



Urgent Newsflash

SAPS COMMUNIQUE CONCERNING EXPIRED FIREARM LICENCES

For immediate release – March 5th, 2017

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On Friday March 3rd, SAPS issued a formal communique surrounding expired firearm licences. Pertinent to gun owners who hold the new White license in terms of the Firearms Control Act, 2000 (FCA) and who have failed for any reason to renew such licence prior to its expiry date, are these statements extracted verbatim (our italics) from the SAPS communique:

Section 27 of the Firearms Control Act, 2000, provides for the period of validity of each type of licence and permit that is issued. These dates are also reflected on the licence cards, as issued by the South African Police Service (SAPS). However, in terms of section 28 of the Firearms Control Act, 2000, a firearm licence terminates on the expiry of the relevant period contemplated in section 27 of the Firearms Control Act, 2000, unless it is renewed in terms of section 24 of the Firearms Control Act, 2000.

The firearm owner has the option of selling, donating or deactivating the firearm, which must be concluded before the relevant expiry date. If an application for the renewal has been lodged before the licence has expired, the existing licence remains valid until the application has been decided.

In an apparent effort to contextualize the communique SAPS included the following:

In a circular with reference number 27/5/2/1, dated 2016-02-03 (Renewal of firearm licences in terms of section 24 of the Firearms Control Act, 2000, the following directives were given:

In the case where a person wants to renew or apply for a licence, but the validity of the licence has already expired, the person must be informed that he/she is not in lawful possession of the firearm anymore and that the firearm must be surrendered to the nearest police station.

When a firearm in respect of which the licence has expired, is voluntarily surrendered, the owner will not be prosecuted.

SAPS explains its own interpretation of the FCA and sets out a clear instruction to ‘ALL THE EMPLOYEES OF THE SAPS’

It is clear that provisions were made for persons who failed to renew their firearm licences, to voluntarily surrender these firearm(s) and/or ammunition to the nearest police station, following which prosecution will not be instituted against the person.

This position prevails and, therefore, persons who voluntarily surrender their firearms at police stations, must not be charged for the illegal possession thereof.

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Saga is a non-party political, independent, non-profit association. We protect the right of responsible citizens to own and use firearms for sport, self-defense, recreation or other legitimate purposes.

*However, if a police official discovers during his or her day-to-day policing activities or operations that a person is in possession of a firearm, but failed to renew his or her licence, meaning that they did not apply for the renewal of the firearm licence, the police official may institute criminal proceedings against the person for the illegal possession of a firearm in terms of **section 3** of the Firearms Control Act, 2000, as follows: **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.***

SAPS clarify, in their view that they are the ultimate authority in respect of the ‘implementation’ of the FCA:

The Registrar of Firearms (National Commissioner) is ultimately responsible for the implementation of the Firearms Control Act, 2000, which includes administrative steps that are reasonable, fair and lawful.

SAGA POSITION ON THE CONTENTS AND IMPORT OF THE SAPS COMMUNIQUE

Apart from this latest and somewhat surprising position of SAPS regarding expired new White licences, SAGA is well informed on the various aspects of relevant debate in the public realm. SAGA moreover has consistently engaged with SAPS around these issues, and is also closely allied with various current High Court actions involving SAPS and organisations representing gun owners, specifically around the issue of licence renewal and related disputes. These protracted court actions are expected to be heard within the next 60 days.

SAGA does not support the view of SAPS in these instances, and more specifically cannot align itself with the approach of SAPS as per this latest communique.

However, the advice of SAGA to all affected gun owners in the interim, is that if you are placed in a position where you are found in possession of a firearm which White licence has expired, is to co-operate with the SAPS or any other lawful authority if instructed to hand the firearm over, and not to interfere with their duties.

If any gun owner is instructed to hand over a firearm affected by the latest SAPS communique, please note that there is a standard letter available from SAGA which we suggest should be completed and applied at the time of handover of the firearm to the relevant authority. The letter will make it easy for gun owners to insert their own details and those of the gun(s) in question and also formally reserve any rights that you may have as a gun owner.

SAGA is on an urgent basis considering various legal options, and further updates on this critical issue will be forthcoming. SAGA members are invited to contact our offices via email for specific queries in this regard.

ENDS/

Further information is available from saga@saga.org.za or on 031-562-9951

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