

"PO4"

102

SUID-AFRIKAANSE POLISIEDIENS



SOUTH AFRICAN POLICE SERVICE

Private Bag/Private Bag X20501, BLOEMFONTEIN, 9300

Verwysing Reference	27/6/21 over 42/1/21
Navrae Enquiries	Brig Motokeng
Telefoon Telephone	051 507 6565
Faksnommer Fax number	051 507 6566
E-pos Email	FS:Provincial Head Visible Policing

THE PROVINCIAL COMMISSIONER  
DIE PROVINSIALE KOMMISSARUS

SOUTH AFRICAN POLICE SERVICE  
SUID AFRIKAANSE POLISIE DIENS

FREE STATE  
VRYSTAAT

BLOEMFONTEIN

0300

Cluster Commanders  
South African Police Service  
Free State Province

**INSTRUCTION RELATING TO PROCESSING FIREARMS FOR WHICH  
LICENCES TERMINATED IN TERMS OF SECTION 28(1) (a) OF THE FIREARMS  
CONTROL ACT, 2000 (ACT NO 60 OF 2000)**

1. On 7 June 2018, the Constitutional Court gave judgment in the above-mentioned matter and set aside the findings of the Gauteng Division Pretoria High Court that sections 24 and 28 of the Act are unconstitutional. Consequently the validity of the two sections has been confirmed.
2. The Constitutional Court held that "the firearm owner knows that he must either apply in time for renewal or dispose of the firearm before expiry. If he does not, he will be guilty of an offence. He knows what is expected of him before expiry of the license and is provided with legislative means to fulfil that expectation. He also knows what will happen to him if he does not do so".
3. It follows therefore that persons who have failed to renew their license as provided for in terms of section 24, will in accordance with the provisions of section 28, read with section 3 of the Act, be in unlawful possession of the firearm(s), from the date of which the period of validity of the license(s) expired.
4. There are currently approximately 27 224 licenses in our Province that terminated in terms of section 28(1)(a) of the Firearms Control Act, 200 (Act no 60 of 2000), as a result of failure to renew same as contemplated in section 24 of the Firearms Control Act 2000 (Act no 60 of 2000).
5. The Constitutional Court does not expect the SAPS to prosecute license holders whose licenses have expired and not renewed if they voluntarily surrender their firearm(s) at the Police Station. The firearm license holders whose licenses terminated in terms of section 28(1)(a) are to surrender their firearm(s) to Police Stations.

**INSTRUCTION RELATING TO PROCESSING FIREARMS FOR WHICH  
LICENCES TERMINATED IN TERMS OF SECTION 28(1) (a) OF THE FIREARMS  
CONTROL ACT, 2000 (ACT NO 60 OF 2000)**

6. Instructions relating to the confiscation of illegal firearm(s) in this regard will be communicated soon.
7. In order to ensure the efficient administration and processing, the firearms contemplated in paragraph 6 above, procedures in the processing and receiving of firearms must be strictly complied with as attached annexure "A" and annexure "B" procedures and process flow.
8. Please take note: Green licenses that was not migrated to the white license is still valid.
9. All firearms must be received during office hours (Monday to Friday from 07:30 to 18:00). It must be emphasized that all surrendered firearms should undergo IBIS testing to determine whether it might have been involved in crimes.
10. Your respective offices must submit daily situational reports to FS: Prov Flash Enquiry 2 before 08:00. Any enquiry should be directed to Colonel Lewis or Lt Colonel Bamard at 051 507 6581/83.
11. It is expected that all Cluster Commanders and Station Commanders own this process to ensure the smooth running thereof.
12. Your cooperation will be appreciated.

**MAJOR GENERAL  
DEPUTY PROVINCIAL COMMISSIONER: VISIBLE POLICING  
FREE STATE  
18 JUN 2014**

27 JUN 2014

*[Handwritten signature]*



# Surrender unlicensed firearms to SAPS

**Unlicensed firearms, including handguns, must be surrendered to the South African Police Service (SAPS) by the end of the month, according to a new regulation.**

The regulation, which was announced by the Minister of Police, J. M. Dlamini, states that all unlicensed firearms must be surrendered to the nearest SAPS station or a designated collection point. The regulation also states that anyone who fails to surrender their unlicensed firearms by the deadline will be liable for a fine or imprisonment.

The regulation is part of a broader effort by the SAPS to reduce the number of unlicensed firearms in circulation and to improve public safety. The SAPS has reported a significant increase in gun-related crimes in recent years, and this regulation is seen as a key measure to address the problem.

The regulation applies to all South African citizens and residents who possess unlicensed firearms. It also applies to businesses and organizations that store unlicensed firearms. The regulation is expected to be enforced strictly, and the SAPS has warned that anyone who violates the regulation will face severe consequences.

Agri Suid-Afrika is verlig

*[Handwritten signature]*

916 5385

Got a story? Call us on 011 916 5385

## Hand in guns at police stations or face arrest

The Boksburg police are calling on all gun owners whose firearm licences have expired to surrender their guns to their respective police stations immediately.

According to Boksburg SAPS spokesperson Sgt Cebisa Maseko, those who failed to surrender their guns would be arrested if found in possession of those weapons. This comes after the June 7 Constitutional Court judgement in the long court battle between the minister of police and the South African Hunters and Game Conservation Association.

The court ruled that people who failed to renew their firearm licences on time are deemed to be in illegal possession of the guns, and they are thus required to get rid of their guns or hand them over to the police.

The Constitutional Court judgement dismissed a previous High Court decision which declared Sections 24 and 28 of the Firearms Control Act of 2000 constitutionally invalid.

Section 24 deals with the renewal of firearm licences and stipulated that renewals must be done within 90 days.

The Constitutional Court held that "the gun-owner knows that he must either apply in time for renewal of firearm or dispose of the firearm before expiry. If he does not he will be guilty of an offence".

The Constitutional Court, however, does not expect the SAPS to prosecute licence holders whose licences have expired and were not renewed on time if they hand over their firearms at the police station.

In spite of this, the SAPS has the responsibility to enforce the provisions of the law where there is non-compliance.

BOKSBURG

## Urban

Ntombikayise Sibeko  
ntombis@caxton.co

In April last year, published an article with headline "NPO in shutting down" re Ruins.

Since then, it has been an uphill battle. Today, a member of the NPO said Urban Ruins is operational and looking good.

Urban Ruins was closed in 2014 after seeing it provide children with a place to play.

Their program is the Early Childhood Development (ECD) centre for children, a free after-school Urban Ruins Activity Development Club, reading and literacy, a book club and a sports scheme.

The Ekurhuleni Municipality maintained that the NPO was operating illegally.

At the time, the NPO was planning on hosting a hunt, but it was stopped by a High Court ruling.

Metro spokesperson Gadebe said the metro had a responsibility to take legal action where it was used illegally.

"At the beginning of the Urban Ruins Project, we received a letter which stated that we were breaking the law by using the area for illegal recreation."

Crime Brief

Vehicle recovered

# Bring ongelisensieerde wapens polisiestatie toe

Die onlangse grondwethofuitspraak oor vuurwapenlisensies wat nie betyds hernu is nie, beteken dat daardie eienaars nou in besit is van onwettige vuurwapens.

Hierdie vuurwapens moet by die naaste polisiestatie indien word om vernietig te word, het kol. Moatshe Ngoepe, provinsiale polisiewoordvoerder, in 'n verklaring gesê.

Die Suid-Afrikaanse Jagter- en Wildbewaringsvereniging (SAJWB) het in 2017 'n aansoek teen die minister van veiligheid en sekuriteit in die hooggeregshof ingedien omdat die vereniging van mening is dat die hernuwingsproses van vuurwapenlisensies, in terme van die vuurwapenbeheerwet (artikels 24 en 28), ongrondwetlik is.

Artikel 24 handel oor die hernuwing van lisensies en stipuleer dat hernuwings binne 90 dae nadat die lisensie verval het, moet plaasvind. Artikel 28 bepaal dat vuurwapens met lisensies wat gekanselleer is, binne 60 dae aan die polisie oorhandig moet word.

Die hooggeregshof het die saak na die grondwethof verwys, maar die grondwethof het die saak op Donderdag 7 Junie ter hof gebring.

Vuurwapeneienaars vrees nou dat in hul eie huise wapens waarvan die lisensies verval het, onwettig is, hulle vervolg sal word.

Die polisie se naaste polisiestatie sal hulle hanteer en hulle sal hulle wapens vrywillig oorhandig.

Vuurwapeneienaars moet alle ongelisensieerde wapens indien.

"Elke polisiestatie het die mannekrag en vermoë om die vuurwapens en ammunisie wat ingedien word, te hanteer. Ongelisensieerde vuurwapens sal nie vir langer as 24 uur by 'n polisiestatie gehou word nie," het Ngoepe gesê.

Om risiko's te vermy word die wapens slegs by 'n bepaalde punt by poliestaties ingedien en elke eienaar sal 'n bewys, wat 'n ongevalleboek- en SAPS 13-nummer op het, ontvang.

Kapt. Jacques Vierbergen van die vuurwapenafdeling by die Bela-Bela-polisie het gesê dit dien slegs as bewys dat die eienaar hul vuurwapen ingedien het.

Volgens Ngoepe is die groen vuurwapenlisensies (die lisensies wat uitgereik is ingevolge die Wapen en Ammunisie Wet van 1969) steeds geldig. Diene wat na die wit lisensie vir 'n vuurwapen oorgestakel het, kan nie die groen lisensie as 'n geldige lisensie gebruik nie.

Geen vergoeding sal vir onwettige vuurwapens gebied word nie. Sulke wapens sal nie hergelisensieer kan word of aan vuurwapenhandelaars oorhandig kan word nie, het Ngoepe gesê.

"Verder is dit onwettig om vuurwapens te besit, te vernietig of om dit in stukke aan die polisie te oorhandig," het Ngoepe gesê.

"Die enigste wettige manier om van vuurwapens afstand te maak, is by 'n vuurwapenpolisiestatie te oorhandig."



Private Bag X9428

Verwysing Reference	27/5/1
Navrae Enquiries	COL VAN SCHALKWYK A/C MATLALA
Telefoon Telephone	(015) 290 6222/6318
Faksnommer Fax number	0867767236

THE DEPUTY PROVINCIAL  
COMMISSIONER :POLICING  
SA POLICE SERVICE  
LIMPOPO PROVINCE

14 June 2018

A ALL CLUSTER COMMANDER  
LIMPOPO PROVINCE

B ALL STATION COMMANDER  
LIMPOPO PROVINCE

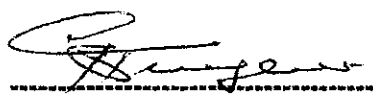
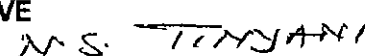
**FAILURE TO RENEW FIREARM LICENCES IN TERMS OF SECTION 24 OF THE  
FIREARM CONTROL ACT: CONSTITUTIONAL COURT JUDGEMENT 7 JUNE 2018**

- A.1 Attached herewith implementation of action plan for your compliance as per **Annexure A.**
2. It needs to be advised that no station must send any person away who wants to surrender the firearms with the advice to come and hand in during Amnesty.
  3. Amnesty is not yet promulgated and if Amnesty is declared then it will be Communicated with you. , for now all firearms with expired licenses must be handed in for destruction.
  4. Stations must ensure that they have enough SAPS13 (F) files available that must be completed for every surrounded firearm and for audit purposes.
  5. IBIS test will be conducted at the Provincial safe every Wednesday from 10:00
  6. The process flow is attached as per **Annexure B** and must be complied with.
  - 6.1 Surrendered firearms must be transported on a daily basis, to Provincial storage facility with the completed packing notes. Cluster Commanders must arrange common transport and for escort in the case of bulk firearms.
  - 6.2 Station DFO must ensure that the firearm is captured under State Department 45 on daily basis and that Surrendered firearms must not be kept longer than 24 Hours at the Station.



**FAILURE TO RENEW FIREARM LICENCES IN TERMS OF SECTION 24 OF THE FIREARM CONTROL ACT.**


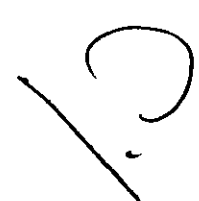
- 6.3 Station Commanders must clearly identified designated areas where the firearms can be handed over and not in the CSC to minimize the risk of injuries through shooting accidents.
- 6.4.1 Record keeping during this process is of the most importance and the owner must be provided with a receipt that reflects the Station OB and SAPS 13 no.
- 6.4.2 All tags on the firearms must be clearly marked in red, "~~terminated~~/ Expired License" as well as the SAPS 13 entry and the SAPS 522 (g) surrender form.
- 6.4.3 A consolidate feedback report for the Cluster **Annexure C** must be forwarded on a daily basis to **lim:prov-dfo van Schalkwyk col.** before 08:00.
- 6.5 The print out from J TRACK with all information of expired licenses will be forwarded to you as soon as it is available and the Nat Joint Instruction will follow as soon as it is received. This process must be followed in awaiting for the Nat Joint Instructions.
- 7.1 Please take note that the Green Licenses that was not migrated to the White License is still valid but those who migrated from the Green to the White license cannot use the Green License as a valid license for the firearm as it stops to exists with the issuing of the White License.
- 7.2 No compensation can be paid for Illegal Firearms and Illegal Firearms cannot be relicensed or handed over to the dealer .The only way to get rid of the firearms are to Surrender it to the Police for destruction.
- 7.3 The Firearm cannot be damaged, destroyed or handed in pieces to the Police. It is a criminal offence in terms of the Firearm Control Act 6/2000
- 8. Station Commanders must own this process and assist DFO with overtime and manpower if needed to make a success of this process.
- 9. Every Station Commander will be held accountable for the smooth running of this project.

  
71   
DEPUTY PROVINCIAL COMMISSIONER: POLICING  
LIMPOPO PROVINCE  
J P SCHEEPERS M.S. TANYANI

BRIGADIER

MAJ GEN

DATE: 2018.06.15

A109

SUID-AFRIKAANSE POLISIEDIENS



SAPS 21

SOUTH AFRICAN POLICE SERVICE

Private Bag X811, PRETORIA, 0001

Verwysing Reference	: 27/5/21 over 42/1/21(5)
Navrae Enquiries	: Lieutenant General Masemola : Major General Mamotheti
Telefoon Telephone	: 012 393 9077 : 012 393 9075
Faksnommer Fax number	: 0862129716
E-Pos	: <a href="mailto:MamothetiMJ@saps.gov.za">MamothetiMJ@saps.gov.za</a>

DEPUTY NATIONAL COMMISSIONER  
POLICING

- A. The Divisional Commissioners  
**CRIME INTELLIGENCE**  
**DETECTIVE SERVICE**  
**FORENSIC SERVICES**  
**TECHNOLOGY MANAGEMENT SERVICES**  
**SUPPLY CHAIN MANAGEMENT**  
**OPERATIONAL RESPONSE SERVICES**
- B. ALL PROVINCIAL COMMISSIONERS
- C. The Component Head  
**CORPORATE COMMUNICATION**

**IMPLEMENTATION OF AN ACTION PLAN: FAILURE TO RENEW FIREARMS LICENCES IN TERMS OF SECTION 24 OF THE FIREARMS CONTROL ACT, 2000 (ACT NO. 60 OF 2000): CONSTITUTIONAL COURT JUDGEMENT IN MATTER BETWEEN MINISTER OF SAFETY AND SECURITY AND SOUTH AFRICAN HUNTERS AND GAME CONSERVATION ASSOCIATION, CCT 177/17**

- A-C1. The Constitutional Court passed judgment on the matter between the Minister of Safety and Security and South African Hunters Game Conservation Association on 7 June 2018 regarding the failure of firearm license owners to renew their firearm licenses.
- 2. It therefore concluded that any person who have failed to renew their licences as provided for in terms of section 24 will, in accordance with the provisions of section 28 read with section 3 of the Firearms Control Act, 2000 (Act No. 60 of 2000) as amended (hereafter called the "Act"), be in unlawful possession of the firearm(s), from the date on which the period of validity of the licence(s) expired, and will be required to surrender all such firearms.



**IMPLEMENTATION OF AN ACTION PLAN: FAILURE TO RENEW FIREARMS LICENCES IN TERMS OF SECTION 24 OF THE FIREARMS CONTROL ACT, 2000 (ACT NO. 60 OF 2000): CONSTITUTIONAL COURT JUDGEMENT IN MATTER BETWEEN MINISTER OF SAFETY AND SECURITY AND SOUTH AFRICAN HUNTERS AND GAME CONSERVATION ASSOCIATION, CCT 177/17**

3. The Act and the Firearms Control Regulations, 2004 provide for the surrendering of firearms and/ or ammunition by persons in unlawful possession thereof.
4. Please find attached hereto an action plan that was developed to address and ensure the effective implementation of the court judgement.
5. All Provincial Commissioners are required to with immediate effect implement the action plan and ensure that all police stations are operational ready to deal with the process. It is further required that the implementation of the plan must be monitored on a daily basis and daily feedback reports must be forwarded to the office of the Component Head: Firearms, Liquor and Second-Hand Services, at e-mail address: [ChiloaneA2@saps.gov.za](mailto:ChiloaneA2@saps.gov.za) regarding progress on implementation and challenges identified.

C-F1. For your information.

**LIEUTENANT GENERAL  
DEPUTY NATIONAL COMMISSIONER: POLICING  
SF MASEMOLA**

Date:

111

**ACTION PLAN: JUDGEMENT ON LICENCES TERMINATED**  
**IN TERMS OF SECTION 28(1)(a) OF THE FIREARMS**  
**CONTROL ACT, 2000 (ACT NO 60 OF 2000)**

**1. Background**

- 1.1 On 7 June 2018 the Constitutional Court passed judgment on the matter between the Minister of Safety and Security and South African Hunters Game Conservation Association. The court held, **"the gun-owner knows that he must either apply in time for renewal or dispose of the firearm before expiry. If he does not, he will be guilty of an offence. He knows what is expected of him before the expiry of the licence and is provided with legislative means to fulfil that expectation. He also knows what will happen to him if he does not do so"**.
- 1.2 The court further held that the it does not expect the police to prosecute persons whose licences have expired and not renewed if such persons take the initiative to hand over related firearms to the police. However, it should be emphasised that the South African Police Service have the responsibility to enforce the provisions of the law in the event there is non-compliance.
- 1.3 Currently there are 436 366 firearms for which licences have expired and not renewed. Of this total approximately 79% consist of section 13 firearms (individual licenses). A total of 30 226 is further firearms "licensed" in the names of deceased persons. In terms of section 28(1)(a) of the Firearms Control Act, 2000 (Act No 60 of 2000), the validity of these licences has terminated.
- 1.4 An action plan was developed to address and ensure the effective implementation of the court judgement on Licences Terminated in terms of section 28(1)(A) of the Firearms Control Act, 2000 (Act No 60 Of 2000).

**ACTION PLAN: JUDGEMENT ON LICENCES TERMINATED IN TERMS OF SECTION 28(1)(a) OF THE FIREARMS CONTROL ACT, 2000 (ACT NO 60 OF 2000)**

**2. Action Plan**

<b>PRIORITY</b>	<b>KEY ACTIONS</b>	<b>KEY PERFORMANCE INDICATOR</b>	<b>DATE</b>	<b>RESPONSIBLE PERSON</b>
Communication of outcome of the judgement to the community	<p>Development and implementation of communication plan (Internal/External), including deceased estates.</p> <ul style="list-style-type: none"> <li>• Social Media</li> <li>• Media Statement</li> <li>• Local Radio stations</li> <li>• Audio and visual (When Duty Calls)</li> <li>• Intranet</li> </ul>	Approved Communication Plan	2018-06-15	Component: Corporate Communications

ACTION PLAN: JUDGEMENT ON LICENCES TERMINATED IN TERMS OF SECTION 28(1)(a) OF  
THE FIREARMS CONTROL ACT, 2000 (ACT NO 60 OF 2000)

PRIORITY	KEY ACTIONS	KEY PERFORMANCE INDICATOR	DATE	RESPONSIBLE PERSON
Develop processes and procedures	<p>Compile and distribute guidelines</p> <ul style="list-style-type: none"> <li>• Surrendering process</li> <li>• Safekeeping process</li> <li>• IBIS testing</li> <li>• Record keeping (manual and system)</li> <li>• Activate codes (State Department 43/45)</li> <li>• Transportation</li> <li>• Destruction</li> <li>• Operating hours</li> </ul>	Approved guidelines	2018-06-12	Division: Visible Policing

**ACTION PLAN: JUDGEMENT ON LICENCES TERMINATED IN TERMS OF SECTION 28(1)(a) OF  
THE FIREARMS CONTROL ACT, 2000 (ACT NO 60 OF 2000)**

PRIORITY	KEY ACTIONS	KEY PERFORMANCE INDICATOR	DATE	RESPONSIBLE PERSON
	Develop and distribute guidelines	Guidelines distributed	2018-06-13	Division: Visible Policing
Ensure Operational Readiness	<ul style="list-style-type: none"> <li>Identify province/stations with the highest volume of expired licences</li> </ul>	Provinces/police station identified	2018-06-13	Division: Visible Policing Provincial Commissioners
	<ul style="list-style-type: none"> <li>Capacitate identified stations with resources (human and physical)</li> </ul>	Resource plan developed	2018-06-22	Provincial Commissioners
	<ul style="list-style-type: none"> <li>Identify and prepare SAP 13 and central storage facilities</li> </ul>	SAPS 13 stores identified and prepared	2018-06-22	Provincial Commissioners

114

**ACTION PLAN: JUDGEMENT ON LICENCES TERMINATED IN TERMS OF SECTION 28(1)(a) OF  
THE FIREARMS CONTROL ACT, 2000 (ACT NO 60 OF 2000)**

PRIORITY	KEY ACTIONS	KEY PERFORMANCE INDICATOR	DATE	RESPONSIBLE PERSON
		Suitable centralised storage facilities identified	2018-06-22	Provincial Commissioners
	<ul style="list-style-type: none"> <li>Regular audit of firearm at all levels</li> </ul>	Audits conducted of firearms surrendered	Weekly/Monthly	All levels
	<ul style="list-style-type: none"> <li>Identify designated suitable office</li> </ul>	Designated office identified at police station level	2018-06-22	Provincial Commissioners
	<ul style="list-style-type: none"> <li>Identify members and ensure screening</li> </ul>	List of identified members submitted	2018-06-22	Provincial Commissioners
		Identified members screened	2018-06-30	Division: Crime Intelligence

115

**ACTION PLAN: JUDGEMENT ON LICENCES TERMINATED IN TERMS OF SECTION 28(1)(a) OF  
THE FIREARMS CONTROL ACT, 2000 (ACT NO 60 OF 2000)**

PRIORITY	KEY ACTIONS	KEY PERFORMANCE INDICATOR	DATE	RESPONSIBLE PERSON
	<ul style="list-style-type: none"> <li>Conduct work session for the identified members</li> </ul>	1 work session per police station finalised	2018-06-30	Provincial Commissioners
	<ul style="list-style-type: none"> <li>Establish provincial investigation team</li> </ul>	Provincial investigation team established	2018-06-22	Division: Detective Service Provincial Commissioners
	<ul style="list-style-type: none"> <li>Establish IBIS testing teams at provincial level</li> </ul>	List of identified trained members IBIS testing teams established	2018-06-15 2018-06-30	Provincial Commissioners Division: Forensic Services
	<ul style="list-style-type: none"> <li>Finalise proposal for de-centralisation of destruction of firearms</li> </ul>	Proposal submitted and approved	2018-06-30	Divisions: Visible Policing and Supply Chain Management



**ACTION PLAN: JUDGEMENT ON LICENCES TERMINATED IN TERMS OF SECTION 28(1)(a) OF  
THE FIREARMS CONTROL ACT, 2000 (ACT NO 60 OF 2000)**

PRIORITY	KEY ACTIONS	KEY PERFORMANCE INDICATOR	DATE	RESPONSIBLE PERSON
Implement contingency	<p>Develop contingency plans addressing the following:</p> <ul style="list-style-type: none"> <li>• Security</li> <li>• Clearance of SAP 13 stores</li> <li>• Destruction process</li> <li>• IBIS testing</li> <li>• Information Technology support</li> </ul>	Contingency plans developed and implemented at all levels	2018-06-15	<p>Station Commanders</p> <p>Provincial Commissioners</p> <p>Division: Visible Policing</p> <p>Operation</p> <p>Response Service</p> <p>Crime Intelligence</p> <p>Presidential Security Services</p> <p>Technology Management</p> <p>Service Supply Chain Management</p>

**ACTION PLAN: JUDGEMENT ON LICENCES TERMINATED IN TERMS OF SECTION 28(1)(a) OF THE FIREARMS CONTROL ACT, 2000 (ACT NO 60 OF 2000)**

PRIORITY	KEY ACTIONS	KEY PERFORMANCE INDICATOR	DATE	RESPONSIBLE PERSON
Implement contingency	Develop contingency plans addressing the following: <ul style="list-style-type: none"> <li>• Security</li> <li>• Clearance of SAP 13 stores</li> <li>• Destruction process</li> <li>• IBIS testing</li> <li>• Information Technology support</li> </ul>	Contingency plans developed and implemented at all levels	2018-06-15	Station Commanders Provincial Commissioners Division: Visible Policing Operation Response Service Crime Intelligence Presidential Security Services Technology Management Service Supply Chain Management

**ACTION PLAN: JUDGEMENT ON LICENCES TERMINATED IN TERMS OF SECTION 28(1)(a) OF  
THE FIREARMS CONTROL ACT, 2000 (ACT NO 60 OF 2000)**

PRIORITY	KEY ACTIONS	KEY PERFORMANCE INDICATOR	DATE	RESPONSIBLE PERSON
Conduct firearm tracing operations	Develop and issue NATJOINTS instructions	NATJOINTS Instruction issued	Following finalisation of above process	NOCC POCC
	Develop and implement an operational plan <ul style="list-style-type: none"> <li>• Identify individuals</li> <li>• Identify firearms</li> <li>• Identify addresses</li> <li>• Register operations and record successes on OPAM</li> </ul>	Operational Plan approved and registered on OPAM		

**ACTION PLAN: JUDGEMENT ON LICENCES TERMINATED IN TERMS OF SECTION 28(1)(a) OF  
THE FIREARMS CONTROL ACT, 2000 (ACT NO 60 OF 2000)**

PRIORITY	KEY ACTIONS	KEY PERFORMANCE INDICATOR	DATE	RESPONSIBLE PERSON
Monitoring and Evaluation	Develop a Monitoring tool	Approved monitoring tool	2018-06-15	Division: Visible Policing
	Establish monitoring teams at all levels	Monitoring teams established at divisional and provincial levels	2018-06-15	Division: Visible Policing Provincial Commissioners
	Establish an enquiry desk	Enquiry desks at NATJOC/PROVJOC	2018-06-22	Division: Visible Policing
	Conduct inspections at identified priority stations	Number of inspections conducted based on identified needs/priority police stations	2018-06-30 Ongoing	Divisional Commissioner: Visible Policing Provincial Commissioner

**ACTION PLAN: JUDGEMENT ON LICENCES TERMINATED IN TERMS OF SECTION 28(1)(a) OF  
THE FIREARMS CONTROL ACT, 2000 (ACT NO 60 OF 2000)**

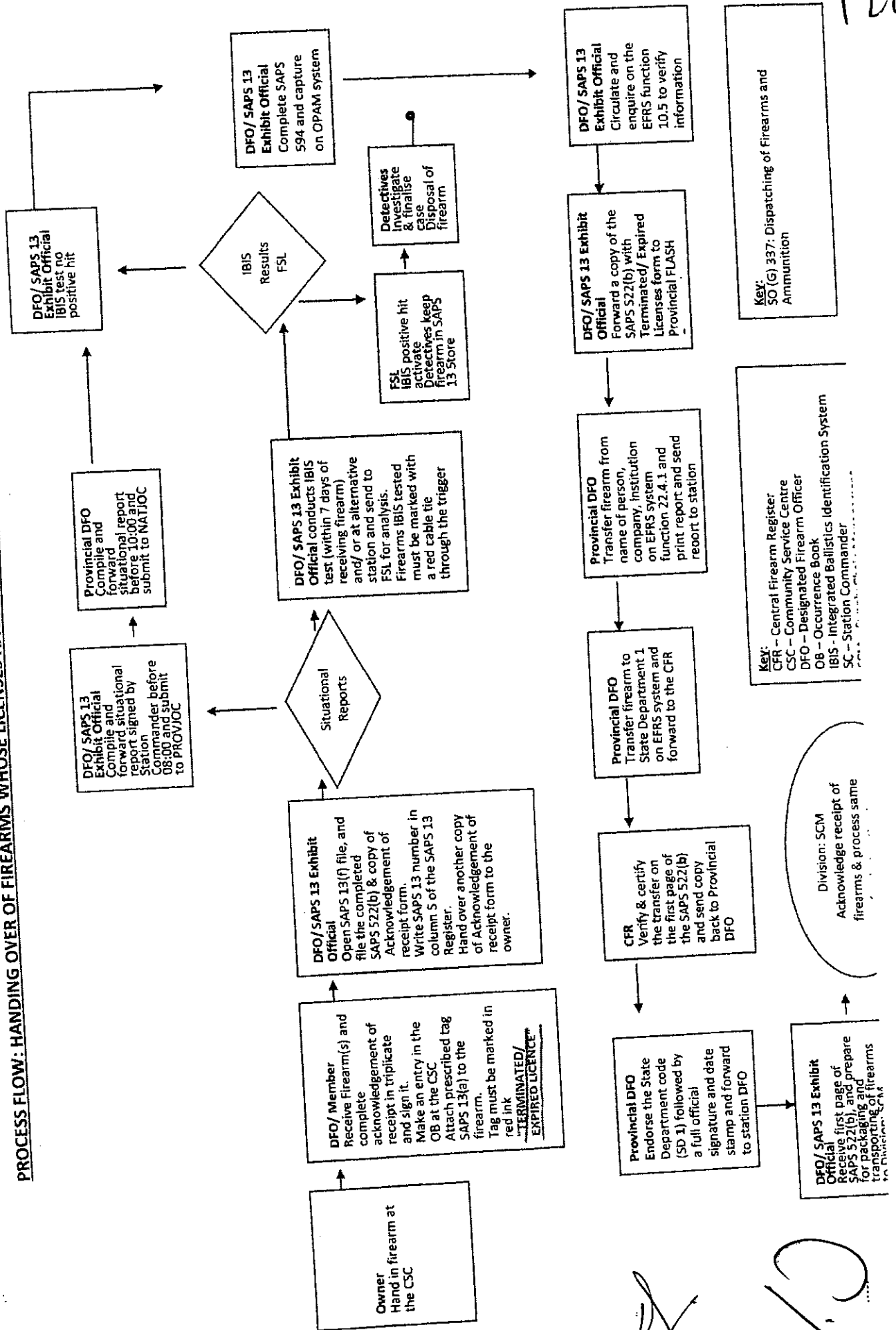
PRIORITY	KEY ACTIONS	KEY PERFORMANCE INDICATOR	DATE	RESPONSIBLE PERSON
	Analyse reports and intervene where necessary	Number of reports and interventions	Daily/Weekly/ monthly	All levels
	Establish nodal point to monitor progress	Nodal point established at divisional level	2018-06-22	Division: Visible Policing

Approved/not approved

LIEUTENANT GENERAL  
DEPUTY NATIONAL COMMISSIONER: POLICING  
SF MASEMOLA

Date:

**PROCESS FLOW: HANDING OVER OF FIREARMS WHOSE LICENSES HAVE TERMINATED ITO SECTION 28(1)(a) (SAPS 522(b))**



122

Box 2

123

## STATION/CLUSTER

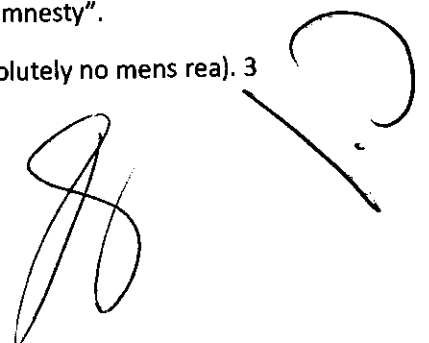
[illegible]

9



**URGENT****Dear Brigadiers Slabbert and Van der Walt****SAPS Legal Advisors****14 June 2018****In Re: The judgement of the Constitutional Court on renewal of firearm licenses**

1. As discussed today with Brigadier van der Walt, pursuant to the request by Major-General Masemola to Mr. Paul Oxley in his capacity as chairperson of GOSA (Gun Owners of South Africa), I address this letter to you concerning the discussions on the topic during today's session of the Parliamentary Portfolio Committee of Police, as the request by Major-General Masemola was that GOSA's legal team should reach out to the legal team of the SAPS on this issue before the SAPS make take any further steps in issuing a directive on the matter.
2. As you are no doubt aware, the Constitutional Court affirmed the constitutionality of *certain partians* of sections 24 and 28 of the Firearms Control Act, Act 60 of 2000 ("the FCA") *vis-à-vis some of the other sections*, which has and will have a devastating impact on a large section of our population (with more than 400 000 expired licenses) and has the very strong potential of causing societal upheaval, chaos and lawlessness.
3. Ordinary, law-abiding citizens have been turned into criminals and face losing their property. Perhaps, at this juncture we need to examine those more than 400 000 people and determine why they failed to renew their licenses expeditiously. Their reasons for failing to renew differ radically.
4. We can speculate that there may, indeed, be a segment of those more than 400 000 people who purposefully failed to renew, but there are many who may have been incapable of presenting themselves at the SAPS to accomplish their renewal application.
5. This would include people working or living overseas, travelers who were out of the country at the time, even those who were hospitalised or in other ways not able to present themselves.
6. There are, of course, likely to be those who just plain forgot, but our experience with handling hundreds if not thousands of enquiries over the last couple of years tells us that there are tens if not hundreds of thousands of people who were prevented from relicensing on time by some DFO's themselves!
7. In many cases our members have been turned away from police stations when they went to re-license (well before the 90-day period) because "they were too early", the DFOs refused to accept early applications because it was an additional and unwelcome strain on their workload. In thousands of instances the license-holders were told that they first had to renew their competencies before they could apply for renewal of the licenses (a base misunderstanding on SAPS's part about the difference between new licenses - where this is applicable - and renewal of existing licenses). After several months when the license-holders returned with their renewed competencies they were invariably told that their licenses had now expired and they would have to "wait for the court case/amnesty".
8. As you can see a portion of the 400 000 can in no way be held liable (absolutely no mens rea). 3

Handwritten signature and initials in black ink, located at the bottom right of the page.

9. Already social media is lit up with normal people deeply angered by this judgement and what they see as a draconian injustice. A government governs by the consent of the people, and when that consent is lost, the legitimacy of the government and its courts is also lost. The situation could not be more serious or urgent.

10. GOSA attempted to intervene in the matter as an amicus and to provide a sensible solution to the matter, but this was rejected. A copy of our application has been provided to you in a separate email.

11. The Court found that our application requested relief beyond the ambit of the matter (the court considered certain provisions *vis-à-vis* other provisions on a narrow basis and did not consider the constitutionality of the broader principle of re-licensing), and which relief was directed specifically at the constitutionality of the *concept as such* of the scheme as provided for by the Act (of a regime of continuous re-licensing). As such, the door is *still open* for a sensible discussion to take place regarding the constitutionality of the scheme of re-licensing as such, alternatively for the main issue to be taken to the courts.

12. Prior to intervening, GOSA applied in terms of the Promotion of Access to Information Act to the SAPS for details on licensing. This was rejected by the SAPS on spurious grounds, and we proceeded to apply to the Court without that information. A copy of our PAIA application and the response from the SAPS has also been provided to you.

13. The information requested from the SAPS is ordinary operational information and ought to be readily available electronically, if the SAPS have complied with the Firearms Control Act. 4

14. The SAPS did not put this information before the Court, and the full extent of the administrative challenges that the SAPS face in administering the challenges as posed by the FCA, remains an issue of significant concern to GOSA as an organisation.

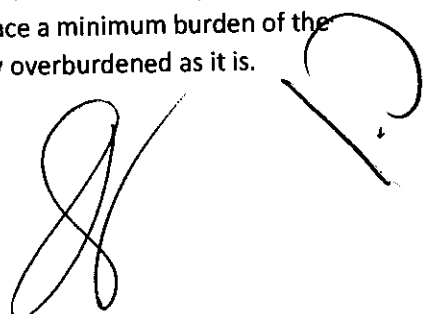
15. The Firearms Control Act was based on Canada's Long Gun Registry and the New Zealand equivalent. Both systems have been dispensed with as expensive failures.

16. GOSA has for years demonstrated that licensing each firearm is unnecessarily expensive and unsustainable administratively, echoing all the reasons for failure of the laws upon which it was modelled.

17. South Africa must take heed of the lessons learned and approach the current problem accordingly.

18. We are informed that the SAPS have a maximum capacity of processing 12 000 applications per month (or 144 000 per year) which has been gleaned from previous presentations by the SAPS to parliament.

19. We further believe that at least 400 000 people will be affected by the Constitutional Court judgement. They will be criminalized and face having their personal property confiscated. But first the SAPS must take each firearm into custody, analyse its heritage value and test it ballistically. Further, the affected persons will no doubt apply for renewals anyway, which will place a minimum burden of the SAPS having to deal with 400 000 applications in a system that is already overburdened as it is.

A large, stylized handwritten signature is written over the bottom right of the text. To its right, there are handwritten initials, possibly 'P' or 'D', with a checkmark-like flourish.

20. GOSA submits that it is clear that the SAPS is unable to cope with the demands of the Act as it stands and has no chance of being able to cope with the scale of the consequences of late license renewals. 5

21. We are informed that people who have attempted to hand in firearms have been turned away because the SAPS have no storage capacity to receive the firearms. Thus, the law-abiding are then forced to retain possession of an unlicensed firearm and be guilty of an offence.

22. The situation, we submit, is unacceptable.

23. Further, it has widely been reported and acknowledged by the SAPS that firearms handed in during amnesties routinely find their way into the hands of unlicensed owners, many of whom are violent criminals. Some new 'owners' may simply be ordinary people trying to defend themselves and who cannot afford to comply with the prescripts of the Act. This latter element cannot be quantified, and the extent of the losses of amnesty firearms is likely substantially understated.

24. The huge losses of firearms handed in during previous amnesties, often ending up in the hands of violent gang members, has justifiably led to a significant trust deficit in the concept of an amnesty to surrender firearms.

25. An amnesty to surrender firearms, we submit, will put an additional burden on the SAPS under circumstances where it need all its capacity for policing work (the recent spate of cash-in-transit heists and the daily occurrence of violent protests comes to mind), and it will be counter-productive and simply entrench the view of millions of legal gun owners that the system is 'out to get them'.

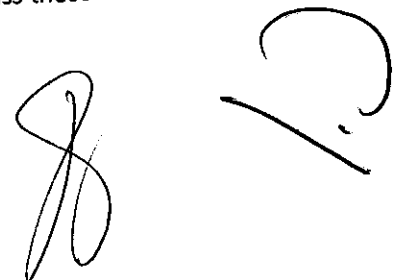
26. Our country is wracked by violent crime and is routinely listed in the top 10 world-wide for violent crime. Removing a person's only means of fending off violent criminals through simple bureaucratic oversight creates understandable panic and anger at what is perceived to be a draconian policy out of step with lived realities. 6

27. We accordingly implores the SAPS to peruse the papers that we have placed before the Court, as well as the PAIA application which was rejected by the SAPS and to consider the removal of the obligation to re-license firearms as a matter of urgency.

28. We suggest that the Commissioner has the capacity to extend the period of validity of any license (Section 27) in terms of Section 28(6) read with Section 28(1) and 27 of the FCA, and that there is no prohibition contained in the FCA against the retrospective effect of such a Notice. This can be a solution until such a time as a legislative amendment can be passed to do away with the requirements of the FCA that compels a license holder to renew his or her license for any firearm held under sections 13, 15, 16 or 17 of the FCA.

29. We further refer you to the text of our aforesaid PAIA application and Court papers in support of our submissions herein. We sincerely believe that there is no alternative solution to the current or future problems for the reasons as stated therein.

30. We confirm our availability to attend a meeting with you in order to discuss these matters further, which has tentatively been suggested for Tuesday the 19th of June, 2018.



Regards,

[Signed]

---

Adv. Danie Geldenhuys

O.b.o. GOSA Legal Team

A handwritten signature in black ink, located in the bottom right corner of the page. The signature is stylized and appears to be a combination of initials and a surname.

" P 07 "

ORIGINAL

128

**IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA  
(HELD AT BRAAMFONTEIN)**

**Case number CCT 177/2017**

**North Gauteng High Court case number 21177/2016**

In the application for admission as *amicus curiae* of:

**GUN OWNERS OF SOUTH AFRICA (GOSA)**

**Applicant**

And

**THE MINISTER OF SAFETY AND SECURITY  
OF SOUTH AFRICA**

**Appellant**

And

**THE SOUTH AFRICAN HUNTERS AND GAME  
CONSERVATION ASSOCIATION**

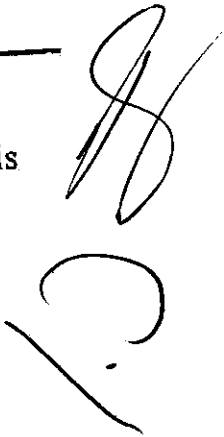
**Respondent**

---

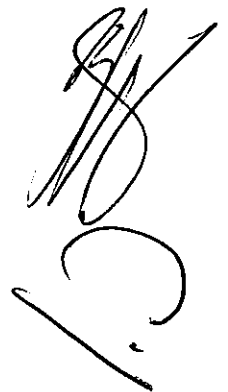
**NOTICE OF MOTION**

---

Kindly take notice that the Applicant herein will make application before this Honourable Court at the hearing hereof for an order in the following terms:

Handwritten signature and initials in the bottom right corner of the page.

1. That the normal Rules of prescribed time limits that regulate these proceedings be dispensed with as far as may be directed by the Court.
2. Admitting GOSA as an *amicus curiae* in these proceedings before this Court;
3. Granting GOSA leave to make oral submissions to the Court;
4. Directing that the Written Submissions that GOSA provided to the court be allowed in court for consideration;
5. Allowing GOSA leave to supplement its papers when the answers by the SAPS to GOSA's PAIA request as attached to the Founding Affidavit in this application becomes available from the SAPS;
6. Directing that the answers by the SAPS to the aforesaid PAIA request is evidence as provided for in Rule 31 in as much as it is material that is essentially relevant to the determination of the issues before the Court;
7. Directing that there shall be no order as to costs in respect of this application;
8. Granting the Applicant such further and alternative relief as the Court deems appropriate.

A handwritten signature in black ink, consisting of a stylized, cursive script that appears to be the initials 'B' and 'C' followed by a flourish.

TAKE NOTICE FURTHER THAT THE FOUNDING AFFIDAVIT OF PAUL OXLEY AND THE ANNEXURES THERETO WILL BE USED IN SUPPORT OF THIS APPLICATION.

TAKE NOTICE FURTHER THAT the Applicant has appointed MDA attorneys as its attorneys of record where it will accept service of all documents.

TAKE NOTICE FURTHER THAT IF YOU intend opposing this application, that you should notify the Applicant's attorneys within 24 hours thereof.

Signed this 1st day of February 2018



**HMB Inc**

Applicant's Attorneys

33 West Street

Houghton

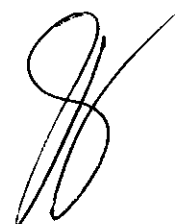
Johannesburg

Ref: Mr C Bennett/GOSA/01

Tel: (011) 648 9500

Fax: (011) 648 9503

Email: [cbennett@hmbinc.co.za](mailto:cbennett@hmbinc.co.za)





TO:

**REGISTRAR OF THE COURT  
CONSTITUTIONAL COURT  
BRAAMFONTEIN**

AND TO:

**1. MINISTER OF SAFETY AND SECURITY OF THE REPUBLIC OF  
SOUTH AFRICA**

**C/O OFFICE OF THE STATE ATTORNEY**

Attorneys for the Appellant

SALU Building

Ground Floor

Cnr Thabo Sehume and Francis Baard Street

Pretoria

0002

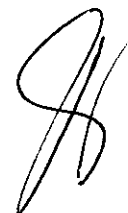
Ref: Mr N Govender/1585/2016/Z61/EBB

Tel: (012) 309 1533

Fax: 086 507 7137

Email: [negovender@justice.gov.za](mailto:negovender@justice.gov.za)

Received a copy: \_\_\_\_\_



**2. COUZYN HERTZOG & HORAK**

Attorney for the Respondent

321 Middle Street

Brooklyn

Pretoria

Ref: Mr J Sterk/so/GE021/0002

Tel: (012) 460 5090

Fax: (012) 460 5320

Email: [petridc@couzyn.co.za](mailto:petridc@couzyn.co.za)

Received a copy: \_\_\_\_\_

**3. M J HOOD & ASSOCIATES**

Attorney for the *Amicus Curiae*

Fidelity Security Services (Pty) Ltd

Unit 10 Woodview Office Park

1 Humber Street

Woodmead

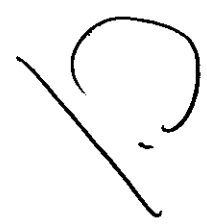

Ref: Mr M Hood/md/F0148

Tel: (011) 234 7520

Fax: (011) 803 7828

Email: [martin@mjhood.co.za](mailto:martin@mjhood.co.za)

Received a copy: \_\_\_\_\_



**4. FASKENS**

Attorney for the *Amicus Curiae*

Gun Free South Africa

Building 2

Inanda Greens

54 Wierda Road West

Sandton

Ref: Rosemary Hunter / Sushila Dhever/900767.00160

Tel: (011) 586 6029

Fax: (011) 586 6129

Email: [sdhever@fasken.com](mailto:sdhever@fasken.com)

Received a copy: \_\_\_\_\_



**IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA  
(HELD AT BRAAMFONTEIN)**

**Case number CCT 177/2017  
North Gauteng High Court case number 21177/2016**

In the application for admission as *amicus curiae* of:

**GUN OWNERS OF SOUTH AFRICA (GOSA)**

Applicant

And

**THE MINISTER OF SAFETY AND SECURITY  
OF SOUTH AFRICA**

Appellant

And

**THE SOUTH AFRICAN HUNTERS AND GAME  
CONSERVATION ASSOCIATION**

Respondent

---

**FOUNDING AFFIDAVIT**

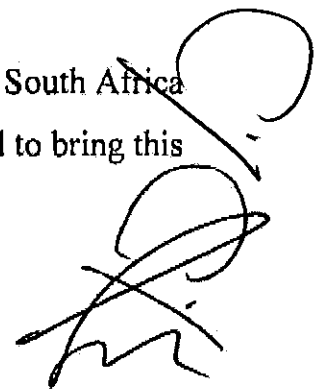
---

I, the undersigned,

Paul Oxley,

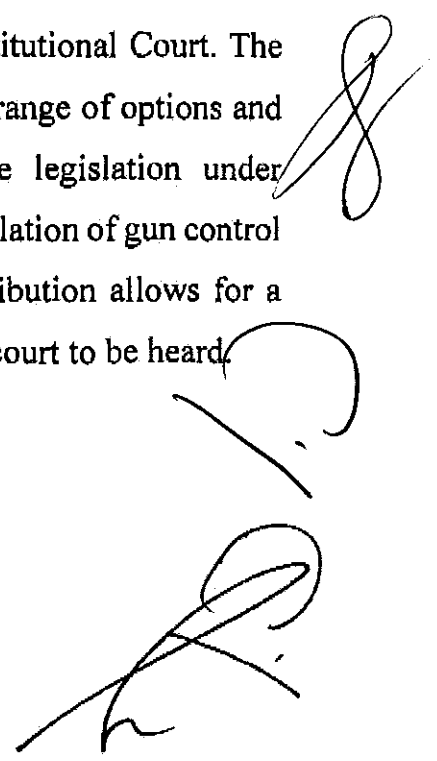
Do hereby make oath and state as follows:

1. I am an adult male, I am the Chairperson of Gun Owners of South Africa ("GOSA") and am duly mandated to make this affidavit and to bring this




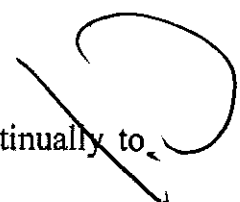

application to Court as further appears from the resolution signed by the GOSA Exco members, attached hereto as annexure "PO1".

2. The facts deposed to by me in this affidavit fall within my personal knowledge unless the contrary is stated or appears from the context, and is both true and correct to the best of my belief. Where I make submissions on legal aspects I do so with the insight that I have gained as a result of intensive ongoing consultations with our legal advisors.
  
3. I am also a qualified and SAPS - accredited firearms training provider and I have been involved in the firearms industry for more than 30 years. I am a keen sport shooter and I have obtained and maintained *bona fide* and later dedicated sport shooter status from the time that I was at school. I also manage a sport shooting club that functions under the auspices of an SAPS – Accredited Sport Shooting Association. Furthermore, I am the owner of a firearms dealership.
  
4. This is an application by the applicant to be admitted as a friend of the court in terms of Rule 10 of the Rules of the Constitutional Court. The purpose is to ensure that the court considers a wide range of options and that it is fully informed of the impact that the legislation under consideration has on the public and the effective regulation of gun control in South Africa. I submit that the applicant's contribution allows for a section of the public who are not parties before this court to be heard.



Handwritten signature and initials, likely belonging to the applicant, located at the bottom right of the page.

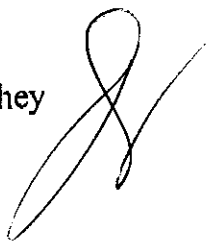
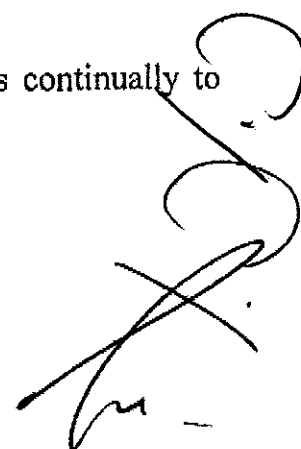
## THE APPLICANT

5. GOSA is a voluntary organisation without a profit motive that was formed in 2004 and is not connected to any particular political party. It has the following mandate:
- 5.1. To ensure that the Central Firearms Register ("CFR") of the South African Police Services ("SAPS") sticks to its mandate;
  - 5.2. To promote transparency in firearms legislation;
  - 5.3. To ensure equal treatment before the law for its members in the context of firearms legislation;
  - 5.4. To ensure reasonable and rational (firearms) licensing requirements;
  - 5.5. To ensure the transparent and even application of the FCA;
  - 5.6. To monitor the CFR and to lobby the authorities to ensure that they adhere to their deliverables as prescribed by the FCA;
  - 5.7. To lobby members of Parliament and interest groups continually to ensure that GOSA delivers on its mandate;
- 
- 
- 

## THE APPLICANT

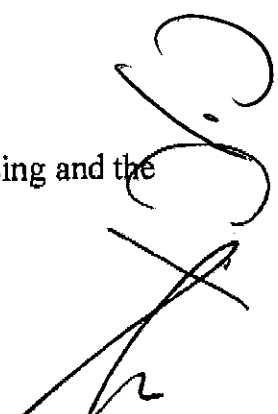
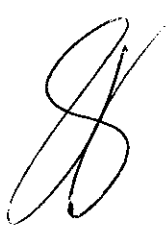
5. GOSA is a voluntary organisation without a profit motive that was formed in 2004 and is not connected to any particular political party. It has the following mandate:

- 5.1. To ensure that the Central Firearms Register ("CFR") of the South African Police Services ("SAPS") sticks to its mandate;
- 5.2. To promote transparency in firearms legislation;
- 5.3. To ensure equal treatment before the law for its members in the context of firearms legislation;
- 5.4. To ensure reasonable and rational (firearms) licensing requirements;
- 5.5. To ensure the transparent and even application of the FCA;
- 5.6. To monitor the CFR and to lobby the authorities to ensure that they adhere to their deliverables as prescribed by the FCA;
- 5.7. To lobby members of Parliament and interest groups continually to ensure that GOSA delivers on its mandate;



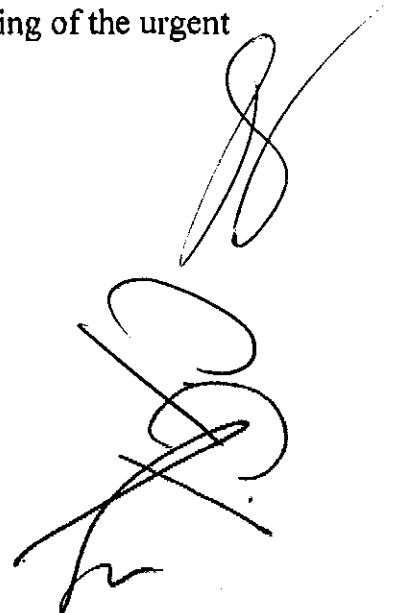
- 5.8. To deliver rational and impassioned argument with a sound legal basis to national government in the interest of protecting the rights of firearm owners;
  - 5.9. To provide clear interpretation of the FCA and related Acts as and when required;
  - 5.10 To challenge injustice in court when required to protect the rights of our members;
  - 5.11 To constantly enhance the public image and perception of firearm owners;
  - 5.12 To challenge inaccurate and misleading reporting in the media on firearms related matters;
  - 5.13 To be THE voice for the rights of firearm owners in South Africa.
6. The applicant has a legal persona as can be seen from the constitution attached hereto as Annexure "PO2".
7. The applicant has vast experience in the field of gun licensing and the



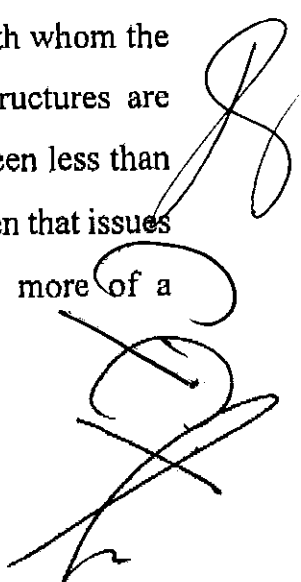
practical implementation of the current licensing system. I describe our experiences below.

### **DINOKENG CASE**

8. GOSA made its services available to the DINOKENG GAME RESERVE MANAGEMENT ASSOCIATION NPC in September 2015 upon the request of the aforesaid organization because of the fact that the anti-rhino poaching unit of the said game reserve at that time had already been waiting for 15 months for the licenses for the ranger's rifles to be approved, this under circumstances where the rhinos in its area were being slaughtered and where the lives of the unarmed rangers were being threatened.
9. GOSA's appointed lawyers assisted the said game reserve which ultimately resulted in an urgent application before the North Gauteng High Court under case number 67409/2015. The case was decided in favour of the game reserve, the court confirming an agreement that was reached with the SAPS in terms of which the said game reserve received their licenses within three days from the date of the hearing of the urgent application.

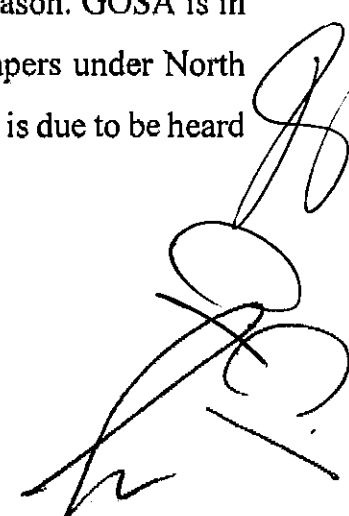
A large, stylized handwritten signature in black ink, located in the bottom right corner of the page. The signature is composed of several loops and a long horizontal stroke at the bottom.

**INDIVIDUAL ISSUES IN THE PERIOD SEPTEMBER 2015 TO  
DATE**

10. GOSA was then approached by about one thousand five hundred individuals and several institutions that included three other game reserves, who also faced similar challenges with compromised service delivery from CFR, viz. that on average the waiting time for the approval of license applications for those individuals that requested assistance was in the region of nine months, and for the finalization of appeals it was more than two years.
  11. About five hundred of those individuals had been refused firearm licenses for specious reasons.
  12. GOSA then created structures to assist these individuals. They called for help from a team of lawyers who assisted the public, (on a purely pro bono basis at first), in taking these issues up with the SAPS. In addition, GOSA also sent a delegation consisting of two attorneys, counsel and myself to meet with the then acting National Commissioner of the SAPS, Genl. K. Sitole. As a result of this meeting, Genl. Sitole created structures and channels within CFR and designated certain officials with whom the GOSA attorneys could engage on these matters. These structures are currently still in place although their efficacy has at times been less than adequate. Taken over the entire period our experience has been that issues of compromised service delivery is becoming more and more of a problem.
- 

## MORE LITIGATION

13. Towards the end of 2016 there was another surge in refusals of license applications based on specious reasoning. Two of those applicants approached GOSA who then assisted them with their appeals to the Firearm Appeals Board. These appeals were also refused. GOSA then assisted the two individuals concerned with review applications under North Gauteng High Court case numbers 95449/2016 and 95450/2016 respectively. In both these cases the SAPS settled the matter a day or two before the hearings, conceding the merits of the applicants cases.
14. As a result of GOSA's intervention and the results that were obtained in these applications, the CFR changed its position regarding the type of competency certificate needed for specific types of firearms. It issued a new directive relating to the matter at hand, after which the spate of irrational refusals stopped.
15. Towards the end of November 2017 GOSA was again approached by one of its members whose license had been refused for irrational and blatantly incorrect reasons. This member lodged an appeal with the Firearms Appeals Board which was also refused without good reason. GOSA is in the process of assisting this member and has issued papers under North Gauteng High Court case number 83775/17. This matter is due to be heard in March 2018.

A large, stylized handwritten signature in black ink, located in the bottom right corner of the page. The signature is composed of several loops and a long horizontal stroke at the bottom.

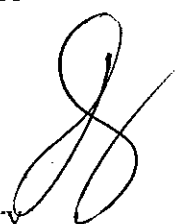
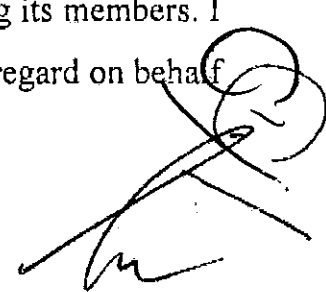
## **DAY TO DAY ASSISTANCE TO ITS MEMBERS FROM THE PERIOD SEPTEMBER 2015 TO DATE**

16. During this period GOSA received requests from its 35 000 members on a daily basis. Over the period September 2015 to date GOSA's small legal team has assisted more than 2 000 individuals and organisations with their service delivery problems regarding their license applications and appeals. As of August 2017, GOSA has had to appoint full time personnel to attend to the helpline that was established to assist its members with their various issues, including issues of a legal nature.

## **CONTINUOUS INTERACTION WITH SAPS / CFR**

17. GOSA also from time to time has direct interaction with the SAPS, one example being a meeting with Maj. Genl. Bothma and the Commanders of the Western Cape SAPS (Firearms Division) in June 2017 in Bellville, Cape Town to resolve certain issues between local firearm dealers and the relevant Firearms Division of the SAPS. As a result of the constructive nature of the meeting and the proposals that were made by Maj. Genl. Bothma on the one hand and GOSA's representatives (including two attorneys, counsel and myself) on the other, many issues were resolved between the parties and plans were formulated to address other issues of mutual concern.

18. GOSA also continuously plays a role at the level of the Parliamentary Portfolio Committee on Police relating to issues affecting its members. I personally attend all the meetings in Cape Town in this regard on behalf

of GOSA. In addition, we have also participated in a number of radio talk shows.

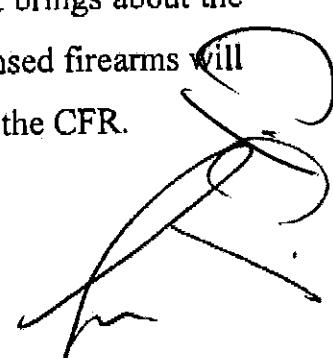
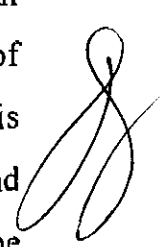
19. In the premises, I submit that GOSA is by far the most represented and representative organisation with an active membership base in South Africa. One of its core purposes is to speak on behalf of the estimated 2 700 000 individual firearm license holders in South Africa when it comes to matters relating to the interpretation and execution of the FCA. As such, I humbly submit that GOSA has a duty to provide this honourable court with any information it can which is pertinent to this matter.
20. It is my humble submission that GOSA is in a position to give a different and perhaps useful perspective on the issues before this Honourable Court.
21. *I also submit that GOSA has a good track record in engaging with the SAPS on a constructive basis to seek and find solutions to challenges of mutual concern.*



**BACKGROUND TO EXPLAIN THE DECISION OF GOSA TO  
APPLY FOR ADMISSION AS AMICUS CURIA BEFORE THIS  
HONOURABLE COURT**

22. From a reading of the papers that were filed on record during the past couple of weeks in the matter *in casu*, and constant interaction between the representatives of GOSA on the one hand and both SA Hunters as well as Fidelity on the other hand, it is clear to GOSA that none of the parties currently before court have yet addressed the most important issue in GOSA's view, namely the fundamental unworkability of the prescriptive provisions of the Firearms Control Act 60 of 2000, as amended ("FCA") that demand compulsory continued relicensing. The resulting workload not only prevents the police from dealing effectively with the licensing of firearms but also with more important issues such as the competency of firearm owners.

23. GOSA has given the matter much thought. As our current legal team is hard-pressed to cope with the daily load of operational and service delivery issues relating to the CFR, we have decided to bring in an additional attorney who is acting as our attorney of record in this matter and with whom we have consulted extensively since on or about the 15th of December 2017. We as an organisation have now, with the input of counsel, formed the view that the system of compulsory relicensing is unconstitutional both because of the irrational nature of the rule and because of the resulting chaos it creates. In particular it brings about the very real risk that the entire system of control over licensed firearms will collapse due to the inflated workload that is created for the CFR.



24. The process that GOSA has had to go through in order to reach this conclusion should be seen in the context of GOSA's continuous hands-on involvement trying to resolve daily practical service delivery issues with the SAPS.
25. In looking at the opinions of the other parties, as is apparent from their heads of argument and from other papers filed on record before this honourable court, the considered view of GOSA and its legal counsel, is that the root cause of most of the problems with the CFR is that it is overburdened by the compulsory relicensing scheme and is therefore unable to properly and efficiently fulfil its mandate.
26. We are of the view that all the other parties to this matter and also the court a quo, stop just short of making this point, although all of them seem to be in agreement that the system is and always has been dysfunctional. This is evident from the many judgments handed down by the High Court against the CFR and the SAPS ever since the FCA came into being more than a decade ago. It is general knowledge that there are many instances of people who have waited for as long as eight years or more for their new licenses to arrive after the FCA came into operation. Those same firearms were previously licensed in terms of the Arms and Ammunition Act 75 of 1969.
27. After ongoing discussions between the legal representatives of GOSA and of SA Hunters and Fidelity, it has become clear to GOSA that none of the parties are prepared to take the next step, which is to make the point that



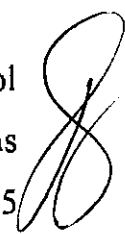

the entire concept of relicensing should be taken under review for being unconstitutional. This despite the fact that all of them seem to be in agreement that the system as it stands is clearly not working.

28. As a result GOSA has decided to request leave from this court to present the relevant arguments and evidence in order that the real issue be addressed and a just solution reached.
29. It should also be pointed out that GOSA no longer has the option of being heard through either SAGA or the Dealers Association. Both were parties before the court a quo and there was a firm understanding, in particular with the Dealers Association, that they would give voice to GOSA's opinions. It now however appears that they have not filed papers before this Honourable Court and that they will not be appearing either as a party or as an *amicus* in this matter.
30. This leaves GOSA in the position where it has to take an independent stance before this Court, something it could not previously have done due to the high costs involved in constitutional law litigation and the fact that its team of volunteer lawyers are constantly kept busy by the day-to-day administrative and operational issues *vis-a-vis* the CFR.



**CONTEXT: BACKGROUND TO THE FCA INCLUSIVE OF THE  
SCHEME OF CONTINUOUS RELICENSING CYCLES**

31. We believe that the single biggest deficiency in the former Arms and Ammunition Act (Act 69 of 1975) was that it didn't have an adequate system in terms of which the fitness of individuals to carry a gun was prescribed, assessed and confirmed.
32. We believe that judgments such as the judgment in *Minister of Safety and Security v Pedro Souze De Lima* (Supreme Court of Appeal -63/04) places a duty on the state to ensure that it takes *reasonable* precautions that firearms should not be licensed to individuals who are not fit to possess firearms.
33. After due consideration and with the benefit of hindsight and experience, we believe that the legislature has gone too far by adding a system of continuous compulsory relicensing of individual firearms to persons who have been found to be competent and whose declared competencies have not been withdrawn.
34. We estimate that the CFR's capacity to fulfill its core mandate, i.e. control over firearms and in particular ensuring that only fit and proper persons are allowed to possess firearms, can be increased by an estimated 7.5 times, if only the relicensing scheme is done away with.

35. Conversely, we have every reason to believe that if compulsory relicensing is not done away with it will lead to the collapse of the entire licensing system and that it will progressively become more and more difficult and indeed ultimately impossible, for the CFR to fulfill its functions in terms of the FCA, these being:

To establish a comprehensive and an effective system of firearms control; and to provide for matters connected therewith.

#### PREAMBLE

WHEREAS every person has the right to life and the right to security of the person, which includes, among other things, the right to be free from all forms of violence from either public or private sources;

AND WHEREAS the adequate protection of such rights is fundamental to the well-being and social and economic development of every person;

AND WHEREAS the increased availability and abuse of firearms and ammunition has contributed significantly to the high levels of violent crime in our society;

AND WHEREAS the Constitution places a duty on the State to respect, protect, promote and fulfil the rights in the Bill of Rights;

#### Chapter 1: Introductory Provisions

##### 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.

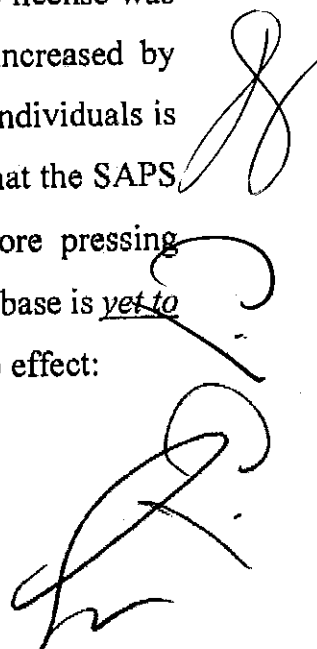
(Emphasis added)

36. In this regard I wish to point out to this honourable court that GOSA has filed a request in terms of the Promotion of Access to Information Act ("PAIA request").

37. This request was sent to the SAPS on or about the 5<sup>th</sup> of January 2018, after an initial draft was prepared on the 18<sup>th</sup> of December 2017, which was the result of consultations between myself and our current attorney of record and with the further assistance of some of the GOSA volunteers. This draft was debated further between GOSA's executive and its lawyers during the period 18 December 2017 and 5 January 2018. A copy of this PAIA request is attached hereto as annexure "PO3" and I request this court to read the contents thereof into this affidavit as if specifically incorporated herein.

38. I humbly submit that the implications of this evidence will be shocking.

A large, stylized handwritten signature is written vertically on the right side of the page, overlapping the text of paragraph 37. Below it, the initials 'C/O' are written in a similar style.

39. At the date of the signing of this affidavit, the SAPS has however not yet provided an answer to this PAIA request or provided us with some of the requested data, despite subsequent enquiries that were not responded to at all.
40. We have no doubt that the data that the SAPS will provide us pursuant to the PAIA request, regarding the functioning of the CFR, will provide this court with overwhelming evidence to prove the point that the relicensing duties imposed upon the CFR have had a progressively debilitating effect on the ability of the CFR to administer the FCA.
41. We submit that this perspective will become even more evident to all parties and to this honourable court when we provide our actuaries with the raw data we are waiting to receive from the SAPS, for future projections regarding relicensing.
42. In the meantime a simple calculation shows that if there are 2 700 000 licenses in the system and they need renewing every 2, 5 or 10 years (depending on the section in the FCA in terms of which the license was issued), the SAPS workload relating to licenses will be increased by between 5 and 15 times. (This is if the lifespan of licensed individuals is taken as 50 years and businesses as 30 years). We submit that the SAPS is already overworked and struggles to find time for more pressing concerns. A case in point is that the centralized dealer's database is yet to become operational, some 14 years after the FCA came into effect:
- 

*Firearms Control Act, 2000 (Act No. 60 of 2000)*

*Firearms Control Regulations, 2004*

*Chapter 5 : Licences issued to particular categories of persons*

*Part 2 : Dealers*

*40. Establishment of centralised dealer's database*

*(1)*

*The Registrar must establish and maintain a central dealer's database which is linked and can interface with the electronic network connectivity of workstations of dealers as contemplated in regulation 38.*

*(2) The central dealer's database must contain—*

*(a)*

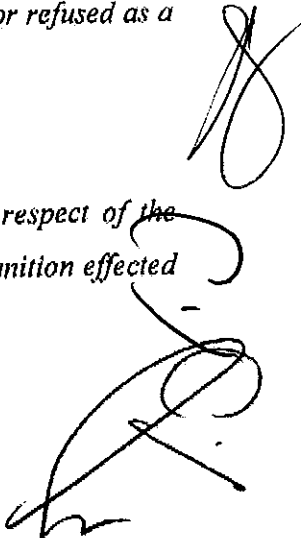
*the information and supporting documents submitted by an applicant on the prescribed form under regulation 13 regarding a competency certificate, dealer's licence, authorisation, renewal or copy thereof, as well as, the relevant information in respect of the suspension or termination thereof;*

*(b)*

*the information on a competency certificate, licence, authorisation, permit and a renewal or copy thereof, that were issued or refused as a result of an application; and*

*(c)*

*the details and information submitted by a dealer in respect of the acquisition, transfer and disposal of a firearm or ammunition effected under the Act.*



*Firearms Control Act, 2000 (Act No. 60 of 2000)*

*Firearms Control Regulations, 2004*

*Chapter 12 : General provisions*

*110. Offences and penalties*

*(1)*

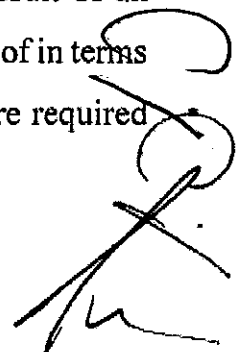
*1. Any person who contravenes or fails to comply with any provision of these regulations shall be guilty of an offence.*

43. We submit that in effect the continuous cycle of renewals creates a situation similar to the initial administrative nightmare brought about by the introduction of the FCA.

44. We submit that the compulsory obligation to renew licenses is unconstitutional, not only because it places the entire licensing system in jeopardy, but also for the following reasons:

44.1 The provisions are irrational and superfluous:

44.1.1 The provisions of Section 10(2), 102, 103, 104, 106, 146 already exist. In terms of these provisions only competent (fit and proper) persons are allowed to own firearms. Should a person becomes unfit to possess a firearm (either by order of court or as a result of an enquiry by the Registrar) those firearms must be disposed of in terms of the provisions of the FCA. Furthermore, businesses are required



to keep registers and the SAPS has a duty to inspect on a monthly basis. Any holder of a license is by law also required to inform the SAPS if his situation has changed;

44.1.2 Where licenses have been issued in terms of section 13 and 14 for self-defense and the holder of a license has proved his need for a firearm to protect his life or that of his family, given the ongoing crime statistics in South Africa it seems unlikely that that need is going to change.

44.1.3 In cases that are governed by section 15 (occasional sport shooting and hunting), the legislature accepts that the license holder will use his firearm 'on occasion'. It is difficult to understand why the license holder should have to keep justifying the continued occasional use of his firearms for sport or hunting.

44.1.4 In the case of licenses issued in terms of section 16 (dedicated hunting and dedicated sport shooting), legislature is already in place: Every license holder in terms of this section, needs to be a member of an SAPS-accredited organization which is required by law to submit annual returns to the Registrar confirming the dedicated status of its members. It follows that should a member not maintain his dedicated status it will be forfeited and the license for the applicable firearm will be revoked, in accordance with the FCA regulations.

44.1.5 The same applies to licenses issued in terms of section 17 (collectors).

44.1.6 With regard to licenses issued in terms of section 20 (business purposes) and for Dealers, Gunsmiths and Manufacturers, the FCA and Regulations requires the holders of these licenses to submit

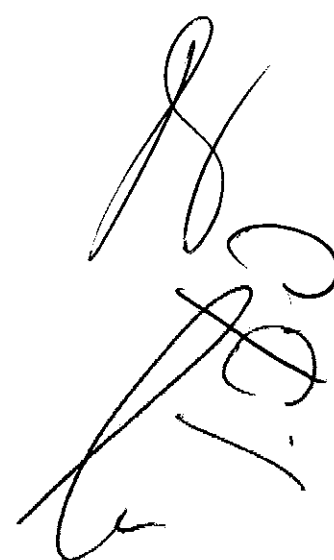


monthly returns and to keep their registers updated. It also requires the SAPS to inspect those registers and license holders on a regular basis. Section 146 requires the license holders to notify the SAPS if they cease to do business, or if their circumstances change. Consequently, there is no practical need for these institutions to continue submitting re-licensing applications every two years as it currently stands.

44.1.7 The relicensing legislation affects the quality of life of the citizens of South -Africa as it impacts negatively on the ability of the police force to discharge their duties effectively.

45. In the premises GOSA submits that the actual issue at hand is

currently not being addressed before this honourable court and that GOSA brings a different perspective to the matter and presents a proposal that is currently not being considered. It is therefore GOSA's request that it be admitted as amicus curiae in order to present these perspectives and the actual underlying evidence of the matter to this court, in order that the court be fully appraised of the relevant facts and so can arrive at the best possible solution taking into account all the circumstances.

A handwritten signature in black ink, consisting of a large, stylized 'S' or 'G' shape with a long horizontal stroke extending to the right, followed by a series of loops and a final downward stroke.

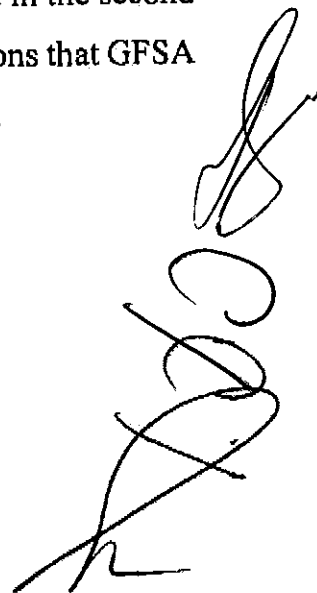
## GUN FREE SOUTH AFRICA'S ("GFSA") LATEST SUBMISSIONS

46. GOSA has recently become aware of the latest submissions that

GFSA has made to this honourable court during the past two weeks and have spent a great deal of time in the meantime considering these submissions and at this point in time GOSA could also verify a significant portion of the information and allegations. GOSA takes issue with a number of statements and allegations that GFSA make in their papers before this honourable court. We believe that it is important and indeed in the interest of justice that this honourable court be appraised of the true facts and full context of the matter at hand and therefore we are left in a situation where we feel compelled to point these issues out to the court, in particular since it now appears to GOSA that neither SA Hunters nor Fidelity has yet taken issue with this.

47. *I also note that the deponent to the affidavit indicated that GFSA has*

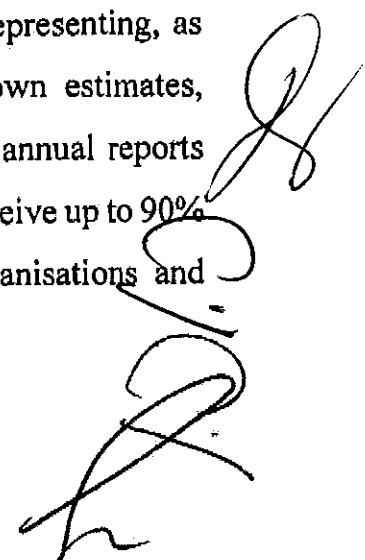
*the intention to provide the court with further oral submissions and that it intend to submit further evidence at the hearing of the matter, which is not currently before court. Under all these circumstances I believe that GOSA has no option but to also apply to Court to be admitted as *amicus curiae*, first of all to set the record straight as it currently stands and in the second place, to be able to address any further evidence or submissions that GFSA elects to add to the proceedings at the hearing of this matter.*

A large, stylized handwritten signature in black ink, located in the bottom right corner of the page. The signature appears to be a combination of initials and a surname, possibly 'J. C. [unclear]'.

48. I will therefore endeavour to address the allegations of GFSA in their application to be admitted as *amicus curiae* that appears to have been filed in court in the second week of January 2018, per paragraph of the founding affidavit.

#### AD PARAGRAPH 4 OF THE FOUNDING AFFIDAVIT

49. According to our information GFSA is an organisation that is majority-funded by international NGOs, charities, and their affiliates of foreign origin. GFSA is therefore not remotely representative of South African society, as not published any membership figures, and despite the image they seek to portray it is highly implausible that they enjoy broad domestic support. In my respectful view they are therefore not fit or proper to make submissions on behalf of South African citizens. We therefore wish to raise a question mark in relation to their *locus standi* in that they seem to represent foreign interests and hence we find it irrational that they be given such a privileged position in the dictation of domestic legislation and policy.

50. In our view it therefore begs for an explanation and further clarity as to who exactly GFSA is, and whose interests they are representing, as well as who their members and donors are. By our own estimates, calculated by a thorough perusal of their own published annual reports and those of their chief donors, we conclude that GFSA receive up to 90% of their funding from foreign NGOs and affiliated organisations and
- 

individuals. If GFSA are nothing more than a proxy for foreign interests, their presence in this court case subverts South African national interests.

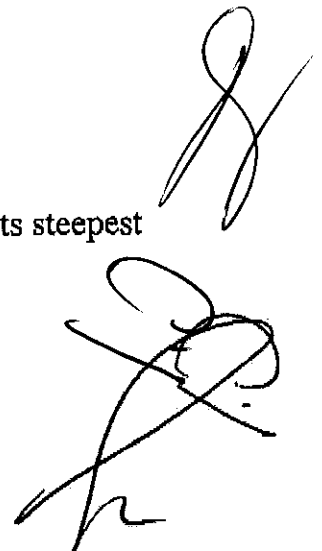
51. Also, we must ask what are Ms. Kirsten's qualifications and credentials are in order for her to be able to make submissions on issues that are clearly within the domain of subject matter experts? In this regard I refer the honourable court to instances where she makes her own claims in places later in the document – e.g. her view on the length of time to do background checks.

#### **AD PARAGRAPH 5**

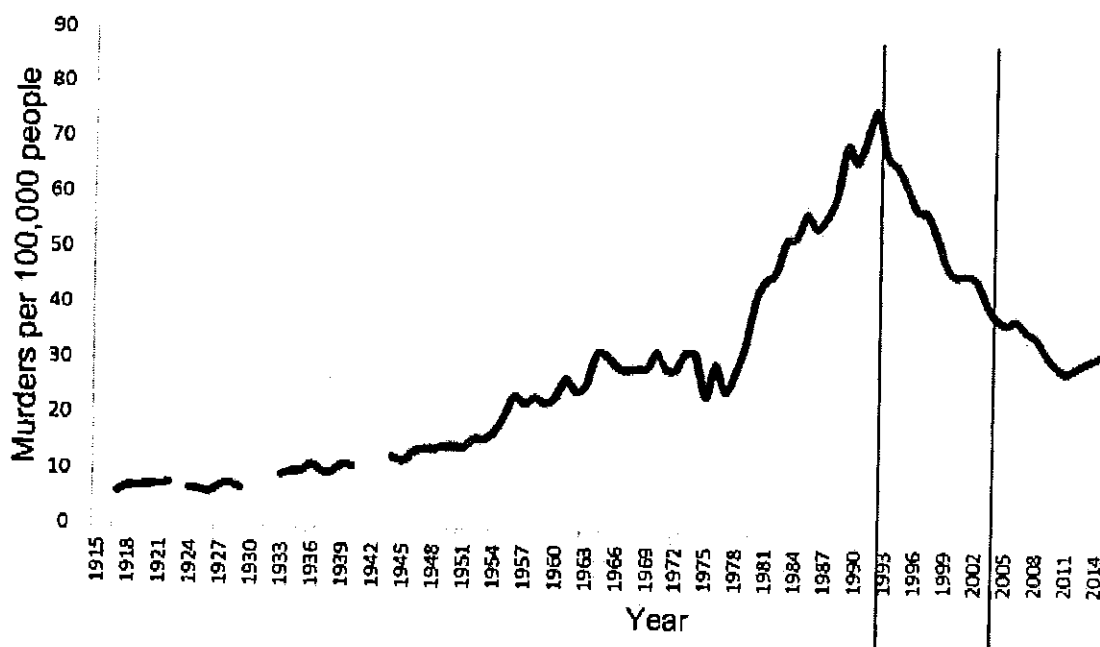
52. The South African "homicide rate" (a foreign concept) began a steep decline from its peak in 1993, which continued unabated until 2004 when the FCA of 2000 became law. The implication that GFSA played a role in reducing the death toll is therefore not accurate – one should not forget about the low intensity war that was happening at the time in e.g. KZN and Gauteng hostels. GFSA had no impact then and they cannot claim that they were the reason for the amnesty, or that any subsequent reduction in the number of deaths came as a result of the amnesty as such.

#### **AD PARAGRAPH 6 TO 7**

53. This is a baseless claim as the homicide rate experienced its steepest

Two handwritten signatures in black ink. The top signature is a stylized, cursive 'S' or 'J' shape. The bottom signature is more complex, with multiple loops and a long horizontal stroke extending to the left.

decline in South African history under the old Arms and Ammunition Act 75 of 1969.



[https://en.m.wikipedia.org/wiki/Crime\\_in\\_South\\_Africa](https://en.m.wikipedia.org/wiki/Crime_in_South_Africa)

#### AD PARAGRAPH 8

54. The information provided herein is not factually correct. Firearm

owners can indeed own multiple handguns if one has regard to the provisions of sections 13, 14, 15, 16, 17 and 20 of the FCA. Furthermore, there are many instances where the Registrar has exercised its discretion and have allowed persons younger than 21 years to own firearms on good cause shown.

55. We are unsure as to the exact identity of the "Gun Control Alliance"

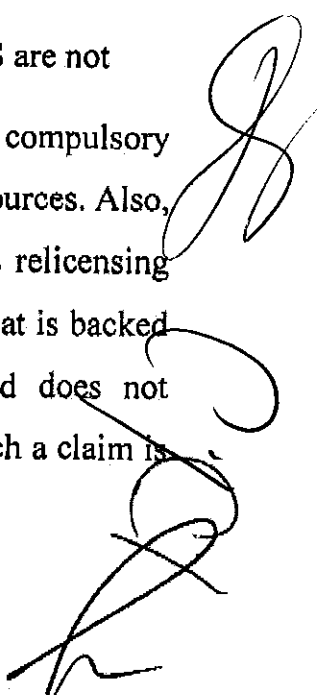
as this appears to be another body without any discernible support base but apparently acting as an agent for undisclosed powers.

#### **AD PARAGRAH 9 AND 10**

56. As stated above, GOSA wishes to dispute these allegations for the reasons as aforesaid.

#### **AD ARAGRAPH 11**

57. None of the alleged political commitments that South Africa supposedly have are legally binding or of proven value and none of them have been tested by this court for constitutionality. They are purely political, and therefore meaningless in the legal landscape. The continuous compulsory firearm license renewal requirement itself poses serious danger to the very CFR system, and can very well lead to its collapse.

58. The evidence is increasingly becoming clearer that the SAPS are not coping with the astronomical workload that continuous compulsory firearm relicensing places on their already overburdened resources. Also, there is no irrefutable evidence whatsoever that continuous relicensing has saved any lives. This is an utterly disingenuous claim that is backed by cherry-picked data, faulty academic methodology and does not withstand even the most cursory scrutiny. GFSA making such a claim is
- 

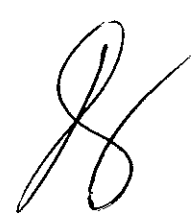
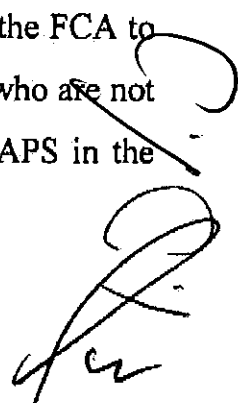
entirely dishonest. In fact, there is an existing body of evidence that as firearm license number increased by approximately 150 000 per year between 1994 and 1999, that there was an inverse relationship between firearm ownership numbers and the murder rate.

#### AD PARAGRAPH 12 TO 14

59. GFSA's interest in the matter appears to be purely for their own gain, and to further the interests of their international donors.

#### AD PARAGRAPH 15

60. It is GOSA's considered view that the relevant portions of the aforesaid sections of the FCA that prescribe continuous compulsory relicensing, are indeed unconstitutional, but first of all (and apart from the fact that it discriminates against the hundreds of thousands of citizens who merely forgot to relicense their firearms and automatically treats them as criminals, vis-à-vis other categories of firearm owners) this is based on the irrationality and practical unworkability thereof, and for the further reasons as argued more fully *supra*.

61. GOSA indeed believes that should GFSA act *bona fide* and think the matter through and be serious about the potential benefits of the FCA to society, that it will have to agree with GOSA that (a) people who are not fit to possess firearms should be the primary focus of the SAPS in the
- 
- 

context of firearms legislation, and (b) the compulsory relicensing scheme serves no practical purpose in enhancing the purposes of the FCA, but that on the contrary the scheme in fact distracts the SAPS from its core duties as provided for in the FCA.

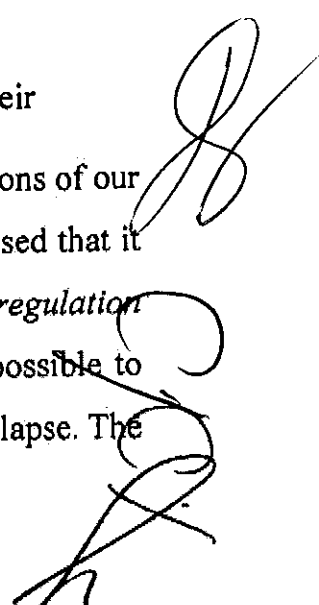
#### AD PARAGRAPH 16.1 TO 16.3.6

62. It is our humble submission that protocols against illicit

manufacturing and trafficking of arms and ammunition have nothing to do with firearm license renewals, or even civilian firearm licensing. The content of these paragraphs little or no relevance in a discussion on the issues at hand when considering the rationality and practical workability of a system of never-ending cycles of firearm license renewals for firearms that are already licensed. The protocol deals with "illicit manufacturing and trafficking" and as such it expressly avoids dealing with lawfully licensed firearms. Signatories commit to sharing information, reducing illicit manufacture and trafficking of parts. The only relevant part is with regards to marking firearms. The SADC protocol is along the same lines. The UN General Assembly protocols are not binding and in any event irrelevant to the issues *in casu*.

63. The Canadian position is however of particular importance. Their

former position was used as inspiration for many of the provisions of our own FCA. Their legislature there has however since then realised that it *over-regulated* on many fronts and that the *irrational over-regulation* undermined the very purpose as the system as it became impossible to operate effectively and that it was indeed heading for a total collapse. The

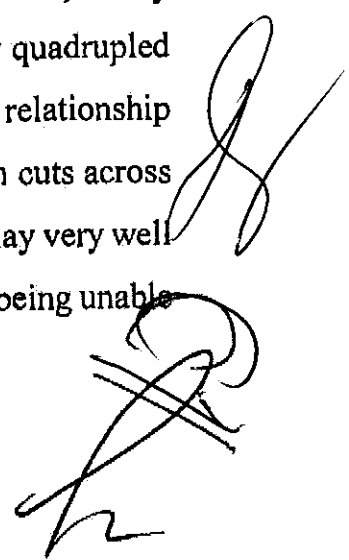




former system was also found to be so expensive (even for a country such as Canada) to operate and the potential assumed benefits proved to be an incorrect assumption, with the result that they have since done away with many of the unnecessary and counter-productive principles, the output of which has since 2014 been referred to as "Common sense firearms licensing legislation" in that jurisdiction.

64. It is not possible to compare South Africa's policies, as a developing economy, to those of the United Kingdom, Australia, and Canada. It must be mentioned that Canada *scrapped their long gun registry* after 13 years because it had zero impact on reducing crime. Regarding Australia and the United Kingdom, both countries experienced marked and sustained increases to their respective homicide rates after enacting stricter firearm legislation.

65. When comparing South Africa to other developing economies, it is noteworthy that those with the strictest firearm laws also have the highest homicide rates: El Salvador, Honduras, Jamaica, US Virgin Islands etc. Jamaica is a telling case in point: before banning guns in 1973, their homicide rate stood at 11.5 per 100 000, which was only slightly higher than the United States' 9.4 per 100 000. Upon enacting highly restrictive new gun laws in 1974, the homicide rate immediately increased, nearly doubling to 19.5 per 100 000 by 1977. By 1980 it had nearly quadrupled to 41.7 per 100 000. This would seem to indicate an inverse relationship between stricter firearm legislation and homicide rates which cuts across the spectrum of developed and developing economies. This may very well be as a result of the majority of decent people in society now being unable to defend themselves against a small portion of thugs.

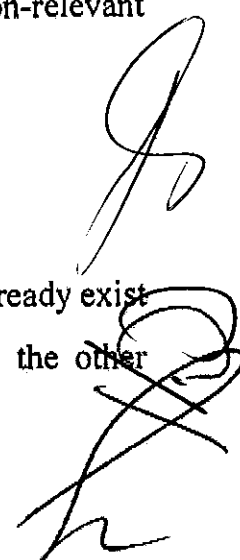


66. It is for this reason that we hold the firm position that the focus should rather be on the smaller portion where the problem lies, rather than trying to make life as difficult as possible for the majority of the people who usually behave well.

67. I furthermore note the admission by the deponent that the signed *protocols* are only politically binding. There is therefore no legal requirement to comply with any of the stipulations or recommendations at all, and especially not if they are found to be irrational and therefore unconstitutional. The UN guidelines (on different issues) are also merely that: guidelines. They do not override nor influence what governments decide to be best domestic policy. Also, there is no mention that firearm licence renewals are necessary or desirable. The entire argument is founded upon the weak inference that vague guidelines published by the UN are somehow binding on South African policymaking. It also does not give consideration to real world practical domestic challenges and realities. These guidelines are from a subsidiary in any event. They are not even from the General Assembly or Security Council.

68. I also note the leap of logic in as far as it is stated that the rationale for the FCA of 2000 precedes any of these resolutions as the non-relevant UN documents are dated 2005 and those of SADC 2003.

69. As regards the submissions contained in paragraph 16.2.4 in particular, it should again be stressed that these mechanisms already exist in the forms of Sections 102 and 103 of the FCA and all the other

A large, stylized handwritten signature or scribble, possibly in blue ink, located in the bottom right corner of the page. It consists of several loops and a long horizontal stroke at the bottom.

provisions as referred to *supra*. The continuous compulsory license renewal process therefore serves no purpose in practically assessing a firearm owner's suitability at all - for this purpose there all the provisions in the FCA relating to establishing and ensuring the competence of the person to possess firearms or to continue to possess them are already in place. As things stand now, renewals cycles are performed every 2, 5 or 10 years, subjecting the entire population of firearm owners to scrutiny, whereas the true purpose namely to eliminate the possibility that select individuals still possesses firearms or that they will legally possess firearms despite being not fit and proper, is currently in all probability not as effective as it could be, as a direct result of a lack of focus due to the enormous unnecessary workload.

70. Regarding paragraphs 16.3.1. to 16.3.6 in particular, I should point

out to this honourable court that these are vague and unsubstantiated claims that the deponent says will still be proved by evidence that has not yet been supplied to this honourable court. The true facts of the matter is that the SAPS itself lose approximately 8 times more firearms per capita than civilian firearm owners. Stolen or lost civilian firearms are also recovered at a rate 15 times greater than that of SAPS firearms. Corruption and incompetence from the State's own security forces result in thousands of weapons ending up in criminal hands annually, many of them fully-automatic military weapons.

71. A case in point is the robbery at 9 South African Infantry Battalion's

base last year, as well as the high profile cases of what happened in Mitchell's Plain and Bellville South.

72. Corrupt SAPS personnel like Colonel Chris Prinsloo and his

unknown accomplices within the SAPS (the deponent to the affidavit of GFSA recently spoke on a television show where she confirmed that there were accomplices who are still at large) also facilitated the sale of literally thousands of firearms to Cape Flats gangsters, which consisted of both former SAPS firearms that were declared redundant, and firearms that were surrendered to the SAPS for destruction during the previous amnesty, and as far as reports go, under the direct supervision of the deponent to the affidavit.

73. Claiming that the compulsory relicensing process and the handing

over of formerly civilian licensed firearms to the SAPS will do society any good, is therefore without merit, and the opposite is in fact true.

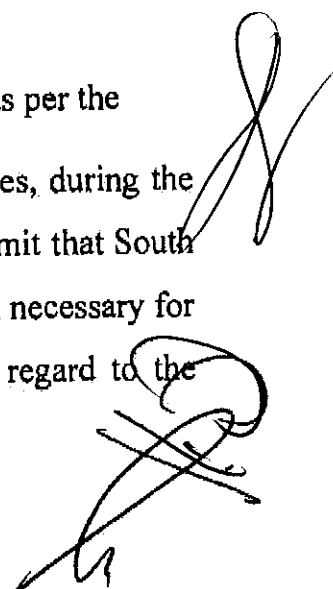
74. Ultimately, the relicensing scheme just amounts to the

administrative bullying by the state of the majority of decent people in society.

#### **AD PARAGRAPH 17 TO 19**

75. There is no proof that the compulsory relicensing scheme as per the

FCA of 2000 saves lives, or has contributed to saving lives, during the period from 2004 until present. As a sovereign state I submit that South Africa should write its own laws as we see fit, proper, and necessary for our society, that we should have the benefit of having regard to the

A large, stylized handwritten signature in black ink, located at the bottom right of the page. It consists of several loops and a long horizontal stroke at the bottom.

specific failures in other jurisdictions and that we should be very cautious in repeating those failures. Apart from this, I repeat the submissions already made *supra* as far as the remainder of the allegations herein is a restatement of what has already been stated.

**AD GFSA FOUNDING AFFIDAVIT: NORTH GAUTENG HIGH COURT (HC)**

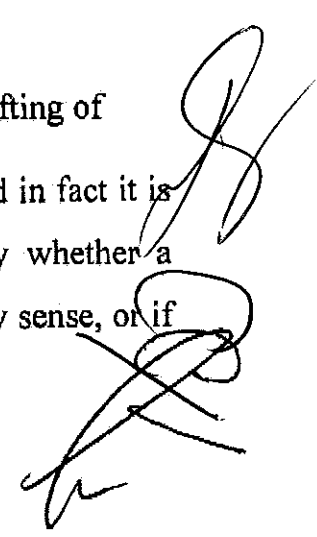
**AD PARAGRAPH 2 TO 13 (HC)**

76. I repeat the comments that were made *supra in this regard* where

the submissions are just a repeat of what has already been commented on *supra*. I should however point out specifically that at that point (1994) in time our country was moving from a very violent political era to a democracy. The aforementioned violent political landscape also involved the armed struggle where both liberation forces as well as opposing forces were supplied with firearms by both the liberation forces and their international allies on the one hand and also the by the internal security forces who supplied so called third force elements with weaponry. Any subsequent reduction in violence at that time more than likely resulted from the peace accords in KZN and Gauteng and the shift to democracy.

77. GFSA's alleged impact on this state of affairs and on the drafting of

the provisions of the FCA is therefore highly ambitious, and in fact it is also not relevant as far as the question is posed namely whether a continuous compulsory relicensing scheme today makes any sense, or if

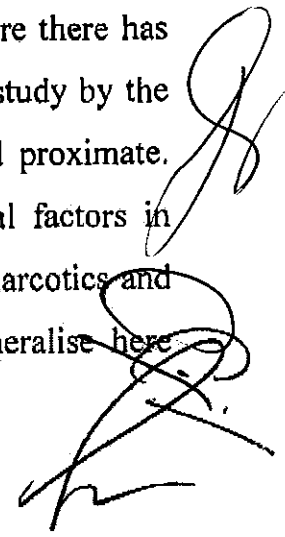


it in fact does not rather detract from the ability of the SAPS to ensure that people who are not fit to possess firearms, do not possess them.

#### AD PARAGRAPH 15 (HC)

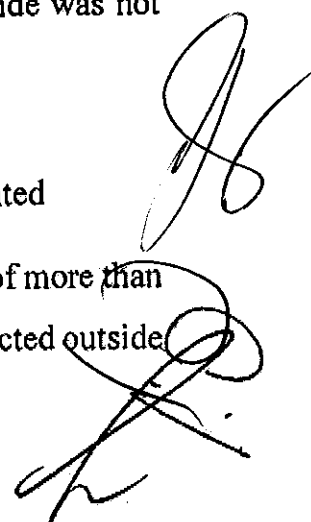
78. The assertion that without the FCA there was zero control over the possession of firearm and ammunition in South Africa is patently false. In fact, it is well known that the National Party government used the Arms and Ammunition Act 75 of 1969 for a long time to keep legally licenced weapons out of the lawful possession of the black majority. That being said, it was under the old act that South Africa experienced its longest sustained decline in the homicide rate, which stretched from its peak in 1993 to the abolition of the old act in July 2004. The inference that without the current firearm legislation we would somehow return to "conflict zone" levels of murder is as ridiculous as it is dishonest. The reasons for our high levels of homicide prior to 1993 are explainable by the sustained levels of political violence that ravaged our country at the time. Correlation does not equate to causation, after all. The previous gun laws had nothing to do with South Africa's levels of violence.

79. This whole paragraph is based on a platitude. The term "armed violence" relates to violence perpetrated by gangs etc. where there has been a breakdown of institutions (according to the quoted study by the OECD). The drivers of armed violence are structural and proximate. GFSA would be better advised dealing with the structural factors in society. The proximate drivers are things such as alcohol, narcotics and unregulated small arms (the OECD is careful not to generalise here).



either). This is with respect not the true issue at stake *in casu*. It also actually supports our view that a continuous compulsory relicensing scheme or even increased frequencies as GFSA petitions for is not the solution at hand.

80. The study by Santaello-Tenorio has severe limitations and the authors express the reservations in the study themselves. The conclusions that GFSA are hoping to draw from the study go beyond the study's claims. This is a meta-study – i.e. it is an attempt to consolidate existing research into a topic, in this case the link between firearm regulation and firearm related deaths. The study is ambitious but has understandable limitations.
81. It identifies more than 5000 studies and applies a filter (which limits its general applicability extensively). The limitations are explained in table 2 of the article. The authors are careful of the claims that may be made as a result of this study, as can be seen in their statement: "In certain nations, the simultaneous implementation of laws targeting multiple firearms restrictions is associated [i.e. no causality just an association] with reductions in firearms deaths. *"These laws discussed in this article relate mainly to background checks and safekeeping of firearms"*. This study avoids homicide in general, playing on the tautology of "firearm" deaths. It begs the question why the wider concept of homicide was not considered?
82. In addition, this study is limited due to it being heavily weighted towards the US (130 studies that qualified to be included out of more than 5000 identified studies and only 9 of these studies were conducted outside

A large, stylized handwritten signature or scribble in the bottom right corner of the page, overlapping the end of the text in item 82.

the US). *The authors do not deal with renewals and ongoing licensing at all.* The GFSA argument of a FCA “system” is actually undermined by this article – if we were to apply the findings of this article to SA, the inclusion of compulsory license renewals would probably not make any positive difference as the other components are already in place (background checks and register of firearms).

83. It is also curious that most of the time-series studies quoted here do not have the same results as those that simply seek correlations. One can also just re-quote all the limitations that the authors (wisely) state to their study, i.e. their findings must be treated with caution and certainly not generalised.

#### AD PARAGRAPH 16 TO 18

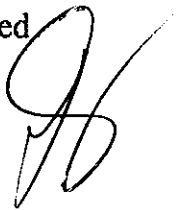
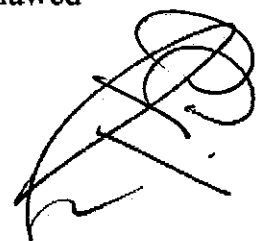
84. As has been stated previously, it is our submission that the SAPS in particular in a South African context will have much more capacity to focus on “criminal gangs” as such when less time is spent on increasing their administrative duties unnecessarily by performing double and more work in putting *everyone* (and in particular those that have been found to be competent to possess) through continuous never-ending cycles of compulsory relicensing. I repeat what has been stated *supra* as comment to the allegations that are contained in the remainder of this paragraph.

A handwritten signature in black ink, consisting of stylized, overlapping loops and strokes, located in the bottom right corner of the page.



**AD PARAGRAPH 20 TO 39**

85. The allegations contained in these paragraphs should be subjected to academic revue and criticism of the studies in question. Matzopoulos' study is riddled with serious errors: Dr. Matzopoulos' research data combines legal lawful interventions together with criminal drug related cases.
86. Therefore, legal firearm related interventions are equivocated with illegal uses which is a fallacy, as the context between the two interventions differ greatly and legal firearm use is recognised by the South African legal system. The data used to support Mazopoulos' views was extracted from 2000 to 2005. The FCA was only promulgated in July 2004. The FCA cannot have a retroactive impact especially since no part of the FCA had been implemented prior to 2004 and any changes in firearm related incidents prior to this date cannot be related to the implementation of the FCA. The research sample only considered one city (Johannesburg), in one ethnic group (African males), on one night of the week (a Saturday).
87. This is obviously not properly representative of the South African population and indeed the subject sample is not large enough to carry any scientific weight. Therefore, the conclusions cannot be extrapolated beyond the narrow characteristics of the sample.
88. The validity of these conclusions must be questioned due to flawed

research design and their intended use as advocacy, rather than academic enquiry. The main authors in these materials are Dr. Van As from the Red Cross Children's Hospital, Dr. Matzopoulos from the Medical Research Council (MRC), Mr. Lamb from the Safety and Violence Initiative (SaVI) and Ms. Kirsten from Gun Free South Africa (the deponent to this affidavit under discussion).

89. All have strong ties to the GFSA board and the success of their

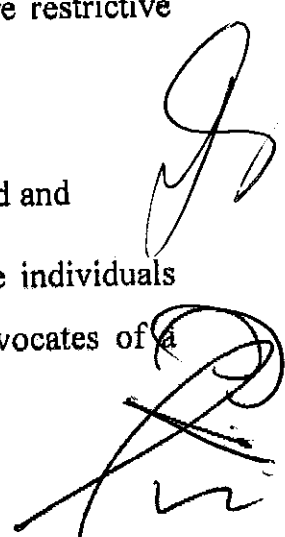
advocacy has implications for further funding. Dr. Van As has also published articles in academic journals in which he thanks Mrs. Kirsten and by referencing her book, "A Nation Without Guns?" as a major source of information on violence. Ms. Kirsten in turn uses Matzopoulos' publications as her major source. It was a surprise for co-workers of Matzopoulos at the Medical Research Council (MRC), to learn that he is a dedicated and committed board member of GFSA.

90. A clear conflict of interest therefore exists in this case and is this is

a source of bias. A further example of this bias is in the use of the term "denialists" in Matzopoulos's article. Such terms do not have a place in serious academic literature. An invalid comparison is frequently drawn between the firearms control debate in the United States of America and South Africa. South Africa has had more stringent firearm control legislation for decades and this has been significantly more restrictive than the USA.

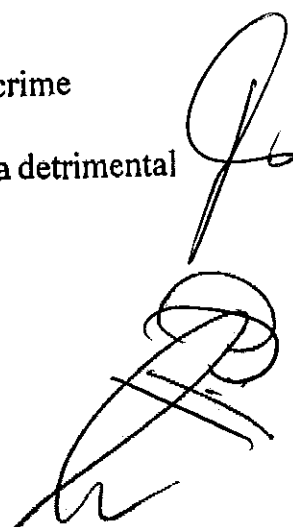
91. The prevalence of firearm fatalities can also not be compared and

the patterns of these fatalities differ materially too. These individuals have confused the roles of unbiased researchers with advocates of a

Handwritten signature and initials in the bottom right corner of the page.

particular view and imported it into a different context in South Africa. The approach of beginning a study with a conclusion inevitably leads to inflation of Type 1 errors that exaggerate conclusions based on uncontrolled biases.

92. This is done when data is deliberately interpreted in such a way as to support the conclusions in the mind of the researcher. Academic research has to be valid and follow the scientific process to be useful. The scientific process is based on the rules of (i) empirical evidence, (ii) objectivity, (iii) control, (iv) predictability, (v) hypotheses derived from theory and (vi) replication or falsifiability.
93. It is clear that multiple rules of scientific research have been broken in this paper and the results cannot be valid and the conclusions drawn by the authors are not supported as a consequence. A further flaw in this research is that external variables are ignored. The researchers chose to ignore that the murder rate in South Africa has been in decline since the 1990's. Other external factors must have been at play before the FCA was conceived and the researchers do not address this downward trend by confining themselves to a carefully chosen period of time. Furthermore, the murder rate increased around 2010 after a backlog of legal firearm licenses were observed.
94. This shows the lack of correlation between gun control and crime unless it is argued that civilian firearm ownership indeed has a detrimental effect on the murder rate.

A large, stylized handwritten signature in black ink, located in the bottom right corner of the page. It consists of a large loop at the top, followed by several sweeping, interconnected strokes that form a complex, cursive-like shape.

95. It is patently untrue that Australia benefitted from even stricter gun control. There have in fact been no fewer than 12 mass attacks in Australia since Port Arthur, of which 3 are classified as so-called "mass shootings". The deadliest of which was the Monash University attack in 2002. To state to the court that there have been no mass shootings in Australia since the National Firearm Agreement was put into place after Port Arthur is therefore simply not true.

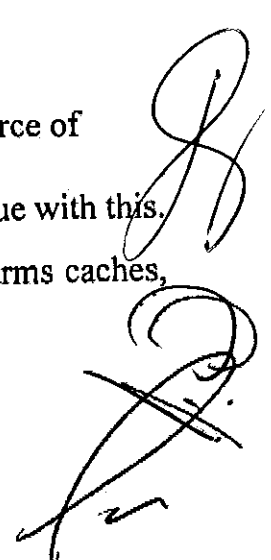
96. It should also be pointed out that there exists no proof that

Australia's firearm laws reduced their homicide rate: the opposite in fact happened - the national homicide rate increased notably in the wake of the new legislation. The Australian murder rate remained elevated above 1997 levels until 2003 - a period of 6 years. Therefore, the assertion that stricter firearm legislation had a positive impact on the levels of violence in society is demonstrably false.

97. The studies that are used by the deponent to the affidavit also ignores the fact that the vast majority of homicides are perpetrated by use of sharp objects.

#### **AD PARAGRAPH 34**

98. The allegation that civilian legal firearms are the greatest source of illegal firearms, remains to be proven and we indeed take issue with this. It appears that no differentiation is made between struggle arms caches, smuggled arms, stolen private security and stolen state arms.

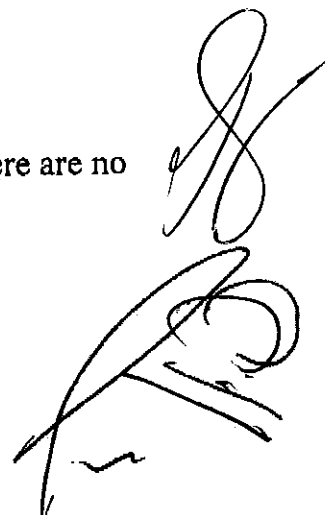


99. No attempt is made to substantiate this. GFSA has created the axiom that all firearms were once legally possessed firearms. This is simply not true in the first place. They then proceed to make the category error of lumping all illegally possessed firearms together as being from the same source. With the FCA *disproportionately addressing civilian firearms ownership*, the other categories are neglected and should with respect be better policed. This also has the effect of when illegal firearms from struggle, state or private security firms are taken out of circulation, the positive effects are ascribed to civilian disarmament.

#### AD PARAGRAPH 35 TO 53

100. None of these alleged issues requires a continuous renewal-based system to do away with the purported "mischief". Also, considering the state of disarray that the CFR has found itself in ever since the introduction of the FCA, it is impossible that this system even remotely complies with a system that organises and maintains records to the extent that "accurate information can be promptly retrieved and collated by competent national authorities". The CFR has thus failed dismally at complying with the supposed international standard that GFSA claims to be all-important.

101. The deponent continues to quote her own research but there are no

A large, stylized handwritten signature in black ink, located in the bottom right corner of the page. The signature is composed of several loops and a long horizontal stroke at the bottom.

records, base information or data to verify such research. The research and conclusions are therefore not open to proper scrutiny in these proceedings.

102. The allegations that are contained in paragraph 35 are also

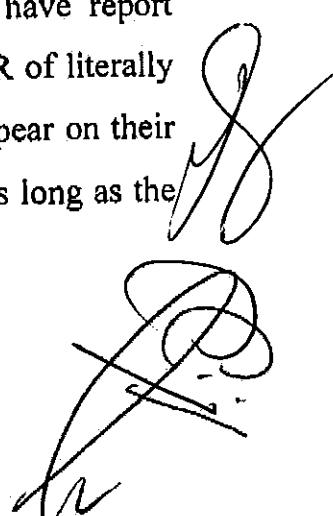
contentious. These numbers do not correlate with the information that GOSA has over the years received from the SAPS, and the deponent provides no specific source or authority to substantiate these submissions.

103. I therefore respectfully submit that this honourable court should act

with the necessary caution before merely accepting these averments that are made by GFSA, in particular since the actual evidence of the matter, that must still be provided by the SAPS, in the form of the answers to the PAIA request, must still become available.

104. The true accuracy and the integrity of the CFR register and database

as it currently stands should then also be questioned, and only the SAPS will be able to convince this honourable court that their current database is an accurate reflection of the amount of licensed firearms in circulation. As a firearm dealer I am well aware of some dealers who have report discrepancies between their own records and that of the CFR of literally thousands of firearms on their stock registers that do not appear on their records at the CFR. This situation has been continuing for as long as the FCA came into operation.



105. The statistics quoted in paragraph 7 in particular are unsubstantiated,

lack context and the arguments are flawed. These periods were also arbitrarily decided (1999 and 2009) – and the situation in the country is substantially different. Urbanisation, population growth and other demographics must also have played a role and should have been taken into account. A conclusion is being drawn that has not been scientifically tested and it would indeed be impossible to test this without time-relevant base data.

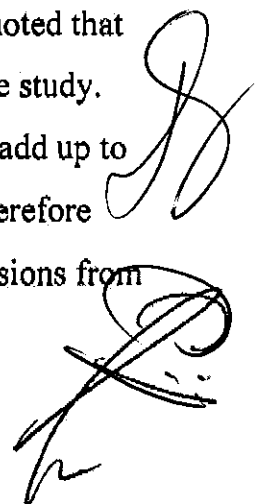
106. Also, the study should have used dynamic panel data and regression

to draw the conclusions that the deponent is trying to draw. The percentages quoted in GFSA papers are misleading. These percentages cannot be compared based on the results of this study. E.g. the female homicide rate in 2009 was 12.9 per 100 000, in 1999 it was 26.7 per 100 000. These are two very different populations that are being compared here. – it would actually be surprising if the percentage of gun / stabbings etc. went down in the same ratio. The study actually concedes this (p3): “The overall rate of female homicide in South Africa was substantially lower in 2009 than in 1999, *and the reasons for this are unknown.*”

107. Then we have a leap of logic claim that gun-related deaths (in these

unrelated populations) are down. The only explanation can be that the deponent quotes her own previous research. It should also be noted that the causes of death do not add up, if one has regard to p5 of the study.

The 1999 column adds up to about 97%, but the 2009 column add up to 78.3% - where is the unexplained / uncategorised 21.7%? I therefore submit that it is scientifically irresponsible to draw any conclusions from

A large, stylized handwritten signature is written over the text of paragraph 107. Below the signature, there are some handwritten initials or marks.

this other than to say that the data is unreliable and should be relied on at all.

108. Ultimately, all these claims and allegations are vague and

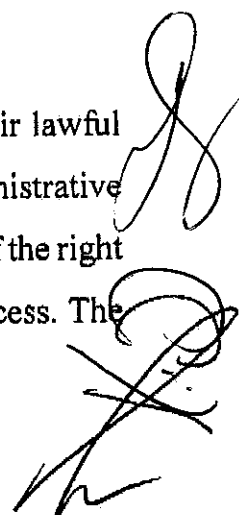
unsubstantiated. GFSA alludes to so-called "fast tracking of firearm licenses, and fraud involving firearm dealerships and training institutions", and allege a correlation between that and the end results of their submissions and conclusions, yet they provide no base data to substantiate the conclusions and in effect just jump to the conclusions that suit their agenda.

109. Paragraph 53 in particular contains an emotive and baseless

argument. Semi-automatic rifles are not military weapons, and as proven by Dr. Richard Wesson's research there is absolutely no correlation by increased handgun ownership and increased murder rates - an inverse relationship was actually observed, as was also the case with the statistics of Kennesaw, Georgia, for instance. Nations with far lower murder rates than the United Kingdom and Botswana have placed no bans or severe restrictions on civilian possession of handguns, so to claim that doing so is somehow in the public interest is disingenuous and based on cherry-picked data and biased interpretations.

110. There seems to be no appreciation for the fact that many fit and

proper persons have been denied the opportunity to protect their lawful interests such as the protection of their lives, as a result of administrative malfunctioning of the CFR. This offends against the principles of the right to life of the individual, and the right to fair administrative process. The





right to life becomes meaningless if the means to protect life when it is threatened are denied. The Dinokeng matter that was referred to above, is one such a case in point. In that case the safety situation has dramatically improved for the reserve and even for the adjoining area after the game wardens received their firearms and in the more than two years since the game guards received their licensed firearms not a single rhino has been poached.

111. There is simply is no clear data that can justify any firm conclusions

being drawn on either side of the divide to justify conclusions as to the effect or not of the FCA as such on the number of unlawful killings.

112. What is clear, is that a system that is unnecessarily overburdened is

in no-ones' interest, and this is why GOSA proposes that the SAPS should rather concentrate on the fitness of individuals.

113. It however appears that GFSA confuses with the provisions of the

FCA that are relevant to the competence of the individual, with the provisions regarding relicensing, that offends against the principle that GFSA itself states, namely "license the person and register the firearm", if one has regard to the contents of their paragraph 57.

114. The contents of their paragraph 57 are therefore very important as

this clearly demonstrates the irrationality of the system of relicensing for the alleged purpose of:



114.1 Ensuring that the OWNER still qualifies (relicensing should have nothing to do with ensuring that the owner is fit to possess if the provisions of the FCA regarding the competence of the possessor is correctly applied and followed);

114.2 Placing a responsibility on the owner to maintain FIT AND PROPER BEHAVIOUR (this confuses the issue of superfluous relicensing enactments with the requirements of being competent as a person);

114.3 "SINCE THERE IS A RISK THAT THE LICENSE MAY BE REVOKED" (This confuses the issue with the provisions regarding competence);

114.4 "AN INCETIVE FOR ACQUIRING A NEW LICENSE WHEN THE OLD LICENSE EXPIRES" (the inclusion of this statement makes no sense).

115. The actual reality of the system of relicensing does however

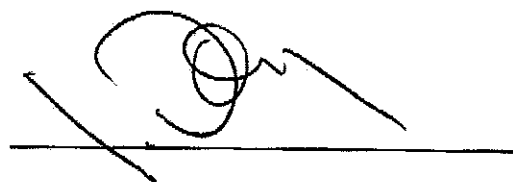
make even less sense than what GFSA states the ideal to be, viz. to "license the person and register the (individual) firearm". At this point in time every single firearm needs to be licensed and in fact it needs to be continuously relicensed despite the fact that the holder of the license has been verified to be competent to possess the firearm.



116. In a system where the emphasis is placed on the competence or not of the individual to possess, the individual firearm (with all its details) is registered on the national database. At present the owner holds no license as a person, and each firearm holds its own license. This is exactly why the system is overburdened with unnecessary and triplicated paperwork and administration. To require of the millions of individual owners to keep on licensing the same firearms that are already licensed, makes the system totally unworkable.

117. The current system therefore does in fact not result in a situation where the "entire process is streamlined" as a result of the provisions regarding competence as GFSA claims in their paragraph 57.

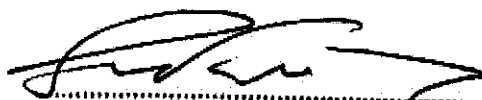
118. I therefore submit, that for all the above reasons, the provisions of the FCA that prescribe continuous cycles of compulsory relicensing, are unconstitutional, as will be further argued should GOSA be admitted as amicus curia.



DEPONENT

SIGNED BY THE DEPONENT IN MY PRESENCE WHO HAS  
TAKEN THE PRESCRIBED OATH AND HAS SWORN THAT  
THE CONTENTS IS THE TRUTH

COMMISSIONER OF OATHS

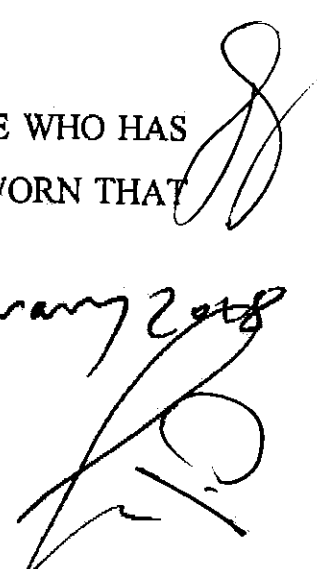


**STEVEN WEINBERG**

Commissioner of Oaths  
Practising Attorney R.S.A.

23 West Street, Houghton Estate, 2196

1 February 2018



181  
PO 1

**IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA  
(HELD AT BRAAMFONTEIN)**

Case number CCT 177/2017

North Gauteng High Court case number 21177/2016

In the application for admission as amicus curiae of:

**GUN OWNERS OF SOUTH AFRICA (GOSA)**                      Applicant

And

**THE MINISTER OF SAFETY AND SECURITY**                      Appellant  
**OF SOUTH AFRICA**

And

**THE SOUTH AFRICAN HUNTERS AND GAME**                      Respondent  
**CONSERVATION ASSOCIATION**

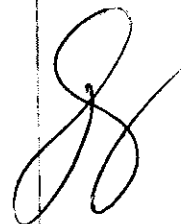
---

**MANDATE AND RESOLUTION**

---

It is hereby resolved by the Executive Committee (Exco) of Gun Owners of South Africa (GOSA), a voluntary organisation not for gain, that it authorises Mr. Paul Oxley in his capacity as chairperson of the organisation, to represent GOSA in these proceedings before this Honourable Court, and to do all such







things and sign all affidavits and to provide instructions to the attorney of record and counsel herein on behalf of GOSA.

\_\_\_\_\_  
Gugu Bohali (vice chairman North)

\_\_\_\_\_  
Montenique Booley



\_\_\_\_\_  
Ric McNamee

\_\_\_\_\_  
Bryan Mennie

\_\_\_\_\_  
Aziza de Villiers

Date: 01-02-2018  
\_\_\_\_\_

\_\_\_\_\_  
Gideon Joubert (VC  
South)

\_\_\_\_\_  
Wouter de Waal

\_\_\_\_\_  
Johan Schoeman



# CONSTITUTION OF GUN OWNERS OF SOUTH AFRICA

## ARTICLE I – IDENTIFICATION

### Section I                      Name

The name of the organisation shall be **Gun Owners of South Africa (GOSA)**, hereinafter referred to as "the Organisation". It is a non-profit firearm rights organisation.

### Section II                      Legal Status

The Organisation, in its own name, shall be capable in law of suing and of being sued and of acquiring, holding and alienating property, movable and immovable.

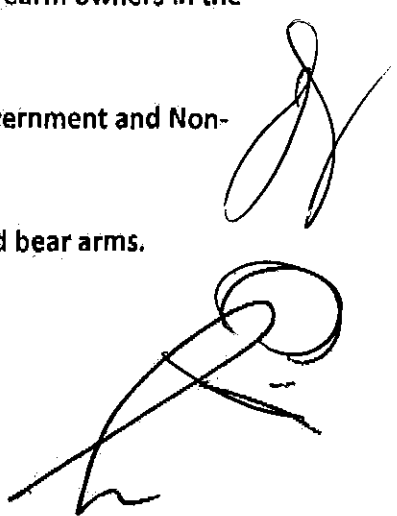
## ARTICLE II – PURPOSE

### Section I                      Purpose

The purpose of the Organisation shall be to campaign for the advancement and protection of the rights of all lawful firearm owners in the Republic of South Africa. Our intent is to rally support from all sectors of the public and media (Nationally and Internationally) and to expose the Firearm Control Legislation for what it is: poorly researched, analyzed and unconstitutional legislation, based on untruths, infringing on South Africans' fundamental/basic human rights.

We are committed to work towards the repeal of the Firearms Control Act 60 of 2000 and to ensure that fair and equitable legislation is formulated that will benefit all law abiding South Africans.

The goals of the Organisation shall be:

- To protect, represent, and advance the interests of all lawful firearm owners in the Republic of South Africa.
  - To promote firearm ownership in South Africa by engaging Government and Non-Government Organisations.
  - To affirm the rights of all people within South Africa to own and bear arms.
- 

### ARTICLE III – MEMBERSHIP

#### Section I Membership

Any citizen or legal resident of the Republic of South Africa is eligible for membership of the Organisation. Members shall ensure compliance with the Organisation's Code of Conduct, and all members and their membership status shall be governed by the content of the Constitution as set out.

#### Section II Removal of Membership

Membership of any member of the Organisation (including ExCo members) may be revoked by a two-thirds majority vote of the members in good standing present at any special general meeting called for this purpose. No vote on suspension or revocation of membership may be taken unless at least fourteen (14) days notice in writing shall have been given to the member / official of the reasons for his/her removal and of the time and place of the special meeting at which such ballot on his/her removal is to be taken. At such special meeting the member shall be given a full hearing. Any member may be suspended or have his membership revoked for any cause deemed detrimental to the Organisation, by way of a two-thirds majority vote of present members at any special general meeting called for this purpose.

### ARTICLE IV – MEMBERSHIP FEES

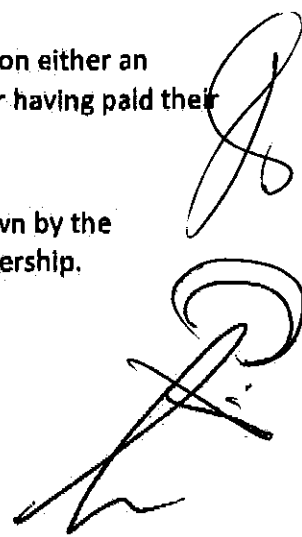
#### Section I Dues

No member of the Organisation, in arrears, shall be eligible to enjoy any of the privileges or benefits offered by this Organisation. Membership dues shall be payable annually in advance and period of membership shall be for twelve calendar months from the date of payment of annual membership dues, the amount and recurrence of which shall be determined by the ExCo.

#### Section II Categories of Membership

**Individual Membership.** Ordinary membership of the Organisation will be on either an annually renewable or lifetime basis. Ordinary members are accepted after having paid their respective fees.

**Corporate Membership.** Business entities that comply with criteria set down by the Executive Committee from time to time may be awarded corporate membership.



## ARTICLE V – OFFICERS

### Section I Eligibility and Roles of Officers

The officers of the Organisation shall be as listed below; who acting together shall constitute the Executive Committee (ExCo). They shall be elected by a majority vote, by ballot, of the members in good standing at the AGM of the organisation. They shall hold office for two years or until successors are elected, whichever may be sooner. Their period of office may only be extended for longer than two years with the approval of a properly constituted AGM or Special General Meeting. All officers must be 21 years of age or older.

The ExCo will be composed of the following officials, and shall each serve a two (2)- year period of office:

- a. Chairman
- b. Secretary.
- c. Treasurer.
- d. Director Administration.
- e. Director Marketing and Sponsorships
- f. Co-opted Member (s). Identified and appointed by ExCo as required.

The function of rotating chairperson shall be performed by one of the ExCo members duly appointed by a majority of the ExCo members on a year to year basis.

The ExCo has general supervision and control of all the activities of the Organisation. The ExCo may enter into agreements with other organisations and individuals to further the objectives of the Organisation. The ExCo functions and conducts its business on the basis of consensus and majority vote.

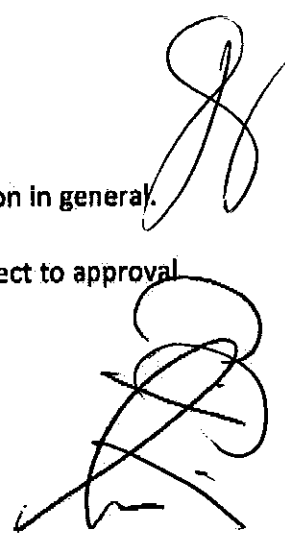
Resignation by any officer must be submitted to the ExCo in writing.

A vacancy in the ExCo may be filled by a majority vote of the remaining members of the ExCo and the official thus selected will serve as a full member of the ExCo until the first AGM or Special General Meeting at which time this post will be filled by election. However, if more than one vacancy simultaneously exists, a special meeting of the Organisation shall be called and new officials shall be elected to fill the vacancies.

### Section II Responsibilities


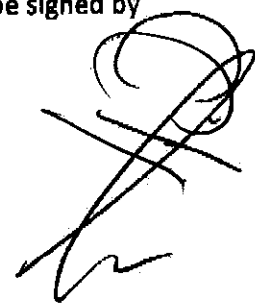
The ExCo shall have the following powers:

- 1) The ExCo shall exercise control over the funds and affairs of the Association in general.
- 2) The ExCo shall have the power to amend, add to or repeal the Rules, subject to approval by a Meeting through a majority vote.





- 3) The ExCo shall have the power to amend, add to or repeal the Rules where they have a bearing on the general administration of Association affairs: Provided that notice shall be given of such Rule amendments prior to the next Meeting.
- 4) The ExCo shall have the following further powers:
  - (a) To suspend or expel Members from the Association;
  - (b) To establish links between the Association and any other organized body, such association or co-operation as the Board may think proper in the interests of the Association;
  - (c) To authorize the establishment of branches of the Association
  - (d) To receive, hold and administer all donations, bequests or endowments of property of any description which may be given to the Association;
  - (e) To provide premises and other facilities for meetings and other purposes of the Association;
  - (f) To exercise its discretion in order to grant exemptions to the provisions of the Rules in exceptional circumstances and subject to such conditions it may deem fit.
- 5) A special meeting of the ExCo may be called at any time by the Chairman or failing him/her, the Secretary or Treasurer, and shall be so called at the written request of at least three (3) members of the ExCo.
- 6) Except in cases of emergency, at least twenty-one (21) days' notice of a meeting of the Board shall be given by the Secretary to each Board member at his/her registered address.
- 7) Four (4) members of the ExCo shall form a quorum.
- 8) At all meetings the Chairman, or in his/her absence the Secretary, shall be Chairperson; in the absence of both, a Chairperson shall be elected from among the members present.
- 9) All questions that may come before any meeting of the ExCo shall, in the case of a difference of opinion, be decided by the majority of the members present at that meeting.
- 10) Minutes of all resolutions and proceedings of meetings of the ExCo shall be appropriately recorded.
- 11) The office of the ExCo shall be at such place as the ExCo may from time to time decide.
- 12) The ExCo shall have the following powers:
  - (a) to prescribe the form to be used, and the procedure to be adopted by applicants for admission to the Organisation, and to prescribe the form of declaration to be signed by applicants;

- (b) to prescribe the form of Proof of Membership of the Organisation;
- (c) to do all such other things as are, in the opinion of the ExCo, incidental or conducive to the performance of the duties or the exercise of the powers given it in these Rules and the Constitution.

13) Responsibilities of the ExCo:

- (a) The ExCo shall control the financial affairs of the Organisation.
- (b) The ExCo shall keep a register of all Members of the Organisation;
- (c) The ExCo shall have custody of the seal of the Organisation.

14) The ExCo may, whenever it thinks fit, call a Special Meeting. A Special Meeting shall also be called by the Secretary within nine (9) weeks of receipt by him/her of a written request, signed by not less than ten percent of the voting members of the Organisation, stating the purpose Meeting: Provided that the request may be withdrawn by all members whose names appear on the written request.

#### ARTICLE VI – DISBURSEMENT OF FUNDS

The Treasurer shall have charge of all funds, membership dues, and other income of the Organisation and place the same in such bank or banks as may be approved by the ExCo.

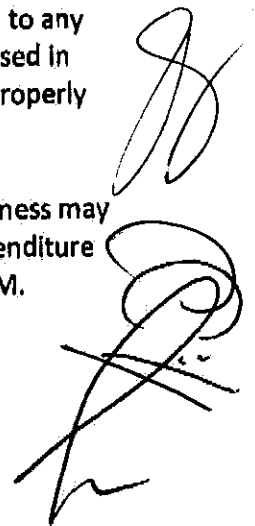
All income, whether cheques or cash shall be deposited as above and may not be directly credited to any petty cash amount held or to any third party.

Such money shall only be withdrawn and for the payment of such bills the ExCo have approved. The Treasurer shall keep accurate account of all transactions and render a detailed report with vouchers at any meeting of the ExCo when requested and an annual report to the Organisation at its Annual General Meeting.

The Treasurer may maintain a petty cash amount for payment of day to day office administration expenses, such amount will be accounted for as above and the total amount of cash and/or vouchers on hand at any time may not exceed a sum authorised by majority ExCo decision. A detailed petty cash expenditure report with vouchers submitted and approved at any meeting of the ExCo shall authorise the withdrawal of a sum equal to the total of the approved vouchers in order to restore the petty cash amount held to the approved level.

No salaries, directors fees, donations, subsidies, gifts or honorariums may be paid to any person, member or official from Organisation Funds unless such has been authorised in terms of a budget previously presented to and approved by a majority vote of a properly constituted AGM or Special General Meeting.

Real expenses incurred by officials and other members in execution of GOSA business may be reimbursed subject to authorisation by a majority ExCo decision and such expenditure must be detailed in the annual financial report tabled for approval during the AGM.



Such ExCo authorisation must also be in terms of a budget estimate previously presented to and approved by a majority vote of a properly constituted AGM or Special General Meeting.

Any property or asset acquired by the Organisation shall remain the property of the association, and shall be recorded in an asset register and may only be disposed of in a manner approved by a majority ExCo decision. Responsibility for the management thereof shall rest with the Treasurer.

Two handwritten signatures in black ink, one to the left of the other, both appearing to be stylized and illegible.

PO3

SOUTH AFRICAN POLICE SERVICE



SUID-AFRIKAANSE POLISIEDIENS

**REQUEST FOR ACCESS TO RECORD OF THE SOUTH AFRICAN POLICE SERVICE**

(Section 18(1) of the Promotion of Access to Information Act, 2000 (Act No 2 of 2000))

**A. Particulars of public body**

The name and postal or street address, fax number or e-mail address of the deputy information officer must be stated below.

The deputy information officer: Colonel Amelda Crooks  
crooksa@saps.gov.za

**B. Particulars of person requesting access to the record**

- (a) The particulars of the person who requests access to the record must be recorded below.
- (b) Provide an address and/or fax number to which the record must be sent.
- (c) In the case of a personal requester (ie a requester requesting access to a record which contains his or her personal information), also complete the certificate on the last page of this form in the presence of a peace officer or justice of the peace who must also complete his or her part of the certificate.
- (d) If the request is made on behalf of a personal requester, documentary proof of the capacity of the requester to make the request on behalf of another person must be attached to this form. Such documentary proof may, amongst other, be —
- (i) a general or specific power of attorney and a copy of the client's ID / passport;
  - (ii) a certified copy of the birth certificate of a minor and a certified copy of the identity document of the parent;
  - (iii) the letter of appointment as the executor of an estate issued by the Master of the High Court, together with proof of identity in the case of a request on behalf of a deceased estate;
  - (iv) where the request is made on behalf of a corporate body, a letter by an authorised person which authorizes the requester to make the request; or
  - (v) a copy of the page(s) of an insurance contract where the client have signed and where it is stated that the insurance company may act on behalf of the client.
- (e) If the person on whose behalf the request is made, has orally authorised the requester or by means of a letter to make the request on his or her behalf, the certificate at the end of paragraph C must be completed by the person on whose behalf the request is made in the presence of a peace officer or justice of the peace who must also complete his or her part of the certificate.

Full names and surname: Paul Hilton Oxley

Identity number: 621218 5079 089

Postal address: 2 Swazi Street, Northcliff Extension 3, Johannesburg

Postal code: 2195

Telephone number: 011 888 4037

Fax number: 011 888 1041

E-mail address: paul@gunownerssa.org

**C. Particulars of person on whose behalf request is made**

- (a) This paragraph must be completed if a request for information is made on behalf of another person.
- (b) The certificate at the end of this paragraph must be completed if —
- (i) the person on whose behalf the request is made, has orally authorised the requester or by means of a letter to make the request on his or her behalf; or
  - (ii) documentary proof of capacity (see paragraph B(d)(i) to (v) above) to act on behalf of another person can not be attached or is not attached to this form.

Full names and surname: \_\_\_\_\_

Identity number: \_\_\_\_\_

Capacity in which request is made on behalf of another person: \_\_\_\_\_

**\*Certificate:**

I, \_\_\_\_\_, hereby authorize the requester to request access to the aforementioned record on my behalf.

My identity number is: \_\_\_\_\_

---

**SIGNATURE OF PERSON ON WHOSE BEHALF REQUEST IS MADE**

I, \_\_\_\_\_, hereby certify that I am satisfied that the person on whose  
*(state rank, name and surname of peace officer or justice of the peace)*  
 behalf the request is made, is the person that signed the letter authorising the requester to submit the request on his or her behalf or is satisfied that the person whose identity number appears on this certificate, is one and the same person that signed this certificate.

Signed on \_\_\_\_\_ (date) at \_\_\_\_\_ (place).

---

**SIGNATURE OF PEACE OFFICER / JUSTICE OF THE PEACE**  
*(ie the signature of a magistrate, judge, police official or correctional official, etc as defined in Act 51 of 1977 & Act 16 of 1963. Although the legal representative of a requester (eg an attorney or lawyer) or other person, may be regarded as a "commissioner of oath", he or she is not regarded as a Peace Officer or a Justice of Peace.)*

**D. Particulars of record**

- (a) Provide full particulars of the record to which access is requested, including the reference number, if that is known to you, to enable the record to be located.
- (b) If the provided space is inadequate, please continue on a separate folio and attach it to this form. The requester must sign all the additional folios.

Description of record or relevant part of the record: See Annexure (attached)

Reference number, if available: \_\_\_\_\_

Is the record is requested for:

Mark with "X"	
X	(i) The purpose of civil proceedings that has commenced (ie a court date for the civil case has been determined, or summons or other process has been issued (a notice of the intended institution of legal proceedings against the SAPS in terms of section 3(1) of the Institution of Legal Proceedings against Certain Organs of State Act, 2002 (Act No. 40 of 2002) is also included))
	(ii) The purpose of criminal proceedings that has commenced (ie where a criminal investigation has already started or the criminal case docket is still open)
	(iii) Any other purpose not mentioned in (i) or (ii)

**E. Fees**

- (a) A request for access to a record (excluding a record containing personal information about yourself), will be processed only after a request fee has been paid. The request fee is not payable by —
  - (i) a requester who requests access to a section 15 automatically available record;
  - (ii) a personal requester (ie a requester requesting access to a record which contains his or her personal information); or
  - (iii) the authorised representative (eg attorney, lawyer, insurance company, next of kin, parents of the minor child, etc) of the person whose personal information is contained in the requested record.
- (b) In addition, where applicable, actual postage fee and an access fee or reproduction fee may also be payable. The access or reproduction fee depends on the form in which access is required and the reasonable time required to search for and prepare a record.
- (c) You will be notified of the fees that are payable.
- (d) If you are of the opinion that you qualify for exemption from the payment of any fee, please state the reason therefor.

Reason for exemption from payment of fees: \_\_\_\_\_

**F. Form of access to record**

If you are prevented by a disability to read, view or listen to the record in the form of access provided for in 1 to 4 below, state your disability and indicate in which form the record is required.

Disability: _____	Form in which record is required: _____
-------------------	---

Mark the appropriate box with an "X" to indicate the form in which you would prefer access to the record.  
(Note that it may not necessarily be possible to grant access to the record in the form or on the medium you requested. In such a case you will be informed of the form or medium in which access will be granted. Also note that the fee payable for access to the record, if any, will in part depend on the form in which access is requested.)

1. If the record is in written or printed form —			
	X		
2. (this includes photographs, slides, video recordings, computer-generated images, sketches, etc.)			
view the images		copy of the images*	X
3. If the record consists of recorded words or information which can be reproduced in sound —			
listen to the soundtrack (audio cassette)		transcription of soundtrack*	
4. If the record is held on computer or in an electronic or machine-readable form —			
view the record		printed copy of the record	
		copy in computer readable form* (stiffy or compact disc)	X
*If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted to you? If so, a postal fee is payable.			YES NO
In which language would you prefer the record? English			
Note that if the record is not available in the language you prefer, access may be granted in the language in which the record is available.			

G. Notice of decision regarding request for access

You will be notified in writing whether your request has been granted or refused. If you wish to be informed thereof in another manner, please specify the manner and provide the necessary particulars to enable compliance with your request.

How would you prefer to be informed of the decision regarding your request for access to the record?

Signed at Northcliff on this 5th day of January 20 18

SIGNATURE OF REQUESTER

Certificate for completion by the Peace Officer or Justice of Peace in the case of a personal requester (ie a requester requesting access to a record which contains his or her personal information):

I, \_\_\_\_\_, hereby certify that the requester, with identity (state rank, name and surname of peace officer or justice of the peace)

Number: \_\_\_\_\_ (of person who is requesting information about himself or herself) has signed the request form in my presence

and that I have satisfied myself that the person who signed the form and the person whose identity number appears on the form, is one and the same person.

Signed on \_\_\_\_\_ (place), \_\_\_\_\_ (date) at \_\_\_\_\_

SIGNATURE OF PEACE OFFICER / JUSTICE OF THE PEACE

(ie the signature of either a magistrate, judge, police official or correctional official, etc as defined in Act 51 of 1977 & Act 16 of 1963. Although the legal representative of a requester (eg an attorney or lawyer) or other person, may be regarded as a "commissioner of oath", he or she is not regarded as a Peace Officer or a Justice of Peace.)

FOR DEPARTMENTAL USE

Request received by \_\_\_\_\_ (state rank, name and surname of deputy information officer)

on \_\_\_\_\_ (date) at \_\_\_\_\_ (place)

SIGNATURE OF DEPUTY INFORMATION OFFICER

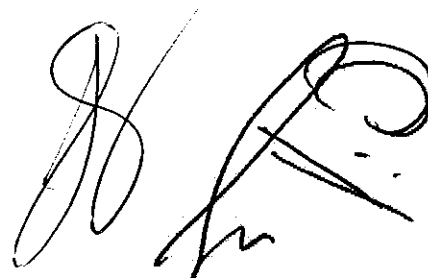
## ANNEXURE

### INTRODUCTION AND BACKGROUND

This request of information is made to enable GOSA (Gun Owners South Africa) to consider the requested information, to be able to refer the information to its own actuary in order to perform certain mathematical projections, and to enable GOSA to then meaningfully engage with the SAPS on these issues, at all levels of engagement, that includes meetings with the SAPS, discussions on these issues at the level of the Parliamentary Portfolio Committee, and possible future court processes, which also includes the possibility that GOSA may intervene as a party during the pending matter between SA Hunters & Game Conservation Association and others v the CFR and others, depending in particular on the outcome of this request and the information supplied and the calculations by the actuary.

As far as the Constitutional Court matter is concerned, it should be noted that GOSA is of the view that the matter cannot properly be decided without the court having had the benefit of the information that is requested herein. As such, it should be noted that GOSA is of the view that the entire relicensing scheme is inoperable, not unconstitutional as such and that it should be abolished in total.

GOSA therefor invite the SAPS to furnish it with the requested information (that GOSA believes should be available and at hand) or as many of the information as possible as soon as possible, in order for GOSA to be able to engage further on all these issues with the SAPS at all the possible levels of engagement.



## RECORDS AND INFORMATION REQUIRED

The SAPS is required to make the following information and records available to the requestor:

1. For each year from 1995 to date, per year, the number of:

1.1 Primary (non – renewal) firearm licensing:

1.1.1 Number of license applications submitted, per section of the FCA, from section 13 to 20 and per subsection of section 20, and also pertaining to Dealers, Manufacturers, and Gunsmiths, (and in relation to the period before the FCA took effect, the total numbers only for what has since the introduction of the FCA been specified as per sections 13 to 20, and this also applies to the below);

1.1.2 Number of license applications finalized at the end of each year per section of the FCA;

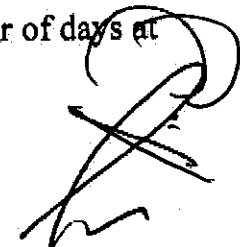
1.1.3 Number of license applications refused at the end of each year per section of the FCA per category;

1.1.4 Number of license applications approved at the end of each year per section of the FCA per category;

1.1.5 Number of outstanding license applications at the end of each year per section of the FCA per category;

1.1.6 Average time taken to finalize license applications during each year per section of the FCA per category;

1.1.7 Average time taken in days to finalize license applications during each year per phase of the application process, i.e. time for DFO to process application from date of submission, number of days for DFO to take application to Provincial, number of days at Provincial, number of days at





CRC, number of days at CFR, number of days for license card to be made available to applicant;

1.1.8 Projections / estimates on numbers in all these categories for the next 25 years per year;

1.1.9 Number of SAPS and Non SAPS personnel required to fulfil the primary licensing function per year since 1995;

1.1.10 Estimates on the above over the next 25 years;

1.1.11 Man hours required per year to fulfil this function from 1995 to date and estimates for the next 25 years;

1.1.12 Estimated man hours per year to fulfil this function as above over the next 25 years per year;

1.1.13 Costs required up to date to fulfil this function per year

1.1.14 Estimated costs per year to fulfil this function over the next 25 years;

1.1.15 Total number of licenses for firearms in circulation per year from 1995 to date;

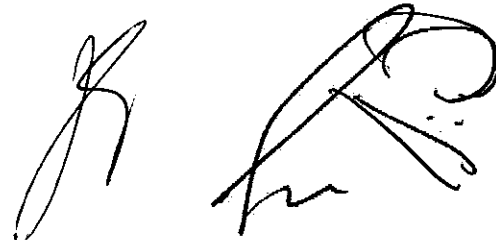
1.1.16 Estimated total number of licenses for firearms per year for the next 25 years;

1.1.17 Number of Infringement Notices issued for transgressions of the FCA per section of the FCA, per year;

1.1.18 Number of convictions for offences in terms of section 120 of the FCA for people who lawfully possessed firearms, per section of the FCA, per year, since the introduction of the FCA, to date;

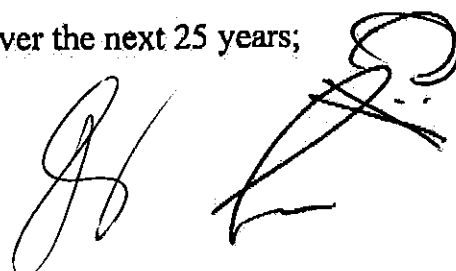
1.1.19 Number of outstanding case dockets / criminal investigations solved as a result of the requirement of the provisions regarding licensing contained in the FCA;

1.1.20 Number of licenses cancelled by the SAPS per year as a result of the holders thereof being declared unfit to possess a firearm under section 102 or 103 of the FCA.



1.2 Renewal licensing:

- 1.2.1 Renewal license applications submitted, per section of the FCA, from section 13 to 20, and also pertaining to Dealers, Manufacturers, and Gunsmiths), from the time of the first cycle of renewals as prescribed by the FCA since its introduction;
- 1.2.2 Renewal license applications finalized at the end of each year per section of the FCA;
- 1.2.3 Renewal license applications refused at the end of each year per section of the FCA per category;
- 1.2.4 Renewal license applications approved at the end of each year per section of the FCA per category;
- 1.2.5 Number of outstanding renewal license applications at the end of each year per section of the FCA per category;
- 1.2.6 Average time taken to finalize renewal license applications during each year per section of the FCA per category;
- 1.2.7 Projections / estimates on numbers in all these categories for the next 25 years per year;
- 1.2.8 Number of personnel required to fulfil this function per year;
- 1.2.9 Estimates on the above over the next 25 years;
- 1.2.10 Man hours required per year to fulfil this function from the time of the first renewals cycle in terms of the FCA until now, and projected numbers for the next 25 years;
- 1.2.11 Estimated man hours per year to fulfil this function as above over the next 25 years per year;
- 1.2.12 Costs required up to date to fulfil this function per year;
- 1.2.13 Estimated costs per year to fulfil this function over the next 25 years;



1.2.14 Number of outstanding case dockets / criminal investigations solved as a result of the requirement of the provisions regarding licensing contained in the FCA.

1.3 Accreditations:

- 1.3.1 Accreditation applications submitted, per section of the Regulations to the FCA, from section 3 to 12 of the Regulations of 2004 to the FCA, per year;
- 1.3.2 Accreditation applications finalized at the end of each year per section of the FCA;
- 1.3.3 Accreditation applications refused at the end of each year per section of the FCA per category;
- 1.3.4 Accreditation applications approved at the end of each year per section of the FCA per category;
- 1.3.5 Number of outstanding accreditation applications at the end of each year per section of the FCA per category;
- 1.3.6 Average time taken to finalize accreditation applications during each year per section of the FCA per category;
- 1.3.7 Projections / estimates on numbers in all these categories for the next 25 years per year;
- 1.3.8 Number of personnel required to fulfil this function per year and estimates over the next 25 years;
- 1.3.9 Man hours required per year to fulfil this function and estimated man hours per year to fulfil this function over the next 25 years per year;
- 1.3.10 Costs required up to date to fulfil this function per year and estimated costs per year to fulfil this function over the next 25 years.



1.2.14 Number of outstanding case dockets / criminal investigations solved as a result of the requirement of the provisions regarding licensing contained in the FCA.

1.3 Accreditations:

1.3.1 Accreditation applications submitted, per section of the Regulations to the FCA, from section 3 to 12 of the Regulations of 2004 to the FCA, per year;

1.3.2 Accreditation applications finalized at the end of each year per section of the FCA;

1.3.3 Accreditation applications refused at the end of each year per section of the FCA per category;

1.3.4 Accreditation applications approved at the end of each year per section of the FCA per category;

1.3.5 Number of outstanding accreditation applications at the end of each year per section of the FCA per category;

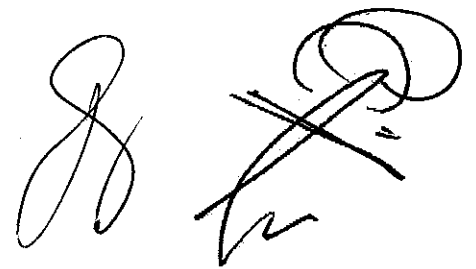
1.3.6 Average time taken to finalize accreditation applications during each year per section of the FCA per category;

1.3.7 Projections / estimates on numbers in all these categories for the next 25 years per year;

1.3.8 Number of personnel required to fulfil this function per year and estimates over the next 25 years;

1.3.9 Man hours required per year to fulfil this function and estimated man hours per year to fulfil this function over the next 25 years per year;

1.3.10 Costs required up to date to fulfil this function per year and estimated costs per year to fulfil this function over the next 25 years.



1.4 Import, export and in-transit permits:

1.4.1 Number of applications submitted, per Chapter 7 of the Regulations to the FCA of 2004, per category, per year;

1.4.2 Number of applications finalized at the end of each year per category;

1.4.3 Number of applications refused at the end of each year per category;

1.4.4 Number of applications approved at the end of each year per category;

1.4.5 Number of outstanding applications at the end of each year per category;

1.4.6 Average time taken to finalize applications during each year per category;

1.4.7 Projections / estimates on numbers in all these categories for the next 25 years per year;

1.4.8 Number of personnel required to fulfil this function per year and estimates over the next 25 years;

1.4.9 Man hours required per year to fulfil this function and estimated man hours per year to fulfil this function over the next 25 years per year;

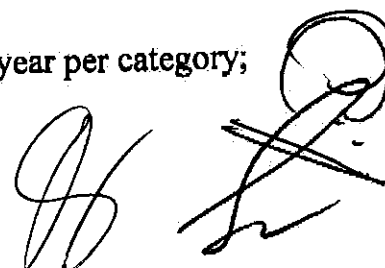
1.4.10 Costs required up to date to fulfil this function per year and estimated costs per year to fulfil this function over the next 25 years.

1.5 Competency certificate applications (primary):

1.5.1 Number of applications submitted, per category as provided for in section 9 of the FCA;

1.5.2 Number of applications finalized at the end of each year per section of the FCA;

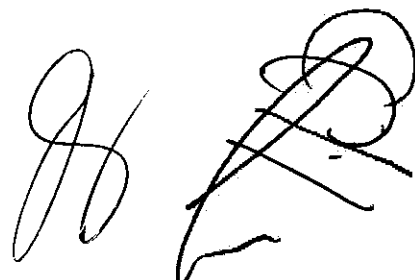
1.5.3 Number of applications refused at the end of each year per category;

Two handwritten signatures are present at the bottom right of the page. The first signature is a stylized, cursive 'H' or similar character. The second signature is more complex, featuring a large loop and a cross-like structure, possibly representing a name or a specific mark.

- 1.5.4 Number of applications approved at the end of each year per category;
- 1.5.5 Number of outstanding applications at the end of each year per category;
- 1.5.6 Average time taken to finalize applications during each year per category;
- 1.5.7 Projections / estimates on numbers in all these categories for the next 25 years per year;
- 1.5.8 Number of personnel required to fulfil this function per year and estimates over the next 25 years;
- 1.5.9 Man hours required per year to fulfil this function and estimated man hours per year to fulfil this function over the next 25 years per year;
- 1.5.10 Costs required up to date to fulfil this function per year and estimated costs per year to fulfil this function over the next 25 years;
- 1.5.11 Number of outstanding case dockets / criminal investigations solved as a result of the requirement of the provisions regarding competency certificates as contained in the FCA;
- 1.5.12 Number of Competency Certificates cancelled by the SAPS as a result of the holder being declared unfit to possess a firearm in terms of Section 102 or 103 of the FCA per year.

1.6 Applications for temporary authorizations as provided for in terms of section 21 of the FCA:

- 1.6.1 Number of applications submitted per year;
- 1.6.2 Number of applications finalized at the end of each year;
- 1.6.3 Number of applications refused at the end of each year;
- 1.6.4 Number of applications approved at the end of each year;
- 1.6.5 Number of outstanding applications at the end of each year;
- 1.6.6 Average time taken to finalize applications during each year;



1.6.7 Projections / estimates on numbers in all these categories for the next 25 years per year;

1.6.8 Number of personnel required to fulfil this function per year and estimates over the next 25 years

1.6.9 Man hours required per year to fulfil this function and estimated man hours per year to fulfil this function over the next 25 years per year;

1.6.10 Costs required up to date to fulfil this function per year and estimated costs per year to fulfil this function over the next 25 years.

1.7 Competency certificates renewal:

1.7.1 Applications submitted, per category of provided for in section 9 of the FCA;

1.7.2 Applications finalized at the end of each year per section of the FCA;

1.7.3 Applications refused at the end of each year per category;

1.7.4 Applications approved at the end of each year per category;

1.7.5 Number of outstanding applications at the end of each year per category;

1.7.6 Average time taken to finalize applications during each year per category;

1.7.7 Projections / estimates on numbers in all these categories for the next 25 years per year;

1.7.8 Number of personnel required to fulfil this function per year and estimates over the next 25 years;

1.7.9 Man hours required per year to fulfil this function and estimated man hours per year to fulfil this function over the next 25 years per year;

1.7.10 Costs required up to date to fulfil this function per year and estimated costs per year to fulfil this function over the next 25 years.

A handwritten signature in black ink, consisting of a large, stylized 'N' followed by a series of loops and a horizontal stroke.

1.8 SAPS 530 forms:

1.8.1 Number of forms received per year;

1.8.2 Number of forms processed per year;

1.8.3 Average time for processing forms per year.

1.9 Appeals:

1.9.1 Number of appeals noted against decisions by the CFR / number of appeals received by the Firearms Appeals Board per year;

1.9.2 Number of appeals approved / upheld;

1.9.3 Number of corrective actions taken by CFR pursuant to approved appeals;

1.9.4 Details of the above;

1.9.5 Number of appeals refused;

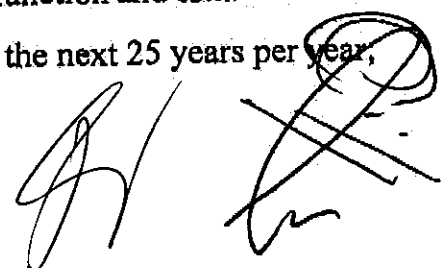
1.9.6 Average time taken by Appeal Board to finalize appeal per year;

1.9.7 Average time consumed in days from date of submission of license application to date that the successful appellant is placed in possession of his license card for the period since the introduction of the FCA per year.

1.9.8 Projections / estimates on numbers in all these categories for the next 25 years per year;

1.9.9 Number of personnel required to fulfil this function per year and estimates over the next 25 years;

1.9.10 Man hours required per year to fulfil this function and estimated man hours per year to fulfil this function over the next 25 years per year,





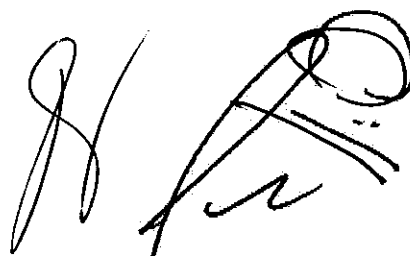
- 1.9.11 Costs required up to date to fulfil this function per year and estimated costs per year to fulfil this function over the next 25 years.

1.10 Declaration of unfitness of persons to possess a firearm:

- 1.10.1 Number of declarations per year in terms of section 102 of the FCA since its introduction to date;
- 1.10.2 Number of declarations per year in terms of section 103 of the FCA since its introduction.

1.11 Requests to alter firearm by gunsmith – (i.e. change of barrel when firearm is used in precision sport shooting):

- 1.11.1 Number of applications received per year since introduction of FCA;
- 1.11.2 Applications finalized at the end of each year;
- 1.11.3 Applications refused at the end of each year;
- 1.10.4 Applications approved at the end of each year;
- 1.10.5 Number of outstanding applications at the end of each year;
- 1.10.6 Average time taken to finalize applications during each year;
- 1.10.7 Projections / estimates on numbers for all the above categories for the next 25 years per year;
- 1.10.8 Number of personnel required to fulfil this function per year and estimates over the next 25 years;



1.10.9 Man hours required per year to fulfil this function and estimated man hours per year to fulfil this function over the next 25 years per year;

1.11 Application for permit to collect ammunition:

1.11.1 Number of applications received per year since introduction of FCA;

1.11.2 Applications finalized at the end of each year;

1.11.4 Applications refused at the end of each year;

1.11.5 Applications approved at the end of each year;

1.11.6 Number of outstanding applications at the end of each year;

1.11.7 Average time taken to finalize applications during each year;

1.11.8 Projections / estimates on numbers for all the above categories for the next 25 years per year;

1.11.9 Number of personnel required to fulfil this function per year and estimates over the next 25 years;

1.11.10 Man hours required per year to fulfil this function and estimated man hours per year to fulfil this function over the next 25 years per year.

2. Official institutions:



- 2.1 Number of firearms per year since the introduction of the FCA of which CFR has been notified or has records of that is in possession of government or official institutions that are exempt from licensing as per the FCA;
3. Number of SAPS and non-SAPS personnel required per year to maintain the CFR and for the SAPS to fulfil its functions in terms of the FCA in terms of (primary) firearms licensing;
4. Breakdown and description of positions and functions of personnel required to perform the functions of the CFR per year;
5. Amount of man hours required by SAPS to fulfil the functions of the FCA per year (from the time of the introduction of the FCA);
6. Budget allocation per year to fulfil the functions of the CFR;
7. Application for budget per year to fulfil the functions and duties of the CFR;
8. Actual allocation of budget per year;
9. Actual costs per year since the introduction of the FCA to operate the CFR and for the SAPS in total to fulfil all the functions in terms of the FCA;
10. State the above as a percentage of the costs of the salaries of SAPS detectives in the SAPS;

Two handwritten signatures are present at the bottom right of the page. The first signature is a stylized, cursive 'J' or 'I' followed by a loop. The second signature is more complex, with multiple loops and a long horizontal stroke extending to the right.

11. Estimates costs for the SAPS over the next 25 years per year according to the SAPS to fulfil the duties imposed upon it by the FCA;
12. Estimated costs over the next 25 years per year should the provisions in regards to re-licensing and re-application for competency certificates be scrapped.
13. Estimated saving in man hours over the next 25 years per year should the provisions regarding re-licensing and re-applications for competency certificates be scrapped.
14. Costs of IT system per year;
15. Provide an indication as to when the Central Dealers Data Base will be established and provide full reasons as to why it has not been established yet?
16. Number of firearms imported into the country for which the CFR did not process the necessary paperwork upon importation to cause the firearms to be registered on the name of the relevant importer per year.
17. Number of firearms imported into the country for which the CFR did not process the transfer of the firearms onto the records for the relevant dealer from the relevant importer per year.
18. Number of cases where the DFO's in 2017 refused applicants for license applications to submit their applications when it appeared to the DFO from

the records of CFR that the CFR did not process or capture the importation of the firearm, or the transfer to the name of the importer, or the dealer.



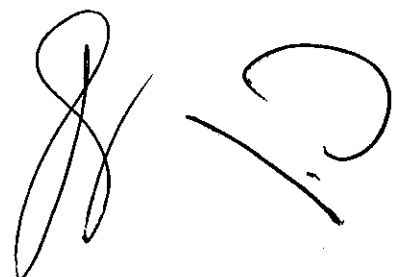
Memorandum:

Points raised by GOSA Legal Team in the meeting with the SAPS Legal Team on 22 June 2018

**A THE REGISTRAR HAS A DISCRETION TO EXTEND THE PERIOD OF VALIDITY OF LICENSES:**

1. GOSA is of the view that the Registrar has a discretion in terms of Section 28(6) of the FCA (Firearms Control Act, Act 60 of 2000), read with section 28(1), that again refers to Section 27, that enables the Registrar to exercise a discretion for the extension of the periods of validity of licenses<sup>1</sup>.
2. According to section 28(6), this discretion can be exercised on "good cause shown".
3. GOSA believes that such good cause can include the following:
  - 3.1 The fact that the limited periods of the validity of licenses, as mentioned in section 27, serves no practical purpose, alternatively that the implications of this section causes more disadvantages for proper control over firearms, than what the perceived advantages may ever be;
  - 3.2 The fact is that the CFR does not have the capacity to process or to have processed within a reasonable time (or at all) the 450 000 re-applications that

<sup>1</sup> [http://www.justice.gov.za/sca/judgments%5Czca\\_2005/2004\\_080.pdf](http://www.justice.gov.za/sca/judgments%5Czca_2005/2004_080.pdf) The Court has the ultimate power to exercise this discretion on behalf of the official if it fails to do so – In the Silverstar Casino case the SCA *ordered* the official *to issue* the casino license, instead of referring the matter back to the official  
<http://www.saflii.org/za/cases/ZASCA/2017/40.html> Where the Minister of Home Affairs was found to have the discretion to extend the validity of asylum seeker permits – **2017 SCA**  
**2018 Constitutional Court:** Pending finalisation of the review proceedings referred to in (a), a Refugee Reception Officer is obliged to issue or extend the permit of the asylum seeker concerned.  
<http://www.saflii.org/za/cases/ZACC/2018/9.pdf>



268

were not submitted, even if all applications had been made in time.<sup>2</sup> The argument that people should re-apply in time, is therefore irrelevant and even absurd<sup>3</sup>, as:

- a) the system would either have collapsed (would have become completely dysfunctional and overwhelmed due to total overload) already;
- b) the existing licenses would have been deemed to be valid<sup>4</sup> in any event if the applications were filed, despite them not being considered or processed;
- c) as in the past with the relicensing when the FCA initially came into operation, it would have taken the Registrar up to eight years to process the applications<sup>5</sup>, as was the situation with re-licensing when the FCA initially came into operation – the irony of this is that a license in terms of section 13 is only valid for 5 years as per the current provisions of section 27;

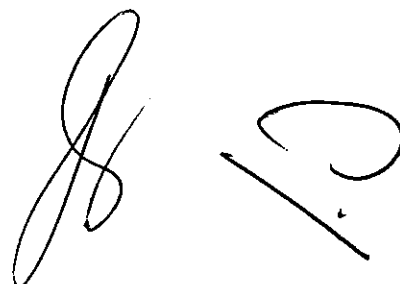
<sup>2</sup> According to a previous submission of the CFR to the Parliamentary Portfolio Committee on Police, the CFR processes 12 000 applications per month, and it can be common cause that the CFR struggles to cope with that amount.

<sup>3</sup> "It appears to me that the principle we should adopt may be expressed somewhat in this way — that when to give plain words of the statute their ordinary meaning would lead to absurdity so glaring that it could never have been contemplated by the legislature, or where it *could lead to a result contrary to the intention of the legislature*, as shown by the context or by such *other considerations* as this Court is justified in taking into account, the Court may depart from the ordinary effect of the words to the extent necessary to *remove the absurdity* and to give effect to the true intention of the legislature." Venter v Rex 1907 TS 910 at 914-5;

-See Hoban v ABSA Bank Ltd t/a United Bank and Others [1999] ZASCA 12; 1999 (2) SA 1036 (SCA) at 1044, which held that a definition provided in a statute should prevail, and quoted with approval from Canca v Mount Frere Municipality 1984 (2) SA 830 (Tk) at 832F the following statement: "Unless it appears that the Legislature intended otherwise and, in deciding whether the Legislature so intended, the Court has generally asked itself whether the application of the statutory definition would result in such injustice or incongruity or absurdity as to lead to the conclusion that the Legislature could never have intended the statutory definition to apply."

<sup>4</sup> Licenses are deemed to remain valid, if an application for the re-licensing of the firearm was *submitted* in time, although it may still be many years before it is decided. Section 24(4) FCA

<sup>5</sup> *On average a renewal for a firearm license could take between 5 months and 6 years to be finalized. We have been informed about some of the factors that contribute to such delays (incorrectly-filled forms by applicants, delays in the finalization of competency certificates and delays in the conducting safe inspections). In our view, this is still unacceptable.* Min. Nathi Methetwa, 2010 <http://www.politicsweb.co.za/documents/our-central-firearms-registry-turnaround-plan--mth>

The block contains two handwritten marks. On the left is a large, stylized signature that appears to be 'S. J.' or similar. To its right are the initials 'P.' followed by a horizontal line.

d) as the Registrar would in any event not have been able to properly apply his mind<sup>6</sup> to the applications given that the capacity for processing such large numbers of applications is lacking;

e) given that the approval of such applications would be a mere formality if the initial reasons for owning the firearm were simply repeated by the applicant (which is extremely likely to be the case in the vast majority of such re-applications), such reasons<sup>7</sup> having already been found to be valid by the Registrar, with the result that a repeat thereof therefore effectively serves no useful purpose whatsoever;

f) in the light of the current security situation in the country;

-where violent crime is out of control and large numbers of people have a justifiable reason for possessing a firearm for self-defense purposes;

-where there are many instances of criminals obtaining firearms from Police stations<sup>8</sup> and even from sources within the headquarters of the SAPS<sup>9</sup> and SANDF;

<sup>6</sup> A basic requirement to be met for administrative action to be valid. If it is clear that the Registrar / Official will not apply his mind, the Court can be approached to step into the shoes of the official:

"[38] I am in agreement with Mr Rip SC. and, after having considered all the facts, and in view of the concession made by the respondents in this regard pertaining to second, third and fourth respondents, I am of the opinion that the applicants are indeed entitled to approach this court directly on the basis of the existence of exceptional circumstances required in terms of section 7(2)(b) of PAJA.

The first respondent refused the first applicant's section 21 applications. In this regard MrMongwe, chairman of the second applicant, as pointed out by Mr Rip SC, has already, in his capacity as chairman of the second respondent, associated with first respondent's considerations for having refused the applications, in remarking that the applicants should not be entitled to the granting of the applications. I agree with Mr Rip SC in this regard.

[43] I am accordingly of the opinion that the applicants succeeded in proving that they are entitled to approach this court for the relief sought." <http://www.saflii.org/za/cases/ZAGPPHC/2010/49.html>

<sup>7</sup> Section 24(3) of the FCA

<sup>8</sup> <https://www.news24.com/SouthAfrica/News/Police-have-lost-20-429-weapons-20110309>

<https://www.news24.com/SouthAfrica/News/guns-go-missing-from-police-station-in-cape-town-20170830>

<https://www.timeslive.co.za/news/south-africa/2017-10-13-2270-police-guns-lost-and-stolen-over-past-three-years/>

<https://www.iol.co.za/mercury/kzn-police-lose-over-500-firearms-13111323>

<https://www.dispatchlive.co.za/news/2017-09-14-ec-police-still-losing-firearms-at-rate-of-128-a-year/>

<sup>9</sup> <https://www.news24.com/SouthAfrica/News/ex-cop-in-guns-to-gangs-case-should-be-charged-with-murder-lawyer-20180608>



-where violent protests<sup>10</sup> that lead to the largescale destruction of property and infrastructure are a daily occurrence right across the entire country;

-where the SAPS clearly have other more important priorities to focus on and where it appears that it does not have the necessary resources to allocate in efficiently and securely taking in approximately 450 000 firearms an estimated 60 million or more rounds of ammunition<sup>11</sup> and to address all the processes<sup>12</sup> that needs to be followed to ensure the safe, secure and legal handling of such items in the context, of such an anticipated project.

3.3 The reality is that the entire system of control over firearms is likely to collapse if those numbers of re-applications must be processed if the current prescripts relating to continuous re-licensing are left in place;

3.4 The fact is that those firearms possessed under expired licenses are better left in the possession of their owners with lapsed licenses, as compared to them being taken in by the SAPS;

3.5 There is no inherently good reason for those owners not to continue to possess these firearms, outside of the mere fact of such licenses having expired by running out of time;

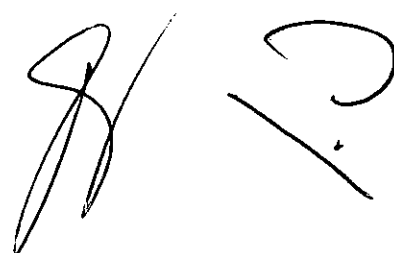
3.6 It serves no useful social purpose to subject the entire population that predominantly consist of "people who normally behave well" (that is to say: "good people"), to a re-evaluation of the *purpose* for them owning a firearm, when such persons were already established and confirmed to be fit and proper to own a firearm<sup>13</sup> (and where there has not been any indication of any change

<sup>10</sup> <https://www.businesslive.co.za/bd/national/2018-05-14-service-protests-are-on-the-rise--and-are-increasingly-violent/>

<sup>11</sup> This is calculated at a conservative average of less than 150 rounds of ammunition per firearm

<sup>12</sup> This includes the compulsory ballistic testing of all those firearms

<sup>13</sup> In terms of the provisions of the FCA that relates to the investigations that need to be conducted on whether a person is fit and proper to possess a firearm, which investigations are done before a license will be issued in the first place.

Handwritten signature and initials in black ink, located at the bottom right of the page.

of their status as such) at the expense of the effectiveness of the state and in particular the SAPS, that must “*serve and protect*” its citizens<sup>14</sup>. On the basis of any reasonable consideration, the time and resources of the SAPS and the taxpayer’s money are better spent on the SAPS focusing their attention on the criminal elements of our society. Currently the focus however seems to be in the wrong place.

3.7 There are currently already provisions in the FCA that cater for the following:

3.7.1 Strict requirements in section 13 – if a license is issued then the Registrar is satisfied that the person has a need to defend himself and that the need cannot be realistically satisfied without the possession of a firearm – in all reasonableness, it can never be argued that the security situation in South Africa will improve to such an extent that this need will fall away in the foreseeable future<sup>15</sup>. There is no sound justification for compelling someone to then be deprived from their only realistic form of self – defense solely based on the effluxion of time. The need may arise at any time and at less than a moment’s notice and it may very well be unexpected. This is the very nature of the concept of self-defense.

3.7.2 Occasional Sport Shooters and Hunters – Section 15 – the Registrar has already accepted the fact that a licensee uses his firearm *from time to time* and *on occasion*. There is no sound justification for putting a time limit on the validity of such a license, in fact it amounts to a *contradictio in terminis*.

---

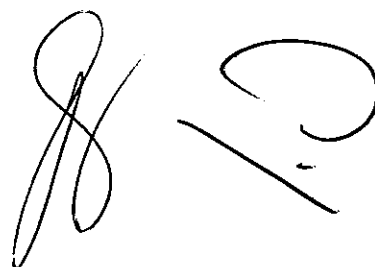
<sup>14</sup> “Public approval

Application: Employees of the SAPS always work with and for the approval of the community.

Explanation: We will serve the best interest of the community, seeking the approval of the broad community in everything we do.”

<https://www.saps.gov.za/about/ethics.php>

<sup>15</sup> The need indeed becomes even more pressing, the older the licensee get, in the light of diminishing physical abilities.

Handwritten signature and initials in black ink, located at the bottom right of the page.

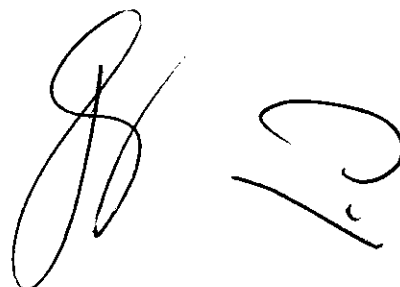
- 3.7.3 Dedicated Sport Shooters and Hunters – Section 16 – the existing provisions of the FCA call for an annual confirmation by the SAPS - Accredited Associations to the SAPS of the *bona fides* of this class of firearm owner<sup>16</sup>. The additional requirement of periodic re-licensing is unnecessary and counter-productive.
- 3.7.4 Collectors – the same principles apply – and over and above that, the collectability of the specific firearm would also already have been verified in terms of the existing provisions of the FCA as read with the Regulations – there is no logical reason why that would then ever change in the future.
- 3.7.5 Businesses – the existing requirements allows a member of the SAPS to enter the premises and to conduct an investigation at any point, without a warrant<sup>17</sup>. It also requires of the SAPS to do monthly inspections. A further requirement is that the business is required to inform the SAPS (pro-actively) of any change in circumstances. A business may not have more firearms than what is reasonably required based on the amount of personnel with certificates of competence. There is no additional need for the re-licensing of the firearms, and such a requirement is counter-productive towards the achievements of the goals of the legislation, i.e. for the SAPS to have effective<sup>18</sup> control over firearms.
- 3.7.6 The SAPS – Accredited associations need to submit annual returns of the status of their members to the CFR in terms of the existing legislation.

---

<sup>16</sup> Section 4(1)(e); Section 4(2)(b)

<sup>17</sup> Section 109 FCA

<sup>18</sup> The FCA was based on a model for a firearms registry that Canada experimented with. Canada has since abolished the model pertaining to rifles as it found it to be unworkable. The remaining provisions are equally inoperable, irrational and unfair. <http://nationalpost.com/opinion/matt-gurney-yet-another-part-of-the-canadian-firearms-system-that-doesnt-work>

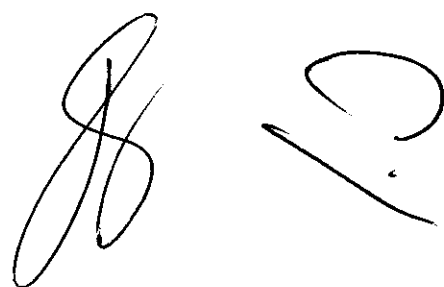
Handwritten signature and initials in black ink, located at the bottom right of the page.

<https://www.news24.com/SouthAfrica/Local/Amanzimtoti-Fever/accruited-firearms-institutions-to-submit-annual-returns-20171129>

4. The expectation from the courts<sup>19</sup> is that the SAPS should take reasonable (in terms of the principles of our common law that are well settled) steps to ensure that people who are unfit to possess firearms are not issued with licenses. The FCA goes overboard in having introduced licenses with expiry dates – this serves no practical purpose and effectively the scheme is in fact counter-productive, as it creates an overload of work with no benefit. The scheme is therefore unreasonable and should be struck down.
5. GOSA submitted that the Registrar is expressly empowered to exercise such a discretion by the FCA. As such, there is no need for a legislative amendment to solve this problem immediately. Such a decision will lead to certainty and avoid further chaos and allow the SAPS to focus on its core duties.
6. GOSA indicated that it is of the view that there are good prospects of success for the courts to agree with this (rational / sensible / obvious) approach, even if it means that the courts will exercise the discretion on behalf of the Registrar, should the Registrar fail to do so. This option was not argued before the Constitutional Court, who have struck down the judgment of the North Gauteng High Court. This was also not the relief that was requested from the North Gauteng High Court, as the parties to that case specifically limited their case to the constitutionality of Sections 24 and 28 of the FCA, and on a specific set of facts with limited application. Any remarks by the learned judge relating to the issue of the potential exercise by the Registrar of his discretion in terms of section 28(6) read with section 28(1) and 27, should therefore be

---

<sup>19</sup> <http://www.saflii.org/za/cases/ZASCA/2005/3.html>

Handwritten signature and initials in black ink, located at the bottom right of the page.

seen as having been remarks that were made by way of *obiturn dictum*<sup>20</sup>, and not *ratio decidendi*, and in any event, the issue was not argued before the Constitutional Court. Furthermore, the principles of *stare decisis*<sup>21</sup> dictate that another court can come to another view on the issue, especially if the facts are properly presented to such a later court, the issue is indeed properly before the court, and especially if such court is of the view that the earlier view that was expressed was incorrect. The fact of the matter is that this was not the relief that was claimed from the relevant court as per the prayers to the notice of motion in those proceedings.

7. GOSA made the point that there will never be a functioning CFR whilst the regime of relicensing is in place. Reference was again made to GOSA's PAIA request - and the effect of the relevant data that has been requested but which was not provided by the SAPS, can in fact be common cause. The burden on the SAPS will forever be increasing exponentially for as long as the scheme of re-licensing firearms that are already licenses, is kept in place.
8. GOSA made the point that the system of control over firearms would already have been overwhelmed to the point of total collapsed if the approximately 450 000 licensees re-applied for their licenses. It would also have made no sense and served no purpose for the SAPS to have simply rubber stamped such applications – whilst the law is in place, the Registrar is required to apply his mind to the applications. If re-applications are not going to be considered

<sup>20</sup> <http://www.saflii.org/za/cases/ZAECGHC/2016/22.pdf>

<sup>21</sup> [http://www.justice.gov.za/sca/judgments/sca\\_2018/sca2018-019.pdf](http://www.justice.gov.za/sca/judgments/sca_2018/sca2018-019.pdf)

"The basic principle is *stare decisis*, that is, the Court binds by its previous decisions, subject to an exception where the earlier decision is held to be clearly wrong. A decision will be held to have been clearly wrong where it has been arrived at on some fundamental departure from principle, or a manifest oversight or misunderstanding, that is, there has been something in the nature of a palpable mistake. This Court will only depart from its previous decision if it is clear that the earlier court erred or that the reasoning upon which the decision rested was clearly erroneous. The cases in support of these propositions are legion. The need for palpable error is illustrated by cases in which the court has overruled its earlier decisions"

properly by the Registrar, it makes no sense to have such a requirement and it serves no benefit whatsoever.

9. In the premises, GOSA urges the SAPS / Registrar to consider these proposals and urges the Registrar to exercise his discretion to the effect that the periods of validity of licenses be extended to the lifetime of the licensee / the business.

**B ALTERNATIVELY, A PRECEDENT ALREADY EXISTS FOR THE LEGISLATION TO BE AMENDED IN LINE WITH WHAT A COMMON-SENSE APPROACH WOULD DICTATE:**

10. In the *alternative* to the submissions above, GOSA referred the SAPS to a previous legislative amendment, that was implemented in 2011 ((Section 10(2), that came into effect on 10 January 2011 – Act 28 of 2006)), in terms of which the period of the validity of certificates of competence (in the FCA referred to as “competency certificates”) was extended<sup>22</sup>. GOSA submitted that it makes even more sense, and specifically now, for the legislature to amend the provisions of Section 27, to extend the period of validity of licenses to the lifetime of the licensee, as was the case with the previous legislation.

This is because:

- 10.1 From the history of almost 20 years from the date of the FCA was written it is clear that the SAPS cannot cope with the relicensing schemes;
- 10.2 It is now clear that it serves no purpose, and that it in fact is counterproductive to the objective of the FCA, being the exercise of *effective* control over firearms;

<sup>22</sup> This occurrence in itself may form the basis of the public forming a legitimate expectation that the validity of licenses would be treated equally Administrator, Transvaal & others v Traub & others [1989] ZASCA 90; 1989 (4) SA 731 (A); [1989] 4 All SA 924 (A) at 758C-G.

Handwritten signature and initials at the bottom right of the page.

10.3 Regulation should always strive to promote certainty and order (this is the essence of the need for legislation) and be fair, and not to give rise to chaos (this is the very antithesis of what the outcome of legislation is supposed to be), and this is indeed also of the key principles of the interpretation of legislation.

11. GOSA submits that it is within the Registrar's powers to issue a directive that no person would be arrested or prosecuted for the possession of a firearm, based purely on the fact that the period of validity of the license has been reached, pending a legislative amendment to do away with the limitations of periods of validity of licenses.

C THE CONSTITUTIONAL COURT DID NOT CONSIDER THE CONSTITUTIONAL VALIDITY OF SECTION 27 OF THE FCA (WHERE TIME LIMITS FOR THE VALIDITY OF LICENSES WE IMPOSED)

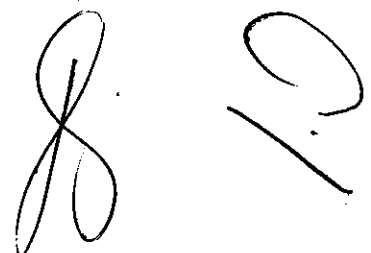
12. This was confirmed by the Court in its order that was made pursuant to GOSA's application to intervene in the recent proceedings. In GOSA's view the section and the effects of the operation thereof, is against the constitutional principles of:

- a) Reasonableness;
- b) Rationality<sup>23</sup>;
- c) Fair administrative procedure.

13. GOSA therefore submits that this issue and the constitutionality of section 27 (re-licensing as such) was expressly not considered by the Constitutional Court.

---

<sup>23</sup> <http://www.saflii.org/za/journals/CCR/2011/2.pdf>

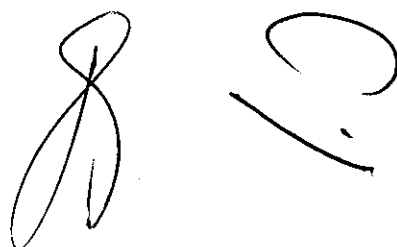
Handwritten signature and initials in black ink, located at the bottom right of the page.

14. This (important) issue (that forms the actual linchpin of all the other debates) is therefore still undecided by the courts and it will be open to GOSA as the only party which chose to place this issue in dispute, to address the courts on the matter in litigation that will have to follow should the parties not be able to come to the “elegant” solution that the people of South Africa and indeed parliament, expect of them to come to, and which GOSA proposes.
15. In GOSA’s view the scrapping of the time limits of the validity of licenses is such a constructive solution. There was never any rational reason for this part of the legislation, when compared to the provisions that preceded it, from the 1969 Act, and its predecessor, the 1937 Act, and even before then. The introduction of the relevant provisions in the 2000 Act, have in fact played a significant part in the legislation being inoperable ever since.

THE SECURITY OF THE STATE IS AT RISK IF THE SAPS WOULD CONTINUE ON A JOURNEY TO CONFISCATE AND KEEP (FOR ANY PERIOD OF TIME) 450 000 (OR MORE) FIREARMS An ESTIMATED 60 MILLION CARTRIDGES

16. Concerns were raised by GOSA about the impact that the Constitutional Court’s ruling has on the security of the state.
17. The security situation in South Africa has in the immediate past taken a turn for the worse.
18. Incidents of violent unrest have shown a sharp increase and they are widespread and a daily occurrence – mobs have recently targeted police stations, and firearms are stolen from there<sup>24</sup>.

<sup>24</sup> <https://www.sowetanlive.co.za/news/south-africa/2018-06-15-police-firearm-missing-after-attack-on-pretoria-saps/>

Handwritten signature and initials in black ink, located at the bottom right of the page.



19. There has been a spree of C.I.T. heists – this has become a daily occurrence as of late, and according to research that has been published in the past two weeks rogue elements in the police are involved in up to 80% of the cases.
20. The firearms that are used in these deadly attacks are sourced from the police and military – as has been reported by the press in the past week.
21. GOSA submitted that isolating certain police stations (3 as per the one draft directive that leaked out from the SAPS in the past week) from accepting firearms is not the solution – previously and currently firearms have been stolen from several police stations right over the country and there was significant *head office* involvement as well - refer to the case of Prinsloo – where more than 2000 firearms were stolen and distributed to gang members – according to some (unconfirmed for the moment) reports, with the *specific intent* to destabilize the *country*.
22. The relevant 450 000 or more firearms and the ammunition for those firearms are much safer when left in the possession of their current owners, and inherently there still remain no good or fundamental reason for those owners not to be allowed to possess the firearms, especially when one considers that each such owner is very likely to reassert the original reasons under which his or her license was originally granted;
23. GOSA requested the SAPS to involve the State Security Agency to investigate the role of George Soros, the Open Society Foundation, and Gun Free South Africa who is sponsored by the OSF, in instances of acts of destabilizing states, and in particular in the South African context. The SAPS was referred to the fact that the OSF / George Soros have recently been declared enemies of the state in Hungary and Russia. GOSA referred the SAPS to a conversation
- 

Handwritten signature and initials, possibly 'G.1'.

between George Soros and the late president Mandela, where President Mandela asked George Soros “how can I protect my country against you”.

<https://youtu.be/0PUDmLCkgNc>

<https://www.reuters.com/article/russia-soros/russia-bans-george-soros-foundation-as-state-security-threat-idUSL1N13P22Y20151130>

<https://edition.cnn.com/2018/05/15/europe/george-soros-foundation-leaves-hungary-intl/index.html> 16 May 2018

<http://africanagenda.net/george-soros-style-destabilization-of-south-africa/>

## OTHER OPTIONS

24. GOSA referred the SAPS to the fact that there are existing mechanisms for firearms that are not recorded on the CFR's database to be placed on the database. Specific mention was made to the meeting between the Western Cape Dealers, GOSA and the SAPS (represented by Genl. Bothma) in June 2017 at Belville where Genl. Bothma explained the procedure. It therefore appears that there is no reason for the SAPS to be prevented from acting rationally in rather taking steps to ensure that firearms that have become “unlicensed” due to lapsed licenses to rather be catered for on the register, compared to the alternative where the records of the SAPS will not reflect accurately.

25. As pointed out, the FCA and its Regulations do not expressly prohibit a registered firearms dealer from receiving a firearm which has been lawfully licensed but in respect of which the license has expired and that accordingly, this may represent a solution since the SAPS could authorise dealers to receive firearms in respect of which licenses have expired on to their stock registers.

Handwritten signature and initials in black ink, located at the bottom right of the page.

26. This would mean that the owners of such firearms would then no longer be in illegal possession and could thereafter apply for a new license in respect of such firearm, should they wish to do so. It also avoids the situation where such individual is required to forfeit their firearm to the state with little or no compensation being received, a situation which is likely to give rise to a significant degree of resistance to (or put differently, non-compliance with) an instruction from the SAPS to individuals that they must surrender their firearms to the SAPS.
27. From a security perspective, the firearms in question are likely to be more secure in the hands of registered dealers than in the hands of various SAPS police stations around the country. It should also be borne in mind that the SAPS are able to hold the dealers accountable for the security of such firearms. If such an approach is to be taken, the practicalities of it will need to be considered in greater depth with the Dealers Association, given that on average it would require each dealer to receive some 2000 or more firearms.
28. The FCA does not contain express prohibition against, a license application being submitted *de novo* in relation to firearms in respect of which the licenses have expired (in contradistinction to the restriction contemplated under section 24 (3) in relation to the renewal of firearm licenses), or an application for a temporary authorization in terms of Section 21. This was in fact proposed as a solution by the senior counsel *who represented the SAPS* in the recent case before the Constitutional Court (but only) in his closing arguments before the Court and was therefore not considered by the Court, and it therefore remains an option.

A handwritten signature or set of initials, possibly 'R/C', written in black ink.

29.GOSA also raised the question as to how the SAPS are treating the expired licenses of semi-state institutions and whether the SAPS intend to deal with those cases on the same basis as those of individuals and businesses.

#### MISCELLANEOUS MATTERS

30.GOSA explained that the recent judgment of the Constitutional Court does not *per se* amount to an automatic determination of guilt on the part of any person who holds a firearm in respect for which a license has expired (no cut – off date for the handing in of firearms without risk of prosecution has been set, and indeed the question is if such a step will be rational). Each one of those 450 000 cases would have to be adjudicated on their own merits, should a practical and rational solution as suggested earlier in this document, or another sensible solution that has not yet been identified, not be found.


31.This is because of the following reasons:

- 31.1 The relevant parties to the legislation did not have the mandate or authority to represent the bulk of the affected people. Their interests were very specific and limited to the members of the SAHGCA and one specific business.
- 31.2 All the potential arguments and facts (refer specifically to the data that was requested as per GOSA's PAIA application) were not placed before the Court, and in fact, a major portion of the initial case was "abandoned" by the relevant parties which could have placed a different light on the matter, and which may well have influenced the outcome of the matter;
- 31.3 Each and every *potential* criminal case of unlawful possession of a firearm and ammunition will have to be adjudicated *on its own merits*. An accused person may arguably have a valid defense to such a charge



if, for instance, he or she states that the police members themselves have indicated to him that he does not have to apply for the re-licensing of the firearm and should wait for directions from the High Court (who then issued an order of unconstitutionality) and then later the Constitutional Court. The common law authorities relating to the following of the (wrong) orders of the police, and the Constitutional authorities relating to *entrapment* and the *rights to a fair trial*, will then come into play which dictate that an accused person cannot be found guilty under such circumstances. Whatever the outcome of individual criminal trials may be, it is completely clear that the entire criminal justice system, inclusive of the capacity of the NPA and the courts, will be utterly overwhelmed by the sheer volume of such cases which in turn will effectively compromise the proper administration of justice in South Africa.

## CONCLUSION

32. GOSA therefore suggests that the entire problem can be addressed by a simple stroke of a pen, much in the same way as the problem was created in the first place. There is still no good reason to make criminals out of people who did not renew their licenses for whatsoever reason, be it misleading information from the Police themselves (as was in many instances the case), or mere forgetfulness.
33. Ultimately the State and its organs should be servants of the people who have elected them into the position of servants. In the case of the 450 000 people who have not renewed their licenses, they form part of a larger community of about 3 million firearm owners, all of them being eligible to vote and therefore forming a substantial proportion of the voting public.
- 

34. It is therefore unthinkable to the point of it being surreal to comprehend that the same public servants would create a situation where the very people who elected them into the position of servants, will treat them as criminals, and to take measures to dispossess them of their property to a combined value of at least R5 billion (based upon a conservative allowance of R7 000 per firearm and the value of the aforesaid associated ammunition) in order for it to be destroyed, and at the same time to leave them defenseless against unlawful and deadly attacks on their lives, whilst making it easier for criminals and forces to get access to those firearms in bulk numbers and threaten the security of the state.
35. GOSA has a track record of constructive engagement with the SAPS and herewith makes use of the opportunity that was afforded to them by the SAPS to make these representations.
36. GOSA indicated to the SAPS, that should the SAPS and GOSA be unable to reach consensus on the matter to the point where further litigation will be unnecessary, that they then between them agree to time periods for the filing of court papers, for purposes of good order, and that the SAPS will then suspend any directive or further action towards the taking in of firearms for which the licenses have expired, for further processing and eventual destruction.
37. GOSA welcomes the positive response of the SAPS and accepts the indication by the SAPS that they will consider these submissions and revert to GOSA on it.
38. GOSA thank the SAPS legal team in attendance at the meeting for the opportunity to address them on the issue and for the positive spirit that they displayed during the meeting, and for having been thoroughly prepared on

A large, stylized handwritten signature in black ink, consisting of a large 'S' followed by a large 'C'.

written submissions and voluminous documents that GOSA furnished to them earlier in the week.

---

GOSA LEGAL TEAM

25 JUNE 2018

10/1