



Legislative Summary

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

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(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

Bill C-21, An Act to amend certain Acts and to make certain consequential amendments (firearms),¹ 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), the *Firearms Act*, the *Nuclear Safety and Control Act* and the *Immigration and Refugee Protection Act*.² It also makes consequential amendments to *An Act to Amend certain Acts and Regulations in relation to firearms* and the *Immigration and Refugee Protection Regulations*.³

1.1 CANADIAN FIREARMS FRAMEWORK⁴

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:⁵

- *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 Preparedness. 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.”⁶ In short, the regime endeavours to deter and reduce the misuse of firearms.⁷

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)⁸ 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.⁹

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 (short title: Common Sense Firearms Licensing Act), received Royal Assent.¹⁰ 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 the regulation of firearms in Canada 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 2019.¹¹ 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 new regulations by order in council that classify certain firearms as prohibited that were previously classified as non-restricted or restricted.¹² 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.

1.3 CHARTER STATEMENT

On 27 April 2021, the Department of Justice released a Charter Statement outlining what the Minister of Justice views as potential implications that Bill C-21 may have for rights protected by the *Canadian Charter of Rights and Freedoms*.¹³

2 DESCRIPTION AND ANALYSIS

Bill C-21 contains 62 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)

2.1.1 Prohibited Devices (Clause 1)

In the Code, certain devices, including certain firearms and other weapons, are considered to be “prohibited devices.”¹⁴ 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 in the Code. 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(1) 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 [EMPHASIS IN THE ORIGINAL].

2.1.1.2 Realistic Airsoft Guns

Clause 1(2) of Bill C-21 adds section 84(3.2) to the Code to designate certain firearms as prohibited devices for the purpose of certain weapons-related offences if

(a) it is proved that 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

(b) 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 guns¹⁵ that resemble real firearms as prohibited devices for certain weapons-related offences under the Code, despite not being classified as firearms pursuant to section 84(3)(d). These offences are as follows:

- weapons trafficking (section 99(1));
- possession for the purpose of weapons trafficking (section 100(1));
- transferring without authority (section 101(1));
- importing or exporting knowing it is unauthorized (section 103(1));
- unauthorized importing or exporting of a firearm (section 104(1));
- losing or finding (section 105(1));

- destroying (section 106(1));
- making false statements (section 107(1)); and
- seizure on failure to produce authorization (section 117.03(1)).

An airsoft gun that does not look like a real firearm will 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 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 any other firearm.¹⁶ 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.

Clauses 3 and 13 of the bill amend the Code to add references to the new offence of altering cartridge magazines to two other provisions, respectively:

- section 109(1)(b) (mandatory prohibition order); and
- section 183(a) (definitions).

2.1.3 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. 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 weapon or ammunition 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 new section 110.1(2) of the Code. The order may not be for a period longer than 30 days.

New section 110.1(4) 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 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. 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. New section 110.1(5) 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(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.

New section 110.1(7) 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(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 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 adds section 110.2 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 110.2(2)). A prohibition order may be set for a longer period than an emergency prohibition order and can be for a period of up to five years (section 111(5) of the Code). 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 110.2(2)(b) of the Code, for an associated application for a prohibition order.

Clause 6 of the bill 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.

2.1.4 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 weapon 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.” 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 (new section 117.0101(2)). This order allows the provincial court judge to place any conditions or restrictions 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. 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 (new sections 117.0101(5) to 117.0101(7) of the Code) and the requirement to surrender (new section 117.0101(8)) are similar to those for emergency prohibition orders. However, new section 117.0101(9) 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 met. New section 117.0101(10) 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 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(11) sets out conditions for the return of things after the expiry or revocation of the order.

Clause 11 of the bill 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 they are satisfied that the circumstances that justified the order no longer exist.

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, 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 by regulation (new section 117.07(2)(j)).

2.1.6 Maximum Penalties
(Clause 14)

Clause 14 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 40)

2.2.1 Prohibited Firearms
(Clauses 15(2), 16, 17, 18 and 20)

Clause 15(2) of Bill C-21 repeals sections 12(8) and 12(9) of the *Firearms Act*. These provisions deal with the “grandfathering” of individuals who own firearms that have been prohibited by regulations. Clause 16 replaces these provisions with those found in new section 12.01, which details the new non-permissive storage regime.

This new section of the *Firearms Act* outlines the criteria for keeping, storing and transporting firearms that are classified as prohibited in two sets of circumstances:

- where prohibited by order in council of 1 May 2020 (new section 12.01(1)); and
- where prohibited by regulations, other than those made by order in council of 1 May 2020, made pursuant to section 117.15 of the Code (new section 12.01(2)).

In order to keep a firearm prescribed as prohibited by the regulations made 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 the firearm on the prescribed date or acquired it by the prescribed date (new sections 12.01(1)(a) and 12.01(2)(a)).
- If the firearm was previously classified a restricted firearm, the individual must have held, on the prescribed date, a registration certificate for that firearm, or applied for a registration certificate that was subsequently issued (new 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 firearm to the CFO (new sections 12.01(1)(c) and 12.01(2)(c)).
- Beginning on the date prescribed by regulations, the individual must provide the relevant information related to the storage of the prohibited firearm to the CFO 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 prescribed by the regulations is made with respect to the storage of the prohibited firearm (new sections 12.01(1)(d) and 12.01(2)(d)).

Pursuant to new section 12.01(3) of the *Firearms Act*, a licence that permits an individual to possess a prohibited firearm pursuant to either new section 12.01(1) or new section 12.01(2) does not permit an individual to acquire any of the prohibited firearms referred to in these sections.

Clause 17 modifies section 17 of the *Firearms Act* to specify that the holder of a registration certificate may also possess a prohibited or restricted firearm “at a business or any other place that is authorized by a CFO.” Previously, this provision stated that such a weapon could only be held at the residence (“dwelling-house”) of the individual who holds the registration certificate or “at a place authorized by a chief firearms officer.”

Clause 18 of Bill C-21 amends section 19(2) of the *Firearms Act* to indicate that firearms prohibited pursuant to new sections 12.01(1) and 12.01(2) may only

be transported for the purposes listed in sections 19(1)(b)(i) to 19(1)(b)(iii), which are as follows:

- if the individual changes residence;
- in order to transport the firearm to a peace officer, firearms officer or CFO for registration or disposal; or
- if the individual wishes to transport the firearm to be repaired, stored, sold, exported or appraised.

Unlike other prohibited firearms, firearms prohibited pursuant to new sections 12.01(1) and 12.01(2) may not be transported for the purpose of bringing the firearm to a gun show (new section 19(2)(b)).

Clause 20 modifies section 23.2(1) of the *Firearms Act* to prohibit the transfer of the firearms prohibited by regulations referred to in new sections 12.01(1) and 12.01(2). 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*. New section 37(1) places the following conditions on the importation of ammunition:

- The ammunition must not be prohibited.
- 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 (new 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 (new section 37(5)).

If the provisions contained in new sections 37(1) and 37(2) 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 (new 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 (new section 37(4)).

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

2.2.3.1 Lawful Profession or Occupation

Clauses 23 to 25, 27 and 31 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 23 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 24 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 25 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 (amended section 58(1.1)). Clause 27 amends section 67(1) of the *Firearms Act* to stipulate that a CFO's authority to renew an authorization to carry is limited to authorizations to carry referred to in section 20(b). Clause 31(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.

2.2.3.2 Protection of Life

Clauses 23 to 25, 27 and 31 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 23 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 24 adds section 57.1, which gives the Commissioner of Firearms the authority to issue such authorizations to carry. Clause 25 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 27 of the bill adds section 67(1.1) to the *Firearms Act*, and clause 31 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 Act.

2.2.4 Municipal Handgun By-Laws (Clauses 18, 26 and 32)

Bill C-21 outlines measures that 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 a new regime containing measures to support handgun restrictions enacted by individual municipalities. Depending on the specific restrictions imposed by a municipal by-law, new section 58.01(1) of the *Firearms Act* 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 licensed to store prohibited or restricted firearms.
- The individual must not store a handgun within the boundaries of the municipality or transport one to or from a place within the boundaries of the municipality unless it is to or from a place where a peace officer, firearms officer or CFO is located, to a port of exit in order to take it outside Canada or from a port of entry in order to bring it into Canada.
- The individual must comply with any prescribed requirements relating to the storage of the handgun within the boundaries of the municipality.

The preceding conditions apply to a firearms licence only if the following criteria have been met:

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

Pursuant to new section 58.01(7) of the *Firearms Act*, the above-mentioned conditions do not apply to a handgun in the following instances:

- The handgun 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.
- An individual has an authorization to carry the handgun.
- In specific circumstances or for a specific purpose as prescribed by legislation or regulations.

The new provisions also outline various rules for providing notice to the various levels of government, holders of registration certificates and licence holders (new sections 58.01(2) to 58.01(6)).

Clauses 18(1) to 18(4) and clause 32 of Bill C-21 make consequential changes to other provisions of the *Firearms Act* to account for this new regime:

- Section 19 is amended.
- Section 71(3) (automatic revocation of registration certificate) is added to the *Firearms Act*.

2.2.5 Suspension (Clauses 30 and 31)

Clause 30 adds sections 69.1 and 69.2 to the *Firearms Act*. New section 69.1(1) provides a new power to a CFO 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. 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. Clause 31(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)).

2.2.6 Reference (Clause 33)

Clause 33 of Bill C-21 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. 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 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 provincial court judge under section 74 of the Act, this reasonable period does not begin until the matter is finally disposed of. Clause 33 of the bill amends section 72(6) to require an individual who makes such a reference to a provincial court judge 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) of the *Firearms Act* stipulates that if the initial decision to refuse or revoke a licence, authorization or registration certificate is upheld, any firearm delivered to a peace officer is to be returned to the individual to be lawfully disposed of. New 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 firearm or firearms, the individual must lawfully dispose of them within 30 days pursuant to new section 72(10).

2.2.7 Disclosure of Information (Clause 35)

Clause 35 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) 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.

2.2.8 Report to the Minister (Clause 36)

Pursuant to section 93 of the *Firearms Act*, the Commissioner of Firearms is required, on a yearly basis, to submit a report to the Minister of Public Safety and Emergency Preparedness with regard to 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 36 of Bill C-21 modifies the annual deadline to submit this report to 31 May (new 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 (discussed in section 2.2.7 of this Legislative Summary). This information includes the number of disclosures made to law enforcement agencies during the reporting period.

2.2.9 Advertising (Clause 37)

Clause 37 adds a new offence at new 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” (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)). 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*.¹⁷

2.2.10 Regulations (Clause 38)

Section 117 of the *Firearms Act* authorizes the Governor in Council to make regulations in relation to a variety of areas covered by the *Firearms Act*. Clause 38 amends section 117 by adding areas in which the Governor in Council may make regulations, including the following:

- the storage of handguns as well as related restrictions and licences (new section 117(i.1)); and
- the disposal of ammunition referred to in new section 37(4) of the *Firearms Act* (new 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 and 42)

Clause 41 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 42 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. 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 high-security site to have an on-site nuclear response force at all times. Pursuant 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 in conformity with 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).

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 (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.

2.3.2 Regulations (Clause 43)

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 43 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 (new section 44(1)(m.1));
- the powers, duties and functions of nuclear security officers, both on- and off-site (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 designation, or the suspension or revocation of the designation, of nuclear security officers as peace officers (new 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 (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 44 TO 55)

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

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 44 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 enforcement and inadmissibility policies.

Clause 45(3) removes committing an offence on entry as a reason for inadmissibility on the grounds of criminality at section 36(2)(d) of the IRPA and adds new 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 amended to account for the inclusion of transborder criminality as a ground for inadmissibility, including the following, which are set out in clauses 47, 48 and 49 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).

NOTES

1. [Bill C-21, An Act to amend certain Acts and to make certain consequential amendments \(firearms\)](#), 43rd Parliament, 2nd Session (first reading version, 16 February 2021).
2. [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.
3. [An Act to amend certain Acts and Regulations in relation to firearms](#), S.C. 2019, c. 9; and [Immigration and Refugee Protection Regulations](#), SOR/2002-227.
4. 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.
5. [Criminal Code](#), R.S.C. 1985, c. C-46, s. 84(1).
6. [Reference re Firearms Act \(Can.\)](#), 2000 SCC 31, para. 4.
7. *Ibid.*, para. 24.
8. [Bill C-19, An Act to amend the Criminal Code and the Firearms Act](#), 41st Parliament, 1st Session (S.C. 2012, c. 6).
9. [Criminal Code](#), R.S.C. 1985, c. C-46, s. 91.
10. [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.
11. [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.

12. [*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. See also Public Safety Canada, [*Backgrounder: List of prohibited assault-style firearms*](#), 1 May 2020.
13. Department of Justice, [*Bill C-21: An Act to amend certain Acts and to make certain consequential amendments \(firearms\)*](#), Charter statement.
14. [*Criminal Code*](#), R.S.C. 1985, c. C-46, s. 84(1).
15. “Airsoft guns” is 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.” See Royal Canadian Mounted Police, [*“Air guns,” Specific types of firearms*](#).
16. [*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.
17. See [*Interpretation Act*](#), R.S.C. 1985, c. I-21, s. 34(2).