



Legislative Brief - Firearms

Foundational Document

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NOTE 1:

This is a document provided for discussion purposes, based on a summary of the applicable law as assembled by Commission Counsel. The Commission welcomes input from Participants as to other laws or sections to be included in this overview.

SUBJECT MATTER

The purpose of this document is to provide information about the law applicable to the acquisition, possession, transfer, import, and use of firearms at the time of the mass casualty in April 2020. The emphasis is on illegal possession, import, and use since the perpetrator did not have a firearms licence. It is intended to assist the Commission with the fulfillment of its mandate by providing factual information about the rules in place at the time. It does not provide commentary, evaluations or recommendations.

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SUMMARY

I. Introduction

The purpose of this document is to provide information about the law applicable to the acquisition, possession, transfer, import, and use of firearms at the time of the mass casualty in April 2020. The emphasis is on illegal possession, import, and use since the perpetrator did not have a firearms licence. It is intended to assist the Commission with the fulfillment of its mandate by providing factual information about the rules in place at the time. It does not provide commentary, evaluations or recommendations.

The language from the statutes and regulations in this document is that which was applicable at the time of the mass casualty event and the hyperlinks are therefore to the version of the rules in place in April 2020. This brief notes if any provisions have changed in the intervening time.

This document only references federal legislation and regulations because the regulation of firearms falls primarily under federal and not provincial jurisdiction.

II. Overview of federal laws and regulations

<i>Criminal Code, R.S.C., 1985, c. C-46</i>	
Definitions	
s. 2	In this Act, ... explosive substance includes (a) anything intended to be used to make an explosive substance, (b) anything, or any part thereof, used or intended to be used, or adapted to cause, or to aid in causing an explosion in or with an explosive substance, and (c) an incendiary grenade, fire bomb, molotov cocktail or other similar incendiary substance or device and a delaying mechanism or other thing intended for use in connection with such a substance or device; ... firearm means a barrelled weapon from which any shot, bullet or other projectile can be discharged and that is capable of causing serious bodily injury or death to a person, and includes any frame or receiver of such a barrelled weapon and anything that can be adapted for use as a firearm; ... intimate partner with respect to a person, includes their current or former spouse, common-law partner and dating partner; ... weapon means any thing used, designed to be used or intended for use

	<p>(a) in causing death or injury to any person, or (b) for the purpose of threatening or intimidating any person and, without restricting the generality of the foregoing, includes a firearm and, for the purposes of sections 88, 267 and 272, any thing used, designed to be used or intended for use in binding or tying up a person against their will;</p> <p>...</p>
<p>s. 84(1)</p>	<p>In this Part,</p> <p>ammunition means a cartridge containing a projectile designed to be discharged from a firearm and, without restricting the generality of the foregoing, includes a caseless cartridge and a shot shell;</p> <p>...</p> <p>authorization means an authorization issued under the <i>Firearms Act</i>;</p> <p>automatic firearm means a firearm that is capable of, or assembled or designed and manufactured with the capability of, discharging projectiles in rapid succession during one pressure of the trigger;</p> <p>cartridge magazine means a device or container from which ammunition may be fed into the firing chamber of a firearm;</p> <p>chief firearms officer means a chief firearms officer as defined in subsection 2(1) of the <i>Firearms Act</i>;</p> <p>Commissioner of Firearms means the Commissioner of Firearms appointed under section 81.1 of the <i>Firearms Act</i>;</p> <p>...</p> <p>handgun means a firearm that is designed, altered or intended to be aimed and fired by the action of one hand, whether or not it has been redesigned or subsequently altered to be aimed and fired by the action of both hands;</p> <p>...</p> <p>import means import into Canada and, for greater certainty, includes the importation of goods into Canada that are shipped in transit through Canada and exported from Canada;</p> <p>licence means a licence issued under the <i>Firearms Act</i>;</p> <p>non-restricted firearm means</p> <p>(a) a firearm that is neither a prohibited firearm nor a restricted firearm, or</p> <p>(b) a firearm that is prescribed to be a non-restricted firearm;</p> <p>prescribed means prescribed by the regulations;</p> <p>prohibited ammunition means ammunition, or a projectile of any kind, that is prescribed to be prohibited ammunition;</p> <p>prohibited device means</p> <p>(a) any component or part of a weapon, or any accessory for use with a weapon, that is prescribed to be a prohibited device,</p> <p>(b) a handgun barrel that is equal to or less than 105 mm in length, but does not include any such handgun barrel that is prescribed, where the handgun barrel is for use in international sporting competitions governed by the rules of the International Shooting Union,</p> <p>(c) a device or contrivance designed or intended to muffle or stop the sound or report of a firearm,</p>

	<p>(d) a cartridge magazine that is prescribed to be a prohibited device, or (e) a replica firearm;</p> <p>prohibited firearm means</p> <p>(a) a handgun that</p> <ul style="list-style-type: none">(i) has a barrel equal to or less than 105 mm in length, or(ii) is designed or adapted to discharge a 25 or 32 calibre cartridge, but does not include any such handgun that is prescribed, where the handgun is for use in international sporting competitions governed by the rules of the International Shooting Union, <p>(b) a firearm that is adapted from a rifle or shotgun, whether by sawing, cutting or any other alteration, and that, as so adapted,</p> <ul style="list-style-type: none">(i) is less than 660 mm in length, or(ii) is 660 mm or greater in length and has a barrel less than 457 mm in length, <p>(c) an automatic firearm, whether or not it has been altered to discharge only one projectile with one pressure of the trigger, or (d) any firearm that is prescribed to be a prohibited firearm;</p> <p>...</p> <p>registration certificate means a registration certificate issued under the <i>Firearms Act</i>;</p> <p>restricted firearm means</p> <ul style="list-style-type: none">(a) a handgun that is not a prohibited firearm,(b) a firearm that<ul style="list-style-type: none">(i) is not a prohibited firearm, <p>...</p> <ul style="list-style-type: none">(c) a firearm that is designed or adapted to be fired when reduced to a length of less than 660 mm by folding, telescoping or otherwise, or(d) a firearm of any other kind that is prescribed to be a restricted firearm; <p>...</p> <p>Transfer means sell, provide, barter, give, lend, rent, send, transport, ship, distribute or deliver.</p> <p>...</p>
<p>Web link: https://www.canlii.org/en/ca/laws/stat/rsc-1985-c-c-46/162461/rsc-1985-c-c-46.html</p>	

<i>Firearms Act, S.C. 1995, c. 39</i>	
Definitions	
s. 2	<p>Chief Firearms Officer means</p> <p>(a) in respect of a province, the individual who is designated in writing as the chief firearms officer for the province by the provincial minister of that province,</p> <p>(b) in respect of a territory, the individual who is designated in writing as the chief firearms officer for the territory by the federal Minister, or</p> <p>(c) in respect of any matter for which there is no chief firearms officer under paragraph (a) or (b), the individual who is designated in writing as the chief firearms officer for the matter by the federal Minister;</p>
Key provisions	
s. 4	<p>The purpose of this Act is</p> <p>(a) to provide, notably by sections 5 to 16 and 54 to 73, for the issuance of</p> <p style="padding-left: 40px;">(i) licences for firearms and authorizations and registration certificates for prohibited firearms or restricted firearms, under which persons may possess firearms in circumstances that would otherwise constitute an offence under subsection 91(1), 92(1), 93(1) or 95(1) of the <i>Criminal Code</i>,</p> <p style="padding-left: 40px;">(ii) licences and authorizations under which persons may possess prohibited weapons, restricted weapons, prohibited devices and prohibited ammunition in circumstances that would otherwise constitute an offence under subsection 91(2), 92(2) or 93(1) of the <i>Criminal Code</i>, and</p> <p style="padding-left: 40px;">(iii) licences under which persons may sell, barter or give cross-bows in circumstances that would otherwise constitute an offence under subsection 97(1) of the <i>Criminal Code</i>;</p> <p>(b) to authorize,</p> <p style="padding-left: 40px;">(i) notably by sections 5 to 12 and 54 to 73, the manufacture of or offer to manufacture, and</p> <p style="padding-left: 40px;">(ii) notably by sections 21 to 34 and 54 to 73, the transfer of or offer to transfer, firearms, prohibited weapons, restricted weapons, prohibited devices, ammunition and prohibited ammunition in circumstances that would otherwise constitute an offence under subsection 99(1), 100(1) or 101(1) of the <i>Criminal Code</i>; and</p> <p>(c) to authorize, notably by sections 35 to 73, the importation or exportation of firearms, prohibited weapons, restricted weapons, prohibited devices, ammunition, prohibited ammunition and components and parts designed exclusively for use in the manufacture of or assembly into automatic firearms in circumstances that would otherwise constitute an offence under subsection 103(1) or 104(1) of the <i>Criminal Code</i>.</p>

s. 12.1	A registration certificate may only be issued for a prohibited firearm or a restricted firearm.
s. 13	A person is not eligible to hold a registration certificate for a firearm unless the person holds a licence authorizing the person to possess that kind of firearm.
Web link: https://canlii.ca/t/53z67	

Additional information: Canada’s *Criminal Code* contains three types of firearms: "prohibited", such as certain handguns, fully automatic firearms, and sawed off rifles; "restricted", such as handguns, certain rifles and semi-automatic firearms; and "non-restricted" such as ordinary hunting rifles and shotguns (often referred to as “long guns”).¹ The RCMP Canadian Firearms Program oversees firearms licences and registration, maintains national firearms safety training standards, and assists other law enforcement agencies.² Restricted and prohibited firearms require additional safety training, must be registered, and their use may be limited to certain activities, such as target practice or as part of a collection.

There have been no amendments to the relevant provisions of the *Criminal Code* cited above since the mass casualty in April 2020, but there were some relevant changes in the preceding years. In June 2015, a government bill entitled the [Common Sense Firearms Licensing Act](#) received royal assent. It amended the *Criminal Code* to strengthen the provisions relating to orders prohibiting the possession of weapons, including firearms, when a person is sentenced for an offence involving domestic violence. It also defined the term “non-restricted firearm” and gave the Governor in Council authority to prescribe a firearm to be non-restricted and expanded authority to prescribe a firearm to be restricted.

An even more recent piece of legislation that made changes to the *Criminal Code* was [An Act to amend certain Acts and Regulations in relation to firearms](#). Passed in 2019, it repealed the provisions of the *Criminal Code* that gave authority to the Governor-in-Council to prescribe by regulation that a prohibited or restricted firearm be a non-restricted firearm or that a prohibited firearm be a restricted firearm.

The *Firearms Act* became law in 1995. It is Canada’s primary legislation governing the possession, licensing, transport, and storage of firearms. The *Firearms Act* created a licensing scheme through which individuals can obtain a “Possession and Acquisition Licence” (a “PAL”), which replaced the previous “Firearms Acquisition Certificate” (“FAC”) scheme.³ Administration of the Act is overseen by the RCMP and is carried out in partnership with the provinces and other federal government agencies.⁴

There have been changes in recent years to the *Firearms Act*, both before and after the events of April 2020. The previously mentioned [Common Sense Firearms Licensing Act](#), which received royal assent in June 2015, clarified the firearms licensing regime for individuals, limited the discretionary authority of chief firearms officers, and provided for the sharing of information on commercial importations of firearms.

¹ See <https://www.rcmp-grc.gc.ca/en/firearms/classes-firearms>

² See <https://www.rcmp-grc.gc.ca/en/firearms>

³ <https://www.rcmp-grc.gc.ca/en/history-firearms-canada>

⁴ See “Administration of the *Firearms Act*” on the RCMP’s website: <https://www.rcmp-grc.gc.ca/en/firearms/2019-commissioner-firearms-report>

The *Criminal Code* and *Firearms Act* frequently operate in concert. The *Criminal Code*, for example, incorporates the *Firearms Act* and its regulations by reference, to form the basis of a number of criminal offences.⁵

The *Firearms Act* also allows for the appointment of a Chief Firearms Officer in each province and details the powers of the chief firearms officers and their agents to inspect gun storage, demand compliance, and seize firearms. Chief Firearms Officers administer the *Firearms Act* on behalf of the Canadian Firearms Centre and are responsible for issuing firearms licences for individuals (including minors), firearms business licences, and authorizations to transport restricted and/or prohibited firearms and authorizations to carry.⁶ The Chief Firearms Officers may be federal or provincial, at the option of the province. Nova Scotia’s is provincial. As explained in the commentary of a recent edition of an annotated *Firearms Act* under the definition of Chief Firearms Officer in s. 2:⁷

“Chief Firearms Officer” means an individual designated by either the provincial minister or the federal Minister as the person chiefly responsible for the administration of the *Firearms Act* in the province or territory (subject, in turn, to the lawful written delegation of that authority under the Act by that chief firearms officer to firearms officers in the province or territory). The construction of the section effectively leaves a right of first refusal to the province, and ensures that if the province does not “opt in” and designate a chief firearms officer, one may be designated by a federal Minister. A chief firearms officer may be a police officer or a civilian.... At the time of publication, Ontario, Quebec, New Brunswick, Nova Scotia, and Prince Edward Island have chief firearms officers appointed by the provincial minister, and the federal Minister has designated a chief firearms officer in the remaining provinces and territories.

...

III. Use and possession provisions

<i>Criminal Code, R.S.C., 1985, c. C-46</i>	
Use offences	
s. 85	(1) Every person commits an offence who uses a firearm, whether or not the person causes or means to cause bodily harm to any person as a result of using the firearm, (a) while committing an indictable offence, other than an offence under section 220 (criminal negligence causing death), 236 (manslaughter), 239 (attempted murder), 244 (discharging firearm with intent), 244.2 (discharging firearm — recklessness), 272 (sexual assault with a weapon) or 273 (aggravated sexual assault),

⁵ See e.g. s. 84(1) of the *Criminal Code*, which defines “licence” as “a licence issued under the *Firearms Act*”

⁶ See “Nova Scotia Provincial Firearms Office” website: https://novascotia.ca/just/public_safety/firearms.asp

⁷ J.K. Brunet, S. Friedman, and F. Mansour, *Annotated Firearms Act & Related Legislation*, 5th ed (Toronto: LexisNexis Canada, at

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	<p>subsection 279(1) (kidnapping) or section 279.1 (hostage taking), 344 (robbery) or 346 (extortion); (b) while attempting to commit an indictable offence; or (c) during flight after committing or attempting to commit an indictable offence.</p> <p>(3) Every person who commits an offence under subsection (1) or (2) is guilty of an indictable offence and liable (a) in the case of a first offence, except as provided in paragraph (b), to imprisonment for a term not exceeding fourteen years and to a minimum punishment of imprisonment for a term of one year; and (b) in the case of a second or subsequent offence, to imprisonment for a term not exceeding 14 years and to a minimum punishment of imprisonment for a term of three years.</p>
s. 86	<p>(2) Every person commits an offence who contravenes a regulation made under paragraph 117(h) of the <i>Firearms Act</i> respecting the storage, handling, transportation, shipping, display, advertising and mail-order sales of firearms and restricted weapons.</p> <p>(3) Every person who commits an offence under subsection (1) or (2) (a) is guilty of an indictable offence and liable to imprisonment (i) in the case of a first offence, for a term not exceeding two years, and (ii) in the case of a second or subsequent offence, for a term not exceeding five years; or (b) is guilty of an offence punishable on summary conviction.</p>
Possession offences	
s. 88	<p>(1) Every person commits an offence who carries or possesses a weapon, an imitation of a weapon, a prohibited device or any ammunition or prohibited ammunition for a purpose dangerous to the public peace or for the purpose of committing an offence.</p> <p>(2) Every person who commits an offence under subsection (1) (a) is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years; or (b) is guilty of an offence punishable on summary conviction.</p>
s. 91	<p>(1) Subject to subsection (4), every person commits an offence who possesses a prohibited firearm, a restricted firearm or a non-restricted firearm without being the holder of (a) a licence under which the person may possess it; and (b) in the case of a prohibited firearm or a restricted firearm, a registration certificate for it.</p> <p>(2) Subject to subsection (4), every person commits an offence who possesses a prohibited weapon, a restricted weapon, a prohibited device, other than a replica firearm, or any prohibited ammunition, without being the holder of a licence under which the person may possess it.</p> <p>(3) Every person who commits an offence under subsection (1) or (2) (a) is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years; or (b) is guilty of an offence punishable on summary conviction.</p>

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s. 92	<p>(1) Subject to subsection (4), every person commits an offence who possesses a prohibited firearm, a restricted firearm or a non-restricted firearm knowing that the person is not the holder of</p> <ul style="list-style-type: none">(a) a licence under which the person may possess it; and(b) in the case of a prohibited firearm or a restricted firearm, a registration certificate for it. <p>(2) Subject to subsection (4), every person commits an offence who possesses a prohibited weapon, a restricted weapon, a prohibited device, other than a replica firearm, or any prohibited ammunition knowing that the person is not the holder of a licence under which the person may possess it.</p> <p>(3) Every person who commits an offence under subsection (1) or (2) is guilty of an indictable offence and liable</p> <ul style="list-style-type: none">(a) in the case of a first offence, to imprisonment for a term not exceeding ten years;(b) in the case of a second offence, to imprisonment for a term not exceeding ten years and to a minimum punishment of imprisonment for a term of one year; and(c) in the case of a third or subsequent offence, to imprisonment for a term not exceeding ten years and to a minimum punishment of imprisonment for a term of two years less a day.
s. 95	<p>(1) Subject to subsection (3), every person commits an offence who, in any place, possesses a loaded prohibited firearm or restricted firearm, or an unloaded prohibited firearm or restricted firearm together with readily accessible ammunition that is capable of being discharged in the firearm, without being the holder of</p> <ul style="list-style-type: none">(a) an authorization or a licence under which the person may possess the firearm in that place; and(b) the registration certificate for the firearm. <p>(2) Every person who commits an offence under subsection (1)</p> <ul style="list-style-type: none">(a) is guilty of an indictable offence and liable to imprisonment for a term not exceeding 10 years and to a minimum punishment of imprisonment for a term of<ul style="list-style-type: none">(i) in the case of a first offence, three years, and(ii) in the case of a second or subsequent offence, five years; or(b) is guilty of an offence punishable on summary conviction.
Web link: https://www.canlii.org/en/ca/laws/stat/rsc-1985-c-c-46/162461/rsc-1985-c-c-46.html	

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/98-462, passed under the Criminal Code, R.S.C., 1985, c. C-46

Web link: <https://www.canlii.org/en/ca/laws/regu/sor-98-462/145129/sor-98-462.html>

Other regulations made under the *Firearms Act* that may be relevant from a use and possession perspective

[Authorizations to Carry Restricted Firearms and Certain Handguns Regulations](#), SOR/98-207

[Authorizations to Transport Restricted Firearms and Prohibited Firearms Regulations](#), SOR/98-206

[Firearms Licences Regulations](#), SOR/98-199

[Firearms Registration Certificates Regulations](#), SOR/98-201

[Storage, Display, Transportation and Handling of Firearms by Individuals Regulations](#), SOR/98-209

Additional information: There have been no changes to the provisions of the *Criminal Code* cited above since the mass casualty in April 2020.

Section 91 of the *Criminal Code* makes it an offence to possess a prohibited, restricted, or non-restricted firearm without being the holder of a licence, and the case of a prohibited firearm or a restricted firearm, a registration certificate for it.

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* contain a list of firearms, components and ammunition that are restricted, prohibited, and non-restricted. The list linked to above is that which was applicable and the time of the mass casualty in April 2020. The regulations, however, were amended in May 2020, in part as a response to the event.⁸ The amendments banned over 1,500 models and variants of firearms. The newly banned models represent nine categories of firearms and two types identified by characteristic. Some of their components were also prohibited. The amendment contained a transition period of two years to protect owners of newly prohibited firearms from criminal liability while they take steps to comply with these new rules. This two-year amnesty order under the *Criminal Code* is in effect until April 30, 2022.⁹

There were some changes to the firearms-related provisions in the *Criminal Code* in recent years as well, prior to the mass casualty of April 2020. In June 2015, a government bill entitled the [Common Sense Firearms Licensing Act](#) received royal assent. It amended the *Criminal Code* to strengthen the provisions relating to orders prohibiting the possession of weapons, including firearms, when a person is sentenced for an offence involving domestic violence.

⁸ See <https://www.canlii.org/en/ca/laws/regu/sor-98-462/167569/sor-98-462.html>

⁹ See <https://pm.gc.ca/en/news/news-releases/2020/05/01/prime-minister-announces-ban-assault-style-firearms>

IV. Transferring provisions (includes trafficking, selling and gifting)

<i>Criminal Code, R.S.C., 1985, c. C-46</i>	
Trafficking Offences	
s. 99	<p>(1) Every person commits an offence who</p> <ul style="list-style-type: none"> (a) manufactures or transfers, whether or not for consideration, or (b) offers to do anything referred to in paragraph (a) in respect of a prohibited firearm, a restricted firearm, a non-restricted firearm, a prohibited weapon, a restricted weapon, a prohibited device, any ammunition or any prohibited ammunition knowing that the person is not authorized to do so under the <i>Firearms Act</i> or any other Act of Parliament or any regulations made under any Act of Parliament. <p>(2) Every person who commits an offence under subsection (1) when the object in question is a prohibited firearm, a restricted firearm, a non-restricted firearm, a prohibited device, any ammunition or any prohibited ammunition is guilty of an indictable offence and liable to imprisonment for a term not exceeding 10 years and to a minimum punishment of imprisonment for a term of</p> <ul style="list-style-type: none"> (a) in the case of a first offence, three years; and (b) in the case of a second or subsequent offence, five years. <p>(3) In any other case, a person who commits an offence under subsection (1) is guilty of an indictable offence and liable to imprisonment for a term not exceeding 10 years and to a minimum punishment of imprisonment for a term of one year.</p>
s. 101	<p>(1) Every person commits an offence who transfers a prohibited firearm, a restricted firearm, a non-restricted firearm, a prohibited weapon, a restricted weapon, a prohibited device, any ammunition or any prohibited ammunition to any person otherwise than under the authority of the <i>Firearms Act</i> or any other Act of Parliament or any regulations made under an Act of Parliament.</p> <p>(2) Every person who commits an offence under subsection (1)</p> <ul style="list-style-type: none"> (a) is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years; or (b) is guilty of an offence punishable on summary conviction.
<p>Web link: https://www.canlii.org/en/ca/laws/stat/rsc-1985-c-c-46/162461/rsc-1985-c-c-46.html</p>	

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Firearms Act, S.C. 1995, c. 39	
s. 21	For the purposes of sections 22 to 32, transfer means sell, barter or give.
s. 23	(1) A person may transfer a non-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; and (b) the transferor has no reason to believe that the transferee is not authorized to acquire and possess that kind of firearm. ...
23.2	(1) A person may transfer a prohibited firearm or a 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. ...
s. 24	(1) Subject to section 26, a person may transfer a prohibited weapon, prohibited device or prohibited ammunition only to a business. (2) A person may transfer a prohibited weapon, prohibited device, ammunition or prohibited ammunition to a business only if (a) the business holds a licence authorizing the business to acquire and possess prohibited weapons, prohibited devices, ammunition or prohibited ammunition, as the case may be; ... and (c) the person has no reason to believe that the business is not authorized to acquire and possess prohibited weapons, prohibited devices, ammunition or prohibited ammunition, as the case may be.
s. 25	A person may transfer ammunition that is not prohibited ammunition to an individual only if the individual (a) until January 1, 2001, holds a licence authorizing him or her to possess firearms or a prescribed document; or (b) after January 1, 2001, holds a licence authorizing him or her to possess firearms.
Web link: https://canlii.ca/t/53z67	

Conditions of Transferring Firearms and Other Weapons Regulations SOR/98-202, made under the Firearms Act	
Key provisions	
s. 3	<p>For the purposes of paragraph 23(1)(f) of the Act, the transferee shall comply with the following conditions to transfer a firearm:</p> <ul style="list-style-type: none"> (a) if the transferee is an individual and the firearm is a restricted firearm or a handgun referred to in subsection 12(6.1) of the Act, the transferee shall inform the chief firearms officer of the transferee's reasons <ul style="list-style-type: none"> (i) for needing the restricted firearm or handgun <ul style="list-style-type: none"> (A) to protect the life of that individual or of other individuals, or (B) for use in connection with his or her lawful profession or occupation, or (ii) for wishing to acquire the restricted firearm or handgun <ul style="list-style-type: none"> (A) 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 of the Act, or (B) to form part of a gun collection of the individual, in the case of an individual who satisfies the criteria described in section 30 of the Act; and (b) if the transferee wishes to acquire a restricted firearm or a handgun referred to in subsection 12(6.1) of the Act to form part of a gun collection of the transferee, the transferee shall provide the chief firearms officer with <ul style="list-style-type: none"> (i) information regarding the transferee's knowledge of the historical, technological or scientific characteristics that relate to or distinguish the restricted firearms or handguns that he or she possesses, (ii) the transferee's signed consent to the periodic inspection, conducted in a reasonable manner, of the premises in which the restricted firearms or handguns are to be kept, and (iii) details of the transferee's understanding of the requirements set out in the Storage, Display, Transportation and Handling of Firearms by Individuals Regulations respecting the secure storage of restricted firearms or handguns.
<p>Web link: https://canlii.ca/t/l9wv</p>	

Other regulations made under the <i>Firearms Act</i> that may be relevant
Authorizations to Transport Restricted Firearms and Prohibited Firearms Regulations , SOR/98-206
Storage, Display, Transportation and Handling of Firearms by Individuals Regulations , SOR/98-209

Additional information: “Transfer” is defined very broadly in s. 84(1) of the *Criminal Code*: “**transfer** means sell, provide, barter, give, lend, rent, send, transport, ship, distribute or deliver.”

Both the *Criminal Code* and the *Firearms Act* regulations contain provisions regarding the transfer of firearms, firearms-related devices, and ammunition. In addition, the RCMP has a website with information about the processes involved with acting as executor for an estate that has one or more firearms, as well as the processes involved for executors and heirs.¹⁰

Recent (though prior to the mass casualty) changes have been made to some of the transfer-related aspects *Firearms Act* via [An Act to amend certain Acts and Regulations in relation to firearms](#), which received royal assent in June 2019. It required businesses to keep point-of-sale records for non-restricted firearms. It also removed certain automatic authorizations to transport prohibited and restricted firearms.¹¹

V. Importing and exporting provisions

<i>Criminal Code, R.S.C., 1985, c. C-46</i>	
s. 103	<p>(1) Every person commits an offence who imports or exports</p> <p style="padding-left: 40px;">(a) a prohibited firearm, a restricted firearm, a non-restricted firearm, a prohibited weapon, a restricted weapon, a prohibited device or any prohibited ammunition, or</p> <p style="padding-left: 40px;">(b) any component or part designed exclusively for use in the manufacture of or assembly into an automatic firearm,</p> <p>knowing that the person is not authorized to do so under the <i>Firearms Act</i> or any other Act of Parliament or any regulations made under an Act of Parliament.</p> <p>(2) Every person who commits an offence under subsection (1) when the object in question is a prohibited firearm, a restricted firearm, a non-restricted firearm, a prohibited device or any prohibited ammunition is guilty of an indictable offence and liable to imprisonment for a term not exceeding 10 years and to a minimum punishment of imprisonment for a term of</p> <p style="padding-left: 40px;">(a) in the case of a first offence, three years; and</p> <p style="padding-left: 40px;">(b) in the case of a second or subsequent offence, five years.</p> <p>(2.1) In any other case, a person who commits an offence under subsection (1) is guilty of an indictable offence and liable to imprisonment for a term not</p>

¹⁰ See <https://www.rcmp-grc.gc.ca/en/firearms/executors-and-heirs>

¹¹ Public Safety Canada news release, June 21, 2019: <https://www.canada.ca/en/public-safety-canada/news/2019/06/royal-assent-of-legislation-strengthening-gun-laws-to-keep-communities-safe.html>

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	exceeding 10 years and to a minimum punishment of imprisonment for a term of one year.
s. 104	<p>(1) Every person commits an offence who imports or exports</p> <p style="padding-left: 40px;">(a) a prohibited firearm, a restricted firearm, a non-restricted firearm, a prohibited weapon, a restricted weapon, a prohibited device or any prohibited ammunition, or</p> <p style="padding-left: 40px;">(b) any component or part designed exclusively for use in the manufacture of or assembly into an automatic firearm, otherwise than under the authority of the <i>Firearms Act</i> or any other Act of Parliament or any regulations made under an Act of Parliament.</p> <p>(2) Every person who commits an offence under subsection (1)</p> <p style="padding-left: 40px;">(a) is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years; or</p> <p style="padding-left: 40px;">(b) is guilty of an offence punishable on summary conviction.</p>
Web link: https://www.canlii.org/en/ca/laws/stat/rsc-1985-c-c-46/162461/rsc-1985-c-c-46.html	

Firearms Act, S.C. 1995, c. 39	
Authorized Exportation and Importation	
Individuals	
Authorization for non-residents who do not hold a licence to import firearms that are not prohibited firearms	
s. 35	<p>(1) A non-resident who does not hold a licence may import a firearm that is not a prohibited firearm if, at the time of the importation,</p> <p style="padding-left: 40px;">(a) the non-resident</p> <p style="padding-left: 80px;">(i) is eighteen years old or older,</p> <p style="padding-left: 80px;">(ii) declares the firearm to a customs officer in the prescribed manner and, in the case of a declaration in writing, completes the prescribed form containing the prescribed information, and</p> <p style="padding-left: 80px;">(iii) in the case of a restricted firearm, produces an authorization to transport the restricted firearm; and</p> <p style="padding-left: 40px;">(b) a customs officer confirms in the prescribed manner the declaration referred to in subparagraph (a)(ii) and the authorization to transport referred to in subparagraph (a)(iii).</p> <p>(2) Where a firearm is declared at a customs office to a customs officer but the requirements of subparagraphs (1)(a)(ii) and (iii) are not complied with, the customs officer may authorize the firearm to be exported from that customs office or may detain the firearm and give the non-resident a reasonable time to comply with those requirements.</p> <p>(3) Where those requirements are not complied with within a reasonable time and the firearm is not exported, the firearm shall be disposed of in the prescribed manner.</p> <p>(4) If a non-restricted firearm is declared at a customs office to a customs officer and</p> <p style="padding-left: 40px;">(a) the non-resident has not truthfully completed the prescribed form, or</p>

	(b) the customs officer has reasonable grounds to believe that it is desirable, in the interests of the safety of the non-resident or any other person, that the declaration not be confirmed, the customs officer may refuse to confirm the declaration and may authorize the firearm to be exported from that customs office.
Temporary licence and registration certificate	
s. 36	<p>(1) A declaration that is confirmed under paragraph 35(1)(b) has the same effect after the importation of the firearm as a licence authorizing the non-resident to possess only that firearm and, in the case of a restricted firearm, as a registration certificate for the firearm until</p> <p style="padding-left: 40px;">(a) the expiry of 60 days after the importation, in the case of a non-restricted firearm; or</p> <p style="padding-left: 40px;">(b) the earlier of the expiry of 60 days after the importation and the expiry of the authorization to transport, in the case of a restricted firearm.</p> <p>(2) A chief firearms officer may renew the confirmation of a declaration for one or more periods of sixty days.</p> <p>(3) For greater certainty, an application for a renewal of the confirmation of a declaration may be made by telephone or other electronic means or by mail and a chief firearms officer may renew that confirmation by electronic means or by mail.</p>
Web link: https://canlii.ca/t/53z67	

Importation and Exportation of Firearms Regulations (Individuals), SOR/98-215, passed under the Firearms Act, S.C. 1995, c. 39	
Exportation of Firearms — Licensed Individuals	
s. 7	An individual who meets the requirements of paragraph 38(1)(a) of the Act* shall, before exporting a firearm that he or she does not intend to reimport, provide a customs officer with an authorization to export issued to the individual for the firearm.
Importation of Firearms — Licensed Individuals	
s. 11	For the purposes of paragraphs 40(1)(a) and (2)(b) of the Act, ¹² an individual who imports a firearm shall declare it orally.
Web link: https://canlii.ca/t/l9xl	

Other regulations made under the Firearms Act that may be relevant	
Authorizations to Transport Restricted Firearms and Prohibited Firearms Regulations, SOR/98-206	
Storage, Display, Transportation and Handling of Firearms by Individuals Regulations, SOR/98-209	

¹² *Note: The *Firearms Act* has been amended since these regulations were made, and these references appear to correspond with the 1998 version of the *Firearms Act*

Additional information: Section 103 of the *Criminal Code* makes it an offence for a person to import or export any type of firearm (non-restricted, restricted, or prohibited), any prohibited ammunition, or any component designed for use in an automatic firearm knowing they are not authorized to do so under the *Firearms Act*.

The rules for import and export of firearms under Canadian law are notably different for residents and non-residents. The import and export provisions of the *Firearms Act* are centred on the import and export of firearms by non-residents.

Section 7 of the *Importation and Exportation of Firearms Regulations (Individuals)*, however, provides that licensed individuals must provide a customs officer with an authorization to export if they do not intend to reimport the firearm to Canada. Section 11 provides that properly licensed individuals who are bringing a firearm into Canada must declare it orally at the border.

The CBSA website states that anyone importing a firearm to Canada must be at least 18 years of age.¹³ Non-residents must be 18 to import a firearm, pursuant to s. 35(1)(a)(i) of the *Firearms Act*.

A recent, but pre-April 2020, piece of legislation that made import/export-related changes to the *Firearms Act* was *An Act to amend certain Acts and Regulations in relation to firearms*, which received royal assent in June 2019. It removed certain automatic authorizations to transport prohibited and restricted firearms.¹⁴

VI. Ineligibility provisions

<i>Firearms Act, S.C. 1995, c. 39</i>	
s. 5	<p>(1) A person is not eligible to hold a licence if it is desirable, in the interests of the safety of that or any other person, that the person not possess a firearm, a cross-bow, a prohibited weapon, a restricted weapon, a prohibited device, ammunition or prohibited ammunition.</p> <p>(2) In determining whether a person is eligible to hold a licence under subsection (1), a chief firearms officer or, on a reference under section 74, a provincial court judge shall have regard to whether the person</p> <p style="padding-left: 40px;">(a) has been convicted or discharged under section 730 of the <i>Criminal Code</i> of</p> <p style="padding-left: 80px;">(i) an offence in the commission of which violence against another person was used, threatened or attempted,</p> <p style="padding-left: 80px;">(ii) an offence under this Act or Part III of the <i>Criminal Code</i>,</p> <p style="padding-left: 80px;">(iii) an offence under section 264 of the <i>Criminal Code</i> (criminal harassment),</p>

¹³ [Import and export a firearm or weapon into Canada. \(cbsa-asfc.gc.ca\)](https://www.cbsa-asfc.gc.ca/publications/dm-md/d19/d19-13-2-eng.html); Canadian Border Services Agency, *Memorandum D19-13-2* (1 October, 2020) at para 70, online: <https://www.cbsa-asfc.gc.ca/publications/dm-md/d19/d19-13-2-eng.html>

¹⁴ [SC 2019, c 9 | An Act to amend certain Acts and Regulations in relation to firearms | CanLII](https://www.canada.ca/en/public-safety-canada/news/2019/06/royal-assent-of-legislation-strengthening-gun-laws-to-keep-communities-safe.html); Public Safety Canada news release, June 21, 2019: <https://www.canada.ca/en/public-safety-canada/news/2019/06/royal-assent-of-legislation-strengthening-gun-laws-to-keep-communities-safe.html>

	<p>(iv) an offence relating to the contravention of subsection 5(1) or (2), 6(1) or (2) or 7(1) of the <i>Controlled Drugs and Substances Act</i>, or</p> <p>(v) an offence relating to the contravention of subsection 9(1) or (2), 10(1) or (2), 11(1) or (2), 12(1), (4), (5), (6) or (7), 13(1) or 14(1) of the <i>Cannabis Act</i>;</p> <p>(b) has been treated for a mental illness, whether in a hospital, mental institute, psychiatric clinic or otherwise and whether or not the person was confined to such a hospital, institute or clinic, that was associated with violence or threatened or attempted violence on the part of the person against any person;</p> <p>(c) has a history of behaviour that includes violence or threatened or attempted violence or threatening conduct on the part of the person against any person;</p> <p>(d) is or was previously prohibited by an order — made in the interests of the safety and security of any person — from communicating with an identified person or from being at a specified place or within a specified distance of that place, and presently poses a threat or risk to the safety and security of any person;</p> <p>(e) in respect of an offence in the commission of which violence was used, threatened or attempted against the person’s intimate partner or former intimate partner, was previously prohibited by a prohibition order from possessing any firearm, cross-bow, prohibited weapon, restricted weapon, prohibited device or prohibited ammunition; or</p> <p>(f) for any other reason, poses a risk of harm to any person.</p>
s. 6	<p>(1) A person is eligible to hold a licence only if the person is not prohibited by a prohibition order from possessing any firearm, cross-bow, prohibited weapon, restricted weapon, prohibited device or prohibited ammunition.</p> <p>(2) Subsection (1) is subject to any order made under section 113 of the <i>Criminal Code</i> (lifting of prohibition order for sustenance or employment).</p>
s. 13	<p>A person is not eligible to hold a registration certificate for a firearm unless the person holds a licence authorizing the person to possess that kind of firearm.</p>
<p>Web link: https://canlii.ca/t/53z67</p>	

Additional information: The *Firearms Act* contains provisions that make some persons ineligible to hold a firearms licence or registration certificate, including where they have been convicted of certain crimes under the *Criminal Code*, or if they are subject to a prohibition order from possessing any firearm.

As noted in the “Overview” section, one of the roles of the province’s chief firearms officer (CFO) is to determine whether an applicant for a possession and acquisition licence is eligible for such a licence. This requires the CFO to determine whether an individual applicant meets any of the ineligibility criteria set out in the *Firearms Act*. The CFO also has the authority under s. 5 of the Act to deny a licence to an individual if to do so is desirable “in the interests of public safety”.¹⁵

¹⁵ Lysa Rossignol, the acting CFO for New Brunswick in February 2020, described how ineligibility is determined on pages 35 to 46 of her testimony in the Desmond Inquiry. Available online: <https://desmondinquiry.ca/transcripts/2021-Feb-19->

Recent changes have been made to the ineligibility provisions of the *Firearms Act*, though these were made prior to April 2020. [An Act to amend certain Acts and Regulations in relation to firearms](#), which received royal assent in June 2019, requires consideration of eligibility criteria that may span a person’s lifetime, including a history of domestic violence and making online threats. (Previously, only a five year background check was required.)

There were also some relevant changes to the *Criminal Code* in recent years, though these too were made prior to the mass casualty of April 2020. In June 2015, the [Common Sense Firearms Licensing Act](#) received royal assent. It amended the *Criminal Code* to strengthen the provisions relating to orders prohibiting the possession of weapons, including firearms, when a person is sentenced for an offence involving domestic violence.¹⁶

VII. Search and seizure provisions

<i>Criminal Code, R.S.C., 1985, c. C-46</i>	
s. 117.02(1)	<p>Where a peace officer believes on reasonable grounds</p> <p>(a) that a weapon, an imitation firearm, a prohibited device, any ammunition, any prohibited ammunition or an explosive substance was used in the commission of an offence, or</p> <p>(b) that an offence is being committed, or has been committed, under any provision of this Act that involves, or the subject-matter of which is, a firearm, an imitation firearm, a cross-bow, a prohibited weapon, a restricted weapon, a prohibited device, ammunition, prohibited ammunition or an explosive substance,</p> <p>and evidence of the offence is likely to be found on a person, in a vehicle or in any place or premises other than a dwelling-house, the peace officer may, where the conditions for obtaining a warrant exist but, by reason of exigent circumstances, it would not be practicable to obtain a warrant, search, without warrant, the person, vehicle, place or premises, and seize any thing by means of or in relation to which that peace officer believes on reasonable grounds the offence is being committed or has been committed.</p>
Web link: https://www.canlii.org/en/ca/laws/stat/rsc-1985-c-c-46/162461/rsc-1985-c-c-46.html	

[Desmond.pdf](#). She noted that, among other things, the CFO’s office looks at whether there is anything in an applicant’s criminal background check that would indicate that he or she is not eligible for a licence due to the application of s. 5 of the *Firearms Act* (p. 37). If an individual is on trial for a relevant crime, the CFO’s office will wait for the conclusion of the trial to make a determination on their application (p. 71). She also noted that applicants must provide two references (p. 36) and must list his or her conjugal partner on his or her application (p. 32). Rossignol also noted that even if charges for certain crimes, like domestic violence, were not laid, the NB CFO’s office might speak to alleged victims or neighbours (p. 72), and whether ex-conjugal partners are contacted is dependent on the application in question (p. 85)

¹⁶ For the Government of Canada’s explanation of the purpose of the bill, see <https://www.canada.ca/en/news/archive/2015/06/common-sense-firearms-licensing-act-receives-royal-assent.html>.

Additional information: The *Criminal Code* gives peace officers authority to search a person, vehicle or place where they believe on reasonable grounds that a firearms offence is being committed, or has been committed. These provisions of the *Criminal Code* have not seen any recent changes.