

1. INTRODUCTION

This opinion addresses the interpretation of the Firearms Control Act 60 of 2000 ("**FCA**") in relation to ammunition limit applicable to a firearm owner who holds both Section 13 and Section 16 licenses and has dedicated sports-person status.

In an article written by Judge Malcolm Wallis a few years ago, the learned author summarized the legal dilemma regarding the interpretation of statutes in a manner that I cannot do better. He alluded to the fact that law students in their curriculum outwardly generally speaking included only one course dealing with interpretation. He, like myself, had to rely on "Interpretation of Statutes", where our prescribed textbook was Steyn's Uitleg van Wette, then in its third or fourth edition. The rule, so we were told, was that statutes should be given their literal meaning, but that courts could depart from this if the literal meaning would result in absurdity. I also agree with his comment that: "in a country where much of the legislation affecting the population seemed absurd, this was difficult to comprehend, even in those far-off times". Nothing has changed in this regard in modern times and modern legislation.

Wallis continues to argue that the curriculum's outward appearance that interpretation related to statutes alone was misleading.

I quote his words with confirmation regarding my own experience:

"In the course on contract we were introduced to what appeared to be a different rule, that contracts should be interpreted in accordance with the intention of the parties and the plain meaning of the words in the contract. To this was added the rider that evidence of the negotiations between the parties and, if they had taken the precaution of reducing their contract to writing, parol (which meant oral, although no-one told us that) evidence of their intentions, was strictly inadmissible. Nothing was said about the vagaries of interpreting oral contracts as opposed to written ones.

In case this confusion was insufficient, the law of succession involved an extensive foray into the rules for the construction of wills, where we were sent in search of the intention of the testator and warned of the shades of testators long dead who awaited us when we disappointed their expectations. Fortunately, being only students, we were not taken to the niceties of construing patent specifications or judgments. Those were delights that still awaited us.

The subject that we did not discuss was why our interpretation and understanding of legal documents of any type was, or should be, any different from the approach that we habitually adopted to other documents couched in a

language with which all of us were familiar. Part of our daily existence involved reading books, newspapers, magazines, journals of varying types and other expressions of the written word. We approached all of those with little need for special rules of interpretation to enlighten us as to their meaning. Of course, we were well aware of ambiguity of meaning, the pitfalls arising from the misuse of language and the different character of different texts. No instruction was necessary in order for us to understand that a dictionary was different from a novel, or that a textbook sought to convey information and thoughts with a degree of precision absent from a newspaper or popular magazine. Yet as law students all this went by the board and we were inducted into the mysteries of legal interpretation”.

The FCA is just another example of exactly this conundrum. At face value the interpretation under discussion proves troublesome and the ordinary rules seem more fluid and less certain in their application.

You have requested an opinion regarding the correct interpretation of the FCA concerning ammunition limits applicable to a firearm owner who:

- Holds a Section 13 license (self-defense handgun);
- Holds a Section 16 license (dedicated sport shotgun); and
- Possesses dedicated sport-person status (Natshoot).

The issue arises from conflicting interpretations between:

- The South African Police Service (SAPS); and
- Firearms dealers / industry participants,

regarding whether the 200-round ammunition limit applies per firearm license or per person (subject to dedicated status).

2. LEGAL ISSUE

The central question is:

Does the 200-round ammunition limit apply to a specific firearm licensed under Section 13, notwithstanding that the holder has dedicated sport-person status?

Subsidiary issues:

- Is the limitation person-based or firearm-based?
- Is there binding case law on the issue?

- If not, which interpretation prevails under principles of statutory interpretation?

3. STATUTORY FRAMEWORK

3.1 Section 90 of the FCA (Possession of Ammunition)

Section 90 provides:

No person may possess more than 200 cartridges for each firearm in respect of which a licence has been issued to such person.

However, a key exception follows:

This limitation does not apply to a person who is a dedicated hunter or dedicated sports person.

3.2 Sections 13 and 16

- Section 13: License for self-defense.
- Section 16: License for dedicated hunting and sport shooting.

Importantly:

- Section 16 governs the purpose of the license, not the status of the person.
- Dedicated status is conferred via accredited association membership, not by the license itself.

4. INTERPRETATION PROBLEM

4.1 SAPS Interpretation

SAPS appears to interpret the FCA as:

- The 200-round limit attaches to a Section 13 firearm.
- Dedicated status only relaxes limits for Section 16 firearms.

4.2 Industry Interpretation

The firearms industry generally interprets:

- The exemption applies to the person, not the firearm.
- Once a person has dedicated status, no 200-round limit applies irrespective of whether the firearm is a Section 13 or Section 16 firearm .

5. CASE LAW

5.1 Absence of Direct Authority

There is no reported South African case law directly interpreting Section 90 in the context of “dedicated status” versus Section 13 firearms.

This means the issue must be resolved via principles of statutory interpretation.

6. STATUTORY INTERPRETATION

6.1 Modern Approach (Endumeni Case)

The leading case is:

Natal Joint Municipal Pension Fund v Endumeni Municipality 2012 (4) SA 593 (SCA).

The court held:

“Interpretation is the process of attributing meaning to the words used... having regard to the context... and the purpose of the provision.”

Thus:

- Text;
- Context; and
- Purpose

must all be considered holistically.

6.2 Textual Interpretation

The wording of Section 90:

- Refers to “no person”.
- The exemption also refers to “a person who is a dedicated hunter or sports person”.

Key point:

- The statute does not distinguish between types of licenses in the exemption.

- It attaches the exemption to the person, not the firearm.

A purely textual reading supports the industry interpretation

6.3 Contextual Interpretation

According to Botha (*Statutory Interpretation: An Introduction for Students*):

- Words must be read in context and within the scheme of the FCA.
- Interpretation must avoid absurdity and internal inconsistency.

Applying this:

- Dedicated status is regulated outside Sections 13 and 16.
- It is a personal status, not firearm specific.
- The FCA consistently distinguishes between:
 - Licenses (firearm-specific); and
 - Statuses (person-specific).

This reinforces in my opinion that the exemption is person-based.

6.4 Purpose-Based Interpretation

According to L.C. Steyn (*Uitleg van Wette*):

- Courts must prefer interpretations that promote the purpose (*ratio legis*) of the statute.

The purpose of the FCA is to control firearms for safety and to allow greater flexibility for trained, regulated individuals (dedicated people).

Dedicated individuals:

- Are subject to stricter oversight; and
- Are recognised as requiring greater ammunition volumes.

Limiting them to 200 rounds for a Section 13 firearm in my opinion would defeat the purpose of recognising dedicated status and would create an irrational distinction.

6.5 Avoidance of Absurdity

Should the interpretation provided by SAPS be adopted:

- A dedicated sports shooter:

- Could possess unlimited ammunition for a Section 16 firearm, but only 200 rounds for a Section 13 firearm.

This leads to artificial and illogical distinctions and even administrative impracticality. Courts generally avoid such interpretations (see *Venter v R* 1907 TS 910).

7. EVALUATION

7.1 Strength of SAPS Interpretation

Attempts to link ammunition limits to license type. This is possibly motivated by public safety concerns. The FCA's wording does not support this and adds distinctions absent from the statute.

7.2 Strength of Industry Interpretation

- I am convinced that it is consistent with:
 - The text;
 - Context; and
 - Purpose of the FCA.
- In addition, it avoids absurdity and it aligns with modern interpretive methodology.

8. CONCLUSION

8.1 Correct Legal Position

The correct interpretation is therefore that the 200-round limit applies to persons without dedicated status.

Once a person holds dedicated sports-person status, the limit falls away entirely, regardless of whether the firearm is licensed under Section 13 or Section 16 of the FCA and is therefore exempt from the 200-round limit. Any refusal by a legitimate ammunition dealer to release, for example, 1000 rounds, to a dedicated sports-person is not supported by the FCA and likely arises from either a misinterpretation by SAPS, or internal compliance policies by the dealer.

8.2 Practical Position

While the legal position favours an interpretation contrary to that of the SAPS, ammunition dealers may still follow SAPS directives, despite it might very well be wrong in law and act conservatively to avoid risk.

Thus, the issue may be operational rather than legal.

9. RECOMMENDATIONS

I would from time-to-time request written reasons from the dealer. In addition, I suggest that formal clarification be sought from the relevant Designated Firearms Officer (DFO). If necessary, consider a formal legal challenge or declaratory relief in Court.

There is currently, to the best of my knowledge, no binding case law directly on point, but applying established principles of statutory interpretation as discussed *supra* a court is highly likely to find that the ammunition exemption attaches to the person (dedicated status) and not to the type of firearm licence.

The leading case on statutory interpretation, the *Endumeni* case, which requires a unitary approach considering text, context, and purpose.

Textually, the FCA refers to 'a person' in both the limitation and the exception, suggesting that the exemption attaches to the individual rather than the firearm.

Contextually, dedicated status is conferred by accredited associations and is not dependent on the type of firearm licence (Botha, C *Statutory Interpretation: An Introduction for Students* (5ed) at 78–80).

Purposively, the FCA recognises that dedicated sports persons require greater access to ammunition, supporting a broader exemption (Steyn, L.C. *Uitleg van Wette* (5ed) at 96–100).

It is easy to criticize the Legislator *ex post facto*...sometimes one just cannot imagine why the person(s) who drafted the specific clause(s) or section(s) in the FCA would have imposed such a non-sensical limitation on the firearm owner who have a license and want to practice his/her sport or other activity within the framework of simple practicalities and logistics (unlike the illegal gun and ammunition *possessor* who just does not care at all). The obvious reason or conclusion, namely that the drafter(s) was unmistakably not as clever or imaginative as us reading this opinion or simply applying our mind did not occur to them. The question, however, remains how a court must now deal with it?

As mentioned, there is no direct case law on Section 90 in this context. However, courts avoid interpretations leading to absurdity, as held in *Venter v R*.

L.C.Steyn's conclusion that, as far as possible, words should be interpreted by having regard to its "ordinary grammatical meaning" apparently originated from an idea drawn from Lord Wensleydale's oft-cited Golden Rule (*Grey v Pearson* 6 H L Cas 106) that: "In construing wills and, indeed statutes and all written instruments, the grammatical and ordinary sense of the words is to be adhered to, unless that would lead to some absurdity, or some repugnancy or inconsistency with the rest of the instrument" (See also *Principal Immigration Officer v Hawabu* 1936 AD 26 31; *Crispette and Candy Co Ltd v Oscar Michaleis and Leopold Alexander Michaelis* 1947 4 SA 521 (A) 543; *Kalil v Standard Bank of South Africa Ltd* 1967 4 SA 550 (A) 556C-E). The proposition is still occasionally mentioned, but almost inevitably followed by a reference to the importance of context (See *Cool Ideas 1186 CC v Hubbard* 2014 4 SA 474 (CC) para 28). Both Willis and Jansen, and probably many other legal scholars are extremely cynical of such a rigid and very traditional (probably outdated) school of thought, and rightly so (See, for example, Jansen 1981 *TSAR* 102-103).

In addition, the other sentiment often raised is that the intention of the parties or the legislature is to be sought and respected. In my mind, easier said than done...

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