

# PRELIMINARY VERSION

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## Legislative Summary

### **BILL C-21: AN ACT TO AMEND CERTAIN ACTS AND TO MAKE CERTAIN CONSEQUENTIAL AMENDMENTS (FIREARMS)**

43-2-C21-E

**6 April 2021**

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### AUTHORSHIP

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*Legislative Summary of Bill C-21*  
(Preliminary version)

43-2-C21-E

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## LEGISLATIVE SUMMARY OF BILL C-21: AN ACT TO AMEND CERTAIN ACTS AND TO MAKE CERTAIN CONSEQUENTIAL AMENDMENTS (FIREARMS)

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### 1 BACKGROUND

Bill C-21, An Act to amend certain Acts and to make certain consequential amendments (firearms),<sup>1</sup> was tabled in the House of Commons on 16 February 2021 by the Honourable Bill Blair, Minister of Public Safety and Emergency Preparedness.

Bill C-21 amends the *Criminal Code* (the Code),<sup>2</sup> the *Firearms Act*,<sup>3</sup> the *Nuclear Safety and Control Act* (NSCA)<sup>4</sup> and the *Immigration and Refugee Protection Act* (IRPA).<sup>5</sup> It also makes consequential amendments to *An Act to Amend certain Acts and Regulations in relation to firearms*<sup>6</sup> and the *Immigration and Refugee Protection Regulations*.<sup>7</sup>

#### 1.1 CANADIAN FIREARMS FRAMEWORK<sup>8</sup>

In 1995, Parliament passed the *Firearms Act*, most of which came into force in December 1998. The *Firearms Act* and its accompanying regulations govern the possession, transportation, transfer and storage of firearms. The *Firearms Act* is also a complement to Part III of the Code, “Firearms and other Weapons,” which lists and defines the categories of firearms and contains firearms offences related to unlawful possession or misuse.

The Canadian Firearms Program (CFP) was created in 1996 to oversee the administration of the *Firearms Act* and its accompanying regulations. Its administration falls under the responsibility of the Royal Canadian Mounted Police (RCMP). The CFP also provides operational support to law enforcement organizations through its database, the Canadian Firearms Information System, which contains the names of firearms licence (which allow individuals to possess and acquire certain classes of firearms) holders and registration certificates (which are required for restricted and prohibited firearms).

The *Firearms Act* and the Code refer to a variety of positions and individuals who are tasked with implementing and monitoring Canada’s firearms framework.

- *Chief firearms officer*: A chief firearms officer is appointed by the federal or provincial government and is in charge of the firearms program in a specific province or territory.

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- *Firearms officer*: Firearms officers have certain duties under the *Firearms Act*. Such officers may be appointed by a provincial minister, or in the case of a territory, the federal minister. If there is a matter where no firearms officer has been appointed, one may be appointed for the matter by the federal Minister of Public Safety and Emergency Preparedness. They are able to accomplish any duties and functions of the chief firearms officer if designated in writing (section 99, *Firearms Act*). “Firearms officer” is more of a general title, and can be the title of many officers who fall under the authority of the chief firearms officer of a province or territory.
- *Registrar of Firearms*: The Registrar of Firearms is appointed pursuant to section 82 of the *Firearms Act* and is responsible for the establishing and maintaining the Canadian Firearms Registry.
- *Commissioner of Firearms*: The Commissioner of Firearms is appointed by Cabinet pursuant to section 81.1 of the *Firearms Act*. The Commissioner is responsible for the administration of the *Firearms Act* to the extent that those duties and responsibilities are delegated by the federal Minister of Public Safety and Emergency Preparedness.

In 2000, the Supreme Court of Canada examined questions concerning the constitutional validity of the licensing and registration provisions introduced by the *Firearms Act*. In its *Reference re Firearms Act (Can.)* decision upholding the *Firearms Act*, the Court found that the *Firearms Act* “is directed to enhancing public safety by controlling access to firearms through prohibitions and penalties.”<sup>9</sup> In short, the regime endeavours to deter and reduce the misuse of firearms.<sup>10</sup>

Since the enactment of the *Act to amend the Criminal Code and the Firearms Act (Ending the Long Gun Registry Act)*<sup>11</sup> in 2012, non-restricted firearms are no longer required to be registered in Canada. However, the registration of restricted and prohibited firearms is still compulsory.

In the Code, firearms are divided into three categories, non-restricted,<sup>12</sup> restricted<sup>13</sup> and prohibited.<sup>14</sup> A licence permitting the possession of the specific classification of firearm is required in order to possess it. Additionally, restricted and prohibited firearms must be registered and a registration certificate must be held in order to legally possess them.<sup>15</sup>

In 2015, Bill C-42, the Common Sense Firearms Licensing Act, received Royal Assent.<sup>16</sup> This bill, among other things, modified provisions relating to the classification of firearms and made a variety of changes to the firearms licencing regime.<sup>17</sup>

The last major changes to the regulation of firearms in Canada were part of Bill C-71, which received Royal Assent on 21 June 2019.<sup>18</sup> This Act made a variety of amendments to the *Firearms Act* and the Code in relation to firearms licences, the transfer of certain firearms and authorizations to transport firearms. It also limited the ability of the government to modify the classification of firearms through regulations.

## 1.2 REGULATIONS OF 1 MAY 2020

On 1 May 2020, the Government of Canada introduced regulations that classified certain firearms as prohibited that were previously classified as non-restricted or restricted.<sup>19</sup> Bill C-21 formally legislates these classifications and outlines restrictions related to these firearms, as well as exceptions that permit owners to keep these firearms under certain conditions.

## 2 DESCRIPTION AND ANALYSIS

Bill C-21 contains 62 clauses. The following description examines the more substantive provisions of the bill; however, it does not review every clause.

### 2.1 *CRIMINAL CODE* (CLAUSES 1 TO 14)

#### 2.1.1 Prohibited Devices (Clause 1)

In the Code, certain devices, including certain firearms and other weapons, are considered to be “prohibited devices.”<sup>20</sup> There are certain crimes that relate specifically to the possession, use, transfer, traffic, import and export of these “prohibited devices.” Clause 1 modifies certain provisions relating to these prohibited devices.

##### 2.1.1.1 Replica Firearms

Replica firearms are considered to be prohibited devices (section 84(1)). Clause 1(1) modifies the definition of “replica firearm” at section 84(1) of the Code to the following to be consistent with section 84(3) of the Code which deems certain weapons to not be firearms based on muzzle velocity and muzzle energy:

any device that is designed or intended to exactly resemble, or to resemble with near precision, a firearm *that is designed or adapted to discharge a shot, bullet or other projectile at a muzzle velocity exceeding 152.4 m per second and at a muzzle energy exceeding 5.7 Joules*, and that itself is not a firearm, but does not

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include any such device that is designed or intended to exactly resemble, or to resemble with near precision, an antique firearm; (*réplique*) [Emphasis in the original]

### 2.1.1.2 Realistic Airsoft Guns

Clause 1(2) adds section 84(3.2) to the Code to designate firearms with the following characteristics as “prohibited devices” for the purpose of certain weapons-related offences:

- the firearm is 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; and
- the firearm is designed or intended to exactly resemble, or to resemble with near precision, a firearm, other than an antique firearm, that is designed or adapted to discharge a shot, bullet or other projectile at a muzzle velocity exceeding 152.4 m per second and at a muzzle energy exceeding 5.7 Joules.

This provision has the effect of deeming airsoft guns<sup>21</sup> that resemble real firearms as prohibited devices for certain offences, notably:

- section 99 (weapons trafficking);
- section 100 (possession for purpose of weapons trafficking);
- section 101 (transfer without authority);
- section 103 (importing or exporting knowing it is unauthorized);
- section 104 (unauthorized importing or exporting);
- section 105 (losing or finding);
- section 106 (destroying);
- section 107 (false statements); and
- section 117.03 (seizure on failure to produce authorization).

This has the effect of ensuring that airsoft guns that look like real firearms are classified as prohibited devices for the purposes of the above offences, despite not being classified as firearms pursuant to section 84(3)(d).<sup>22</sup> According to these provisions, what classifies certain airsoft guns as prohibited devices is that they look like real firearms. An airsoft gun that does not look like a real firearm would still not be considered a firearm or a prohibited device for the purposes of the Code.



2.1.2 Offence: Altering Cartridge Magazine  
(Clauses 2, 3 and 13)

Clause 2 creates a new offence by adding section 104.1 to the Code. This prohibits altering a cartridge magazine from one that is not prohibited, to one that is. This would mean, for example, that the magazine cartridge was expanded to be able to hold more than 10 rounds for a handgun and more than five rounds for any other firearm.<sup>23</sup> This is a hybrid offence that, if the Crown proceeds by indictment, could be punishable by up to five years in prison.

Clauses 3 and 13 amend two other provisions of the Code to add the new offence to the list of offences:

- requiring a mandatory weapons prohibition order upon conviction (section 109(1)(b)); and
- for the purposes of the sections of the Code dealing with the interception of private communications (section 183(a)).

2.1.3 Emergency Prohibition Orders  
(Clauses 4 to 9)

Clause 4 adds section 110.1 to the Code. This provision allows anybody to make an *ex parte* (without the other party present) application for an Emergency Prohibition Order to a provincial court judge for an order that would prohibit another person from possessing any firearms or certain other types of weapons on the basis that the applicant “believes on reasonable grounds that it is not desirable in the interests of the safety of the person against whom the order is sought or of any other person that the person against whom the order is sought should possess any such thing.”

The provincial court judge can make such an order under section 110.1(2) of the Code. The order is temporary in nature and may not be for a period longer than 30 days.

This provision also permits a provincial court judge to issue a search and seizure warrant (section 110.1(4)). This warrant may be issued if there are reasonable grounds to believe that an individual who is subject to an Emergency Prohibition Order is in possession of any such weapons and that it is not in the interests of the safety of the person or any other person for the person to have them in their possession (section 110.1(4)). The warrant allows a peace officer to search for and seize any such weapons, as well as “every authorization, licence, or registration certificate” related to any of these items. The provision also allows a peace officer to conduct the same search and seizure without a warrant if the grounds for obtaining a warrant exist, but “by reason of a possible danger to the safety of the person or any other person, it would not be practicable to obtain a warrant” (section 110.1(5)).

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A peace officer who conducts such a search, either based on a warrant or without one, is required to immediately report to a provincial court judge (section 110.1(6)). This report must show the things and documents, if any, that were seized. If the search was conducted pursuant to a warrant, the report must also show the date the warrant was executed. If no warrant was issued, the return must show the grounds on which it was concluded that the search was justified.

Section 110.1(7) requires that all items and documents seized from an individual pursuant to an Emergency Prohibition Order must be returned as soon as feasible upon the expiry or revocation of the order or after the final disposition of an application for a Prohibition Order.

New section 110.2 allows a provincial court judge who issues an Emergency Prohibition Order to set a hearing date relating to an application for an ordinary Prohibition Order pursuant to section 111(2) of the Code. In this case, the application for an Emergency Prohibition Order is considered to be an application for a Prohibition Order (section 111(1)). A Prohibition Order is for a longer period than an Emergency Prohibition Order and can be for a period of up to five years (section 111(5)). If an individual other than a peace officer, firearms officer or chief firearms officer makes an application for an Emergency Prohibition Order, either the provincial Attorney General, or the federal Attorney General if in a territory, becomes the applicant pursuant to section 110.2(2)(b) for an associated application for a Prohibition Order.

Section 112 of the Code is modified to allow a provincial court judge to revoke both a Prohibition Order and an Emergency Prohibition Order on application by the individual who is the subject of such an order, if the provincial court judge is satisfied that the circumstances that justified the order no longer exist.

Pursuant to section 110.1(8), the following provisions of the Code apply to Emergency Prohibition Orders:

- section 113, which allows for the lifting of the order for the purposes of sustenance or employment;
- section 114, which requires the surrender of anything that is specified in the order, including relevant documents; and
- section 116, which automatically revokes or amends any authorization, licence or registration certificate related to any thing that is the object of the order based on the conditions of the order and for the duration of the order.

2.1.4 Emergency Limitations on Access Order  
(Clauses 10 and 11)

Clause 10 adds section 117.0101 to the Code, which allows any person to make an *ex parte* application to a provincial court judge for an Emergency Limitations on Access Order if they believe, on reasonable grounds, that an individual “cohabits with, or is an associate of” a person who is prohibited from possessing any firearm or other types of weapons or ammunition and “the other person would or might have access to any such thing that is in the possession of the person against whom the order is sought” (section 117.0101(1)). The provincial court judge may make an Emergency Limitations on Access Order if they are satisfied that such an order is required in order to ensure the immediate protection of any person (section 117.0101(2)). This order allows the provincial court judge to place any conditions or restrictions that are deemed necessary on the use and possession of firearms by an individual when it is deemed necessary in order to keep another individual who is close to that person from having access to them for the purposes of the safety of that person or of any other person. This could include, for example, restrictions being placed on a parent’s use and possession of their firearms in order to prevent them from being accessed by an adult child living in the same house who has made serious threats against another person.

The order cannot be for a period longer than 30 days, and the provincial court judge may impose any terms and conditions on the person’s use and possession of weapons that they consider appropriate (section 117.0101(2)). While this order is not renewable, new section 117.0102 gives a provincial court judge who issues an Emergency Limitations on Access Order the authority to fix a date for a hearing on a Limitations on Access Order, which is covered by section 117.011 of the Code.

Requirements relating to search and seizure with and without a warrant, as well as the requirement to surrender, the revocation of the order and the return of items are similar to those for Emergency Prohibition Orders (sections 117.0101(5) to 117.012). However, in the case of an Emergency Limitations on Access Order, a peace officer, a firearms officer or a chief firearms officer may return any thing that is subject to the order if they have reasonable grounds to believe that the person will comply with the terms and conditions of the order (section 117.0101(10)).

2.1.5 Public Officers  
(Clause 12)

Under section 117.07 of the Code, a variety of “public officers” are exempt from liability for certain weapons-related activities, done for the purpose of their duties or employment that would otherwise be offences under the Code or the *Firearms Act*. Clause 12 adds the following two categories to the list of individuals who are considered “public officers” pursuant to section 117.07(2) of the Code:

- a person employed by the Bank of Canada or the Royal Canadian Mint who is responsible for the security of its facilities; or
- a person employed by any federal agency or body, other than a person employed in the federal public administration, who is responsible for the security of that agency’s or body’s facilities and is prescribed to be a public officer by an Act or regulation.

2.1.6 Maximum Penalties  
(Clause 14)

Clause 14 changes the maximum term of imprisonment for various firearms offences from 10 to 14 years. The affected offences are:

- Section 95 (possession of prohibited or restricted firearm with ammunition);
- Section 96 (possession of weapon obtained by commission of offence);
- Section 99 (weapons trafficking);
- Section 100 (possession for purposes of weapons trafficking); and
- Section 103 (importing or exporting knowing it is unauthorized).

2.2 *FIREARMS ACT*  
(CLAUSES 15 TO 40)

2.2.1 Prohibited Firearms  
(Clauses 15 to 20)

Clause 15(2) repeals sections 12(8) and 12(9) of the *Firearms Act*. These provisions dealt with the “grandfathering” of individuals who own firearms which have been prohibited by regulations. These provisions have now been replaced by those found in new section 12.01. This section outlines the criteria for keeping, storing and transporting firearms that were classified as prohibited in two sets of circumstances:

1. by Order in Council on 1 May 2020 (section 12.01(1)); and<sup>24</sup>
2. by regulations, other than those from 1 May 2020, that have been and will be made pursuant to section 117.15 of the Code (section 112.01(2)).

In order to keep a firearm that was prescribed as prohibited by the regulations implemented by Order in Council on 1 May 2020 or by regulations made pursuant to section 117.15 of the Code, all of the following requirements must be met:

- the individual must have possessed or acquired the firearm by the prescribed date (sections 12.01(1)(a) and 12.01(2)(a));
- if the firearm was previously a restricted firearm, the individual must have, on that day, held a registration certificate for that firearm, or applied for a registration certificate that was subsequently issued (sections 12.01(1)(b) and 12.01(2)(b));
- prior to the prescribed date, the individual must have applied for a registration certificate for the firearm, which must have been later granted, and provided the required information relating to the storage of the firearms to the chief firearms officer (sections 12.01(1)(c) and 12.01(2)(c)); and
- beginning on the date that will be prescribed by regulations, the individual provides the relevant information related to the storage of the prohibited firearms to the chief firearms officer when applying to renew the licence, when applying for an authorization to transport the firearm for storage, and within 30 days after a specific change that is prescribed by the regulations is made with respect to the storage of the firearm (sections 12.01(1)(d) and 12.01(2)(d)).

Clause 17 modifies section 17 of the *Firearms Act* to specify that a prohibited or restricted firearm may be stored not only at the residence (dwelling-house) of the holder of the registration certificate in question, but also “at a business or any other place that is authorized by a chief firearms officer.” Previously, this provision stated that such a weapon could only be held at the residence of the individual who holds the registration certificate or “at a place authorized by a chief firearms officer.”

Clause 20 modifies section 23.2(1) of the *Firearms Act* to prohibit the transfer of the firearms that were prohibited by the regulations enacted pursuant to Order in Council on 1 May 2020. It is still possible to transfer other prohibited firearms if the conditions of section 23.2 of the *Firearms Act* are met.

#### 2.2.2 Importation of Ammunition (Clause 22)

Clause 22 adds section 37 to the *Firearms Act*. This provision places a variety of restrictions on the importation of ammunition:

- the ammunition must not be prohibited; and
- the individual importing the ammunition must have a valid licence and must produce the licence to a customs officer.

For non-residents who are over the age of 18 and do not hold a licence, a declaration completed in the prescribed manner and confirmed by a customs officer can be substituted for a licence for the purpose of importing ammunition (section 37(2)). A customs officer may choose to refuse to confirm this declaration if they believe that it is desirable, in the interests of safety, that it not be confirmed or if the non-resident does not truthfully complete the form (section 37(5)).

If these provisions are not complied with, the customs officer can authorize that the ammunition be exported from the customs office, which means allowing it to be returned to another country, or they may detain it and give the importing individual a reasonable time to comply with the requirements (section 37(3)). If the individual does not comply with the requirements within a reasonable time and the ammunition is not exported, a customs officer is required to lawfully dispose of it (section 37(4)).

### 2.2.3 Licences, Authorizations to Carry and Authorizations to Transport (Clauses 23 to 25, 27 and 31)

Clauses 23 to 25 give authority to the chief firearms officer for each province over requests relating to section 20(b) of the *Firearms Act*, which concerns the possession of restricted firearms or certain handguns for use in connection with a lawful profession or occupation. Section 54(2)(a) of the *Firearms Act* is modified to give the authority to a chief firearms officer to receive applications for a licence or registration certificate in relation to these firearms. Section 57 is modified to give a chief firearms officer the authority to issue authorizations to carry and authorizations to transport these firearms. Section 58(1) of the *Firearms Act* is modified to allow a chief firearms officer, when issuing a licence or authorizing the carrying or transport of these firearms, to attach any conditions considered desirable “in the interests of the safety of the holder or any other person.” However, this power will be subject to applicable regulations (new section 58(1.1)).

Clauses 23 to 25 and 31 also modify the powers of the Commissioner of Firearms, who is given authority in relation to section 20(a) of the *Firearms Act*, which allows individuals to obtain an authorization to carry, which allows an individual to possess a specific restricted firearm or handgun in a place other than where its possession is authorized, for the purpose of protecting the life of the individual or of other people. Section 54(2)(a.1) is added, requiring that applications for these authorizations to carry be made to the Commissioner of Firearms, and section 57.1 is added to give the Commissioner of Firearms the authority to issue such authorizations to carry. In making the decision of whether or not to issue such an authorization to carry, the Commissioner of Firearms, subject to applicable regulations, has the power to attach any conditions considered desirable “in the interests of the safety of the holder or any other person” (section 58(1.2)). Clause 27 adds section 67(1.1) to the *Firearms Act*

and clause 31 modifies section 70(1) of the *Firearms Act*. These provisions respectively grant the Commissioner of Firearms the authority to renew and revoke such an authorization to carry.

#### 2.2.4 Municipal Handgun By-laws (Clauses 26 and 27)

This section of Bill C-21 outlines measures which impose the conditions of municipal by-laws adopted in relation to the regulation of handguns to firearms licences. The decision to adopt by-laws relating to the regulation of handguns belongs to individual municipalities, which are subject to provincial legislation. Clause 26 adds section 58.01 to the *Firearms Act*. This provision outlines measures to support handgun bans enacted by individual municipalities. Depending on the specific restrictions imposed by a municipal by-law, section 58.01(1) attaches the following conditions to a licence that allows an individual to possess a handgun:

- the individual must not store a handgun within the boundaries of the municipality, other than at a business that is licenced to store prohibited or restricted firearms;
- the individual must not store a handgun within the municipality or transport one to or from a place within the municipality unless it is to or from a place where a peace officer, firearms officer or chief firearms officer is located, to a port of exit in order to take it outside of Canada or from a port of entry in order to bring it into Canada; and
- the individual must comply with any prescribed requirements relating to the storage of the handgun within the municipality.

In order for the preceding conditions to apply to a licence, the following conditions must be met:

- the municipality has chosen to adopt a by-law regulating handguns which includes the preceding conditions and this by-law is in force;
- the municipality has notified the federal Minister of Public Safety and Emergency Preparedness, in the prescribed manner, of the passing of the by-law; and
- the municipality has provided the federal Minister of Public Safety and Emergency Preparedness, or an individual designated by that minister, with the required information, in the prescribed manner.

Pursuant to section 58.01(7) the above conditions do not apply to a handgun:

- that has been properly declared by an individual who holds a licence authorizing the possession of the handgun for the purpose of training for a certain sporting competition;
- for which an individual has an authorization to carry; or
- in specific circumstances or for a specific purpose as prescribed by legislation or regulations.

The new provisions also outline various rules for notice (sections 58.01(2) to 58.01(6)). Consequential amendments were made to other provisions of the *Firearms Act* to account for this new regime:

- section 19 (authorization to transport restricted and prohibited firearms); and
- section 71(3) (automatic revocation of registration certificate).

#### 2.2.5 Suspension (Clauses 30 and 31)

Clause 30 adds sections 69.1 and 69.2 to the *Firearms Act*. Section 69.1 provides a new power to a chief firearms officer to suspend, in respect to an individual's licence, the holder's authorization to use, acquire and import firearms for up to 30 days if there are reasonable grounds to suspect that the individual is no longer eligible to hold the licence (section 69.1(1)). The chief firearms officer is required to provide written notice of the suspension to the holder, including reasons for the decision, the nature of the information forming the basis of the decision, the period of the suspension and copies of relevant provisions of the *Firearms Act* (section 69.1(2)). However, the chief firearms officer is not required to disclose any information that may endanger the safety of any individual (section 69.1(3)). The chief firearms officer must terminate the suspension at the end of the period of the suspension, or earlier if satisfied that the grounds for the suspension no longer exist (section 69.1(4)).

Section 69.2 prohibits an individual from using, acquiring or importing firearms while their authorizations to do so are suspended. Clause 31 amends section 70(1) to add the non-respect of this prohibition to the list of reasons for which an authorization may be revoked.



2.2.6 Reference  
(Clause 33)

Clause 33 modifies the procedures for the referral by an individual, to a provincial court judge, of the decision to refuse or revoke a licence or registration certificate (section 74). If a decision is made to refuse or revoke a licence or registration certificate, the owner of the firearm(s) has a reasonable period, as specified in the notice given, to bring the firearm(s) to a peace officer, firearms officer or a chief firearms officer, or to otherwise lawfully dispose of the firearm or other weapons or ammunition (sections 72(4) and 72(5)). Previously, if a reference was made to a provincial court judge, this reasonable period did not begin until the final decision on the matter (previous section 72(6)). Section 72(6) is modified to require an individual who makes such a reference to deliver to a peace officer, or otherwise lawfully dispose of, any firearm that they possess within 30 days of referring the matter. This means that an individual may be required to deliver to a peace officer or otherwise lawfully dispose of any such firearm prior to a decision on the reference being made by the provincial court judge. During this 30-day period, sections 91, 92 and 94 of the Code, which deal with the unlawful possession of firearms or other weapons, do not apply to the individual.

New section 72(7) stipulates that if the initial decision to refuse or revoke a licence or authorization is upheld, any firearm delivered to a peace officer is to be returned to the individual to be lawfully disposed of. Section 72(8) allows the judge to impose any conditions on this return deemed necessary in order to protect the safety of the individual or any other person. After receiving the firearms, the individual must lawfully dispose of them within 30 days pursuant to section 72(10).

2.2.7 Disclosure of Information  
(Clause 35)

Clause 35 adds section 88.1 to the *Firearms Act*. This provision allows the Commissioner of Firearms, the Registrar of Firearms or a chief firearms officer to disclose information to a law enforcement agency for the purpose of investigation and/or prosecution if they have reasonable grounds to suspect that an individual is using or has used a licence to transfer or offer to transfer a firearm in order to commit an offence in relation to section 99(1) or 100(1) of the Code (weapons trafficking and possession for the purpose of weapons trafficking respectively) (section 88.1(1)). The information that may be disclosed provides identifying information related to the individual and any restricted or prohibited firearms that they may own. Section 88.1(2) specifies that this new provision does not take away from the powers conferred on the Commissioner of Firearms, the Registrar of Firearms or a chief firearms officer by any Acts of Parliament or a provincial legislature or by the common law to disclose information to a law enforcement agency.

2.2.8 Report to the Minister  
(Clause 36)

Pursuant to section 93 of the *Firearms Act*, the Commissioner of Firearms is required, on a yearly basis and at other times when the minister may request it, to submit a report to the Minister of Public Safety and Emergency Preparedness with regard to the administration of the *Firearms Act*. Clause 36 modifies the annual deadline to submit this report to 31 May (section 93(1)). Previously, this was to be done “as soon as possible after the end of each calendar year.”

Additionally, section 93(1.1) is added, which requires the inclusion of information relating to the disclosure of information to law enforcement agencies for the purposes of investigation and/or prosecution pursuant to new section 88.1 discussed above.

2.2.9 Advertising  
(Clause 37)

Clause 37 adds a new offence at section 112 of the *Firearms Act*. It is now an offence to advertise a firearm “in a manner that depicts, counsels or promotes violence against a person” (section 112(1)). This offence applies to a business, as well as:

- an owner or a partner of the business;
- in the case of a corporation, a director or officer of the corporation; and
- an individual who has a relationship with one of the above people who “has a direct influence on the operations of the business.”

This is a hybrid offence. If prosecuted as an indictable offence, the punishment is a maximum of two years in prison for a first offence or five years for a second or subsequent offence (section 112(2)). It should be noted that pursuant to section 735 of the Code, an organization, such as a business or a corporation, that is convicted of an offence is liable to a fine in lieu of a term of imprisonment. This includes offences under the *Firearms Act*.<sup>25</sup>

2.2.10 Regulations  
(Clause 38)

Section 117 of the *Firearms Act* authorizes Cabinet to make regulations in relation to a variety of areas covered by the *Firearms Act*. Clause 38 adds areas in which Cabinet may make regulations, including:

- the storage of handguns as well as related restrictions and licences (section 117(i.1)); and
- the disposal of ammunition referred to in section 37(4) (section 117(k.4)).

2.3 *NUCLEAR SAFETY AND CONTROL ACT*  
(CLAUSES 41 TO 43)

2.3.1 High Security Sites and Nuclear Security Officers  
(Clauses 41 to 42)

Clause 41 adds a variety of definitions to section 2 of the NSCA including “high-security site,” which is a nuclear facility that processes, uses or stores certain categories of nuclear material.

Clause 42 adds sections 27.1 and 27.2 to the NSCA. Section 27.1 outlines the responsibility of a licensee who operates a high security site to ensure the security of the facility (section 27.1(1)). It also allows for the licensee to designate employees as nuclear security officers who are responsible for “the preservation and maintenance of the public peace at the high-security site” as long as they are designated as a peace officer (sections 27.1(2) to 27.1(4)).

Section 27.2 requires a high-security site to have an on-site nuclear response force at all times. Pursuant to section 27.2(1), the force must be composed of nuclear security officers who are:

- designated as peace officers;
- trained to handle and use firearms, prohibited weapons and prohibited devices and qualified to handle and use them;
- posted to the high-security site on a permanent basis; and
- armed and equipped in accordance with applicable regulations.

Licensees are exempt from the requirement to have an on-site nuclear response force if they make security arrangements with a police force or the Canadian Forces and this arrangement meets the requirements and is approved by the Canadian Nuclear Safety Commission (CNSC), or if they take other security measures that meet the requirements and are approved by the CNSC (section 27.2(3)).

New section 27.3 allows the CNSC to designate a nuclear security officer as a peace officer for a high-security site, and to suspend or revoke that designation (section 27.3(1)). This designation makes the nuclear security officer a peace officer as defined in section 2 of the Code while performing their duties (section 27.3(2)). Pursuant to section 27.3(3), a nuclear security officer designated as a peace officer may exercise the following powers, but only at the high-security site for which they are designated:

- verifying the identity of individuals at the site;

- searching people and things;
- arresting individuals, without a warrant, in accordance with the Code if the officer finds an individual committing an offence under the NSCA, the Code or the *Controlled Drugs and Substances Act* that poses a risk to the safety and security of the site or if the officer has reasonable grounds to believe that an individual has committed or is about to commit such an offence at the site; and
- seizing any thing that the officer has reasonable grounds to believe “poses a risk to the safety or security of the site” or is related to an offence that the officer has reasonable grounds to believe has been, is being or is about to be committed.

A nuclear security officer who is designated as a peace officer is permitted to use force in conformity with sections 25(1), 25(3) and 25(4) of the Code when they are exercising their duties at the high-security site for which they are designated (section 27.3(4)).

Individuals arrested and things seized by a nuclear security officer who is designated as a peace officer must be transferred to the appropriate police service as soon as is feasible after the arrest or seizure (section 27.3(5)).

The CNSC is required to ensure that there is a process for handling complaints regarding the conduct of nuclear security officers acting in their capacity as peace officers (section 27.3(6)).

Section 27.4 allows the CNSC to grant an authorization to a licensee who operates a high-security site to allow for the acquisition, possession, transfer and disposal of firearms, prohibited weapons and prohibited devices for the purposes of ensuring the security of the site (section 27.4(1)). The authorization only permits such weapons to be transferred to a public service agency or to another licensee who has been granted an authorization pursuant to this provision (section 27.4(2)). This section also outlines reporting requirements to the Registrar of Firearms and to the CNSC by licensees who are granted an authorization (sections 27.4(4) and 27.4(5)).

### 2.3.2 Regulations (Clause 43)

Section 44 of the NSCA allows the CNSC to make regulations, with the approval of Cabinet, in a variety of areas. Clause 43 adds areas in which regulations can be made in this manner including:

- the designation, or the suspension and revocation of the designation, of nuclear security officers (section 44(1)(m.1));
- the powers, duties and functions of nuclear security officers (section 44(1)(m.2));

- the carrying, handling, use, storage and transportation of firearms, prohibited weapons and prohibited devices by nuclear security officers, including those who are members of an on-site nuclear response force and those who are not, in the exercise of their powers or the performance of their duties, including the equipment that is to be provided to them (sections 44(1)(m.3) and 44(1)(m.4));
- the designation, or the suspension or revocation of the designation, of nuclear security officers as peace officers (section 44(1)(m.5));
- the handling of complaints relating to the conduct of nuclear security officers in the exercise of their powers or the performance of their duties and functions as peace officers (section 44(1)(m.6));
- the management of authorizations granted to licensees who operate high-security facilities to allow for the acquisition, possession, transfer and disposal of firearms, prohibited weapons and prohibited devices, including the powers, duties and functions of the Registrar of Firearms in relation to these authorizations and the obligation of licensees to report to the CNSC (sections 44(1)(m.7) to 44(1)(m.9)).

2.4 *IMMIGRATION AND REFUGEE PROTECTION ACT*  
(CLAUSES 44 TO 55)

2.4.1 Transborder Criminality  
(Clauses 44 and 45, and 47 to 49)

Clause 44 amends section 4(2)(c) of the IRPA to add transborder criminality to the list of grounds of inadmissibility for which the Minister of Public Safety and Emergency Preparedness is responsible for establishing enforcement and inadmissibility policies. The Minister of Public Safety and Emergency Preparedness, as opposed to the Minister of Immigration, Refugees and Citizenship who is responsible for the majority of the IRPA, is responsible, among other things, for the establishment of policies relating to inadmissibility to Canada on the grounds of security, organized criminality, violating human or international rights or, now, transborder criminality (section 4(2)(c)).

Clause 45 removes committing an offence on entry as a reason for inadmissibility on the grounds of criminality at section 36(2)(d) and adds section 36(2.1), which makes a foreign national inadmissible on the ground of transborder criminality for committing certain offences, upon entering Canada, that are specified through regulations.

Numerous other provisions of the IRPA are also modified to account for the inclusion of transborder criminality as a ground for inadmissibility including:

- section 55(3)(b) (reasons for detention on entry);

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- section 58(1)(c) (release by the Immigration Division of the Immigration and Refugee Board); and
- section 68(4) (cancellation of a stay of removal order).

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### NOTES

1. [Bill C-21, An Act to amend certain Acts and to make certain consequential amendments \(firearms\)](#), 43<sup>rd</sup> Parliament, 2<sup>nd</sup> Session.
2. [Criminal Code](#), R.S.C. 1985, c. C-46 (*Criminal Code*).
3. [Firearms Act](#), S.C. 1995, c. 39 (*Firearms Act*).
4. [Nuclear Safety and Control Act](#), S.C. 1997, c. 9 (*Nuclear Safety and Control Act*).
5. [Immigration and Refugee Protection Act](#), S.C. 2001, c. 27 (*Immigration and Refugee Protection Act*).
6. [An Act to amend certain Acts and Regulations in relation to firearms](#), S.C. 2019, c. 9.
7. [Immigration and Refugee Protection Regulations](#), SOR/2002-227.
8. A substantial portion of this section of the Legislative Summary is taken from: Tanya Dupuis, Chloé Forget and Maxime-Olivier Thibodeau, “[2.1.1 Canadian Firearms Framework](#),” *Legislative Summary of Bill C-71: An Act to amend certain Acts and Regulations in relation to firearms*, Publication no. 42-1-C71-E, Library of Parliament, 11 December 2018.
9. [Reference re Firearms Act \(Can.\)](#), 2000 SCC 31, para. 4.
10. *Ibid.*, para. 24.
11. [Bill C-19, An Act to amend the Criminal Code and the Firearms Act](#), 41<sup>st</sup> Parliament, 1<sup>st</sup> Session (S.C. 2012, c. 6).
12. *Criminal Code*, ss. 84(1).
  - non-restricted firearm means
    - (a) a firearm that is neither a prohibited firearm nor a restricted firearm, or
    - (b) a firearm that is prescribed to be a non-restricted firearm; (*arme à feu sans restriction*).
13. *Ibid.*
  - restricted firearm means
    - (a) a handgun that is not a prohibited firearm,
    - (b) a firearm that
      - (i) is not a prohibited firearm,
      - (ii) has a barrel less than 470 mm in length, and
      - (iii) is capable of discharging centre-fire ammunition in a semi-automatic manner,
    - (c) a firearm that is designed or adapted to be fired when reduced to a length of less than 660 mm by folding, telescoping or otherwise, or
    - (d) a firearm of any other kind that is prescribed to be a restricted firearm; (*arme à feu à autorisation restreinte*)
14. *Ibid.*
  - prohibited firearm means
    - (a) a handgun that
      - (i) has a barrel equal to or less than 105 mm in length, or

- (ii) is designed or adapted to discharge a 25 or 32 calibre cartridge,  
but does not include any such handgun that is prescribed, where the handgun is for use in international sporting competitions governed by the rules of the International Shooting Union,
  - (b) a firearm that is adapted from a rifle or shotgun, whether by sawing, cutting or any other alteration, and that, as so adapted,
    - (i) is less than 660 mm in length, or
    - (ii) is 660 mm or greater in length and has a barrel less than 457 mm in length,
  - (c) an automatic firearm, whether or not it has been altered to discharge only one projectile with one pressure of the trigger, or
  - (d) any firearm that is prescribed to be a prohibited firearm; (*arme à feu prohibée*).
15. *Criminal Code*, s. 91.
16. [Bill C-42, An Act to amend the Firearms Act and the Criminal Code and to make a related amendment and a consequential amendment to other Acts](#), 41<sup>st</sup> Parliament, 2<sup>nd</sup> Session (S.C. 2015, c. 27).
17. See Tanya Dupuis and Christine Morris, [Legislative Summary of Bill C-42: An Act to amend the Firearms Act and the Criminal Code and to make a related amendment and a consequential amendment to other Acts](#), Publication no. 41-2-C42-E, Library of Parliament, 15 April 2015.
18. [Bill C-71, An Act to amend certain Acts and Regulations in relation to firearms](#), 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session (S.C. 2019, c. 9); see Tanya Dupuis, Chloé Forget and Maxime-Olivier Thibodeau, [Legislative Summary of Bill C-71: An Act to amend certain Acts and Regulations in relation to firearms](#), Publication no. 42-1-C71-E, Library of Parliament, 11 December 2018.
19. [Criminal Code: Regulations Amending the Regulations Prescribing Certain Firearms and Other Weapons, Components and Parts of Weapons, Accessories, Cartridge Magazines, Ammunition and Projectiles as Prohibited, Restricted or Non-Restricted](#), SOR/2020-96, 1 May 2020, in *Canada Gazette*, Part II, 1 May 2020.
20. *Criminal Code*, s. 84(1): prohibited device means
  - (a) any component or part of a weapon, or any accessory for use with a weapon, that is prescribed to be a prohibited device,
  - (b) a handgun barrel that is equal to or less than 105 mm in length, but does not include any such handgun barrel that is prescribed, where the handgun barrel is for use in international sporting competitions governed by the rules of the International Shooting Union,
  - (c) a device or contrivance designed or intended to muffle or stop the sound or report of a firearm,
  - (d) a cartridge magazine that is prescribed to be a prohibited device, or
  - (e) a replica firearm; (dispositif prohibé).
21. Royal Canadian Mounted Police, "[Air guns](#)," *Specific types of firearms*: Airsoft guns are a common name for a type of replica firearm that is part of a category of air guns that are "devices that have a low muzzle velocity and muzzle energy, and that usually discharge projectiles made out of a substance such as plastic or wax rather than metal." They are "not powerful enough to cause serious injury or death, but designed to resemble a real firearm with near precision."
22. See *Criminal Code*, s. 84(3)(d):
  - (3) For the purposes of sections 91 to 95, 99 to 101, 103 to 107 and 117.03 of this Act and the provisions of the *Firearms Act*, the following weapons are deemed not to be firearms:
    - (...)
    - (d) any other barrelled weapon, where it is proved that the weapon 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 at a muzzle energy exceeding 5.7 Joules, or

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(ii) a shot, bullet or other projectile that is designed or adapted to attain a velocity exceeding 152.4 m per second or an energy exceeding 5.7 Joules.

23. [Regulations Prescribing Certain Firearms and Other Weapons, Components and Parts of Weapons, Accessories, Cartridge Magazines, Ammunition and Projectiles as Prohibited or Restricted](#), SOR/98-462, Part 4, s. 3.
24. [Criminal Code: Regulations Amending the Regulations Prescribing Certain Firearms and Other Weapons, Components and Parts of Weapons, Accessories, Cartridge Magazines, Ammunition and Projectiles as Prohibited, Restricted or Non-Restricted](#), SOR/2020-96, 1 May 2020, in *Canada Gazette*, Part II, 1 May 2020.
25. [Interpretation Act](#), R.S.C. 1985, c. I-21, s. 34(2).