

Court File No.

*T-677-20*

**FEDERAL COURT**

**BETWEEN:**

**MICHAEL JOHN DOHERTY, NILS ROBERT EK, RICHARD WILLIAM  
ROBERT DELVE, CHRISTIAN RYDICH BRUHN, PHILIP ALEXANDER  
MCBRIDE, LINDSAY DAVID JAMIESON, DAVID CAMERON MAYHEW,  
MARK ROY NICHOL, and PETER CRAIG MINUK**

Applicants

-and-

**THE ATTORNEY GENERAL OF CANADA and  
ROYAL CANADIAN MOUNTED POLICE**

Respondents

**APPLICATION UNDER Sections 18 and 18.1 of the *Federal Courts Act*, R.S.C.,  
1985, c. F-7**

**NOTICE OF APPLICATION**

**TO THE RESPONDENTS:**

A PROCEEDING HAS BEEN COMMENCED by the applicant. The relief claimed by the applicant appears on the following page.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the applicant. The applicant requests that this application be heard at 180 Queen Street West, Suite 200, Toronto, Ontario.

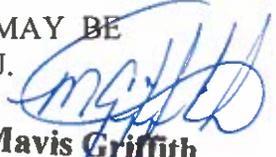
IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must prepare a notice of appearance in Form 305 prescribed by the Federal Courts Rules and serve it on the applicant's solicitor, or where the applicant is self-represented, on the applicant, WITHIN 10 DAYS after being served with this notice of application.

Copies of the Federal Courts Rules information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

June 29, 2020

Issued by:

  
**Mavis Griffith**  
**Senior Registry Officer**  
**(Agent principal du greffe)**

Address of the  
local office:

180 Queen Street West  
Suite 200  
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TO: Attorney General of Canada

AND TO: Royal Canadian Mounted Police

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## APPLICATION

**This is an application for judicial review and declaratory relief, and a constitutional challenge in respect of** Order in Council 2020-298, creating *Regulations Amending 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*: SOR/2020-96 (“SOR/2020-96”) and amending *Regulations Prescribing Certain Firearms and Other Weapons, Components and Parts of Weapons, Accessories, Cartridge Magazines, Ammunition and Projectiles as Prohibited or Restricted*: SOR/98-462 (“SOR/98-462”).

**Date of the Decision:** May 1, 2020.

### THE APPLICANTS MAKE APPLICATION FOR:

1. A declaration that all or parts of SOR/2020-96 and SOR/98-462 are *ultra vires* the *Criminal Code of Canada*, R.S.C., 1985, c. C-46 (“*Criminal Code*”) and are therefore of no force and effect;
2. A declaration that SOR/2020-96 and SOR/98-462 infringe on s. 7 of the *Canadian Charter of Rights and Freedoms* (“*Charter*”) in a manner that cannot be demonstrably justified in a free and democratic society;
3. A declaration pursuant to s. 24(1) of the *Charter* that all or parts of SOR/2020-96 and SOR/98-462 are void for vagueness;
4. A declaration that SOR/2020-96 and SOR/98-462 infringe on s. 15(1) of the *Charter* by discriminating against persons with disabilities in a manner that cannot be demonstrably justified in a free and democratic society;
5. A declaration that SOR/2020-96 and SOR/98-462 are contrary to s. 1 (a) of the *Canadian Bill of Rights*;

6. A declaration that SOR/2020-96 and SOR/98-462 were created and/or amended in bad faith;
7. An Order in the nature of *certiorari* quashing SOR/2020-96 and SOR/98-462;
8. A declaration that the Royal Canadian Mounted Police (“RCMP”) has no legal authority to classify or reclassify firearms as prohibited firearms;
9. A declaration that the Governor-in-Council (“GIC”) may not delegate authority to classify or reclassify firearms to the RCMP or any other agency, entity or person;
10. A declaration that the GIC may not delegate authority to form an opinion as to whether a particular firearm is reasonable for use for hunting or sporting purposes in Canada to the RCMP or any other agency, entity or person;
11. A declaration that the Firearms Reference Table (“FRT”) is not a legal instrument and that firearm classifications and descriptions contained therein have no force of law;
12. An Order prohibiting the RCMP from classifying firearms as prohibited firearms in the Firearms Reference Table (“FRT”);
13. A declaration that all of the firearms listed in SOR/2020-96 and SOR/98-462 are reasonable for use in Canada for hunting and/or sporting purposes and should therefore be classified as non-restricted firearms;
14. In the alternative to paragraph 12 above, a declaration that the following firearms are reasonable for use in Canada for hunting and/or sporting purposes and are therefore classified as non-restricted firearms:
  - a. The firearm of the design commonly known as M14 semi-automatic rifle and all versions and variants thereof, including but not limited to the following models: Springfield Armory US Rifle M1A, Springfield Armory US Rifle M1A National Match, Norinco M14 Semi-Automatic rifle, Norinco 305 and Norinco M305;

- b. The firearm of the design commonly known as Beretta CX4 Storm, and all versions and variants thereof;
- c. The firearm of the design commonly known as Black Creek Labs BCL102, and all versions and variants thereof;
- d. The firearm of the design commonly known as Maccabee Defense SLR-Multi and all versions and variants thereof;
- e. The firearm of the design commonly known as VZ58 semi-automatic rifle, and all versions and variants thereof, including but not limited to Czech Small Arms SA VZ58 Sporter 7.62;
- f. The firearm of the design commonly known as Ruger Mini-14 and all versions and variants thereof;
- g. The firearm of the design commonly known as Alberta Tactical Rifle Modern Sporter and all versions and variants thereof;
- h. The firearm of the design commonly known as Alberta Tactical Rifle Modern Hunter and all versions and variants thereof;
- i. The firearm of the design commonly known as Stag Arms STAG-10 rifle and all versions and variants thereof;
- j. The firearm of the design commonly known as AR-10 and AR-15 semi-automatic rifle and all versions and variants thereof, including but not limited to the following models: American Tactical Imports Omni Hybrid, Black Creek Labs BCL15, Bushmaster Carbon 15, Cadex CDX-10, Colt AR15, Colt AR-15A2, Colt AR15 SP1, Colt SA15.7, Colt SA20, Colt IUR, Daniel Defense M4, Diemaco/Colt Canada AR15, DPMS LR-308 Panther, F1 Firearms UDR-15-3G, Knights Armament Company SR-15, Knights Armament Company SR-25, North Eastern Arms NEA-15, Palmetto State Armory PA-15, Rock River Arms LAR-9, Ruger AR556, Smith & Wesson M&P 15, Spike's Tactical ST-15 and Spike's Tactical ST-22;

- k. An upper received to any of the firearms described in subparagraph 14(k) above; and
  - l. Any shotgun with a bore diameter exceeding 20 mm, as measured at the bore end, with or without the choke installed, that was classified as a non-restricted firearm prior to May 1, 2020;
15. In the alternative to subparagraphs 14(j) and 14(k) above, a declaration that the firearms described in the said subparagraphs are classified as restricted firearms;
  16. An interlocutory and permanent injunction staying SOR/2020-96 and SOR/98-462;
  17. An Order pursuant to Rule 8 of the *Federal Court Rules* extending the time for service and filing of the Notice of Application, Affidavits, documentary exhibits, expert reports, and other application materials in light of the COVID-19 pandemic, the overall complexity of this proceeding and other good and valid reasons;
  18. A request pursuant to Rule 317(1) of the *Federal Court Rules* for materials in the possession of the GIC, Attorney General of Canada and/or the RCMP that are relevant to the herein proceeding;
  19. An Order pursuant to Rule 384 of the *Federal Court Rules* that this proceeding shall continue as a specially managed proceeding;
  20. Costs of this Application; and
  21. Such further and other relief as counsel for the applicants may seek and this Honourable Court may deem just.

**THE GROUNDS FOR THE APPLICATION ARE:**

**A. Canadian Gun Control Regime**

1. The regime that governs the possession, acquisition and use of firearms in Canada is set out in the *Criminal Code* and the *Firearms Act*, S.C. 1995, c. 39 (“*Firearms Act*”),

and the regulations passed thereunder.

2. Firearms are divided into four general categories: antique, non-restricted, restricted and prohibited.

3. Possession and acquisition of antique firearms is not regulated by law. The other three types of firearms are subject to strict legal controls.

4. In order to lawfully acquire and possess non-restricted firearms, one must complete the Canadian Firearms Safety Course, pass the written and practical tests, make an application to the Canadian Firearms Program, pay the requisite fee, submit to criminal, background and reference checks and wait to be issued a Possession and Acquisition License (“PAL”).

5. Anyone wanting to acquire and possess restricted firearms must, in addition to the steps outlined above, take the Canadian Restricted Firearms Safety Course and pass the written and practical tests specific to restricted firearms.

6. Private citizens may not acquire or possess prohibited firearms, subject to certain exceptions. The most common exceptions are in the form of grandfathering clauses contained in past legislation designating certain firearms as prohibited firearms.

7. The legal authority over the classification of firearms lies with the legislative branch of the federal government. A change to the legal status of a firearm generally requires an act of parliament. For example, in 1977, the parliament passed Bill C-51, which, *inter alia*, classified fully automatic firearms, commonly known as ‘assault weapons’, as prohibited firearms. More recently, Bill C-17 and Bill C-68, which came into force in 1992 and 1998, respectively, prohibited a number of specific firearms, including certain handguns, rifles and shotguns.

8. The *Criminal Code* contains a narrow and limited exception to the general rule that changes to firearm classification must be made by an act of parliament. Pursuant to section 117.15 of the *Criminal Code*, the GIC may prescribe firearms as prohibited firearms or restricted firearms, provided that, in the opinion of the GIC, such firearms

have no reasonable use in Canada for hunting or sporting purposes.

### **B. SOR/2020-96 and SOR/98-462**

9. SOR/2020-96 amended the previous versions of SOR/98-462 and the schedule thereto (“Newly Amended Schedule”).

10. SOR/2020-96 was promulgated via publication in the Canada Gazette on May 1, 2020.

11. SOR/2020-96 was created by Order-in-Council passed by the executive branch of the Government of Canada and, as such, was not subject to debate, committee review, Senate approval and other parliamentary procedures.

12. Ostensibly made pursuant to subsection 117.15(1) of the *Criminal Code*, SOR/2020-96 introduced sweeping changes to Canada’s gun control and classification regime by reclassifying over 1,500 firearm types as prohibited firearms (“Newly Prescribed Firearms”).

13. SOR/2020-96 covers a broad spectrum of firearms, from small-caliber semi-automatic guns commonly used for sporting and competition purposes to popular hunting rifles and shotguns.

14. All of the firearm types captured by SOR/2020-96 were previously classified as restricted or non-restricted firearms and could be lawfully acquired, possessed and used by Canadians holding appropriate possession and acquisition licenses.

15. Concurrently with SOR/2020-96, the GIC issued the *Order Declaring an Amnesty Period (2020)*, SOR/2020-97 (“Amnesty Order”).

16. The Amnesty Order establishes a two-year amnesty period during which individuals may continue to possess their Newly Prescribed Firearms (“Amnesty Period”). The Amnesty Period expires on April 30, 2022.

17. Owners of the Newly Prescribed Firearms may not continue to use the said

firearms during the Amnesty Period, except for sustenance hunting or to exercise aboriginal hunting rights granted pursuant to s. 35 of the *Constitution Act*, 1982.

### **C. Firearms Reference Table**

18. The FRT is a database created and maintained by the RCMP Specialized Firearms Support Services. It consists of tens of thousands of pages and contains information about various firearms, including their classification as non-restricted, restricted or prohibited firearms.

19. Following the promulgation of SOR/2020-96 on May 1, 2020, the RCMP began to update the FRT to change the classification of various firearms. A number of firearms not mentioned in the SOR/2020-96 that were previously classified as non-restricted or restricted have been reclassified as prohibited firearms.

20. The FRT was not created by an act of parliament, through regulation, or as a result of proper delegation of legal authority. Nevertheless, it is a resource frequently used by the RCMP and other police departments to check the legal status of firearms available in Canada and to determine whether criminal charges ought to be brought against individuals found in possession of such firearms.

21. The RCMP has no legal authority to classify or reclassify firearms.

22. The executive branch of the Government of Canada has no legal authority, under any statute, to delegate classification or re-classification of firearms to the RCMP or any other agency, entity or person.

23. The RCMP's use of the FRT to reclassify firearms amounts to an improper usurpation of regulatory powers by a law enforcement agency and constitutes abuse of process.

24. The RCMP's use of the FRT to reclassify firearms is also a violation of section 1 of *Firearms Records Regulations (Classification)*, SOR/2014-198 ("SOR/2014-198"), made pursuant to subsection 117(m) of the *Firearms Act*, which states that only the

Registrar may keep or amend records of determinations made under the *Firearms Act* that firearms of a particular type, make and model are prohibited firearms, restricted firearms or neither prohibited firearms nor restricted firearms. The RCMP Specialized Firearms Support Services is not the “Registrar” within the meaning of the *Firearms Act*.

25. The RCMP’s conduct also amounts to a breach of section 3 of SOR/2014-198, which states that records pertaining to determinations made pursuant to the *Firearms Act* may not be amended more than one year after the day on which they were made.

#### **D. Constitutional and Administrative Law Grounds**

##### ***i. Section 117.15(2) of the Criminal Code***

26. The GIC does not have unfettered discretion to prohibit firearms by Order-in-Council. Any attempt to prohibit firearms that are reasonable for use in Canada for hunting and/or sporting purposes is both, *ultra vires* the *Criminal Code* and an unconstitutional infringement on the provinces’ exclusive jurisdiction to regulate private property and civil rights pursuant to s. 92 of the *Constitution Act, 1867*.

27. The GIC’s opinion on the reasonableness of the use of certain firearms for hunting or sporting purposes in Canada must itself be *reasonable*. As such, the opinion must be based on sound logic and fact-based evidence. It may not be arbitrary, based on circular reasoning or internally inconsistent logic, or be formed for an improper purpose or for a purpose unrelated to the federal government’s jurisdiction over the criminal law.

28. The circumstances surrounding the promulgation of SOR/2020-96 suggest that the Order-in-Council was not based sound logic or fact-based evidence.

29. The Regulatory Impact Analysis Statement, which was published in the Canada Gazette at the same time as SOR/2020-96 and the Amnesty Order and which provides the reasoning and rationale behind the impugned regulation (“Impact Statement”), claims that the purpose of the impugned regulation is to prohibit “assault-style firearms”. This language is confusing and deliberately misleading, as all assault firearms have been prohibited since 1977.

30. The Impact Statement suggests that all of the Newly Prescribed Firearms are “assault-style firearms”. However, the term “assault-style firearms” is not defined in any act or regulation, including the impugned regulation. It is a term that has no legal or technical definition or meaning.

31. The Impact Statement also claims that the Newly Prescribed Firearms are primarily designed for military or paramilitary use. This statement is demonstrably false, as neither the Canadian Armed Forces nor any other serious military or parliamentary force, currently uses, or has ever used, the vast majority of the Newly Prescribed Firearms.

32. The Impact Statement claims that Newly Prescribed Firearms are ‘of a tactical or military’ design and capable of holding a quickly reloadable large-capacity magazine. This statement is both misleading and false. All firearms designed to be used with detachable magazines, including the majority of modern civilian firearms, can be equipped with large capacity magazine. Moreover, rifle magazines that have capacity exceeding 5 rounds and that were designed for use in semi-automatic weapons have been banned in Canada since the early 1990’s.

33. The Impact Statement claims that the Newly Prescribed Firearms are not suitable for sporting or hunting purposes because they pose an inherent danger to public safety. This rationale is directly contradicted by Section 2(i) of the Amnesty Order, which states that firearms owners who, as of May 1, 2020, were using their Newly Prescribed Firearms for the purpose of sustenance hunting or to exercise aboriginal hunting rights granted pursuant to s. 35 of the *Constitution Act*, 1982 may continue to use them for a period of up to two years.

34. Under the section titled ‘Benefits and Costs’, the Impact Statement acknowledges that sport shooters may find themselves temporarily unable to participate in their sport if their primary means of participating is with the Newly Prescribed Firearms but claims that the impact can be mitigated through purchases of new firearms that are not being prohibited.

35. The aforesaid claim is immediately contradicted in another section of the Impact Statement titled ‘Implementation, Compliance and Enforcement, and Service Standards’, which states that there is a risk that affected firearms owners may elect to replace the Newly Prescribed Firearms with models unaffected by the ban, causing a market displacement, and that this risk may be mitigated by adding additional makes and models to the list of prohibited firearms in the future.

36. The Impact Statement thus creates a “catch-22”: it suggests that sport shooters may continue participating in shooting sports by purchasing firearms unaffected by SOR/2020-96, but if they do so, those firearms will likely become prohibited in the future.

37. On May 1, 2020, immediately after the announcement of SOR/2020-96, the GIC provided the media with a document titled ‘Firearms Prohibition Technical Briefing’ (“Technical Briefing”), which states that the Newly Prescribed Firearms were targeted for prohibition on the basis of modern design and presence in large volume on the Canadian market.

38. The language contained in the Technical Document implies that the true goal of SOR/2020-96 is to prohibit modern firearms that are commonly available in Canada. This is not a valid exercise of delegated regulatory authority pursuant to s. 117.15 of the *Criminal Code*.

***ii. Section 1(a) of the Bill of Rights and due process of the law***

39. S. 1(a) of the Canadian Bill of Rights states that every individual has the right to enjoyment of property and the right not to be deprived thereof except by due process of law.

40. SOR/2020-96 deprives Canadians of their right to enjoy property without the due process of law.

41. SOR/2020-96 severely restricts opportunities for Canadians interested in participating in sport shooting and will altogether eliminate certain types of shooting

sports.

42. SOR/2020-96 also affects hunting, and in particular hunting with shotguns. Most modern shotguns have removable choke attachments. With the choke attachment removed, many shotguns have bore diameters exceeding 20 mm, making them prohibited firearms pursuant to Part 1, Section 95 of the Newly Amended Schedule.

43. The GIC admits that SOR/2020-96 will potentially affect a large cross-section of the Canadian population. The Impact Statement acknowledges that approximately 1.4 million Canadians participate in legal sport shooting and approximately 1.3 million participate in legal hunting.

44. While casting a wide net, the SOR/2020-96 was promulgated without prior announcement and without meaningful consultation with the affected stakeholders. By proceeding in this fashion, the federal government has breached its duty to consult.

45. SOR/2020-96 was promulgated at a time when the Parliament of Canada was not having regular sittings due to the COVID-19 pandemic, thereby shielding the government from parliamentary scrutiny.

46. The establishment of the Amnesty Period during which individuals may continue to possess Newly Prescribed Firearms for up to two years suggests that SOR/2020-96 was not viewed as a matter of urgency at the time of its announcement.

47. Shortly after the announcement of SOR/2020-96, government officials made a number of misleading and untrue statements. For example, Prime Minister Justin Trudeau made a demonstrably false statement claiming that the Newly Prescribed Firearms were designed for one purpose only, namely to kill as many people as quickly as possible. Such manifestly and demonstrably untrue statements suggest that the impugned regulation was not made in good faith.

48. There is no evidence whatsoever that any of the Newly Prescribed Firearms are disproportionately used in Canada to commit crimes.

49. Although the Impact Statement states that the federal government intends to

implement a buy-back program to compensate affected owners for the value of their firearms and to provide an option to participate in a grandfathering regime, SOR/2020-96 itself is silent on the issue of compensation and grandfathering. The Impact Statement is not a part of SOR/2020-96 or the Amnesty Order.

***iii. Section 7 of the Charter***

50. Pursuant to section 7 of the *Charter*, everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

51. SOR/2020-96 violates the right to liberty by subjecting any hunter or sport shooter who remains in possession of a Newly Prescribed Firearm to harsh penalties under the *Criminal Code*, including arrest and incarceration.

52. SOR/2020-96 violates the right to life and security of the person by restricting the ability of hunters to sustain themselves through the use of their firearms and by depriving individuals who live and/or work in remote regions of Canada of means of self-defense against dangerous predators.

***iv. Section 15(1) of the Charter***

53. Pursuant to s 15(1) of the *Charter*, every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination based on, *inter alia*, physical disability.

54. SOR/2020-96 disproportionately and unfairly targets persons with disabilities, who are far more likely to favor the types of firearms banned by the impugned regulation due to their low recoil impulse and ergonomic characteristics. SOR/2020-96 creates barriers for disabled individual wishing to participate in sport shooting and, in many instances, makes such participation entirely unfeasible.

***v. Vagueness***

55. In addition to the approximately 1,500 firearms specifically named in SOR/2020-

96, the impugned regulation also prohibits all variants and modified versions thereof.

56. The terms “variant” and “modified version” are not defined in SOR/2020-96, SOR/98-462, the Newly Amended Schedule, the *Criminal Code*, the *Firearms Act*, or any other relevant act or regulation and do not have a widely accepted, common definition. The impugned regulation is therefore void for vagueness.

### **E. The Parties**

57. The applicants in this proceeding are private citizens who are licensed to acquire and possess restricted and non-restricted firearms. All of the applicants possess one or more of the Newly Prescribed Firearms, which they acquired and used for sporting and/or hunting purposes prior to the introduction of SOR/2020-96 on May 1, 2020.

58. The applicants are personally affected by SOR/2020-96, as they can no longer use their lawfully acquired firearms for hunting or sporting purposes.

59. None of the applicants have a significant financial stake in the outcome of this proceeding.

60. The applicants bring this proceeding in the public interest.

#### ***i. Michael John Doherty***

61. The applicant, Michael John Doherty (“Mr. Doherty”), is a resident of Ontario.

62. Mr. Doherty is a professional civil engineer who works as a construction manager for a large road construction and maintenance company in Toronto.

63. Mr. Doherty was raised with a love of the outdoors by his late father, William A. Doherty, a member of the Ontario Road Building Hall of Fame who helped build the Don Valley Parkway and Highway 400 in the 1950’s and 1960’s.

64. Mr. Doherty has been an avid hunter of big game, small game, waterfowl and turkeys for over 30 years. He first started hunting under the supervision of his father at the age of 12. The meat harvested by Mr. Doherty is used to sustain himself, his wife and

their two children.

65. Mr. Doherty is also a competitive target shooter. He is a member of two gun clubs in the Province of Ontario. He participates in skeet/trap/sporting clays matches, as well as the '3-gun' completion, which involve the use of rifles, shotguns and pistols.

66. Mr. Doherty has been a licensed gun owner for over 25 years.

67. Mr. Doherty lawfully owns a number of firearms that were classified as non-restricted or restricted prior to the introduction of SOR/2020-96 on May 1, 2020 and used by Mr. Doherty for hunting and/or sport-shooting purposes. These firearms include:

- a. A custom-built AR-15 rifle with a Lewis Machine & Tool Company lower receiver and LWRC International LLC upper receiver, currently named as a prohibited firearm pursuant to Part 1, Section 87 of the Newly Amended Schedule;
- b. A custom-built AR-15 rifle with a Lewis Machine & Tool Company lower receiver and Colt's Manufacturing LLC upper receiver, currently classified as a prohibited firearm pursuant to Part 1, Section 87 of the Newly Amended Schedule;
- c. A custom-built AR-15 rifle with an Alberta Tactical Rifle Supply lower receiver and Colt Canada upper receiver, currently classified as a prohibited firearm pursuant to Part 1, Section 87 of the Newly Amended Schedule;
- d. A custom-built AR-15 rifle with a Lewis Machine & Tool Company lower receiver and Noveske Rifleworks upper receiver, chambered in .300 Blackout, currently classified as a prohibited firearm pursuant to Part 1, Section 87 of the Newly Amended Schedule;
- e. A custom-built AR-15 rifle with a Lewis Machine & Tool Company lower receiver and Noveske Rifleworks upper receiver, chambered in 5.56 mm, currently classified as a prohibited firearm pursuant to Part 1, Section 87 of the Newly Amended Schedule;

- f. A custom-built AR-15 rifle with a Lewis Machine & Tool Company lower receiver and PWS upper receiver, currently classified as a prohibited firearm pursuant to Part 1, Section 87 of the Newly Amended Schedule;
- g. Colt Canada AR-15 lower receiver, currently classified as a prohibited firearm pursuant to Part 1, Section 87 of the Newly Amended Schedule;
- h. Alberta Tactical Rifle Modern Sporter rifle, which is not mentioned in SOR/2020-96 but was nonetheless reclassified as a prohibited firearm in the FRT at some point after May 1, 2020; and
- i. Alberta Tactical Rifle Modern Hunter rifle, which is not mentioned in SOR/2020-96 but was nonetheless reclassified as a prohibited firearm in the FRT at some point after May 1, 2020.

***ii. Nils Robert Ek***

68. The applicant, Nils Robert Ek (“Mr. Ek”), is a resident of Quebec.

69. Mr. Ek holds a Bachelor of Science degree in mathematics and a Master of Science degree in atmospheric physics, both from the University of Alberta. Mr. Ek has worked for the Meteorological Service of Canada since 1986, most recently as a senior research meteorologist at the Canadian Meteorological Centre in Dorval, Quebec. As part of his job, Mr. Ek developed models for the verification of illicit nuclear arms development and testing.

70. Mr. Ek has been married for 20 years and has a 19-year old son who studies classical musical performance at McGill University. Mr. Ek’s wife and son are also licensed to possess and acquire restricted and non-restricted firearms.

71. Mr. Ek has been a firearms owner since 1980. He is a competitive sport shooter and a member of the Cornwall Handgun Club, Vankleek Hill Gun Club, and Fédération Québécoise de Tir.

72. Mr. Ek is also a hunter who has been hunting small and big game in Canada since

1973.

73. Mr. Ek lawfully owns a number of firearms that were classified as non-restricted or restricted prior to the introduction of SOR/2020-96 on May 1, 2020 and were used by Mr. Ek and his family members for hunting and/or sport-shooting purposes. These firearms include:

- a. Bushmaster Carbon 15 rifle, currently classified as a prohibited firearm pursuant to Part 1, Subsection 87 (z.13) of the Newly Amended Schedule;
- b. Black Creek Labs BCL15 rifle lower receiver, currently classified as a prohibited firearm pursuant to Part 1, Subsection 87 (z.105) of the Newly Amended Schedule;
- c. Black Creek Labs BCL15 rifle upper receiver, currently classified as a prohibited firearm pursuant to Part 1, Subsection 87 (z.105) and Part 4, Section 4 of the Newly Amended Schedule;
- d. Palmetto State Armory PA-15 rifle upper receiver, currently classified as a prohibited firearm pursuant to Part 1, Subsection 87 (z.637) and Part 4, Section 4 of the Newly Amended Schedule; and
- e. Norinco M14 Semi-Automatic rifle, currently classified as a prohibited firearm pursuant to Part 1, Subsection 89 (s) of the Newly Amended Schedule.

***iii. Richard William Robert Delve***

74. The applicant, Richard William Robert Delve (“Mr. Delve”), is a resident of Ontario.

75. Mr. Delve learned shooting from his father when he was 10 years old and purchased his first firearm 38 years ago at the age of 18.

76. After graduating from college, Mr. Delve joined the Canadian Armed Forces and

served his country for nearly 20 years, attaining the rank of Master Corporal. He was deployed during the Persian Gulf War in 1990-1991 and as part of Canada's peace-keeping mission to the former Yugoslavia in 1992. Mr. Delve also served in Bosnia in 1995 as part of the NATO mission.

77. Mr. Delve was ultimately released from the military on medical grounds after developing Crohn's disease and degenerative liver disease. Mr. Delve had a liver transplant in 2011. He also had his colon removed and ileostomy performed in or about 2014.

78. As a disabled veteran, Mr. Delve's primary hobby is shooting sports, which are the only competitive sports that he can participate in because of his medical disability. Mr. Delve uses semi-automatic rifles due to their superior ergonomics and lower recoil impulse, which make them easier to handle and operate for a disabled person.

79. Mr. Delve also hunts turkey, ducks, geese, deer and small game with his friends.

80. Mr. Delve lawfully owns several firearms that were classified as non-restricted or restricted prior to the introduction of SOR/2020-96 on May 1, 2020 and were used by Mr. Delve for hunting and/or sport-shooting purposes. These firearms include:

- a. Beretta CX4 Storm rifle, currently classified as a prohibited firearm pursuant to Part 1, Section 93 of the Newly Amended Schedule;
- b. F1 Firearms UDR-15-3G rifle, currently classified as a prohibited firearm pursuant to Part 1, Subsection 87 (z.364) of the Newly Amended Schedule;
- c. North Eastern Arms NEA-15 rifle, currently classified as a prohibited firearm pursuant to Part 1, Subsection 87 (z.598) of the Newly Amended Schedule;
- d. Black Creek Labs BCL102 rifle, currently classified as a prohibited firearm pursuant to Part 1, Subsection 87 (z.106) of the Newly Amended Schedule);
- e. Norinco M305 rifle, currently classified as a prohibited firearm pursuant to Part 1, Subsection 89 (w) of the Newly Amended Schedule;

- f. Diemaco/Colt Canada AR15, currently classified as a prohibited firearm pursuant to Part 1, Section 87 of the Newly Amended Schedule;
- g. Maccabee Defense SLR-Multi, which is not mentioned in SOR/2020-96 but was nonetheless reclassified as a prohibited firearm in the FRT at some point after May 1, 2020;
- h. Alberta Tactical Rifle ATRS Modern Sporter rifle, which is not mentioned in SOR/2020-96 but was nonetheless reclassified as a prohibited firearm in the FRT at some point after May 1, 2020; and
- i. Browning Hunter Gold 12-gauge shotgun with bore diameter exceeding 20 mm with the choke removed, currently classified as a prohibited firearm pursuant to Part 1, Section 95 of the Newly Amended Schedule.

***iv. Christian Rydich Bruhn***

81. The applicant, Christian Rydich Bruhn (“Mr. Bruhn”), is a resident of Alberta. He was born and raised on a farm and has lived in rural Alberta his entire life. Mr. Bruhn is retired after a long career in management and sales with a major agricultural equipment manufacturer.

82. Firearms have always been an integral part of rural farm life. Like many rural Canadians, Mr. Bruhn has been using firearms for hunting, pest control, and predator defence from an early age. Mr. Bruhn’s earliest childhood memories are of his father teaching him to shoot a .22 caliber rifle.

83. Mr. Bruhn has been involved in recreational and competitive target shooting for many years and has attended a number of training courses involving AR-15 rifles and long range target rifles.

84. Mr. Bruhn lawfully owns a number of firearms that were classified as non-restricted or restricted prior to the introduction of SOR/2020-96 on May 1, 2020 and were used by Mr. Bruhn for hunting and/or sport-shooting purposes. These firearms include:

- a. Colt AR15 SP1 rifle, currently classified as a prohibited firearm pursuant to Part 1, Subsection 87 (z.184) of the Newly Amended Schedule;
- b. Two (2) American Tactical Imports Omni Hybrid rifles, currently classified as prohibited firearms pursuant to Part 1, Subsection 87 (z.042) of the Newly Amended Schedule;
- c. Remington 870 Wingmaster 12-gauge shotgun with bore diameter exceeding 20 mm with the choke removed currently classified as a prohibited firearm pursuant to Part 1, Section 95 of the Newly Amended Schedule; and
- d. Browning Auto 5 12-gauge shotgun with bore diameter exceeding 20 mm with the choke removed, currently classified as a prohibited firearm pursuant to Part 1, Section 95 of the Newly Amended Schedule.

***v. Philip Alexander McBride***

85. The applicant, Philip Alexander McBride (“Mr. McBride”), is resident of Ontario.

86. Mr. McBride has been self-employed as an Information Technology specialist for approximately 20 years. He is also an elected member of the board of directors for Radio Amateurs of Canada – a not-for-profit organization that represents the interests of Canadian radio amateurs on the Canadian Radio Advisory Board.

87. Mr. McBride is a training officer for the Canadian Forces Affiliate Radio System, which is a group of military, retired military and civilian volunteers who assist in training Canadian Forces members in the use of high frequency radio and in providing communications for domestic operations.

88. Mr. McBride is also a contact scouter for the 1<sup>st</sup> Acton Scout Troop, Scouts Canada, where he volunteers with a troop of 13 youth and two other Scouters.

89. Mr. McBride obtained his PAL in March of 2019. He participates in sport shooting and is planning to take up hunting in the near future.

90. Mr. McBride lawfully owns two firearms that were classified as non-restricted or restricted prior to the introduction of SOR/2020-96 on May 1, 2020 and were used by Mr. McBride for hunting and/or sport-shooting purposes. These firearms include:

- a. Smith & Wesson M&P 15 rifle, currently classified as a prohibited firearm pursuant to Part 1, Subsection 87 (z.778) of the Newly Amended Schedule; and
- b. Canuck Defender 12-gauge shotgun with bore diameter exceeding 20 mm with the choke removed, currently classified as a prohibited firearm pursuant to Part 1, Section 95 of the Newly Amended Schedule.

***vi. Lindsay David Jamieson***

91. The applicant, Lindsay Jamieson (“Mr. Jamieson”), is a resident of Ontario. Mr. Jamieson has a Master’s Degree in mathematics and a Graduate Diploma in financial engineering. He works as a derivatives trader in Toronto.

92. Mr. Jamieson obtained his PAL in 2016. He is a hunter and a sport shooter.

93. Mr. Jamieson lawfully owns several firearms that were classified as non-restricted or restricted prior to the introduction of SOR/2020-96 on May 1, 2020 and were used by Mr. Jamieson for hunting and/or sport-shooting purposes. These firearms include:

- a. Ruger AR556 rifle, currently classified as a prohibited firearm pursuant to Part 1, Subsection 87 (z.732) of the Newly Amended Schedule;
- b. North Eastern Arms NEA-15 rifle lower receiver, currently classified as a prohibited firearm pursuant to Part 1, Subsection 87 (z.105) of the Newly Amended Schedule; and
- c. Remington 870 Express shotgun with bore diameter exceeding 20 mm with the choke removed, currently classified as a prohibited firearm pursuant to Part 1, Section 95 of the Newly Amended Schedule).

***vii. David Cameron Mayhew***

94. The applicant, David Mayhew (“Mr. Mayhew”), is a resident of British Columbia.

95. Mr. Mayhew has been working in the telecommunications construction industry for over 15 years and is currently employed as an operations manager at an electrical contracting company.

96. For Mr. Mayhew, firearms are necessary tools of his trade, as his work often takes him to remote parts of British Columbia, where he carries a semi-automatic rifle for protection against bears and other predators.

97. Mr. Mayhew is also a hunter and sport shooter and is a member of the Port Coquitlam District Hunting and Fishing Club. He is also a member of the Dynamic Shooting Sports Association of British Columbia, a shooting league that operates in the Metro Vancouver Area, and participates in various shooting disciplines.

98. Mr. Mayhew lawfully owns several firearms that were classified as non-restricted or restricted prior to the introduction of SOR/2020-96 on May 1, 2020 and were used by Mr. Mayhew for hunting and/or sport-shooting purposes. These firearms include:

- a. Springfield Armory US Rifle M1A, currently classified as prohibited pursuant to Part 1, Subsection 89 (z.11) of the Newly Amended Schedule;
- b. Czech Small Arms SA VZ58 Sporter 7.62 rifle, currently classified as prohibited pursuant to Part 1, Subsection 90 (m) of the Newly Amended Schedule;
- c. Colt SA20 rifle, currently classified as prohibited pursuant to Part 1, Subsection 87 (z.224) of the Newly Amended Schedule;
- d. Colt IUR rifle, currently classified as prohibited pursuant to Part 1, Subsection 87 (z.218) of the Newly Amended Schedule;
- e. Spike's Tactical ST-15 rifle, currently classified as prohibited pursuant to Part

1, Subsection 87 (z.802) of the Newly Amended Schedule;

- f. Spike's Tactical ST-22 upper receiver, currently classified as prohibited pursuant to Part 1, Subsection 87 (z.804) and Part 4, Section 4 of the Newly Amended Schedule; and
- g. Fabarm STF-12 12-gauge shotgun with bore diameter exceeding 20 mm with the choke removed, currently classified as prohibited pursuant to Part 1, Section 95 of the Newly Amended Schedule.

***viii. Mark Roy Nichol***

99. The applicant, Mark Nichol (“Mr. Nichol”), is a resident of Ontario.

100. Mr. Nichol joined the Canadian Armed Forces Primary Reserve (“Reserve”) as a Field Engineer in 1988. He graduated Basic Training in April 1989 and was promoted to Sapper with the 2nd Field Engineering Regiment a year later. Mr. Nichol also served with the 18th Service Battalion in Thunder Bay between 1994 and 1996.

101. Mr. Nichol graduated from Lakehead University with a degree in mechanical engineering in 1993. After graduation, he pursued an engineering career in the rail industry, which took him to Malaysia, China, Brazil, United States and numerous Canadian locations. Mr. Nichol currently holds the position of Manager of Verification Services with a major rail transport manufacturer and is a member of Professional Engineers Ontario.

102. Mr. Nichol developed an interest in the shooting sports in or about 1987, when he joined the Ajax Rifle and Pistol Club. He obtained his Firearms Acquisition Certificate later that year.

103. Mr. Nichol later joined the Thunder Bay Pistol Club and obtained his International Practical Shooting Confederation (“IPSC”) Black Badge designation as he started his involvement in competitive shooting. Mr. Nichol continued to compete while living in Thunder Bay and also became certified as a Range Safety Officer by the National Range Officers Institute in 1994.

104. In 1999, Mr. Nichol joined the Frontenac Rifle and Pistol Club in Kingston, Ontario and has been a continuous member thereof ever since, at one time holding the position of club director. While living in Kingston, Mr. Nichol continued to participate in IPSC competitions.

105. In 2007, Mr. Nichol began to compete in long-range shooting matches, shooting rifles out to 1000 yards.

106. In 2015, Mr. Nichol worked with the Kingston Police to help coach their shooting team that was training for the World Police and Fire Games. Mr. Nichol accompanied the four-person Kingston Police team to the competition in Fairfax, Virginia.

107. Mr. Nichol has been married to his wife Susan, a Pediatric Registered nurse, for over 22 years. They have two sons together. Mr. Nichol and his family members are avid hunters who participate in yearly deer and moose hunts.

108. Mr. Nichol lawfully owns several firearms that were classified as non-restricted or restricted prior to the introduction of SOR/2020-96 on May 1, 2020 and were used by Mr. Nichol for hunting and/or sport-shooting purposes. These firearms include:

- a. Colt AR15 rifle, currently classified as prohibited pursuant to Part 1, Subsection 87 (z.183) of the Newly Amended Schedule;
- b. Colt SA15.7 rifle, currently classified as prohibited pursuant to Part 1, Subsection 87 (z.223) of the Newly Amended Schedule;
- c. Colt AR-15A2 Sporter Match HBar rifle, currently classified as prohibited pursuant to Part 1, Subsection 87 (z.213) of the Newly Amended Schedule;
- d. Five (5) Knights Armament Company SR-15 rifles, currently classified as prohibited pursuant to Part 1, Subsection 87 (z.474) of the Newly Amended Schedule;
- e. Three (3) Knights Armament Company SR-25 rifles, currently classified as prohibited pursuant to Part 1, Section 87 of the Newly Amended Schedule;

- f. Stag Arms STAG-10 rifle, currently classified as prohibited pursuant to Part 1, Subsection 87 (z.816) of the Newly Amended Schedule;
- g. Springfield Armory US Rifle M1A National Match, currently classified as prohibited pursuant to Part 1, Subsection 89 (z.09) of the Newly Amended Schedule;
- h. Cadex CDX-10 rifle, currently classified as prohibited pursuant to Part 1, Subsection 87 (z.145) of the Newly Amended Schedule; and
- i. DPMS LR-308 Panther rifle, currently classified as prohibited pursuant to Part 1, Subsection 87 (z.307) of the Newly Amended Schedule.

***ix. Peter Craig Minuk***

109. The applicant, Peter Minuk (“Mr. Minuk”), is a resident of Ontario.

110. Mr. Minuk obtained a diploma in Business Administration from the Southern Alberta Institute of Technology in 1985 and embarked on a 25-year-long career in banking and finance, working for RBC Dominion Securities and the Bank of Montreal, among others.

111. In 2005, Mr. Minuk obtained a Masters Certificate in Project Management from York University and in 2007, he completed the Canadian Investment Management Program, a licensing requirement for portfolio managers. Since then, Mr. Minuk has worked as an analyst for the Federal Economic Development Agency for Southern Ontario and as a consultant for a gold exploration company.

112. Mr. Minuk took up shooting sports in 2012 at the urging of several long-term friends. He competes in several shooting disciplines at his gun club.

113. In September of 2019, Mr. Minuk was diagnosed with terminal pancreatic cancer. Mr. Minuk was hoping to spend the limited time he had left enjoying shooting sports at his club with family and friends. SOR/2020-96 put an end to those plans, as Mr. Minuk is no longer legally allowed to bring his firearms to the range or use them for target

shooting.

114. Mr. Minuk lawfully owns several firearms that were classified as non-restricted or restricted prior to the introduction of SOR/2020-96 on May 1, 2020 and were used by Mr. Minuk for hunting and/or sport-shooting purposes. These firearms include:

- a. Czech Small Arms SA VZ58 Sporter 7.62 rifle, currently classified as a prohibited firearm pursuant to Part 1, Subsection 90 (m) of the Newly Amended Schedule;
- b. Ruger Mini 14 rifle, currently classified as prohibited pursuant to Part 1, Section 88 of the Newly Amended Schedule;
- c. Norinco 305 rifle, currently classified as a prohibited firearm pursuant to Part 1, Subsection 89 (w) of the Newly Amended Schedule;
- d. Rock River Arms LAR-9 rifle, currently classified as a prohibited firearm pursuant to Part 1, Subsection 87 (z.719) of the Newly Amended Schedule; and
- e. Daniel Defense M4 Carbine, currently classified as a prohibited firearm pursuant to Part 1, Subsection 87 (z.255) of the Newly Amended Schedule.

**THIS APPLICATION WILL BE SUPPORTED BY THE FOLLOWING MATERIAL:**

1. Affidavit Evidence of Michael John Doherty, to be sworn;
2. Affidavit Evidence of Nils Robert Ek, to be sworn;
3. Affidavit Evidence of Richard William Robert Delve, to be sworn;
4. Affidavit Evidence of Christian Rydich Bruhn, to be sworn;
5. Affidavit Evidence of Philip Alexander McBride, to be sworn;

6. Affidavit Evidence of Lindsay David Jamieson, to be sworn;
7. Affidavit Evidence of David Cameron Mayhew, to be sworn;
8. Affidavit Evidence of Mark Roy Nichol, to be sworn;
9. Affidavit Evidence of Peter Craig Minuk, to be sworn;
10. Other Affidavit evidence, to be sworn;
11. Expert evidence, to be delivered; and
12. Any other materials that counsel for the applicants may submit and this Honorable Court may accept.

DATED at Toronto this 29th day of June, 2020



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