

CANADA'S GUN CONTROL LAW

Changes to the Law

Historically, Canada has had relatively strict controls on handguns. Since the 1930's handguns were restricted weapons. Changes in the 1977 Criminal Law Amendment Act distinguished between "unrestricted weapons" (rifles and shotguns); restricted weapons (primarily handguns; short-barreled semi-automatics, and grand-fathered prohibited weapons) and prohibited weapons (fully automatic firearms and sawed off shotguns). Restricted weapons permits could be issued to individuals if they were required for "lawful occupation", target shooting under the auspices of an approved shooting club, or if the weapons formed part of a collection. Permits required for "self-protection" were issued in very few cases: applicants had to demonstrate that their lives were in danger and that the police could not protect them. Restricted weapons were also registered. Owners were required to report loss or theft and possession of a restricted weapon without a valid registration certificate or at a place other than the place specified on the certificate was a criminal offence. Special permits were required to transport or carry restricted weapons, defining clearly where and when the owner was allowed to have the firearm.

In contrast, the controls on rifles and shotguns—unrestricted weapons—were more limited. A Firearms Acquisition Certificate (FAC) was required to acquire an unrestricted firearms but screening was, in practice, limited. However, the law did confer broad powers on Firearms Officers who could refuse to issue an FAC if they had information indicating that "it would not be desirable in the interests of the safety of the applicant or any other person". Although there was a safety test requirement in the law, it had never been proclaimed.

New requirements introduced in 1991 with Bill C-17 strengthened the screening requirements by adding a mandatory training course, a detailed questionnaire, references, a photograph and a 28-day waiting period. It raised the age for an FAC from 16 to 18 with provisions for minors' permits. The law also reinforced the powers of the Firearms Officer to refuse an FAC if it was not in the interests of the safety of the applicant or any other person by shifting the burden of proof on appeal of the decision. That is, it required that the applicant prove that the Firearms Officer erred in his or her refusal. This law also defined safe storage requirements, and prohibited semi-automatic versions of fully automatic weapons as well as large capacity magazines (although there were provisions for provincial exemptions to the magazine prohibition).

However, the 1991 law did not address many of the concerns raised by public safety organizations in the wake of the killing of 14 female engineering students at l'Ecole Polytechnique in Montreal December 6, 1989. In particular, concerns focused on gaps in the controls over firearms owners: the Firearms Acquisition Certificate (FAC) was required only to obtain guns, not to possess guns, and only 1/3 of guns owners had valid FACs. – It also recognized the need to strengthen accountability for the firearms owned through registration. For example, rifles and shotguns have tended to be more frequently recovered in crime and are more often a cause of death than handguns. Consequently, an unusual alliance of more than 350 organizations – including the Canadian Association of Chiefs of Police, the Canadian Public Health Association, the Canadian Bar Association, the Canadian Criminal Justice Association, the YWCA of Canada, Victims of Violence International and others – encouraged the government to improve the controls over rifles and shotguns.¹ In addition, a series of inquests recommended the licensing of all firearm owners and the registration of all firearms.

The new government introduced the Firearms Act, Bill C-68, in 1995. After a highly publicized struggle, it received royal assent December 5, 1995 and is still in the process of being implemented.² It includes:

- The ability to prohibit, through order in council, firearms not “reasonably” used in hunting in an effort to broaden the ability to prohibit semi-automatic military assault weapons (this power has not yet been used to ban the Ruger Mini 14 and the AR15 is still sold as a restricted weapon)
- A ban on short-barreled and small calibre (.25 and .32) handguns with a grandfather clause
- Licensing of all firearm owners by 2001 (including possession only and possession/acquisition licenses)
- Registration of all firearms by 2003
- Production of the firearm license in order to purchase ammunition.

The law also contained a series of provisions, including the non-derogation clause, intended to accommodate aboriginal peoples’ hunting rights.

To clarify: Canada prohibited fully automatic weapons in 1979, semi-automatic weapons that could be converted to fully automatic fire in 1991, and semi-automatic versions of military weapons in 1995. In most cases, current owners were “grandfathered” or allowed to keep their weapons under certain conditions which means there are still many in legal possession of civilians.

The Firearms Act allows for the rigorous screening of gun owners to prevent those who pose a threat to themselves from easily accessing firearms. All Canadians owning a gun must obtain a licence and undergo a background check. Previously, only 1/3 of gun owners had a valid Firearm Acquisition Certificate (FAC), as a FAC was needed to acquire a gun, but not to possess one. Six inquests have recommended licensing and registration to help prevent tragedies. The licensing of gun owners is essential for keeping guns away from potentially abusive spouses or individuals with a history of violence. A substantial proportion of men who kill their partners either have criminal records or a history of psychiatric treatment. In many of these cases, the threats and acts of violence were known to be occurring by outsiders. Under the new law, extensive background checks are conducted on every person who applies for a licence. The questions on the firearms application form are directly linked to studies of domestic homicides and suicide involving firearms. A number of risk factors were determined in those studies: a history of violence, past substance abuse (drugs and alcohol), an existing criminal record, a separation or pending separation, depression, or employment and financial problems. Two references must review the form and confirm that they “know of no reason why the applicant should not have a firearm”. The renewal, required every five years is less rigorous and has been extended, one time only to up to 9 years to allow for load leveling.

According to the law and its regulations, current and previous spouses (past 2 years) will be notified of an individual's intention to acquire a firearm license. Spousal consent is not required for acquisition, however if a spouse has concerns, it will trigger a secondary review of the application. Along with the spousal notification on the form, a toll-free line (1-800-731-4000) was created for spouses of applicants or others who may have concerns about their safety. Between December, 1998 and October 2001, the line received over **26,000** calls.³

Reports of offenses, including domestic violence will automatically trigger a review of a gun owner's license.

Comparison of the 1977, 1991 and 1995 laws

	1977	Bill C-17 (1991)	Bill C-68 (1995)
FAC/Licence for Firearm Owners	Firearms Acquisition Certificate to ACQUIRE firearms not to possess them. Those in possession of guns prior to 1977 did not need an FAC FAC entitled holder to acquire an unlimited number of firearms	Firearms Acquisition Certificate to ACQUIRE firearms not to possess them FAC entitled holder to acquire an unlimited number of firearms 1/3 of gun owners had FACs 28 day waiting period	All firearms owners (2.2 million) must have a valid licence renewable every 5 years by December 31, 2001 28 day waiting period
Screening process	16 years old 2 questions: Have you suffered with mental illness associated with violence in the last 5 years? Have you been convicted of a criminal offence for which no pardon was granted?	Detailed 8 page questionnaire tied to risk factors such as criminal record, substance abuse, marital breakdown, job loss, mental illness etc. 2 references (signatures on form) Photograph Training program Information on criminal record/behaviour checked through CPIC and local department where application submitted	Detailed screening process but simplified form Added requirement for spousal notification References must confirm that there is no reason why the applicant should not have a firearm Photograph Completion of a training program Information on criminal record/behaviour checked through CPIC and National FIP Database which includes information local databases Added spousal notification line
Restricted Weapons	Handguns are restricted weapons and require justified reason - employment (security guard, police) - target shooting - collecting - self protection (ONLY if could prove life is in danger and police cannot protect them – about 50 in Canada) - strict controls over carrying – permits specify where and when restricted weapons may be possessed	Handguns are restricted weapons and require justified reason - employment (security guard, police) - target shooting - collecting - self protection (ONLY if could prove life is in danger and police cannot protect them – about 50 in Canada) - strict controls over carrying – permits specify where and when restricted weapons may be possessed	As before and additional requirements to prove membership in good standing of gun club or status a bona-fide gun collector
Registration of firearms	Only restricted weapons (handguns and assault weapons)	Only restricted weapons (handguns and assault weapons registered) about 1 million	All firearms registered (over 7 million) by December 31, 2003
Safe Storage	Safe storage of firearms not defined	Safe storage required and defined – trigger lock or secure container for un-	Safe storage required and defined – trigger lock or secure container for un-restricted weapons;

		restricted weapons; separate from ammunition; trigger lock	separate from ammunition; trigger lock AND secure container for restricted weapons Inspection for collectors of more than 10 firearms
Prohibited weapons	Fully automatic firearms and sawed off shotguns with grandfather clause	As before plus selective fire assault weapons (semi auto/auto) and some specified semi automatic weapons (through order in council) with grandfather clause Prohibition of large capacity magazines but option for provincial exceptions	As before and additional semi-automatic weapons (through order in council) with grandfather clause Ruger Mini-14 remains unrestricted and AR 15 a restricted weapon Short barreled handguns with grandfather clause Replica firearms (pellet and airguns are excluded) Provincial exemptions eliminated for large capacity magazines
Ammunition	No control	No control	Present license to purchase ammunition
Penalties for firearm crimes	variable	variable	4 year mandatory sentences for selected offences; charges for offenses using replica firearms are the same as for real firearms
Ongoing checks	None	No review unless renewed FAC in order to acquire additional firearms	Continuous eligibility - monitors offences or concerns about firearm owners and triggers review/revocation where there are public safety concerns
Police access to information	Access FAC records at local level	Access FAC records in provincial firearms offices during regular business hours, Monday to Friday Search by name and date of birth	Integrated access, connected with Canadian Police Information Centre (CPIC)24/7 Search by address
Computer systems	Restricted weapons system managed through RCMP FAC systems manual and local	Restricted weapons system managed by RCMP Provincial FAC systems managed by province	Integrated with support from some provinces and the RCMP
Customer Service		Provincial and variable, regular office hours	Call centre, Internet based etc.