

SUMMARY OF MAIN POINTS OF THE FIREARMS CONTROL ACT, ACT 60 OF 2000 AS AMENDED BY THE FIREARMS CONTROL AMENDMENT ACT, ACT 43 OF 2003

The sections quoted below are direct quotes from the Act, and has been adapted where changes have been brought about by the Amendment Act. Nothing can, however, be more complete than the Act itself. It is strongly recommended that members take the time to read the Act in full. In this instance it is ISA policy to seriously try and influence it's members to be aware of what they may and may not do in respect of possessing firearms. Only by being serious about firearm possession can we profess to possess the responsibility that goes with the right to own firearms, and to self-protection.

Sections of the Act which are not quoted below were deemed to be of technical nature, or of not having relevance to the situation the ordinary member of the ISA is faced with in respect of the possession of firearms on a daily basis.

CHAPTER 1: INTRODUCTORY PROVISIONS

1. Definitions
2. Purpose of Act

Section 1 Definitions

In this Act, unless the context indicates otherwise-

'airgun' means any device manufactured to discharge a bullet or any other projectile
(a) of a calibre of less than 5.6 mm (.22 calibre); or (b) at a muzzle energy of less than 8 joules (6ft-lbs), by means of compressed gas and not by means of burning propellant;
'ammunition' means a primer or complete cartridge;

'antique firearm' means any muzzle loading firearm manufactured before 1 January 1900, or any replica of such a firearm;

'cartridge' means a complete object consisting of a cartridge case, primer, propellant and bullet;

'competency certificate' means a competency certificate contemplated in Chapter 5;

'dealer' means any person who is licensed in terms of this Act to trade in firearms and ammunition;

'dedicated hunter' means a person who actively participates in hunting activities and who is a member of an accredited hunting association;

'dedicated sports person' means a person who actively participates in sports-shooting and who is a member of an accredited sports-shooting organisation;

'Designated Firearms Officer' means a police official contemplated in section 124 (2) (h);

'firearm' means any-

- (a) device manufactured or designed to propel a bullet or projectile through a barrel or cylinder by means of burning propellant, at a muzzle energy exceeding 8 joules (6 ft-lbs);
- (b) device manufactured or designed to discharge rim-fire, centre-fire or pin-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);
- (d) device manufactured to discharge a bullet or any other projectile of a calibre of 5.6 mm (.22 calibre) or higher at a muzzle energy of more than 8 joules (6 ft-lbs), by means of compressed gas and not by means of burning propellant; or
- (e) barrel, frame or receiver of a device referred to in paragraphs (a), (b), (c) or (d),
- (f) but does not include any device contemplated in section 5;

'fully automatic' means capable of discharging more than one shot with a single depression of the trigger;

'gunsmith' means any person who performs work contemplated in section 59, but who does not manufacture firearms;

'handgun' means a pistol or revolver which can be held in and discharged with one hand;

'imitation firearm' means anything that has the appearance of a firearm but is not capable of operating as such and cannot by superficial examination be identified as an imitation;

'juristic person' includes a partnership and any other association of persons;

'load' includes reload, and 'loading' has a corresponding meaning;

'Minister' means the Minister of Safety and Security;

'National Commissioner' means the National Commissioner of the South African Police Service, appointed in terms of section 207 (1) of the Constitution;

'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;

'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;

'police official' means-

(a) a member of the SAPS as defined in section 1 of the South African Police Service Act, 1995 (Act 68 of 1995), and a member of any municipal police service in terms of that Act;

(b) a person designated by the Minister as a police official under section 142; and

(c) a member of the South African National Defence Force deployed in co-operation with the South African Police Service;

'prescribed' means prescribed by regulation;

'previous Act' means the Arms and Ammunition Act, 1969 (Act 75 of 1969);

'private collector' means a person who collects firearms or ammunition, who is a member of an accredited collector's association and who is not a public collector;

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

'Registrar' means the person referred to in section 123;

'restricted firearm' means any firearm contemplated in section 14 (1);

'security officer' means a security officer as defined in section 1 of the Private Security Industry Regulation Act, 2001 (Act No. 56 of 2001);

'security service provider' means a security service provider as defined in section 1 of the Private Security Industry Regulation Act. 2001 25 (Act No. 56 of 2001);

'semi-automatic' means self-loading but not capable of discharging more than one shot with a single depression of the trigger;

'this Act' includes any regulation;

'transfer' includes selling, letting, donating, lending or otherwise parting with possession.

Section 2: Purpose of Act

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, safe storage, 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 3: PROHIBITIONS

- 3. General prohibition in respect of firearms
- 4. Prohibited firearms

Section 3: General prohibitions in respect of firearms

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.

Section 4: Prohibited firearms

(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 17, 18 (5), 19 and 20 (1) (b):

- (a) Any fully automatic firearm;
- (b) any gun, cannon, recoilless gun, mortar, light mortar or launcher manufactured to fire a rocket, grenade, self-propelled grenade, bomb or explosive device;
- (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;
- (e) any imitation of any device contemplated in paragraph (a), (b), (c), or (d);
- (f) any firearm-
 - (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 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)(f)(iii), the incidental alteration of the length of the barrel of a firearm by a gunsmith in the ordinary course of a 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 contemplated in that subsection.

(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 in the interest of public safety; or 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.

(c) A notice contemplated in paragraph (a) is of full force and effect until withdrawn by the Minister or by a resolution of Parliament.

CHAPTER 3: SPECIAL PROVISIONS IN RESPECT OF CERTAIN DEVICES

5. Devices not firearms for purposes of this Act

Section 5: Devices not firearms for purposes of this Act

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

(a) Any explosive powered tool manufactured specifically for use in industrial application, including line-throwing guns and impex-type building 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;

(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;

(i) a flare gun;

(j) a deactivated firearm; and

(k) any other device which the Minister may, by notice in the *Gazette*, exempt.

(2) A notice contemplated in subsection (1) (k) 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.

(3) A notice contemplated in subsection (1) (k) is of full force and effect until withdrawn by the Minister or by a resolution of Parliament.

CHAPTER 4: COMPETENCY CERTIFICATES, LICENCES, PERMITS, AUTHORISATIONS AND ACCREDITATIONS

6. Competency certificates, licences, permits or authorisations

7. Applications by persons other than natural persons

8. Accreditation

Section 6: Competency certificates, licences, permits and authorisations

(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; and

(b) if the applicant complies with all the applicable requirements of this Act.

(2) Subject to section 7, 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.

CHAPTER 5: COMPETENCY CERTIFICATES

9. Application for competency certificate

10. Competency certificate

Section 9: Application for competency certificate

(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.

(2) Where a person has not previously obtained a competency certificate, a competency certificate may only be issued to such person if he or she-

(a) is 21 years or older on the day the application is received by the Designated Firearms Officer;

(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;

(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 and sentenced to a period of imprisonment without the option of a fine;

(g) has not been convicted, whether in or outside South Africa, of an offence involving the unlawful use or handling of a firearm by him or her or another participant to the offence, whether committed in or outside South Africa;

(h) has not been convicted, whether in or outside South Africa, of an offence involving-

(i) violence or sexual abuse, whether committed in or outside South Africa, and sentenced to a period of imprisonment without the option of a fine; or

(ii) physical or sexual abuse which occurred within a domestic relationship as defined in section 1 of the Domestic Violence Act, 1998 (Act 116 of 1998), whether committed in or outside South Africa;

(iii) 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;

(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, and sentenced to a period of imprisonment without the option of a fine;

(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, and sentenced to a period of imprisonment without the option of a fine;

(l) has not been convicted of an offence in terms of the Domestic Violence Act, 1998 (Act 116 of 1998), and sentenced to a period of imprisonment without the option of a fine;

(m) has not been convicted of an offence involving the negligent handling of a firearm;

(n) has not been convicted of an offence in terms of the Explosives Act, 1956 (Act 26 of 1956), and sentenced to a period of imprisonment without the option of a fine;

(o) has not been convicted, whether in or outside South Africa, of an offence involving sabotage, terrorism, public violence, arson, intimidation, rape, kidnapping or child stealing, whether committed in or outside South Africa;

(p) has not become or been declared unfit to possess a firearm in terms of this Act or the previous Act;

(q) has successfully completed the prescribed test on knowledge of this Act;

(r) has successfully completed the prescribed training and practical tests regarding the safe and efficient handling of a firearm; and

(s) 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.

(3) Any offence referred to in subsection (2) includes any conspiracy, incitement or attempt to commit such offence, and means an offence in respect of which-

(a) a court has not made a determination that the person is not unfit to possess a firearm despite the conviction; and

(b) the sentence has been complied with 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 person became or was declared unfit, or the expiry of the period for which the declaration is valid, whichever occurs first.

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

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

(6) (a) Where a person has previously obtained a competency certificate, a further competency certificate may only be issued to such person if he or she satisfies such requirements as may be prescribed.

(b) The requirements contemplated in paragraph (a) may not be more onerous than those applicable to a person who has not previously obtained a competency certificate.

Section 10: Competency certificate

(1) A competency certificate must specify-

(a) whether it relates to competency to- possess a firearm; trade in firearms; manufacture firearms; or conduct business as a gunsmith; and

(b) all the relevant tests successfully completed by the holder.

(2) A competency certificate lapses after five years from its date of issue.

CHAPTER 6: LICENCE TO POSSESS FIREARM

11. Separate licence in respect of each firearm
12. Additional licences
13. Licence to possess firearm for self-defence
14. Licence to possess restricted firearm for self-defence
15. Licence to possess firearm for occasional hunting and sports-shooting
16. Licence to possess firearm for dedicated hunting and dedicated sports-shooting
17. Licence to possess firearm in private collection
18. Permit to possess ammunition in private collection
19. Licence to possess firearm, and permit to possess ammunition, in public collection
20. Licence to possess firearm for business purposes
21. Temporary authorisation to possess firearm
22. Holder of licence may allow another person to use firearm
23. Identification marks on firearms
24. Renewal of firearm licences
25. Notification of change of address
26. Notification of change of circumstances
27. Period of validity of licence or permit
28. Termination of firearm licence

- 29. Defaced, lost or stolen licences, permits and authorisations
- 30. Central firearms database

Section 11: Separate licences in respect of each firearm

(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.

Section 12: Additional licences

(1) The Registrar may issue an additional licence in respect of a firearm contemplated in section 13, 14, 15 and 16 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.

Section 13: Licence to possess firearm for self-defence

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

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

Section 14: Licence to possess restricted firearm for self-defence

(1) For purposes of this Act, a restricted firearm is any-

- (a) semi-automatic rifle or shotgun, which cannot readily be converted into a fully automatic firearm; or
- (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 thereof if Parliament is then sitting, and if Parliament is not sitting, within seven days after the commencement of the next sitting.

(3) A notice contemplated in subsection (1) (b) will be of full force and effect until withdrawn by the Minister or by a resolution of Parliament.

(4) The Registrar may issue a licence in terms of this section to any natural person who shows that a firearm contemplated in section 13 (1) will not provide sufficient protection, and who submits reasonable information to motivate the need for a restricted firearm for self-defence purposes.

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

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

Section 15: Licence to possess firearm for occasional hunting and sports-shooting

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

- (a) handgun which is not fully automatic;
- (b) rifle or shotgun which is not fully or semi-automatic; or
- (c) barrel, frame or receiver of a handgun, rifle or shotgun contemplated in paragraph (a) or (b), and which is not a restricted firearm.

(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.

(b) If a person holds a licence issued in terms of section 13, he or she may only hold three 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) (a).

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

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

Section 16: Licence to possess firearm for dedicated hunting and dedicated sports-shooting

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

- (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 five shots in succession without having to be reloaded; or
- (d) barrel, frame or receiver of a handgun, rifle or shotgun contemplated in paragraph (a), (b) or (c).

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

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

(4) Every accredited hunting association and sports-shooting organisation must-

- (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.

Section 17: Licence to possess firearm in private collection

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

(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 a sworn statement or solemn declaration from the chairperson of an accredited collectors association, or someone delegated in writing by him or her, stating that the applicant is a registered member of that association.

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

(a) must store 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.

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

Section 20: Licence to possess firearm for business purposes

(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.

(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 impose.

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

(a) a security service provider;

(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;

(d) a person who is accredited as a game rancher;

(e) a person who is accredited to conduct business in hunting; or

(f) 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.

(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 service provider 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.

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

keep a register of all firearms in its possession containing such information as may be prescribed; and

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-

any firearm and ammunition in its possession or under its control; and

every licence issued in terms of this section.

Section 21: Temporary authorisation to possess firearm

(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.

(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.

Section 22: Holder of licence may allow another person to use firearm

Despite anything to the contrary in this Act but subject to section 120 (5), any person who is at least 21 years of age and 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 where it is safe to use the firearm and for a lawful purpose.

Section 23: Identification marks on firearms

(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 and the frame, or the barrel and the 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 with the intention of changing the identity of the 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.

Section 24: Renewal of firearm licences

(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.

Section 25: Notification of change of address

(1) The holder of a licence, permit or authorisation issued in terms of this Chapter 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 within 30 days after receiving a notice referred to in subsection (1) acknowledge receipt of that notice in writing.

Section 26: Notification of change of circumstances

(1) The holder of a licence, permit or authorisation issued in terms of this Chapter must notify 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, permit or authorisation.

(2) The Registrar must within 30 days after receiving a notice referred to in subsection (1) acknowledge receipt of that notice in writing.

Section 27: Period of validity of licence or permit

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
13	Licence to possess firearm for self-defence	Five years
14	Licence to possess restricted firearm for self-defence	Two years
15	Licence to possess firearm for occasional hunting and sports-shooting	Ten years
16	Licence to possess firearm for dedicated hunting and dedicated sports-shooting	Ten years
17	Licence to possess firearm in private collection	Ten years
18	Permit to possess ammunition in private collection	Ten years
19	Licence to possess firearm, and permit to possess ammunition, in public collection	Ten years
20	Licence to possess firearm for business purposes: Business in hunting	Five years
20	Licence to possess firearm for business purposes: Business other than in hunting	Two years

Section 28: Termination of firearm licence

(1) A licence issued in terms of this Chapter terminates-

- (a) upon the expiry of the relevant period contemplated in section 27, unless renewed in terms of section 24;
 (b) if surrendered by the holder of the licence to the Registrar;

(c) if the holder of the licence becomes or is declared unfit to possess a firearm in terms of section 102 or 103; or

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

(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.

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

(a) given the holder of the licence 30 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 holder of the licence must dispose of the firearm in question 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 is not disposed of within 60 days, it must be forfeited to the State and the former holder of the licence must surrender it 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.

Section 29: Defaced, lost or stolen licences, permits and authorisations

(1) If a licence, permit or authorisation issued in terms of this Chapter is lost or stolen, the holder of the licence, permit or authorisation must inform the Registrar of such loss or theft within 24 hours of the discovery of the loss or theft.

(2) If a licence, permit or authorisation issued in terms of this Chapter is defaced, lost or stolen, the holder of the licence, permit or authorisation 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, permit or authorisation.

CHAPTER 7: LICENCES ISSUED TO PARTICULAR CATEGORIES OF PERSONS - DEALERS, MANUFACTURERS AND GUNSMITHS

PART 1 DEALERS

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- 65. Change of premises
- 66. Notification of change of circumstances
- 67. Duties of gunsmith
- 68. Establishment of centralised gunsmiths database
- 69. Suspension of a gunsmith's licence
- 70. Termination of gunsmith's licence
- 71. Application of other laws
- 72. Defaced, lost or stolen licences

Section 59: Prohibition of certain work

No person may, without being the holder of a gunsmith's licence or being registered as an apprentice to such holder-

- (a) alter the mechanism of a firearm so as to enable the discharging of more than one shot with a single depression of the trigger;
- (b) alter the calibre of a firearm;
- (c) alter the barrel length of a firearm;
- (d) alter or remove the serial number or any other identifying mark of a firearm; or
- (e) perform such other work as may be prescribed.

CHAPTER 8: IMPORT, EXPORT AND CARRIAGE IN-TRANSIT OF FIREARMS AND AMMUNITION

- 73. Prohibition of import, export or carriage in-transit of firearms and ammunition without permit
- 74. Requirements for import, export or in-transit permit
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- 76. Import, export or in-transit permit
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- 78. Duties of holder of permit
- 79. Establishment of central importers and exporters database
- 80. Suspension of import, export and in-transit permits
- 81. Termination of import, export and in-transit permits
- 82. Defaced, lost or stolen permits

Section 73: Prohibition of import, export or carriage in-transit of firearms and ammunition without permit

(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.

CHAPTER 9: STORAGE, TRANSPORT AND CARRYING OF FIREARMS AND AMMUNITION

- 83. Storage and transport of firearms and ammunition
- 84. Carrying of firearm in public place
- 85. Firearm transporter's permit
- 86. Conditions imposed on transporter of firearm
- 87. Duties of holder of permit
- 88. Cancellation of firearms transporter's permit
- 89. Records to be kept

Section 83: Storage and transport of firearms and ammunition

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

Section 84: Carrying of firearm in public place

(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; or
- (ii) in a rucksack or similar holder; or

(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.

CHAPTER 10: CONTROL OF AMMUNITION AND FIREARM PARTS

- 90. Prohibition of possession of ammunition
- 91. Restrictions on possession of ammunition
- 92. Prohibitions and restrictions on use of certain ammunition
- 93. Loading or reloading of ammunition
- 94. Prohibition of possession of firearm parts

Section 90: Prohibition of possession of ammunition

No person may possess any ammunition unless he or she-

- (a) holds a licence in respect of a firearm capable of discharging that ammunition;
- (b) holds a permit to possess ammunition;

(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; or

(d) is otherwise authorised to do so.

Section 91: Restrictions on possession of ammunition

(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 he or she holds a licence.

(2) The limitation in subsection (1) does not apply to-

(a) a dedicated hunter or 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 by the Registrar to possess more than 200 cartridges for a firearm in respect of which he or she holds a licence 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.

Section 93: Loading or reloading of ammunition

(1) Section 45 (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.

(2) (a) A holder of a licence contemplated in subsection (1) may not have more than 2 400 primers in his or her possession for each firearm in respect of which he or she holds a licence.

(b) The limitation in paragraph (a) does not apply to a dedicated hunter or 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 by the Registrar to possess more than 2 400 primers for a firearm in respect of which he or she holds a licence on good cause shown.

(3) No person may load prohibited ammunition contemplated in section 92.

Section 94: Prohibition of possession of firearm parts

(1) For purposes of this section, 'firearm part' means a slide, bolt or breech-block of a firearm.

(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; 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.

(4) (a) The Minister may, by notice in the Gazette, prohibit or restrict the acquisition, disposal, possession or use of firearm parts if it is- in the interest of public safety; or 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.

(c) A notice contemplated in paragraph (a) will be of full force and effect until withdrawn by the Minister or by a resolution of Parliament.

CHAPTER 11: EXEMPTIONS

95. Definitions

96. Exemptions

- 97. Conditions applicable to institution accredited by Registrar
- 98. Possession and use of firearms by Official Institutions
- 99. Register to be kept by Official Institution
- 100. Establishment of central Official Institution firearms database
- 101. Official Institution's workstations

CHAPTER 12: DECLARATION OF PERSONS AS UNFIT TO POSSESS FIREARM

- 102. Declaration by Registrar of person as unfit to possess firearm
- 103. Declaration by court of person to be unfit to possess firearm
- 104. Effect of declaration of unfitness
- 105. Proof of declaration

Section 102: Declaration by Registrar of person as unfit to possess firearm

(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, it appears that-

- (a) a final protection order has been issued against such person in terms of the Domestic Violence Act, 1998 (Act 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 or any other dangerous weapon;
- (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;
- (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;
- (d) is satisfied that the person is unfit as contemplated in subsection (1); and
- (e) does not rely solely on the same facts relating to a conviction in respect of which a court has made a determination in terms of section 103 (1) or (2) that the person is not unfit to possess a firearm.

(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) (a) Section 183 of the Criminal Procedure Act, 1977 (Act 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 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 51 of 1977), applies with the necessary changes in respect of any witness whose appearance has been requested as contemplated in subsection (3) (b).

Section 103: Declaration by court of person to be unfit to possess firearm

(1) Unless the court determines otherwise, a person becomes 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;
- (c) an offence regarding the failure to store firearms or ammunition in accordance with the requirements of this Act;
- (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;
- (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 crime or offence 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;
- (g) any offence involving violence, sexual abuse or dishonesty, for which the accused is sentenced to a period of imprisonment without the option of a fine;
- (h) any other offence under or in terms of this Act in respect of which the accused is sentenced to a period of imprisonment without the option of a fine;
- (i) any offence involving physical or sexual abuse occurring in a domestic relationship as defined in section 1 of the Domestic Violence Act, 1998 (Act 116 of 1998);
- (j) any offence involving the abuse of alcohol or drugs;
- (k) any offence involving dealing in drugs;
- (l) any offence in terms of the Domestic Violence Act, 1998 (Act 116 of 1998) in respect of which the accused is sentenced to a period of imprisonment without the option of a fine;
- (m) any offence in terms of the Explosives Act, 1956 (Act 26 of 1956), in respect of which the accused is sentenced to a period of imprisonment without the option of a fine;
- (n) any offence involving sabotage, terrorism, public violence, arson, intimidation, rape, kidnapping, or child stealing; or
- (o) any conspiracy, incitement or attempt to commit an offence referred to above.

(2) (a) A court which convicts a person of a crime or offence referred to in Schedule 2 and which is not a crime or offence contemplated in subsection (1), 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.

(3) A court which has convicted a person of a crime or an offence contemplated in subsection (1), has made a determination contemplated in that subsection or has made a declaration in terms of subsection (2) must notify the Registrar in writing of that conviction, determination or declaration.

(4) Unless a determination that a person is not unfit to possess a firearm has been made in terms of subsection (1), a notice contemplated in subsection (3) must be accompanied by a court order for the immediate search for and seizure of-

- (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.

(5) A firearm and any other item seized in terms of subsection (4) 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.

Section 104: Effect of declaration of unfitness

(1) (a) All competency certificates, licences, authorisations and permits issued in terms of this Act to any person who becomes or is declared unfit to possess a firearm in terms of section 102 or 103, cease to be valid from the date of the conviction, or the declaration, as the case may be.

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

(2) A person who becomes or is declared unfit to possess a firearm in terms of section 102 or 103 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

(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 or in such manner as the Registrar may determine- if an appeal is lodged and that appeal is unsuccessful, within 60 days of the finalisation of the appeal; or if no appeal is lodged, within 60 days of the receipt of a written notice from the Registrar informing the person of his or her unfitness 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.

(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 12 (1) may, if the holder of the licence becomes or is declared unfit to possess a firearm, apply to the Registrar for the issue of a new licence in his or her name.

(b) If the holder of an additional licence does not make an application referred to in paragraph (a) within 30 days of the- date on which the time for an appeal elapses; or finalisation of the appeal if it does not affect the status of unfitness, the additional firearm licence lapses.

(5) If the decision leading to the status of unfitness to possess a firearm of any person is set aside, any seized or surrendered firearm, ammunition, licence, permit or authorisation belonging to any such person, must be returned.

(6) Subject to section 9 (3) (b) and after a period of five years calculated from the date of the decision leading to the status of unfitness to possess a firearm, the person who has become or 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.

CHAPTER 13: INSPECTIONS

106. Production of licences and firearms for inspection

107. Duty to comply with request of police official or authorised person

108. Request for information

109. Inspection of premises

Section 106: Production of licences and firearms for inspection

(1) Subject to section 107, any holder of a 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;
- (b) maintain the licence, permit or authorisation 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.

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

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

Section 107: Duty to comply with request of police official or authorised person

(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.

(2) A person referred to in subsection (1) must-

- (a) at the request and to the satisfaction of a police official or any person authorised by the Registrar, identify himself or herself forthwith; and
- (b) at the request of a police official or any person authorised by the Registrar, produce such firearm for inspection.

(3) If a person fails to comply with subsection (1) or (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.

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

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

Section 108: Request for information

(1) A police official or any 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, residential and employment address;
- (b) produce his or her licence, permit or authorisation for the possession of the firearm;
- (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-

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

CHAPTER 14: SEARCH AND SEIZURE

110. Chapter 2 of Criminal Procedure Act, 1977, to apply

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

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

113. Bodyprints and bodily samples

114. Ballistic testing

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

116. Incidental discovery

Section 113: Bodyprints and bodily samples

(1) Any police official may without warrant take the fingerprints, palmprints, footprints and bodily samples 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 samples 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) Bodily samples to be taken from the body of a person, may only be taken by a registered medical practitioner or a registered nurse.

(4) A police official may do such tests, or cause such tests to be done, as may be necessary to determine whether a person suspected of having handled or discharged a firearm has indeed handled or discharged a firearm.

Section 114: Ballistic testing

(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-

one or more of those firearms or the ammunition as having been used in the commission of the offence; or

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.

Section 115: Inspection, search and seizure for inquiry or investigation (with special warrant)

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-

at any reasonable time and without prior notice, enter any business or industrial premises; or

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 other 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.

(4) Any power contemplated in subsection (1) may be exercised only-

- (a) in terms of a warrant issued by a judge or magistrate; or
- (b) without warrant by a police official contemplated in paragraph (a) of the definition of 'police official' in section 1 if-
 - there are reasonable grounds to believe that a warrant would be issued and the delay in obtaining the warrant would defeat the object for which the power is exercised; or
 - the person who is competent to do so consents to the exercise of the power.

(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.

- (b) The evidence must contain information regarding the-
 - nature of the inquiry or investigation to be conducted;
 - reason for or suspicion which gave rise to the inquiry or investigation;
 - need for search and seizure in terms of this section; and
 - premises on which the warrant is to be executed.

(6) Subject to subsection (7), sections 21 (3) and 27 of the Criminal Procedure Act, 1977 (Act 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;
- (b) it is cancelled; or
- (c) the expiry of three months from the date of its issue, whichever may occur first.

Section 116: Incidental discovery

If, in the course of a lawful search for anything other than articles referred to in section 110 (1), the person executing the search finds an article referred to in section 110 (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.

CHAPTER 15: PRESUMPTIONS

- 117. Presumptions of possession of firearm or ammunition
- 118. Presumptions relating to failure to report
- 119. Presumption of failure to take reasonable steps

Section 117: Presumption of possession of firearm or ammunition

(1) For purposes of this section 'residential premises' does not include a hotel, 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.

(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-

(a) on residential premises and the person was, at the time- in control of such premises; or over the age of 16 years and ordinarily resident at such premises;

(b) buried in or hidden on land used for residential purposes and the person was, at the time- in control of such land; employed to work on the land in or on which the firearm or ammunition was found; or 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- in control of such premises; ordinarily employed on the premises; 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 in control of a locker, cupboard or other container within which the firearm or ammunition was found;

(d) in or on a vehicle and the person was, at the time- the driver of the vehicle; the person in charge of the vehicle; in control of all the goods on the vehicle; the consignor of any goods in or among which the firearm or ammunition was found; the only person who had access to the firearm or ammunition; the employer of the driver of the vehicle and present on the vehicle; or 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- present on the aircraft and in charge of the aircraft; or 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;

(g) in a place on an aircraft or vessel- to which no one besides the person had access; or 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- in charge of that vessel or that part of the vessel in which the firearm or ammunition was found; ordinarily employed in the immediate vicinity of the place on the vessel where the firearm or ammunition was found; or 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- in control of the cargo of the vessel; or the consignor of any goods in or among which the firearm or ammunition was found.

(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-

(a) the person was driving, or was a passenger in, a vehicle other than a vehicle designed or licensed 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.

Section 118: Presumptions relating to failure to report

(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.

(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.

Section 119: Presumption of failure to take reasonable steps

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.

CHAPTER 16: OFFENCES, PENALTIES AND ADMINISTRATIVE FINES

- 120. Offences
- 121. Penalties
- 122. Administrative fines

Section 120: Offences

- (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) (a) Any person who is aware of the existence of a firearm or ammunition that is not in the lawful possession of any person and fails to report the location of the firearm or ammunition to a police official without delay, is guilty of an offence.
 (b) A police official to whom a person has made a report contemplated in paragraph (a), must immediately provide the person with written proof that the report has been made or, in the case of a telephonic or similar report, with the official reference number of the report.
- (3) 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;
 - (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.

(4) 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.

(5) 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-

(a) to be mentally ill; or

(b) to be under the influence of a substance which has an intoxicating or a narcotic effect.

(6) It is an offence to point-

(a) any firearm, an antique firearm or an airgun, whether or not it is loaded or capable of being discharged, at any other person, without good reason to do so; 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, without good reason to do so.

(7) It is an offence to discharge a firearm, an antique firearm or an airgun in a built-up area or any public place, without good reason to do so.

(8) 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 when such firearm is not carried on his or her person or is not under his or her direct control; or

(b) loses a firearm, or is otherwise dispossessed of a firearm owing to that person's failure to lock the firearm away in a prescribed safe, strong-room or device for the safekeeping of a firearm; 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

keep the keys to such safe, strong-room or device in safe custody.

(9) 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;

(b) alter or erase any word, figure or letter from any competency certificate, licence, permit or authorisation, without the Registrar's permission;

(c) use or possess any competency certificate, licence, permit or authorisation-
to which any words, figures or letters have been unlawfully added;

from which any words, figures or letters have been unlawfully erased; or

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;

(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;

(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.

(10) It is an offence to-

(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.

(11) 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.

(12) 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.

CHAPTER 17: ORGANISATIONAL STRUCTURES

- 123. Registrar of Firearms
- 124. Functions of Registrar
- 125. Central Firearms Register
- 126. Certificate signed by Registrar to constitute prima facie evidence
- 127. Appointment and functions of Head of Office of Central Firearms Register
- 128. Establishment of Appeal Board
- 129. Conditions of service, remuneration and allowances of members of Appeal Board
- 130. Quorum, meetings and procedure of Appeal Board
- 131. Administrative work of Appeal Board
- 132. Establishment of Ministerial Committees

Section 123: Registrar of Firearms

The National Commissioner is the Registrar of Firearms.

CHAPTER 18: RIGHT OF APPEAL

- 133. Right of appeal

Section 133: Right of appeal

(1) Any person-

- (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
- (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.

(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; and
- (b) the Registrar has had sufficient opportunity to verify the facts and to present any evidence to the Appeal Board in this regard.

(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: COMPENSATION

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

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

136. No compensation payable where firearms or ammunition is destroyed by State

137. Application for compensation

Section 134: Circumstances where no compensation is payable in respect of firearms and ammunition forfeited to State

No compensation is payable to a person in respect of a firearm or ammunition forfeited to the State in terms of this Act-

(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 became or was in terms of section 102 or 103 declared unfit to possess a firearm.

Section 135: Circumstances where no compensation is payable in respect of firearms and ammunition seized by State

(1) No compensation is payable to a person from whom a firearm or ammunition was seized by the State if-

(a) no licence, permit or authorisation had been issued for such firearm or ammunition to that person in terms of this Act; or

(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.

Section 136: No compensation payable where firearms or ammunition are destroyed by State

(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.

(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.

Section 137: Application for compensation

(1) A person whose firearm has been surrendered or forfeited to the State in circumstances other than those referred to in sections 134, 135 and 136 may apply to the Registrar for compensation in respect of that firearm in the prescribed form.

(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.

(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.

(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.

(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).

(7) A person who is not satisfied with the amount of compensation or the time or manner of payment as determined by the Appeal Board, may approach a court to determine the amount, the time and the manner of payment of the compensation.

CHAPTER 20: SPECIAL POWERS RELATING TO AMNESTIES AND FIREARM-FREE ZONES

138. Definition

139. Amnesty

140. Firearm-free zones

Section 140: Firearm-free zones

(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
- (b) in accordance with the objects of this Act.

(2) Unless authorised to do so in terms of a notice issued under subsection 20 (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
- (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);
- (b) search any person present in a firearm-free zone; and

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).

(4) The Minister may prescribe measures to be taken regarding the demarcation of and placing of signposts on premises constituting a firearm-free zone in order to notify the public that the premises are declared a firearm-free zone.

CHAPTER 21: GENERAL PROVISIONS

- 141. Delegation of powers and assignment of duties
- 142. Designation as police officials
- 143. Service of documents
- 144. Return of service
- 145. Regulations
- 146. Disposal of firearms in case of ceasing to carry on business
- 147. Disposal of firearms in case of death
- 148. Inherited firearms
- 149. Compulsory destruction of firearms by State
- 150. Deactivation of firearms
- 151. Jurisdiction of magistrates' court
- 152. Act binds State
- 153. Repeal of laws
- 154. Short title and commencement

Section 143: Service of documents

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

- (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;
- (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;
- (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.

(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 122.

Section 144: Return of service

A document purporting to be signed by a police official, or person designated under section 142, indicating that the service was effected in accordance with section 143 (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.

Section 146: Disposal of firearms in case of ceasing to carry on business

If a person who holds a licence issued in terms of section 20 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.

Section 147: Disposal of firearms in case of death

(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.

Section 148: Inherited firearms

(1) A person who inherits a firearm must-

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

(b) if he or she does not wish to acquire the firearm, or fails to obtain the appropriate licence, permit or authorisation, have the firearm deactivated or dispose of it in terms of this Act.

(2) The Registrar may issue a temporary authorization contemplated in section 21, to allow a person who inherits a firearm a reasonable time to dispose of it.

Section 150: Deactivation of firearms

(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-

(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 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.

(4) (a) The Minister may, by notice in the Gazette, determine that a certificate of deactivation which is valid in a country other than the Republic is a valid certificate of deactivation in the Republic.

(b) A notice contemplated in paragraph (a) must be approved by Parliament before publication thereof.

Section 151: Jurisdiction of magistrates' courts

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

SCHEDULE 1: TRANSITIONAL PROVISIONS

1. Existing licence to possess an arm
2. Existing dealer's licences
3. Existing permit for importation or exportation of arms and ammunition
4. Existing permit for manufacture of arms and ammunition
5. Existing authorisations and certain existing permits
6. Person unfit to possess a firearm
7. Register in terms of previous Act to be kept by Registrar
8. Matters pending under previous Act
9. Investigations by Commissioner under previous Act
10. Consideration of validity of existing licence, permit and authorisation
11. Renewal of licence

SCHEDULE 2: CRIMES AND OFFENCES GIVING RISE TO UNFITNESS ENQUIRY BY COURT

SCHEDULE 3: LAWS REPEALED

SCHEDULE 4: PENALTIES