



INFORMATION SHEET

DISQUALIFYING OFFENCES AND ORDERS

Disqualifying Offences and Orders

Disqualifying Offence (s.5 Firearms Act 2024, r.4 Firearms Regulations 2024):

- A serious offence as defined in the *Criminal Investigations Act 2006* s.128(1) which attracts a minimum prison sentence of 5 years or more. This includes offences such as, stealing, burglary, aggravated assaults, sex offences, drug offences and fraud and includes convictions from other jurisdictions.
- Additional offences prescribed in the regulations such as Prohibited and Controlled weapons offences under the *Weapons Act 1999*, Manufacture, sale or supply of psychoactive substances under the *Misuse of Drugs Act 1981*, and various offences under the *Criminal Code 1913*, such as Threat towards a dwelling and Stalking.

Disqualifying Order (s.5 Firearms Act 2024, r.6 Firearms Regulations 2024):

- A violence restraining order, family violence restraining order or conduct agreement order made under the *Restraining Orders Act 1997*; including orders of a similar nature from other jurisdictions.
- A Misconduct Restraining Order which contains an order prohibiting a person from possession of firearms or explosive substances.
- A protection order as defined in the *Community Protection (Offender Reporting) Act 2004* section 85, an interim control order or control order as those terms are defined in the *Criminal Organisations Control Act 2012* section 3(1), and a control order as defined in the *Criminal Code* (Commonwealth) section 100.1(1).

Disqualifying organisation (s.10 Firearms Act 2024, r.7 Firearms Regulations 2024)

A member of a disqualifying organisation is a person who is a member of an organisation named in the *Criminal Law (Unlawful Consorting and Prohibited Insignia) Act 2021* Schedule 2. These include outlaw motorcycle gangs, and other criminal organisations.

A member means a person who:

- Has been accepted as a member of the organisation, whether informally or through a process set by the organisation; **or**
- Who identifies in any way as belonging to the organisation; **or**
- Whose conduct in relation to the organisation would reasonably lead another person to consider the person to be a member of the organisation.

Interim disqualified person (s.9(2) Firearms Act 2024)

If a firearm licence holder is served with an interim restraining order or charged with a disqualifying offence, they become an interim disqualified person during the court process, until the matter/s are resolved. During this period the firearm licence is suspended and firearms seized.

Disqualified person (s.9(1) Firearms Act 2024)

If a firearm licence holder is served with a final disqualifying order or convicted of a disqualifying offence they become a disqualified person, and their firearm licence is cancelled and firearms seized.

Disqualifying periods (r.5, r.6, r.7 Firearms Act 2024)

- Disqualification periods for disqualifying orders are the length of the order plus 5 years. For example, if an order lasts for 2 years, on the day it expires the 5-year period commences which then totals a disqualification period of 7 years.
- Disqualification periods for disqualifying offences are the maximum imprisonment penalty for the offence plus any term of imprisonment. For example, if an offence has a maximum imprisonment penalty of 10 years, the disqualifying period is 10 years plus any term of imprisonment. If the person did not receive a term of imprisonment, the disqualifying period is 10 years. The disqualifying period applies regardless of if the offence was dealt with on indictment or summarily.
- Disqualifying offences and orders will be considered retrospectively in-line with the disqualification period associated with the offence or order. This means that if a person was convicted of stealing in 2020 with no imprisonment, they are now disqualified from retaining or obtaining a licence until 2027.
- Disqualifying periods for disqualifying organisations is for as long as they remain a member of the organisation then a further 5 years once they cease to be a member of the disqualifying organisation.

Finding of guilt (s.11 Firearms Act 2024)

A reference to a *finding of guilt* in relation to an offence committed by a person (including juveniles) is a reference to any of the following:

- A court making a formal finding of guilt in relation to the offence;
- A court convicting the person of the offence, if there has been no formal finding of guilt before conviction;
- A court accepting a plea of guilty from the person in relation to the offence;

- A finding under *The Criminal Code* section 27, or an equivalent provision of a law of another Australian jurisdiction, that the person is not guilty of the offence on the account of unsoundness of mind.

A finding of guilt that is subsequently quashed or set aside by a court ceases to be a *finding of guilt* for the purposes of the *Firearms Act 2024*.

A finding of guilt in relation to an offence is a *finding of guilt* for the purposes of the *Firearms Act 2024* even if it is:

- A spent conviction as defined in the *Spent Convictions Act 1988* section 3(1); **or**
- A finding of guilt that under a law in any Australian jurisdiction a person is not required to disclose.