminal violence, issued on the basis of certification of meeting standards equivalent to all the relevant standards required of an RCMP Constable; and

"firearms clerk" means a person who has been designated in writing by the Commissioner as a firearms clerk, or is a member of a class of persons so designated, who is authorized to issue firearms permits and endorsements and to perform other regulatory duties as specified in this Part, under the supervision of the Commissioner; and

"firearms officer" means a peace officer or employee of a peace officer organization who has been designated in writing by the Commissioner as a firearms officer, or is a member of a class of peace officers or employees of a peace officer organization so designated, who is authorized to issue police clearance certificates authorizing issuance of firearms permits and endorsements by firearms clerks, and to perform other duties as specified in this Part, under the supervision of the Commissioner; and

"instructor" means a person registered by the Commissioner, after passage of reasonable tests, as being authorized by the Commissioner to certify that applicants are qualified to use certain firearms, while unsupervised, under certain conditions relevant to certain firearms permit and endorsement conditions; and

"loaded" means having a cartridge in a, or the, firing chamber of a cartridge" firearm, or having powder and ball or shot in a, or the, firing chamber of a firearm which does not use cartridges, provided that the firearm is capable of being fired by movement of the trigger or by movements of any combination of the trigger, hammer, striker, and any safety device



(safety catch, grip safety device, etc.) which form part of the firearm; and

"possess" and "possession" mean having custody and physical control of a thing, but do not imply ownership of that thing; and

"projectile" means any thing which is designed or intended to be projected through and from the tubular barrel of a firearm by the action of high pressure gases generated by the burning, deflagration, or detonation of propellant material; and

"safe handling" means knowledge and understanding of how to handle and shoot relevant firearms safely for the purpose intended; and

"security officer" means a lawfully armed person lawfully employed to provide security of persons, property or premises and protection of human life from criminal violence; and

"skill" means demonstrated ability to shoot relevant firearms with a degree of accuracy reasonable for the purpose intended; and "transport" and "transportation" mean the moving of a firearm from place to place, not loaded except when shooting on the premises of a shooting range or when firing for test purposes into a safe bullet trap, and not on the person, and, in the case of any firearm which has an overall length equal to or less than 660mm as specified under class B firearm, in a closed container in any place other than while in a dwelling house, or while on the premises of a shooting range, a firearms business, or a lawful workshop, or while participating in a lawful display, trade show, or demonstration in which firearms are included.

CRIMINAL OFFENCES

85.(1) For the purposes of this section, "victim" means any person who has been injured, killed, sexually assaulted, or robbed during the commission of an indictable offence and who was not himself engaged in committing an indictable offence at the time of such injury, death, sexual assault, or robbery.

(2) Any one who carries on his person, or in or on his vehicle any firearm or offensive weapon while committing, or attempting to commit, or during his flight after committing, any indictable offence which included threats of injury, killing, sexual assault, or robbery made to any person, or the actual or attempted injury, killing, sexual assault, or robbery of any person is guilty of an indictable offence and is liable to imprisonment for a term not exceeding six years.

(3) Any one who carries on his person, or in or on his vehicle any firearm, while he is the holder of a valid firearms permit, and while committing, or attempting to commit, or during his flight after committing, any indictable offence which included threats of injury, killing, sexual assault, or robbery made to any person, or the actual or attempted injury, killing, sexual assault, or robbery of any person is guilty of an indictable offence and is liable to



imprisonment for a term not exceeding ten years.

(4) When any person is convicted of an offence under this section, the court that sentences the offender shall, in addition to any other penalty that may be imposed for that offence, make an order prohibiting the offender from having in his possession any firearm or weapon for a period of time which commences on the day the order is made and expires on the day of the death of the offender.

(5) In any case where any victim has been injured, killed, sexually assaulted, or robbed wholly or partially through use, or threats of use, of any firearm or any offensive weapon during the commission of any indictable offence and as specified in subsection (2), any person who has the duty to do so, and who without lawful and reasonable excuse

(a) fails to lay a charge under this section, or

(b) plea bargains away a charge under this section, or

(c) fails to impose the required order under this section, is guilty of an indictable offence and is liable to imprisonment for a term not exceeding six years.

(6) Conviction of any person of an indictable offence, in proceedings on indictment, in any case where his victim was injured, killed, sexually assaulted, or robbed wholly or partially through use, or threats of use, of any firearm or any offensive weapon during the commission of the indictable offence is prima facie evidence that a charge should have been laid under this section.

(7) Any firearms permit or firearms business permit held by any person convicted of an offence under this section is revoked on the day of his conviction, in accordance with subsection 113(4).

(8) Any sentence imposed under this section shall be served consecutively to any other sentence imposed, or being served at the time of its imposition.

86.(1) Every one who, without lawful excuse, threatens another person with a firearm, whether the firearm is loaded or unloaded, or with an offensive weapon is guilty of an indictable offence and liable to imprisonment for a term not exceeding six years.

87.(1) Every one who carries or has in his possession a firearm, an offensive weapon or an imitation thereof for a purpose dangerous to the public peace or while committing a breach of the peace or for the purpose of committing an offence is guilty of an indictable offence and liable to imprisonment for a term not exceeding six years.



(2) Every one who carries an offensive weapon concealed upon his person,

(a) is guilty of an indictable offence and liable to imprisonment for a term not exceeding six years; or

(b) is guilty of an offence punishable on summary conviction.

(3) Every one who carries an offensive weapon concealed upon his person in any place, other than in his dwelling house, is guilty of an indictable offence and liable to imprisonment for a term not exceeding six years.

(4) Every one who is an occupant of a motor vehicle in which he knows there is a offensive weapon which is there for the purpose of committing an offence, or which it is an offence to so have in that motor vehicle, unless he had reason to believe that some occupant of the motor vehicle was lawfully allowed to have it at that place and time, (a) is guilty of an indictable offence and liable to imprisonment for a term not exceeding six years; or

(b) is guilty of an offence punishable on summary conviction.

(5) Every one who, without lawful excuse, has an offensive weapon in his possession while he is attending or is on his way to attend a public meeting is guilty of an indictable offence and liable to imprisonment for a term not exceeding six years; or

(6) Every one who carries an offensive weapon in the form of a loaded firearm, is guilty of an indictable offence and liable to imprisonment for a term not exceeding six years.

(7) Every one, other than a peace officer on duty or a security officer on duty, who carries a loaded firearm or offensive weapon on premises where alcohol is served and which is not open to minors is guilty of an indictable offence and liable to imprisonment for a term not exceeding six years.

(8) Every one who carries a concealed loaded firearm

(a) while his ability to use a firearm safely is impaired by alcohol or a drug; or

(b) having consumed alcohol in such a quantity that the concentration thereof in his blood exceeds zero point zero eight milligrams of alcohol in one hundred millilitres of blood is guilty of an indictable offence and liable to imprisonment for a term not exceeding six years.

REGULATORY OFFENCES

88.(1) Every one who, without lawful excuse, has a weapon in his possession while he is attending or is on his way to attend a public meeting is guilty of an offence punishable on summary conviction.



89. (1) Every one who carries a firearm or weapon concealed upon his person in any place, other than in his dwelling house, unless he is the holder of a relevant firearms permit which authorizes him to lawfully so carry it, is guilty of an offence punishable on summary conviction.

(2) Every one who carries a loaded firearm, unless he is the holder of a relevant firearms permit which authorizes him to lawfully so carry it, is guilty of an offence punishable on summary conviction.

(3) Every one, other than a peace officer on duty or a security officer on duty, who carries an unloaded firearm or a weapon on premises where alcohol is served and which is not open to minors is guilty of an offence punishable on summary conviction.

(4) Every one who carries a loaded firearm

(a) while his ability to use a firearm safely is impaired by alcohol or a drug; or

(b) having consumed alcohol in such a quantity that the concentration thereof in his blood exceeds zero point zero eight milligrams of alcohol in one hundred millilitres of blood is guilty of an offence punishable on summary conviction.

91.(1) Subject to section 99, every one who acquires or has in his possession a firearm, unless he is the holder of a relevant firearms permit authorizing him to acquire or possess it, is guilty of an offence punishable on summary conviction.

(2) Every one who is an occupant of a motor vehicle in which he knows there is a firearm which it is an offence to so have in that motor vehicle, unless he had reason to believe that some occupant of the motor vehicle was lawfully allowed to have it at that place and time, is guilty of an offence punishable on summary conviction.

93. Subject to section 99, every one who delivers any firearm to a person under the age of sixteen years who

(a) is not the holder of a firearms permit under which he may lawfully possess the firearm, or

(b) is not under the direct supervision of a person who may lawfully possess that firearm in those circumstances, or

(c) is not exempt from these requirements by another provision of this Act is guilty of an indictable offence and liable to imprisonment for a term not exceeding six years.



97. (1) Subject to section 9, every person who delivers any firearm to any person who

(a) is not under the direct supervision of a person who may lawfully possess that firearm in those circumstances, or

(b) does not, prior to such a transfer, produce an apparently valid and relevant firearms permit for inspection, and which the delivering person has no reason to believe is invalid, irrelevant, or not the property of the person presenting it, or

(c) is not exempt from these requirements by another provision of this Act

(i) is guilty of an indictable offence and liable to imprisonment for a term not exceeding six years; or

(ii) is guilty of an offence punishable on summary conviction.

(2) Notwithstanding anything in this Act, a person who delivers any firearm to the holder of a relevant firearms permit, or who delivers it to a peace officer, is not guilty of an offence under this Part other than under section 85.

98. (1) Every one who,

(a) on finding a firearm that he has reasonable grounds to believe has been lost or abandoned, does not with reasonable dispatch report it to or deliver it to a peace officer; or

(b) having lost, had stolen, or mislaid a firearm, does not with reasonable dispatch report the loss to a peace officer; is guilty of an offence punishable on summary conviction.

(2) Every one who, without lawful excuse alters, defaces, or removes a serial number from a firearm or has in his possession a firearm knowing that its serial number has been altered, defaced or removed is guilty of an offence punishable on summary conviction.

(3) Notwithstanding the above, a person who acquires a firearm which has had the serial number altered, defaced, or removed is not guilty of an offence under this section, provided he delivers the firearm forthwith to a peace officer in order to have its status determined.

(4) Notwithstanding the above, a person who acquires or possesses a class B or D firearm which has never had, or has had worn away by usage, or has had removed as part of a normal repair process, a serial number, is not guilty of an offence under this section.

(5) Notwithstanding the above, a person who acquires or possesses a firearm which is a class C firearm and which has never had, or has had worn away, a serial number, is not guilty of an offence under this section, and the firearm in question does not require a serial



number if it is a serious collectors item whose value would be reduced by the addition of a modern serial number or if it can be adequately identified without the addition of a serial number.

(6) The Commissioner may prescribe the methods to be used to determine serial numbers of firearms, to allot serial numbers to firearms which do not have them and do require them, and reasonable methods to apply, without damage to or devaluation of the firearm, serial numbers to firearms that do not have them and require them.

EXCEPTIONS AND EXEMPTIONS

99.(1) Notwithstanding anything in this Act, a person is not guilty of an offence under this Act by reason only that he (a) acquires or possesses any firearm which he is authorized by a relevant firearms permit to so acquire or possess, or

(b) delivers, acquires, or possesses any firearm in the ordinary course of dealings between the holder of a relevant firearms permit and a relevant firearms business, or between two or more such relevant firearms businesses, or between two or more such holders of relevant firearms permits; or

(c) delivers, acquires, or temporarily possesses any firearm by operation of law, provided that he takes steps within a reasonable time to comply with the provisions of this Act in regard to any firearm which so comes into his possession; or

(d) delivers, acquires, or temporarily possesses any firearm for instructional purposes, with possession limited to periods while he is under the direct supervision of an instructor who holds a relevant firearms permit; or

(e) delivers, acquires, or temporarily possesses any firearm for instructional purposes, with possession limited to periods while he is under the direct supervision of the holder of a relevant firearms permit; or

(f) delivers, acquires, or temporarily possesses any firearm by lending or borrowing, where the person who borrows the firearm requires it in order to sustain himself or his family or others he is responsible for while hunting or trapping; or

(g) delivers, acquires, or temporarily possesses any firearm in the ordinary course of handling freight, acting, handling entertainment industry props, handling consignment goods for auction, or in an other innocent lawful and reasonable situation; or

(h) restores, repairs, lawfully alters, or lawfully modifies a firearm relevant to his firearms permit while it is in his possession.



(2) Notwithstanding anything in this Act, a member or authorized agent of the Canadian Forces or of the armed forces of a state other than Canada lawfully present in Canada is not guilty of an offence under this Act by reason only that he delivers, acquires, or has in his possession any firearm or weapon for the purposes of that armed force.

(3) Notwithstanding anything in this Act, a serving member of a police force of a state other than Canada who is lawfully present in Canada and is on duty in conjunction with a police force of Canada is not guilty of an offence under this Act by reason only that he delivers, acquires, or has in his possession any firearm or weapon for the purpose of protection of human life from criminal violence or for the purposes of a police force of Canada.

(4) Notwithstanding anything in this Act, an employee or authorized agent of a museum approved for the purposes of this Part by the Commissioner is not guilty of an offence under this Act by reason only that he delivers, acquires, or has in his possession any firearm for the purposes of the museum.

PROHIBITION PROCEDURE

100. (1) For the purposes of this section, "provincial court judge" means a provincial court judge having jurisdiction in the territorial division where the respondent described in subsection (2) resides.

(2) Where any person believes on reasonable grounds that it is desirable in the interests of the safety of any person that a particular person should not possess any firearm or any ammunition or explosive substance, he may apply to a provincial court judge for an order prohibiting that person from having in his possession any firearm or any ammunition or explosive substance.

(3) On receipt of an application made pursuant to subsection (2), the provincial court judge to whom the application is made shall fix a date for the hearing of the application and direct that notice of the hearing and a copy of the particulars in the application be given promptly and in writing to the person against whom the order of prohibition is sought.

(4) At the hearing of an application made pursuant to subsection (2), the provincial court judge shall hear all relevant evidence presented by or on behalf of the person by whom the order of prohibition is sought, and all relevant evidence presented by or on behalf of the person against whom the order of prohibition is sought.

(5) Where, at the conclusion of the hearing, the provincial court judge is satisfied that there are reasonable grounds to believe that the safety of the person against whom the order of prohibition is sought or of any other person would be endangered if the person against whom the order is sought should possess any firearm or ammunition or explosive sub-



stance, the provincial court judge shall make an order prohibiting the respondent from having in his possession any firearm or any ammunition or explosive substance for a period, specified in the order and beginning on the day the order is made, of not less than five years.

(6) Where an order is made under subsection (5), the provisions of subsection 112(4) and 113(4) apply.

(7) A provincial court judge may proceed ex parte to hear and determine an application made pursuant to subsection (2) in the absence of the person against whom the order of prohibition is sought in circumstances in which a summary conviction court may, pursuant to part XXVII, proceed with a trial in the absence of the defendant as fully and effectually as if the defendant had appeared.

(8) A provincial court judge shall give reasons why the order is made or not made, and where the provincial court judge

(a) makes an order pursuant to subsection (5), the prohibited person, or

(b) where the provincial court judge refuses to make an order pursuant to subsection

(5), the Attorney General may appeal to the appeal court against the order or refusal to make an order, as the case may be, and the provisions of Part XXVII except sections 816 to 819 and sections 829 to 838 apply, with such modifications as the circumstances require in respect of the appeal.

(9) In a hearing under subsection (2), the burden of proof is on the applicant for the order of prohibition to satisfy the provincial court judge that the safety of the respondent or any other person would be endangered if the order was not issued.

(10) Where a provincial court judge or appeal court does not issue such an order, the court may award compensation to the respondent.

(11) Where a provincial court judge or appeal court issues such an order, any firearms permit or firearms business permit held by the person who is the subject of that order is revoked on the day the order is issued, in accordance with subsection 113 (4).

105. (1) Every person who carries on a firearms business shall

(a) keep reasonable records of transactions entered into by him with respect to those firearms in a form prescribed by the Commissioner and containing such information as is prescribed by the Commissioner in the National Firearms Manual; and



(b) keep, on the premises of the firearms business, a record of the inventory of all firearms on hand owned by the firearms business; and

(c) produce the records and inventory for inspection, once annually, to a duly authorized firearms officer.

(2) Any person who carries on a firearms business and who fails to report to a peace officer, within a reasonable time, any loss or destruction of any firearm or any theft of any firearm that occurs in the course of business is guilty of an offence punishable on summary conviction.

(3) Any one who carries on a firearms business and who is not the holder of a relevant firearms business permit to do so

(a) guilty of an indictable offence and liable to imprisonment for a term not exceeding six years; or

(b) is guilty of an offence punishable on summary conviction.

(4) Where a person carries on a firearms business at more than one permanent location, each location shall be deemed for the purposes of this Part to be a separate firearms business.

(5) Notwithstanding subsection (4), a firearms business permit holder may carry on business at temporary locations, such as trade shows, while recovering from damage to his premises, or for other lawful and reasonable reasons for periods not exceeding fourteen days under the authority of the normal firearms business permit for his permanent location, or for longer periods under the authority of a temporary firearms business permit issued by a duly authorized firearms clerk.

APPLICATIONS FOR AND ISSUANCE OF FIREARMS DOCUMENTS

106.(1) A firearms officer shall receive all applications made to him for firearms business permits, and for firearms permits and for endorsements thereto, and all supporting written certification by instructors. He shall, by CPIC check and check of local police records and through other authorized police methods, ensure that proper checks are made of the applicant's criminal record, if any.

(2) Where a firearms officer does not have notice of any matter that may render it desirable in the safety of the applicant or any other person that the applicant should not possess firearms, he shall, subject to subsection (3), issue a police clearance certificate authorizing issuance of the firearms permit, endorsement or endorsements, or firearms business permit applied for.



(3) Notwithstanding subsection (2), a firearms officer may, where appropriate, require an applicant for a professional or a police endorsement to submit a written statement from his employer, certifying that the applicant requires the endorsement for the purposes of his employment.

(4) A firearms officer may refuse to issue a police clearance certificate authorizing issuance of a firearms permit or an endorsement or a firearms business permit to any person

(a) who fails to produce written certification from a relevant instructor that he is qualified to be issued a firearms permit with endorsements as applied for, by passage of the required standard tests in the safe handling of firearms for the purpose intended and, where required, in knowledge of relevant laws, and, where required, of demonstrated skill; or

(b) where it is made to appear to the firearms officer that

(i) the applicant has been treated within the five years immediately preceding the date of his application for a mental disorder, whether in a hospital, mental institute, or psychiatric clinic, whether or not he was, during that period, confined to such a hospital, institute, or clinic, and where the disorder for which he a was so treated was associated with violence, or threatened or attempted violence, on the part of the applicant against himself or any other person, or

(ii) the applicant has a history of repeated complaints of violence against any other person or persons occurring within the five years immediately preceding the date of his application.

(5) A firearms officer is precluded from issuing a police clearance certificate authorizing issuance of a firearms permit or an endorsement or a firearms business permit to any person who

(a) is under the age of sixteen years; or

(b) is prohibited by an order made pursuant to section 85 or 100 or by a condition of a probation order as referred to in paragraph 737 (2)(d) from having a firearm in his possession; or

(c) has been convicted within the five years immediately preceding the date of his application of (i) an offence in the commission of which violence against another person was used, threatened, or attempted in proceedings on indictment; or

(ii) an offence under this Part in proceedings on indictment.



(6) In issuing a police clearance certificate authorizing the issuance of a professional or a police endorsement to a person for reasons of his employment, a firearms officer shall include a provision directing the firearms clerk to include a provision rendering the firearms permit void on the day that the applicant ceases to be employed by that employer.

(7) Notwithstanding the above, a firearms officer shall issue a police clearance certificate authorizing the issuance of a relevant firearms permit with class B and C field usage endorsements to a person under the age of sixteen if the applicant requires them to hunt or trap in order to sustain himself or his family or others he is responsible for, presents the consent of his parent or guardian to the said issuance, and presents written certification of passage of the required tests issued by an instructor, if, following any required checks on the criminal record of the applicant, there is no clear reason to refuse the applicant.

(8) Notwithstanding the above, a firearms officer shall issue a police clearance certificate authorizing the issuance of a relevant firearms permit with the relevant endorsements to any applicant between the ages of twelve and sixteen who requires it for the purpose of target practice or game hunting, and who presents the written consent of his parent or guardian to the said issuance and written certification of passage of the required tests, issued by an instructor, if, following any required checks on the criminal record of the applicant, there is no clear reason to refuse the applicant.

(9) Notwithstanding the above, where instructor certification is not available for some good reason which is not the fault of the applicant, a firearms officer may issue a police clearance certificate authorizing issuance of a firearms permit and any required endorsements, or of a firearms business permit, on the basis of his own judgement that the safety of the applicant or any other person would not be endangered by that action

(10) A firearms permit remains in force until it is revoked in accordance with paragraph 112(5) or 113(4) or is surrendered, unless it is sooner voided by a provision inscribed on the firearms permit as authorized by subsection 106(6).

(11) An endorsement remains in force until the firearms permit of which it forms a part is revoked in accordance with paragraph 112(5) or 113(4) or is surrendered, unless it is sooner voided by a provision inscribed on the firearms permit as authorized by paragraph 106 (5).

(12) A firearms business permit remains in force until it is revoked in accordance with paragraph 112(5) or 113(4), is surrendered, or the business ceases to operate.

(13) The fee for issuing a firearms permit with one or more endorsements, or for an added endorsement, or for a firearms business permit, is forty dollars for the calendar year 1999, and the fee changes to the nearest whole dollar value represented by forty dollars, plus the change in the cost of living since 31 December 1998, on the last day of each calendar year.



(14) Notwithstanding the above, a firearms officer shall, as part of the police clearance certificate, direct that the required fee for a firearms permit or an endorsement shall be waived by the firearms clerk for any applicant who is a serving peace officer, serving member of the Canadian Forces, or who requires a firearms permit to hunt or trap in order to sustain himself or his family or others he is responsible for.

(15) a firearms officer who refuses to issue a police clearance certificate authorizing issuance of a firearms permit or an endorsement, or a firearms business permit, shall do so in writing to the applicant, stating clearly therein his reasons for the refusal and including a copy of sections 106 and 109.

TRANSITIONAL PROVISIONS

107.(1) For transitional purposes,

(a) a firearms acquisition certificate issued to the applicant and valid on the day before the coming into effect of this section shall be accepted as equivalent to instructor certification of passage of the relevant tests for a firearms permit with a class D possession endorsement, and for a class B possession endorsement if the applicant presents evidence of possession of a class B firearm, with a basic usage endorsement for each such class; and

(b) a restricted weapons registration certificate issued to the applicant and valid on the day before the coming into force of this section shall be accepted as equivalent to instructor certification of passage of the relevant tests for a firearms permit with a class C possession endorsement and a class C basic usage endorsement; and

(c) a restricted weapons registration certificate for a class A firearm issued to the applicant and valid on the day before the coming into force of this section shall be accepted as equivalent to instructor certification of passage of the relevant tests for a firearms permit with a class A possession endorsement, and for a class A basic usage endorsement if one is requested by the applicant; and

(d) a hunting license issued to the applicant prior to the coming into force of this section shall be accepted as equivalent to instructor certification of passage of the relevant tests for a firearms permit with class B and D possession endorsements and class B and D field usage endorsements; and

(e) proof of employment by a museum or firearms business, or proof of work as a consultant or expert witness, or in some other other firearms-related professional capacity, continuing to the day before the coming into force of this section, plus a written certification of employment by the applicant's employer if appropriate, shall be accepted as equivalent to instructor



certification of passage of the relevant tests for a firearms permit with class B, C, and D professional endorsements, and, where appropriate, a class A professional endorsement, and, where appropriate, a possession endorsement for one or more of such classes; and

(f) certification of employment as an armed peace officer or armed security officer continuing to the day before the coming into force of this section, plus a written certification of employment by the applicant's employer if appropriate, shall be accepted as equivalent to instructor certification of passage of the relevant tests for a firearms permit with a class C police usage endorsement and, where appropriate, a class C possession endorsement, and for other appropriate endorsements; and

(g) registration as a firearms instructor or coach with the Shooting Federation of Canada, the Canadian Wildlife Federation, the International Practical Shooting Confederation, the International Metallic Silhouette Handgun Association, the National Rifle Association, the National Firearms Association, the Canadian Black Powder Federation or by any other such national or international authority as may be prescribed by the Commissioner shall be accepted as equivalent to certification of passage of the relevant tests for a firearms permit, for registration as an instructor in the appropriate classes, and for the relevant endorsements; and

(h) a firearms dealer's permit issued to the applicant and valid on the day before the coming into effect of this section shall be accepted as meeting the requirements for issuance of a police clearance certificate authorizing issuance of a firearms business permit.

(2) The fee for issuing a firearms permit with one or more endorsements under the provisions of this section, or for a firearms business permit, is twenty dollars.

(3) Notwithstanding the above, a firearms officer shall, as part of the police clearance certificate, direct that the required fee for a firearms permit or an endorsement shall be waived by the firearms clerk for any applicant who is a serving peace officer, serving member of the Canadian Forces, or who requires a firearms permit to hunt or trap in order to sustain himself or his family or others he is responsible for.

(4) A firearms officer who refuses to issue a police clearance certificate authorizing issuance of a firearms permit or an endorsement, or a firearms business permit, shall do so in writing to the applicant, stating clearly therein his reasons for the refusal and including a copy of sections 106 and 109.

(5) All regulations made under the authority of section 116 of the prior Act, prior to the date of coming into force of this section, are revoked on the date of coming into force of this section.



ADMINISTRATIVE AUTHORITY OF THE COMMISSIONER

108.(1) The Commissioner may appoint, in writing, persons or classes of persons as
(a) firearms officers for the purposes of this Part or

(b) firearms clerks for the regulatory purposes of this Part and may revoke, in writing, any such appointment.

(2) The Commissioner may and shall require each firearms officer and each firearms clerk to comply with the regulations prescribed by the Commissioner in the National Firearms Manual concerning documentation, certification, reporting, issuing, and any other standards and procedures for firearms, firearms permits, endorsements, and firearms business permits.

APPEAL PROCEDURE

109.(1) For the purposes of this section, "provincial court judge" means a provincial court judge having jurisdiction in the territorial division where the person who feels himself aggrieved as described in subsection (2) resides.

(2) For the purposes of this Part, any person who feels himself aggrieved by any action or decision taken or any failure to act or decide within a reasonable time on the part of a firearms clerk, firearms officer, or the Commissioner may, within ninety days of the day he became aware of the action or decision or the failure, appeal to a provincial court judge from the action, decision, or failure by filing with the provincial court judge notice of appeal, setting out with reasonable certainty the action, decision or failure complained of, the grounds of appeal, and the remedy sought, together with such further material as the provincial court judge may require.

(3) A copy of any notice of appeal filed with a provincial court judge under subsection (1) and of any further material required to be filed therewith shall be served upon the respondent who was responsible for the action, decision or failure complained of within fourteen days of the filing of the notice, unless before the expiration of that period further time is allowed by a provincial court judge.

(4) For the purposes of the appeal, the appellant and respondent are competent and compellable witnesses.

(5) On the hearing of the appeal, the provincial court judge may

(a) dismiss the appeal; or



(b) allow the appeal and direct that the action or decision be changed as directed, or that the failure to act be remedied by some directed action.

(6) A provincial court judge shall give reasons why the appeal is allowed or dismissed, and where the provincial court judge

(a) dismisses the appeal pursuant to subsection (2), the appellant, or

(b) where the provincial court judge allows the appeal, the Attorney General may appeal to the appeal court against the allowance or dismissal, as the case may be, and the provisions of Part XXVII except sections 816 to 819 and sections 829 to 838 apply, with such modifications as the circumstances require in respect of the appeal.

(7) In a hearing under subsection (2), the burden of proof is on the respondent to satisfy the provincial court judge that the safety of the respondent or any other person would be endangered if the respondent had acted or decided differently, or that the respondent was precluded by law from acting or deciding as desired by the appellant.

(8) Where a provincial court judge allows the appeal, he may award compensation to the appellant.

112. (1) A firearms permit or firearms business permit may be seized, in accordance with the procedures in sections 487 et. seq., where an action under section 85 or 100 is being commenced.

(2) Where, for any reason, it is impossible to seize a firearms permit where such action is authorized by subsection (1), that firearms permit may be suspended by a provincial court judge and thus rendered temporarily invalid upon the same grounds and under the same terms and conditions as a seizure.

(3) A firearms permit or firearms business permit may be seized in accordance with the procedures in sections 487 et. seq., when the holder is arrested for or charged with any indictable offence.

(4) A seized firearms permit or firearms business permit is subject to restitution, appeal and delivery provided for in sections 109, 337, 489.1, and 490.

(5) A firearms permit or firearms business permit may be revoked by a provincial court judge, in accordance with the procedures in section 85 or 100, or as part of a condition of probation made under under paragraph 737 (2)(d).

113. (1) Every one who, for the purposes of procuring a firearms permit or an endorsement, or a firearms business permit, for himself or any other person, makes a statement orally or



in writing that he knows to be false or misleading, or knowingly fails to disclose any information that is relevant to the application in question, specifically including, but not limited to, not revealing facts that he knows would disqualify him, such as information that he is subject to a court order made under section 85 or 100, or made as part of a condition of probation made under under paragraph

737 (2)(d) (a) is guilty of an indictable offence and liable to imprisonment for a term not exceeding six years; or

(b) is guilty of an offence punishable on summary conviction.

(2) Every one who, without lawful excuse, alters or falsifies a firearms permit or firearms business permit

(a) is guilty of an indictable offence and liable to imprisonment for a term not exceeding six years; or

(b) is guilty of an offence punishable on summary conviction.

(3) Every one who, without lawful excuse, fails to comply with the limits set under the terms and conditions of a firearms permit, including any endorsements, is guilty of a regulatory offence punishable on summary conviction.

(4) All firearms permits and firearms business permits held by any person against whom an order of prohibition under section 85 or 100 is made, or condition of probation is made under under paragraph 737 (2)(d), are revoked upon issuance of that order or condition, and every such person who fails to surrender forthwith a firearm or a firearms permit or a firearms business permit held by him

(a) is guilty of an indictable offence and liable to imprisonment for a term not exceeding six years; or

(b) is guilty of an offence punishable on summary conviction.

115. In any proceedings under this Part, a document purporting to be a firearms permit or firearms business permit is evidence of the statements contained therein.

116. (1)The Commissioner may make written regulations

(a) providing authority for firearms officers to enter and examine, once annually, at any time during the normal business hours of that business, any public premises of a firearms business for the purpose of inspecting the manner in which firearms are handled in the course of



that business; and

(b) providing authority to destroy, at such times as are specified in the regulation, records and inventories that are required to be maintained by the provisions of this Part; and

(c) prescribing reasonable methods and principles for the conversion of firearms into devices capable only of using blank ammunition for the purposes of the entertainment industry and others, into deactivated firearms or into other non-firearm categories; and

(d) prescribing the form of applications, police clearance certificates, firearms permits, firearms business permits, and other necessary documents prescribed by this Part; and

(e) prescribing the form and content required for the reasonable required records and reasonable annual reports of firearms businesses;

(f) prescribing the reasonable methods to be used in the determination of serial numbers of firearms, and prescribing the serial numbers and the methods to be used to allot and fix them to firearms which require new serial numbers; and

(g) prescribing anything that is required, by any provision of this Part, to be prescribed by him.

(2) The Commissioner shall publish all such prescribed regulations made by him in the National Firearms Manual, and each shall come into force one calendar month after the day that each regulation or revised regulation has been published and distributed.

(3) The Commissioner shall cause a registry to be maintained, in such form as is prescribed by him in written regulations issued by him in the National Firearms Manual, in which shall be kept a record of

(a) every firearms permit and every endorsement that is issued;

(b) every application for a firearms permit, an endorsement, or a firearms business permit that is refused;

(c) every revocation of a firearms permit or a firearms business permit; and

(d) every order of prohibition that is made under section 85 or section 100, or condition of



probation that is made under under paragraph 737 (2)(d), and

(e) every revocation made under paragraphs 112(5) and 113(4).

(4) Each person by whom

(a) a firearms permit or firearms business permit is revoked; or

(b) an application for a firearms permit or endorsement is refused; or

(c) a prohibition order is made under section 85 or 100; or

(d) a condition of a probation order under paragraph 737(2)(d) is prescribed;

shall submit to the Commissioner such information in relation thereto at such time and in such form as is prescribed by the Commissioner in the written regulations issued by him.

117. (1) The Commissioner shall, within three months after the end of each year and at such other times as the Solicitor General may, in writing, request, submit a report in such form and setting forth such information as may be required with regard to the administration and records of this Part respecting firearms permits, police clearance certificates, permits, etc. contained in the registry maintained pursuant to section 116.

(2) The Commissioner shall cause each such report to be laid before parliament within fifteen days after the receipt thereof by him, or, if parliament is not then sitting, on any of the next fifteen days thereafter that parliament is sitting.

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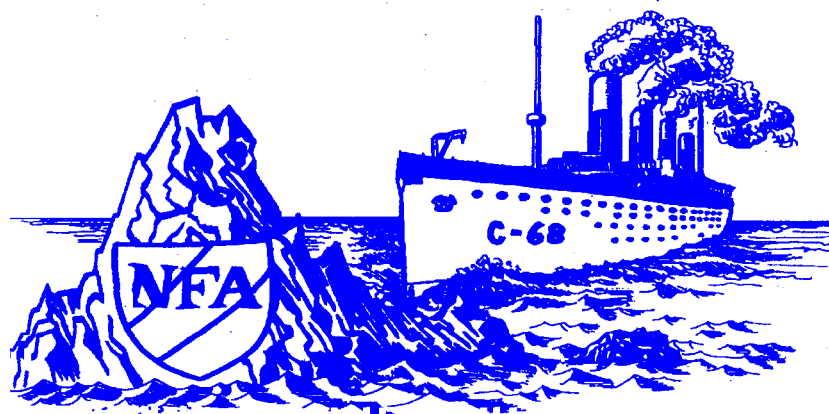
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This is the Law on Inheritance

"BY OPERATION OF LAW" means transfer from deceased to executor.

UNDER BILL C-68:

Firearms Act section [FA s.] 112(1) says, "...every person...who...possesses [any unrestricted firearm] without being the holder of a registration certificate [covering it is guilty]..."

But — FA s. 112(2)(b) says, "(2) Subsection (1) **does not apply** to (b) a person who comes into possession of [any] firearm **By operation of law...**"

C-68's CC s. 91(1) says, "...every person...who possesses [any] firearm [is guilty] unless the person is the holder of (a) a licence [covering it]...and

(b) a registration certificate [covering it]..."

And CC s. 91(2) says, "...every person...who possesses a prohibited weapon, a restricted weapon, a prohibited device, or any prohibited ammunition [is guilty] unless the person is the holder of a licence [covering it]..."

BUT — CC s. 91(4)(b) says, "Subsections (1) and (2) do NOT apply to (b) a person who comes into possession of [any] firearm **by operation of law...**"

CC s. 92(1) and 92(4)(b) say much the same thing.

The law set forth in C-68 is crystal clear. Any firearm that passes into the hands of an executor is legal, and possession by that executor is legal. All firearms — legally or illegally held by the deceased — become [if necessary, and temporarily] legal when they pass into the hands of the executor at the moment

of death. **Police seizures of any firearm as a result of the death of its owner are illegal.**

Special notes for the executor:

If the executor finds that the estate includes a firearm which was illegally possessed by the deceased, the executor should know that the firearm **does not have to be surrendered or even reported to the police.** The executor may sell it to a museum or other person authorized to have it (e.g., a moving picture props supplier). The executor may take the firearm to a gunsmith and have it deactivated to non-firearm status, and then pass it on to the heir, or another, in that status. Or the executor may explore the possibilities of legalizing its possession by the heir or some other person.

CC s. 93(1) (possession at a place other than that indicated on the authorization, licence or registration certificate) does not apply to the executor, because he is not the "holder of an authorization or licence" relevant to the firearm. Therefore, the executor may apparently transport any estate firearm without an Authorization to Transport.

The executor should note that possession of a "prohibited firearm" by the executor is authorized by CC s. 91(4)(b) and 92(4)(b), and that apparently no Authorization to Transport is available to him for transporting such a firearm — which may explain why CC s. 93(1) does not apply to an executor. FA s. 17 to 20 apparently does not apply to an executor.

**Clip a copy of this
information to your will!**

Firearms Owners are law abiding Members of Society

If a Safer Canada
is the goal...



The solution
is not to
attack law
abiding
Canadians...

It should be to
punish criminals who
attack our society...

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