



Confederation of Hunters Associations of SA

Tel: +27 41 922 5600 Box: 1614 Uitenhage 6230
Cell: +27 82 523 8201 Fax: 0866 145 354 e-mail: manager@chasa.co.za www.chasa.co.za
SAPS Accreditation Number 1300018

4 July 2018 / 4 Julie 2018

CHASA INTERIM NOTICE TO MEMBERS AND THE FIREARM OWNING PUBLIC WHO POSSESSES FIREARMS FOR WHICH THE LICENCE HAS EXPIRED.

*(While we await official SAPS Directives from the **NATIONAL Commissioner**, we cannot in good conscience give guaranteed advice. Much speculation is happening. This notice therefore indicates our current best information and commentary)*

There are **TWO** categories of persons who fall into the above general category:

- 1) Those who transitioned in the period between 2006 and 2009 from the old "GREEN LICENCE" to the new act's "**WHITE LICENCE**".
- 2) Those whom acquired their firearm under the **NEW ACT**, and have only ever held a so called "WHITE LICENCE"

NB: If you **NEVER** converted to the new act and **ONLY** hold the old GREEN LICENCE you are **CLEARLY** protected by an interim court order obtained in 2009 declaring your licence valid. You are advised to keep yourself informed of factors relating to this scenario. You also may continue to use these firearms legally, purchase ammunition, sell or donate these firearms.

Category 1 :

If you transitioned from green to white licence there is strong, senior council, legal opinion that indicates you should also be protected by the 2009 interim order holding your green licence as valid. CHASA fully believes this opinion to be correct. The SAPS however are refusing to accept this principle, and therefore will not allow such firearms to be sold or donated and believe that these should be forfeited as per the Constitutional Court ruling regarding Expired Licence provisions.

Until this difference of opinion is tested in Court, no clarity can exist on this issue!

It is absolutely at your own discretion to decide how to handle this situation. To carry or use such a firearm renders you at risk of arrest, and you may well become the subject of a prosecution. If you are called to surrender such a weapon and you refuse you would almost certainly be prosecuted. If you own particularly high value firearms it may well pay to explore a legal challenge (with all the costs and risks) of getting clarity on the **validity of the green licence/s**.

Category 2:

The Constitutional Court ruling is quite clear. The Firearms Control Act must be read in the harshest terms, and you are deemed to be in illegal possession of your firearm/s. The action the



court and SAPS are advocating is for you to surrender that firearm to SAPS, and the judgement intimates that persons so surrendering their firearms are not likely to be criminally charged. The judgement in this regard although quite clear is by no means an absolute guarantee of this. However, prospects of your acquittal should SAPS be foolish enough to prosecute are probably quite good provided your intent to surrender the firearm is quite clearly demonstrated.

We believe that much of the recent efforts by various firearm advocacy groups to solicit and speak with SAPS are futile inasmuch as the SAPS cannot circumvent a fairly clear Con-court judgement and one must ask why they would negotiate away a rare court win which they very deliberately sought. Over many years of negotiation on this very topic SAPS did not entertain any reasonable solution to this ever looming and massive problem.

Solution?:

THERE IS ONLY ONE POSSIBLE INTERVENTION THAT CAN LEGITIMISE YOUR OWNERSHIP AGAIN.

In terms of *Sec 139* of the **Act the Minister is fully empowered to declare an amnesty**, and the law clearly provides for persons **handing in** these illegally held firearms to **re-apply for them**.

We believe that **ONLY** if the Minister is convinced of the foolhardiness of SAPS trying to confiscate over 450 000 firearms from law abiding and productive citizens, and only if he takes into account that these people cover **EVERY** demographic across wealth, political parties, race and circumstance will he possibly consider this amnesty. It is quite likely that members of his own caucus in parliament and perhaps even Cabinet Colleagues are affected But will the Minister realise that this is in the best interests of all South Africans?

SAPS have consistently over promised and under delivered on firearm administration. Trying to force them to listen to reason on firearm confiscation will at best help them to boil us at a more gentle and orderly pace but will in no way stop the boil. Only the Minister has the power to do that. Hopefully he acts soon.

PS: The ill-structured amnesty which SAPS have provisionally passed at the Parliamentary Portfolio Committee for Police would, if passed by the National Assembly, provide this relief. Its major flaw is that it calls for the ballistic testing of **EVERY** firearm which is **NOT A REQUIRMENT in the act**. We would welcome this amnesty but would urge that only those firearms handed in for reasons other than lapsed licences or where reasonable suspicion of criminal use exists need be ballistically tested.

CHASA INTERIM KENNISGEWING AAN LEDE EN DIE PUBLIEK WAT VUURWAPENS BESIT WIE SE LISENSIES VERVAL HET

*(Terwyl ons die amptelike voorskrifte via die **Nasionale Kommisaris** van die SAPD afwag, kan ons nie volgens ons goeie gewete gewaarborgde advies verskaf nie. Baie bespiegeling vind egter tans plaas. Hierdie kennisgewing poog derhalwe om die beste moontlike inligting en kommentaar aan lesers deur te gee.)*



Daar is **Twee** kategorieë van persone wat in die bogenoemde algemene kategorie val:

- 1) Diegene wat gedurende die periode tussen 2006 en 2009 van die Ou “Groen Lisensie” na die nuwe wet “**Wit Lisensiekaart**” stelsel oorgeskakel het.
- 2) Diegene wat hulle vuurwapenlisensies onder die **Nuwe Wet** bekom het en sedertdien in besit van die sogenaamde “Wit Lisensie” kaart is.

NB! As u **Nooit** na die die Nuwe Wet oorgeskakel het nie, en nog **steeds** in besit van die ou “Groen Lisensie” is, is u **Volkome** beskerm deur ‘n Interim Hofbepaling wat in 2009 uitgereik is wat bepaal dat u lisensie wettig is. U word ingelig om u op hoogte te hou van alle faktore m.b.t. hierdie scenario. U mag ook voortgaan om hierdie vuurwapens wettig te gebruik, ammunisie aan te koop, die wapens te verkoop of te skenk.

Kategorie 1:

Indien u van die Groen na Wit lisensie oorgeskakel het, is daar streng, senior wetgewende opinies wat aandui dat u ook beskerm behoort te word deur die 2009 interim hofuitspraak wat u Groen lisensie nog wettig maak. CHASA huldig ook hierdie standpunt as korrek. Die SAPD weier egter om hierdie beginsel te aanvaar en sal nie toelaat dat sodanige vuurwapens verkoop of geskenk word nie en glo dat dit ingehandig moet word ooreenkomstig die Konstitusionele Hof se beslissing betreffende **Lisensies wat Verval het**.

Tot tyd en wyl hierdie verskillende opinies in die Hof getoets is, is daar steeds onsekerheid oor hierdie aangeleentheid.

Dit word absoluut aan u diskresie oorgelaat hoe om hierdie situasie te hanteer. Om sodanige vuurwapen te dra of te gebruik kan u die risiko loop om gearresteer te word, en kan van u ‘n voorbeeld gemaak word vir vervolging.

As ‘n beroep op u gedoen word om afstand te doen van sodanige vuurwapen en u weier, kan u heelwaarskynlik vervolgt word. Indien u duur en waardevolle vuurwapens besit, sal dit dalk goed wees om ‘n regsproses te ondersoek om die wetlikheid daarvan uit te daag, (met inagneming van die kostes en risikos) ten einde klarigheid te kry op die wettiglike geldigheid van die Groen lisensie/s.

Kategorie 2:

Die Konstitusionele Hof se uitspraak is baie duidelik. Die reëls van die Wet op die Beheer van Vuurwapens is baie streng en duidelik en u word geag in besit te wees van onwettige vuurwapen/s indien u lisensies verval het. Die reaksie wat die Hof en die SAPD nastreef is dat u afstand van u vuurwapens moet doen en dit by die SAPD inhandig. Die uitspraak vrywaar egter persone wat hulle vuurwapens inhandig om nie krimineel vervolgt te word nie. Hierdie uitspraak, alhoewel duidelik, is egter nie ‘n waarborg dat u vervolgt kan word nie. Die feit dat u bereid is om afstand te doen van u vuurwapens sal die SAPD in ‘n baie swak lig stel sou hulle besluit om u te vervolgt.

Ons glo dat baie van die onlangse pogings deur verskeie vuurwapens pro groepe wat namens vuurwapenseienaars se belange optree en met die SAPD in gesprek tree is futiel in die sin dat die SAPD nie die betreklik duidelike Konstitusionele Hofuitspraak kan omseil nie en moet die vraag



gevera word waarom hulle 'n seldsame hofuitspraak as 'n oorwinning beskou wat hulle opsetlik nagestreef het.

Oor vele jare van onderhandelinge oor hierdie spesifieke onderwerp het die SAPD geensins ag geslaan op aanvaarbare oplossings om hierdie naderende massiewe probleem die hoof te bied nie.

Oplossing?

DAAR IS SLEGS EEN MOONTLIKE INTERVENSIE WAT U EIENAARSKAP VAN WAPENS KAN WETTIG.

In terme van *Artikel 139* van die **Wet is die Minister ten volle bemagtig om 'n amnestie periode te verklaar** en maak die Wet voorsiening vir persone wat hulle onwettige wapens **ingehandig het**, om weer **heraansoek** daarvoor te doen.

Ons glo dat **slegs** as die Minister oortuig is van die onversetlikheid van die SAPD wat beoog om 450 000 vuurwapens van wetsgehoorsame en produktiewe landsburgers te konfiskeer, en as hy slegs in ag sal neem dat hierdie persone oor **Elke** demografiese spektrum, welstand, politieke partye, ras en omstandighede, sal hy dalk amnestie oorweeg.

Dit is dalk 'n moontlikheid dat lede van sy eie kookus in die Parlement en moontlik Kabinets kollegas geaffekteer is wat die Minister sal laat besef dat amnestie in die beste belang van alle Suid- Afrikaners sal wees?

Die SAPD het konsekwent beloftes verbreek en swak dienslewering m.b.t vuurwapen administrasie gelewer. Om enige dwing maatreëls op die SAPD toe te pas of om hulle te oortuig om te luister om nie vuurwapens te konfiskeer nie, sal die druk op vuurwapeneienaars net verder vererger. Slegs die Minister het die magte om regstellings te doen. Ons hoop dat hy spoedig sal optree.

NS: Die swak gestruktureerde amnestie wat voorlopig deur die Parlementêre Portefeuljekommittee vir Polisie voorgestel is sal, indien goedgekeur word, deur die Nasionale Vergadering, verligting bring vir hierdie situasie. Die grootste swakheid is egter dat dit vra vir ballistiese toetse van **elke** vuurwapen **wat nie 'n bepaling van die Wet is nie**. Ons sal hierdie amnestie verwelkom maar sal 'n beroep doen dat slegs vuurwapens wat verval het oorweeg word vir herlisensieering. In gevalle waar daar 'n redelike suspisie is van kriminele optrede, kan sulke wapens balisties getoets word.

Beste Regards / Vriendelike Groete

CHASA CEO / CHASA HUB
Stephen Palos

