

FIREARMS CONTROL DRAFT AMENDMENT BILL 2021

The Firearms Control Draft Amendment Bill as published on the website of the Civilian Secretariat for Police proposes various changes to the act. For the purposes of this document, we only focus on the proposed amendments that affect or might be of interest to members of SA Hunters.

The following amendments have been proposed.

Section 1

A number of definitions are being added to the Section 1 of the act. SA Hunters refers to some of these proposed amendments.

New definitions are given for “**Automated ballistic identification system**” and “**ballistic sampling**”. Automated ballistic sampling system refers to a system that the Police must create to store ballistic data of all firearms.

“**Ballistic Sampling**” is being defined to focus on the projectile or a cartridge case or both that belong to the same firearm and which the Police must acquire and keep for comparison.

***Comment:** SA Hunters and other role-players requested Dr David Klatzow, a well-known forensic investigator that is often in conflict with the Police, to do research regarding ballistic sampling. In his report he gave four reasons why ballistic sampling is not practical. He demonstrated that the classical ballistic characteristics of a firearm could differ when different types of ammunition are used. The reasons for this are because the hardness of the brass used for the cartridge case as well as the hardness of metal used for the projectile differ between brand name and manufacturer. Over time, the wear and tear from certain parts of a firearm will result in different markings on the cartridges and the projectiles.*

A **calibre** is defined as “a cartridge as described by dimensions and make, mark, model or type”.

***Comment:** Two international conventions are being used to describe calibres. The European convention is a metric measurement system that identifies calibre based on the diameter of a projectile and the length of the cartridge case.*

In the USA, the imperial system of inches is being used as a measurement system. Often, the name of the manufacturer of that particular bullet is also added to identify it.

To avoid confusion, both methods should be used.

“**Dedicated hunter**” reads as follow: “Means a person who qualifies to engage in hunting and actively participates in prescribed manner in such hunting activity and who is a member of an accredited hunting association”.

“**Dedicated sports person**” means a person who qualifies to engage in sports-shooting under this Act and actively participates in the prescribed manner in such sports-shooting and who is a member of an accredited sports-shooting organisation.

***Comment:** The underscored parts have been added without giving any explanation why these changes are necessary. The reference to “who qualifies” is unclear. Exactly what qualification is being referred to?*

It is required to participate in the prescribed manner in hunting and sport shooting activities, but the prescribed manner is not included anywhere.

The definition for “**Firearm**” is amended to include any “muzzle loading firearm”. “**Muzzle loading firearm**” is described in detail.

The definition for “**Minister**” is referred to as “member of the cabinet responsible for policing”

***Comment:** This definition simplifies the understanding of which Minister is responsible.*

“**Professional hunter**” means any person who supervises, escorts, offers to, or agrees to, supervise or escort a client, for reward, in connection with the hunting of a wild or exotic animal, who is

authorised to do so in terms of any applicable legislation and is a member of a professional hunting association”

Comment: *previously, the relevant legislation was regarded as provincial legislation. It is being changed to refer to all legislation. The requirement of membership of an accredited professional hunters’ association has been added.*

Prohibited firearm means a firearm or device the possession of which is prohibited under section 4

“**Restricted Firearm** means any semi-automatic rifle or semi-automatic shotgun, which cannot readily be converted into a fully automatic, or: firearm declared by the Minister by notice in the Gazette, to be a restricted firearm”

Comment: *The definition of a “restricted firearm” is much more comprehensive. One can expect more firearms to be declared as restricted firearms.*

Section 2

Section 2 deals with the purpose of the act.

The current act describes the purpose of the act to: (a) **enhance the constitutional rights to life and bodily integrity.**

The proposed amendment for this description is:

- (a) to ensure restrictive access to firearms by civilians, to ensure public order, to secure and protect civilians and to comply with regional and international instruments on firearms control.**

Comment: *Currently, the act refers to the confirmation and support of constitutional rights. The proposed amendment summarily turns it into a very restrictive purpose of the act, i.e., to establish limited access to firearms. Hereby, the legislator clearly confirms the opinion that it is a privilege, and not a constitutional right, to own a firearm.*

*Furthermore, it is important to understand that if it is the intention to remove self-defence as a motivation to own a firearm, it is essential to apply the amendment. If the act continues to state the purpose as **to enhance constitutional rights to life and bodily integrity**, it will be difficult to remove Section 13 which makes provision for the issuing of a licence for self-defence purposes. The proposed amendment intends to restrict the individual’s rights by restricting access to firearms.*

Two new subsections 2 A (a) and (b) follow.

Subsection 2A reads:

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

Comment: *Currently, the act clearly describes the constitutional right to life and safety, while the amendments restrict that right to be a privilege to own a firearm that is conditional to the overriding need to ensure public safety. This is exactly what the Police is unable to do. We must understand that this amendment places an obligation on the Police to ensure public safety.*

A few additions are made to Subsection 2B:

The objects of this Act are to—

- (a) prohibit the possession and use of prohibited firearms and self-loading rifles and shotguns, except in special circumstances;**
- (b) establish an integrated licensing and registration scheme for all firearms;**
- (c) require each person who possesses or uses a firearm under the authority of a licence to provide a valid reason for possessing or using the firearm;**

- (d) provide strict requirements that must be satisfied in relation to licensing and renewal of licences in respect of firearms and the acquisition and supply of firearms; and
- (e) ensure that firearms are stored and conveyed in a safe and secure manner;”

Comment: This forbids ownership and use of semi-automatic firearms, except under special circumstances (which is not explained), creating of an integrated licence and registration system, (the act already provides for such a system since 2006, but the Police was unable to make it work) and adhering to restrictions on licencing with strict additional requirements. Currently, the act only requires a motivation for a firearm for self-defence purposes, while the amendments will make motivations a requirement for every firearm licence. Restrictions on the storing and transport of firearms have been added to the definition.

With these additions, the Police is creating an enormous amount of extra work for themselves. Since 2006, they have been unable to implement the current act and it is unlikely that they will be able to implement the proposed amendments.

Section 3

Section 3 of the act restricts anyone from owning a firearm without a permit, licence, or authorisations. Subsection 2 (that deals with muzzle-loaders) is deleted, which makes sense because muzzle-loaders are now included in the definition of a firearm.

Section 4

Section 4 of the act deals with banned firearms.

Devices and ammunition are added to this subsection which deals with banned firearms, devices, and ammunition.

The following are added to this section:

- (c) by the substitution for paragraph (a) of the following paragraph
- (a) any fully automatic firearm, or a device or conversion kit to convert a semi-automatic firearm to a fully automatic firearm

Comment: The amendment of Section 4 means that provision is made for a ban on automatic or semi-automatic firearms. One gets conversion kits for e.g., Glock pistols that enables you to convert it to an automatic firearm. These devices will be banned.

There is also a ban on owning any copies of illegal firearms, deactivated restricted or prohibited firearms. Imagine the implications on toy guns, i.e., because it will ban any toy gun that resembles a banned automatic firearm or a deactivated automatic firearm.

Subsection (g) “the minister may by notice in the Gazette declare any specified type of ammunition to be prohibited ammunition which may not be possessed in terms of this act if it is

- (i) in the interest of public safety
- (ii) desirable for the maintenance of law and order or
- (iii) to ensure the safety of law enforcement officials”.

Comment: The Minister has carte blanche to ban any type of firearm without motivating the decision. Why are certain types of ammunition forbidden? Surely hunters, sport shooters and anyone that carries a firearm for self-defence may decide which is the most suitable ammunition for the purpose and circumstances.

Section 6

Section 6 of the act deals with competency and licences. Currently, the act provides a list of requirements that must be met before a person can be declared competent and before a firearm licence can be issued. These requirements are clearly described in Section 9 of the act.

Additional requirements are now being added before a competency certificate will be issued. These additional requirements are only applicable to persons between 18 and 21 years. The amendment states:

"(1A) Despite subsection (1)(b), the Registrar may issue a competency certificate, licence, permit, or authorisation contemplated in this Act to an applicant who is between the age of 18 years and 21 years if there are compelling reasons as contemplated in section 9(5)(b).

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

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

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

***Comment:** This confirms the principle that competency is only granted with special authorisation to persons younger than 21 years but older than 18 years if they meet the special conditions. The reality is that persons younger than 18 years are excellent shottists that participate in hunting or shooting activities under direct supervision of a parent. Therefore, in circumstances that are reasonable, provision should be made for persons as young as 16 years to be declared competent.*

This addition belongs in Section 9 of the act where all the requirements for competency are explained.

Section 7

Section 7 deals with entities other than natural persons, therefore companies and legal entities. Such entities must nominate a natural person to whom competency, or a licence is issued.

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

***Comment:** Now it is required that a natural person (on behalf of the legal person) must serve in an executive of management position before a licence is issued.*

Section 8

Section 8 of the act deals with accreditation of various entities such as hunting associations, sport shooting associations, dealers, gun smiths, etc. This section of the act was poorly implemented by the CFR. Currently, accreditation is a paper-driven exercise. Once sufficient and correct documents have been submitted, accreditation is granted.

In 2006, when the act was implemented, a collective of accredited hunters' organisations established an agreement with the then Minister that accredited associations would issue endorsements to their members to confirm that the purpose of the firearm licence applied for, is indeed correct.

The proposed amendment to Section 8, makes provision for the principles of that agreement, namely:

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

- (a) dedicated sports shooting;**
- (b) dedicated hunting; or**
- (c) professional hunting.**

in the prescribed manner, verify the application made by such member of that association regarding the use, purpose and category of the firearm applied for, including the motivation for the application or any other part of the application.

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

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

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

Comment: This amendment introduces endorsements as yet another requirement for a licence application for a dedicated hunter, dedicated sport shooter and professional hunter. Furthermore, the format of the endorsement is also being dictated (without providing any detail thereof) and that the registrar should take the endorsement into account when considering the licence application but may still reject it.

This amendment will fit in better with Sections 8, 15, 16 and 16A of the act.

The Police already requires endorsements for all firearm licence applications without the act making provision for it. Suddenly, endorsements are only a requirement for hunters, sport shooters and professional hunting.

Section 9

Section 9 of the act that deals with applications for competency certificates, is being amended to include applications for competency to trade and manufacture ammunition, and to be declared as a dedicated hunter, sport shooter or professional hunter. It reads as follows:

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

Comment: No valid reasons are given why a hunter, sport shooter, or professional hunter needs additional competency. They are firearm owners like any other. They might require more firearms, but additional competency has been added as yet another hurdle.

The competency to manufacture ammunition is a new requirement for people that reload. If it was intended for commercial manufacture of ammunition, it might have made sense, but once again all reloaders are also firearm owners that reload for practical reasons because it is cheaper to load your own ammunition and the precision or accuracy of self-loaded ammunition are much better than commercially available ammunition.

Another amendment makes provision, for good reason, that competency will only be issued to persons younger than 21 years but older than 18 years. This also depends on the issuing of a licence to a person younger than 21 years but older than 18 years. The only reasons that will be accepted are that it is a person that earns a living, runs a business, or is a dedicated hunter or sport shooter.

Subsections 7, 8 and 9 are added as follows:

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

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

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

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

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

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

Comment: There is certainly no harm in the above amendment, except that it adds to the already comprehensive list of specific requirements that are deemed essential for competency.

Section 10

Section 10 deals with competency certificates and the type of competency certificates required. This amendment belongs with the amendments to Section 9.

Currently, the act makes provision for competency certificates for firearm owners, firearm dealers, manufacturers, and gunsmiths. Now **additional categories** for competency are being added for **dedicated hunters, dedicated sport shooters and professional hunters**. These certificates will be **valid for 5 years at the most from the date of issue**.

Comment: In this instance, the manufacturing of ammunition is not regarded as a separate category and therefore there is a difference between the categories provide here and in Section 9. Currently, the act makes provision for a competency certificate to be valid for the duration of the firearm licence for that particular firearm. The Police applies this practice as if competency certificates are valid for 5 or 10 years. (5 years for self-defence firearms and 10 years for hunting and sport shooting firearms.) This is a unilateral amendment that the Police started using without amending the act.

Reducing the life-time of a competency certificate from 10 years for Section 15 and 16 firearms to 5 years will double the administrative burden on the Police to issue competency certificates. The Police cannot deal with the current backlog. The waiting period for renewal of competency certificates is already longer than 12 months. This amendment will only add to this waiting period.

Section 10 A

Section 10A deals with the renewal of competency certificates. Currently the law allows the simultaneous submission of the renewal application of a competency certificate and the renewal application of a firearm licence.

The proposed amendment states that an application for the renewal of a competency certificate must be submitted at least 90 days before it expires.

Comment: At present, the Police can hardly bear the burden of renewal of renewal of competency certificates. The average waiting period for the issuing of new competency or renewal of competency is one year and even longer. It is unlikely that they will be able to deal with renewal of competency every 5 years.

Section 11A

A new Section 11A is added that requires reasons why a firearm licence is needed. This is known as motivation for a licence. The proposed Section 11A reads:

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

(2) The Registrar may only issue a licence in terms of this Act if the applicant—

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

(b) provides written proof and evidence to the satisfaction of the Registrar in relation to the requirements set out in this Chapter and as prescribed for acquiring a firearm licence under this Act."

Comment: *This amendment compels specific motivation for every firearm licence. It also prohibits the Registrar from issuing a licence if the motivation for ownership of the firearm does not match the specific requirement in the act as specified in Sections 15, 16 en 16A. It is also important to note that written proof is required of the relevant reasons for ownership of the licence.*

Section 12:

Section 12 of the act deals with additional licences for the same firearm. Currently the act allows more persons living on the same premises to apply for a licence for the same firearm.

This section is being amended to allow only family members living in the same house to apply for additional licences for the same firearm. When the family member no longer lives on the same premises, the additional licences that was issued must be handed over to the Police.

Comment: This amendment has the following implications: If I am married and my spouse and I live in the same house, my wife may obtain an additional licence. If we are not married, but still share the same house, she is not regarded as a family member and does not qualify for an additional licence.

Section 13

Section 13 of the act currently makes provision for the issuing of a licences for self-defence. The proposed amendments remove this section from the act. Therefore, no licences will be issued for self-defence and self-defence will not be accepted as a motivation for any firearm licence

Comment: *Removal of self-defence as motivation for a firearm is the single most emotive response on the proposed amendments, with good reason. According to statistics held by TLU South Africa, farm attacks had taken place approximately every second day, and someone had been murdered at least once a week, during the past 25 years. The state intends to remove citizens' ability to own a firearm for self-defence, which means that all citizens in the country that are exposed to violent attacks without or without a firearm, will have no means to defend themselves because they cannot obtain a firearm licence for a self-defence firearm.*

Section 14

Currently, Section 14 of the act makes provision for owning a limited firearm (semi-automatic rifle or shotgun) for self-defence purpose.

Comment: This section will also be removed according to the proposed amendments, which means that limited firearms (semi-automatic rifle or shotgun) may not be licensed for self-defence purposes.

Section 15

Section 15 makes provision for the issuing of firearm licences for occasional hunting and sport shooting. The proposed amendment states that such a licence will only be issued for occasional hunting and sport shooting if the applicant is the owner or legal resident of a property where hunting or sport shooting occur occasionally, or if the applicant can provide written proof or permission by the owner or legal resident of the property where hunting or sport shooting take place. The specific wording reads as follows:

"(2A) The firearm licence for occasional hunting or occasional sport-shooting purposes may only be issued if the applicant—

(a) is the owner or lawful occupier of property where occasional hunting or occasional sport-shooting shall take place; or

(b) produces documentary proof of permission by the owner or lawful occupier of property referred to in paragraph (a), to engage in occasional hunting or occasional sport-shooting on the said property."

Currently, occasional hunters may own a maximum of 4 firearms. This will remain unchanged.

Comment: *By implication, the proposed amendment means that any individual that wants to apply for a licence, will have to obtain proof from a shooting range or a landowner or a legal resident that he may participate in hunting or shooting activities, before a licence will be issued. This is an*

unnecessary impediment and completely absurd. SA Hunters has more than 44 000 members of which 65% live in one of the mega cities in Gauteng. Not a single one of them will be able to obtain a licence without such a letter.

Section 16

Section 16 deals with firearms for dedicated hunting or sport shooting. In this instance, various amendments have been proposed. Currently, Section 16 licences are issued for semi-automatic handguns, rifles, and shotguns. It is proposed to change this condition to refer to handguns, rifles, and shotguns that are not **forbidden**. Semi-automatic firearms will be forbidden in any event, and it is unlikely that licences would be issued.

Furthermore, a member's dedicated status will only be acknowledged if he has been complying with requirements to retain his status for the previous 24 months. Dedicated hunters and sport shooters may not have more than 6 firearms of which not more than two may be handguns or semi-automatic firearms or pump action shotguns. Only a person that has maintained dedicated status for 24 months will be allowed to have a licence for a semi-automatic rifle or shotgun. Such an application must meet the following requirements:

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

- (a) is a registered member of that association;**
- (b) has actively participated in hunting or shooting events of the association; and**
- (c) has, during the preceding period of 24 months, complied with requirements of being awarded with a dedicated hunter or dedicated sports person status as prescribed."; and**
- (e) by the addition of the following subsections:**
 - "(5) A person may not hold more than six licences in terms of this section.**
 - (6) A person issued with a licence in terms of this section may not hold more than two licences each in respect of a—**
 - (a) handgun;**
 - (b) semi-automatic rifle; or**
 - (c) pump action or semi-automatic shotgun, for dedicated hunting or a dedicated sports-shooting.**
 - (7) A semi-automatic rifle or a semi-automatic shotgun may only be registered in terms of this section to a person who has maintained a dedicated status as a hunter or sports-shooter for a period of at least two years and continues to maintain such a dedicated status.**
 - (8) Any application for a licence under this section must be accompanied by a written motivation containing at least the following information—**
 - (a) the needs of the dedicated hunter or dedicated sports shooter;**
 - (b) the type of firearm required;**
 - (c) the shooting disciplines that the applicant is involved in; and**
 - (d) such other information as may be prescribed.**
 - (9) The motivation contemplated in subsection (8) must be supported by the chairperson or authorised office bearer of the relevant hunting association or sports-shooting organisation, as the case may be.**

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

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

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

(a) not renewed their membership;

(b) had their membership suspended;

(c) failed to comply with the requirements for awarding dedicated hunter or sport shooter status; and

(d) been expelled from the association.

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

Comment: *These proposed amendments create numerous requirements for dedicated hunters and sport shooters that wish to apply for a firearm licence. The following aspects are the most important:*

- *the individual must comply with requirements of being awarded with a dedicated hunter or dedicated sport shooter during the preceding period of 24 months,*
- *has actively participated in hunting or shooting events of the association;.*
- *may not be in possession of more than six firearm licences;*
- *may not hold more than two licences for handguns, semi-automatic rifles or shotguns, or pump action shotguns;*
- *Only a dedicated hunter or sport shooter that has maintained dedicated status as a hunter or sport shooter for at least two years, will be able to obtain a licence for a semi-automatic firearm;*
- *Any application must be accompanied by a motivation that indicates the need for such a licence, the type of firearm, the shooting discipline in which he will participate, and any other information the Registrar requires;*
- *Must include an endorsement from the association that supports the application;*
- *Must inform the registrar if he/she loses dedicated status, after which the Registrar will cancel the licences according to Section 28.*

This amendment puts considerably more obligations on the dedicated hunters and sport shooters to own two additional firearms. In many instances, the proposed amendments do not make any sense. Associations may organise sport shooting events, but as a rule they do not organise hunting activities. Hunting is an activity that individuals arrange for themselves. If a dedicated hunter cannot maintain his dedicated status, the Registrar will cancel all his licences. These licences cannot be converted to licences for occasional hunting or sport shooting.

Section 16A

This Section deals with professional hunters and their firearm licences. Professional hunters must comply with exactly the same restrictions and requirements as dedicated hunters and sport shooters, except that professional hunters may own a maximum of 8 firearms.

Section 17 and 18

It is proposed to delete Section 17 which makes provision for private collectors to own a selection of firearms and ammunition. The same applies to Section 18 which make provision for private collections of ammunition.

Comment: *There are more than 2 000 collectors that keep a variety of collections with a combined estimated value of more than R750 million. No museum in South Africa can equal the complete firearm collections of these collectors. These include unique artefacts which are national treasures kept by private collectors. It would be foolish if these items were destroyed. Should these sections be deleted, private collections will be deemed worthless.*

Section 20

Section 20 deals with the issuing of licences to business such as security firms, trainers, associations, and hunting outfitters.

Comment: *Although it may seem as if SA Hunters has no direct interest in this Section, it is important to remember that our firearm skills training activities (such as SA Hunt Training (Pty) Ltd) will be affected. The proposed amendment put considerable restrictions on these entities, which seems to be a deliberate intention. These restrictions are also applicable to training schools and associations that own firearms.*

Section 20 A, B, C, D

This is a new addition to the current act and makes provision for a consultative forum meetings between the CFR and the private security authority (PSIRA).

Comment: *This makes provision for quarterly consultative forms where the CFR and PSIRA can discuss matters of common interest. It is important to notice that organisations (hunting and sport shooting and accredited associations) directly affected, are excluded from these meetings.*

The SAPS/Hunters Consultative Forum was established in 2006, but all discussions stopped in 2019 when the CFR refused to attend these forums. Therefore, no consultation with representative organisations for firearm owners have taken place since.

Provision should be made for consultative forums between the SAPS, CFR, accredited hunting associations, accredited sport shooting associations, trainers, hunting outfitters, and security companies. There should be consultation with representatives of all firearm owner groups to address and resolve practical problems with the implementation of the act.

Section 21

Section 21 deals with temporary permits to own a firearm. Currently, there are no restrictions on who may be issued with a permit. The proposed amendments will restrict the issuing of temporary permits to executors of deceased estates.

Comment: *Deleting the use of temporary permits could result in considerable problems for the Police. Approximately 500 000 old licences are still valid. One method of replacing these licences and keeping them valid would be to issue temporary permits to the firearm owners. This will not be possible if this Section is deleted.*

Section 22

Section 22 deals with the use of a firearm by a person under the supervision of the licence holder.

Comment: *The amendment adds another restriction that only persons older than 16 may use the firearm with the permission of the owner. This mean that children under 16 years will not be allowed to participate in hunting or sport shooting.*

This amendment places a substantive restriction on the rights of children under 16 years of age. It is quite common for children as young as 10 years to take part in hunting and sport shooting. Children as you as 11 years have won at SA Hunters' regional sport shooting events. SA Hunters offers sport shooting championships for children younger than 13 years, and for children 13– 18 years. There are also open championships where adults and children compete equally.

Section 23A

Section 23A is a new addition to the act and makes provision for ballistic testing of all firearms. The Minister will publish a programme for the compulsory handing in of all firearms together with

a round of ammunition for ballistic testing. If ammunition is not available, the state will provide one where possible.

Comment: *The Police's forensic department already performs ballistic tests on firearms that are connected to criminal activities. The current IBIS database stores this ballistic information. However, this system is no longer functional because the user licence fees have not been paid. It begs the question how the Police will be able to test and store the data of approximately 5 million firearms. What would happen if a bullet were not available, and the state is also unable to supply it for testing purposes?*

Furthermore, there are few firearm owners that will be prepared to hand in their firearms at the Police for an unknown period for ballistic tests. The Police is not trusted.

Section 24

This section deals with the renewal of firearm licences and makes provision for an administrative fine if the applicant submitted the renewal application later than the 90-day period but before the licence was due to expire.

Comment: *The act already makes provision for the late submission of an application – with good reason – but the Police refuses to accept any late applications. Similarly, the act also already makes provision for administrative fines. The Police receives renewal applications daily, after the 90-day period has expired, without issuing any fines. These late applications are often caused by the Police because they use an appointment system that does not accommodate firearm owners within the prescribed period. To suddenly start issuing fines when the Police lacks the capacity to receive applications on time, is grossly unfair.*

Section 25

This section deals with the notice of address changes and makes provision for the Police to acknowledge receipt of such a notice by SMS or in writing within 30 days.

Section 26

This section deals with the notice of a change in circumstances and makes provision for the Police to acknowledge receipt of the notice by SMS or in writing within 30 days.

Section 27

This section deals with the validity period of a licence prior to its renewal. The amendment proposes for all licences to be valid for only 5 years, except for a licence for business use which is only valid for 2 years.

Comment: *This is a senseless proposal. All hunting and sport shooting firearm licences (Section 15 and 16) are currently valid for 10 years. Licences for self defence firearms (Section 13 and 14) are valid for 5 years only. The licences of firearms in business entities for game ranchers and hunting (Section 20) are also valid for 10 years. Currently, the Police cannot deal with the workload of licence renewals. Their work will double if the valid period for licences is reduced to 5 years.*

Section 28

This article deals with the cancellation of a licence and makes provision for a licence to be cancelled when it expired, and a renewal application has not been submitted in time. The law states that a licence holder has 60 days to get rid of the firearm. The amendments make provision for the following options:

- Surrendering the firearm for destruction
- By a dealer
- Deactivating the firearm

In all instances, it will be required for the firearm to undergo ballistic testing before the licence holder gets rid of it.

Comment: At least this amendment provides clarity on an alternative that the dealer may get rid of the firearm. Currently, the Police refuses the sale of a firearm of which the licence has expired. The ballistic testing of such firearms makes no sense because these firearms were in legal possession. It is merely a situation where the firearm licence has expired, and a renewal application was not submitted in time. There are already approximately 500 000 firearms of which the licences had expired and that require destruction. The Police does not have the capacity to do ballistic tests on each of these firearms. The public also does not trust the Police with their firearms for an undetermined period.

Section 31

This section makes provision that only a dealer may sell firearms.

Comment: Every licence holder may sell his/her firearm privately. There is no impediment on such transaction and licence transfers occur frequently. This section should make provision for the private trading of firearms between individuals.

Section 35

This section deals with the renewal of dealers' licences. Dealers must also apply for the renewal of their licences 90 days before the expiry date. This amendment makes provision for such renewal applications to be submitted after the 90-day deadline, but with the charging of an administrative fine.

Comment: The Police has limited capacity to also deal with renewal of dealer licences and it is no surprise that these licence renewals are delayed. The proposed amendment does not make sense.

Section 38

This section deals with dealers' notices for change of circumstances and makes provision for the Police to acknowledge receipt thereof by SMS or in writing within 30 days.

Comment: There are various instances where the Police must acknowledge receipt by SMS. The Police already uses SMS notifications. However, the problem is that SMS notifications are random events. Apparently, the CFR only has a certain amount available to purchase data to send SMSs. When the money is finished before the end of the month, notifications are not sent.

Section 45

This section deals with the manufacturing of firearms and ammunition and prohibits the manufacturing of any firearms or ammunition without a manufacturer's licence. It is suggested that the section is amended by adding the following subsection.

“(3) It is an offence for any person, except the manufacturer of ammunition to be in possession of equipment designed and manufactured to reload ammunition”.

Comment: Although the amendment probably focuses on commercial manufacturers of ammunition, it may have unintended consequences. It will affect thousands of people that reload. Hunters and sport shooters reload for two reasons: firstly, the cost. Self-loaded ammunition is a lot cheaper than to buy, especially when one buys imported ammunition. The second reason why people reload is for the sake of precision and accuracy. The quality of self-loaded ammunition is better. Thousands of people will be criminalised overnight should it become illegal to be in possession of reloading equipment.

Section 49

This section deals with the renewal of a manufacturer's licence and makes provision for the late application of such a licence and the charging of an administrative fine.

Section 52

This section deals with the manufacturer's notice of change of circumstances and makes provision for the Police to acknowledge receipt thereof by SMS or in writing within 30 days.

Section 63

This section deals with the renewal of a gunsmith's licence and makes provision for the late application of such a licence and the charging of an administrative fine.

Section 66

This section deals with a gunsmith's notice of a change in circumstances and makes provision for the Police to acknowledge receipt thereof by SMS or in writing within 30 days

Amendment in the Heading of Chapter 8 of the Act

The proposed change to the heading of Chapter 8 of the draft amendment bill will include the **regular transport of firearms and ammunition** to the export, import and transport of firearms and ammunition.

Section 73

This section deals with the import, export, and transport of firearms. It is proposed that the registrar restricts the number of firearms and ammunition for import and export, and that no one may transport any firearm or ammunition without the necessary transport permit. The wording is as follows:

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

(4) No person may transport any firearm or ammunition in South Africa without a transportation permit.'

***Comment:** Although the intention of this section and its proposed amendment probably focuses on the commercial transport of firearms and ammunition, it might have unintended consequences. Thousands of hunters and sport shooters, as well as anyone that carries a firearm every day, will not be able to transport their firearms without a permit issued by the Registrar. It will be impossible for the Police to apply and manage this amendment.*

This also places a restriction on dealers with regard to the limit on the number of firearms that may be imported or exported.

Section 74

This section deals with the requirement for the import and export of firearms. This amendment implies that if a temporary import permit for a firearm is not approved in advance, the firearm must be left with the designated firearms officer at the point of entry into the RSA to enable the person to first apply for a permit before the firearm/s can be returned to him. Furthermore, no forbidden firearms (semi-automatic firearms) may be imported.

***Comment:** This amendment will have a substantive impact on both hunting and sport shooting. If prior application for a temporary import permit is not done, the firearms will not be available for hunting and shooting activities. Currently, one has to apply at least 3 months in advance for a temporary import and export permit. There is a delay in the issuing of these permits already even with the 3-month application rule. This amendment will result in no foreign visitors to the RSA for participation in hunting or sport shooting activities. It will result in 'n massive loss in income to the country.*

Section 74A

This section focuses on the commercial export of firearms and ammunition, and it could have unintended consequences. It requires, among others, that an export permit for firearms and/or ammunition may be issued only after an import permit had been issued by the destination country. The addition of this section makes the requirements of the "National Conventional Arms Control Act of 2002 applicable to all firearm exports. The intention of the above-mentioned act, is aimed at firearms for military use, not hunting and sport shooting firearms.

***Comment:** It is reasonable practice by other countries to first issue an export permit before allowing for an import permit to be issued. This amendment could easily create a check mate situation where no export permit (temporary or permanent) is issued.*

Section 84

This section deals with the carrying of firearms in public. The amendment provides for the Minister to prescribe the manner in which a security officer may carry his/her firearm while on duty.

Section 85

This section deals with the storing of firearms. Currently, an individual may only store another licenced firearm owner's firearm if the local DFO issued a storing permit.

This proposed amendment make provision for a dealer to store legally licensed firearms and for a firearm owner to legally store another firearm owner's firearm for a limited period providing he has written authorisation to do so.

Comment: *This is the first constructive amendment proposed in the draft. The intention seems to be that a firearm owner may provide the authorisation to another firearm owner to store the firearm for a limited period.*

Section 86

This section deals with the transport of firearms. Currently, the act makes in principle provision for couriers and similar logistic operators to transport firearms for payment. A new clause is proposed that will restrict anyone that **does not have a transport permit** from transporting **more than 3 firearms**. The clause reads as follows:

“(4) Any person who is not in possession of a firearm transporter’s permit issued in terms of this Act, may not transport more than three firearms at a time.”

Comment: *This proposed amendment will place significant restrictions on hunters and sport shooters. Sport shooting competitions are scheduled to enable participants to travel together in one vehicle with several firearms. Hunters often travel together with more than 3 firearms in the vehicle. This amendment is absurd.*

To reduce travel costs, as many as 5 hunters or sport shooters will travel in one vehicle, each one with two to three firearms for participation in hunting or sport shooting activities. The restriction of 3 firearms is nonsensical and impractical.

Section 91

Section 91 of the act restricts a licence holder to 200 rounds of ammunition for every firearm that he holds a licence for. It states further that this restriction does not apply to dedicated hunters, dedicated sport shooters, and professional hunters. The proposed amendment will restrict the maximum number of rounds to only 100 per licenced firearm, and makes provision for the Registrar to allow, with good reason, dedicated sports shooters, dedicated hunters, accredited training providers, occasional hunters, and occasional sport shooters to have more than 100 rounds of ammunition. In this process, the Registrar should note how frequently the firearm will be used, the level of participation in the activity for which the firearm is registered, the number of rounds used per event, and any other relevant factors.

Comment: *The proposed amendments are irrational. SA Hunters has more 44 000 active members of which 16 951 are dedicated hunters and 13 285 are dedicated sport shooters. Each of these members will certainly apply for exemption from this restriction. The Police has no idea how much red tape and frustration is being created with this nonsensical proposed amendment.*

Section 93

This section makes provision for every person with a legally licensed firearm to load his/her own ammunition for the firearms they use. The number of cartridge shells are restricted to 2400 and percussion caps to 2400. The proposed amendment removes this section altogether.

Comment: It is clear that the reloading of ammunition will not be allowed in terms of the proposed amendments. This will be problematic for thousands of reloaders and could possibly criminalise them.

Section 96

This section deals with the obligations of official entities (Police, Defence Force, Intelligence services etc.)

Comment: *For the first time it is proposed that heads of official entities should report quarterly on the number of firearms and ammunition that have gone missing or were stolen, the date when it was stolen or lost, the circumstances regarding the loss, action taken against those people, and steps taken to prevent similar loss in the future. Furthermore, provision is made for ballistic testing of all firearms in possession of such entities. This amendment is supported.*

Section 102

This section deals with declaring an individual incompetent to own a firearm. When declaring an individual incompetent to own a firearm, the Registrar must announce the duration of the declaration of incompetence.

Furthermore, the proposal makes provision for the Registrar to suspend the firearm licences of a person that has been accused of a violent crime or a person against whom a temporary protection order has been issued in terms of the Domestic Violence Act. When a final protection order has been issued, the firearms licence will be suspended. When a firearms licence has been suspended, the relevant firearms must be surrendered to the Police for safe-keeping. If a protection order is repealed or the accused is found not guilty of violent crime, the firearm must be returned to the individual. When an individual is found guilty of the above crime, all firearms and ammunition in his possession will be confiscated.

Comment: *SA Hunters supports the principle that an individual that is guilty of domestic violence or any other violent crime should not be allowed to own a firearm. However, there is little trust in the Police to keep any firearms safely. It is suggested that the firearms rather be placed in the care of an accredited dealer for safe-keeping. Should an individual be found guilty of the violent crime, the relevant dealer should be allowed to sell that firearm for the economic benefit of the relevant individual, and the firearm should not be forfeited.*

Section 120

Section 120 spells out the offences committed by individuals in terms of the act. It is proposed that anyone that puts a child younger than 16 years in charge of a firearm, will be guilty of an offence.

Comment: *This amendment will criminalise many parents with children younger than 16 years.*

Section 124

This section deals with the obligation on the Registrar. The proposed amendments make provision for the CFR to become a division of the SAPS.

Furthermore, it is proposed that the registrar reports to the Minister and Parliament quarterly on:

- Theft and losses of firearms and ammunition from official
- Theft and losses of firearms and ammunition surrendered to the Police for destruction
- The outcome of investigations into theft and losses of firearms and ammunition under the control of the Police and other official entities
- Disciplinary and criminal action against members that had lost firearms and ammunition through negligence

Comment: *For the first time, it would seem that the Police and other armed forces will be held responsible for the loss of firearms and ammunition in their possession.*

Furthermore, the duties and responsibilities of designated firearm officers have been described in more detail. It includes that DFOs must see to it that police officers undergo the prescribed competency tests before being issued with an official firearm; do regular inspections at security service providers; and ensure that all firearms surrendered for destruction, undergo ballistic tests.

Comment: *This amendment is strongly supported.*

Section 124A and B

These two sections are included in the draft amendment bill and describe the responsibilities of commanding officers at Police stations.

Comment: This amendment is supported.

Section 127

Section 127 make provision for the appointment of the head of the Central Firearms Registry. The amendment proposes that the head of the CFR should be appointed as a divisional commissioner.

Comment: It is irrelevant at which level this person is appointed. If the CFR is not properly funded, staffed, and managed, there is no way in which the act can be implemented properly.

Section 128, 128A, 129, 130, 131, 131A, B

This section deals with the Appeals Board appointed by the Minister to deal with appeals against decisions made by the CFR. The intention of these amendments is to increase the size of the Appeals Board and to describe its functions, etc.

Comment: The most important aspect of the Appeals Board has not been addressed, namely that it should be an independent body and not part of the CFR's command structure. The Appeals Board must deal with incorrect CFR decisions against which appeals have been submitted. It will be impossible to act impartially if the Appeals Board does not function separately from the CFR and does not have the necessary expertise. This is a fatal error in the structure that is not corrected.

Section 145

Section 145 of the act makes provision that the Minister may publish regulations to deal with various matters. Provision is made for the following matters to be regulated as such. We name only a few that are in the interest of hunters and sport shooters.

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

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

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

(mL) the marking of ammunition at point of manufacture;

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

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

Comment: If the intention of the regulations is to clarify the requirements for competency to own a firearm, it might be meaningful. However, it becomes bizarre for dedicated hunters and dedicated sport shooters that have already been declared competent to own a firearm, to also need competency to have dedicated hunter and dedicated sport shooter status. The only difference is that dedicated hunters and sport shooters may own more than four firearms. Additional regulations are superfluous and nonsensical.

If the regulations aimed at speeding up the issuing of temporary import and export permits to visiting hunters and sport shooters, it could result in a more positive experience for foreigners. The current process is painful and cumbersome and should not be more difficult.

The proposed regulations to mark ammunition at the point of production, is nonsensical. Manufacturers already put their own head stamp on the cartridge shells they use. Any further compulsory markings will only increase the cost and make no contribution to safety and security of civilians.

The safe-keeping of firearms and ammunitions has already been determined. Firearms must be stored in a prescribed safe or must be under personal control of the owner. There is nothing more to be added.

The penalty for breaking a regulations is increased from 1 year jail sentence to three years, without giving any clarity on the nature of this offence.

Section 147A en 148

This section deals with the handling of a firearm and ammunition after the death of the licensed owner. A new Section 147A determines that the executor of the estate will not be in illegal possession of a firearm while he tries to sell it. The proposed addition will at least give clarity and certainty on the obligation of the executor. Section 148 is being amended to enable the executor to keep the firearm safe until the licence application has been completed and to dispose of the firearm should the licence application be refused.

Comment: *This proposed amendment gives clarity on the process of dealing with firearms and ammunition of deceased estates. It is supported.*

Amendment to Schedule 1: Interim measures

The interim measures in schedule 1 are being amended to make provision for the implementation of the proposed amendments to the act. The following is important:

1B and 1C

Provision is being made for the licensing of a muzzle loader and cap and ball firearms. Competency is still required to own such a firearm and the firearm must be relicensed within 18 months after implementation of the amendments.

1E

Provision is being made for the licensing of all actions, frames and receivers within 18 months after the act has been implemented.

Comment: *At least this gives clarity regarding the licencing of certain parts of firearms.*

1F Relicensing of Firearms

The proposed amendments deal with the relicensing of firearms with valid old green licences. Provision is made that all firearms with old green licences will remain valid for a period of two years after this amendment to the act has been implemented. The Minister may extend this two-year period with the approval of parliament. Owners of firearms with old green licences must apply for relicensing of a similar new licence within the stipulated two years.

Comment: *Herewith the 2009 interdict is skilfully circumvented. It is a pity that no clarity is provided about the prior or simultaneous application for competency. One can only assume that the individual will be able to apply for both the competency and the new licence simultaneously. It will also no longer be required to hand in the relevant firearm while awaiting the new licence, which is a positive move. In principle, individuals with firearms with valid old green licences, must apply within two years for competency and a new licence without having to hand in their firearms*

1G Validity of competency certificates and licences

The interim measures make provision for competency to remain valid for the remainder of the firearm licence or for 5 years after implementation of the act, whichever is the shortest.

Licences will remain valid until the expiry date printed on the licence, which might be longer than 5 years.

Comment: *For now, the competency for self defence firearms is valid for 5 years, while competency for hunters and sport shooters is valid for 10 years (as applied by the Police). When reducing the validity period of competency to 5 years, the Police has doubled their volume of their workload. We doubt that the CFR has the capacity and ability to execute this process in a meaningful manner.*