

MJ Hood & Associates

A T T O R N E Y S

Date: 24 February 2016

MEMORANDUM TO FIREARM LICENCE HOLDERS

RENEWAL OF FIREARM LICENCES

This memorandum is intended to assist individuals who have expired firearm licences or who have firearm licences that are about to expire.

MJ Hood & Associates are of the view that the directive issued by the South African Police Services on the 3rd of February 2016 does not constitute law and the content of this Directive is incorrect and *mala fide* and therefore can be disregarded by licence Applicants who have had their licences expire.

Section 28 of the Act sets out the procedure to be adopted by the South African Police Services should they seek to cancel a licence. The South African Police Services have not adopted this procedure and instead are according to reports that we have received from numerous sources, resorting to threats of arrest, and prosecution, intimidation and harassment in an attempt to coerce people to hand in firearms to the South African Police Services for destruction.

There are a number of difficulties with this, most prominently is that we believe surrendering a firearm to the Police or as such forfeiting a firearm to the State will have a negative impact on any future licence applications because the South African Police Services might utilise this in future to refuse subsequent applications.

As such there are two categories of individuals who fall to have licences renewed, these are individuals who are still in possession of their Arms and Ammunitions Act licences i.e. Green Card licences or ID book licences and the second category is individuals who never had Green Card or ID book licences and were granted licences for the first time under the Firearms Control Act.

The first category of individuals have three options available to them insofar as late renewals are applicable.

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1. Do nothing – your Green Card is still valid and regardless of the content of the SAPS Directive there is a Court order that says so and the Court Order trumps the Directive. Please contact our office should you require a copy of this Court Order.
 2. Prepare a renewal application together with an application for condonation, setting out a reasonable and logical reason why your application is submitted out of time together with a motivation stating why you still need the firearm for self-defence. Your Police Station will in all likelihood refuse to accept this application, insist that they accept the application. If they refuse, leave the application on your DFO's desk, make a contemporaneous affidavit and have it commissioned to the effect that, on a certain date you applied or attempted to apply to lodge a renewal application with a condonation application and that the application was left with a Designated Firearms Officer (insert the details of said officer) and have this Affidavit commissioned and keep it with your records for future reference. This might well serve to protect you in future if the Police implement change yet again. Take a photograph of the placing of the application on the desk of your DFO.
 3. Book the gun in with a dealer who is prepared to cancel your licence and will allow you to apply for a new firearm licence from scratch.

The latter category of people referred to above who do not have Old Act licences options are slightly more limited. They can either follow Option 2 above or Option 3 above. They unfortunately do not have the option to do nothing because they do not have a valid licence. In addition it is then advisable to book the gun in with a dealer in any event.

It is to be noted however that none of the options we refer to include handing your firearm to the Police. Should the Police adopt the procedure as set out in Section 28 of the Act and upon the making of representations they cancel your licence, this will be a different story.

Should you have any further queries kindly contact our offices or you can contact me directly at anzebet@mjhood.co.za or email Martin Hood at martin@mjhood.co.za

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