



MEDIA STATEMENT

Gun Free SA welcomes Constitutional Court ruling that regular gun licence renewals are constitutional

Constitutional Court, 7 June 2018: Gun Free South Africa welcomes this morning's ruling by the Constitutional Court, which upholds the constitutionality of regular gun licence renewals.

Under section 24 and section 28 of the Firearms Control Act (2000), all gun owners are required to renew their firearm licences on a regular basis.

In 2016 the South African Hunters and Game Conservation Association challenged these sections, arguing they are vague and irrational, breached the right of equality and deprived gun owners of their property, as a gun owner who fails to renew his licence in time, and is thus in possession of an unlicensed weapon, must forfeit his gun to the state.

The Constitutional Court ruled that gun ownership is not a fundamental right under our Bill of Rights, rather it is a privilege regulated by the Firearms Control Act. Under the Act:

- No person may possess a gun without a valid licence;
- A firearm licence is valid for a limited period of time; and
- Unless a gun owner has renewed his gun licence before expiry, he has committed a criminal offence and is subject to penalties, including a fine or imprisonment.

Gun Free South Africa acted as *amicus curiae* (friend of the court) in the case, which was heard by the Constitutional Court on 7 February 2018. In its ruling the Constitutional Court took into account evidence Gun Free SA provided showing that:

1. The Firearms Control Act, including its licensing and renewal provisions, bring South Africa's gun control regime within an international legal and political gun control framework.
2. The Act recognises government's responsibility for public safety by instituting a system of checks and balances through regular licence renewal to ensure that a gun owner remains 'fit and proper' to own a gun, thereby helping prevent gun-related crime.

Says Adèle Kirsten, Director of Gun Free SA, "In the context of the recent spate of children being shot and killed following defensive gun use, the significance of the Constitutional Court judgement upholding regular licence renewals as a cornerstone of the Firearms Control Act cannot be emphasised enough".

She warned that today's ruling means nothing unless the law is enforced by the police and complied with by gun owners, "Since 2010 there's been a steady erosion in the effectiveness of the Firearms Control Act to save lives as a result of actions by the police and gun owners: In a vacuum of effective police leadership, the SAPS has consistently failed to

enforce the law, either through deliberate fraud and corruption or a dereliction of duty; while many gun owners have sought and exploited loopholes in the law to bypass controls and accumulate guns.”

NOTE TO EDITOR:

On Wednesday, 7 February 2018, the Constitutional Court considered an appeal lodged by the Minister of Police to a ruling made by the North Gauteng High Court following an application by the SA Hunters and Game Conservation Association to have sections 24 and 28 of the Firearms Control Act (2000) declared unconstitutional.

- Section 24 deals with gun licence renewals, it requires that anyone wanting to renew a gun licence must apply at least 90 days before the licence expires.
- Section 28 deals with the termination of gun licences: under subsection 1a, a licence terminates when the renewal period has expired unless the licence has been renewed; subsection 2b gives the Registrar (who is the national police commissioner) the right to cancel a licence if the licence holder has contravened or failed to comply with the Act (e.g. by failing to renew his gun licence in time); and subsections 4 and 5 state that when a gun licence is cancelled the gun must be disposed of through a dealer within 60 days, otherwise it must be forfeited to the state.

South Africa’s experience of implementing the Firearms Control Act shows that a system of regular licence renewals helps save lives because it:

- Ensures that gun owners remain familiar with changes in the law;
- Gives a licensed gun owner the opportunity to assess if he still needs a gun, for example, he may decide he no longer wants a gun if he has young children in the home. Relicensing requires each gun owner to demonstrate genuine need for continued ownership of a gun;
- Is a mechanism by which the on-going fitness of gun owners can be assessed by the state, which in turn is an incentive for gun owners to comply with licensing requirements;
- Requires a gun owner to reaffirm his responsibility for the gun registered in his name, which reduces the risk of legal guns leaking into the illegal pool of weapons; and
- Ensures records on gun ownership are accurate, which in turn helps law enforcement officials to trace guns, investigate crime and support criminal prosecutions.

Today’s ruling (7 June 2018) by the Constitutional Court upholds the constitutionality of sections 24 and 28 of the Firearms Control Act (2000).

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