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GENERAL NOTICE

Safety and Security, Department of

General Notice

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GENERAL NOTICE

NOTICE 314 OF 2006

FIREARMS CONTROL AMENDMENT BILL, 2006

The Minister for Safety and Security intends to review and amend the Firearms Control Act, 2000. A draft Firearms Control Amendment Bill is hereby published for general information and comment from interested parties.

IMPORTANT NOTE: This is merely a working document which is used to obtain the input of interest groups. The finalization of the draft Firearms Control Amendment Bill will ultimately be done after the consultation process has been concluded. Parliamentary committees will also be involved in the process.

NO PART OF THE CONTENT OF THIS DOCUMENT OR ANY ALTERATION THEREOF MAY BE CONSIDERED AS A COMMITMENT TO THE FINAL PROVISIONS OF THE BILL

Kindly note that as this is a working document certain technical corrections with regard to the numbering, spacing and general layout still need to be done.

Any comments, contributions or proposals on the Bill may be submitted on or before the 31st of March 2006 in writing to the following:

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PRETORIA

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REPUBLIC OF SOUTH AFRICA

**FIREARMS CONTROL
AMENDMENT BILL**

(As introduced)

(The English text is the official text of the Bill)

(MINISTER FOR SAFETY AND SECURITY)

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

BILL

To amend the Firearms Control Act, 2000, so as to amend, insert and delete certain definitions; to provide for the control of silencers; to delete the restriction that a member of an accredited hunting association and accredited sports-shooting organisation is by definition excluded from being an occasional hunter or occasional sports person, as the case may be; to provide for the Registrar to determine the sufficiency of the set of fingerprints an applicant must from time to time provide; to provide for a written notification in respect of the substitution of a responsible person; to provide for a procedure to cancel an accreditation; to delete the fixed expiry period in respect of a declaration of unfitness to possess a firearm and instead provide for a period to be determined in each individual case; to provide for the renewal of a competency certificate and matters incidental thereto; to delete the restriction on the number of shots that a semi-automatic shotgun may fire in succession in respect of a dedicated hunter and sports person; to provide that only firearms that are inoperable may be collected; to provide for the cancellation of a temporary permit to possess a firearm; to allow a person to use a firearm in the presence of a holder of a licence who is under 21 years of age; to delete certain repetitive provisions and substituting it with generic provisions; to regulate the relationship between the National Conventional Arms Control Act, 2002 (Act No. 41 of 2002), and this Act; to provide for the non-automatic disqualification to possess a firearm in the event of the payment of an admission of guilt fine; to provide for the holding of an inquiry contemplated in section 102 in the absence of the person concerned under certain circumstances; to amend the procedure for the cancellation of certain licences, permits, authorisations and competency certificates; to provide for a police official to also have the right to do inspections in private dwellings as in the case of business premises; to provide for a presumption regarding possession in respect of additional licences; to provide for the establishment of an informal consultative forum; to provide for compliance with the provisions of the National Heritage Resources Act, 1999 in instances where firearms are to be destroyed; to amend the Schedule to the Act dealing with transitional arrangements in order to provide for the auditing of existing licences instead of re-licensing; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 60 of 2000

1. Section 1 of the Firearms Control Act, 2000 (hereinafter referred to as the principal Act), is hereby amended —

(a) by the deletion only of the sub numbering from (i) to (xxxv) in section 1 without deleting the wording in the section;

(b) by the substitution for the definition of “ammunition” of the following definition:

“ ‘ammunition’ means a primer or **[complete]** cartridge;”;

(c) by the substitution for the definition of “antique firearm” for the following definition:

“ ‘antique firearm’ means any muzzle loading firearm **[that was manufactured before 1 January 1900, or any replica of such a firearm]**

that-

(a) was manufactured before 1 January 1900;

(b) had not been manufactured, designed or altered to fire a cartridge; and

(c) had not been nitro-proofed.”;

(d) by the insertion after the definition of “Appeal Board” of the following definition:

“ 'brokering services' means-

(a) acting as an agent in negotiating or arranging a contract, purchase, sale or transfer of firearms and ammunition for a commission, advantage or cause, whether financially or otherwise;

(b) acting as an agent in negotiating or arranging a contract for the provision of services for a commission, advantage or cause, whether financially or otherwise;

(c) facilitating the transfer of documentation, payment, transportation or freight forwarding, or any combination of the aforementioned, in respect of any transaction relating to buying, selling or transfer of firearms and ammunition; and

(d) acting as intermediary between any manufacturer or supplier of firearms and ammunition, or provider of services, and any buyer or recipient thereof;

(e) by the substitution for the definition of “cartridge” for the following definition:

“ ‘cartridge’ means a complete object consisting of a cartridge case, primer (whether as rimfire or otherwise), propellant and a bullet or shot, as the case may be;”;

(f) by the insertion after the definition of “firearm” of the following definition:

“ ‘fit and proper person’ means a person who substantially conforms to the requirements of section 9(2) and any regulation relevant to the competency of a person to possess a firearm in terms of the Act;”;

(g) by the substitution for the definition of “juristic person” of the following definition:

“ ‘juristic person’ includes a partnership and any other association of persons but excluding a trust;”;

(h) by the substitution for the definition of “occasional hunter” of the following definition:

“ ‘occasional hunter’ means any person who, from time to time, participates in hunting activities [**but who is not a member of an accredited hunting association**];”;

(i) by the substitution for the definition of “occasional sports person” of the following definition:

“ ‘occasional sports person’ means any person who, from time to time, participates in sports-shooting [**but who is not a member of an accredited sports-shooting organization**];”;

(j) by the insertion after the definition of “restricted firearm” of the following definition:

“ ‘ Secretary for Safety and Security’ means the Secretary for Safety and Security appointed under section 2 (2) of the South African Police Service Act, 1995 (Act No. 68 of 1995);”.

Amendment of section 3 of Act 60 of 2000

2. The following section is hereby substituted for section 3 of the principal Act:

“3. No person may possess a firearm unless he or she holds for that firearm –

(a) a licence, permit or authorisation issued in terms of this Act [**for that firearm**]; or

(b) a licence, permit, authorisation or registration certificate remaining valid in terms of items 1, 2, 3, 4, 4A or 5 of Schedule 1 to this Act.”.

Amendment of section 4 of Act 60 of 2000

3. Section 4 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The following firearms and devices are prohibited firearms and may not be possessed or licensed in terms of this Act, except as provided for in sections 17, 18(5), 19 and 20 (1) (b) and, in the case of a device contemplated in sub paragraph (g), subject to the conditions determined by the Registrar under a permit issued within the discretion of the Registrar subsequent to a prescribed application:

(a) Any fully automatic firearm;

(b) any gun, cannon, recoilless gun, mortar, light mortar or launcher manufactured to fire a rocket, grenade, self-propelled grenade, bomb or explosive device;

(c) any frame, body or barrel of such a fully automatic firearm, gun, cannon, recoilless gun, mortar, light mortar or launcher;

(d) any projectile or rocket manufactured to be discharged from a cannon, recoilless gun or mortar, or rocket launcher;

- (e) any imitation of any device contemplated in paragraph (a), (b), (c), or (d);
- (f) any firearm-
- (i) the mechanism of which has been altered so as to enable the discharging of more than one shot with a single depression of the trigger;
- (ii) the calibre of which has been altered without the written permission of the Registrar;
- (iii) the barrel length of which has been altered without the written permission of the Registrar;
- (iv) the serial number or any other identifying mark of which has been changed or removed without the written permission of the Registrar; and
- (g) a device attached to the muzzle of a firearm to muffle the report.

Amendment of section 6 of Act 60 of 2000

4. Section 6 of the principal Act is hereby amended by the substitution in subsection (1) for paragraph (a) of the following paragraph:

“(a) on receipt of an application completed in the prescribed form, including such [a full] set of fingerprints of the applicant as the Registrar may require in the circumstances; and”.

Amendment of section 7 of Act 60 of 2000

5. Section 7 of the principal Act is hereby amended by the substitution for subsection (4) of the following subsection:

“(4) If it becomes necessary to replace a responsible person for any reason, the juristic person must in writing –

(a) nominate a new responsible person who must be in possession of the relevant competency certificate, and

(b) notify the Registrar of the nomination within 7 days from the date of the nomination.”.

Amendment of section 8 of Act 60 of 2000

6. Section 8 of the principal Act is hereby amended by the addition of the following subsection:

“(4) The Registrar may only cancel an accreditation as contemplated in subsection (3), after having complied with the provisions of section 105A.”

Amendment of section 9 of Act 60 of 2000

7. Section 9 of the principal Act is hereby amended by -

(a) the deletion of the following subsection:

“[(3) Any offence referred to in subsection (2) includes any conspiracy, incitement or attempt to commit such offence, and means an offence in respect of which-

(a) a court has not made a determination that the person is not unfit to possess a firearm despite the conviction; and

(b) the sentence has been complied with less than five years before the application for a competency certificate was received by the Designated Firearms Officer.]”

(b) the substitution for subsection (4) of the following subsection:

“(4) The disqualification contemplated in subsection (2) (p) ends upon the expiry of the period for which the declaration of unfitness is valid.

Amendment of section 10 of Act 60 of 2000

8. Section 10 of the principal Act is hereby amended –

(a) by the substitution for subsection (2) of the following subsection:

“(2) A competency certificate lapses after five years from its date of issue unless it is renewed in accordance with the provisions of this Act.”; and

(b) by the insertion of the following subsections:

“(3) The holder of a competency certificate who wishes to renew the competency certificate must at least 90 days before the date of expiry of the competency certificate apply in the prescribed form to the Registrar for its renewal.

(4) The application for renewal must be -

(a) accompanied by a declaration under oath or solemn statement made by the applicant in the prescribed form, confirming that the applicant still conforms to the requirements of section 9(2) of the Act; and

(b) delivered by the applicant to the Designated Firearms Officer responsible for the area in which the applicant ordinarily resides or in which the applicant’s business is or will be situated, as the case may be.

(5) No application for the renewal of a competency certificate may be granted unless the applicant satisfies the Registrar that he or she still complies with the requirements for the issuing of a competency certificate in terms of this Act.

(6) The Registrar may grant or refuse the renewal of a competency certificate on the strength of the information and declaration provided by the applicant: Provided that nothing in this section prevents the Registrar from exercising his or her powers stated in section 124(3)(a) of the Act, prior to granting or refusing the application.

(7) If an application for the renewal of a competency certificate has been lodged within the period provided for in subsection (3), the competency certificate remains valid until the application is decided.

(8) For the purpose of a renewal of a competency certificate an applicant need not again comply with the provisions of section 9(2)(q) and (r) of the Act, unless the Registrar in a specific case, on good grounds being present, requires otherwise.

(9) Any person who makes any misrepresentation or false statement in a declaration or statement contemplated in subsection (4)(a), shall be guilty of an offence and be liable to a fine or imprisonment not exceeding five years.”.

Amendment of section 12 of Act 60 of 2000

9. Section 12 of the principal Act is hereby amended by the addition of the following subsection:

“(4) The holder of the licence in respect of the firearm in question, must be the custodian of the safe in which the firearm is kept.”

Amendment of section 16 of Act 60 of 2000

10. Section 16 of the principal Act is hereby amended by the substitution in subsection (1) for paragraph (c) of the following paragraph:

“(c) semi-automatic shotgun [**manufactured to fire no more than five shots in succession without having to be reloaded**]; or”.

Amendment of section 17 of Act 60 of 2000

11. The principal Act is hereby amended by the substitution of section 17 for the following section:

“17. Licence to possess firearm in private collection

(1) (a) A firearm which may be possessed in a private collection is any firearm:

- (i) approved for collection by an accredited collectors association; and
- (ii) made inoperable in accordance with the prescribed specifications.

(b) Despite section 4, such prohibited firearm as may be prescribed may be licensed under this section provided that the provision of sub paragraph (a) are complied with.

(2) The Registrar may issue a licence in terms of this section to a private collector if the application is accompanied by a sworn statement or solemn declaration from the chairperson of an accredited collectors association, or someone delegated in writing by him or her, stating that the applicant is a registered member of that association who qualifies to collect the firearm or prohibited firearm.

(3) The holder of a licence issued in terms of this section—

- (a) must store the firearm at the place specified in the licence;

(b) may only display the firearm in accordance with such safety measures as may be prescribed; and

(c) store the moving parts of a semi-automatic firearm and prohibited firearm separate from the semi-automatic firearm and prohibited firearm at a place or under circumstances to the satisfaction of the Registrar.

[(4) 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 purpose.]”.

Amendment of section 18 of Act 60 of 2000

12. The principal Act is hereby amended by the substitution of section 18 for the following section:

“18. (1) Ammunition which may be possessed in a private collection is any ammunition:

(i) approved for collection by an accredited collectors association; and

(ii) the propellant and primer have been removed or have been deactivated in accordance with the prescribed specifications.

(2) (a) The Registrar may, subject to such conditions as may be prescribed, issue a permit in terms of this section to a private collector if the application is accompanied by a sworn statement or solemn declaration from the chairperson of an accredited collectors association, or someone delegated in writing by him or her, stating that the applicant is a registered member of that association.

(b) A collector contemplated in paragraph (a) may not possess more than **[200]** 10 rounds of ammunition of any particular calibre unless the Registrar approves the possession of a higher number in writing.

(3) The holder of a permit issued in terms of this section may not discharge any ammunition in his or her collection.

(4) The holder of a permit issued in terms of this section—

(a) must store the ammunition at the place specified in the permit; and

(b) may only display the ammunition in accordance with such safety measures as may be prescribed.

(5) Despite section 4, the holder of a permit issued in terms of this section may possess projectiles and cartridges manufactured to be discharged by prohibited firearms if the propellant, high explosive and primer of the projectiles and cartridges have been removed or deactivated.”.

Amendment of section 19 of Act 60 of 2000

13. The principal Act is hereby amended by the substitution of section 19 for the following section:

“19. (1) The Registrar may issue a licence to possess any firearm, a semi-automatic firearm, a prohibited firearm and a permit to possess ammunition in a public collection, or both such permit and licence, to a public collector: Provided that the firearm, semi-automatic firearm, prohibited firearm have been made inoperable in accordance with the prescribed specifications and in respect of ammunition, if the propellant and primer have been removed or have been deactivated in accordance with the prescribed specifications.

(2) the holder of a permit issued in terms of this section may possess projectiles and cartridges manufactured to be discharged by prohibited firearms if the propellant, high explosive and primer of the projectiles and cartridges have been removed or deactivated.

(3) The holder of a permit contemplated in subsection (1) may not possess more than **[200] 10** rounds of ammunition **[of] for** any particular **[calibre] firearm, semi-automatic firearm or prohibited firearm**, unless the Registrar approves the possession of a higher number in writing.

(4) A firearm, semi-automatic firearm or prohibited firearm in respect of which a licence has been issued in terms of this section and ammunition in respect of which a permit has been issued in terms of this section, may only be displayed—

(a) in an accredited museum; and

(b) in accordance with such safety measures as may be prescribed.

(5) A firearm in respect of which a licence has been issued in terms of this section may only be used on an accredited shooting range in accordance with the rules of that shooting range and in accordance with such conditions as the Registrar may impose.

(6) The holder of a permit issued in terms of this section may not use a firearm, semi-automatic firearm or prohibited firearm or discharge any ammunition in his or her collection.”

Amendment of section 21 of Act 60 of 2000

14. Section 21 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) The Registrar may, subject to the provisions of section 105A, at any time [**withdraw**] cancel an authorisation if any condition contemplated in subsection (1) (b) is not complied with.”.

Amendment of section 22 of Act 60 of 2000

15. The following section is hereby substituted for section 22 of the principal Act:

“22. Despite anything to the contrary in this Act but subject to section 120 (5), any person who is [**at least 21 years of age and**] the holder of a licence to possess a firearm [**issued in terms of this Act**] may allow any other person to use that firearm while under his or her immediate supervision where it is safe to use the firearm and for a lawful purpose.”.

Amendment of section 24 of Act 60 of 2000

16. The principal Act is hereby amended by the deletion of section 24.

Amendment of section 27 of Act 60 of 2000

17. The principal Act is hereby amended by the deletion of section 27.

Amendment of section 28 of Act 60 of 2000

18. The principal Act is hereby amended by the deletion of section 28.

Amendment of section 35 of Act 60 of 2000

19. The principal Act is hereby amended by the deletion of section 35.

Amendment of section 36 of Act 60 of 2000

20. The principal Act is hereby amended by the deletion of section 36.

Amendment of section 37 of Act 60 of 2000

21. The principal Act is hereby amended by the deletion of section 37.

Amendment of section 38 of Act 60 of 2000

22. The principal Act is hereby amended by the deletion of section 38.

Amendment of section 41 of Act 60 of 2000

23. The principal Act is hereby amended by the deletion of section 41.

Amendment of section 42 of Act 60 of 2000

24. The principal Act is hereby amended by the deletion of section 42.

Amendment of section 43 of Act 60 of 2000

25. The principal Act is hereby amended by the deletion of section 43.

Amendment of section 44 of Act 60 of 2000

26. The principal Act is hereby amended by the deletion of section 44.

Amendment of section 49 of Act 60 of 2000

27. The principal Act is hereby amended by the deletion of section 49.

Amendment of section 50 of Act 60 of 2000

28. The principal Act is hereby amended by the deletion of section 50.

Amendment of section 51 of Act 60 of 2000

29. The principal Act is hereby amended by the deletion of section 51.

Amendment of section 52 of Act 60 of 2000

30. The principal Act is hereby amended by the deletion of section 52.

Amendment of section 55 of Act 60 of 2000

31. The principal Act is hereby amended by the deletion of section 55.

Amendment of section 56 of Act 60 of 2000

32. The principal Act is hereby amended by the deletion of section 56.

Amendment of section 57 of Act 60 of 2000

33. The principal Act is hereby amended by the deletion of section 57.

Amendment of section 58 of Act 60 of 2000

34. The principal Act is hereby amended by the deletion of section 58.

Amendment of section 63 of Act 60 of 2000

35. The principal Act is hereby amended by the deletion of section 63.

Amendment of section 64 of Act 60 of 2000

36. The principal Act is hereby amended by the deletion of section 64.

Amendment of section 65 of Act 60 of 2000

37. The principal Act is hereby amended by the deletion of section 65.

Amendment of section 66 of Act 60 of 2000

38. The principal Act is hereby amended by the deletion of section 66.

Amendment of section 69 of Act 60 of 2000

39. The principal Act is hereby amended by the deletion of section 69.

Amendment of section 70 of Act 60 of 2000

40. The principal Act is hereby amended by the deletion of section 70.

Amendment of section 71 of Act 60 of 2000

41. The principal Act is hereby amended by the deletion of section 71.

Amendment of section 72 of Act 60 of 2000

42. The principal Act is hereby amended by the deletion of section 72.

Insertion of section 72A to the principal Act

43. The principal Act is hereby amended by the insertion after section 72 of the following sections under Part 4:

“Part 4 - General

Suspension of dealer’s, manufacturer’s or gunsmith’s licence.

72A.(1) The Registrar may suspend a dealer’s, manufacturer’s or gunsmith’s licence if the Registrar has information in a sworn statement or on solemn declaration that the dealer, manufacturer or gunsmith has committed an offence in terms of this Act for which a sentence of imprisonment for a period of five years or more may be imposed, and if the—

(a) holder of the licence has been afforded an opportunity to make written representations to the Registrar;

(b) the Registrar has given due consideration to the representations; and

(c) the Registrar deems it necessary to suspend the licence in order to achieve the objects of this Act.

(2) A dealer, manufacturer's or gunsmith's may not trade in firearms or ammunition for the period during which the licence is suspended in terms of the provisions of this section.

Temporary authorisation to conduct business on premises other than those specified in dealer's, manufacturer's and gunsmith's licence

72B.(1) The Registrar may issue a temporary authorisation to –

(a) a dealer to trade in firearms and ammunition at premises other than those specified in the dealer's licence;

(b) a manufacturer to display firearms and ammunition at premises other than those specified in the manufacturer's licence; or

(c) a gunsmith to conduct business as a gunsmith at premises other than those specified in the gunsmith's licence.

(2) The Minister may prescribe conditions which the Registrar may impose on a dealer, manufacturer or gunsmith as the case may be in respect of a temporary authorisation issued in terms of this section.

(3) A temporary authorisation to issued in terms of this section must specify the—

(a) premises in respect of which it is issued;

(b) period for which it is issued; and

(c) conditions subject to which it is issued.

(4) The Registrar may, subject to the provisions of section 105A, at any time cancel a temporary authorisation issued in terms of this section.

(5) The Office of the Central Firearms Register must keep a record of prescribed information in respect of all temporary authorisations issued in terms of this section.

(6) A dealer, manufacturer and gunsmith to whom a temporary authorisation has been issued must comply with the specifications noted in terms of subsection (3).

Change of premises

72C. (1) A dealer, manufacture or gunsmith may apply to the Registrar in the prescribed manner for removal of the business from the premises specified in the licence to different premises.

(2) On receipt of the application referred to in subsection (1) the Registrar may endorse the licence or issue a new licence permitting the dealer, manufacture or gunsmith to conduct the business from the new premises on such conditions as the Registrar may impose.

(3) Section 46(2) applies with the necessary changes to an application in terms of this section in respect of a manufacturer's licence.

Notification of change of circumstances

72D. (1) The holder of a dealer's, manufacture's or gunsmith's licence must notify the Registrar in writing within 30 days if there is any change with regard to any information which was submitted in respect of the application for the issue of that licence.

(2) The Registrar must within 30 days after receiving a notice referred to in subsection (1) acknowledge receipt of that notice in writing.

Application of other laws

72E. A licence issued in terms of Part 1 to 3 of this Chapter does not exempt the holder of the licence from having to comply with the provisions of any other law applicable to the firearm or ammunition.

Defaced, lost or stolen licences

72F. (1) If a dealer's, manufacturer's or gunsmith's licence is lost or stolen, the holder of the licence must inform the Registrar within 24 hours of the discovery of the loss or theft.

(2) If a dealer's, manufacturer's or gunsmith's licence is defaced, lost or stolen, the holder of the licence must within seven days of the discovery of the

defacement, loss or theft apply to the Registrar in the prescribed form for a copy of the licence.”.

Amendment of section 73 of Act 60 of 2000

44. Section 73 of the principal Act is hereby amended by the addition of the following subsection:

“(3) No person may render a brokering service in firearms or ammunition unless that person is registered in the prescribed manner with the Registrar.

(4) No person may in any manner whatsoever deal in firearms and ammunition with any person who renders a brokering service in connection with firearms or ammunition, unless the person who renders the brokering service is registered with the Registrar in accordance with subsection (3).”

Amendment of section 96 of Act 60 of 2000

45. Section 96 of the principal Act is hereby amended -

(a) by the substitution for subsection (2) of the following subsection:

“(2) The trade in firearms and ammunition that may be conventional arms, as defined in the National Conventional Arms Control Act, 2002 (Act No. 41 of 2002), and for which permits are required in terms of that Act and its regulations, will be regulated by this Act subject to, and to the extent provided for in National Conventional Arms Control Act, 2002 and the regulations made under that Act.”;
and

(b) by the insertion of the following new subsection:

“(4) ‘trade in’ in this section has a corresponding meaning with the definition of that expression in the National Conventional Arms Control Act, 2002 (Act No. 41 of 2002).”.

Amendment of section 102 of Act 60 of 2000

46. Section 102 of the principal Act is hereby amended –

(a) by the substitution for subsection (1) of the following subsection:

“(1) The Registrar may declare a person unfit to possess a firearm if, on the grounds of information contained in a statement under oath or affirmation including a statement made by any person called as a witness, it appears that—

- (a) a final protection order has been issued against such person in terms of the Domestic Violence Act, 1998 (Act No. 116 of 1998);
- (b) that person has expressed the intention to kill or injure himself or herself or any other person by means of a firearm or any other dangerous weapon;
- (c) because of that person’s mental condition, inclination to violence or dependence on any substance which has an intoxicating or narcotic effect, the possession of a firearm by that person is not in the interests of that person or of any other person;
- (d) that person has failed to take the prescribed steps for the safe-keeping of any firearm; or
- (e) that person has provided information required in terms of this Act which is false or misleading.
- (f) that person has paid an admission of guilt as contemplated in section 103(6).”;

(b) by the substitution for subsection (2) of the following subsection:

“(2) A declaration under subsection (1) may only be issued if the Registrar-

(a) by notice in writing delivered by hand to the person, has called upon the person to appear before the Registrar at a time and place determined therein in order to advance reasons as to why that person should not be declared unfit to possess a firearm;

(b) has given that person a reasonable opportunity to advance reasons as to why the declaration should not be issued: Provided that upon proof that the notice referred to in subparagraph (a) was duly delivered or tendered to the person to whom it was addressed, the Registrar may proceed with the inquiry at the time specified in the notice, whether or not such person complies with the notice ;

(c) has duly considered the matter having regard to-
(i) reasons, submissions and evidence advanced under oath or affirmation by or on behalf of the said person; and

(ii) any other information contained in a statement under oath or affirmation or evidence at his or her disposal;

(d) is satisfied that the person is unfit as contemplated in subsection (1);
and

(e) does not rely solely on the same facts relating to a conviction in respect of which a court has made a determination in terms of section 103 (1) or (2) that the person is not unfit to possess a firearm.”.

(c) by the addition of the following subsection:

“(5) When the Registrar declares a person unfit to possess a firearm in terms of this section, the Registrar must also determine the period of duration that the declaration of unfitness will last which period must depend on the seriousness of the conduct which gave rise to the declaration of unfitness.”; and

Amendment of section 103 of Act 60 of 2000

47. Section 103 of the principal Act is hereby amended by the addition of the following subsections:

“(6) Section 103 will not apply in respect of a conviction following upon the payment of admission of guilt in terms of section 57 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977).

(7) When a person becomes or is declared unfit to possess a firearm in terms of this section, the court dealing with the case must determine the period of duration that the declaration of unfitness will last, which period must depend on the seriousness of the conduct which gave rise to the becoming or declaration of unfitness.”.

Addition of section 105A to the principal Act

48. The principal Act is hereby amended by the addition of the following section:

“Termination of an accreditation, competency certificate, licence, permit or authorisation

105A (1) An accreditation, competency certificate, licence, permit or authorisation issued in terms of the Act terminates—

(a) if surrendered by the holder of the accreditation, competency certificate, licence, permit or authorisation to the Registrar;

(b) if the holder of the accreditation, competency certificate, licence, permit or authorisation becomes or is declared unfit to possess a firearm in terms of section 102 or 103;

(c) in the case other than a dealer, manufacturer and gunsmith, if the holder of the licence, permit or authorisation sell, donate or otherwise permanently part with possession of the applicable firearm or ammunition; or

(d) if it is cancelled in terms of this Act.

(2) The Registrar may, by notice in writing, cancel an accreditation, competency certificate, licence, permit or authorisation issued in terms of this Act if the holder of the accreditation, competency certificate, licence, permit or authorization —

(a) no longer qualifies to hold the accreditation, competency certificate, licence, permit or authorisation; or

(b) has contravened or failed to comply with any provision of this Act or any condition specified in the accreditation, competency certificate, licence, permit or authorisation.

(3) A notice contemplated in subsection (2) may only be issued if the Registrar has—

(a) given the holder of the accreditation, competency certificate, licence, permit or authorisation 30 days notice in writing of the grounds on which the cancellation are to be considered and further inform the holder concerned to submit written representations as to why the accreditation, competency certificate, licence, permit or authorisation should not be cancelled; and

(b) duly considered any representations received and all the facts pertaining to the matter.

(4) (a) If a notice contemplated in subsection (2) is issued, the former holder of the accreditation, competency certificate, licence, permit or authorisation must dispose of any firearm in question through a dealer or in such manner as the Registrar may determine and as indicated in the notice.

- (b) The disposal must take place within 60 days after receipt of the notice.
- (5) If the firearm is not disposed of within 60 days, it must be forfeited to the State and the former holder of the accreditation, competency certificate, licence, permit or authorisation must surrender it immediately at such place and in such manner as the Registrar may determine.
- (6) Any period contemplated in this section may be extended by the Registrar on good cause shown.”.

Amendment of section 109 to the principal Act

49. Section 109 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) A police official or any person authorised by the Registrar may enter any-

- (a) place of business of a dealer;
- (b) firearm or ammunition factory or place of business of a manufacturer of firearms and ammunition;
- (c) place of business of a gunsmith;
- (d) place of business of the holder of an import or export permit;
- (e) place of business, including any vehicle, vessel or aircraft, of an authorised transporter of firearms and ammunition;
- (f) office or premises of an Official Institution which may issue a permit to its employees to possess and use firearms;
- (g) place of business, including any vehicle, vessel or aircraft, of the holder of a licence in respect of firearms used for business purposes referred to in section 20; or
- (h) residential premises,

and conduct such inspection as may be necessary in order to determine whether the requirements and conditions of this Act or of any competency certificate, licence, permit or authorisation issued in terms of this Act are being complied with.”

Amendment of section 118 of Act 60 of 2000

50. Section 118 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Whenever a person is charged with an offence in terms of this Act of failing to report the loss, theft or destruction of a firearm, or the dispossession of a firearm, and it is proved that such person was, at the time, the licensed or authorised possessor of the firearm alleged to have been lost, stolen, destroyed or dispossessed of, proof that the person has failed to produce such firearm within seven days of the request by a police official to do so, will, in the absence of evidence to the contrary which raises reasonable doubt, be sufficient evidence that the firearm has been lost, stolen, destroyed or dispossessed of.”

Insertion of section 119A to Act 60 of 2000

51. The principal Act is hereby amended by the insertion after section 119 of the following section:

“Presumption relating to possession, loss and dispossession in respect of an additional licence

119A Whenever proof is required for purposes of this Act whether the holder of a licence or the holder of an additional licence for that firearm was in possession, have lost, or was dispossessed of that firearm or whether the keys to the safe, strong-room or device where the firearm must be stored on the premises were kept in safe custody, and the State can show that despite the taking of reasonable steps it was not able with reasonable certainty to link the possession, loss or dispossession of the firearm or keeping of the keys to either the holder of the licence or the holder of the additional licence, it will in the absence of evidence to the contrary which raises reasonable doubt, be sufficient evidence of possession, loss or dispossession of the firearm or the keeping of the keys by the holder of the licence where it is proved that adequate documentary proof of the handing over and receipt of the firearm or the keys to the additional holder is not available or could not be produced.”

Amendment of section 132 of Act 60 of 2000

52. Section 132 of the principal Act is hereby amended by the substitution of section 132 with the following section:

“Establishment of Ministerial [Committees] Consultative Forum

[(1) The Minister may establish such committees as may be appropriate to assist him or her, or any other person appointed in terms of this Act, in respect of any matter dealt with in this Act.

(2) The composition and functions of the committees may be determined by the Minister.

(3) The conditions of office, remuneration, allowances and other benefits of members of the committees may be prescribed by the Minister with the approval of the Minister of Finance.]

The Minister may, within his or her discretion, establish a consultative forum as may be appropriate, to assist him or her in respect of any matter dealt with in this Act.”

Amendment of section 133 of Act 60 of 2000

53. Section 133 of the principal Act is hereby amended by the addition of the following subsection:

“(5) In order to effect subsection (3) hereof, the Appeal Board shall, where required by a party to an appeal or within its own discretion, issue a notice calling upon any person to give evidence or produce any article, book, accounts or record before the Appeal Board, and such notice shall have the force of a subpoena in a court of law.”

Amendment of section 149 of Act 60 of 2000

54. Section 149 of the principal Act is hereby amended by the addition of the following subsection:

“(3) No person, including the State, may destroy a firearm without the prior written permission of the Registrar. The Registrar shall only consent to the destruction of a firearm with due regard and compliance with the provisions of the

National Heritage Resources Act, 1999 (Act No. 25 of 1999) as imposed by the South African Heritage Resources Authority or their nominated agents.

Amendment to Schedule 1 to the principal Act

55. Schedule 1 to the principal Act is amended -

(a) by the substitution for item 1 of the following item:

“(1) (a) **[Subject to subitem (2) and item 11 any,]** Any licence, other than a licence contemplated in item 2, which was issued in terms of the previous Act and which was valid immediately before the date of commencement of this Amendment Act, remains valid [for a period of five years from the date from which this Act comes into operation,] unless such licence ceases to be valid, is terminated, cancelled or surrendered in terms of this Act.

(b) (i) The holder of a licence to possess a firearm contemplated in subitem (1)(a), must apply for a competency certificate to possess a firearm within a period determined by the Minister by notice in the *Gazette*.,

(ii) Different periods may be determined in respect of subparagraph (i) in respect-

(aa) different licences; and

(bb) holders whose surnames start with different letters of the alphabet, or whose dates of birth fall in different months.

(c) A licence contemplated in subitem (1)(a) ceases to be valid on the failure of the holder of the licence to comply with a notice issued in terms of subitem 1(b): Provided that if a prescribed application for a competency certificate has been lodged within the applicable period determined in the notice, the licence remains valid until the application is decided.

(2) (a) The holder of a license to possess a firearm contemplated in subitem (1)(a) must, **[before the end of the period contemplated in that subitem, in a lawful manner dispose of any firearms in his or her possession in excess of the number that he or she may lawfully possess in terms of this Act.]** in the event of the licence becoming invalid as contemplated in subitem 1(c), within 24 hours surrender to the nearest police station-

(i) all licences issued to him or her as contemplated in subitem 1(a);

- (ii) all firearms in his or her possession that are held in terms of a licence contemplated in subitem 1(c); and
- (iii) all ammunition in respect of the firearms contemplated in subparagraph (ii) which may not otherwise lawfully be in his or her possession.

(b) A person who has surrendered his or her firearm as contemplated in subitem (2)(a) must dispose of the firearm and ammunition through a dealer or in such manner as the Registrar may determine-

(i) if an appeal is lodged and that appeal is unsuccessful, within 60 days of the finalisation of the appeal; or

(ii) if no appeal is lodged, within 60 days of the the date on which the licence ceased to be valid in accordance with subitem 1 (c).

(c) If the firearm and ammunition are not disposed of within 60 days, they must be forfeited to the State and destroyed or disposed of as prescribed.

(d) The period of 60 days referred to in this subitem may be extended by the Registrar on good cause shown.

(e) For purposes of subitem (2)(b), the Registrar must release the firearm and ammunition in question to a dealer identified by the relevant person, for disposal by that dealer on behalf of the person.

(3)(a) Nothing in this subitem must be construed as preventing the holder of a licence contemplated in subitem 1(a) to dispose of the relevant firearm or ammunition in a lawful manner before the provisions of subitem 1(c) becomes effective.

(b) For the purpose of subitem (3)(a), section 31(2) does not apply.

(b) by the substitution for item 10(1) of the following item:

“(1) Despite this Schedule, the Registrar may at any time notify any person who holds a licence, permit or authorisation contemplated in item 1, 2, 3, 4, 4A or 5 that he or she intends investigating the validity of that licence, permit, certificate or authorisation.”; and

(c) by the substitution for item 11 of the following item:

“11(1)(a) The holder of a licence contemplated in item 1(a) must, within the period determined by the Minister by notice in the *Gazette*, produce to the Designated Firearms Officer responsible for the area in which the applicant ordinarily resides or in which the applicant’s business is or will be situated, as the case may be, the licence for inspection and verification together with such other

information as may be required and when requested by the Designated Firearms Officer concerned, also produce the firearm in respect of which the licence is issued.

[(a)](b) The holder of a licence, permit, certificate or authorization contemplated in item [1], 2, 3, 4, 4A or 5 must apply for the corresponding licence, permit, certificate or authorisation in terms of this Act within the period determined by the Minister by notice in the *Gazette*.

[(b)](c) Different periods may be determined in terms of paragraph (a) or (b) in respect of-

(i) different licences, permits, certificates or authorisations;
and

(ii) holders whose surnames start with different letters of the alphabet, or whose dates of birth fall in different months.

[(c)](d) The period contemplated in paragraph [(a)](b) must end before the end of the relevant period contemplated in item [1 (1)] 2, 3, 4, 4A or 5 and may not exceed the period contemplated in item 2, 3, 4, 4A or 5.

[(d)](e) If an application for the renewal of a licence, permit, certificate or authorisation contemplated in subitem (1)(b) has been lodged within the period provided for in **[this section] item 2, 3, 4, 4A or 5, as the case may be,** the licence, permit, certificate or authorisation remains valid until the application is decided.

(2) An application for a licence, permit, certificate or authorisation contemplated in subitem (1)(b) must, in addition to any requirement in terms of this Act be accompanied by-

(a) a certified copy of the existing licence, permit, certificate or authorisation; and

(b) such other information as may be required.

(3) For purposes of this item, section 9 (2) (r) does not apply.

(4) Any holder of a licence, permit, certificate or authorisation who fails to **[apply for the renewal of his or her licence, permit or authorisation before the end of the period determined by the Minister in terms of subitem (1)]** comply

with the provisions of this item, is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding one year or to both a fine and such imprisonment.”.

Amendment to Schedule 4 of the principal Act

56. The following Schedule is hereby substituted for Schedule 4 of the principal Act:

SCHEDULE 4
PENALTIES
(Section 121)

Section	Maximum period of imprisonment
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NOTE: Schedule 4, prescribing the penalties that may be imposed in respect of the various sections in the Act, will be amended in conjunction with the Portfolio Committee once the final amendments to the Act have been approved by the Committee

Short title

54. This Act is called the Firearms Control Amendment Act, 2006, and shall come into operation on a date determined by the President by Proclamation in the *Gazette*.

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