GILSHENAN & LUTON
LEGAL PRACTICE



Has your Queensland firearms licence been suspended, revoked, or rejected?

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In recent years, Queensland guidelines for the issuing of firearms licences have been amended, and we are noticing an increase in the number of suspended or revoked firearms licences and rejected applications for a firearms licence at first instance.

Importantly, there is an avenue to review these decisions in the Queensland Civil and Administrative Tribunal ('QCAT').

How are decisions to suspend, revoke or reject firearms licences made?

Decisions to suspend, revoke, or reject a firearms licence are often made on the basis of one's criminal history, traffic history, involvement in domestic violence proceedings, and their mental health.

However, Weapons Licensing (a division of Queensland Police tasked with regulating firearms and weapons) approaches the 'fit and proper' test with a much broader lens than one might expect.

For example, police may be called to a domestic dispute. Even if no police protection notice, temporary protection order, or domestic violence order is made, Weapons Licensing may still consider the mere occurrence of a domestic violence incident in their assessment. What would ordinarily be understood to be a minor matter, like a series of seemingly insignificant traffic offences, may still be taken by Weapons Licensing to be proof of an applicant's disregard for the law.

Often, decisions by Weapons Licensing come completely by surprise. Many shooters who have held their firearms licence for years without issue can be caught off guard by a rejected renewal application or an unexpected suspension or revocation of their licence.

What can QCAT do about it?

QCAT has the power to either:

- confirm the original decision made by Weapons Licensing;
- set aside the decision and replace it with its own; or
- set aside the decision and send the matter back to Weapons Licensing for them to reconsider.

Applications to review a Weapons Licensing decision must be filed within 28 days of receiving the notice. If you fail to file the application within the 28-day time limit, you will likely forfeit your right to have the decision reviewed.

I’ve applied for a review – what happens next?

Recently, QCAT has changed their procedure for considering weapons matters.

Once the application has been filed and served, Weapons Licensing has 28 days to provide the material considered by the Authorised Officer when making the decision to revoke, suspend, or reject a licence. This must be everything that has been relied upon in making their decision. Often, this includes:

- criminal histories;
- associated documents like QP9s - a court brief prepared by Queensland Police;
- documents relating to domestic violence proceedings; and
- relevant legislation and case law.

The matter will then be listed for a directions hearing, which is an administrative appearance to make directions regarding filing dates, further hearings and a final hearing.

Then begins the process of preparing your evidence in reply. This is a crucial part of the process, as it will form the evidence in any later final hearing. The content of this evidence varies substantially from case to case, and the process involves carefully addressing each of Weapons Licensing’s concerns. There are real tactical considerations at this stage, including whether to obtain expert evidence.

After the evidence is filed, the matter proceeds to a final hearing. Each party will make submissions, present evidence and cross-examine witnesses.

Can my firearms licensing dispute be resolved outside of QCAT?

There is certainly scope to resolve these sorts of matters outside of QCAT once the original application to review has been filed. However, it is imperative that the proceedings remain on foot until the matter is resolved. Gilshenan &Luton can assist by making submissions to Weapons Licensing on your behalf.

Get help from a weapons offences lawyer

We have significant experience with weapons licensing matters. If you have been issued with a suspension, revocation or show cause notice, or your licence has been rejected, contact us today.

Contacting Gilshenan &Luton

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