



SAGA MEDIA STATEMENT 14-09-2020

IS THE VALIDITY OF "GREEN LICENSES" COMING TO AN END?

by John Welch

The Firearms Control Act, No. 60 of 2000 (FCA) came into operation in 2004 and all licensed firearm owners were granted until June 2009 to apply for new licenses. Because thousands (some estimated as many as 900 000) of licensed owners failed to timeously apply for new licenses, SA Hunters and Game Conservation Association (SA Hunters) and the National Arms and Ammunition Collectors' Confederation of South Africa (NAACCSA), as friend of the court, brought an urgent application in the Gauteng Division of the High Court (Pretoria) which resulted in an interdict being granted on 26 June 2009, whereby it was ordered as follows: *"(1) It is ordered that all firearm licenses contemplated in sub-item 1 of Schedule 1 (These are licenses that should have been renewed) of the Firearms Control Act, 2000 (Act 60 2000) shall be deemed to be lawful and valid pending final adjudication of the main application; (2) This order shall operate as an interim order with immediate effect pending final adjudication of the main application relating to this case; (3) The costs of this application will be the costs in the main application."*

For whatever reason neither SA Hunters nor SAPS arraigned the main application for adjudication. Probably because of the recent successes by SAPS, firstly in the Constitutional Court against SA Hunters, and secondly, in the Supreme Court of Appeal against GOSA, the State Attorney has now informed SA Hunters in writing (letter attached) that its client requests SA Hunters to withdraw the main application and consent to the discharge of the interim order. The letter contains a direct threat that should SA Hunters not do as proposed by the State Attorney, a punitive costs order will be sought.

Mr. Fred Camphor, the CEO of SA Hunters, has advised that the Association's Board will convene on 17 September when it will take a decision on the matter. Since the temporary interdict was granted some people may have died or disposed of their firearms, however, there may still be many thousands or hundreds of thousands who are affected and who would now have to take a decision about transitioning to the FCA licenses or disposing of their firearms.



According to the State Attorney, affected people have had three amnesty periods (the last of which is still running until 31 January 2021) during which to legally dispose of their firearms or to apply for licenses under the FCA. It is important to note that since there is currently a valid court order protecting people in possession of “green” licenses issued under the repealed Arms and Ammunition Act, No. 75 of 1969, they neither had to dispose of their firearms nor apply for new licenses. According to the court order their “green” licenses are deemed valid. However, since we have a firearms control regime under the Firearms Control Act, it is not a satisfactory situation to have people without competency certificates bearing firearms that are “licensed” under a repealed Arms and Ammunition Act. Since SAGA’s views regarding the validity of “green” licenses, where firearm owners have transitioned to “white” licenses issued under the Firearms Control Act, and which have now expired since the owners failed to timeously renew them, are clear (despite various other legal opinions to the contrary), and such persons should utilise the firearm amnesty.

SAGA’s advice to those persons who are only in possession of green licences under the old Arms and Ammunition Act, is that steps should now be taken to transition to the FCA, and affected members must do the required proficiency tests and obtain the relevant competency certificate(s) from SAPS and then apply for the relevant license(s). Since the “green” licenses are deemed valid, we are of the opinion that it never was (and still is) not necessary to surrender the firearm while awaiting the new “white” license. The SAPS (and others) may have a different opinion in this regard.

Whatever SA Hunters decide to do in reaction to the State Attorney’s letter of demand, it would be wise to try to negotiate a period of 24 months (at least) during which affected people may transition to the licensing regime under the FCA. The State Attorney and SAPS must understand that the “green” licenses are currently deemed valid; that, accordingly, the affected firearms need not be surrendered during the current amnesty while people apply for their new licenses (the owners are not in the illegal possession of their firearms); and that sufficient time be granted to do so. This argument is based on solid foundation since the previous Draft Amendment Bill of 2015 contained a transitional provision providing for a two-year period during which those still in possession of old Act licenses may transition to the FCA licenses.



We shall keep our members informed of the SA Hunters' decision and provide further advice on how to deal with the challenge.

The sincerest form of trust a government can show is to allow constitutional freedom of choice for responsible and law-abiding citizens to keep and bear firearms.

THE SAGA TRUST

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