



17 September 2026

MEDIA STATEMENT

HIGH COURT PROVIDES CLARITY ON OWNERSHIP OF FIREARMS WITH LAPSED LICENCES

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The National Hunting and Shooting Association (Natshoot – NHSA), together with the South African Arms and Ammunition Dealers Association (SAAADA), has secured an important High Court judgment providing greater legal certainty regarding firearms of which licences have expired or lapsed, as well as firearms forming part of deceased estates.

The judgment, handed down by the Gauteng Division of the High Court in Pretoria on 15 September 2026, confirms an important legal distinction: the expiry of a firearm licence does not, by itself, terminate ownership of the firearm.

Natshoot extends its sincere appreciation to its legal team, Advocate Marius Snyman SC and Attorney Mr Martin Hood, whose insight, dedication and meticulous legal work were instrumental in presenting this important matter before the Court.

Ownership and licenced possession are distinct

The High Court applied the principles established by the Constitutional Court in its *Fidelity* judgment of 27 May 2022.

While the expiry of a firearm licence may terminate the former licence holder's legal authority to possess and use that firearm under the expired licence, it does not automatically terminate the person's ownership of such firearm.

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Natshoot and SAAADA approached the High Court after the South African Police Service (SAPS) implemented directives, administrative procedures and electronic-system restrictions following the 2022 Constitutional Court judgment. In practice, SAPS implemented the context of the judgment as permitting only the licence holder of who a firearm licence had lapsed, to apply for a new licence for such a firearm.

SAPS' procedures also prevented licenced firearm dealers from receiving such firearms into dealer stock where the licence had expired or had not been renewed, including in certain circumstances where the licenced owner had died.

The High Court found these restrictions inconsistent with the applicable legal principles of the *Firearms Control Act (FCA - Act 60 of 2000)*, and declared the relevant SAPS restrictions unconstitutional, unlawful and invalid.

Licenced firearm dealers may receive firearms with lapsed licences

Of practical importance, the High Court confirmed that a duly licenced firearm dealer may receive a firearm of which the licence has lapsed for purposes authorised under the FCA.

SAPS may therefore not prevent a licenced dealer from receiving, recording, safeguarding and entering such a firearm into dealer stock merely because the firearm's licence has expired, lapsed or was not renewed.

Once lawfully entered into dealer stock, the firearm may be dealt with through the mechanisms provided for in the FCA. This can include its subsequent sale or gifting to another qualifying person, who may then apply for a firearm licence through the normal licencing process when firearms are acquired from licenced firearms dealers.

The practical significance is that a firearm is not administratively restricted to a new licence application by the previous licence holder alone.

This provides an important lawful mechanism for an owner who does not wish to pursue a new licence personally to have the firearm placed into licenced dealer stock for subsequent lawful disposal.

Firearms in deceased estates

The judgment also provides important clarification for executors, heirs and families dealing with firearms belonging to deceased persons.

The death of a licenced firearm owner does not cause ownership of the firearm to terminate. The firearm remains an asset of the deceased estate and must be administered in accordance with applicable law.

The High Court confirmed that a duly licenced firearm dealer may receive a firearm with a lapsed licence from a deceased estate, acting through the duly appointed executor, for purposes authorised under the FCA.

SAPS' administrative procedures may therefore not prevent the lawful administration of such firearm merely because the licence was issued to a person who had subsequently died.

Administrative systems cannot override legislation

The judgment further confirms an important principle of administrative law: SAPS directives, policies, administrative practices and computer systems cannot create legal prohibitions that are not contained in the FCA or its Regulations.

Administrative officials must implement legislation; administrative procedures cannot effectively amend legislation.

Similarly, where the FCA permits a lawful process but a SAPS electronic system does not accommodate it, the administrative and electronic systems must be amended to comply with the law — the law cannot be restricted to accommodate the computer system.

SAPS given 90 days to implement the judgment

The High Court ordered SAPS to take the necessary steps within 90 days to bring their procedures into compliance with the judgment.

This includes amending or withdrawing inconsistent directives and instructions, adapting relevant administrative and electronic systems, and communicating the

effect of the judgment to Designated Firearms Officers, Provincial FLASH offices and the Central Firearms Registry.

Natshoot and SAAADA will closely monitor implementation and will inform members and firearm owners when the relevant SAPS directives and practical procedures become available.

What firearm owners must understand

The judgment does not create a general right to hold a firearm indefinitely without a valid firearm licence, permit or other lawful authorisation, just because of ownership of the firearm (it being property).

Firearm ownership and lawful possession are legally distinct concepts. Although ownership may survive the expiry of a licence, the authority to possess and use the firearm under that expired licence does not.

The judgment instead provides an important lawful route through licenced firearm dealers for dealing with firearms of which licences have lapsed.

Firearm owners are therefore urged not to interpret the judgment as permission to retain firearms with expired licences indefinitely. Natshoot recommends that affected owners await the SAPS implementation procedures flowing from the Court's 90-day order before taking steps under the newly clarified dealer-stock process.

The central compliance message remains unchanged: ensure that all firearm licence renewal applications are submitted within the prescribed periods.

Where a licence has already lapsed, the firearm must be dealt with strictly in accordance with the FCA, the Court's judgment and the applicable SAPS procedures.

Natshoot will communicate further guidance to members and firearm owners as soon as the SAPS' implementation directive becomes available.

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MEDIASVERKLARING

HOOGEREGSHOF VERSKAF DUIDELIKHEID OOR DIE EIENAARSKAP VAN VUURWAPENS MET VERVALLE LISENSIES

17 September 2026 | Vir onmiddellike verspreiding

Die National Hunting and Shooting Association (Natshoot – NHSA), saam met die South African Arms and Ammunition Dealers Association (SAAADA), het 'n belangrike Hooggeregshofuitspraak verkry wat groter regsekerheid bied rakende vuurwapens waarvan lisensies verval het, sowel as vuurwapens wat deel vorm van bestorwe boedels.

Die 15 September 2026 uitspraak van die Gauteng-afdeling van die Hooggeregshof in Pretoria bevestig 'n belangrike regsonderskeid: die verval van 'n vuurwapenlisensie beëindig nie op sigself die eienaarskap van die vuurwapen nie.

Natshoot betuig sy opregte dank en waardering aan sy regspan, Advokaat Marius Snyman SC en Prokureur Mnr. Martin Hood, wie se insig, toewyding en noukeurige regswork instrumenteel was in die uitkoms van hierdie belangrike saak voor die Hof.

Eienaarskap en gelisensieerde besit is onderskeibaar

Die Hooggeregshof het die beginsels toegepas wat deur die Konstitusionele Hof in sy *Fidelity* -uitspraak van 27 Mei 2022 vasgestel is.

Alhoewel die verstryking van 'n vuurwapenlisensie die lisensiehouer se wettige magtiging om daardie vuurwapen te gebruik opskort, beëindig dit nie outomaties die persoon se eienaarskap van sodanige vuurwapen nie.

Natshoot en SAAADA het die Hooggeregshof genader nadat die Suid-Afrikaanse Polisiediens (SAPD) riglyne, administratiewe prosedures en elektroniese stelselbeperkings geïmplementeer het wat hulle interpretasie van die uitspraak van die Konstitusionele Hof in 2022 was.

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In die praktyk het die SAPD die konteks van die uitspraak geïmplementeer as om slegs die lisensiehouer van wie se vuurwapenlisensie verval het, in ooreenstemming met die uitspraak, toe te laat om aansoek te doen vir 'n nuwe lisensie vir sodanige vuurwapen.

Die SAPD se prosedures het ook verhoed dat gelisensieerde vuurwapenhandelaars sulke vuurwapens in handelaarsvoorraad mag ontvang waar die vorige lisensie verval het of nie herno is nie, insluitend in sekere omstandighede waar die gelisensieerde eienaar oorlede is.

Die Hooggeregshof het bevind dat hierdie beperkings strydig is met die toepaslike regsbeginsels van die Wet op die Beheer van Vuurwapens (WBV – ook FCA - Wet 60 van 2000), en het die betrokke SAPD-beperkings ongrondwetlik, onwettig en ongeldig verklaar.

Gelisensieerde vuurwapenhandelaars mag vuurwapens met vervalle lisensies ontvang

Van besondere praktiese belang het die Hooggeregshof bevestig dat 'n behoorlik gelisensieerde vuurwapenhandelaar 'n vuurwapen waarvan die lisensie verval het, mag ontvang vir doeleindes wat ingevolge die WBV gemagtig is.

Die SAPD mag dus nie 'n gelisensieerde handelaar verhinder om so 'n vuurwapen te ontvang, te registreer, te bewaar en in handelaarsvoorraad in te voer bloot omdat die vuurwapenlisensie verval het, of nie herno is nie.

Sodra die vuurwapen wettiglik in handelaarsvoorraad geplaas is, kan dit hanteer word deur die meganismes wat in die WBV voorsien word. Dit kan die daaropvolgende verkoop of geskenk aan 'n ander kwalifiserende persoon insluit, wat dan deur die normale lisensiëringsproses vir 'n vuurwapenlisensie kan aansoek doen wanneer vuurwapens van gelisensieerde vuurwapenhandelaars verkry word.

Die praktiese betekenis is dat nie slegs die lisensiehouer van die lisensie wat verval het, vir 'n nuwe lisensie mag aansoek doen soos SAPD die prosedure geïmplementeer het nie.

Dit bied 'n belangrike wettige meganisme vir 'n eienaar wat nie persoonlik 'n nuwe lisensie wil aanvra nie, om die vuurwapen in gelisensieerde handelaarsvoorraad te laat plaas vir daaropvolgende wettige beskikking.

Vuurwapens in bestorwe boedels

Die uitspraak bied ook belangrike verduideliking vir eksekuteurs, erfgename en families wat te doen het met vuurwapens wat aan oorlede persone behoort.

Die dood van 'n gelisensieerde vuurwapeneienaar veroorsaak nie dat eienaarskap van die vuurwapen verdwyn nie. Die vuurwapen bly 'n bate van die oorledene se boedel en moet in ooreenstemming met toepaslike wetgewing bestuur word.

Die Hooggeregshof het bevestig dat 'n behoorlik gelisensieerde vuurwapenhandelaar 'n vuurwapen met 'n vervalte lisensie van 'n bestorwe boedel mag ontvang, vir doeleindes wat kragtens die WBV gemagtig is.

Die SAPD se administratiewe prosedures mag dus nie die wettige administrasie van so 'n vuurwapen verhoed bloot omdat die lisensie van die oorledene verval het nie.

Administratiewe stelsels kan nie wetgewing oorheers nie

Die uitspraak bevestig verder 'n belangrike beginsel van administratiefreg: SAPD-riglyne, beleide, administratiewe praktyke en rekenaarsstelsels kan nie wetlike verbodsbepalings skep wat nie in die WBV (FCA) of sy regulasies vervat is nie.

Administratiewe amptenare moet wetgewing implementeer, maar het nie die bevoegdheid om wetgewing effektief te wysig nie.

Net so, waar die WBV 'n wettige proses toelaat, maar 'n elektroniese SAPD-stelsel dit nie akkommodeer nie, moet die administratiewe en elektroniese stelsels gewysig word om aan die wet te voldoen – die wet kan nie beperk word om die rekenaarsstelsel te akkommodeer nie.

SAPD kry 90 dae om die uitspraak te implementeer

Die Hooggeregshof het die SAPD gelas om binne 90 dae die nodige stappe te doen om hul prosedures in ooreenstemming met die uitspraak te bring.

Dit sluit in die wysiging of terugtrekking van teenstrydige riglyne en instruksies, die aanpassing van relevante administratiewe en elektroniese stelsels, en die kommunikasie van die effek van die uitspraak aan Aangewese Vuurwapenbeamptes (DFO), Provinsiale FLASH-kantore en die Sentrale Vuurwapenregister.

Natshoot en SAAADA sal die implementering noukeurig monitor en sal lede en vuurwapeneienaars inlig wanneer die relevante SAPD-riglyne en praktiese prosedures beskikbaar word.

Wat vuurwapeneienaars moet verstaan

Vuurwapenbesit en wettige gebruik is regtens afsonderlike konsepte. Alhoewel eienaarskap na die verstryking van 'n lisensie kan voortduur, mag die vuurwapen nie wettig gebruik word nie.

Die uitspraak skep ook nie 'n algemene reg om 'n vuurwapen onbepaald in besit te hou sonder 'n geldige vuurwapenlisensie, permit of ander wettige magtiging nie, bloot op grond van eienaarskap nie (eiendom) .

Die uitspraak bied dus 'n belangrike wettige roete deur gelisensieerde vuurwapenhandelaars vir die hantering van vuurwapens waarvan die lisensies verval het.

Vuurwapeneienaars word dus versoek om nie die uitspraak te interpreteer as toestemming om vuurwapens met vervalde lisensies onbepaald te behou nie .

Natshoot beveel aan dat geaffekteerde eienaars wag op die SAPD se implementeringsprosedures wat moet voortspruit uit die Hof se 90-dae-bevel voordat hulle stappe doen ingevolge die “nuwe” handelaar-voorraadproses.

Die sentrale voldoeningsboodskap bly onveranderd: verseker dat alle vuurwapenlisensiehernuwingsaansoeke binne die voorgeskrewe tydperke ingedien word.

Waar 'n lisensie reeds verval het, moet die vuurwapen streng in ooreenstemming met die WBV (FCA), die Hof se uitspraak en die toepaslike SAPD-prosedures hanteer word.

Natshoot sal verdere leiding aan lede en vuurwapeneienaars kommunikeer sodra die SAPD se implementeringsdirektief beskikbaar word.

Uitgereik deur die Natshoot-kantoor vir onmiddellike verspreiding

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