

Saving lives: Silencing the Guns in South Africa

5-page summary of the Draft Firearms Control Amendment Bill, 21 May 2021

Context

Gun violence in South Africa is an epidemic: Nationally, guns have overtaken knives as the weapon most used in murders¹, while in Gauteng more people are shot and killed than die in traffic accidents². Each day 23 people are shot and killed³ and 138 people survive a gunshot, often with severe disabilities⁴. The Draft Firearms Control Amendment Bill is a bold step by government to help silence the guns in South Africa by strengthening our existing gun law, the Firearms Control Act.

Draft Firearms Control Amendment Bill – call for comment

The Draft Bill was published by the Civilian Secretariat for Police Service on 21 May 2021 for public comments. Written submissions must be emailed to comments.fcabill@csp.gov.za by **2 August 2021** (extended from 6 July).

The Draft Firearms Control Amendment Bill (1.2MB) is available online at:
http://www.policesecretariat.gov.za/downloads/FAC_Bill/FAC_Bill.pdf

Summary of Draft Firearms Control Amendment Bill

The Draft Bill is a long document that includes almost 100 proposed changes to the Firearms Control Act, 2000 (FCA). These are summarised in the table below along six key overlapping themes: Guiding principles, Limiting who can own what gun for which purpose, Reducing the risk of guns in violence against women, Reducing the risk of illegal gun use, Reducing the risk of legal guns leaking into the illegal pool, and Facilitating enforcement.

Theme	Summary	Clause #
1 Guiding principles <i>Amendments align the FCA with developments in the past 20 years</i>	Alignment with international firearms-related protocols and agreements e.g. global Firearms Protocol and regional SADC Firearms Protocol	2, 83
	Alignment with: <ul style="list-style-type: none"> • Global norms e.g. that most countries in the world don't recognise self-defence as a reason for gun ownership • Scientific evidence that reduced access to guns reduces gun violence 	Throughout document
	Closing loopholes: Amendments are based on lessons learnt over the past 20 years which show how loopholes have been used to accumulate guns	
	Alignment with legal developments e.g. 2018 Constitutional Court ruling that gun ownership is a privilege, not a right and that a valid reason is needed to own a gun	3, 13
2 LIMITS Guns Users Use <i>Evidence shows that limiting access to guns reduces gun violence:</i>	LIMIT guns and ammunition (type and number) Prohibited weapons Adds prohibited devices and ammunition, and even mentions some e.g. prohibits "any device or conversion kit to convert a semi-automatic firearm to a fully automatic firearm" Guns – number and type <ul style="list-style-type: none"> • Occasional hunting and sports-shooting: Limit of 4 • Dedicated hunting and dedicated sports shooting: Limit of 6 • Professional hunting: Limit of 8 Ammunition <ul style="list-style-type: none"> • Reduced from 200 to 100 cartridges (bullets) • Not allowed to reload own ammunition at home 	5 16 17 18 54 36 and 55

<p><i>Published SA research has linked lives saved, including the lives of women and children, to stricter gun control⁵ Global research shows that a gun in the home most endangers household members by increasing the risk of murder, suicide and death or injury from an unintentional shooting⁶</i></p>	<p>LIMIT users</p> <p>Age</p> <ul style="list-style-type: none"> • A person between the age of 18 and 21 may only be issued with a firearm competency certificate, licence, permit or authorisation <i>if there are compelling reasons</i>; deletes being a private collector of firearms as a compelling reason • Allows a person who is 21 years of age and the holder of a valid firearms licence for at least three years to let a person aged 16 years and older to use that firearm while under their immediate supervision 	<p>7 and 10</p> <p>23</p>
	<p>Occasional hunters and sports-shooters</p> <p>A licence for occasional hunting or sports-shooting is limited to either the owner or lawful occupier of property where occasional hunting or sports-shooting will take place or if proof of permission to occasionally hunt or sports-shoot on the property is given by the owner or lawful occupier</p>	<p>16</p>
	<p>LIMIT use</p> <ul style="list-style-type: none"> • No guns for self-defence • No private collection guns or ammunition • No public carrying of guns except by security officers 	<p>15</p> <p>19</p> <p>51</p>
<p>3</p> <p>Reduces risk of gun violence against women</p> <p><i>These provisions will:</i></p> <p>Remove guns from individuals with a history of violent behaviour and</p> <p>Prohibit individuals with a history of violent behaviour from accessing guns</p>	<p>Competency certificates: Disqualification, suspension, prohibition</p> <p><i>Like a learner's licence for driving, a competency certificate is the first step to get a firearms licence</i></p> <ul style="list-style-type: none"> • Permanent disqualification if declared unfit: Currently the FCA allows a person who has been declared unfit to possess a firearm to apply for a competency certificate after a period of 5 years, the Draft Bill deletes this so the person is permanently disqualified • May be suspended if issued with interim protection order: The police “may” temporarily suspend the processing of a competency certificate application if the applicant is issued with an interim protection under the Domestic Violence Act or the Protection from Harassment Act; the suspension remains in place until the interim protection order is confirmed or withdrawn • Prohibited if person convicted of offence involving “element of violence”: A competency certificate may not be issued to a person who has been convicted for an offence which has an element of violence or sentenced to imprisonment without the option of a fine 	<p>10</p>
	<p>Competency certificate, licence or permit: Suspension and disqualification</p> <ul style="list-style-type: none"> • May be suspended when charged with offence involving “element of violence”, requires gun be surrendered until matter finalised: The police “may” temporarily suspend a licence if the licence holder is charged with any offence that involves an element of violence or has been served with an interim protection order under the Domestic Violence Act or the Protection from Harassment Act. A suspension remains valid until 1) the person’s fitness has been investigated and 2) an interim protection order is confirmed or withdrawn. A person served with a notice of suspension must surrender all firearms to the nearest police station for safekeeping. Once an interim protection 	<p>60</p>

	<p>order is confirmed, the licence holder becomes automatically unfit to possess a firearm</p> <ul style="list-style-type: none"> • Permanent disqualification if declared unfit: Currently the FCA allows a person who has been declared unfit to possess a firearm to apply for a competency certificate, licence or permit after a period of 5 years, the Draft Bill deletes this so the person is permanently disqualified 	62
<p>4</p> <p>Reduces risk of illegal gun use</p>	<p>Reduces and standardises time of firearm licence validity:</p> <ul style="list-style-type: none"> • A firearm licence for occasional hunting and sports-shooting, dedicated hunting and sports-shooting, professional hunting as well as a licence for business as a game rancher and in hunting lasts for 5 years (reduced from 10 years) • A firearm licence for business purposes (other than as a game rancher and in hunting) lasts for 2 years (reduced from 5 years) 	29
	<p>Makes associations responsible for members:</p> <ul style="list-style-type: none"> • Accredited association: Makes the chairperson/authorised office bearer responsible for members • Dedicated hunting and sports shooting association and professional hunting association: Makes the chairperson responsible for members. Also requires that every year the association provide a report to the police on all its members, including those who have not renewed their membership, had their membership suspended or been expelled from the association 	9 17, 18
<p>5</p> <p>Reduces risk of guns leaking from legal to illegal pool</p> <p><i>Tightening the control of legal guns helps reduce the risk of loss or theft</i></p>	<p>Ballistic sampling (fingerprinting) of:</p> <ul style="list-style-type: none"> • Civilian-owned firearms: Requires every firearm to be ballistically sampled, including when licences are renewed or firearms sold. Ballistic sampling must be arranged in advance and the firearm must be handed back to the owner immediately after the sampling has been done • State-owned firearms: Provides for the ballistic sampling of firearms in possession of Official Institutions (e.g. police) 	25 58
	<p>Reporting loss and theft</p> <ul style="list-style-type: none"> • Requires the Head of an Official Institution to submit a quarterly report to the police on the number and type of firearms that are lost or stolen, the details relating to the loss or theft and measures taken to prevent further loss or theft • Requires the Registrar (the National Police Commissioner) to submit quarterly reports to the Minister and Parliament on all losses of firearms issued to SAPS members and other Official Institutions, the theft and loss of all firearms and ammunition surrendered to the police for destruction, the outcome of investigations into the loss of firearms and ammunition under the control of the police as well as disciplinary steps taken and criminal prosecutions against members for losses 	57 64

	Disposal of guns: <ul style="list-style-type: none"> Licence termination: Clarifies the procedure for the disposal of firearms when the licence has terminated In deceased estates: Clarifies the process to dispose of firearms as well as ammunition (newly added) in deceased estates, and makes provision for the disposal of a firearm and ammunition if a gun owner is incapacitated 	30 77-79
	Firearms owned by private security companies <ul style="list-style-type: none"> Strengthens the working relationship between the Central Firearms Registry and Private Security Industry Regulatory Authority by providing for the establishment of a Consultative Forum as well as describing the functions and functioning of the Consultative Forum The Central Firearms Register must contain a dedicated database of firearm licences issued and firearms registered to security service providers 	21 66
	Designated Firearms Police Officers (DFOs) <ul style="list-style-type: none"> Designated Firearms Officers must be security vetted and provision is made for random integrity testing 	64
<p style="text-align: center;">6</p> <p style="text-align: center;">Facilitates enforcement of law</p> <p><i>Enforcement of a gun law relies on implementation by the state and compliance by gun owners, this requires that both parties understand their roles and responsibilities</i></p>	Competency certificates <ul style="list-style-type: none"> Clarifies the detail to be included on, the period of validity and the process to renew a competency certificate 	11, 12
	Licence renewal process <ul style="list-style-type: none"> Clarifies the process to renew a firearm licence 	26
	Roles and responsibilities Clarifies the roles and responsibilities of the state <ul style="list-style-type: none"> Designated Firearms police Officers (DFOs) Police station commanders Firearms appeal board Clarifies the roles and responsibilities of firearm-related businesses: <ul style="list-style-type: none"> Dealers Manufacturers Gunsmiths 	64 65 68-73 32-35 37, 39 41, 42, 44, 46

¹ South African Police Service national annual crime statistics:

- South African Police Service. 2019. Crime Statistics: Crime situation in Republic of South Africa (12) months (April to March 2018-19). Presentation to Portfolio Committee on Police, 12 September. (Online). Available at <https://pmg.org.za/committee-meeting/28873/> (accessed 28 March 2020).
- South African Police Services. 2020. Crime situation in Republic of South Africa: Twelve (12) months (April to March 2019-20). Presentation to the Portfolio Committee of Police, 31 July. (Online). Available at www.saps.gov.za/services/april_to_march_2019_20_presentation.pdf (accessed 3 August 2020).

² Gauteng Department of Health. 2019. Gunshot wounds and stabbings top the list of causes of death in Gauteng. Media statement, 5 November: Reports that for 2018/2019 financial year, “state mortuaries recorded 2416 gunshot deaths followed by motor vehicle accidents and stabbings at 1695 and 1295 respectively.”

³ 2019-20 crime statistics show that between 20 and 26 people are shot and killed a day, averaging 23 people a day. Source: South African Police Services. 2020. Crime situation in Republic of South Africa: Twelve (12) months (April to March 2019-20). Presentation to the Portfolio Committee of Police, 31 July. (Online). Available at

- www.saps.gov.za/services/april_to_march_2019_20_presentation.pdf (accessed 3 August 2020). Figures calculated as follows:
- Figure of 20: There were 7,351 firearm-related murders in 2019-20, which is 34,5% of the 21,325 murders that year, 45% of the 16,272 murders for which the weapon is known, and an average of 20 people a day.
 - Figure of 26: The weapon is known in 76% of all 21,325 murders in 2019-20; assuming 45% of all murders are firearm-related = 9,5936 gun-related deaths, which is an average of 26 people a day.

⁴ A comprehensive global study on gun violence and disability estimates that for every person shot and killed as many as six victims will survive, often with severe disabilities. Source: Buchanan, Cate. (Editor). 2013. Gun Violence, Disability and Recovery. Sydney: Surviving Gun Violence Project.

⁵ See:

- The “strength, timing, and consistency of the decline in (the number of people shot and killed in five South African cities between 2001 and 2005 suggest that stricter gun control through the FCA accounted for a significant decrease in homicide overall, and firearm homicide in particular”. Source: Matzopoulos, Richard, Mary Lou Thompson, and Jonathan Myers. 2014. Firearm and Nonfirearm Homicide in 5 South African Cities: A Retrospective Population-Based study. American Journal of Public Health, Vol. 104, No. 3, pp. 455-460, p. 459.
- “There was a very substantial difference in the rate of (women that were shot and killed between 1999 and 2009). The decrease is most likely explained by gun control legislation (Firearms Control Act) ...with provisions for safer firearm use and ownership amongst its key features”. Source: Abrahams, Naeemah, Shanaaz Mathews, Lorna Martin, Carl Lombard, and Rachel Jewkes. 2013. Intimate Partner Femicide in South Africa in 1999 and 2009. PLOS Medicine, Vol. 10, No. 4, pp. 1-8, p. 3.
- “Our study shows a decline in total firearm injuries in children from 2001 (to 2010 in the Western Cape) ...demonstrating that strengthening firearm legislation can reduce firearm-related injury”. Source: Campbell, Nathan, G. Colville, Y. van der Heyde, and A.B. van As. 2013. Firearm injuries to children in Cape Town, South Africa: Impact of the 2004 Firearms Control Act. South African Journal of Surgery, Vol. 51, No. 3, pp. 92-96, p. 95.

⁶ See:

- van Kesteren, John. 2014. Revisiting the gun ownership and violence link. British Journal of Criminology, Vol. 54, pp. 53-72, p. 69.
- Anglemeyer, Andrew, Tara Horvath, and George Rutherford. 2014. The Accessibility of Firearms and Risk for Suicide and Homicide Victimization Among Household Members: A Systematic Review and Meta-analysis. Annals of Internal Medicine, Vol. 160, pp. 101-110, which summarises the scientific literature on the health risks and benefits of having a gun in the home for the gun owner and his/her family, concluding that, “The evidence is overwhelming for the fact that a gun in the home is a risk factor....”