

**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

In the matter between

Case number: 93067/19

NATIONAL HUNTING & SHOOTING ASSOCIATION

Applicant

and

MINISTER OF POLICE

First Respondent

NATIONAL COMMISSIONER OF POLICE
Cited in his capacity as the Registrar of Firearms

Second Respondent

RESPONDENTS' ANSWERING AFFIDAVIT

Contents

INTRODUCTION	3
Urgency	5
The utility of firearm amnesties	6
The motivation of the applicant	9
THE LAW ON FIREARM AMNESTIES	10
The consequences of an amnesty	10
The surrender of a firearm is necessary for amnesty	11
An amnesty does not permit the renewal of expired firearm licences	12
INCOMPETENT RELIEF	14
NON-JOINDER	17
SERIAM ANSWER TO THE FOUNDING AFFIDAVIT	21
ANSWER TO THE SUPPLEMENTARY AFFIDAVIT	59
CONCLUSION	61

I, the undersigned,

MAROPENG JOHANNA MAMOTHETI

hereby state under oath as follows:

1. I am a Major General in the South African Police Service (SAPS). I am the Component Head for Firearms, Liquor and Second-hand Goods (FLASH) in the SAPS.
2. Save where context indicates the contrary, the facts set out in this affidavit are within my personal knowledge or derived from official records under my control. To the best of my knowledge and belief they are both true and correct.
3. A confirmatory affidavit by the first respondent (the Minister) will be filed either simultaneously with this affidavit, or as soon as practically possible thereafter.
4. This affidavit is organised in four parts:
 - 4.1. Introduction, including the question of urgency;
 - 4.2. The law on firearms amnesties and the interpretation of the relevant sections of the Firearms Control Act 60 of 2000 (the Act), and why the applicant's interpretation is untenable;
 - 4.3. An analysis of the relief sought by the applicant, and why it is not competent;

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- 4.4. The failure to join Parliament as a respondent, which is a material and fatal non-joinder;
- 4.5. Answers to the Applicant's founding affidavit where I respond to the specific allegations which are made.

INTRODUCTION

5. On 11 December 2019 the applicant filed an urgent application seeking, amongst other relief, the setting aside of the firearms amnesty approved by Parliament which came into operation on 1 December 2019 and will run till 31 May 2020 (GN 42858, Govt Gazette dated 27 November 2019).
6. The Notice of Motion set the matter down for hearing on 24 December 2019. After the application had been served, and at the instance of the applicant, the matter was removed from the roll for 24 December 2019 and placed on the roll for 14 January 2020.
7. Applicant also seeks relief declaring that:
- 7.1. amnesties declared in terms of s 139(1) of the Act must be preceded by a specified consultation process;
- 7.2. If the respondents choose to substitute the current amnesty with another amnesty then, amongst other relief:

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- 7.2.1. any notice providing for an amnesty shall enable owners of firearms with expired licences to apply for the renewal of such licences "in terms of Section 139(4)(a) of the Act".
- 7.2.2. pending the institution of a new amnesty the respondents are prohibited from confiscating and destroying any firearms where such firearm licences had not been renewed; and/ or arresting and prosecuting the owners of such firearms.
8. The applicant chose to bring the application on an allegedly urgent basis, at a time when many key staff members of the SAPS are on their annual leave. The application comprises some 174 pages and contains wide-ranging and far-reaching claims. It requires consultation with numerous members of the SAPS, some of whom are not available. The respondents accordingly reserve the right to file a supplementary answering affidavit should the need arise.
9. As I explain below, in effect the applicant asks the Court to rewrite provisions of the Act in order to impose the type of amnesty which it would like to have, namely an amnesty that authorizes the "renewal" of expired licences, and without the need to surrender the firearm in question. It does so without:
- 9.1. seeking to have the governing provisions of the Act set aside;
- 9.2. putting up a single witness who alleges actual or feared prejudice or harm, or the violation of a constitutional right.

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10. The founding affidavit is replete with generalized and bald assertions which are not supported by any evidence, and with inadmissible hearsay.

Urgency

11. The applicant provides no valid grounds to justify either bringing this application on an urgent basis, or setting it down for hearing during the recess – now, on a date less than two weeks before the court term resumes:

- 11.1. Many firearms have already been handed in under the current amnesty, which started some six weeks before the date which is now proposed for the hearing. Between the commencement of the amnesty and 30 December 2019, 1384 firearms and 14 257 rounds of ammunition were surrendered, and 249 applications by amnesty participants for new licences were received. I expect that the process will accelerate in the new year.
- 11.2. No interim order is sought suspending the amnesty pending the outcome of the application.
- 11.3. If the amnesty were to be set aside, the respondents will (with due respect) seek leave to appeal such an order, which would suspend the operation of the order. While the applicant may apply to have the order executed pending an appeal, I am advised that there is little or no prospect of such an order being granted, having regard to the positive benefits which flow from the amnesty, and the absence of any prejudice which the amnesty causes to anyone.

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12. The application is therefore essentially academic in nature. At best for the applicant, it may be relevant to any amnesty which may be declared in future. It is therefore not urgent.
13. I therefore submit that the application should be struck from the roll for lack of urgency, together with an order for costs, including the costs of two counsel.

The utility of firearm amnesties

14. A firearm amnesty gives firearm owners who have not renewed their licences an opportunity to regularise their position, and reduces the number of unlicensed and illegally possessed firearms in circulation. Firearm amnesties have proven to be effective at removing illegal firearms from circulation in South Africa and in many countries around the world.
15. The presence in circulation of unlicensed firearms poses a danger to members of the public:
- 15.1. Some unlicensed firearms are in the hands of persons who are no longer competent or capable of handling guns safely, securely and responsibly, and who may harm themselves or others;
- 15.2. Some such firearms will be stolen or lost while illegally in the hands of owners, and end up in the hands of criminals who may injure or kill others.
16. Firearm amnesties have previously been successful in South Africa:

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- 16.1. A six-month amnesty in 2005 recovered 80 454 firearms.
- 16.2. A three-month amnesty in 2010 recovered 42 329 firearms or components thereof. Of these, 11 887 were illegal. A further 30 442 licensed firearms or components were voluntarily handed in. It is the experience of the SAPS that when an amnesty is declared, it leads to an increase in the voluntary handing in of firearms by members of the public who no longer wish to possess them. I attach (MJM1) an SAPS report dated 22 April 2010 on the outcome of the 2010 amnesty.
17. The terms of the current amnesty are essentially the same as those of the previous amnesties, except that the current amnesty requires a participant who wishes to apply for a new licence in terms of s 139(4) of the Act to produce documentary proof of previous ownership.
18. The current amnesty is likely again to result in the recovery of a substantial number of unlawfully possessed firearms. This will result in the removal of unlicensed firearms from circulation.
19. Internationally the voluntary surrender of firearms, through amnesties and similar programs, is encouraged. South Africa is a signatory to the *United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects* [UN document A/CONF.192/15 of 9-15 July 2001] ("UN PoA"). This instrument, in paragraph II, commits member states to conduct weapons collection through voluntary surrender of small arms and light weapons and other means. The amnesty is thus in line with South Africa's international law commitments.

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20. There are many examples of firearm amnesties being used in other countries in order to reduce the numbers of illegal weapons in circulation and ultimately save lives. In 2006, the UN Institute for Disarmament Research analyzed five years of implementing the UN PoA. It noted that in Africa, 17 of the 39 states that submitted reports had included weapons collection, such as amnesties, as part of their reports (*UNIDIR/2006/6. Five Years of Implementing the UN Programme of Action on Small Arms and Light Weapons. Regional Analysis of National Reports. UNIDIR, Geneva Switzerland*).

21. In the time available, and because of the time of the year, I have not been able to collect affidavit evidence of the experience of other countries. I respectfully ask that under the circumstances, the following hearsay evidence be admitted:

21.1. In Brazil between July 2004 and October 2005, more than 460 000 guns were collected in a firearms amnesty. This amnesty correlated with statistically significant reductions in murder. A year after the amnesty was promulgated, firearm homicide declined by 8% following 13 years of steady increases. (Robert Muggah, *Give Gun Amnesties a Chance*, City Press, 22 March 2015, annexed as "MJM 2").

21.2. In Australia more than 57,000 firearms, including unregistered firearms, were handed over during a three-month national amnesty in 2017. Buoyed by the success of firearm amnesties, as from the second half 2020, Australia will implement a permanent and ongoing national firearms amnesty. (*Permanent National Gun Amnesty to Start in 2020*, Courier & Mail, 21 November 2019 annexed as "MJM 3").

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The motivation of the applicant

22. Given the value of firearm amnesties, it is difficult to understand the motivation for the applicant's strenuous effort to stop the amnesty. This is particularly so given that:
- 22.1. The amnesty is an entirely voluntary process: no firearm owner is compelled to participate in the amnesty.
 - 22.2. The amnesty does not deprive any firearm owner of any right, or in any way impinge on any right of a firearm owner.
 - 22.3. The amnesty gives firearm owners with expired licences an opportunity to obtain indemnity for their current unlawful possession of a firearm.
 - 22.4. The amnesty gives such persons the opportunity to apply for a fresh licence without exposing themselves to any criminal liability.
23. I can only conclude that the applicant's motivation is to prevent firearm owners (including its own members) with expired licences from making use of the amnesty, since this would undercut its efforts to secure the amnesty it prefers.
24. There can be no legitimate interest in seeking such an outcome, which undermines the ability of the state to reduce the numbers of illegal weapons in South Africa in order to save lives.

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THE LAW ON FIREARM AMNESTIES

25. Section 139(1) of the Act empowers the Minister, by notice in the Gazette, to *"declare an amnesty"*.
26. The meaning of *"amnesty"* is set out in s 138: it is *"an indemnity against prosecution for the unlawful possession of a firearm or ammunition"*.
27. The Minister's power under s 139 of the Act to declare an amnesty does not include the power to exempt amnesty applicants from compliance with the Act. The Minister is empowered to grant an indemnity against prosecution, subject to the terms of the Act. The indemnity is available under the circumstances which are prescribed by the Act and the amnesty notice.

The consequences of an amnesty

28. Sections 139(3) and (4) set out the requirements for, and the consequences of, an amnesty (indemnity from prosecution):
- 28.1. A person who surrenders a firearm in compliance with an amnesty notice may not be prosecuted for possession of that firearm without the appropriate licence, permit or authorisation: s 139(3)(a);
- 28.2. A person who surrenders a firearm in compliance with an amnesty notice may apply in terms of the Act for a licence in respect of that firearm: s 139(4)(a);

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- 28.3. If a licence is granted, the firearm surrendered in terms of the Act must be returned to the holder of the licence, as per s 139(4)(b).
29. These are the invariable consequences of an amnesty. They are prescribed by the Act.
30. The Act thus prescribes that amnesty mechanism operates as follows:
- 30.1. A notice of amnesty is published in the Gazette;
- 30.2. A person who surrenders a firearm in accordance with the amnesty notice may not be prosecuted for unlawful possession of that firearm;
- 30.3. A person who surrenders a firearm in compliance with the amnesty notice may apply *"in terms of this Act"* for a licence in respect of that firearm;
- 30.4. If a licence is granted, the firearm in question must be returned to the holder of the licence.

The surrender of a firearm is necessary for amnesty

31. The Minister *"must"*, in terms of s 139(2)(c), *"specify the conditions under which amnesty may be granted"*.
32. The applicant appears to contend that the Minister should have specified, as a condition of the amnesty, that the amnesty will apply when the holder applies for a licence, notwithstanding that the firearm has not been surrendered.

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33. Section 139(3)(a) creates an indemnity from prosecution only for a person who surrenders a firearm in compliance with an amnesty notice. The Act does not empower the Minister to grant an indemnity to someone who has not surrendered the firearm in question. The indemnity follows only upon the surrender of the firearm.
34. There cannot be an “*amnesty*” (meaning “*an indemnity against prosecution for the unlawful possession of a firearm*”) unless the firearm in question has been surrendered.
35. The applicant acknowledged this in its attorney’s letter of 15 October 2019 to the Minister and officials of the SAPS (including me), which is annexure HE11 to its founding affidavit. That letter refers to s 139(4) of the Act and then states (para 5.2, p 109):

“It is a clear legal requirement that firearms, which are the subjects of an amnesty, must be surrendered to the police pending an application for a licence for such firearm.” [emphasis in original]

An amnesty does not permit the renewal of expired firearm licences

36. Section 24 of the Act governs the renewal of firearm licences. Section 24(1) provides that the holder of a licence who wishes to renew it “*must at least 90 days before the date of expiry of the licence apply to the Registrar for its renewal*”.

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37. Section 28(1)(a) provides that a licence terminates upon the expiry of the relevant period contemplated in s 27, unless it has been renewed "*in terms of s 24*". As I have pointed out above, s 24 requires an application before the expiry of the licence.
38. There is no provision in the Act for the "*renewal*" of a licence based on an application which is made after the licence has terminated.
39. It is accordingly not possible to "*renew*" a licence which has terminated. Where application has not been made for renewal in accordance with section 24, the licence expires by operation of law. It ceases to exist. There is no longer a licence which can be renewed. What the holder must do is make a fresh application for a licence.
40. On an expansive interpretation of s 28(6) of the Act, the Registrar of Firearms is permitted to extend the period of validity of a firearm licence "on good cause shown". This however does not permit a "*renewal*" of an already expired licence.
41. Section 139 makes no provision for renewal of an expired licence. It provides in s 139(4)(a) for a person who has surrendered his or her firearm to apply for a fresh or new licence in respect of that firearm.
42. The applicant in effect asks the Court to re-write the Act to order the Minister to proclaim and exercise a power which he does not have under the Act.

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INCOMPETENT RELIEF

43. There is no right in law to a firearm amnesty. The decision to institute an amnesty falls within the discretion of the Minister. The Minister may elect to declare no amnesty at all. If the Minister elects to declare an amnesty, but on terms which a person affected considers inadequate or unsatisfactory, that does not provide a basis for setting aside the Minister's decision.
44. The applicant in effect asks the Court to override the amnesty provisions of the Act which it finds objectionable, without contending or seeking an order that they are inconsistent with the Constitution. I respectfully submit that what applicant seeks constitutes the clearest breach of the separation of powers.
45. Any amnesty declared in terms of s 139(1) must comply with s 139. The Minister does not have the power to declare an amnesty that falls outside the terms of ss 139 (2) – (5). And, I respectfully submit, a court does not have the power to order the Minister to do so.
46. The applicant is entitled to its views on how to improve the amnesty system in South Africa, and to assist its members who failed to renew their licences. I submit that the applicant's views and preferences, no matter how well-founded they might be, do not provide any basis for the relief which is sought.
47. I point out that the order sought by the applicant will have the effect of reversing or nullifying the indemnity which has been achieved by firearm owners who have complied with the terms of the amnesty. I submit that this cannot conceivably be just and equitable in terms of section 172(1)(b) of the Constitution.

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48. The applicant also seeks orders imposing a particular consultative procedure in respect of the declaration of any future amnesty. I submit that this is also without foundation, for the following reasons.
49. First, the applicant provides no legal basis for the legal obligations for which it contends in this regard, except for passing reference to the declaration of an amnesty as "administrative action", without explaining why this is the case. The applicant places no reliance on any section of the Promotion of Administrative Justice Act 3 of 2000 (PAJA), which defines and governs administrative action, and in fact makes no reference to PAJA at all. I submit that on this ground alone, the relief sought is not competent.
50. If the applicant should seek to rely on PAJA, and if the Court should permit it to do so despite its not having referred to PAJA, then I submit that in any event, reliance on PAJA is unfounded, because the declaration of an amnesty is not "administrative action" within the meaning of PAJA:
- 50.1. The declaration of an amnesty is not a decision "*of an administrative nature*" as contemplated in the definition of "administrative action" in s 1 of PAJA. It is a policy decision, and constitutes executive action, and not administrative action. This will be addressed in argument.
- 50.2. The declaration of an amnesty does not "*adversely affect the rights of any person*", and for that reason, too, it is therefore not "administrative action" as defined in s 1 of PAJA. It does not detract from any existing right of any person. What it does is confer additional rights on persons affected: it provides is that if they so wish, they may obtain an indemnity

from prosecution by participating in the amnesty process. It further confers on them the right to have their firearms preserved while they apply for a licence, and while that application is considered.

- 50.3. Even the declaration if an amnesty is somehow administrative action, it does not *"materially and adversely affect the rights or legitimate expectations of any person"* or of the public, which is the trigger for the procedural entitlements in ss 3(1) and 4(1) of PAJA. The contention that the amnesty is insufficient does not convert it into an administrative action which *"materially and adversely affects"* the rights or legitimate expectations of persons or the public. It follows that even if the declaration of the amnesty is administrative action, the procedural entitlements of ss 3(1) and 4(1) of PAJA are not applicable.
51. Second, the applicant provides no legal basis for the particular consultative procedure which it asks the Court to impose on the Minister and on Parliament in respect of the declaration of any future amnesty. I respectfully submit that to the extent that consultation is required, the determination of the particular form of consultation is a matter within the discretion of the decision-maker.
52. Third, the applicant in effect asks the Court to impose procedural obligations on Parliament when it considers any future proposed amnesty. It does so without joining Parliament as a party. I submit that on this ground alone, the relief is incompetent because of the non-joinder of a party whose obligations will be affected by the order.

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NON-JOINDER

53. I have referred above to the non-joinder which arises from the mandatory procedural order which the applicant seeks.
54. There is an even more fundamental and fatal non-joinder in respect of the applicant's assertion that the declaration of an amnesty is invalid because, it says, the Minister's notice was not placed before each Member of Parliament.
55. What happened in this matter was the following:
- 55.1. When the Minister formed the view that it was desirable to declare an amnesty, he did what s 139(2)(a) of the Act required him to do: he submitted his draft notice to Parliament for its consideration and approval : the draft notice is annexure HE9 to the applicant's papers at p 100, and the letter to the Speaker is attached to annexure HE10 at p 105. (The dates on those two documents differ because the original draft notice was misplaced in the Ministry, and the SAPS then provided a further copy, which the Minister then signed and dated.)
- 55.2. Parliament then proceeded to consider the matter, in accordance with its chosen procedures.
- 55.3. The matter was approved by both the National Assembly and the National Council of Provinces in accordance with their procedures.
56. As I understand it, that is not in dispute.

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57. In its attempt to obstruct the implementation of an amnesty, the applicant seeks to place form over substance in order to attempt to establish that the required procedure was not followed.
58. The applicant alleges that the procedure followed by Parliament was defective because the draft notice was not placed before each Member of Parliament. The applicant thus challenges the legal effectiveness of what Parliament did, and of Parliament's decision.
59. The applicant thus impugns the validity of the procedure followed by Parliament in approving the amnesty. As I have noted above, it also asks the Court to place an obligation on Parliament as to how it will deal with future proposed amnesties.
60. I submit that it is for Parliament to explain:
- 60.1. what is the applicable procedure prescribed by the Rules of Parliament;
 - 60.2. the details of the procedure which was followed in this particular case;
 - 60.3. why such a procedure was followed; and
 - 60.4. why, if it so contends, this procedure was in accordance with the requirements of s 139(2)(a).
61. I point out that the applicant has not placed before the Court the applicable prescribed procedure of Parliament, and either

- 61.1. challenged its validity; or
- 61.2. alleged that it was not followed in this instance.
62. I submit that as the applicant challenges the validity or legal effectiveness of what Parliament did, it is necessary for Parliament to be joined as a party in order that it may explain (and if it so wishes, justify) the procedure which it follows.
63. I submit that the procedure which Parliament followed was in fact valid and effective because
- 63.1. The Minister submitted his proposal and the draft notice to Parliament for its approval;
- 63.2. The proposal, including the draft notice, was referred to and considered by the designated specialist committees of Parliament, namely the National Assembly's Portfolio Committee on Police and the National Council of Provinces' Select Committee on Police;
- 63.3. The members of those Committees had the draft notice before them. I can confirm this personally, as I attended the meetings of those Committees.
- 63.4. Those Committees recommended to the National Assembly and the National Council of Provinces that they approve the Minister's proposal. They did so on the basis of the draft notice before them, but required

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that the dates of the amnesty period be changed. Again, I can confirm this personally.

63.5. The Minister's proposal was thereafter approved by both the National Assembly and the National Council of Provinces, which together constitute Parliament.

64. I am not able to say what documents were distributed to Members of Parliament. Parliament could do so. What I do know is that all Members of Parliament were informed that the Minister's request had been considered and approved by the two specialist Committees, all of them knew that the Committees recommended to the NCOP and the National Assembly that the amnesty be approved, and all of them had access to the papers of the Committee if he or she so wished.

65. It is for Parliament to explain what procedures the Rules of Parliament prescribe, why it followed this particular procedure, and why (if it so contends) this constituted compliance with s 139.

66. This is a matter which is of considerable importance to Parliament, because this Court's order may determine the procedure which Parliament must follow not only in respect of future firearm amnesties, but also in respect of other matters which require the approval of Parliament.

67. I submit further that a Court will not make an order setting aside the approval by Parliament of the amnesty, or declaring what procedure Parliament is required to follow, without giving Parliament an opportunity to be heard. To do so would be contrary to all principle.

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68. I accordingly submit that Parliament has a direct and substantial interest in this application, and that its joinder was a necessity. The application is therefore fatally flawed as a result of the non-joinder of Parliament.

SERIATIM ANSWER TO THE FOUNDING AFFIDAVIT

Ad paragraphs 1 – 6

69. I admit the contents of these paragraphs save for the allegation that the contents of the founding affidavit are true and correct.

Ad paragraph 7

70. I deny the contents of this paragraph to the extent that it suggests that the amnesty was not lawfully declared in terms of the Act. The deponent makes the bald claim that the amnesty will affect the rights of thousands of firearm owners with expired licences. The amnesty does not detract from any right that those persons have. What it does is confer on them an additional right, namely the right to obtain amnesty for their unlawful possession of a firearm.

Ad paragraph 8

71. The contents of this paragraph are admitted.

Ad paragraph 9

72. I admit this paragraph to the extent that it notes that the announcement of the amnesty encouraged all in possession of illegal firearms, including owners of firearms with expired licences, to make use of the amnesty.

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73. The predicament of those who neglected or refused to renew their licences is of their own making. They had ample opportunity to comply with the law, but neglected or chose not to do so. The Constitutional Court pointed out in Minister of Safety and Security v South African Hunters and Game Conservation Association [2018] ZACC 14 at para 19: *'The gun-owner knows that he must either apply in time for renewal or dispose of the firearm before expiry. If he does not, he will be guilty of an offence ...'*

Ad paragraph 10

74. I have no knowledge of the membership numbers of the applicant but do not dispute same.
- 74.1. However, the bald assertion that hundreds are affected by the amnesty is pure speculation. No evidence is produced to support this claim.
- 74.2. It is with respect remarkable that applicant (which claims a membership of 35 642 people) brings an application asserting serious prejudice and harm to hundreds of thousands of people yet is unable to put up a single person who alleges that he or she has suffered or fears such prejudice.
75. To the extent that applicant suggests that it is entitled to represent the collective interests of owners of firearms with s 13 licences (self-defence), I deny this.
- 75.1. It is most curious that applicant has chosen not to attach its constitution to the founding affidavit of Mr Els; nor does the constitution appear to be available on the applicant's website.

75.2. The applicant is accredited in terms of the Act as a hunting and sports shooting association. The applicant requires that its members maintain dedicated hunter or sports shooting legal status.

75.3. The applicant is (as its name indicates) a hunting and sports shooting association, not a general firearms organisation. Its mandate is limited to representing those engaged in hunting and sports shooting.

Ad paragraph 11

76. Since applicant has chosen not to disclose its constitution, I have no knowledge of what decisions members are expected to abide by. The applicant has produced no evidence in this regard, other than a bald assertion. I therefore place this allegation in dispute.

77. While typically, members of a voluntary association are expected to abide by day-to-day administrative decisions taken by the executive, a decision to go to court to set aside a firearms amnesty can hardly be described as a routine administrative decision. Indeed, it may well be that there are members who would have opposed such a decision on principle; and other members who would have opposed since they wish to take advantage of the amnesty.

78. In the circumstances, I dispute the claim that the decision to litigate has been "implicitly approved" by the members.

Ad paragraph 12

79. The applicant does not allege a violation of a fundamental right under the Bill of Rights nor does it allege an infringement of the Constitution. I note that applicant does not invoke section 38 of the Constitution in order to claim standing to represent a wider group or act in the public interest. I am advised that this would in any event be impermissible.
80. The claim that the applicant "represents a significant number of firearm owners, who will *probably* be affected by the amnesty" (my emphasis) is pure conjecture and again a bald assertion. If any of its members were in fact prejudiced by the amnesty, applicant could easily have put up one or more of them as applicants or as witnesses to allege under oath the harm or prejudice sustained or feared. It has signally failed to do so.
81. In the circumstances, the applicant has not demonstrated that it has standing to bring this application.

Ad paragraphs 13 – 14

82. I have dealt above with the relief which is claimed. I submit that it is not competent.

Ad paragraphs 15 – 17

83. I admit these paragraphs to the extent that they correctly reflect the contents of the Acts to which they refer.

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Ad paragraphs 18 – 19.2

84. Section 139(1)(a) of the Act provides for the declaration of an amnesty to reduce the number of illegally possessed firearms in South Africa. It does not confine amnesties to illegal firearms in the hands of criminals. This is for good reason.
85. In my opinion as an experienced senior police officer, there is a material likelihood that many of the firearm owners who could not be bothered to comply with the law and renew their licences, are likely to be equally cavalier with the safeguarding of their firearms, resulting in many such firearms ending up in the hands of criminals.
86. I should add that at a policy level it makes eminent sense to require those with long expired licences to apply afresh for licences, since many such firearm owners may no longer be qualified or physically capable to use or safeguard lethal weapons, thereby endangering their own lives and the lives of others.

Ad paragraph 20

87. It is not clear on what basis applicant contends that the amnesty does not make provision for a “fair and just” process for the “re-licensing” of expired firearm licences. In any event, the amnesty follows the process stipulated in the Act, and the validity of the Act is not challenged.

Ad paragraph 21

88. The alleged purpose referred to in this paragraph is not identified. Also not identified are first respondent’s alleged “publicly expressed intentions”.

89. The amnesty does not disarm anyone at all. To the contrary, it provides an opportunity for holders of unregistered firearms to legalise their possession without placing themselves at risk of prosecution. Participation in the amnesty is voluntary.

Ad paragraph 22

90. The applicant disputes the correctness of the respondents' position that firearm owners who previously had "green licences" under the 1969 Act, and who applied for and obtained licences under the 2004 Act, are now obliged to comply with the 2004 Act. However, the applicant does not explain why this is relevant to this application.
91. Any firearm owner who previously held a "green licence" under the 1969 Act and subsequently obtained a licence under the 2004 Act which has now lapsed, and who contends that the interim order of Prinsloo J still protects him or her from prosecution, is free to raise this defence if he or she is criminally charged. The amnesty does not bring about any change at all in his or her legal position.
92. I submit however that the applicant's interpretation of the Prinsloo J order is wrong, and that those who act on the applicant's advice in this regard place themselves at risk:
- 92.1. The judgment of Prinsloo J dealt with the transitional period provided for in the Act. Prinsloo J ordered that firearm licences contemplated in sub-item 1 of item 1 of Schedule 1 shall remain valid pending the final adjudication of the main application.

- 92.2. The judgment was aimed at addressing those firearm owners who, it was alleged, were “left out in the cold” and did not have adequate opportunity to enter the new legal regime. It did not address those who in fact entered the new legal regime.
- 92.3. The order accordingly does not apply to holders of green licences who have applied for and obtained the corresponding licence in terms of the Act. It is not possible in law to have two valid licences for the same firearm – a licence under the repealed 1969 Act, and a licence under the 2000 Act.
- 92.4. On the applicant’s approach, the order of Prinsloo J means the following: If a person with a licence under the 1969 Act applied for and obtained a licence under the 2000 Act, and his 2000-Act licence was then validly cancelled, he would still be in lawful possession of his firearm because he had a 1969-Act licence. That would be utterly absurd. I am advised that court orders are not to be interpreted so as to result in absurdity.
- 92.5. The holders of “green licences” have had more than ten years since the granting of the interim order to bring themselves into the new legal regime. They received the interim protection which the applicant in that case (the SA Hunters and Game Conservation Association) contended they needed.
- 92.6. I point out that the SA Hunters and Game Conservation Association has never sought to prosecute its case to finality and to seek a declaration

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of the invalidity of the transitional regime. That is so for good reason, because that question has become moot.

Ad paragraphs 23 – 25

93. I deny the bare allegations contained in these paragraphs.
94. As I have pointed out, the applicant has not laid any legal basis for its contention that there was a legal right to public participation in the decision to declare an amnesty, or the content of the amnesty. But in any event, the Minister's intention to declare an amnesty has been well known for an extended period. As the applicant demonstrates in its founding papers, it made extensive representations to the Minister in this regard. Those representations were considered by the Minister. It follows that to the extent that the applicant had a right to make representations, it has exercised that right.

Ad paragraph 26

95. I have dealt above with the question of Parliamentary approval. I deny that the notice was ultra vires or legally flawed. And as I have pointed out, this is in an issue which requires the joinder of Parliament, which is the appropriate body to explain and justify its process. I deny that the declaration is administrative action within the meaning of PAJA.

Ad paragraphs 27 – 28

96. The contents of these paragraphs are noted.

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Ad paragraphs 29 – 30

97. The applicant does not attach the statement to which it refers. Its reliance on a passage in that statement, without its context, is mischievous. The considerations which governed the Minister's decision are summed up in the briefing to the Portfolio Committee on 11 September 2019 (annexure HE8 to this application), which states (p 99 of the application):

"The removal of illegal or excess firearms is indeed in the public interest and is supported by the crime statistics, which indicates that firearms are the instrument most commonly used in the commission of crimes, especially violent crimes." [emphasis added]

98. It is indeed so that such firearms end up in the hands of criminals.
99. I deny that the Minister's decision was based on *"incorrect and/or unwarranted considerations"*.

Ad paragraph 31

100. The contents of this paragraph are noted.

Ad paragraph 32

101. The applicant suggests that three categories of persons could potentially make use of the amnesty. In fact, anyone in possession of an illegal firearm, regardless of his or her circumstances, may benefit from the amnesty.

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102. I have dealt above with the holders of *"old order licences"* referred to in paragraph 32.1. I note that the applicant states that the legal position of such persons is *"by all accounts pretty uncertain"*. Their legal position is not in any way governed by the amnesty. The amnesty affords them an opportunity to remove any such uncertainty, and to bring themselves squarely within the law, without exposing themselves to the risk of criminal prosecution arising from their past conduct.
103. Those falling within the categories set out in paragraphs 32.2 and 32.3 are free to avail themselves of the amnesty, should they so choose.
104. The applicant provides no evidence that people were *"lulled into a false sense of security"* by the order made Tolmay J on 4 July 2017. Again, the applicant relies on bare assertion, without producing facts to justify the assertion. The judgment of Tolmay J was clear that its declaration of invalidity of ss 24 and 26 of the Act was subject to confirmation by the Constitutional Court. Eleven months later, the Constitutional Court overturned the order of Tolmay J.

Ad paragraphs 33-34

105. I submit that it is irrelevant that none of the firearms surrendered in the previous two amnesties was connected to a crime. What is relevant is that
- 105.1. none of those firearms could thereafter be lost or stolen, and end up in the hands of criminals. The availability of firearms to criminals was thereby diminished.

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105.2. section 139(1)(a) of the Act authorizes the declaration of an amnesty to bring about "the reduction in the number of illegally possessed firearms in South Africa", regardless of who holds them.

105.3. it is well established, from the experience of the SAPS, that the firearms used in crimes were frequently stolen from or lost by their owners. Reducing the number of illegally possessed firearms in circulation, through a firearm amnesty, reduces the risk of this happening.

Ad paragraphs 35 – 39

106. The applicant seeks here to show that those who chose not to renew their firearm licences are not to blame for their own lapses. It makes a number of tendentious assertions (again, without evidence) in order to support this claim. But again, this is irrelevant to the present application. What the amnesty does is provide an opportunity for the holders of unregistered firearms, whether blameworthy or not, to bring themselves within the law. Any such person whose contravention is inadvertent should welcome this opportunity.

107. The extraordinary assertion in paragraph 37 that the orders of Prinsloo J and Tolmay J "*led to a total of 450 000 holders of new order licences to believe, on the authority of High Court Orders, that they were legally in possession of their firearms or would get an opportunity to legalise their possession*" is unsupported by any evidence whatsoever.

108. These kinds of claims were firmly laid to rest by the Constitutional Court in the **SA Hunters** case: The Court held that firearm owners have always known that

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they had to renew their licences timeously and they are aware of the consequences if they do not. In this regard the Court held that the "*rule of law requirements of clarity and certainty are clearly met.*"

109. The various disagreements between the SAPS and the gun lobby over licensing and possession of firearms did not cause approximately 450 000 persons not to renew their licences. These were choices made by those owners. This amnesty, like previous amnesties, is an opportunity for all those in possession of unlicensed firearms to legalise their weapons without facing criminal liability.
110. The applicant opposes this amnesty because it prefers an amnesty which provides for the "renewal" of expired licences without compliance with ss 139(3) and (4) of the Act, which requires surrender of the firearm pending an application for a fresh licence. The applicant is entitled to its preference, but that is not the law. This is acknowledged by the applicant's attorney in his letter to which I have referred (para 5.2, p 109 of the founding papers).

Ad paragraph 40

111. The amnesty applies to anyone with an illegal firearm, regardless of whether the firearm was previously licensed. An unlicensed firearm is an illegal firearm.
112. Paragraph (d) of the amnesty conditions allows those persons who can provide documentary proof of previous legal ownership to apply for a fresh licence in terms of s 139(4)(a) of the Act. Once a new licence has been granted the firearm in question will be recorded in the register of licensed firearms.

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113. I do not understand why the deponent says that this makes it *"difficult, not impossible, to return these firearms to the register of licensed firearms"*. To the contrary, the amnesty facilitates this.

Ad paragraphs 41 – 43

114. General Phahlane (as Acting National Commissioner) issued the circular on 3 February 2016.
115. This procedure set out in paragraph 7 of that circular does not reflect a change in the position adopted by the SAPS as to the implications of the order of Prinsloo J. The circular and directive were aimed at ensuring consistent practice in this regard. The assertion in paragraph 41 is not correct.
116. I agree that there is a dispute as to whether the order of Prinsloo J applies to licences that have "migrated" to the new order.
117. I have already addressed the proper interpretation and application of the order of Prinsloo J. As I have already explained, this is in any event irrelevant to the legality of the amnesty.

Ad paragraphs 44 – 47

118. I deny the bald assertion in paragraph 44, which yet again is unsubstantiated by any evidence whatsoever.
119. The assertion, made under oath, is false. SAPS did not adopt the position that because of the order of Tolmay J, firearm owners whose licences were about

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to expire should await the Constitutional Court judgment, and that they should be "turned away" if they wanted to renew their licences.

120. The facts are the following:

120.1. After the judgment of Tolmay J, the SAPS continued to accept and process applications for the renewal of firearm licences.

120.2. If an applicant for renewal was ever "turned away" because of the judgment of Tolmay J, which I very much doubt, it would have been in error.

120.3. In the period from July 2017 (when Tolmay J made her order) and June 2018 (when the Constitutional Court set it aside), SAPS received and processed 53 918 applications for the renewal of firearm licences.

121. The deponent is again cavalier as to what he states under oath.

122. It is correct that after the judgment of the Constitutional Court, the SAPS stated that those who hold unregistered firearms should hand them in to avoid prosecution. That was a correct statement of the law. It was not the consequence of any statement or directive issued by any member of the SAPS. The amnesty provides a mechanism through which this can be done, and the firearms can be re-licensed, without incurring the risk of prosecution. Yet the applicant wants the amnesty to be declared invalid.

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Ad paragraph 48

123. After the Constitutional Court judgment, the SAPS made arrangements to receive firearms that were surrendered as a result (not *"to confiscate firearms"*).
124. The procedure which is followed is the following:
- 124.1. Firearms which have been surrendered are sent to the relevant provincial facility within seven days (not *"daily"* as asserted);
 - 124.2. At the provincial facility, they are tested to see whether they are functional;
 - 124.3. Where they are functional, a used cartridge and the projectile are sent to a regional or national facility for analysis.
125. It is not true that, as the deponent asserts, there has been a theft, let alone an *"admitted theft"*, of *"thousands of firearms"* from *"police custody"*. This plainly refers to firearms confiscated or seized or surrendered into SAPS custody. The facts in this regard are the following.
126. Firearms which are confiscated, seized or surrendered are kept in SAPS 13 stores until they are returned or destroyed. I attach (MJM 4) an analysis of firearms reported lost or stolen from SAPS 13 stores. It shows that
- 126.1. In 2016/2017, 12 such firearms were lost or stolen;
 - 126.2. In 2017/2018, 75 such firearms were lost or stolen;
 - 126.3. In 2018/2019, 7 such firearms were lost or stolen.

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127. One should add to the above 2017/2018 number, some of the 30 firearms stolen from the police station at Peddie in March 2018. Certain of those were firearms in SAPS 13 stores, and certain of them were firearms owned by the SAPS (to which I refer below).
128. It follows that there is no basis in fact for the deponent's claim that there has been a theft, let alone an "admitted theft", of thousands of firearms from police custody.
129. For the sake of completeness, I also provide the most recent statistics in respect of loss or theft of SAPS-owned firearms. These are firearms acquired and owned by the SAPS for the use of its members. Page 133 of the *South African Police Service Annual Report 2018/19 (MJM 5)* shows that during that year:
- 129.1. a total of 9 609 firearms were reported as lost or stolen nationally; and
- 129.2. of these, 607 (6.3%) were SAPS-owned firearms.
130. The deponent's assertion (under oath) of the theft of "thousands of firearms" is simply false. So too is his assertion that there has been an "admitted" theft of that nature.

Ad paragraph 49

131. The penalties for contravention of the Act are set out in schedule 4. The applicant falsely asserts that the Act creates compulsory minimum sentences. This is not so. The sentences set out in Schedule 4 are maximum sentences. Courts are free to impose lesser sentences, including suspended sentences, in appropriate circumstances.

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132. The applicant's false assertion again reveals either a cavalier approach to this litigation, or a deliberate attempt to mislead the court.

Ad paragraphs 50 – 51

133. The applicant contends that s 28(6) of the Act confers on the Registrar of Firearms a discretion to extend the periods stipulated in s 27 of the Act for the validity of firearms. I am advised that this is a matter of legal controversy.
134. What is however clear is that s 28(6) does not (as the applicant contends) confer on the Registrar the power to permit the "renewal" of a licence which has already expired or lapsed through the effluxion of time.
135. This was recognised in the judgment of Tolmay J on which the applicant relies. Tolmay J held that *"...one can't read sub-section (6) to mean that if the licence has expired one can through an extension of time revive it."* She held that such an interpretation *"will go too far and may circumvent the purpose of section 27, which is to only allow for licences with a limited lifespan."*
136. This will be addressed further in argument to the extent necessary.

Ad paragraphs 52 – 55

137. It is correct that the Gun Owners of South Africa (GOSA) brought an application against the SAPS. However, the relief it sought is not precisely as described in these paragraphs.

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138. The GOSA application was an attempt to avoid the consequences of the ruling of the Constitutional Court in *Hunters*, and to bring an effective end to the firearm licence renewal system prescribed by the Act. It sought to do so without challenging the constitutional validity of the sections in question.
139. GOSA sought, amongst other relief, an order declaring that the period of validity of all firearm licences be extended to the lifetime of the owner; alternatively, that the periods referred to in ss 27, 24(1) and 24(4) of the Act be extended for firearm owners holding expired licences.
140. At the prompting of Prinsloo J, who heard the application for an interim interdict, the final relief which is to be sought was amended during oral argument. This included removing prayer 1, which sought an extension of the period of validity to the lifetime of the firearm owner; and amending the alternative relief to become the main relief, but limiting such extensions to where holders of expired licences apply for renewal on good cause shown.
141. GOSA has accepted, in a letter to the State Attorney dated 15 November 2019, that the urgent interim interdict it obtained on 27 July 2018 does not prohibit or affect the proposed amnesty, and that the police are free to accept any firearm voluntarily surrendered in terms of the amnesty.
142. There is another false assertion in paragraph 55, namely the assertion that the respondents have no interest in assisting persons who were previously in lawful possession but whose firearms are now unlicensed, to validate their possession. That is precisely what the amnesty facilitates - and what the applicant is now attempting to stop.

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Ad paragraph 56

143. Despite Mr Els claiming to have "*personal knowledge*" of the alleged conduct referred to in this paragraph he provides no evidence of such conduct: he does not refer to any specific incident of which he bears "*personal knowledge*", he does not explain how he acquired such "*personal knowledge*", and he does not provide an affidavit by anyone actually prejudiced by such conduct. The allegation is again bald and unsubstantiated.
144. Section 24(1) of the Act states that an application for renewal must be made at least 90 days before the expiry of the licence. In order to assist firearm owners, the SAPS has adopted the practice of also accepting renewal applications which are made during that period of 90 days, but before the licence has expired.

Ad paragraphs 57 – 59

145. Those in possession of unlicensed firearms are, for the most part, in that position because they opted not to renew their licences. They were encouraged not to do so by the vocal opposition of parts of the organised gun lobby to the renewal system.
146. The SAPS annual statistics show that since the beginning of the 2007/2008 year, the SAPS has received 1 352 516 applications for the renewal of firearm licences. There is no apparent reason why other owners could not have done the same.

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147. The amnesty is available to any person in possession of an illegal firearm. The *"legitimate target"* of the amnesty is illegally possessed firearms, which includes unlicensed firearms. The aim of the amnesty is to reduce the number of such firearms. It is the practice of the Ministry of Police to declare periodic amnesties every few years. Indeed, this amnesty is somewhat overdue, given that the last amnesty was nearly 10 years ago. This amnesty has been years in the making. It is hardly a "hasty" amnesty.
148. I have already dealt with the bald claims in paragraph 59, which are denied.
149. I deny that the SAPS is not ready to deal with firearms surrendered in terms of the amnesty. A project plan for the amnesty was developed, and a budget of R11 million has been allocated for this purpose. Guidelines were also developed and circulated to the provinces. I annex a copy of the "Process Flow for Firearm Amnesty" (MJM 6).
150. I again point out that no renewals are permissible through this amnesty, or indeed any amnesty in terms of the Act. The applicant is entitled to its opinion that the Act should provide for this. That has no bearing on the legality of the current amnesty, in proceedings in which the validity of the Act is not challenged.

Ad paragraphs 60 – 61

151. I deny these bald assertions, which are entirely unsubstantiated by evidence of facts which support them.

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Ad paragraphs 62 – 64

152. If the reference to "relicensing" in paragraph 62 is intended as a reference to licence renewal, then it is not surprising that this was not raised. An amnesty in terms of the Act is not capable of being a vehicle for the "renewal" of expired licences.
153. The list of three police stations attached to the originally published notice was incorrect. This was an old list from the 2017 process, which was never completed. The full list, compiled after a national review of police stations, was of 46 police stations. This is the list that was before the Select Committee and the Portfolio Committee, and was (to the extent necessary) approved by them. The Minister has published a corrected notice (**MJM 7**) which lists all of those 46 police stations.
154. It is not clear what point is made by the accusation that "not one word" was mentioned that the owners of firearms with expired licences were to be "targeted" by the amnesty. This group did not need to be specially "targeted" in order to benefit from the amnesty. Like any other holder of an illegal firearm, they are free to make use of the amnesty.

Ad paragraph 65

155. The only change made to the draft amnesty notice was in respect of the dates of the amnesty. I submit that there was no need for a fresh notice to be placed before Parliament or the Committees with these amended dates, which were approved by Parliament.

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156. I have dealt above with the list of police stations. Again, the correct list was placed before Parliament, through its authorized Committees. I am advised and submit that as a matter of law, the notice is in any event not required to contain a list of police stations where firearms may be surrendered. Risk assessment is carried out on a continuous basis. The Act does not require the Minister to approach Parliament, and obtain Parliament's approval, each time he or she wishes to add a police station to the list, or remove a police station from the list. This will be addressed in argument to the extent necessary.

Ad paragraphs 66 – 69

157. The deponent does not say that he was present at this meeting of 23 October 2019, and on what basis he purports to know what happened at that meeting. But even if the meeting took place exactly as he alleges, none of this provides any basis for finding that the declaration of an amnesty was invalid or unlawful.
158. There is nothing untoward in the Deputy Minister stating that those with expired licences were not specifically targeted by the amnesty, and that they were free to surrender their weapons for destruction if they so choose.
159. The papers show that it is not correct that the Portfolio Committee requested the Minister *"to declare a separate process for the renewal of expired licences"*, to run concurrently with the amnesty period. According to the Committee's Report (HE10 p 104), the Committee request the Minister to *"consider"* doing this. This is subsequently confirmed by the deponent (para 71).
160. In fact, the Minister has no power under the Act to make such a declaration.

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161. The short answer is therefore that such a separate process would be manifestly unlawful as it would have no authority under the Act to proceed.
162. The deponent does not attach or even identify the document to which he refers in paragraph 68, or *"what is stated in the last couple of paragraphs"*. I am therefore not able to respond to this.
163. If the deponent suggests that the Portfolio Committee was either told that persons with expired licences would not be encouraged to participate, or that they would be excluded altogether, this fails all logic. I deny that this was the case.
164. I deny that the Portfolio Committee was misled in any way.
165. I admit the contents of paragraph 69 dealing with the submission of the Portfolio Committee's report to Parliament on 31 October 2019.

Ad paragraph 70

166. I have addressed above the question whether it was necessary for a copy of the draft notice to be given to every Member of Parliament, and the non-joinder of Parliament which arises from this complaint.
167. I have no knowledge of what documents were placed before the full sessions of the National Assembly and the National Council of Provinces. Neither does the deponent – who does not even seem to be aware that the matter was dealt with by the Select Committee or the NCOP, as he makes no reference to them. I

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therefore dispute his allegation in that regard. Parliament would no doubt have addressed and explained this, if it had been joined as a party.

168. As I have stated above, it is for Parliament to address any alleged defect in the parliamentary process, not the respondents. The failure to join Parliament is a material non-joinder, which is fatal to this application.

Ad paragraphs 71 – 73

169. I have dealt above with the request by the Portfolio Committee (PC) that the Minister consider declaring a separate process in respect of expired licences.
170. The deponent cannot speak on behalf of the members of the PC as to what they believed. Not one of them has made an affidavit that he or she was misled. As a matter of simple logic and law, the PC could not have believed that the amnesty would not apply to those with expired licences. This would be both absurd and unlawful. It is clear that the PC wished an additional process to be considered for the holders of unregistered firearms, but that is a different matter from believing that the amnesty would not apply to them. The applicant's description the possible additional process as "*some unknown other administrative process*" speaks volumes in this regard.
171. The claims made in paragraph 73 are yet again bald claims without any evidence of facts which support them. I do not know how the deponent can make such statements under oath, and expect that they be taken seriously. They are denied.

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Ad paragraphs 74 – 76

172. The amnesty notice that was published on 27 November 2019 is identical to the draft that was submitted to Parliament, save for the dates. It always made provision for applications for new licences to be made following upon surrender of the firearm, because that is what s 139(4) of the Act provides. It is plainly what was approved by Parliament. Applicant's claim to the contrary is false. He is unable to produce either a document or a witness to that effect.
173. Parliament did not "approve" a different process (para 74). The claim to that effect is false.
174. The premise of paragraph 75 is also false: The Act makes no provision for "*re-licensing*" other than through an application for a new licence, for which the applicant claims owners with expired licences "*would probably qualify*".
175. The deponent claims in paragraph 75 that if the respondents had provided "*some unknown*" administrative process, "*then the affected persons would probably not be obliged to hand in their firearms*" pending the outcome of their applications. There is no such process in terms of the Act. It would be unlawful.
176. In paragraph 76 the applicant speculates on what the reaction of the SAPS will "*probably*" be to applications for new licences. The speculation is yet again not founded on any fact, and I deny that it is correct. Both the applicant for a licence and the SAPS are bound by the Act in relation to licence applications.

Ad paragraphs 77 – 81

177. I have addressed above the exclusion of police stations from receiving firearms handed in through the amnesty. It is not clear what this has to do with whether the amnesty is lawful or unlawful.
178. It bears reiterating that security and risk assessments of police stations are ongoing processes. The SAPS retain the prerogative to decide which stations are capable of receiving firearms based on these ongoing assessments.
179. I repeat (ad paragraph 80) that the amnesty notice complies with s 139(4) of the Act in respect of applications for new licences.
180. I deny that the amnesty has been introduced in a hasty and ill-conceived manner. If anything, it has been a slow process. It had its origins in March 2017 when then Minister Nhleko made a request for Parliament to consider an amnesty. On 9 November 2018 the PC held a meeting at which it was briefed by the SAPS as well as several other stakeholders, including Gun Free South Africa and the SA Gun Owners Association).
181. Firearm owners do indeed have an administratively fair opportunity to apply for new firearm licences (para 81), which is what the applicant says it wants. The procedure is prescribed by the Act, and the validity of the Act is not challenged. "Renewal" of an expired licence is not possible under the Act.

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Ad paragraphs 82 – 89

182. One of the reasons firearm licences are not renewed is that the owners no longer have an interest in the firearms in question – they are in this sense “excess” or “unwanted”. Like all other unlicensed firearms, they are illegally possessed. Experience has shown that they may be lost or stolen, and end up in the hands of criminals. The purpose of an amnesty is to reduce the number of illegally possessed firearms. The fact that s 139 does not mention the words “excess” or “unwanted” is of no moment.
183. This Minister’s statement quoted at paragraph 85 is directly in line with what the Act states.
184. The Minister is entitled to the views which he has expressed. The fact is that the amnesty announced by the Minister enables and facilitates the lawful ownership of firearms by those whose licences have expired. This is what the applicant inexplicably wishes to prevent.
185. There is also nothing improper about the Minister indicating that robust steps will be taken against those holding illegal firearms, which obviously includes unlicensed firearms.
186. I deny that the Minister has any ulterior motive. The “ulterior motive” which the applicant attributes to him is inconsistent with his conduct in declaring an amnesty. The amnesty does not “unfairly target” persons with expired licences: it enables them to bring themselves within the law, without fearing prosecution for their unlawful possession of an unlicensed firearm.

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Ad paragraphs 90 – 112

187. I have already addressed the complaint of an alleged lack of public participation. The applicant has laid no basis for any claim that public participation is required by law before an amnesty is declared, and that the absence of such participation would render the declaration of an amnesty invalid. In any event, the applicant has made numerous and extensive representations to the Minister and the SAPS, which were considered before the amnesty was declared.
188. The bald claims made in paragraph 90 and in the section titled “Lack of Public Participation” are denied.
189. The applicant seeks here to impugn the conduct of Parliament and the PC – but without joining them in these proceedings. I submit that the result is a fatal non-joinder.
190. In any event, the applicant has always been at liberty to lobby Members of Parliament and to participate in the PC process by making submissions to that Committee and attending its meetings, which are open to the public. The daily schedules of parliamentary meetings are published in advance on the internet. The Chairperson of the PC, not the respondents, has the authority to invite stakeholders to make presentations to the Committee. Ultimately it is up to interest groups such as the applicant to take the initiative in the lobbying process.
191. What the applicant seeks is an amnesty, through “some unknown administrative process”, which provides for “renewal” of expired licences. This

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is not permitted by the Act. As the Act currently stands, no amount of amnesty-related public participation, and no amount of amnesty-related lobbying, can produce an amnesty of the kind which the applicant wants. If the applicant wishes to achieve an amendment of the Act, it should lobby for that result.

192. The last meeting of the Consultative Forum was held in November 2017. At that meeting Mr Martin Hood, an attorney who represents certain gun-owner interests, stated that the SAPS should not act as “player” and “referee” in the consultative process. The SAPS representatives agreed with this. The meeting then agreed that in future, the Consultative Forum should be convened by the Civilian Secretariat for the police service, which is established in terms of s 208 of the Constitution and is not part of the SAPS. The Civilian Secretariat has not convened any further meetings of the Consultative Forum.
193. Ad hoc meetings of interested parties have continued to take place from time to time. It is however so that the multiple and continuing court cases initiated by various gun-owner organisations have made it difficult to have full and frank discussions in the midst of litigation.
194. I have dealt above with the so-called “Phahlane Interpretation” and the “migration of licences to the new Act” (paragraph 98).
195. It is simply false to allege (paragraph 100) that the real intention of the SAPS was to lay its hands on 450 000 firearms of which the licences had expired. One of the purposes of the amnesty is to enable owners to bring themselves within the law by regularising their ownership.

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196. The respondents are not able to respond to the applicant's complaints (paragraphs 101-102) about the conduct of the Portfolio Committee, which is not a party.
197. The account of what allegedly happened to a Mr Du Randt (para 103-106) is the purest hearsay, and in some cases double hearsay. It is inadmissible, and should be struck out. In any event:
- 197.1. Mr Du Randt's firearm licence apparently expired in 2014, long before the "Tolmay Order";
- 197.2. Mr Du Randt was apparently arrested because of his possession of an unlicensed firearm on 15 December 2018 (paragraph 105), well after the orders of Tolmay J had been overturned by the Constitutional Court in July 2018;
- 197.3. If, however, it is correct that Mr Du Randt *"should not have been convicted"* (para 105), the remedy is for him to appeal, not for the applicant to apply to Court for a declaration that the amnesty is unlawful.
198. As to the alleged dealings between Mr Kotze and a prosecutor (para 106): The Director of Public Prosecutions is not obliged to set a policy that persons who have contravened the Act will not be prosecuted if they are members of the so-called "Tolmay disadvantaged group", even assuming that the DPP has the power to do so. If a member of that "group" is prosecuted, he/she is entitled to place before the court evidence and argument that he/she reasonably believed

that he/she was entitled to retain possession of his/her firearm as a result of the judgment of Tolmay J.

199. In paragraph 107, the applicant attaches a dense five-page letter by Mr Fred Camphor of the SA Hunters (HE14), without identifying the portions on which reliance is placed or indicating the case which is sought to be made out on the strength of the letter. I am advised that is impermissible.
200. Because of the time of year, I have not been able to obtain sufficient information from SAPS members who were involved in the 2010 amnesty to enable me to respond in detail to the allegations regarding the applicant's involvement in that amnesty (paragraph 109). I understand however that the applicant was involved after the declaration of the amnesty, in the process of the South African Heritage resource agency with regard to "heritage" firearms. I understand that the applicant also had some engagement with the Civilian Secretariat, which is not involved in operational issues.
201. It is not correct that Gun Free South Africa (GFSA) was "invited" to assist with the implementation of the current amnesty (paragraph 109). At the request of GFSA, the SAPS met them after the amnesty had been declared, to discuss how they might assist in raising public awareness of the amnesty. The SAPS welcomed this offer of co-operation, as it would welcome co-operation with other parties which wish to make the amnesty a success. The applicant, however, wishes the amnesty to be stopped and in fact reversed.
202. It is not correct that the SAPS does not communicate with "civil society" (paragraph 110 and 111) or has refused to engage with them. The SAPS has

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often met with a variety of civil society organisations, including gun-owner organisations. It remains willing to do so. But there is not much point in meetings where the civil society organisation's main purpose is either to attempt to persuade the SAPS not to implement the Act, or to attempt to persuade it to act in a manner which is not permitted by the Act.

203. The applicant sets out in paragraphs 112 what it says it would have submitted in representations to the PC and/or the leadership of the SAPS. Such submissions have been made in multiple communications by applicant and other organisations, and were considered.
204. The representations in relation to renewals, however well-intentioned they might be, are simply not capable of being implemented within the provisions of the Act.

Ad paragraphs 113 – 120

205. Contrary to what is suggested in paragraph 113, the SAPS has undertaken extensive preparation for the implementation of the amnesty. These go back as far as 2017, when the amnesty was first proposed, and 2018. I have already referred to the project plan for the amnesty which was developed, and the budget of R11 million which was allocated, the development and circulation of guidelines, and the formulation of the "Process Flow for Firearm Amnesty" (MJM 6). All of this took place before the amnesty was declared. Also before the amnesty was declared, there were meetings with the provincial FLASH commanders who would be responsible for implementation. The process then cascaded downwards through the structures of the SAPS.

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206. The fact that the SAPS was prepared for implementation of the amnesty is demonstrated by the fact that in the period from commencement of the amnesty to 30 December 2019, 1384 firearms and 14 257 rounds of ammunition were surrendered, and 249 applications by amnesty participants for new licences were received.
207. Section 6(2) of the Act provides that a firearm licence may not be issued to a person who is not in possession of the relevant competency certificate (paragraphs 114 to 115). In the light of the issue now raised by the applicant, I have issued an instruction that amnesty applicants must be permitted to apply simultaneously for a competency certificate and a firearm licence.
208. The target turnaround time for the issuing of competency certificates is 90 working days. This is usually achieved.
209. The SAPS is communicating how to apply for a firearm licence (paragraph 116). The results already achieved, during the holiday period, demonstrate this.
210. The assertions made in paragraph 118 are unsubstantiated and are denied. Firearm owners, including those holding firearms for self-defence, have always known that that they have to apply for licence renewal, and that failure to do so would result in the forfeiture of their firearms; alternatively, that they would have to surrender their firearms pending an application for a new licence. The affected firearm owners have not been unfairly taken by surprise. They elected not to renew their firearm licences, notwithstanding the known consequences.

211. I have dealt above with the allegations in paragraph 119. Applications will be dealt with in accordance with the Act. Any person dissatisfied with the outcome will have her or his remedies. The purpose of the amnesty is to reduce the number of *illegal* firearms in circulation.

212. It is unclear why applicant objects (paragraph 120) to explosives and explosive devices being mentioned in the SAPS 548 form. Explosives and explosive devices are not listed in the amnesty notice and indeed do not form part of amnesties authorised by s 139 of the Act. The reference to them in the form is an error. So, while explosives and explosive devices may be surrendered, those handing them in will have no right to amnesty, notwithstanding the subheading in the Amnesty form (HE16). An application form cannot overrule the terms of a statute. The inclusion of explosives in the application form cannot render the firearm amnesty unlawful.

Ad paragraphs 121 – 122

213. The bald assertions in these paragraphs are denied.

214. The SAPS has established a Task Team to deal specifically with licence applications under the amnesty (paragraph 121). The amnesty applications will therefore not impact on the day-to-day processing of applications. It is not a *“well known fact”* that the second respondent’s offices *“can barely cope with the present demand to consider competency and licence applications”*. It is not a fact at all. No facts are put before the Court to justify this assertion.

215. The applicant alleges that its members have had "*unfortunate experiences of standing in very long queues*" and the like, but fails to put up a single admissible fact to support this claim, such as an affidavit by a person who was so affected.
216. The deponent refers to an unidentified press report about the SAPS computer system (paragraph 122). He does not even bother to identify or attach the report. His claim amounts to the very worst form of hearsay. It falls to be struck out. The alleged content of the alleged report is in any event not true. The system can perform the functions necessary, and is doing so.

Ad paragraph 123

217. A licence application under the amnesty does not have to be made during the festive season. The amnesty lasts for six months.

Ad paragraph 124

218. The Deputy Commissioner states that the first objective of the amnesty is to reduce the number of illegally possessed firearms in circulation. As the Act and the notice make clear, this is achieved by obtaining a new licence, or by destruction of the firearm. The Amnesty Form requires the applicant to state whether he/she intends to apply for a firearm licence, and notes that this must be done within 14 days.

Ad paragraph 125

219. I deny that there will be bottlenecks which will cut down the amnesty period, as alleged in paragraph 125 - though why the applicant should complain about

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that, given its attitude to the amnesty, is difficult to understand. The bald assertions made in this paragraph are denied.

Ad paragraphs 126 – 130

220. To the extent that these paragraphs accurately summarise the relief sought in the notice of motion they are noted. I submit that no case has been made out for the granting of any of this relief.
221. In paragraph 129, belated reference is made to an alleged "*fundamental right to fair and legitimate administrative justice*" in "*the consideration of the declaration of an amnesty*", without any attempt to identify the legal basis for that right. I have already submitted that the declaration of an amnesty is not "administrative action"; and that if it is administrative action, the procedural rights in PAJA are not engaged because the declaration of an amnesty does not "*materially and adversely affect the rights or legitimate expectations of any person*" or of the public.
222. I deny the unsubstantiated claims made in paragraphs 129 and 130.

Ad paragraphs 131 – 133

223. In these paragraphs, the applicant attempts to make out a case for urgency. For the most part, these paragraphs constitute a rehash of applicants' complaints and its version of events. I have dealt with this above.

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224. Even if the declaration of an amnesty is invalid, this does not render the application urgent. The hearsay statement allegedly made by Mr Whitfield is inadmissible, and takes the matter no further.
225. I deny that the applicant is entitled to supplement its application by filing a further affidavit, in particular where the deponent to the founding affidavit does not say who will make that affidavit, and what her or his evidence will be (paragraph 131.3).
226. The applicant asserts (paragraph 131.6) it is claimed that thousands of people will surrender their firearms under the mistaken belief that the amnesty is valid and lawful. Accordingly, it is said, the amnesty cannot offer real immunity or protection and it must therefore be set aside urgently.
227. I respectfully submit that this is without substance:
- 227.1. I submit that if a court sets aside the declaration of an amnesty, it will inevitably find that it is just and equitable in terms of 172(1)(b) of the Constitution that the declaration of invalidity should preserve rights which have already accrued under the amnesty. The respondents will so contend.
- 227.2. If a court sets aside the declaration of an amnesty, a person who surrendered a firearm will if he or she so wishes be able to reclaim it.
228. If the dire consequences painted in paragraphs 131.6 to 131.13 are real, the applicant ought to have sought urgent interim relief suspending the amnesty

pending the outcome of the legal proceedings. This is because it is very likely that by the time this matter is finally resolved, the amnesty period will have run its course.

229. It is not so that police stations will not be able to keep surrendered firearms safely. The SAPS has reviewed the position at all police stations, and has taken care to identify police stations where there is a material risk in that regard. Those police stations have been excluded. I refer in this regard to MJM 7.
230. I point out that the applicant chose to bring these proceedings by way of application when it knew full well that there would be multiple material disputes of fact.
231. I submit further that final relief by way of an interdict will only be granted where the applicant can demonstrate that it has a clear right, namely a right that can be protected by an interdict. The applicant has established no such clear right.
232. The applicant has also failed to demonstrate an injury committed or reasonably apprehended. The amnesty does not affect any existing rights: it only confers additional rights. The applicant has failed to put up a single deponent who sets out facts that show actual or reasonably feared harm or prejudice.
233. Since participation in the amnesty is voluntary, applicant's members are free to abstain from involvement. The claims of harm and prejudice are illusory.
234. I do not repeat further the submissions in the Introduction which set out why, I submit, the relief sought cannot and should not be granted.

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ANSWER TO THE SUPPLEMENTARY AFFIDAVIT

235. On 31 December 2019, the day after my colleagues and I had a consultation with our counsel to finalise the draft Answering Affidavit which they had prepared, the applicant filed a "Supplementary Affidavit".

236. At paragraph 4, the applicant attempts to justify this on the basis that it disclosed in paragraph 131.3 of its founding affidavit that it would file this affidavit.

237. This is misleading:

237.1. In paragraph 131.3 of the founding affidavit, Mr. Els stated that the applicant would file an affidavit which it had been promised by an unidentified Member of Parliament who attended the parliamentary session of 31 October 2019 at which the Portfolio Committee reported to the National Assembly. Dr Groenewald has indeed in his affidavit (page 167) referred to what happened at that session.

237.2. However, the supplementary affidavit of Mr Els raises a variety of other matters which are not addressed at all by Dr Groenewald in his affidavit. Paragraph 131.3 of the founding affidavit cannot be used to justify this.

238. However, without admitting the admissibility of the "supplementary affidavit", I now deal briefly with its contents.

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Ad paragraphs 1 to 5

239. Mr Els does not explain why the written reply tabled in the National Assembly on 5 December was “not available” to the applicant when he attested to the founding affidavit on 11 December 2019 (paragraphs 3 and 5). Written replies which are tabled in the National Assembly are available to the public. I therefore deny that allegation.

240. I have dealt above with paragraph 4.

Ad paragraph 6 to 10

241. The corrected notice does not *“amend the terms of the amnesty”*:

241.1. The amnesty applies from the date set out in the original notice, and has always done so.

241.2. The corrected notice lists the places at which members of the public may hand in their firearms under the amnesty.

242. As I have explained above, the list of 46 police stations is the list which was provided to the Portfolio Committee, and was (to the extent necessary) approved by it in accordance with the procedures of Parliament. It replaces the list of three police stations which was attached to the originally published notice.

243. The SAPS has satisfied itself, through the national review of police stations to which I have referred above, that the Isipingo, Bellville South and Kanyamazane

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police stations, which were listed in the old and incorrect notice, are able to receive firearms surrendered under the amnesty.

244. The 46 police stations listed in the corrected notice have from the outset not received firearms surrendered in terms of the amnesty.

CONCLUSION

245. The respondents respectfully ask that this application be either struck off the roll or dismissed, in either event with costs, including the costs of two counsel.

246. In relation to costs, I submit that the applicant is not entitled to protection from the usual costs consequences by the *Biowatch Trust* principle:

246.1. The State is not being sued for a failure to fulfil its constitutional and statutory obligations. It is being sued in an attempt to prevent it fulfilling its constitutional and statutory obligations.

246.2. In any event, there has been material impropriety in the manner in which the applicant has brought this application. I refer in this regard to the very many wide-ranging and far-reaching assertions which are made under oath, and which are:

246.2.1. without any evidential basis whatsoever; and/or

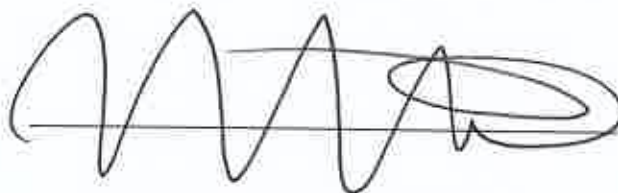
246.2.2. based on hearsay; and/or

246.2.3. demonstrably false.

noted
S.M.

**MAROPENG JOHANNA MAMOTHEI**

I CERTIFY that the deponent has stated that she knows and understands the contents of this affidavit; and has no objection to taking the prescribed oath. She signed and swore to this affidavit before me at **PRETORIA** on this the **6th** day of **JANUARY 2020** in terms of the Regulations contained in Government Notice No. R.1258 dated 21 July 1972 (as amended) and Government Notice No. R.1648 dated 19 August 1977 (as amended), which have been complied with.

**COMMISSIONER OF OATHS**

SIBONGILE SYDWELL MKETSU
PRACTISING ATTORNEY
COMMISSIONER OF OATH (Ex Officio)
Suite 547, Van Erkom Building
Pretoria
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Cell: 083 397 7475 Fax: 086 558 2721
Email: sydwell@mketsu.co.za

DATE: 2010-04-22

INFORMATION NOTE**To:** Divisional Commissioner**Re:** STATUS REPORT: AMNESTY 2010: PERIOD 11 JANUARY 2010 TO 11 APRIL 2010**1. PURPOSE**

The purpose of this status report is to provide a consolidated report on successes achieved on Operation Amnesty 2010.

2. SUCCESSES ACHIEVED**2.1 SURRENDERING OF ILLEGAL FIREARMS AND AMMUNITION DURING AMNESTY 2010**

During the above period of the Amnesty a total of 11 887 illegal firearms and a total of 129 234 rounds of ammunition have been surrendered.

2.2 VOLUNTARY HANDING IN OF LEGAL FIREARMS AND AMMUNITION

During the above period a total of 30 442 licensed firearms and a total of 321 155 rounds of ammunition have been handed in.

2.3 FIREARMS AND AMMUNITION CONFISCATED DURING DAILY ACTIVITIES

During the above period a total of 7 100 firearms and a total of 90 815 rounds of ammunition have been confiscated by the South African Police Service.

2.4 ENQUIRIES RECEIVED AT THE NATIONAL FIREARMS CALL CENTRE

A total of 3 873 telephonic enquiries pertaining to Amnesty 2010 have been received for the above period.

2.5 PROVINCIAL BREAKDOWN

A provincial breakdown indicating the successes achieved in the various provinces is attached, marked Annexure "A".

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2.6 NATIONAL BREAKDOWN

Herewith a National Breakdown of all successes achieved over the period 11 January 2010 to 11 April 2010:

TYPE	CONFISCATED	AMNESTY	VOLUNTARY	TOTAL
COMPLETE FIREARM				
Revolver / Pistol	5 967	8 458	24 938	39 363
Rifle	539	2 272	3 404	6 215
Shotgun	338	958	1 910	3 206
Auto / Semi-Auto	22	39	21	82
Homemade	117	3	0	120
TOTAL	6 983	11 730	30 273	48 986
FIREARM PART				
Slide	10	7	7	24
Bolt	10	6	4	20
Breech Block	2	3	9	14
TOTAL	22	16	20	58
FIREARM COMPONENT				
Barrel	82	99	126	307
Frame	15	44	26	85

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Receiver	20	14	17	51
TOTAL	117	157	169	443
AMMUNITION	90 815	129 234	321 155	541 204
EXPLOSIVES				
Commercial Explosive	124	45	0	169
Hand Grenade	27	8	0	35
Projectile (12.7 mm up)	48	6	0	54
Mortar	12	6	0	18
Flare	30	33	0	63
Stun Grenade	11	4	0	15
Smoke Grenade	58	10	0	68
Rifle Grenade	10	1	0	11
Tear Gas	14	5	0	19
Explosive Accessories	26	0	0	26
TOTAL	360	118	0	478
MAGAZINES	2 445	2 049	7 280	11 774
SILENCER	9	2	6	17

2.7 FIREARMS DESTROYED

During the above period a total of 109 582 firearms have been destroyed by the South African Police Service.

Herewith a Provincial Breakdown of all firearms destroyed in various provinces.

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PROVINCE	TOTAL FIREARMS DESTROYED	DATE OF DESTRUCTION	TOTAL FIREARMS DESTROYED
FREE STATE	1 424	2010-01-15	80 611
GAUTENG	67 286		
LIMPOPO	5 200		
MPUMALANGA	2 606		
NORTH WEST	4 095		
NORTHERN CAPE	2 849		
	5 000 (Knifes)	2010-01-21	2 849
KWAZULU NATAL	6 218	2010-02-08	10 444
EASTERN CAPE	4 226		
WESTERN CAPE	15 678	2010-02-12	15 678
TOTAL		109 582	

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Annexure A

OPERATIONAL PLANNING AND MONITORING SYSTEM (BI) AMNESTY 2010

11 JANUARY 2010 TO 11 APRIL 2010

PROVINCE	FIREARMS			AMMUNITION			MAGAZINES			FIREARM PARTS (SLIDE, BOLT, BREECH BLOCK)			FIREARM COMPONENTS (BARREL, FRAME, RECEIVER)			EXPLO.	SILENCER
	CON	AMNESTY	VOL	CON	AMNESTY	VOL	CON	AMNESTY	VOL	CON	AMNESTY	VOL	CON	AMNESTY	VOL		
EASTERN CAPE	773	1016	1828	8667	13787	9489	205	58	184	6	3	7	5	7	37	0	
FREE STATE	210	665	1893	1308	3368	7536	29	20	131	2	0	1	5	11	9	53	0
GAUTENG	2494	4047	11971	39073	47740	17330	1360	1354	4884	1	0	10	19	12	63	117	3
KWAZULU NATAL	1874	1400	2853	13081	9945	17984	582	178	598	8	0	2	35	3	18	28	4
LIMPOPO	379	390	2018	6703	1370	9563	114	26	227	1	0	0	0	2	5	116	2
MPUMALANGA	339	981	1764	2532	7939	11169	51	35	701	1	1	0	1	8	15	12	1
NORTH WEST	239	781	2247	4385	11865	10744	48	289	150	0	6	0	1	14	16	2	0

voices

LYNDON B JOHNSON: The guns and the bombs, the rockets and the warships, are all symbols of human failure

Robert Muggerah



Some Africans will not make budget the number of guns. But the number of guns is not the number of lives. In the past, the number of guns was not the number of lives. In the past, the number of guns was not the number of lives.



AK47s, M16s, Remingtons and assault rifles found during a police raid on a Johannesburg home last year

GIVE GUN AMNESTIES A chance

SA can learn from Brazil, where amnesty campaigns for gun owners have yielded successful results

Symbolic dividends

One measure that gun owners in South Africa can take to reduce the number of guns is to give them amnesty. This is a symbolic measure, but it can have a real impact on the number of guns in the country. In Brazil, where gun amnesty campaigns have been successful, the number of guns has decreased significantly.

It is not surprising that there is a gun split between the right and the left. The right is in favour of gun ownership, while the left is in favour of gun control. This is a symbolic measure, but it can have a real impact on the number of guns in the country.

Disarmament debate

There is a growing awareness that gun ownership is a major problem in South Africa. This is a symbolic measure, but it can have a real impact on the number of guns in the country. In Brazil, where gun amnesty campaigns have been successful, the number of guns has decreased significantly.

gun, the 2004 amnesty campaign was a success. It was a symbolic measure, but it can have a real impact on the number of guns in the country. In Brazil, where gun amnesty campaigns have been successful, the number of guns has decreased significantly.

Straightforward approach

Starting in mid-2004, the South African government launched a straightforward approach to gun amnesty. This was a symbolic measure, but it can have a real impact on the number of guns in the country. In Brazil, where gun amnesty campaigns have been successful, the number of guns has decreased significantly.

Over 400,000 guns were collected in the amnesty campaign. This was a symbolic measure, but it can have a real impact on the number of guns in the country. In Brazil, where gun amnesty campaigns have been successful, the number of guns has decreased significantly.

A key factor in the success of the amnesty campaign was the straightforward approach. This was a symbolic measure, but it can have a real impact on the number of guns in the country. In Brazil, where gun amnesty campaigns have been successful, the number of guns has decreased significantly.

Winnie's Qunu claim is perfectly valid

BY HENRIK M. M. M. M.

In my opinion, Winnie Mandela's claim to be the first lady of South Africa is perfectly valid. This is a symbolic measure, but it can have a real impact on the number of guns in the country. In Brazil, where gun amnesty campaigns have been successful, the number of guns has decreased significantly.



Winnie Mandela

Winnie Mandela's claim to be the first lady of South Africa is perfectly valid. This is a symbolic measure, but it can have a real impact on the number of guns in the country. In Brazil, where gun amnesty campaigns have been successful, the number of guns has decreased significantly.

One can argue that only the first lady of South Africa can be the first lady of the country. This is a symbolic measure, but it can have a real impact on the number of guns in the country. In Brazil, where gun amnesty campaigns have been successful, the number of guns has decreased significantly.

It is not surprising that there is a gun split between the right and the left. The right is in favour of gun ownership, while the left is in favour of gun control. This is a symbolic measure, but it can have a real impact on the number of guns in the country.

There is a growing awareness that gun ownership is a major problem in South Africa. This is a symbolic measure, but it can have a real impact on the number of guns in the country. In Brazil, where gun amnesty campaigns have been successful, the number of guns has decreased significantly.

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HAVE A BEAT. A group of people, including a woman in a red dress, standing in front of a building.

Art takes back the streets

BY HENRIK M. M. M. M.

Art is taking back the streets. This is a symbolic measure, but it can have a real impact on the number of guns in the country. In Brazil, where gun amnesty campaigns have been successful, the number of guns has decreased significantly.



HAVE A BEAT. A group of people, including a woman in a red dress, standing in front of a building.

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Art is taking back the streets. This is a symbolic measure, but it can have a real impact on the number of guns in the country. In Brazil, where gun amnesty campaigns have been successful, the number of guns has decreased significantly.

TOYOTA
COROLLA
PREMIUM

DRUM BEAT
28 MARCH
SONO THEATRE

13 ACTS
3 STORIES
1 NIGHT ONLY

Permanent national gun amnesty to start in 2020

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The Courier-Mail • 21 Nov 2019 • CLAIRE BICKERS

GUN owners will be able to hand in their weapons, no questions asked, from next year, when Australia launches a national continuous gun amnesty.

All states and territories agreed to the first-ever continuous nationwide amnesty yesterday at a meeting of police and emergency services ministers in Adelaide.

More than 57,000 weapons, including automatic rifles, handguns and a rocket launcher were handed in when Australia held just a three-month amnesty in 2017 – the first since immediately after the Port Arthur massacre.

Federal Assistant Minister for Community Safety Jason Wood said a continuous gun amnesty would get more weapons off the streets.

“It’s very important to keep firearms out of the family home if they’re not used anymore, and to keep them out of the hands of criminals,” he said.

Mr Wood, a former police officer, said the firearms industry and anti-gun lobby had been supportive of an amnesty in his talks with them.

It is anticipated the initiative will be launched in the second half of 2020, but details of how it will work are still to be confirmed.

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SUMMARY: FIREARMS REPORTED LOST OR STOLEN FROM SAPS 13 STORES

2016/2017

PROVINCE	STATION	DATE	NUMBER
Eastern Cape	Aberdeen	May 2016	2
KwaZulu-Natal	Durban North	Sept 2016	1
	Durban Central	March 2017	1
	KwaMakhutha	March 2017	1
Mpumalanga	Vosman	May 2016	3
	Kanyamazane	March 2017	3
North West	Ikageng	March 2017	1
Total			12

2017/2018

PROVINCE	STATION	DATE	NUMBER
Eastern Cape	Galvendale	March 2018	1
KwaZulu-Natal	Isipingo	Aug 2017	39
	Mondlo	Jan 2018	1
	Paul Pietersburg	Jan 2018	1
	Lulekani	October 2017	9
North West	Lomanyaneng	September 2017	1
Western Cape	Zeerust	October 2017	5
	Bellville South	August 2017	18
Total			75

2018/2019

PROVINCE	STATION	DATE	NUMBER
KwaZulu-Natal	Point	July 2018	1
	Durban North	July 2018	1
	Durban North	October 2018	1
	Amanzimtoti	October 2018	1
Limpopo	Lulekani	September 2018	1
Mpumalanga	Middelburg MP	April 2018	2
Total			7

The circulation of reported lost/stolen or found firearms plays a key role in the investigation and detection of firearm-related crimes and ultimately, the efficient control of firearms. The National Commissioner approved National Instruction 06 of 2019: Notification of lost/stolen or found firearms, which aims to streamline and standardise practices involved in the processing of lost, stolen and found firearms, as well as to guide the provincial offices and police stations on firearm circulation. During 2018/2019, the details of 7 141 firearms owned by individuals, dealers and institutions, excluding SAPS-owned firearms, were circulated as recovered, compared to 18 592 firearms, in 2017/2018. The 7 141 firearms, include 4 226 firearms recovered/found/confiscated and forfeited. Those without serial numbers were issued with Firearm Identification Numbers and earmarked for destruction. The details of 9 809 firearms were circulated as stolen/lost, during 2018/2019, compared to 9 336, in 2017/2018. The details of 452 state-owned firearms were circulated as recovered, compared to 469, in 2017/2018. The 452 include 362 SAPS-owned firearms and 90 firearms owned by other official institutions, such as government departments, municipalities and Metropolitan Police Service. A total of 607 SAPS-owned firearms were circulated as stolen/lost, compared to 800, in 2017/2018.

Firearms circulated as stolen/lost and recovered

Province	Firearms reported stolen or lost, during 2018/2019			Firearms reported stolen or lost, during 2017/2018			Firearms recovered, 7 months ended, 30 April 2019			Firearms recovered, 2018/2019	
	Lost	Stolen	Total	Lost	Stolen	Total	Lost	Stolen	Total	Total recovered	Total recovered
Eastern Cape	40	1 030	1 070	4	111	115	35	403	438	881	1 414
Free State	19	525	544	1	20	21	5	81	86	110	217
Gauteng	81	2 628	2 707	7	105	112	29	576	605	389	1 107
KwaZulu-Natal	38	1 877	1 915	4	144	148	10	537	547	583	1 270
Limpopo	17	1 076	1 093	1	44	45	13	106	119	387	831
Mpumalanga	12	620	632	0	24	24	9	137	146	602	772
North West	22	600	622	3	48	51	5	110	115	109	273
Northern Cape	16	124	140	0	8	8	0	18	18	37	63
Western Cape	72	814	886	13	157	170	26	485	510	1 163	1 848
Total	517	9 292	9 809	31	890	921	191	2 493	2 684	4 226	7 503

The accreditation of business entities, associations and organisations forms an integral part of the implementation of the firearm control legislation in South Africa. A total number of 51 institutions were accredited, in 2018/2019, which brings the total number of institutions to 2 661, at the end of March 2019, compared to 2 610, at the end of March 2018.

SECOND-HAND GOODS CONTROL

The SAPS is responsible for the implementation and the administration of the Second-Hand Goods Act, 2009 (Act No 6 of 2009). The main objectives are to regulate the business of dealing in second-hand goods and pawn brokering; combat the illegal trade in stolen goods; and promote ethical standards in the second-hand goods environment. The number of registered second-hand goods dealers varies annually, due to the registration of new and the closure of existing registered dealers. At the end of March 2019, a total number of 20 490 registered second-hand goods dealers were recorded, compared to 18 017, in 2017/2018. Most registered dealers are in the Gauteng (3 756), the Western Cape (4 988), KwaZulu-Natal (2 721) and the North West (1 565) Provinces.

39 The total of 7 503 includes the 362 SAPS-owned firearms that were recovered.

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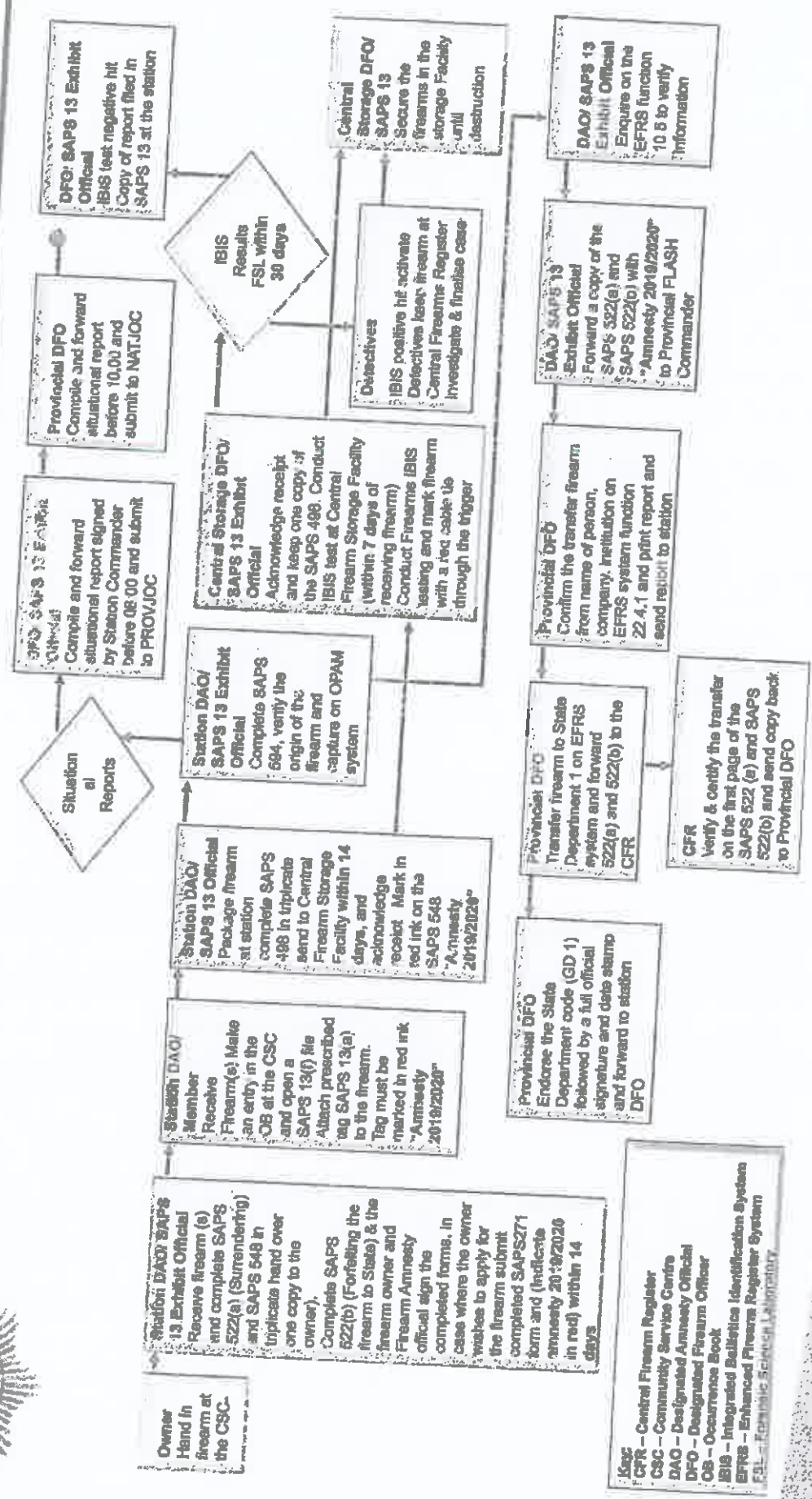


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PROCESS FLOW FOR FIREARM AMNESTY



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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF POLICE

NO. 1681

13 DECEMBER 2019

**FIREARMS CONTROL ACT, 2000 (ACT NO. 60 OF 2000)
AMENDMENT OF NOTICE 1527 DATED 27 NOVEMBER 2019**

The Minister of Police has, under section 139 of the Firearms Control Act, 2000 (Act No. 60 of 2000) amended Notice 1527, dated 27 November 2019, as set out in the Schedule. The Notice is issued in pursuance of the approval by the National Assembly on 21 November 2019 of the Report of Portfolio Committee on Police on **Firearms Amnesty Declaration** (Announcements, Tablings and Committee Reports, 31 October 2019, p 8) (Minutes of Proceedings of the National Assembly No. 31 of 2019).



MINISTER OF POLICE
GENERAL BH CELE, (MP)

Date: 11/12/2019

SCHEDULE

1. Definition

In this notice, "the Notice" means the declaration of amnesty in terms of section 139 of the Firearms Control Act, 2000 (Act No. 60 of 2000), promulgated in Notice 1527, dated 27 November 2019.

2. Amendment of the Notice

(1) The date of signature as reflected in the Notice is substituted to read "27 November 2019".

(2) The Notice is hereby amended by substitution for the Annexure to the Notice with the following Annexure:

"Annexure

The following police stations are excluded in terms of paragraph (a) of the Notice.

Province	Station
Eastern Cape	<ul style="list-style-type: none">• Engcobo• Balfour• Ngangelizwe• Kareedouw
Free State	<ul style="list-style-type: none">• Middeldrift• Koffiefontein• Allanridge• Moloding

Gauteng	<ul style="list-style-type: none">• Bekkersdal• Dunnottar• Ekangala• Kagiso• Lenasia South• Protea Glen• Eersterust• Eden Park• Soshanguve
KwaZulu Natal	<ul style="list-style-type: none">• Ibisi• Kranskop• Elandslaagte• Lamontville• Macklenburg
Limpopo	
Mpumalanga	<ul style="list-style-type: none">• Verena• Skukuza• kabokweni
North West	<ul style="list-style-type: none">• Phokeng• Ottoshoop
Northern Cape	<ul style="list-style-type: none">• Belmont• Douglas• Heuningvlei• Kuyasa• Lime Acres• Loxton• Middelpoos• Mothibistad• Plooyburg• Van Wyksvlei• Van Zylsrus• Vosburg• Witdraai• Winderson

Western Cape

- Athlone
- Klapmuts
- Riversdale
- Legelethu-West
- Somerset West

The abovementioned police stations will not accept firearms and ammunition in terms of this declaration of Amnesty, until otherwise determined by the National Commissioner of the South African Police Service."