



Member of CIC – International
Council for Game and Wildlife
Conservation

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COURT CASE REGARDING COMPENSATION

The Western Cape High Court has given Police Minister Nathi Mthethwa 90 days to draw up guidelines for compensation for firearms surrendered under the Firearms Control Act. The ruling could result in payouts totalling millions of rands for gun owners who have handed in weapons since 2004. The order was handed down on 31 August by Acting Judge President Jeanette Traverso following an application by the Justice Alliance of SA (Jasa) and the False Bay Gun Club. They argued that the Firearms Control Act, which came into force in 2004, required the minister to come up with guidelines on the amount of compensation to be paid for guns surrendered or forfeited to the State. By failing to do so, the Minister had acted in breach of the "ethos of accountability" in the Constitution.

CHASA appreciates the ruling. It is, however, important for firearm owners to understand that the court case did not address the issue whether every firearm owner who has handed in firearms, is entitled to compensation. The judgement purely instructed the Minister to provide the necessary guidelines regarding the compensation for firearms handed in, within 90 days. Those guidelines should give an indication of how compensation would be paid. The Constitution makes it very clear that Government cannot expropriate a person's assets without compensation. This is a very important step towards the compensation for firearm owners who have effectively been expropriated of their firearms. However, long discussions will still take place regarding who qualify for compensation and how it would be done, especially in respect of firearms already handed in.

In terms of the judgment made in the Northern Gauteng High Court on 26 June 2009, all firearm licences issued in terms of the previous Act remains valid, depending the outcome of the main application. Therefore there is currently no reason to hand in firearms. Our advice to members, who want compensation for firearms to be handed in, would be to complete the necessary forms at the SAPS and clearly indicate that they apply for compensation. It might also be a good idea to take photos and obtain a valuation as proof of the firearm's condition and value for future use.