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LEGAL PRACTICE

Amended guidelines to assess weapons licensing in Queensland

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There has been much discussion amongst licensed dealers and shooters recently about the apparent change in attitude by the Queensland Weapons Licensing Branch ('Weapons Licensing') with respect to decisions being made by Authorised Officers in Weapons Licensing in relation to:

- the issue and renewal of firearms licences; and
- the revoking of existing licences.

Attention has been drawn to the issue following what appears to be an increase in the number of refusals to grant or renew firearms licences and also the apparent increase in revocation of existing licences.

The change in attitude appears to be as a result of the Performance Audit Report issued by the Queensland Audit Office ('QAO') on 27 November 2020, where the QAO, amongst other issues, has identified that:

- the QPS could be more proactive in monitoring firearm licence holders;
- the Weapons Licensing Unit provides little assurance that firearms are not in the possession of people it considers unsuitable;
- when the QPS identifies non-compliance, it often fails to perform the necessary follow-up to ensure that the licence holder rectifies the non-compliance with licence conditions; and
- the QPS in ineffective in ensuring all firearms are accounted for.

Amended guidelines for weapons licensing from December 2020

The response to the QAO report by Weapons Licensing has been to implement the below amended guidelines to follow when assessing weapons licensing suitability (issued on 29 December 2020).

OCCURRENCE	PREVIOUS GUIDELINES	AMENDED GUIDELINES
Disqualifying offences - false and misleading information	Applicants who provided false and misleading information on forms were offered a Show Cause opportunity	Applicants who provide false and misleading information on forms are now rejected under Section 10B(1)(c) &(d), 157 &158 of the Act
Domestic and Family Violence Protection Order (between 5 and 10 years after order issued)	If disclosed - continue assessment with no further action required If false and misleading information provided - continue assessment with a warning letter about ensuring true and correct information with the application in future	If physical violence is involved, rejected in the public interest. If no physical violence, Show Cause and upon response escalate to a Team Leader for assessment of circumstances. If false and misleading information provided, auto-reject under Setion 10B(1)(c) &(d), 157 &158 of the Act
Domestic and Family Violence Protection Order (over 10 years since order issued)	Continue to issue	Escalate to Team Leader for assessment of circumstances
Found guilty of a disqualifying offence but no conviction recorded	Within 5 years - Show Cause Over 5 years - continue to issue	Within 5 years - rejection in the public interest Over 5 years - 1 offence, warning letter about committing further offences and continue to issue **OR**. more than 1 offence, reassign to Team Leader for assessment **OR** applicants who provide false and misleading information on forms are now auto-rejected under Section 10B(1)(c) &(d), 157 &158 of the Act
Three or more drink driving, unlicensed driving or dangerous driving offences (any combination) or more than 30 demerit points within the previous 5 years	Show Cause	Reject in the public interest

Driving involving drugs within the previous 5 years	Show Cause	One offence - warning letter about committing further offences and continue to issue More than one offence - auto-reject in the public interest, **OR** Applicants who provide faluse or misleading information on forms are now auto-rejected under Section 10B(1)(c) &(d), 157 &158 of the Act

Disqualifying Offences means: Within five years of a conviction for drugs; involving the use of violence, threatened use of violence, weapons, or domestic violence full protection order or release from a custodial sentence as per section 10B(2) &10B(5) of the *Weapons Act 1990*.

False and Misleading: Section 158 of the *Weapons Act 1990* states that a person must not state anything in a document required to be kept, given or made under this Act that a person knows is false or misleading in a material particular.

Show Cause: This is a letter to ask the licence holder to explain their offences and why they believe themselves to be fit and proper in a response addressed to the authorised officer.

A further amendment to the guidelines was released on 3 February 2021, providing that an applicant who has provided incorrect or incomplete information would be issued with a show cause notice.

Impact of the new guidelines

As a consequence of the implementation of the amended guidelines, we have received a significant number of reports of applications for new licences and renewal of existing licences being declined or existing licences being revoked.

Decisions have been on the basis that the applicant or licence holder is not a fit and proper person to hold a licence authorising the possession of firearms and that it is not in the public interest for the applicant/licensee to hold a licence authorising the possession of firearms.

Reviewing adverse weapons licensing decisions

Section 142 of the *Weapons Act 1990* provides a right of review to the Queensland Civil and Administrative Tribunal (QCAT) of a decision:

- refusing an application for a new licence;
- refusing to renew an existing firearms licence;

- revoking an existing firearms licence to the Queensland Civil and Administrative Tribunal.

A strict time limit of 28 days applies.

If you do not make an application to review within 28 days of receiving the decision and information notice, then you may lose the right to seek a review of the decision.

If a decision is not successfully reviewed through QCAT, then the applicant/licence holder is prevented from re-applying for a licence for a period of three years.

Get help from a weapon's offences lawyer

If you have had your application for a firearms licence refused or an existing licence revoked, Gilshenan and Luton are able to provide advice and assist you to make an application for review to QCAT.

Contacting Gilshenan &Luton

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This blog is of a general nature and should not be relied upon as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.