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Canada

# Controlled Goods Directive

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# Controlled Goods Directive

## 1. Effective date

This directive takes effect on November 1, 2006.

## 2. Application

This directive applies to all departments as defined in section 2 of the [Financial Administration Act](#), unless specific acts or regulations override it.

## 3. Context

The Treasury Board [Policy on Management of Materiel](#) provides direction for the management of departmental materiel assets throughout their life cycle and, with respect to the management of controlled goods, requires that deputy heads ensure that:

"Materiel assets designated as controlled goods, as defined in Part 2 of the [Defence Production Act](#), are given the level of protection necessary to prevent their unauthorized examination, possession, or transfer and are managed in compliance with the Treasury Board Directive on Controlled Goods."

This directive sets out additional and more specific requirements that departments must meet concerning the management of controlled goods.

Although Part 2 (Regulation of Access to Controlled Goods) of the [Defence Production Act](#) does not apply to members of the following classes of persons who act in good faith in the course of their duties and employment:

- a. those who occupy a position in the federal public service or a federal Crown corporation;
- b. public officers as defined in subsection 117.07(2)<sup>[1]</sup> of the [Criminal Code](#); or
- c. elected or appointed officials of the federal or a provincial government,

acting in good faith embodies the notion that these excluded persons will regulate access to the controlled goods in their custody in the same manner as would persons to whom Part 2 of the [Defence Production Act](#) does apply.

Part 3 (Offence and Punishment) of the [Defence Production Act](#) does apply to members of the above-listed classes of persons who do not act in good faith in the course of their duties and employment.

This directive is issued pursuant to the [Financial Administration Act](#), subsections 7(1)(a), 9(2) and 61(2).

## 4. Definitions

### Controlled goods (*Marchandises contrôlées*)

The following goods (including related technology), as listed in the schedule to the [Export Control List](#) and further described in [A Guide to Canada's Export Controls](#):

- a. Group 2 (Munitions): Goods listed in item 2001 that are prohibited firearms, as defined in paragraph (c) of the definition "prohibited firearm" in subsection 84(1)<sup>[2]</sup> of the [Criminal Code](#);
- b. Group 2 (Munitions): Goods listed in item 2003 that are ammunition with a calibre greater than 12.7 mm;
- c. Group 2 (Munitions): Goods listed in items 2002 and 2004 to 2022;
- d. Group 5 (Miscellaneous Goods): Goods listed in item 5504; and
- e. Group 6 (Missile Technology Control Regime): All goods listed.

### Demilitarization (*Démilitarisation*)

Action that renders an item unusable for its intended military or strategic purpose and that is irreversible.

### Security breach (*Infraction à la sécurité*)

An act or omission, deliberate or accidental, that results in the actual or possible compromise of controlled goods (as defined in Part 2 of the [Defence Production Act](#)) or related technology; such breaches may include controlled goods or technology lost while being transported; controlled goods or technology left in an unsecured area where unauthorized persons have access; unauthorized disclosure by any person; theft; and loss, or exposure in circumstances that make it probable that a breach has occurred.

## 5. Requirements

- Departments must ensure that their controlled goods are not knowingly transferred<sup>[3]</sup> to or examined by any person who is not excluded, or registered, or exempt from registration.
- When disposing of their surplus military and other controlled goods, if they cannot be transferred to a person who is excluded,

registered, or exempt from registration, departments must ensure that they are demilitarized and that their control status, if in doubt, is verified with the Export Control Division of Foreign Affairs and International Trade Canada before they are disposed of.

- When using the disposal services of Public Works and Government Services Canada or those of its contractors, departments must ensure that controlled goods are clearly identified as such when they are declared surplus.
- Departments must keep and maintain records that contain:
  - a. a description of any controlled goods in their custody, the date of their receipt, and identification of the person from whom they were transferred;
  - b. a description of any controlled goods transferred by the department, the date of their transfer, and the identity and address of the person to whom they were transferred; and
  - c. a description of the manner and date of disposition<sup>[4]</sup> of the controlled goods.
- Departments must establish and implement a security<sup>[5]</sup> plan for each place of business in Canada where controlled goods are kept. This security plan must set out in writing:
  - a. the procedures used to control the examination, possession and transfer of controlled goods;
  - b. the procedures for reporting and investigating security breaches in relation to controlled goods;
  - c. the description of the responsibilities of the department's security organization and the identity of the individuals who are responsible for the security of controlled goods; and
  - d. the contents of security briefings and training programs given to employees and to registered or exempt contracted workers, as the case may be.
- Departments must provide training programs in respect of the secure handling of controlled goods for their employees and for exempt visitors who are authorized to possess or examine those goods.
- Departments must advise the Controlled Goods Directorate in Public Works and Government Services Canada, without delay, of any security breaches in relation to controlled goods.

## 6. Responsibilities of other government organizations

**Note:** This section is meant to inform departments of other significant players in the management of controlled goods. In and of itself, it does not confer an authority.

- Public Works and Government Services Canada is accountable under Part 2 of the [Defence Production Act](#) for the registration or exemption from registration of persons possessing, examining or transferring controlled goods within Canada.
- Foreign Affairs and International Trade Canada, under the [Export and Import Permits Act](#), is authorized to determine whether items (goods or technology) are controlled goods.

## 7. References

### Legislation

- *Defence Production Act*
- *Controlled Goods Regulations*
- [Export and Import Permits Act](#)
- [Export Control List](#) (Export and Import Permits Act)
- [A Guide to Canada's Export Controls](#)

### Related Treasury Board policy instruments

- [Government Security Policy](#)
- [Operational Security Standard on Physical Security](#)
- [Personnel Security Standard](#)
- [Security and Contracting Management Standard](#)
- [Security Organization and Administration](#)
- [Policy on Management of Materiel](#)
- [Directive on Disposal of Surplus Materiel](#)

## 8. Enquiries

Please direct enquiries about this policy instrument to the organizational unit in your department responsible for this subject matter. For interpretation of this policy instrument, the responsible organizational unit should contact: [TBS Public Enquiries](#).

## Footnotes

Footnote fn1

The subsection reads:

- "(a) a peace officer;
- (b) a member of the Canadian Forces or of the armed forces of a state other than Canada who is attached or seconded to any of the Canadian Forces;

- (c) an operator of a museum established by the Chief of the Defence Staff or a person employed in any such museum;
- (d) a member of a cadet organization under the control and supervision of the Canadian Forces;
- (e) a person training to become a police officer or a peace officer under the control and supervision of (i) a police force; or (ii) a police academy or similar institution designated by the Attorney General of Canada or the lieutenant governor in council of a province;
- (f) a member of a visiting force, within the meaning of section 2 of the [Visiting Forces Act](#), who is authorized under paragraph 14(a) of that Act to possess and carry explosives, ammunition and firearms;
- (g) a person, or member of a class of persons, employed in the Public Service of Canada or by the government of a province or municipality who is prescribed to be a public officer; or (h) the Commissioner of Firearms, the Registrar, a chief firearms officer, any firearms officer and any person designated under section 100 of the [Firearms Act](#)."

[Return to footnote \[1\] referrer](#)

Footnote fn2

That is, "an automatic firearm, whether or not it has been altered to discharge only one projectile with one pressure of the trigger."

[Return to footnote \[2\] referrer](#)

Footnote fn3

In this context, "transfer" means, with regard to a controlled good, to dispose of it or disclose its content in any manner.

[Return to footnote \[3\] referrer](#)

Footnote fn4

Disposition means either a) transfer, e.g., by sale or donation, to an authorized person or b) demilitarization.

[Return to footnote \[4\] referrer](#)

Footnote fn5

For advice on Government Security Policy, departments should consult their respective Departmental Security Officers.

[Return to footnote \[5\] referrer](#)