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# LICENSE THE PERSON – REGISTER THE FIREARM

## PROPOSED AMENDMENT TO THE FIREARMS CONTROL ACT OF 2000

By Gideon Joubert, owner and editor of Paratus

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. We recognise that the adequate protection of such rights is fundamental to the well-being and social and economic development of every person. As law-abiding citizens, we are concerned with improving safety and security in our society, and upholding the rule of law.

### **THE PRESENT SYSTEM OF FIREARM LICENCING IN SOUTH AFRICA SUFFERS FROM NUMEROUS CHALLENGES AND PROBLEMS**

The process to license a firearm is grossly complicated and very administratively intensive. The complex nature is unnecessary for the straightforward purpose of licensing, and the extensive administration and bureaucracy serves no purpose.

The administration of this process operates on a per-firearm basis, as opposed to a per-person basis. Every application therefore requires duplicates of any documents that will have already been submitted in prior applications, rather than having a database of already proven facts of applicants that would reduce the excessive bureaucratic nature of the process.

This documentation is then processed by a long chain of police officials and administrators, which starts at station-level and eventually ends at the Central Firearms Registry (CFR), before a final decision is made. This is a process that takes on average three months (and many times longer) when it could take mere days, and is exacerbated by the literal stacks of paper that stand several feet tall in the busiest of stations, which must be physically moved along this chain from as far off as Namaqualand, to the provincial offices, and then finally to Pretoria.

The station-level Designated Firearm Officers (DFOs) fall under FLASH – Firearms, Liquor, and Second-Hand Goods. These officers are overwhelmed by their extensive duties as things stand, for which firearm administration occupies a significant portion of their times and resources. There is presently minimal use of electronic connectivity.

It is therefore not surprising that the administration of the CFR is a complex, expensive and incredibly resource-intensive process. It is very common that it too often results in chaotic mishaps.

The SAPS pours thousands of valuable manhours, and millions of Rands, into this firearm licencing system annually. These are scarce policing resources that, if freed up, can be more efficiently redeployed to combat crime in our society. Instead, it is presently squandered on mere paperwork, most of which is unnecessary for the purpose it supposedly fulfils.

**Current fiscally trying times bring the threat of budget cuts to SAPS, and demand that SAPS adopt resource-friendly procedures that enables cost savings, while still providing and enhancing services that matter most. Such as fighting crime.**

Lack of transparency and vast discretionary powers are of significant concern in the licensing process. It is inefficient and makes the system very vulnerable to corruption and power abuse, which undermines fairness and justice of applicants. Criminals have previously and on numerous occasions succeeded in exploiting the licencing process with the assistance of high-ranking police officials, in order to obtain firearms and ammunition reserved for lawful and honourable applicants.

**THE PERVERSE RESULT OF THIS CRIMINAL EXPLOITATION IS THAT THE LICENCING SYSTEM UNDERMINES THE VERY PURPOSE IT WAS DESIGNED TO FULFIL**

Conversely, law-abiding citizens who want to become legally armed for the first time can expect a process in excess of six months. It infers that regardless of an individual having a clean record, with no disqualifying criteria, while being perfectly proficient in lawful and responsible firearm ownership, they will not be granted permission to take possession of their property for many months, regardless of urgency. This is purely as a result of the complex and administratively burdensome application process.

There is also a strong history of arbitrary refusals in this discretionary process, that has denied competent and lawful applicants from obtaining their firearms. The majority of these refusals are resolved through the internal Appeals Board. Unfortunately the sheer volume of appeals also often clog the board, while the Board itself is no stranger to its own arbitrary and unlawful refusals. Either way, the Appeals Board only adds to the already excessively long process for finalisation.

**An unintended consequence of this is that qualifying individuals who seek means to protect themselves and their families from violent criminals are compelled to wait many months, which in turn leaves them vulnerable to criminal predation. In worst cases, deserving individuals are denied licenses for arbitrary reasons.**

To illustrate the extent of our violent crime problem, our homicide rate has increased every year since 2011. After correcting for outliers, South Africa ranks as the 7<sup>th</sup> most homicidal nation on Earth. Apart from murder, other violent contact crimes have equally increased at staggering rates. Violence against women is such a pressing concern that President Ramaphosa referred to it as a "Second Pandemic".

**Unfortunately, innocent people cannot rely on the SAPS to protect them.**

Policing in South Africa faces extensive challenges. The National Commissioner, Gen. Khehla Sitole, admitted to Parliament that the SAPS are "overstretched", and that it is "impossible" for the police to fulfil their constitutional mandate. This reality can be confirmed by perusing our annual national crime statistics. It is also unrealistic to expect police officers to perform the impossible, and act as the personal guardians of all residents of our Republic.

**THE POLICE IS TASKED WITH COMBATING CRIME, AND INDIVIDUALS ARE TASKED WITH THEIR OWN PROTECTION, YET THE CURRENT FIREARM LAWS UNDERMINE THIS**

There is thus extensive scope to improve the lot of both law-abiding citizens and the police. Through enhancing the firearm licencing process regarding transparency and efficiency, we can free-up scarce and valuable police resources (which can be redirected to combating crime manifesting on our streets), and meet the needs of citizens pertaining to a speedy and effective licencing system.

**IN ORDER TO ACHIEVE THESE OUTCOMES, WE PROPOSE A NEW SYSTEM: LICENSE THE PERSON, REGISTER THE FIREARM**

The law should be peremptory in nature, meaning that if a person satisfies the legal requirements to own a firearm, they must be awarded a license. This license declares the bearer to be competent for the purchase of firearms and ammunition, for which every purchase is recorded on the existing registry. This process should be fully electronic and made possible by a mere internet connection.

The bearer of this license should be recorded on the registry together with all the relevant information pertaining to that person and their competency. This system must comply with all mandated requirements pertaining to the protection of personal information, and allow the authorised parties to establish the identity and status of licenced individuals, and what firearms they currently own.

**INDIVIDUALS WHO SEEK TO BECOME LICENCED FIREARM OWNERS MUST SATISFY SEVERAL LEGAL REQUIREMENTS BEFORE THEIR LICENSES ARE GRANTED, NAMELY:**

- They must be declared competent pertaining to lawful, safe, and responsible firearm handling and ownership.
- They must comply with all relevant safe-keeping requirements.
- They must have no relevant criminal record or debilitating psychiatric condition which renders them unfit to possess a firearm.

Implementing a regime of personal licenses connected to an electronic firearm registry will greatly enhance the licencing process to the benefit of citizens and the police.

Police officials will be better able to perform their duties relating to ensuring lawful and responsible firearm ownership when unburdened from an excessively bureaucratic and archaic administrative process. The electronic nature of the system will ensure that all the required checks and balances are complied with, and that arbitrary decisions and refusals (and their undesirable consequences) are minimised.

**THIS WILL MAKE IT EASIER TO DETECT AND ACT AGAINST CORRUPTION, AS WELL AS ENHANCE THE POLICE'S ABILITY TO FULFIL THEIR MANDATE**

As part of this we also propose the abolishment of licence renewals, further freeing up resources, and allowing the SAPS to conduct audits of firearm owners. License renewals serve no purpose, and various mechanisms such as a declaration as unfit to possess a firearm (by court or the SAPS) already exist and more than adequately foster a culture of responsible ownership. There is little to no evidence that the renewal requirements have mitigated or prevented crime.

**If the police reasonably suspect a firearm owner to be guilty of a criminal offence, or receive reports that they have become a danger to themselves or others, they can already act immediately, and do not have to wait for the suspect to renew their firearm licence.**

The present crisis of expired firearm licences that  affect approximately 500 000 South Africans  is due to the FCA of 2000 making no provision for the late renewal of firearm licences, regardless of reasons by the holder. Further, should a person have two firearms for which one is expired, that person is deemed a risk to society in respect of only that firearm, while the other is perfectly acceptable.

Anyone who forgets to (or is in any legitimate way inhibited from) submitting their licence renewal on time, has no recourse. Their licence terminates in its entirety on the date of expiration.

This leaves them in unlawful possession of firearms and ammunition. Items that they previously legally acquired and responsibly owned for many years, are now illegally in their possession because of an administrative infraction. This carries a potential penalty of a 15-year prison sentence.

The only way to currently remedy this colossal problem, is for affected gun owners to make use of the six-month firearm amnesty that was implemented on 1 August 2020. This will result in gun owners surrendering approximately 500 000 firearms and 60-million rounds of ammunition to the SAPS.

**THE SITUATION IS FAR FROM IDEAL, AND THERE ARE POTENTIALLY DISASTROUS CONSEQUENCES FOR NATIONAL SAFETY AND SECURITY CONSIDERING THE PERVASIVE AND DOCUMENTED CORRUPTION AND INCOMPETENCE WITHIN THE SAPS**

If even 1% of surrendered arms and ammunition is stolen and leaked to criminals (as done by Colonel Chris Prinsloo and his SAPS colleagues during the previous amnesty in 2010), that translates into 5000 guns and 600 000 rounds of ammunition that find their way into criminal hands. A situation that is entirely avoidable, but that the law does not allow us to rectify as things presently stand.

A transparent, efficient, and practical system of firearm licencing is in the best interest of society.

By licencing the individual and placing their firearms on a register, we can ensure that police resources are applied where they are needed most. By making the licencing process efficient and transparent, we can make it easier to combat corruption and ensure compliance with the law. Lastly, such a system will empower law-abiding people to be able to protect themselves and their families against violent criminals preying on our society.

The result of this will be a safer and more secure South Africa, where the constitutional rights to life and security of person are upheld, and the rule of law is effectively promoted.

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|  | <p>For any questions and comments, contact Gideon Joubert at <a href="mailto:info@paratus.info">info@paratus.info</a></p> <p>Paratus is an online resource for the promotion of safe, responsible, and lawful firearm ownership in South Africa. Paratus was founded on 11 August 2014, and is a registered as Paratus SA Pty Ltd.</p> <p><a href="https://paratus.info/">https://paratus.info/</a></p> |
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