The firearms that never made the inventory

Wayne de Jager, Firearmdesk

In 2014 FISA warned its members that, according to SAPS, there were "thousands of firearms registered in the names of deceased firearm owners in the Western Cape alone", and asked whether executors were failing to establish whether the deceased owned firearms at all.

The number now has a size. In December 2025 the Western Cape Provincial Commissioner, Lt-Gen Thembisile Patekile, said there are "more than 36,000 people in the Western Cape who died having licensed firearms". Nobody has applied to licence those firearms, he said, and SAPS is in the process of collecting them.

That does not mean every firearm is still in a family safe. It does mean the question was missed often enough for the Provincial Commissioner to say SAPS is collecting firearms that were never dealt with. On every estate file, ask early: was there a firearm, and what happened to it?

Until September there was also little an executor could do with a firearm whose licence had ended. Dealers were turned away, because SAPS directives and the firearms system would not let them book it in, and too often the firearm was surrendered to the police and the estate received nothing for it.

On 15 September 2026 the High Court in Pretoria declared that restriction unlawful. In *National Hunting and Sport Shooting Association NPC and Another v Minister of Police and Others* (case 2025-104362), Mbongwe J looked for a legal basis for the restriction and found none. The police filed papers but did not appear at the hearing. In the court's words: "The respondents have identified no statutory basis for the prohibition under challenge. None exists."

What the court decided

The order is short and clear:

1. An expired, lapsed or unrenewed licence does not by itself end ownership of the firearm.
2. When the owner dies, the firearm remains an asset of the deceased estate, to be administered like any other asset.
3. A licensed dealer may lawfully receive the firearm from the estate, acting through its duly appointed executor, for a purpose the Firearms Control Act allows. The judgment describes those purposes as transfer, disposal, inheritance or relicensing.
4. Any directive, practice or system rule that stops a dealer from receiving, recording or storing such a firearm only because the licence expired or the owner died is invalid.
5. SAPS must withdraw or amend those instructions, fix its systems and tell every Designated Firearms Officer, provincial FLASH office and the Central Firearms Registry, within 90 days.

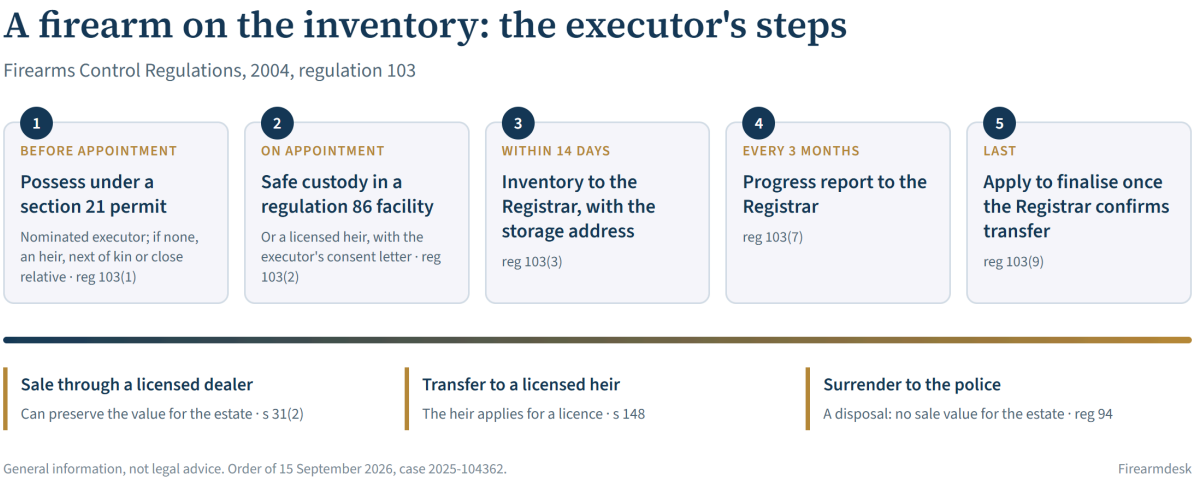
The time to apply for leave to appeal ran out on 7 October. No application was filed, and the order stands.

What it means on a file

The practical change is simple. Once the executor has letters of executorship, the dealer can receive the firearm and record it in the prescribed dealer records while the estate decides what to do. The estate keeps ownership until a lawful sale or transfer to an heir.

Before the executor is appointed, the position is the one the regulations have always set. The nominated executor, or failing one an heir, next of kin or close relative, may hold the firearm under a section 21 permit. A section 21 authorisation naming the dealer lets the dealer take it in before appointment.

What the judgment did not change is the executor's reporting duty under regulation 103, and it is strict. Within 14 days of appointment the executor must give the Registrar an inventory of the firearms and the address where they are stored. The firearms must be kept in a regulation 86 safe, or by a licensed heir with the executor's written consent. A progress report goes to the Registrar at least every three months. And the executor may not apply to the Master to finalise the estate until the Registrar has confirmed that every firearm has been transferred. That last rule is the one that catches files: a firearm found late can hold up finalisation for months.



Five things to do on every file

Ask at the first meeting, and check the register. Licence cards, a safe in the house or a competency certificate among the papers all mean there is a firearm to account for. Ask the family directly, and ask the executor or the estate's attorney to check with the Central Firearms Registry or the local DFO what is recorded in the deceased's name. It is far easier to deal with in week one than at the final account.

Keep the value in the estate. A sale through a dealer, or a transfer to an heir who obtains a licence, preserves the firearm's value for the heirs. A surrender to the police under regulation 94 is a disposal, and the estate receives nothing for it.

Do not let a relative drive it over. A firearm whose licence lapsed long before death is still an estate asset, but the family member who has it in a cupboard is usually not licensed to hold it. Put the right authority in place before anyone moves it. Anyone who carries a firearm for reward needs a transporter's permit under section 86.

Agree the dealer's charges in writing. Storage and handling charges should be agreed before the firearm moves, so there are no surprises on the final account.

Expect the system to lag. SAPS has until 14 December to update its systems, and a local office may not have caught up. Ask the dealer to confirm that the firearm is entered in its dealer records on the day it arrives.

Where an estate has already been finalised and a firearm turns up later, it is still an estate asset. The estate may need to be reopened so that an executor can deal with it and report it to the Registrar.

Where the Master has issued letters of authority under section 18(3) of the Administration of Estates Act rather than appointing an executor, note that a section 18(3) letter is not the duly appointed executor named in the court order. Check the position with the dealer and the DFO before relying on that route.

Wayne de Jager is the director of Attestra Tech (Pty) Ltd (2026/296939/07), trading as Firearmdesk. firearmdesk.co.za. This note is general information, not legal advice on a particular estate.