



Legislative Summary

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

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Legislative Summary of Bill C-21
(Legislative Summary)

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

1 BACKGROUND

On 30 May 2022, on behalf of the Honourable Marco Mendicino, Minister of Public Safety, the Honourable Kamal Khara, Minister of Seniors, introduced Bill C-21, An Act to amend certain Acts and to make certain consequential amendments (firearms), in the House of Commons.¹ The bill was amended significantly at the committee stage² before passing third reading in the House of Commons, and first reading at the Senate on 18 May 2023. The Senate concluded its second reading of Bill C-21 on 21 June 2023.

Bill C-21 was previously introduced in the House of Commons during the second session of the 43rd Parliament on 16 January 2021 and read for the first time the same day. The bill did not progress beyond first reading and died on the *Order Paper* when a federal election was called on 15 August 2021.³

Bill C-21 amends the *Criminal Code* (the Code), the *Firearms Act*, the *Nuclear Safety and Control Act* and the *Immigration and Refugee Protection Act*.⁴

1.1 CANADIAN FIREARMS FRAMEWORK⁵

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 classes of firearms and contains firearms offences related to unlawful use, possession and trafficking of firearms, among others.

In the Code, firearms are divided into three classes:⁶

- *non-restricted* – any firearm that is not classified as restricted or prohibited under the Code, including most common long guns that have not been modified;
- *restricted* – includes handguns that are not prohibited firearms and certain semi-automatic firearms, as well as those firearms prescribed as restricted by regulation; and
- *prohibited* – certain handguns, modified long guns and fully automatic firearms, as well as those firearms prescribed as prohibited by regulation.

The Canadian Firearms Program (CFP) was created in 1996 to oversee the administration of the *Firearms Act* and its accompanying regulations, including licensing and registering firearms and overseeing national firearms safety training standards. The CFP, which is administered by the Royal Canadian Mounted Police, also provides operational support to law enforcement agencies in Canada through its database, the Canadian Firearms Information System. The database contains the names of firearms licence holders (those individuals allowed to possess and acquire certain classes of firearms) and of those who possess registration certificates (which are required for restricted and prohibited firearms).

The *Firearms Act* and the Code refer to a variety of officials who are tasked with implementing and monitoring Canada's firearms framework:

- *Chief firearms officer (CFO)* – A CFO is appointed by the federal or provincial government and is in charge of the CFP in a specific province or territory.
- *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 Minister of Public Safety and Emergency Preparedness⁷. If there is a matter where no firearms officer has been appointed, one may be appointed for the matter by the Minister of Public Safety and Emergency Preparedness. A firearms officer appointed in those circumstances is able to accomplish any of the duties and functions of the CFO if the firearms officer has been designated in writing (section 99 of the *Firearms Act*). The title “firearms officer” can be given to many officers who fall under the authority of the CFO 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 establishing and maintaining the Canadian Firearms Registry.
- *Commissioner of Firearms* – The Commissioner of Firearms is appointed by the Governor in Council 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 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.”⁸ In short, the regime endeavours to deter and reduce the misuse of firearms.⁹

Since the enactment of Bill C-19, An Act to amend the Criminal Code and the Firearms Act (short title: Ending the Long-gun Registry Act),¹⁰ in 2012, non-restricted firearms are no longer required to be registered in Canada.

A licence permitting the possession of the specific class 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.¹¹

In 2015, 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, received Royal Assent.¹² This bill, among other things, modified provisions relating to the classification of firearms and made a variety of changes to the firearms licensing regime.

The most recent major changes to Canada's firearms regime were part of Bill C-71, An Act to Amend certain Acts and Regulations in relation to firearms, which received Royal Assent on 21 June 2019.¹³ 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

On 1 May 2020, the Government of Canada introduced new regulations by order in council that classify certain firearms as prohibited that were previously classified as non-restricted or restricted.¹⁴

On 2 May 2022, the federal government introduced regulations by order in council to strengthen the licence verification process for transferring non-restricted firearms and businesses' record-keeping practices for these firearms.¹⁵

On 30 May 2022, the government tabled draft regulations in the House of Commons to limit the transfer and transport of handguns while Bill C-21 awaits passage in Parliament. The draft regulations amend section 5 of the *Conditions of Transferring Firearms and Other Weapons Regulations*¹⁶ so that a CFO cannot authorize the transfer of a handgun unless the individual needs it for the following purposes:

- (a) to protect the life of that individual or of other individuals;
- (b) for use in connection with his or her lawful profession or occupation; or
- (c) to train, compete or coach in a handgun shooting discipline that is on the programme of the International Olympic Committee or the International Paralympic Committee, and the individual provides a

letter to a chief firearms officer from a provincial or national sport shooting governing body indicating

- (i) that the individual trains, competes or coaches in such a discipline,
- (ii) the specific discipline in which the individual trains, competes or coaches, and
- (iii) that the handgun that the individual seeks to acquire is necessary for training, competing or coaching in that specific discipline.¹⁷

In addition, the draft regulations amend the *Authorizations to Transport Restricted Firearms and Prohibited Firearms Regulations*¹⁸ to provide that a CFO may issue to an individual an authorization to transport a handgun from a port of entry only in specific situations, for example, when the individual holds a registration certificate for the handgun on the basis of an application that, before the regulations come into force, was made in accordance with section 54 of the *Firearms Act*. The regulations came into force on 21 October 2022.¹⁹

On 19 August 2022, Global Affairs Canada introduced new temporary measures prohibiting, with some exceptions, the importation of restricted handguns.²⁰ This restriction will apply until Bill C-21 comes into force.

2 DESCRIPTION AND ANALYSIS

Bill C-21 contains 73 clauses. The following section of this legislative summary examines the more substantive provisions of the bill; however, it does not review every clause.

2.1 CRIMINAL CODE (CLAUSES 1 TO 14.2)

2.1.1 Prohibited Firearms (Clauses 1(1), 1(2), 1(6) and 14.2)

In the Code, certain firearms are prohibited. Clauses 1(1) and 1(2) of the bill add new meanings to the definition of “prohibited firearm” as set out in section 84(1) of the Code. Pursuant to clause 1(1), “prohibited firearm” now also includes “any unlawfully manufactured firearm regardless of the means or method of manufacture,” which is intended to address so-called ghost guns.²¹

Clause 1(2) adds the following wording to the definition of “prohibited firearm” to restrict what is sometimes described as an “assault-style firearm.” Such a firearm is defined as

a firearm that is not a handgun and that

- (i) discharges centre-fire ammunition in a semi-automatic manner,
- (ii) was originally designed with a detachable cartridge magazine with a capacity of six cartridges or more, and
- (iii) is designed and manufactured on or after the day on which this paragraph comes into force.

This definition of “prohibited firearm” is forward-looking and only applies to firearms created with a new design after the coming in force of the amended definition. In other words, if a firearm is manufactured following the coming into force of the new definition, but is of a pre-existing design, that firearm will not be prohibited, even if it meets the other criteria for prohibition contained in the definition.

Clause 14.2 of Bill C-21 provides that five years after the coming in force of the new definition of “prohibited firearm” in clause 1(2), a committee of the House of Commons must undertake a comprehensive review of the definition and submit a report to the House of Commons with a statement of any changes the committee recommends to the new definition of “prohibited firearm.”

Clause 1(6) also defines the term “semi-automatic,” introduced in clause 1(2), to mean “that the firearm that is equipped with a mechanism that, following the discharge of a cartridge, automatically operates to complete any part of the reloading cycle necessary to prepare for the discharge of the next cartridge.”

2.1.2 Replica Firearms (Clause 1(4))

Replica firearms are considered to be prohibited devices in the Code.²² Bill C-21 modifies the definition of “replica firearm” contained in section 84(1) of the Code to add language concerning muzzle velocity and muzzle energy to make this provision consistent with section 84(3) of the Code, which deems certain weapons not to be firearms. Clause 1(4) of the bill thus clarifies that replica firearms with the following characteristics are prohibited devices:

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 include any such device that is designed or intended to exactly resemble, or to resemble with near precision, an antique firearm [AUTHORS' EMPHASIS].

2.1.3 Firearm Parts
(Clause 1(5))

Bill C-21 makes important additions to the Code relating to ghost guns. Clause 1(5) introduces a definition of “firearm part” to section 84(1) of the Code. A firearm part is defined as

a barrel for a firearm, a slide for a handgun and any other prescribed part, but does not include, unless otherwise prescribed, a barrel for a firearm or a slide for a handgun if that barrel or slide is designed 10 exclusively for use on a firearm that is deemed under subsection 84(3) not to be a firearm.

Numerous other provisions in the bill add the term “firearm part” to the relevant provisions of the Code, specifically with respect to prohibition orders, offences, and exemptions.

2.1.4 Offence: Possessing or Distributing Computer Data
(Clause 1.4)

Clause 1.4 of Bill C-21 adds section 102.1 to the Code, which criminalizes the possession and accessing of computer data that would allow the illegal manufacturing of ghost guns (with 3-D printers, for example), or the distribution or publishing of data to manufacture ghost guns.

2.1.5 Offence: Altering Cartridge Magazine
(Clauses 2 and 3)

Clause 2 of Bill C-21 creates a new offence by adding section 104.1 to the Code. This new provision prohibits altering a cartridge magazine from one that is not prohibited to one that is. This would mean, for example, that the cartridge magazine had been expanded to be able to hold more than 10 rounds for a handgun and more than five rounds for certain firearms such as semi-automatic centre-fire weapons.²³ This is a hybrid offence (punishable by summary conviction or on indictment) that, if the Crown proceeds by indictment, could be punishable by up to five years in prison.

Section 109(1) of the Code provides that, when an offender is convicted of certain firearms offences,²⁴ the court must – in addition to any other punishment it imposes on the offender – make an order prohibiting the offender from possessing any firearm, cross-bow, prohibited weapon, restricted weapon, prohibited device, ammunition, prohibited ammunition or explosive substance for a specified period. Clause 3 amends section 109(1)(b) of the Code to add the new offences established in

sections 102.1 and 104.1 of the Code of altering a cartridge magazine to the list of offences for which the court must make this order.

2.1.6 Interception of Private Communications
(Clause 13)

Part VI of the Code is entitled “Invasion of Privacy” and contains provisions on the interception of private communications.

Clause 13 adds the following three offences to the definition of “offence” that applies in this part of the Code:

- possession of firearm knowing its possession is unauthorized (section 92 of the Code);
- possession of prohibited or restricted firearm with ammunition (section 95 of the Code);
- possession of computer data (new section 102.1 of the Code); and
- altering cartridge magazine (new section 104.1 of the Code).

2.1.7 Emergency Prohibition Orders
(Clauses 4 and 6)

Clause 4 of Bill C-21 adds section 110.1 to the Code, which creates a new regime for emergency prohibition orders. This new regime is also called the “red flag” law in the government’s strategy to address gun violence.²⁵ Under new section 110.1(1), any person may make an *ex parte* (without the other party present) application for an emergency prohibition order to a provincial court judge that would prohibit another person from possessing any firearm or certain other types of weapons, ammunition or explosive substances 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 application may be heard in private if the judge considers it necessary “to protect the security of the applicant or of anyone known to the applicant” (new section 110.1(2)).

The provincial court judge can make such an order under new section 110.1(3) of the Code to ensure the immediate protection of any person. The order may not be for a period longer than 30 days.

New section 110.1(5) also permits a provincial court judge to issue a search and seizure warrant. 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 thing prohibited by the order and that it is not in the interests of the safety of the person or any other person for the person to have the thing in their possession. The warrant allows a peace officer to search for and seize any such thing, as well as “every authorization, licence, or registration certificate” related to any such item. New section 110.1(6) 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.” A peace officer who conducts such a search, either based on a warrant or without one, is required to immediately report it to a provincial court judge (new section 110.1(7)). 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 the search was concluded that the search was justified.

New section 110.1(8) of the Code requires that all things 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 an emergency prohibition order.

Pursuant to new section 110.1(9), 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 any thing that is specified as prohibited 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.

Clause 4 of the bill also adds sections 110.2 and 110.3 to the Code to protect the security and identity of the applicant seeking an emergency prohibition order or of anyone known to the applicant, if necessary. New section 110.2 enables a provincial court judge to issue an order denying access to information relating to the emergency prohibition order, including information about a warrant or a search and seizure. Under new section 110.3, the judge may also set terms and conditions for emergency prohibition orders and access to information orders. For example, the judge may decide to delete information that could identify the applicant or anyone known to the applicant or partially disclose a document, if necessary. As the government strategy document states, the judge may “remove any information that could identify the applicant for any period of time that the judge deems necessary, including on a permanent basis.”²⁶

Under new sections 110.2(5) and 110.3(4), an application to revoke or vary an order denying access to information or deleting identifying information may be made to a provincial court judge.

Clause 4 adds section 110.4 to the Code to allow a provincial court judge who issues an emergency prohibition order to set a hearing date relating to an application for a prohibition order pursuant to section 111(1) of the Code. In this case, the application for an emergency prohibition order is considered to be an application for a prohibition order (new section 110.4(2)(a)). A prohibition order under section 111(1) of the Code may be set for a longer period than an emergency prohibition order. Indeed, under section 111(5), it may last up to five years, as opposed to the maximum duration of 30 days of an emergency prohibition order. If an individual other than a peace officer, firearms officer or CFO makes an application for an emergency prohibition order, the provincial attorney general, or the federal attorney general if in a territory, becomes the applicant, pursuant to new section 110.4(2)(b) of the Code, for an associated application for a prohibition order under section 111(1).

Clause 6 amends section 112 of the Code to allow a provincial court judge to revoke either an emergency prohibition order or a 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.

2.1.8 Emergency Limitations on Access Orders
(Clauses 10 and 11)

Clause 10 of Bill C-21 adds section 117.0101(1) to the Code to allow 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 certain other types of weapons, ammunition or explosive substances 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.” As with emergency prohibition orders, an application for an emergency limitations on access order may be heard in private if the judge considers it necessary “to protect the security of the applicant or of anyone known to the applicant” (new section 117.0101(2)). The provincial court judge may make an emergency limitations on access order if they are satisfied that such an order is required to ensure the immediate protection of any person (new section 117.0101(3)). This order allows the provincial court judge to place any conditions or restrictions on the use and possession of firearms, ammunition or explosive substances, among other things, 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. 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 (applications for limitations on access orders made by a peace officer, firearms officer or CFO). Unlike emergency prohibition orders, limitations on access orders under section 117.011 may last more than 30 days. However, the terms and conditions imposed by the judge must be "the least intrusive as possible" in accordance with new section 117.0101(5).

Requirements relating to search and seizure with and without a warrant (new sections 117.0101(6) to 117.0101(7) of the Code) and the requirement to surrender the things subject to the order (new section 117.0101(9)) are similar to those for emergency prohibition orders. However, new section 117.0101(10) imposes a condition on provincial court judges in that they may only issue a warrant to search and seize, or to surrender to a peace officer, "if they are satisfied that there is no other way to ensure that the terms and conditions" of the emergency limitations on access order can reasonably be complied with. New section 117.0101(11) provides that, in the case of an emergency limitations on access order, a peace officer, a firearms officer or a CFO may return any thing that is subject to the emergency limitations on access order before the expiry or revocation of the order if they have reasonable grounds to believe that the person will comply with the terms and conditions of the order. New section 117.0101(12) sets out conditions for the return of things after the expiry or revocation of the order.

As with emergency prohibition orders, when an emergency limitations on access order is made, the provincial court judge may deny access to certain information (new section 117.0102) or delete certain information that could be used to identify the applicant if the judge considers it necessary to protect the applicant's security or that of another person. Emergency limitations on access orders cease to have effect on the date fixed for the hearing of an application or on the date of revocation of the emergency limitations on access order (new section 117.0102(3)). As for orders to delete identifying information, they may last for any definite or indefinite period that the judge considers necessary to protect the security of the applicant or of a person known to the applicant (new section 117.0103(2)).

An application to revoke or vary an order denying access to information or deleting identifying information may be made to a provincial court judge (new sections 117.0102(5) and 117.0103(4)).

Clause 10 adds section 117.0104 to the Code to enable a provincial court judge who makes an emergency limitations on access order to set a hearing date for an application for a limitations on access order under section 117.011(1) of the Code.²⁷

In this case, the application for an emergency limitations on access order is considered an application for a limitations on access order (new section 117.0104(2)(a)).

Under new section 117.0104(2)(b) of the Code, if a person other than a peace officer, firearms officer or CFO makes an application for an emergency limitations on access order, the attorney general of the province or the attorney general of Canada, if the application is made in a territory, becomes the applicant in their place for the associated limitations on access order application (section 117.011(1) of the Code).

Clause 11 amends section 117.012 of the Code to stipulate that a provincial court judge may revoke, on an application by the person against whom an order is made, either an emergency limitations on access order or a limitations on access order if the judge is satisfied that the circumstances that justified the order no longer exist.

2.1.9 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, carried out for the purpose of their duties or employment, that would otherwise be offences under the Code or the *Firearms Act*. Clause 12 of Bill C-21 adds the following two categories to the list of individuals who are considered “public officers” pursuant to section 117.07(2) of the Code:

- persons employed by the Bank of Canada or the Royal Canadian Mint who are responsible for the security of its facilities (new section 117.07(2)(i)); and
- persons employed by any federal agency or body, other than persons employed in the federal public administration, who are responsible for the security of that agency’s or body’s facilities and are prescribed to be public officers (new section 117.07(2)(j)).

2.1.10 Maximum Penalties
(Clause 14)

Clause 14 of Bill C-21 changes the maximum term of imprisonment for various firearms offences under the Code from 10 years to 14 years. The amended provisions are the following:

- section 95(2)(a) (possession of prohibited or restricted firearm with ammunition);
- section 96(2)(a) (possession of weapon obtained by commission of offence);
- sections 99(2) and 99(3) (weapons trafficking);
- sections 100(2) and 100(3) (possession for purposes of weapons trafficking); and
- sections 103(2) and 103(2.1) (importing or exporting knowing it is unauthorized).

2.2 *FIREARMS ACT*
(CLAUSES 15 TO 48)

2.2.1 Cartridge Magazines

Clause 15.1 of Bill C-21 adds “cartridge magazines” to section 4(b) of the *Firearms Act*. As a result, anyone who wishes to acquire a cartridge magazine will now be required to obtain a firearms licence. Bill C-21 sets out multiple subsequent amendments to implement this change throughout the *Firearms Act*.

2.2.2 Revocation of Licence in the Event of
a Protection Order or Domestic Violence
(Clauses 15, 16, 36, 38(1) and 41 and 45)

Clause 15 of Bill C-21 amends section 2(1) of the *Firearms Act*, which contains the definitions that apply in the Act, to add the term “protection order.” In addition to the meaning “assigned by the regulations,” this term

is intended to include any binding order made by a court or other competent authority in the interest of the safety or security of a person; this includes but is not limited to orders that prohibit a person from:

- (a) being in physical proximity to an identified person or following an identified person from place to place;
- (b) communicating with an identified person, either directly or indirectly;
- (c) being at a specified place or within a specified distance of that place;
- (d) engaging in harassing or threatening conduct directed at an identified person;
- (e) occupying a family home or a residence; or
- (f) engaging in family violence.

Clause 45 of the bill amends section 117 of the *Firearms Act*, which sets out the various areas in which the Governor in Council may make regulations under the Act, in part to enable the Governor in Council to define “protection order” by regulation (amended section 117(a)).

Sections 5 through 12 of the *Firearms Act* concern eligibility to hold a firearms licence. Clause 16 adds section 6.1 to the *Firearms Act*, which generally provides that an individual is not eligible to hold a firearms licence if they are or were subject to a protection order “or have been convicted of an offence in the commission of which

violence was used, threatened or attempted against their intimate partner or any member of their family.” This prohibition is subject to the exceptions set out in new section 70.3, which is discussed below.

Clause 36 adds section 70.2(1) to the *Firearms Act* to provide that the firearms licence of an individual who is subject to a protection order is automatically revoked and that the individual must then deliver to a peace officer any firearm they possess within 24 hours of the protection order, or within an extended period established by the CFO, if that is not possible (for example, if the individual is out of the country). During the prescribed period that the individual has to dispose of their firearms, the individual cannot be accused of the firearms possession–related offences provided by section 91 (unauthorized possession of firearm), section 92 (possession of firearm knowing its possession is unauthorized) and section 94 (unauthorized possession in motor vehicle) of the Code, despite no longer holding a valid licence. Under new section 70.2(2) of the *Firearms Act*, a CFO must notify the individual in the prescribed manner of a revocation of their licence.

In addition, clause 36 adds section 70.1 to the *Firearms Act* to require a CFO to revoke the licence of an individual if the CFO determines that the individual may have engaged in an act of domestic violence or stalking.

New section 70.1 defines domestic violence as

conduct, whether or not it constitutes a criminal offence, by a family member towards another family member, including conduct by or towards an intimate partner, that is violent or threatening or that is part of a pattern of coercive and controlling behaviour or that causes that other family member or intimate partner to fear for their safety or the safety of another person, and includes

- (a) physical abuse, including forced confinement, but excluding the use of reasonable force to protect themselves or another person;
- (b) sexual abuse;
- (c) psychological abuse;
- (d) financial abuse;
- (e) threats to kill or cause bodily harm to any person;
- (f) threats to kill or harm an animal or damage property;
- (g) harassment, including stalking;
- (h) the failure to provide the necessities of life; and
- (i) the killing or harming of an animal or the damaging of property.

Of note, while Bill C-21 defines the term “domestic violence” in new section 70.1 of the *Firearms Act*, the concept of “family violence,” which is introduced in the new definition of “protection order” contained in amended section 2(1), is not defined.

Clause 36 also adds section 70.3 to the *Firearms Act* to set out some exceptions allowing an individual to legally hold a firearms licence despite being subject to a protection order or even if a CFO has determined that they engaged in an act of domestic violence or stalking. Subject to section 5 of the *Firearms Act*, which sets out the various eligibility criteria for a firearms licence, and despite new sections 6.1, 70.1 and 70.2 (described above), the CFO may, in the prescribed circumstances, issue a licence to an individual, subject to the conditions the CFO considers appropriate, if the individual establishes to the CFO’s satisfaction that “they need a firearm to hunt or trap in order to sustain themselves or their family.”

Clause 38 amends section 87(1) to the *Firearms Act* to include in the records of CFOs information on protection orders, and licence suspensions under section 69.1 of the Act.

Clause 41 amends section 89 of the *Firearms Act* to require a competent authority to inform a CFO within 24 hours when it makes, varies or revokes a protection order (new section 89(2)).

2.2.3 Temporary Storage of Firearms When Dealing with a Mental Illness or Similar Issue (Clause 18)

Clause 18 of Bill C-21 adds section 19(1)(b)(iii.1) to the *Firearms Act* to allow a licence holder to temporarily store their firearms with another licenced individual or business while the licence holder addresses a mental illness or a similar problem. This temporary storage allows licence holders to proactively surrender their firearms and seek professional help without fearing the confiscation of their firearms.

2.2.4 Handguns

2.2.4.1 Registration Certificate and Transportation of Handguns from a Port of Entry (Clauses 17, 19 and 43)

To legally possess prohibited and restricted firearms, a person must hold a registration certificate.²⁸ Clause 17 of Bill C-21 adds section 12.2 to the *Firearms Act* to provide that no registration certificate may be issued to an individual for a handgun. In other words, new registration certificates for handguns will no longer be issued once this provision comes into force, namely, on Royal Assent to the bill. In the meantime, regulations limit the transfer, that is, the sale, exchange or donation of handguns (also known as the “handgun freeze”).²⁹ Section 19 of the *Firearms Act* sets out rules for transporting prohibited and restricted firearms. Specifically,

section 19(1) of the *Firearms Act* currently provides that an individual who holds a licence authorizing the possession of prohibited or restricted firearms may be authorized to transport one between specified places for any good and sufficient reason, including the following:

- (a) for use in target practice, or a target shooting competition, under specified conditions or under the auspices of a shooting club or shooting range that is approved under section 29;
 - (a.1) to provide instructions in the use of firearms as part of a restricted firearms safety course that is approved by the federal Minister; or
- (b) if the individual
 - (i) changes residence,
 - (ii) wishes to transport the firearm to a peace officer, firearms officer or chief firearms officer for registration or disposal in accordance with this Act or Part III of the *Criminal Code*,
 - (iii) wishes to transport the firearm for repair, storage, sale, exportation or appraisal, or
 - (iv) wishes to transport the firearm to a gun show.

Clause 19 adds section 19.1 to the *Firearms Act* to provide that, despite section 19(1) of the Act, an individual cannot be authorized to transport a handgun from a port of entry unless they hold a registration certificate for that handgun.

Clause 43 adds section 97.1 to the *Firearms Act* to provide that new sections 12.2 and 19.1 of the Act do not apply to an individual who

- (a) holds an authorization to carry in respect of a handgun; or
- (b) meets the prescribed criteria and annually provides a letter to a chief firearms officer from a provincial or national sport shooting governing body indicating
 - (i) that they are training, competing or coaching in a handgun shooting discipline that is on the programme of the International Olympic Committee or the International Paralympic Committee,
 - (ii) the disciplines in which they train, compete or coach, and
 - (iii) that the handgun in question is necessary for training, competing or coaching in those disciplines.

This exception allows for waiving the rules that impose the handgun freeze to enable a high-level sport shooting athlete and their coach or any person possessing a handgun for their employment – such as a police officer or security officer – to obtain a registration certificate and authorization to transport.

2.2.5 Transfer of Handguns
(Clauses 21 to 23 and 25)

Sections 23 to 32 of the *Firearms Act* set out the rules governing the transfer of firearms and ammunition. In particular, section 23.2(1) of the Act specifies that

[a] person may transfer a prohibited or restricted firearm if, at the time of the transfer,

(a) the transferee holds a licence authorizing the transferee to acquire and possess that kind of firearm;

(b) the transferor has no reason to believe that the transferee is not authorized to acquire and possess that kind of firearm;

(c) the transferor informs the Registrar of the transfer;

(d) if the transferee is an individual, the transferor informs a chief firearms officer of the transfer and obtains the authorization of the chief firearms officer for the transfer;

(e) a new registration certificate for the firearm is issued in accordance with this Act; and

(f) the prescribed conditions are met.

Clause 21 of Bill C-21 amends section 23.2(1) of the *Firearms Act* to add paragraph (d.1), which introduces a rule to limit the transfer of handguns to individuals who hold an authorization to carry in respect of a handgun and high-level sport shooting athletes and their coaches who meet the prescribed criteria.

Section 27 of the *Firearms Act* sets out a CFO's duties on being informed of a proposed transfer of a prohibited or restricted firearm under section 23.2 of the Act. Currently, a CFO must verify whether the transferee or individual holds a licence, whether they are still eligible for it and whether the licence authorizes the acquisition of the thing in question. If the transfer involves a restricted firearm or a handgun referred to in section 12(6.1) (grandfathered pre-1 December 1998 handguns), the CFO must also verify the purpose for which the transferee or individual wishes to acquire the weapon and determine whether it is appropriate for that purpose.

Clause 22 amends section 27(a) of the *Firearms Act* to add section 27(a)(iv), to provide that if the firearm being transferred is a handgun, a CFO must also verify that the transferee is an individual who holds an authorization to carry in respect of a handgun or is a high-level sport shooting athlete or their coach who meets the prescribed criteria.

Section 28 of the *Firearms Act* sets out the circumstances in which a CFO may approve the transfer to an individual of a restricted firearm or a handgun referred to in section 12(6.1) (grandfathered pre-1 December 1998 handguns). Section 28(a) provides that a CFO may approve the transfer of such a weapon to an individual only if the CFO is satisfied that the individual needs it to protect their life or that of other individuals or to use in their lawful profession or occupation. Section 28(b) further provides that a CFO may approve the transfer of such a weapon to an individual if the CFO is satisfied that the purpose for which the individual wishes to acquire it is

- (i) for use in target practice, or a target shooting competition, under conditions specified in an authorization to transport or under the auspices of a shooting club or shooting range that is approved under section 29, or
- (ii) to form part of a gun collection of the individual, in the case of an individual who satisfies the criteria described in section 30.

Clause 23 amends section 28(b) of the *Firearms Act* to prevent an individual from collecting handguns. New section 28(c) specifies that an individual may acquire a restricted firearm other than a handgun to form part of their gun collection in certain circumstances.

Clause 25 clarifies section 32 of the *Firearms Act* to specify that, in the case of mail-order transfers of firearms, the verifications, notifications, issuances and authorizations referred to in sections 21 to 28, 30 and 31 of the Act take place within a reasonable period prior to the transfer.

2.2.6 Importation of Ammunition, Firearm Parts and Cartridge Magazines (Clause 26)

Clause 26 of the bill adds sections 37 and 38 to the *Firearms Act*. New sections 37(1) and 38(1) place the following conditions on the importation of ammunition:

- The ammunition or cartridge magazine must not be prohibited.
- The individual importing the firearm part, cartridge magazine or ammunition must have a valid licence at the time of importation 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 non-prohibited ammunition or cartridge magazines or firearm parts (new sections 37(2) and 38(2)). A customs officer may choose to refuse to confirm this declaration if they have reasonable grounds to believe that it is desirable, in the interests of the safety of the non-resident or any other person, that it not be confirmed or if the non-resident has not truthfully completed the form (new sections 37(5) and 38(5)).

If the provisions contained in new sections 37(1), 37(2), 38(1) and 38(2) are not complied with, the customs officer can authorize that the ammunition, firearm part, or cartridge magazine 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 (new sections 37(3) and 38(3)). If the individual does not comply with the requirements within a reasonable time and the ammunition, firearm part or cartridge magazine is not exported, a customs officer is required to lawfully dispose of it (new sections 37(4) and 38(4)).

2.2.7 Licences, Authorizations to Carry and Authorizations to Transport (Clauses 27 to 29, 32, 33 and 35)

2.2.7.1 Lawful Profession or Occupation

Clauses 27 to 29, 32, 33 and 35 of Bill C-21 amend certain provisions of the *Firearms Act* to stipulate that the authority of the CFO for each province and territory over authorizations to carry specific restricted firearms or handguns is limited to those authorizations to carry referred to in section 20(b) of the *Firearms Act*. Section 20(b) allows an individual to possess a specific restricted firearm or handgun in a place other than where its possession is authorized if it is being used in connection with a lawful profession or occupation.

Clause 27 of the bill amends section 54(2)(a) of the *Firearms Act* to specify that the authority of a CFO to receive applications for an authorization to carry a specific restricted firearm or handgun is limited to the authorizations to carry referred to in section 20(b) of the *Firearms Act*. Clause 28 of the bill amends section 57 of the *Firearms Act* to specify that a CFO's authority to issue authorizations to carry a specific restricted firearm or handgun is limited to those authorizations to carry referred to in section 20(b). Current section 58(1) of the *Firearms Act* allows a CFO, when issuing a licence or authorizing the carrying or transport of firearms, to attach any reasonable conditions considered desirable "in the interests of the safety of the holder or any other person." Clause 29 amends section 58(1) of the *Firearms Act* to limit the CFO's power to attach conditions to an authorization to carry to those authorizations to carry issued pursuant to section 20(b). This power is subject to applicable regulations (new section 58(1.1)). Clauses 32 and 33 amend sections 67(1),

67(2) and 68 of the *Firearms Act* to stipulate that a CFO's authority to renew and issue an authorization to carry is limited to authorizations to carry referred to in section 20(b).

Clause 35(1) amends section 70(1) of the *Firearms Act* to specify that a CFO's authority to revoke an authorization to carry a specific restricted firearm or handgun is limited to those authorizations to carry referred to in section 20(b). This does not impact a CFO's authority to revoke a licence or authorization to transport.

2.2.7.2 Protection of Life

Clauses 27 to 29, 32, 33 and 35 of Bill C-21 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 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. Clause 27 of the bill adds section 54(2)(a.1) to the *Firearms Act* to require that applications for authorizations to carry firearms in such circumstances be made to the Commissioner of Firearms. Clause 28 adds section 57.1, which gives the Commissioner of Firearms the authority to issue such authorizations to carry. Clause 29 stipulates that, 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" (new section 58(1.2)). Clause 32 of the bill adds section 67(1.1) to the *Firearms Act*, and clause 35 amends section 70(1) of that Act. These provisions respectively grant the Commissioner of Firearms the authority to renew and revoke an authorization to carry referred to in section 20(a) of the *Firearms Act*.

2.2.8 Suspension of Licence (Clauses 34 and 35)

Clause 34 adds sections 69.1 and 69.2 to the *Firearms Act*. New section 69.1(1) requires the CFO to suspend, in respect of 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 based on information the CFO has collected or received from any person, including a "psychologist, a psychiatrist, a nurse, a nurse practitioner or a medical professional." The CFO 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* (new section 69.1(2)). However, the CFO is not required to disclose any information that may endanger the safety of any individual (new section 69.1(3)). The CFO 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, as well as give written notice to that effect to the licence holder (new section 69.1(4)).

New section 69.2 of the *Firearms Act* prohibits an individual from using, acquiring or importing firearms while their authorizations to do so are suspended under section 69.1(1). Clause 35(2) amends section 70(1) of the *Firearms Act* to add the non-respect of this prohibition to the list of reasons for which a licence, an authorization to carry or an authorization to transport may be revoked (new section 70(1)(a.1)).

2.2.9 Reference to Provincial Court Judge (referral) (Clause 37)

Clause 37 of Bill C-21 amends the *Firearms Act* provisions on the notices requiring individuals whose licence or registration certificate has been refused or revoked to lawfully dispose of any firearm, prohibited weapon, restricted weapon, prohibited device or prohibited ammunition in their possession. It also amends the provisions regarding the procedures for the reference (also known as a “referral”) by an individual, to a provincial court judge, of the decision in question.

The following is a summary of the rules currently in effect:

- Under section 72 of the *Firearms Act*, if a decision is made to refuse or to revoke a licence, authorization or registration certificate, the CFO or Registrar of Firearms must provide the applicant or the owner of the firearm(s) with a “reasonable period,” as specified in the notice given, to bring the firearm(s) to a peace officer, firearms officer or a CFO, or to otherwise lawfully dispose of the firearm(s) or other weapons or ammunition (section 72(4) in respect of a licence and section 72(5) in respect of a registration certificate).
- Section 74 of the *Firearms Act* stipulates that the applicant for, or holder of, a licence, registration certificate, authorization to transport or authorization to export or import may refer a decision by the CFO or Registrar of Firearms to refuse or revoke the document in question to a provincial court judge.
- Section 72(6) of the *Firearms Act* currently provides that, when the applicant for, or holder of, a licence or registration certificate refers the decision to refuse or revoke the licence or certificate to a judge, the reasonable period granted by the CFO does not begin until the matter is finally disposed of by the provincial court judge.

Clause 37 of the bill amends section 72(6) of the *Firearms Act* to require an individual who decides to refer the CFO’s decision to refuse or revoke a licence to a provincial court judge to lawfully dispose of any firearms they possess, by delivering them to a peace officer within 24 hours or, if that is not possible, within an extended period established by the CFO (amended section 72(4)). This means that an individual will likely 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 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) of the *Firearms Act* stipulates that, if the initial decision to refuse or revoke a licence, authorization or registration certificate is upheld, the judge may order that any firearm delivered to a peace officer is to be returned to the individual to be lawfully disposed of. However, pursuant to new section 72(9) of the *Firearms Act*, orders made under new section 72(7) take effect on the day following the expiry of the period for making an appeal, if no appeal is made, or on the day of the final determination of the appeal if an appeal is made and the CFO's decision is upheld. New section 72(8) allows the judge to impose any conditions on the return of any firearm delivered to a peace officer to the individual deemed necessary in order to protect the safety of the individual or any other person. After receiving the firearm or firearms, the individual must lawfully dispose of them within 30 days pursuant to new section 72(10).

2.2.10 Disclosure of Information
(Clause 39)

Clause 39 adds section 88.1 to the *Firearms Act*. New section 88.1(1) allows the Commissioner of Firearms, the Registrar of Firearms or a CFO to disclose information to a law enforcement agency for the purpose of investigation 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). The information that may be disclosed provides identifying information related to the individual and any restricted or prohibited firearms that they may own. New section 88.1(2) of the *Firearms Act* specifies that this new provision does not take away from the powers conferred on the Commissioner of Firearms, the Registrar of Firearms or a CFO by any Acts of Parliament or a provincial legislature or by the common law to disclose information to a law enforcement agency.

2.2.11 Report to the Federal Minister
(Clause 42)

Pursuant to section 93 of the *Firearms Act*, the Commissioner of Firearms is required, on a yearly basis, to submit a report to the Minister of Public Safety and Emergency Preparedness regarding the administration of the *Firearms Act* "as soon as possible after the end of each calendar year" and at other times when the minister may request it. Clause 42 of Bill C-21 modifies the annual deadline to submit this report to 31 May (amended section 93(1)).

The bill also adds section 93(1.1) to the *Firearms Act* to require that the report include information relating to the disclosures made to law enforcement agencies for the purposes of investigation and/or prosecution pursuant to new section 88.1. This information includes the number of disclosures made to law enforcement agencies during the reporting period.

2.2.12 Advertising (Clause 44)

Clause 44 adds a new offence to the *Firearms Act* under new section 112. It is now an offence to advertise a firearm “in a manner that depicts, counsels or promotes violence against a person” (new section 112(1)). This offence applies to a business and to the following individuals:

- 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-mentioned people and 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 (new section 112(2)). A person or business convicted of the offence punishable on summary conviction is liable to a fine of \$5,000 or a term of imprisonment of no more than two years less a day or both (pursuant to section 787(1) of the Code). 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 applies to offences under the *Firearms Act*.³⁰

Individuals and businesses that, in their usual course of business, advertise directly to or on behalf of the film industry, the Canadian Armed Forces, or public safety personnel are exempted from the prohibition on advertising firearms (new section 112(1.1.)).

2.3 NUCLEAR SAFETY AND CONTROL ACT (CLAUSES 49 TO 51)

2.3.1 High-Security Sites and Nuclear Security Officers (Clauses 49 and 50)

Clause 49 of Bill C-21 adds a variety of definitions to section 2 of the *Nuclear Safety and Control Act* (NSCA), including “high-security site,” which is a nuclear facility that processes, uses or stores certain categories of nuclear material.

Clause 50 adds sections 27.1 and 27.2 to the NSCA. New section 27.1(1) outlines the responsibility of a licensee who operates a high-security site to ensure the security of the facility.³¹ The new provisions also allow 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 peace officers (new sections 27.1(2) to 27.1(4)).

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

- designated as peace officers;
- trained and qualified to handle and use firearms, prohibited weapons and prohibited devices;
- 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 Armed 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 prescribed requirements and are approved by the CNSC (new section 27.2(3)).

New section 27.3(1) of the NSCA 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. This designation makes the nuclear security officer a peace officer as defined in section 2 of the Code while performing their duties (new section 27.3(2)). Pursuant to new 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 individuals 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 that 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 under sections 25(1), 25(3) and 25(4) of the Code only when exercising their duties as a peace officer at the high-security site for which they are designated (new section 27.3(4) of the NSCA).

A nuclear security officer who is designated as a peace officer must arrange for custody of any individuals arrested or things seized to be transferred to the appropriate police service as soon as is feasible after the arrest or seizure (new 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 (new section 27.3(6)).

New section 27.4(1) of the NSCA 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. 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 (new section 27.4(2)). In addition, new sections 27.4(4) and 27.4(5) outline reporting requirements to the Registrar of Firearms and to the CNSC, respectively, by licensees who are granted an authorization. Finally, when a licensee who has been granted an authorization under new section 27.4(1) acquires a firearm, prohibited weapon or prohibited device, the licensee must ensure that the members of the on-site nuclear response force are trained in the handling and use of these weapons or prohibited devices and qualified to handle and use them (new section 27.2(2)).

2.3.2 Regulations (Clause 51)

Section 44 of the NSCA allows the CNSC to make regulations, with the approval of the Governor in Council, in a variety of areas. Clause 51 of Bill C-21 adds to section 44 areas in which regulations can be made in this manner:

- the designation, or the suspension and revocation of the designation, of nuclear security officers, including those designated as peace officers (new sections 44(1)(m.1) and 44(1)(m.5));
- the powers, duties and functions of nuclear security officers (new 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 (new sections 44(1)(m.3) and 44(1)(m.4));

- the process for handling 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 (new section 44(1)(m.6)); and
- 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 (new sections 44(1)(m.7) to 44(1)(m.9)).

2.4 *IMMIGRATION AND REFUGEE PROTECTION ACT*
(CLAUSES 52 TO 63)

2.4.1 Transborder Criminality
(Clauses 52, 53 and 55 to 57)

Under section 4(2)(c) of the *Immigration and Refugee Protection Act (IRPA)*, 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, and violating human or international rights. Clause 52 amends section 4(2)(c) of the IRPA to add transborder criminality to the list of grounds of inadmissibility that fall under the purview of the Minister of Public Safety and Emergency Preparedness, who is responsible for establishing policies.

Clause 53(3) repeals the offence provided by section 36(2)(d) of the IRPA, which provides that a foreign national is inadmissible to Canada on grounds of criminality for:

(d) committing, on entering Canada, an offence under an Act of Parliament prescribed by regulations.

However, clause 53(4) adds new section 36(2.1), which makes a foreign national inadmissible on grounds of transborder criminality for committing, on entering Canada, certain prescribed offences under an Act of Parliament.

Numerous other provisions of the IRPA are also amended to account for the inclusion of transborder criminality as a ground for inadmissibility, including the following, which are amended by clauses 55, 56 and 57 of Bill C-21, respectively:

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

2.5 RIGHTS OF INDIGENOUS PEOPLES

Clause 72.1(1) of Bill C-21 provides that the provisions of the bill “are to be construed as upholding the rights of Indigenous peoples recognized and affirmed by section 35 of the *Constitution Act, 1982*, and not as abrogating or derogating from them.”

NOTES

1. [Bill C-21, An Act to amend certain Acts and to make certain consequential amendments \(firearms\)](#), 44th Parliament, 1st Session (third reading version, 18 May 2023).
2. House of Commons, Standing Committee on Public Safety and National Security, [Bill C-21, An Act to amend certain Acts and to make certain consequential amendments \(firearms\)](#), Eighth report, May 2023.
3. Much of the content of this legislative summary is taken from Graeme McConnell, [Legislative Summary of Bill C-21: An Act to amend certain Acts and to make certain consequential amendments \(firearms\)](#), Publication no. 43-2-C21-E, Library of Parliament, 27 April 2021.
4. [Criminal Code](#), R.S.C. 1985, c. C-46; [Firearms Act](#), S.C. 1995, c. 39; [Nuclear Safety and Control Act](#), S.C. 1997, c. 9; and [Immigration and Refugee Protection Act](#), S.C. 2001, c. 27.
5. A substantial portion of section 1.1 of this 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.
6. [Criminal Code](#), R.S.C. 1985, c. C-46, s. 84(1).
7. Although the Public Safety and Emergency Preparedness portfolios are now divided between two ministers, the *Firearms Act* refers to a single minister, what used to be the Minister of Public Safety and Emergency Preparedness.
8. [Reference re Firearms Act \(Can.\)](#), 2000 SCC 31, para. 4.
9. *Ibid.*, para. 24.
10. [Bill C-19, An Act to amend the Criminal Code and the Firearms Act](#), 41st Parliament, 1st Session (S.C. 2012, c. 6).
11. [Criminal Code](#), R.S.C. 1985, c. C-46, s. 91.
12. [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](#), 41st Parliament, 2nd Session (S.C. 2015, c. 27). See also 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.
13. [Bill C-71, An Act to amend certain Acts and Regulations in relation to firearms](#), 42nd Parliament, 1st Session (S.C. 2019, c. 9). See also 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.
14. [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. See also Public Safety Canada, [Backgrounder: List of prohibited assault-style firearms](#), 1 May 2020.
15. [Regulations Amending Certain Regulations Made Under the Firearms Act](#), SOR/2022-91, 2 May 2022, in *Canada Gazette*, Part II, 11 May 2022.
16. [Conditions of Transferring Firearms and Other Weapons Regulations](#), SOR/98-202.
17. Government of Canada, [Regulatory Impact Analysis Statement](#), Sessional Paper No. 8560-441-492-01, House of Commons, 30 May 2022.

18. [Authorizations to Transport Restricted Firearms and Prohibited Firearms Regulations](#), SOR/98-206.
19. [Regulations Amending Certain Regulations Made Under the Firearms Act](#), SOR/2022-219, 21 October 2022, in *Canada Gazette*, Part II, 9 November 2022.
20. Government of Canada, [Notice to Importers No. 1090 – Temporary requirements for importing restricted handguns into Canada until the coming into force of the proposed amendments to the Firearms Act under Bill C-21](#), Serial No. 1090, 5 August 2022.
21. According to Public Safety Canada,

Ghost Gun is a general term used to describe a firearm that is anonymous as to its origins and therefore, untraceable. More specifically, it is a firearm that is manufactured or assembled from components without a serial number or other markings which would uniquely identify it, thereby preventing it from being traced in a conventional manner. The use of some manufacturing techniques can also make it difficult to detect the firearm by conventional x-ray or metal detector systems.

Public Safety Canada, [Parliamentary Committee Notes: Ghost Guns and Illegal Manufacturing in Canada](#).
22. [Criminal Code](#), R.S.C. 1985, c. C-46, s. 84(1). See the definition of “prohibited device.”
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, Schedule, Part 4: Prohibited Devices, s. 3.
24. [Criminal Code](#), R.S.C. 1985, c. C-46. Section 109(1)(b) of the Code lists the various offences for which the court must make such an order:

(b) an offence under subsection 85(1) (using firearm in commission of offence), subsection 85(2) (using imitation firearm in commission of offence), 95(1) (possession of prohibited or restricted firearm with ammunition), 99(1) (weapons trafficking), 100(1) (possession for purpose of weapons trafficking), 102(1) (making automatic firearm), 103(1) (importing or exporting knowing it is unauthorized) or section 264 (criminal harassment).
25. Public Safety Canada, [A comprehensive strategy to address gun violence and strengthen gun laws in Canada: Bill C-21, An Act to amend certain Acts and to make certain consequential amendments \(firearms\)](#).
26. Ibid.
27. [Criminal Code](#), R.S.C. 1985, c. C-46. Under section 117.011(1) of the Code,

[a] peace officer, firearms officer or chief firearms officer may apply to a provincial court judge for an order under this section where the peace officer, firearms officer or chief firearms officer believes on reasonable grounds that

(a) the person against whom the order is sought cohabits with, or is an associate of, another person who is prohibited by any order made under this Act or any other Act of Parliament from possessing any firearm, cross-bow, prohibited weapon, restricted weapon, prohibited device, ammunition, prohibited ammunition or explosive substance, or all such things; and

(b) 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.
28. [Firearms Act](#), S.C. 1995, c. 39, ss. 12.1 and 13.
29. [Regulations Amending Certain Regulations Made Under the Firearms Act](#), SOR/2022-219, 21 October 2022, in *Canada Gazette*, Part II, 9 November 2022.
30. See [Interpretation Act](#), R.S.C. 1985, c. I-21, s. 34(2).

31. Pursuant to section 24 of the *Nuclear Safety and Control Act*, the Commission “may establish classes of licences authorizing the licensee to carry on any activity described in any of paragraphs 26(a) to (f) that is specified in the licence for the period that is specified in the licence.” See [Nuclear Safety and Control Act](#), S.C. 1997, c. 9, s. 26:

Subject to the regulations, no person shall, except in accordance with a licence,

- (a) possess, transfer, import, export, use or abandon a nuclear substance, prescribed equipment or prescribed information;
- (b) mine, produce, refine, convert, enrich, process, reprocess, package, transport, manage, store or dispose of a nuclear substance;
- (c) produce or service prescribed equipment;
- (d) operate a dosimetry service for the purposes of this Act;
- (e) prepare a site for, construct, operate, modify, decommission or abandon a nuclear facility; or
- (f) construct, operate, decommission or abandon a nuclear-powered vehicle or bring a nuclear-powered vehicle into Canada.