



Gun Owners of South Africa

Wapeneienaars van Suid-Afrika

PO Box 2522, Clareinch
7740, Cape Town
South Africa
Tel: 021 689 4481
Fax: 086-615-6262
Web: www.gunownerssa.org
Email: admin@gunownerssa.org

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Director Pikkie van Vuuren
SAPS Legal Services
Private Bag X302
Pretoria
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Dear Director

Gun Owners of South Africa Submission on Firearms Control Amendment Bill

GOSA represents the interests of all firearm owners in South Africa. As far as the proposed amendments are concerned GOSA requests that the comments contained in this submission are seriously considered.

Notwithstanding the foregoing, GOSA wishes to state very clearly that the Firearms Control Act 2000 (Act 60 of 2000) is regarded as a serious attack on individual freedoms, Common Law rights and Constitutional rights of the public which includes the right to freedom of association, the right to privacy, the right to own private property, the right to self-defence, hereditary rights, the right to life and the right to pursue one's sport and hobby unhindered.

GOSA therefore states that the Firearms Control Act can never be accepted and seriously appeals to the Minister to, rather than amend the Act, scrap it in its entirety, reinstate the Arms and Ammunition Act as a temporary measure and obtain the assistance of GOSA and other firearm rights organisations to create sensible, fair, practical and above all, acceptable legislation.

GOSA does not support any protocols or agreements entered into between the government and the United Nations if such protocols or agreements infringe human rights such as self-defence, will disarm the public or lead to an infringement of any other freedoms and rights.

COMMENTS ON FIREARMS CONTROL AMENDMENT BILL

The intended amendments to the Firearms Control Act 60 of 2000 that were published for public comment in Government Gazette number 28545 of 24 February 2006 refers.

SECTION 1

Regulation of Muzzle loading firearms manufactured after 1900.

It is incomprehensible why the state wishes to reregulate muzzle-loading firearms manufactured after 1900. Whether a muzzleloader was manufactured in 1706 or 2006 the function and design is exactly the same. Muzzle loaders and antique breechloaders such as those designed by Jacob Snider and Henry O'Peabody e.g. the military Snider Enfield and Martini Henry rifles are not used in crime and are an important part of our cultural historical heritage.

GOSA can therefore not support this proposal and requests that all black powder rifles, inclusive of breach loaders, are deregulated as such arms are solely used for sport, hunting and collection and poses no risk to society in any way whatsoever.

The proposal to include primers in the definition of ammunition is unacceptable. When serious sport shooters or hunters come across a batch of quality, accurate and well-priced primers, the logical thing to do is to buy them in bulk format which implies that at least a thousand will be purchased. It therefore implies that the amount of cartridges and primers in possession of firearm owners will be further restricted. The argument that exceptions may be made is not acceptable because it will place yet another burden on the firearm owner in terms of time and effort whilst criminals will always be able to obtain illegal ammunition. This proposal will not reduce crime and the perception exists that it is based on ideology rather than indisputable evidence that such measures will create a safer environment. GOSA therefore requests that this proposal be abandoned.

GOSA is seriously opposed to the proposed change to the term “juristic person” to exclude trusts which implies that they may no longer own firearms. In accordance with custom as a source of law whereby firearms are bequeathed from one generation to the next this proposal will seriously infringe on the hereditary rights of the South African public. This is regarded as an infringement of the Bill of Rights and cannot be tolerated. GOSA therefore requests that this proposal be abandoned, as it can never be accepted.

Forcing occasional hunters and occasional sportspersons to belong to associations or any other organisations are ultra vires the Constitution and infringes on the public’s Constitutional right to freedom of association. The proposed amendments to the definitions imply that occasional hunters and occasional sportspersons may now be compelled to join accredited associations. Please remove this unconstitutional proposal. GOSA also requests that similar requirements are removed from the principal Act.

SECTION 4

The issue of civilian possession of silencers does not make sense from a public safety and security point of view. The actual use of silencers is extremely valuable as far as the health of sportspersons participating in sport shooting and game harvesting is concerned. The entire shooting fraternity goes heavily burdened under senseless and expensive rules. Regulating silencers will serve no meaningful purpose to reduce crime. The fact that legal firearm owners are only involved in a fraction of a percentage of illegal activities where a firearm is used has been acknowledged in Parliament and is well documented. Furthermore, crimes committed with firearms fitted with silencers are almost unheard of. If proof exists that any crime could have been prevented by the regulation of silencers GOSA respectfully requests this proof to be immediately presented. Until then, given the benefits of fitting sporting firearms with silencers and the advantages thereof, GOSA cannot support this proposal.

SECTION 9

The abuse which is prevalent should this proposal become law, will undoubtedly culminate in unfairly denying members of the public the right to obtain a competency certificate. What are the criteria that will be used to make decisions of this nature? The proposal is discriminatory and cannot be justified on any reasonable grounds whatsoever. The legal tax paying and law abiding citizens of South Africa do not need this obvious attempt of reserving an ability to dismiss applications which otherwise would have been issued. GOSA demands that this proposal is removed.

GOSA is seriously concerned about the proposals contained in Section 9 that will grant too much power to the Registrar. The extent of the powers hovers on abuse.

GOSA submits that the powers of the Registrar are properly constrained in order to ensure that the freedom and rights of the public are protected.

The whole ideology of training and competency is an administrative nightmare and one would have thought that the SAPS and SASSETA had thoroughly learnt their lesson. The near impossibility of rendering a satisfactory service and non-existent regulatory purpose have escaped the minds of the

SAPS who seem determined to pursue ideology at the expense of criminal control. Both training and the issue of competency certificates are economically a burden on the public that serves absolutely no crime fighting purpose or has any benefit to society.

GOSA requests that this proposal is scrapped to ensure that the disarming of legal firearm owners does not take place as the result of a possible abuse of power by the state that would be in contravention with the Constitution and Bill of Rights.

SECTION 16

GOSA supports the removal of any limitation imposed on the magazine capacity of semi automatic shotguns and calls for the removal of all arbitrary restrictions contained in the Principal Act such as the amount of firearms that may be legally owned as it seriously infringes on property and hereditary rights.

SECTION 17

GOSA seriously opposes the proposed amendment that private firearm collectors must have their firearms be made inoperable. Frankly speaking, this proposal is insane and pointless. GOSA cannot see how such measures will contribute to a safer society. GOSA demands to be provided with all the arguments and evidence that is underlying this ridiculous proposal.

Whilst legal firearm owners are without argument the most responsible group of people in the country, positively contributing to a safer society by stopping and preventing many crimes with their legal firearms, collectors are probably the most responsible and least likely to have their firearms stolen or to be involved in crime.

Collectors also fulfil the most important role of custodian and preserver of the firearm cultural heritage. South Africa has a very rich cultural historical heritage as far as firearms are concerned and specimens of every type of firearm are found in South Africa where it played a part in military and social events in the country and are collected and preserved in original condition to be enjoyed by present and future generations.

Prohibiting a collector to use his firearms is akin to telling a collector of Harley Davidson motorbikes that he may not ride on them and must have the axles welded to the chassis and holes drilled in the engine block, but still requires a driver's licence and membership of an accredited collectors association. Such a proposal would immediately be labelled as crazy. Why, then, expect such measures from firearm collectors? It will destroy every type of value associated with the firearms including sentimental value.

GOSA therefore unequivocally does not support this proposal and requests that it be scrapped.

GOSA is opposed to arbitrary restrictions on property and therefore opposes the reduction of 200 live cartridges.

Cartridges cannot be deactivated without damaging them - that will destroy their value. The mere removal of gunpowder or smokeless propellant from cartridge cases will also destroy their value. This proposal will also result in the breaking open of boxes of cartridges, which is unacceptable.

Please let common sense prevail and scrap this ridiculous proposal, as it is neither justifiable nor acceptable.

SECTION 24

GOSA welcomes the proposal that firearm licences issued under the Arms and Ammunition Act of 1969 remain valid. GOSA, however, submits that the provision that the owner must be in possession of a competency certificate be scrapped. Why must legal firearm owners keep on proving their competency while criminals use illegal firearms where and when they want? Please amend this proposal and Section 24 accordingly.

SECTION 102

GOSA cannot support the amendment which will enable the state to declare a person unfit to possess a firearm where a court of law has already accepted the payment of an admission of guilt fine. This is double penalisation and cannot be accepted. Neither can GOSA support the amendment which will enable the Registrar to declare a person unfit to own a firearm on grounds of a written complaint submitted by a Third Party not made under oath and not having been tested by investigation and cross examined. GOSA suggests strongly that these proposals be scrapped as it is unjust and cannot be accepted.

SECTION 105A

As far as the de-accreditation of an accredited association, if such an association allegedly fails to uphold Section 2 of the Act is concerned, GOSA holds the viewpoint that the very provisions of the Act is in contravention of its stated goal.

The Act is supposed to enhance the Constitutional rights of the public and protect the right to life and bodily integrity. However, it picks on legal firearm owners and following threats from government and police officials many people have already handed in their firearms, which is their only effective means of protection, leaving them vulnerable to criminals. The police force, being fraught with corruption and negligence judging from daily media reports and the Auditor General's reports, cannot even protect themselves and are making use of private security companies to guard police stations. It is impossible for them to be everywhere all the time and now, as a result of the Firearms Control Act disarming people, have created a safer workplace for the criminal and a more dangerous environment for the law-abiding public.

The state always had the power to remove illegal firearms from society and if the Arms and Ammunition Act had been properly enforced, it would have been an effective system to control legal firearms, which, as already pointed out, is not the problem as far as crime is concerned. The statement in Section 2 that the new law was required to enable the state to remove illegal firearms from society and to provide for an effective system of control over legal firearms is highly controversial as (a) the state already had these powers and the Arms and Ammunition Act would have been more than adequate to control legal firearms if effectively enforced and administered and (b) it is clear that only legal firearm owners are targeted and negatively effected by the Firearms Control Act.

SECTION 109

GOSA strongly opposes any searches of private property without a warrant. This is an intrusion of privacy that is a Common Law and Constitutional right to be respected in any civilized and orderly society. Such measures will not be kindly accepted by the public and GOSA seriously requests that the proposal be scrapped.

SECTION 132

GOSA supports the establishment of an informal forum to discuss matters related to the Firearms Control Act and wishes to be represented whenever such consultations take place. GOSA makes it clear, however, that it is not prepared to negotiate about rights the South African public and firearm owners in particular already have.

SECTION 133

GOSA supports all measures, including the issue of subpoenas, which will assist law-abiding citizens to obtain firearm licences in a reasonable time. The amount of appeals and the time it takes to process them and submit a decision is currently a national disgrace. GOSA is convinced that if Designated Firearm Officers are properly trained they should be able to ensure that applications are completed in full and all supporting documentation attached before the application leaves the police station.

It must be understood that GOSA is against all the administrative hoops set up for firearm owners to jump through – there is no reason why a law abiding citizen, who has no record of violent crime and is

not mentally challenged, should not immediately get a licence when applying for one. How is lots of administrative work going to help make South Africa safer? We are aware of cases where, due to the government's incompetence and administrative bungling, people have lost their cars and could have lost their families, because they were not armed due to the slow processing of licences.

CONCLUSION

GOSA is aware of the fact that the Firearms Control Act was drafted without inputs from firearm owners over a period of approximately three years. When firearm rights organisations such as SAGA approached the drafting committee to assist with the process their offers were rejected by Mr Azhar Cachalia who stated that it would be a waste of time.

This follows after a declaration by the same Mr Cachalia in a submission made on behalf of the African National Congress to the Goldstone Commission in 1993 that "the ultimate goal is the total disarmament of the South African population." He realised that it would not be possible to achieve this immediately and therefore advised that it must be achieved by a "system of incremental restrictions which must ultimately lead to the total prohibition of all firearms in civilian hands".

Mr Mluleki George is on record that he admitted that the Firearms Control Act has nothing to do with criminals as criminals do not obey the law, but is created to make it as difficult as possible to obtain a legal firearm. The government's intention to disarm the public was also revealed in statements made by the late Ministers Steve Tshwete and Dullah Omar. These are known facts that are supported by the effects of the Firearms Control Act:

1. More than 400 firearms dealers had been put out of business due to a severe decrease in the demand for firearms and an increase in the refusal rate of firearm licences and appeals which caused substantial job losses and hardship to families.
2. The image of South Africa as a popular hunting destination has been seriously damaged following bureaucratic red tape and onerous requirements at airports.
3. Legal firearm owners have been threatened with severe penalties should they not comply with the expensive and tiresome requirements of the Act and as a result many of them surrendered their firearms which left them at the mercy of criminals as they can no longer effectively defend themselves.
4. So-called firearm free zones created dangerous areas for the unarmed law abiding citizens, as armed criminals now have nothing to fear in such areas. All school shootings in the US, the 9/11 attacks and the killings in Rwanda all took place in gun free zones like the latest robbery at Johannesburg International Airport.
5. Firearm owners are forced to belong to accredited associations, which they would not have joined if not compelled to do so.
6. Criminals with illegal firearms will become more daring and arrogant, as they know that the public is becoming more vulnerable.
7. People are robbed of their legal possessions without compensation. They definitely did not voluntarily surrender their firearms as Mr Trevor Bloem alleges, but were intimidated by threats of prosecution if they did not comply with the provisions of the Act. Those who do not have the money or energy to comply had no other option. Selling their firearms was hardly a viable alternative in a market severely distorted by the Act.
8. Firearm owners in possession of more than ten firearms were harassed by unexpected visits by up to eleven police officials "to check their firearms".
9. Hereditary rights are no longer respected.
10. The legal principle of presumption of innocence is not acknowledged and neither is custom as a source of the law.
11. An important part of our cultural historical heritage is being destroyed.
12. The shooting sports are under severe threat of extinction.

GOSA took note of empirical evidence of more than 150 years, which has proved that gun control:

1. Is a total failure *par excellence* to control crime.
2. Is always followed by an increase in violent crime as is witnessed in the UK, Australia, and American States where strict gun control measures were implemented.

3. Leads to governmental power abuse and genocide as happened in Ottoman Turkey, Nazi Germany, Soviet Russia, Communist China, Cuba and Rwanda.
4. Kept the Apartheid Regime in power by denying the majority of the population the right to own firearms.
5. Is the common denominator of all oppressive regimes.
6. Always follows the same evolution: legislation, registration, confiscation and extermination.

Yours

Charl van Wyk
National Coordinator
On behalf of Gun Owners of South Africa