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| <p>CHAPTER IV – CHAPITRE IV : Pre-trial, Trial, and Appeal Matters Questions avant le procès, pendant le procès et en appel</p> | <p>Readers are referred to the list of Related Documents at the end of this Policy for additional information. Les lecteurs peuvent se référer à la liste des documents connexes notés à la fin de cette politique pour information supplémentaire.</p> | |

PRE-PLEA NOTICE REQUIREMENTS

1. Introduction

The Crown Prosecutor is reminded that certain offences under the *Criminal Code* warrant a greater punishment by reason of a previous conviction. Such greater punishment may only be mandatory if notice of the Crown's intention to seek a greater punishment is served on the accused pursuant to section 727 of the *Criminal Code*, unless the matter proceeds *ex parte* or where the offence is second degree murder.

2. *Criminal Code* Offences with Notice Requirements

The following *Criminal Code* offences are impacted by the requirement to comply with section 727 before the accused enters a plea:

- (a) **85(3)(b)** – using a firearm or imitation firearm in the commission of an offence;
- (b) **86(3)(a)(ii)** – careless use of a firearm or contravention of firearm storage;
- (c) **92(3)(b) and 92(3)(c)** – possession of a firearm knowing its possession is unauthorized;
- (d) **95(2)(a)(ii)** – possession of a prohibited or restricted firearm with ammunition;
- (e) **99(2)(b)** – weapons trafficking;
- (f) **100(2)(b)** – possession of weapons for the purpose of trafficking;
- (g) **103(2)(b)** – importing or exporting knowing it is unauthorized;
- (h) **202(2)(b) and 202(2)(c)** – betting, pool-selling and book-making;
- (i) **203(e) and 203(f)** – placing bets on behalf of others;
- (j) **239(1)(a)(ii)** – attempting to commit murder;
- (k) **244(2)(a)(ii)** – discharging firearm with intent;
- (l) **253 and 255(1)** – operating a motor vehicle while impaired;
- (m) **253(1), 255(2), 255(2.1), and 255(2.2)** – impaired operation causing bodily harm; “over 80” causing accident resulting in bodily harm; and refusing to provide breath or blood sample knowing accident resulted in bodily harm;

- (n) **253, 255(3), 255(3.1), and 255(3.2)** – impaired operation causing death; “over 80” causing accident resulting in death; and refusing to provide breath or blood sample knowing accident resulting in death or bodily harm leading to death;
- (o) **254(5) and 255(1)** – refusal to provide breath or blood sample;
- (p) **272(2)(a)(ii)** – sexual assault with a weapon, threats to a third party, or causing bodily harm;
- (q) **273(2)(a)(ii)** – aggravated sexual assault;
- (r) **279(1.1)** – kidnapping using a firearm;
- (s) **279.1(2)(a)** – hostage taking using a firearm;
- (t) **344(1)(a)** – robbery using a firearm; and
- (u) **346(1.1)(a)(ii)** – extortion using a firearm.

2.1 Ancillary Orders

The following ancillary orders are impacted by the requirement to comply with section 727 before the accused enters a plea:

- (a) **109(3)** – firearms prohibition;
- (b) **259(1)** – driving prohibition; and
- (c) **490.012(3)** – order to comply with *Sex Offender Information Registration Act*.

3. **Controlled Drugs and Substances Act Offence with Notice Requirement**

Section 8 of the *Controlled Drugs and Substances Act* provides that a court will not be required to impose a minimum punishment unless it is satisfied that the Crown Prosecutor notified the accused, before entering a plea, that, if convicted of the offence, he or she may be subject to a minimum punishment.

4. **Provincial Offences with Notice Requirements**

4.1 **Motor Vehicle Act Offences**

Subsection 105.1(2) of the *Motor Vehicle Act* provides for an increased penalty where a person has been convicted for the failure to stop his or her vehicle when signaled or requested to do so by a peace officer. Subsection 105.1(2.1) of the *Motor Vehicle Act* requires the Crown Prosecutor to give notice to the accused prior to plea that an increased penalty will be sought upon conviction.

4.2 **Fish and Wildlife Act Offences**

Subsection 104(5) of the *Fish and Wildlife Act* provides for an increased penalty where a person has been convicted of a previous offence under subsection 3(2), paragraphs 32(1)(a), (b), (c), (d.1) or (e) or 33(1)(a) or (b), section 46.1, paragraph 51(1)(a), or section 58. The Crown Prosecutor is required to give notice to the accused prior to plea that an increased penalty will be sought upon conviction.

5. **Related Documents**

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| Policy 1 | Public Provincial Offences |
| Policy 30 | Sentencing and Plea Resolution |
| Policy 43 | Firearms |
| Policy 44 | Impaired Driving |