



Pretoria

***Wapen en Ammunisie Vereniging
Arms and Ammunition Association***

SAPS-NAACCSA SPECIAL MEETING, 27 NOVEMBER 2017

By: Hubert Wentzel
Tuesday, 05th December 2017

We managed to convene a special meeting at short notice with Maj Gen Jaco Bothma (JB) (assisted by three officers) on 27 November, *inter alia* to discuss the following:

1. Competency certificates

Two issues were raised, the first was with regards to so-called collectors' competencies, and the second, regarding validity periods of competencies. Our opinion is that, despite the amended section 10 referring to collectors requiring a separate category of competency, the unit standards were exactly the same as for ordinary possession of a firearm and that the only reason for special reference to collectors competency was that the competency has to be endorsed with the category of the collector. JB indicated that upon a reading of section 10 it is clear that a special category of competency has been created, hence the requirement that a collector also wishing to renew section 13, 14, 15 & 16 licenses, needs to have an "ordinary" competency to possess. To this we pointed out that the issue is not about the use of firearms but possession.

With regards to the duration of the period of validity of competencies JB stated that it never could have been the legislature's intention that competencies would remain valid for life (provided one buys a new firearm within the 10 year period). With regards to "ordinary" competencies, it generally would run together with the licenses for the respective firearms, for instance, if one owns a section 13 firearm only, the CC would be valid for 5 years, whereas if one owns section 13 and 15 firearms, the CC would be valid for 10 years, even though there may not be an expiry date on the CC. I wish to refer you to par. 4.4 of the NatComm's circular dated 1 January 2011 which reads as follows: "*In the case of a person who has a license and competency certificate for a handgun for self defence (sic) as well as a handgun for occasional hunting, the view is held that the existing competency certificate remains valid for the period of the license with the **longest** period of validity, and when the license for self defence is renewed, the applicant would be in possession of a valid competency certificate and need not apply for renewal of the competency certificate.*" There is also dispute as to whether the word "longest" should be substituted with "shortest", although I am not convinced that such substitution would be correct.

Because of the differences of opinion JB undertook to convene a meeting with SAPS Legal to which we shall also be invited. This may still happen this year. Our view, accordingly, is if you currently need to renew your section 13, 14, 15, or 16 license(s), to simultaneously apply for a CC to possess and should the DFO tell you not to do so, to record all particulars of the discussion (names, date, time, place, what was said, etc.). We shall keep you informed of further developments in this regard.

2. Section 18 ammunition collectors permits

Despite us quoting examples of applicants who recently still received section 18 permits on A4 together with the list of ammunition, SAPS confirmed that currently credit card size permits are being issued. However, despite a previous undertaking that CFR does not require details of security arrangements in accordance with regulation 18 and that the chairman's report and a DFO inspection report were sufficient, you need to state what your security arrangements are and whether you are compliant with regulation 18. This is applicable only if you display the ammunition, otherwise it is sufficient if the collectable ammunition is locked away in a prescribed safe or strong room.

CFR also now requires a list of your collectable ammunition together with numbers of rounds of ammunition. We pointed out that chances are that by the time the application reaches the CFR the content of the list might have changed and that, in fact, the list would never be accurate since collectors continually dispose of and add ammunition. Despite their acknowledgement of this it is nevertheless required.

You need to annually submit a notification of your list of ammunition. It is advisable to do so when you submit your updated list to your association.

We strongly advise that all ammunition collectors design their lists in the form of a stock register (preferably on Excell Spreadsheet) which will show the complete list of ammunition, the quantity, a debit side and a credit side, for you to clearly show what you started off with, what you added and what you disposed of. Obviously, the list must be open-ended to allow for the addition of new calibres.

Your section 18 permit must be carried with you when you have any ammunition in your possession, either to dispose of or after you have acquired new additions. The list needs not be with you at the time.

All section 18 permits have a validity period of 10 years.

3. Annual accreditation

On 16 November SAPS issued a media statement in which accredited institutions are urged to submit their annual returns, however, in the first paragraph it is stated as follows: "*to submit their annual returns for the purpose of renewing their annual accreditation*". Collectors' associations are *inter alia* mentioned. The statement goes on by quoting from regulation 2 (12) as follows: "*An applicant who was accredited in terms of the Act, must before the 31st of December of that year and annually thereafter submit to the Register (sic) a written report*".

Two email addresses are also supplied to where the information must be supplied, viz. annualaccred@saps.gov.za and Comp-enforceReturns@saps.gov.za

We pointed out to the meeting that the media statement was flawed in three ways,

firstly, that accreditation was not renewable in terms of the Act;

secondly, that regulation 2 (12)(a) requires that “a juristic person accredited for a purpose contemplated in the Act must notify the Registrar in writing within 30 days if there is a change of any person who is in control of or is responsible for the management of the juristic person”; and

thirdly, that regulation 2 (11) stipulates that -

(a) An applicant who was accredited in terms of the Act, must annually, within 90 days of the financial year end of the applicant and annually thereafter, or within such extended period as agreed to by the Registrar, submit to the Registrar a written report in respect of the responsible person and all members involved in the management thereof who-

(i) holds [sic] a competency certificate, licence, permit or authorisation issued under the Act; and

(ii) had been the subject of disciplinary action involving a contravention or failure to comply with a provision of the Act or any condition specified on a licence issued to the applicant under the Act, or conduct contemplated in sections 102(1), 103(1) or (2) of the Act.

(b) The report must list the full names and the identification number of the person concerned, particulars of the competency certificate, licence, permit or authorisation and of the disciplinary transgression and the result of the disciplinary action”.

In addition to regulation 2, accredited collectors’ associations also must heed to regulation 5 (2)(a), “An accredited collectors’ association contemplated in section 17(2) of the Act must in addition to regulation 2(12)(a) and (b) annually, within 90 days from the official year end of the association or such extended period as may be agreed to with the Registrar submit to the Registrar a written report reflecting-

(i) the details of all members whose registered membership with such accredited collectors association terminated; and

(ii) the reasons for the termination of such membership”.

Let me kindly remind you that a person in good standing is defined as a person who “(a) is and remains acceptable to an accredited ... collectors’ association as a ... collector; (b) complies with the aims and objectives of the Act in respect of his or her status as a ... collector”. [The underlining in the statutory provisions is mine.]

Despite the absence of the word “and” between paragraphs (a) and (b), the proper interpretation of the definition only makes sense if it is read that the word “and” follows the semi-colon (;) and accordingly both requirements need to be met.

Please note that the regulations do not require a so-called “zero-return”, where you would notify the Registrar that you had done nothing of the above and accordingly the *status quo* is maintained. In such a case you do not have to send any report to the Registrar. I propose, however, that you keep record of the fact whether or not you had sent reports to the Registrar.

Also bear in mind that the accredited association decides when there was a failure to comply. You may, for instance, decide to allow a period of grace of 3 months or 12 months to allow late-payers to settle their bill with the association. It is also possible that the disciplinary action is still pending. In both such cases the reporting will only have to be done within 90 days after the end of the following financial year.

Accordingly accredited collectors’ associations must ensure compliance with the abovementioned regulations, but only to the extent required by them.

4. Purification of firearm-related data before license application

SAPS’ circular dated 14 September 2017 regarding the administration of the firearms control legislation with reference to the purification of the data contained on the Enhanced Firearms Register System (EFRS) was used for this discussion. Because we are aware of the fact that there is a serious mismatch of information/data contained on the EFRS, licenses and firearms, we agreed with their efforts to rectify the data, however, we raised our concerns regarding the possible delays in the rectification of firearm-related data, especially when the firearm is in possession of a dealer and might in fact have been there for quite some time. Lt Col Wepener, however, once again confirmed that provided the correct information is sent to him and it is accompanied by a certificate of a gunsmith or the chairman of an accredited collectors’ association, the process ought not to take longer than 2 or 3 days. Bear in mind that the onus rests on the seller to rectify the data and that the application for a license (SAPS 271) will not be accepted and processed unless the information on the form tallies with that on the system. The process may become very complicated since in many cases it appears that the firearms have not yet been transferred to the dealers’ stock and are still licensed in the previous owners’ names.

Although we favour the steps taken to purify the data, it is a pity that the new applicants will have to bear the brunt, especially where the data was corrupted by the police.

Please note that the application for the rectification of data needs not go through the DFO – send it directly to EFRSDatapurification@saps.gov.za or fax it to

012-353 6574 (for attention Col. Sikhakhane).

I wish all private collectors well as we speed towards the end of 2017 and into another new year. Enjoy whatever you contemplate doing, be safe and be responsible.

Soli Deo Gloria

John Welch

Chairman