

NATIONAL INSTRUCTION 6 OF 2020

DESTRUCTION OF FIREARMS IN TERMS OF SECTION 149 OF THE FIREARMS CONTROL ACT, 2000 (ACT NO. 60 OF 2000)

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1. Introduction

- (1) In terms of section 149(2)(a) of the Firearms Control Act, 2000 (Act No.60 of 2000) (the Act), any *firearm*, *firearm* part and or *ammunition* forfeited to the State must be destroyed by the State within six months of the date of forfeiture or after all possible appeals have been noted.
- (2) Section 136(1) of the Act further states that “The Registrar may in respect of any *firearm* or *ammunition* seized by, surrendered to or forfeited to the state, issue a notice in the *Gazette* stating that it is the intention of the State to destroy that *firearm* or *ammunition*”.
- (3) The Act further provides that due consideration should also be given to the provisions of section 149(4) (b) of the Act which states that “The Registrar must only consent to the *destruction of a firearm*, muzzle loading *firearm* or *ammunition* with due regard to and in compliance with the provisions of the National Heritage Resources Act, 1999 (Act No.25 of 1999), and any condition which may be imposed by the South African Resource Agency or their nominated agents”.
- (4) It should be noted that forfeited *firearms* may not be destroyed prior to a written approval of the Registrar and the *firearms* being gazetted.
- (5) Since firearms are forfeited on a daily basis, the only way in which the Service can fully comply with the mentioned section of the Act is by destroying firearms monthly. The 9th of July is a United Nations calendar event, i.e. the International Gun Destruction Day. The responsible office should therefore endeavor to have at least one of the bi-annual destruction in July each year to honour the International Gun Destruction Day.

2. Purpose

The purpose of this Instruction is to —

- (a) regulate the process of destruction of *firearms* forfeited to the State;
- (b) regulate the transferral of information of destroyed *firearms*; and

- (c) ensure identified *firearms* of heritage value are dealt with according to National Heritage Resources Act, 1999 (Act No. 25 of 1999).

3. Scope of application

The National Instruction is applicable to all SAPS employees involved in the process or value chain of destruction of forfeited *firearms*.

4. Definitions

In this Instruction, unless the context indicates otherwise, —

- (a) “Act” means the Firearms Control Act, 2000 (Act No.60 of 2000);
- (b) “*ammunition*” means ammunition as defined in section 1 of the Act;
- (c) “*Designated Firearms Officer (DFO)*” means a police official as defined in section 124(2)h of the Act;
- (d) “*destruction of a firearm*” means destruction as defined in regulation 104 (4) of the Regulations;
- (e) “*firearm*” means a firearm as defined in section 1 of the Act;
- (f) “*Registrar*” means the National Commissioner of the South African Police Service;
and
- (g) “*Regulations*” means the Firearms Control Regulations, 2004.

5. Acronyms

In this Instruction, unless the context indicates otherwise, —

- (a) “*CFR*” means the Central Firearms Register;
- (b) “*EFRS*” means the Enhanced Firearm Register System;
- (c) “*FIN*” means Firearm Identification Number;

- (d) "*FLASH*" means Firearms, Liquor and Second-Hand Goods Services;
- (e) "*FSL*" means Forensic Science Laboratory;
- (f) "*IBIS*" means Integrated Ballistic Identification System; and
- (g) "*SAHRA*" means the South African Heritage Resources Agency.

6. Governance Framework

This National Instruction is *inter alia* informed by the following:

- (a) The Constitution of the Republic of South Africa, 1996;
- (b) South African Police Service Act, 1995 (Act No.68 of 1995);
- (c) Criminal Procedure Act, 1977 (Act No. 51 of 1977);
- (d) Firearms Control Act, 2000 (Act No.60 of 2000);
- (e) Firearms Control Regulations, 2004;
- (f) National Heritage Resources Act, 1999 (Act No. 25 of 1999);
- (g) National Instruction 5 of 2010: Storage, Handling and Transportation of Ammunition, Pyrotechnics, Tear Gas and Explosive Ordinance;
- (h) National Instruction 8 of 2017: Property and Exhibit Management;
- (i) National Instruction 6 of 2018: Management of Moveable Government property;
- (j) Protocol on the Control of Firearms, Ammunition and other related materials in the Southern African Development Community (SADC) Region, 14 August 2001; and
- (k) Standing Order (General) 337.

7. The Destruction Process

(1) Station: Designated Firearm Officer (DFO)

When a member of the public voluntarily surrenders a *firearm*, or a *firearm* is found, recovered, as well as seized as a result of police action, the *DFO* must –

- (a) ensure that the *firearm* and magazine is unloaded, and then take possession of the *firearm* and *ammunition* and attach a SAPS 13(a) tag with relevant SAPS 13 number to the *firearm*;
(Note: If a person who wants to surrender a firearm does not have the *firearm* and *ammunition* with him or her, steps must be taken to ensure that possession of the *firearm* and *ammunition* is taken, immediately. The *firearm* must be made safe away from the public and members of the Service.)
- (b) conduct an enquiry on the *EFRS* on function 10.5 to determine whether the *firearm* was reported as lost or stolen. If the *firearm* was circulated as lost or stolen, complete a SAPS 521(f) (Notification of lost, stolen or found *firearms*) form and have the *firearm* circulated as recovered on the *EFRS*;
- (c) complete a SAPS 522(a), SAPS 522(b) and indemnity form. Register information in the SAPS 86(a). Obtain Copy of the identification document and the legal authorization to possess a *firearm*;
- (d) if a *firearm*, that is identified for destruction, does not have the manufacturer's serial number or additional identification mark, the station *DFO* must first send that *firearm* for etching and *IBIS* test firing at *FSL*. If no serial number could be found, approach the Central Firearms Register via the provincial office to obtain a Firearm Identification Number (*FIN*). The *DFO* must forward a copy of the respective SAPS 522(b) form to the *CFR* with a request a SAPS 521 (f) to issue a *FIN* number; and
- (e) indicate whether each *firearm* was surrendered or was an exhibit.

(2) Station: SAPS 13 Stores Official

If a *firearm* is received, the SAPS 13 official must –

STEP	ACTION
1	safeguarded the <i>firearm</i> and <i>ammunition</i> as provided for in National Instruction 8 of 2017;

2	ensure that all <i>ammunition</i> is removed from the <i>firearm</i> in a safe manner and ensure that <i>firearms</i> are packed separately from <i>ammunition</i> ;
3	<p>open a SAPS13(f) file with relevant documentation:</p> <p>General Documents:</p> <ul style="list-style-type: none"> ➤ SAPS 522(a) and/or SAPS 522(b); ➤ IBIS form or <i>IBIS</i> report; ➤ a printout of <i>EFRS</i> 10.5 ➤ a copy of the identification document(where applicable); and ➤ a copy of Registered post (if applicable) <p>Additional Documents:</p> <p>Crime Related <i>firearm</i>:</p> <ul style="list-style-type: none"> ➤ a copy of recovering statement; ➤ a SAPS 521(f) form (Firearm found); ➤ an application for a <i>FIN</i> number; ➤ the disposal order; and ➤ a copy of lab report or etch report. <p>Firearm is abandoned:</p> <ul style="list-style-type: none"> ➤ a copy of recovering statement; and ➤ a copy of lab report or etch report. <p>Voluntary Surrendering:</p> <ul style="list-style-type: none"> ➤ an indemnity form; ➤ a copy of the owner's identification document and <i>firearm</i> licence or authorization; and ➤ if surrendered by a legal person (not a natural person) – an authorization letter. <p>Estate Firearms:</p> <ul style="list-style-type: none"> ➤ statement (Measures taken to trace relatives); ➤ the appointment as executor by Master of the High Court (J238); ➤ a copy of the identification document of the executor or responsible person.

	<ul style="list-style-type: none"> ➤ a copy of the death certificate and identification document of the deceased owner; and ➤ an authorization letter, if executor does not hand in <i>firearm</i>. <p>Declaration of Unfitness– Section 102</p> <ul style="list-style-type: none"> ➤ a printout of the <i>firearm</i> status (22.5.2) and list of <i>firearms</i>; ➤ the minutes of unfit declaration; ➤ SAPS 304; ➤ a notification signed by owner to dispose of the <i>firearms</i>; and ➤ a printout of status <i>EFRS</i> 13.2. <p style="text-align: center;">Section 103</p> <ul style="list-style-type: none"> ➤ a printout on <i>firearm</i> status (22.5.2) and a list of the <i>firearms</i>; ➤ a copy of licence or authorization to possess <i>firearm</i>; ➤ SAPS 69 or J14 of the person; ➤ SAPS 304; ➤ a notification signed by owner to dispose of the <i>firearms</i>; and ➤ a printout of status <i>EFRS</i> 13.2.
4	arrange for an <i>IBIS</i> test at the relevant Provincial Office;
5	complete an <i>IBIS</i> form in duplicate; (The <i>firearm(s)</i> may only be test-fired by the police official who was trained by members of the Ballistic Unit. All the <i>firearms</i> that have been tested must immediately be marked with a red cable tie through the trigger guard)
6	pack the <i>firearm(s)</i> in an exhibit bag to ensure that <i>firearms</i> are not tempered with after they are <i>IBIS</i> tested; and

7	prepare the documentation (packing note SAPS 498, Forfeiture certificate and <i>IBIS</i> report and certificate that all <i>firearms</i> was <i>IBIS</i> tested) regarding <i>firearms</i> earmarked for destruction and despatch the <i>firearms</i> to the provincial <i>firearm</i> store to be received by the Provincial <i>DFO</i> .
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(3) Station commanders

The station commanders must –

- (a) ensure that Designated Firearms Officers and SAPS 13 officials comply with this National Instruction;
- (b) manage and monitor the effective implementation of applicable directives in this National Instruction;
- (c) ensure that firearms status is changed from individual and institution to Government Department¹;
- (d) ensure that firearms are categorized according to type (eg pistol, rifle, shotgun, cabins) and crime categories (e.g. heist, murder, farm attack etc);
- (e) inform the provincial FLASH Commander if the station is unable to receive and capture firearms on the EFRS for intervention;
- (f) compile the **station transportation** security plan of firearms ready for destruction to provincial storage facilities, and
- (g) sign off the SAPS 498 (packing note) to provincial FLASH Commander.

(4) Provincial Commander: FLASH

The Provincial Commander: *FLASH* must –

STEP	ACTION
1.	ensure all seized or forfeited <i>firearms</i> are captured and reflect GOVERNMENT DEPARTMENT 1 on the <i>EFRS</i> utilizing function 22.4.1.

2.	<p>must inform SAHRA to identify firearms in respect of heritage value prior to the audit of such firearms within five (5) working days. Firearms identified will be set aside and SAHRA must issue a certificate accordingly.</p> <p>In addition, SAHRA must submit a list of firearms that was identified as firearms of heritage value to Section: Firearm Compliance and Enforcement within 14 days to notify the previous owner.</p>
3.	ensure that the <i>firearms</i> selected by SAHRA, with heritage value) is set aside and a certificate completed accordingly;
4.	complete a SAPS 498 (confiscated <i>firearms</i> packing note) (in respect of firearms not identified as having heritage value.
5.	package <i>firearms</i> and <i>firearm</i> parts in steel trunks in accordance with Standing Order (General) 337.
6.	within five (5) working days forward a list of all <i>firearms</i> ready for destruction to Section: Firearms Compliance and Enforcement for pre-audit preparations;
7.	ensure that all <i>FIN</i> numbers have been engraved on <i>firearms</i> where applicable by an armourer;
8.	participate in a joint physical <i>firearm</i> audit with the: Section Firearm Compliance and Enforcement against the entry on the SAPS 498 on agreed date. Audit certificate must be issued and signed by both Provincial Flash and delegate from Firearm Compliance and Enforcement;
9.	within ten (10) working days consolidate a list of <i>firearms</i> ready for destruction and forward to the Section: Firearm Compliance and Enforcement for gazetting;
10.	<i>firearms</i> that are subject to litigation must be removed from destruction list and be kept separate until finalization of the matter;
11.	pack the <i>firearms</i> in trunks and seal the trunks, ensuring that <i>firearms</i> are not broken, but dismantled to make them fit into trunks, before transportation;
12.	arrange for an accredited destruction site in the province to receive the <i>firearms</i> for destruction (inspect destruction premises prior to dispatching the <i>firearms</i>);

13.	transport the <i>firearms</i> under armed escort in the sealed steel trunks to the destruction site in terms of Standing Order (General) 337 (<u>after the expiry of the 21 days period mentioned in the relevant Gazette</u>);
14.	within ten (10) working days notify the Section: Firearms Compliance and Enforcement of the date of delivery at the destruction site for inspection of the seals;
15.	ensure that <i>firearms</i> are destroyed through melting in the presence of Provincial Head: Visible Policing, Provincial Commander <i>FLASH</i> and Section Head: Firearm Compliance and Enforcement; and
16.	forward a destruction certificate, indicating <i>firearms</i> have been destroyed by melting to the Section: Firearm Compliance and Enforcement.

(5) Section: Firearms Compliance and Enforcement

The Section Head: Firearms Compliance and Enforcement must ensure that –

STEP	ACTION
1	Legal and Policy Services is informed 3 months prior to the date of the intended destruction and provided with a draft destruction notice indicating the intended date of destruction;
2	a pre-audit on <i>firearms</i> destined for destruction is conducted by verifying the status of a <i>firearm</i> on the Enhanced Firearm Registration System;
3	a physical inspection of <i>firearms</i> listed on the SAPS 498 and <i>firearms</i> stored in the steel trunks at the provincial safe storage facilities are conducted;
4	<i>firearms</i> found in the steel trunk and not reflected on the SAPS 498 must be removed and the Province must verify accordingly.
5	In respect of the <i>firearms</i> which are not in the steel trunk and are indicated on the SAPS 498, the relevant entries are deleted and signed by both parties;
6	a Firearms Audit Certificate is issued when all <i>firearms</i> have been accounted for (the Audit certificate must be signed by both Provincial Flash and a designated member from the Section: Firearm Compliance and Enforcement);

7	the <i>firearm</i> trunks is sealed utilizing a serial number controlled seal;
8	a list of <i>firearms</i> destined for destruction is obtained from the Provincial <i>DFO</i> and within 2 weeks from receipt forwarded to Legal and Policy Services for gazetting (note: the list of firearms are published on the South African Police Service internet webpage) ;
9	the seals of the steel trunks are inspected at the destruction site;
10	the <i>firearm</i> destruction is overseen by him or herself or a member designated by him or her; and
11	within three (3) working days upon receipt of the <i>firearms</i> destruction certificate from Provincial Flash, the Certificate is forwarded to the Section: Central Firearm Register to change the <i>firearm</i> status on the <i>EFRS</i> to Government Department 10 .

(6) Provincial Commissioners

Provincial Commissioners must –

- (a) certify that provincial firearm storage facility is conforming to the applicable requirement for a safe or strong room as set in the SABS standard 953-1 or 953-2;
- (b) inform the Divisional Commissioner: Visible Policing if the provincial firearm storage facility does not conform with regulation 67(1) of the Regulations and also indicate if there is a contingency plan in place;
- (c) ensure that all members who will be involved in the destruction process are screened or vetted;
- (d) invite the relevant role players to attend firearm destruction event;
- (e) ensure that the destruction site is accredited;
- (f) compile a transportation security plan of firearms ready for destruction to the destruction site; and
- (g) oversee the destruction of the firearms event, provide detailed feedback report together with the list of all destructed firearms and signed certificate to Divisional Commissioner: Visible Policing: Component: FLASH within three (3) days after the destruction of firearms.

(7) Division: Legal and Policy Services

The Head: Legal Support Crime Operations at the Division: Legal and Policy Services must ensure that –

- (a) receipt of all required documents for gazetting from the Section: Firearm Compliance and Enforcement are acknowledged within two (2) working days of receipt.
- (b) a Notice is publish in the *Gazette*, allowing the public 21 calendar days to raise objection regarding the destruction of the *firearms* identified for destruction;
- (c) submit a copy of the relevant *Gazette* to the Section Firearm Compliance and Enforcement within 24 hours of publication; and
- (d) the Division: Visible Policing is advised on legal matters pertaining to the destruction of *firearms*.

(8) Component: Corporate Communication

The Head: Corporate Communication must ensure that –

- (a) the receipt of a list of firearms scheduled for destruction from the Section: Firearm Compliance and Enforcement is acknowledged within twenty four hours (24) hours of receipt; and
- (b) the publication of the notice to destruct firearms and the list of firearms on the South African Police Service internet webpage within 24 hours of receipt.

(9) Section: Central Firearm Register

The Section Head: *CFR* –

STEP	ACTION
1	will receive a destruction certificate, indicating <i>firearms</i> have been destroyed by melting from Section: Firearm Compliance and Enforcement;
2	must ensure that the firearm status on the <i>EFRS</i> is changed to Government Department 10 within thirty (30) days after destruction; and
3	must submit written confirmation of destructed firearms removed from the system within five (5) working days of removal to the Divisional Commissioner: Visible Policing.

8. General

- (1) This National Instruction provides for the destruction of *firearms* at the Provinces.
- (2) The Divisional Commissioner: Visible Policing will put measures in place to monitor and evaluate the above functions.
- (3) This National Instruction will be reviewed at least every 3 years.