

Legislation excerpts on domestic violence and firearms in South Africa

South Africa

DOMESTIC VIOLENCE ACT 116 OF 1998

9. Seizure of arms and dangerous weapons

(1) The court must order a member of the South African Police Service to seize any arm or dangerous weapon in the possession or under the control of a respondent, if the court is satisfied on the evidence placed before it, including any affidavits supporting an application referred to in section 4 (1), that-

(a) the respondent has threatened or expressed the intention to kill or injure himself or herself, or any person in a domestic relationship, whether or not by means of such arm or dangerous weapon; or

(b) possession of such arm or dangerous weapon is not in the best interests of the respondent or any other person in a domestic relationship, as a result of the respondent's-

- (i) state of mind or mental condition;
- (ii) inclination to violence; or
- (iii) use of or dependence on intoxicating liquor or drugs.

Firearms Control Act

Chapter 5 (Competency Certificates)

9. Application for competency certificate

(1) An application for a competency certificate to possess a firearm, to possess a muzzle loading firearm, to possess a firearm as a private collector in such specific category as may be prescribed, to trade in firearms, to manufacture firearms or to carry on business as a gunsmith must be delivered to the Designated Firearms Officer responsible for the area in which the applicant ordinarily resides or in which the applicant's business is or will be situated, as the case may be.

[S 9(1) subs by s 8 of Act 28 of 2006 wef 10 January 2011.]

(2) Where a person has not previously obtained a competency certificate, a competency certificate may only be issued to such person if he or she— [...]

(d) is of stable mental condition and is not inclined to violence; [...]

(h) has not been convicted, whether in or outside South Africa, of an offence involving—

(i) violence or sexual abuse, whether committed in or outside South Africa, and sentenced to a period of imprisonment without the option of a fine; or

(ii) physical or sexual abuse which occurred within a domestic relationship as defined in section 1 of the Domestic Violence Act, 1998 (Act 116 of 1998), whether committed in or outside South Africa; [...]

(l) has not been convicted of an offence in terms of the Domestic Violence Act, 1998 (Act 116 of 1998), and sentenced to a period of imprisonment without the option of a fine;

CHAPTER 12 (Declaration of persons as unfit to possess firearms

102.

(1) The Registrar may declare a person unfit to possess a firearm if, on the grounds of information contained in a statement under oath or affirmation including a statement made by any person called as a witness, it appears that—

(a) a final protection order has been issued against such person in terms of the Domestic Violence Act, 1998 (Act 116 of 1998);

103.

(i) any offence involving physical or sexual abuse occurring in a domestic relationship as defined in section 1 of the Domestic Violence Act, 1998 (Act 116 of 1998); [...]

(l) any offence in terms of the Domestic Violence Act, 1998 (Act 116 of 1998) in respect of which the accused is sentenced to a period of imprisonment without the option of a fine;

Schedule 2 (Crimes and offences giving rise to unfitness enquiry by court

7. Any crime or offence—

(b) in terms of the Domestic Violence Act, 1998 (Act 116 of 1998), in respect of which an accused was not sentenced to a period of imprisonment without the option of a fine;
