

**IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE FEDERAL COURT OF APPEAL)**

BETWEEN:

**CANADIAN COALITION FOR FIREARM RIGHTS, RODNEY
GILTACA, RYAN STEACY, MACCABEE DEFENSE INC. and
WOLVERINE SUPPLIES LTD.**

APPELLANTS

- and -

ATTORNEY GENERAL OF CANADA

RESPONDENT

- and -

**ATTORNEY GENERAL OF ALBERTA, ATTORNEY GENERAL OF
SASKATCHEWAN and ATTORNEY GENERAL OF ONTARIO**

INTERVENERS

FACTUM

(CANADIAN COALITION FOR FIREARM RIGHTS, et al., APPELLANTS)
(Pursuant to Rule 42 of the *Rules of the Supreme Court of Canada*)

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PART I – OVERVIEW & FACTS

A. Overview

1. When the clarity of law is compromised, whether by actions exceeding delegated authority or by vague law-making, the harm extends beyond the immediate parties. Those directly affected risk losing their rights, while others remain vulnerable to the same precedent. Law performs its constitutional function when it binds power through knowable limits and ascertainable reasons. Where those limits and reasons dissolve, legality succumbs to ambiguous administrative will, leaving people to navigate a standardless whim.

2. This appeal concerns an incremental regulatory expansion that contravenes legislative intent. It asks this Honourable Court to determine the limits of delegated legislative authority under the [Criminal Code](#), s. [117.15](#) and the constitutional requirements that apply when criminally operative regulations are framed in nebulous terms.¹ The Governor in Council (“GIC”) used that authority to enact subordinate legislation that immediately prohibited more than 1,500 makes and models of firearms.² The Attorney General of Canada has taken the position that the list of firearms implicitly includes the so-called unnamed and unlisted “variants” of the listed firearms. The GIC did not, and does not, identify the so-called unnamed variants as identified by the Royal Canadian Mounted Police (“RCMP”). This exercise of delegated authority is inconsistent with the [Criminal Code](#). The GIC exceeded the limits Parliament imposed, including the express restriction against prohibiting firearms that are reasonable for use in Canada for hunting or sporting.³ The further sub-delegation to the RCMP is impermissible.

3. The appeal does not address the policy merits of the [2020 Regulations](#).⁴ It does not examine statistics showing that mass shootings in Canada are rare, that claims of firearm use in homicides

¹ *Criminal Code*, RSC 1985, c C-46 [[Criminal Code](#)].

² *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, ss. [3\(1\)](#), [3\(2\)](#) [[2020 Regulations](#)] [FCA Appeal Book (“AB”) Vol 1, Tab 4A.i, pp. 637-689].

³ *Criminal Code*, s. [117.15\(2\)](#).

⁴ See *Auer v. Auer*, [2024 SCC 36](#) at paras. [3](#), [29](#), [33](#), [35](#), [55-58](#) [[Auer](#)]; see also *Katz Group Canada Inc. v. Ontario (Health and Long-Term Care)*, [2013 SCC 64](#), [[2013](#)] [3 SCR 810 \(SCC\)](#) at para. [27](#), [[Katz Group](#)].

are exaggerated and statistically unsupported, or that, in recent years, most high-profile shootings in Canada involve illegally held firearms.⁵ It does not consider firearm regulation across the Commonwealth, including that Canadian legislative changes since the 1970s have had no corresponding effect on reducing homicide or suicide rates; that the Australian firearm buyback scheme had no marked effect on firearm-related violence and that mass shootings continue; or that prohibited firearms in New Zealand remain outside the regulatory system, with uncertainty about how many prohibited firearms exist and low police confidence in estimates.⁶

4. This appeal by the Canadian Coalition for Firearm Rights, Rodney Giltaca, Ryan Steacy, Maccabee Defense Inc., and Wolverine Supplies Ltd. (together, the “**Appellants**”) turns on the following foundational principles: (a) a general legislative objective cannot displace the meaning of clear legislative text; (b) a discretion granted under statute is never unfettered; and (c) language in criminally operative legislation or regulations must provide a meaningful and intelligible zone of risk, not one dependent on *ad hoc* administrative practice.

5. For the hundreds of thousands of Canadians who lawfully owned and used the firearms prohibited by the [2020 Regulations](#), this appeal is not an abstract debate about administrative law. It concerns the profound disruption of the lives of ordinary, law-abiding Canadians. Hunters, sport shooters, collectors, and small businesses, individuals who complied with every requirement imposed by Parliament, found themselves overnight in possession of prohibited property, deprived of its lawful use, and exposed to the prospect of criminal liability. They are not extremists; they are farmers, veterans, competitive athletes, Indigenous harvesters, and neighbours in communities across Canada. Therefore, whether the GIC acted within the limits Parliament imposed is not merely a question of statutory interpretation; it determines whether the sweeping consequences imposed upon these Canadians were authorized by law.

⁵ Affidavit of Rodney Giltaca at para. 59, Exhibit “O” [AB Vol 2, Tab 5A.iii, pp. 794, 1050-1058]; Affidavit of Gary Mauser at paras. 6-18, Exhibits “B”-“T” [AB Vol 2, Tab 5A.xi, pp. 1700-1708, 1728-2222].

⁶ Affidavit of Caillin Langman at paras. 11-14, 23-29, Exhibits “B”-“F” [AB Vol 2, Tab 5A.viii, pp. 1526-1529, 1540-1622]; Affidavit of Gary Mauser at para. 17, Exhibit “T” [AB Vol 2, Tab 5A.xi, pp. 1706-1707, 2179, 2196, 2209, 2211].

B. Statement of Facts

(i) *Background of Firearm Law Reform and Bill C-68*

6. In the mid-1990s, [Bill C-68](#) proposed a framework for firearms control, introducing universal licensing, requiring firearm registration, and establishing controls for possession, transfer, transport, and storage.⁷ It also proposed replacing [Part III](#) of the [Criminal Code](#).⁸ Among other things, [Bill C-68](#) (a) defined “prohibited firearm”;⁹ (b) created an offence for possessing such a firearm without a licence and registration certificate;¹⁰ and (c) authorized the GIC to make regulations “prescribing anything that by this Part [III] is to be or may be prescribed” but not “if, in the opinion of” the GIC, the prohibited firearm “is reasonable for use in Canada for hunting or sporting purposes” (“**Enabling Provision**”, as further defined below).¹¹

7. The Honourable Allan Rock, P.C., C.M., O.Ont., K.C. (“**Mr. Rock**”), the Minister of Justice and Attorney General of Canada, testified before the Standing Committee on Justice and Legal Affairs (“**Committee**”) on [Bill C-68](#).¹² He identified the bill’s essential elements: to preserve Canada, reflect Canadian values, impose tough penalties for firearm-related crime, address gun smuggling, and provide fair and sensible rules governing private firearm ownership.¹³ Universal firearm registration to support public safety was the legislative cornerstone.¹⁴

8. The Committee recognized public concern about potential misuse of the Enabling Provision. The Chair, the Honourable Warren Allman, P.C., O.C., Q.C. (“**Mr. Allman**”), relayed witnesses’ fear that Canada would use the Enabling Provision to incrementally expand the list of prohibited firearms.¹⁵ He characterized the concern as unfounded and pervasive paranoia, yet

⁷ See [Bill C-68](#), *An Act respecting firearms and other weapons*, [1st Sess, 35th Parl, 1995](#), cls. [5-119](#) [[Bill C-68](#)].

⁸ [Bill C-68](#), cl. [139](#).

⁹ [Bill C-68](#), cl. [139](#).

¹⁰ [Bill C-68](#), cl. [139](#).

¹¹ [Bill C-68](#), cl. [139](#).

¹² House of Commons, Standing Committee on Justice and Legal Affairs, [Evidence, 35-1, No. 147 \(19 May 1995\)](#) [[Committee Record](#)].

¹³ [Committee Record](#) at [0900](#).

¹⁴ [Committee Record](#) at [0900](#).

¹⁵ [Committee Record](#) at [1025](#).

invited Mr. Rock to clarify Canada’s intentions.¹⁶ Mr. Rock explained that prohibited firearms were “invariably paramilitary-type assault weapons, emblematic of military use, designed only for the purpose of combat and killing”.¹⁷ They were “by their appearance, by their properties and by their function totally inappropriate for hunting and sporting purposes in Canada”.¹⁸ The Enabling Provision had “nothing to do with hunting rifles and shotguns”.¹⁹

9. When challenged about why the Enabling Provision had been included in [Bill C-68](#), Mr. Rock interpreted the Restrictive Provision (defined below) “on its face”.²⁰ Generations of Canadians had used “rifles and shotguns, .22s, shotguns and high-powered hunting rifles” and “the automatic or semi-automatic shotgun or the pump shotgun, which can fire three shots in somewhat less seconds than the semi-automatic”.²¹ They would continue to do so.²² Mr. Rock explained that the federal government “will never – no ensuing government could ever – in the reasonable use of this authority, interfere with the proper ownership and use of” firearms used for hunting or sporting.²³ He identified the mischief the Enabling Provision sought to address, namely, inventing contests or competitions to justify using imported, “unacceptable”, “lethal combat-style”, “military-style” “weapons of death”.²⁴

(ii) *The Criminal Code, s. 117.15 and the 1998 Regulations*

10. On December 5, 1995, [Bill C-68](#) received Royal Assent, bringing the [Firearms Act](#) into force.²⁵ Since then, the [Criminal Code](#) has defined “prohibited firearm” to include firearms prohibited by regulation.²⁶ [Criminal Code](#), s. [117.15](#) provides:

¹⁶ [Committee Record](#) at [1025](#).

¹⁷ [Committee Record](#) at [1025](#).

¹⁸ [Committee Record](#) at [1025](#).

¹⁹ [Committee Record](#) at [1045](#).

²⁰ [Committee Record](#) at [1045](#).

²¹ [Committee Record](#) at [1045](#).

²² [Committee Record](#) at [1045](#).

²³ [Committee Record](#) at [1045](#).

²⁴ [Committee Record](#) at [1045](#).

²⁵ See [Firearms Act](#), [SC 1995, c 39](#) [[Firearms Act](#)].

²⁶ [Criminal Code](#), ss. [84\(1\)](#).

Regulations

117.15 (1) Subject to subsection (2), the Governor in Council may make regulations prescribing anything that by this Part is to be or may be prescribed.

Restriction

(2) In making regulations, the Governor in Council may not prescribe any thing to be a prohibited firearm, a restricted firearm, a prohibited weapon, a restricted weapon, a prohibited device or prohibited ammunition if, in the opinion of the Governor in Council, the thing to be prescribed is reasonable for use in Canada for hunting or sporting purposes.

(Together, the “**Enabling Provision**”, and [Criminal Code](#), s. [117.15\(2\)](#) only is the “**Restrictive Provision**”.)

11. On September 16, 1998, the GIC issued an Order in Council creating the [1998 Regulations](#), which were published in the Canada Gazette.²⁷ The [1998 Regulations](#), which came into force on December 1, 1998, prohibited specific makes and models of firearms, including automatic firearms; automatic firearms converted to semi-automatics; certain firearms belonging to specific design platforms or families; certain families or series of firearms; and certain small-calibre handguns.²⁸

(iii) Canada Contemplates a Further Firearm Prohibition

12. By 2018, Canada was actively considering expanding its firearm prohibition. Public Safety Canada engaged Hill & Knowlton (“**H&K**”) to examine a potential firearm ban, including a full ban on handguns and assault firearms and restricting access to specific types of firearms.²⁹ The focus was to emphasize views on a further firearm ban or limiting access to handguns and assault-style firearms.³⁰

13. The proposed expansion of firearm prohibitions would extend to hunting and sport-shooting communities. The Prime Minister’s mandate to the Minister of Public Safety and

²⁷ *Regulations Prescribing Certain Firearms and Other Weapons, Components and Parts of Weapons, Accessories, Cartridge Magazines, Ammunition and Projectiles as Prohibited or Restricted*, [PC 1998-1662](#), (1998) *C Gaz II*, p. 2701; *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](#) [[1998 Regulations](#)].

²⁸ [1998 Regulations](#), s. [7](#), [Part 1](#).

²⁹ Affidavit of Rodney Giltaca at para. 62, Exhibit “K” [[AB Vol 2, Tab 5A.iii, pp. 794, 961, 963](#)].

³⁰ Affidavit of Rodney Giltaca at para. 62, Exhibit “K” [[AB Vol 2, Tab 5A.iii, pp. 794, 969](#)].

Emergency Preparedness directed continued protection of hunters' rights.³¹ Yet H&K included sport shooting and hunting in the scope of the engagement, while noting that participants from those communities sought greater consultation and collaboration with Canada.³² H&K's report contained no information on the mischief that Mr. Rock had raised before the Committee.

14. By 2019, Canada's contemplated expansion of its firearm prohibition included a potential compensation scheme, although the matter had not yet been decided.³³ The Parliamentary Budget Officer requested information from Public Safety Canada to provide the Senate and the House of Commons with an independent financial analysis of a prospective firearm buy-back program.³⁴ Public Safety Canada denied the request based on the confidence of the Queen's Privy Council.³⁵

(iv) *Firearms Prohibited Under the 2020 Regulations*

15. The GIC enacted amendments to the [1998 Regulations](#) on May 1, 2020, expanding the scope of prohibited firearms. The amendments were implemented through an annexure to an Order in Council published in the Canada Gazette.³⁶ Unlike the [1998 Regulations](#), the [2020 Regulations](#) came into force immediately.³⁷

16. The [2020 Regulations](#) are the subject of this appeal and classified over 1,500 firearms previously permitted for licensed ownership and use as prohibited.³⁸ They were the following, including their named variants in the [2020 Regulations](#), "and any variants or modified versions of them", i.e., their unnamed variants: (a) the SG-550 rifle and SG-551 carbine designs and 16 SAN

³¹ Affidavit of Rodney Giltaca at para. 67, Exhibit "M" [AB Vol 2, Tab 5A.iii, pp. 795, 997-1002].

³² Affidavit of Rodney Giltaca at para. 62, Exhibit "K" [AB Vol 2, Tab 5A.iii, pp. 794, 964, 971, 973-975, 981, 985].

³³ Affidavit of Rodney Giltaca at para. 61, Exhibit "J" [AB Vol 2, Tab 5A.iii, pp. 794, 950-957].

³⁴ Affidavit of Rodney Giltaca at para. 61, Exhibit "J" [AB Vol 2, Tab 5A.iii, pp. 794, 950-953].

³⁵ Affidavit of Rodney Giltaca at para. 61, Exhibit "J" [AB Vol 2, Tab 5A.iii, pp. 794, 954-957]; see generally *Canada Evidence Act*, [RSC 1985, c C-5](#), s. [39\(2\)](#); see generally *Parliament of Canada Act*, [RSC 1985, c P-1](#), s. [79.4\(2\)\(d\)](#).

³⁶ *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*, [PC 2020-298](#), [\(2020\) C Gaz II, p. 1](#) [[OIC](#)] [AB Vol 1, Tab 4A.1, pp. 635-636].

³⁷ [2020 Regulations](#), s. [8](#) AB Vol 1, Tab 4A.i, p. 690].

³⁸ [2020 Regulations](#), ss. [3\(1\)](#), [3\(2\)](#) [AB Vol 1, Tab 4A.i, pp. 637-638]; see also Affidavit of Gary Mauser at para. 16, Exhibit "P" [AB Vol 2, Tab 5A.xi, pp. 1706, 2006-2009].

Swiss Arms models;³⁹ and (b) the M16 rifle, AR-10 rifle, AR-15 rifle, M4 carbine, Ruger Mini-14 rifle, US Rifle, M14, Vz58 rifle, Robinson Armament XCR rifle, CZ Scorpion EVO 3 carbine, CZ Scorpion EVO 3 pistol, Beretta Cx4 Storm carbine, SIG Sauer SIG MCX carbine, SIG Sauer SIG MCX pistol, SIG Sauer SIG MPX carbine, and SIG Sauer SIG MPX pistol designs.⁴⁰ The prohibition included (a) firearms with a bore diameter of 20 mm or greater, other than those designed exclusively to neutralize explosive devices, and 280 named variants thereof;⁴¹ and (b) with some exceptions, firearms capable of discharging a projectile with a muzzle energy greater than 10,000 joules, and 175 versions thereof⁴² (collectively, all of the foregoing firearms, “variants”, and “versions” are the “**Newly-Prohibited Items**”, and each is a “**Newly-Prohibited Item**”).

(v) *Canada Provided a Temporary Amnesty to Owners of Newly-Prohibited Items*

17. The GIC is authorized to declare an amnesty period with respect to any prohibited firearm.⁴³ On May 1, 2020, the GIC issued an Order in Council granting a temporary amnesty to those lawfully possessing Newly-Prohibited Firearms to dispose of, deactivate, or otherwise comply with the [2020 Regulations](#).⁴⁴ The amnesty period was extended to October 30, 2026 through amendments to the [Original Amnesty Order](#).⁴⁵ It now expires 90 days after this Court renders its decision in this appeal, if that extension is formally effected.⁴⁶

³⁹ [2020 Regulations](#), s. 3(1), amending [1998 Regulations](#), Schedule, Part 1, s. 83 [AB Vol 1, Tab 4A.i, pp. 637-638].

⁴⁰ [2020 Regulations](#) s. 3(2) amending [1998 Regulations](#), Schedule, Part 1, ss. 87-94 [AB Vol 1, Tab 4A.i, pp. 638-689].

⁴¹ [2020 Regulations](#) s. 3(2) amending [1998 Regulations](#), Schedule, Part 1, s. 95 [AB Vol 1, Tab 4A.i, pp. 674-683].

⁴² [2020 Regulations](#) s. 3(2) amending [1998 Regulations](#), Schedule, Part 1, s. 96 [AB Vol 1, Tab 4A.i, pp. 683-689].

⁴³ [Criminal Code](#), s. 117.14.

⁴⁴ *Order Declaring an Amnesty Period (2020)*, [PC 2020-299](#), (2020) C Gaz II, p. 1; *Order Declaring an Amnesty Period (2020)*, [SOR/2020-97](#), ss. 1-3 [[Original Amnesty Order](#)].

⁴⁵ [Original Amnesty Order](#), s. 2(3) as amended by [SOR/2022-45](#), as amended by [SOR/2023-223](#), as amended by [SOR/2024-84](#), as amended by [SOR/2025-208](#), s. 2(3) [[Amnesty Order](#)].

⁴⁶ Public Safety Canada, News Release, “[Firearms compensation program for businesses closes – Amnesty period extended due to the Supreme Court of Canada process](#)” (9 June 2026) [[News Release](#)].

(vi) *The SFSS Maintains a List of Prohibited Firearms*

18. Since 2006, the Specialized Firearms Support Services (“SFSS”) of the Canadian Firearms Program (“CFP”) – which operates under the Commissioner of Firearms, who is also the Commissioner of the RCMP – has created, maintained, and updated an internal reference tool, the Firearms Reference Table online database (“FRT”), which lists expressly prohibited firearms and any firearms that the RCMP in their sole discretion deem to be purportedly prohibited.⁴⁷ The FRT supposedly includes “named variants” and “unnamed variants” (as identified by the SFSS) of the Newly-Prohibited Items.⁴⁸ “[N]amed variants” are listed in the [1998 Regulations](#) and the [2020 Regulations](#); “unnamed variants” are not listed but fall under the “any variants or modified versions” phrase in the aforementioned regulations.⁴⁹

(vii) *Judicial Review and Constitutional Challenge*

19. The Appellants, among others, applied to the Federal Court (“FCC”) for judicial review of the GIC’s decision to issue the [2020 Regulations](#), asserting that the [2020 Regulations](#) were unconstitutional, unlawful, and *ultra vires* (“Application”).⁵⁰ The [2020 Regulations](#) (a) were enacted through an unreasonable and procedurally deficient process; (b) constituted an impermissible sub-delegation of authority; (c) were tainted by irrelevant considerations; and (d) failed to comply with the principles of natural justice, thereby exceeding the authority conferred by the [Criminal Code](#) or the [Constitution Act, 1867](#), while also infringing the [Charter](#), s. 7.⁵¹

20. The Application challenged the legality of the SFSS’s firearm reclassifications in the FRT on the basis that they (a) represent an impermissible sub-delegation, (b) exceed the SFSS’s

⁴⁷ Affidavit of Murray Smith at paras. 8-12 [AB Vol 5, Tab 5F.i, pp. 6543-6544]; Affidavit of Murray Smith at paras. 9-12 [AB Vol 5, Tab 5F.ii, pp. 6624].

⁴⁸ Transcript of Cross-Examination of Murray Smith, pp. 526:12-25, 527:1-6 [AB Vol 6, Tab 6C, pp. 9231-9232]; Affidavit of Murray Smith at paras. 23, 25 [AB Vol 5, Tab 5F.i, p. 6547].

⁴⁹ Affidavit of Murray Smith at para. 18 [AB Vol 5, Tab 5F.ii, p. 6626].

⁵⁰ *Canadian Coalition for Firearm Rights et al. v. Attorney General of Canada*, FCC, T-577-20 (Amended Notice of Application) [AB Vol 1, Tab 3A, pp. 333-379].

⁵¹ *Canadian Coalition for Firearm Rights et al. v. Attorney General of Canada*, FCC, T-577-20 (Amended Notice of Application) at paras. 3, 73-104, 121-159 [AB Vol 1, Tab 3A, pp. 337, 354-359, 361-368]; [Criminal Code](#), s. 117.15; [Constitution Act, 1867 \(UK\)](#), [30 & 31 Vict, c 3](#), s. 91, reprinted in [RSC 1985, Appendix II, No. 5](#); [Canadian Charter of Rights and Freedoms](#), s. 7, [Part I](#) of the [Constitution Act, 1982, being Schedule B to the Canada Act 1982 \(UK\)](#), 1982, c 11 [Charter].

jurisdiction, (c) are inconsistent with the governing legislation and the [2020 Regulations](#), and (d) are irrational and procedurally unfair.⁵² If the SFSS had relevant authority, which it does not, it was exercised unlawfully, infringing the [Charter](#), s. 7.⁵³

(viii) The Federal Court Found the 2020 Regulations Valid

21. The FCC dismissed the Application and those of others.⁵⁴ It declined to declare the [2020 Regulations](#) unconstitutional, unlawful, or *ultra vires*, and rejected the Appellants' alternative position that at least some of the Newly-Prohibited Firearms should qualify as reasonable for hunting and sporting.⁵⁵ The FCC held that the GIC had acted within the authority conferred by the Enabling Provision.⁵⁶ It also concluded that the GIC had formed the requisite opinion that the prescribed firearms were not reasonable for hunting or sporting purposes and that both that opinion and the decision to promulgate the [2020 Regulations](#) were reasonable.⁵⁷ The FCC rejected the contention that the [2020 Regulations](#) were invalid because of the manner in which they had been adopted, including complaints about the absence of pre-publication or parliamentary debate.⁵⁸

22. The FCC also rejected the Appellants' challenge of the decisions made by the SFSS, as recorded in the FRT.⁵⁹ It held that there had been no unlawful sub-delegation of the GIC's authority, because the Newly-Prohibited Items were prohibited by the [Criminal Code](#) and the [2020 Regulations](#), not by their inclusion in the FRT.⁶⁰ The FCC characterized the FRT as an administrative or interpretive aid reflecting the SFSS's technical opinion, emphasizing that the ultimate determination of whether a firearm was a prohibited variant remained with the courts.⁶¹

⁵² *Canadian Coalition for Firearm Rights et al. v. Attorney General of Canada*, FCC, T-577-20 (Amended Notice of Application) at paras. 4, 5, 6, 105-118 [AB Vol 1, Tab 3A, pp. 338, 359-361].

⁵³ *Canadian Coalition for Firearm Rights et al. v. Attorney General of Canada*, FCC, T-577-20 (Amended Notice of Application) at paras. 6, 121-159 [AB Vol 1, Tab 3A, pp. 338, 361-368].

⁵⁴ *Parker v. Canada (Attorney General)*, 2023 FC 1419 at para. 694 [[Parker](#)] [Joint Record of the Appellants ("AR") Tab 3, p. 238].

⁵⁵ [Parker](#) at paras. 291-292, 372-377, 589-591, 628-639, 695 [AR Tab 3, pp. 127-128, 152-154, 209-210, 219-223, 238-240].

⁵⁶ [Parker](#) at paras. 306, 309 - 311 [AR Tab 3, pp. 132-134].

⁵⁷ [Parker](#) at paras. 324-326 [AR Tab 3, pp. 137-138].

⁵⁸ [Parker](#) at paras. 305-306 and 467-469 [AR Tab 3, pp. 131-132, 179].

⁵⁹ See [Parker](#) at paras. 415-440 [AR Tab 3, pp. 163-171].

⁶⁰ [Parker](#) at paras. 415-417 [AR Tab 3, pp. 163-164].

⁶¹ [Parker](#) at paras. 433-434 [AR Tab 3, pp. 168-169].

The FCC found no breach of procedural fairness, no infringement of the [Charter](#), s. 7 based on vagueness, overbreadth, or arbitrariness (and, in the alternative, held that any such infringement would be justified under the [Charter](#), s. 1), and no infringement of the [Bill of Rights](#).⁶²

(ix) The Federal Court of Appeal Upheld the Validity of the 2020 Regulations

23. The Appellants appealed the FCC’s decision. The Federal Court of Appeal (“FCA”) consolidated the appeals from the judgment in [Parker](#) and dismissed them.⁶³ It addressed the applicable standard of review because this Court’s decision in [Auer](#) had been released after [Parker](#).⁶⁴

24. The FCA held that the GIC had not erred in considering public safety when assessing whether the Newly-Prohibited Items were reasonable for use in Canada for hunting and sporting, even though it “may well be that, from the sole perspective of a sensible hunter or sportsman, it makes no sense to ban firearms that are well suited or even specifically designed for hunting or sport purposes.”⁶⁵ It held that the GIC had formed the required opinion to determine whether the Newly-Prohibited Items were reasonable for hunting and sporting, and that the reasons in the published Regulatory Impact Analysis Statement were reasonable and supported by the record.⁶⁶

25. Further, the FCA rejected the argument that the GIC had sub-delegated its authority to the SFSS through the phrase “variants or modified versions” in the [2020 Regulations](#).⁶⁷ It held that the GIC had prohibited the Newly-Prohibited Items, including their variants and modified versions, whereas the SFSS’s role was administrative and factual, not legislative.⁶⁸ That is, the

⁶² [Parker](#) at paras. 466-471, 543-639, 668-695 [AR Tab 3, pp. 178-180, 209-224, 230-240]; *Canadian Bill of Rights*, SC 1960, c 44 [[Bill of Rights](#)].

⁶³ *Canadian Coalition for Firearm Rights v. Canada (Attorney General)*, [2025 FCA 82](#) at paras. 1, 2, 6, 105 [[CCFR FCA](#)] [AR Tab 4, pp. 313-314; 360].

⁶⁴ [CCFR FCA](#) at paras. 27-29 [AR Tab 4, pp. 322-324].

⁶⁵ [CCFR FCA](#) at para. 56 [AR Tab 4, p. 336].

⁶⁶ See generally *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](#), (2020) C Gaz II, p. 53 (Regulatory Impact Analysis Statement) [[RIAS](#)] [AB Vol 1, Tab 4B, pp. 691-704]; [CCFR FCA](#) at para. 59 [AR Tab 4, p. 338].

⁶⁷ [CCFR FCA](#) at paras. 66-67 [AR Tab 4, pp. 340-341].

⁶⁸ [CCFR FCA](#) at paras. 67-69 [AR Tab 4, pp. 341-343].

FRT reflected technical assessments and provided guidance, but it did not create a prohibition.⁶⁹ The FCA held that the SFSS determined whether a firearm was an unnamed variant by applying the [2020 Regulations](#) on a factual or administrative basis, not as a new exercise of delegated legislative authority.⁷⁰ It emphasized that the FRT was not legally binding on courts, law enforcement, or administrative decision-makers.⁷¹

26. The FCA held that the term “variants” in the [2020 Regulations](#) was not unconstitutionally vague merely because it required interpretation, and that the test of sufficient guidance for legal debate and a sufficiently identified “area of risk” had been met.⁷² It found that the term “variants” was understood in the firearms industry; many variants were identified or marketed as such by manufacturers; the listed variants in the [2020 Regulations](#) helped guide interpretation; and firearm owners could consult resources such as the FRT, the CFP call centre, retailers, and manufacturers to determine whether their firearm was a “variant”.⁷³ According to the FCA, the [2020 Regulations](#) or portions thereof were not arbitrary or overbroad.⁷⁴

27. Finally, the FCA rejected the argument that the [2020 Regulations](#) deprived firearms owners of their property without due process contrary to the [Bill of Rights](#).⁷⁵

PART II – ISSUES

28. This appeal raises the following questions:

- a. Where the GIC has promulgated regulations under the Enabling Provision, is the GIC’s authority sufficiently broad to address the general purpose of the [Criminal Code](#) in an overriding manner, without properly considering, or by paying only second-order attention to, the express restriction on the scope of its law-making authority regarding firearms with reasonable utility for hunting and sport shooting?

⁶⁹ [CCFR FCA](#) at paras. [72-73](#) [AR Tab 4, pp. 344-345].

⁷⁰ [CCFR FCA](#) at paras. [68-71](#) [AR Tab 4, pp. 341-344].

⁷¹ [CCFR FCA](#) at para. [76](#) [AR Tab 4, pp. 346-347].

⁷² [CCFR FCA](#) at paras. [78-82](#) [AR Tab 4, pp. 347-349].

⁷³ [CCFR FCA](#) at paras. [84-85](#) [AR Tab 4, pp. 350-351].

⁷⁴ [CCFR FCA](#) at para. [89](#) [AR Tab 4, pp. 352-353].

⁷⁵ [Bill of Rights](#), s. [1\(a\)](#); [CCFR FCA](#) at paras. [95-97](#) [AR Tab 4, pp. 355-356].

- b. In contemplating potential criminal proceedings and for the purposes of determining unconstitutional vagueness, what are the hallmarks or factors of an intelligible standard that delineates a clear zone of risk for interpreting the undefined terms, “variants” and “modified versions”, in the [2020 Regulations](#), when those terms have such broad ordinary meanings that they require additional references for context?

PART III – ARGUMENT

A. The 2020 Regulations Are *Ultra Vires*

(i) Standard of Review of Reasonableness

29. Subordinate legislation is *intra vires* and valid only if it is consistent with both the specific provisions of the enabling statute and its overriding purpose or object.⁷⁶ Determining *vires* requires the Court to ascertain the scope of the mandate conferred on the decision-maker by Parliament.⁷⁷ Subordinate legislation and the enabling provision must be interpreted broadly and purposively.⁷⁸ The requirement that subordinate legislation accord with the purposes and objects of the enabling statute, read as a whole, qualifies the power-conferring language in the enabling provision.⁷⁹

30. A *vires* review of the [2020 Regulations](#) proceeds on a reasonableness basis.⁸⁰ The review must be robust to determine whether the GIC acted within the scope of its lawful authority under a reasonable interpretation of the Enabling Provision, having regard to relevant constraints.⁸¹ This involves determining whether the GIC ultimately complied with the [Criminal Code](#)’s rationale and purview, as reflected in its text, context, and purpose.⁸² Subordinate legislation is presumed valid only insofar as it can be reconciled with the enabling statute “where possible”.⁸³

⁷⁶ [Auer](#) at paras. [3](#), [33](#), [35](#).

⁷⁷ [Katz Group](#) at para. [24](#).

⁷⁸ [Katz Group](#) at para. [26](#); see also *Interpretation Act*, [RSC 1985, c I-21](#), s. [12](#) [[Interpretation Act](#)].

⁷⁹ [Katz Group](#) at para. [24](#).

⁸⁰ See [Auer](#) at paras. [3](#), [20](#), [114](#).

⁸¹ See [Auer](#) at paras. [4-5](#), [26-27](#), [39](#), [47](#), [50-51](#), [65](#), [114](#).

⁸² See [Auer](#) at para. [62](#); see *Canada (Minister of Citizenship and Immigration) v. Vavilov*, [2019 SCC 65](#) at paras. [108](#), [118](#), [120-122](#), [2019] 4 SCR 653 (SCC) [[Vavilov](#)].

⁸³ [Auer](#) at paras. [29-33](#), [37](#), [39](#).

31. However, a *vires* analysis of the [2020 Regulations](#) also requires a harmonious reading of the Enabling Provision within its broader and more immediate statutory contexts. For example, in [West Fraser Mills](#), this Court considered the validity of the [Occupational Health and Safety Regulation](#), s. [26.2\(1\)](#) by examining the respective broad and specific express purposes of [Part 3](#) of the [Workers Compensation Act](#), rather than the general legislative purpose alone.⁸⁴ In that case, the express purpose of the relevant part informed the scope of authority under the enabling provision, as did other considerations.⁸⁵ In [Green](#), the Court considered the validity of the mandatory continuing professional development provisions of the [Law Society Rules](#) under the [Legal Profession Act](#).⁸⁶ In determining the legislative object in [Green](#), the Court did not confine its analysis to the express statutory purpose but examined relevant definitions and provisions on the duties of the Law Society of Manitoba, the Benchers' mandate and powers, practice standards, suspensions, and rule-making authority.⁸⁷

32. The harmonious interpretation in [West Fraser Mills](#) and [Green](#) remains good law and supports the *vires* analysis in this appeal.⁸⁸

(ii) Interpreting Statutory Text Includes Understanding the Purpose of the Text

33. The framework in [Vavilov](#) applies both to determining the standard for reviewing the *vires* of subordinate legislation and to conducting that review.⁸⁹ The language chosen by the legislature in the enabling provision sets out the limits and contours of the decision-maker's authority.⁹⁰ A *vires* analysis of the decision to issue subordinate legislation is fundamentally an exercise in

⁸⁴ [West Fraser Mills Ltd. v. British Columbia \(Workers' Compensation Appeal Tribunal\)](#), [2018 SCC 22](#), [\[2018\] 1 SCR 635 \(SCC\)](#) at paras. [14](#), [18](#), [[West Fraser Mills](#)]; [Occupational Health and Safety Regulation](#), [BC Reg 296/1997](#), s. [26.2\(1\)](#); [Workers Compensation Act](#), [RSBC 1996, c 492](#), s. [107](#) [[Workers Compensation Act](#)].

⁸⁵ [West Fraser Mills](#) at paras. [6](#), [13-14](#), [20](#); [Workers Compensation Act](#), ss. [107](#), [111](#), [225](#), [230](#).

⁸⁶ [Green v. Law Society of Manitoba](#), [2017 SCC 20](#) at paras. [18-68](#), [\[2017\] 1 SCR 360 \(SCC\)](#) [[Green](#)]; Law Society of Manitoba, "[The Law Society of Manitoba Rules](#)" (31 October 2002), r. [2-81.1](#); [The Legal Profession Act](#), [SM 2002, c 44](#) [[Legal Profession Act](#)].

⁸⁷ [Green](#) at paras. [29](#), [32](#), [33](#), [38-39](#); [Legal Profession Act](#), ss. [3\(1\)-3\(2\)](#), [4\(5\)-4\(6\)](#), [43\(c\)\(ii\)](#), [19\(5\)](#), [65](#), [68\(c\)](#), [72\(1\)-72\(2\)](#).

⁸⁸ See generally [Auer](#) at paras. [4](#), [30](#), [32](#), [45-49](#); [West Fraser Mills](#) at para. [12](#); [Green](#) at para. [67](#).

⁸⁹ [Auer](#) at paras. [23](#), [50-65](#).

⁹⁰ [Auer](#) at para. [62](#); see also [Vavilov](#) at para. [110](#).

statutory interpretation to ensure that the decision-maker has acted within the scope of their lawful authority under the enabling statute.⁹¹

34. *Auer* does not diminish the consideration from *Vavilov* that the purpose of the enabling provision itself is a material factor in a *vires* review.⁹² The decision in *Auer* was guided by the considerations identified in *Vavilov*, including the breadth of the statutory grant of authority, the presumption of validity attaching to subordinate legislation, and the principle that courts assess whether the decision-maker's interpretation is consistent with the statutory scheme.⁹³ Because *Auer* did not involve an express legislative restriction, the purpose of the relevant provision was not a central focus of the analysis. However, that consideration is directly engaged in this appeal.

35. The broad statutory purpose of an Act cannot override the express limiting language of a delegation provision. Under modern principles of statutory interpretation, a court considers the words of an enabling provision in their entire context and in their grammatical and ordinary sense harmoniously with the scheme and object of the enabling statute and the intention of Parliament.⁹⁴ Close attention to the text of the Enabling Provision is required because it remains the anchor of the interpretation process.⁹⁵

(iii) Marginal Notes Are Legitimate Interpretive Aids

36. A marginal note is not part of an enactment, but it remains a legitimate contextual aid because it can reflect Parliament's intent and confirm how a provision operates within the statutory scheme.⁹⁶ While marginal notes cannot create meanings inconsistent with the enacted words, this Court has repeatedly treated them as relevant interpretive indicators when they help identify a

⁹¹ *Auer* at paras. 59-60, 64-65.

⁹² See *Vavilov* at paras. 118, 120.

⁹³ See e.g. *Auer* at paras. 22, 36, 39-40, 63, 75-79, 115.

⁹⁴ *Piekut v. Canada (National Revenue)*, 2025 SCC 13 at para. 42 [*Piekut*]; *Rizzo & Rizzo Shoes Ltd. (Re)*, 1998 CanLII 837, [1998] 1 SCR 27 (SCC) at para. 21 [*Rizzo Shoes*]; *Bell ExpressVu Limited Partnership v. Rex*, 2002 SCC 42, [2002] 2 SCR 559 (SCC) at para. 26 [*Bell ExpressVu*]; *Vavilov* at para. 117.

⁹⁵ *R. v. Carignan*, 2025 SCC 43 at para. 58 [*Carignan*].

⁹⁶ *Interpretation Act*, s. 14; see e.g. *Keatley Surveying Ltd. v. Teranet Inc.*, 2019 SCC 43, [2019] 3 SCR 418 (SCC) at para. 130 [*Keatley Surveying*]; see e.g. *R. v. Kloubakov*, 2025 SCC 25 at para. 115 [*Kloubakov*].

provision’s nature, scope, or purpose.⁹⁷ This Court’s previous hesitation in *Imperial Oil* regarding marginal notes does not preclude reliance on them, because that decision warns only against using marginal notes as the sole answer to an interpretive problem.⁹⁸ The Court held that marginal notes were not unhelpful and could assist in addressing serious interpretive issues, a view borne out by the Court’s subsequent jurisprudence.⁹⁹

37. When Parliament marks a provision as an exception or a limitation, this Court treats that as confirming that it operates as a binding departure from the general provision. For example, in *Summers*, the Court held that the marginal note “Exception” was consistent with the conclusion that *Criminal Code*, s. 719(3.1) functioned as an exception to the determination of the sentence provision in *Criminal Code*, s. 719(3).¹⁰⁰ In *Carignan*, the Court went further, holding that the marginal note “Limitation”, or in French, “Restriction”, provided “an additional indication” that *Criminal Code*, s. 495(2) imposed “binding limitations” on the powers otherwise conferred by *Criminal Code*, s. 495(1).¹⁰¹

38. This Court’s jurisprudence further shows that marginal notes assist interpretation by confirming the purpose Parliament sought to advance through a provision. In *Kloubakov*, the Court held that the marginal note was a relevant aid to interpretation and used the bilingual marginal notes to confirm the purpose of the procuring offence.¹⁰² In *Keatley Surveying*, the Court held that the original marginal note to the predecessor legislation supported the conclusion about the nature of work the provision was intended to cover.¹⁰³ In *Francis*, the Court treated the marginal note as

⁹⁷ See e.g. *Kloubakov* at para. 115; *Bell ExpressVu* at para. 36; *B010 v. Canada (Minister of Citizenship and Immigration)*, 2015 SCC 58, [2015] 3 SCR 704 (SCC) at para. 31 *et seq.* [*B010*]; *R. v. Summers*, 2014 SCC 26, [2014] 1 SCR 575 (SCC) at para. 43 [*Summers*]; *Keatley Surveying* at para. 130; *Orphan Well Association v. Grant Thornton Ltd.*, 2019 SCC 5, [2019] 1 SCR 150 (SCC) at para. 212.

⁹⁸ *Imperial Oil Ltd. v. Canada; Inco Ltd. v. Canada*, 2006 SCC 46, [2014] 1 SCR 575 (SCC) at para. 57, [*Imperial Oil*].

⁹⁹ *Imperial Oil* at para. 57.

¹⁰⁰ *Summers* at para. 43.

¹⁰¹ *Carignan* at para. 72.

¹⁰² *Kloubakov* at para. 115.

¹⁰³ *Keatley Surveying* at para. 130.

relevant to confirming Parliament’s intention to create a presumption in favour of the table amounts in the [Guidelines](#).¹⁰⁴

(iv) Extrinsic Aids Are a Permissible Resource

39. Extrinsic aids are legitimate interpretive sources the Court may use to identify the background and purpose of legislation, the mischief it addresses, and the legal limits of authority delegated to a decision-maker.¹⁰⁵

(v) Many of the Newly-Prohibited Items Are Reasonable for Use for Hunting and Sporting in Canada

40. In [Firearms Reference](#), this Court held that Parliament may use indirect means to advance public safety.¹⁰⁶ The issue before this Court, as before the FCC and FCA, is that the GIC, rather than Parliament, has gone too far in pursuing indirect means to further that end, ignoring the express restrictions on its authority found in the Restrictive Provision. The FCA held that the GIC develops government policy, assesses the public interest, makes factually suffused decisions, and should not normally be second-guessed.¹⁰⁷ However, the FCA erred by failing to consider that, because the [2020 Regulations](#) do not involve Parliament, the decision-maker’s identity is irrelevant to the *vires* analysis.¹⁰⁸

41. The FCC and the FCA relied on [Firearms Reference](#) to hold that, because public safety has always been the focus of all firearm control laws, it was the GIC’s valid interpretive focus under the Enabling Provision.¹⁰⁹ However, neither the FCC nor the FCA considered that this Court, in [Firearms Reference](#), identified public safety as the historical focus of firearm control laws in a pith

¹⁰⁴ [Francis v. Baker](#), 1999 CanLII 659, [1999] 3 SCR 250 (SCC) at para. 42 [[Francis](#)]; [Federal Child Support Guidelines](#), SOR/1997-175.

¹⁰⁵ [References re Greenhouse Gas Pollution Pricing Act](#), 2021 SCC 11, [2021] 1 SCR 175 (SCC) at para. 51 [[Greenhouse Gas](#)]; [Reference re Firearms Act \(Can.\)](#), 2000 SCC 31, [2000] 1 SCR 783 (SCC) at para. 17, [[Firearms Reference](#)]; [Piekut](#) at para. 75; [R. v. Morgentaler](#), 1993 CanLII 74, [1993] 3 SCR 463, pp. 483-485 (SCC) [[Morgentaler](#)]; [Rizzo Shoes](#) at para. 35; [Canada \(Attorney General\) v. Power](#), 2024 SCC 26 at paras. 229-231.

¹⁰⁶ [Firearms Reference](#) at paras. 39-40.

¹⁰⁷ [CCFR FCA](#) at para. 56 [AR Tab 4, p. 336]; see [League for Human Rights of B’nai Brith Canada v. Canada](#), 2010 FCA 307, [2012] 2 FCR 312 (FCC) at paras. 77-78.

¹⁰⁸ See [Auer](#) at para. 43.

¹⁰⁹ [CCFR FCA](#) at paras. 57-58 [AR Tab 4, pp. 336-337]; [Parker](#) at paras. 318-319 [AR Tab 3, p. 136]; [Firearms Reference](#) at para. 22.

and substance analysis, i.e., with respect to the true purpose and effects, for constitutional purposes, of the *Firearms Act* as legislation ancillary to the *Criminal Code*.¹¹⁰ This Court, in *Firearms Reference*, was not asked to and did not conduct a *vires* review.

42. *Firearms Reference* did not address the use of firearms for hunting or sport, except to note that the former was a legitimate subject of provincial regulation.¹¹¹ When this Court held that the regulatory aspects of firearms control were merely the means to the end of the public purpose, it did so with reference to the licensing, registration, and authorization scheme under the *Firearms Act* and to the submission that the *Firearms Act* was regulatory legislation.¹¹² The Court was not asked to consider whether other federal public purposes were engaged.

43. Neither the FCC nor the FCA considered that the regulation of firearms was non-monolithic and “controlled by a variety of statutes for a variety of purposes.”¹¹³ In *Felawka*, this Court considered the federal objective of public safety and the provincial objective of regulating hunting, as well as the overlap between those legitimate interests and jurisdictions.¹¹⁴ But in *Felawka*, this Court was not asked to determine all the respective and concurrent federal and provincial objectives of firearm regulation.

44. Firearm regulation serves a variety of federal purposes beyond public safety, including (a) the public benefit from, education with respect to, and the enjoyment and preservation of national parks for future generations, by regulating hunting; (b) public welfare through regulating the hunting of migratory birds and ensuring adequate protection of flora and fauna in the public, national domain; and (c) export control.¹¹⁵ The federal government has established objectives for

¹¹⁰ *Firearms Reference* at paras. 2-4, 15; see generally *Rogers Communications Inc. v. Châteauguay (City)*, 2016 SCC 23, [2016] 1 SCR 467 (SCC) at para. 88.

¹¹¹ *Firearms Reference* at paras. 48-53.

¹¹² *Firearms Reference* at paras. 13, 19, 36.

¹¹³ *R. v. Felawka*, 1993 CanLII 36, [1993] 4 SCR 199, p. 216 (SCC) [*Felawka*].

¹¹⁴ *Felawka*, p. 216.

¹¹⁵ *Contra CCFR FCA* at para. 57 [AR Tab 4, pp. 336-337]; see e.g. *National Parks Wildlife Regulations*, SOR/1981-401, ss. 2, 16, 20; see e.g. *Canada National Parks Act*, SC 2000, c 32, s. 4(1); see e.g. *Migratory Birds Regulations, 2022*, SOR/2022-105, ss. 63, 65, 69; see e.g. *Migratory Birds Convention Act, 1994*, SC 1994, c 22, s. 4; see e.g. *R. v. Chapin*, 1979 CanLII 33, [1979] 2 SCR 121, pp. 122, 129-131 (SCC); see e.g. *Export and Import Permits Act*, RSC 1985, c E-19, ss. 4.1, 7, 10.3, 15 [*Export and Import Permits Act*].

sport, including encouraging, promoting, and developing it; building capacity; and pursuing excellence.¹¹⁶ It can even exercise its federal spending power for sporting objectives under provincial jurisdiction without intending to regulate all related aspects of that area.¹¹⁷ Further, the *Firearms Act* contains exceptional provisions governing the transport and use of firearms for target shooting competitions, and special age allowances for hunting as a way of life or for organized competitions.¹¹⁸

45. The scope of the GIC's delegated authority under the Enabling Provision is determined by the full statutory context in the *Criminal Code*, not merely by the general public-safety object.¹¹⁹ Neither the FCC nor the FCA conducted a robust review that considered the purpose of the Restrictive Provision and its constraints, as contemplated in *Vavilov* and *Auer*.¹²⁰ At a more granular level of abstraction, the legislative purpose underlying the GIC's authority to make the *2020 Regulations* is drawn from the specific purposes of the relevant part of the *Criminal Code* and of the Enabling Provision, including the Restrictive Provision, rather than solely from the general legislative object of public safety.¹²¹ At a broader level of abstraction, determining the scope of the GIC's law-making mandate as delegated by Parliament requires more than mentioning the *Criminal Code*'s general object; it also requires considering the particular delegation of authority and the statutory scheme in context.¹²² The Enabling Provision cannot be interpreted as a whole without harmony between these two framings.

46. An interpretation of the Enabling Provision must be grounded in its full text, presumed coherence, and expressed limits.¹²³ The words of the Enabling Provision are clear and unequivocal.

¹¹⁶ See e.g. *Physical Activity and Sport Act*, SC 2003, c 2, Preamble, ss. 3, 4, 5.

¹¹⁷ See e.g. *YMHA Jewish Community Centre of Winnipeg Inc. v. Brown*, 1989 CanLII 53, [1989] 1 SCR 1532, pp. 1548-1549 (SCC).

¹¹⁸ See *Firearms Act*, ss. 8(2), 8(3), 19(1), 19(1.1), 28(b), 65(3), 67(2)(c).

¹¹⁹ See *Auer* at para. 65; see especially *Vavilov* at paras. 108, 118, 120-122; see e.g. *Green* at paras. 29, 32, 33, 38-39.

¹²⁰ See *Vavilov* at paras. 118, 120; see *Auer* at paras. 4-5, 26-27, 39, 47, 50-51, 65, 114.

¹²¹ See e.g. *R. v. K.R.J.*, 2016 SCC 31 at para. 33, [2016] 1 SCR 906 (SCC) [*K.R.J.*]; see *Firearms Reference* at paras. 31-33; see *West Fraser Mills* at paras. 6, 13-14, 20; see generally *Green* at paras. 29, 32, 33, 38-39.

¹²² See *Katz Group* at para. 24.

¹²³ See *Vavilov* at paras. 118, 120.

The GIC does not possess an absolute and untrammelled law-making discretion.¹²⁴ The precise language of the Enabling Provision delineates the GIC’s power in detail, thereby constraining the GIC’s interpretation of the Enabling Provision.¹²⁵ In making the [2020 Regulations](#), the GIC should have ensured that its law-making decision complied with any “more specific constraints imposed by the governing legislative scheme”, i.e., the specific guideline of the Restrictive Provision.¹²⁶ The Restrictive Provision indicates how far the legislature intended to go in pursuing the more abstract objective of public safety.¹²⁷

47. Many of the Newly-Prohibited Items are reasonable for hunting and sporting purposes, a point the non-binding [RIAS](#), published with the [2020 Regulations](#) and the [OIC](#) but forming part of neither, acknowledges: “some of these newly prohibited firearms were previously used by individuals for hunting or sporting purposes”.¹²⁸ For example, the Committee heard testimony on [Bill C-68](#) that the AR-15 and its “variants” were reasonable for sport shooting.¹²⁹ The SLR Multi, designed and manufactured by the Appellant, Maccabee Defense Inc., is considered by the RCMP to be an unnamed variant. It was a non-restricted firearm before the [2020 Regulations](#) and was

¹²⁴ See e.g. [Vavilov](#) at para. [108](#); see *Roncarelli v. Duplessis*, [1959 CanLII 50](#), [\[1959\] SCR 121](#), p. [140](#) (SCC).

¹²⁵ See [Vavilov](#) at para. [110](#).

¹²⁶ See [Vavilov](#) at para. [108](#); see *Ontario (Attorney General) v. Restoule*, [2024 SCC 27](#) at para. [154](#).

¹²⁷ See *Quebec (Commission des droits de la personne et des droits de la jeunesse) v. Directrice de la protection de la jeunesse du CISSS A*, [2024 SCC 43](#) at para. [24](#).

¹²⁸ [RIAS](#), pp. 54, 64 [[AB Vol 1, Tab 4B, pp. 692, 702](#)]; Affidavit of Matthew Hipwell at paras. 43-47, 52-60 [[AB Vol 2, Tab 5A.iv, pp. 1224-1226, 1227-1229](#)]; Affidavit of Rodney Giltaca at paras. 15, 17-37 [[AB Vol 2, Tab 5A.iii, pp. 785-789](#)]; Affidavit of Ryan Steacy at paras 17-19, 23-27 [[AB Vol 2, Tab 5A.v, pp. 1355-1358](#)]; Affidavit of Wyatt Singer at paras. 1, 11-24, 29, 36, 52-53 [[AB Vol 2, Tab 5A.vi, pp. 1382, 1384-1388, 1391](#)]; Affidavit of Alexander Robinson at paras. 14, 21, 22, 26-31, Exhibit “D” [[AB Vol 2, Tab 5A.i, pp. 751-754, 765-773](#)]; Affidavit of Matt DeMille at para. 5, Exhibit “B” [[AB Vol 3, Tab 5C.i, pp. 2690, 2731-2733, 2735-2749](#)]; Affidavit of Philip O’Dell at paras. 79-96 [[AB Vol 3, Tab 5B.i, pp. 2442-2449](#)]; Affidavit of Jim Shockey at paras. 14-40 [[AB Vol 2, Tab 5A.x, pp. 1676-1684](#)]; Affidavit of Keith Cunningham at paras. 16-47 [[AB Vol 2, Tab 5A.ix, pp. 1626-1633](#)]; Affidavit of Linda Miller at paras. 9-21 [[AB Vol 2, Tab 5A.ii, pp. 777-780](#)]; Affidavit of Travis Bader at para. 5, Exhibit “B” [[AB Vol 3, Tab 5C.ii, pp. 2767-2768, 2809-2812](#)]; Affidavit of Bruce Gold at paras. 48-49, 57, 67, 71 [[AB Vol 4, Tab 5E.v, pp. 5087-5088, 5092, 5096-5097](#)]; Affidavit of Gary Mauser at paras. 34-35 [[AB Vol 2, Tab 5A.xi, pp. 1711-1712](#)].

¹²⁹ Affidavit of Keith Cunningham at paras. 43-45, Exhibit “J” [[AB Vol 2, Tab 5A.ix, pp. 1632-1633, 1670-1671](#)].

uniquely designed for hunting.¹³⁰ The XCR rifle, a named variant, was previously a non-restricted, five-round firearm designed for hunting, and its manufacturer, Robinson Armament, denied it was designed or appropriate for military use.¹³¹ The evidence addresses many variants that belie the assertion in the [RIAS](#) that the Newly-Prohibited Items are not reasonable for hunting or sporting.¹³²

48. In contrast to the GIC’s public safety concern, the [Amnesty Order](#) acknowledges that some Newly-Prohibited Items have reasonable hunting utility, allowing some owners of Newly-Prohibited Items previously classified as non-restricted to continue using them.¹³³ This temporary allowance applies to the exercise of constitutional Aboriginal or treaty rights and to self and familial sustenance until a replacement firearm can be acquired.¹³⁴ While the FCA erroneously dismissed this consideration on the grounds of the amnesty’s transitory nature, it overlooked that the allowance not only avoids sanctions for possession of a Newly-Prohibited Item but also permits its active and reasonable use for hunting pending the lapse of the amnesty period.¹³⁵

49. The [RIAS](#) provides the only articulated justification for the [2020 Regulations](#), namely mass shootings locally and abroad with so-called assault-style firearms, which presumably include the Newly-Prohibited Items.¹³⁶ However, this is taxonomically challenging because the meaning of “assault-style firearms” in the [RIAS](#) is unclear.¹³⁷ Canada’s evidence, particularly that of Dr. Louis Klarevas, is based on definitions of “assault weapons” under American law.¹³⁸ Canadian interpretive guidance for these terms is missing. The [Firearms Act](#), the [Criminal Code](#), the [1998 Regulations](#), and the [2020 Regulations](#) do not define “assault-style firearm(s)”. Presumably,

¹³⁰ Affidavit of Wyatt Singer at paras. 13-24, 32, 36 [AB Vol 2, Tab 5A.vi, pp. 1385-1388].

¹³¹ Affidavit of Alexander Jarvis Robinson at paras. 11, 19-23, 25-31, Exhibit “D” [AB Vol 2, Tab 5A.i, pp. 751-754, 766-773]; Affidavit of Matthew Hipwell at paras. 45-48, Exhibit “B” [AB Vol 2, Tab 5A.iv, pp. 1225-1226, 1246-1255].

¹³² Affidavit of Matthew Hipwell at paras. 43-44, 46, 55-56, 59 [AB Vol 2, TAB 5A.iv, pp. 1224-1225, 1227-1229]; Affidavit of Philip O’Dell at paras. 1-20, 86, Exhibit “B” [AB Vol 3, Tab 5B.i, pp. 2420-2424, 2445, 2468-2472].

¹³³ [Amnesty Order](#), s. 2(2)(a)(viii).

¹³⁴ [Amnesty Order](#), s. 2(2)(a)(viii); *Constitution Act, 1982*, s. 35, being [Schedule B to the Canada Act 1982 \(UK\), 1982, c 11](#) [[Constitution Act, 1982](#)].

¹³⁵ [CCFR FCA](#) at para. 62 [AR Tab 4, p. 339].

¹³⁶ [RIAS](#), pp. 53-55, 59-60, 63-64 [AB Vol 1, Tab 4B, pp. 691-693, 697-698, 701-702].

¹³⁷ Affidavit of Rodney Giltaca at para. 58, Exhibit “K” [AB Vol 2, Tab 5A.iii, pp. 794, 982].

¹³⁸ Transcript of Cross-Examination of Louis Klarevas, pp. 55:14-55:24, 58:22-60:22 [AB Vol 6, Tab 6G, pp. 11386, 11389-11391].

Canada had already banned “assault-style firearms” in 1977, when fully automatic, heavy machine guns, and so-called “assault rifles” were prohibited.¹³⁹ Alternatively, military-style assault rifles became prohibited under the [1998 Regulations](#), as Mr. Rock contemplated.¹⁴⁰

50. The [RIAS](#) is the only record before the Court on whether the GIC considered the Restrictive Provision or attempted to formulate an opinion on whether the Newly-Prohibited Items were reasonable for hunting or sporting (“**Necessary Opinion**”). The GIC’s considerations for a purported Necessary Opinion are absent from the record due to cabinet confidence.¹⁴¹ There is no evidence supporting the GIC’s purported Necessary Opinion.

51. In the underlying proceedings, Canada filed evidence from Randall Koops (“**Director General Koops**”), the Director General of Policing and Firearms Policy at the Department of Public Safety and Emergency Preparedness at the time the [2020 Regulations](#) were promulgated.¹⁴² Director General Koops affirmed that the GIC had formed the Necessary Opinion.¹⁴³ During cross-examination, Director General Koops acknowledged that he had no personal knowledge of the matter beyond the bare assertions in the [RIAS](#) and the preamble to the [2020 Regulations](#).¹⁴⁴ The Attorney General of Canada objected to Director General Koops answering any questions about his knowledge of materials the GIC may have considered in forming the Necessary Opinion, or about the accuracy of those materials.¹⁴⁵

¹³⁹ Affidavit of Rodney Giltaca at para. 53 [AB Vol 2, Tab 5A.iii, pp. 792-793].

¹⁴⁰ [Committee Record](#) at 1025, 1045.

¹⁴¹ See e.g. *Canadian Coalition for Firearm Rights et al. v. Attorney General of Canada*, FCC, T-577-20 (Amended Notice of Application) at para. 165 [AB Vol 1, Tab 3A, pp. 374-378]; see e.g. Julie Adair, Government of Canada Privy Council Office, “Response to a request under Federal Courts Rules, Rule 317 Canadian Coalition for Firearm Rights, Rodney Giltaca, Laurence Ryan Steacy, MacCabee Defense Inc., *Wolverine Supplies Ltd., and Magnum Machine Ltd. v. Attorney General of Canada and Canada (Royal Canadian Mounted Police)* Court file no. T-577-20” (10 September 2020) [communicated to Registrar/Administrator, Federal Court] [AB Vol 1, Tab 4A, pp. 614-618].

¹⁴² Affidavit of Randall R. Koops at para. 1 [AB Vol 5, Tab 5F.v, p. 7319].

¹⁴³ Affidavit of Randall R. Koops at para. 73 [AB Vol 5, Tab 5F.v, p. 7346].

¹⁴⁴ Transcript of Cross-Examination of Randall Koops at paras. 446-455 [AB Vol 6, Tab 6H, pp. 11884-11887].

¹⁴⁵ Transcript of Cross-Examination of Randall Koops at paras. 453-455 [AB Vol 6, Tab 6H, pp. 11885-11887].

52. The GIC's reasons for the [2020 Regulations](#) are inadequate and fail to satisfy the requirements in [Vavilov](#) for internal coherence or a rational chain of analysis.¹⁴⁶ Both the FCC and the FCA held that the GIC had formed the Necessary Opinion because, in the [OIC](#), the GIC simply stated that it had an opinion.¹⁴⁷ Nothing further assists the Court or the public in scrutinizing the GIC's alleged Necessary Opinion or whether it actually formed the Necessary Opinion. The blanket statement in the [OIC](#) is meaningless.

53. Neither the FCC nor the FCA considered whether any of the Newly-Prohibited Items were actually used for hunting or sporting purposes, and hence were reasonable for use on that basis. The GIC invoked the general legislative purpose of the [Criminal Code](#) to stray beyond the Enabling Provision's express language.¹⁴⁸ However, Parliament's public safety objective is not at odds with the Restrictive Provision. While recognizing that the misuse of firearms threatens public safety, Parliament chose to preserve hunting and sport shooting as legitimate, lawful, and socially accepted activities and uses of firearms.¹⁴⁹ Through such preservation, Parliament intended that hunting, sport shooting, and firearms reasonably used for those purposes were not to be prohibited by the GIC, despite any opinions on public safety. Firearms that are reasonable for hunting or sporting purposes can only be prohibited by Parliament.

54. Mr. Rock and the Department of Justice extensively consulted with Aboriginal communities about [Bill C-68](#), and Canada at that time had some understanding of the impact [Bill C-68](#) and, potentially, the [1998 Regulations](#) would have.¹⁵⁰ Now it is important to consider the impact of the [2020 Regulations](#) on Aboriginal and non-Aboriginal people alike, in the real-world context, applying sound judgment, wisdom, and common sense while contemplating various objectives. The [2020 Regulations](#) adversely affect and will affect adversely, e.g., (a) the sustenance hunter in the wilderness of the territories, who requires a lightweight, easy-to-carry, low-recoil firearm for small game to supplement food supplies; (b) the farmer or varminter in an isolated rural

¹⁴⁶ See [Vavilov](#) at paras. [85](#), [99-104](#).

¹⁴⁷ [Parker](#) at para. [324](#) [AR Tab 3, pp. 137-138]; [CCFR FCA](#) at paras. [17](#), [59](#) [AR Tab 4, pp. 319, 338].

¹⁴⁸ [Vavilov](#) at para. [110](#); see also *Pepa v. Canada (Citizenship and Immigration)*, [2025 SCC 21](#) at paras. [86-88](#).

¹⁴⁹ See generally [Firearms Reference](#) at para. [21](#).

¹⁵⁰ E.g. [Committee Record](#) at [0900-0910](#).

area of Manitoba seeking to protect their livestock, requiring accuracy over open fields, low recoil, and quick follow-up; (c) the farmer or landowner in northern areas of the prairies requiring a lightweight and maneuverable firearm for predator deterrence and response and defence against aggressive wildlife; (d) the rancher in the rugged Foothills, requiring an efficient firearm with fast handling for urgency and accuracy across multiple rounds for stopping predator attacks and as a noise deterrent.

55. The [Committee Record](#), which Alberta underscored in the FCC, helpfully identifies the legal boundary Parliament understood itself to be enacting when it used the words “may not” in the Restrictive Provision.¹⁵¹ It also identifies the mischief the Enabling Provision was directed at and contextualizes and distinguishes the Enabling Provision’s specific legal purpose from an abstract policy aspiration.¹⁵² The mischief, the “ruse”, which the FCC misinterpreted, was justifying, after the fact, the use of imported, “unacceptable”, “lethal combat-style”, “military-style” firearms as reasonable for hunting and sporting by inventing contests or competitions.¹⁵³ Parliament “never...ever” contemplated granting the GIC *carte blanche* to arbitrarily identify firearms for a ban that are actually and legitimately used for hunting and sporting.¹⁵⁴ The [RIAS](#) neither addresses nor uses the mischief for the purported Necessary Opinion.

56. The Appellants’ interpretation of the marginal note to the Restrictive Provision is orthodox. It is a contextual indicator confirming that Parliament enacted a statutory exception to the scope of the GIC’s discretion under the Enabling Provision.¹⁵⁵ It does not override any text of the [Criminal Code](#) but confirms that the Restrictive Provision operates as a binding statutory exception within the scheme Parliament enacted for the GIC to exercise its discretion.¹⁵⁶ It reflects the

¹⁵¹ [Parker](#) at para. [226](#) [**AR Tab 3, p. 111**]; see [MediaQMI inc. v. Kamel](#), [2021 SCC 23](#), [[2021](#)] [1 SCR 899 \(SCC\)](#) at paras. [37-39](#) [[MediaQMI](#)]; see [Rizzo Shoes](#) at para. [35](#); see also [R. v. Nguyen](#), [2026 SCC 10](#) at para. [82](#) [[Nguyen](#)].

¹⁵² See [Firearms Reference](#) at para. [17](#); see [Morgentaler](#), p. [485](#); see [MediaQMI](#) at paras. [38-39](#).

¹⁵³ [Committee Record](#) at [1045](#).

¹⁵⁴ [Committee Record](#) at [1045](#).

¹⁵⁵ See [Summers](#) at para. [43](#); see [Carignan](#) at para. [72](#).

¹⁵⁶ [Interpretation Act](#), s. [14](#); see [Carignan](#) at para. [72](#); see [Summers](#) at para. [43](#).

purpose of the Restrictive Provision and confirms its legal function within the Enabling Provision and within the scheme of the [Criminal Code](#).¹⁵⁷

57. Parliament pursued public safety through a specific statutory compromise that balanced its objectives with preserving lawful private ownership and use of hunting and sporting firearms. [Bill C-68](#), the [Firearms Act](#), and associated amendments to the [Criminal Code](#) were intended, as their legislative cornerstone, to establish fair and sensible rules for private firearm ownership while advancing public safety, with universal registration, without threatening established lawful hunting and sporting firearm use.¹⁵⁸ The [Committee Record](#) confirms that Parliament did not treat public safety and the preservation of lawful hunting and sporting firearm use as mutually exclusive objectives, but rather pursued the former through a text that expressly protected the latter.¹⁵⁹ The opposite would have been public safety at all costs.¹⁶⁰

58. The [Committee Record](#) supports the text of the Enabling Provision by explaining its operation without converting an express restriction on delegated power into a merely advisory consideration.¹⁶¹ It directly addresses the legislative intent underlying the Enabling Provision.¹⁶² There is no reason to exclude it, as it is not inherently unreliable.¹⁶³ The words in the Enabling Provision are not ambiguous.¹⁶⁴ They accord with Mr. Rock's testimony before the Committee and with Mr. Allman's understanding of the Restrictive Provision.¹⁶⁵ They accord with Canada's own understanding of reasonable use for hunting under the [Amnesty Order](#).¹⁶⁶

¹⁵⁷ See [Bell ExpressVu](#) at para. 36; see *Alberta (Information and Privacy Commissioner) v. University of Calgary*, 2016 SCC 53, [2016] 2 SCR 555 (SCC) at paras. 90-91; see [Nguyen](#) at para 88; [Kloubakov](#) at para. 115; see [Keatley Surveying](#) at para. 130; see [Francis](#) at para. 42.

¹⁵⁸ [Committee Record](#) at 0900.

¹⁵⁹ See *Reference re Impact Assessment Act*, 2023 SCC 23 at paras. 90-91 [[Impact Assessment](#)]; *Canada 3000 Inc., Re; Inter-Canadian (1991) Inc. (Trustee of)*, 2006 SCC 24, [2006] 1 SCR 865 (SCC) at para. 57 [[Canada 3000](#)].

¹⁶⁰ See [MediaQMI](#) at para. 39.

¹⁶¹ See [Impact Assessment](#) at paras. 82-90.

¹⁶² See *Canada (Canadian Human Rights Commission) v. Canada (Attorney General)*, 2011 SCC 53 at para. 44, [2011] 3 SCR 471 (SCC); see *Canadian National Railway Co. v. Canada (Attorney General)*, 2014 SCC 40, [2014] 2 SCR 135 (SCC) at para. 47 [[National Railway](#)].

¹⁶³ See [Morgentaler](#), p. 485.

¹⁶⁴ See [National Railway](#) at para. 47.

¹⁶⁵ See [Canada 3000](#) at para. 57.

¹⁶⁶ See [Amnesty Order](#), s. 2(2)(a)(viii).

59. The [2020 Regulations](#) impermissibly allow the [Criminal Code](#)'s overriding purpose to override the clear text of the [Criminal Code](#). The GIC “redrafted the provision”.¹⁶⁷ Contrary to [Vavilov](#), the [2020 Regulations](#) also override the Restrictive Provision's purpose.¹⁶⁸ Saying that public safety was on Mr. Rock's mind while he testified before the Committee is not sufficiently fine-grained: the mischief he identified draws the line in the balance between public safety and hunting and sporting.¹⁶⁹ The [Interpretation Act](#), s. 12 contemplates that an enactment may have more than one purpose. The FCC and FCA erred in failing to consider whether the Enabling Provision should be given a fair, large, and liberal construction and interpretation as best ensures the attainment of its object of safeguarding the use of reasonable hunting and sporting firearms.¹⁷⁰

60. Even if the language in the Restriction Provision was considered qualitative, as the Court held in [Parker](#), a *vires* analysis still does not automatically end with the GIC's perspective.¹⁷¹ Under [Vavilov](#), any greater flexibility afforded to the GIC still requires a determination of whether its interpretation was justified.¹⁷² The reasonableness standard of review involves a robust assessment of whether the GIC's interpretation falls within the range of possible, acceptable outcomes and whether the GIC's reasons were adequate.¹⁷³

61. The GIC should have satisfied itself of the two-part test prevalent in the Restrictive Provision to form the Necessary Opinion: (a) determining whether a firearm is used in Canada for hunting or sporting purposes, and (b) whether that use is reasonable for those purposes. The GIC redefined this test. The sophistry in the [RIAS](#) is that it does not find the Newly-Prohibited Items unreasonable for hunting or sporting purposes; it finds them reasonable for other purposes and then assigns unreasonableness to hunting and sporting. The reasoning is circular: the GIC deems Newly-Prohibited Items unreasonable for lawful purposes by relying on considerations extraneous to those purposes, effectively assuming the conclusion it purports to prove. That error recurred in

¹⁶⁷ See [Auer](#) at para. 59; see especially *Canada Post Corp. v. Canadian Union of Postal Workers*, 2019 SCC 67, [2019] 4 SCR 900 (SCC) at paras. 77-78,.

¹⁶⁸ See [Vavilov](#) at paras. 118, 120.

¹⁶⁹ [Committee Record](#) at 0955; *contra* [CCFR FCA](#) at para. 57 [AR Tab 4, pp. 336-337].

¹⁷⁰ See [Interpretation Act](#), s. 12.

¹⁷¹ [Parker](#) at paras. 301-303 [AR Tab 3, pp. 130-131].

¹⁷² See [Vavilov](#) at para. 110.

¹⁷³ See [Vavilov](#) at paras. 86, 304; see [Auer](#) at para. 27.

Parker and CCFR FCA, where part (b) of the test was collapsed into the public-safety purpose of the Criminal Code.¹⁷⁴

62. The error in Parker goes further. By holding that past use of the Newly-Prohibited Items did not support a finding that they were reasonable for such use, the judgment erroneously sought to legitimize the 2020 Regulations after the fact.¹⁷⁵ The Interpretation Act, not the RIAS, provides the solution. The notion that the law is always speaking indicates that provisions expressed in the present tense apply to circumstances as they arise.¹⁷⁶ Reasonable use of the Newly-Prohibited Firearms at the time the 2020 Regulations were issued justifies their appropriate use as Parliament intended.

63. Taken to its logical conclusion, the GIC's interpretation of the Restrictive Provision permits an incremental expansion of the list of prohibited firearms, even though the public was informed through testimony before the Committee that this would not occur.¹⁷⁷ First, the decisions in Parker and CCFR FCA leave it unclear whether the use of certain firearms for hunting or sport is a factor in assessing reasonableness under the Restrictive Provision. Second, if all firearms are dangerous and those used for hunting or sport (such as many of the Newly-Prohibited Items) are deemed a risk to public safety, the limits of the GIC's discretion under its interpretation of the Enabling Provision are unclear. Third, if the mischief for the Enabling Provision is inapplicable, it becomes unclear what the purpose of the Restrictive Provision was.

64. A *vires* review of the 2020 Regulations, conducted under the reasonableness standard within the statutory limits of the Enabling Provision and the narrow language of the Restrictive Provision, and informed by Mr. Rock's testimony, is not a latent contradiction. It is not akin to applying the correctness standard in a functional manner under the guise of reasonableness. The standard of reasonableness continues to govern the review, but because Parliament has imposed an express negative constraint, the range of reasonable interpretations is correspondingly narrow. The GIC's interpretation of the Enabling Provision falls outside the reasonable range. "[W]here

¹⁷⁴ See Parker at paras. 292, 365-366 [AR Tab 3, pp. 127-128, 149-150]; see CCFR FCA at para. 56 [AR Tab 4, p. 336].

¹⁷⁵ Parker at paras. 365-366 [AR Tab 3, pp. 149-150].

¹⁷⁶ Interpretation Act, s. 10.

¹⁷⁷ Committee Record at 1025, 1045.

possible”, i.e., the range of reasonable interpretations, cannot include an interpretation of the Enabling Provision that nullifies the express Restrictive Provision.¹⁷⁸ A reconciliation between the [2020 Regulations](#) and the Enabling Provision cannot be achieved, as the FCC and FCA did, by interpreting the Restrictive Provision so faintly that it ceases to function as a restriction on the GIC’s delegated authority at all. This outcome is contrary to the principles of administrative law.

B. The 2020 Regulations Are Unconstitutionally Vague

(i) Standard of Review of Correctness

65. The standard of review of correctness applies to the question of whether the term “variants” in the [2020 Regulations](#), in respect of unnamed variants, is unconstitutional.¹⁷⁹

(ii) Vague Laws Are Contrary to the Rule of Law

66. The principle of *nullum crimen sine lege, nulla poena sine lege* applies in Canadian criminal law.¹⁸⁰ A free and democratic society requires that crime or punishment accord with laws that are unambiguous, certain, and not retroactive.¹⁸¹ The rule of law requires that everyone must foresee the consequences of their conduct and receive fair notice of the conduct to avoid.¹⁸² The discretion of law enforcement must be limited by explicit and clear legislative standards.¹⁸³ These principles are foundational to the doctrine of vagueness.¹⁸⁴

67. A vague provision does not provide an adequate basis for legal debate, i.e., it fails to provide a basis for reaching a conclusion about its meaning through a reasoned analysis in which

¹⁷⁸ See [Auer](#) at paras. [29](#), [37](#), [39](#).

¹⁷⁹ See [Vavilov](#) at paras. [53](#), [55](#).

¹⁸⁰ *Reference re ss. 193 and 195.1(1)(C) of the criminal code (Man.)*, [1990 CanLII 105](#), [\[1990\] 1 SCR 1123](#), p. [1152](#) (SCC) [[Prostitution Reference](#)]; see also [K.R.J.](#) at para. [25](#); *R. v. Kelly*, [1992 CanLII 62](#), [\[1992\] 2 SCR 170](#), p. [203](#) (SCC).

¹⁸¹ [Prostitution Reference](#), p. [1152](#).

¹⁸² [Prostitution Reference](#), p. [1152](#); [K.R.J.](#) at paras. [1](#), [23](#); *R. v. Levkovic*, [2013 SCC 25](#), [\[2013\] 2 SCR 204](#) (SCC), para. [10](#), [[Levkovic](#)].

¹⁸³ [Prostitution Reference](#), p. [1152](#); [Levkovic](#) at para. [10](#).

¹⁸⁴ *R. v. Nova Scotia Pharmaceutical Society*, [1992 CanLII 72](#), [\[1992\] 2 SCR 606](#), pp. [626-627](#) (SCC) [[Pharmaceutical Society](#)].

the Court applies legal criteria.¹⁸⁵ It does not sufficiently delineate an area, or “zone”, of risk; therefore, it provides neither fair notice to people nor does it limit law enforcement’s discretion.¹⁸⁶ It is unintelligible and fails to provide sufficient indications to support a legal debate.¹⁸⁷

68. The doctrine of vagueness tempers the maxim that ignorance of the law is no excuse.¹⁸⁸ Procedurally, fair notice requires bringing the text of the [2020 Regulations](#) to everyone’s attention.¹⁸⁹ Substantively, it requires that the [2020 Regulations](#) convey information enabling people to understand which conduct they prohibit within the broader framework of the [Criminal Code](#).¹⁹⁰ Despite the course requirement for firearm owners under the [Firearms Act](#), they need not know in detail the intricate body of Canadian criminal law governing the use and possession of firearms.¹⁹¹ Instead, the law seems to rely on the idea that, by comparison to more basic principles, firearm owners have recourse to their inherent knowledge of right and wrong and shared values to make a personal determination.

69. The limitation on law enforcement’s discretion serves to avoid a “standardless sweep” for prosecution.¹⁹² In reference to American law, this Court mentioned that term to describe a law so vague that conviction would automatically follow from the decision to prosecute.¹⁹³ However, in [Morales](#), the Court confirmed that it refers to a law so pervasively vague that it permits law enforcement to pursue their personal predilections.¹⁹⁴ If a term in legislation provides no guidance

¹⁸⁵ [Pharmaceutical Society](#), p. 639; *Canadian Foundation for Children, Youth and the Law v. Canada (Attorney General)*, [2004 SCC 4](#), [\[2004\] 1 SCR 76 \(SCC\)](#) at para. 15 [[Canadian Foundation](#)].

¹⁸⁶ [Pharmaceutical Society](#), p. 639; [Canadian Foundation](#) at para. 15.

¹⁸⁷ [Pharmaceutical Society](#), pp. 639-640; [Canadian Foundation](#) at para. 15.

¹⁸⁸ See [Pharmaceutical Society](#), pp. 633-635; see [Criminal Code](#), s. 19.

¹⁸⁹ See [Pharmaceutical Society](#), p. 633.

¹⁹⁰ See [Pharmaceutical Society](#), pp. 633-634.

¹⁹¹ [Firearms Act](#), s. 7; see [Pharmaceutical Society](#), p. 634; see also *La Souveraine, Compagnie d’assurance générale v. Autorité des marchés financiers*, [2013 SCC 63](#), [\[2013\] 3 SCR 756 \(SCC\)](#) at para. 71.

¹⁹² [Prostitution Reference](#), p. 1157; [Pharmaceutical Society](#), pp. 635-636.

¹⁹³ [Pharmaceutical Society](#), pp. 635-636.

¹⁹⁴ *R. v. Morales*, [1992 CanLII 53](#), [\[1992\] 3 SCR 711](#), p. 728 (SCC) [[Morales](#)]; see [Prostitution Reference](#), p. 1157; see [Canadian Foundation](#) at para. 19.

for legal debate, it permits a standardless sweep because judicial discretion becomes so broad that the court can impose a criminal sanction whenever it sees fit.¹⁹⁵

70. Determining the scope of precision or its corollary, the zone of risk, begins by examining whether the legal provision (a) states certain propositions that outline certain permissible and impermissible areas, or (b) provides guidance to ascertain the boundaries of these areas.¹⁹⁶ A legal provision should provide a framework for firearm owners' behaviour, but certainty is achieved by a court of competent authority in specific cases.¹⁹⁷ Meanwhile, firearm owners' conduct is guided by approximations that, under legal provisions, should leave them with either a narrow or a broader set of options.¹⁹⁸ The scope of those options is the zone of risk.¹⁹⁹

(iii) "Variants", in Respect of Unnamed Variants, Is Unconstitutionally Vague

71. The term "variants" in the [2020 Regulations](#) lacks sufficient precision to provide adequate guidance for legal debate about whether a firearm constitutes an unnamed variant. The [2020 Regulations](#) provide no basis, either on their own or through the [Criminal Code](#)'s statutory scheme, for reaching a conclusion on the meaning of the term "variants" in respect of unnamed variants through a reasoned analysis in which the Court applies legal criteria.

72. The [2020 Regulations](#) fail to provide fair notice to firearm owners of the meaning of "variants" because they fail the substantive element by not conveying information that enables owners to determine whether their firearm is a Newly-Prohibited Item. "[V]ariants" is not defined in the [Firearms Act](#), the [Criminal Code](#), the [1998 Regulations](#), or the [2020 Regulations](#). Nothing in those instruments guides a determination of the meaning of "variants" for unnamed variants. There is no objective, authoritative reference to consult to determine whether a firearm is a variant.

73. The definition of "prohibited firearm" in the [Criminal Code](#) is not useful for this interpretation. The [Criminal Code](#) contemplates prohibited firearms prescribed as such by the GIC as a separate category within that definition. The definition contains five categories: (a) handguns

¹⁹⁵ [Morales](#), p. 732.

¹⁹⁶ [Pharmaceutical Society](#), p. 638.

¹⁹⁷ See [Pharmaceutical Society](#), p. 638.

¹⁹⁸ See [Pharmaceutical Society](#), p. 638.

¹⁹⁹ [Pharmaceutical Society](#), pp. 638-639.

with a certain barrel length or capable of discharging a certain calibre cartridge, (b) adapted rifles or shotguns with a certain shorter length or barrel length, (c) automatic firearms, (d) unlawfully manufactured firearms, and (e) firearms prescribed as prohibited by the GIC.²⁰⁰ The presumption against tautology militates against consulting the other categories of the “prohibited firearm” definition to determine whether a firearm is an unnamed variant under the [2020 Regulations](#).²⁰¹

74. There is no indication that the GIC considered how variant should be determined. The only guidance from the [RIAS](#) is a sentence stating that the list of firearms prohibited under the [2020 Regulations](#) may not be exhaustive.²⁰² Even under the [1998 Regulations](#), the vagueness about what constituted a “variant” was concerning to the Senate. On December 4, 2016, the Minister of Justice and Attorney General of Canada informed the Joint Chairs of the Standing Joint Committee for the Scrutiny of Regulations that Canada would not accept the recommendation to define “variants” in the [1998 Regulations](#).²⁰³

75. The Canadian Firearms Registry and the records of chief firearms officers are the only administrative resources or registries for licences, applications, transfers, and exports of firearms.²⁰⁴ The SFSS has become the sole arbiter of whether a firearm is an unnamed variant by redesignating firearms as prohibited in the FRT, and its classifications of unnamed variants lack statutory authority.²⁰⁵ While the Courts below held that a listing on the FRT does not constitute proof in criminal or quasi-criminal proceedings regarding a firearm’s status, they did not appreciate the practical effect of the SFSS’s assumption of authority, nor the fact that the FRT is the sole record that would identify an unnamed variant as being a variant of an explicitly listed firearm.²⁰⁶ Without the FRT, there would be no designation of the unnamed variant, and without this administrative tool, there would be no reasonable way for a firearm owner to determine that

²⁰⁰ [Criminal Code](#), s. [84\(1\)](#).

²⁰¹ See *Canada v. Canada North Group Inc.*, [2021 SCC 30](#), [\[2021\] 2 SCR 571 \(SCC\)](#) at para. [64](#); *McDiarmid Lumber Ltd. v. God’s Lake First Nation*, [2006 SCC 58](#), [\[2006\] 2 SCR 846 \(SCC\)](#) at para. [36](#).

²⁰² [RIAS](#), p. 55 [**AB Vol 1, Tab 4B, p. 693**].

²⁰³ Affidavit of Rodney Giltaca at para. 37, Exhibit “F” [**AB Vol 2, Tab 5A.iii, pp. 789, 824**].

²⁰⁴ [Firearms Act](#), ss. [82](#), [83](#), [85](#), [87](#).

²⁰⁵ See e.g. Affidavit of Matthew Hipwell at paras. 52-56 [**AB Vol 2, Tab 5A.iv, pp. 1227-1228**]; Affidavit of Philip O’Dell at para. 47, Exhibit “I” [**AB Vol 2, Tab 5A.vii, pp. 1435-1436, 1467-1490**]; Affidavit of Randall Koops at paras. 90-92 [**AB Vol 5, Tab 5F.v, p. 7352**].

²⁰⁶ [Parker](#) at para. [422](#) [**AR Tab 3, p. 165**]; [CCFR FCA](#) at para. [71](#) [**AR Tab 4, p. 344**].

their firearm was considered by law enforcement to be an unnamed variant. Although the FRT is legally a non-binding administrative tool, law enforcement and decision-makers under the [Firearms Act](#) and the [Export and Import Permits Act](#) use it widely.²⁰⁷ The police use it to formulate criminal charges.²⁰⁸ The SFSS deems the FRT a public notice of changes that firearm owners “have to” adapt to as the FRT changes.²⁰⁹

76. Neither Court below explained how the FRT fails to constitute a *de facto* regulatory regime. If the SFSS’s – and hence the RCMP’s – informational and administrative resource serves as the basis for criminal investigations or prosecutions, the evidence shows that the vagueness of “variants” enables a standardless sweep within law enforcement’s discretion.²¹⁰ Contrary to [CCFR FCA](#), the FRT goes beyond fact-finding and cannot merely be an application of regulations, as the [2020 Regulations](#) provide no guidance on identifying unnamed variants.²¹¹

77. The FCA relied on [Actton Transport](#) to hold that the RCMP is permitted to maintain the FRT as a “purely administrative decision of a factual nature”.²¹² However, the regulatory language distinguishes [Actton Transport](#) from this case. In [Actton Transport](#), the impugned term in the [Hours of Work Regulations](#), “prevailing industry practice”, textually and contextually indicated how that standard should be determined, namely “in the geographical area where he is employed”.²¹³ The [2020 Regulations](#) contain no text that provides similar guidance.

²⁰⁷ Affidavit of Murray Smith at para. 12 [AB Vol 5, Tab 5F.i, p. 6544]; Affidavit of Murray Smith at para. 14 [AB Vol 5, Tab 5F.ii, p. 6625]; Transcript of Cross-Examination of Murray Smith, pp. 34:1-25, 35:1-25, 36:1-24 [AB Vol 6, Tab 6A, pp. 8655-8657]; Transcript of Cross-Examination of Murray Smith, pp. 524:6-25, 525:1-25, 529:2-8 [AB Vol 6, Tab 6C, pp. 9229-9230, 9234]; Transcript of Cross-Examination of Murray Smith, pp. 72:15-25, 73:1-14, 76:16-21 Exhibit “2”, s. 1.1, 9.5.1 [AB Vol 6, Tab 6D, pp. 9858-9859, 9862, 10040, 10063]; Affidavit of Rodney Giltaca at para. 82, Exhibit “Q” [AB Vol 2, Tab 5A.iii, pp. 798, 1168].

²⁰⁸ Transcript of Cross-Examination of Murray Smith, p. 36 [AB Vol 6, Tab 6A, p. 8657].

²⁰⁹ Transcript of Cross-Examination of Murray Smith, p. 525 [AB Vol 6, Tab 6C, p. 9230].

²¹⁰ See generally [Parker](#) at para. 430 [AR Tab 3, p. 167].

²¹¹ [CCFR FCA](#) at paras. 68-69 [AR Tab 4, pp. 341-343].

²¹² *Actton Transport Ltd. v. Canada (Minister of Labour)*, [2004 FCA 182](#) [[Actton Transport](#)]; [CCFR FCA](#) at para. 68 [AR Tab 4, pp. 341-342].

²¹³ *Actton Transport* at para. 10; *Motor Vehicle Operators Hours of Work Regulations*, [CRC, c 990](#), s. 2 [[Hours of Work Regulations](#)].

78. Had the FRT been binding, it would have provided a determinable zone of risk on its face, i.e., based solely on whether an unnamed variant was listed or not. However, that would only shift the problem, because the evidence generally shows that even the SFSS is neither rational nor consistent in its determination of variation. In *Actton Transport*, by contrast, the city official’s fact-finding involved an intelligible method of making inquiries to numerous local firms with numerous questions to determine the “prevailing industry practice”.²¹⁴ Here, the SFSS uses arbitrary and irrational standards.

79. It is impossible to determine how the SFSS determines whether a firearm is an unnamed variant. Canada’s affiant, Mr. Murray Smith (“**Mr. Smith**”), acknowledged that there were different understandings of the term variant, but he maintained that a definition would not be helpful.²¹⁵ His evidence highlights the challenge with that position. Although Mr. Smith appeared to provide a definition of “variant” in his affidavit, he later testified that the SFSS did not use a specific definition.²¹⁶

80. Mr. Smith initially said the SFSS was guided by the Oxford Dictionary, using that definition.²¹⁷ He later clarified that even that definition was not always the touchstone.²¹⁸ He provided the following explanations of the meaning of “variant”: “a firearm whose design was derived from an original firearm (head of family)”;²¹⁹ “a form or version of something that differs in some respect from other forms of the same thing or from a standard”;²²⁰ a firearm that “is not

²¹⁴ *Actton Transport* at para. 13.

²¹⁵ Transcript of Cross-Examination of Murray Smith, pp. 27:9-19, 98:4-99:6 [**AB Vol 6, Tab 6A, pp. 8648, 8719-8720**]; Transcript of Cross-Examination of Murray Smith, pp. 312:22-314:7 [**AB Vol 6, Tab 6B, pp. 8991-8993**].

²¹⁶ Affidavit of Murray Smith at para. 32 [**AB Vol 5, Tab 5F.ii, pp. 6549-6550**]; Transcript of Cross-Examination of Murray Smith, pp. 113:22-114:13 [**AB Vol 6, Tab 6A, pp. 8734-8735**].

²¹⁷ Transcript of Cross-Examination of Murray Smith, pp. 113:14-114:13, 166:4-7 [**AB Vol 6, Tab 6A, pp. 8734-8735, 8787**]; Transcript of Cross-Examination of Murray Smith, pp. 185:3-186:13 [**AB Vol 6, Tab 6B, pp. 8864-8865**].

²¹⁸ Transcript of Cross-Examination of Murray Smith, pp. 187:21-188:19, 189:16-190:7 [**AB Vol 6, Tab 6B, pp. 8866-8869**].

²¹⁹ Affidavit of Murray Smith at para. 32 [**AB Vol 5, Tab 5F.ii, p. 6629**].

²²⁰ See Transcript of Cross-Examination of Murray Smith, pp. 113:14-114:13 [**AB Vol 6, Tab 6A, pp. 8734-8735**]; Transcript of Cross-Examination of Murray Smith, pp. 185:3-186:13, 187:21-188:19; and 189:16-190:7 [**AB Vol 6, Tab 6B, pp. 8864-8869**].

an exact copy... it differs in some fashion or respect from the original”;²²¹ “a firearm that is derived from another firearm, broadly speaking”;²²² two firearms that are somehow “linked” or “related”;²²³ and “variants are imitations or copies or derivatives of the original firearm...they owe their existence in some way to the creation of the original firearm”.²²⁴ He said both that a variant must derive from “an original” and that it could draw its lineage from multiple firearms.²²⁵

81. There are numerous examples of unnamed variation classifications for many Newly-Prohibited Items that are illogical, unintelligible, and unsupported. Many of the purported “variants”, whether designated in the [2020 Regulations](#) or named in the FRT, such as the BCL Coyote, CZ 550 Safari Classic Magnum, .460 Weatherby Magnum, Mossberg 702 Plinkster Tactical semi-automatic .22 LR rifle (used for varmint hunting), and Derya MK12 (used for turkey hunting), are not “variants” of named Newly-Prohibited Items.²²⁶

82. Mr. Smith testified about the relationship between firearms as a factor in determining variation and deemed the interchangeability of parts an important consideration because it was an “indicator of a relationship between two firearms”.²²⁷ He went so far as to say that, irrespective of the number of parts, “if two firearms have interchangeable parts, that unless there’s a reasonable explanation to the contrary...those two firearms are related in some fashion.”²²⁸

83. However, numerous so-called unnamed variants cannot logically be classified as variants of named firearms. The Derya Arms MK12 rifle is not a variant of so-called AR-style firearms because it has a unique design that shares no parts – not the receiver, bolt, trigger/hammer, barrel,

²²¹ Transcript of Cross-Examination of Murray Smith, pp. 188:12-23 [AB Vol 6, Tab 6B, p. 8867].

²²² Transcript of Cross-Examination of Murray Smith, pp. 212:1-18 [AB Vol 6, Tab 6B, p. 8891].

²²³ Transcript of Cross-Examination of Murray Smith, pp. 212:23-213:9 [AB Vol 6, Tab 6B, pp. 8891-8892].

²²⁴ Transcript of Cross-Examination of Murray Smith, pp. 311:18-312:11 [AB Vol 6, Tab 6B, pp. 8990-8991].

²²⁵ Transcript of Cross-Examination of Murray Smith, pp. 339:19-340:18 [AB Vol 6, Tab 6B, pp. 9018-9019].

²²⁶ See e.g. Affidavit of Rodney Giltaca at paras. 25-37 [AB Vol 2, Tab 5A.iii, pp. 787-789]; Affidavit of Matthew Hipwell at paras. 55-57 [AB Vol 2, Tab 5A.iv, pp. 1227-1228].

²²⁷ Transcript of Cross-Examination of Murray Smith, pp. 207:11-225:6 [AB Vol 6, Tab 6B, pp. 8886-8904].

²²⁸ Transcript of Cross-Examination of Murray Smith, pp. 222:7-223:14 [AB Vol 6, Tab 6B, pp. 8901-8902].

or butt stock – with AR rifles.²²⁹ The Typhoon Defence F12 shotgun is a variant of the non-restricted MK10 and cannot be considered a variant of the AR-10 simply because of cosmetic similarity.²³⁰ The Mossberg 715T Tactical, a now-prohibited unnamed variant, is only an appearance kit for the non-restricted Mossberg 702 Plinkster, i.e., its underlying design and operation are identical.²³¹ It is prohibited because, unintelligibly, had the AR-15 not existed, the inspiration for the Mossberg 715T Tactical’s cosmetic design would never have existed.²³² Mr. Smith could not explain how the Adler B-210 bolt-action 12-gauge shotgun, the Alpharms 15SA, the Derya Arms V90 shotgun, or the Ranger XT3 Tactical were prohibited as variants of the AR family.²³³ The SLR Multi, a unique, intentionally original firearm, was nonsensically prohibited because its shape was reminiscent of an AR-10 variant.²³⁴

84. When there has been an attempt to “grasp to the judiciary” for the meaning of “variants”, judicial frustration was pronounced.²³⁵ In [Henderson ONCJ](#), the Ontario Court of Justice grappled with whether the AP80 was an “unnamed variant” of the AK-47 under the [1998 Regulations](#).²³⁶ The error in [Henderson ONCJ](#) was that the Court failed to consider that the AP80 was the same as the AK-22, a named variant of the AK-47.²³⁷ Notably, the issues in [Henderson ONCJ](#) and [Henderson ONCA](#) came before the courts by way of a reference under the [Firearms Act](#), s 74, and Mr. Henderson could not raise constitutional issues because he was not at risk of losing his

²²⁹ Affidavit of Philip O’Dell at paras. 48-63, 76-84, 91-94, Exhibit “S” [AB Vol 3, Tab 5B.i, pp. 2431-2439, 2442-2444, 2446-2449, 2542-2543].

²³⁰ Transcript of Cross-Examination of Murray Smith, pp. 15:2-23:2, 29:24-32:6, Exhibit “42” [AB Vol 6, Tab 6E, pp. 10180-10188, 10194-10197, 10987-10998]; Transcript of Cross-Examination of Murray Smith, pp. 366:10-371:10 [AB Vol 6, Tab 6C, pp. 9071-9076].

²³¹ Affidavit of Philip O’Dell at paras. 99-108, Exhibits “V”, “X”, “Y”, [AB Vol 3, Tab 5B.i, pp. 2449-2451, 2565-2575, 2587-2593].

²³² Transcript of Cross-Examination of Murray Smith, pp. 306:10-312:11 [AB Vol 6, Tab 6C, pp. 8985-8991].

²³³ Transcript of Cross-Examination of Murray Smith, pp. 257:5-24, 257:25-258:25, 259:3-16, 261:1-264:13 269:4-20, 274:10-282:19, 297:4-302:3, 323:8-326:9, 339:19-340:18 [AB Vol 6, Tab 6B, pp. 8936-8938, 8940-8943, 8948, 8953-8961, 8976-8981, 9002-9005, 9018-9019].

²³⁴ Affidavit of Wyatt Singer at para. 26 [AB Vol 2, Tab 5A.vi, p. 1387]; Transcript of Cross-Examination of Murray Smith, pp. 44:3-46:15 [AB Vol 6, Tab 6D, pp. 9830-9832].

²³⁵ See generally [Pharmaceutical Society](#), p. 639-640; [Canadian Foundation](#) at para. 15.

²³⁶ See generally *R. v. Henderson*, [2009 ONCJ 363](#) at paras. 42-57 [[Henderson ONCJ](#)].

²³⁷ *Henderson v. Canada (Attorney General)*, [2011 ONCA 696](#) at paras. 2, 14 [[Henderson ONCA](#)]

liberty.²³⁸ That does not diminish the importance of [Henderson ONCJ](#) in showing the vagueness courts face when a firearm is not clearly the same as a named variant.

85. The Honourable Justice Alan D. Cooper found that no legislative definition of “variants” existed.²³⁹ He recognized that the CFP lacked delegated authority to maintain the FRT.²⁴⁰ Contrary to Mr. Smith’s testimony about the SFSS’s reliance on firearm appearance, parts, and actual or abstract relation or deviation, Cooper J. held that (a) mere resemblance was insufficient to make a firearm a public safety threat, and (b) a firearm’s construction and the similarity of internal parts were not important.²⁴¹ Mr. Smith’s testimony shows that the Court in [Henderson ONCJ](#) and the SFSS interpret “variants” differently.

86. Therefore, the FCC’s conclusion from [Henderson ONCA](#) was misplaced: the appellate decision shows that a determination of “variants” is possible when two firearms are the same, and nothing more.²⁴² Two firearms being the same can render them variants of each other, but it is unknown what renders a firearm an unnamed variant when it is not the same as a named variant.

87. Cooper J., in *obiter*, stated that Parliament had the power to render any firearm restricted or prohibited.²⁴³ The underlying issue in [Henderson ONCJ](#), which is at the forefront of this appeal, is that the GIC does not have that power. Cooper J. noted that it was “remarkable that any reasonable person would have known to register any firearms not specifically mentioned in the regulations.”²⁴⁴ The gravity of the situation facing firearm owners is most pronounced in the concern that non-reliance on the FRT, which they “have to” adapt to, would be construed as passive ignorance, which is not a criminal defence.²⁴⁵

²³⁸ [Henderson ONCJ](#) at paras. 1-5; [Henderson ONCA](#) at paras. 27, 39.

²³⁹ [Henderson ONCJ](#) at para. 42.

²⁴⁰ [Henderson ONCJ](#) at paras. 45-46.

²⁴¹ [Henderson ONCJ](#) at para. 48.

²⁴² [Parker](#) at para. 435 [AR Tab 3, p. 169].

²⁴³ [Henderson ONCJ](#) at para. 54.

²⁴⁴ [Henderson ONCJ](#) at para. 56.

²⁴⁵ See generally *Lévis (City) v. Tétreault; Lévis (City) v. 2629-4470 Québec inc.*, [2006 SCC 12](#), [2006] 1 SCR 420 at para. 30; Transcript of Cross-Examination of Murray Smith, p. 525 [AB Vol 6, Tab 6C, p. 9230].

88. The word “variants” fails to delineate a determinable area of risk. The [2020 Regulations](#) contain no usable propositions delineating permissible and impermissible areas, nor do they provide guidance on how to ascertain their boundaries. Taken together, the evidence presents an insurmountable conundrum regarding the interpretation of “variants”. The dictionary definition does not suffice. There are no parts of firearms, nor any interchangeability of parts, that conclusively indicate variation. Design and operation are not always considerations. Allegedly, variation can be determined by appearance alone, or by only the design inspiration of cosmetics of another firearm, although none of that is always determinative. Reliance on “appearance” alone overlooks Mr. Rock’s conjunctive use of that term.²⁴⁶ Appearance also does not determine reasonable use. Entirely unique designs with operations unlike named variants can purportedly be unnamed variants, which is irrational.

89. Both the FCC and the FCA erred in finding that “variants” provides an intelligible standard, not least because it remains unknown from [Parker](#) and [CCFR FCA](#) what that standard is.²⁴⁷ Precision is not required, but owners have no way of knowing which firearm characteristics they must consider to determine whether their firearm constitutes an unnamed variant, or what the parameters of the legal debate are. The FCC’s acceptance of deference to an open list of external resources does not suffice, because surely the compilers of such resources also need to know what the intelligible standard is.²⁴⁸

90. Similarly, both the FCC and the FCA misapplied this Court’s jurisprudence on reasonable hypotheticals in [Canadian Pacific](#).²⁴⁹ Determining whether “variants” can be interpreted is distinct from actually interpreting it.²⁵⁰ That two firearms were the same in [Henderson ONCA](#) does not show that a zone of risk exists to determine variation when firearms are not the same. The legislative solution to the absence of a discernible zone of risk is not to address regulatory lag through a revolving door of further amendments to the [1998 Regulations](#), but to define “variants”

²⁴⁶ [Committee Record](#) at [1025](#).

²⁴⁷ [Parker](#) at paras. [543-552](#) [AR Tab 3, pp. 198-552]; [CCFR FCA](#) at paras. [82-85](#) [AR Tab 4, pp. 349-351].

²⁴⁸ [Parker](#) at paras. [549-551](#) [AR Tab 3, pp. 200-201].

²⁴⁹ See e.g. *Ontario v. Canadian Pacific Ltd.*, [1995 CanLII 112](#), [\[1995\] 2 SCR 1031](#), pp. [1044-1048](#) (SCC) [[Canadian Pacific](#)].

²⁵⁰ [Canadian Pacific](#), p. [1044](#).

or at least to provide additional references for context, i.e., propositions outlining areas or guidance to ascertain their boundaries.²⁵¹

(iv) “Variants” in the 2020 Regulations Violates Firearm Owners’ Charter Rights

91. There is a sufficient causal connection between the [2020 Regulations](#) and the interference with and negative impact on firearm owners’ interests under [Charter](#), s 7.²⁵² Fundamental justice requires that laws not be arbitrary, and with respect to unnamed variants, the term “variants” in the [2020 Regulations](#) will impose limits on the liberty of firearm owners that have no connection to the object of the [2020 Regulations](#).²⁵³

92. Under the [Criminal Code](#), read together with the [2020 Regulations](#), possession of any Newly-Prohibited Item without a registration certificate is an offence, punishable on summary conviction or, as an indictable offence, by imprisonment for up to five years.²⁵⁴ The [Firearms Act](#) prohibits possession of Newly-Prohibited Items unless individuals are grandfathered in.²⁵⁵

93. The term “variants” in the [2020 Regulations](#) violates the liberty of firearm owners under the [Charter](#), s. 7, because owners do not know and have no way of knowing whether their firearm constitutes an unnamed variant and hence a Newly-Prohibited Item. Once the amnesty period lapses, investigations against owners will be subject to law enforcement’s use of the FRT, with its unsupported classifications.²⁵⁶ If law enforcement can and does exercise its discretion not to use the FRT, it remains unknown how it will determine whether a firearm is an unnamed variant of a named firearm in the [2020 Regulations](#) or of a named variant, unless they are the same.²⁵⁷

94. It is a principle of fundamental justice that laws must not be vague.²⁵⁸ The GIC may not foresee every firearm, by make and model, that could be prohibited under the [2020 Regulations](#), nor does it need to compile a complete list and strain executive resources with continuous

²⁵¹ *Contra Parker* at para. 552 [AR Tab 3, p. 201]; [CCFR FCA](#) at para. 85 [AR Tab 4, pp. 350-351].

²⁵² [Kloubakov](#) at para. 137.

²⁵³ [Kloubakov](#) at para. 138.

²⁵⁴ [Criminal Code](#), ss. 84(1), 91(1)(b), 91(3).

²⁵⁵ [Firearms Act](#), s. 12.

²⁵⁶ See [Amnesty Order](#), s. 2(3); see [News Release](#).

²⁵⁷ See [Henderson ONCA](#) at paras. 2, 14.

²⁵⁸ [Pharmaceutical Society](#), p. 626; [Morales](#), p. 727.

amendments to the [1998 Regulations](#).²⁵⁹ However, without a standard of intelligibility for “variants”, the [2020 Regulations](#) permit *ad hoc*, discretionary decision-making rather than appropriate judicial interpretation.²⁶⁰ The unreliable and dynamic FRT exposes firearm owners to the arbitrary risk of criminal liability, with *post hoc* clarification of firearm variation occurring during prosecution.²⁶¹ It leaves the “evil of... ‘basic policy matters to policemen, judges, and juries for resolution on an *ad hoc* and subjective basis, with the attendant dangers of arbitrary and discriminatory application””.²⁶²

95. In law, it is difficult to justify any violation of [Charter](#), s. 7, and Canada cannot justify such a violation through the [2020 Regulations](#).²⁶³ The [Amnesty Order](#) would not have permitted owners of Newly-Prohibited Items previously classified as non-restricted to continue using them to exercise constitutional Aboriginal or treaty rights and to obtain sustenance.²⁶⁴ The justification presented by the FCC in this respect is erroneous. Despite the representation in the [RIAS](#), the [Firearms Act](#) contemplates eligibility for grandfathering; to date, no prescribed circumstances have been promulgated for that purpose.²⁶⁵

96. A firearm owners’ constitutional right not to have their liberty put at stake by vague criminal law language is not easily overridden by general public policy purposes. The general public safety objective underlying the [Criminal Code](#) cannot justify a deprivation of liberty based on the vagueness of “variants”, because while proportionality does not require perfection, vagueness cannot advance Canada’s objective in firearm control.²⁶⁶ It is not clearly rational to conclude that a law that leaves owners uncertain about whether their hunting or sporting firearm

²⁵⁹ [Canadian Foundation](#) at para. 17.

²⁶⁰ [Canadian Foundation](#) at para. 17.

²⁶¹ Affidavit of Rodney Giltaca paras. 73-77 [AB Vol 2, Tab 5A.iii, pp. 796-797].

²⁶² [Canadian Foundation](#) at para. 16.

²⁶³ See *Carter v. Canada (Attorney General)*, 2015 SCC 5, [2015] 1 SCR 331 (SCC) at para. 95 [Carter].

²⁶⁴ [Amnesty Order](#), s. 2(2)(a)(viii); [Constitution Act, 1982](#), s. 35; see also [News Release](#).

²⁶⁵ [RIAS](#), pp. 54, 58 [AB Vol 1, Tab 4B, pp. 692, 696]; [Firearms Act](#), s. 12(8); [Parker](#) at para. 81 [AR Tab 3, p. 73].

²⁶⁶ See [Carter](#) at paras. 95, 97; see generally [Firearms Reference](#) at para. 33.

is a Newly-Prohibited Item will enhance public safety.²⁶⁷ The means are not logically connected to the objective.²⁶⁸

97. The vague term “variants” in reference to unnamed variants is not a reasonable limit that is demonstrably justified in a free and democratic society.²⁶⁹ It is not minimally impairing of [Charter](#), s. 7, because the mere provision of an intelligible standard would have been a less harmful means of achieving the GIC’s legislative goal.²⁷⁰ The Appellants permissibly raise the vagueness of that term under [Charter](#), s. 1 *in limine*, because, in the stated sense, the [2020 Regulations](#) are so vague that “variants” cannot be deemed to denote something “prescribed by law”.²⁷¹

C. Quashing the [2020 Regulations](#) or Reading Down “Variants or Modified Versions”

98. The [2020 Regulations](#) should be declared invalid as *ultra vires* the [Criminal Code](#). The available remedies are to quash the GIC’s unreasonable decision to issue the [2020 Regulations](#) or to remit the matter to the GIC.²⁷² The Court is responsible for the proper administration of justice, ensuring access to justice, expediency, and cost-efficient decision-making.²⁷³ The Appellants request that this Honourable Court quash the GIC’s decision because (a) the GIC has had a genuine opportunity to weigh in on the issue; (b) the GIC’s decision-making process is obscured by cabinet privilege; and (c) the lapse of the amnesty period, the operation of the [2020 Regulations](#) against owners of Newly-Prohibited Items under criminal law, concerns about delay, fairness to firearm owners, and the urgency of providing a resolution are most pronounced.²⁷⁴

99. In the alternative to quashing the [2020 Regulations](#), the Appellants request a declaration pursuant to the [Constitution Act, 1982](#), s. 52(1) that the [2020 Regulations](#) be read down to include only the explicitly enumerated firearms, i.e., heads of family and the named variants, so that any prohibitions of “unnamed variants”, including “unnamed variants” under the guise of “modified

²⁶⁷ See [Carter](#) at para. 101.

²⁶⁸ See [Carter](#) at para. 101.

²⁶⁹ See [Charter](#), s. 1.

²⁷⁰ [Carter](#) at para. 102.

²⁷¹ See [Pharmaceutical Society](#), p. 626.

²⁷² [Vavilov](#) at paras. 139, 142.

²⁷³ [Vavilov](#) at para. 140.

²⁷⁴ See [Vavilov](#) at para. 142.

versions”, are of no force and effect.²⁷⁵ Reading down as a remedy is warranted because: (a) the legislative objective under the Enabling Provision was obvious, (b) reading down will constitute a lesser intrusion on the legislative objective than striking down the [2020 Regulations](#), (c) the legislature’s choice of means is not so unequivocal that reading down will unacceptably intrude into the legislative sphere, and (d) reading down will not affect budgetary decisions to such an extent that it will change the nature of the [2020 Regulations](#) or the [Criminal Code](#).²⁷⁶

PART IV – COSTS

100. The Appellants seek costs in this Honourable Court and in the courts below.

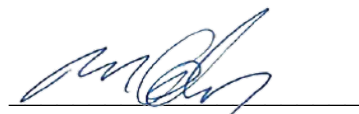
PART V – ORDERS SOUGHT

101. The Appellants request that this Appeal be allowed, that the Appellants’ application for judicial review be allowed, and that the first constitutional question be answered in the positive and the second constitutional question be answered in the negative.

PART VI – SUBMISSIONS ON CASE SENSITIVITY

102. There is no sealing or confidentiality order, publication ban, classification of information in the file that is confidential under legislation or restriction on public access to information in the file that could have an impact on the Court’s reasons in the appeal.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 15th day of June, 2026.



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²⁷⁵ See *Ontario (Attorney General) v. G*, [2020 SCC 38](#), [\[2020\] 3 SCR 629 \(SCC\)](#) at paras. [101](#), [112-113](#), [116](#); see *R. v. Bissonnette*, [2022 SCC 23](#), [\[2022\] 1 SCR 597 \(SCC\)](#) at paras. [123](#), [126](#).

²⁷⁶ See *R. v. Heywood*, [1994 CanLII 34](#), [\[1994\] 3 SCR 761](#), pp. [803-804](#) (SCC).

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<i>Règlement modifiant le Règlement désignant des armes à feu, armes, éléments ou pièces d'armes, accessoires, chargeurs, munitions et projectiles comme étant prohibés, à autorisation restreinte ou sans restriction</i> , CP 2020-298, (2020) Gaz C II	1

<p><i>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</i></p> <p><i>Règlement modifiant le Règlement désignant des armes à feu, armes, éléments ou pièces d'armes, accessoires, chargeurs, munitions et projectiles comme étant prohibés, à autorisation restreinte ou sans restriction, DORS/2020-96</i></p>	<p>3(1), 3(2), 8</p> <p>3(1), 3(2), 8</p>
<p><i>Regulations Prescribing Certain Firearms and Other Weapons, Components and Parts of Weapons, Accessories, Cartridge Magazines, Ammunition and Projectiles as Prohibited or Restricted, PC 1998-1662, (1998) C Gaz II</i></p> <p><i>Règlement désignant des armes à feu, armes, éléments ou pièces d'armes, accessoires, chargeurs, munitions et projectiles comme étant prohibés ou à autorisation restreinte, CP 1998-1662, (1998) Gaz C II</i></p>	<p>2701</p> <p>2701</p>
<p><i>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</i></p> <p><i>Règlement désignant des armes à feu, armes, éléments ou pièces d'armes, accessoires, chargeurs, munitions et projectiles comme étant prohibés, à autorisation restreinte ou sans restriction, DORS/98-462</i></p>	<p>7, Part 1: 83, 87-94, 95, 96</p> <p>7, Partie 1: 83, 87-94, 95, 96</p>
<p><i>Workers Compensation Act, RSBC 1996, c 492</i></p>	<p>107, 111, 225, 230</p>

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE FEDERAL COURT OF APPEAL)

BETWEEN:

**CANADIAN COALITION FOR FIREARM RIGHTS, RODNEY
GILTACA, RYAN STEACY, MACCABEE DEFENSE INC. and
WOLVERINE SUPPLIES LTD.**

APPELLANTS

- and -

ATTORNEY GENERAL OF CANADA

RESPONDENT

- and -

**ATTORNEY GENERAL FOR SASKATCHEWAN and
ATTORNEY GENERAL OF ALBERTA**

INTERVENERS

NOTICE OF CONSTITUTIONAL QUESTION
(CANADIAN COALITION FOR FIREARM RIGHTS, et al., APPELLANTS)
(Pursuant to Rule 33 of the *Rules of the Supreme Court of Canada*)

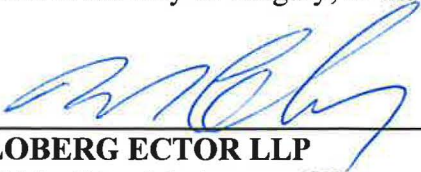
TAKE NOTICE that I, Michael A. Loberg, counsel for the Appellants, Canadian Coalition for Firearm Rights, Rodney Giltaca, Ryan Steacy, Maccabee Defense Inc., and Wolverine Supplies Ltd., assert that the appeal raises the following constitutional questions:

1. Do the *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 [**2020 Regulations**], by using the overly broad and vague terms, “variants” and “modified versions”, infringe *Canadian Charter of Rights and Freedoms*, s 7, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK)*, 1982, c 11 [**Charter**]?

2. If the *2020 Regulations* infringe *Charter*, s 7 is that infringement justified under *Charter*, s 1?

AND TAKE NOTICE that an attorney general who intends to intervene with respect to this constitutional question may do so by serving a notice of intervention in Form 33C on all other parties and filing the notice with the Registrar of the Supreme Court of Canada within four weeks after the day on which this notice is served.

Dated at the City of Calgary, in the Province of Alberta, this 20th day of April, 2026.



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