

# What to do in the event of a firearm ban!

FYI AND FUTURE GUIDANCE IF NECESSARY.

**Subject: Please share w/our PG Gunnies - thanks to Len from MDRGC**

Found this on CGN as I was researching the potential for a BAN on sidearms and sporting semi autos ... you know, the "military assault-style weapons" according to our idiots-in-chief Trudeau, Goodale and Blair and their Liberal ilk.

Please note that the "OIC" refers to an Order in Council, wherein a government can make legislation that does not go before the House of Commons for a vote. This process has been used before regarding firearms.

## **What to do in the event of a handgun ban by OIC. FILE AN APPEAL**

SO, there are already more than a dozen threads discussing the possibility of a handgun ban, maybe by OIC, maybe by legislation (but probably by OIC).

This thread is in no way intended to facilitate any more rumour spreading. If you want to speculate on if/when, go post in one of those other threads.

This thread is for what do to next, if/when the ban actually happens. Rather than continue to run around in circles with the IF, this thread is meant to provide actually relevant information that will be helpful in fighting the ban AFTER its dropped.

I am posting this in the legalese forum because the WHAT NEXT will be an exercise in legal process.

The number one thing is making sure that everyone affected knows that they have a right to file for a judicial review, and encouraging them to use it.

So, lets assume the OIC drops. Despite how much noise the orgs and LGS and ranges might make, the first notice a lot of people will get of the ban will be when they receive a letter, probably registered mail, from the Canadian Firearms Program indicating that the registration certificate of their XXX handgun is revoked because XXX handgun is prohibited.

The law for revocation of a firearms registration certificate is contained at S 72 of the Firearms Act.

72 (1) *Subject to subsection (1.1), if a chief firearms officer decides to refuse to issue or to revoke a licence or authorization to transport or the Registrar decides to refuse to issue or to revoke a registration certificate, authorization to export or authorization to import, the chief firearms officer or **Registrar shall give notice of the decision in the prescribed form** to the applicant for or holder of the licence, registration certificate or authorization.*

*(1.1) Notice under subsection (1) need not be given in any of the following circumstances:*

*(a) if the holder has requested that the licence, registration certificate or authorization be revoked; or*

*(b) if the revocation is incidental to the issuance of a new licence, registration certificate or authorization.*

*(2) A notice given under subsection (1) must include reasons for the decision disclosing the nature of the information relied on for the decision and must be accompanied by a copy of sections 74 to 81.*

*(3) A chief firearms officer or the Registrar need not disclose any information the disclosure of which could, in the opinion of the chief firearms officer or the Registrar, endanger the safety of any person.*

*(4) A notice given under subsection (1) in respect of a licence must specify a reasonable period during which the applicant for or holder of the licence may deliver to a peace officer or a firearms officer or a chief firearms officer or otherwise lawfully dispose of any firearm, prohibited weapon, restricted weapon, prohibited device or prohibited ammunition that the applicant for or holder of the licence possesses and during which sections **91, 92 and 94** of the Criminal Code do not apply to the applicant or holder.*

*(5) A notice given under subsection (1) in respect of a registration certificate for a prohibited firearm or a restricted firearm must specify a reasonable period during which the applicant for or holder of the registration certificate may deliver to a peace officer or a firearms officer or a chief firearms officer or otherwise lawfully dispose of the firearm to which the registration certificate relates and during which sections **91, 92 and 94** of the Criminal Code do not apply to the applicant or holder.*

***(6) If the applicant for or holder of the licence or registration certificate refers the refusal to issue it or revocation of it to a provincial court judge under section 74, the***

***reasonable period of time does not begin until after the reference is finally disposed of.***

Typically 30 days is the amount of time that revocation seizure notices indicate, because 30 days is your window of time to file for a judicial review, per S 74 of the firearms act.

*(2) An applicant or holder may only refer a matter to a provincial court judge under subsection (1) within thirty days after receiving notice of the decision of the chief firearms officer, Registrar or provincial minister under section 29, 67 or 72 or within such further time as is allowed by a provincial court judge, whether before or after the expiration of those thirty days.*

With potentially thousands of review applications hitting each and every single provincial court in the country, it could take years to hear all of the review applications. It should be free to file such a review, and you do not need a lawyer to submit the application and get your court date. Doing so virtually guarantees that you will not need to surrender anything at least until before the election.

Every gun owner, whether you think a ban is likely or not, should familiarize themselves with their local court house, which one is the provincial court where you would file, who is the clerk of the court that you would file with, do they have any forms to fill out, obtain the forms, etc. Moral of the story is plan to file for a judicial review. Take simple steps now to be ready. Advise your friends of what to do. Post back here and I will update accordingly, probably on a province by province basis.

While you wait for your day in court.

As quoted above, Section 72 says that while you are waiting for your day in court, sections 91, 92 and 94 of the criminal code do not apply to you in relation to that firearm.

91 possession without a license.

92 Possession knowing that its unauthorized.

94 Possession in a motor vehicle.

Note that the pending court date will settle the registration certificates, but it doesn't change the fact that your previously restricted firearm is now prohibited.

You must now treat those firearms as if they are prohibited, store them as if they are prohibited, use them as if they are prohibited (which likely means not using them).

Section 93 and 95 still apply to those firearms, meaning you still need an ATT to

transport them and possess them with ammunition, and technically, your range must be approved for prohibited firearms. (little known fact, the majority of ranges in Canada are not in fact approved for prohibited firearms and even then, those that are are usually only approved specifically for 12.6.1 handguns, which won't cover any newly prohibited handguns).

This is where you check the wording of your specific ATT to see if there is a distinction between registered firearms, vs RESTRICTED firearms. Your guns are still registered until the judicial review is settled. But they are not restricted any more.

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Conduct of the appeal. The standard of review of the judge is set out in the firearms act. The judge is not deciding on whether or not the original OIC was valid, or constitutional. The judge is deciding whether or not the CFO was justified in revoking your registration certificate. Obviously the CFO is revoking them in response to new regulations, which at face value means we are all virtually guaranteed to lose. This is where I am looking to feedback from people who have actually undergone a judicial review process, and I will update this section with comments regarding legal strategies, arguments, supporting case law etc, to be used in actually arguing revocation.

I think realistically that the remedy to be sought at court will be the issuance of a new certificate for the prohibited firearm and an ATT authorizing everything you were permitted to do with the firearm before, and a prohibited firearms license in accordance with the spirit of grandfathered ownership. This being a temporary measure until the next government can repeal the ban.

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Reminder, the spirit of this thread is not to get bogged down in political discussions of the ban. There are enough threads on that already.

Lets keep this one a legal, details focus thread that is actually a useful resource, that will likely be useful for anyone who gets served a revocation notice under any circumstances.

Stay Classy.