



# **Firearms Control Amendment Bill, 2021**

**Public Submission of the Democratic Alliance**

29 June 2021

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## 1. Introduction

The publication of the Firearms Control Amendment Bill, 2021 has caused immense outrage and concern across the South African society. The Democratic Alliance (DA) is of the opinion that should this draft Bill pass into law, it will have widespread negative consequences for the safety of law-abiding South Africans.

It is undoubtedly one of the most consequential pieces of legislation that we have seen in since the dawn of democratic South Africa, and subsequently the draft Bill has caused significant anxiety among many South Africans. More than 90 000 South Africans signed the DA's online petition against the draft Bill, and such views were emphatically expressed by a variety of participants from civil society, academia and interest groups at the South African Gun Summit hosted by the DA on 22 June 2021.

The DA has serious concerns about the draft Bill in its current form, among which is the removal of the provision to possess a firearm for self-defence purposes in South Africa. This will leave many citizens defenceless against intruders and violent attacks, particularly in regions where the police are not able to adequately provide timely protection against violent criminals. We also hold a variety of other ancillary concerns with the Bill which are also outlined in our submission.

While the DA supports the need for strong gun controls and licensing, we cannot support this Bill in its current format. It has far-reaching implications civilian safety but also for other industries such as the professional hunting and private security industries.

The DA further believes that the Socio-Economic Impact Assessment is woefully inadequate and fails to accurately assess the negative economic impact this draft Bill will have on the well-established hunting and sport shooting industries as well as those businesses which support such industries. Furthermore, the DA believes that there has been inadequate consultation with all relevant stakeholders outside of government during the drafting of the draft Bill and that the data used to support the thesis of the draft Bill is inconclusive, inadequate, and flawed.

As the Official Opposition, we will fight this draft Bill tooth and nail should it be submitted or introduced in Parliament. The DA has, however, taken an unprecedented decision to also submit our comments and objections during the public comment process. On several occasions, we have seen Parliament being turned into a rubber-stamping institution where the valid concerns of voters from opposition parties are merely ignored. We want the Constitution to prevail, and after thousands of inputs from South Africans, we aim to address their and our concerns *before* the draft Bill enters the Parliamentary realm, if ever.

The DA's presentation encapsulates the concerns expressed by many South Africans across various sectors of our society. Resultantly, as the official opposition, we make this submission on behalf of the people of South Africa.

*Democratic Alliance*

29 July 2021

## 2. Comments on the Bill

The Bill has been drafted to amend the Firearm Control Act Act of 2000. Some of the most controversial changes within the Bill are,

- a reduction in the period of validity of competency certificates to 5 years,
- to provide a time period for the renewal of competency certificates,
- to provide restrictions in certain instances on the number of additional firearms which may be permissibly held,
- to remove self-defence as a reason to be issued with a firearm licence,
- to provide strict limitations on firearm licences that may be issued to hunters and sports-persons,
- to remove the ability to own firearms and ammunition in private collections,
- to provide additional obligations on the Private Security Industry Regulatory Authority,
- to provide new strict time periods under which a renewal of a firearm licence must be made,
- to reduce the quantity of ammunition that a licenced firearm holder may possess, and
- to remove the right of a licenced firearm holder to reload their own ammunition.

After conducting a careful analysis of the draft Bill, together with inputs from thousands of South Africans, the DA submits the following comments:

### 1. Clause 5(g) - Broad Powers given to Minister to Ban Types of Ammunition

The DA objects to the broad sweeping powers afforded to the Minister in clause 5(g), whereby he/she may by notice in the gazette declare any type of ammunition to be prohibited ammunition if it is 1) in the interests of the public, 2) desirable for the maintenance of law and order; or 3) to ensure the safety of law enforcement officials.

We believe the provision of such a broad and open-ended power amounts to an abdication of Parliament's primary legislative role. The reasons the Minister is allowed to ban ammunition types are so broad that this effectively amounts to the Minister being given the ability to rule by decree. This is not acceptable, and the Act should either remove this clause altogether or constrain the regulatory powers of the Minister by specifying key considerations under which any ban must be made. The types of ammunition which are banned should be explicitly determined with the Act itself, and not under a broad sweeping Ministerial regulation.

### 2. Clause 10 (c) – Removal of Expiry Date for After Which a Person is Deemed Unfit to Possess a Firearm.

We do not believe it is appropriate to completely remove the expiry period for a disqualification of a person who is declared unfit. We believe that individuals should have a path to have their disqualification rescinded under strict conditions and after a certain time period has first elapsed.

### 3. Clause 15 – The Removal of the 'Self-Defence' as a Ground to Own a Firearm.

The DA strongly opposes the removal of 'self-defence' as a reason to receive a firearm licence. We do not see the policy purpose of removing self-defence, as a reason as firearms owned for this purpose serve to protect countless individuals across South Africa and in particular, within rural areas where access to fast and effective security services is not readily available.

There is no justifiable purpose to the government removing self-defence as a reason to receive a firearm licence, as legal gun owners are not the cause of the proliferation of illegal firearms within South Africa. The removal of self-defence as a reason, serves only to disarm law-abiding citizens, while failing to address the actual problem which is the vast number of illegal firearms found across South Africa.

This amendment will serve only to make ordinary South Africans less safe, and ultimately at the mercy of violent criminals and intruders. This amendment is not justifiable in any way, shape or form given the high levels of violent crime in South African society and the general inability of the police service to respond in a fast enough time frame to effectively protect ordinary South Africans under violent attack. There is a complete lack of credible data supporting government's rationale for this step.

The DA has received extensive submissions from concerned citizens about this amendment. This has highlighted the widespread opposition to this amendment across South African society. We wish to highlight one comment that encapsulates the pointlessness of this amendment – *“The removal of self-defence as a reason to own a firearm, is like trying to end drunk driving by banning sober drivers”*.

Given the widespread public opposition to this pointless and ultimately harmful amendment, we submit that that the department should remove this amendment from any finally submitted Bill.

#### **4. Clause 16 – Increasing the Difficulty to Receiving a Licence for Hunting and Sports-Shooting Purposes**

The DA opposes the increased requirements this amendment will create to get a licence for occasional hunting or sport shooting purposes. You will now be required to be an owner of the property where the hunting takes place or provide documentary proof of permission from the owner of the land, that you are allowed to engage in occasional hunting or occasional sport shooting on the land.

We submit that these requirements will have a detrimental impact on the hunting industry in South Africa, as these requirements will significantly deter occasional hunters who may not know where they wish to hunt at the time of applying for the licence. This is a plausible scenario, where an individual may wish to apply for a hunting licence in order to hunt at a future date at an as yet undetermined location.

By requiring that an individual who applies for a hunting licence to either first own the land on which the hunting will take place, or alternatively have already found and obtained permission from an owner of such land to hunt on their land, this will likely have a detrimental impact upon the hunting industry in South Africa.

The hunting industry contributes significantly to the country's economy, with the formal sector contributing in excess of R3 Billion per annum, and the informal market in the region of R12 Billion. Most of this trade occurs in the rural economies where tourists would not normally visit. Therefore, many rural citizens rely on the revenue derived from game farms the products which they sell. The impact of these increased requirements is likely to be dire for rural communities which rely on the hunting industry.

## **5. Clause 17 – Limitation on Number of Licences a Dedicated Hunter May Possess**

We believe this amendment places an unnecessary restriction on the number of firearms that a dedicated hunter may possess to a maximum of 6 firearms in total – with only two licences being permitted in respect of a handgun, semi-automatic rifle, or semi-automatic shotguns under each category.

We believe this restriction is unnecessary and serves no safety purpose. Dedicated hunters may have valid reasons to own more than two of a particular type of firearm. There is also no legitimate reason to provide such a restriction as dedicated hunters are not the source of gun violence in South Africa.

## **6. Clause 18 – Limitation on Number of Licences for a Professional Hunter**

We oppose the restriction being placed on professional hunters, that they may not obtain more than 8 firearm licences. We believe this restriction is unnecessary and serves no safety purpose. Professional hunters may have valid reasons to 8 firearms. There is also no legitimate reason to provide such a restriction as dedicated hunters are not the source of gun violence in South Africa.

## **7. Clause 19 – Removal of the Right to Own Firearms and Ammunition in a Private Collection**

We oppose the removal of the ability to own a firearms and ammunition in private collections. These private collections may serve important historical, cultural, educational and investment functions.

We fail to see why Section 17 and 18 should be repealed, when a more sensible alternative would be to require more stringent storage and safety requirements for these private collections, rather than an outright ban.

## **8. Clause 29 - Changes to Periods of Validity for Licences and Permits**

As stated previously, we oppose the removal 'self-defence as a valid reason to receive a licence to possess a firearm.

Furthermore, we submit that the periods of validity for occasional and dedicated hunting and sports-shooting licences, professional sports shooting licences, business purpose licences and licences for public collections should remain as is in the current Act and not be reduced in the proposed amendment Act by half for almost all categories.

We submit that the reducing of the period of validity by almost half in all categories will result in unnecessarily increased administrative burden for the hunting and sports shooting sectors, as well as increased administrative burden being placed upon SAPS, which is already experiencing capacity constraints. If the original licencing process is conducted in a comprehensive and rigorous manner, there is no need to reduce the period of validity of these licences.

It has also been demonstrated through recent oversight visits to the firearms registry, that the current record keeping system is woefully out of date. The increasing in the regularity of licence renewal periods will serve only to add further administrative burden on a system which is already not functioning at an optimal level.

In particular, the reduction in the licence period for business purposes from 5 years to 2 years, is likely to place an immense additional administrative burden on private security companies, thereby hindering the important work this sector performs in our economy and in the protection of private individuals.

Given that firearm licence applications must be made 90 days before their expiry under the proposed amendment act, this will mean that private security companies will need to apply for a renewal of their firearm licences every 21 months. Given the immense size of private security operations within South Africa, such a short period of validity is likely to result in undue administrative burden on this important element of the South African economy and security sector.

#### **9. Clause 51 (b) – Power of Minister to Prescribe the Manner in Which a Firearm Must be Carried by a Security Officer**

We submit that the Ministers’ powers to prescribe the manner in which a firearm must be carried by a security officer, is overly broad and too open-ended within the amendment. We would like the power afforded to the Minister to be constrained by a set of requirements and considerations which any Ministerial determination must fall within. Under the current amendment, the Minister is in essence given the power to rule by decree. We do not believe that such wide-reaching powers should be given to a Minister by Parliament.

#### **10. Clause 53 - Limitation on Number of Firearms Which May be Transported Without a Transporter Licence.**

We believe the limitation of 3 firearms may be too low, as it is foreseeable that professionals and security personnel may at times be required to transport more than 3 firearms at a time.

We request that the department reconsider this limit, and either increase the limit or remove it altogether.

#### **11. Clause 54 - Reduction in Permissible Amounts of Ammunition**

We request that the reduction of ammunition that a holder of a firearm licence may possess from 200 cartridges down to 100 cartridges per licenced firearm be removed.

A licenced firearm holder has already shown that they are a competent and responsible gun owner. There is no good reason to reduce the amount of ammunition which such an individual may possess. We believe the limits should remain as they currently stand.

#### **12. Clause 55 – Removal of Ability to Load and Reload Ammunition**

We strongly opposed the amendment to repeal section 93 of the Act. This amendment will remove the ability of private licenced firearm holders to load and reload their own ammunition.

The ability to reload one’s own ammunition saves licenced firearm holders large sums of money each year. To require that a licenced firearm holder must purchase new cartridges after every use will unnecessarily waste money and serves no legitimate purpose in increasing safety in South Africa. A licenced gun holder has already proven that they are a responsible and trustworthy gun owner. The state

should not be removing their lawful ability to reload their own ammunition, and thereby save costs and resources.

This amendment will not reduce illegal reloading of ammunition, as criminal elements will continue to reload their own ammunition whether the state implements this amendment or not. The only effect of this amendment will be to create additional financial and practical hardship for lawfully licenced firearm holders. We strongly recommend that this amendment be removed from the final Bill.

### **3. Conclusion**

The contents of our submission outline the serious concerns the DA has about the Firearms Control Amendment Bill in its draft form prior to a possible submission or introduction to Parliament. While the DA supports strong licencing conditions, and responsible firearm ownership, we cannot support the Firearms Control Amendment Bill its current format. The draft Bill will leave many South Africans defenseless against violent crime in situations where the police are not able to provide timely and adequate protection.

It is deeply concerning that the Bill may disenfranchise lawful owners of firearms as this will have no discernible effect on removing unlawful firearms, which are the real problem, from our society. The DA submits that the Bill be dramatically scaled back in its changes or preferably be scrapped altogether.