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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.