

REPUBLIC OF SOUTH AFRICA

FIREARMS CONTROL BILL

(As introduced in the National Assembly as a section 75 Bill) (Explanatory summary of Bill published in Government Gazette No. 21193 of 19 May February 2000) (The English text is the official text of the Bill)

(MINISTER OF SAFETY AND SECURITY)

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BILL

To establish a comprehensive and an effective system of firearms control; and to provide for matters connected therewith.

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PREAMBLE

WHEREAS every person has the right to life and the right to security of the person, which includes, among other things, the right to be free from all forms of violence from either public or private sources;

AND WHEREAS the adequate protection of such rights is fundamental to the well-being and social and economic development of every person;

AND WHEREAS the increased availability and abuse of firearms and ammunition has contributed significantly to the high levels of violent crime in our society;

AND WHEREAS the Constitution places a duty on the state to respect, protect, promote and fulfil the rights in the Bill of Rights;

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

CHAPTER 1

INTRODUCTORY PROVISIONS

Definitions

1. In this Act, unless the context indicates otherwise—
- (i) “**accredit**” means accredit as contemplated in section 10; 5
 - (ii) “**airgun**” means any device manufactured to fire a bullet or any other projectile at a muzzle energy of not less than 0.7 joules (0.5 ft-lbs) and not more than 8 joules (6 ft-lbs), by means of compressed air and not by means of burning propellant;
 - (iii) “**ammunition**” means a primer, propellant or complete cartridge; 10
 - (iv) “**antique firearm**” includes all firearms manufactured before 1 January 1870, which were not manufactured to discharge rim-fire or centre-fire ammunition and which have not been altered to discharge such ammunition;
 - (v) “**Appeal Board**” means the Appeal Board established by section 131;
 - (vi) “**cartridge**” means a complete object consisting of a cartridge case, primer, propellant and bullet; 15
 - (vii) “**competency certificate**” means a competency certificate contemplated in Chapter 5;
 - (viii) “**dealer**” means any person who is licensed in terms of this Act to trade in firearms and ammunition; 20
 - (ix) “**dedicated hunter**” means a person who actively participates in hunting activities and who is a member of an accredited hunting association;
 - (x) “**dedicated sports person**” means a person who actively participates in sports-shooting and who is a member of an accredited sports-shooting organisation; 25
 - (xi) “**Designated Firearms Officer**” means a police official contemplated in section 127(1)(h);
 - (xii) “**firearm**” means any—
 - (a) device manufactured or designed to propel a bullet or projectile through a barrel or cylinder by means of a burning propellant or compressed gas, at a muzzle energy exceeding 8 joules (6 ft-lbs); 30
 - (b) device manufactured or designed to fire rim-fire or centre-fire ammunition;
 - (c) device which is not at the time capable of discharging any bullet or projectile, but which can be readily altered to be a firearm within the meaning of paragraph (a) or (b); 35
 - (d) specially dangerous airgun; or
 - (e) barrel, frame or receiver of a device referred to in paragraph (a), (b) or (c) or of a specially dangerous airgun referred to in paragraph (d), but does not include any device contemplated in section 5; 40
 - (xiii) “**fully automatic**” means capable of discharging more than one shot with a single depression of the trigger;
 - (xiv) “**gunsmith**” means any person who performs work contemplated in section 62, but who does not manufacture firearms;
 - (xv) “**handgun**” means a pistol or revolver which can be held in and discharged with one hand; 45
 - (xvi) “**imitation firearm**” means anything that has the appearance of a firearm but is not capable of operating as such;
 - (xvii) “**load**” includes reload, and “**loading**” has a corresponding meaning;
 - (xviii) “**Minister**” means the Minister of Safety and Security; 50
 - (xix) “**National Commissioner**” means the National Commissioner of the South African Police Service, appointed in terms of section 207(1) of the Constitution;
 - (xx) “**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; 55

- (xxi) “**occasional sports person**” means any person who, from time to time, participates in sports-shooting but who is not a member of an accredited sports-shooting organisation;
- (xxii) “**police official**” means—
 - (a) a member of the South African Police Service as defined in section 1 of the South African Police Service Act, 1995 (Act No. 68 of 1995), and a member of any municipal police service established in terms of that Act;
 - (b) a person designated by the Minister as a police official under section 147; and
 - (c) a member of the South African National Defence Force deployed in co-operation with the South African Police Service;
- (xxiii) “**prescribed**” means prescribed by regulation;
- (xxiv) “**previous Act**” means the Arms and Ammunition Act, 1969 (Act No. 75 of 1969);
- (xxv) “**private collector**” means a person who collects firearms, who is a member of an accredited collector’s association and who is not a public collector;
- (xxvi) “**public collector**” means a person who collects firearms for display to the public and is accredited as such;
- (xxvii) “**Registrar**” means the person referred to in section 126;
- (xxviii) “**regulation**” means a regulation made under section 150;
- (xxix) “**restricted firearm**” means any firearm contemplated in section 16(1);
- (xxx) “**security company**” means a person who—
 - (a) renders a security service as defined in section 1 of the Security Officers Act, 1987 (Act No. 92 of 1987); or
 - (b) is accredited as a provider of security services for its own business;
- (xxxi) “**security officer**” means any person who is employed by a security company;
- (xxxii) “**semi-automatic**” means self-loading but not capable of discharging more than one shot with a single depression of the trigger;
- (xxxiii) “**specially dangerous airgun**” means any device manufactured to discharge a bullet or any other projectile by means of compressed air and not by means of burning propellant, with—
 - (a) a .22 or higher calibre; or
 - (b) a muzzle energy exceeding 8 joules (6ft-lbs);
- (xxxiv) “**this Act**” includes any regulation;
- (xxxv) “**transfer**” includes selling, letting, donating, lending or otherwise parting with possession.

Purpose of Act

2. The purpose of this Act is to—
- (a) enhance the constitutional rights to life and bodily integrity;
 - (b) prevent the proliferation of illegally possessed firearms and, by providing for the removal of those firearms from society and by improving control over legally possessed firearms, to prevent crime involving the use of firearms;
 - (c) enable the State to remove illegally possessed firearms from society, to control the supply, possession, transfer and use of firearms and to detect and punish the negligent or criminal use of firearms;
 - (d) establish a comprehensive and effective system of firearm control and management; and
 - (e) ensure the efficient monitoring and enforcement of legislation pertaining to the control of firearms.

CHAPTER 2

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PROHIBITIONS

General prohibition in respect of firearms

3. No person may possess a firearm unless he or she holds a licence, permit or authorisation issued in terms of this Act for that firearm.

Prohibited firearms

4. (1) 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 20, 22 and 23(1)(b):

- (a) Any fully automatic firearm; 5
- (b) any gun, cannon, recoilless gun, mortar, light mortar or launcher manufactured to fire—
 - (i) a rocket, grenade, self-propelled grenade, bomb, explosive device or device that emits a chemical substance; or
 - (ii) a projectile of a calibre of 20 millimeters or more; 10
- (c) any frame, body or barrel of such a fully automatic firearm, gun, cannon, recoilless gun, mortar, light mortar or launcher;
- (d) any projectile or rocket manufactured to be discharged from a cannon, recoilless gun or mortar, or rocket launcher, or any substance manufactured to propel or to assist in propelling any such projectile or rocket so discharged, or any grenade, bomb or similar missile, or any frame or body of any such projectile, rocket, grenade, bomb or similar missile; 15
- (e) any explosive or incendiary device or any substantial part thereof;
- (f) any imitation of any device contemplated in paragraph (a), (b), (c), (d) or (e);
- (g) any firearm— 20
 - (i) the mechanism of which has been altered so as to enable the discharging of more than one shot with a single depression of the trigger;
 - (ii) the calibre of which has been altered without the written permission of the Registrar;
 - (iii) the barrel length of which has been altered without the written 25 permission of the Registrar;
 - (iv) the serial number or any other identifying mark of which has been changed or removed without the written permission of the Registrar.

(2) For purposes of subsection (1)(g)(iii), the incidental alteration of the length of the barrel of a firearm by a gunsmith in the ordinary course of gunsmith's work which does not have as an objective the alteration of the length of the barrel of that firearm must not be regarded as an alteration as contemplated in that subsection. 30

(3) (a) The Minister may, by notice in the *Gazette*, declare any other firearm of a specified type to be a prohibited firearm if it is—

- (i) in the interest of public safety; or 35
- (ii) desirable for the maintenance of law and order.

(b) A notice contemplated in paragraph (a) must be tabled in Parliament at least 14 days before publication thereof if Parliament is then sitting, and if Parliament is not sitting, within seven days after the commencement of the next sitting.

CHAPTER 3

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SPECIAL PROVISIONS IN RESPECT OF CERTAIN DEVICES

Devices not firearms for purposes of this Act

5. (1) For purposes of this Act, the following devices are not regarded as firearms:

- (a) Any explosive powered tool manufactured for use by the construction and building industry, including line-throwing guns and impex-type building 45 pistols;
- (b) any explosive powered tool manufactured to split rock or concrete by means of discharging an explosive cartridge;
- (c) any industrial tool manufactured for use in the mining and steel industry to remove refractory material; 50
- (d) any captive bolt gun manufactured for use in an abattoir in the humane killing of animals;
- (e) an antique firearm;
- (f) an airgun;

- (g) a tranquilliser firearm;
- (h) a paintball gun; and
- (i) any other device which the Minister may, by notice in the *Gazette*, exempt.

(2) A notice contemplated in subsection (1)(i) must be tabled in Parliament at least 14 days before publication thereof if Parliament is then sitting, and if Parliament is not sitting, within seven days after the commencement of the next sitting. 5

Antique firearms

6. (1) An antique firearm may only be displayed or stored in—

- (a) an accredited museum;
- (b) a residence or other building occupied by the person or institution in lawful possession of that antique firearm; or 10
- (c) a building or place approved by the Registrar, and in compliance with such conditions as the Registrar may impose.

(2) An antique firearm may only be discharged on an accredited shooting range, or in or on such other premises as the Registrar may approve. 15

(3) A person may dispose of an antique firearm only through a dealer.

(4) A dealer must keep an antique firearm register in which the prescribed particulars relating to the acquisition, possession and disposal of antique firearms must be recorded.

Airguns

7. (1) A person may dispose of an airgun only through a dealer. 20

(2) A dealer must keep an airgun register in which the prescribed particulars relating to the acquisition, possession and disposal of airguns must be recorded.

CHAPTER 4

COMPETENCY CERTIFICATES, LICENCES, PERMITS, AUTHORISATIONS AND ACCREDITATIONS 25

Competency certificates, licences, permits and authorisations

8. (1) The Registrar may issue any competency certificate, licence, permit or authorisation contemplated in this Act—

- (a) on receipt of an application completed in the prescribed form, including a full set of fingerprints of the applicant if required by the Registrar; and 30
- (b) if the applicant complies with all the applicable requirements of this Act.

(2) Subject to section 9, no licence may be issued to a person who is not in possession of the relevant competency certificate.

(3) Every application for a competency certificate, licence, permit or authorisation must be accompanied by such information as may be prescribed. 35

Applications by persons other than natural persons

9. (1) When a juristic person wishes to apply for a licence, permit or authorisation in terms of this Act, it must nominate a natural person to apply on its behalf.

(2) The person so nominated must be identified on the licence, permit or authorisation as the responsible person. 40

(3) A responsible person who holds any licence, permit or authorisation issued in terms of this Act pursuant to an application contemplated in subsection (1) on behalf of the juristic person must for purposes of this Act be regarded as the holder of the licence in question.

(4) If it becomes necessary to replace a responsible person for any reason, the juristic person must nominate a new responsible person who must be in possession of the relevant competency certificate. 45

Accreditation

10. (1) Any accreditation required in terms of this Act must be done by the Registrar in accordance with such regulations as may be prescribed. 50

(2) The regulations contemplated in subsection (1) must set out different sets of criteria, in respect of different accreditations, which the Registrar must apply when issuing an accreditation and which criteria must at least include criteria relating to—

- (a) trustworthiness and integrity;
- (b) suitability to perform the relevant functions in terms of this Act; 5
- (c) capacity to serve the purpose of the accreditation; and
- (d) capacity to advance the purposes of this Act.

(3) The Registrar may cancel an accreditation if there is no longer compliance with any criterion for accreditation.

CHAPTER 5

10

COMPETENCY CERTIFICATES

Application for competency certificate

11. (1) An application for a competency certificate to possess a firearm, to trade in firearms, to manufacture firearms 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 be situated, as the case may be. 15

(2) A competency certificate may only be issued to a person who—

- (a) is 18 years or older on the day the application is received by the Designated Firearms Officer; 20
- (b) is a South African citizen or a holder of a permanent South African residence permit;
- (c) is a fit and proper person to possess a firearm, to trade in firearms, to manufacture firearms or to conduct business as a gunsmith, as the case may be; 25
- (d) is of stable mental condition and is not inclined to violence;
- (e) is not dependent on any substance which has an intoxicating or narcotic effect;
- (f) has not been convicted of any offence under or in terms of this Act or the previous Act;
- (g) has not been convicted, whether in or outside South Africa, of an offence involving the use of a firearm, whether committed in or outside South Africa; 30
- (h) has not been convicted, whether in or outside South Africa, of an offence involving violence, whether committed in or outside South Africa;
- (i) has not been convicted of fraud in relation to, or supplying false information for the purposes of, obtaining a competency certificate, licence, permit or authorisation in terms of this Act or the previous Act; 35
- (j) has not been convicted, whether in or outside South Africa, of an offence involving the abuse of alcohol or drugs, whether committed in or outside South Africa;
- (k) has not been convicted, whether in or outside South Africa, of an offence involving dealing in drugs, whether committed in or outside South Africa; 40
- (l) has not been convicted of an offence in terms of the Domestic Violence Act, 1998 (Act No. 116 of 1998);
- (m) has not, in a matter involving a reasonable apprehension of violent behaviour by that person, been the subject of a final protection order issued in terms of the Domestic Violence Act, 1998 (Act No. 116 of 1998), or a similar restraining order issued in terms of any other legislation, in or outside South Africa; 45
- (n) has successfully completed the prescribed test on knowledge of this Act;
- (o) has successfully completed the prescribed training and practical tests regarding the safe handling of a firearm; 50
- (p) has not been declared unfit to possess a firearm in terms of this Act or the previous Act; and
- (q) has, where applicable, successfully completed the prescribed training and practical tests for firearms dealers, manufacturers, gunsmiths, security officers or other persons who use firearms in the course of their business. 55

- (3) Any offence referred to in subsection (2) means an offence in respect of which—
- (a) the accused person was sentenced to more than six months imprisonment without the option of a fine;
 - (b) an appeal against the conviction or sentence has been finalised or the time for an appeal has elapsed; and
 - (c) the sentence has been served less than five years before the application for a competency certificate was received by the Designated Firearms Officer.
- (4) The disqualification contemplated in subsection (2)(p) ends upon the expiry of a period of five years calculated from the date on which the declaration in question was made or the expiry of the period for which the declaration is valid, whichever is shorter.
- (5) Despite subsection (2)(a), the Registrar may allow a person under the age of 18 years to apply for a competency certificate if the applicant is a dedicated hunter, dedicated sports person or private collector.

Competency certificate

12. (1) A competency certificate must specify—
- (a) whether it relates to competency to—
 - (i) possess a firearm;
 - (ii) trade in firearms;
 - (iii) manufacture firearms; or
 - (iv) conduct business as a gunsmith; and
 - (b) all the relevant tests successfully completed by the holder.
- (2) A competency certificate lapses after two years of its date of issue.

CHAPTER 6

LICENCE TO POSSESS FIREARM

Separate licence in respect of each firearm

13. (1) The Registrar must issue a separate licence in respect of each firearm licensed in terms of this Chapter.
- (2) Despite subsection (1), the Registrar may issue to a person a single document containing licences in respect of more than one firearm.

Additional licences

14. (1) The Registrar may issue an additional licence in respect of a firearm contemplated in section 15, 16, 17, 18 or 19 to every person who resides on the same premises as the holder of the licence in respect of the firearm in question.
- (2) Every holder of an additional licence must comply with all the requirements for the issue of a licence in respect of the firearm in question.
- (3) If the holder of an additional licence contemplated in subsection (1) moves from the premises in question, such additional licence lapses and the person to whom such licence was issued must return that licence to the Registrar forthwith.

Licence to possess firearm for self-defence

15. (1) A firearm in respect of which a licence may be issued in terms of this section is any—
- (a) shotgun which is not fully or semi-automatic; or
 - (b) handgun which is not fully automatic.
- (2) The Registrar may issue a licence under this section to any natural person who—
- (a) needs a firearm for self-defence; and
 - (b) cannot reasonably satisfy that need by means other than the possession of a firearm.
- (3) A person may hold one licence in respect of a shotgun contemplated in subsection (1)(a) and one licence in respect of a handgun contemplated in subsection (1)(b).

(4) A firearm in respect of which a licence has been issued in terms of this section may only be used—

- (a) for purposes of self-defence;
- (b) to practise on premises of an accredited shooting range in accordance with the rules of that shooting range, or in or on any other prescribed place; and 5
- (c) for sporting purposes on premises of an accredited shooting range in accordance with the rules of that shooting range.

Licence to possess restricted firearm for self-defence

16. (1) For purposes of this Act, a restricted firearm is any—

- (a) semi-automatic rifle, carbine or shotgun, which cannot readily be converted into a fully automatic firearm; or 10
- (b) firearm declared by the Minister, by notice in the *Gazette*, to be a restricted firearm.

(2) A notice contemplated in subsection (1)(b) must be tabled in Parliament at least 14 days before publication if Parliament is then sitting, and if Parliament is not sitting, 15 within seven days after the commencement of the next sitting.

(3) The Registrar may issue a licence in terms of this section to any natural person who shows that a firearm contemplated in section 15(1) will not provide sufficient protection, and who submits reasonable information to motivate the need for a restricted firearm for self-defence purposes. 20

(4) No person may hold more than one licence issued in terms of this section.

(5) A firearm in respect of which a licence has been issued in terms of this section may only be used—

- (a) for purposes of self-defence; and
- (b) to practise on premises of an accredited shooting range in accordance with the rules of that shooting range, or in or on any other prescribed place. 25

Licence to possess firearm for occasional hunting and sports-shooting

17. (1) A firearm in respect of which a licence may be issued in terms of this section is any—

- (a) rifle or shotgun which is not fully or semi-automatic; 30
- (b) handgun which is not fully automatic;
- (c) barrel, frame or receiver of a rifle, shotgun or handgun contemplated in paragraph (a) or (b); or
- (d) specially dangerous airgun,

which, if used for hunting, is not prohibited by any other legislation governing hunting in South Africa and which is not a restricted firearm. 35

(2) The Registrar may issue a licence in terms of this section to any natural person who is an occasional hunter or occasional sports person.

(3) (a) Subject to paragraphs (b), (c) and (d), no person may hold more than four licences issued in terms of this section. 40

(b) If a person holds a licence issued in terms of section 15, he or she may only hold three licences issued in terms of this section and if he or she holds two licences issued in terms of section 15, he or she may only hold two licences issued in terms of this section.

(c) A person may not hold more than one licence in respect of a handgun contemplated in subsection (1)(b). 45

(d) If a person contemplated in paragraph (a) holds any additional licences contemplated in section 14 in respect of a firearm contemplated in this section and section 15, the number of licences which that person may hold must be reduced by the number of such additional licences held. 50

(4) A firearm in respect of which a licence has been issued in terms of this section may only be used—

- (a) for purposes of hunting on land suitable for hunting;
- (b) for sporting purposes on premises of an accredited shooting range and in accordance with the rules of that shooting range; and 55
- (c) to practise on premises of an accredited shooting range in accordance with the rules of that shooting range, or in or on any other prescribed place.

Licence to possess firearm for dedicated hunting

- 18.** (1) A firearm in respect of which a licence may be issued in terms of this section is any—
- (a) handgun approved for hunting by an accredited hunting association which is not fully automatic or semi-automatic; 5
 - (b) rifle or shotgun which is not fully or semi-automatic;
 - (c) semi-automatic shotgun manufactured to fire no more than three shots in succession without having to be reloaded;
 - (d) barrel, frame or receiver of a handgun, rifle or shotgun contemplated in paragraph (a), (b) or (c); or 10
 - (e) specially dangerous airgun,
- which is not prohibited by any other legislation governing hunting in South Africa and which is not a restricted firearm.
- (2) The Registrar may issue a licence in terms of this section to a dedicated hunter if the application is accompanied by an affidavit from the chairperson of an accredited 15 hunting association stating that the applicant is a registered member of that association.
- (3) The Registrar may issue further licences in terms of this section to a dedicated hunter who requires a further firearm for hunting purposes and whose application is supported by an affidavit from the chairperson of the accredited hunting association of which the applicant is a member. 20
- (4) A firearm in respect of which a licence has been issued in terms of this section may only be used—
- (a) for purposes of hunting on land suitable for hunting in accordance with the rules of the accredited hunting association of which the holder of the licence is a member; 25
 - (b) for sporting purposes on premises of an accredited shooting range in accordance with the rules of that shooting range; and
 - (c) to practise on premises of an accredited shooting range in accordance with the rules of that shooting range, or in or on any other prescribed place.
- (5) Every accredited hunting association must— 30
- (a) keep a register which contains such information as may be prescribed; and
 - (b) submit an annual report to the Registrar which contains such information as may be prescribed.

Licence to possess firearm for dedicated sports-shooting

- 19.** (1) A firearm in respect of which a licence may be issued in terms of this section is any— 35
- (a) handgun which is not fully automatic;
 - (b) rifle or shotgun which is not fully automatic;
 - (c) semi-automatic shotgun manufactured to fire no more than three shots in succession without having to be reloaded; 40
 - (d) barrel, frame or receiver of a handgun, rifle or shotgun contemplated in paragraph (a), (b) or (c); or
 - (e) specially dangerous airgun.
- (2) The Registrar may issue a licence in terms of this section to a dedicated sports person if the application is accompanied by an affidavit from the chairperson of an 45 accredited sports-shooting organisation confirming that the applicant is a registered member of that organisation.
- (3) The Registrar may issue further licences in terms of this section to a dedicated sports person who requires a further firearm for sports-shooting and whose application is supported by an affidavit from the chairperson of the accredited sports-shooting 50 organisation of which the applicant is a member.
- (4) A firearm in respect of which a license has been issued in terms of this section may only be used—
- (a) for purposes of hunting on land suitable for hunting, unless the use of the firearm for hunting is prohibited by any legislation governing hunting in 55 South Africa;

- (b) for sporting purposes on premises of an accredited shooting range in accordance with the rules of that shooting range; and
 - (c) to practise on premises of an accredited shooting range in accordance with the rules of that shooting range, or in or on any other prescribed place.
- (5) Every accredited sports-shooting association must— 5
- (a) keep a register which contains such information as may be prescribed; and
 - (b) submit an annual report to the Registrar which contains such information as may be prescribed.

Licence to possess firearm in private collection

20. (1) (a) A firearm which may be possessed in a private collection is any firearm approved for collection by an accredited collectors association. 10

(b) Despite section 4, such prohibited firearm as may be prescribed may be licensed under this section.

(2) The Registrar may issue a licence in terms of this section to a private collector if the application is accompanied by an affidavit from the chairperson of an accredited collectors association stating that the applicant is a registered member of that association. 15

(3) The holder of a licence issued in terms of this section—

- (a) must keep the firearm at the place specified in the licence; and
- (b) may only display the firearm in accordance with such safety measures as may be prescribed. 20

(4) A firearm in respect of which a licence has been issued in terms of this section may only be used on an accredited shooting range in accordance with the rules of that shooting range and in accordance with such conditions as the Registrar may impose.

Permit to possess ammunition in private collection 25

21. (1) Ammunition which may be possessed in a private collection is any ammunition approved for collection by an accredited collectors association.

(2) (a) The Registrar may, subject to such regulations as may be prescribed, issue a permit in terms of this section to a private collector if the application is accompanied by an affidavit from the chairperson of an accredited collectors association stating that the applicant is a registered member of that association. 30

(b) A collector contemplated in paragraph (a) may not possess more than 200 rounds of ammunition of any particular calibre unless the Registrar approves the possession of a higher number in writing.

(3) The holder of a permit issued in terms of this section may not discharge any ammunition in his or her collection. 35

(4) The holder of a permit issued in terms of this section—

- (a) must keep the ammunition at the place specified in the permit; and
- (b) may only display the ammunition in accordance with such safety measures as may be prescribed. 40

Licence to possess a firearm, and permit to possess ammunition, in public collection

22. (1) The Registrar may issue a licence to possess a firearm in a public collection, a permit to possess ammunition in a public collection, or both such permit and licence, to a public collector. 45

(2) Despite section 4, such prohibited firearm as may be prescribed may be licensed under this section.

(3) The holder of a permit contemplated in subsection (1) may not possess more than 200 rounds of ammunition of any particular calibre unless the Registrar approves the possession of a higher number in writing. 50

(4) A 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—

- (a) in an accredited museum; and
- (b) in accordance with such safety measures as may be prescribed.

(5) A firearm in respect of which a licence has been issued in terms of this section may only be used on an accredited shooting range in accordance with the rules of that shooting range and in accordance with such conditions as the Registrar may impose. 5

(6) The holder of a permit issued in terms of this section may not discharge any ammunition in his or her collection.

Licence to possess firearm for business purposes

23. (1) (a) A firearm in respect of which a licence may be issued in terms of this section is any firearm other than a prohibited firearm. 10

(b) Despite paragraph (a), a licence in respect of a prohibited firearm may be issued to a person contemplated in subsection (2)(c) but such person may only provide the prohibited 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 be impose. 15

(2) The Registrar may issue a licence in terms of this section to—

- (a) a security company;
- (b) a person who is accredited to provide training in the use of firearms;
- (c) a person who is accredited to provide firearms for use in theatrical, film or television productions; 20
- (d) a person who is accredited to conduct business in hunting; or
- (e) any person who is accredited to use firearms for such other business purpose as the Registrar may determine.

(3) A licence issued in terms of this section must specify the business purpose in respect of which it is issued. 25

(4) A firearm in respect of which a licence was issued in terms of this section may only be used as specified in the licence.

(5) (a) The holder of a licence issued in terms of this section may only provide the firearm for use by another person subject to such conditions as may be prescribed.

(b) A security company which holds a licence to possess a firearm for business use may only provide the firearm to a security officer in its service who holds a competency certificate. 30

(6) Every holder of a licence issued in terms of this section must—

- (a) keep a register of all firearms in its possession containing such information as may be prescribed; 35
- (b) must store and transport the firearms as may be prescribed.

(7) The holder of a licence issued in terms of this Act must, at the request of a police official, produce for inspection—

- (a) any firearm and ammunition in its possession or under its control; and
- (b) every licence issued in terms of this section. 40

(8) When a licence issued in terms of this section terminates, the holder of the licence must within 30 days of such termination—

- (a) return all licences issued in terms of this section to the Registrar; and
- (b) dispose of the register as may be determined by the Registrar.

Temporary authorisation to possess firearm 45

24. (1) The Registrar may issue a temporary authorisation to possess a firearm to any person, including a non-citizen—

- (a) for such period as the Registrar may determine; and
- (b) subject to such conditions as may be prescribed and imposed by the Registrar.

(2) The Registrar may at any time withdraw an authorisation if any condition contemplated in subsection (1)(b) is not complied with. 50

(3) The Office of the Central Firearms Register must keep a record containing such information as may be prescribed in respect of all authorisations issued in terms of this section.

(4) The Registrar must submit an annual report to the Minister containing such information as may be prescribed in respect of all authorisations issued in terms of this section.

(5) A firearm in respect of which an authorisation has been issued in terms of this section may be used only—

- (a) if the Registrar by endorsement on the authorisation permits such use; and
- (b) in accordance with such conditions as may be prescribed and imposed by the Registrar.

(6) A firearm in respect of which an authorisation has been issued in terms of this section may be disposed of only with the written consent of the Registrar and subject to such conditions as he or she may impose.

Holder of licence may allow another person to use firearm

25. Despite anything to the contrary in this Act but subject to section 123(7), any person who is at least 21 years of age and the holder of a licence to possess a firearm issued in terms of this Act may allow any other person to use that firearm while under his or her immediate supervision—

- (a) for purposes of hunting while on land suitable for hunting;
- (b) to practise on premises of an accredited shooting range in accordance with the rules of that shooting range, or in or on any other prescribed place; and
- (c) for sporting purposes on premises of an accredited shooting range in accordance with the rules of that shooting range.

Identification marks on firearms

26. (1) No firearm licence may be issued unless the firearm bears the manufacturer's serial number or any other mark by which the firearm can be identified.

(2) The identification number must be stamped and the mark affixed in the prescribed manner on the barrel, frame or receiver of the firearm.

(3) Despite subsections (1) and (2), the Registrar may, on good cause shown by the applicant and subject to such conditions as the Registrar may impose, issue a licence in respect of a firearm which does not comply with the provisions of those subsections.

(4) The Registrar may direct that any firearm in respect of which an application for a licence has been made, be marked with such additional identification mark as he or she may determine.

(5) No person may erase, alter or in any other manner tamper with the manufacturer's serial number or any other identification mark on a firearm.

(6) A person who is in possession of a firearm of which the manufacturer's serial number or other identification mark has been erased, altered or in any other manner tampered with or has become illegible, must forthwith notify the Registrar of such fact.

(7) The Registrar may direct in writing that such firearm be marked with such identification mark as he or she may determine.

Renewal of firearm licences

27. (1) The holder of a licence issued in terms of this Chapter who wishes to renew the licence must at least 90 days before the date of expiry of the licence apply to the Registrar for its renewal.

(2) The application must be—

- (a) accompanied by such information as may be prescribed; and
- (b) delivered to the Designated Firearms Officer responsible for the area in which the applicant ordinarily resides or in which the applicant's business is, as the case may be.

(3) No application for the renewal of a licence may be granted unless the applicant shows that he or she has continued to comply with the requirements for the licence in terms of this Act.

(4) If an application for the renewal of a licence has been lodged within the period provided for in subsection (1), the licence remains valid until the application is decided.

Notification of change of address

28. (1) The holder of a firearm licence must in writing notify the Registrar of any change in his or her physical or postal address within 30 days of such change occurring.

(2) The Registrar must in writing acknowledge receipt of the notification referred to in subsection (1).

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Notification of change of circumstances

29. The holder of a licence issued in terms of this Chapter must inform the Registrar in writing within 30 days if there is any change with regard to any information which was submitted in respect of the application for the issue of that licence.

Period of validity of licence or permit

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30. A licence or permit mentioned in Column 2 of the Table below remains valid for the period mentioned in Column 3 of that 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 self-defence	Five years
16	Licence to possess restricted firearm for self-defence	Two years
17	Licence to possess firearm for occasional hunting and sports-shooting	Ten years
18	Licence to possess firearm for dedicated hunting	Ten years
19	Licence to possess firearm for dedicated sports-shooting	Ten years
20	Licence to possess firearm in private collection	Ten years
21	Permit to possess ammunition in private collection	Ten years
22	Licence to possess firearm, and permit to possess ammunition, in public collection	Ten years
23	Licence to possess firearm for business purposes: Business in hunting	Five years
23	Licence to possess firearm for business purposes: Business other than in hunting	Two years

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Termination of firearm licence

31. (1) A licence issued in terms of this Chapter terminates—

(a) upon the expiry of the relevant period contemplated in section 30, unless renewed in terms of section 27;

(b) if surrendered by the licence holder to the Registrar;

(c) if the holder of the licence is declared unfit to possess a firearm in terms of section 105 or 106; or

(d) if it is cancelled in terms of this Act.

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(2) The Registrar may, by notice in writing, cancel a licence issued in terms of this Chapter if the holder of the licence—

(a) no longer qualifies to hold the licence; or

(b) has contravened or failed to comply with any provision of this Act or any condition specified in the licence.

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(3) A notice contemplated in subsection (2) may only be issued if the Registrar has—

(a) given the holder of the licence 14 days' notice in writing to submit written representations as to why the licence should not be cancelled; and

(b) duly considered any representations received and all the facts pertaining to the matter.

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- (4) (a) If a notice contemplated in subsection (2) is issued, the former licence holder must dispose of the firearm in question through a dealer.
- (b) The disposal must take place within 60 days after receipt of the notice.
- (5) If the firearm is not disposed of within 60 days, it must be forfeited to the State and the former licence holder must surrender it immediately at such place and in such manner as the Registrar may determine. 5
- (6) Any period contemplated in this section may be extended by the Registrar on good cause shown.

Defaced, lost or stolen licences

32. (1) If a licence issued in terms of this Chapter is lost or stolen, the holder of the licence must inform the Registrar of such loss or theft within 24 hours of the discovery of the loss or theft. 10
- (2) If a licence issued in terms of this Chapter is defaced, lost or stolen, the holder of the licence must within seven days of the discovery of the defacement, loss or theft apply to the Registrar in the prescribed form for a copy of the licence. 15

Central firearms database

33. The Registrar must, as soon as practicable, establish such central firearms database as may be prescribed.

CHAPTER 7

LICENCES ISSUED TO PARTICULAR CATEGORIES OF PERSONS — DEALERS, MANUFACTURERS AND GUNSMITHS 20

PART 1 — DEALERS

Prohibition of unlicensed trading in firearms or ammunition

34. (1) No person may trade in any firearm or ammunition without a dealer's licence.
- (2) A person who is not a dealer may dispose of a firearm or ammunition only through a dealer or as otherwise provided for in this Act. 25
- (3) Any person who disposes of a firearm must notify the Registrar in writing thereof.

Requirements for dealer's licence

35. (1) A dealer's licence may be issued to a person who is a fit and proper person to trade in firearms or ammunition. 30
- (2) Any natural person who engages in trading on behalf of a dealer must hold a competency certificate to trade in firearms and ammunition.

Conditions imposed on dealer

36. The Minister may prescribe—
- (a) conditions in respect of the issue of a dealer's licence which the Registrar may impose on a dealer; and 35
- (b) specifications in respect of the business premises of a dealer.

Dealer's licence

37. The dealer's licence must—
- (a) specify the premises in respect of which the licence is issued; 40
- (b) specify the conditions contemplated in section 36; and
- (c) contain such other information as may be prescribed.

Renewal of dealer's licence

- 38.** (1) The holder of a dealer's licence who wishes to renew the licence must at least 90 days before the date of expiry of the licence apply in the prescribed form to the Registrar for its renewal.
- (2) The application must be— 5
- (a) accompanied by such information as may be prescribed; and
 - (b) delivered to the Designated Firearms Officer responsible for the area in which the applicant's business premises are situated.
- (3) No application for the renewal of a dealer's licence may be granted unless the applicant satisfies the Registrar that he or she still complies with the requirements for the licence in terms of this Act. 10
- (4) If an application for the renewal of a dealer's licence has been lodged within the period provided for in subsection (1), the licence remains valid until the application is decided.

Temporary authorisation to trade in firearms and ammunition on premises other than those specified in dealer's licence 15

- 39.** (1) The Registrar may issue a temporary authorisation to a dealer to trade in firearms and ammunition at premises other than those specified in the dealer's licence.
- (2) The Minister may prescribe conditions which the Registrar may impose on a licensed dealer in respect of a temporary authorisation issued in terms of this section. 20
- (3) A temporary authorisation to trade in firearms and ammunition must specify the—
- (a) premises in respect of which it is issued;
 - (b) period for which it is issued; and
 - (c) conditions subject to which it is issued.
- (4) The Registrar may at any time, by written notice, withdraw an authorisation issued in terms of this section. 25
- (5) The Office of the Central Firearms Register must keep a record of prescribed information in respect of all authorisations issued in terms of this section.
- (6) A dealer to whom a temporary authorisation has been issued must comply with the requirements of subsection (3). 30

Change of premises

- 40.** (1) A dealer may apply to the Registrar in the prescribed manner for removal of the business from the premises specified in the licence to different premises.
- (2) On receipt of the application referred to in subsection (1), the Registrar may endorse the licence or issue a new licence permitting the dealer to conduct the business from the new premises on such conditions as the Registrar may impose. 35

Notification of change of circumstances

- 41.** The holder of a dealer's licence must inform the Registrar in writing within 30 days if there is any change with regard to any information which was submitted in respect of the application for the issue of that licence. 40

Duties of dealer

- 42.** (1) A dealer may trade in firearms or ammunition only on premises specified in the dealer's licence.
- (2) A dealer may not permit any person to trade in firearms or ammunition on his or her behalf unless that person is in possession of the appropriate competency certificate. 45
- (3) A dealer must keep such registers as may be prescribed and containing such information as may be prescribed at the premises specified in the dealer's licence.
- (4) A dealer must keep his or her dealer's licence on the premises specified in the licence.
- (5) A dealer must, at the request of any police official, produce for inspection— 50

- (a) any firearms or ammunition that the dealer may have in stock;
 - (b) his or her dealer's licence; and
 - (c) any register or electronic data kept by the dealer in terms of Part 1 of this Chapter.
- (6) A dealer must establish and maintain a workstation which links the registers referred to in subsection (3) to the central dealers database in the prescribed manner. 5
- (7) The Registrar may, on good cause shown on application by a dealer, exempt the dealer from the duties referred to in subsection (6).
- (8) Any dealer exempted as contemplated in subsection (7) must submit weekly returns, completed in the prescribed form, to the Office of the Central Firearms Register. 10
- (9) A dealer must comply with any condition imposed under section 36 and specification prescribed under that section.

Establishment of centralised dealers database

43. The Registrar must, as soon as practicable, establish such central dealers database as may be prescribed. 15

Suspension of dealer's licence

- 44.** (1) The Registrar may suspend a dealer's licence if the Registrar has information in a sworn statement or on solemn declaration that the dealer has not complied with any—
- (a) condition specified in the licence; or 20
 - (b) provision of this Act.
- (2) A licence may be suspended for not more than seven days without affording the holder of the licence a hearing.
- (3) A suspension may endure for a period longer than seven days if the—
- (a) holder has been afforded an opportunity to make written representations to the Registrar; 25
 - (b) Registrar has given due consideration to the representations; and
 - (c) Registrar deems it necessary in order to achieve the objects of this Act.
- (4) The period referred to in subsection (3) may be extended by the Registrar on good cause shown. 30
- (5) A dealer may not trade for the period during which the licence is suspended.

Termination of dealer's licence

- 45.** (1) A dealer's licence terminates—
- (a) upon the expiry of one year from the date on which it was issued;
 - (b) if surrendered by the dealer to the Registrar; 35
 - (c) if the holder of the licence is declared unfit to possess a firearm in terms of section 105 or 106; or
 - (d) if cancelled in terms of this Act.
- (2) The Registrar may, by written notice, cancel a dealer's licence if the holder of the licence— 40
- (a) no longer qualifies to hold the licence; or
 - (b) has contravened or failed to comply with any provision of this Act or any condition specified in the licence.
- (3) A notice contemplated in subsection (2) may only be issued if the Registrar has—
- (a) given the holder 14 days notice in writing to submit written representations as to why the licence should not be cancelled; and 45
 - (b) duly considered any representations received and all the facts pertaining to the matter.
- (4) (a) If a notice contemplated in subsection (2) is issued, the former licence holder must dispose of any firearms and ammunition in his or her possession through a dealer 50 or in such manner as the Registrar may determine.
- (b) The disposal must take place within 60 days after receipt of the notice.

(5) If the firearms and ammunition are not disposed of within 60 days they must be forfeited to the State and the former licence holder must surrender them immediately at such place and in such manner as the Registrar may determine.

(6) Any period contemplated in this section may be extended by the Registrar on good cause shown.

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Application of other laws

46. (1) A licence issued in terms of Part 1 of this Chapter does not exempt the licence holder from having to comply with the provisions of any other law.

(2) Any prohibition contained in the Explosives Act, 1956 (Act No. 26 of 1956), against dealing in explosives does not apply to the trading in ammunition in accordance with a licence or authorisation issued to a dealer in terms of this Act.

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Defaced, lost or stolen licences

47. (1) If a dealer's licence is lost or stolen, the licence holder must inform the Registrar within 24 hours of the discovery of the loss or theft.

(2) If a dealer's licence is defaced, lost or stolen, the holder of the licence must within seven days of the discovery of the defacement, loss or theft apply to the Registrar in the prescribed manner for a copy of the licence.

15

PART 2 — MANUFACTURERS

Prohibition of unlicensed manufacture of firearms and ammunition

48. (1) No person may manufacture any firearm or ammunition without a manufacturer's licence.

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(2) A licensed manufacturer may only sell firearms and ammunition to a dealer.

Requirements for manufacturer's licence

49. (1) A manufacturer's licence may be issued to a person who is a fit and proper person to manufacture firearms or ammunition.

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(2) The Registrar may only issue a manufacturer's licence to—

- (a) a manufacturer of firearms if the firearms are manufactured in a factory registered in terms of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993); or
- (b) a manufacturer of ammunition if the ammunition is manufactured in a factory licensed in terms of the Explosives Act, 1956 (Act No. 26 of 1956).

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Conditions imposed on licensed manufacturer

50. The Minister may prescribe—

- (a) conditions in respect of the issue of a manufacturer's licence which the Registrar may impose on a licensed manufacturer;
- (b) specifications in respect of the business premises of a manufacturer.

35

Manufacturer's licence

51. A manufacturer's licence must—

- (a) specify the premises in respect of which the licence is issued;
- (b) specify the conditions contemplated in section 50 which are to apply; and
- (c) contain such other information as may be prescribed.

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Renewal of manufacturer's licences

51. (1) The holder of a manufacturer's licence who wishes to renew the licence must apply to the Registrar for its renewal in the prescribed form at least 90 days before the date of expiry of the licence.

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(2) The application must be—

- (a) accompanied by such information as may be prescribed; and
- (b) delivered to the Designated Firearms Officer responsible for the area in which the applicant's business premises are situated.

(3) No application for renewal of a manufacturer's licence may be granted unless the applicant satisfies the Registrar that he or she has continued to comply with the requirements for the licence in terms of this Act. 5

(4) If an application for the renewal of a manufacturer's licence has been lodged within the period provided for in subsection (1), the licence remains valid until the application is decided. 10

Temporary authorisation to display firearms and ammunition on premises other than those specified in manufacturer's licence

53. (1) The Registrar may issue a temporary authorisation to a licensed manufacturer to display firearms and ammunition at premises other than those specified in the manufacturer's licence. 15

(2) The Minister may prescribe conditions which the Registrar may impose on a licensed manufacturer in respect of a temporary authorisation issued in terms of this section.

(3) A temporary authorisation to display firearms and ammunition must specify—

- (a) the premises in respect of which it is issued; 20
- (b) the period for which it is issued; and
- (c) any conditions subject to which it is issued.

(4) The Registrar may at any time, by written notice, withdraw an authorisation issued in terms of this section.

(5) The Office of the Central Firearms Register must keep a record of prescribed information in respect of all authorisations issued in terms of this section. 25

(6) A licensed manufacturer to whom a temporary authorisation has been issued must comply with the requirements of subsection (3).

Change of premises

54. (1) A licensed manufacturer may apply to the Registrar in the prescribed manner for removal of the business from the premises specified in the licence to different premises. 30

(2) On receipt of the application referred to in subsection (1), the Registrar may endorse the manufacturer's licence or issue a new licence permitting the manufacturer to conduct business from the new premises on such conditions as the Registrar may impose. 35

(3) Section 49(2) applies with the necessary changes to an application in terms of this section.

Notification of change of circumstances

55. The holder of a manufacturer's licence must inform the Registrar in writing within 30 days if there is any change with regard to any information which was submitted in respect of the application for the issue of that licence. 40

Duties of licensed manufacturer

56. (1) A licensed manufacturer may manufacture firearms or ammunition only on premises specified in the licence. 45

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

(3) A licensed manufacturer must keep registers containing such information as may be prescribed at the premises specified in the manufacturer's licence.

(4) A licensed manufacturer must keep his or her manufacturer's licence on the premises specified in the licence. 50

- (5) A licensed manufacturer must, at the request of any police official, produce for inspection—
- (a) any firearms or ammunition that the manufacturer may have in stock;
 - (b) his or her manufacturer's licence; and
 - (c) any register or electronic data kept by the manufacturer in terms of Part 2 of this Chapter. 5
- (6) A licensed manufacturer must in the prescribed manner establish and maintain a workstation which links the registers referred to in subsection (2) to the central manufacturers database.
- (7) A licensed manufacturer must comply with the conditions specified in the manufacturer's licence. 10

Establishment of centralised manufacturers database

57. The Registrar must, as soon as practicable, establish such central manufacturers database as may be prescribed.

Suspension of manufacturer's licence 15

- 58.** (1) The Registrar may suspend a manufacturer's licence if the Registrar has information in a sworn statement or on solemn declaration that the manufacturer has not complied with any—
- (a) condition specified in the licence; or
 - (b) provision of this Act. 20
- (2) A licence may be suspended for not more than seven days without affording the holder of the licence a hearing.
- (3) A suspension may endure for a period longer than seven days if the—
- (a) holder has been afforded an opportunity to make written representations to the Registrar; 25
 - (b) Registrar has given due consideration to the representations; and
 - (c) Registrar deems it necessary in order to achieve the objects of this Act.
- (4) The period referred to in subsection (3) may be extended by the Registrar on good cause shown.
- (5) A manufacturer may not trade for the period during which the licence is suspended. 30

Termination of manufacturer's licence

- 59.** (1) A manufacturer's licence terminates—
- (a) upon the expiry of one year from the date on which it was issued;
 - (b) if surrendered by the manufacturer to the Registrar; 35
 - (c) if the manufacturer is declared unfit to possess a firearm in terms of section 105 or 106; or
 - (d) if cancelled in terms of this Act.
- (2) The Registrar may, by written notice, cancel a manufacturer's licence if the holder of the licence— 40
- (a) no longer qualifies to hold the licence; or
 - (b) has contravened or failed to comply with any provision of this Act or any condition specified in the licence.
- (3) A notice contemplated in subsection (2) may only be issued if the Registrar has—
- (a) given the holder 14 days' notice in writing to submit written representations as to why the licence should not be cancelled; and 45
 - (b) duly considered any representations received and all the facts pertaining to the matter.
- (4) (a) If a notice contemplated in subsection (2) is issued, the former licence holder must dispose of any firearms and ammunition in his or her possession through a dealer 50 or in such manner as the Registrar may determine.
- (b) The disposal must take place within 60 days after receipt of the notice.

(5) If the firearm and ammunition are not disposed of within 60 days they must be forfeited to the State and the former licence holder must surrender them immediately at such place and in such manner as the Registrar may determine.

(6) Any period contemplated in this section may be extended by the Registrar on good cause shown.

5

Application of other laws

60. (1) A licence issued in terms of Part 2 of this Chapter does not exempt the licence holder from having to comply with the provisions of any other law.

(2) A prohibition contained in the Explosives Act, 1956 (Act No. 26 of 1956), against manufacturing explosives does not apply to the manufacture of ammunition in accordance with a licence or authorisation issued to a manufacturer in terms of this Act.

10

Defaced, lost or stolen licences

61. (1) If a manufacturer's licence is lost or stolen, the licence holder must inform the Registrar within 24 hours of the discovery of the loss or theft.

(2) If a manufacturer's licence is defaced, lost or stolen, the holder of the licence must within seven days of the discovery of the defacement, loss or theft apply to the Registrar in the prescribed manner for a copy of the licence.

15

PART 3 — GUNSMITHS

Prohibition of certain work

62. No person may, without being the holder of a gunsmith's licence— 20

- (a) repair, alter or improve any firearm;
- (b) perform any work contemplated in section 4(1)(g); or
- (b) perform any other prescribed work.

Requirement for gunsmith's licence

63. A gunsmith's licence may be issued to a person who is a fit and proper person to perform the work contemplated in section 62. 25

Conditions imposed on gunsmith

64. The Minister may prescribe—

- (a) conditions in respect of the issue of a gunsmith's licence which the Registrar may impose on a licensed gunsmith; 30
- (b) specifications in respect of the business premises of a gunsmith.

Gunsmith's licence

65. A gunsmith's licence must—

- (a) specify the premises in respect of which the licence is issued;
- (b) specify any of the conditions contemplated in section 64 which are to apply; 35
- and
- (c) contain such other information as may be prescribed.

Renewal of gunsmith's licence

66. (1) The holder of a gunsmith's licence who wishes to renew the licence must apply to the Registrar for its renewal at least 90 days before the date of expiry of the licence. 40

(2) The application must be—

- (a) accompanied by such information as may be prescribed; and
- (b) be delivered to the Designated Firearms Officer responsible for the area in which the applicant's business premises are situated.

(3) No application for renewal of a gunsmith's licence may be granted unless the applicant satisfies the Registrar that he or she has continued to comply with the requirements for the licence in terms of this Act.

(4) If an application for the renewal of a gunsmith's licence has been lodged within the period provided for in subsection (1), the licence remains valid until the application is decided. 5

Temporary authorisation to conduct business as gunsmith on premises other than those specified in gunsmith's licence

67. (1) The Registrar may issue a temporary authorisation to a gunsmith to conduct business as a gunsmith at premises other than those specified in the gunsmith's licence. 10

(2) The Minister may prescribe conditions which the Registrar may impose on a gunsmith in respect of a temporary authorisation issued in terms of this section.

(3) A temporary authorisation to conduct business as a gunsmith must specify the—

- (a) premises in respect of which it is issued;
- (b) period for which it is issued; and 15
- (c) conditions subject to which it is issued.

(4) The Registrar may at any time, by written notice, withdraw an authorisation issued in terms of this section.

(5) The Office of the Central Firearms Register must keep a record of prescribed information in respect of all authorisations issued in terms of this section. 20

(6) A gunsmith to whom a temporary authorisation has been issued must comply with the requirements of subsection (3).

Change of premises

68. (1) A gunsmith may apply to the Registrar in the prescribed manner for removal of the business from the premises specified in the licence to different premises. 25

(2) On receipt of the application referred to in subsection (1), the Registrar may endorse the gunsmith's licence or issue a new licence permitting the gunsmith to conduct the business from the new premises on such conditions as the Registrar may impose.

Notification of change of circumstances 30

69. The holder of a gunsmith's licence must inform the Registrar in writing within 30 days if there is any change with regard to any information which was submitted in respect of the application for the issue of that licence.

Duties of gunsmith

70. (1) A gunsmith may conduct business as a gunsmith only on premises specified in the gunsmith's licence. 35

(2) A gunsmith must keep registers containing such information as may be prescribed at the premises specified in the gunsmith's licence.

(3) A gunsmith must keep his or her gunsmith's licence on the premises specified in the licence. 40

(4) A gunsmith must, at the request of any police official, produce for inspection—

- (a) any firearms or ammunition that the gunsmith may have in his or her possession;
- (b) his or her gunsmith's licence; and
- (c) any register or electronic data kept by the gunsmith in terms of Part 3 of this Chapter. 45

(5) A gunsmith must in the prescribed manner establish and maintain a workstation which links the registers referred to in subsection (2) to the central gunsmiths database.

(6) The Registrar may, on good cause shown on application by a gunsmith, exempt the gunsmith from the duties referred to in subsection (5). 50

(7) Any gunsmith exempted as contemplated in subsection (6), must submit weekly returns, completed in the prescribed form, to the Office of the Central Firearms Register.

(8) A gunsmith must comply with any condition imposed under section 64 and specifications prescribed under that section.

Establishment of centralised gunsmiths database

71. The Registrar must, as soon as reasonably practicable, establish such central gunsmiths database as may be prescribed. 5

Suspension of gunsmith's licence

72. (1) The Registrar may suspend a gunsmith's licence if the Registrar has information in a sworn statement or on solemn declaration that the gunsmith has not complied with any—

- (a) condition specified in the licence; or 10
- (b) provision of this Act.

(2) A licence may be suspended for not more than seven days without affording the holder of the licence a hearing.

(3) A suspension may endure for a period longer than seven days if the—

- (a) holder has been afforded an opportunity to make written representations to the Registrar; 15
- (b) Registrar has given due consideration to the representations; and
- (c) Registrar deems it necessary in order to achieve the objects of this Act.

(4) The period referred to in subsection (3) may be extended by the Registrar on good cause shown. 20

(5) A gunsmith may not conduct business as a gunsmith for such period as the licence is suspended.

Termination of gunsmith's licence

73. (1) A gunsmith's licence terminates—

- (a) upon the expiry of one year from the date on which it was issued; 25
- (b) if surrendered by the gunsmith to the Registrar;
- (c) if the gunsmith is declared unfit to possess a firearm in terms of section 105 or 106; or
- (d) if cancelled in terms of this Act.

(2) The Registrar may, by written notice, cancel a gunsmith's licence if the holder of the licence— 30

- (a) no longer qualifies to hold the licence; or
- (b) has contravened or failed to comply with any provision of this Act or any condition specified in the licence.

(3) A notice contemplated in subsection (2) may only be issued if the Registrar has— 35

- (a) given the holder 14 days' notice in writing to submit written representations as to why the licence should not be cancelled; and
- (b) duly considered any representations received and all the facts pertaining to the matter.

(4) (a) If a notice contemplated in subsection (2) is issued, the former licence holder must dispose of any firearms and ammunition in his or her possession through a dealer or in such manner as the Registrar may determine. 40

(b) The disposal must take place within 60 days after receipt of the notice.

(5) If the firearm and ammunition are not disposed of within 60 days they must be forfeited to the State and the former licence holder must surrender them immediately at such place and in such manner as the Registrar may determine. 45

(6) Any period contemplated in this section may be extended by the Registrar on good cause shown.

Application of other laws

74. A licence issued in terms of Part 3 of this Chapter does not exempt the licence holder from the obligation to comply with any other law. 50

Defaced, lost or stolen licences

75. (1) If a gunsmith's licence is lost or stolen, the licence holder must inform the Registrar within 24 hours of the discovery of the loss or theft.

(2) If a gunsmith's licence is defaced, lost or stolen, the holder of the licence must within seven days of the discovery of the defacement, loss or theft apply to the Registrar in the prescribed manner for a copy of the licence. 5

CHAPTER 8**IMPORT, EXPORT AND CARRIAGE IN TRANSIT OF FIREARMS AND AMMUNITION****Prohibition of import, export or carriage in transit of firearms and ammunition without permit 10**

76. (1) No person may import into or export from South Africa any firearms or ammunition without an import or export permit issued in terms of this Act.

(2) No person may carry in transit through South Africa any firearms or ammunition without an in-transit permit issued in terms of this Act. 15

Requirements for import, export or in-transit permit

77. (1) An import, export or in-transit permit may be issued to a person who is a fit and proper person to hold such permit.

(2) Unless the Registrar directs otherwise in writing, no import, export or in-transit permit may be issued in respect of any firearm or ammunition which does not bear the prescribed identification marks. 20

Conditions imposed on permit holder

78. The Minister may prescribe conditions which the Registrar may impose on the holder of a permit issued in terms of this Chapter.

Import, export or in-transit permit 25

79. An import, export or in-transit permit must—

- (a) specify the conditions contemplated in section 78; and
- (b) contain such other information as may be prescribed.

Permit constitutes licence to possess firearm or ammunition

80. (1) A permit for the import of a firearm or ammunition also constitutes a licence to possess such firearm or ammunition for such period as the Registrar may specify on the permit. 30

(2) The Registrar may impose such conditions in respect of the possession and use of the relevant firearm or ammunition as may be prescribed, and must on the permit in question specify any conditions imposed. 35

Duties of permit holder

81. (1) The holder of a permit issued in terms of this Chapter, must at the request of any police official, produce for inspection—

- (a) any firearms or ammunition in his or her possession or under his or her control; 40
- (b) his or her permit; and
- (c) any register or electronic data that may be kept by him or her in terms of this Act.

(2) The Registrar may direct the holder of a permit issued in terms of this Chapter to keep and maintain registers containing such information as he or she may direct.

(3) The Registrar may direct the holder of a permit issued in terms of this Chapter to establish and maintain a workstation which complies with such requirements as he or she may direct and which links the registers referred to in subsection (2) to the central importers and exporters database. 5

(4) The holder of a permit issued in terms of this Chapter must comply with the conditions specified in the permit.

Establishment of central importers and exporters database

82. The Registrar must, as soon as practicable, establish such central importers and exporters databases as may be prescribed. 10

Suspension of import, export and in-transit permits

83. (1) The Registrar may suspend an import, export or in-transit permit if the Registrar has information in a sworn statement or on solemn declaration that the holder of the permit has not complied with any— 15

- (a) condition specified in the permit; or
- (b) provision of this Act.

(2) A permit may be suspended for not more than seven days without affording the holder of the permit a hearing.

(3) A suspension may endure for a period longer than seven days if the— 20

- (a) holder has been afforded an opportunity to make written representations to the Registrar;
- (b) Registrar has given due consideration to the representations; and
- (c) Registrar deems it necessary in order to achieve the objects of this Act.

(4) The period referred to in subsection (3) may be extended by the Registrar on good cause shown. 25

(5) A permit holder may not import or export firearms or ammunition or carry firearms or ammunition in transit for such period as the permit is suspended.

Termination of import, export and in-transit permits

84. (1) An import, export or in-transit permit terminates— 30

- (a) on the date specified in the permit;
- (b) if surrendered by the holder of the permit to the Registrar;
- (c) if the permit holder is declared unfit to possess a firearm in terms of section 105 or 106; or
- (d) if cancelled in terms of this Act. 35

(2) The Registrar may, by written notice, cancel an import, export or in-transit permit if the permit holder—

- (a) no longer qualifies to hold the permit; or
- (b) has contravened or failed to comply with any provision of this Act or any condition specified in the permit. 40

(3) A notice contemplated in subsection (2) may only be issued if the Registrar has—

- (a) given the holder 14 days notice in writing to submit written representations as to why the permit should not be cancelled; and
- (b) duly considered any representations received and all the facts pertaining to the matter. 45

(4) (a) If a notice contemplated in subsection (2) is issued, the former permit holder must dispose of any firearms and ammunition in his or her possession through a dealer or in such manner as the Registrar may determine.

(b) The disposal must take place within 60 days after receipt of the notice.

(5) If the firearm and ammunition are not disposed of within 60 days they must be forfeited to the State and the former permit holder must surrender them immediately at such place and in such manner as the Registrar may determine. 50

(6) Any period contemplated in this section may be extended by the Registrar on good cause shown.

Defaced, lost or stolen permits

85. (1) If an import, export or in-transit permit is lost or stolen, the permit holder must inform the Registrar within 24 hours of the discovery of the loss or theft. 5

(2) If an import, export or in-transit permit is defaced, lost or stolen, the holder of the permit must within seven days of the discovery of the defacement, loss or theft apply to the Registrar in the prescribed manner for a copy of the permit.

CHAPTER 9

STORAGE, TRANSPORT AND CARRYING OF FIREARMS AND AMMUNITION 10

Storage and transport of firearms and ammunition

86. Firearms and ammunition must be stored and transported in the prescribed manner.

Carrying of firearm in public place 15

87. (1) No person may carry a firearm in a public place unless the firearm is carried—

- (a) in the case of a handgun—
 - (i) in a holster or similar holder designed, manufactured or adapted for the carrying of a handgun and attached to his or her person;
 - (ii) in a rucksack or similar holder; or 20
- (b) in the case of any other firearm, in a holder designed, manufactured or adapted for the carrying of the firearm.

(2) A firearm contemplated in subsection (1) must be completely covered and the person carrying the firearm must be able to exercise effective control over such firearm.

Conditions imposed on transporter of firearm 25

88. (1) The Minister may prescribe conditions which the Registrar may impose on the holder of a permit issued in terms of section 89.

(2) The conditions which the Registrar imposes must be specified in the permit.

Firearm transporter's permit

89. (1) No person may transport any firearm or ammunition for reward without being in possession of a firearm transporter's permit issued in terms of this Act. 30

(2) A firearm transporter's permit may be issued to a person who is a fit and proper person to conduct business as a firearm transporter.

- (3) The Registrar may issue a firearm transporter's permit—
 - (a) on receipt of an application completed on the prescribed form and containing the prescribed information; and 35
 - (b) for such period as the Registrar may determine.

Duties of permit holder

90. (1) The holder of a permit issued in terms of this Chapter, must at the request of any police official, produce for inspection— 40

- (a) any firearms or ammunition in his or her possession or under his or her control;
- (b) his or her permit; and
- (c) any register or electronic data that may be kept by him or her in terms of this Act. 45

(2) The Registrar may direct the holder of a permit issued in terms of this Chapter to keep and maintain registers containing such information as he or she may direct.

(3) The holder of a firearm transporter's permit must comply with any conditions imposed under section 88.

Cancellation of firearm transporter's permit 5

91. (1) The Registrar may, by written notice, cancel a firearm transporter's permit if the permit holder—

- (a) no longer qualifies to hold the permit; or
- (b) has contravened or failed to comply with any provision of this Act or any condition specified in the permit. 10

(2) The former permit holder must dispose of his or her cargo of firearms and ammunition in accordance with the directions of the Registrar.

Records to be kept

92. The Office of the Central Firearms Register must keep a record of prescribed information in respect of all firearm transporter's permits issued in terms of this Chapter. 15

CHAPTER 10

CONTROL OF AMMUNITION AND FIREARM PARTS

Prohibition of possession of ammunition

93. No person may possess any ammunition unless he or she—

- (a) holds a licence in respect of a firearm capable of discharging that ammunition; 20
or
- (b) holds a permit to possess ammunition; or
- (c) holds a dealer's licence, manufacturer's licence, gunsmith's licence, import, export or in-transit permit or transporter's permit issued in terms of this Act; 25
or
- (d) is otherwise authorised to do so.

Restrictions on possession of ammunition

94. (1) The holder of a licence to possess a firearm referred to in Chapter 6 may not possess more than 200 cartridges for each firearm in respect of which a licence has been issued to him or her. 30

(2) The holder of a licence to possess a firearm may not, during any period of 12 months, purchase more than 2400 cartridges for each firearm in respect of which a licence has been issued to him or her.

(3) The limitation in subsection (2) does not apply to—

- (a) a dedicated hunter or dedicated sports person who holds a licence issued in 35
terms of this Act or any other holder of a licence issued in terms of this Act authorised thereto by the Registrar on good cause shown; or
- (b) the holder of a licence to possess a firearm issued in terms of this Act in respect of ammunition bought and discharged at an accredited shooting range.

Prohibitions and restrictions on use of certain ammunition 40

95. (1) The Minister may, by notice in the *Gazette*, prohibit or restrict the acquisition, disposal, possession or use of ammunition of a specified class if it is—

- (a) in the interest of public safety; or
- (b) desirable for the maintenance of law and order.

(2) A notice contemplated in subsection (1) must be tabled in Parliament at least 14 days before publication thereof if Parliament is then sitting, and if Parliament is not sitting, within seven days after the commencement of the next sitting.

Loading or reloading of ammunition

96. (1) Section 48(1) does not apply to the loading of ammunition by the holder of a licence to possess a firearm for use in his or her licensed firearm. 5

(2) (a) A holder contemplated in subsection (1) may not have more than 2.5 kilograms of propellant and 2 400 primers in his or her possession at any time.

(b) (i) The holder contemplated in paragraph (a) may not purchase more than 2.5 kilograms of propellant or 2 400 primers during any 12-month period. 10

(ii) The limitation in subparagraph (i) does not apply to a dedicated hunter and dedicated sports person who holds a licence issued in terms of this Act or any other holder of a licence issued in terms of this Act authorised thereto by the Registrar on good cause shown.

(3) No person may load prohibited ammunition contemplated in section 95. 15

(4) The holder of a licence may only acquire, possess or use equipment for loading ammunition for the specific firearm in respect of which a licence was issued to him or her.

Prohibition of possession of firearm parts

97. (1) For purposes of this section, “firearm part” means a slide, bolt, breech-block or magazine of a firearm. 20

(2) No person may possess any firearm part unless he or she—

(a) holds a licence in respect of a firearm capable of bearing that firearm part;

(b) holds a dealer’s licence, manufacturer’s licence, gunsmith’s licence, import, export or in-transit permit or transporter’s permit issued in terms of this Act; 25
or

(c) is otherwise authorised to do so.

(3) The holder of a dealer’s licence, manufacturer’s licence, gunsmith’s licence, import, export or in-transit permit or transporter’s permit issued in terms of this Act must keep such register of all firearm parts in his or her possession as may be prescribed. 30

(4) (a) The Minister may, by notice in the *Gazette*, prohibit or restrict the acquisition, disposal, possession or use of firearm parts if—

(a) it is in the interest of public safety; or

(b) it is desirable for the maintenance of law and order.

(b) A notice contemplated in paragraph (a) must be tabled in Parliament at least 14 days before publication thereof if Parliament is then sitting, and if Parliament is not sitting, within seven days after the commencement of the next sitting. 35

CHAPTER 11

EXEMPTIONS

Definitions 40

98. In this Chapter, unless the context indicates otherwise—

(a) “Official Institution” means—

(i) the South African National Defence Force, contemplated in section 5 of the Defence Act, 1957 (Act No. 44 of 1957);

(ii) the South African Police Service, contemplated in section 5 of the South African Police Service Act, 1995 (Act No. 68 of 1995); 45

(iii) the Department of Correctional Services, contemplated in section 2 of the Correctional Services Act, 1959 (Act No. 8 of 1959);

(iv) any intelligence service established in terms of the Constitution;

(v) the armaments acquisition agency of the State; and 50

- (vi) any government institution accredited by the Registrar as an Official Institution;
- (b) “employee”—
 - (i) in relation to the South African National Defence Force, means any member of the South African National Defence Force contemplated in section 5 of the Defence Act, 1957 (Act No. 44 of 1957), and includes any member of the Reserve contemplated in section 6 of the Defence Act, 1957; 5
 - (ii) in relation to the South African Police Service, means any member as defined in the South African Police Service Act, 1995 (Act No. 68 of 1995). 10

Exemptions

99. (1) No provision of this Act other than this Chapter, section 112 and section 150, in so far as it relates to Official Institutions, applies to an Official Institution.

(2) Any firearm and ammunition which form the subject of a notice contemplated in section 4C of the Armaments Development and Production Act, 1968 (Act No. 57 of 1968), are exempted from the provisions of this Act. 15

(3) A member of a military force of another country visiting South Africa in terms of an international obligation or an agreement between that country and South Africa is exempted from the provisions of this Act to the extent provided for in the obligation or agreement in question. 20

Conditions applicable to institution accredited by Registrar

100. An Official Institution contemplated in section 98(a)(vi) is subject to such conditions in respect of the acquisition, use, safekeeping and disposal of firearms as may be prescribed, and to such conditions as may be imposed by the Registrar. 25

Possession and use of firearms by Official Institution

101. (1) (a) Subject to this section, an employee of an Official Institution may not possess a firearm controlled by the Official Institution without a permit issued in terms of this Chapter.

(b) Employees of the South African National Defence Force are exempted from the obligation to have a permit in respect of military firearms issued to them— 30

- (i) while performing official duties under military command; and
- (ii) if they have in their possession a written order, instruction or route form specifying the duty to be performed and the nature and type of firearm they are authorised to carry. 35

(c) Employees of the South African National Defence Force are exempted from the obligation to have a permit in respect of military firearms in their possession or under their control for the purpose of performing official duties, if those firearms are mounted in or on a military weapons system.

(2) Only the head of an Official Institution, or someone delegated in writing by him or her, may issue a permit to an employee of that Official Institution to possess and use a firearm owned by it. 40

(3) A permit issued in terms of this Chapter must contain such information as may be prescribed.

(4) The head of an Official Institution may impose conditions on the possession and use of the firearms and ammunition controlled by that Official Institution and may issue instructions to employees of that Institution prescribing conditions relating to the acquisition, storage, transport, possession, use and disposal of such firearms and ammunition. 45

(5) Unless the permit referred to in subsection (2) indicates otherwise, the employee must— 50

- (a) when on duty, carry any handgun under his or her control on his or her person in a prescribed holster;

- (b) at the end of each period of his or her duty, return the firearm in question to the place of storage designated for this purpose by the Official Institution; and
- (c) when travelling with a firearm, carry the firearm on his or her person or in a secured place under his or her direct control.
- (6) (a) Despite subsection (5), the head of an Official Institution may authorise an employee to— 5
 - (i) have the firearm in his or her possession after his or her working hours;
 - (ii) carry the firearm on his or her person outside the premises of his or her work; or
 - (iii) store the firearm at his or her place of residence. 10
- (b) Paragraph (a) does not apply to an Official Institution contemplated in section 98(a)(v) and (vi), unless the Registrar determines in writing that it does so apply.
- (7) The holder of a permit contemplated in subsection (2) must carry that permit on his or her person when he or she is in possession of a firearm.
- (8) The head of an Official Institution may only issue a permit in terms of subsection (2) if the— 15
 - (a) employee is a fit and proper person to possess a firearm; and
 - (b) employee has successfully completed the prescribed training and the prescribed test for the safe use of a firearm.
- (9) (a) The head of an Official Institution must report the loss or theft of any firearm immediately to the Registrar and to the nearest police station. 20
- (b) For the purposes of this subsection “nearest police station” means the police station nearest to the place where the loss or theft occurred.
- (10) An Official Institution may only dispose of or destroy a firearm in its possession in the prescribed manner. 25

Register to be kept by Official Institution

- 102.** (1) The head of an Official Institution must keep a register in the prescribed form.
- (2) The register must contain such particulars as may be prescribed, including—
- (a) (i) in the case of the South African National Defence Force, the particulars of every firearm of a calibre less than 20 millimeters; or 30
 - (ii) in the case of all other Official Institutions, the particulars of every firearm in its possession;
 - (b) the particulars of every employee who, in terms of this Chapter, is in possession of a firearm, and the particulars of that firearm;
 - (c) the conditions specified in every permit issued in terms of this Chapter; 35
 - (d) the disposal, transfer, loss, theft or destruction of firearms contemplated in paragraph (a); and
 - (e) if a firearm is lost or stolen, particulars regarding the report of the loss or theft to the South African Police Service.
- (3) All firearms in the possession of an Official Institution must bear such identification marks as may be prescribed. 40

Establishment of central Official Institution firearms databases

- 103.** The Registrar must, as soon as practicable, establish such central Official Institution firearms databases as may be prescribed.

Official Institution’s workstation 45

- 104.** The head of an Official Institution must—
- (a) establish and maintain a workstation at such place which complies with such requirements as may be prescribed; and
 - (b) provide the Registrar with access to the workstation and to the register referred to in section 102. 50

CHAPTER 12

DECLARATION OF PERSONS TO BE UNFIT TO POSSESS FIREARM

Declaration by Registrar of person to be unfit to possess firearm

- 105.** (1) The Registrar may declare a person unfit to possess a firearm if, on the grounds of information contained in a statement under oath or affirmation including a statement made by any person called as a witness by the Registrar, it appears that—
- (a) a final protection order has been issued against such person in terms of the Domestic Violence Act, 1998 (Act No. 116 of 1998);
 - (b) that person has expressed the intention to kill or injure himself or herself or any other person by means of a firearm;
 - (c) because of that person's mental condition, inclination to violence or dependence on any substance which has an intoxicating or narcotic effect, the possession of a firearm by that person is not in the interests of that person or of any other person;
 - (d) that person has failed to take the prescribed steps for the safekeeping of any firearm; or
 - (e) that person has provided information required in terms of this Act which is false or misleading.
- (2) A declaration under subsection (1) may only be issued if the Registrar—
- (a) by notice in writing delivered by hand to the person, has called upon the person to appear before the Registrar at a time and place determined therein in order to advance reasons as to why that person should not be declared unfit to possess a firearm; and
 - (b) has given that person a reasonable opportunity to advance reasons as to why the declaration should not be issued;
 - (c) has duly considered the matter; and
 - (d) is satisfied that the person is unfit as contemplated in subsection (1).
- (3) Any person appearing in pursuance of a notice issued in terms of subsection (2)(a) is entitled to—
- (a) be represented by a legal representative;
 - (b) request the Registrar to call, in the manner referred to in subsection (2)(a), any person who made a statement referred to in subsection (1), to appear before the Registrar; and
 - (c) examine the person who has been called in terms of subsection (1) or paragraph (b) to appear, or to cause him or her to be so examined by such legal representative.
- (4) When the Registrar declares a person unfit to possess a firearm in terms of this section, such person must within 30 days surrender to the Designated Firearms Officer—
- (a) all competency certificates, licences, authorisations and permits issued to him or her in terms of this Act;
 - (b) all firearms in his or her possession; and
 - (c) all ammunition in his or her possession.
- (5) (a) Section 183 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), applies with the necessary changes to any person called to appear before the Registrar in terms of subsection (2)(a), including any witness.
- (b) For purposes of paragraph (a) the expression “to a fine not exceeding R300 or to imprisonment for a period not exceeding three months” where it occurs in section 183(2) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), must be construed to read as follows:
- “to a fine or to imprisonment for a period not exceeding 12 months”.
- (c) Section 181 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), applies with the necessary changes in respect of any witness whose appearance has been requested as contemplated in subsection (3)(b).

Declaration by court of person to be unfit to possess firearm

106. (1) A person must be regarded as being unfit to possess a firearm if convicted of—

- (a) the unlawful possession of a firearm or ammunition;
- (b) any crime or offence involving the unlawful use or handling of a firearm, whether the firearm was used or handled by that person or by another participant in that offence; 5
- (c) an offence regarding the failure to store firearms or ammunition in accordance with the requirements of this Act; 10
- (d) an offence involving the negligent handling or loss of a firearm while the firearm was in his or her possession or under his or her direct control; 10
- (e) an offence involving the handling of a firearm while under the influence of any substance which has an intoxicating or narcotic effect;
- (f) any other offence or crime in the commission of which a firearm was used, whether the firearm was used or handled by that person or by another participant in the offence; or 15
- (g) any offence involving violence or dishonesty, for which the accused is sentenced to a period of imprisonment of not less than 12 months without the option of a fine.

(2) A court which convicts a person of an offence referred to in subsection (1) must declare that person unfit to possess a firearm. 20

(3) (a) A court which convicts a person of an offence referred to in Schedule 2 must enquire and determine whether that person is unfit to possess a firearm.

(b) If a court, acting in terms of paragraph (a), determines that a person is unfit to possess a firearm, it must make a declaration to that effect. 25

(4) A court which has made a declaration in terms of this section must notify the Registrar in writing of that declaration.

(5) A declaration of unfitness to possess a firearm made in terms of this section by a court must be accompanied by a court order for the immediate search for and seizure of— 30

- (a) all competency certificates, licences, authorisations and permits issued to the relevant person in terms of this Act;
- (b) all firearms in his or her possession; and
- (c) all ammunition in his or her possession.

(6) A firearm and any other item seized in terms of subsection (5) must be kept by the South African Police Service or, if appropriate, by the Military Police, until an appeal against the conviction or sentence has been finalised or the time for an appeal has elapsed. 35

Effect of declaration

107. (1) (a) All competency certificates, licences, authorisations and permits issued in terms of this Act to any person who is declared unfit to possess a firearm in terms of section 105 or 106, cease to be valid from the date of the declaration. 40

(b) Despite the noting of an appeal against the decision of a court or of the Registrar, the declaration contemplated in paragraph (a) remains in effect pending the finalisation of the appeal. 45

(2) A person who is declared unfit to possess a firearm in terms of section 105 or 106 must within 24 hours surrender to the nearest police station—

- (a) all competency certificates, licences, authorisations and permits issued to him or her in terms of this Act;
- (b) all firearms in his or her possession; and 50
- (c) all ammunition in his or her possession.

(3) (a) A person who has surrendered his or her firearm as contemplated in subsection (2) must dispose of the firearm and ammunition through a dealer—

- (i) if an appeal is lodged and that appeal is unsuccessful, within 60 days of the finalisation of the appeal; or 55

- (ii) if no appeal is lodged, within 60 days of the receipt of a written notice from the Registrar declaring the person unfit to possess a firearm.
- (b) If the firearm and ammunition are not disposed of within 60 days, they must be forfeited to the State and destroyed or disposed of as prescribed.
- (c) The period of 60 days referred to in this subsection may be extended by the Registrar on good cause shown. 5
- (d) For purposes of subsection (3)(a), the Registrar must release the firearm and ammunition in question to a dealer identified by the relevant person, for disposal by that dealer on behalf of the person.
- (4) (a) The holder of an additional licence referred to in section 14(1) may, if the holder of the licence is declared unfit to possess a firearm, apply to the Registrar for the issue of a new licence in his or her name. 10
- (b) If the holder of an additional licence does not make an application referred to in paragraph (a) within 30 days of the—
 - (i) date on which the time for an appeal elapses; or 15
 - (ii) finalisation of the appeal if it does not affect the declaration of unfitness, the additional firearm licence lapses.
- (5) If the declaration of any person as being unfit to possess a firearm is set aside, any seized or surrendered firearm, ammunition, licence, permit or authorisation belonging to any such person, must be returned. 20
- (6) After a period of five years calculated from the date of declaration of unfitness to possess a firearm, the person who has been declared unfit to possess a firearm may apply for a new competency certificate, licence, authorisation or permit in accordance with the provisions of this Act.

Proof of declaration 25

108. A certificate purporting to have been signed by the Registrar or by the registrar of a High Court, the clerk of a magistrates' court or the clerk of a military court, stating that the person mentioned in the certificate has been declared unfit to possess a firearm, is upon production thereof by any person, *prima facie* evidence of the facts stated in that certificate. 30

CHAPTER 13 INSPECTIONS

Production of licences and firearms for inspection

- 109.** Subject to section 110, any holder of a firearm licence, permit or authorisation issued in terms of this Act must—
- (a) produce the licence, permit or authorisation for inspection within seven days of being required to do so by any police official or by any person authorised by the Registrar; 35
 - (b) maintain the firearm licence in such a state that it can be produced in an undefaced and legible condition; and
 - (c) produce the firearm in respect of which the licence, permit or authorisation is issued within seven days of being required to do so by any police official or by any person authorised by the Registrar. 40

Duty to comply with request of police official or authorised person

- 110.** (1) Any person who carries with him or her a firearm must at the request of a police official or any person authorised by the Registrar produce the licence, permit or authorisation, as the case may be, in respect of such firearm for inspection. 45
- (2) A person referred to in subsection (1) must—
- (a) at the request and to the satisfaction of a police official or authorised person, identify himself or herself forthwith; and
 - (b) at the request of a police official or authorised person, produce such firearm for inspection. 50

(3) If a person fails to comply with subsection (2), the police official or authorised person may seize the firearm without a warrant and keep the firearm in custody until the licence, permit or authorisation is produced or the firearm is disposed of in terms of this Act.

Request for information

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111. (1) A police official or person authorised by the Registrar who has reasonable grounds to believe that a person has or recently had a firearm or ammunition in his or her possession, may request that person to—

- (a) state his or her full name, age and residential and employment address;
- (b) produce his or her licence, permit or authorisation for the possession of the firearm; 10
- (c) answer questions relating to the whereabouts of the firearm; and
- (d) furnish any other information reasonably required by the police official or authorised person.

(2) A police official or an authorised person, when exercising a power in terms of subsection (1) must— 15

- (a) identify himself or herself to the person referred to in subsection (1); and
- (b) produce his or her appointment certificate or authorisation.

Inspection of premises

112. (1) Any police official or person authorised by the Registrar may enter any— 20

- (a) place of business of a dealer;
- (b) firearm or ammunition factory or place of business of a manufacturer of firearms and ammunition;
- (c) place of business of a gunsmith;
- (d) place of business of the holder of an importation or exportation permit; 25
- (e) place of business, including any vehicle, vessel or aircraft, of an authorised transporter of firearms and ammunition;
- (f) office or premises of an Official Institution which may issue a permit to its employees to possess and use firearms; or
- (g) place of business, including any vehicle, vessel or aircraft, of the holder of a licence in respect of firearms used for business purposes referred to in section 23 of this Act, 30

and conduct such inspection as may be necessary in order to determine whether the requirements and conditions of this Act or of any competency certificate, licence, permit or authorisation issued in terms of this Act are being complied with. 35

(2) The Registrar must—

- (a) before any inspection of an office or premises of an Official Institution is conducted, give notice of the intended inspection to the head of—
 - (i) the South African National Defence Force;
 - (ii) the South African Police Service; 40
 - (iii) the Department of Correctional Services; or
 - (iv) any intelligence service established in terms of the Constitution; and
- (b) comply with such security arrangements as may be agreed upon with the head of the Official Institution in question.

CHAPTER 14

45

SEARCH AND SEIZURE

Chapter 2 of Criminal Procedure Act, 1977, to apply

113. (1) Chapter 2 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), applies with the necessary changes to the entry of premises, search for and seizure of any firearm, imitation firearm, airgun, device or ammunition referred to in this Act. 50

(2) In the application of Chapter 2 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), as contemplated in subsection (1), section 20 of the said Act must be construed as if the following paragraph had been added to it:

“(d) which is a firearm or ammunition as defined in section 1 of the Firearms Control Act, 2000, and is on reasonable grounds believed to be in the possession or under the control of a person, who by reason of any physical or mental condition, is incapable of having proper control of any firearm or ammunition or who by such reason presents a danger of harm to himself or herself or to any other person.”.

(3) Despite sections 30 and 31 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), any article referred to in subsection (1) which is lawfully seized by the State, must be dealt with or disposed of in accordance with the provisions of this Act.

Search and seizure in course of policing operations in terms of South African Police Service Act, 1995

114. (1) Despite anything to the contrary in this Chapter, any police official or person authorised as such by the National Commissioner or any provincial commissioner of the South African Police Service, may, in the course of official policing operations contemplated in section 13(6), (7) or (8) of the South African Police Service Act, 1995 (Act No. 68 of 1995), search any premises, vehicle, vessel or aircraft and seize any firearm, imitation firearm, airgun, device or ammunition—

- (a) which is reasonably suspected to be held in contravention of this Act; or
- (b) for the purposes of determining whether or not the provisions of this Act have been complied with in respect of such article.

(2) Section 13 of the South African Police Service Act, 1995 (Act No. 68 of 1995), applies with the necessary changes to any search or seizure contemplated in subsection (1).

Exercise of powers set out in section 37 of Criminal Procedure Act, 1977

115. Any police official or other person authorised as such in writing by the Registrar may exercise the powers of a police official set out in section 37 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), in respect of—

- (a) any occupant of a vehicle, vessel or aircraft or premises in which any article referred to in section 113(1) is present and in respect of which there is a reasonable suspicion that any of the provisions of this Act may have been contravened by that occupant; and
- (b) the owner or person in control of any vehicle, vessel or aircraft or premises in which any article referred to in section 113(1) is present and in respect of which there is a reasonable suspicion that any of the provisions of this Act may have been contravened.

Body-prints and genetic samples

116. (1) Any police official may take the finger-prints, palm-prints, foot-prints and samples of genetic material of a person or a group of persons or may cause any such prints or samples to be taken, if—

- (a) there are reasonable grounds to suspect that that person or that one or more of the persons in that group has committed an offence punishable with imprisonment for a period of five years or longer; and
- (b) there are reasonable grounds to believe that the prints or samples or the results of an examination thereof, will be of value in the investigation by excluding or including one or more of the persons as a possible perpetrator of the offence.

(2) The person who has control over prints or genetic material taken in terms of this section—

- (a) may examine them for purposes of the investigation of the relevant offence or cause them to be so examined; and
 - (b) must immediately destroy them when it is clear that they will not be of value as evidence.
- (3) Samples of genetic material may be taken from the body of a person only by a registered medical practitioner or a registered nurse.

Ballistic testing

- 117.** (1) Any police official may seize, test-fire and examine such number of firearms as are necessary or such ammunition as is necessary, if—
- (a) there are reasonable grounds to suspect that one or more of the firearms or the ammunition has been used in the commission of an offence which is punishable in terms of this Act with imprisonment for a period of five years or longer; and
 - (b) there are reasonable grounds to believe that one or more of the firearms or the ammunition or the results of the test-firing and examination, will be of value in the investigation by excluding or including—
 - (i) one or more of those firearms or the ammunition as having been used in the commission of the offence; or
 - (ii) one or more persons as possible perpetrators of the offence.
- (2) The person who has control over a firearm or ammunition seized in terms of this section must immediately return it or otherwise dispose of it in terms of this Act when it is clear that it will not be of value as evidence.

Inspection, search and seizure for inquiry or investigation (with special warrant)

- 118.** (1) For purposes of any inquiry or investigation relating to the application of this Act and subject to subsection (4), the Registrar or any person authorised in writing by the Registrar may—
- (a) at any reasonable time and without prior notice, enter any business or industrial premises; or
 - (b) at any reasonable time and with reasonable notice, enter any dwelling on or in which anything relating to the subject-matter of the inquiry or investigation is or is suspected to be.
- (2) The Registrar or person authorised may—
- (a) inspect and search any premises or dwelling contemplated in subsection (1) and make such enquiries as may be necessary for purposes of the inquiry or investigation;
 - (b) examine anything found on the premises or dwelling which may have a bearing on the subject-matter of the inquiry or investigation;
 - (c) request information or an explanation regarding such object from the owner or person in control of those premises or from any person in whose possession or under whose control anything referred to in paragraph (b) is found;
 - (d) make copies of or extracts from any book or document found on or in the premises or dwelling which may have a bearing on the subject-matter of the inquiry or investigation and request an explanation of such book, document or any entry therein from any person suspected of having knowledge thereof; and
 - (e) against the issue of a written receipt, seize anything on or in the premises or dwelling which may have a bearing on the subject-matter of the inquiry or investigation.
- (3) Any entry upon, inspection of or search of any premises or dwelling, or questioning of any person, in terms of this section must be carried out with strict regard to decency and order, including the right of persons to—
- (a) respect for and protection of their dignity;
 - (b) freedom and security; and
 - (c) personal privacy.

(4) The powers contemplated in subsection (1) may be exercised only in terms of a warrant issued by a judge or magistrate.

(5) (a) A warrant may only be issued if it appears from evidence under oath or on affirmation that there are reasonable grounds to suspect that anything referred to in subsection (2) is or may be on the premises or in the dwelling in question. 5

(b) The evidence must contain information regarding the—

- (i) nature of the inquiry or investigation to be conducted;
- (ii) reason for or suspicion which gave rise to the inquiry or investigation;
- (iii) need for search and seizure in terms of this section; and
- (iv) premises on which the warrant is to be executed. 10

(6) Subject to subsection (7), sections 21(3) and 27 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), apply, with the necessary changes, to the execution of a warrant or to a search in terms of this section.

(7) A warrant contemplated in this section remains in force until—

- (a) it is executed; 15
- (b) it is cancelled; or
- (c) the expiry of three months from the date of its issue, whichever may occur first.

Incidental discovery

119. If, in the course of a lawful search for anything other than articles referred to in section 113(1), the person executing the search finds an article referred to in section 113(1), in respect of which a reasonable suspicion of illegality or illegal possession exists, such person may seize such article, and must then deal with it or dispose of it in terms of this Act. 20

CHAPTER 15

25

PRESUMPTIONS

Presumption of possession of firearm or ammunition

120. (1) For purposes of this section “residential premises” does not include a hotel, a hostel, or an apartment building, but includes a room or suite in a hotel, a room in a hostel and an apartment in an apartment building. 30

(2) Whenever a person is charged in terms of this Act with an offence of which the possession of a firearm or ammunition is an element, and the State can show that despite the taking of reasonable steps it was not able with reasonable certainty to link the possession of the firearm or ammunition to any other person, the following circumstances will, in the absence of evidence to the contrary which raises reasonable doubt, be sufficient evidence of possession by that person of the firearm or ammunition where it is proved that the firearm or ammunition was found— 35

(a) on residential premises and the person was, at the time—

- (i) in control of such premises; or
- (ii) over the age of 16 years and ordinarily resident on such premises; 40

(b) buried in or hidden on land used for residential purposes and the person was, at the time—

- (i) in control of such land;
- (ii) employed to work on the land in or on which the firearm or ammunition was found; or 45
- (iii) over the age of 16 years and ordinarily resident on such land;

(c) on premises other than residential premises and the person was, at the time—

- (i) in control of such premises;
- (ii) ordinarily employed on the premises;

- (iii) present in the immediate vicinity of the place on the premises where the firearm or ammunition was found and the circumstances indicate that the firearm or ammunition should have been visible to that person; or
 - (iv) in control of a locker, cupboard or other container within which the firearm or ammunition was found; 5
 - (d) in or on a vehicle and the person was, at the time—
 - (i) the driver of the vehicle;
 - (ii) the person in charge of the vehicle;
 - (iii) in control of all the goods on the vehicle;
 - (iv) the consignor of any goods in or among which the firearm or ammunition was found; 10
 - (v) the only person who had access to the firearm or ammunition;
 - (vi) the employer of the driver of the vehicle and present on the vehicle; or
 - (vii) over the age of 16 years and present on the vehicle;
 - (e) on any aircraft other than an aircraft which was used to convey passengers for gain, and the person was, at the time— 15
 - (i) present on the aircraft and in charge of the aircraft; or
 - (ii) over the age of 16 years and present on the aircraft;
 - (f) in the hold of an aircraft and the person was, at the time, the person in charge of the goods in the hold; 20
 - (g) in a place on an aircraft or vessel—
 - (i) to which no one besides the person had access; or
 - (ii) where the circumstances indicate that the firearm or ammunition should have been visible to no one besides the person;
 - (h) on any vessel other than a vessel which was used to convey passengers for gain, and the person was, at the time— 25
 - (i) in charge of that vessel or that part of the vessel in which the firearm or ammunition was found;
 - (ii) ordinarily employed in the immediate vicinity of the place on the vessel where the firearm or ammunition was found; or 30
 - (iii) over the age of 16 years and present in that part of the vessel; or
 - (i) in the cargo of a vessel and the person was, at the time—
 - (i) in control of the cargo of the vessel; or
 - (ii) the consignor of any goods in or among which the firearm or ammunition was found. 35
- (3) In any criminal proceedings against a person where it is alleged that such person has injured or killed another person or has damaged property belonging to another person, the following circumstances will, in the absence of evidence to the contrary which raises a reasonable doubt, be sufficient evidence that such person participated in the injury, killing or damage, where it is proved that— 40
- (a) the person was driving, or was a passenger in, a vehicle other than a vehicle designed or licenced to convey more than 20 passengers;
 - (b) a firearm was discharged from that vehicle while the person was driving or was a passenger in the vehicle; and
 - (c) as a result of such discharge, a person was injured or killed, or property was damaged. 45

Presumptions relating to failure to report

121. (1) Whenever a person is charged with an offence in terms of this Act of failing to report the loss, theft or destruction of a firearm and it is proved that such person was, at the time, the licensed or authorised possessor of the firearm alleged to have been lost, stolen or destroyed, proof that the person has failed to produce such firearm within seven days of the request by a police official to do so, will, in the absence of evidence to the contrary which raises reasonable doubt, be sufficient evidence that the firearm has been lost, stolen or destroyed. 50

(2) Whenever a person is charged with an offence in terms of this Act of failing to furnish information or particulars on request of a police official and it is proved that such person was, at the time, the licensed or authorised possessor of the firearm alleged to have been lost, stolen or destroyed, proof that the person has failed to produce such information or particulars within seven days of the request of a police official to do so, will, in the absence of evidence to the contrary which raises reasonable doubt, be sufficient evidence that the person has failed to furnish such information or particulars. 60

Presumption of failure to take reasonable steps

122. Whenever a person is charged in terms of this Act with an offence of failing to take reasonable steps to ensure that no firearm or ammunition is brought onto premises, a vehicle, a vessel or an aircraft under his or her ownership or control in contravention of this Act, proof that the firearm or ammunition was brought onto premises, a vehicle, a vessel or an aircraft under his or her ownership or control, will, in the absence of evidence to the contrary which raises reasonable doubt, be sufficient evidence that he or she failed to take such reasonable steps. 5

CHAPTER 16

OFFENCES, PENALTIES AND ADMINISTRATIVE FINES 10

Offences

- 123.** (1) A person is guilty of an offence if he or she contravenes or fails to comply with any—
- (a) provision of this Act;
 - (b) condition of a licence, permit or authorisation issued or granted by or under this Act; or
 - (c) provision, direction or requirement of a notice issued under this Act.
- (2) Any person who remains in the vicinity of a firearm or ammunition which is not in the possession of any person, under circumstances where he or she must have been aware of the existence of that firearm or ammunition, is guilty of an offence. 20
- (3) It is a defence to a charge contemplated in subsection (2) to show that the accused was not aware of the existence of the firearm or ammunition in question.
- (4) It is an offence to—
- (a) cause bodily injury to any person or cause damage to property of any person by negligently using a firearm, an antique firearm or an airgun; 25
 - (b) discharge or otherwise handle a firearm, an antique firearm or an airgun in a manner likely to injure or endanger the safety or property of any person or with reckless disregard for the safety or property of any person; or
 - (c) have control of a loaded firearm, an antique firearm or an airgun in circumstances where it creates a risk to the safety or property of any person and not to take reasonable precautions to avoid the danger. 30
- (5) It is an offence to handle a firearm, an antique firearm or an airgun while under the influence of a substance which has an intoxicating or a narcotic effect.
- (6) A person is guilty of an offence if he or she gives control of a firearm, an antique firearm or an airgun to a person whom he or she knows, or ought reasonably to have known— 35
- (a) to be mentally ill; or
 - (b) to be under the influence of a substance which has an intoxicating or a narcotic effect.
- (7) It is an offence to wilfully point— 40
- (a) any firearm, an antique firearm or an airgun, whether or not it is loaded or capable of being discharged, at any other person; or
 - (b) anything which is likely to lead a person to believe that it is a firearm, an antique firearm or an airgun, at any other person.
- (8) It is an offence to discharge a firearm, an antique firearm or an airgun in a municipal area or any public place. 45
- (9) A person is guilty of an offence if he or she—
- (a) fails to lock away his or her firearm or a firearm in his or her possession in a prescribed safe, strong-room or device for the safe-keeping of a firearm when such firearm is not carried on his or her person or is not under his or her direct control; or 50
 - (b) loses a firearm, or is otherwise dispossessed of a firearm owing to that person's failure to—
 - (i) lock the firearm away in a prescribed safe, strong-room or device for the safekeeping of a firearm; 55

- (ii) take reasonable steps to prevent the loss or theft of the firearm while the firearm was on his or her person or under his or her direct control; or
 - (iii) keep the keys to such safe, strong-room or device in safe custody.
- (10) It is an offence to—
- (a) add any word, figure or letter to a competency certificate, licence, permit or authorisation as issued, without the Registrar's permission; 5
 - (b) alter or erase any words, figures or letters from any competency certificate, licence, permit or authorisation, without the Registrar's permission;
 - (c) use or possess any competency certificate, licence, permit or authorisation—
 - (i) to which any words, figures or letters have been unlawfully added; 10
 - (ii) from which any words, figures or letters have been unlawfully erased; or
 - (iii) on which any words, figures or letters have been unlawfully altered;
 - (d) part with a competency certificate, licence, permit or authorisation in order that it may be used by any person other than the person to whom it was issued or granted; 15
 - (e) use a competency certificate, licence, permit or authorisation issued in the name of another person to procure possession of a firearm or ammunition;
 - (f) supply particulars, information or answers in an application for a competency certificate, licence, permit or authorisation in terms of this Act, knowing them to be false, incorrect or misleading or not believing them to be correct; 20
 - (g) make a false entry in a register which is required to be kept in terms of this Act; or
 - (h) furnish false information in any return required to be submitted in terms of this Act.
- (11) It is an offence to— 25
- (a) sell, supply or in any other manner give possession of a firearm or ammunition to a person who is not allowed in terms of this Act to possess that firearm or ammunition; or
 - (b) be in possession of any firearm, imitation firearm or ammunition, with intent to commit an offence or to use the firearm or an imitation firearm to resist arrest or prevent the arrest of another person. 30
- (12) Any holder of a licence, permit or authorisation to possess a firearm, and any other person who was in possession of or who had control of a firearm when it was lost, stolen or destroyed and who fails to report the loss, theft or destruction to the police station nearest to the place where it occurred, within 24 hours after having become aware of the loss, theft or destruction of the firearm, is guilty of an offence. 35
- (13) It is an offence to obstruct or hinder any person in the exercise of any power or the performance of any duty in terms of this Act.

Penalties

124. Any person convicted of a contravention of or a failure to comply with any section mentioned in Column 1 of Schedule 4, may be sentenced to a fine or to imprisonment for a period not exceeding the period mentioned in Column 2 of that Schedule opposite the number of that section. 40

Administrative fines

125. (1) If a person is alleged to have committed an offence contemplated in section 123 for which that person may be sentenced to a fine or imprisonment for a period not exceeding five years in terms of section 124, the Registrar may cause to be delivered by hand to that person (hereinafter referred to as the infringer) an infringement notice which must contain the particulars contemplated in subsection (2). 45

(2) A notice referred to in subsection (1) must— 50

- (a) specify the name and address of the infringer;
 - (b) specify the particulars of the alleged offence;
 - (c) specify the amount of the administrative fine payable, which—
 - (i) if the period contemplated in subsection (1) does not exceed two years, may, in respect of a first infringement, not exceed R5 000 and, in respect of a second or subsequent infringement, not exceed R10 000; 5
 - (ii) if the period contemplated in subsection (1) does not exceed three years, may, in respect of a first infringement, not exceed R15 000 and, in respect of a second or subsequent infringement, not exceed R30 000; 10
 - (iii) if the period contemplated in subsection (1) does not exceed four years, may, in respect of a first infringement, not exceed R20 000 and, in respect of a second or subsequent infringement, not exceed R40 000; or 15
 - (iv) if the period contemplated in subsection (1) does not exceed five years, may, in respect of a first infringement, not exceed R50 000 and, in respect of a second or subsequent infringement, not exceed R100 000; 15
 - (d) inform the infringer that, not later than 30 days after the date of service of the infringement notice, the infringer may—
 - (i) pay the administrative fine;
 - (ii) make arrangements with the Registrar to pay the administrative fine in instalments; or 20
 - (iii) elect to be tried in court on a charge of having committed the alleged offence; and
 - (e) state that a failure to comply with the requirements of the notice within the time permitted, will result in the administrative fine becoming recoverable as contemplated in subsection (4). 25
- (3) If an infringer elects to be tried in court on a charge of having committed the alleged contravention or failure, the Registrar must hand the matter over to the prosecuting authority and inform the infringer accordingly.
- (4) If an infringer fails to comply with the requirements of a notice, the Registrar may file with the clerk or registrar of any competent court a statement certified by him or her as correct, setting forth the amount of the administrative fine payable by the infringer, and such statement thereupon has all the effects of a civil judgment lawfully given in that court in favour of the Registrar for a liquid debt in the amount specified in the statement. 30
- (5) The Registrar may not impose an administrative fine contemplated in this section if the person concerned has been charged with a criminal offence in respect of the same set of facts. 35
- (6) No prosecution may be instituted against a person if the person concerned has paid an administrative fine in terms of this section in respect of the same set of facts.
- (7) An administrative fine imposed in terms of this section does not constitute a previous conviction as contemplated in Chapter 27 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977). 40

CHAPTER 17

ORGANISATIONAL STRUCTURES

Registrar of Firearms

- 126.** The National Commissioner is the Registrar of Firearms. 45

Functions of Registrar

- 127.** (1) The Registrar must—
- (a) establish and maintain the Central Firearms Register;
 - (b) establish and control the Office of the Central Firearms Register;
 - (c) recover the fees payable in terms of this Act; 50
 - (d) develop a training curriculum for competency testing in terms of this Act;
 - (e) conduct research into firearms policies;
 - (f) monitor the implementation of this Act;

- (g) conduct public education programmes concerning the provisions of this Act and all other matters relating to the safe possession and use of firearms; and
 - (h) designate police officials as Designated Firearms Officers.
- (2) The Registrar may—
- (a) conduct any investigation or enquiry which he or she deems necessary in order to exercise his or her powers or carry out his or her duties in terms of this Act; and
 - (b) make recommendations to the Minister on any matter relating to this Act.

Central Firearms Register

- 128.** (1) The Central Firearms Register must contain— 10
- (a) the central firearms database;
 - (b) the central dealers database;
 - (c) the central manufacturers database;
 - (d) the central gunsmiths database;
 - (e) the central importers and exporters database; 15
 - (f) the central Official Institutions database; and
 - (g) any other information required to be kept by the Registrar in terms of this Act.
- (2) The central databases referred to in subsection (1) must contain—
- (a) such information as may be prescribed concerning—
 - (i) competency certificates, licences, authorisations and permits, as well as renewals and cancellations thereof; 20
 - (ii) applications for competency certificates, licences, authorisations and permits and any renewal applications which have been refused in terms of this Act;
 - (iii) transfers of firearms effected in terms of this Act; 25
 - (iv) imports and exports of firearms and ammunition in terms of this Act;
 - (v) the transport of firearms and ammunition in terms of this Act; and
 - (vi) the loss, recovery, theft or destruction of firearms.
 - (b) all original documentation submitted in support of all applications made in terms of this Act; 30
 - (c) a record of all licensed dealers, manufacturers, gunsmiths, importers and exporters, transporters for reward, accredited institutions, organisations and all firearms and ammunition in their possession;
 - (d) a record of all firearms in the possession of Official Institutions;
 - (e) a record of the acquisition, transfer, loss, theft or destruction in respect of firearms in the possession of Official Institutions; 35
 - (f) a record of all firearms recovered, forfeited to the State or destroyed;
 - (g) the fingerprints which have been submitted for purposes of an application in terms of this Act; and
 - (h) any other documentation and information as may be prescribed. 40

Certificate signed by Registrar to constitute *prima facie* evidence

129. Any document containing information contemplated in section 128 and purporting to be a certificate signed by the Registrar is, upon production in a court by any person, *prima facie* evidence of the facts stated therein.

Appointment and functions of Head of Office of Central Firearms Register 45

- 130.** (1) The Registrar must, with the approval of the Minister, designate a police official as Head of the Office of the Central Firearms Register.
- (2) The Head of the Office of the Central Firearms Register—
- (a) must manage the Office of the Central Firearms Register;
 - (b) must perform the duties assigned to him or her by the Registrar; and 50
 - (c) may exercise such powers as may be delegated to him or her by the Registrar.

Establishment of Appeal Board

131. (1) An Appeal Board is hereby established.

(2) The Appeal Board consists of no more than five members who must be appointed by the Minister and who, when viewed collectively, must as far as possible be broadly representative of the population of the Republic. 5

Conditions of service, remuneration and allowances of members of Appeal Board

132. (1) The period and conditions of office, remuneration and allowances of the members of the Appeal Board are as prescribed by the Minister with the approval of the Minister of Finance.

(2) (a) The Minister may at any time withdraw the appointment of a member of the Appeal Board if there is sufficient reason for doing so. 10

(b) A member may resign by notice in writing to the Minister.

Quorum, meetings and procedure of Appeal Board

133. (1) The quorum for, the procedure at, and the holding of meetings of the Appeal Board are as prescribed. 15

(2) The Appeal Board may establish such committees consisting of members of the Appeal Board as may be prescribed to perform the duties assigned to them by the Appeal Board and to exercise such powers as may be delegated to them by the Appeal Board.

Administrative work of Appeal Board

134. The administrative work of the Appeal Board must be performed by such members of the South African Police Service as may be designated by the National Commissioner. 20

Establishment of Ministerial Committees

135. (1) The Minister may establish such committees as may be appropriate to assist him or her, or any other person appointed in terms of this Act, in respect of any matter dealt with in this Act. 25

(2) The composition and functions of the committees may be determined by the Minister.

(3) The conditions of office, remuneration, allowances and other benefits of members of the committees may be prescribed by the Minister with the approval of the Minister of Finance. 30

CHAPTER 18

RIGHT OF APPEAL

Right of appeal

136. (1) Any person— 35

- (a) whose application for a competency certificate, licence, permit or authorisation in terms of this Act has been refused;
- (b) whose competency certificate, licence, permit, or authorisation has been cancelled;
- (c) whose licence, permit or authorisation has been issued subject to any condition; or 40
- (d) who has received a notice of an administrative decision in terms of this Act which may detrimentally affect his or her rights, may, in the prescribed manner, appeal to the Appeal Board.

(2) The Appeal Board may confirm, vary or reverse any decision against which an appeal has been lodged in terms of this section. 45

- (3) The Appeal Board may admit evidence of facts not before the Registrar when he or she made the decision which is the subject of the appeal only if—
- (a) there is a reasonable explanation for the failure timeously to inform the Registrar of the facts;
 - (b) the Registrar has had sufficient opportunity to verify the facts and to present any evidence to the Appeal Board in this regard. 5
- (4) Subject to the provisions of this Act, no person is excused from complying with any of the provisions of this Act on the ground that an appeal is pending in terms of this section.

CHAPTER 19

10

COMPENSATION

Circumstances where no compensation is payable in respect of firearms and ammunition forfeited to State

- 137.** No compensation is payable to a person in respect of a firearm or ammunition forfeited to the State in terms of this Act— 15
- (a) if the relevant licence, permit or authorisation was cancelled in terms of this Act because the holder of the licence had contravened or not complied with a provision of this Act or a condition specified in that licence, permit or authorisation; or
 - (b) if the holder of the licence, permit or authorisation was in terms of section 105 20 or 106 declared unfit to possess a firearm.

Circumstances where no compensation is payable in respect of firearms and ammunition seized by State

- 138.** (1) No compensation is payable to a person from whom a firearm or ammunition was seized by the State if— 25
- (a) no licence, permit or authorisation had been issued for such firearm or ammunition to that person in terms of this Act;
 - (b) the firearm or ammunition was for any other reason unlawfully in the possession of that person.
- (2) The lawful owner of a firearm or ammunition lost or stolen as a result of his or her negligence is not entitled to claim compensation if such firearm or ammunition is subsequently seized by the State from another person. 30

No compensation payable where firearms or ammunition are destroyed by State

- 139.** (1) The Registrar may in respect of any firearm or ammunition seized by, surrendered to or forfeited to the State, issue a notice in the *Gazette* stating that it is the intention of the State to destroy that firearm or ammunition. 35
- (2) Any person who has a valid claim to the relevant firearm or ammunition may, within 21 days after the publication of the notice in the *Gazette*, make representations to the Registrar as to why the firearm or ammunition should not be destroyed.
- (3) If the Registrar is satisfied, after consideration of any representations contemplated in subsection (2), that a valid claim to the relevant firearm or ammunition has not been proved, the firearm or ammunition may be destroyed and no compensation will be payable to anyone in respect thereof. 40

Application for compensation

- 140.** (1) A person whose firearm has been surrendered or forfeited to the State in circumstances other than those referred to in sections 137, 138 and 139 may apply to the Registrar for compensation in respect of that firearm in the prescribed form. 45
- (2) On receipt of an application for compensation made in terms of this section, the Registrar must—

- (a) decide whether or not compensation is payable in terms of this Chapter;
 - (b) if compensation is payable, attempt to agree with the applicant on the amount of compensation to be paid; and
 - (c) if compensation is payable, but no compensation is agreed upon, determine the amount of compensation to be paid. 5
- (3) An applicant for compensation may appeal against a decision of the Registrar made in terms of subsection (2)(c).
- (4) On receipt of an appeal lodged in terms of subsection (3) the Appeal Board must—
 - (a) hear the applicant and the Registrar; and
 - (b) determine the amount of compensation to be paid. 10
 - (5) The Minister must, with the approval of the Minister of Finance, establish guidelines for the payment of compensation, taking into account the—
 - (a) financial constraints on the State and its ability to meet actual and anticipated claims for compensation; and
 - (b) interests of persons who have applied or may in the future apply for compensation. 15
 - (6) The guidelines referred to in subsection (5) bind—
 - (a) the Registrar when he or she agrees or determines compensation in terms of subsection (2); and
 - (b) the Appeal Board when it determines compensation in terms of subsection (4). 20

CHAPTER 20

SPECIAL POWERS RELATING TO AMNESTIES, FIREARM FREE ZONES AND EMERGENCIES

Definition

141. In this Chapter “amnesty” means an indemnity against prosecution for the unlawful possession of a firearm or ammunition. 25

Amnesty

- 142.** (1) The Minister may, by notice in the *Gazette*, declare an amnesty if—
- (a) the amnesty may result in the reduction of the number of illegally possessed firearms in South Africa; and 30
 - (b) it is in the public interest to do so.
- (2) A notice contemplated in subsection (1) must—
- (a) be tabled in Parliament at least 14 days before publication if Parliament is then sitting, and if Parliament is not sitting, within seven days after the commencement of the next sitting; 35
 - (b) specify the period during which persons may apply for amnesty; and
 - (c) specify the conditions under which amnesty may be granted.
- (3) A person who surrenders a firearm or ammunition in compliance with a notice published in terms of subsection (1), may not be prosecuted in relation to—
- (a) the firearm, for having been in possession of that firearm without the appropriate licence, permit or authorisation; or 40
 - (b) the ammunition, for having been in possession of that ammunition without having been in lawful possession of a firearm capable of discharging the ammunition.
- (4) (a) A person who surrenders a firearm in compliance with a notice published in terms of subsection (1) may apply in terms of this Act for a licence in respect of that firearm. 45
- (b) If a licence is granted, the firearm and ammunition, if any, surrendered in terms of this Act must be returned to the holder of the licence.
- (5) The Registrar must dispose of any firearm or ammunition surrendered in compliance with a notice in terms of subsection (1) in such manner and after the expiry of such period as may be prescribed. 50

Firearm free zones

- 143.** (1) The Minister may, after consultation with the National Commissioner and the Secretary for Safety and Security, by notice in the *Gazette* declare any premises or categories of premises to be firearm free zones, if it is—
- (a) in the public interest; and 5
 - (b) in accordance with the objects of this Act.
- (2) Unless authorised to do so in terms of a notice issued under subsection (1), no person may—
- (a) allow any firearm or ammunition to be in a firearm free zone;
 - (b) carry any firearm or ammunition in a firearm free zone; or 10
 - (c) store any firearm or ammunition in a firearm free zone.
- (3) A police official may, without warrant—
- (a) search any building or premises in a firearm free zone if he or she has a suspicion on reasonable grounds that a firearm or ammunition may be present in the firearm free zone in contravention of a notice issued in terms of subsection (1); 15
 - (b) search any person present in a firearm free zone; and
 - (c) seize any firearm or ammunition present in the firearm free zone or on the person in contravention of a notice issued in terms of subsection (1).

Emergency provisions 20

- 144.** (1) The Minister may, during a state of emergency as contemplated in the Constitution and if empowered as contemplated in terms of section 2(2) of the State of Emergency Act, 1997 (Act No. 64 of 1997)—
- (a) by notice in the *Gazette* prohibit or regulate the supply and the transportation of firearms and ammunition, or firearms and ammunition of a particular class within a particular area for a period specified in the notice; 25
 - (b) by notice in the *Gazette*, direct all persons or dealers or authorised manufacturers within a particular area, or a class of such persons, or dealers or authorised manufacturers within a particular area, to surrender, in accordance with directions in the notice, all firearms or ammunition in their possession, or all firearms or ammunition of a particular class in their possession; and 30
 - (c) by notice in writing to any particular dealer or authorised manufacturer, direct him or her to surrender, in the manner and at the place specified in the notice, all firearms and ammunition in his or her possession, or all firearms and ammunition of a particular class in his or her possession. 35
- (2) Any notice issued under this section remains in force for the duration of the state of emergency unless it is revoked earlier.
- (3) Any firearm or ammunition surrendered in terms of a notice issued under this section must be returned as soon as possible after the state of emergency is lifted or the notice is revoked. 40

CHAPTER 21

GENERAL PROVISIONS

Other uses of firearms

- 145.** Despite anything to the contrary in this Act, a firearm may also be used by the holder of a licence to possess that firearm— 45
- (a) to euthanase or slaughter animals in the prescribed manner; and
 - (b) for such other purposes and in accordance with such requirements as may be prescribed.

Delegation of powers and assignment of duties

146. (1) The Registrar may delegate any power conferred on him or her and assign any duty imposed on him or her by or under this Act to any official in the service of the State.

(2) An official to whom a power has been delegated or a duty has been assigned in terms of subsection (1) must exercise the power or perform the duty subject to the control and directions of the Registrar. 5

(3) The Registrar may, notwithstanding a delegation or assignment in terms of subsection (1), personally exercise the power or perform the duty delegated or assigned to another official. 10

Designation as police officials

147. For purposes of this Act, the Minister may in writing designate any person or any category of persons employed by the State, as police officials.

Service of documents

148. (1) Any notice or other document to be served on or given to any person in terms of this Act may be— 15

- (a) delivered by hand to that person;
- (b) left at that person's usual or last known place of residence or business;
- (c) left at an address specified by that person for the purpose of any application made in terms of this Act; 20
- (d) posted by certified mail addressed to that person by name at that person's last known place of residence or business or at a postal address specified by that person for the purpose of any application made in terms of this Act;
- (e) delivered to any legal representative or other agent of that person who is duly authorised by that person to receive it; 25
- (f) if the relevant person is deceased, delivered to that person's legal representative or to the executor of his or her estate; or
- (g) if the relevant person is absent from South Africa, delivered to that person's legal representative or agent in South Africa or served in such manner as may be prescribed by regulation. 30

(2) This section does not apply to notices or other documents served or given during the course of any proceedings in a court of law or to notices in terms of section 125.

Return of service

149. A document purporting to be signed by a police official, or person designated under section 147, indicating that the service was effected in accordance with section 148(1) by the person who has signed the document, is upon production in a court by any person, *prima facie* evidence of service of the document. 35

Regulations

150. (1) The Minister may, by notice in the *Gazette*, make regulations regarding—

- (a) anything that may or must be prescribed in terms of this Act; 40
- (b) the surrendering of firearms and ammunition to the South African Police Service;
- (c) the production of any firearm to which any application relates for the purpose of identification, and the discharging of ammunition for identification purposes; 45
- (d) the determination and payment of fees payable in respect of the issue or renewal of any competency certificate, licence, permit or authorisation or in respect of anything else for which a fee may be charged in terms of this Act;
- (e) the fees or remuneration which may be charged by dealers in respect of any firearm, or other device, required to be disposed of through a dealer in terms of this Act; 50

- (f) the security of any premises at which dealers, manufacturers, gunsmiths, importers and exporters of firearms and ammunition, Official Institutions or persons who use firearms for business purposes conduct business, including precautions and procedures to be taken to prevent the theft or unlawful use of firearms and ammunition in the possession of such persons; 5
 - (g) precautions to be taken in respect of the carriage, use, safe custody or destruction of firearms and ammunition; 5
 - (h) the surrender and disposal of competency certificates, licences, permits or authorisations issued in terms of this Act which have been suspended, revoked or cancelled or which have ceased to be valid; 10
 - (i) the notification of change of address; 10
 - (j) the acquisition, disposal, possession, importation or exportation of equipment and material designed for the charging or recharging of ammunition; 10
 - (k) the taking of fingerprints; 10
 - (l) the periods for and the manner in which, and by whom, documentation contemplated in this Act must be retained; and 15
 - (m) generally with regard to any other matter which it is necessary or expedient to prescribe in order to achieve or promote the objects of this Act. 15
- (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 or both a fine and such imprisonment. 20
- (3) A regulation regarding the determination of fees may be made only with the approval of the Minister of Finance.
- (4) In making regulations, other than those relating to the payment of fees, the Minister may differentiate between different areas in South Africa. 25

Disposal of firearms in case of ceasing to carry on business

151. If a person who holds a licence issued in terms of section 23 or who holds a licence, permit or authorisation contemplated in Chapter 7 or 8, ceases to carry on business for any reason, the firearms and ammunition in possession of that person must be kept in safe custody by the person and at the place designated by the Registrar, until they are disposed of as prescribed. 30

Disposal of firearms in case of death

- 152.** (1) In the case of the death of the holder of a firearm licence, the firearm in question 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 must store the firearm as prescribed. 35
- (3) A person who, on the death of the holder of a licence, permit or authorisation, becomes entitled to a firearm must, if he or she—
- (a) wishes to acquire the firearm, apply for an appropriate licence, permit or authorisation in terms of this Act; or 40
 - (b) does not wish to acquire the firearm, or fails to obtain the appropriate licence, permit or authorisation, dispose of it as prescribed.
- (4) Any person who disposes of a firearm in terms of this section must notify the Registrar in writing thereof.

Inherited firearms

- 153.** (1) A person who inherits a firearm may have the firearm in his or her possession, if—
- (a) the firearm is not a prohibited or restricted firearm; and
 - (b) he or she has obtained a permit referred to in subsection (2). 50
- (2) The Registrar may, on application in the prescribed form, issue a permit to possess a firearm to a person who inherits a firearm subject to such conditions as the Registrar may impose.

(3) A firearm in respect of which a permit is issued in terms of this section may not be used unless a licence in terms of this Act has been issued in respect of that firearm.

(4) If a licence is issued in respect of any firearm contemplated in this section, all the relevant provisions of this Act apply in respect of that licence and firearm.

Compulsory destruction of firearms by State

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154. (1) A firearm may only be destroyed as prescribed.

(2) Any firearm or ammunition forfeited to the State in terms of this Act—

(a) must be destroyed by the State within six months of the date of the forfeiture or after all possible appeals have been concluded or the last date on which any appeal could have been noted has passed without an appeal having been noted, 10
whichever occurs last; and

(b) remains the property of the owner thereof until its destruction.

(3) (a) Despite subsection (2), the State may retain any firearm or ammunition forfeited to the State, which the Registrar deems to be of special value.

(b) Any firearm or ammunition retained by the Registrar in terms of paragraph (a) 15
becomes the property of the State when the Registrar informs the former owner of the firearm of that fact.

(c) Subject to Chapter 19, the former owner of any firearm or ammunition which becomes the property of the State in terms of paragraph (b) may apply for compensation 20
in terms of this Act.

Deactivation of firearms

155. (1) For purposes of this section “to deactivate” means to render permanently inoperable and “deactivation” has a corresponding meaning.

(2) A firearm may only be deactivated by a gunsmith in the prescribed manner.

(3) If a firearm is deactivated by a gunsmith— 25

(a) the gunsmith must issue a certificate to that effect indicating the manner in which the deactivation was performed;

(b) the holder of the licence in respect of the firearm in question must notify the Registrar within 14 days after such deactivation, and at the same time forward 30
to the Registrar a copy of the deactivation certificate; and

(c) the gunsmith must notify the Registrar within 14 days after any deactivation done by him or her, and at the same time forward to the Registrar a copy of the deactivation certificate.

Jurisdiction of magistrates’ courts

156. Despite any law to the contrary, any magistrates’ court has jurisdiction to impose 35
any penalty provided for in terms of this Act.

Act binds State

157. This Act binds the State.

Repeal of laws

158. Subject to Schedule 1, the laws mentioned in the Column 1 of Schedule 3 are 40
hereby repealed to the extent mentioned in Column 3 of Schedule 3.

Short title and commencement

159. This Act is called the Firearms Control Act, 2000, and comes into effect on a date to be fixed by the President by proclamation in the *Gazette*.

SCHEDULE 1**TRANSITIONAL PROVISIONS****Existing licence to possess an arm**

1. (1) Subject to subitem (2) and item 11, any licence, which was issued in terms of the previous Act and which was valid immediately before the date of the commencement of this Act, remains valid for a period of five years from the date on which this Act comes into operation, unless such licence is terminated, cancelled or surrendered in terms of this Act.

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

(b) For the purpose of paragraph (a), section 34(2) does not apply.

(3) Any firearm not disposed of as contemplated in subitem (2) may be forfeited to the State and must be disposed of in the prescribed manner.

Existing dealer's licence

2. Subject to item 11, any licence issued in terms of section 19(1) of the previous Act or transferred in terms of section 20 of that Act or any temporary licence issued in terms of section 19A(1) of the previous Act, which was valid immediately before the date of commencement of this Act, remains valid for one year from that date, unless it is terminated, cancelled or surrendered in terms of this Act.

Existing permit for importation or exportation of arms and ammunition

3. Subject to item 11, any permit issued in terms of section 26(1) or 32(1) of the previous Act, which was valid immediately before the commencement of this Act, remains valid for the period specified in that permit, unless terminated, cancelled or surrendered in terms of this Act.

Existing permit for manufacture of arms and ammunition

4. Subject to item 11, any permit issued in terms of section 30 of the previous Act, which was valid immediately before the commencement of this Act, remains valid for one year from that date, unless terminated, cancelled or surrendered in terms of this Act.

Existing authorisations and certain existing permits

5. Subject to item 11, any authorisation issued in terms of section 3(5) or 33A(1) of the previous Act or any permit issued in terms of the previous Act other than a permit contemplated in item 3 or 4, which was valid immediately before the commencement of this Act, remains valid for the period specified in the authorisation or permit, as the case may be, unless terminated, cancelled or surrendered in terms of this Act.

Person unfit to possess a firearm

6. (1) Any person declared to be unfit to possess an arm in terms of the previous Act must be regarded as having been declared unfit to possess a firearm in terms of this Act.

(2) Despite items 1, 2, 3, 4 and 5, any person holding a licence contemplated in any of those items may in terms of this Act be declared unfit to possess a firearm.

Register in terms of previous Act to be kept by Registrar

7. (1) The register kept in terms of section 42 of the previous Act must be maintained by the Registrar for such period as may be necessary.

(2) A certificate purporting to be signed by the Commissioner or any person acting under his or her authority stating any fact recorded in the register referred to in subitem (1) is upon production in a court by any person, *prima facie* evidence of the fact so stated.

Matters pending under previous Act

8. (1) Subject to subitems (2) and (3), this Act does not affect any proceedings instituted in terms of the previous Act which were pending in a court of law immediately before the date of commencement of this Act, and such proceedings must be disposed of in the court in question as if this Act had not been passed.

(2) Proceedings contemplated in subitem (1) must be regarded as having been pending if the person concerned had pleaded to the charge in question.

(3) No proceedings may continue against any person in respect of any contravention of a provision of the previous Act if the alleged act or omission constituting the offence would not have constituted an offence if this Act had been in force at the time when the act or omission took place.

(4) (a) Despite the repeal of the previous Act, any person who, before such repeal, committed an act or omission which constituted an offence under that Act and which constitutes an offence under this Act, may after this Act takes effect be prosecuted under the relevant provisions of this Act.

(b) Despite the retrospective application of this Act as contemplated in paragraph (a), any penalty imposed in terms of this Act in respect of an act or omission which took place before this Act came into operation may not exceed the maximum penalty which could have been imposed on the date when the act or omission took place.

Investigations by Commissioner under previous Act

9. (1) An investigation by the Commissioner in terms of the previous Act which has not been completed when this Act commences, must be discontinued.

(2) Any act or omission committed prior to the coming into operation of this Act, which constituted grounds for declaring a person unfit to possess an arm, must be regarded as constituting grounds for declaring a person unfit to possess a firearm in terms of this Act.

Consideration of validity of existing licence, permit and authorisation

10. (1) Despite this Schedule, the Registrar may at any time notify any person who holds a licence, permit or authorisation contemplated in item 1, 2, 3, 4 or 5 that he or she intends investigating the validity of that licence, permit or authorisation.

(2) The person notified must on a date specified in the notice furnish the Registrar—

(a) with the original licence, permit or authorisation in question, against the issue of a receipt; and

(b) with such additional information as may be required in terms of the notice.

(3) If the Registrar finds that the licence, permit or authorisation was not validly issued, the holder of the licence, permit or authorisation must, if applicable and against the issue of a receipt, surrender the firearm in question to a police official at a police station specified by the Registrar in a written notice to the holder.

(4) The firearm must be disposed of as prescribed after the expiration of a period of six months after the date of surrender or after all possible appeals have been concluded or the last date on which any appeal could have been noted has passed without an appeal having been noted, whichever occurs last.

(5) The Registrar may declare the holder referred to in subitem (3) to be unfit to possess a firearm, in which case the provisions of Chapter 12 of this Act apply with the necessary changes.

(6) Any person who fails to comply with subitem (2) or (3) is guilty of an offence and is liable on conviction to a fine or to imprisonment for a period not exceeding one year or to both a fine and such imprisonment.

Renewal of licence

11. (1) (a) The holder of a licence, permit or authorisation contemplated in item 1, 2, 3, 4 or 5 must apply for the corresponding licence, permit or authorisation in terms of this Act within the period determined by the Minister by notice in the *Gazette*.

(b) Different periods may be determined in terms of paragraph (a) in respect of—

- (i) different licences, permits or authorisations; and
- (ii) holders whose surnames start with different letters of the alphabet, or whose dates of birth fall in different months.

(c) The period contemplated in paragraph (a) must end before the end of the relevant period contemplated in item 1(1) and may not exceed the periods contemplated in item 2, 3, 4 or 5.

(d) If an application for the renewal of a licence, permit or authorisation has been lodged within the period provided for in this section, the licence, permit or authorisation remains valid until the application is decided.

(2) An application for a licence, permit or authorisation contemplated in subitem (1) must in addition to any requirement in terms of this Act be accompanied by—

- (a) a certified copy of the existing licence, permit or authorisation;
- (b) such other information as may be required.

(3) For purposes of this item, section 11(2)(o) does not apply.

(4) Any holder of a licence, permit or authorisation who fails to apply for the renewal of his or her licence, permit or authorisation before the end of the period determined by the Minister in terms of subitem (1), is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding one year or to both a fine and such imprisonment.

SCHEDULE 2**OFFENCES GIVING RISE TO UNFITNESS ENQUIRY BY COURT****(Section 106(3))**

1. High treason
2. Sedition
3. Sabotage
4. Terrorism
5. Public violence
6. Arson
7. Intimidation
8. Rape
9. Malicious damage to property
10. Entering any premises with the intent to commit an offence under the common law or a statutory provision
11. Kidnapping
12. Child stealing
13. Culpable homicide
14. Extortion
15. Any crime or offence—
 - (a) in terms of this Act or the previous Act;
 - (b) involving the abuse of alcohol or drugs;
 - (c) involving dealing in drugs;
 - (d) in terms of the Domestic Violence Act, 1998;
 - (e) involving violence or dishonesty; or
 - (f) in terms of the Explosives Act, 1956,and which is not a crime or an offence for which a court is obliged in terms of section 106(2) to declare a person unfit.
16. Any conspiracy, incitement or attempt to commit any offence referred to in this Schedule

Schedule 3**Laws repealed****(Section 158)**

No. and year of Act	Short title	Extent of repeal
Act No. 75 of 1969	Arms and Ammunition Act, 1969	The whole
Act No. 80 of 1971	General Law Amendment Act, 1971	Section 25
Act No. 35 of 1973	Arms and Ammunition Amendment Act, 1969	The whole
Act No. 94 of 1974	Second General Law Amendment Act, 1974	Section 48
Act No. 16 of 1978	Arms and Ammunition Amendment Act, 1978	The whole
Act No. 19 of 1983	Arms and Ammunition Amendment Act, 1983	The whole
Act No. 60 of 1988	Arms and Ammunition Amendment Act, 1988	The whole
Act No. 30 of 1990	Arms and Ammunition Amendment Act, 1990	The whole
Act No. 79 of 1991	Arms and Ammunition Amendment Act, 1991	The whole
Act No. 117 of 1992	Arms and Ammunition Acts Amendment Act, 1992	The whole
Act No. 65 of 1993	Arms and Ammunition Amendment Act, 1993	The whole
Act No. 177 of 1993	Arms and Ammunition Second Amendment Act, 1993	The whole
Act No. 7 of 1995	Arms and Ammunition Amendment Act, 1995	The whole

SCHEDULE 4**PENALTIES****(Section 124)**

Section	Maximum period of imprisonment
3	15 years
4	25 years
6(1)	Two years
6(2)	Two years
6(3)	Two years
6(4)	Two years
7(1)	Two years
7(1)	Two years
14(3)	Two years
15(4)	Two years
16(5)	Five years
17(4)	Two years
18(4)	Two years
18(5)	Two years
19(4)	Two years
19(5)	Two years
20(3)(a)	Two years
20(3)(b)	Three years
20(4)	Two years
21(2)(b)	Five years
20(3)	Five years
21(4)(a)	Two years
21(4)(b)	Three years
22(3)	Five years
22(4)(a)	Two years
22(4)(b)	Three years
22(5)	Five years
22(6)	Five years
23(4)	Five years
23(5)(a)	Five years
23(5)(b)	25 years
23(6)(a)	Five years
23(6)(b)	Five years
23(7)	Two years
23(8)	Two years
24(5)	Five years
24(4)	Two years
26(5)	10 years
26(6)	Five years
28(1)	Two years
29	Two years
31(4)	10 years
31(5)	10 years
32(1)	Two years
32(2)	Two years
34(1)	25 years
34(2)	25 years

Section	Maximum period of imprisonment
34(3)	15 years
35(2)	Four years
39(6)	Two years
41	Two years
42(1)	Four years
42(2)	Four years
42(3)	Five years
42(4)	Two years
42(5)	Three years
42(6)	Three years
42(8)	Three years
42(9)	15 years
44(5)	25 years
45(4)	25 years
45(5)	25 years
47(1)	Two years
47(2)	Two years
48(1)	25 years
48(2)	25 years
53(6)	Two years
55	Two years
56(1)	Four years
56(2)	Five years
56(3)	Three years
56(4)	Two years
56(5)	Two years
56(6)	Three years
56(7)	15 years
58(5)	25 years
59(4)	25 years
59(5)	25 years
61(1)	Two years
61(2)	Two years
62	15 years
67(6)	Two years
69	Two years
70(1)	Two years
70(2)	Five years
70(3)	Two years
70(4)	Three years
70(5)	Three years
70(7)	Three years
70(8)	15 years
72(5)	25 years
73(4)	25 years
73(5)	25 years
75(1)	Two years
75(2)	Two years
76(1)	15 years
76(2)	15 years
81(1)	Two years
81(2)	Three years

Section	Maximum period of imprisonment
81(3)	Three years
81(4)	15 years
83(5)	25 years
85(1)	Two years
85(2)	Two years
86	15 years
87	Two years
88(1)	25 years
90(1)	Two years
90(2)	Two years
90(3)	Two years
91(2)	25 years
93	15 years
94(1)	10 years
94(2)	10 years
96(2)	10 years
96(3)	10 years
96(4)	10 years
97(2)	Five years
97(3)	Two years
101(1)	Two years
101(5)	Two years
101(7)	Two years
105(4)	15 years
107(2)	15 years
109	Two years
110(1)	10 years
110(2)	One year
111(1)	One year
123(2)	15 years
123(4)	Five years
123(5)	Three years
123(6)	Three years
123(7)	10 years
123(8)	Five years
123(9)	Five years
123(10)	Five years
123(11)(a)	10 years
123(11)(b)	25 years
123(12)	10 years
123(13)	Five years
143(2)(a)	Five years
143(2)(b)	10 years
143(2)(c)	25 years
144(1)	15 years
151(1)	15 years
152(1)	Five years
152(2)	Five years
152(3)	Five years
152(4)	15 years
153(2)(a)	25 years

Section	Maximum period of imprisonment
153(2)(b)	25 years
153(3)	15 years
154(1)	10 years
155(2)	Five years
155(3)(a)	Two years
155(3)(b)	Two years
155(3)(c)	Two years

MEMORANDUM OF OBJECTS OF THE FIREARMS CONTROL BILL, 2000

1. The proliferation of firearms in South Africa has resulted in criminals having easy access to firearms. There is little doubt that the availability of firearms contributes directly to the high level of violent crime in South Africa. The Bill seeks to repeal the Arms and Ammunition Act, 1969 (Act No. 75 of 1969) ("the current Act"), and replace it with legislation that will tighten control over the possession of firearms to prevent these from entering the illegal market. The Bill also seeks to provide the South African Police Service with the necessary power to combat the problem of illegal firearms effectively.

2. Key proposals in the Bill are the following:

- 2.1 Every person who applies for a licence to possess a firearm must obtain a competency certificate. It is clear that many persons who obtain licences have received no training in the safe and responsible use of firearms. To obtain a competency certificate a person will have to undergo training in the safe and responsible use of a firearm.
- 2.2 Licences issued under the current Act are valid for an indefinite period unless the licence is cancelled or revoked. Problems experienced are that often the personal details of the licence holder have changed and the licence holder fails to notify the South African Police Service of such changes. Furthermore, a person often purchases a firearm for a specific purpose and then no longer requires the firearm or wants it. The Bill provides for licences that have a limited lifespan ranging from two years to ten years. At the renewal stage the personal details of the applicant will be updated and the applicant will be required to show that he or she still needs the firearm.
- 2.3 The Bill seeks to provide the South African Police Service with additional powers of search, seizure and evidence gathering. For example, it is proposed that certain body prints and genetic samples of potential suspects may be taken in order to exclude or include one or more persons as possible perpetrators of an offence.
- 2.4 The Bill also seeks to increase the penalty for the unlawful possession of a firearm from a maximum of five years imprisonment to a maximum of 15 years imprisonment.
- 2.5 The minimum age of the holder of a firearm licence is increased from 16 to 18 years.
- 2.6 The Minister for Safety and Security is given the power to declare places such as schools, places of worship and shebeens as Firearm Free Zones.
- 2.7 Restrictions are placed on the amount of ammunition a licence holder may purchase. This provision will assist in combating the unlawful sale of ammunition to criminals.
- 2.8 Computerised central data bases will be established and will link dealers, manufacturers and gunsmiths on line to the Central Firearms Register which in turn will assist in the accurate recording of all information relating to firearms.

3. CONSULTATION

Consultation has taken place with the following entities:

The Department of Defence
 The Department of Justice
 The National Directorate of Public Prosecutions
 Gun-Free South Africa
 The Confederation of Hunters Associations of South Africa
 The Professional Hunters Association of South Africa
 Khuseleka
 South African Arms and Ammunition Collectors Association
 The Gun Owners' Association of South Africa

4. FINANCIAL IMPLICATIONS FOR STATE

Preliminary costing has been done in order to implement the Bill. An amount of R217 million has been provided for in the Medium Term Expenditure Framework for implementation, as follows: 2000/01 — R57 000 000, 2001/02 — R82 000 000 and 2002/03 — R78 000 000.

5. PARLIAMENTARY PROCEDURE

The State Law Advisers and the Department of Safety and Security are of the opinion that this Bill must be dealt with in accordance with the procedure established by section 75 of the Constitution since it contains no provision to which the procedure set out in section 74 or 76 of the Constitution applies.