2018 FIREARM AMNESTY

Issued by SAGA on 19 February 2018

Parliament, via the Portfolio Committee on Police, endorsed the 2018 Firearm Amnesty on the 14 th February 2018. The Amnesty, except for some unforeseen critical issue, will soon be Gazetted and is expected to be in effect from 1 June until 30 November 2018.

Despite a number of concerns, from amongst others, members of the Portfolio Committee on Police, and firearm lobby groups (including SAGA), the Minister of Police has persisted with the Amnesty. Broadly speaking, the concerns raised dealt with the practicalities of whether or not firearms handed into SAPS in terms of the Amnesty can be safely secured.

These questions appear to be well founded having regard to the fact that the number of firearms lost or stolen from many police stations indicates that the SAPS themselves have a serious problem with safekeeping of firearms. Even more concerning are the documented cases in which SAPS personnel have been convicted of selling large volumes of unlicenced firearms directly to criminals. This would indicate that there is little guarantee that firearms handed to SAPS under the 2018 Amnesty may also not be at risk of finding their way directly into the hands of gangs and criminals.

Firearms Officers at SAPS stations around the country are traditionally under-resourced and battle to cope with their workload under the Firearms Control Act. Therefore, a separate capacity, the Amnesty Officer, has been created to properly receive, document and safeguard firearms handed in under the Amnesty conditions. A valid concern exists as to who will occupy such a responsible position (and what standards of security clearance and vetting will be applied to such appointment) and what oversight will be exercised over the function.

A key debate issue over the last year in Parliament, questions whether the main purpose of the Amnesty, which is apparently the reduction of illegally possessed firearms and the prevention of crime, amongst others, will ever be achieved. Criminals are unlikely to inexplicably shun a life of crime and take advantage of the Amnesty to hand in their illegal firearms.

Despite many direct questions and requests for information, SAPS are either unwilling or unable to provide useable statistics or records as to whether any firearms in previous amnesties have ever been unequivocally linked to crimes or criminal activities. Therefore the success or failure of previous Amnesties is unclear and SAGA finds no reason to support this latest Amnesty.

Despite these clear concerns, the Amnesty is however upon us and inter alia covers a number of situations, and such persons who fall into the categories below, may take advantage of the Amnesty:

1. Possess stolen firearms or ammunition

2. Possess firearms which were lawfully or unlawfully imported and never licensed

3. Possess firearms which were lawfully imported by a foreigner who visited the country, then donated or sold to you but never licensed by you

4. Possess firearms from a deceased estate, either as heir or as Executor, which have never been licensed in the deceased’s name or relicensed in the heir’s name

5. Failed to renew their firearm licence or permit

6. Were declared unfit to possess a firearm but are still in possession of the firearm/s

7. Possess firearms where the import/export/temporary authorisation has lapsed

8. Wish to voluntary surrender firearms which are no longer needed

9. Possess business firearms where the business has ceased trading

10. Official and non-official institutions wishing to surrender obsolete, redundant or discarded firearms

11. Those with licences issued in terms of the repealed Arms and Ammunition Act, No. 75 of 1969, or issued in terms of any other authority under previous firearm legislation, may apply afresh for a firearm licence in terms of the Firearms Control Act

12. Possess ammunition under an ammunition collector’s permit in terms of the previous Act and not having applied to become a collector under the new regime

Note further that in terms of the Amnesty, a person who surrenders a firearm or ammunition is indemnified against prosecution only for the unlawful possession of such firearm and ammunition. If the police investigations reveal a link between the surrendered firearm and another crime (e.g. murder, robbery, theft), the police may approach you for an explanation. In fact you could be arrested and prosecuted.

With respect to category number 5 above, although persons with expired firearm licences would be entitled to surrender and reapply (not apply to renew) for a licence for such firearm/s within fourteen (14) days of surrendering the firearm, SAGA does not at this stage advise its members or anyone with a firearm with an expired licence to do so, because we are still waiting on the outcome of the judgement of the Constitutional Court case of 7 th February 2018, which case dealt specifically with Section 24 and Section 28 and expired firearm licences. The judgement could however be handed down by the 1 st June 2018 and this would provide more clarification herein.

When the Amnesty is in effect from the 1 st June 2018, those persons who do possess firearms in the other categories above (or in circumstances not envisaged above), may wish to take advantage of the Amnesty, and should you wish do so, please note the following:

1. A written Amnesty application form must be completed by the applicant.

2. The firearm must be surrendered to a Designated Amnesty Officer at ANY police station (excepting the three mentioned in the Amnesty notice), who must issue a receipt for the firearm and ammunition.

3. When surrendering the firearm and should you wish to do so, you must at the same time notify the Designated Amnesty Officer in writing that you intend on applying for a firearm licence for the firearm. SAGA will put an example of such a notification on its website.

4. Should you wish to apply for a firearm licence for the firearm/s that you have surrendered, such application must be lodged, within fourteen (14) days of surrendering the firearm, to the relevant SAPS Designated Firearms Officer. Please note that the relevant Designated Firearms Officer “means the Designated Firearms Officer responsible for the area in which the applicant ordinarily resides, and if an application under these Regulations pertains to a business of the applicant, the Designated Firearms Officer responsible for the area in which the business is or will be situated, as the case may be”.

5. The firearm will be sent for ballistic testing.

We believe that those with firearms in category 11 above do not have to surrender the firearm to SAPS and may just re-apply for a new licence, but we will confirm this in due course in a following newsletter.

SAGA will post the SAPS presentation on the Amnesty and the Amnesty Notice, as soon as it is gazetted, to our website and Facebook page.

We will continue to keep out members informed concerning the 2018 Firearm Amnesty as developments occur.