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## Fit and Proper Person

**Note:** This information sheet does not constitute legal advice and is for general information purposes only. Applicants and licensees are required to understand and comply with the *Firearms Act 1996* (“the Act”) and associated Regulations, which are available on the Tasmanian legislation website – [www.legislation.tas.gov.au](http://www.legislation.tas.gov.au). This document was prepared in August 2024 based on the relevant legislation at that time.

The Act provides that the Commissioner (of Police) must not grant or renew an application for a licence or permit (pursuant to the Act) unless the Commissioner is satisfied that the applicant is a “fit and proper person”. The Commissioner may also cancel a licence or permit if satisfied that the holder is no longer a fit and proper person.

### What does being a “fit and proper person” mean?

Section 29(2) of the Act provides that in deciding whether a person is a fit and proper person the Commissioner is to take into account the following:

- a. any likelihood of the person using a firearm –
  - i. for an unlawful purpose; or
  - ii. to harm himself or herself;
- b. the mental and physical condition of the person;
- c. any criminal activity of the person, whether in Tasmania or elsewhere;
- d. any offence committed by the person under the Act or under the *Guns Act 1991*;
- e. the ability of the person to exercise reasonable and responsible control over a firearm;
- f. whether the person is subject to a restraint order, interim restraint order, family violence order, interim family violence order or police family violence order or has, at any time in the 5-year period immediately before lodging the application, been subject to such an order;
- g. whether the person is subject to a recognisance, granted in Tasmania or elsewhere, to keep the peace.



## What information does Firearms Services assess to determine whether a person is “fit and proper”?

- Applicants are required to provide relevant information in their application for a firearms licence or permit. Pursuant to section 126 of the Act, it is an offence to provide false or misleading statements in connection with an application. The section provides:

A person, in making an application or providing information, must not –

  - a. make a statement knowing it to be false or misleading; or
  - b. omit any matter knowing that without that matter the application or information is false or misleading.
- Firearms Services also accesses and assesses information from other sources. These sources include records held by Tasmania Police (and other Australian jurisdictions), including a person’s criminal record, court and police orders and information in relation to a person’s criminal activity generally.
- Section 148(1) of the Act requires prescribed persons (including but not limited to medical practitioners, registered nurses and persons registered under the Health Practitioner Regulation National Law (Tasmania) in the psychology profession – see section 148(6)) to inform the Commissioner (by notice in writing) if he or she reasonably believes that a patient or client is likely to possess or use a firearm and such possession or use would be unsafe, for the patient or client or another person either because of the patient’s or client’s mental or physical condition or because the patient or client would be a threat to public safety.
- Section 148(3) of the Act requires representatives of approved pistol shooting clubs and approved societies, the members of which collect firearms, to inform the Commissioner (by notice in writing) of any concern held by the club or society or any member of the club or society that a person may pose a danger if in possession of a firearm.
- The Commissioner may seek further information before granting an application for a licence. Pursuant to section 29B(1) of the Act, the Commissioner may do any or all of the following:
  - a. make an inquiry or conduct an investigation into the applicant or the application;
  - b. require the applicant to provide any further information the Commissioner reasonably needs to be satisfied about the applicant’s identity or physical or mental health including –
    - i. a report from a medical practitioner about the applicant’s physical health; and
    - ii. a report from a medical practitioner or psychologist about the applicant’s mental health;
  - c. provide, for inspection, information or a document relevant to the applicant’s identity to a police officer or an employee of the Department.
- If a medical practitioner or psychologist provides a report about an applicant’s mental health pursuant to section 29B(1)(b) the Commissioner may –
  - a. make information in the Commissioner’s possession available to the medical practitioner or psychologist; and
  - b. ask the medical practitioner or psychologist to provide a further report.



## Further reasons that preclude the Commissioner from granting an application for a licence:

Section 29(3) of the Act provides that the Commissioner must not grant an application for a licence to a person who –

- a. within the period of 5 years before the application was made, has been convicted in Tasmania or elsewhere of any crime involving violence to another person, whether or not the crime is a crime under a law of Tasmania; or
- ab. is, within the meaning of section 6A(1) of the Police Offences Act 1935, a participant in an identified organisation within the meaning of that section; or
- b. has at any time been sentenced to a term of imprisonment, whether in Tasmania or elsewhere, for an offence involving violence to another person unless the Commissioner is satisfied that the nature of the offence, the term of imprisonment and the length of time since that term expired do not justify the refusal to grant the licence; or
- c. has been convicted of an offence under Division 1 of Part 3 of the Guns Act 1991 or under section 114 of the Act or a crime under section 183 of the Criminal Code; or
- d. is subject to a firearms prohibition order, or one or more of the following in relation to personal injury:
  - i. a restraint order;
  - ii. an interim restraint order;
  - iii. a family violence order;
  - iv. an interim family violence order;
  - v. a police family violence order; or
- e. in the Commissioner's opinion, having regard to any criminal intelligence report or other criminal information held in relation to the person, is a risk to public safety.

Section 29(4) of the Act provides that the Commissioner must not grant an application for a licence if the Commissioner has reasonable cause to believe that a person who is not a fit and proper person is likely to gain possession of any firearm in the possession of the applicant.

Section 29(5) of the Act provides that the Commissioner must not grant an application for a licence authorising the possession or use of a firearm unless –

- a. the Commissioner is satisfied that the applicant has a genuine reason for possessing or using the firearm (noting that section 29(6) of the Act provides that notwithstanding this section, an applicant for a firearm heirlooms licence is not required to establish or provide a genuine reason in applying for the licence); and
- b. the applicant produces evidence to the Commissioner's satisfaction in relation to the requirements specified in Division 6 of Part 2 of the Act in respect of that reason.

