



Canada's National Firearms Association

Phone: (780) 439-1394

P.O. Box 52183 Edmonton, Alberta T6G 2T5

Toll Free: 1-877-818-0393

Fax: (780) 439-4091

www.nfa.ca

Briefing Paper

for

The Public Safety and National Security
Committee of the Parliament of Canada

On Bill C-19: An Act to Amend the Criminal
Code and the Firearms Act

by

Canada's National Firearms Association

Abstract

Canada's Firearms Control laws contain many serious problems that create great difficulty for firearms owners and users without preventing any misuse of firearms. In the opinion of Canada's National Firearms Association, Bill C-19 represents a useful preliminary step towards removing the expensive and unnecessary legislation arising from Bills C-17 and C-68 which now define Canada's Firearms Act and Regulations. Destruction of the records is an important aspect of the Bill – the data is the registration system, and its continued existence makes the information susceptible to future abuse. Despite our desire for much more extensive reform and repeal of the current Firearms Act and Regulations, Canada's National Firearms Association fully supports the intent of Bill C-19 to eliminate the requirement in law to register long arms; however, we do see the need for some modifications that would improve this bill.

Introduction

As anyone who has suffered through the gun control regimes that arose from the 1990s well knows, there is plenty wrong with the Firearms Act that needs to be addressed. Consider former bills C-17 and C-68 which are so destructive to ordinary Canadian firearms owners and have put up so many barriers to legitimate and previously legal firearms ownership.

First, the Firearms Act has enabled the creation of a large, expensive, and unnecessary bureaucracy which is causing the removal of firearms from Canadian society. Firearm crime rates in Canada have always been low and have been declining steadily for many years, well prior to the enactment of former Firearms Act bills C-17 (1992) and C-68 (1995). This legislation was unnecessary when it was enacted and it remains unnecessary now.

Secondly, the Firearms Act is a significant violation of the civil and property rights of Canadians who own and use firearms. Increasing prohibitions and classification of firearms as prohibited and restricted effectively steals the ability of lawful citizens to enjoy the use of their property. Canadians are having their property seized and facing criminal charges merely for paperwork and usage offenses which were not crimes until this legislation was brought in.

Third, due to the current law which focuses on licensing, the police are not acting in the best interests of either public safety or the economy. They are wasting time, effort, and scarce resources on administering demonstrably non-dangerous people, who are ordinary gun owners, instead of focusing on more dangerous violent offenders. It is wrong to criminalize normal behaviour, such as firearm ownership, because some politically well-connected group, such as feminists, fears a potential threat. The licensing system was a wrong-headed idea – it does not prevent any criminal activity and we would be better served by going back to a simple certification system that shows that you have passed a criminal record check – the former Firearms Acquisition Certificate did that, but it wasn't a license. There is no convincing evidence that supports the claim that licensing has improved public safety. It simply is not right to have to have a license to own your own property. Licenses should be for use, like a hunting license is and not for ownership which the PAL clearly is – the PAL is a barrier to firearms ownership, not a route to it. That situation is simply wrong and needs to be fixed.

While eliminating long gun registration is an important aspect of necessary changes to the Firearms Act, it is a very small step towards resolving a much larger problem with Canadian Firearms Laws. The laws and regulations arising from former Bills C-17 and C-68 have created a corrosive rift between firearms owners and those who would enforce the firearms laws. This rift violates Sir Robert Peele's basic policing principles and has important consequences for public safety. Repairing that rift is an essential purpose of repealing the Firearms Act and its arising regulations from those two bills and returning firearms control to a process of certification and presumption of innocence. Ending registration of long-guns alone is simply not sufficient to fix the serious problems of the Firearms Act.

This paper concentrates on specific aspects of Bill C-19 with the aim of making related improvements that would aid in properly fulfilling the intent of the proposed law. It should be noted that registration and licensing, while different data systems, are closely linked and dependent upon each other, so it may be appropriate to remove licensing provisions and replace them with a simple criminal record check at point of purchase. This circumstance was the case with the former Firearms Acquisition Certificate (FAC), which was not a license to own or possess, but proof of a criminal record check.

While some witnesses have lauded that Bill C-19 is a sufficient change to fix Canadian gun control problems because requirements for safety training and licensing would remain, the NFA would argue that there is much to be done which is beyond the scope of this proposed legislation. For example, prior to the present Firearms Act and Regulations, the various provincial wildlife associations already had, and continue to operate excellent hunter training courses. These courses teach firearms safety and use, as do the many excellent discipline-based training courses that are operated by local shooting clubs and provincial and national organizations. In contrast, the Canadian Firearms Safety Course does not teach any skill with firearms, but rather concentrates on legal requirements and a simple handling test, a feature that is more logically taught in conjunction with live fire training. It is quite apparent that the Canadian Firearms Safety Education Course is a barrier to responsible firearms ownership rather than a conduit to it, and if a continued requirement for training is to continue, then the pre-existing hunter safety and other discipline-based courses should count as equivalent training.

Specific concerns with Bill C-19

Transfer Obstruction

Unfortunately, at sections 23.2(d) and 27, a CFO can still obstruct the transfer of a prohibited or restricted firearm to a licensed transferee. Transfer of registration is the business of the Registrar, not of a CFO. See what the SCC said on that issue in the *Firearms Act Reference*. There is no good or pressing reason to empower a CFO to obstruct transfers to licensed transferees.

Change POLs into PALs

In the absence of a change that would eliminate the requirement for a license and replace it with a certificate of no criminal record (which would not require a course), Possession Only Licenses (POL) should be turned into Possession Acquisition Licenses. The reason for this change is that there is no need to maintain such a distinction when all holders of POLs have been holding firearms safely for so many years that there is no justification for requiring them to waste resources taking a "safety" course. Unfortunately, that does not seem to have been done in Bill C-19.

An additional helpful change would be to modify the criteria for issuing restricted P.A.L. from Target **or** Collection **or** defence, to a combination of target/collection/defence. Prior to C-68, the purpose for acquiring a restricted firearm could be a combination of reasons, and this reflected the reality of why people own and use these firearms.

This situation was changed under C-68 to give maximum authority to provincial CFOs to create paperwork offenses. For example, if a restricted “target” P.A.L. holder cannot demonstrate that he is actively engaging in target practise to the CFO’s satisfaction, then the person’s license and registrations are revoked and his or her firearms are confiscated. POL holders have demonstrated their trustworthiness through their possession of firearms. POL holders do not need to take the firearm safety course. There is no advantage to public safety to maintain two types of licences.

One possibility to consider is to make licenses valid until revoked, so that millions of people would not have to waste their own and government resources renewing licenses every five years and, more importantly, so that a person would not become liable to ten years' imprisonment simply because he had not noticed that his license had expired. Unnoticed expiry also causes permanent harm to "grandfathered" status as it is revoked if one’s license is not valid – this is yet another criminalized paperwork offence.

Other Changes

If licensing is to be maintained for the time being, if a person does something to justify a firearms prohibition order, and such order is made, then his licence could be revoked, and the prosecutor could easily determine whether or not a firearms license had been issued to that person. There is no need to wait for a renewal date to take any necessary action.

Regarding amendments to sections 38 and 44 of the *Firearms Act*, if those sections of the *Firearms Act* have not yet been proclaimed, then the NFA encourages the government to drop them at the earliest feasible date.

Regarding section 105 F.A., now that registration of a non-restricted firearm is no longer required, why should an inspector be able to demand that a person produce a non-restricted firearm? If there is a criminal investigation, the police should then be required to seek the legal recourse of obtaining a search warrant.

There appears to be nothing to stop an inspector from compiling a “back-door registration list” by demanding that a person produce all firearms in his "possession" (even if located elsewhere) and recording the serial numbers and the identifying features of each firearm.

Firearms Act sections 105, 112(4) provide for reverse onus – instead of a citizen having to prove that s/he has a certificate the onus should be on the crown to prove that s/he does not. In the opinion of the NFA, sections 113, and 115 of the Firearms Act would seem to violate our *Charter* rights should be addressed.

On Destroying the Records

Canada’s National Firearms Association asserts that there should be serious penalties enacted in this bill to punish those who copy or otherwise reproduce or store the registration data base. The registration data is the registry, and to ensure that the intent of the legislation is carried out, there must be an associated penalty for undermining the purpose of the legislation by continuing its existence in any form. The only constraint under present legislation appears to be privacy concerns. We would point out that such a penalty should not apply to individuals who, for whatever reason, retain copies of their own registration cards.

Conclusion

Registration of firearms represents an onerous and unnecessary aspect of federal legislation that prevents no criminal activity. Making lists of firearms and forcing owners to be in possession of paper cards makes no one any safer than he or she would be without those papers. A major problem is that the entire registration system makes administrative paperwork offenses into criminal code offences that can result in significant criminal penalties. It is the position of Canada’s National Firearms Association that such an effect is far beyond any intent

to prevent violence, or to limit access of bad people to firearms. The real effect of such a registration regime has been to drive a wedge between the firearms owning public and law enforcement. These effects alone are sufficient reasons to end the registration of firearms and destroy the records of those registrations.

Sheldon Clare, National President

<http://www.nfa.ca/contact-nfa-firearms-guns-canada>

Address: P.O. Box 49090, Edmonton, Alberta T6E 5X0

Telephone: 780-439-1394 Toll free: 1-877-818-0393 Fax: 780-439-4091

Information: info@nfa.ca