



# LICENCING UNDER THE SPOTLIGHT: PART 1

Some of the most significant sections of concern in the Draft Firearms Control Amendment Bill relates to firearm licences and pertinently to the **reasons a firearm licence is needed**, as well as the already cumbersome **renewal processes**. We will spend the next few days reviewing various elements contained in these controversial sections, which include the controversial removal of a licence for self-defence (which we will address in a separate information piece).

## MOTIVATION FOR LICENCE



An entirely new Section is added, dealing with the reasons for 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."**

***Our comment/viewpoint:** This amendment compels specific motivation for every firearm licence, with written proof required detailing the relevant reasons for ownership of the licence and firearm. This again adds unnecessary admin work to both the applicant and SAPS and is merely a paper exercise designed to add barriers to legal firearm ownership.*

## ADDITIONAL LICENCES FOR THE SAME FIREARM

Section 12 of the act deals with additional licences for the same firearm. Currently the act allows more than one person living on the same premises to apply for a licence for the same firearm. This section will be amended to allow only **direct family members** (not other persons) living in the **same residence** to apply for additional licences for the same firearm. When the family member no longer lives in the same residence, the additional licence that was issued must be handed over to the Police.

***Our comment/viewpoint:** While this amendment may sound sensible, it has far-reaching implications in terms of specifically co-habitation relationships (i.e., people living together but who are not legally married). In this instance, if you are married and your spouse lives in the same house, your husband/wife may obtain an additional licence for the same firearm. If you are not legally married, but still share the same house (i.e., common law partner), he/she is not regarded as a family member and does not qualify for an additional licence. Living in a country where many people opt to simply live together, this change has a massive potential impact on the issuing of firearm licences that again limits ownership.*

## RENEWAL OF LICENCES



Section 24 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.

***Our comment/viewpoint:** In its present form, the act already makes provision for the late submission of an application – with good reason. However, in practice the Police refuses to accept any late applications, notwithstanding any reason why the application may be submitted late. Similarly, the act also already provides for administrative fines. The Police receives renewal applications daily (later than the 90-day period but before the licence lapses), but to date we have not heard of fines being issued. Again, with good reason since these late applications are often caused by delays at the Police where the appointment system they insist on using, 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 and strongly opposed.*

While we are on the topic of the Police's **capacity and inability** to enforce the current act, let alone the additional amendments, there is also a proposed change in the **validity period of a licence prior to renewal**. In Section 27 an amendment is proposed for all licences to be valid for only **5 years**, except for a licence for business use which is only valid for 2 years.

***Our comment/viewpoint:** This is an utterly senseless proposal, simply due to the additional workload it will create. The Police – as pointed out earlier – cannot deal with the current workload of licence renewals (which already leads to late application which might be followed by administrative fines). This amendment will significantly increase the workload of the CFR. One wonders if this is another blatant attempt to create unnecessary hurdles to legal firearm ownership. We propose that the validity period of licences remain unchanged, or even be extended rather than shortened. For reference, 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.*

# CANCELLATION OF A LICENCE

Section 28 deals with the cancellation of a licence and provides for a licence to be cancelled when it expires, and a renewal application has not been submitted in time (90 days before the licence lapses). The law states that a licence holder has 60 days to dispose of the firearm once the licence has lapsed. The amendments make provision for the following options:

- **Surrendering the firearm to a dealer**
- **Deactivating the firearm**
- **Surrendering the firearm to the Police for destruction**

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

***Our comment/viewpoint:** Currently, the Police refuses the sale of a firearm of which the licence has expired, and this amendment does provide clarity on an alternative option, namely that a dealer may take over and sell the firearm. However, the ballistic testing of such firearms makes no sense since these were licenced (thus legal) firearms of which the licences have expired because renewal applications were not submitted in time.*

*At present, there are nearly half a million firearms of which the licences expired. According to the Police these firearms should be surrendered for destruction after ballistic testing. The Police does not have the capacity to manage this situation. Since the public does not trust the Police with their firearms for an undetermined period (to complete said ballistic testing), it would make more sense to allow owners to get rid of the firearm by giving it to a dealer to be sold without ballistic testing.*

# RELICENSING OF FIREARMS



Section 1F of the transitional measures refers to proposed amendments that 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-year period.

***Our comment/viewpoint:** With this, the 2009 interdict is skilfully circumvented, but 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. What is positive though, is that it will no longer be required to hand in the relevant firearm while awaiting the new licence. Basically, 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 to the police.*

OUR CONTINUED FOCUS

## The actions we will be taking to stop this legislation include:

- **Legal pressure** on government to drop the proposed changes to the bill
- Challenging **anti-firearm propaganda** and misinformation
- Explaining why **firearm ownership is a civil right** for law-abiding citizens
- Giving thousands a voice to challenge and pressure the government through **commentary and petitions**
- **Collaboration** with industry stakeholders to **amplify our impact**

## HELP US TO HELP YOU - GET INVOLVED