

# DRAFT NOTICE FOR CONSIDERATION BY PARLIAMENT

Government Notice

Date:

## DECLARATION OF AN AMNESTY IN TERMS OF SECTION 139 OF THE FIREARMS CONTROL ACT, 2000 (ACT NO. 60 OF 2000)

### MINISTRY OF POLICE

By virtue of the powers vested in me by section 139(1) of the Firearms Control Act, 2000 (Act No. 60 of 2000), I General Bhekokwakhe Hamilton Cele, Minister of Police, hereby declare an amnesty as defined in section 138 of the said Act.

Under section 139(2)(b) of the Firearms Control Act, 2000, I determine the period during which persons may apply for amnesty to commence on 1 October 2019 to 31 March 2020. Under section 139(2)(c) of the Firearms Control Act, 2000, I determine the conditions under which amnesty will be granted, to be as follows:

- (a) A written application for amnesty by an applicant must, with the exception of the police stations set out in the Annexure, be handed to the duly appointed Designated Amnesty Officer at any police station in the Republic of South Africa. The application must state the full names, identity or passport number and residential address of the applicant, as well as the type, calibre, make, model and all marked serial numbers or other identification marks on the firearm or the particulars of the ammunition;
- (b) The firearm or ammunition concerned must be surrendered by the applicant to the Designated Amnesty Officer at the relevant police station and the Designated Amnesty Officer must issue a receipt in respect of such firearm or ammunition to the applicant; and
- (c) An applicant for amnesty who wishes to apply for a licence to possess the firearm surrendered by him or her as contemplated in section 139(4) of the Firearms Control Act, 2000, must when surrendering the firearm, in writing, for a licence to possess the firearm. The application for a licence must be lodged within 14 days from the date on which the firearm was surrendered with the relevant Designated Firearms Officer (the

relevant Designated Firearms Officer has the meaning assigned to it in the Firearms Control Regulations, 2004).

- (d) An application contemplated in section 139(4)(a) of the said Act shall not apply to illegal firearms where documentary proof of previous ownership cannot be produced.

I further determine that the South African Police Service must conduct ballistic tests on all firearms surrendered in terms of this amnesty, and if an application for a licence to possess the firearm as contemplated in paragraph (c) of this Notice is not duly lodged, or has not been lodged within the specified period, such firearm must be destroyed in accordance with Regulation 93(4) of the Firearms Control Regulations, 2004.



**GENERAL BH CELE, (MP)**  
**MINISTER OF POLICE**

28/08/2019

## ANNEXURE

NAME OF PROVINCE	NAME OF POLICE STATION
KwaZulu-Natal	Isipingo
Western Cape	Bellville South
Mapumalanga	Kanyamazane

## INFORMATION NOTE



To: The Minister of Police

### **DECLARATION OF AMNESTY IN TERMS OF SECTION 139 OF THE FIREARMS CONTROL ACT, 2000 (ACT NO.60 OF 2000)**

#### **1. Purpose**

1.1 The purpose of this information note is to request the Minister of Police to support the declaration of amnesty for the period of six (6) months commencing from 1 October 2019 to 31 March 2020.

#### **2. Background**

2.1 During 2016, a submission for the declaration of amnesty in terms of section 139 (1) of the Firearms Control Act, 2000 (Act No. 60 of 2000) (hereafter, the Act), was made by SAPS via the then Minister of Police, the Honourable NPT Nhleko MP. Minister Nhleko submitted a Draft Notice to Parliament in early 2017 with a view of obtaining parliamentary approval for such declaration.

2.2 Due to unforeseen circumstances, the Portfolio Committee on Police (PCOP) could not consider this matter without the recommended dates for the commencement of the amnesty.

2.3 It needs to be brought to the Minister's attention that on 3 August 2017, the National Council of Provinces (NCOP) approved the Draft Notice. During November 2017, the PCOP considered the Draft Notice and, in principle, approved same although suggesting that new dates for the amnesty be considered, and further that certain police stations where the loss of firearms were previously experienced be excluded from participation in the amnesty process.

## **DECLARATION OF AMNESTY IN TERMS OF SECTION 139 OF THE FIREARMS CONTROL ACT, 2000 (ACT NO.60 OF 2000)**

- 2.4 The requirements of the PCOP were complied with and the amended Draft Notice was submitted to the Speaker of the National Assembly as well as the Chairperson of the NCOP by the then Minister of Police, the Honourable FA Mbalula during November / December 2017.
- 2.5 Again this matter could not be considered by the PCOP timeously and new dates, namely 1 September 2018 to 28 February 2019 were proposed by the National Commissioner of Police (attached Annexure "A").
- 2.6 On the eve of tabling the Draft Notice before Parliament, the Gun Owners of South Africa brought legal action against SAPS, which in all probability would impact on the envisaged amnesty.
- 2.7 Consequently, the Minister took a decision that the amnesty process be put on hold until all legal actions relating to firearms are finalised. The document herewith attached and marked as Annexure "B", has reference.
- 2.8 Notwithstanding, during a meeting on 28 June 2019 that took place at SAPS Academy, Tshwane the Minister directed that a process to declare firearm amnesty be initiated as a matter of urgency.

### **3. Legal Position**

- 3.1 In terms of section 138 of the Firearm Control Act, "amnesty" means an indemnity against prosecution for the unlawful possession of a firearm and ammunition.

In terms of section 139 (1) of the Firearm Control Act, the Minister may, by notice in the Gazette, declare an amnesty if:

- (a) the amnesty may result in the reduction of the number of illegally possessed firearms in South Africa; and
- (b) it is in the public interest to do so.

## DECLARATION OF AMNESTY IN TERMS OF SECTION 139 OF THE FIREARMS CONTROL ACT, 2000 (ACT NO.60 OF 2000)

In terms of section 139 (2) of the Act, a notice for amnesty:

- a) will only be valid if it is approved by Parliament ;
- b) must specify the period during which persons may apply for amnesty;  
and
- c) must specify the conditions under which amnesty may be granted.

3.2 It is common knowledge that the majority of violent crimes in South Africa are committed by means of firearms. It is also common knowledge that there are many illegally possessed firearms in circulation. There is documented evidence that people do voluntarily participate in the amnesty process once declared.

3.3 It needs to be emphasised that the Constitutional Court ruled in the matter of South African Hunters and Game Conservation Association and the Minister of Police, that if the holder of a firearm license does not renew the license timeously, the same automatically lapses and can therefore not be renewed. Such a license holder has to hand in the firearm(s) to the police. It is thus anticipated that these group of people are likely to constitute the majority of people participating in this envisaged amnesty.

3.4 In accordance with section 139(4)(a) of the said Act, persons who surrendered these illegal firearms may apply for licences to possess same.

3.5 Declaration of firearms amnesty will, it is believed, reduce the circulation of illegal firearms in South Africa and improve the safety of the public.

### 4. Recommendation

4.1 It is recommended that the Minister support declaration of amnesty for a period of six (6) months commencing on 1 October 2019 to 31 March 2020.

**DECLARATION OF AMNESTY IN TERMS OF SECTION 139 OF THE FIREARMS CONTROL ACT, 2000 (ACT NO.60 OF 2000)**

4.2 Should the Minister support the declaration of an amnesty, a Notice together with draft letters addressed to the Speaker of the National Assembly and the Chairperson of the NCOP respectively, are in the cover for the Minister's consideration.



**LIEUTENANT GENERAL  
ACTING DIVISIONAL COMMISSIONER: VISIBLE POLICING  
SJ JEPHTA (SOEG)**

Date: 2019-07-15

Paragraph 4.1 recommended / ~~not recommended~~  
Draft / letter recommended / ~~not recommended~~



**LIEUTENANT GENERAL  
DIVISIONAL COMMISSIONER: LEGAL AND POLICY SERVICES  
A KHAN**

Date: 2019/07/16

Paragraph 4.1 recommended / ~~not recommended~~  
Draft / letter recommended / ~~not recommended~~



**LIEUTENANT GENERAL  
DEPUTY NATIONAL COMMISSIONER: POLICING  
SF MASEMOLA**

Date: 2019/07/22.

**DECLARATION OF AMNESTY IN TERMS OF SECTION 139 OF THE FIREARMS CONTROL ACT, 2000 (ACT NO.60 OF 2000)**

Paragraph 4.1 recommended / ~~not recommended~~  
Draft / letter recommended / ~~not recommended~~



**LIEUTENANT GENERAL  
DEPUTY NATIONAL COMMISSIONER: ASSET AND LEGAL MANAGEMENT  
FN VUMA**

Date: 2019-07-31

Paragraph 4.1 recommended / ~~not recommended~~  
Draft / letter recommended / ~~not recommended~~



LIEUTENANT GENERAL  
DEPUTY NATIONAL COMMISSIONER: ASSET & LEGAL MANAGEMENT  
SOUTH AFRICAN POLICE SERVICE  
PTYLORA

Acting

**GENERAL  
NATIONAL COMMISSIONER: SOUTH AFRICAN POLICE SERVICE  
KJ SITOLE (SOEG)**

Date: 2019-08-05

Paragraph 4.1 Approved/ ~~not approved~~  
Draft/ letters approved / ~~not approved~~



**GENERAL BH CELE, (MP)  
MINISTER OF POLICE**

Date: 10/08/2019

Information Note compiled by : Brigadier LJ Mabule and Brigadier L Nkgweng  
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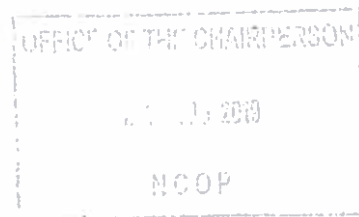




MINISTRY OF POLICE  
REPUBLIC OF SOUTH AFRICA

Private Bag X483 PRETORIA 0001, Tel: (012) 3932800, Fax: (012) 393 2818/20 Private Bag X9080 CAPE TOWN 8000, Tel: (021) 467 7021, Fax: (021) 467 7033

The Honorable Mr NA Masondo  
Chairperson: National Council of Provinces  
Parliament of the Republic of South Africa  
**CAPE TOWN**  
**8000**



**Dear Mr Masondo**

**DECLARATION OF AMNESTY IN TERMS OF SECTION 139 OF THE FIREARMS CONTROL ACT, 2000 (ACT NO. 60 OF 2000)**

As the Honourable Chairperson is aware, the former Minister of Police, the Honorable NPT Nhleko MP, submitted a draft Notice to Parliament with the view to obtaining Parliamentary approval for the declaration of an amnesty in terms of the Firearms Control Act, 2000.

In terms of section 139 of the Firearms Control Act, the Minister of Police may, by notice in the *Gazette* declare an amnesty if—

- (a) The amnesty may result in the reduction of the number of illegally possessed firearms in South Africa; and
- (b) It is in the public interest to do so.

Section 139(2) of the Firearms Control Act also provides that an amnesty—

- (a) Will only be valid if it is approved by Parliament;
- (b) Must specify the period during which persons may apply for amnesty; and
- (c) Must specify the conditions under which amnesty may be granted.

DECLARATION OF AMNESTY IN TERMS OF SECTION 139 OF THE FIREARMS CONTROL ACT, 2000 (ACT NO. 60 OF 2000)

On 3 August 2017, the National Council of Provinces approved the declaration of an amnesty.

Subsequent to the approval of the declaration by the National Council of Provinces, the Portfolio Committee of Police considered the matter and directed that certain amendments be made to the Notice, which would include the determination of new dates for the period of the amnesty and the exclusion of certain police stations, where firearm losses were experienced, from participation in the amnesty process. To accommodate these amendments the same was submitted to your office during December 2017 by my predecessor, the Honorable FA Mbalula.

The last date agreed to by all the houses for amnesty to commence was 1 September 2018, however due to unforeseen circumstances that could not materialize.

Accordingly it is proposed that the new dates for amnesty be 1 October 2019 to 31 March 2020.

The amended notice is attached for your consideration.

Yours faithfully,



**MINISTER OF POLICE**

**BH CELE, MP**

Date:

15/08/2019



MINISTRY OF POLICE  
REPUBLIC OF SOUTH AFRICA

Private Bag X463 PRETORIA 0001, Tel: (012) 3932800, Fax: (012) 393 2818/20 Private Bag X9080 CAPE TOWN 8000, Tel: (021) 467 7021, Fax: (021) 467 7033

OFFICE OF THE MINISTER

Name: Su

Date Received: 21 AUG 2019

Signature: [Signature]

The Honorable Ms. TR Modise  
Speaker of the National Assembly  
Parliament of the Republic of South Africa  
**CAPE TOWN**  
**8000**

Dear Ms Modise

**DECLARATION OF AMNESTY IN TERMS OF SECTION 139 OF THE FIREARMS CONTROL ACT, 2000 (ACT NO. 60 OF 2000)**

In terms of section 139 of the Firearms Control Act, the Minister of Police may, by notice in the *Gazette* declare an amnesty if—

- (a) The amnesty may result in the reduction of the number of illegally possessed firearms in South Africa; and
- (b) It is in the public interest to do so.

Section 139(2) of the Firearms Control Act also provides that an amnesty—

- (a) Will only be valid if it is approved by Parliament;
- (b) Must specify the period during which persons may apply for amnesty; and
- (c) Must specify the conditions under which amnesty may be granted.

A draft Notice for a declaration of a firearms amnesty was tabled by my predecessor, the former Minister of Police, the Honorable, FA Mbabula during the latter part of 2017

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and that the same was, in turn submitted by your predecessor to the Portfolio Committee of Police for a report.

The Portfolio Committee of Police was however unable to consider the draft Notice prior to 1 February 2018; being the proposed date on which the amnesty period was set to commence.

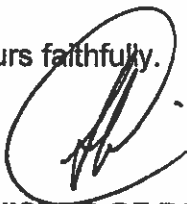
I am advised that following further interaction with the Committee during February 2018, last mentioned, in principle approved the draft Notice and the Amnesty to commence on 1 June 2018. I am also advised that the Committee required that my predecessor table a new letter with the National Assembly containing the new date, prior to approval thereof.

While I am in support of the declaration of an amnesty on the conditions that were in principle already agreed to by the Portfolio Committee of Police, I further wish to add that an application contemplated in section 134(4) of the said Act shall not apply to illegal firearms where documentary proof of previous ownership cannot be produced.

Accordingly it is proposed that the new dates for amnesty be 1 October 2019 to 31 March 2020.

It will be appreciated if the amended draft notice can be forwarded to the Portfolio Committee of Police for consideration.

Yours faithfully.



MINISTER OF POLICE

BH CELE MP

Date:

15/08/2019