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GUN CONTROL IN CANADA

WORKING TOGETHER TO SAVE LIVES

KE  
3758  
G85  
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Gun control in Canada: working together  
to save lives,

KE  
3758  
G 85  
C 2

### INTRODUCTION

The purpose of this booklet is to describe the changes to Canada's gun laws, changes which have been approved by the Parliament of Canada to cut down on the criminal and other irresponsible uses of guns.

The great majority of gun owners and users -- Canada's responsible hunters and target shooters -- will continue to enjoy these legitimate pastimes without hindrance. They should, however, be aware of the provisions for safe handling and storage, and later with the Firearms Acquisition Certificates which will be required to purchase or acquire firearms.

All the other provisions deal with those who use guns in an irresponsible manner causing needless deaths and injuries. The intent of Parliament in passing this legislation, is to encourage the responsible use of guns and a safer society for all Canadians.

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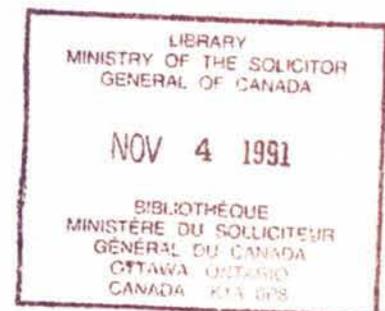


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A. OBJECTIVES OF FIREARMS CONTROL

On January 1, 1978, some of the major new provisions of the Criminal Code of Canada came into effect. These measures are designed to encourage the safer use of guns, and to control their irresponsible use.

The new gun control laws have three major objectives:

- 1) to reduce the criminal use of guns
- 2) to keep guns out of the hands of dangerous persons
- 3) to encourage and ensure responsible gun ownership and use

To achieve these objectives, the legislation introduces the following measures:

- 1) The courts are now provided with the authority to prohibit use or ownership of firearms by criminals and dangerous persons. The courts can also impose heavier penalties for gun related offences, such as mandatory prison sentences. In addition police now have greater powers to search for and seize weapons in threatening situations. However, police must subsequently justify any searches and seizures in a report to a magistrate.
- 2) "Prohibited" and "Restricted" weapons categories have been extensively revised. Controls have been established which will reduce the availability of particularly dangerous weapons which are frequently used for criminal purposes.
- 3) The legislation includes regulations for the inspection and licensing of firearms businesses to ensure that dealers' premises meet reasonable standards of security and safety.

- 4) Starting January 1, 1979, a Firearms Acquisition Certificate will be required by any person wishing to obtain a firearm. The certificates will be issued by the federal government at the local level. Applicants may be required to complete competence training and safety tests in provinces where this provision of the firearms legislation has been implemented.

In addition to the new legislation, the Federal Government, in cooperation with the provinces, will launch an educational program to make all Canadians aware of the need to use and store guns safely and securely.

Furthermore, a National Firearms Advisory Council will be established to review and recommend any necessary changes to improve the firearms program. Serving on the Council will be the Chief Provincial Firearms Officers representing each province and territory, and representatives of gun clubs, wildlife associations, and others directly affected by the gun control measures.

B. GUN CONTROL ADMINISTRATION

1. Commissioner of the RCMP

The Commissioner of the Royal Canadian Mounted Police is responsible for coordination at the federal level of the new Firearms Acquisition Certificate System, the Business Permit system, and the registration of restricted weapons. The Commissioner is required to report annually to the Solicitor General of Canada.

2. Chief Provincial Firearms Officer

The Chief Provincial Firearms Officer is responsible to the provincial Attorney-General. His function is to oversee and coordinate the Firearms Acquisition Certificate System and the administration of permits at the provincial or territorial level. The Chief

Provincial Firearms Officer also serves as a member of the National Firearms Advisory Council and coordinates provincial firearms safety education, competence training and testing programs.

In the Yukon and Northwest Territories chief firearms officers will also be appointed. They will perform duties similar to those of a Chief Provincial Firearms Officer.

3. Firearms Officer

A Firearms Officer, usually a local police officer, issues Firearms Acquisition Certificates and Minors' Permits.

4. Local Registrar of Firearms

The local Registrar of Firearms, usually a local police officer, will process applications for restricted weapons.

C. ANTIQUES AND AIR GUNS

Generally, neither antiques nor air guns are considered firearms. Antiques are those guns manufactured before 1898 which do not discharge commercially available rim-fire or centre-fire ammunition. Air guns are guns which have a muzzle velocity less than 500 feet per second.

D. PROHIBITED WEAPONS

Prohibited weapons are defined as firearms having no legitimate sporting or recreational use and which are considered therefore to be dangerous to personal safety. Private individuals are not allowed to have in their possession any prohibited weapon.

As of January 1, 1978, new prohibited weapons include:

- 1) Sawed-off shotguns and other rifles or shotguns which have barrels less than 18 inches in length, or an overall length of less than 26 inches.
- 2) Fully-automatic weapons (i.e. firearms capable of firing bullets in rapid succession during a single pressure of the trigger) which are not registered to a bona fide collector by January 1, 1978. Bona

fide collectors currently possessing fully-automatic weapons which are registered with the RCMP will be permitted to retain those weapons. However they will not be permitted to sell, trade or donate these weapons to anyone other than bona fide collectors or approved museums, except for export.

E. RESTRICTED WEAPONS

1. Definition

Everyone who owns a restricted weapon must have a Restricted Weapon Registration Certificate for each such firearm.

Effective January 1, 1978, restricted weapons will include the following categories of weapons:

- a) Rifles or shotguns with a muzzle velocity of more than 500 feet per second having a barrel less than  $18\frac{1}{2}$  inches in length, capable of discharging centre-fire ammunition in a semi-automatic manner, or firearms such as pistols which are designed or altered or intended to be aimed and fired by the action of one hand.
- b) Firearms designed or adapted to be fired when folded or telescoped to a length of less than 26 inches.
- c) Those fully-automatic weapons which were registered as restricted weapons before January 1, 1978, and which form part of a bona fide gun collection.
- d) Any weapon, rifle or shotgun not considered as reasonable for use in Canada for hunting or sporting purposes, and which is designated as such by the Governor in Council.

2. Restricted Weapon Registration Certificate

A Restricted Weapon Registration Certificate is usually obtained through the local police. As of January 1, 1978, this will only be issued where:

- a) The applicant is the holder of a Firearms Acquisition Certificate (when this system comes into force January 1, 1979), and is more than 18 years of age.
- b) The weapon can be accurately described to distinguish it from other restricted weapons. This is normally done by the serial number.
- c) The firearm will be used for one of the following:
  - i) to protect life where other protection is inadequate
  - ii) for use in connection with a lawful profession or occupation
  - iii) for use in target practice under the auspices of an approved gun club under conditions to be attached to the permit
  - iv) to form part of the gun collection of the applicant who is a bona fide gun collector
  - v) as a relic or antique, i.e. manufactured prior to 1898 and not capable of firing commercially available ammunition.

The Restricted Weapon Registration Certificate will be issued free of charge and it will be valid until the firearm is disposed of, or the certificate is revoked.

3. Permits Related to Restricted Weapons

a) Permit to Convey

A permit to convey a restricted weapon will authorize an applicant for a Restricted Weapon Registration Certificate to convey the weapon to a Local Registrar of Firearms for registration.

b) Permit to Transport

A permit to transport is needed in order to take a restricted weapon from one place to another. For example it is needed: by the owner of a restricted weapon when he changes residence, by collectors going to an exhibition, by non-residents of Canada going to a shooting competition, and by other persons with similar reasons.

c) Permit to Carry

A permit to carry a restricted weapon outside the residence or place of business will be issued only in exceptional cases. One of the following criteria must be met:

- i) To protect life where police protection is not sufficient.
- ii) For use in connection with a lawful profession or occupation.
- iii) For use in target practice under the auspices of a shooting club approved by the province.
- iv) For use in target practice in accordance with the conditions attached to the permit.

Permits are issued free of charge and will be valid until the expiration of the period for which they are issued, or unless revoked.

F. FIREARMS ACQUISITION CERTIFICATE

1. Purpose

Effective January 1, 1979, all persons over 16 years of age wishing to acquire firearms, must obtain a Firearms Acquisition Certificate. This will allow the holder to acquire any number of firearms for his private use.

The word "acquire" means to take possession of firearms in any manner - by purchase, exchange, or any other means.

Certificates are issued at a cost of \$10.00 and will be valid anywhere in Canada for a period of five years, or unless revoked.

2. Exemptions

- a) A certificate is not needed if a person over age 16 borrows a firearm, and uses it under the guidance of a person lawfully in possession of a firearm.
- b) However if the firearm is a restricted weapon, then it can only be borrowed and used under the immediate supervision of a person who is authorized to possess that restricted weapon.
- c) Certificates will be issued free of charge to persons who must use firearms to hunt or trap in order to sustain themselves and their families.
- d) No certificate is needed by a person over age 16 who borrows a firearm in order to hunt or trap to sustain himself or his family.

3. Refusals

Persons who may be refused a Firearms Acquisition Certificate include the following:

- a) Persons convicted (within five years previous to the application date) of an offence in which violence against another person was used, threatened or attempted.
- b) Persons convicted of a firearms related Criminal Code offence.

- c) Persons treated for a mental disorder within the past five years, where this disorder was associated with violence or threatened or attempted violence against himself or any other person.
- d) Those having a history of behavior within the past five years that included violence or threatened or attempted violence.
- e) Persons who fail to pass a competency test in those provinces, where this provision of the firearms legislation has been implemented.

4. Application Form

Applications for Firearms Acquisition Certificates will include the following basic data:

- a) surname and full given names,
- b) telephone numbers of office and home,
- c) mailing address (street, city/town, province, postal code),
- d) social insurance number,
- e) occupation,
- f) address and/or addresses over the past five years,
- g) birthplace and date of birth
- h) sex, height, weight, eye colour

The application will also consist of the following questions which the applicant is required to answer.

- a) Have you been convicted of an indictable criminal offence for which a pardon has not been granted?
- b) Have you during the past five years been treated for a mental disorder which was associated with violence or threatened or attempted violence on your part whether against yourself or another person?

- c) Have you been prohibited from possessing a firearm, ammunition or explosive substance?
- d) Have you been refused a Firearms Acquisition Certificate, Restricted Weapon Registration Certificate, or firearms permit?
- e) Have you had a Restricted Weapon Registration Certificate or firearms permit revoked?
- f) Have you completed a course in, or successfully completed a test relating to the safe handling and use of firearms?

Applicants will be required to sign a statement that the information provided by him is true to the best of his knowledge and belief.

Note: An indictable offence is one of the more serious criminal offences. Less serious offences such as minor traffic violations, offences against provincial liquor laws, common assault and, causing a disturbance are not indictable offences.

#### G. THE USE OF FIREARMS BY MINORS

##### 1. Minor's Permit

For purposes of this legislation, a minor is a person under 16 years of age and no minor may purchase a firearm. Minors between the ages of 12 and 16 may borrow and use long guns if they obtain a permit for that purpose. The permit will require that the minor use the firearm only under specified supervision.

This permit allows the minor to possess a firearm for the purpose of target practice, game hunting or instruction in the use of firearms.

A firearms officer may also issue a permit to a minor to carry and use a firearm, other than a restricted weapon, unsupervised. This permit will be issued only if the firearms officer is satisfied that the firearm is needed to hunt or trap in order to sustain the minor or his family.

The application for minors' permits must include the signed consent of a parent or guardian of the applicant.

These permits will be issued free of charge, and will be valid only within the province in which they are issued.

2. Exemptions

A minor may borrow a firearm and not obtain a minor's permit if the firearm is used under the supervision of a person who is lawfully in possession of a firearm.

H. BUSINESS PERMITS

As of January 1, 1978, all persons carrying on a business involving firearms or ammunition will be required to keep records of all firearms transactions and an inventory of all firearms. Such persons must also report the loss, destruction or theft of any weapons or ammunition.

On January 1, 1979, all firearms and ammunition businesses must obtain a permit for each location. Permits will be valid for a one year period.

The handling, storage, shipping, transporting, display and advertising of restricted weapons, firearms and ammunition must be in accordance with reasonable standards relating to safety and security. An inspection of the premises will be carried out by local police before a permit will be issued, and on a regular basis thereafter.

More complete information on business permits is available from the Chief Provincial Firearms Officer of the provincial or territorial government, or from the local police.

I. MUSEUMS

Museums displaying firearms must be approved by the Attorney General of the province, and must comply with standards of safety and security.

J. POLICE POWERS TO SEARCH FOR AND SEIZE FIREARMS

Where a magistrate believes that it is not in the interest of a person or not in the public interest that a person should have in his possession a firearm or other offensive weapon, a warrant may be issued authorizing search and seizure. Furthermore if a Peace Officer believes on reasonable grounds that an offence is being committed or has been committed against any Criminal Code provisions related to weapons, firearms or ammunition, he may search, without a warrant, a person, vehicle, or premises other than a dwelling-house and may seize any firearm or offensive weapon. Dwelling houses may be searched without a warrant only in instances where the Peace Officer believes a person's safety is in danger, and it is not practicable to obtain a search warrant. The Peace Officer will then be required to furnish an immediate report to a magistrate, whether or not articles are seized.

In addition, a Peace Officer may seize a firearm when he finds:

- a) a person under 16 in possession of a firearm who fails to produce a permit, or,
- b) a person in possession of any restricted weapon who fails to produce a registration certificate or permit, or,
- c) a person in possession of a prohibited weapon.

Provision is made for the return of a seized firearm or offensive weapon upon production of a Restricted Weapon Registration Certificate or a permit, or where a magistrate is satisfied that a person is lawfully entitled to possess it.

K. ORDERS OF PROHIBITION

1. Mandatory

Persons who are found guilty of violent criminal offences where the penalty could be more than 10 years in prison, will be automatically prohibited from owning and using any firearm.

For the first such conviction prohibition will be for at least 5 years after release from prison.

2. Discretionary

Persons who have committed other violent criminal offences, or a violent criminal offence involving firearms may be prohibited from owning or using firearms for up to five years after conviction, or after release from prison.

3. Pre-Emptive

A Peace Officer may apply to a magistrate to have a person prohibited from owning or using a firearm for a period of up to five years. The magistrate will set a date for a hearing and the person will have the right to argue against the prohibition order.

4. Other

Any person who has been refused an FAC would be prohibited by a magistrate from acquiring a firearm until the cause for refusal is removed.

L. RIGHT OF APPEAL

1. What May Be Appealed

Any of the following decisions may be appealed:

- a refusal to issue a Firearms Acquisition Certificate, a Restricted Weapon Registration Certificate, or any permit, except a permit to carry a restricted weapon.

- a revocation of a Restricted Weapon Registration Certificate, or any permit, except a permit to carry a restricted weapon.
- a pre-emptive prohibition order.
- a discretionary prohibition order.

2. Time Limits

A refusal or revocation must be appealed within 30 days from the day on which the refusal or revocation notice was received.

When a prohibition order is issued the time limit for an appeal is established by court rules.

3. Procedure

a) Appeal of a Refusal of a Firearms Acquisition Certificate

The applicant will instruct the firearms officer to refer his decision to refuse to a magistrate for confirmation. The magistrate will set a date for a hearing and the applicant may appear and argue against the refusal decision.

If the magistrate accepts the firearms officer's decision to refuse to issue the Firearms Acquisition Certificate, the applicant may then appeal the magistrate's decision to an appeal court.

A revocation of a Firearms Acquisition Certificate is done through a prohibition order. To appeal this decision see below, "c) Appeal of a Prohibition Order."

b) Appeal of a Refusal or Revocation of a Restricted Weapon Registration Certificate or a Permit

The applicant may appeal to a magistrate a decision to refuse or revoke any permit, except a permit to

carry. The magistrate will set a date for a hearing and the applicant may argue his case against the refusal or revocation decision.

If the magistrate should confirm the refusal or revocation decision, then the applicant may appeal the magistrate's decision to an appeal court.

c) Appeal of a Prohibition Order

When a prohibition order is issued it can be appealed to an appeal court.

M. OFFENCES AND PENALTIES

As of January 1, 1978 there are new offences and penalties related to the use of firearms. These are in addition to existing offences and penalties, all of which are summarized below.

The intention of the new offences and penalties is to deter persons from committing criminal offences with firearms. In this regard there is a new minimum mandatory prison sentence for violent offences where firearms are used. This sentence will begin after any other prison sentence has been served.

In addition, there are new penalties, ranging from a fine to imprisonment for up to 5 years, for persons who have been careless in using, carrying or storing firearms and ammunition. Standards to define carelessness will be established by the courts in the same manner as they interpret careless driving.

1. Offences Related to Certificates and Permits

- a) False statements made for the purpose of procuring a certificate or permit.
- b) Altering, defacing, falsifying a Firearms Acquisition Certificate, a Restricted Weapon Registration Certificate or a permit.
- c) Failure to comply with conditions of a permit.

- d) Failure to deliver up a Firearms Acquisition Certificate, a Restricted Weapon Registration Certificate or a permit after suspension, revocation or prohibition

All of these offences are punishable by a fine or a prison sentence of up to 2 years.

2. Offences Related to the Use and Possession of Firearms and Other Offensive Weapons

- a) Pointing a firearm loaded or unloaded at another person, without lawful excuse. (Fine or imprisonment up to 5 years).
- b) Use, carriage, transport, shipping or handling either firearms or ammunition in a careless manner or without reasonable precautions for the safety of others. (Fine or imprisonment up to 5 years).
- c) Using a firearm while committing or attempting to commit an indictable offence or during flight after committing or attempting to commit an indictable offence, whether or not causing or intending to cause bodily harm. (1st offence - imprisonment of not less than one year, up to 14 years; 2nd and subsequent offences - not less than 3 years, up to 14 years). This sentence will be served following any sentence imposed for the offence in which the firearms was used.
- d) Carrying a weapon or imitation for a dangerous purpose or for the purpose of committing an offence. (Up to 10 years imprisonment).
- e) Carrying a concealed weapon without a permit. (Fine or imprisonment up to 5 years).
- f) Possession of a prohibited weapon. (Fine or imprisonment up to 5 years).
- g) Occupying a motor vehicle in which a prohibited weapon is carried with the knowledge of the occupants. (Fine or imprisonment up to 5 years).

- h) Possession of unregistered restricted weapon.  
(Fine or imprisonment up to 5 years).
- i) Possession of a restricted weapon elsewhere than  
at the location authorized, without lawful excuse.  
(Fine or imprisonment up to 5 years).
- j) Possession of an offensive weapon while attending  
or on way to attend a public meeting. (Fine  
or imprisonment up to 2 years).

3. Offences Related to the Sale, Delivery or Acquisition  
of Firearms and Other Offensive Weapons

- a) Giving, lending, transferring or delivering any  
firearm to a person under the age of 16 years who  
is not the holder of a permit under which he may  
lawfully possess the firearm, unless such use is  
under the immediate supervision of a person lawfully  
in possession and being used in the same manner.  
(Fine or imprisonment up to 2 years).
- b) Selling, giving or lending, any firearm or other  
offensive weapon or ammunition or explosive substance  
to a person known or believed to be of unsound mind,  
impaired by alcohol or drugs or prohibited by law  
from possessing same. (Fine or imprisonment up  
to 5 years).
- c) Importing, buying, selling, bartering, giving, lending,  
transferring or delivering prohibited weapons or parts  
used in their manufacture. (Fine or imprisonment up  
to 5 years).
- d) Selling, or lending, restricted weapons to persons  
not authorized to possess such weapons. (Fine or  
imprisonment up to 5 years).

- e) Selling, giving, or lending, after January 1, 1979 any firearm to a person not producing a Firearms Acquisition Certificate. (Fine or imprisonment up to 2 years).
  - f) Acquiring, after January 1, 1979, a firearm without a Firearms Acquisition Certificate. (Fine or imprisonment up to 2 years).
  - g) Possession of firearm, offensive weapon or explosive substance while prohibited by order. (Fine or imprisonment up to 5 years).
4. Found, Lost, Mislaid, Stolen, and Defaced Firearms and Other Weapons
- a) Failure to report to police a lost or stolen firearm in a reasonable period of time. (Fine or imprisonment up to 5 years).
  - b) Possessing any firearm (without lawful excuse) knowing that the serial number has been altered, defaced or removed, or to alter, deface or remove a serial number on any firearm. (Fine or imprisonment up to 5 years).

