



SAGA SNIPPETS

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Submission of New Licence & Competency Applications

**Released by SAGA on
22 February 2016**

SAGA recently (12 Feb 2016) commented on the Acting National Commissioner of Police's instructions regarding the renewal of firearm licenses and the surrender of firearms, the licenses of which had expired by the time application is made for renewal. See page 2.

At more or less the same time the Head of the Central Firearms Register (CFR), Brig. Mabule, issued a directive to all DFOs that as from 8 February 2016 there was a prohibition on the so-called "double submission of both competency (SAPS 517) and firearm license (SAPS 271) applications". He instructed that a competency certificate must first be approved where after the application for the new license (SAPS 271) could be accepted and captured for processing. Reference to SAPS 271 means that the instruction is applicable to applications for NEW licenses and not renewals. However, some DFOs have interpreted the instruction to be applicable to both new applications and renewals and this has, once again, led to some confusion. Members (and other firearm owners) are rightly perturbed about these instructions that more often than not are not correct.

Section 10A of the Firearms Control Act, No. 60 of 2000 (FCA) clearly provides that "(1) Any holder of a competency certificate

contemplated in subsection (2) and section 9 (1) and who wishes to renew the competency certificate must apply in the prescribed form to the Registrar for its renewal together with an application for the renewal of the licence to which the competency certificate relates". In the case of a single firearm owner who needs to renew his/her section 13 license (self-defence) "at least 90 days before the date of expiry of the licence", he/she also needs to renew his/her competency certificate at the same time. There is accordingly no impediment to submitting both the application for renewal of the license and for the competency certificate simultaneously.

Since section 6 (2) of the FCA provides that "Subject to section 7, no licence may be issued to a person who is not in possession of the relevant competency certificate", no application for a new license may be approved unless the applicant is in possession of a competency certificate. A strict interpretation of this provision means that the applicant must have taken possession of the competency certificate before applying for a new license. However, whether this provision ought to be strictly interpreted is open for debate. The intention of the legislation is clearly that no license may be issued to a person unless such person is competent to possess a firearm. Whether or not they have received the competency certificate seems immaterial, as long as it could be proven that it has been

issued, and although he/she would then not have possession of it to copy it for license application purposes, this information could easily be verified by the DFO.

In the meantime, members must accordingly first obtain the relevant competency certificate where after an application can be made for a new license. This matter will be discussed with the Head of the CFR and if there are any changes in the procedure members will be informed without delay.

Members are advised to keep a record (in a safe place) of the expiry dates of their firearm licenses and the date by which application must be made for their renewal and thus ensure that they do not fail to renew in time. Unlike drivers' and vehicle licenses (for which the failure to renew in time could mean a fine and penalty) and passports (failure of which would prevent legal travel abroad), the failure to renew a firearm license in time could mean the surrender and forfeiture to the state of the particular firearm.

SAGA promotes the responsible and safe possession of firearms by all law-abiding citizens who wish to own firearms for lawful purposes.



SAGA Release on Licence Instructions - 12 February 2016

This release was intended to keep our members informed. It raises a lot of serious concerns which SAGA has raised with the CFR.

It has come to our knowledge that on 3 February 2016 the Acting National Commissioner of Police, Lt Gen Phahlane issued an instruction to the police regarding the renewal of firearms licenses in terms of section 24 of the Firearms Control Act, No. 60 of 2000 (FCA). Although it is aimed at providing “further clarity regarding the renewal of firearm licenses” it fails to do that and seems not to provide solutions to real problems. The SAPS instructions are available on our website homepage at www.saga.org.za

Section 24 provides as follows: “(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*”. SAGA members (in fact, all licensed firearm owners) are urged to lodge their applications for renewal not less than 90 days prior to the expiry date of the license (but preferably also not more than 120 days prior to the expiry date since the renewed license will carry the date upon which it was renewed and not the original day and month). License holders are reminded that the onus rests on them to file the application with their relevant DFOs – do not rely on a reminder, it may not be forthcoming or it may come too late and bear in mind that licenses issued in terms of section 13 (for self-defence) have a shortened shelf-life (5 years) than those issued under sections 15, 16 and 17, (10 years) for instance.

If, however, the application for renewal is submitted in less than 90 days, the application may be accepted but it must provide rea-

sons for such late submission (e.g. s/he was hospitalized; out of the country for a substantial period of time, etc.). It would be beneficial if proof about the particular fact could be provided (e.g. medical certificate or passport). It appears that the discretion to accept the late application rests on the particular DFO and that s/he has to apply her or his mind to whether or not the reason submitted is sufficient. On the wording of the instruction, however, it is my view that, provided an explanation/reason has been provided, the DFO is obliged to accept it and that s/he does not have the discretion to consider the validity of the reason. The instruction states that in the event of a late submission (within the 90 day period) the relevant license remains valid until the application has been decided upon. This instruction, albeit contrary to subsection (4) of section 24, which provides that only in the event of an application lodged in accordance with subsection (1) (if submitted “at least 90 days” before the expiry date), such license remains valid, provides some leeway for applicants.

The instruction further provides for people still in possession of “green licenses” issued in terms of the repealed Arms and Ammunition Act, No. 75 of 1969 who now wish to apply for renewal of such licenses, to apply for new licenses in terms of the FCA and that they would be regarded as lawful possessors until the applications have been decided upon. It also states that this dispensation is applicable only to those who have never migrated to the FCA, in other words, it is not applicable to those who had retained their “green licenses” despite having been issued with or denied licenses under the FCA. The National Commissioner recognizes that the court order granted by the North Gauteng High Court on 26 June 2009 in favour of SA Hunters and Game

Conservation Association in their application against the Minister of Safety and Security (case no. 33656/2009) remains valid, but states that “*This Order covers persons who at no stage migrated to the current Act of 2000*”. Although this is also my view, there are other (equally convincing) opinions that the order is in fact applicable to all who are still in possession of “green licenses”, irrespective of whether or not they had migrated to the FCA. Since the migration of “green licenses” to the FCA will have to be negotiated between the parties and will probably be covered thereafter in the Amendment Act, members are advised not to rush out and apply for the renewal of their “green licenses” but to wait for further information.

Paragraph 8 of the National Commissioner’s instruction is of significance. It reads: “*In the case where a person want 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 anymore in lawful possession of the firearm and that the firearm must be surrendered to the nearest police station*” (it does not say that it must be surrendered for destruction, though). The instruction goes no further to explain how the renewal process now needs to continue. There seems to be no reason why, after having surrendered the firearm, the affected person could not apply for a fresh license (SAPS 271).

The instruction is unfortunately a generalized one, which does not cater for the situation I alluded to above where the “green licenses” remain valid.

More importantly, it must be borne in mind that the police have created a situation from which they can hardly escape and that is their acceptance and processing of late applications for renewal and (in many instances) the issue of licenses under such circum-

SAGA Release on Licence Instructions Continued

stances. We are aware of people who have been granted licenses despite their having applied for renewal as long as two years after the expiry date. Members are referred to section 9(1) of the Constitution of the Republic of South Africa which provides that *"Everyone is equal before the law and has the right to equal protection and benefit of the law"*; and to section 33(1) which provides that *"Everyone has the right to administrative action that is lawful, reasonable and procedurally fair"*. Although the police commissioner's instruction might portray a lawful process, it surely is not fair in comparison with how others have been dealt with. Although *estoppel* is a defence usually raised in civil matters (it means that if one has allowed a situation to be per-

ceived and has done nothing to rectify (wrong) believes, one cannot jeopardize others by suddenly and unfairly relying on and enforce the correct fact), it could with success be raised in criminal prosecutions as well, especially when relying on fair and equal treatment in terms of our Constitution. Members are, however, advised not to take the law into their own hands by disobeying lawful instructions (and to possibly be arrested) but rather to obtain a court order or other legal intervention. The instruction does not provide for the surrender of unlicensed firearms to a licensed dealer, simply because dealers are not expected and allowed to take possession of such firearms.

Paragraph 9 provides that *"When*

a firearm in respect of which the licence has expired is voluntarily surrendered, the owner will not be prosecuted". Although this is good to know, one hopes this instruction has first been cleared with the National Director of Public Prosecutions since he is the only one who may institute criminal prosecutions. The instruction, however, implies that if the firearm is not voluntarily surrendered, the affected person could be prosecuted.

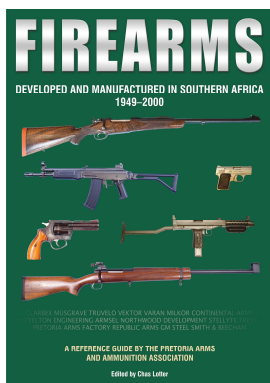
Members are reminded that this information is provided as part of SAGA's advisory service and must not be construed as legal advice since it does not take cognizance of particular circumstances or facts.

Firearms Developed and Manufactured in Southern Africa 1949-2000

A team of twelve researchers from the Pretoria Arms and Ammunition Association - all experts in their own fields - have just concluded eight years of work compiling the book **Firearms Developed and Manufactured in Southern Africa 1949-2000**.

One hundred and eighty local firearms are covered in this new reference guide. The book not only comprehensively covers the technical data on Southern African hunting rifles, sporting arms, handguns and military firearms but also tells the story of the companies which manufactured them, the designers who created them and the people who made them.

Many of the firearm designs which never went into production and were never seen by the public have been covered and where



possible, the reason for the design and the reason why the firearm never went into production is covered. Even short special production runs of firearms such as the Musgrave Anglo-Boer Commemorative Mauser and the Prima Seleksies Anglo-Boer War Centenary Plezier Mauser are covered.

It is a full-colour, photo rich, hard-back A4 book which is packed with information and runs to over four hundred pages.

This reference guide is available at a pre-publication price of R390 plus postage only until 31st March. After that date the price will increase to R490 plus postage. **Order forms and more information may be obtained from Dirk at pwavpaaa@gmail.com**

Publication date is June and the delivery of copies to those who have ordered will take place in August.

The final print order will be limited so if you would like to buy a copy please order soon.

Europeans Discover Virtues of Armed Self-defense

<https://www.nrila.org/articles/20160205/europeans-discover-virtues-of-armed-self-defense-as-eu-bureaucrats-look-for-new-gun-controls>

Europeans Discover Virtues of Armed Self-defense as EU Bureaucrats Seek New Gun Controls

Friday, February 5, 2016

At the same time the European Union bureaucrats in Brussels are trying to foist further gun controls on the continent, Europeans are exhibiting a newfound interest in acquiring the tools of self-defense. Though restricted by EU mandate and often severe national gun controls, following a series of high-profile attacks on women, Europeans are buying up whatever means of protection they can still legally obtain.

The surge in interest in firearms and other self-defense products dates back several months and relates in part to European unease surrounding mass immigration from the other parts of the world. In October, Fox News and others reported a marked increase in firearm sales in Austria. In the piece, Thomas Ortner, a spokesman for Austrian gun retailers, noted, "Nearly all shotguns are sold out because you don't need to have a firearms permit to buy them... Registration courses for pistols are usually held only every five weeks but are now held weekly."

By all accounts this trend has continued into 2016, spurred on by a scene of anarchic violence in the

German city of Cologne. According to an account from the New York Times:

As 2016 neared on Dec. 31, however, some 1,500 men, including some newly arrived asylum seekers and many other immigrants, had instead assembled around Cologne's train station. Drunk and dismissive of the police, they took advantage of an overwhelmed force to sexually assault and rob hundreds of people, according to police reports, shocking Germany and stoking anxieties over absorbing refugees across Europe.

As a January article from Reuters pointed out, a look at the best-selling products on the "Sport & Leisure" section of Amazon.de (the German Amazon.com) immediately following the attacks revealed brisk sales of defensive sprays. The report also noted that the president of German defensive spray manufacturer DEF-TEC told the news outlet that sales of the products had "rose seven-fold in the final three months of last year." On January 15, NBC News reported that so far in 2016 over 300 people had applied to Cologne police for licenses to carry gas pistols and imitation firearms; while only 408 such licenses were granted in all of 2015. Further, the New York Post pointed out in an article titled "Europeans stocking up on guns after mass sex attacks," actual firearms are also in great demand.

More recently, German state news agency Deutsche Welle noted this trend. According to the article, "most customers want a pistol that can fit easily into a handbag or a

small drawer in the night table." Moreover, a "social media expert" told the news outlet, "There has been an increase of at least 1,000 percent or more in Google search queries for gun permits since January."

To their credit, rank and file German police officers appear to support the decision many Germans are taking to arm themselves. German Police Union Chief Rainer Wendt told Deutsche Welle that the police do not intend to obstruct citizens in their attempts to lawfully arm and that he does not support new laws that would make it more difficult for the public to obtain self-defense products.

As we pointed out back in November and December, this all comes at a time when the EU is seeking to crack down on firearm ownership in its member states. Pursuant to the European Firearms Directive, EU nations are already required to adopt a minimum threshold of gun restrictions. However, on November 18, in the wake of terrorist shootings and bombings in Paris, the European Commission announced that it was expediting previously contemplated gun control legislation. An extensive overview of current EU firearms law can be found at Library of Congress' website.

Under EU legislative procedure, typically the transnational government's executive branch, the European Commission, drafts and proposes legislation. The proposed legislation must then be approved by the European Parliament, which consists of members of parliament (MEPs) elected by

Watch this space ...for more interesting firearm snippets

..... Continued

the citizens of member states, and the European Council, which consists of the leaders of the various member states, in order to be adopted. These entities may also provide amendments to the proposed legislation.

The centerpiece of the recent proposal would place semi-automatic firearms in the same category as automatic firearms, barring civilian use. Other provisions offend the privacy rights of gun owners with stricter firearm registration requirements, and "standard medical tests" for firearm licensing. Additionally, firearms licenses issued by member states could not be valid for a period longer than five years.

Predictably, the gun control-crazed United Kingdom government, led by Tory Prime Minister David Cameron, offered their full-throated support of EU-wide gun control measures prior to a December 17-18 meeting of the European Council. In a December 13 press release that echoed the November 18 European Commission announcement, Cameron cited concerns over terrorism and noted, "I'll be calling for a new EU-wide ban on all high-powered semi-automatic weapons."

However, many EU member governments and shooting organizations have made clear they have no intention of caving to Brussels' onerous dictates.

Revealing that many in the UK don't agree with the efficacy of additional firearm restrictions, UK shooting organizations the British Association for Shooting and Conservation and Countryside Alliance have worked in concert to oppose the current EU proposal. A February 2 article from the UK's Western Morning News noted that the groups have shared their con-

cerns about the proposed rules with several MEPs and UK government officials. In conveying their position to the news outlet, a Countryside Alliance spokesperson explained, "We believe the current set of proposals will have a serious effect on sporting and target shooting, collectors, museums, re-enactors and the gun trade, resulting in heavy restrictions and a great deal more work for the already overburdened police force... In fact it appears that the only group that will not be affected by these proposals is terrorists."

Similarly, representatives from German shooting organizations have met with German government officials to explain their opposition to the new restrictions. A December 21 Deutsche Welle article noted that the German Interior Ministry invited the groups in for a meeting. Following the session, Director of the German Federal Association of Shooting Ranges Joachim Streitberger told the news outlet, "The proposal contains things that the [German Interior Ministry] said would be difficult for them, and where changes would be called for," adding, "After this conversation I do not expect the draft to come into force in the present form." Streitberger also noted, "The criminal doesn't care one bit what is in the law. The paradox is to try to use the law to avoid disadvantaging the law-abiding, while regulating the law-breaker, and that's a paradox that a lawmaker can't solve. Which weapon used in Paris was legally owned?"

Additionally, the article cites Germany's Der Spiegel magazine, which reported, "confidential EU reports suggest that the German government - along with its Austrian, Czech and Finnish counterparts - is keen to put the brakes on

the EU's plans." Der Spiegel's contention is in line with December statements made by Finland Security Minister Petteri Orpo regarding the importance of civilian semi-auto use to their national defense, and reports that the Czech Republic has significant concerns with the proposed changes. Further, Austria, Bulgaria, Czech Republic, Estonia, Finland, France, Germany, Greece, Lithuania, Norway, Portugal, Slovakia, and Spain have all issued formal comments on the proposal.

Having been adopted by the European Commission, the proposed changes to the Firearms Directive are currently under the jurisdiction of the European Parliament's Committee on the Internal Market and Consumer Protection (IMCO), chaired by MEP Vicky Ford of the UK's Conservative Party. IMCO has released a timetable for their work on the proposal. The next major event in the timetable is a scheduled "first exchange of views" on February 23, followed by a hearing on this matter March 14-15.

It is deplorable that the EU would seek to further restrict access to firearms when so many Europeans are finding it necessary to exercise their human right to self-defense. Thankfully, diverse members of the European shooting community, including shooting and hunting organizations, members of the firearms industry, and military officials are coalescing to oppose the changes to EU firearm law. NRA has been, and will continue to be, in contact with members of the European shooting community regarding this matter. Moreover, NRA will continue to monitor the situation as it unfolds in the European Parliament and keep our members informed of important developments.

Obama's Plans on Gun Violence

Extracted from: http://www.nytimes.com/2016/02/08/us/politics/obamas-lofty-plans-on-gun-violence-amount-to-little-action.html?emc=edit_th_20160208&nl=todaysheadlines&nli_d=16098491&r=0

Obama's Lofty Plans on Gun Violence Amount to Little Action
By Eric Lichtblau and Michael D. Shear
Feb. 7, 2016

WASHINGTON — The centerpiece of a plan for stemming gun violence that President Obama announced last month largely amounts to this: an updated web page and 10,000 pamphlets that federal agents will give out at gun shows.

In a tearful display of anger and sadness in the East Room of the White House, Mr. Obama ordered steps intended to limit gun violence and vowed to clamp down on what he called widespread evasion of a federal law requiring gun dealers to obtain licenses.

But few concrete actions have been put in motion by law enforcement agencies to aggressively carry out the gun dealer initiative, despite the lofty expectations that Mr. Obama and top aides set. Obama administration officials said they had no specific plans to increase investigations, arrests or prosecutions of gun sellers who do not comply with the law. No task forces have been assembled. No agents or prosecutors have been specifically reassigned to such cases. And no funding has been reallocated to accelerate gun sale investigations in Washington or at the offices of the 93 United States attorneys.

The absence of aggressive enforcement is a reminder of the limits of Mr. Obama's executive

authority, even as he repeatedly asserts the power of the Oval Office to get things done in the face of inaction by a Republican Congress.

.....Administration officials say that with Congress unwilling to take any legislative action, the White House's plan goes as far as Mr. Obama can to keep guns out of the hands of criminals and people with mental illnesses.

Mr. Obama has been under pressure from gun control advocates to confront gun violence since he failed to convince Congress to approve universal background checks in 2013. The highly stage-managed announcement in January gave him the chance to demonstrate what he called the "fierce urgency" to respond to mass shootings.

Attorney General Loretta E. Lynch told reporters on the day Mr. Obama announced the plan that the government was "ramping up our enforcement efforts, particularly online" and "will be looking" for unlicensed gun dealers. But turning promises into action is often difficult — a political reality that Mr. Obama and his aides know all too well — especially in the face of a sluggish bureaucracy and a determined, partisan opposition in Congress. ...

The most visible sign of the president's initiative to license more gun dealers is the printing of 10,000 pamphlets clarifying what qualifies a gun seller as a dealer. Officials plan to hand out the pamphlets at gun shows, weekend flea markets and elsewhere. They say they hope the "education campaign," as it is called, will prompt more gun sellers to register as dealers, who then must conduct background checks. The same information has been updated on the website of the Bureau of Alco-

hol, Tobacco, Firearms and Explosives.

The new guidance says that there is no "bright line" for determining whether someone should register as a dealer, but that a number of factors — such as selling even a small number of new firearms in their original packaging, making a profit and selling regularly at gun shows or online — could qualify.

Sally Quillian Yates, the deputy attorney general, said the A.T.F.'s new guidance would put people who sold guns regularly "on notice" that they must register as dealers and conduct background checks. She said it should also lead to more successful prosecutions of unregistered gun dealers who are flouting the law.

White House officials said it was too early to judge the effect of the president's measures. And they said the effort to register more gun dealers was just one piece of his initiative. Other elements would tighten rules on gun purchases by corporations and more quickly identify lost or stolen guns.

The president also sought to improve the F.B.I.'s ability to identify prohibited gun buyers by hiring more background check examiners and by collecting more criminal and mental health information from states.

But a number of the elements that Mr. Obama took credit for last month were already underway before he directed the administration to develop new gun measures in the wake of mass shootings in California and Oregon in the fall.

The F.B.I., for example, has already received funding for an additional 230 examiners in the next two years to handle the growing requests for background checks.

Obama's Plans on Gun Violence Continued

The president is wary of creating any appearance that he is sending in armies of federal agents to take away people's guns.

"Our No. 1 goal here is not to slap the cuffs on people for not being registered," Ms. Yates, the deputy attorney general, said. "We believe there are a lot of folks out there who want to comply with the law."

Mr. Obama's lawyers have cautioned against seeming to create new gun laws by fiat. The most the president can do, they have said, is to direct better enforcement of the laws that exist.

The bulk of the new responsibilities outlined by Mr. Obama will fall to the A.T.F., an agency that has suffered from chronic under-

funding and understaffing, years of scandals, and distrust from Republicans and gun rights groups. Mr. Obama plans to request tens of millions of dollars from Congress for additional A.T.F. agents, but Republicans are hesitant to approve it.

The A.T.F. has been without a confirmed director since April; the White House has blamed a backlog of confirmations in the Republican-controlled Senate. Michael Bouchard, a former assistant director at the A.T.F., faulted Mr. Obama for not nominating anyone to the job as part of his plan.

"How could you say that all this stuff about guns is so important, but you don't think it's important enough to name a nominee to run the agency?" Mr. Bouchard asked. "This would have been a great

time for it."

A.T.F. officials said that the agency had not named anyone to oversee the plan or set up new committees to run it. Brian Garner, a special agent and spokesman for the agency, said: "We've not at any point said we're going to do any big rollout. Right now, we're going to work the cases with the resources we have and do the best job we can."

Supporters of the plan said they had been assured that it would be enforced aggressively.

"It was significant; it was bold," said Maura Healey, the Massachusetts state attorney general. "It takes time for the directive to be implemented."

HuntEx Cape Game Fair 26-28 February 2016

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HuntEx Gauteng VIP Day Tickets

The VIP tickets for HuntEx2016 are now available to buy online. The number of tickets for this VIP day on 14 April 2016 from 10:00-17:00 are limited. Please go to the link: huntex.net/be-ready-vip if you wish to purchase these VIP tickets.