



planning, monitoring & evaluation

Department:
Planning, Monitoring and Evaluation
REPUBLIC OF SOUTH AFRICA

SOCIO-ECONOMIC IMPACT ASSESSMENT SYSTEM (SEIAS)
INITIAL IMPACT ASSESSMENT TEMPLATE (PHASE 1)
JULY 2016

Draft Firearms Control Amendment Bill, 2021

The Initial Impact Assessment: Firearms Control Amendment Bill

The Initial Impact Assessment aims to ensure that the policy is on the right track by requiring evaluation of alternative approaches. It should help drafters avoid finalising an inappropriate solution because they moved too quickly to select a strategy without adequately analysing the roots of the problem and considering alternative measures. It should facilitate a brainstorm about issues involved in the problem and full range of alternatives to deal with them.

1. The problem/ Theory of Change

1.1. What is the **social or economic problem** that you are trying to solve?

The proliferation of firearms creates a serious social problem in South Africa. The 2017 SAPS crime statistics released on 25 October 2017 show murder, attempted murder and robbery with aggravating circumstances have increased for the fifth year running. These are the crimes most likely committed with a firearm. In the reporting period 2016/2017 there is a 1.8% increase in the murder rate (343 more people than in the previous year). Attempted murders increased by 0.4%, while there is a 6.4% increase in the number of robberies with aggravating circumstances. An additional 1,362 illegal firearms and rounds of ammunition were recovered in the same reporting period. This could possibly indicate the greater availability of firearms. Since 2012 murder has steadily risen from 15,554 murders in 2011/2012 to 19,016 in 2016/2017. On p334 of the National Development Plan 2030 it is stated that access to firearms is one of the contributing factors to violence and injury and it falls under Health Goal 5 to reduce injury, accidents and violence by 50 percent from 2010 levels. In 2012, research by the Medical Research Council (MRC) of South Africa claims that 57% of women killed in South Africa are murdered by their husbands or boyfriends and that licenced firearms are used in 75% of cases where a firearm is used.

1.2. What are the main causes of the problem? That is why the problem arise and why does it persist?

Identified Problem	Main Causes of the Problem	Why the problem arises and why does it persist?
<p>High levels of gun related violent crimes in society. Murder (often committed with a firearm) has steadily risen from 15,554 to 19,016 between 2011/2012 and 2016/2017. Research claims that 75% of women who are shot, are killed by a licenced firearm. In the 2016-2017 SAPS crime statistics period, a total 171,362 illegal firearms and rounds of ammunition were recovered. In an international study in 2015 South Africa was found to have the second highest rate of firearm-related deaths in the world.</p>	<ul style="list-style-type: none"> • Increased availability and abuse of firearms (legal and illegal) contribute significantly to the high levels of violent crime in our society • There is no compliance or competency assessment of firearm owners who must renew competency certificates and the firearm owners who hold licences under the Arms and Ammunition Act 75 of 1969 (“the 1969 Act”). • Firearm licences under the 1969 Act are still valid in terms of a court order 	<ul style="list-style-type: none"> • The FCA does not sufficiently limit the number of firearms • Shortcomings in the FCA do not allow the regular assessment of the competence of holders of current licences. • The problem arises from an order by the High Court in <i>SA Hunters and Another v Minister of Safety and Security</i> (Case No. 33656/09) where it found that firearms licences issued under the 1969 Act remain lawful and in effect. If a licence issued under the 1969 Act need not be renewed under the FCA, the holder cannot be assessed for compliance with the FCA or competency. • The FCA does not address the transition of firearms licences from the repealed 1969 Act to the FCA sufficiently. <p>The problem will persist as long as the transitional provisions of the FCA remain unchanged.</p>

1.3. Whose behaviours give rise to the problem, and why does that behaviour arise?

Remember that several groups including some in government may contribute to the identified problem. Their behaviour may arise amongst others because the current rules are inappropriate; because they gain economically from the behaviour; or because they are convinced that they are doing the right thing. Identifying behaviours that cause the problem should point to the behaviours that must be changed in order to achieve the desired solution.

Identified Problem	Behaviour giving rise to the identified problem	Groups whose behaviour give rise to the identified problem?	Why does the behaviour arise?
<p>High levels of gun related violent crimes in society. Murder (often committed with a firearm) has steadily risen from 15,554 to 19,016 between 2011/2012 and 2016/2017.</p>	<p>The increased use of violence in the commission of crime causes criminals to consider firearms as a means to commit these crimes</p>	<p>Criminals</p>	<ul style="list-style-type: none"> • Availability and proliferation of illegal firearms. • Lack of effective implementation of the FCA and other laws • Challenges such as high unemployment and persistent inequality
<p>Research claims that 75% of women who are shot, are killed by a licenced firearm. In the 2016-2017 SAPS crime statistics period, a total 171,362 illegal firearms and rounds of ammunition were recovered. In an international study in 2015 South Africa was found to have the second highest rate of firearm-related deaths in the world</p>	<p>Abuse of firearms for domestic violence. Research claims that 75% of women who are shot, are killed by a licenced firearm</p>	<p>Licenced gun owners</p>	<ul style="list-style-type: none"> • Availability and proliferation of legal firearms • Socio-economic factors such as gender inequality • Lack of effective implementation of the FCA and other laws
	<p>Lack of effective control over firearms and proliferation thereof</p>	<p>Government</p>	<ul style="list-style-type: none"> • Inadequate provisions in the FCA to limit firearms acquisition

Identified Problem	Behaviour giving rise to the identified problem	Groups whose behaviour give rise to the identified problem?	Why does the behaviour arise?
	Refusal to comply with the FCA	Licence holders	Inadequate provisions in the FCA for transition of licences from the 1969 Act to the FCA - <i>SA Hunters and Another v Minister of Safety and Security</i> (Case No. 33656/09) where the court found that firearms licences issued under the 1969 Act remain lawful and in effect.
	Inability to enforce the renewal provisions of the FCA	Government	
	Refusal or unwillingness to comply with renewal provisions of the FCA	Licence holders	Unconstitutionality of renewal provisions in the FCA - The court in <i>SA Hunters and Game Conservation Association v Minister of Police</i> (Case No. 21177/2016) found sections 24 and 28 to be unconstitutional.
	Inability to enforce the renewal provisions of the FCA	Government	

1.4. Identify the major social and economic groups affected by the problem, and how are they affected. Who benefits and who loses from the current situation?

Identified Problem	Groups (Social/Economic)	How are they affected by the identified problem?	Are they benefitting or losing from the current situation?
High levels of gun related violent crimes in society. Murder (often committed with a firearm) has steadily	Criminals	Criminals are not affected if the proliferation of firearms on the one hand and inadequate control on the other continues.	They benefit as more firearms become available

Identified Problem	Groups (Social/ Economic)	How are they affected by the identified problem?	Are they benefitting or losing from the current situation?
<p>risen from 15,554 to 19,016 between 2011/2012 and 2016/2017. Research claims that 75% of women who are shot, are killed by a licenced firearm. In the 2016-2017 SAPS crime statistics period, a total 171,362 illegal firearms and rounds of ammunition were recovered. In an international study in 2015 South Africa was found to have the second highest rate of firearm-related deaths in the world</p>	Firearm owners	Firearm owners do not have to undergo competency assessments to get a firearm licence.	Those that are not competent or comply with the FCA benefit as they are not assessed.
		When a firearm licence is not renewed timeously, it expires and the licence holder must surrender the firearm.	Those who do not renew licences lose, as they must surrender ownership of their firearms.
		They are targeted by criminals to rob them of their firearms.	They lose because crimes affect their safety and security
	Businesses	There is a correlation between violent crime rates and decreased economic growth (see NDP 2030 p386)	Businesses lose due to robberies and violent crimes
	Society	Members of society are targeted in violent crimes	Members of society lose because they are killed and injured
		Research claims that 75% of women who are shot, are killed by a licenced firearm	Vulnerable groups lose because they are targeted in domestic violence
	SAPS	Increased police resources need to be diverted to combat violent crimes	SAPS lose as resources could be spent on other projects
		Increased attacks/murders on police members (also for their firearms)	SAPS members lose because of death/injury
	Government	Litigation costs-judgement	Monetary losses
		Increased dedication of police resources to violent crime	Government loses by diverting monies to SAPS budget instead of other

Identified Problem	Groups (Social/ Economic)	How are they affected by the identified problem?	Are they benefitting or losing from the current situation?
		<p>Increase in health expenditure due to firearm related violence (See p334 of the National Development Plan 2030 - access to firearms is one of the contributing factors to violence and injury. Health Goal 5 aims to reduce injury, accidents and violence by 50 percent from 2010 levels.</p>	<p>social and economic growth programmes</p> <p>Government loses by expending monies on health for violence and injury caused by firearms instead of other health programmes</p>
	The Country (South Africa)	Suffers reputational risk as in an international study of 2015 South Africa was found to have the second highest rate of firearm-related deaths in the world. This can also leads to disinvestment	Losing
	Licence holders	They are not assessed for compliance or competency	They benefit
	Society (especially vulnerable groups in domestic relationships)	Firearm owners are not assessed for compliance or competency	They lose as it may be a threat
	SAPS	Firearm owners are not assessed for compliance or competency	SAPS lose as SAPS could be held liable for actions by irresponsible firearm users - <i>Minister of Safety and Security v Van Duivenboden</i> [2002] 3 All SA 741 (SCA) and <i>Minister of Safety and Security v Hamilton</i> [2003] 4 All SA 117 (SCA)

Identified Problem	Groups (Social/Economic)	How are they affected by the identified problem?	Are they benefitting or losing from the current situation?
	Licence holders	They are not assessed for compliance or competency	They benefit
	Society (especially vulnerable groups in domestic relationships)	Firearm owners are not assessed for compliance or competency	They lose as it may be a threat
	SAPS	Firearm owners are not assessed for compliance or competency	SAPS lose as SAPS could be held liable for actions by irresponsible firearm users – see court cases above.

1.5. Which of the five top priorities of the State- that is, Social Cohesion, Security, Economic Growth, Economic Inclusion (Job Creation and Equality) and a Sustainable Environment is/ are negatively affected by the identified problem?

National Priority	How is the priority negatively affected by the identified problem?
1. Social Cohesion	Firearm ownership is a highly sensitive matter in the community. Exploitation of the inadequacies of the FCA by certain groupings as well as criminals creates serious divisions in the community.
2. Security (Safety, Financial, Food, Energy and etc.)	<p>Proliferation of firearms obviously affects security of South Africa and its inhabitants, especially where violent crimes and illegal firearms threaten the security of every person in South Africa. The National Development Plan 2030 states in Chapter 12 on p386: <i>“Personal safety is a human right. It is a necessary condition for human development, improved quality of life and enhanced productivity. When communities do not feel safe and live in fear, the country’s economic development and the people’s wellbeing are affected...”</i>.</p> <p>The problem creates pressure on government fiscus – on safety and health bill</p>
3. Economic Growth	Various studies have shown that crime has an impact on economic growth, job creation and poverty reduction. The National Development Plan 2030

	states on p386: <i>“High crime levels have slowed South Africa’s social and economic development.”</i> Proliferation of firearms is clearly linked to violent crime, which in turn affects growth. Crime statistics of the South African Police Service show that robbery with aggravating circumstances has increased with 2.7% over the past ten years. 132,527 robberies with aggravating circumstances were reported for 2015/2016, despite the 2.3% reduction in reported illegal possession of firearms and ammunition cases.
4. Economic Inclusion (Job Creation and Equality)	Negative economic growth may have some impact on economic inclusion, as fewer businesses entering the economy of South Africa directly impacts negatively on job creation.
5. Environmental Sustainability	Not applicable

2. Options

2.1. List at least three options for addressing the identified problem, including (a) your preferred proposal, and (b) an option that does not involve new or changed regulation (baseline or existing option)

- a) Amendment of the FCA to reflect the policy on non-proliferation of firearms and rectify issues relating to administration, transitional provisions and renewal of licences;
- b) Maintain Status quo: Leave the current Act as is

2.2. What social groups would gain and which would lose most from the each of the three or above options? Consider specifically the implications for the households earning under R 7000 a month; micro and small business; black people, youth and women; and rural development.

Option	Main Beneficiaries	Main Cost bearers
a) Amending the FCA to reflect the policy on non-proliferation of firearms and rectify issues relating to administration, transitional provisions and renewal of licences.	<ul style="list-style-type: none"> • Government benefits when an effective system of firearms control is put in place. • The broader population benefits when proliferation of firearms is addressed, especially vulnerable groups who are victims of firearm-related crimes. • Current and new firearm owners benefit when a clear and unambiguous control system is in place. 	<ul style="list-style-type: none"> • The main cost bearer is government, and more specifically the South African Police Service as the controlling and implementing authority. • The Central Firearms Register in SAPS implements the FCA and the operational costs as such are currently borne by SAPS. • Applicants for licences who do not comply with the requirements
b) Status quo remains	<ul style="list-style-type: none"> • Criminals benefit when the system of firearms control is ineffective. • 2. Incompetent firearm licence holders benefit when the state does not have the ability to verify competency. 	<ul style="list-style-type: none"> • The main cost bearers are government, members of society who fall victim to violent criminals or where persons who are not competent or have become competent have a licence to possess a firearm.

2.3. For each option, describe the possible implementation costs, compliance costs and the desired outcomes, listing who would bear the costs or, in case of the outcomes, enjoy the benefits.

Option	Implementation costs	Compliance costs	Desired Outcomes (Benefits)
a) Amending the FCA to reflect the policy on non-proliferation of firearms and rectify issues relating to administration, transitional provisions and renewal of licences.	SAPS <ul style="list-style-type: none"> • Appointment of additional Appeals Board Members; • Training of Designated Firearms Officers (“DFOs”) • Designation of DFOs at each SAPS Station 	SAPS	SAPS Benefits <ul style="list-style-type: none"> • Combat proliferation of firearms • Improved administrative processes in respect of transitional arrangements and renewals

Option	Implementation costs	Compliance costs	Desired Outcomes (Benefits)
	•	Firearm Licence holders <ul style="list-style-type: none"> • Apply for competency certificate • Apply for Firearm licence Surrender firearm in case of refusal: Cost of firearms for self-defence that are surrendered	Firearm Licence holders Benefits <ul style="list-style-type: none"> • Better system of licence applications • Does not lose firearm with failure to renew
b) Status quo remains	N/A	N/A	Manage application of unconstitutional provisions

2.4. Based on the above table on costs and benefits, describe how different options would contribute to or detract from the national priorities. Remember this is a think-tool, so explore the issues freely.

Priority	Option 1 Amending the FCA to reflect the policy on non-proliferation of firearms and rectify issues relating to administration, transitional provisions and renewal of licences.	Option 2 Status quo remains
1. Social Cohesion	Firearm ownership and firearm proliferation are emotional issues. Exploitation of the inadequacies of the FCA by certain groupings as well as criminals creates serious divisions in the	Firearm ownership and firearm proliferation are emotional issues. Exploitation of the inadequacies of the FCA by certain groupings as well as

Priority	Option 1 Amending the FCA to reflect the policy on non-proliferation of firearms and rectify issues relating to administration, transitional provisions and renewal of licences.	Option 2 Status quo remains
	community and an amendment to the FCA will contribute in this respect by minimising the divisions and bringing the communities together.	criminals creates serious divisions in the community.
2. Security (Safety, Financial, Food, Energy and etc.)	Amendment of the FCA will contribute to safety as outlined in Chapter 12 of the National Development Plan 2030 by curbing the proliferation of firearms. Non-proliferation of firearms has a direct and positive impact on the safety of society as it supports the decrease in violent crimes.	A weak firearms control system (failure to amend the FCA) supports the proliferation of firearms and weakens control over the competency of firearm licence holders. This will support the rising rate of violent crime.
3. Economic Growth	Violent crime has a negative effect on the economy of the country and the prevalence thereof discourages investment. Amendment of the FCA will curb proliferation of firearms and therefore indirectly contribute to economic growth and investment as outlined in Chapter 12 of the National Development Plan 2030.	A weak firearms control system (failure to amend the FCA) supports the proliferation of firearms and weakens control over the competency of firearm licence holders. This will support the rising rate of violent crime.
4. Economic Inclusion (Job Creation and Equality)	Violent crime has a negative effect on the economy of the country and the prevalence thereof has an indirect effect on this priority. Amendment of the FCA will indirectly create a safer country and thus contribute to economic inclusion by creating an environment where jobs are created.	A weak firearms control system (failure to amend the FCA) supports the proliferation of firearms and weakens control over the competency of firearm licence holders. This will support the rising rate of violent crime.
5. Environmental Sustainability	N/A	N/A

2.5. Describe the potential risks that could threaten implementation of each option and indicate what can be done to mitigate the identified risks.

Option	Potential Risks	Mitigation Measures	Comments
1. Amending the FCA to reflect the policy on non-	Civil society resistance to implementation of limitations on number of	Public comment and consultation must be done. The policy on	The High Court matters on the FCA assist in determining

proliferation of firearms and rectify issues relating to administration, transitional provisions and renewal of licences.	firearms	non-proliferation will see an increase in arrests for illegal firearms and firearm smuggling and limit the numbers of firearms available for use in violent crime. Public education must be done.	how governance could be improved in the management and control of firearms and also on the constitutionality of amendments.
2. Status quo remains	Litigation; Resistance from licence holders	The current wording of the FCA does not leave room for interpretation and it will be difficult to manage the risk of licence holders being or becoming incompetent.	Litigation in respect of firearms that has to be handed back to the state will increase until the FCA is amended – there is currently a court order to that effect.

At this point, if you think the analysis points to a more useful or stimulating set of options, revise the SEIAS. You may find that you would like to combine some of the options, or that the process of discussion around the options has generated ideas that are better than your original ideas. Ideally, the three options considered should all be good ideas-that provides the best test for the final strategy adopted.

3. Summary

3.1. Based on your analysis, as reflected in the discussion of the three options above, summarise which option seems more desirable and explain?

Option 1 is clearly the only way in which government can approach both the proliferation of firearms as well as the unconstitutionality of the FCA. The constant rise in incidences of violent crime is an indication of the dire need for improved firearm control.

3.2. What specific measures can you propose to minimise the implementation and the compliance costs of your preferred option, to maximise the benefits?

As the FCA is in place and is being managed by the Central Firearms Register of SAPS, implementation and compliance costs will be kept to a minimum. There is a minimal organisational and personnel implication. Additional members will be appointed to the Firearms Appeals Board to enhance the capacity of the Appeals Board to deal with appeals more swiftly.

3.3. What are the main risks associated with your preferred option, and how can they best be managed?

The main risk remains resistance of civil society to the idea of limitation of numbers of firearms. However, a process of public comment and consultation should minimise possible court challenges at a later stage. The risks associated with the FCA have already been demonstrated in practice.

3.4. What additional research should you do to improve your understanding of the costs and benefits of the option adopted?

Publication of the Draft Firearms Control Amendment Bill will enrich the process. A lot of research has been done by a committee on firearms control and management appointed by the Minister of Police.

For the purpose of building SEIAS body of knowledge please complete the following:

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