

Disqualifying Offences, Orders and Organisations

Purpose of This Information Sheet

- This information sheet explains when a person is not allowed to hold, apply for, or keep a firearm authority because of certain offences, court orders, or organisational associations.
- It is intended to help you understand how disqualification works and what it may mean for you.

Disqualified Persons

- You may be disqualified on an interim or final basis.

Interim Disqualified Persons

- You become an interim disqualified person if:
 - you are charged with a disqualifying offence, or
 - you are served with an interim disqualifying order
- While you are an interim disqualified person:
 - your firearm authority is suspended, and
 - your firearms are seized
- This applies until the court process is finalised.

Disqualified Persons

- You become a disqualified person if:
 - a final disqualifying order is made against you, or
 - you are convicted of a disqualifying offence
- When this happens:
 - your firearm authority is cancelled, and
 - your firearms are seized
- This occurs once a final decision has been made by a court.

Disqualifying Offences

- You are disqualified from holding a firearm authority if you have been found guilty of certain serious criminal offences.
- Disqualifying offences generally include serious crimes that attract significant penalties, such as:
 - stealing or burglary
 - serious assault or violent offences
 - serious sexual offences
 - fraud
- Some weapons offences, drug manufacturing or supply offences, and certain Criminal Code offences may also be disqualifying.
- Convictions from other Australian states or territories are also taken into account.

Disqualifying Orders

- You are also disqualified from holding a firearm authority if you are subject to certain court orders that restrict access to firearms.
- These can include:
 - violence restraining orders or family violence restraining orders
 - conduct agreement orders
 - misconduct restraining orders that prohibit firearm or explosive possession
 - protection or control orders
- Orders made in other jurisdictions that are similar in nature also apply.

Disqualifying Organisations

- You are disqualified from holding a firearm authority if you are a member of a disqualifying organisation.
- Disqualifying organisations include outlaw motorcycle gangs and other criminal organisations identified under Western Australian law.
- You may be considered a member if:
 - you have been accepted as a member, whether formally or informally
 - you identify yourself as belonging to the organisation
 - your behaviour or association would reasonably lead someone to believe you are a member
- Disqualifying organisations are identified under Western Australian law, including Schedule 2 of the *Criminal Law (Unlawful Consorting and Prohibited Insignia) Act 2021*.

Disqualification Periods

- How long you are disqualified depends on the type of offence, order or organisation involved.

Disqualifying orders periods

- If you are subject to a disqualifying order, you are disqualified for:
 - the full length of the order, plus an additional 5 years
- **Example:** If an order lasts for 2 years, the total disqualification period is 7 years.

Disqualifying offences periods

- If you are convicted of a disqualifying offence, you are disqualified for:
 - the maximum prison penalty for the offence, plus
 - any actual term of imprisonment imposed
- If no prison sentence is given, the disqualification period is the maximum prison penalty for the offence.
- This means the disqualification period can be longer than the prison sentence actually served.

Disqualifying Organisations

- If you are a member of a disqualifying organisation, you are disqualified:
 - for as long as you remain a member, and
 - for 5 years after you stop being a member

Retrospective Application

- Disqualifying periods apply retrospectively.
- This means past convictions, orders, or memberships may still affect your ability to hold or apply for a firearm authority, depending on the applicable disqualification period.

Finding of Guilt

- For firearms licensing purposes, a finding of guilt includes:
 - a court formally finding a person guilty
 - a conviction following a guilty plea
 - a finding of not guilty due to unsoundness of mind
- A finding of guilt applies even if, under a law of any Australian jurisdiction, the person is not required to disclose it. E.g. spent conviction
- If a finding of guilt is later quashed or set aside by a court, it no longer applies.

References to Legislation:

Legislation	Relevant Provision
<i>Firearms Act 2024</i>	Sections 5, 9, 10, 11, 197
<i>Firearms Regulations 2024</i>	Regulations 4, 5, 6, 7