



[Taken from CSSA](#)

Gun Loss Advisory.

Edward L. Burlew, LL.B., Barrister and Solicitor, CSSA

TECHNICAL NON-COMPLIANCE OF RESTRICTED WEAPON REGISTERED ADDRESS

Technical non-compliance of restricted weapon registered address can lead to criminal conviction!! Police have begun to compare the addresses of restricted weapon registration certificates of the actual residences of the weapon owner. As a result dozens of handguns have been seized and hundreds of violations of the Criminal Code, section 91(2), have been detected. This program began in Halton Region in June 1997 and may be expanded.

To keep your restricted weapon you must have the restricted weapon registration certificate updated to accurately record the correct address of where it is kept. This means Province, City or Town, Street Address, Apartment Number or Suite Number.

Failure to have the exact correct address will lead to a criminal conviction, confiscation of that gun and may lead to loss of all firearms, explosives, ammunition and F.A.C.s.

Check Your Paperwork Now! Do Not Wait!

To correct your registration contact your local firearms registrar and make an appointment to correct the address. This will be a limited voluntary ability to correct.

KEEPING YOUR GUN OWNERSHIP RIGHTS ALIVE!

Many gun owners have all of the guns they need or think they will need. They do not have an F.A.C and are not worried. This leads to some future problems that many gun owners may not anticipate when facing a weapons related criminal charge.

The conviction of any type of weapons under the Criminal Code or even a finding of guilt and a conditional or absolute discharge can lead to the loss of ability to obtain an F.A.C in the future. The gun owner who does not worry about this today, when he is advised to plead guilty to a lesser charge is only delaying the loss of his firearms.

Under the Firearms Act, Bill C-68, there is the requirement of having a Firearms Possession Certificate. This is vastly different from today's F.A.C. Under the present law you only need an F.A.C to purchase a firearm. Ammunition purchases are not restricted and are provincially governed by the Ammunition Act in Ontario. If you have a non restricted or non prohibited gun, you don't need any paperwork to own it.

Under the Firearms Act you will need a Firearms Possession Certificate. To obtain it you must apply to the federal government. There will be an investigation of your appropriateness to own a firearm. It is clear that if you are today ineligible for a F.A.C you will be ineligible for a Firearms Possession Certificate. In the future if you do not have a Firearms Possession Certificate you will not be able to possess a firearm or purchase ammunition.

Keep this in mind when you are facing a potential criminal act that may lead to a charge. Keep this in mind when you have been charged with a weapons offence and you are being offered a plea bargain. Remember that you want to preserve your right to enjoy shooting.



[Taken from CSSA](#)

CONFISCATION OF CANADIAN GUNS TO BEGIN DECEMBER 1, 1998

Bill C-68, passed as the Firearms Act c. R.S.C. 1996 is slated to come into force on December 1, 1998. At that time, many firearms will be made prohibited and the continued possession will be a criminal offense. This is a very confusing area so read this carefully. There is a one year amnesty to dispose of these prohibited "firearms" by November 30, 1999.

The law says all 25 calibre, 32 calibre and guns with a barrel length of under 105 mm will become prohibited. The guns cannot be kept by any individual unless that individual was the registered owner of a firearm of the Aclass@ on January 15, 1995, the date C-68 was passed in Parliament. So if you didn't legally own a 25 calibre, 32 calibre or gun with a barrel length of under 105 mm on that day, you will not be allowed to keep such a prohibited gun after October 1, 1998. If you had one in the past and sold it before you are not Aof the class@, if you acquired after that date, you are not of the class.

You will have to dispose of the gun by several methods:

1. Sell it to a person of the class;
2. Destroy it;
3. Surrender it for destruction and render it incapable of any use before you turn it in;
4. You cannot leave it to your children if they are not of the class;
5. The USA is seeking to pass laws limiting import of these in the future;
6. Do nothing and wait for the police to confiscate it and charge you and possibly loose all your guns; or
7. Try to convert it to a long barrel, over 105 mm and re-register it as converted.

This affects over 50,000 Canadians who have had purchases of this Aclass@ of gun since January 1995. They are all at risk of confiscation.

There are rumors of how the government will Grand Father the 100,000 before October 1998 or how the government will pay compensation as was done in England and Australia when millions of guns were confiscated or how there will be an amnesty, but these are rumors only.

(The value of these guns is estimated at 100,000 x \$200.00 average = \$20,000,000.00, and who will pay for them?)

THE FUTURE SEIZURES OF HANDGUNS

Under C-68 the short barrel, .25 calibre and .32 calibre handguns will be prohibited with limited exceptions of specialized competition handguns as listed in a recent order in council gazetted in June 1998. If an individual did not own such a gun of that "class" on February 14, 1995 then that individual is out of that class. Guns of the "class" acquired by a person who was not so "grandfathered" are subject to confiscation as prohibited weapons upon proclamation of C-68. At the present time there are about 47,000 Canadians who are at risk. These are people who did not own a short barrel, .25 calibre or .32 calibre on February 14, 1995 but bought one afterwards. Moreover if they do not get rid of their "prohibited" handgun then their whole collection is at risk of seizure and they may be criminally charged for possession of a prohibited weapon.

But there is more and it is hard to see without a look five years down the road. Let me explain the facts. There are about one million registered restricted firearms, mostly pistols owned by about 550,000 Canadians. Of these 550,000 about 5,000 have a permit to carry for their jobs and they shoot to stay qualified for work and the permit.



[Taken from CSSA](#)

There are about 30,000 who have permits to carry their handgun to an approved range so they can shoot at their club and enter competitions. Over 500,000 Canadian handgun owners do not have a permit to carry their legally owned handguns. These people do not come out and shoot.

Let me explain the effect. A possession only license for a handgun will be needed under C-68. If there is no reason to have the handgun then no possession only license will be issued. If these 500,000 plus Canadians do not shoot handguns at a club they will be denied their possession only license and they will have to dispose of their handguns by sale or confiscation. How the government will know is that the handgun clubs and ranges will have to keep records of who is shooting and submit this to the R.C.M.P. where a data base identifies who is an active shooter. If during the five year period between the first possession only license and its renewal that handgun owner does not shoot, there will be no renewal.

If the 500,000 plus do not get out shooting by the year 2006 then at least 500,000 handguns will be subject to confiscation.

This is both a threat and a challenge. The threat is obvious. The challenge is for the handgun clubs and ranges to get this pool of 500,000 plus Canadians out shooting and into clubs. Special events can be organized; new training for sport shooting can be done. Remember that a person has to shoot a handgun at a qualified range at least every five years. They can shoot a club's gun or a friend's gun; as long as they are shooting they can keep their own gun. With a good, aggressive program the members of clubs and ranges can swell with enthusiastic shooters. Remember: Shoot it or Lose it!

LIABILITY OF VERIFIERS

The Federal Government through the Ministry of Justice is requesting that people become verifiers. The government is offering a course for verifiers whose job will be to verify the registration details as being correct with respect to legislation of firearms. The verifiers are going to be given a short course of under one day and as I have learned the course itself is under 4 hours in duration. At the end of this course the verifiers are given a manual which is also produced on a CD Rom format showing pictures and identification for thousands upon thousands of firearms. The verifiers will then be seized with the duty of responsibility for correctly identifying various firearms that are owned by us each individual gun owners so that they can examine the gun and verify that the gun is correctly described for the purposes of registration on the government forms which will be on the computerized data base. The legislation apparently provides that the verifiers will be exempt from criminal liability for making a misidentification where they used due diligence to ascertain that any firearm that they have examined has been identified even if it is identified incorrectly. This however, may not be sufficient defense to the owner of the firearm facing criminal charges where that firearm has been incorrectly identified. As a firearms owner if your firearm has been incorrectly identified you still may have criminal liability under the act for having improperly filled out the registration details. From what I gather, however, the firearms owner is still liable under the Criminal Code for giving false information with respect to the registration of the firearm. Accordingly if a verifier makes a mistake and the firearms owner does not catch that mistake but relies upon the verifier to his detriment and faces a criminal charge there will be a criminal sanction against the firearms owner. There is no provision to relieve the verifier from any civil responsibility for losses that may be incurred by the firearms owner due to a mis-description and any other liability that may flow from that. As we know the present verifiers of restricted guns and long guns are paid registrars of firearms who look at the firearms, determine that it is properly described and then enter it into the system. It is also notorious that many of the registrations for existing restricted firearms are in error. Many restricted firearms owners have found that their registrations are incorrect in some manner or form and it is estimated that as many as 30% of the registrations have some type of error. Any error with respect to the registration after it has been verified can lead to civil liability against the verifier where a



[Taken from CSSA](#)

criminal charge is laid. This then may lead to a civil liability between the gun owner and that particular verifier. In an attempt to assist the gun owners who have had their guns incorrectly identified by a verifier and who face a criminal charge I have prepared a pro-forma statement of claim against such a verifier and I am providing this to the firearms owners so that they may be able to take steps against a verifier to recover their legal costs and other losses that may be the result of an incorrect verification. If you are faced with a situation facing criminal charges or the seizure of your firearms due to a mis-identification, then you have the right to sue the verifier for complete compensation. This includes legal costs, embarrassment, assault, seizure of firearms, arrest, false imprisonment and punitive damages. This is not to be treated lightly because as an ordinary firearms owner you do not have the expertise to verify your own gun and the use of verifiers is mandated by the Federal Government through the Ministry of Justice. It is my hope that you will never have to make use of this type of a statement of claim or be placed in this situation. However, if you are placed in this situation by an act of the verifier or who ignored facts or who was not sufficiently competent to identify each firearm or each component of the firearm then you must take the step of seeking financial compensation from the verifier who made the mistake. This must be done immediately following the charge so that the verifier is given sufficient notice to be able to defend the action. In order to be sure that you have sufficient evidence to bring such a claim about you should require that the verifier give you written verification under his or her signature identifying the firearm and that they sign off with respect to each particular firearm. If you do not do so then you may not have a defense and the verifier's notes which may not match with your notes will lead to a statement that you made a mistake and they did not. Any person who may be a verifier should be aware of this tremendous onus that is placed upon his shoulders and everyone should keep copious notes together with photographs which would include the serial number, etc. of the firearm. There is also such a duty of the verifier to keep such records strictly confidential and to not have them go missing. If there is a subsequent theft of the guns then of course the verifier's loss of information may be traced to the cause of the theft or other loss of the gun.

Given this onerous situation and the immense duties that upon each verifier he should obtain special insurance to protect himself against such a loss. However, most insurance companies will not insure against a wilful mistake and there may be exceptions within such a policy.

As a general comment considering the duties and responsibilities and ultimate liability that may face a verifier I cannot in my own mind see why anyone in their right mind would want to take on such responsibility without any compensation and place their assets including their house, car, and wages at risk. If a verifier is unable to pay for the damages that they have caused they will be forced into bankruptcy and as well they may have to pay for their own lawyer in such a defense and once again any lawyer would require a substantial retainer and continuing fee with respect to the defense of such a claim. The purpose of this article is to make all people aware of their duties and responsibilities and to make them aware that there is a tremendous civil liability that comes from being a verifier. No doubt there will be many careful verifiers who will do their job well and will not make mistakes. However, I would not want to be that verifier that makes a mistake either wilfully or negligently.

EDWARD L. BURLEW, LL.B.

Barrister and Solicitor

16 John Street, Thornhill, Ontario L3T 1X8

MY COMMITMENT IS VIGOROUSLY TO ADVOCATE YOUR LEGAL RIGHT TO BEAR ARMS, TO PROTECT YOUR HERITAGE RIGHTS, TO HOLD TRUE TO THE TRADITIONS OF SPORTSMEN

This advisory was prepared October 1, 1998 and revised Dec. 2007. Information in this advisory is general in nature and should not be acted upon without specific professional advice.