

Legal Aspects

Aim

The aim of this document is to provide you with an understanding of the legal requirements regarding firearms in South Africa so you can demonstrate knowledge of the Firearms Control Act 2000 (Act 60 of 2000)* applicable to possessing a firearm.

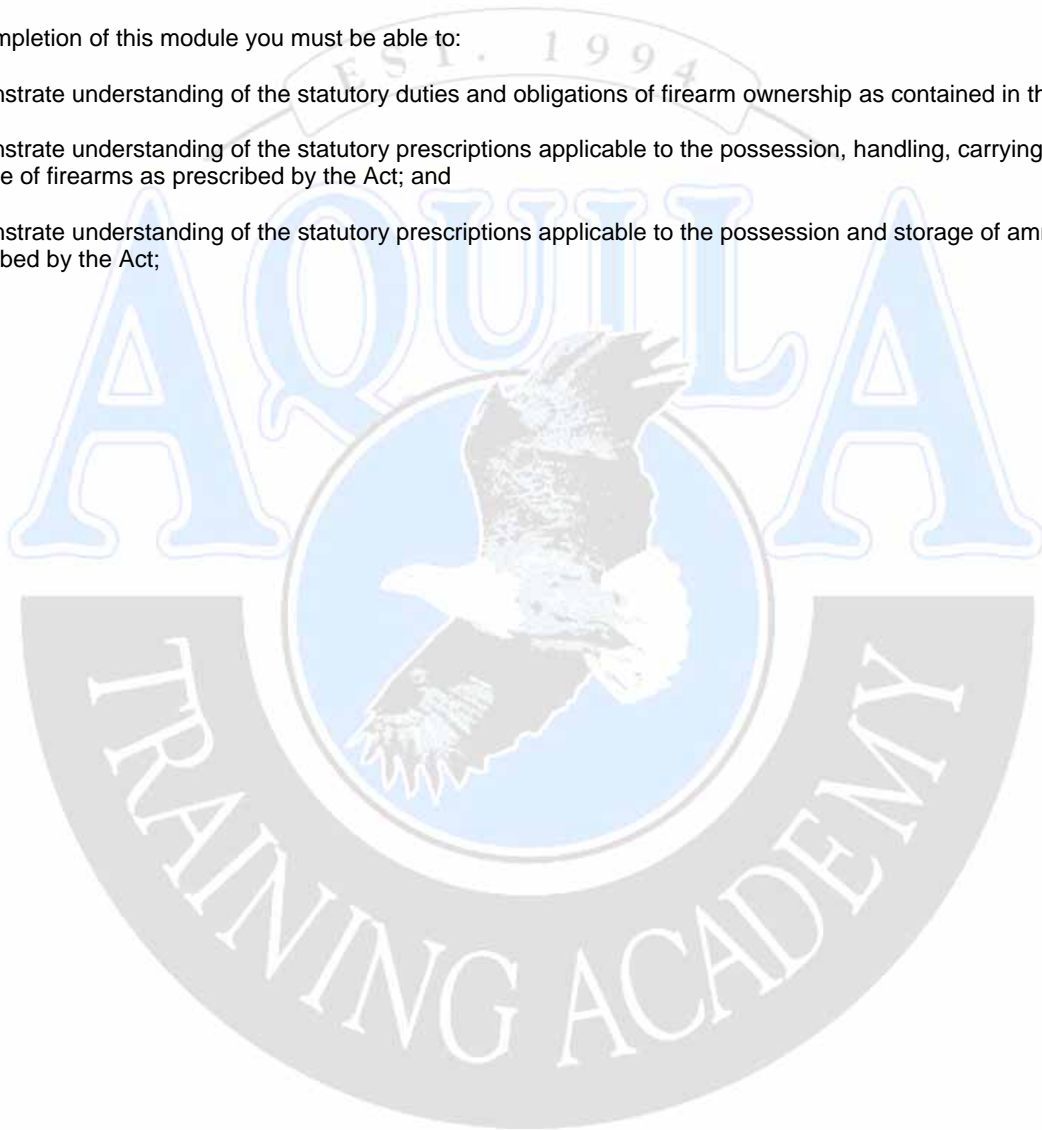
Instructional Objectives

On completion of this module you must be able to:

Demonstrate understanding of the statutory duties and obligations of firearm ownership as contained in the Act;

Demonstrate understanding of the statutory prescriptions applicable to the possession, handling, carrying, storage and use of firearms as prescribed by the Act; and

Demonstrate understanding of the statutory prescriptions applicable to the possession and storage of ammunition as prescribed by the Act;



* Extracts from the above legislation reflect only selected portions and not the full and exact text.

Introduction

A proper understanding of the law is essential for any person who is using or carrying a firearm in South Africa. The legal system in South Africa can only work if all persons who use or carry firearms have a good understanding of when and to what extent they may use the firearms.

The Firearms Control Act (Act 60 of 2000)

Chapter 1 - Introductory Provisions

Definitions

Section 1

In this Act, unless the context indicates otherwise—

- (ii) **“airgun”** means any device manufactured to discharge a bullet or any other projectile -
 - (a) of a calibre of less than 5.6mm (.22 calibre) or
 - (b) at a muzzle energy of less than 8 joules (6ft-lbs), by means of compressed gas and not by means of burning propellant;
- (iii) **“ammunition”** means a primer or a complete cartridge;
- (iv) **“antique firearm”** means any muzzle loading firearm manufactured before 1 January 1900, or any replica of such a firearm;
- (vi) **“cartridge”** means a complete object consisting of a cartridge case, primer, propellant and bullet;
- (ix) **“dedicated hunter”** means a person who actively participates in hunting activities and who is a member of an accredited hunting association;
- (x) **“dedicated sports person”** means a person who actively participates in sports-shooting and who is a member of an accredited sports-shooting organisation;
- (xii) **“firearm”** means any—
 - (a) device manufactured or designed to propel a bullet or projectile through a barrel or cylinder by means of burning propellant, at a muzzle energy exceeding 8 joules (6 ft-lbs);
 - (b) device manufactured or designed to discharge rim-fire, centre-fire or pin-fire ammunition;
 - (c) device which is not at the time capable of discharging any bullet or projectile, but which can be readily altered to be a firearm within the meaning of paragraph (a) or (b);
 - (d) device manufactured to discharge a bullet or any other projectile of a caliber of 5,6mm (.22 calibre) or higher at a muzzle energy of more than 8 joules (6 ft-lbs), by means of compressed gas and not by means of burning propellant; or
 - (e) barrel, frame or receiver of a device referred to in paragraphs (a), (b), (c) or (d), but does not include any device contemplated in section 5;
- (xiii) **“fully automatic”** means capable of discharging more than one shot with a single depression of the trigger;
- (xv) **“handgun”** means a pistol or revolver which can be held in and discharged with one hand;
- (xvi) **“imitation firearm”** means anything that has the appearance of a firearm but is not capable of operating as such and cannot by superficial examination be identified as an imitation;
- (xxi) **“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;
- (xxii) **“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 organisation;
- (xxvi) **“private collector”** means a person who collects firearms or ammunition, who is a member of an accredited collector's association and who is not a public collector;
- (xxxiii) **“semi-automatic”** means self-loading but not capable of discharging more than one shot with a single depression of the trigger.

Purpose of the Act

Section 2

The purpose of this Act is to—

- (a) enhance the constitutional rights to life and bodily integrity;
- (b) prevent the proliferation of illegally possessed firearms and, by providing for the removal of those firearms from society and by improving control over legally possessed firearms, to prevent crime involving the use of firearms;
- (c) enable the State to remove illegally possessed firearms from society, to control the supply, possession, safe storage, transfer and use of firearms and to detect and punish the negligent or criminal use of firearms;
- (d) establish a comprehensive and effective system of firearm control and management; and

(e) ensure the efficient monitoring and enforcement of legislation pertaining to the control of firearms.

Chapter 2 - Prohibitions

General prohibitions in respect of firearms

Section 3

No person may possess a firearm unless he or she holds a licence, permit or authorisation issued in terms of this Act for that firearm.

Prohibited firearms

Section 4

- (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):
- (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.
- (2) For purposes of subsection (1) (f) (iii), the incidental alteration of the length of the barrel of a firearm by a gunsmith in the ordinary course of a gunsmith's work which does not have as an objective the alteration of the length of the barrel of that firearm must not be regarded as an alteration contemplated in that subsection.

Chapter 3 – Special provisions in respect of certain devices

Devices not firearms for purposes of this Act

Section 5

- (1) For purposes of this Act, the following devices are not regarded as firearms:
- (a) Any explosive powered tool manufactured specifically for use in industrial application, including line-throwing guns and impex-type building pistols;
 - (b) any explosive powered tool manufactured to split rock or concrete by means of discharging an explosive cartridge;
 - (c) any industrial tool manufactured for use in the mining and steel industry to remove refractory material;
 - (d) any captive bolt gun manufactured for use in an abattoir in the humane killing of animals;
 - (e) an antique firearm;
 - (f) an airgun;
 - (g) a tranquiliser firearm;
 - (h) a paintball gun;
 - (i) a flare gun;
 - (j) a deactivated firearm; and
 - (k) any other device which the Minister may, by notice in the *Gazette*, exempt.

Chapter 5 – Competency Certificates

Application for competency certificate

Section 9

- (1) An application for a competency certificate to possess a firearm, to trade in firearms, to manufacture firearms or

to carry on business as a gunsmith must be delivered 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.

- (2) Where a person has not previously obtained a competency certificate, a competency certificate may only be issued to such person if he or she—
- (a) is 21 years or older on the day the application is received by the Designated Firearms Officer;
 - (b) is a South African citizen or a holder of a permanent South African residence permit;
 - (c) is a fit and proper person to possess a firearm, to trade in firearms, to manufacture firearms or to conduct business as a gunsmith, as the case may be;
 - (d) is of stable mental condition and is not inclined to violence;
 - (e) is not dependent on any substance which has an intoxicating or narcotic effect;
 - (f) has not been convicted of any offence under or in terms of this Act or the previous Act and sentenced to a period of imprisonment without the option of a fine;
 - (g) has not been convicted, whether in or outside South Africa, of an offence involving the unlawful use or handling of a firearm by him or her or another participant to the offence, whether committed in or outside South Africa;
 - (h) has not been convicted, whether in or outside South Africa, of an offence involving—
 - (i) violence or sexual abuse, whether committed in or outside South Africa, and sentenced to a period of imprisonment without the option of a fine; or
 - (ii) physical or sexual abuse which occurred within a domestic relationship as defined in section 1 of the Domestic Violence Act, 1998 (Act No. 116 of 1998), whether committed in or outside South Africa;
 - (i) has not been convicted of fraud in relation to, or supplying false information for the purposes of, obtaining a competency certificate, licence, permit or authorisation in terms of this Act or the previous Act;
 - (j) has not been convicted, whether in or outside South Africa, of an offence involving the abuse of alcohol or drugs, whether committed in or outside South Africa, and sentenced to a period of imprisonment without the option of a fine;
 - (k) has not been convicted, whether in or outside South Africa, of an offence involving dealing in drugs, whether committed in or outside South Africa, and sentenced to a period of imprisonment without the option of a fine;
 - (l) has not been convicted of an offence in terms of the Domestic Violence Act, 1998 (Act No. 116 of 1998), and sentenced to a period of imprisonment without the option of a fine;
 - (m) has not been convicted of an offence involving the negligent handling of a firearm;
 - (n) has not been convicted of an offence in terms of the Explosives Act, 1956 (Act No. 26 of 1956), and sentenced to a period of imprisonment without the option of a fine;
 - (o) has not been convicted, whether in or outside South Africa, of an offence involving sabotage, terrorism, public violence, arson, intimidation, rape, kidnapping or child stealing, whether committed in or outside South Africa;
 - (p) has not become or been declared unfit to possess a firearm in terms of this Act or the previous Act;
 - (q) has successfully completed the prescribed test on knowledge of this Act;
 - (r) has successfully completed the prescribed training and practical tests regarding the safe and efficient handling of a firearm; and
 - (s) has, where applicable, successfully completed the prescribed training and practical tests for firearms dealers, manufacturers, gunsmiths, security officers or other persons who use firearms in the course of their business.
- (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.
- (4) The disqualification contemplated in subsection (2)(p) ends upon the expiry of a period of five years calculated from the date on which the person became or was declared unfit, or the expiry of the period for which the declaration is valid, whichever occurs first.
- (5) (a) Despite subsection (2)(a), the Registrar may allow a person under the age of 21 years to apply for a competency certificate if there are compelling reasons which require the person to obtain a competency certificate or licence to possess a firearm.
- (b) Compelling reasons contemplated in paragraph (a) may include the fact that the applicant conducts a business, is gainfully employed, a dedicated hunter, a dedicated sports person or a private collector.
- (6) (a) Where a person has previously obtained a competency certificate, a further competency certificate may only be issued to such person if he or she satisfies such requirements as may be prescribed.
- (b) The requirements contemplated in paragraph (a) may not be more onerous than those applicable to a person who has not previously obtained a competency certificate.

Chapter 6 – Licence to possess firearm

Licence to possess firearm for self-defence

Section 13

- (1) A firearm in respect of which a licence may be issued in terms of this section is any—
 - (a) shotgun which is not fully or semi-automatic; or
 - (b) handgun which is not fully automatic.
- (2) The Registrar may issue a licence under this section to any natural person who—
 - (a) needs a firearm for self-defence; and
 - (b) cannot reasonably satisfy that need by means other than the possession of a firearm.
- (3) No person may hold more than one licence issued in terms of this section.
- (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.

Holder of licence may allow another person to use firearm

Section 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.

Renewal of firearm licences

Section 24

- (1) The holder of a licence issued in terms of this Chapter who wishes to renew the licence must at least 90 days before the date of expiry of the licence apply to the Registrar for its renewal.
- (2) The application must be—
 - (a) accompanied by such information as may be prescribed; and
 - (b) delivered to the Designated Firearms Officer responsible for the area in which the applicant ordinarily resides or in which the applicant's business is, as the case may be.
- (3) No application for the renewal of a licence may be granted unless the applicant shows that he or she has continued to comply with the requirements for the licence in terms of this Act.
- (4) If an application for the renewal of a licence has been lodged within the period provided for in subsection (1), the licence remains valid until the application is decided.

Notification of change of address

Section 25

- (1) The holder of a licence, permit or authorisation issued in terms of this Chapter must in writing notify the Registrar of any change in his or her physical or postal address within 30 days of such change occurring.
- (2) The Registrar must within 30 days after receiving a notice referred to in subsection (1) acknowledge receipt of that notice in writing.

Notification of change of circumstances

Section 26

- (1) The holder of a licence, permit or authorisation issued in terms of this Chapter 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, permit or authorisation.
- (2) The Registrar must within 30 days after receiving a notice referred to in subsection (1) acknowledge receipt of that notice in writing.

Period of validity of licence or permit

Section 27

A licence or permit mentioned in Column 2 of the Table below remains valid for the period mentioned in Column 3 of that Table.

Table — period of validity of licence or permit

Section Number	Type of licence or permit	Period of validity
13	Licence to possess firearm for self-defence	Five years
14	Licence to possess restricted firearm for self-defence	Two years
15	Licence to possess firearm for occasional hunting and sports-shooting	Ten years
16	Licence to possess firearm for dedicated hunting and dedicated sports-shooting	Ten years
17	Licence to possess firearm in private collection	Ten years
18	Permit to possess ammunition in private collection	Ten years
19	Licence to possess firearm, and permit to possess ammunition, in public collection	Ten years
20	Licence to possess firearm for business purposes: Business in hunting	Five years
	Licence to possess firearm for business purposes: Business other than in hunting	Two years

Defaced, lost or stolen licences, permits and authorisations

Section 29

- (1) If a licence, permit or authorisation issued in terms of this Chapter is lost or stolen, the holder of the licence, permit or authorisation must inform the Registrar of such loss or theft within 24 hours of the discovery of the loss or theft.
- (2) If a licence, permit or authorisation issued in terms of this Chapter is defaced, lost or stolen, the holder of the licence, permit or authorisation 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, permit or authorization.

Chapter 9 – Storage, transport and carrying of firearms and ammunition

Carrying of firearm in public place

Section 84

- (1) No person may carry a firearm in a public place unless the firearm is carried—
 - (a) in the case of a handgun—
 - (i) in a holster or similar holder designed, manufactured or adapted for the carrying of a handgun and attached to his or her person; or
 - (ii) in a rucksack or similar holder; or
 - (b) in the case of any other firearm, in a holder designed, manufactured or adapted for the carrying of the firearm.
- (2) A firearm contemplated in subsection (1) must be completely covered and the person carrying the firearm must be able to exercise effective control over such firearm.

Chapter 10 – Control of ammunition and firearm parts

Prohibition of possession of ammunition

Section 90

- No person may possess any ammunition unless he or she—
- (a) holds a licence in respect of a firearm capable of discharging that ammunition;
 - (b) holds a permit to possess ammunition;
 - (c) holds a dealer's licence, manufacturer's licence, gunsmith's licence, import, export or in-transit permit or transporter's permit issued in terms of this Act; or
 - (d) is otherwise authorised to do so.

Restrictions on possession of ammunition

Section 91

- (1) The holder of a licence to possess a firearm referred to in Chapter 6 may not possess more than 200 cartridges for each firearm in respect of which he or she holds a licence.
- (2) The limitation in subsection (1) does not apply to—
 - (a) a dedicated hunter or dedicated sports person who holds a licence issued in terms of this Act or any other holder of a licence issued in terms of this Act authorised by the Registrar to possess more than 200 cartridges for a firearm in respect of which he or she holds a licence on good cause shown; or

- (b) the holder of a licence to possess a firearm issued in terms of this Act in respect of ammunition bought and discharged at an accredited shooting range.

Loading or reloading of ammunition

Section 93

- (1) Section 45 (1) does not apply to the loading of ammunition by the holder of a licence to possess a firearm for use in his or her licensed firearm.
- (2) (a) A holder of a licence contemplated in subsection (1) may not have more than 2 400 primers in his or her possession for each firearm in respect of which he or she holds a licence.
(b) The limitation in paragraph (a) does not apply to a dedicated hunter or dedicated sports person who holds a licence issued in terms of this Act or any other holder of a licence issued in terms of this Act authorised by the Registrar to possess more than 2 400 primers for a firearm in respect of which he or she holds a licence on good cause shown.
- (3) No person may load prohibited ammunition contemplated in section 92.

Prohibition of possession of firearm parts

Section 94

- (1) For purposes of this section, "firearm part" means a slide, bolt or breech-block of a firearm.
- (2) No person may possess any firearm part unless he or she—
 - (a) holds a licence in respect of a firearm capable of bearing that firearm part;
 - (b) holds a dealer's licence, manufacturer's licence, gunsmith's licence, import, export or in-transit permit or transporter's permit issued in terms of this Act; or
 - (c) is otherwise authorised to do so.
- (3) The holder of a dealer's licence, manufacturer's licence, gunsmith's licence, import, export or in-transit permit or transporter's permit issued in terms of this Act must keep such register of all firearm parts in his or her possession as may be prescribed.
- (4) (a) The Minister may, by notice in the *Gazette*, prohibit or restrict the acquisition, disposal, possession or use of firearm parts if it is—
 - (i) in the interest of public safety; or
 - (ii) desirable for the maintenance of law and order.

Chapter 12 – Declaration of persons as unfit to possess firearm

Declaration by Registrar of person as unfit to possess firearm

Section 102

- (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 safekeeping of any firearm; or
 - (e) that person has provided information required in terms of this Act which is false or misleading.
- (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;
 - (c) has duly considered the matter;
 - (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.
- (3) Any person appearing in pursuance of a notice issued in terms of subsection (2) (a) is entitled to—

- (a) be represented by a legal representative;
 - (b) request the Registrar to call, in the manner referred to in subsection (2) (a), any person who made a statement referred to in subsection (1), to appear before the Registrar; and
 - (c) examine the person who has been called in terms of subsection (1) or paragraph (b) to appear, or to cause him or her to be so examined by such legal representative.
- (4) (a) Section 183 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), applies with the necessary changes to any person called to appear before the Registrar in terms of subsection (2) (a), including any witness.
- (b) For purposes of paragraph (a) the expression “to a fine not exceeding R300 or to imprisonment for a period not exceeding three months” where it occurs in section 183 (2) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), must be construed to read as follows: “to a fine or to imprisonment for a period not exceeding 12 months”.
- (c) Section 181 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), applies with the necessary changes in respect of any witness whose appearance has been requested as contemplated in subsection (3) (b).

Declaration by court of person to be unfit to possess firearm

Section 103

- (1) Unless the court determines otherwise, a person becomes unfit to possess a firearm if convicted of—
- (a) the unlawful possession of a firearm or ammunition;
 - (b) any crime or offence involving the unlawful use or handling of a firearm, whether the firearm was used or handled by that person or by another participant in that offence;
 - (c) an offence regarding the failure to store firearms or ammunition in accordance with the requirements of this Act;
 - (d) an offence involving the negligent handling or loss of a firearm while the firearm was in his or her possession or under his or her direct control;
 - (e) an offence involving the handling of a firearm while under the influence of any substance which has an intoxicating or narcotic effect;
 - (f) any other crime or offence in the commission of which a firearm was used, whether the firearm was used or handled by that person or by another participant in the offence;
 - (g) any offence involving violence, sexual abuse or dishonesty, for which the accused is sentenced to a period of imprisonment without the option of a fine;
 - (h) any other offence under or in terms of this Act in respect of which the accused is sentenced to a period of imprisonment without the option of a fine;
 - (i) any offence involving physical or sexual abuse occurring in a domestic relationship as defined in section 1 of the Domestic Violence Act, 1998 (Act No. 116 of 1998);
 - (j) any offence involving the abuse of alcohol or drugs;
 - (k) any offence involving dealing in drugs;
 - (l) any offence in terms of the Domestic Violence Act, 1998 (Act No. 116 of 1998) in respect of which the accused is sentenced to a period of imprisonment without the option of a fine;
 - (m) any offence in terms of the Explosives Act, 1956 (Act No. 26 of 1956), in respect of which the accused is sentenced to a period of imprisonment without the option of a fine;
 - (n) any offence involving sabotage, terrorism, public violence, arson, intimidation, rape, kidnapping, or child stealing; or
 - (o) any conspiracy, incitement or attempt to commit an offence referred to above.
- (2) (a) A court which convicts a person of a crime or offence referred to in Schedule 2 and which is not a crime or offence contemplated in subsection (1), must enquire and determine whether that person is unfit to possess a firearm.
- (b) If a court, acting in terms of paragraph (a), determines that a person is unfit to possess a firearm, it must make a declaration to that effect.
- (3) A court which has convicted a person of a crime or an offence contemplated in subsection (1), has made a determination contemplated in that subsection or has made a declaration in terms of subsection (2) must notify the Registrar in writing of that conviction, determination or declaration.
- (4) Unless a determination that a person is not unfit to possess a firearm has been made in terms of subsection (1), a notice contemplated in subsection (3) must be accompanied by a court order for the immediate search for and seizure of—
- (a) all competency certificates, licences, authorisations and permits issued to the relevant person in terms of this Act;
 - (b) all firearms in his or her possession; and
 - (c) all ammunition in his or her possession.
- (5) A firearm and any other item seized in terms of subsection (4) must be kept by the South African Police Service or, if appropriate, by the Military Police, until an appeal against the conviction or sentence has been finalised or the time for an appeal has elapsed.

Effect of declaration of unfitness

Section 104

- (1) (a) All competency certificates, licences, authorisations and permits issued in terms of this Act to any person who becomes or is declared unfit to possess a firearm in terms of section 102 or 103, cease to be valid from the date of the conviction, or the declaration, as the case may be.
(b) Despite the noting of an appeal against the decision of a court or of the Registrar, the status of unfitness contemplated in paragraph (a) remains in effect pending the finalisation of the appeal.
- (2) A person who becomes or is declared unfit to possess a firearm in terms of section 102 or 103 must within 24 hours surrender to the nearest police station—
 - (a) all competency certificates, licences, authorisations and permits issued to him or her in terms of this Act;
 - (b) all firearms in his or her possession; and
 - (c) all ammunition in his or her possession.
- (3) (a) A person who has surrendered his or her firearm as contemplated in subsection (2) 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 receipt of a written notice from the Registrar informing the person of his or her unfitness to possess a firearm.
(b) 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.
(c) The period of 60 days referred to in this subsection may be extended by the Registrar on good cause shown.
(d) For purposes of subsection (3) (a), 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.
- (4) (a) The holder of an additional licence referred to in section 12 (1) may, if the holder of the licence becomes or is declared unfit to possess a firearm, apply to the Registrar for the issue of a new licence in his or her name.
(b) If the holder of an additional licence does not make an application referred to in paragraph (a) within 30 days of the—
 - (i) date on which the time for an appeal elapses; or
 - (ii) finalisation of the appeal if it does not affect the status of unfitness, the additional firearm licence lapses.
- (5) If the decision leading to the status of unfitness to possess a firearm of any person is set aside, any seized or surrendered firearm, ammunition, licence, permit or authorisation belonging to any such person, must be returned.
- (6) Subject to section 9 (3) (b) and after a period of five years calculated from the date of the decision leading to the status of unfitness to possess a firearm, the person who has become or been declared unfit to possess a firearm may apply for a new competency certificate, licence, authorisation or permit in accordance with the provisions of this Act.

Chapter 13 – Inspections

Production of licences and firearms for inspection

Section 106

- (1) Subject to section 107, any holder of a licence, permit or authorisation issued in terms of this Act must—
 - (a) produce the licence, permit or authorisation for inspection within seven days of being required to do so by any police official or by any person authorised by the Registrar;
 - (b) maintain the licence, permit or authorisation in such a state that it can be produced in an undefaced and legible condition; and
 - (c) produce the firearm in respect of which the licence, permit or authorisation is issued within seven days of being required to do so by any police official or by any person authorised by the Registrar.
- (2) A police official or an authorised person, when exercising a power in terms of subsection (1) must—
 - (a) identify himself or herself to the person referred to in subsection (1); and
 - (b) produce his or her appointment certificate or authorisation.

Duty to comply with request of police official or authorised person

Section 107

- (1) Any person who carries a firearm must at the request of a police official or any person authorised by the Registrar produce the licence, permit or authorisation, as the case may be, in respect of such firearm for inspection.
- (2) A person referred to in subsection (1) must—
 - (a) at the request and to the satisfaction of a police official or any person authorised by the Registrar, identify himself or herself forthwith; and
 - (b) at the request of a police official or any person authorised by the Registrar, produce such firearm for

- inspection.
- (3) If a person fails to comply with subsection (1) or (2), the police official or authorised person may seize the firearm without a warrant and keep the firearm in custody until the licence, permit or authorisation is produced or the firearm is disposed of in terms of this Act.
 - (4) A police official or an authorised person, when exercising a power in terms of subsection (1) or (2) must—
 - (a) identify himself or herself to the person referred to in subsection (1); and
 - (b) produce his or her appointment certificate or authorisation.

Request for information

Section 108

- (1) A police official or any person authorised by the Registrar who has reasonable grounds to believe that a person has or recently had a firearm or ammunition in his or her possession, may request that person to—
 - (a) state his or her full name, age, residential and employment address;
 - (b) produce his or her licence, permit or authorisation for the possession of the firearm;
 - (c) answer questions relating to the whereabouts of the firearm; and
 - (d) furnish any other information reasonably required by the police official or authorised person.
- (2) A police official or an authorised person, when exercising a power in terms of subsection (1) must—
 - (a) identify himself or herself to the person referred to in subsection (1); and
 - (b) produce his or her appointment certificate or authorisation.

Chapter 14 – Search and Seizure

Bodyprints and bodily samples

Section 113

- (1) Any police official may without warrant take the fingerprints, palmprints, footprints and bodily samples of a person or a group of persons or may cause any such prints or samples to be taken, if—
 - (a) there are reasonable grounds to suspect that that person or that one or more of the persons in that group has committed an offence punishable with imprisonment for a period of five years or longer; and
 - (b) there are reasonable grounds to believe that the prints or samples or the results of an examination thereof, will be of value in the investigation by excluding or including one or more of the persons as a possible perpetrator of the offence.
- (2) The person who has control over prints or samples taken in terms of this section—
 - (a) may examine them for purposes of the investigation of the relevant offence or cause them to be so examined; and
 - (b) must immediately destroy them when it is clear that they will not be of value as evidence.
- (3) Bodily samples to be taken from the body of a person, may only be taken by a registered medical practitioner or a registered nurse.
- (4) A police official may do such tests, or cause such tests to be done, as may be necessary to determine whether a person suspected of having handled or discharged a firearm has indeed handled or discharged a firearm.

Ballistic testing

Section 114

- (1) Any police official may seize, test-fire and examine such number of firearms as are necessary or such ammunition as is necessary, if—
 - (a) there are reasonable grounds to suspect that one or more of the firearms or the ammunition has been used in the commission of an offence which is punishable in terms of this Act with imprisonment for a period of five years or longer; and
 - (b) there are reasonable grounds to believe that one or more of the firearms or the ammunition or the results of the test-firing and examination, will be of value in the investigation by excluding or including—
 - (i) one or more of those firearms or the ammunition as having been used in the commission of the offence; or
 - (ii) one or more persons as possible perpetrators of the offence.
- (2) The person who has control over a firearm or ammunition seized in terms of this section must immediately return it or otherwise dispose of it in terms of this Act when it is clear that it will not be of value as evidence.

Inspection, search and seizure for inquiry or investigation (with special warrant)

Section 115

- (1) For purposes of any inquiry or investigation relating to the application of this Act and subject to subsection (4), the

- Registrar or any person authorised in writing by the Registrar may—
- (a) at any reasonable time and without prior notice, enter any business or industrial premises; or
 - (b) at any reasonable time and with reasonable notice, enter any dwelling on or in which anything relating to the subject-matter of the inquiry or investigation is or is suspected to be.
- (2) The Registrar or person authorised may—
- (a) inspect and search any premises or dwelling contemplated in subsection (1) and make such enquiries as may be necessary for purposes of the inquiry or investigation;
 - (b) examine anything found on the premises or dwelling which may have a bearing on the subject-matter of the inquiry or investigation;
 - (c) request information or an explanation regarding such object from the owner or person in control of those premises or from any person in whose possession or under whose control anything referred to in paragraph (b) is found;
 - (d) make copies of or extracts from any book or document found on or in the premises or dwelling which may have a bearing on the subject-matter of the inquiry or investigation and request an explanation of such book, document or any entry therein from any person suspected of having knowledge thereof; and
 - (e) against the issue of a written receipt, seize anything on or in the premises or dwelling which may have a bearing on the subject-matter of the inquiry or investigation.
- (3) Any entry upon, inspection of or search of any premises or dwelling, or questioning of any person, in terms of this section must be carried out with strict regard to decency and order.
- (4) Any power contemplated in subsection (1) may be exercised only—
- (a) in terms of a warrant issued by a judge or magistrate; or
 - (b) without warrant by a police official contemplated in paragraph (a) of the definition of “police official” in section 1 if—
 - (i) there are reasonable grounds to believe that a warrant would be issued and the delay in obtaining the warrant would defeat the object for which the power is exercised; or
 - (ii) the person who is competent to do so consents to the exercise of the power.
- (5) (a) A warrant may only be issued if it appears from evidence under oath or on affirmation that there are reasonable grounds to suspect that anything referred to in subsection (2) is or may be on the premises or in the dwelling in question.
- (b) The evidence must contain information regarding the—
- (i) nature of the inquiry or investigation to be conducted;
 - (ii) reason for or suspicion which gave rise to the inquiry or investigation;
 - (iii) need for search and seizure in terms of this section; and
 - (iv) premises on which the warrant is to be executed.
- (6) Subject to subsection (7), sections 21 (3) and 27 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), apply, with the necessary changes, to the execution of a warrant or to a search in terms of this section.
- (7) A warrant contemplated in this section remains in force until—
- (a) it is executed;
 - (b) it is cancelled; or
 - (c) the expiry of three months from the date of its issue, whichever may occur first.

Chapter 15 – Presumptions

Presumption of possession of firearm or ammunition

Section 117

- (1) For purposes of this section “residential premises” does not include a hotel, hostel, or an apartment building, but includes a room or suite in a hotel, a room in a hostel and an apartment in an apartment building.
- (2) Whenever a person is charged in terms of this Act with an offence of which the possession of a firearm or ammunition is an element, and the State can show that despite the taking of reasonable steps it was not able with reasonable certainty to link the possession of the firearm or ammunition to any other person, the following circumstances will, in the absence of evidence to the contrary which raises reasonable doubt, be sufficient evidence of possession by that person of the firearm or ammunition where it is proved that the firearm or ammunition was found—
- (a) on residential premises and the person was, at the time—
 - (i) in control of such premises; or
 - (ii) over the age of 16 years and ordinarily resident at such premises;
 - (b) buried in or hidden on land used for residential purposes and the person was, at the time—
 - (i) in control of such land;
 - (ii) employed to work on the land in or on which the firearm or ammunition was found; or
 - (iii) over the age of 16 years and ordinarily resident on such land;

- (c) on premises other than residential premises and the person was, at the time—
 - (i) in control of such premises;
 - (ii) ordinarily employed on the premises;
 - (iii) present in the immediate vicinity of the place on the premises where the firearm or ammunition was found and the circumstances indicate that the firearm or ammunition should have been visible to that person; or
 - (iv) in control of a locker, cupboard or other container within which the firearm or ammunition was found;
- (d) in or on a vehicle and the person was, at the time—
 - (i) the driver of the vehicle;
 - (ii) the person in charge of the vehicle;
 - (iii) in control of all the goods on the vehicle;
 - (iv) the consignor of any goods in or among which the firearm or ammunition was found;
 - (v) the only person who had access to the firearm or ammunition;
 - (vi) the employer of the driver of the vehicle and present on the vehicle; or
 - (vii) over the age of 16 years and present on the vehicle;
- (e) on any aircraft other than an aircraft which was used to convey passengers for gain, and the person was at the time—
 - (i) present on the aircraft and in charge of the aircraft; or
 - (ii) over the age of 16 years and present on the aircraft;
- (f) in the hold of an aircraft and the person was, at the time, the person in charge of the goods in the hold;
- (g) in a place on an aircraft or vessel—
 - (i) to which no one besides the person had access; or
 - (ii) where the circumstances indicate that the firearm or ammunition should have been visible to no one besides the person;
- (h) on any vessel other than a vessel which was used to convey passengers for gain, and the person was, at the time—
 - (i) in charge of that vessel or that part of the vessel in which the firearm or ammunition was found;
 - (ii) ordinarily employed in the immediate vicinity of the place on the vessel where the firearm or ammunition was found; or
 - (iii) over the age of 16 years and present in that part of the vessel; or
- (i) in the cargo of a vessel and the person was, at the time—
 - (i) in control of the cargo of the vessel; or
 - (ii) the consignor of any goods in or among which the firearm or ammunition was found.
- (3) In any criminal proceedings against a person where it is alleged that such person has injured or killed another person or has damaged property belonging to another person, the following circumstances will, in the absence of evidence to the contrary which raises a reasonable doubt, be sufficient evidence that such person participated in the injury, killing or damage, where it is proved that—
 - (a) the person was driving, or was a passenger in, a vehicle other than a vehicle designed or licensed to convey more than 20 passengers;
 - (b) a firearm was discharged from that vehicle while the person was driving or was a passenger in the vehicle; and
 - (c) as a result of such discharge, a person was injured or killed, or property was damaged.

Presumptions relating to failure to report

Section 118

- (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 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 or destroyed, 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 or destroyed.
- (2) Whenever a person is charged with an offence in terms of this Act of failing to furnish information or particulars on request of a police official 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 or destroyed, proof that the person has failed to produce such information or particulars within seven days of the request of a police official to do so, will, in the absence of evidence to the contrary which raises reasonable doubt, be sufficient evidence that the person has failed to furnish such information or particulars.

Presumption of failure to take reasonable steps

Section 119

Whenever a person is charged in terms of this Act with an offence of failing to take reasonable steps to ensure that no firearm or ammunition is brought onto premises, a vehicle, a vessel or an aircraft under his or her ownership or

control in contravention of this Act, proof that the firearm or ammunition was brought onto premises, a vehicle, a vessel or an aircraft under his or her ownership or control, will, in the absence of evidence to the contrary which raises reasonable doubt, be sufficient evidence that he or she failed to take such reasonable steps.

Chapter 16 – Offences, Penalties and Administrative Fines

Offences

Section 120

- (1) A person is guilty of an offence if he or she contravenes or fails to comply with any—
 - (a) provision of this Act;
 - (b) condition of a licence, permit or authorisation issued or granted by or under this Act; or
 - (c) provision, direction or requirement of a notice issued under this Act.
- (2) (a) Any person who is aware of the existence of a firearm or ammunition that is not in the lawful possession of any person and fails to report the location of the firearm or ammunition to a police official without delay, is guilty of an offence.
(b) A police official to whom a person has made a report contemplated in paragraph (a), must immediately provide the person with written proof that the report has been made or, in the case of a telephonic or similar report, with the official reference number of the report.
- (3) It is an offence to—
 - (a) cause bodily injury to any person or cause damage to property of any person by negligently using a firearm, an antique firearm or an airgun;
 - (b) discharge or otherwise handle a firearm, an antique firearm or an airgun in a manner likely to injure or endanger the safety or property of any person or with reckless disregard for the safety or property of any person; or
 - (c) have control of a loaded firearm, an antique firearm or an airgun in circumstances where it creates a risk to the safety or property of any person and not to take reasonable precautions to avoid the danger.
- (4) It is an offence to handle a firearm, an antique firearm or an airgun while under the influence of a substance which has an intoxicating or a narcotic effect.
- (5) A person is guilty of an offence if he or she gives control of a firearm, an antique firearm or an airgun to a person whom he or she knows, or ought reasonably to have known—
 - (a) to be mentally ill; or
 - (b) to be under the influence of a substance which has an intoxicating or a narcotic effect.
- (6) It is an offence to point—
 - (a) any firearm, an antique firearm or an airgun, whether or not it is loaded or capable of being discharged, at any other person, without good reason to do so; or
 - (b) anything which is likely to lead a person to believe that it is a firearm, an antique firearm or an airgun at any other person, without good reason to do so.
- (7) It is an offence to discharge a firearm, an antique firearm or an airgun in a built-up area or any public place, without good reason to do so.
- (8) A person is guilty of an offence if he or she—
 - (a) fails to lock away his or her firearm or a firearm in his or her possession in a prescribed safe, strong-room or device for the safe-keeping when such firearm is not carried on his or her person or is not under his or her direct control; or
 - (b) loses a firearm, or is otherwise dispossessed of a firearm owing to that person's failure to—
 - (i) lock the firearm away in a prescribed safe, strong-room or device for the safekeeping of a firearm;
 - (ii) take reasonable steps to prevent the loss or theft of the firearm while the firearm was on his or her person or under his or her direct control; or
 - (iii) keep the keys to such safe, strong-room or device in safe custody.
- (9) It is an offence to—
 - (a) add any word, figure or letter to a competency certificate, licence, permit or authorisation as issued, without the Registrar's permission;
 - (b) alter or erase any word, figure or letter on or from any competency certificate, licence, permit or authorisation, without the Registrar's permission;
 - (c) use or possess any competency certificate, licence, permit or authorisation—
 - (i) to which any words, figures or letters have been unlawfully added;
 - (ii) from which any words, figures or letters have been unlawfully erased; or
 - (iii) on which any words, figures or letters have been unlawfully altered;
 - (d) part with a competency certificate, licence, permit or authorisation in order that it may be used by any person other than the person to whom it was issued or granted;
 - (e) use a competency certificate, licence, permit or authorisation issued in the name of another person to procure

- possession of a firearm or ammunition;
- (f) supply particulars, information or answers in an application for a competency certificate, licence, permit or authorisation in terms of this Act, knowing them to be false, incorrect or misleading or not believing them to be correct;
- (g) make a false entry in a register which is required to be kept in terms of this Act; or
- (h) furnish false information in any return required to be submitted in terms of this Act.
- (10) It is an offence to—
- (a) sell, supply or in any other manner give possession of a firearm or ammunition to a person who is not allowed in terms of this Act to possess that firearm or ammunition; or
- (b) be in possession of any firearm, imitation firearm or ammunition, with intent to commit an offence or to use the firearm or an imitation firearm to resist arrest or prevent the arrest of another person.
- (11) Any holder of a licence, permit or authorisation to possess a firearm, and any other person who was in possession of or who had control of a firearm when it was lost, stolen or destroyed and who fails to report the loss, theft or destruction to the police station nearest to the place where it occurred, within 24 hours after having become aware of the loss, theft or destruction of the firearm, is guilty of an offence.
- (12) It is an offence to obstruct or hinder any person in the exercise of any power or the performance of any duty in terms of this Act.

Chapter 18 – Right of appeal

Section 133

- (1) Any person—
- (a) whose application for a competency certificate, licence, permit or authorisation in terms of this Act has been refused;
- (b) whose competency certificate, licence, permit, or authorisation has been cancelled;
- (c) whose licence, permit or authorisation has been issued subject to any condition; or
- (d) who has received a notice of an administrative decision in terms of this Act which may detrimentally affect his or her rights, may, in the prescribed manner, appeal to the Appeal Board.
- (2) The Appeal Board may confirm, vary or reverse any decision against which an appeal has been lodged in terms of this section.
- (3) The Appeal Board may admit evidence of facts not before the Registrar when he or she made the decision which is the subject of the appeal only if—
- (a) there is a reasonable explanation for the failure timeously to inform the Registrar of the facts; and
- (b) the Registrar has had sufficient opportunity to verify the facts and to present any evidence to the Appeal Board in this regard.
- (4) Subject to the provisions of this Act, no person is excused from complying with any of the provisions of this Act on the ground that an appeal is pending in terms of this section.

Chapter 21 – General Provisions

Inherited firearms

Section 148

- (1) A person who inherits a firearm must—
- (a) if he or she wishes to keep the firearm, apply for an appropriate licence, permit or authorisation in terms of this Act; or
- (b) if he or she does not wish to acquire the firearm, or fails to obtain the appropriate licence, permit or authorisation, have the firearm deactivated or dispose of it in terms of this Act.
- (2) The Registrar may issue a temporary authorization contemplated in section 21, to allow a person who inherits a firearm a reasonable time to dispose of it.

Firearms Control Regulations, 2004

Chapter 1 – Introductory provisions

Definitions

Regulation 1

In these regulations any word or expression to which a meaning has been assigned in the Act, shall have that meaning and, unless the context otherwise indicates –

- (i) **“accredited shooting range”** means a shooting range or tunnel that complies with an applicable compulsory specification set in terms of the Standards Act, 1993 (Act No. 29 of 1993);
- (iii) **“conduct business in hunting”** means a licensed professional hunter who escorts a client for reward to enable such client to hunt wild animals or a licensed hunting outfitter who presents or organises the hunting of wild animals for clients;
- (iv) **“dedicated procedure”** means action or procedure directed at promoting conformity with the Act;
- (vi) **“game farm”** means an extensive farm that is fenced in such manner –
 - (a) that game on land outside the fence cannot readily gain access to the land which is fenced;
 - (b) that game cannot readily escape from the land which is fenced; and
 - (c) on which herds of game are kept or raised for the purpose of game farming;
- (vii) **“game farming”** means large scale farming operations consisting of breeding and running game on a game farm for the purpose of the game being hunted or harvested for their meat, carcasses, skins or as a trophy, against payment of a fee;
- (viii) **“hunting outfitter”** means a person who presents or organises the hunting of game for reward and who is licensed as such in terms of an applicable provincial legislation;
- (ix) **“immediately”** means by the end of the following normal business day;
- (x) **“import”** in relation to firearms or ammunition means to bring them, or cause them to be brought, from outside the Republic of South Africa into the Republic of South Africa and includes the bringing thereof into the Republic of South Africa at any harbour or airport or other place on board any vessel or aircraft or other means of conveyance, irrespective of whether or not the firearms or ammunition are off-loaded from such vessel or aircraft or other means of conveyance for conveyance through the Republic of South Africa to any place outside the Republic of South Africa or for any other purpose, or are intended to be so off-loaded; and **“import”**, when used as a verb, shall have a corresponding meaning;
- (xi) **“in transit”** means the conveyance through the Republic of South Africa to another country firearms or ammunition that has been imported;
- (xii) **“main firearm component”** means the barrel, frame, receiver, slide, bolt or breech-block of a firearm;
- (xiii) **“multiple import-export permit”** means an import and export permit authorising the multiple import and export of a specific firearm or ammunition during a specified period;
- (xiv) **“person in good standing”** means a person who –
 - (a) is or remains acceptable to an accredited hunting association, sports-shooting organisation or collectors’ association as a dedicated member or collector, as the case may be;
 - (b) actually fulfils the intent of the Act in respect of his or her status as a dedicated hunter or dedicated sports person, or collector as the case may be; and
 - (c) is not unfit to possess a firearm in terms of the provisions of the Act;
- (xv) **“police station”** includes the offices of a Designated Firearms Officer and a government office designated by the Registrar at which a function in terms of the Act as specified by the Registrar may be exercised;
- (xvi) **“professional hunter”** means a person who offers or agrees to escort any other person for reward to hunt game and who is licensed as such in terms of applicable provincial legislation;
- (xvii) **“public collection”** means a collection of firearms or ammunition intended to be displayed to the public;
- (xix) **“relevant Designated Firearms Officer”** means the Designated Firearms Officer responsible for the area in which the applicant ordinarily resides, and if an application under these regulations pertains to a business of the applicant, the Designated Firearms Officer responsible for the area in which the business is or will be situated, as the case may be;
- (xxi) **“secure locking device”** means a device that can only be opened or released by the use of an electronic, magnetic or mechanical key or by setting the device in accordance with an alphabetical or numerical combination and when affixed to a firearm, prevents the firearm from being detached from a fixed structure; and
- (xxiv) **“unloaded”** means that any propellant, projectile or cartridge which can be discharged from the firearm is not contained in the breech-block or firing chamber of the firearm nor in the cartridge, magazine or cylinder attached to or inserted into the firearm.

Chapter 8 – Control of ammunition and firearm parts

Application for authorisation to possess more than 2400 primers and to possess more than 200 cartridges

Regulation 74

The holder of a licence to possess a firearm, other than a dedicated hunter or dedicated sports person, who wishes to possess an excess of 2400 primers or, for a firearm of which he or she holds a licence in excess of 200 cartridges, must apply to the Registrar for the authorisation contemplated in section 91 (2) (a) and 93 (2) (a) of the Act on the applicable form prescribed in Annexure “A” which must be handed to the relevant Designated Firearms Official.

Chapter 10 – Safe custody of firearms and ammunition

Safes and safe custody

Regulation 86

- (1) When a firearm is not under the direct personal and physical control of a holder of a licence, authorisation or permit to possess the firearm, the firearm and its ammunition must be stored in a safe or strongroom that conforms to the prescripts of SABS Standard 953-1 and 953-2, unless otherwise specifically provided in these regulations.
- (4) (a) A person who holds a licence to possess a firearm may store a firearm in respect of which he or she does not hold a licence, if-
 - (i) he or she is in possession of written permission given by the person who holds a licence, permit or authorisation to possess that firearm and which permission is endorsed by a relevant Designated Firearms Officer; and
 - (ii) the firearm is stored in a prescribed safe at the place mentioned in the permission contemplated in subparagraph (i).
- (b) Only the person who holds a licence, permit or authorisation to possess the firearm may transport that firearm to and from the place where that firearm is to be stored in terms of paragraph (a).
- (c) The permissions contemplated in paragraph (a), must specify the period for which the person concerned may store the firearm, the reason for the storage and it must contain sufficient particulars to identify the licence permit or authorisation and also the firearm in question, as well as, the name, identity number and physical address of the holder of the licence and the person to whom the authority is granted.
- (d) A permit contemplated in subparagraph (a) may be cancelled at any time by a relevant Designated Firearms Officer on good cause.
- (e) A firearm stored in terms of this regulation may not be used by the person who provides the storage or any other person while it is stored in terms of this regulation.
- (f) Only the holder of the licence applying to the firearm may remove the firearm from the safe or strongroom where it is stored.
- (5) In the case of any premises where firearm control is exercised by the occupier of the premises, the holder of a licence, authority or permit issued in terms of the Act, may hand a firearm and ammunition that is in the possession of the said holder when entering the premises, to a person designated thereto by the said occupier, who must hold an authorisation issued in terms of section 21 of the Act, to store the firearm and ammunition on behalf of the holder of the licence, authority or permit for such period as is necessary under the circumstances in a safe or strongroom that complies with the standards set out in SABS Standard 953-1 or 953-2 or a prescribed lock-away safe that can only be opened by the designated person and the holder of the licence jointly and which is installed on the premises.
- (6) Where a temporary authorisation has been issued to possess a firearm in terms of section 21 of the Act; the Registrar may in the absence of specific prescripts in terms of these regulations impose such reasonable conditions as are necessary under the circumstances concerning the safe custody of the firearms and ammunition.
- (7) Where an import, export or in-transit permit has been issued in terms of section 74 of the Act, or a firearm transporters permit has been issued in terms of section 86 of the Act, the Registrar may impose such reasonable precautions as are necessary under the circumstances concerning the safe custody of the firearms and ammunition.
- (8) An existing safe, strongroom, device, apparatus or instrument for the safe custody of firearms, which complies with the regulations under the previous Act, will be deemed to comply with the standards set out in SABS Standard 953-1 and 953-2 for all purposes of this Act, if the Registrar issues a certificate to this effect.
- (9) The Registrar may issue a certificate contemplated in subregulation (8) in respect of any safe, strongroom, device, apparatus or instrument in existence at the inception of these Regulations that does not technically correspond to the specifications set in the Standards referred to in subregulation (8), but that would, in the opinion of the Registrar, effectively and substantively serve the same purpose: Provided that the specification accepted by the Registrar must not be less than as was prescribed in terms of the previous Act at the time of the latest issuing of a licence or other applicable authorisation to possess a firearm for which the safe, strongroom, device, apparatus or instrument was approved.
- (10) Any firearm or ammunition that is imported into the Republic of South Africa and that needs to be stored in compliance with the Customs and Excise Act, 1964 (Act No. 91 of 1964) must at all times be stored in compliance with the requirements for safe custody and storage of firearms and ammunition as provided in these regulations.
- (11) (a) Firearms other than those in respect of which a licence for self-defence in terms of section 13 of the Act has been issued, must be stored unloaded in accordance with these regulations.
 - (b) Any person who may lawfully possess a firearm or ammunition shall store these in a prescribed safe or strongroom, to which he or she shall have at all time exclusive access or his or her presence and co-

- operation shall be a necessary prerequisite for access to the relevant firearm and ammunition unless-
- (i) the storage is undertaken by the holder of a dealer's of gunsmith's licence in which case the dealer or the dealer's personnel with valid competency certificates, or the gunsmith may have access to the safe or strongroom; or
 - (ii) the firearm is temporarily stored in a safe or strongroom that conforms to the prescripts of SABS Standard 953-1 and 953-2 or a lock-away safe, device, apparatus or instrument for the safe custody of a firearm that conforms to the prescripts of subregulation (12), that is under the control of a holder of a licence, authorisation or permit issued in terms of this Act, the person storing the firearm must in writing notify the Designated Firearm Officer in whose area the firearm is temporarily stored.
- (12) A lock-away safe, apparatus, device and instrument for safe custody of a firearm or ammunition, must to the satisfaction of the Registrar comply with the following requirements -
- (a) be manufactured from steel of at least 2 mm thick;
 - (b) be capable of enclosing or covering the firearm concerned wholly;
 - (c) have an effective integral locking mechanism;
 - (d) have a hinge mechanism for the cover or lid thereof which shall ensure that when the locking pin thereof is removed, the cover or lid shall not be capable of being opened or removed;
 - (e) have a facility with the aid or use of which the lock-away safe, apparatus, device or instrument may be securely affixed to another structure such as a wall or a floor, or the body of a vehicle; and
 - (f) in the case of a lock-away safe used as contemplated in subregulation (5) if such safe can only be locked or opened with two or more keys that have to be used jointly.

Chapter 11 – Organisational Structures

Appeal procedure

Regulation 91

- (1) An appeal by a person referred to in section 133 of the Act, must be noted by the person or his or her legal representative -
 - (a) within 90 days after the date on which the Registrar made the decision; and
 - (b) by submitting an appeal notice to the Appeal Board in the form prescribed in Annexure "A" to these regulations.
- (2) An appeal notice must clearly indicate the decision that was taken, the date of the decision, ground or grounds of appeal, and by attaching written submissions in support of the appeal to the appeal notice.
- (3) The Appeal Board may condone the late submission of an appeal notice on good cause shown by the appellant why it was impossible for him or her to comply with the relevant provision as to time, or that there is any other sound reason why the appellant cannot or could not comply with such provision.
- (4) A copy of the notification contemplated in regulation 89 (c) must be attached to appeal notice.
- (5) An appeal must be submitted to the Appeal Board by hand, facsimile or by post and must be addressed to the Chairperson of the Appeal Board at the following addresses or numbers –
 Postal address: Private Bag X811, Pretoria, 0001;
 Physical address: Ground Floor, Veritas Building, Volkstem Avenue, Pretoria;
 Facsimile address: (012) 353 6211;
 E-mail address: cfr-appealboard@saps.gov.za.
- (6) The Appeal Board must acknowledge receipt of an appeal notice and the date of such receipt in writing, and may do so by post, facsimile or by appending the acknowledgment on a copy of the appeal notice in the event of the appeal being delivered by hand.
- (7) The Appeal Board must inform the relevant official who made the decision in question of the appeal, supply him or her with a copy of the documents referred to in subregulation (2), and request him or her to respond in writing within 21 days, as to why the appeal should not be upheld.
- (8) The Appeal Board may request an appellant or the appellant's legal representative to address the Board during the hearing of that appeal, in which case the Appeal Board shall inform the appellant and the official in question that oral representation by the parties will be allowed during the hearing, and afford both parties the opportunity of making oral submissions during the hearing.
- (9) Subject to the provisions of section 133 (3) of the Act the Appeal Board may, if it deems it necessary, request additional evidence of facts from any party, in order to allow it to come to a just and fair decision.
- (10) The Appeal Board must -
 - (a) finalise an appeal within 45 days after expiry of the 21 days contemplated in subregulation (7); and
 - (b) notify an appellant, or his or her legal representative in writing of the outcome of an appeal, within 14 days of the Appeal Board's decision.
- (11) Nothing in this regulation must be construed as referring to a decision of a court acting under section 103 of the Act.

Chapter 12 – General provisions

Surrendering of firearms and ammunition

Regulation 94

- (1) A person who is legally entitled to possess a firearm or ammunition in terms of this Act and who is the owner of the firearm or ammunition may surrender that firearm or ammunition to the South African Police Service.
- (2) The firearm or ammunition must be surrendered to the South African Police Service by the handing over of the firearm or ammunition to a police station together with the applicable licence, permit or authorisation, together with the applicable form determined by the Registrar.
- (3) The South African Police Service may, in accordance with the provisions of the Act, dispose of a firearm or ammunition that is surrendered in terms of subregulation (2).
- (4) In all instances where a firearm or ammunition is surrendered to a police station, or a firearm or ammunition is found, the circumstances may be investigated to establish whether an offence has been committed with, or in respect of such firearm or ammunition and the South African Police Service must dispose of such firearm or ammunition as provided in the Act, subject to the rights of any person who may lawfully possess such firearm or ammunition.
- (5) A receipt must be handed over to the person from whom the firearm or ammunition is received.

Deferment of licences, permits or authorisations in case of theft or loss of firearm

Regulation 99

- (1) For the purpose of this regulation “defer” means deferred or partially deferred, resulting in the operation of the licence, permit or authorisation applicable to the firearm being postponed until a future date.
- (2) Whenever the theft or loss of a firearm has been reported as required in terms of section 120 (11) of the Act, all licences, permits or authorisations applicable to the firearm at the date of such report, shall be deferred indefinitely, but only with respect to the specific firearm in question.
- (3) The holder of a deferred licence, permit or authorisation is obliged to ensure that the Central Firearms Register is at all times notified in writing of any permanent change to his or her existing postal or residential address.
- (4) Whenever a stolen or lost firearm has been recovered or found and such fact has been reported to the Central Firearms Register, the deferment of such licence, permit or authorisation shall lapse from the day that the holder of the licence, permit or authorisation receives the firearm and such licence, permit or authorisation shall be valid for the remaining period of validity of the licence, permit or authorisation unless, in the case of a licence, it would amount to a licensee having more licences than the Act would allow for, in which case such licensee shall be afforded an opportunity of disposing any of the excess firearms within 60 days after the service of the notice referred to in subregulation (4) or on good cause shown, such extended period as the Registrar may determine.
- (5) The holder of a deferred licence, permit or authorisation shall be notified by the Registrar by serving at his or her last recorded address notification of the finding or recovery of the relevant firearm within 30 days after such recovery or finding.

Change of address

Regulation 100

- (1) A notification of the change of an address as required under the Act must be submitted to the relevant Designated Firearms Officer on the applicable form prescribed in Annexure “A”
- (2) With every notification for a change of the physical address the relevant Designated Firearms Officer must ensure that the safe custody facilities at the new address complies with the applicable provision in regulation 86.

Change of circumstances

Regulation 107

- (1) A person in respect of whom a change of information occurred as contemplated in sections 26 (1), 38 (1), 52 (1) and 66 (1) of the Act, must notify the Registrar thereof by submitting to the relevant Designated Firearms Officer a written notification of such change of circumstances on the applicable form as prescribed in Annexure “A”.
- (2) When the replacement of a responsible person as contemplated in section 7(4) of the Act occurs, the juristic person must notify the Registrar thereof by submitting the duly completed applicable form together with a copy of the identity document and a set of fingerprints of the newly nominated person, as well as, documentary proof that the person may lawfully act on behalf of the juristic person.