



FIREARM AMNESTY 2020 IS A REALITY!

As you all know by now, firearm amnesty for illegal firearms in terms of section 139 of the Firearms Control Act, 2000 (Act no. 60 of 2000), has been promulgated to run from the 1st of December 2019 to 31 May 2020.

Just after the promulgation of the amnesty, the National Hunting & Shooting Association (NHSA) filed an urgent application to declare the amnesty declaration illegal because of, amongst other, the fact that the processes in declaring the amnesty, were not followed.

This application matter was initially postponed by the High Court in December 2019 to the 14th of January 2020, to be heard, thus putting the process on hold until then.

Last week, on the 14th of January 2020, the day of the hearing and in a surprise outcome, the matter was settled between the SAPS and NHSA in that the *amnesty declaration will continue as promulgated*, **but** with the specific order of the court that expired white firearm licence holders who opt to hand in the relevant firearm and ammunition during the amnesty period, can now submit a renewal for a SAPS competency (if it expired at the time) simultaneously when handing in the said firearm, which is on the positive side.

The amnesty, from the start, and because it included expired firearm licenses which have been declared illegal by the Constitutional Court last year, was controversial from the start. Because:

- the fact of the matter is that about 450 000 firearms and about 7 million rounds of ammunition are involved. That's only the expired firearm licenses. There are many other types persons that can also make use of this process – see hereunder;

- Gun Owners SA (GOSA) successfully obtained an interdict against the Constitutional Court order last year, amongst other, to prohibit the police from taking in/confiscating these so-called illegal firearms and ammunition as the police could not prove that they have a safety plan / procedure in place to manage the transport and destruction of about 450 000 firearms and 7 million rounds of ammunition. *The main application will still be heard in the future.*

The police then opt to take the High Courts' decision (against the interdict order) on appeal, but did not file its application papers in time, which the Appeal Court must still make a finding on SAPS late filing to apply for appeal.

Nevertheless, there are now two sides of the coin, because of the above processes now running simultaneously, which have its' pros and cons, such as:

Pros (taking part in the amnesty)	Cons (Ignore the amnesty)
<ul style="list-style-type: none"> • Can become a legal firearm holder again within the mainstream, including business firearm licence holders 	<ul style="list-style-type: none"> • Although covered by the interim interdict of GOSA, one can never be sure what the outcome of the main application will be and what will be the consequences if GOSA is not successful with its' main application
<ul style="list-style-type: none"> • Will not be prosecuted when taking part in the amnesty period, the so-called "no fear for prosecution" being "illegally in possession" of this firearm 	<ul style="list-style-type: none"> • Must surrender firearm/s and ammunition during the amnesty process
<ul style="list-style-type: none"> • Amnesty also, amongst other, include estate firearms and any unregistered barrel/receiver/frame 	<ul style="list-style-type: none"> • Must submit a <i>new application</i> for "your own firearm" within 14 days after handing in the firearm/ammunition. Will be ballistically tested (IBIS testing)
<ul style="list-style-type: none"> • Dealers/Gunsmiths may also apply for amnesty for having unregistered firearms 	<ul style="list-style-type: none"> • Application can be refused, but the refusal decision is appealable
<ul style="list-style-type: none"> • May still appeal if the application is not successful 	

<ul style="list-style-type: none"> • May apply for renewal of competency simultaneously when handing in application for licence-documents 	
<ul style="list-style-type: none"> • Specialist legal minds are pro amnesty participation 	

Please take note that the following persons qualify to take part in this process, which will end on 31 May 2020, just more than 100 working days left:

- Surrender barrel/receiver/frame not registered on the police data system.
- Estate firearms which are registered to a deceased person and whose white licence has expired since. Also, where the estate file was finalized without the firearm been transferred and the executor is no longer available.
- Failed to renew. Licence holder failed to renew his/her white firearm licence within the prescribed period, including business firearms (per Constitutional Court case decision).
- Firearm in possession of dealer/gunsmith which is not registered, including barrel/frame/receiver.
- Voluntary surrender by owner. Licensed firearms, including barrel/frame/receiver, which are voluntarily surrendered

Take note that the SAPS amnesty offices should be operational 7 days a week during office hours.

Thank you.

Johan Martin

083 391 8180

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johan@mdbinc.co.za

www.legallyarmed.co.za

[Practicing attorney](#)

 Martin & de Beer Inc. Nostra Prima	Johan Martin (Director) Dip. Pol. Admin, BA. Pol, LLB (UNISA)	14 Akademie Street Dan Pienaar Bloemfontein 9301
	Fax 086 5000 421 Tel 051 0116 995 Cel 083 391 8180 E-mail johan@mdbinc.co.za Website www.mdbinc.co.za	P.O. Box 33109 Fichardt Park 9317