Legislative Summary **LS-433E**

BILL C-10: AN ACT TO AMEND THE CRIMINAL CODE (CRUELTY TO ANIMALS AND FIREARMS) AND THE FIREARMS ACT

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10 October 2002

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LEGISLATIVE HISTORY OF BILL C-10

HOUSE OF COMMONS		SENATE	
Bill Stage	**Date**	**Bill Stage**	**Date**
First Reading:	9 October 2002	First Reading:	10 October 2002
Second Reading:	9 October 2002	Second Reading:	20 November 2002
Committee Report:	9 October 2002	Committee Report:	
Report Stage:	9 October 2002	Report Stage:	
Third Reading:	9 October 2002	Third Reading:	

Royal Assent:

Statutes of Canada

N.B. Any substantive changes in this Legislative Summary which have been made since the preceding issue are indicated in **bold print.**

Legislative history by Peter Niemczak

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BILL C-10: AN ACT TO AMEND THE CRIMINAL CODE (CRUELTY TO ANIMALS AND FIREARMS) AND THE FIREARMS ACT*

BACKGROUND

Bill C-10, An Act to amend the Criminal Code (cruelty to animals and firearms) and the Firearms Act, was introduced and deemed to have passed all stages in the House of Commons on 9 October 2002.(1) This bill originated with Bill C-15, An Act to amend the Criminal Code and to amend other Acts (the Criminal Law Amendment Act, 2001), which was introduced in the House of Commons and given first reading on 14 March 2001. The House of Commons passed a motion on 26 September 2001 directing the Standing Committee on Justice and Human Rights to split Bill C-15 into two separate bills. The Standing Committee reported back to the House on 3 October 2001, indicating that it had divided Bill C-15 into two bills: Bill C-15A, An Act to amend the Criminal Code and to amend other Acts; and Bill C-15B, An Act to amend the Criminal Code (cruelty to animals and firearms) and the Firearms Act.

Bill C-10 reintroduces measures originally contained in Bill C-15B's predecessor, Bill C-17 – "An Act to amend the Criminal Code (cruelty to animals, disarming a peace officer and other amendments) and the Firearms Act (technical amendments)" – which was introduced in the previous Parliament but which died on the *Order Paper* at dissolution. Bill C-10 (as did Bill C-15B) also proposes further amendments to the *Firearms Act*.

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* Notice: For clarity of exposition, the legislative proposals set out in the Bill described in this Legislative Summary are stated as if they had already been adopted or were in force. It is important to note, however, that bills may be amended during their consideration by the House of Commons and Senate, and have no force or effect unless and until they are passed by both Houses of Parliament, receive Royal Assent, and come into force.

(1) The bill was originally introduced in the 1st session of the 37th Parliament as Bill C-15B, but died on the *Order Paper* when Parliament was prorogued on 16 September 2002. By a motion adopted on 7 October 2002, the House of Commons provided for the reintroduction in the 2nd session of legislation that had not received Royal Assent. The bills would be reinstated at the same stage in the legislative process they had reached when the previous session was prorogued.

The highlights of the bill are:

- amending the provisions dealing with cruelty to animals, for example by providing a definition of "animal," creating a new part to the *Criminal Code* for these offences, and increasing the maximum penalties that are available; and

- making a series of amendments to the *Firearms Act* and the firearms-related provisions of the *Criminal Code*.

Although several amendments were made to Bill C-15B during the 1st session of the 37th Parliament, the general principles of the bill were not affected. The changes (which are reflected in Bill C-10) include:

- adjusting the penalties of the cruelty to animal offences;

- setting out the mental element in respect of one of the cruelty to animal offences dealing with failure to provide adequate care;

- clarifying the defences that are available in relation to the cruelty to animal offences;

- adding a new offence dealing with harming a law enforcement animal; and

- clarifying which prohibited and restricted firearms may be transported without the need for a special permit.

DESCRIPTION AND ANALYSIS

A. Cruelty to Animals

A comprehensive review of the current provisions in the *Criminal Code* relating to cruelty to animals is probably long overdue.(2) In response to the dissatisfaction with the provisions expressed by many groups and individuals, the Department of Justice conducted a review in 1998. A consultation paper entitled *Crimes Against Animals* was distributed to allow groups and individuals to suggest the modifications that would be required to deal effectively with cruelty to animals. One of the reasons for the department's action was "mounting scientific evidence of a link between animal abuse and domestic violence and violence against people

(2) *Criminal Code*, R.S.C. 1985 c. C-46, ss. 444 to 447. Despite a series of amendments throughout the years, the offences relating to cruelty to animals have not changed significantly since 1892.

generally."[3] The government's initiative drew hundreds of responses. The proposed changes to the *Criminal Code* are the result of this consultation process and are said to signify "the seriousness of these acts that are often warning signs of subsequent violent behaviour aimed at people."[4] Although the proposed changes are similar to those found in Bill C-17, there have been some modifications.

Clause 8 creates a new Part V.1 of the *Criminal Code* entitled Cruelty to Animals.[5] Thus, the bill proposes to move the current provisions relating to cruelty to animals from Part XI, entitled *Wilful and Forbidden Acts in Respect of Certain Property,* to the newly created Part V.1. This modification is more than merely cosmetic because it would change the way the *Criminal Code* regards animals in that the cruelty to animals offences would no longer be treated, in large part, as property crimes and animals would be regarded essentially as beings that feel pain.[6] This clarifies the policy of the law: because of their capacity to feel pain, animals should be protected from intentional cruelty, regardless of whether they are property or not. Protecting animals, even in part, by virtue of their status as property has been criticized on the grounds this "suggests that the law is less concerned with protecting animals as beings capable of suffering than with the protection of human proprietary interests, and does not satisfactorily convey a moral obligation to avoid inflicting unnecessary harm."[7] In addition, it is argued that this approach "fails to convey the seriousness of the crimes to the various players in the criminal justice system, including prosecutors and judges."[8]

Clause 8 consolidates the current *Criminal Code* provisions relating to cruelty to animals and adds certain new elements.

Proposed section 182.1 defines "animal" for the purposes of newly created Part V.1 as a vertebrate, other than a human being, and any other animal that has the capacity to

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(3) Covering letter to *Crimes Against Animals*, *A Consultation Paper*, Department of Justice, September 1998.

(4) Department of Justice, News Release, "Justice Minister Introduces Measures to Better Protect Canadians and Safeguard Children from Cyber Criminals," 14 March 2001, p. 2.

(5) Bill C-17 would have placed the cruelty to animal provisions in Part V of the *Criminal Code* and would have amended the heading of Part V by adding the words "cruelty to animals."

(6) Not all of the current provisions have as a purpose the protection of proprietary interests. For example, section 446(1)(a) provides protection to all animals, even though there is no property relationship with a person.

(7) Department of Justice, *Crimes Against Animals, A Consultation Paper*, "Part Three: Reconsidering the Criminal Law," September 1998.

(8) *Ibid.*

feel pain. This is another example of a proposed change in how the *Criminal Code* views animals, so that they would be seen less as property and more as beings with the capacity to feel pain. In addition, all animals that satisfied the definition would be protected. In some cases, the current provisions limit their application to certain types of animals (for example, cattle and domesticated animals).

Proposed section 182.2(1) sets out the activities in relation to animals that would attract criminal liability if committed wilfully or recklessly:

- causing "unnecessary pain, suffering or injury to an animal" or, in the case of an owner, permitting this to be done (section 182.2(1)(a));[(9)]
- killing an animal "brutally or viciously, regardless of whether the animal dies immediately" or, in the case of an owner, permitting this to be done (section 182.2(1)(b));
- killing an animal without lawful excuse (section 182.2(1)(c));[(10)]
- poisoning an animal, placing poison so that it may be easily consumed by an animal or administering an injurious drug or substance to an animal or, in the case of an owner, permitting this to be done. The offence would be applicable only if the person acted without lawful excuse (section 182.2(1)(d));[(11)]

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(9) The current provision is similar and also requires that the person commit the act "wilfully." See *Criminal Code* s. 446(1)(a). Section 446(3) states that "evidence that a person failed to exercise reasonable care or supervision of an animal or a bird thereby causing it pain, suffering, damage or injury is, in the absence of any evidence to the contrary, proof that the pain, suffering, damage or injury was caused or was permitted to be caused wilfully…" In addition, section 429(1) states that everyone "who causes the occurrence of an event by doing an act or by omitting to do an act that it is his duty to do, knowing that the act or omission will probably cause the occurrence of the event and being reckless whether the event occurs or not, shall be deemed…wilfully to have caused the occurrence of the event."

(10) Currently, it is an offence to wilfully kill, maim, wound or injure cattle or to wilfully and without lawful excuse kill, maim, wound or injure domestic animals; see *Criminal Code* sections 444 and 445. Section 429(2) states that no one "shall be convicted of an offence under sections 430 to 446 where he proves that he acted with legal justification or excuse and with colour of right." The proposed provision mentions excuse but does not mention justification or with colour of right.

(11) The current provisions are similar and apply when the person does these acts wilfully. See *Criminal Code* sections 444(a) and (b) (cattle), 445(a) and (b) (other animals – kept for a lawful purpose) and 446(e) (domestic animals or animals kept in captivity). The proposed provision would apply to all animals and would not be limited to specified animals as is now the case. In addition, section 429(1) states that everyone "who causes the occurrence of an event by doing an act or by omitting to do an act that it is his duty to do, knowing that the act or omission will probably cause the occurrence of the event and being reckless whether the event occurs or not, shall be deemed…wilfully to have caused the occurrence of the event."

- activities relating to the fighting or baiting of animals, including training an animal to fight another animal (section 182.2(1)(e));[12]

- building or keeping a cockpit or other fighting arena on premises that the person owned or occupied (section 182.2(1)(f));[13]

- activities relating to the liberation of captive animals for the purpose of being shot at the moment they are liberated (section 182.2(1)(g));[14] and

- for an owner, occupier or person in charge of any premises to permit the premises to be used for the activities referred to in paragraphs (e) (fighting or baiting) or (g) (liberating a captive animal to be shot) (section 182.2(1)(h)).[15]

New section 182.2(2) sets out the penalties for the offences listed above. These offences are hybrid offences with a maximum punishment of five years' imprisonment when the Crown proceeds by indictment. When the Crown proceeds by way of summary conviction, the maximum penalties are 18 months imprisonment and/or a $10,000 fine.

New section 182.3 sets out the following series of offences relating to the failure to provide adequate care:

- negligently causing an animal unnecessary pain, suffering or injury (section 182.3(1)(a));[16]

- wilfully or recklessly abandoning an animal or negligently failing to provide suitable and adequate food, water, air, shelter and care for the animal if they are the owner or the person having custody or control of the animal (section 182.3(1)(b));[17] and

- negligently injuring an animal while it is being conveyed (section 182.3(1)(c)).[18]

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(12) This is similar to the current provision. See *Criminal Code* section 446(1)(d), which states "encourages, aids or assists at the fighting or baiting of animals or birds."

(13) This is similar to the current provision which is limited to cockpits. See *Criminal Code* section 447(1).

(14) This is similar to the current provision but is expanded to cover all animals and not only captive birds. See *Criminal Code* section 446(1)(f).

(15) This is similar to the current provision but the current provision is limited to the activity referred to in paragraph (g). See *Criminal Code* section 446(1)(g).

(16) This offence essentially captures what is in current section 446(3).

(17) This is similar to the current provision which is limited to domesticated animals or birds or an animal or bird that is in captivity. See *Criminal Code* section 446(1)(c).

(18) This is similar to the current offence which applied when done "by wilful neglect." See *Criminal Code* section 446(1)(b). Section 446(3) states that "evidence that a person failed to exercise reasonable care or supervision of an animal or a bird thereby causing it pain, suffering, damage or injury is, in the absence of any evidence to the contrary, proof that the pain, suffering, damage or injury was caused or was permitted to be caused …by wilful neglect…"

New section 182.3(3) sets out the penalties for the offences set out in section 182.3(1). Once again these are hybrid offences with a maximum two years' imprisonment when the Crown proceeds by indictment. When the Crown proceeds by way of summary conviction, the individual would be liable to six months' imprisonment and/or a fine of not more than $5,000.

New section 182.3(2) defines the term "negligently" for the purposes of subsection 182.3(1) as meaning departing markedly from the standard of care that a reasonable person would use.

Two aspects of the new provisions require discussion: the mental element of the offence and the defences available to the accused. With respect to the mental element, the current provisions often make reference to the requirement that the act be done "wilfully." This indicates that the highest standard *mens rea* is required for these offences. However, section 429(1), which applies to the cruelty to animals offences, states that everyone "who causes the occurrence of an event by doing an act or by omitting to do an act that it is his duty to do, knowing that the act or omission will probably cause the occurrence of the event and being reckless whether the event occurs or not, shall be deemed…wilfully to have caused the occurrence of the event." Thus, this provision qualifies the term "wilfully" to require only that the accused have knowledge that the act or omission will probably cause the occurrence of the event and to show recklessness as to whether it does so. Although Bill C-17 did not specify the required mental element for the cruelty to animal offences, new Bill C-10 (as did Bill C-15B) provides that with respect to the offences listed in section 182.2, they must be committed wilfully or recklessly. Therefore, this is similar to what is currently provided. In addition, with respect to the offences listed in section 182.3, the term "negligently" is now defined.

With respect to defences, the current provisions state that no person shall be convicted of an offence "where he proves that he acted with legal justification or excuse and with colour of right."[19] The new provisions, in certain cases, provide that it would be an offence if the person acted "without lawful excuse."[20] The colour of right defence[21] generally applies to property crimes; thus, its exclusion from the proposed provisions is not surprising because these crimes are instead to be viewed in future as crimes against animals. In addition, the defence of

(19) *Criminal Code* section 429(2).

(20) See proposed section 182.2 (1)(c) and (d).

(21) This defence applies when the accused can show an honest belief in a state of facts which, if they existed, would constitute a legal justification or excuse.

mistake of fact would still be available in the appropriate circumstances. The purpose of excluding justification in the offence provisions appears less clear. One could argue that the distinction between justification and excuse is only useful as an interpretive tool to determine the scope of the defence and that, therefore, the term "excuse" in the proposed provisions would apply to both a lawful excuse and a lawful justification. There does not appear to be a valid reason, however, why the provisions do not make reference to the expression "lawful justification or excuse."

The exclusion of the defences available under subsection 429(2) of the *Criminal Code*, which is one of the consequences of removing the cruelty to animal provisions from Part XI of the Code, was a major concern for several witnesses who appeared before the Standing Committee on Justice and Human Rights in its study of Bill C-15B in the 1st session of the 37th Parliament. They feared that currently lawful practices (hunting, trapping, medical research, farming, etc.) would be challenged in the future as violating the new cruelty to animal provisions. The government's response to these concerns came in the form of a government amendment that was adopted by the Committee. This amendment adds section 182.5 which states that for greater certainty, subsection 8(3) of the *Criminal Code* applies in respect of proceedings for an offence under the new cruelty to animal provisions. Section 8(3) of the Code provides that every rule and principle of the common law that renders any circumstance a justification or excuse for an act or a defence to a charge continues in force and applies in respect of proceedings for an offence under the Code. Thus, the government argues that subsection 429(2) is redundant and is not needed to protect practices that are currently legal. The Minister of Justice categorically stated before the Standing Committee on Justice and Human Rights that activities that are currently lawful will continue to be lawful under the new provisions.

The Committee was also told that the government was not aware of any reported case where section 429(2) has been raised in an offence under section 446(1)(a). Rather, it is the wording of the offence provisions which generally provides protection for lawful activities. For example, with respect to the offence of causing unnecessary pain, this offence would not be made out unless there was no lawful purpose involved or the pain was avoidable having regard to other reasonably available methods.

In response to concerns that there may be frivolous private prosecutions under the new provisions which could be very costly to those involved, it was pointed out that new provisions in the Criminal Law Amendment Act 2001 (Bill C-15A) would make frivolous prosecutions less likely. Currently, the Attorney General has the power to intervene in any such prosecution and may direct a stay of proceedings with the option of recommencing the case

within one year (see *Criminal Code* sections 579 and 579.1). Sections 21 and 22 of the Criminal Law Amendment Act, 2001 (*Criminal Code* sections 507 and 507.1) make some changes to the process for initiating and conducting private prosecutions in respect of indictable offences. First, a privately laid information has to be referred to a provincial court judge or a specially designated justice of the peace. Second, the provincial or federal Attorney General has to be given notice and an opportunity to be heard before the judge or designated justice of the peace can accept the information and issue a summons or arrest warrant. Finally, if the judge or designated justice of the peace declined to act on information, the accuser – in order to pursue the matter – would have to challenge the legality of that decision in a higher court or offer new evidence in support of the allegation. The accuser, or any other potential complainant in the matter, is precluded from simply bringing information before a different judge or designated justice with the same evidence. In addition, section 47 of the Criminal Law Amendment Act (*Criminal Code* section 579.01) gives the Attorney General the option of intervening in a private prosecution – to the extent of being entitled to call witnesses, examine and cross-examine witnesses, present evidence, and make submissions – but without being deemed to have taken over the prosecution.

In addition to any other sentence set out above, a court is able, as under the current provision, to make an order prohibiting the accused from owning an animal or having custody or control of an animal. A new feature also allows the court to prohibit the accused from residing in the same premises as an animal. The maximum length of the prohibition is also changed from its current maximum of two years to allow the court to make the prohibition for any period it felt appropriate and, in the case of second and subsequent offences, for a minimum of five years.(22)

New section 182.4(1)(b) adds a new feature to the provisions dealing with cruelty to animals by authorizing a court to order, on application by the Attorney General or on its own motion, that the accused pay reasonable costs incurred to take care of the animal. Payment could be made to any individual or organization that cared for the animal and would include such costs as veterinarian bills and shelter costs if these were readily ascertainable.

Section 182.4(2) provides that a person who contravenes a prohibition order made by the court under section 182.4(1)(a) is guilty of an offence punishable on summary conviction and be liable to six months' imprisonment and/or a fine of not more than $2,000.(23)

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(22) See section 182.4(1)(a) of the bill and *Criminal Code* section 446(5).

(23) These penalties are prescribed by *Criminal Code* section 787.

One of the purposes of this bill is to increase the penalties relating to cruelty to animals and to provide a broader range of criminal sanctions. Under the current provisions, the offences are summary conviction offences (with the exception of section 444). This means that accused are liable to a maximum of six months' imprisonment and/or a fine of not more than $2,000.[24] Under the proposed legislation, the maximum length of imprisonment is increased. With the creation of hybrid offences, the option of proceeding by way of summary conviction would still be available to the Crown for less serious offences but, in more serious cases, the prosecutor would have the option of proceeding by indictment, thus allowing for increased penalties. It is hoped that this would deter people from abusing animals and generally lead to crimes against animals being treated more seriously.

New section 182.4(3) makes general provisions relating to restitution orders applicable to orders made under section 182.4(1)(b).

New section 182.6 makes it an offence to wilfully or recklessly poison, injure or kill a "law enforcement animal" while it is aiding or assisting a peace officer engaged in the execution of his or her duties. A "law enforcement animal" is defined as a dog, a horse or any other animal used by peace officers in the execution of their duties. The punishment for this offence is identical to those provided for in section 182.2 (on indictment – a maximum of five years' imprisonment; and by way of summary conviction – 18 months' imprisonment and/or a $10,000 fine). In addition to these penalties, a court may order the offender to pay all reasonable costs associated with the loss of or injury to the law enforcement animal as a result of the commission of the offence. These costs must be "readily ascertainable."

Clause 8.1 of the bill makes a technical amendment to section 264.1(1)(c) of the *Criminal Code* by deleting the reference to "or bird."

Clause 9 repeals the current provisions dealing with cruelty to animals.

B. Amendments to the *Firearms Act* and Related Provisions in the *Criminal Code*

The changes to the firearms legislation are administrative in nature (there being no changes to the basic policy and goals of the legislation) and, in part, are intended to respond to concerns raised by gun owners. Here are two examples:

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(24) See *Criminal Code* section 787.

- owners of restricted firearms and prohibited handguns will be allowed to change their purpose for possessing such firearms; and

- the class of grandfathered prohibited firearms and the class of grandfathered individuals allowed to possess them will be enlarged so that more people will be allowed to retain these firearms.

In addition, the bill makes it easier for Canadians to comply with the requirements of the *Firearms Act* by streamlining the administrative processes, for example, by allowing electronic applications and electronic issuances of documents.

The Bill also makes a series of administrative amendments (that are being made to allow for the better administration of the firearms legislation) such as:

- creating a position of Commissioner of Firearms to oversee the administration of the firearms program;

- making the Registrar, rather than the Chief Firearms Officer, responsible for certain transfers;

- extending the term of certain licences; and

- clarifying weapons that are exempt from the application of certain provisions of the legislation.

1. *Criminal Code* Amendments

a. Administrative

Clause 2(1) adds the term "Commissioner of Firearms" to the definitions in Part III (Firearms and other Weapons) of the *Criminal Code*. This refers to the new position of Commissioner of Firearms that is to be created under section 81.1 of the *Firearms Act* and is discussed in more detail below.[25]

Clause 7 adds the Commissioner of Firearms, the Registrar and a person designated by the Registrar under section 100 of the *Firearms Act* as people who are "public officers" for the purposes of section 117.07 (exempted persons) of the *Criminal Code*.

(25) See clause 49 of Bill C-10.

b. Airguns

Clause 2(2) modifies section 84(3) of the *Criminal Code* which sets out regulated items that are excluded from requirements of the *Firearms Act*, and certain listed *Criminal Code* provisions in Part III.[26] Pursuant to current section 84(3)(d), a weapon is deemed not to be a firearm (for the above listed purposes) if it is not designed or adapted to discharge:

> (i) a shot, bullet or other projectile at a muzzle velocity exceeding 152.4 m per second; or
> (ii) a shot, bullet or other projectile that is designed or adapted to attain a velocity exceeding 152.4 m per second.

This exemption generally applies to many airguns and other similar types of weapons that are found in Canada. There has been concern lately with respect to lightweight pellets which can be discharged by certain airguns at a speed exceeding the maximum set out in the exemption. Some people were concerned that these airguns would no longer be exempt from the licensing and registration provisions. The goal of the amendment is to clarify the exemption by adding a muzzle energy standard to the existing muzzle velocity standard.

Under new section 84(3)(d)(i), a weapon not designed or adapted to discharge a shot, bullet or other projectile at a muzzle velocity exceeding 152.4 m per second or at a muzzle energy exceeding 5.7 Joules is deemed not to be a firearm (for the listed purposes). The intention was to exempt a weapon if it satisfies one of the two standards. Thus, even if the weapon discharges lightweight pellets at a speed exceeding the maximum set out in the exemption, it may still be exempted if it does not exceed the new muzzle energy standard. There has been some debate regarding whether the new provision does what it intended. Some argue that both standards will have to be satisfied for the weapon to be exempt. Because of the use of a double negative, the section seems to contradict itself when it is turned into a positive. As written, it appears that the weapon only needs to satisfy one of the two standards to be exempted. The new muzzle energy standard is also added to section 84(3)(d)(ii).

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(26) For example, the licensing and registration offences do not apply to exempted items although it is an offence to use such an item in the commission of an offence.

c. Judicial Interim Release

Clause 5 modifies section 115 of the *Criminal Code* so that the forfeiture of everything the possession of which is prohibited by a prohibition order and that is in the possession of the person against whom the prohibition order is made does not apply for an order made under section 515 (Judicial Interim Release).

In addition, clause 6 modifies section 116 of the *Criminal Code* dealing with authorizations, licences and registration certificates that are revoked or amended pursuant to a prohibition order. In the case of an order under section 515 (Judicial Interim Release), the authorizations, licences and registration certificates are only revoked or amended for the period during which the order is in force.

The purpose of the amendments is to ensure that firearms will not automatically be forfeited to the Crown when a person is charged with an offence and an order is made under section 515. A clarification is also made with respect to firearms documents that are revoked or amended (when a person is charged with an offence) by an order made under section 515. This will allow a person to regain possession of his or her firearms if the person is not found guilty of an offence.

d. Technical Amendments

Clause 3 clarifies section 85(1)(a) of the *Criminal Code* so that it refers only to the offence of kidnapping (section 279(1)) and not also to the offence of forcible confinement (section 279(2)).

Clause 4 clarifies section 109(1)(c) of the *Criminal Code* so that it refers to the appropriate offence provisions of the *Controlled Drugs and Substances Act*.

2. *Firearms Act* Amendments

a. Definitions

Clause 10 modifies the definition of "authorization to export" so that it includes a permit to export goods that is issued under the *Export and Import Permits Act* and that is deemed by regulations to be an authorization to export. In addition, the term "carrier" no longer refers to a person who carries on a transportation business that includes the transportation of ammunition. Finally, the term "Commissioner" is added to the definitions. This refers to the new position of Commissioner of Firearms that is to be created under section 81.1.[27]

(27) See clause 49 of Bill C-10.

b. Carriers

Pursuant to clause 10(3), decisions regarding the licensing of carriers will now be made exclusively by the Registrar. There will be only one set of carriers who will be allowed to do business intraprovincially and extraprovincially. Corresponding changes are made by clauses 14, 40 and 47.

c. Restricted Firearms Safety Course

Clause 12 provides that for a person to be eligible to possess a prohibited firearm, the person must satisfy the requirements of the restricted firearms safety course.

d. Employee Licensing

Bill C-10 changes the licensing requirements for employees of businesses who deal with regulated items. The legislation currently states that, in order for the business to be eligible for a business licence, every employee who, in the course of duties of employment, handles or would handle firearms, prohibited weapons, restricted weapons, prohibited devices or prohibited ammunition, must be the holder of a licence authorizing the acquisition of restricted firearms.[28]

Clause 13 sets out different licensing requirements depending on the items that the employee handles and the items that the business possesses. Under new section 9(3.2), a business is eligible for a licence authorizing the possession of prohibited weapons, restricted weapons, prohibited devices or prohibited ammunition if every employee who handles these items in the course of duties of employment is eligible to hold a licence under sections 5 and 6 of the *Firearms Act*. The items mentioned do not include firearms. Thus, these employees (who do not deal with firearms) would continue to be screened to determine whether they posed a risk to public safety (they would have to pass the background checks) but they would not be required to take a firearms safety course.

Under new section 9(3), a business is eligible for a licence authorizing the possession of non-restricted firearms if every employee who handles such items in the course of duties of employment is the holder of a licence that authorized the acquisition of firearms that are neither prohibited nor restricted. These employees would be screened to determine if they posed

(28) *Firearms Act*, S.C. 1995, c. 39, section 9(3).

a risk to public safety and they would also be required to complete and pass the Canadian Firearms Safety Course (or otherwise satisfy the safety course requirement pursuant to section 7(1) of the *Firearms Act*). Thus, employees of businesses that dealt only in non-restricted firearms (firearms that are neither restricted nor prohibited), no longer need to hold a licence authorizing the acquisition of restricted firearms and therefore would not be required to complete and pass an additional restricted firearms safety course. This is subject to new section 9(3.1).

Under new section 9(3.1), businesses wishing to be eligible for a licence authorizing the possession of restricted or prohibited firearms would continue to have to meet the requirements in the current legislation. Their employees who handle firearms in the course of their duties of employment would not only be screened to determine if they posed a risk to public safety but would also have to hold a licence authorizing the acquisition of restricted firearms, i.e., they would have to complete and pass both the basic and the restricted firearms safety courses. This requirement would apply to all employees of such a business who handled firearms, whether or not they were restricted or prohibited.

e. Grandfathering

Clause 15 deals with handguns that became prohibited on 1 December 1998 on the coming into force of legislation passed by Parliament in 1995 (i.e., 25- and 32-calibre handguns and handguns with a barrel equal to or shorter than 105 mm).

The amnesty for individuals who acquired such a handgun after 14 February 1995 and before 1 December 1998 and businesses in possession of such handguns has been extended to 31 December 2002. For individuals, different rules apply regarding what a person may do with these firearms depending on whether a registration certificate was issued for the handgun under the former legislation. For businesses, different rules apply regarding what they may do with these firearms depending on whether the handgun was acquired on or before 14 February 1995 or after this date.

The 14 February 1995 date was chosen because this was the date on which Bill C-68 received first reading in the House of Commons. Thus, the class of grandfathered individuals and the class of grandfathered handguns were set on that date. People were not able to grandfather themselves between the date the legislation was introduced and the date it came into force. They could, however, still legally acquire these firearms until they became

prohibited. The prohibition of such firearms should not have come as a surprise because the government had announced its legislative intentions in a document released in November 1994 entitled *The Government's Action Plan on Firearms Control*.

In addition to the amnesty, the current legislation allows these prohibited handguns to be possessed by individuals in the grandfathered class (people who had registered or had applied to register one of these prohibited firearms by 14 February 1995).[29] This exemption applies only to prohibited handguns for which a registration certificate under the former legislation had been issued to or applied for by that or another individual who was in possession of the firearm on 14 February 1995. Thus, the existing legislation creates a class of grandfathered individuals who may possess such firearms and a class of grandfathered firearms that may be possessed; both the firearm and the individual in possession of it must be grandfathered to satisfy the requirements of the exemption.

Because the current grandfathering provisions apply only to prohibited handguns for which, on 14 February 1995, a registration certificate under the former legislation had been issued to or applied for, only firearms possessed by individuals on that date can be in the grandfathered class. Dealer inventories and firearms in the possession of other businesses or public agencies did not have registration certificates; such firearms were recorded with the former restricted weapons registration system but not registered. Thus, at present, firearms that were in dealer inventories are not grandfathered and cannot be sold to grandfathered individuals.

Clause 15 replaces section 12(6) of the *Firearms Act* with new sections (6) and (6.1). Although the firearm and the individual in possession of it must still both be grandfathered to satisfy the requirements of the exemption, new rules apply regarding the class of grandfathered individuals and grandfathered handguns.

Regarding the class of individuals who are grandfathered, new section 12(6) provides that the grandfathering date is now 1 December 1998 rather than 14 February 1995. Thus, a person who acquired a firearm between the date the legislation was introduced and the date it came into force is now also grandfathered (if the individual had registered or had applied to register one of these prohibited firearms by 1 December 1998 and, after this date, was continuously the holder of a registration certificate for that kind of handgun).

In addition, pursuant to new section 12(6.1), the class of grandfathered handguns is widened by changing the grandfathering date to 1 December 1998 and by grandfathering the

(29) *Firearms Act*, section 12(6).

inventories of prohibited handguns held by businesses. The amendment allows dealers to retain these prohibited handguns and sell them to grandfathered individuals (see above).

As stated above, the grandfathered class is at present limited to prohibited handguns for which, on 14 February 1995, a registration certificate under the former legislation had been issued to, or applied for by, the individual now in possession or another individual. In addition to changing the grandfathering date, the amendment clarifies that for these firearms to be in the grandfathered class, a registration certificate would not only have to have been applied for but also subsequently issued.

f. Place Where Prohibited or Restricted Firearm May be Possessed

Clause 16 modifies where a prohibited or restricted firearm may be possessed. Section 17 of the *Firearms Act* will now refer to the dwelling-house of the individual as recorded in the Canadian Firearms Registry rather than the dwelling-house as indicated on the registration certificate. This change is required because the registration certificate does not indicate a location.

g. Authorizations to Transport

The *Firearms Act* and its regulations currently provide different rules regarding the transportation and usage of prohibited firearms and restricted firearms. For example, prohibited firearms can only be transported and used for the specific purposes set out in section 18. In addition, the transportation of prohibited firearms is allowed under the *Special Authority to Possess Regulations* for limited purposes. Thus, with the exception of recently prohibited handguns, the transportation of prohibited firearms is fairly restrictive. In fact, a special permit is required under the regulations for prohibited firearms, with the exemption of recently prohibited handguns. Meanwhile, section 19 provides that restricted firearms may be transported between two specified places for any good and sufficient reason and then goes on to set out a non-exhaustive list of purposes.

Bill C-10 deletes section 18 and provides that rules regarding authorizations to transport will be the same for recently prohibited handguns and restricted firearms, although special rules will continue to apply for other prohibited firearms.[30] This means that authorizations to transport will be available for recently prohibited handguns for the same

(30) See clause 17.

reasons as for restricted firearms. In addition, a new purpose is added to the list of non-exhaustive purposes for which a prohibited or restricted firearm may be transported. The new purpose is to provide instructions in the use of firearms as part of a restricted firearms safety course. A corresponding change is made to section 65(3).[31]

h. Transfers

Bill C-10 amends the process that must be followed in order to transfer a firearm. Clause 18 provides that while the transferee must still hold a licence authorizing the transferee to acquire and possess that kind of firearm and that the transferor must have no reason to believe that the transferee is not authorized to do so, the transferee is no longer required to produce to the transferor a firearms licence. In addition, with the exception of an individual transferring a restricted or prohibited firearm, the person is only required to inform the Registrar of the transfer rather than the current requirements of informing a chief firearms officer and obtaining his or her authorization for the transfer. The current requirements continue to apply in the case of an individual transferring a prohibited or restricted firearm. If the Registrar is informed of a proposed transfer but refuses to issue a registration certificate, he or she is to inform a chief firearms officer of that decision. Thus, the Registrar replaces the chief firearms officer in the process of approving a transfer of non-restricted firearms between individuals; additional checks that may have been conducted by the chief firearms officer at the time of a transfer of a non-restricted firearm will no longer be conducted. A chief firearms officer, however, can still revoke a person's licence at any time if he or she has reason to believe that the person poses a safety risk.

A similar change is made by clause 19 to the transfer of a prohibited weapon, prohibited device, ammunition or prohibited ammunition to a business. The business is no longer required to produce a licence to the transferor, and the transferor is no longer required to inform a chief firearms officer of the transfer and obtain his or her authorization.

Pursuant to clause 20, a person will be able to transfer a firearm and other regulated items to a municipality in addition to Her Majesty in right of Canada, a province or a police force. The person is required to follow the procedures set out in section 26 of the *Firearms Act*. Clause 24 makes a corresponding amendment to section 31(2) of the *Firearms*

(31) See clause 42.

Act. Pursuant to clause 26, a person will also be able to lend a firearm and other regulated items to a municipality.

Pursuant to clause 25, in the case of mail-order transfer of firearms, the firearms will no longer have to be delivered by a person designated by a chief firearms officer.

i. Exportation and Importation

Bill C-10 makes several changes to the exportation and importation provisions of the *Firearms Act* (most of which are not yet in force). Pursuant to clause 27, in addition to the current requirements that are imposed on non-residents who do not have a licence and wish to import firearms, a non-resident who declares a firearm has to produce to a customs officer a report that he or she has applied for and obtained before the importation from the Registrar. In addition, the non-resident is required to provide the Registrar with prescribed information regarding himself or herself and the firearm. A non-resident declaring a firearm will not have to produce the report if he or she satisfies the customs officer that the person has previously declared the firearm to a customs officer, that the declaration was confirmed by a customs officer, and that the duration of the declaration as provided in subsection 36(1) of the *Firearms Act* has not expired. In the case of non-compliance with subsection 35(1) of the *Firearms Act*, the customs officer will be able to specify a reasonable time during which the non-resident may attempt to comply. The current legislation only provides that the non-resident has a reasonable time to comply to the requirements without allowing the customs officer to specify what is a reasonable time. The requirement for the report will allow a non-resident to have the paperwork and investigations completed in advance and should reduce delays at the border.

Pursuant to section 36 of the *Firearms Act*, a confirmed declaration under section 35 has the same effect as a licence and a registration certificate. Clause 29 modifies section 36 of the *Firearms Act* to provide that the confirmed declaration has the same effect as a licence authorizing the non-resident to possess the kind of firearm being imported (rather than permitting the possession of only the firearm being imported). Thus, such a non-resident would be able to borrow a firearm of the same class while in Canada with a confirmed declaration. In addition, the confirmed declaration could be valid for up to one year (rather than the current 60 days). A new provision allows a chief firearms officer or the Registrar to declare that subsection 36(1) (temporary licence and registration certificate) ceases to apply for a particular non-resident or a particular firearm for any good and sufficient reason. This will generally happen when there is a safety concern.

Clause 28 adds new provisions dealing with importation by non-residents with a licence (in the case where a non-resident has obtained a licence in Canada). Although different conditions apply depending on whether a registration certificate has been issued for the firearm, the non-resident is always required to: declare the firearm to a customs officer in the prescribed manner; produce a licence; and, in the case of a restricted firearm, produce an authorization to transport. The provision also sets out what happens in the case of non-compliance. A confirmed declaration has the same effect as a registration certificate.

Clause 30 deals with the exportation of firearms. A non-resident may export a firearm that he or she has imported in accordance with section 35 or 35.1 of the *Firearms Act* (as discussed above) if the non-resident complies with the regulations relating to the exportation of firearms and holds, in the case of a restricted firearm, an authorization to transport. The provision sets out what happens in the case of non-compliance. The current legislation provides different rules depending on whether the non-resident has a licence.

Pursuant to modified section 38, an individual may export a firearm if he or she has the proper documentation for the firearm and complies with the regulations relating to the exportation of firearms. Once again, the provision sets out what happens in the case of non-compliance.

Clause 31 deals with the importation of firearms by an individual who holds a licence. There are different rules depending on whether the firearm was exported as discussed above or whether this is a newly imported firearm for which there is no registration certificate. Clause 32 deals with the duties of the Registrar on being informed of a newly imported firearm (a firearm for which there is no registration certificate). The chief firearms officer was previously responsible for these duties. The Registrar must verify whether the individual holds a licence to acquire and possess that kind of firearm, verify the purpose for which the individual wishes to acquire a restricted firearm, decide whether to approve the importation, and take the prescribed measures. The provision also sets out the permitted purposes for acquiring a restricted firearm.

With regard to importation by businesses, clause 34 provides that where an authorization to import is not confirmed by a customs officer, a person has 90 days rather than the current 10 days to export the described goods before they are forfeited to the Crown.

In addition, with regard to exportation by businesses, clause 35 adds a new subsection to section 49 dealing with the exportation of goods authorized by permit issued under the *Export and Import Permits Act*. Such a permit may be deemed to be an authorization to

export which means that an authorization to export under the *Firearms Act* would not be required.

Clause 36 modifies section 50 to limit what needs to be reported by a customs officer to the Registrar. In addition, section 51 is modified so that the Minister responsible for the *Export and Import Permits Act* will inform the Registrar of every application under that Act for a permit to export in relation to a firearm. This will allow the Registrar to know what is being exported.

Clauses 33 and 38 add new sections to the *Firearms Act* dealing with the report a non-resident must produce to a customs officer as discussed above. Under new section 42.1, the Registrar must inform the Canada Customs and Revenue Agency of the reports that he or she makes. In addition, new section 55.1 allows the Registrar to request further information from the applicant and to conduct investigations that he or she considers necessary.

j. Applications for and Issuance of Licences, Registration Certificates and Authorizations

Clause 37 provides that applications for a licence, registration certificate or authorization must be made in the prescribed form, which may be in writing or electronic, or in the prescribed manner. In the current legislation, the application must be in the prescribed form, without specifying the type of form.

Clause 39 modifies section 61 to set out how licences and registration certificates must be issued. These documents must be issued in the prescribed form, which may be in writing or electronic, or in the prescribed manner and also include prescribed information, including any conditions. A similar change is made with regard to authorizations to carry, authorizations to transport, and authorizations to export or import. Currently, the legislation only specifies that the document must be in the prescribed form and include the prescribed information, including any conditions.

The purpose of these amendments is to allow greater flexibility in the application for, and the issuance of, firearms-related documents. It will allow the Canadian firearms program to use new avenues (such as electronic means) for applications for, and the issuance of, firearms-related documents.

k. Duration of Licences and Authorizations

Clause 41(1) provides that the duration of licences issued before 31 December 2001 may be extended by up to an additional four years. A chief firearms officer may do this until 1 January 2005. The purpose of this clause is to allow licences to expire in different years rather than most of the licences expiring at the same time. This should remove strain on the system.

In addition, pursuant to clause 41(2), business licences may now be issued for up to three years (rather than the current one year for most businesses). Also, a business that sells only ammunition may have a licence of a duration of up to five years. Bill C-10 also allows a chief firearms officer to stagger these licences by extending their term. The Chief Firearms Officer is required to give notice to the holder of a licence (either an individual or a business) of an extension.

The legislation currently provides different rules regarding the duration of authorizations to transport depending on whether the authorization took the form of a condition attached to a licence. This distinction is eliminated in Bill C-10 and the duration of the authorization is the period for which it is issued, to a maximum of five years (rather than the current three years), or the expiration of the licence, whichever is earlier.[32] This will allow authorizations to transport to expire at the same time as a firearms licence.

l. Renewals

Clause 43 provides that a chief firearms officer may renew a licence, authorization to carry, or authorization to transport in the prescribed manner (rather than in the same manner and in the same circumstances in which these documents may be issued). The purpose of this amendment is to allow for a streamlining of the renewal process. Because information will already be on file, it is believed that a simplified process is more appropriate at the time of renewal.

m. Purpose for Possessing Restricted Firearms or Grandfathered Handguns

Pursuant to the current legislation, a chief firearms officer – on renewing a licence for restricted firearms or grandfathered handguns – must decide whether any of those firearms or

(32) See clause 42.

handguns are being used for the purpose for which the individual acquired the restricted firearms or handguns or, in the case of restricted firearms or grandfathered handguns possessed on commencement day, the purpose specified by the individual in the application. Section 28 of the *Firearms Act* sets out the purposes for which these firearms may be possessed (i.e., to protect life or for use in connection with an occupation; for use in target practice or target shooting competition; or to form part of a gun collection). Clause 43 would allow a person to modify the purpose for which the firearm is being possessed as long as it is still an authorized purpose under section 28. Corresponding changes are being made by clauses 45 and 48.

n. Notices of Refusal or Revocation

Clause 46 deals with notices of refusal or revocation. It provides that a notice of refusal to issue a licence, authorization to transport, a registration certificate, authorization to export or to import, or the revocation of such a document is no longer needed if the holder has requested that the document be revoked or the revocation is incidental to the issuance of a new licence, registration certificate or authorization.

o. Commissioner of Firearms and Registrar

Clause 49 creates the new position of Commissioner of Firearms who is to be responsible for overseeing the firearms program. This person is to be appointed by the Governor in Council and may exercise the powers that are delegated by the federal Minister. The only powers that may not be delegated are the power to delegate as set out in the section creating the new position and the power to exempt individuals from the application of the firearms legislation as provided in section 97 of the *Firearms Act*. In the case of absence, incapacity or vacancy, the federal Minister may appoint someone to perform the duties of the Commissioner but no person may be so appointed for a term of more than 60 days without approval of the Governor in Council. The Commissioner is deemed to be a person employed in the Public Service for the purposes of the *Public Service Superannuation Act* and for the purposes of the *Government Employees Compensation Act*.

The position of Registrar is also to change. Under the current legislation, the Registrar is appointed by the Commissioner of the RCMP after consultation with the federal Minister and the Solicitor General. Under Bill C-10, the Registrar shall be appointed or deployed in accordance with the *Public Service Employment Act*. In addition, in the case of

absence, incapacity or vacancy, the Commissioner of Firearms may perform the duties of the Registrar. A transitional provision provides that the current Registrar will remain in this position until another person is appointed or deployed.

Clause 51 provides that it is the Commissioner of Firearms (rather than the Registrar) who is required to report to the federal Minister; this report is to be laid in each House of Parliament. The former Registrar, who was appointed by the Commissioner of the RCMP, reported to the Solicitor General.

p. Exemptions

Section 97 of the *Firearms Act* currently allows a provincial minister to exempt, for any period not exceeding one year, employees of specified businesses from the application of the firearms legislation for anything done by them in the course of or for the purpose of their employment. Such exemptions are not permitted if there are public safety concerns, and the provincial minister may attach conditions to the exemption.

Bill C-10 adds new exemption powers to the *Firearms Act*. Pursuant to clause 52, the Governor in Council can exempt any class of non-residents from the applications of the *Firearms Act* and specified provisions of Part III of the *Criminal Code*. Such an exemption can be for any period. In addition, the federal Minister may exempt any non-resident for any period not exceeding one year. These exemptions are subject to public safety concerns, and conditions may be attached to the exemption. These new exemption powers are very broad because there are no restrictions on the purposes for which these exemptions may be granted. The only limitation is the one related to public safety concerns. It appears that these exemptions may be used to exempt people on ships coming temporarily to Canada and to exempt U.S. police officers who must travel through Canada to get to their place of employment. These people would not otherwise be able to comply with Canadian legislation. For example, the law does not allow non-residents to import prohibited firearms which are used by the police.

q. Delegation to a Firearms Officer

Clause 53 modifies section 99 of the *Firearms Act* so that a firearms officer may perform any of the duties and functions of a chief firearms officer that are specified in his or her designation as a firearms officer. Under the current legislation, certain acts (such as the issuance of an authorization to carry and the issuance of a licence to a business authorizing the acquisition

of prohibited firearms, prohibited weapons, prohibited devices or prohibited ammunition) can only be done by a chief firearms officer personally.

r. Regulation-Making Power

Clause 55 adds new elements to the regulation-making power that correspond to the changes being made in the legislation. For example, the Governor in Council is able to make regulations deeming permits to export goods or classes of permits to export goods (issued under the *Export and Import Permits Act*) to be authorizations to export for the purposes of the *Firearms Act*.

In addition, the Governor in Council will be able to make regulations dealing with other new matters, for example, those regarding:

- the importation or exportation of firearms and other regulated items;
- the marking of firearms manufactured in Canada or imported into Canada and the removal, alteration, obliteration and defacing of those markings; and
- the confirmation of declarations and authorizations to transport with respect to the importation of firearms.

s. Technical Amendments

The Bill also makes a series of corresponding and technical changes.(33)

COMMENTARY

A. Cruelty to Animals

Opinion is divided with regard to the cruelty to animals provisions of Bill C-10.

The response of groups and individuals seeking increased protection for animals had been generally positive with respect to Bill C-15B. For example, the provisions were supported by the Canadian Federation of Humane Societies.(34) In addition, Liz White of the Animal Alliance of Canada had stated the following: "What this piece of legislation does is

(33) See clauses 11, 21, 22, 23, 44, 54, 56 and 57.

(34) Canadian Federation of Humane Societies, Press Release, "Animal Cruelty Bill Back on the Table," 15 March 2001. This document can be found at http://www.cfhs.ca/GeneralInfo/Media/media5.htm - March%2015,%202001.

elevate the issue in the court's mind. It signals to judges that this is an issue that should be taken seriously. Whether it filters down to the courts depends largely on the people who take prosecutions to court. But it's an excellent first step."(35)

However, certain groups – including farmers and hunters – were troubled about certain of the new aspects of the cruelty to animals provisions. For example, they were concerned about removing the cruelty provisions from the property sections of the *Criminal Code* and creating a new Part for these provisions. David Borth, general manager of the B.C. Cattlemen's Association, had stated the following: "It's moving from property rights to almost human rights" and added that "we do have some concern about what this is indicating."(36) Other concerns raised deal with matters such as the broad definition of animal and the defences that are available.

When Bill C-17 was before the House of Commons, some people were concerned about the possible applications of the law. For example, hunters, trappers, farmers and bio-medical researchers feared criminal prosecution for certain acts (e.g., branding). Some of these groups had requested that the language in the legislation be clarified.(37) For example, they were concerned about the possible interpretation that might be given to the phrases causing "unnecessary pain, suffering or injury" and "brutally or viciously" killing an animal. Clearly, both Bill C-17 and Bill C-10 were drafted to allow some causing of pain and suffering to animals by including the word "unnecessary." If the pain and suffering is necessary for some lawful purpose, it does not appear to be covered by the proposed provisions. These same concerns will surely be raised with respect to Bill C-10.

It is possible that the concerns of these groups could be alleviated if the legislation set out, as exceptions, certain acts that would not be considered criminal. For example, the Law Reform Commission of Canada – in its report on recodifying criminal law – set out the following exceptions to its proposed cruelty to animals offence:

> 20(2) Exceptions: Necessary Measures. For the purpose of clause 20(1), no injury or serious physical pain is caused

(35) "Animal Rights Activists Applaud Tougher Laws," *Ottawa Citizen*, 14 March 2001, p. A6.

(36) "Cruelty to Animals will bring Tougher Sentences and Heftier Fines," *Vancouver Sun*, 14 March 2001, p. A4.

(37) For an example of concerns that were raised about the application of this legislation, see "Animal Cruelty Law Opens Legal Can of Worms," *Ottawa Citizen*, 24 March 2000, p. A6.

> unnecessarily if it is a reasonably necessary means of achieving any of the following purposes:
> (a) identification, medical treatment, spaying or neutering;
> (b) provision of food or other animal products;
> (c) hunting, trapping, fishing, and other sporting activities conducted in accordance with the lawful rules relating to them;
> (d) pest, predator or disease control;
> (e) protection of persons or property;
> (f) scientific research unless the risk of injury or serious physical pain is disproportionate to the benefit expected from the research; and
> (g) disciplining or training of an animal.(38)

The addition of similar exceptions in the proposed legislation might limit the fears of those groups concerned with its application. Although exceptions were not added to the legislation, an amendment was made in the 1st session of the 37th Parliament by the Standing Committee on Justice and Human Rights in relation to this issue.(39)

B. Firearms

Any changes to the firearms legislation are sure to create interest. Although some of the changes are administrative in nature and should not be highly controversial, other changes will be criticized.

Groups that originally supported Bill C-68 generally approve the changes that are being made. For example, according to Wendy Cukier, president of the Coalition for Gun Control:

> There are some minor concessions to firearms owners, which, for the most part seem to be aimed at reducing unintended consequences for dealers and owners of prohibited weapons and making it easier for restricted weapons owners to change the purposes for which they own their firearm. We do not strongly object to these concessions…(40)

Firearms groups, which are still steadfastly against the principles of Bill C-68, are concerned with many aspects of Bill C-10, particularly the drafting of the firearms provisions.

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(38) Law Reform Commission of Canada, Report 31, "Recodifying Criminal Law, 1987," p. 98.

(39) This is discussed in greater detail in the section dealing with cruelty to animals.

(40) Coalition for Gun Control, Press Release, "Public Safety Groups support efforts to streamline firearms legislation," 15 March 2001.

For example, Jim Hinter, president of the National Firearms Association, stated that Bill C-10's predecessor was "another example of failure in drafting a bill."(41) One of the concerns is with respect to firearms that are exempted from the licensing and registration provisions. As stated above, Bill C-10 adds a new energy standard to the current velocity standard. The intention was that a barrelled weapon would only have to satisfy one of the two standards to be exempt (either fall below the specified energy or fall below the specified velocity). Firearms groups are concerned that the way the provision has been drafted, a barrelled weapon will have to satisfy both standards to be exempt. If this were true, many firearms that are currently exempt would become subject to licensing and registration. Much of the confusion comes from the use of a double negative in the provision. In addition, certain firearms groups have stated that the energy standard is too low and will not exempt firearms that were intended to be exempted.

Another concern is the frequent use of the term "as prescribed" in the firearms provisions of Bill C-10. Because many of the rules will be prescribed by regulations at a later date, there is no way of knowing precisely what they will be.

(41) Telephone conversation with the author on 24 April 2001.