

# Police minister welcomes Supreme Court judgement

Police Minister Nathi Mthethwa has welcomed the Supreme Court of Appeal's dismissal of the appeal by the Justice Alliance of South Africa and the False Bay Gun Club, where the appellants sought compensation for all firearms voluntarily surrendered for destruction.



(Image: GCIS)

On Friday, a panel of five Judges, headed by Judge of Appeal, V M Ponnann, dismissed the appeal of the Justice Alliance with costs, including the costs of two counsel.

The appellants sought an order compelling the Minister of Police to pay compensation for all firearms voluntarily surrendered for destruction.

As part of the transition from the old Arms & Ammunition Act of 1969, to the new Firearms Control Act (FCA) of 2000, all firearms that could no longer be legally possessed had to be lawfully disposed of, or surrendered for destruction.

A 5-year period was granted for the renewal of licences under the new law, failing which, the firearms had to be disposed of or surrendered for destruction.

Some 180,000 firearms were voluntarily surrendered to the police between January 2005 and March 2009. Most of these firearms were destroyed.

The FCA provided that no compensation was payable in respect of firearms destroyed following surrender, forfeiture or seizure. Only firearms retained by the state qualified for compensation.

The Minister had published guidelines in respect of the amounts payable for such firearms and the procedure to be followed.

The appellants had also challenged the validity of the guidelines. While the Cape High Court had upheld the principle that the state was not liable to pay compensation for destroyed firearms, it did order minor adjustments to the guidelines.

"The Ministry will attend to these amendments in due course," said the police in a statement.

"Notwithstanding the clear provisions of the act, the appellants claimed that the act authorised payment for the voluntary surrender of firearms for destruction."

They argued that the refusal to compensate amounted to an arbitrary deprivation of property.

Had the appellants prevailed, South African taxpayers would have been required to foot a massive compensation bill of between R140m and R700m. This would have resulted in a significant drain on the policing budget.

Lawyers representing the Police Minister argued that the terms of the FCA were clear in specifically excluding destroyed firearms from the compensation regime. They also argued that tightening gun control was a legitimate governmental purpose.

Lawyers for the Justice Alliance claimed that the legal action was brought in the public interest and that accordingly, they should not have to pay the legal costs of the minister.

The Supreme Court, however, held that no constitutional challenge had been pertinently raised and that the primary motivation of the appellants was not the public interest but financial interest.

"The outcome of this court case vindicates the approach of the Police Ministry to firearm controls. Tougher controls on the ownership, possession and use of firearms have seen a marked reduction in the incidence of gun related crime in recent years," said the statement.

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