



SAGA MEDIA RELEASE 17 November 2020

COURT ORDER ON SURRENDERING FIREARMS AND APPLICATION FOR LICENSES UNDER THE AMNESTY

The previous amnesty ended on 31 May 2020 and since an amnesty cannot merely be extended, a fresh application had to be brought to parliament. This caused a delay and the current amnesty was approved to commence on 1 August 2020 and terminate on 31 January 2021.

An amnesty, in SAGA's opinion, is not a solution for the "green license" issue. These firearms are possessed legally, and the licenses are deemed valid. During the previous amnesty some 27,000 firearms were surrendered. How many have been surrendered during the first 3 months of this amnesty is uncertain as no figures have yet been disclosed.

SAGA has advised members in possession of firearms of which there are no licenses, or where the licenses have expired, to timeously surrender the affected firearms to their SAPS' dedicated amnesty official and, should they so desire, apply for the relevant licenses.

Any person who surrenders an unlicensed firearm may apply for a license, not only the true owner. However, until 11 November 2020, the police were not accepting this proposition.

SAGA does not believe that the person who surrenders a stolen firearm, or one with which he had otherwise committed a crime with, has any entitlement thereto. Accordingly, we believe that the police have the right to establish where a person obtained the firearm. This too is the reason why the police have the right to do ballistic testing on the firearm to establish whether it could be linked to the commission of any crimes.

On 11 November 2020, in Sternberg v The National Commissioner of Police and others (Case No. 54506/2020) the Gauteng Division of the High Court granted an order compelling the Registrar (and those under his command) to *inter alia*:

- Receive and process amnesty applications from the applicant and to receive and process his/her applications for licenses for the listed firearms;
- That they are to accept amnesty applications from any person who physically surrenders a firearm at a police station within the validity period of the amnesty declared on 31 July 2020 in terms of section 139 of the FCA;
- That they are to receive and process new license applications for such firearms;
- That SAPS shall not be entitled to refuse to accept amnesty applications on the basis that:



- > The person surrendering the firearm cannot prove ownership of such firearm;
- > The firearm is not registered on the EFRS or any other firearm recording system of SAPS;
- > That it is a deceased estate firearm where the license expired in the name of the license holder prior to the death of the license holder;
- > For any reason that is contrary to the provisions of section 139 (4) (a) of the FCA.

From the court order it is not apparent what the SAPS' attitude towards the application was. The attorney of record, Martin Hood, informed SAGA that the State Attorney opposed the application, however, after argument they conceded that the applicant's interpretation of the legal provisions was correct.

Anyone who believes that they are entitled to apply for a license must fully motivate the application with supporting documents as the CFR will still consider and needs to peruse the application according to the reasons provided. CFR may refuse the application if the reasons are insufficient and the license will not be granted. The Applicant must also ensure that he or she has the relevant competency certificate so that the license may be issued.-

This Court Order thus gives many persons a further opportunity to apply for firearms in terms of the Amnesty, where perhaps such firearms have been in the possession of such persons, or family members, but in SAGA's view, there should be legitimate reasons for possession of such firearms.

SAGA promotes the responsible, safe and lawful possession and use of firearms.

Written by: Advocate John Welch

Issued by: The SAGA Trust