

REPUBLIC OF SOUTH AFRICA

FIREARMS CONTROL AMENDMENT BILL

(As introduced in the National Assembly (proposed section 75); explanatory
summary of Bill published in Government Gazette No. of 2017)
(The English text is the official text of the Bill)

(MINISTER OF POLICE)

[B

2017]

EXPLANATORY NOTES:

[] Words in bold and in brackets [] denote deletions; and
 _____ Underlined words denote additions or insertions

BILL

To amend the Firearms Control Act, 2000 (Act No. 60 of 2000), in order to provide for the insertion of a definition for "Authority", "ballistic sampling", "valid reason", "health professional", "Integrated Ballistic Identification System", "percussion/cap and ball firearm", "prohibited firearm" and "Service"; the substitution of the definitions for "dedicated hunter", "dedicated sportsperson", "firearm", "Minister", "muzzle loading firearm", "occasional hunter", "occasional sports person", "private collector", "professional hunter", and "restricted firearm"; to provide for the amendment of the Preamble; to provide for the amendment of the Purpose of the Act and the insertion of Principles and the Objects of the Act; to provide for a muzzle loading firearm to be included in the definition of "firearm", deletion of other references to muzzle loading firearms and consequential amendments relating thereto; to provide for the amendment of the provision relating to prohibited firearms; to provide for the issue of competency certificates to persons between the age of 16 and 21 years based on compelling reasons; to provide for the verification by accredited associations of applications to possess a firearm; to provide for the period of validity of all competency certificate to be five years; to provide for the applicant for a competency certificate to submit a

medical report by a health professional; to provide for the Registrar to provisionally suspend the processing of an application for a competency certificate where the applicant has been issued with an interim protection order in terms of the Domestic Violence Act or the Protection from Harassment Act ; to provide for the time period for the renewal of a competency certificate; to provide for matters relating to additional licences; to provide for the applicant for a firearm to provide a valid reason for possessing a firearm; to provide that no firearm licences may be issued for self-defence purposes; to provide for conditions under which a firearm licence for occasional hunting or sports-shooting may be issued; to provide for the limitation on the number of firearm licences that an occasional hunter or sports-shooter may hold; to provide for the types of firearms, other than a prohibited firearm, for which a firearm licence may be issued to a dedicated hunter or dedicated sports-person; to provide for the limitation of firearm licences that may be issued to a dedicated hunter, dedicated sports-person or professional hunter; to provide for prescribed categories for collectors and the limitation of firearms that a collector may collect, and matters relating to collectors; to provide that an accredited collectors association may not classify a private collector in more than one category; to provide that a private collector may only collect a restricted or prohibited firearm if it is permanently deactivated; to provide for the deletion of the provision that requires a prohibited or restricted firearm must undergo a prescribed reversible non-damaging procedure before it is stored; to provide for a limitation on the number of cartridges per firearm in a private collection; to provide for the reduction in the rounds of ammunition that a private collector may possess per calibre; to provide for the deletion of

the provision that permits a private collector to possess projectiles, rifle grenades and cartridges manufactured to be discharged by prohibited firearms; to provide for the deletion of the provision that permits a public collector to possess projectiles, rifle grenades and cartridges manufactured to be discharged by prohibited firearms; to provide for the reduction in in the rounds of ammunition that a public collector may possess; to provide for the deletion of the provision that requires that a prohibited or restricted firearm that is displayed in an accredited museum must have undergone a prescribed reversible non-damaging procedure before it is displayed; to provide that a restricted or prohibited firearm or device in a public collection may only be possessed if permanently deactivated; to provide that a restricted firearm may be issued by the Registrar upon certain factors, including a valid need; to provide for certain obligations of the Private Security Industry Regulatory Authority and accrediting associations towards the Registrar; to provide for the Registrar's obligations towards the Private Security Industry Regulatory Authority; to provide for the establishment of Consultative Forum and matters related thereto; to provide for temporary authorisation of firearms brought into the Republic by non-citizens for bona-fide purposes; to provide that no firearms may be issued to a non-citizen of the Republic who does not have a permanent resident status; to provide for the marking of muzzle loading firearms in dealers stock in a prescribed, non-damaging manner; to provide for the ballistic sampling of firearms in possession of the private security industry and in official institutions; to provide for the period within which a renewal of a firearm must be made and consequences for a failure to do so; to provide for the periods of validity of firearm licence or permit; to provide for the deletion

of the provision relating to the sale or donation of a firearm without the intervention of a dealer; to provide for renewal of firearm licences and that a firearm licence remains valid until the application for renewal is decided; to provide that the Registrar may restrict the number and types of firearms and ammunition that may be imported or exported; to provide for the reduction of the number of ammunition that a licenced firearm holder may possess; to provide for the reduction in the number of primers that a firearm licence holder may possess; to provide for the head of an Official Institution to submit quarterly reports to the Registrar on losses or theft of firearms and matters related thereto; to provide for ballistic sampling of firearms in possession of Official Institutions; to provide for the Registrar to suspend firearm licences of licence holders charges with an offence under the Domestic Violence Act and the Protection of Harassment Act; to provide for the Registrar to issue a warrant for the search and seizure of competency certificates, permits, firearms and ammunition in possession of firearm licence holders declared unfit; to provide for the establishment of the Central Firearm Register as a Division in the South African Police Service; to provide for the Registrar to submit quarterly reports to the Minister and Parliament on losses and theft of firearms issued to members of the police and other Official Institutions; to provide for the appointment of a Designated Firearms Officer at each police station with a clear description of functions, in order to strengthen the control over firearms in possession of the police, other Official Institutions and private security service providers and to improve the processing of applications for competency certificates and firearm licences; to provide for obligations of commanders, including station commanders in respect of the control over

firearms; to provide for the Minister of Police to appoint additional members to the Appeal Board, to provide for the strengthening of the independence of the Appeal Board and the functions of the Appeal Board; to provide for the Central Firearms Database to contain a dedicated database of firearm licences issued to security service providers linked to the database of the Private Security Industry Regulatory Authority; to provide for the Registrar to appoint the head of the Office of the Central Firearms Register on at least the level of a Divisional Commissioner and who must report to and be directly accountable to the Registrar; to provide for the deletion of the provision that allows for a person who surrenders a firearm during an amnesty to apply for a licence in respect of that firearm; to provide for powers of the Minister to prescribe matters pertaining to the processing of applications for firearm licences and competency certificates, the functioning of the Appeal Board and the carrying of firearms by security officers in the execution of their duties and functions; to provide for the executor or administrator of a deceased estate to notify the Registrar of the death of the licence holder and of the place where the firearm of the deceased will be kept; to provide for the Registrar to issue a temporary authorisation to possess a firearm or ammunition in the deceased estate until the executor or administrator of the deceased estate is appointed; to provide for the inclusion of ammunition in the provision of the Act that deals with inherited firearms; to provide for the executor or administrator of a deceased estate to remain in possession of the estate firearm until the application of a firearm licence is decided; to provide for regulations to be made as a result of the amendments; to provide for transitional provisions in respect of percussion/cap-and-ball revolvers, including provision for an additional

licence in the category of occasional hunting and sports shooting, in order to accommodate the licensing of percussion/cap-and-ball revolvers; to provide for the licencing of muzzle loading firearms with twelve months from the date of commencement of the Amendment Act; to provide that a licence or permit issued in respect of a prohibited firearm, device, ammunition, projectile, rifle grenade and cartridges to a private collector shall remain valid until the date of expiry of that licence; to provide for an additional licence issued in respect of a valid licence to possess a firearm or restricted firearm for self-defence to remain valid until the expiry of that licence; to provide for a valid firearm licence issued for dedicated hunting, dedicated sports-shooting, professional hunting and for private collection to remain valid until the expiry of that licence; to provide for a valid firearm licence issued for private and public collection to remain valid until the expiry of that licence; to provide that a valid licence, competency certificate, permit or authorisation shall remain valid until the date of expiry of that licence, competency certificate, permit or authorisation; to provide for the compliance by Official Institutions to Chapter 11 of the Act; to provide for transitional provisions in respect of the registration of frames and receivers; to provide for transitional provisions in respect of licences issued under the repealed Arms and Ammunition Act, 1969; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 60 of 2000, as amended by section 1 of Act 43 of 2003, section 1 of Act 28 of 2006 and section 7 of Act 6 of 2000

1. Section 1 of the Firearms Control Act, 2000 (Act No. 60 of 2000)

(hereinafter referred to as the principal Act), is hereby amended—

- (a) by the insertion after the definition of "authorised person" of the following definitions:

" 'Authority' means the Private Security Industry Regulatory Authority established under section 2 of the Private Security Industry Regulation Act, 2001 (Act 56 of 2001);

'ballistic sampling' means the discharging of a firearm in order to obtain a cartridge case, bullet or projectile to scan and store details thereof into the Integrated Ballistics Identification System used by the South African Police Service, for comparison in the investigation of crimes committed with firearms;";

- (b) by the substitution for the definition of "calibre" of the following definition:

" 'calibre', for the purposes of sections 18(2)(b), 18(6) and 19(3), means a cartridge as described by dimensions and make, mark, model or type;";

- (c) by the substitution for the definition of "dedicated hunter" of the following definition:

" 'dedicated hunter' means a person who qualifies to engage in hunting under this Act and actively participates, in the prescribed manner in such hunting [activities] activity [and who is a member of an accredited hunting association];";

Amended

definition

- (d) by the substitution for the definition of "dedicated sports person" of the following definition:

" 'dedicated sports person' means a person who qualifies to engage in sports-shooting under this Act and actively participates, in the prescribed manner, in such sports-shooting [and who is a member of an accredited sports-shooting organisation];";

- (e) by the substitution in the definition of "firearm" for paragraph (a) of the following paragraph:

"(a) device, including any muzzle loading firearm, manufactured or designed to propel a bullet or projectile through a barrel or cylinder by means of a burning propellant, at a muzzle energy exceeding 8 joules (6ft-lbs);"

- (f) by the substitution in the in the definition of "firearm" for the words following paragraph (e) of the following words:

"but does not include [a muzzle loading firearm or] any device contemplated in section 5";

- (g) by the insertion after the definition of "firearm" of the following definition:

" 'Forum' means the Consultative Forum established in terms of section 20A;"

- (h) by the insertion after the definition of "handgun" of the following definition:

" 'health professional' means a registered medical practitioner, a registered psychologist, a registered psychiatrist or a registered professional nurse;"

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- (i) by the insertion after the definition "imitation firearm" of the following definition:

" 'Integrated Ballistics Identification System' means the computerised system which consists of computerised instruments through which the process of taking three dimensional images of a discharged bullet or cartridge case, collected from a crime scene is compared with a—

- (a) bullet or cartridge case discharged from a firearm found at a crime scene or linked in any manner with a crime scene; or**
- (b) discharged bullet or cartridge case from a firearm which has been ballistically tested in terms of this Act;**

- (j) by the substitution for the definition of "Minister" of the following definition:

" 'Minister' means the Minister of [Safety and Security] Police;"

- (k) by the substitution in the definition of "muzzle loading firearm":

" 'muzzle loading firearm' means[—

- (a)] a barrelled device that can fire only a single shot, per barrel, and requires, after each shot fired, the individual reloading through the muzzle end of the barrel with separate components consisting of a—**

[(i)](a) measured charge of black powder or equivalent propellant;

[(ii)](b) wad; and

[(iii)](c) [lead]bullet, sabot or shot functioning as a projectile, and ignited with a flint, match, wheel [or], percussion cap, primer or other ignition system;

- (l) by the substitution for the definition of "occasional hunter" of the following definition:

" **'occasional hunter'** means any person who, from time to time, participates in hunting activities **[but who is not a member of an accredited hunting association]** under this Act;";

- (m) by the substitution for the definition of "occasional hunter" of the following definition:

" **'occasional sports person'** means any person who, from time to time, participates in sports-shooting **[but who is a member of an accredited sports-shooting organisation]** under this Act;";

- (n) by the insertion after the definition of "occasional sports person" of the following definition:

" **'percussion cap-and-ball firearm'** means a handgun or rifle with a cylinder or any number of rotating barrels which is capable of discharging more than two shots in succession after loading of the cylinder or barrels through the muzzle or directly into the cylinder with separate components consisting of a—
 (a) measured charge of black powder or equivalent propellant; and
 (b) bullet, sabot or shot, functioning as a projectile,
and ignited by a percussion cap or primer or other ignition system;";

- (o) by the substitution for the definition of "private collector" of the following definition:

" **'private collector'** means a person who under this Act collects firearms or ammunition[, **who is a member of an accredited collectors association and]** but who is not a public collector;";

- (p) by the substitution for the definition of "professional hunter " of the following definition:

" **'professional hunter'** means any person who under this Act supervises, escorts, offers to, or agrees to supervise or escort a client, for reward in connection with the hunting of a wild or exotic animal and who is authorised to do so in terms of any applicable provincial law;"

- (q) by the insertion after the definition of "professional hunter" of the following definition:

" **'prohibited firearm'** means a firearm or device the possession of which is prohibited under section 4;"

- (r) by the substitution for the definition of "public collector" of the following definition:

" **'public collector'** means a person who under this Act collects firearms or ammunition for display to the public and is accredited as such;"

- (s) by the substitution for the definition of "restricted firearm" of the following definition:

" **'restricted firearm'** means any [firearm contemplated in section 14(1)]—

(a) semi-automatic rifle or semi-automatic shotgun, which cannot readily be converted into a fully automatic firearm; or

(b) any firearm declared by the Minister by notice in the *Gazette*, to be a restricted firearm;"

- (t) by the insertion after the definition of "semi-automatic" of the following definition:

" **'Service'** means the South African Police Service established in terms of section 5(1) of the South African Police Service Act, 1995 (Act No. 68 of 1995);"; and

(u) by the addition of the following definition:

" **'valid reason'** means a reason substantiated by written proof and motivation in relation to the requirements set out in Chapter 6 and as prescribed for acquiring a firearm licence under this Act."

Amendment of section 2 of Act 60 of 2000

2. Section 2 of the principal Act is hereby amended by the substitution for paragraph (a) of the following paragraph:

"(a) to ensure restricted access to firearms by civilians to ensure public order, to secure and protect civilians, and to comply with regional and international instruments on firearms control;".

Insertion of sections 2A and 2B in Act 60 of 2000

3. The following sections are hereby inserted in the principal Act after section 2:

"Principles of Act

2A. The underlying principles of this Act are to—

- (a) confirm firearm possession and use as not being a right but a privilege that is conditional on the overriding need to ensure public safety; and
- (b) improve public safety by—
 - (i) imposing strict controls on the possession and use of firearms;
 - (ii) promoting the safe and responsible storage and use of firearms;
 - and
 - (iii) providing a framework for a holistic approach to the control of firearms.

Objects of Act

2B. The objects of this Act are to—

- (a) prohibit the possession and use of prohibited firearms and self-loading rifles and shotguns, except in special circumstances;
- (b) establish an integrated licensing and registration scheme for all firearms;
- (c) require each person who possesses or uses a firearm under the authority of a licence to provide a valid reason for possessing or using the firearm;
- (d) provide strict requirements that must be satisfied in relation to licensing and renewal of licences in respect of firearms and the acquisition and supply of firearms;
- (e) ensure that firearms are stored and conveyed in a safe and secure manner;

(f) provide for reasonable compensation, where appropriate, for lawfully possessed firearms which must be surrendered to the State in terms of the Act; and

(g) provide for the declaration of amnesty to enable the surrendering of unlawfully possessed firearms."

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Amendment of section 3 of the principal Act, as substituted by section 2 of Act 28 of 2006

4. Section 3 of the principal Act is hereby amended by the deletion of subsection (2).

Amendment of section 4 of Act 60 of 2000, as amended by section 2 of Act 43 of 2003 and section 3 of Act 28 of 2006

5. Section 4 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words—

"The following firearms and devices are prohibited firearms and may not be possessed or licensed in terms of this Act, except as provided for in [sections 17, 18(5), 19 and] section 20(1)(b):";

(b) by the insertion in subsection (1) after paragraph (d) of the following paragraph:

(A) any grenade or rifle-grenade;";

(c) by the substitution in subsection (1) for paragraph (e) of the following paragraph:

"(e) any imitation of any device contemplated in paragraph (a), (b), (c), [excluding the frame, body or barrel of a fully automatic firearm, or] (d) or (dA);" and

- (d) by the insertion in subsection (1) after paragraph (e) of the following paragraph:

"(eA) any de-activated—

(i) restricted firearm; or

(ii) prohibited firearm;".

Amendment of section 5 of Act 60 of 2000, as amended by section 4 of Act 28 of 2006

6. Section 5 of the principal Act is hereby amended—

- (a) by the deletion in subsection (1) of paragraph (e), and
 (b) by the substitution in subsection (1) for paragraph (j) of the following paragraph:

"(j) a deactivated firearm, except a de-activated—

(i) restricted firearm; or

(ii) prohibited firearm; and".

Amendment of section 6 of Act 60 of 2000

Section 6 of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for paragraph (b) of the following paragraph:

"(b) if the applicant has attained the age of 21 years and complies

with all the applicable requirements of this Act;"; and

- (b) by the insertion after subsection (1) of the following subsections:

"(1A) Despite subsection (1)(b), the Registrar may issue a competency certificate, licence, permit or authorisation contemplated in this Act to an applicant who is between the age of 16 years and 21 years if there are compelling reasons as contemplated in section 9(5)(b).

(1B) If a person contemplated in subsection (1A) is an applicant for a firearm licence, permit or authorisation, such applicant must have been for a period of 12 months supervised on the use and handling of a firearm by a person who is over the age of 21 years and who has held a licence for a similar type of firearm for a period of at least three years.

(1C) The applicant contemplated in subsection (1A) must furnish an affidavit from the supervisor contemplated in subsection (1B) confirming that the applicant has been provided with the supervision on the use and handling of a firearm.

(1D) Any person who provides false information in respect of the supervision contemplated in subsection (1B) and (1C) is guilty of an offence."

Amendment of section 7 of Act 60 of 2000, as amend by section 6 of Act 28 of 2006

8. Section 7 of the principal Act is hereby amended by the insertion after subsection (1) of the following subsection:

"(1A) The natural person nominated in terms of subsection (1) must hold an executive or managerial position in the juristic person."

Amendment of section 8 of Act 60 of 2000, as amended by section 7 of Act 28 of 2006

9. Section 8 of the principal Act is hereby amended by the addition of the following subsections:

"(7) The chairperson or an authorised office bearer of an association or organisation accredited in terms of this Act must, with regard to an application by its member for a licence to possess—

- (a) a firearm for dedicated sports shooting;
- (b) a firearm for dedicated hunting;
- (c) a firearm for professional hunting; or
- (d) subject to section 17, a firearm or ammunition for a private collection, in the prescribed manner, verify the application made by such member of that association regarding the use, purpose and category of the firearm applied for, including the motivation for the application or any other part of the application.

(8) The Registrar must take into account the verification by the accredited association or organisation when considering the application referred to in subsection (7), by a member of that association.

(9) The Registrar may independently verify any information supplied by the chairperson or an authorised office bearer of the accredited association or organisation.

(10) The Registrar may refuse the application on good cause in which case the Registrar must notify the applicant in writing of such refusal and include reasons for the refusal, within 30 days of the said refusal."

Amendment of section 9 of Act 60 of 2000, as amended by section 3 of Act 43 of 2003 and section 8 of Act 28 of 2006

10. Section 9 of the principal Act is amended—

(a) by the substitution for subsection (1) of the following subsection:

"(1) An application for a competency certificate to possess a firearm, to possess a muzzle loading firearm, to possess a firearm as a private collector in such specific category as may be prescribed, to trade in firearms, to manufacture firearms, to be a dedicated hunter, to be a dedicated sports-person or to carry on business as a gunsmith, must be delivered to the Designated Firearms Officer responsible for the area in which the applicant ordinarily resides or in which the applicant's business is or **[will] shall** be situated, as the case may be.";

(b) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

"[Where a person has not previously obtained a competency certificate, a] A competency certificate may only be issued to [such] a person if he or she—";

(c) by the insertion after subsection (2) of the following subsection:

"(2A) The applicant must, with his or her application for a competency certificate, submit a written report signed by a health professional confirming that the applicant is—

- (a) physically capable to safely handle a firearm;
- (b) mentally stable and not inclined to violence; and
- (c) not dependent on any substance which has an intoxicating or narcotic effect.";

(d) by the deletion of subsection (4);

(e) by the substitution for subsection (5) of the following subsection:

"(5) (a) Despite subsection (2)(c), the Registrar may allow a person **[under]** between the age of 16 years and 21 years to apply for a competency certificate if there are compelling reasons which require the person to obtain a competency certificate or licence to possess a firearm.

(b) Compelling reasons contemplated in paragraph (a) may include the fact that the applicant conducts a business, is gainfully employed, a dedicated hunter **[,]** or a dedicated sports person **[or a private collector]."**

(f) by the addition of the following subsections:

"(7) If there is an interim protection order in force in terms of the Domestic Violence Act, 1998 (Act No. 116 of 1998), or the Protection from Harassment Act, 2011 (Act No. 17 of 2011), at the time of the making of the application for a competency certificate or during the consideration of the application, the Registrar may, depending on the nature of the particular order sought, suspend the processing of the

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application pending the final determination of the interim protection order.

(8) (a) The applicant must disclose to the Registrar any interim protection order served on him or her during the period referred to in subsection (7); and

(b) The applicant who fails to disclose to the Registrar any interim protection order served on him or her during the period referred to in subsection (7) is guilty of an offence.

(9) A competency certificate may not be issued to any person who had been—

(a) convicted of any offence that has an element of violence; or

(b) sentenced to imprisonment without the option of a fine."

Amendment of section 10 of Act 60 of 2000, as amended by section 9 of Act 28 of 2006

11. Section 10 of the principal Act is hereby amended—

(a) by deletion in subsection (1)(a) of the word "or" at the end of subparagraph (iii);

(b) by the deletion in subsection (1)(a) of the word "and" at the end of subparagraph (iv);

(c) by the addition in subsection (1)(a) of the following subparagraphs:

"(v) dedicated sports person; or

(vi) dedicated hunter;"

- (d) by the substitution in subsection (1) for the full-stop at the end of paragraph (b) of the expression "and";

- (e) by the addition in subsection (1) of the following paragraph:

"(c) (i) the period of its validity;

(ii) the date of its issue;

(iii) the date of its expiry; and

(iv) other information as may be prescribed."; and

- (f) by the substitution for subsection (2) of the following subsection:

"(2) [A] Subject to Item 12 of Schedule 1, a
competency certificate contemplated in [subsection 1(a)(i), (ii), (iii)
and (iv),] this section remains valid for [the same period of validity as
the period determined in this Act in respect of the licence to which
the competency certificate relates] a period of 5 years from the date
of issue thereof, unless the competency certificate is terminated or
renewed in accordance with the provisions of this Act."; and

- (g) by the deletion of subsection (3).

Amendment of section 10A of Act 60 of 2000, as inserted by section 10 of Act 28 of 2006

2. Section 10A of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:

"(1) Any holder of a competency certificate
[contemplated in sub-section (2) and section 9(1) and] who wishes
to renew the competency certificate must apply in the prescribed form

to the Registrar for its renewal [together with an application for the renewal of the licence to which the competency certificate relates]

at least ninety days before its expiry date."; and ~~§~~

(b) by the deletion of subsection (2).

Insertion of section 11A of Act 60 of 2000

13. The following section is hereby inserted in the principal Act after section 11:

"Valid reason for requiring a firearm licence

11A. (1) The Registrar may not issue a licence that authorises the possession of a firearm unless the Registrar is satisfied that the applicant has a valid reason for possessing the firearm.

(2) An applicant does not have a valid reason for possessing a firearm if the applicant intends to possess the firearm for any of the following reasons—

(a) self-defence or the protection of any other person; or

(b) the protection of property, other than in circumstances constituting a valid reason as set out in this Chapter.

(3) Subsection (2) does not limit the reasons which the Registrar may be satisfied are not valid reasons for the purposes of justifying the possession of a firearm.

Section 13/14

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(4) Subject to this Act, an applicant for a licence has a valid reason for possessing a firearm if the applicant—

(a) states that he or she intends to possess the firearm for any one or more of the reasons set out in this Chapter; and

(b) furnishes evidence to the satisfaction of the Registrar that he or she meets the requirements specified in respect of such reason.".

Amendment of section 12 of Act 60 of 2000

14. Section 12 of the principal Act is hereby amended by the substitution for section 12 of the following section:

"Additional licences

12. (1) The Registrar may issue an additional licence in respect of a firearm contemplated in **[section 13, 14,]** sections 15 and 16 to [every person's family member who resides on the same [premises] household as the holder of the licence in respect of the firearm in question.

(2) **[Every holder of]** A family member who applies for an additional licence in terms of this section must comply with all the requirements for the issue of a licence in respect of the firearm in question.

(3) If the holder of a licence and the family member who holds an additional licence contemplated in subsection (1) [moves from the premises in question] are no longer residing in the same household, such

additional licence lapses and the [person] family member to whom such additional licence was issued must return that licence to the Registrar forthwith."

Repeal of sections 13 and 14 of Act 60 of 2000

15. Sections 13 and 14 of the principal Act are hereby repealed.

Amendment of section 15 of Act 60 of 2000

16. Section 15 of the principal Act is hereby amended—

(a) by the insertion after subsection (2) of the following subsection:

"(2A) The firearm licence for occasional hunting or occasional sport-shooting purposes may only be issued if the applicant—
(a) is the owner or lawful occupier of property where occasional hunting or occasional sport-shooting shall take place; or
(b) produces documentary proof of permission by the owner or lawful occupier of property referred to in paragraph (a), to engage in occasional hunting or occasional sport-shooting on the said property."

(b) by the substitution in subsection (3) for paragraph (a) of the following paragraph:

"(a) Subject to paragraphs [(b),] (c) and (d), no person may hold more than four licences issued in terms of this section."

- (c) by the deletion in subsection (3) of paragraph (b):
- (d) by the substitution in subsection (3) for paragraph (d) of the following paragraph:

"(d) If a person contemplated in paragraph (a) holds any additional licences contemplated in section 12 in respect of a firearm contemplated in this section [and section 13], the number of licences which that person may hold must be reduced by the number of such additional licences held.";

- (e) by the insertion after subsection (3) of the following subsection:

"(3A) The number of firearm licences that a person holds in terms of this section must be reduced by the number of firearm licences that the person holds in terms of any other section under this Act."; and

- (f) by the substitution for subsection (4) of the following subsection:

"(4) A firearm in respect of which a licence has been issued in terms of this section may be used where it is safe to use the firearm [and for a lawful purpose].".

Amendment of section 16 of Act 60 of 2000, as amended by section 4 of Act 43 of 2003

17. Section 16 of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for paragraphs (a) and (b) of the following paragraphs:

"(a) handgun which is not [fully automatic] prohibited;

(b) rifle or shotgun which is not **[fully automatic]** prohibited;;

(b) by the deletion of paragraph (c);

(c) by the substitution in subsection (1) for paragraph (d) of the following paragraph:

"(d) barrel, frame or receiver of a handgun, rifle or shotgun contemplated in paragraph (a)[,] or (b) [or (c)].";

(d) by the substitution for subsection (2) of the following subsection:

"(2) The Registrar may issue a licence in terms of this section to any natural person who is a dedicated hunter or dedicated sports person if the application is accompanied by a sworn statement or solemn declaration from the chairperson of an accredited hunting association or sports-shooting organisation, or someone delegated in writing by him or her, stating that the applicant—

(a) is a registered member of that association;

(b) has actively participated in hunting and shooting events of the association, and

(c) has, during the preceding period of 24 months, complied with requirements of being awarded with a dedicated hunter or dedicated sports-person status as prescribed."; and

(e) by the addition of the following subsections:

"(5) A person may not hold more than eight licences in terms of this section."

(6) A person issued with a licence in terms of this section may not hold more than two licences each in respect of a—

(a) handgun;

(b) semi-automatic rifle; or

(c) semi-automatic shotgun,

for dedicated hunting or a dedicated sports-shooting.

(7) A semi-automatic rifle or a semi-automatic shotgun may only be registered in terms of this section to a person who has maintained a dedicated status as a hunter or sports-shooter for a period of at least two years and continues to maintain such a dedicated status.

(8) Any application for a licence under this section must be accompanied by a written motivation containing at least the following information—

(a) the needs of the dedicated hunter or dedicated sports shooter;

(b) the type of firearm required;

(c) the shooting disciplines that the applicant is involved in; and

(d) such other information as may be prescribed.

(9) The motivation contemplated in subsection (8) must be supported by the chairperson or authorised office bearer of the relevant hunting association or sports-shooting organisation, as the case may be.

(10) Where a licence holder under this section ceases to hold the status as dedicated hunter or dedicated sports-shooter, the licence holder must, in writing, notify the Registrar of such cessation within 30 days of ceasing to hold such status, and the Registrar must follow the process in section 28 for the cancellation of the licence.

DP Sporting

(11) Any failure by the holder to comply with the provisions of subsection (10) constitutes an offence.

(12) The association or organisation which has granted dedicated status to the member involved must, at the end of the association's year, provide a report in the prescribed manner to the Registrar on all its members who have—

- (a) not renewed their membership;
- (b) had their membership suspended; and
- (c) been expelled from the association.

(13) If a person issued with a licence in terms of this section holds any other licence contemplated in sections 12, 15 and 16A, the number of licences which that person may hold in terms of this section must be reduced by the number of such other licences held."

Amendment of section 16A of Act 60 of 2000, as inserted by section 12 of Act 28 of 2006

18. Section 16A of the principal Act is hereby amended by the addition of the following subsections after subsection (4)—

"(5) A person may not hold more than eight licences in terms of this section.

(6) A person who is a professional hunter may not be issued with more than two licences each in respect of a—

- (a) handgun;
- (b) semi-automatic rifle; or

(c) semi-automatic shotgun.

(7) Any application for a licence under this section must be accompanied by a written motivation containing at least the following information:

(a) The needs of the professional hunter;

(b) the type of firearm required; and

(c) such other information as may be prescribed.

(8) The motivation contemplated in subsection (7) must be supported by the chairperson or an authorised office bearer of the relevant professional hunting association.

(9) Where a licence holder under this section ceases to hold the status as a professional hunter, the licence holder must, in writing, notify the Registrar of such cessation within 30 days of ceasing to hold such status and the Registrar must follow the process in section 28 for the cancellation of the licence.

(10) The failure by the holder to comply with the provisions of subsection (9) constitutes an offence.

(11) The association which has granted dedicated status to the member involved must, at the end of the association's year, provide a report in the prescribed manner to the Registrar on all its members who have—

(a) not renewed their membership;

(b) had their membership suspended; and

(c) been expelled from the association.

(12) If a person issued with a licence in terms of this section holds any other licence contemplated in sections 12, 15 and 16, the number of licences which that person may hold in terms of this section must be reduced by the number of such other licences held."

Amendment of section 17 of Act 60 of 2000, as substituted by section 13 of Act 28 of 2006

19. Section 17 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for paragraph (a) of the following paragraph:

"(a) A firearm which may be possessed in a private collection is ~~[any] a~~ firearm approved for collection by an accredited collector's association, based upon such historical, heritage, technological, scientific, educational, cultural, commemorative, investment, rarity, thematic or artistic value determined by the association, of which the private collector is a member in good standing and where such firearm has been demonstrated to be part of the said private collector's approved field of interest or theme or both such field or theme."

(b) by the substitution for subsection (1A) of the following subsection—

"(1A) [Despite section 4, such prohibited or restricted firearm as may be prescribed may be licensed under this section] The number of firearms that a private collector, in respect of a prescribed category, may collect are the following—

- (a) Category A – not exceeding 100 firearms;
- (b) Category B – not exceeding 50 firearms;
- (c) Category C – not exceeding 20 firearms; and
- (d) Category D – not exceeding six firearms.";

(c) by the insertion after subsection (1A) of the following subsections:

"(1B) An accredited collectors' association may not classify a private collector in more than one category at a given time.

(1C) Where a private collector graduates from a lower to a higher category, the number of firearms held by the private collector in the lower category shall be limited to the maximum number of firearms applicable to the next higher category.

(1D) Where a private collector downgrades to a lower category, the number of firearms held by the private collector in the higher category shall be reduced to the maximum number of firearms applicable to the lower category.

(1E) A restricted or prohibited firearm possessed for purposes of private collection, may only be possessed if permanently deactivated in the prescribed manner.

(1F) Any firearm, other than a restricted or prohibited firearm, which was manufactured after the year 1900 and which is possessed in a private collection must be stored after having undergone a prescribed non-damaging procedure to ensure that no cartridge can be loaded into, or discharged from, that firearm.";

(d) by the substitution for subsection (2) of the following subsection:

"(2) The Registrar may issue a licence in terms of this section to a private collector if the application is accompanied by a sworn statement or solemn declaration from the chairperson of an accredited collectors association, or someone delegated in writing by him or her, stating that the applicant is a registered member in good standing of that association and qualifies to collect the firearm, prohibited firearm or restricted firearm.";

(e) by the deletion of subsections (3A) and (4); and

(f) by the addition of the following subsections:

"(5) Despite section 91 of this Act, a private firearm collector's licence does not authorise the possession and use of ammunition for any firearm that is part of the firearms collection to which the licence relates.

(6) Despite subsection (5), a private firearm collector may possess a maximum number of ten cartridges for a particular firearm in the collection for purposes relating to genuine collecting and collector activities in terms of this section.

(7) Members of the same household may not be collectors of both firearms and ammunition of similar calibre or type."

Amendment of section 18 of Act 60 of 2000, as amended by section 5 of Act 43 of 2003

20. Section 18 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

"(1) Subject to section 17(5) and (6), [Ammunition]

ammunition which may be possessed in a private collection is any ammunition approved for collection by an accredited collectors association,.";

- (b) by the substitution in subsection (2) for paragraphs (a) and (b) of the following paragraphs, respectively:

"(a) The Registrar may, subject to such conditions as may be prescribed, issue a permit in terms of this section to a private collector if the application is accompanied by a sworn statement or solemn declaration from the chairperson of an accredited collectors association, or someone delegated in writing by him or her, stating the applicant is a registered member in good standing, of that association.

(b) A collector contemplated in paragraph (a) may not possess more than ~~[100]~~ 25 rounds of ammunition of any particular calibre ~~[unless the Registrar approves the possession of a higher number in writing]~~ ;

- (c) by the deletion of subsection (5); and

- (d) by the addition of the following subsection:

"(6) Members of the same household may not be collectors of both firearms and ammunition of similar calibre or type.".

Amendment of section 19 of Act 60 of 2000, as amended by section 15 of Act 28 of 2006

21. Section 19 of the principal Act is hereby amended—

- (a) by the deletion of subsection (2);
- (b) by the substitution for subsection (3) of the following subsection:

"(3) The holder of a permit contemplated in subsection (1) may not possess more than **[200] 25** rounds of ammunition of any particular calibre unless the Registrar on good cause shown, approves, **[the possession of a higher number]** in writing, the possession of a higher number but not exceeding 100.";

- (c) by the substitution in subsection (4) for the words preceding paragraph (a) of the following words:

"[A firearm, prohibited firearm and restricted] Any firearm in respect of which a licence has been issued in terms of this section and ammunition in respect of which a permit has been issued in terms of this section, may only be displayed -";

- (d) by the deletion of subsections (4A) and (5); and
- (e) by the addition of the following subsections:

"(7) A restricted or prohibited firearm or device
possessed for purposes of public collection may only be possessed if
permanently deactivated in the prescribed manner.

(8) Any firearm other than a restricted or prohibited
firearm which was manufactured after the year 1900 and which is
possessed in a public collection must be stored after having undergone
a prescribed non-damaging procedure to ensure that no cartridge can
be loaded into, or discharged from, that firearm.

(9) Any person who contravenes subsections (7) or
(8) is guilty of an offence."

circumstances

Amendment of section 20 of Act 60 of 2000, as amended by section 3 of Act 43 of 2003

22. Section 20 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for paragraphs (a) and (b) of the following paragraphs, respectively:

"(a) A firearm in respect of which a licence may be issued in terms of this section is any firearm other than a prohibited or restricted firearm.

(b) Despite paragraph (a), a licence in respect of a prohibited or restricted firearm may be issued to a person contemplated in subsection (2)(c) but such person may only provide the prohibited or restricted firearm for use in theatrical, film or television productions and then only if the prior written approval of the Registrar has been obtained and on such conditions as the Registrar may impose.";

(b) by the addition in subsection (1) of the following paragraphs:

"(c) Despite paragraph (a), a licence in respect of a restricted firearm may be issued to a person contemplated in subsection (2)(a),(b),(d),(e) and (f) if the Registrar is satisfied, taking into account the nature of the business of the applicant, the extent of the risks involved in conducting the business and the need for a restricted firearm.

(d) In evaluating the extent of the risk referred to in paragraph (bA), the Registrar may require the applicant to furnish a risk assessment report from an independent security service provider who specialises in business risk assessment."

(c) by the insertion after subsection (2) of the following subsection:

"(2A) The Registrar, in considering the application in terms of this section must take into account the nature, the size, the extent, the purpose of the business and a genuine need for the use of firearms in that type of business."; and

(d) by the addition of the following subsections:

"(8) (a) The Authority must inform the Registrar of any new registration, suspension, sale, transfer, liquidation, merger, lapsing or termination of the registration or ownership of a security service provider or any other material change or reason that would necessitate the licensing, relicensing or disposal of firearms in the possession of such security service provider.

(b) The association that accredits persons referred to in subsection (2)(b),(c),(d),(e) and (f) must inform the Registrar of any new accreditation, suspension, sale, transfer, liquidation, merger, lapsing or termination of accreditation or membership of the business of the accredited persons, or any other material change or reason that would necessitate the licensing, relicensing or disposal of firearms in the possession of such persons.

(9) The Registrar must, at the written request of the Authority, submit a list of all firearms registered to a particular security service provider within 30 days of the request being made.

(10) It is an offence for a security service provider and any person contemplated in this subsection to hire out or permit any other person to use a firearm issued under this section for any purpose other than the purpose for which the licence was issued.

(11) The Registrar may not issue a licence to a security service provider until written proof of the award of a contract to render a security service that require the use of firearms is furnished.

(12) Despite subsection (11), the Registrar may issue a letter to a security service provider who meets the requirements of the Act, stating that the firearm licence shall be issued upon the award of the contract.

(13) When the Registrar is informed of any circumstances referred to in subsection (8)(a), the Registrar may terminate a firearm licence in terms of section 28 of the Act."

Insertion of sections 20A, 20B, 20C and 20D in Act 60 of 2000

23. The following sections are hereby inserted in the principal Act after section 20:

"Establishment of Consultative Forum

20A. The Consultative Forum is hereby established.

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Composition of Forum

20B. (a) The Forum shall consist of—

- (i) the Head of the Central Firearm Register or his or her delegate;
- (ii) the Director of the Authority or his or her delegate;
- (iii) senior management staff from the Central Firearms Register, as identified by the Head, who are responsible for the database and applications by security service providers for firearms; and
- (iv) the senior management staff of the Authority, as identified by the Director of the Authority, who are responsible for the registration of security service providers and the management of its database of security service providers that require firearms.

(b) The chairperson of the Forum shall be the Director of the Authority and the Head of the Central Firearm Register alternating on a quarterly basis.

Functions of Forum

20C. The Forum must—

- (a) consider reports of the Central Firearms Register and the Authority on the firearms issued to security service providers;
- (b) consider reports on the status of security service providers;
- (c) facilitate interaction and co-operation between the Central Firearms Register and the Authority; and

(d) submit quarterly reports to the Minister and the National Assembly on the number of firearms and ammunition recovered from security service providers that have ceased to conduct business as security service providers.

Meetings of Forum and administrative support

20D. (1) The Forum must meet at least once every quarter.

(2) The first meeting of the first quarter must be convened and hosted by the Director of the Authority, and he or she shall be the chairperson for that quarter.

(3) The administrative and other support services for the meetings of the Forum shall be provided by the entity hosting the meeting.

(4) The meetings of the Forum must be convened by the chairperson of the Forum in the prescribed manner."

Amendment of section 21 of Act 60 of 2000

24. Section 21 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

"(1) A South African citizen or a holder of a permanent South African residence permit arriving from abroad with a firearm that is not licenced in the Republic, must deposit such firearm with the Designated Firearms Officer at customs at the point of entry for safekeeping, pending the application for a licence in terms of this Act.";

- (b) by the deletion of subsection (2);
- (c) by the insertion after subsection (2) of the following subsections:

"(2A) (a) A non-citizen who enters the Republic with a firearm that is lawfully licenced in his or her country of origin to participate in sport-shooting or hunting activities, must deposit such firearm with the Designated Firearms Officer at customs at the port of entry for safekeeping, pending the issuing of a temporary authorisation as prescribed.

(b) The Registrar must determine, as prescribed, the period of validity and conditions of the temporary authorisation issued in terms of this section.

(c) The non-citizen contemplated in subsection (2A) must, before departing from the Republic, present the firearm for which the permit had been issued to the Designated Firearms Officer for inspection at the point of departure before being allowed to depart with that firearm.

(d) The registrar may at any time withdraw an authorisation if any condition contemplated in paragraph (b) is not complied with.

(e) If the firearm referred to in paragraph (c) cannot be presented, the non-citizen must provide a valid reason to the Designated Firearms Officer at the point of departure.

(2B) A non-citizen who is already a resident in the Republic, but who has not been issued with a permanent resident status, may not be issued with a temporary authorisation permit.

(2C) The Registrar may issue a temporary authorisation to a person contemplated in section 147A.

(2D) The validity period of a temporary authorisation issued in terms of this section for a specific firearm as determined by the Registrar may not be extended; and

(2E) Despite subsection (2D), a temporary authorisation issued in terms of subsection (2C) may be extended if the winding-up of the deceased estate is not finalised."; and

(d) by the substitution in subsection (5) for paragraph (a) of the following paragraph:

"(a) if the Registrar, at the time of the issuing of the authorisation, by endorsement on the authorisation, permits such use; and".

Substitution of section 22 of Act 60 of 2000

25. The following section is hereby substituted for section 22 of the principal Act:

"Holder of licence may allow another person to use firearm

22. Despite anything to the contrary in this Act but subject to section 120(5), any person who is at least 21 years of age and who, for at least three years, is the holder of a valid licence to possess a firearm issued in terms of this Act, may allow any [other] person above the age of 16 years to use that

firearm while under his or her immediate supervision where it is safe to use the firearm and for a lawful purpose."

Amendment of section 23 of Act 60 of 2000, as amended by the section 7 of Act 43 of 2003

26. Section 23 of the principal Act is hereby amended by the addition of the following subsection:

"(8) Muzzle loading firearms which are imported or kept in a dealer's stock must be marked with such serial number as may be prescribed and affixed in the prescribed manner: Provided that the serial number may not be inscribed on the muzzle loading firearm itself."

Insertion of section 23A in Act 60 of 2000

27. The following section is hereby inserted in the principal Act after section 23:

"Ballistic sampling of firearms

23A. (1) The owner of every firearm, including any firearm licensed for—

(a) business purposes;

(b) business purposes related to the private security industry in terms of the Private Security Industry Regulation Act, 2001 (Act No. 56 of 2001);

(c) occasional and dedicated sports shooting;
(d) occasional and dedicated hunting; or
(e) private and public collection, subject to the firearm being able to safely
fire any ammunition and the availability of ammunition for such firearm,
must comply with a programme published by the Minister by notice in the
Gazette to have the firearms in their possession ballistically sampled.

(2) Whenever any firearms licence referred to in subsection
(1) is renewed or when there is a change in ownership, the original owner
must ensure that the firearm is submitted to the designated firearms officer for
ballistic sampling of the firearm, before the renewal or before the ownership of
the firearm is transferred to any other person.

(3) A firearm submitted in terms of subsection (1) must be
subjected to the relevant sampling process and handed back forthright to the
owner and may not be kept by the officer designated by the Registrar to
perform the sampling test.

(4) The sampling of firearms must be arranged in advance
with the officer designated by the Registrar to perform the sampling test.

(5) The Minister may, by notice in the Gazette, determine a
date by which firearms in the possession of different categories of owners
must have been submitted for ballistic sampling, which date may be extended
by the Minister.

(6) This section must be implemented over a period of time
subject to financial and technical capability to give effect thereto."

Amendment of section 24 of Act 60 of 2000

28. Section 24 of the principal Act is hereby amended—

(a) by the substitution for subsection (4) of the following section:

"(4) If an application for the renewal of a licence has been lodged [within the period provided for in subsection (1)] before the expiry of that licence, the licence remains valid until the application is decided."; and

(b) by the addition of the following subsections:

"(5) If an application for the renewal of a firearm licence is not made within the period provided for in subsection (1), therefore made when the date of expiry of the licence is less than 90 days from the date of application for renewal, an administrative fine, as provided for in section 122 may be imposed, taking into account any explanation which the applicant may have presented in the application form for renewal of the licence; and

"(6) If an application for the renewal of a licence is made in less than 90 days before expiry thereof and an administrative fine has been imposed, this does not disqualify the applicant from the renewal of the licence.".

rephrase
otherwise

#

Amendment of section 25 of Act 60 of 2000

29. Section 25 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) The Registrar must, within 30 days after receiving a notice referred to in subsection (1), acknowledge receipt of that notice in writing or by short-messaging system."

Amendment of section 26 of Act 60 of 2000

30. Section 26 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) The Registrar must, within 30 days after receiving a notice referred to in subsection (1), acknowledge receipt of that notice in writing or by short-messaging system."

Amendment of section 27 of Act 60 of 2000, as substituted by section 18 of Act 28 of 2006

31. Section 27 of the principal Act is hereby amended by the substitution for the Table in section 27 of the following Table:

"TABLE

PERIOD OF VALIDITY OF LICENCE OR PERMIT

Section number	Type of licence or permit	Period of validity
15	Licence to possess firearm for occasional hunting and sports-shooting	five years
16	Licence to possess firearm for dedicated hunting and dedicated sports-shooting	five years
16A	Licence to possess a firearm for professional hunting	five years
17	Licence to possess firearm in private collection	10 years
18	Permit to possess ammunition in private collection	10 years

19	Licence to possess firearm, and permit to possess ammunition, in public collection	10 years
20	Licence to possess firearm for business purposes: Business as game rancher and in hunting	five years
20	Licence to possess firearm for business purposes: Business other than as game rancher and in hunting	two years".

Amendment of section 28 of Act 60 of 2000

32. Section 28 of the principal Act is hereby amended—

(a) by the insertion after subsection (1) of the following subsection:

"(1A) If the licence is terminated in terms of subsection (1) the holder of a licence must dispose of his or her firearm within 60 days of the termination of the licence in the following manner:

(a) by surrendering the firearm to the nearest police station for destruction;

(b) through a dealer; or ~~or~~

(c) by having the firearm deactivated in the prescribed manner."; ~~or~~

(b) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

"The Registrar may, by notice in writing, cancel a licence as contemplated in subsection (1)(d) that is issued in terms of this Chapter if the holder of the licence—"; and

(c) by the substitution for subsection (6) of the following subsection:

"(6) Any period contemplated in [this section] subsections (3), (4) and (5) may be extended by the Registrar on good cause shown."

Amendment of section 31 of Act 60 of 2000, as substituted by section 19 of Act 28 of 2006

33. Section 31 of the principal Act is hereby amended—

(a) by the substitution for subsection (2) of the following subsection:

"(2) **[Subject to subsection (3), a]** A person who is not a dealer may dispose of a firearm **[, muzzle loading firearm]** or ammunition only through a dealer or as otherwise provided for in this Act."; and

(b) by the deletion of subsection (3).

Amendment of section 35 of Act 60 of 2000

34. Section 35 of the principal Act is hereby amended—

(a) by the substitution for subsection (4) of the following subsection:

"(4) If an application for the renewal of a dealer's licence has been lodged **[within the period provided for in subsection (1),]** before the expiry of that licence, the licence remains valid until the application is decided."; and

(b) by the addition of the following subsections:

"(5) If an application for the renewal of a dealer's licence is not made within the period provided for in subsection (1), and is made when the date of expiry of the licence is less than 90 days from the date of application for renewal, an administrative fine, as provided

for in section 122 may be imposed, taking into account any explanation which the applicant may have presented in the application form for renewal of the licence.

(6) If an application for the renewal of a licence is made in less than 90 days before expiry thereof and an administrative fine has been imposed, this does not disqualify the applicant from the renewal of the licence."

Amendment of section 38 of Act 60 of 2000

35. Section 38 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) The Registrar must, within 30 days after receiving a notice referred to in subsection (1), acknowledge receipt of that notice in writing or by short-messaging system."

Amendment of section 39 of Act 60 of 2000

36. Section 39 of the principal Act is hereby amended by the deletion of subsections (7) and (8).

Amendment of section 42 of Act 60 of 2000

37. Section 42 of the principal Act is hereby amended by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

"The Registrar may, by written notice, cancel a dealer's licence as contemplated in subsection (1)(d) if the holder of the licence—".

Amendment of section 49 of Act 60 of 2000

38. Section 49 of the principal Act is hereby amended—

(a) by the substitution for subsection (4) of the following subsection:

"(4) If an application for the renewal of a manufacturer's licence has been lodged [within the period provided for in subsection (1),] before the expiry of that licence, the licence remains valid until the application is decided";

(b) by the addition of the following subsections:

"(5) If an application for the renewal of a manufacturer's licence is not made within the period provided for in subsection (1) and therefore made when the date of expiry of the licence is less than 90 days from the date of application for renewal, an administrative fine, as provided for in section 122 may be imposed, taking into account any explanation which the applicant may have presented in the application form for renewal of the licence.

"(6) If an application for the renewal of the licence is made in less than 90 days before expiry thereof and an administrative fine has been imposed, this does not disqualify the applicant from the renewal of the licence.".

Amendment of section 52 of Act 60 of 2000

39. Section 52 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) The Registrar must, within 30 days after receiving a notice referred to in subsection (1), acknowledge receipt of that notice in writing or by short-messaging system."

Amendment of section 53 of Act 60 of 2000

40. Section 53 of the principal Act is hereby amended—

(a) by the substitution for subsection (2) of the following subsection:

"(2) A manufacturer must apply or affix such serial number or any other mark to any firearm or muzzle loading firearm manufactured by the manufacturer as may be prescribed."; and

(b) by the substitution in subsection (5) for paragraph (a) of the following paragraph:

(a) any firearms, muzzle loading firearm or ammunition that the manufacturer may have in stock;"

Amendment of section 56 of Act 60 of 2000

41. Section 56 of the principal Act is hereby amended by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

"The Registrar may, by written notice, cancel a manufacturer's licence as contemplated in subsection (1)(d) if the holder of the licence—".

Amendment of section 59 of Act 60 of 2000, as amended by section 8 of Act 43 of 2003

42. Section 59 of the principal Act is hereby amended by the substitution for paragraph (a) of the following paragraph:

"(a) alter the mechanism of a firearm [so as] in any manner including to enable the discharging of more than one shot with a single depression of the trigger;".

Amendment of section 63 of Act 60 of 2000

43. Section 63 of the principal Act is hereby amended—

(a) by the substitution for subsection (4) of the following subsection:

"(4) If an application for the renewal of a gunsmith's licence has been lodged [within the period provided for in subsection (1),] before the expiry of that licence, the licence remains valid until the application is decided.";

(b) by the addition of the following subsections:

"(5) If an application for the renewal of a gunsmith's licence is not made within the period provided for in subsection (1), and therefore made when the date of expiry of the licence is less than 90 days from the date of application for renewal, an administrative fine, as

provided for in section 122 may be imposed, taking into account any explanation which the applicant may have presented in the application form for renewal of the licence.

(6) If an application for the renewal of a licence is made in less than 90 days before expiry thereof and an administrative fine has been imposed this does not disqualify the applicant from the renewal of the licence."

Amendment of section 66 of Act 60 of 2000

44. Section 66 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) The Registrar must, within 30 days after receiving a notice referred to in subsection (1), acknowledge receipt of that notice in writing or by short-messaging system."

Amendment of section 67 of Act 60 of 2000

45. Section 67 of the principal Act is hereby amended by the deletion of subsections (6) and (7).

Amendment of section 70 of Act 60 of 2000

46. Section 70 of the principal Act is hereby amended by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

"The Registrar may, by written notice, cancel a gunsmith's licence as contemplated in subsection (1)(d) if the holder of the licence—".

Amendment of section 73 of Act 60 of 2000, as substituted by section 24 of Act 28 of 2006

47. Section 73 of the principal Act is hereby amended by the addition of the following subsection:

"(3) The Registrar may, taking into account the need and purpose stated by the applicant, restrict the number and type of firearms and ammunition that may be imported and exported in terms of this Chapter."

Amendment of section 74 of Act 60 of 2000

48. Section 74 of the principal Act is hereby amended by the addition of the following subsections:

"(3) A person who is arriving in the Republic and who is legally in possession of any firearm or ammunition from his or her country of origin and who has declared the firearm upon disembarking, but whose firearm is not licenced in terms of this Act, must deposit the firearm upon written receipt with Customs for delivery to the Designated Firearms Officer at the port of entry for safe-keeping or for the issuance of the permit for prescribed purposes.

(4) If the importation of the firearm contemplated in subsection (3) is allowed, and the person wishes to obtain a firearm licence in

terms of this Act, the application must be made in accordance with the provisions of this Act.

(5) If the person contemplated the subsection (3) is not issued with a licence or a permit to import, the firearm or ammunition in question shall remain in the custody of the Designated Firearms Officer, until otherwise disposed of in accordance with this Act.

(6) A prohibited firearm may not be imported in terms of this section."

Amendment of section 81 of Act 60 of 2000

49. Section 81 of the principal Act is hereby amended by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

"The Registrar may, by written notice, cancel an import, export or in-transit permit as contemplated in subsection (1)(d) if the permit holder—".

Amendment of section 84 of Act 60 of 2000

50. Section 84 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

"**[No]** Subject to subsection (3), no person may carry a firearm in a public place unless the firearm is carried—"; and

(b) by the addition of the following subsection:

"(3) The Minister may prescribe the manner in which a firearm must be carried by a security officer in the performance of his or her duties and functions."

Amendment of section 91 of Act 60 of 2000, as amended by section 26 of Act 28 of 2006

51. Section 91 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

"(1) The holder of a licence to possess a firearm referred to in Chapter 6 may not possess more than [200] 25 cartridges for each firearm in respect of which he or she holds a licence.";

(b) by the substitution in subsection (2) for the words preceding paragraphs (a) of the following words:

"[The limitation in] Despite subsection (1) [does not apply to], the Registrar may, on good cause shown, authorise—"

(c) by the substitution in subsection (2) for paragraph (a) of the following paragraph:

"(a) a dedicated hunter, dedicated sports person [or], a professional hunter or an accredited training service provider who holds a licence issued in terms of this Act or any other holder of a licence issued in terms of this Act [authorised by the Registrar] to possess more than [200] 25 cartridges for a firearm in respect of which he or she holds a licence [on good cause shown]; or"; and

(d) by the addition of the following subsection:

"(3) The Registrar in determining good cause must take into account the following:

(a) Proof of the frequency of the use of the firearm;

(b) the level of participation in the activity for which the firearm is registered;

(c) the number of cartridges used per occasion for the particular activity; and

(d) any other relevant factors or circumstances which may be prescribed."

Amendment of section 93 in Act 60 of 2009, as amended by section 27 of Act 28 of 2006

52. Section 93 of the principal Act is hereby amended—

(a) by the substitution in subsection (2) for paragraph (a) of the following paragraph:

"(2) [(a)] A holder of a licence contemplated in subsection (1) may not have more than [2400] 1000 primers in his or her possession for each firearm in respect of which he or she holds a licence."; and

(b) by the deletion in subsection (2) of paragraph (b).

Amendment of section 96 of Act 60 of 2000, as amended by section 29 of Act 28 of 2006

53. Section 96 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) No provision of this Act other than this Chapter, section 109 ~~[and]~~, section 145, and item 1D of Schedule 1, in so far as it relates to Official Institutions, applies to an Official Institution."

Amendment of section 98 of Act 60 of 2000, as amended by section 10 of Act 43 of 2003

54. Section 98 of the principal Act is hereby amended by the addition of the following subsection:

"(11) The head of an Official Institution must submit a quarterly report to the Registrar on the following:

(a) The number and type of firearms and the ammunition that have been lost or stolen;

(b) the date of the loss or theft of the firearms and the ammunition;

(c) the circumstances surrounding the theft or loss of the firearms and ammunition;

(d) the action taken against the implicated employee; and

(e) the preventative measures adopted to prevent further losses and theft of firearms and ammunition."

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Insertion of sections 98A and 98B in Act 60 of 2000

55. The following sections are hereby inserted in the principal Act after section 98:

"Ballistic sampling of firearms

98A. (1) The Head of an Official Institution must comply with a notice issued by the Minister in the Gazette for the ballistic sampling of all firearms in the custody of such Head.

(2) The results of the ballistic sampling of all firearms referred to in subsection (1) must be placed on the Integrated Ballistics Identification System, for purposes of investigating crimes committed with firearms.

(3) The Divisional Commissioner responsible for Forensic Science Laboratory in the Service must submit an annual report to the Registrar and the Minister on the—

(a) storage of the results of ballistic sampling of firearms in the custody of the Head of Official Institutions; and

(b) use of all the results of ballistic sampling on the Integrated Ballistics Identification System.

Date of ballistic sampling

98B. (1) The Minister may, by notice in the Gazette determine the date by which the firearms in possession of a particular Official Institution must be ballistically sampled, which date may be extended by the Minister by notice in the Gazette.

(2) Different dates for different areas in the Republic may be determined by the Minister for the ballistic sampling of firearms in the possession of the respective Official Institutions."

Substitution of heading of Chapter 12 of Act 60 of 2000

56. The following heading is hereby substituted for the heading of Chapter 12:

"SUSPENSION OF FIREARM LICENCE AND DECLARATION OF PERSONS AS UNFIT TO POSSESS FIREARM".

Amendment of section 102 of Act 60 of 2000, as amended by section 21 of Act 17 of 2011

57. Section 102 of the principal Act is hereby amended—

(a) by the substitution for the heading of the following heading:

"Declaration [by Registrar of person] of persons as unfit to possess firearm and suspension of firearm licence";

Not guilty loss of firearm. & where a person paid an admission of guilt

- (b) by the deletion in subsection (1) of paragraphs (a) and (aA); and
- (c) the addition of the following subsections:

"(5) The Registrar may suspend a licence in accordance with this section if the Registrar becomes aware that the licence holder has been—

(a) charged with any offence that involves an element of violence; or

(b) served with an interim protection order in terms of the Domestic Violence Act, 1998 (Act No. 116 of 1998), or the Protection from Harassment Act, 2011 (Act No. 17 of 2011), the nature of which involves an element of violence.

(6) Where a licence has been suspended in terms of subsection (5), the Registrar must serve personally or by post on that person a notice stating that the licence is suspended and the reasons for its suspension.

(7) A licence that authorises a person to possess a firearm is automatically suspended on the making of an interim protection order issued against such person in terms of the Domestic Violence Act, 1998 (Act No. 116 of 1998), or the Protection from Harassment Act, 2011 (Act No. 17 of 2011).

(8) A suspension in terms of subsection (5) remains valid until the—

(a) process in terms of this section has been finalised;

(b) interim protection order is confirmed or revoked; or

(c) licence holder is acquitted of the relevant charge or such charge is withdrawn.

(9) Whenever an interim protection order is revoked or a charge that has an element of violence is withdrawn or a licence holder is acquitted of such charge, the firearm must be returned to the licence holder.

(10) A person whose firearm licence is suspended in terms of this section must, within 24 hours of being issued with a notice of suspension, surrender all firearms registered in his or her name and in his or her possession to the nearest police station for safekeeping, pending the final determination of his or her fitness to possess a firearm.

(11) Once an interim protection order is confirmed, or a final protection order has been issued against a licensee in terms of the Domestic Violence Act, 1998 (Act No. 116 of 1998), or a final protection order has been issued against the licensee in terms of the Protection from Harassment Act, 2011 (Act No. 17 of 2011), the licence holder is automatically unfit to possess a firearm.

(12) If a licence has been suspended in terms of this section all—

(a) licences, authorisations and permits issued to the relevant person in terms of this Act;

(b) firearms in his or her possession; and

(c) ammunition in his or her possession,
must be seized in terms of this Act."

Amendment of section 104 of Act 60 of 2000, as amended by section 32 of Act 28 of 2006

58. Section 104 of the principal Act is hereby amended by the deletion of subsection (6).

Amendment of section 120 of Act 60 of 2000, as amended by section 6 of Act 15 of 2003 and section 15 of Act 43 of 2003

59. Section 120 of the principal Act is hereby amended—

- (a) by the deletion in subsection (5) of the word "or" at the end of paragraph (a);
- (b) by the substitution in subsection (5) for the full stop at the end of paragraph (b) of the expression "; or"; and
- (c) by the addition in subsection (5) of the following paragraph:

"(c) to be a child under the age of 16 years."

Amendment of section 124 of Act 60 of 2000, as amended by section 16 of Act 43 of 2003

60. Section 124 of the principal Act is hereby amended by—

- (a) by the substitution in subsection (2) for paragraph (b) of the following paragraph:

"(b) establish and control the Office of the Central Firearms Register as a Division of the Service to assist in the administration of the Act, where applicable;"

- (b) by the deletion in subsection (2) of the word "and" at the end of paragraph (g);
- (c) by the substitution in subsection (2) for the full-stop at the end of paragraph (h) of the expression ": and";
- (d) by the addition in subsection (2) of the following paragraph:

"(i) submit to the Minister and Parliament a quarterly report on—

(i) theft and losses of all firearms and ammunition in the possession of, or issued to members of, the Service and other Official Institutions;

(ii) theft and losses of all firearms and ammunition exhibits and firearms and ammunition surrendered to the Service for destruction;

(iii) the outcome of the investigations into theft and losses of all firearms and ammunition under the control of the Service and other Official Institutions; and

(iv) the disciplinary steps taken and criminal prosecutions instituted against members who have lost firearms and ammunition through negligence."; and

- (e) by the addition of the following subsections:

"(4) A Designated Firearms Officer must, as far as practically possible and taking into account—

(a) the geographical location of a police station;

(b) the population it serves;

(c) the extent of the duties of such Designated Firearms Officer at the particular police station; and

(d) the need for effective service delivery and accessibility of services to the public,

be designated at each police station or a station cluster.

(5) The Designated Firearms Officer must, in addition to such firearm-related duties as may be assigned to him or her by the Registrar or the Head of the Central Firearms Register, perform the following functions:

- (a) receive and process all applications for competency certificates, licences and authorisations;
- (b) ensure compliance with Chapter 11 by members of the Service including ensuring that such members undergo the prescribed competency testing, and that an official firearm is only issued to a member who has passed the prescribed tests and has been issued with the prescribed permit to be in possession of a firearm;
- (c) perform inspections at Official Institutions within the police station area to ensure compliance with Chapter 11 of this Act; at any reasonable time, perform regular and random inspections at the business premises of security service providers to ensure compliance with this Act, in particular in respect of the safe-keeping and issuing of firearms and ammunition to employees;
- (e) ensure that all firearms and ammunition handed in for destruction, and which are identified as having a heritage status, are inspected by a representative of the South African Heritage Resources Agency established in terms of the National Heritage

Resources Act, 1999 (Act No. 25 of 1999), before destruction in order to consider preserving them for heritage purposes; and
(f) ensure that all firearms destined for destruction be submitted to the Forensic Science Laboratory of the Service for an Integrated Ballistics Identity test.

(6) A Designated Firearms Officer is responsible for functions relating to the administration and compliance of this Act.

(7) A person may not be appointed as a Designated Firearms Officer unless he or she has successfully completed a vetting investigation referred to in section 2A of the National Strategic Intelligence Act, 1994 (Act No. 39 of 1994).

(8) Each Designated Firearms Officer shall be subject to random integrity testing."

Insertion of sections 124A and 124B in Act 60 of 2000

61. The following sections are hereby inserted in the principal Act after section 124:

Duties of commanders in respect of firearms

124A. Every commander in the Service, including all station commanders, must ensure that—

(a) firearms for issue to members of the Service, or kept in the police station as exhibits, are kept safely in accordance with the relevant

prescripts, including national instructions made under the South African Police Service Act, 1995 (Act No. 68 of 1995);

- (b) criminal investigations are initiated and disciplinary steps are taken against members of the Service or other Official Institutions who have lost firearms through negligence;
- (c) theft and losses of official firearms and ammunition are reported as soon as possible;
- (d) theft and losses of firearms and ammunition are investigated immediately;
- (e) firearms are not re-issued to members of the Service or other Official Institutions against whom any of the actions referred to in paragraphs (a), (b), (c) and (d) are still pending;
- (f) steps are taken to recover the costs incurred as a result of negligent losses of firearms and ammunition by members of the Service or other Official Institutions;
- (g) firearms and ammunition kept as exhibits or surrendered to the Service for destruction at the police station are kept safely and in accordance with the relevant prescripts, including the applicable national instructions made under the South African Police Service Act, 1995 (Act No. 68 of 1995);
- (h) that regular and random inspections of official registers for the booking in and out of firearms and ammunition to members of the Service are performed and also to personally perform such inspections; and
- (i) a bi-monthly report on matters referred to in this section is submitted to the Registrar.

Supervision and control of Designated Firearms Officer

124B. Every station commander must effectively supervise and control the duties and functions set out in section 124A, of each Designated Firearms Officer appointed within his or her jurisdiction."

Amendment of section 125 of Act 60 of 2000

62. Section 125 of the principal Act is hereby amended—

- (a) by the insertion in subsection (2) after paragraph (d) of the following paragraph:

"(dA) a record of all firearms licensed to security service providers;"

- (b) by the deletion in subsection (1) of the word "and" at the end of paragraph (f);

- (c) by the substitution in subsection (2) for paragraph (e) of the following paragraph:

"(e) a record of the acquisition, transfer, loss, theft or destruction in respect of firearms in the possession of Official Institutions and security service providers;" and

- (d) by the insertion in subsection (2) after paragraph (f) of the following paragraph:

"(fA) a dedicated database of firearms licences issued to security service providers linked to the database of the Authority listing

the number and type of licensed firearms as well as security service providers who have applied for licences."

Amendment of section 127 of Act 60 of 2000

63. Section 127 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

"(1) The Registrar must, with the approval of the Minister, **[designate]** appoint a police official on at least the level of a Divisional Commissioner as Head of the Office of the Central Firearms Register."; and

(b) by the deletion in subsection (2) of the word "and" at the end of paragraph (b);

(c) by the substitution in subsection (2) for the full-stop at the end of paragraph (c) of the expression "and, and

(d) by the addition in subsection (2) of the following paragraph:

"(d) must report to, and be directly accountable to, the Registrar."

Amendment of section 128 of Act 60 of 2000

64. Section 128 of the principal Act is amended—

(a) by the substitution for subsection (2) of the following subsection:

"(2) The Appeal Board consists of **[no more than]** at least five members who must be appointed by the Minister on such terms and conditions as the Minister may determine in a letter of appointment and who **[, when viewed collectively, must as far as**

possible be broadly representative of the population of the Republic]—

- (a) must be citizens of the Republic;
- (b) have not been convicted of a criminal offence involving dishonesty;
- (c) have a recognised tertiary academic qualification in law; and
- (d) have successfully undergone a vetting investigation by the State Security Agency."; and

(b) the addition of the following subsections:

"(3) Despite subsection (2), the Minister may appoint a person who has extensive knowledge of firearms.

(4) The Appeal Board is accountable to the Minister.

(5) The head of the Central Firearms Registry must ensure that the Appeal Board is provided, as prescribed, with the necessary documentation and information to enable it to consider appeals.

(6) The Appeal Board—
must consider appeals against decisions of the Registrar made in terms of the Act;

(b) must ensure that appeals are dealt with in accordance with such guidelines as the Minister may prescribe;

(c) must identify systemic problems that result in appeals;

(d) must submit reports on systemic problems to the Minister at least once every year; and

(e) may where necessary, invite any person or persons with the relevant expertise to assist the Appeal Board on any technical aspects of the appeal.

(7) The Minister must appoint the chairperson and deputy chairperson of the Appeal Board.

(8) A person who is appointed as the chairperson or the deputy chairperson of the Appeal Board must have practised law for at least ten years.

(9) Any other member of the Appeal Board must have the experience as prescribed.

(10) The deputy chairperson must exercise all the powers and perform all the duties of the chairperson whenever the chairperson is unable to do so.

(11) The members of the Appeal Board must be appointed by the Minister through a fair and competitive process as may be prescribed.

(12) In the case of a vacancy, the Minister must fill the vacancy within a reasonable period of time."

Insertion of section 128A in Act 60 of 2000

65. The following section is hereby inserted in the principal Act after section 128:

"Disqualification, removal and suspension of member of Appeal Board

128A. (1) A person is disqualified from being appointed as a member of the Appeal Board if he or she—

- (a) is not a citizen of the Republic;
- (b) is an un-rehabilitated insolvent;
- (c) has been declared by a competent court to be mentally ill or unfit; or
- (d) has been convicted of a criminal offence involving dishonesty.

(2) The Minister may, after due enquiry as prescribed, remove a member from the Appeal Board on account of—

- (a) serious misconduct;
- (b) serious incapacity;
- (c) conflict of interest;
- (d) unethical conduct; or
- (e) disqualification as contemplated in subsection (1)."

Amendment of section 129 of Act 66 of 2000

66. Section 129 of the principal Act is hereby amended—
- (a) by the deletion in subsection (2) of paragraph (a); and
 - (b) by the substitution in subsection (2) for paragraph (b) of the following paragraph:
- "(b) A member may resign by giving 30 days written notice [in writing] of intention to resign to the Minister."

Amendment of section 130 of Act 60 of 2000

67. Section 130 of the principal Act is hereby amended by the addition of the following subsections:

"(3) A simple majority of the members appointed by the Minister constitutes a quorum for meetings of the Appeal Board.

(4) The Appeal Board must determine its own governance rules and procedures."

Substitution of section 131 of the Act 60 of 2000

68. The following section is hereby substituted for section 131 of the principal Act:

"Administrative work of Appeal Board

131 (1) The administrative work of the Appeal Board must be performed by such members of the **[South African Police] Service, or any other employee of the Service,** as may be designated by the National Commissioner in consultation with the chairperson of the Appeal Board:
Provided that a member employed at the Office of the Central Firearms Register may not be designated to perform the administrative work of the Appeal Board.

(2) The Minister must ensure that the Appeal Board is provided with sufficient administrative support and personnel to enable it to perform its functions.

(3) The Appeal Board must function independently of the Office of the Central Firearms Register."

Insertion of sections 131A and 131B in Act 60 of 2000

69. The following section are hereby inserted in the principal Act after section 131:

"Budget of Appeal Board

131A. An annual operational budget shall be prepared by the National Commissioner in consultation with the chairperson of the Appeal Board and must be provided for under the budget for the Service for the specific and exclusive use of the official duties of the Appeal Board and may not be used for any other purpose.

Reporting to Minister on budget of Appeal Board

131B. The chairperson of the Appeal Board must annually submit a written report to the Minister on the utilisation of the budget of the Appeal Board."

Amendment of section 139 of the principal Act

70. Section 139 of the principal Act is hereby amended by the deletion of subsection (4).

Amendment of section 140 of Act 60 of 2000, as amended by section 17 of Act 43 of 2003 and section 45 of Act 28 of 2006

71. Section 140 of the principal Act is hereby amended by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

"The Minister may, after consultation with the National Commissioner and the Secretary for **[Safety and Security]** the Police Service appointed in terms of, the Civilian Secretariat for Police Service Act, 2011 (Act No. 2 of 2011), by notice in the *Gazette*, declare any premises or categories of premises to be firearm-free zones, if it is—

Amendment of section 145 of Act 60 of 2000

72. Section 145 of the principal Act is hereby amended—
- (a) by the deletion in subsection (1) of the word "and" at the end of paragraph (m);
 - (b) by the insertion in subsection (1) after paragraph (m) of the following paragraphs:

"(mA) the verification by a chairperson or an authorised office bearer of an accredited private collectors association to verify applications

made by members regarding the use, purpose and category of the firearm applied for, as well as the motivation for the application;

(mB) the application form for a renewal of a competency certificate;

(mC) the consideration and processing of applications for competency certificates and licences to possess firearms;

(mD) the requirements for awarding a dedicated status to a dedicated hunter or dedicated sports-person;

(mE) the report of an accrediting association to the Registrar on its members who have not renewed their membership, been suspended or expelled from the association;

(mF) the categories in respect of which a private collector may collect firearms;

(mG) the manner in which a restricted or prohibited firearm possessed for private collection may be permanently deactivated;

(mH) the non-damaging procedure that a firearm, other than a restricted or prohibited firearm, which was manufactured after the year 1900 must undergo to ensure that no cartridge can be loaded or discharged from that firearm;

(mI) the conditions that the Registrar may issue for a permit to a private collector to possess ammunition;

(mJ) the safety measures for the public display of any licenced firearm or ammunition for which a permit has been issued;

(mK) the manner in which a restricted or prohibited firearm or device possessed for public collection may be permanently deactivated;

(mL) the issuing of a temporary authorisation, including its period of validity and conditions, for firearms of a non-citizen who enters the Republic with a firearm to participate in sports-shooting or hunting activities;

(mM) the conditions that the Registrar may impose on a temporary authorisation;

(mN) the marking and affixing of a serial number on muzzle loading firearms which are imported or kept in a dealer's database;

(mO) the marking and affixing of a serial number or other mark to firearms and muzzle loading firearms manufactured by a manufacturer;

(mP) the manner in which a firearm may be carried by a security officer in the course of his or her duties and functions;

(mQ) the performance of the functions by Designated Firearms Officers;

(mR) the provision of documentation and information to the Appeal Board by the head of the Central Firearms Register;

(mS) the guidelines for the consideration and processing of appeals considered by the Appeal Board, including the time-frames within which appeals must be disposed of for the dealing of appeals;

(mT) the experience that any other member of the Appeal Board must have;

(mU) the process for the appointment of members of the Appeal Board;

(mV) the removal of a member of the Appeal Board;

(mW) the measures relating to the storage and safekeeping of
firearms or ammunition in a deceased estate;"; and

(c) by the substitution for subsection (2) of the following subsection:

"(2) A regulation may provide for a penalty for any contravention thereof or failure to comply therewith, of a fine or imprisonment for a period not exceeding [12 months] three years or both such a fine and such imprisonment in the case of a natural person and to a fine not exceeding R500 000 in the case of a juristic person."

Substitution of section 147 of Act 60 of 2000, as amended by section 48 of Act 28 of 2006

73. The following section is hereby substituted for section 147 of the principal Act:

"Disposal of firearms and ammunitions in case of death



147. (1) In the case of the death of the holder of a firearm licence, the firearm in question and any ammunition relating thereto must be disposed of as prescribed.

(2) The executor of the estate of a deceased person who comes into possession of a firearm licensed to the deceased, and any ammunition relating thereto, must store the firearm and ammunition as prescribed."

Insertion of a new section 147A in Act 60 of 2000

74. The following section is hereby inserted in the principal Act after section 147:

"Deceased Estates

147A. (1) The executor or administrator of the estate of a deceased person who was authorised by a licence or permit to possess a firearm or ammunition, does not commit an offence in terms of this Act in respect of the possession of the firearm or ammunition if the executor or administrator retains possession of the firearm for the purposes of lawfully disposing of it.

(2) The executor or administrator referred to in subsection (1) must—

(a) notify the Registrar of the death of the person who possessed the firearm or ammunition as soon as practicable after the person's death;

and

(b) notify the Registrar of the place where the firearm or ammunition will be kept;

(c) while retaining possession of the firearm or ammunition, comply with the same requirements as to the safe keeping of the firearm or ammunition that would apply to a person who is authorised by a license or permit to keep a firearm or ammunition of that kind.

(3) Nothing in this section authorises the use of a firearm or ammunition.

(4) The Registrar may provide a temporary authorisation on such conditions as he or she may determine to a person who is licensed to possess a firearm to be in possession of a firearm or ammunition in a deceased estate—

(a) until such time the executor or administrator of the estate has been appointed; or

(b) if the executor or administrator does not have at his or her disposal the prescribed safekeeping facilities available.

(5) The authorisation contemplated in subsection (4) shall terminate upon the finalisation of the estate."

Substitution of section 148 of Act 60 of 2000, as amended by section 49 of Act 28 of 2006

75. The following section is hereby substituted for section 148 of the principal Act:

"Inherited firearms or ammunition

148. (1) A person who inherits a firearm or [muzzle loading firearm] ammunition must—

(a) if he or she wishes to keep the firearm or ammunition, apply for an appropriate licence, permit or authorisation in terms of this Act;

- [(b) if he or she wishes to keep the muzzle loading firearm, obtain the necessary competency certificate in order to possess the muzzle loading firearm;] or**
- (c) if he or she does not wish to acquire the firearm or [muzzle loading firearm] ammunition, or fails to obtain the appropriate licence, permit or authorisation or competency certificate, have the firearm [or muzzle loading firearm] deactivated or dispose of it in terms of this Act.**

(2) The [Registrar may issue a temporary authorization contemplated in section 21, to allow a person who inherits a firearm a reasonable time to dispose of it] executor or administrator of a deceased estate or a person authorised in terms of section 147A(6) may remain in possession of a deceased estate firearm until such time that the application of the licence to possess such firearm has been decided.

(3) If no application for a firearm licence is made in terms of this Act, or if an application for a firearm licence is refused, the executor or the administrator of the deceased estate must dispose of the firearm or ammunition within a reasonable period, in which case the authorisation issued in terms of section 147A(6) remains valid until such disposal.

(4) A contravention of subsection (3) is an offence."

Amendment of Schedule 1 to Act 60 of 2000, as amended by section 19 of Act 43 of 2003 and section 52 of Act 28 of 2006

76. Schedule 1 to the principal Act is hereby amended—

- (a) by the substitution in item 1A for subitem (3) of the following subitem:**

"(3) The period referred to in [subsection] subitem (1)

may be extended by the Minister for such period as the Minister may determine by notice in the *Gazette*.";

(b) by the insertion after item 1A of the following items:

"Licensing of muzzle loading firearms

1B. (1) Any person who possess a muzzle loading firearm at the time of the commencement of the Firearms Control Amendment Act, 2017, must apply for the licensing thereof within two years from the commencement of the Firearms Control Amendment Act, 2017, using a valid competency certificate.

(2) The competency certificate required in respect of a muzzle loading firearm at the time of the application for the licensing thereof shall remain valid until the date of the licence that had been issued and must be renewed in terms section 10A together with the renewal of the said licence.

Possession and surrendering of percussion cap-and-ball and other firearms

1C. (1) Any person who possesses a percussion cap-and-ball firearm or a firearm in respect of which a licence was issued to that person prior to the coming into operation of the Arms and Ammunition Act, 1969—

(a) must, before the expiry of 18 months from the date of commencement of the Firearms Control Amendment Act, 2017, apply for a firearms licence to possess such percussion cap-and-ball firearm or a firearm in respect of which a licence was issued to that person prior to the coming into operation of the Arms and Ammunition Act, 1969;

(b) may lawfully possess such percussion cap-and-ball firearm or firearm—

(i) until the expiry of the period referred to in paragraph (a);

or

(ii) if an application has been made for a licence to possess such percussion cap-and-ball firearm or firearm during the period referred to in paragraph (a), until such application has been decided; and

(c) who has not applied for a firearm licence in respect of that percussion cap-and-ball firearm or firearm before the expiry of the period referred to in paragraph (a), must surrender such percussion cap-and-ball firearm or firearm to the nearest police station.

(2) No prosecution may be instituted during the period referred to in subitem (1)(a) against any person found in possession of a percussion cap-and-ball firearm or firearm, referred to in subitem (1), without being in possession of a licence.

(3) The Service may dispose of any percussion cap-and-ball firearm or firearm surrendered to it in terms of subitem (1)(c) in accordance with the provisions of the Act.

(4) A receipt must be issued to the person who surrenders a percussion cap-and-ball firearm or firearm in accordance with subitem (1)(c).

(5) Percussion cap-and-ball firearms which were registered before 30 June 2004 as firearms must be licensed free of charge before the expiry of the period referred to in subitem (1).

Compliance by Official Institutions

1D. All Official Institutions must, within one year of the commencement of the Firearms Control Amendment Act, 2017, be fully compliant with the provisions of Chapter 11, and Heads of Official Institutions must report to the Registrar on progress made on a quarterly basis.

Surrendering or licensing of actions, frames and receivers

1E. (1) Any person who possesses an action, a frame or receiver—

(a) must, before the expiry of 18 months from the date of commencement of the Firearms Control Amendment Act, 2017,

apply for a firearms licence to possess such action, frame or receiver;

(b) may lawfully possess such action, frame or receiver—

(i) until the expiry of the period referred to in paragraph (a);

or

(ii) if an application has been made for a licence to possess such action, frame or receiver during the period referred to in paragraph (a), until the said application has been decided; and

(c) who has not applied for a firearm licence in respect of that action, frame or receiver before the expiry of the period referred to in paragraph (a), must surrender such action, frame or receiver to a police station.

(2) In the case where such action, frame or receiver is not numbered, the required serial number must be applied in such non damaging way as may be prescribed.

(3) No prosecution may be instituted during the period referred to in subitem (1) against any person found in possession of an action, frame or receiver without being in possession of a licence.

(4) The South African Police Service may dispose of any frame or receiver surrendered to it in terms of subitem (1)(c) in accordance with the provisions of the Act.

(5) A receipt must be issued to the person who surrenders a frame or receiver in accordance with subitem (1)(c).

Re-licensing of firearms

1F. (1) Any licence which was—

(a) issued in terms of the Arms and Ammunition Act, 1969 or previous legislation; and
(b) not renewed as contemplated in this Act,
remains valid for a period of two years from the coming into operation of the Firearms Control Amendment Act, 2017.

(2) The Minister may, with the approval of Parliament, extend the period referred to in subitem (1) for a maximum period of two years.

(3) Item 1(1) and (3) apply with the necessary changes required by the context, to item 1A."; and

(c) by the insertion in item 11 after subitem (3) of the following subitems:

"(3A) The holder of a licence contemplated in item 1F must apply for the corresponding licence in terms of this Act within the period specified in item 1F(1) or the extended period referred to in subitem 1F(2).

(3B) Subitems (1)(a), (2), (3) and (4) are applicable, with the necessary changes required by the context, to any application made in terms of item 1F."

Insertion of section 153A in Act 60 of 2000

77. The following section is hereby inserted in the principal Act after section 153:

"Transitional arrangements

153A. Schedule 1A contains transitional arrangements".

Amendment of Schedule 2 to Act 105 of 1997

78. The Criminal Law Amendment Act, 1997 (Act No. 105 of 1997), is hereby amended—

- (a) by the deletion in item 1 of Part 1 to Schedule 2 of the word "or" at the end of paragraph (b)(i);
- (b) the addition in paragraph (b) of item 1 of Part 1 to Schedule 2 of the following subparagraph:

"(iii) killed by means of a firearm;

- (c) by the deletion in item 2 of Part 1 to Schedule 2 of the word "or" at the end of paragraph (b)(iii);
- (d) by the addition in paragraph (b) of item 2 of Part 1 to Schedule 2 of the following subparagraph:

"(iv) was threatened with a firearm; or";

- (e) by the deletion in item 3 of Part 1 to Schedule 2 of the word "or" at the end of paragraph (b)(iii);
- (f) by the addition in paragraph (b) of item 3 of Part 1 to Schedule 2 of the following subparagraph:

"(iv) threatened with a firearm; or";

- (g) by the substitution in Part 2 to Schedule 2 for item 1 of the following item:

"Robbery—

- (a) when there are aggravating circumstances; **[or]**
- (b) involving the taking of a motor vehicle; or
- (c) where a firearm was used in the commission of the crime."; and
- (h) the substitution in item 3 of Part 2 to Schedule 2 for paragraph (b) of the following paragraph:

"(b) the possession of **[an automatic or semi-automatic]** and
firearm, explosives or armament."

Substitution of Schedule 4 to Act 60 of 2000

78. The following Schedule is hereby substituted for Schedule 4 to the principal Act:

Section	Maximum period of imprisonment
3	15 years
4	20 five years
6(1D)	Five years
9(8)	Five years
12(3)	Two years
[13(4)]	[Two years]
[14(5)]	[Five years]
15(4)	Two years
16(3)	Two years
16(4)	Two years
16(9)	Five years
16(11)	Five years
16A(4)	Two years
16A(10)	Five years
17(3)(a)	Two years
17(3)(b)	Three years
[17(4)]	[Two years]
18(2)(b)	Five years
18(3)	Five years
18(4)(a)	Two years
18(4)(b)	Three years
19(3)	Five years

Section	Maximum period of imprisonment
19(4)(a)	Two years
19(4)(b)	Three years
[19(5)]	[Five years]
19(6)	Five years
19(7)	10 years
19(8)	Five years
20(4)	[Five] Ten years
20(5)(a)	Five years
20(5)(b)	25 years
20(6)(a)	[Five] Ten years
20(6)(b)	[Five] Ten years
20(7)	[Two] Five years
20(8)	Two years
20(10)	10 years
21(1)	10 years
21(2)	10 years
21(4)	Two years
21(5)	Five years
22	Five years
23(8)	Five years
23(5)	10 years
23(6)	Five years
25(1)	Two years
26(1)	Two years
28(4)	10 years
28(5)	10 years
29(1)	Two years
29(2)	Two years
31(1)	25 years
31(2)	25 years
31(3)	15 years
32(2)	Four years
36(6)	Two years
38	Two years
39(1)	Four years
39(2)	Four years
39(3)	Five years
39(4)	Two years
39(5)	Three years
39(6)	Three years
[39(8)]	[Three years]
39(9)	15 years
41(4)	25 years
42(4)	25 years
42(5)	25 years
44(1)	Two years
44(2)	Two years

Section	Maximum period of imprisonment
45(1)	25 years
45(2)	25 years
50(6)	Two years
52	Two years
53(1)	Four years
53(2)	Five years
53(3)	Three years
53(4)	Two years
53(5)	Two years
53(6)	Three years
53(7)	15 years
55(4)	25 years
56(4)	25 years
56(5)	25 years
58(1)	Two years
58(2)	Two years
59	15 years
64(6)	Two years
66	Two years
67(1)	Two years
67(2)	Five years
67(3)	Two years
67(4)	Three years
67(5)	Three years
67(7)	Three years
67(8)	15 years
69(4)	25 years
70(4)	25 years
70(5)	
72(1)	Two years
72(2)	Two years
73(1)	15 years
73(2)	15 years
78(1)	Two years
78(2)	Three years
78(3)	Three years
78(4)	15 years
80(4)	25 years
82(1)	Two years
82(2)	Two years
83	15 years
84	Two years
85(1)	25 years
87(1)	Two years
87(2)	Two years
87(3)	Two years
88(2)	25 years

Section	Maximum period of imprisonment
90	15 years
91(1)	10 years
93(2)	10 years
93(3)	10 years
94(2)	Five years
94(3)	Two years
98(1)	Two years
98(5)	Two years
98(7)	Two years
101A(5)	10 years
147A(2)	Two years
104(2)	15 years
106(1)	Two years
107(1)	10 years
107(2)	One year
108(1)	One year
120(2)	15 years
120(3)	Five years
120(4)	Three years
120(5)	[Three] five years
120(6)	10 years
120(7)	Five years
120(8)	Five years
120(9)	Five years
120(10)(a)	10 years
120(10)(b)	25 years
120(11)	10 years
120(12)	Five years
140(2)(a)	Five years
140(2)(b)	10 years
140(2)(c)	25 years
146	15 years
147(1)	Five years
147(2)	Five years
147(3)	
147(4)	
[148]	[Twenty five years]
148(1)	10 years
148(2)	Two years
149(1)	10 years
150(2)	Five years
150(3)(a)	Two years
150(3)(b)	Two years
150(3)(c)	Two years

80. The following Preamble is hereby substituted for the Preamble of the principal Act:

"WHEREAS in terms of the Constitution of the Republic of South Africa, 1996, the duty to maintain public order, to protect and secure everyone in the Republic lies with the State;

AND WHEREAS the State is a signatory to regional and international instruments on control of firearms, ammunition and other related matters;

AND WHEREAS the State has an obligation to enact firearms legislation that complies with the applicable international and regional instruments;

AND WHEREAS the easy availability of firearms to civilians and their uncontrolled presence constitute major threats to the security of persons and property, sustainable development and the stability of the State;"

Short title and commencement

81. This Act is called the Firearms Control Amendment Act, 2017 and comes into effect on a date to be fixed by the President by proclamation in the *Gazette*.

SCHEDULE 1A
TRANSITIONAL ARRANGEMENTS
(SECTION 153A)

Amendment of section 4

1. Despite the amendment of section 4(1), a licence issued in respect of a prohibited firearm or device in terms sections 17, 18(5) and 19 and which is valid on the date of commencement of this Firearms Control Amendment Act, 2017 shall remain valid until the date of expiry of that licence. During the period of validity of the licence issued in respect of a prohibited firearm or device, the holder of such licence may surrender the firearm or device and the licence to the Registrar in terms of the Firearms Control Act, 2000.

Amendment of section 12

2. Despite the amendment of section 12(1), a licence issued in respect of a additional licence in terms of sections 13, and 14 and which is valid on the date of commencement of the Firearms Control Amendment Act, 2017, shall remain valid until the date of expiry of that licence.

3. During the period of validity of the licence issued in terms of section 13 and 14, the holder of such licence may surrender the firearm and the licence to the Registrar in terms of the Firearms Control Act, 2000.

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Repeal of section 13

4. Despite the repeal of section 13, a licence issued in terms of section 13 and which is valid on the date of commencement of this Firearms Control Amendment Act, 2017, shall remain valid until the date of expiry of that licence.

5. During the period of validity of the licence issued in terms of section 13, the holder of such licence may surrender the firearm and the licence to the Registrar in terms of the Firearms Control Act, 2000.

Repeal of section 14

6. Despite the repeal of section 14, a licence issued in terms of section 14 and which is valid on the date of commencement of this Firearms Control Amendment Act, 2017, shall remain valid until the date of expiry of that licence.

7. During the period of validity of the licence issued in terms of section 14 the holder of such licence may surrender the firearm and the licence to the Registrar in terms of the Firearms Control Act, 2000.

Amendment of section 16

8. Despite the amendment of sections 16, 16A and 17, a licence issued in terms of these sections and which is valid on the date of commencement of the Firearms

Control Amendment Act, 2017, shall remain valid until the date of expiry of those licences.

9. During the period of validity of the licence issued in terms of sections 16, 16A and 17, the holders of such licences must in terms of the Firearms Control Act, 2000, dispose of the firearms in excess of the number provided for under these sections and must before the expiry of 24 months from the date of commencement of the Firearm Control Amendment Act, 2017, dispose of the firearm or device or have it permanently deactivated in terms of the Firearm Control Act, 2000.

Amendment of section 17

10. Despite the amendment of sections 17, 18 and 19, a licence issued in terms of those sections and which is valid on the date of commencement of the Firearms Control Amendment Act, 2017, shall remain valid until the date of expiry of those licences.

11. During the period of validity of the licences issued in terms of sections 17, 18 and 19, the holders of such licences must in terms of the Firearms Control Act, 2000, dispose of the firearms and ammunition in excess of the number provided for under the said sections, or have them permanently deactivated in terms of the Firearms Control Act, 2000.

Amendment of Table in section 27

12. Despite the amendment of section 27, a licence, competency certificate or permit issued in terms of the section and which is valid on the date of commencement of the Firearms Control Amendment Act, 2017, shall remain valid until the date of expiry of such licence, competency certificate or permit.

13. During the period of validity of the licences issued in terms of section 27, the holder of such licences must in terms of the Firearms Control Act, 2000, dispose of the firearms and ammunition in excess of the number provided for under those sections, or have them permanently deactivated in terms of the Firearms Control Act, 2000.

Amendment of section 91

14. Despite the amendment of section 91, an authorisation issued in terms of section 91 and which is valid on the date of commencement of the Firearms Control Amendment Act, 2017, shall remain valid until the date of expiry of the authorisation.

15. During the period of validity of the authorisation issued in terms of section 91, the holder of such authorisation must in terms of the Firearms Control Act, 2000, either dispose of the ammunition in excess of the number provided for under this section or apply for an authorisation in terms of section 91(2) of the Firearms Control Act, 2000.

Amendment of section 93

16. Despite the amendment of section 93, an authorisation issued in terms of this section and which is valid on the date of commencement of this Firearms Control Amendment Act, 2017, shall remain valid until the date of expiry of the authorisation.

17. During the period of validity of the authorisation issued in terms of this section, the holder of such authorisation must, in terms of the Firearms Control Act, 2000, dispose of the primers in excess of the number provided for under this section.

18. The holder of a licence to possess a firearm or ammunition contemplated in item (2)(a) of Schedule 1 must, before the end of the period contemplated in that subitem, in a lawful manner dispose of any firearms or ammunition in his or her possession in excess of the number that he or she may lawfully possess in terms of this Act.

Existing authorisations and certain existing permits

19. Any authorisation issued in terms of the Firearms Control Act, 2000, or any permit issued in terms of the Firearms Control Act, 2000, which was valid immediately before the commencement of the Firearms Control Amendment Act, 2017, remains valid for the period specified in the authorisation or permit, as the case may be, unless terminated, cancelled or surrendered in terms of the Firearms Control Amendment Act, 2017.

Compliance by Official Institutions

20. All Official Institutions must within one year of the commencement of the Firearms Control Amendment Act, 2017, be fully compliant with the provisions of Chapter 11, and Heads of Official Institutions must report to the Registrar on progress made on a quarterly basis.

Validity of competency certificates

21. All competency certificates issued in terms of this Act before commencement of the Firearms Control Amendment Act, 2017, remain valid in the case—

- (a) where no firearms licence had been issued before the commencement of the Firearms Control Amendment Act, for a period of five years from the date of commencement of the said Act;
- (b) where a firearms licence had been issued before the commencement of the Firearms Control Amendment Act, 2017, until the expiry of any such firearms licence issued to the person, in which case the person must apply for the renewal of the competency certificate together with the renewal of the said licence.

MEMORANDUM ON THE OBJECTS OF THE FIREARMS CONTROL AMENDMENT BILL, 2017

1. BACKGROUND AND PURPOSE

1.1 Following a Summit on Firearms that was held in Portfolio Committee on Police, and as part of his comprehensive approach to the problem of the proliferation of firearms in South Africa, the Minister of Police appointed a Firearms Committee to review existing legislation for the control of legal firearms. The Firearms Committee, in its research found that gun violence contributed to the cause of death in South Africa and that evidence showed that strengthening national gun laws, coupled with effective enforcement of gun laws, contributed to the reduction of gun deaths as well as violent crime. The Firearms Committee produced a report which contained a number of recommendations relating to the legislative review. These recommendations contributed to the Firearms Control Amendment Bill, 2017 ("the Bill").

1.2 The Bill seeks to amend the Firearms Control Act, 2000 (Act No. 60 of 2000) ("the Act"). The amendments respond to the overarching policy principles of non-proliferation of firearms and the strengthening of the processes relating to the applications for firearm and ammunition licences and the management of firearms and ammunition. In the process of the putting into operation of the Firearms Control Amendment Act, 2006 (Act No. 28 of 2006), some deficiencies in the Act, had been noted, namely that some consequential amendments are required in order to align the control over muzzle loading firearms with the control over firearms. Muzzle loading firearms have now been included in the definition of "firearms". The

problems experienced by the Central Firearms Register in the timeous and proper consideration of applications for firearms and making decisions on such applications, the confusion on the proper interpretation of the provisions relating to the validity of competency certificates, the provisions relating to the issue of renewing competency certificates, the limitation on the number of firearms that may be issued to collectors, hunters and sports-shooters as well as the regulation of muzzle loading firearms are included in the amendments. In order to address the reduction of gun deaths and gun violence, firearm licences for self-defence purposes will not be permitted. Other amendments also include the designation of a Designated Firearms Officer at each police station, as far as is practicably possible, to improve the control over firearms in possession of the police and other Official Institutions and private security service providers.

1.3 The amendment also seeks to place a limit on the number of semi-automatic rifles and semi-automatic handguns that may be licenced to a dedicated-hunter or a dedicated sports-shooter.

1.4 In *SA Hunters A.O v Minister of Safety and Security* Case No: 33656/09, the South African Hunters Association sought an urgent interim order in the High Court to declare the firearm licences issued in terms of the Arms and Ammunition Act, 1969 to be lawful and valid pending the finalisation of the main application as to the constitutionality of item 1(1) of Schedule 1 to the Act.

1.5 The main application was against the commencement and implementation of item 1(1) of the Act, which provides for transitional provisions. Item (1)(1) to the

Schedule provides that any licence which was issued in terms of the repealed Arms and Ammunition Act, 1969 (Act No. 75 of 1969) and which was valid immediately before the date of the Act, remains valid for a period of five years from the date on which the Act comes into operation, unless such licence is terminated, cancelled or surrendered in terms of the Act. In addition, firearm licence holders must within this period apply for new licences in terms of the Act, lawfully dispose of any firearm not lawfully possessed and any firearm not disposed of may be forfeited to the State.

1.6 In the main application the South African Hunters Association were to argue that the item 1(1) of the Act infringed the constitutional right to ownership (of a firearm); the right not to be prosecuted and imprisoned for the possession of firearms that were legally acquired in terms of the Arms and Ammunition Act, 1969; the right to lawful, reasonable and procedurally fair administrative action.

1.7 The SA Hunters Association maintained that the five year period would expire before all the licence holders could apply and obtain licences and competency certificates due to backlogs in the South African Police Service ("the Service"), resulting in the applications not yet being processed and finalised in terms of the Act. The State did not have resources to implement the administration necessary to finalise the renewal of firearm applications and new firearm applications. Some licence applications had been declined. As a result of this situation many lawful licence holders would be subject to criminal prosecution by virtue of not holding licences to possess their firearms in terms of the Act, and their firearms would be forfeited to the State.

1.8 The High Court in the South African Hunters Association case held that a prima facie case had been made in respect of the pending main application as to the absence of a justification for the limitations of the constitutional rights affected by the impugned transitional provisions. The respondent could not show any justifications for the limitations. Furthermore the North Gauteng High Court held that the legislature should have taken into account the available administrative facilities and should not have designed a transitional arrangement which cannot be implemented by the officials of the respondent.

1.9 The North Gauteng High Court granted an interim order pending the finalisation of the main application as to the constitutionality of the impugned transitional provisions as contained in Schedule 1 to the Act. The court ordered that that firearm licenses which were issued in terms of the Arms and Ammunition Act, 1969 will be deemed to remain valid until the main application had been finalised.

1.10 Based on this judgement, the Bill seeks to propose amendments to give effect to rectify the anomalous transitional provisions contained in Schedule 1 to the Act.

2. CLAUSE BY CLAUSE ANALYSIS

2.1 Clause 1

2.1.1 Clause 1 of the Bill seeks to amend section 1 of the Act by inserting the definitions in the Bill that relate to "Authority" to indicate that it refers to the Private Security Industry Regulatory Authority; "ballistic sampling"; "valid reason", "health

professional", "Integrated Ballistic Identification System", "percussion/cap and ball firearm", "prohibited firearm" and "Service".

2.1.2 The clause further substitutes the definitions of "dedicated hunter", "dedicated sportsperson", "firearm", "Minister", "muzzle loading firearm", "occasional hunter", "occasional sports person", "private collector", professional hunter", "public collector" and "restricted firearm".

2.2 Clause 2

The clause seeks to amend section 2 of the Act by substituting paragraph (a) in the "Purpose of Act" to provide that the purpose is to restrict access to firearms by civilians and to comply with regional and international instruments of firearms control.

2.3 Clause 3

The Clause 3 inserts section 2A that deals with the principles of the Act and section 2B that deals with the objects of the Act.

2.4 Clause 4

The clause deletes section 3(2) of the Act which provides that no person may possess a muzzle loading firearm unless issued with the relevant competency certificate. This deletion is a consequence of the amendment of the definition of "firearm" that now includes "muzzle loading firearm".

2.5 Clause 5

The clause amends section 4(1) of the Act by providing that any grenade, rifle grenade and any de-activated restricted or prohibited firearm are also prohibited devices and firearms and may not be possessed, except by persons who are accredited to provide firearms for use in theatrical, film or television productions.

2.6 Clause 6

The clause amends section 5 of the Act by deleting "a muzzle loading firearm" as a device that is not regarded as a firearm. This is a consequential amendment as a result of the substitution of the definition of a "firearm"

2.7 Clause 7

2.7.1 The clause amends section 6 of the Act by inserting subsection (1A) that provides that a competency certificate, licence, permit or authorisation may be issued to an applicant for a firearm who is between the age of 16 and 21 years if there are compelling reasons to do so.

2.7.2 The clause also inserts subsection (1B) that provides that if a person between the age of 16 and 21 years applies for a firearm licence, permit or authorisation, he or she must have been under the supervision of a person who is over the age of 21 years and who has held a licence for at least three years.

2.8 Clause 8

The clause amends section 7 of the Act by inserting subsection (1A) that provides that a representative of a juristic person must hold an executive or managerial position in that juristic person.

2.9 Clause 9

This clause amends section 8 of the Act by providing for the chairperson or authorised office bearer of an accredited association to verify the application made by a member of the accredited association regarding the use, purpose and category of the firearm applied for, as well as the motivation for the application. The new subsections (8) to (9) provide that the Registrar must consider the verification by the accredited association when considering the application of a member of that association, but the Registrar may also verify such information independently and may also the refuse of the application on good cause.

2.10 Clause 10

2.10.1 Clause 10 of the Bill amends section 9(1) of the Act by deleting the possession of a muzzle loading firearm from an application for a competency certificate. This is a result of a muzzle loading firearm now being included in the definition of "firearm". This subsection has also been amended by including of a dedicated hunter and a dedicated sportsperson for which an application for a competency certificate must be made.

2.10.2 The clause also amends section 9(2) by the insertion of a new subsection (2A) that provides for an applicant for a competency certificate to submit a report

signed by a health professional regarding the applicant's physical ability to handle a firearm, the applicant's mental stability and inclination to violence and the applicant's dependency to intoxicating or narcotic substances.

2.10.3 The clause further seeks to delete subsection (4) that currently provides for the coming to the end of a disqualification of a person who became or was declared unfit to possess a firearm in terms of the Act or the previous Act upon the expiry of a period of five years from the date on which the person became or was declared unfit.

2.10.4 The clause further amends section 9(5) by providing that the Registrar may allow a person between the age of 16 years and 21 years to apply for a competency certificate if there are compelling reasons. In addition, the subsection seeks to delete the inclusion of being a private collector of firearms as a compelling reason.

2.10.5 The clause further seeks to add subsection (7) that provides for the Registrar to temporarily suspend the processing of an application for a competency certificate where the applicant for a competency certificate has been issued with an interim protection order in terms of the Domestic Violence Act, 1998 (Act No. 116 of 1998), or the Protection from Harassment Act, 2011 (Act No. 17 of 2011), until the final determination of the interim protection order.

2.10.6 The addition of subsection (8) provides that the applicant must disclose to the Registrar if the applicant has had any protection order served on him or her and any failure to do so is a criminal offence.

2.10.7 In terms the new subsection (9), a competency certificate may not be issued to a person who has been convicted for any offence which has an element of violence or sentenced to imprisonment without the option of a fine.

2.11 Clause 11

2.11.1 Clause 11 of the Bill amends section 10 of the Act by providing that a competency certificate must now specify whether it also relates to a dedicated sports person or a dedicated hunter, amongst the other purposes for which a firearm is required by the applicant. The clause also inserts subsection (1)(c) in order to provide that the competency certificate must specify the period of validity of the competency certificate, the date of its issue and expiry and any other information as may be prescribed. The clause also amends section 10 providing that a competency certificate shall remain valid for a period of 5 years from the date of issue, unless terminated or renewed in terms of the Act and also subject to transitional provisions provided for in Clause 20 in the proposed item 12 in the Schedule 1.

2.11.2 The clause further deletes subsection (3) that provides for the lapsing of a competency certificate after ten years from the date of its issue.

2.12 Clause 12

2.12.1 Clause 12 of the Bill amends section 10A of the Act which provides for the renewal of competency certificates by seeking to provide that applications for

renewal of competency certificates must be made at least 90 days before the date of expiry of such competency certificate.

2.12.2 The clause also deletes subsection (2) that provides that a holder of a competency certificate relating to a muzzle loading firearm who wishes to renew the competency certificate must apply for renewal at least 90 days before the date of its expiry.

2.13 Clause 13

Clause 13 seeks to insert a new section 11A in the Act that provides that an applicant must provide to the satisfaction of the Registrar a valid reason for requiring a firearm licence, failing which a firearm licence may not be issued. An application for a firearm licence for self-defence, the protection of another person or the protection of property, other than circumstances constituting a valid reason set out in Chapter 6 of the Act does not constitute a valid reason.

2.14 Clause 14

2.14.1 Clause 14 amends section 12 of the Act that deals with additional licences.

The clause seeks to delete in subsection (1) the reference to the provisions of section 13 (that relates to a licence to possess a firearm for self-defence purposes) and the provisions of section 14 (that relates to a licence to possess restricted firearms for self-defence). Subsection (1) is further sought to be amended by providing that the Registrar may issue an additional firearm licence for occasional hunting and sports-shooting as well as a licence for dedicated hunting and dedicated

sports-shooting to a family member who resides in the same household as the holder of such licence.

2.14.2 The clause further seeks to amend subsection (3) by providing that if the holder of the licence and the holder of the additional licence are no longer residing in the same household, the holder of the additional licence must return the licence to the Registrar, failing which a criminal penalty is provided for.

2.15 Clause 15

2.15.1 Clause 15 seeks to repeal sections 13 and 14 of the Act. Section 13 provides for a licence to possess a firearm for self-defence purposes. The consequence of the deletion of section 13 is that the Registrar may not issue a licence to any natural person who needs a firearm for self-defence.

2.15.2 Clause 15 also seeks to delete section 14 of the Act that provides a licence to possess a restricted firearm for self-defence. The consequence of the deletion of section 14 is that a semi-automatic rifle or shotgun, which cannot readily be converted into a fully automatic firearm or a firearm declared by the Minister in the *Gazette* to be a restricted firearm, may not be issued to any natural person who shows that the firearm will provide sufficient protection. The Minister may also not be able to declare by notice in the *Gazette* any firearm to be a restricted firearm.

2.16 Clause 16

2.16.1 Clause 16 of the Bill amends section 15 of the Act which provides for a licence to possess a firearm for occasional hunting and sports-shooting. The clause provides that a firearm licence for occasional hunting or sport-shooting purposes may be only be issued if the applicant is the owner or lawful occupier of property where occasional hunting or occasional sport-shooting will take place or if the applicant produces documentary proof of permission by the said owner or lawful occupier to engage in occasional hunting or occasional sport-shooting on the said property.

2.16.2 The clause further deletes subsection (3)(b) that states that if a person holds a licence for self-defence, he or she may only hold three licences in terms of section 15.

2.16.3 The clause further inserts a new subsection (3A) that limits the number of firearm licences that a person may hold in terms of section 15 by providing that the number of firearm licences that a person may hold in terms of this section must be reduced by the number of firearms licences that the person holds in terms of any other section under the Act.

2.17 Clause 17

2.17.1 Clause 17 of the Bill seeks to amend section 16 of the Act, which deals with licences for dedicated hunting and dedicated sports-shooting purposes, by providing

in section 16(1) that a firearm licence may be issued for a handgun, rifle or shotgun which is not prohibited, instead of a handgun, rifle or shotgun which is not fully automatic.

2.17.2 The clause seeks to also amend subsection (2) by the adding that the sworn statement or solemn declaration made by the chairperson of an accredited hunting or sports-shooting organisation must state that the applicant has actively participated in hunting or shooting events of the association and that the applicant has, during the preceding 24 months complied with the requirements of being awarded with a dedicated hunter or dedicated sports-person status.

2.17.3 The clause further inserts subsections (5) to (13) to the section, These provisions provides for a limitation on the number of licences that a person may hold in terms of this section. In principle, a person may not hold more than eight licences in terms of this section. A dedicated hunter or dedicated sports-shooter may not hold more than two licences each in respect of a handgun, semi-automatic rifle or semi-automatic shotguns. A semi-automatic rifle or a semi-automatic shotgun may only be registered if the applicant has maintained a dedicated status as a sports-shooter or hunter for a period of at least two years and continues to hold such status. The application for a licence must be accompanied by a written motivation containing the minimum specified information and the motivation must be supported by the chairperson of the relevant hunting or sports-shooting association. The association must also provide a report to the Registrar on the status of all its members.

2.18 Clause 18

Clause 18 amends section 16A of the Act, which deals with licences for professional hunting, by adding subsections (5) to (12) to the section. The proposed amendments seek to restrict the number of licences issued to a professional hunter to not more than eight licences. The application must be accompanied by a written motivation containing the minimum specified information as provided for in subsection (7) and the motivation must be supported by the chairperson of the professional hunting association. The association must also provide a report to the Registrar on the status of all its members.

2.19 Clause 19

2.19.1 Clause 19 of the Bill amends section 47 of the Act which deals with firearm licence for private collection. The clause seeks to amend subsection (1) by providing that a firearm which may be possessed in a private collection is a firearm approved by an accredited collectors association to which the private collector is based upon values that now include heritage value, and that the private collector is a member of the accredited collector's association in good standing and where such firearm is demonstrated to be part of the said private collector's approved field of interest or theme.

2.19.2 The clause substitutes subsection (1A) by providing for the prescribed categories in which a private collector may collect firearms and the maximum number that a private collector may collect in the respective categories.

2.19.3 The clause also inserts subsections (1B) to (1F). An accredited collectors association may not classify a private collector in more than one category. A restricted or prohibited firearm or device may only be possessed for private collection if it is permanently deactivated in the prescribed manner. Any firearm, other than a restricted or prohibited firearm, which was manufactured after the year 1900 and is possessed in a private collection must be stored after having undergone a prescribed non-damaging procedure to ensure that no cartridge can be loaded or discharged from that firearm.

2.19.4 The requirement in section 17(2) of the Act that an application in terms of section 17 must be accompanied by a sworn statement or solemn declaration by the chairperson of an accredited association is qualified in that the proposed amendment provides that such chairperson must state that the applicant is a member in good standing.

2.19.5 The clause seeks to delete subsection (3A) which provides that before a prohibited or restricted firearm is stored, it must undergo prescribed reversible non-damaging procedure. The clause further seeks to delete subsection (4) that provides that a firearm that is issued in terms of this section may be used where it is safe and for a lawful purpose.

2.19.6 The clause also adds subsections (5), (6) and (7). Subsection (5) provides that, notwithstanding section 91 of the Act, a private collector's licence does not authorise the possession and use of ammunition for any firearm in the firearms collection. Subsection (6) provides that a private firearm collector may possess a

maximum of ten cartridges for a particular firearm in the collection. Subsection (7) provides that members of the same household may not be collectors of both firearms and ammunition of similar calibre or type.

2.20 Clause 20

2.20.1 Clause 20 amends section 18 of the Act which provides for a permit to possess ammunition in a private collection. The clause seeks to amend subsection (1) by providing that ammunition that may be possessed in a private collection is subject to section 17(5) and (6) as inserted in the Bill.

2.20.2 Subsection (2) is sought to be amended by providing that the chairperson of an accredited collectors association must confirm by a sworn statement or solemn declaration that the member who applied for a permit is a member in good standing.

2.20.3 The clause further seeks to amend subsection (2)(b) by reducing the rounds of ammunition that a collector may possess from 200 to 25 rounds of ammunition of any particular calibre. The discretion of the Registrar to approve a higher number of rounds is sought to be deleted.

2.20.4 The clause seeks to delete subsection (5) that provides that a private collector may possess projectiles, rifle grenades and cartridges manufactured to be discharged by prohibited firearms if the propellant, high explosive and primer of the rifle grenades and cartridges have been removed or deactivated.

2.21 Clause 21

2.21.1 Clause 21 seeks to amend section 19 of the Act that deals with licence to possess a firearm and permit to possess ammunition in public collection. The clause seeks to delete subsection (2) that allows for prohibited and restricted firearm as may be prescribed to be licenced under section 19 as well as the possession of projectiles, rifle grenades and cartridges manufactured to be discharged by prohibited firearms if the propellant, high explosive and primer of the rifle grenades and cartridges have been removed or deactivated.

2.21.2 The clause amends subsection (3) by reducing the maximum number of rounds of ammunition that a holder of a permit to possess ammunition for public collection from 200 to 25 rounds of ammunition, unless the Registrar approves a higher number, which must not exceed 100.

2.21.3 The clause further seeks to amend subsection (4) by deleting the words "a firearm, prohibited firearm and restricted " and substituting these words with "any" in respect of firearms that may be displayed in an accredited museum or by an accredited public collector.

2.21.4 The clause also seeks to delete subsections (4A) and (5). Subsection (4A) provides that before a prohibited or restricted firearm is displayed in an accredited museum or by an accredited collector, it must undergo such non-damaging procedure so that no cartridge can be loaded into or discharged from that firearm.

Subsection (5) provides that a firearm licence issued in terms of this section may only be used on an accredited shooting range.

2.21.5 The clause adds subsections (7) to (9) to the section. In terms of subsection (7), a restricted or prohibited firearm or device in a public collection may only be possessed if permanently de-activated. In terms of subsection (8) a firearm, other than a restricted or prohibited firearm which was manufactured after the year 1990 and which is possessed in a public collection must be stored after having undergone a prescribed non-damaging procedure to ensure that no cartridge can be loaded or discharged from that firearm. Any contravention of subsections (7) or (8) will be a criminal offence.

2.22 Clause 22

2.22.1 Clause 22 seeks to amend section 20 of the Act that provides for licence to possess firearms for business purposes. The clause amends subsection (1) by including a restricted firearm for which a firearm licence may not ordinarily be issued, subject to exceptions. The clause provides that a restricted firearm may be issued to a security service provider, a game rancher, a person who is accredited to conduct business in hunting and any person who is accredited to use firearms for such other businesses as determined by the Registrar. The Registrar must consider the exceptions by taking into account the factors, including a genuine need for the use of a firearm that is provided for in the clause as well as the risk assessment report that the applicant is required to furnish.

2.22.2 The clause adds subsections (8) to (13) in section (23). In terms of subsection (8), the Private Security Industry Regulatory Authority must inform the Registrar of any change in circumstances that relate to the status of the registration or ownership of a security service provider, or any other material change or reason that impacts on the licencing, re-licencing or disposal of firearms in the possession of such security service provider. The association that accredits a trainer in the use of firearms, a person who provides firearms for use in theatrical, film or television productions, a game rancher, a person who conducts business in hunting or such other business purpose must inform the Registrar of any change in circumstances relating to the status of the registration or ownership of the business of the accredited person.

2.22.3 Subsection (9) provides that the Registrar must, at the request of the Private Security Industry Regulatory Authority submit a list of all firearms registered to a particular security service provider within 30 days of the request.

2.22.4 Subsection (10) makes it an offence for a security service provider to hire out or permit any other person to use a firearm issued under this section for any purpose other than the purpose for which the licence was issued. Subsection (11) provides that the Registrar may not issue a firearm licence to a security service provider until written proof of the award of a contract to render a security service that require the use of firearms is furnished. However, subsection (12) authorises the Registrar to issue a letter to a security service provider that a firearm licence will be issued upon the award of the contract. The Registrar may terminate a licence if he or she is informed of the circumstances under subsection 8(a).

2.23 Clause 23

2.23.1 Clause 23 inserts sections 20A to 20D in section 20 of the Act.

2.23.2 The proposed section 20A provides for the establishment of a Consultative Forum. Section 20B provides for the composition of the Consultative Forum, section 20C provides for the functions of the Consultative Forum and section 20D provides for the meetings of the Consultative Forum and administrative support.

2.24 Clause 24

2.24.1 Clause 24 amends section 21 of the Act that provides for a temporary authorisation to possess a firearm. The clause substitutes subsection (1) by providing that a South African citizen or holder of a permanent residence permit who enters the Republic with a firearm that is not licenced in the Republic must deposit the firearm with the Designated Firearms Officer at customs at the point of entry for safekeeping, pending the application for a licence. The clause also substitutes subsection (2) by deleting the reference to subsection (1)(b) and inserting the reference to subsection (2A)(b).

2.24.2 The clause further inserts subsection (2A) that states that if a non-citizen enters the Republic with a firearm that is lawfully licenced in his or country of origin to participate in sport- shooting or hunting activities, the firearm must be deposited with the Designated Firearms Officer at customs at the port of entry for safekeeping, pending the issuing of a temporary authorisation. The Registrar is authorised to

determine the period of validity and conditions of the temporary authorisation. The non-citizen must, when departing the Republic, produce the firearm to the Designated Firearms Officer for inspection before being allowed to depart. Where the firearm cannot be produced for inspection, the non-citizen must provide a valid reason.

2.24.3 The clause also inserts subsection (2B) that states that a non-citizen who is a resident in the Republic without a permanent residence status may not be issued with a temporary authorisation permit. The clause further inserts subsection (2C) that authorises the Registrar to issue a temporary authorisation to an executor or administrator of a deceased estate. In terms of subsection (2D), the validity period of a temporary authorisation may not be extended and subsection (2E) provides an exception to subsection (2D) by providing that a temporary authorisation issued to an executor or administrator of a deceased estate may be extended if the winding-up of the deceased estate is not finalised.

2.25 Clause 25

Clause 25 amends section 22 of the Act that deals with a holder of a licence allowing another person to use a firearm. The amendment is that a person who is at least 21 years of age and the holder of a valid licence for at least three years to possess a firearm may allow any person above the age of 16 years to use that firearm while under his or her immediate supervision.

2.26 Clause 26

Clause 26 amends section 23 of the Act that provides for identification marks on firearms. The clause adds subsection (8) that provides for the affixing of a serial number in the prescribed manner to muzzle loading firearms which are imported or kept in a dealers' stock. It is made clear that such "affixing" does not imply marking of the firearm itself.

2.28 Clause 27

2.27.1 The clause also inserts section 23A on ballistic sampling. The new section 23A in the Act, which provides for the ballistic sampling of every firearm licensed in terms of the Act, inclusive of firearms for business purposes, business purposes related to the private security industry, occasional and dedicated sports shooting and hunting, private and public collection, subject to the ability of the firearm to be safely fired and the availability of ammunition. The owner of such firearms must comply with a programme published by the Minister in the *Gazette* to have the firearms ballistically sampled.

2.27.2 The clause also provides that whenever such firearms licence is renewed or where there is a change of ownership, the original owner must ensure the firearm is submitted for ballistic sampling before the renewal or transfer of ownership takes place. The ballistic sampling of firearms must be arranged in advance and the firearm must be handed back to the owner immediately after the ballistic sampling has been done. The clause also provides that the section must be implemented over a period of time, subject to financial and technical capability to do so.

2.28 Clause 28

2.28.1 Clause 28 of the Bill seeks to amend section 24 of the Act that provides for renewal of firearm licences. The clause substitutes subsection (4) by providing that if the application of the renewal of a licence is made before the expiry of that licence, the licence remains valid until the application has been decided. A penalty is provided for if the application is made in less than 90 days from the expiry date of the firearms licence.

2.28.2 The clause further adds subsections (5) and (6) to the section. The new subsection (5) provides that if an application for the renewal of the licence is not made before the expiry of that licence, and where the expiry of is less than 90 days from the application for renewal, an administrative fine may be imposed. The new subsection (6) states that an applicant is not disqualified from obtaining a renewed licence even if the application for renewal was made less than 90 days before the expiry of the licence and where an administrative fine was imposed.

2.29 Clause 29

Clause 29 amends section 25(2) of the Act by adding a short-messaging system as a means of acknowledging receipt of a notice of a change of address.

2.30 Clause 30

Clause 30 amends section 26(2) of the Act by adding a short-messaging system as a means of acknowledging receipt of a notice of a change of address.

2.31 Clause 31

Clause 31 amends the Table in section 27 of the Act that provides for the period of validity of a licence or permit. The clause deletes sections 13 and 14 in the Table that relates to licence to possess firearms for self-defence and licence to possess restricted firearms for self-defence respectively as well the respective periods of validity. The period of validity of a licence to possess a firearm for occasional hunting and sports-shooting, licences for dedicated hunting and dedicated sports-shooting, licences for professional hunting as well as licences for business as a game rancher and in hunting are reduced from ten years to five years. The period of validity of licences to possess a firearm for business purposes (other than as a game rancher and in hunting) is reduced from five years to two years.

2.32 Clause 32

Clause 32 amends section 28 of the Act that deals with terminations of firearms licences. The clause substitutes subsection (2) by providing that the Registrar may by notice cancel a licence that is contemplated in subsection (1)(d). The clause further substitutes subsection (6) by limiting the power of the Registrar to extend the period to the notice periods referred to in subsections (3), (4) and (5)

2.33 Clause 33

2.33.1 Clause 33 of the Bill seeks to amend section 31 of the Act by substituting subsection (2) deleting the words "a muzzle loading firearm" as a result of such

firearm being included in the definition of "firearm". In addition, because of the deletion of subsection (3), the subsection is not made "subject to subsection (3)".

2.33.2 The clause deletes subsection (3) which provides that if a person wishes to sell or donate a firearm or muzzle loading firearm to a willing buyer or done, such sale or donation may be done without the intervention of a dealer.

2.34 Clause 34

2.34.1 Clause 34 seeks to amend section 35 of the Act that deals with renewal of a dealer's licence. The clause substitutes subsection (4) providing that if an application for renewal of a licence is lodged before the expiry of that licence, the licence remains valid until the application is decided.

2.34.2 The clause adds subsections (5) and (6) to this section. The new subsection (5) provides that if an application for renewal of a licence is not made before the expiry of that licence, and where the date of expiry is less than 90 days from the date of application for renewal, an administrative fine may be imposed. The new subsection (6) states that an applicant is not disqualified from obtaining a renewed licence even if the application for renewal was made less than 90 days before the expiry of the licence and where an administrative fine was imposed.

2.35 Clause 35

Clause 35 seeks to amend section 38(2) of the Act by adding a short-messaging system as a means of acknowledging receipt of a notice of a change of address.

2.36 Clause 36

Clause 36 seeks to amend section 39 of the Act by deleting subsections (7) and (8). Subsection (7) currently provides that the Registrar may on application by a dealer exempt the dealer from the duties to establish and maintain a workstation which links the registers to the central dealers' database. Subsection (8) currently provides that any dealer exempted in terms of subsection (7) must submit weekly returns to the Office of the Central Firearms Register.

2.37 Clause 37

Clause 37 seeks to amend section 42 of the Act that deals with termination of a dealer's licence. The clause substitutes subsection (2) by providing that the Registrar may by notice cancel a licence that is contemplated in subsection (1)(d).

2.38 Clause 38

2.38.1 Clause 38 seeks to amend section 49 of the Act that deals with renewal of a manufacturer's licence. The clause amends subsection (4) by providing that if an application for the renewal of a licence was lodged before the expiry of that licence, the licence remains valid until the application is decided.

2.38.2 The clause also adds subsections (5) and (6) to this section. The new subsection (5) provides that if an application for renewal of a licence is not made before the expiry of that licence, and where the date of expiry is less than 90 days from the date of application for renewal, an administrative fine may be imposed. The new subsection (6) states that an applicant is not disqualified from obtaining a

renewed licence even if the application for renewal was made less than 90 days before the expiry of the licence and where an administrative fine was imposed.

2.39 Clause 39

Clause 39 seeks to amend section 52(2) of the Act by adding a short-messaging system as a means of acknowledging receipt of a notice of a change of address.

2.40 Clause 40

2.40.1 Clause 40 seeks to amend section 53 of the Act that deals with the duties of a manufacturer. The clause amends subsection (2) by including muzzle loading firearms to which a manufacturer must apply or affix a serial number or any other mark as may be prescribed.

2.40.2 The clause also seeks to amend subsection (5)(a) by including muzzle loading firearms in a manufacturer's stock that must be produced for inspection.

2.41 Clause 41

Clause 41 seeks to amend section 56 of the Act that deals with termination of a manufacturer's licence. The clause substitutes subsection (2) by providing that the Registrar may by notice cancel a licence that is contemplated in subsection (1)(d).

2.42 Clause 42

Clause 41 amends section 59 of the Act which provides for the prohibition of certain work.

2.43 Clause 43

2.43.1 Clause 43 seeks to amend section 63 of the Act that provides for the renewal of a gunsmith's licence. The clause amends subsection (4) by providing that if an application for the renewal of a licence was lodged before the expiry of that licence, the licence remains valid until the application is decided.

2.43.2 The clause also adds subsections (5) and (6) to this section. The new subsection (5) provides that if an application for renewal of a licence is not made before the expiry of that licence, and where the date of expiry is less than 90 days from the date of application for renewal, an administrative fine may be imposed. The new subsection (6) states that an applicant is not disqualified from obtaining a renewed licence even if the application for renewal was made less than 90 days before the expiry of the licence and where an administrative fine was imposed.

2.44 Clause 44

Clause 44 seeks to amend section 66 of the Act that deals with the notification of a change of circumstances. Clause 43 seeks to amend section 66(2) of the Act by adding a short-messaging system as a means of acknowledging receipt of a notice of a change of address.

2.45 Clause 45

Clause 45 seeks to amend section 67 of the Act that deals with the duties of a gunsmith. The clause seeks to delete subsections (6) and (7). Subsection (6) currently provides that the Registrar may on application by a dealer exempt a gunsmith from the duties to establish and maintain a workstation which links the registers to the central dealers' database. Subsection (7) currently provides that any gunsmith exempted in terms of subsection (6) must submit weekly returns to the Office of the Central Firearms Register.

2.46 Clause 46

Clause 46 seeks to amend section 70 of the Act that deals with termination of a gunsmith's licence. The clause substitutes subsection (2) by providing that the Registrar may by notice cancel a licence that is contemplated in subsection (1)(d).

2.47 Clause 47

Clause 47 seeks to amend section 73 of the Act that deals with the prohibition of import, export or carriage in-transit of firearms and ammunition without permit. The clause adds subsection (3) which provides that the Registrar may restrict the number and type of firearms and ammunition that may be imported and exported in terms of Chapter 8 of the Act.

2.48 Clause 48

2.48.1 Clause 48 seeks to amend section 74 of the Act that provides for the requirements for import, export or in-transit permit. The clause adds subsections (3) to (6) to the section.

2.48.2 The new subsection (3) states that if a non-citizen enters the Republic with a firearm that is lawfully licenced in his or country of origin and who has declared the firearm which is not licenced in terms of the Act, that firearm must be deposited with the Designated Firearms Officer at customs at the port of entry for a permit to be issued.

2.48.3 The new subsection (4) provides that the application for importation of the firearm referred to in subsection (3) must be made in terms of the Act and subsection (5) provides that if the importation permit is not granted, the firearm and ammunition will remain with the Designated Firearms Officer until disposed of in terms of the Act. The new subsection (6) prohibits the importation of a prohibited firearm in terms of section 74 of the Act.

2.49 Clause 49

Clause 49 seeks to amend section 81 of the Act that provides for the termination of import, export and in-transit permits. The clause substitutes subsection (2) by providing that the Registrar may by notice cancel a licence that is contemplated in subsection (1)(a).

2.50 Clause 50

Clause 50 amends section 84 of the Act, which provides for the carrying of a firearm in a public place, by providing that the Minister may prescribe the manner in which a firearm must be carried by a security officer in the performance of duties.

2.51 Clause 51

Clause 51 of the Bill seeks to amend section 91 of the Act which provides for the restriction on possession of ammunition. The clause amends subsection (1) by reducing the number of ammunition that a licenced firearm holder may possess for each firearm from 200 to 25. The clause further amends subsection (2) by providing that, in addition to a dedicated hunter or a dedicated sportsperson, a professional hunter or an accredited training service provider the Registrar may, on good cause shown by the holder, authorise the possession of more than 25 cartridges for a firearm that is licenced. "Good cause" must be shown in relation to and with submission of proof of the frequency of the use of the firearm, and the level of participation in the activity for which the firearm is registered, the number of cartridges used per occasion of the particular activity or any other relevant factors or circumstances.

2.52 Clause 52

2.52.1 Clause 52 seeks to amend section 93 of the Act that deals with loading and reloading of ammunition by reducing the number of primers that a holder of a licence may have from 2400 to 1000 primers.

2.52.2 The clause further seeks to delete subsection (2)(b) that currently provides that the limitation does not apply to a dedicated hunter, dedicated sports person or professional hunter.

2.53 Clause 53

Clause 53 seeks to amend section 96 of the Act that provides for exemptions of Official Institutions from the application of the Act. The clause inserts a cross reference to the new item 1D of Schedule 1 to ensure that item 1D is one of the only provisions that apply to an Official Institution. Item 1D is a transitional provision which provides that an Official Institutions must within one year of the commencement of the Firearms Control Amendment Act, 2017, fully comply with the provisions of Chapter 11(which regulates the handling of firearms by Official Institutions), and the Heads of Official Institutions must report to the Registrar on progress made on a quarterly basis.

2.54 Clause 54

Clause 54 seeks to amend section 98 of the Act that provides for the possession and use of firearms by an Official Institution. The clause adds a new subsection (11) to the section that provides for the Head of an Official Institution to submit a quarterly report to the Registrar on the number and type of firearms that are lost or stolen, the details relating to loss or theft and remedial measures instituted to prevent a recurrence of the loss or theft.

2.55 Clause 55

The clause seeks to insert new sections 98A and 98B in the Act, to provide for the ballistic sampling of firearms in possession of Official Institutions. The clause also provides that the Head of an official institution must comply with a notice issued by the Minister for the ballistic sampling of all firearms in the custody of that Head, and the results of the ballistic sampling must be placed on the Integrated Ballistics Identification System, for purposes of investigating crimes committed with firearms.

The clause also authorises the Minister by notice in the *Gazette*, to determine the date by which the firearms in possession of an Official Institution must be ballistically sampled, and that the Minister may extend such date by notice in the *Gazette*.

2.56 Clause 56

Clause 56 seeks to amend the heading of Chapter 12 by including the suspension of a firearm licence in addition to the declaration of persons as unfit to possess firearms.

2.57 Clause 57

Clause 57 seeks to amend section 102 of the Act that deals with a declaration by the Registrar of a person as unfit to possess a firearm. The clause deletes subsections (1)(a) and (1)(aA) and adds subsections (5) to (12) to the section. The new provisions stipulate that the Registrar may suspend a licence in accordance with this section if the Registrar becomes aware that the licence holder has been charged with any offence that involves an element of violence or served with an interim protection order in terms of the Domestic Violence Act, 1998 (Act No. 116 of 1998), or the Protection from Harassment Act, 2011 (Act No. 17 of 2011), the nature of which involves an element of violence. A suspension remains valid until the process in terms of section 102 of the Act has been finalised and also until an interim protection order is confirmed or revoked. A person who is served with a notice of suspension must surrender all firearms in his or her possession to the nearest police station for safekeeping. Once an interim protection order is confirmed, the licence holder becomes automatically unfit to possess a firearm.

2.58 Clause 58

Clause 58 seeks to amend section 104 of the Act, which deals with the effect of a declaration of unfitness, by deleting subsection (6). This subsection currently provides that after a period of five years after the declaration of unfitness, the person may apply for a new competency certificate, licence or permit.

2.59 Clause 59

Clause 59 seeks to amend section 120 of the Act which deals with offences. New offences arising out of the amendments have been created

2.60 Clause 60

2.60.1 Clause 60 seeks to amend section 124 of the Act which deals with the functions of the Registrar. The clause seeks to establish the Office of the Central Firearms Register as a Division of the Service to deal exclusively with the administration of the Act. The clause provides for the Registrar to submit quarterly reports to the Minister and Parliament on all losses of firearms issued to members of the Service and other Official Institutions, the theft and losses of all firearms and ammunition exhibits surrendered to the Service for destruction, the outcome of investigations into the losses of firearms and ammunition under the control of the Service and disciplinary steps taken and criminal prosecutions instituted against members for such losses.

2.60.2 The clause also adds new subsections (4) to (8) to section 124 of the Act. The new subsections provides for the obligatory designation of a Designated Firearms Officer at each police station, as far as practicably possible, in order to provide

focused and undivided attention to control over firearms and ammunition in the possession of the police as well as other official institutions and the private security industry. The Designation Firearms Officer is provided with specific functions that will ensure compliance with the Act, including inspections at Official Institutions, and regular and random inspections at business premises of security service providers. This will also enhance access by the public to services and the speedy processing of applications for competency certificates and licences.

2.60.3 The designated Firearms Officers may not be appointed unless a successful security vetting has been done and provision is made for random integrity testing.

2.61 Clause 61

Clause 61 seeks to insert sections 124A and 124B in the Act. The clause imposes duties on commanders and station commanders with regard to firearms kept at police stations, disciplinary steps to be taken against members who have lost firearms, the reporting of losses of official firearms and ammunition and the investigation of such losses, safekeeping of firearms and ammunition, as well as the regular and random inspections of official registers by the commanders and station commissioners. The station commanders must effectively supervise and control the duties and functions of the Designated Firearms Officer.

2.62 Clause 62

Clause 62 seeks to amend section 125 of the Act which deals with the Central Firearms Register. The clause provides that the Central Firearms Register must now also contain a dedicated database of firearm licences issued to security service

providers linked to the database of the Private Security Industry Regulatory Authority, a record of all firearm licences issued to security service providers, a record of the acquisition, transfer, loss, theft or destruction of firearms in the possession of also private security service providers.

2.63 Clause 63

Clause 63 seeks to amend section 127 of the Act that deals with the appointment and functions of Head of Office of the Central Firearms Register. The clause provides for the Registrar, with the approval of the Minister, to appoint a police official on at least the level of a Divisional Commissioner as Head of the Office of the Central Firearms Register and the Head must report to, and be directly accountable to, the Registrar.

2.64 Clauses 64 to 67

Clauses 64 to 67 of the Bill includes amendments to section 128 of the Act which establishes the Appeal Board which considers appeals against the decisions of the Registrar made in terms of the Act. The clauses provide for the appointment by the Minister of additional members to the Appeal Board, which currently is limited to five members. The criteria for the appointment of the members of the Board are provided for, as well the grounds for the disqualification, removal and suspension of a member. The clause also provides for the quorum and rules and procedures of the Appeal Board.

2.65 Clause 68

Clause 68 substitutes section 131 of the Act which provides for the administrative work of the Appeal Board. This clause provides for the enhancement of the independence of the Appeal Board by providing that administrative work of the Appeal Board may not be performed by members attached to the Office of the Central Firearms Register and that the Appeal Board must function independently from the Office of the Central Firearms Register.

Clause 67

2.66 Clause 69

Clause 69 inserts sections 131A and 131B in the Act, which provide for the budget of the Appeal Board, the reporting responsibility and the accountability of the Appeal Board to the Minister.

2.67 Clause 70

Clause 70 seeks to amend section 135 of the Act that deals with amnesty that the Minister may declare for possession of unlicensed firearms. The clause deletes subsection (4) that currently provides that a person who surrenders a firearm in compliance with the Minister's notice, may apply for a licence in respect of that firearm and if a licence is granted, the firearm and ammunition surrendered must be returned to the holder of the licence.

2.68 Clause 71

Clause 71 seeks to amend section 140 of the Act. This section deals with firearm-free zones and the amendment seeks to substitute the reference to the Secretary for Safety and Security with the reference to the Secretary for Police Service.

2.69 Clause 72

2.69.1 Clause 72 seeks to amend section 145 of the Act that provides for regulations that may be made by the Minister.

2.69.2 The clause inserts new paragraphs (*mA*) to (*mW*) in section 145, in order to allow the making of regulations flowing from the amendments.

2.69.3 The clause also increases the penalty for any contravention or failure to comply with the regulations by providing for a fine or imprisonment for a period not exceeding three years or both such a fine and such imprisonment in the case of a natural person and to a fine not exceeding R500 000.00 in the case of a juristic person.

2.70 Clause 73

Clause 73 seeks to amend section 147 of the Act that deals with disposal of firearms in the case of death. The clause amends the section heading by including ammunition in the section heading and including ammunition in subsections (1) and (2), to make it clear that on the death of a person the firearm as well as ammunition must be disposed of.

2.71 Clause 74

Clause 74 inserts a new section 147A that relates to deceased estates. This new section provides that the executor or administrator of a firearms licence holder who

has died does not commit an offence if the executor or administrator retains possession of the firearm in order to lawfully dispose of the firearm. The executor or administrator is required to notify the Registrar of the death of the licence holder and the place where the firearm or ammunition will be kept. The Registrar may provide a temporary authorisation to a person, who is licenced to possess a firearm, to possess the firearm or ammunition in the deceased estate until the executor or administrator is appointed or if the executor does not have the prescribed safekeeping facilities available. This authorisation will terminate once the estate is finalised.

2.72 Clause 75

2.72.1 Clause 75 seeks to amend section 148 of the Act that deals with inherited firearms. The clause amends the section heading to include ammunition. In addition, the clause deletes references to a muzzle loading firearm and by including ammunition in subsection (1). Subsection (2) is amended by deleting the power of the Registrar to issue a temporary authorisation contemplated in section 21 of the Act and by now providing that the executor or administrator of a deceased estate to remain in possession of the estate firearm until such time the application for a firearm licence is decided.

2.72.2 The clause also adds subsection (3) that states that if no application for a firearms licence is made or if the application is refused, the executor or administrator must dispose of the firearm within a reasonable time.

2.73 Clause 76

Clause 76 seeks to amend Schedule 1 to the Act in order to provide and improve the transitional provisions in respect of existing licences to possess a firearm, licensing of muzzle loading firearms, possession and surrendering of percussion cap-and-ball and other firearms, compliance by Official Institutions, surrendering or licensing of actions, frames and receivers and re-licensing of firearms.

2.74 Clause 77

Clause 77 seeks to insert section 153A to provide for transitional arrangements in Schedule 1A.

2.75 Clause 78

Clause 78 amends Parts 1 and 2 of Schedule 2 of the Criminal Law Amendment Act, 1997 (Act No. 105 of 1997), to provide for minimum sentences where the victim of a murder had been killed by means of a firearm, a firearm was used to threaten a victim during rape or compelled rape, and robbery where a firearm was used in the commission of the crime.

2.76 Clause 79

Clause 79 amends Schedule 4 to the Act in order to improve on offences and penalties.

2.77 Clause 80

Clause 80 substitutes the preamble to the Act to indicate that in terms of the Constitution of the Republic of South Africa, the State has a duty to maintain public order and to protect and secure everyone in the Republic, that the State, being a signatory to regional and international instruments on the control of firearms and ammunition, has a responsibility to enact firearms legislation that complies with regional and international instruments on firearm control and that the uncontrolled presence of firearms constitute major threats to the security of persons and the stability of the State.

2.79 Clause 81

Clause 81 contains the short title and commencement

3. DEPARTMENTS/ BODIES/ PERSONS CONSULTED**4. FINANCIAL IMPLICATIONS FOR STATE****5. CONSTITUTIONAL IMPLICATIONS****6. COMMUNICATION IMPLICATIONS**

7. PARLIAMENTARY PROCEDURE

7.1 The Constitution prescribes procedure for the classification of Bills, therefore a Bill must be correctly classified so that it does not become inconsistent with the Constitution.

7.2 The Office of the Chief State Law Adviser considered the Bill against the provisions of the Constitution relating to the tagging of Bills and against the functional areas listed in Schedule 4 (functional areas of concurrent national and provincial legislative competence) and Schedule 5 (functional areas of exclusive provincial legislative competence) to the Constitution.

7.3 The established test for classification of a Bill is that any Bill whose provisions in substantial measure fall within a functional area listed in Schedule 4 to the Constitution must be classified in terms of that Schedule. The process is concerned with the question of how the Bill should be considered by the provinces and in the National Council of Provinces. Furthermore, how a Bill must be considered by the provincial legislatures depends on whether it affects the provinces. The more the Bill affects the interests, concerns and capacities of the provinces, the more say the provinces should have on the contents of the Bill.

7.4 The issue to be determined is whether the proposed amendments to the Act, as contained in the Bill, in substantial measure, fall within a functional area listed in Schedule 4 to the Constitution.

7.5 The Bill amends the Act to accommodate the deficiencies identified in the implementation of the Act and consequential amendments to the Firearms Control Amendment Act, 2006.

7.6 The Bill generally provides the control and licensing of firearms; the verification of applications for firearm licences by an accredited association; the alignment of the control over muzzle loading firearms with the control over firearms; the period of validity for competency certificates and the period of renewal of competency certificates; renewal of firearm licences on application before expiry of the licence, failure of which attracts an administrative penalty; the designation of a Designated Firearms Officer at each police station to improve the control over firearms in possession of the police and other Official Institutions; monitoring firearms in the possession of private security service providers; the regulation of muzzle loading firearms; the ballistic sampling of firearms of Official Institutions; transitional provisions in respect of licensing of percussion cap-and-ball firearms; The Bill provides for ballistic sampling of the firearm by the Designated Firearms Officer in the event of change in ownership, in which case the original owner must ensure that the firearm is submitted to, before the renewal or before the ownership of the firearm is transferred to any other person; the ballistic sampling of all firearms licensed in terms of the Act, inclusive of firearms for self-defence, occasional and dedicated sports shooting and hunting, collection, subject to the ability of the firearm to be safely fired and the availability of ammunition, as well as firearms intended or business purposes, including for purposes of the rendering of security services.

7.7 The Bill provides for the transitional arrangements for persons who were licensed to possess firearms under the Arms and Ammunition Act, 1969, and never renewed their firearms as required by the Act. In terms of the provision a period of two years which may be extended by the Minister with approval of Parliament for another two years, is provided for the relicensing of such firearms, which means that the relicensing must occur within two years of the commencement of the Firearms Control Amendment Act, 2015.

7.8 The Bill further amends the Criminal Law Amendment Act, 1997 (Act No. 105 of 1997), in order to provide for minimum sentences where a firearm was used in a murder, rape or robbery and also provides for the minimum sentence for the illegal possession of any firearm.

7.9 The proposed amendments reflected have been carefully examined to establish whether, in substantial measure, they fall within any of the functional areas listed in Schedule 4 to the Constitution.

7.10 In the view of the Office of the Chief State Law Adviser, the subject matter of the proposed amendments does not fall within any of the functional areas listed in Schedule 4 to the Constitution and it does not affect provinces.

7.11 The Office of the Chief State Law Adviser is therefore of the opinion that since this Bill does not deal with any of the matters listed in Schedule 4 of the Constitution, it must be dealt with in accordance with the procedure set out in section 75 of the Constitution.

7.12 The Office of the Chief State Law Adviser is also of the opinion that it is not necessary to refer this Bill to the National House of Traditional Leaders in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), since it does not contain provisions pertaining to customary law or customs of traditional communities.

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