



**The Confederation of Hunting Associations of SA**

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SAPS Accreditation Number: 1300018

Dear CHASA Members

Below follows a series of correspondence which relates to a policy position taken by SAPS Western Cape regarding the use of a firearm outside of the use specified in the Section of the Act that it is licenced for. SAPS had been informing persons in that area that to use a Sec 15 or 16 licenced firearm in a self defence scenario is illegal and could result in being criminally charged.

The correspondence below is:

- 1) an email from Attorney Martin Hood attempting to make them see reason on the matter.
- 2) Their reply to Mr Hood from WC Provincial Commissioner's office wherein they attempt to argue their stance as correct.
- 3) A letter from CHASA in response to their stance which challenges their way of thinking and calls for a response. To date no response has been forthcoming.

Should any CHASA member be aware of any action or intimidation taken by SAPS relating to the specific use of any firearm outside of the section it was licenced for please bring this to the attention of your CHASA affiliated association so that they can inform CHASA National office.

**1) Mail by Mr Hood:**

Dear Sir

We have received a number of "complaints" that you have indicated to various persons in the Western Cape that a firearm may only be used for the purpose stated on the actual licence.

We **attach** copies of Sections 13, 14, 15, 16 and 17 of the Firearms Control Act 60 of 2000.

I have highlighted the relevant portions of these Sections where it stated that the firearm can be used for any purpose where it is safe and lawful to do so.

Section 16(a) limits the use of a firearm licenced in terms of that Section to a professional hunter for personal hunting.

We trust that this rectifies any misunderstanding of the Firearms Control Act, and that you will cease telling licence holders that they cannot use a firearm other than for the purpose stated on the licence.

Yours faithfully,

Martin Hood

## 2) Response by SAPS WC Legal & Policy Services:

SOUTH AFRICAN POLICE SERVICE



SUID-AFRIKAANSE POLISIEDIENS

Privaatsak/Private Bag X9004, CAPE TOWN, 8000

Verwysing  
Reference : 27/5/1  
  
Navrae  
Enquiries : Colonel M Cloete  
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Investigation

OFFICE OF THE PROVINCIAL COMMISSIONER  
S A POLICE SERVICE  
LEGAL AND POLICY SERVICES  
WESTERN CAPE  
CAPE TOWN  
8000

31 October 2018

M J Hood & Associates Attorneys  
Molon Labe House  
Unit 10  
**SANDTON**

Dear Sir

### USE OF FIREARMS FOR PURPOSE OTHER THAN SPECIFIED IN THE LICENCE

Your e-mail with reference F0200 dated 25 October 2018 addressed to Lt Colonel Visser refers.

Cognisance is taken of the content of your correspondence.

This office has a different interpretation of Sections 13, 14, 15, 16 and 17 of the Firearms Control Act, No 60 of 2000, than the interpretation as set out in your correspondence referred to above. Had the legislature intended to allow an occasional sport shooter, hunter, dedicated sport shooter or dedicated hunter to use firearms for purposes of carrying such firearm for self-defence on a daily or regular basis, there would have been no basis for the inclusion of Sections 15, 16 and 17 categorizing types of licences, in the Act. These licences are issued for a specific purpose and the licensee frames his/her application accordingly.

This office is of the opinion that the provision in each of the sections which reads as follows:

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

relate to the lawful and safe use of that firearm in respect of the specific licence issued such as sport shooting etc.

It cannot be argued that the licence holder such as an occasional hunting licence can now carry around his hunting rifle for purposes of self-defence, this would lead to absurdity.

Having regard to the general principles of interpretation of statutes, you are referred to the presumption against absurdities, further the legislature does not enact purposeless laws.

Yours faithfully,

COLONEL

LEGAL AND POLICY SERVICES  
WESTERN CAPE  
M CLOETE

DATE: 2018.11.01.

## Response by CHASA CEO:



**The Confederation of Hunting Associations of SA**

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1 November 2018

Col. M Cloete  
Office of the Provincial Commissioner SAPS  
Legal & Policy Services  
Western Cape

Cc:

Mr Francois Beukman – Chairman, Parliamentary Portfolio Committee for Police

Mr P Rapea – Secretary of Police

Gen M Mamotheti – SAPS FLASH

Dear Col Cloete

### **Your Ref 27/5/1 – USE OF FIREARMS FOR PURPOSES OTHER THAN SPECIFIED IN THE LICENCE**

Your letter to M J Hood & Associates Attorneys dated 31 Oct 2018 refers (which correspondence came to us through concerned members who read it on social media)

We note with concern your interpretation regarding Sections 13, 14, 15, 16, and 17 of the Act (FCA Act 60 of 2000 as amended) and are obliged as an accredited association to state our view on the matter. We believe that you have totally misinterpreted the intent of the legislator when averring that there would not have been a need for Sections 15 to 17 had the legislator intended to allow hunters, sport shooters etc to carry their firearms regularly, on a daily basis, for self-defence. There is a myriad of additional legitimate aspects for differentiating these classes of prime ownership for specific firearms from the Sec 14 & 15 (self-defence) categories. This includes, but is not limited to, such issues as numbers that may be possessed, the duration of the licence between renewals etc. In the vast majority of cases these classes of firearms may not be ideal for use in self-defence roles, but there is also a myriad of circumstances where, in the moment of need, such firearms are perfectly able to legitimately fulfil this function. Examples are many but by way of just one, in the case of an impending/occurring home invasion with multiple adversaries there is every reason a firearm owner may choose for example a shotgun licenced for hunting or sport shooting over his Sec13 pistol. Perhaps too, such potential victim has chosen not to own a specific self-defence firearm because his prime hunting & sport shooting firearms would, in his mind, be adequate in a home invasion situation.

Your argument that carrying around a hunting rifle for self defence would lead to an absurdity is, of itself, an absurd argument. This is NOT what licenced firearm owners are inclined to do, for the very

requirements of becoming a Competent Person in terms of the Act dictates that people inclined to "absurdity" should be excluded. You are using a hypothetical extremity to try and make a legal point, which totally misleads the argument.

In fact, when referencing the INTENT of the legislators, which you quite rightly attempt in your letter, you have excluded one of the most fundamental factors which is their general desire to reduce the amount of firearms needed by anyone. Your stance on this issue will have exactly the opposite effect. Your view means that people may well be able to justify two or more of exactly the identical firearm in order to use them in their "prescribed" allotted sections. Surely THAT is absurd!

Writer hereof, by way of example, would legitimately and urgently need a minimum of another four firearms should cross utilisation among these sections of the act be prohibited. Over the greater firearm owning fraternity (particularly those in the categories of recreational ownership; Sec 15, 16 & 17) we can assure you that your interpretation will result in possibly a few hundred thousand more legitimate firearm acquisitions. I daresay many firearm enthusiasts may welcome this stance!

We have served for many years on various stakeholder engagement processes (when these had any form of integrity from SAPS) as well as previous workshops on legislation and regulation inter alia with the Police Secretariat. We have also attended on and made submissions to the Portfolio Committee for Police in Parliament. Never have we heard at the SAPS national level, nor from any policy makers/legislators (including over many years on the Hunters/SAPS Consultative Forum when the head of CFR and/or FLASH were present) of a similar stance. We respectfully question whether at the provincial level there is even authority to proclaim on this matter. At the very least you should have escalated this to the national level, and they should engage with recognised stakeholders. We therefore urge you to reconsider your stance in this regard and communicate same at your earliest convenience.

Yours Faithfully

A handwritten signature in black ink, appearing to be 'Stephen Palos', written over the typed name.

Stephen Palos - CEO