

## Firearms Act – Section 72 to 81

72. (1) Where 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.

### Material to accompany notice

(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.

### Non-disclosure of information

(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.

### Disposal of firearms

(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.

### Idem

(5) A notice given under subsection (1) in respect of a registration certificate 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* and section 112 of this Act do not apply to the applicant or holder.

### Reference

(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 sections 74, the reasonable period of time does not begin until after the reference is finally disposed of.

### Reference to judge of refusal to issue or revocation, etc.

74. (1) Subject to subsection (2), where

(a) a chief firearms officer or the Registrar refuses to issue or revokes a licence, registration certificate, authorization to transport, authorization to export or authorization to import,

(b) a chief firearms officer decides under section 67 that a firearm possessed by an individual who holds a licence is not being used for

(i) the purpose for which the individual acquired the firearm, or

(ii) in the case of a firearm possessed by an individual on the commencement day, the purpose specified by the individual in the licence application, or

(c) a provincial minister refuses to approve or revokes the approval of a shooting club or shooting range for the purposes of this Act,

the applicant for or holder of the licence, registration certificate, authorization or approval may refer the matter to a provincial court judge in the territorial division in which the applicant or holder resides.

#### **Limitation period** ▲

(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.

#### **Hearing of reference** ▲

**75.** (1) On receipt of a reference under section 74, the provincial court judge shall fix a date for the hearing of the reference and direct that notice of the hearing be given to the chief firearms officer, Registrar or provincial minister and to the applicant for or holder of the licence, registration certificate, authorization or approval, in such manner as the provincial court judge may specify.

#### **Evidence** ▲

(2) At the hearing of the reference, the provincial court judge shall hear all relevant evidence presented by or on behalf of the chief firearms officer, Registrar or provincial minister and the applicant or holder.

#### **Burden of proof** ▲

(3) At the hearing of the reference, the burden of proof is on the applicant or holder to satisfy the provincial court judge that the refusal to issue or revocation of the licence, registration certificate or authorization, the decision or the refusal to approve or revocation of the approval was not justified.

#### **Where hearing may proceed *ex parte*** ▲

(4) A provincial court judge may proceed *ex parte* to hear and determine a reference in the absence of the applicant or holder in the same circumstances as those in which a summary conviction court may, under Part XXVII of the *Criminal Code*, proceed with a trial in the absence of the defendant.

#### **Decision by provincial court judge** ▲

**76.** On the hearing of a reference, the provincial court judge may, by order,

(a) confirm the decision of the chief firearms officer, Registrar or provincial minister;

(b) direct the chief firearms officer or Registrar to issue a licence, registration certificate or authorization or direct the provincial minister to approve a shooting club or shooting range; or

(c) cancel the revocation of the licence, registration certificate, authorization or approval or the decision of the chief firearms officer under section 67.

## Nunavut

76.1. With respect to Nunavut, the following definitions apply for the purposes of sections 77 to 81.

**"provincial court judge"**  
« *juge* »

"provincial court judge" means a judge of the Nunavut Court of Justice.

**"superior court"**  
« *cour supérieure* »

"superior court" means a judge of the Court of Appeal of Nunavut.

### Appeal to superior court 🚩

77. (1) Subject to section 78, where a provincial court judge makes an order under paragraph 76(a), the applicant for or holder of the licence, registration certificate, authorization or approval, as the case may be, may appeal to the superior court against the order.

### Appeal by Attorney General 🚩

(2) Subject to section 78, where a provincial court judge makes an order under paragraph 76(b) or (c),

(a) the Attorney General of Canada may appeal to the superior court against the order, if the order is directed to a chief firearms officer who was designated by the federal Minister, to the Registrar or to the federal Minister; or

(b) the attorney general of the province may appeal to the superior court against the order, in the case of any other order made under paragraph 76(b) or (c).

### Notice of appeal 🚩

78. (1) An appellant who proposes to appeal an order made under section 76 to the superior court must give notice of appeal not later than thirty days after the order is made.

### Extension of time 🚩

(2) The superior court may, either before or after the expiration of those thirty days, extend the time within which notice of appeal may be given.

### Contents of notice 🚩

(3) A notice of appeal must set out the grounds of appeal, together with such further material as the superior court may require.

### Service of notice 🚩

(4) A copy of any notice of appeal filed with the superior court under subsection (1) and of any further material required to be filed with it shall be served within fourteen days after the filing of the notice, unless before or after the expiration of those fourteen days further time is allowed by the superior court, on

(a) the Attorney General of Canada, in the case of an appeal of an order made under paragraph 76(a) confirming a decision of a chief firearms officer who was designated by the federal Minister, of the Registrar or of the federal Minister;

(b) the attorney general of the province, in the case of an appeal against any other order made under paragraph 76(a);

(c) the applicant for or holder of the licence, registration certificate, authorization or approval, in the case of an appeal against an order made under paragraph 76(b) or (c); and

(d) any other person specified by the superior court.

### **Disposition of appeal**

**79.** (1) On the hearing of an appeal, the superior court may

(a) dismiss the appeal; or

(b) allow the appeal and, in the case of an appeal against an order made under paragraph 76(a),

(i) direct the chief firearms officer or Registrar to issue a licence, registration certificate or authorization or direct the provincial minister to approve a shooting club or shooting range, or

(ii) cancel the revocation of the licence, registration certificate, authorization or approval or the decision of the chief firearms officer under section 67.

### **Burden on applicant**

(2) A superior court shall dispose of an appeal against an order made under paragraph 76(a) by dismissing it, unless the appellant establishes to the satisfaction of the court that a disposition referred to in paragraph (1)(b) is justified.

### **Appeal to court of appeal**

**80.** An appeal to the court of appeal may, with leave of that court or of a judge of that court, be taken against a decision of a superior court under section 79 on any ground that involves a question of law alone.

### **Application of Part XXVII of the *Criminal Code***

**81.** Part XXVII of the *Criminal Code*, except sections 785 to 812, 816 to 819 and 829 to 838, applies in respect of an appeal under this Act, with such modifications as the circumstances require and as if each reference in that Part to the appeal court were a reference to the superior court.