

Reviews of Decisions by the Registrar of Firearms



This information sheet explains how SACAT will process a review of a decision made by the Registrar of Firearms.

1. What is SACAT?

The South Australian Civil and Administrative Tribunal (SACAT) is a Tribunal that has the power to review certain decisions made by the Registrar of Firearms under the *Firearms Act 2015*.

2. What can be reviewed by SACAT?

SACAT can review the following decisions of the Registrar of Firearms:

- Refusal of licence or licence renewal
- Refusal of a permit or registration
- Imposition of limitations or conditions on a licence or permit
- Variation of licence or permit
- Cancellation or suspension of a licence, permit or registration
- Imposition of a firearms prohibition order
- Refusal to approve a person as a company's nominated person in control of the company firearm

3. Fit and Proper Person Test

In dealing with applications for review involving firearms, the paramount consideration of the Tribunal will be the safety of the public.

A person may only be issued with or continue to hold a firearms licence if they are a fit and proper person to hold a licence, as defined by section 7 of the *Firearms Act*.

If the Registrar of Firearms is not satisfied that you are a fit and proper person, your application for a licence may be refused, or if you have a licence, it may be cancelled.

There are many different reasons why you may not be considered a fit and proper person. These are not limited to criminal acts and can include other reasons such as medical conditions and other considerations.

If you are applying to SACAT to review a decision on the basis that you consider you are a fit and proper person to hold a firearms licence, **you are responsible for proving to the Tribunal that you are a fit and proper person**, the Registrar does not need to prove you are not. You may wish to get legal advice or representation to assist you in preparing your case to demonstrate that you are a fit and proper person.

If the reason for cancelling or suspending your licence relates to an alleged medical condition, you may also wish to obtain psychiatric or other medical reports to demonstrate your fitness to hold a licence.

4. Prescribed Offences

If you have been found guilty (including if you have pleaded guilty) of a "prescribed offence" as specified in the *Firearms Regulations 2017*, the Registrar **must** cancel your firearms licence.

Prescribed offences include:

- Possessing a firearm without a licence
- Refusing to surrender a firearm



- Possession, manufacture, and/or trafficking of illicit drugs
- Assault
- Property damage (including arson)
- Contravention of an intervention order;
- Driving under the influence
- An indictable contravention of the Code of Practice (including improper storage of firearms and ammunition)

If you have been found guilty of (or you pleaded guilty to) a *prescribed offence* the Tribunal is bound by the same law as the Registrar of Firearms and must confirm the decision to cancel your firearms licence. This is because the Tribunal has no discretion on the review in such a matter and cannot reach a different outcome from the Registrar.

The only element that you may argue before the Tribunal on review in such a matter is whether the offence in question was a prescribed offence as defined by the *Regulations*.

It does not matter what penalty the court imposed or whether a conviction was recorded.

The Tribunal will proceed on the basis of the court findings and court record. This means that you cannot try to argue in the Tribunal that the court outcome or court findings were wrong.

If you pleaded guilty to a prescribed offence, it is not relevant why you did, or that you did not know your licence would be cancelled as a result.

For more information regarding prescribed offences please refer to the *Firearms Act 2015* and the *Firearms Regulations 2017*. Links to these documents are provided below under 'Useful Links'.

5. What information should you provide to the Tribunal?

The Tribunal will make a decision based on all of the relevant information that has been provided by both you and the Registrar of Firearms. The Tribunal can also consider additional evidence on the review provided by either party. The parties need to seek permission to put any additional evidence before the Tribunal. The evidence must be relevant to the review proceedings.

Sometimes witnesses can be called at the review proceedings. However, usually matters are decided on the basis of the documentary evidence and the submissions of parties.

6. Participation at Hearings

You are entitled to represent yourself, or have a solicitor represent you. The Registrar of Firearms is a party to the Tribunal proceedings and is entitled to make submissions in relation to your application. In most cases the Registrar is represented by the Crown Solicitor.

SACAT will generally deal with these matters by conducting a series of hearings. Firstly, directions (preliminary) hearings and then a full hearing. It is the preference of the Tribunal that all parties attend full hearings in person where it is reasonable to do so.

Participation is available by telephone or video link if approved by the Tribunal prior to hearing (contact the registry for more information).

7. What will happen at a directions hearing?

A directions hearing is a short preliminary hearing which usually lasts around 30 - 45 minutes. The purpose of the directions hearing is to make all necessary arrangements to ensure the matter is ready to proceed to a full hearing.



Only the parties and/or their solicitors need attend a directions hearing.

Matters considered at a directions hearing can include:

- setting the time, duration and location of the full hearing;
- deciding which witnesses, if any, will attend the full hearing;
- how the applicant (you) will arrange for any witnesses to give evidence in person at the full hearing of the matter;
- ensuring that all required documentation is filed with the Tribunal in a certain time frame and given to the other parties (where appropriate); and
- any other matter that needs to be determined by the Tribunal either at a preliminary or full hearing.

8. What will happen at a full hearing?

A hearing will be overseen by an independent legally qualified Tribunal member. The member will ask each party to present their case and will review all of the evidence presented.

The Tribunal will have before it the Registrar's decision and a copy of all of the documentation which was taken into consideration by the Registrar when making the decision under review.

During the hearing the parties will have an opportunity to speak and present relevant additional documentation. There will also be an opportunity for you and any witnesses to give evidence in person or by a signed statement. Evidence will usually be taken on oath or by affirmation.

At the conclusion of the hearing, the member may choose to announce their decision straight away or deliver their decision in writing at a later time.

9. What are the possible outcomes of a review?

When SACAT is reviewing a decision of the Registrar, the Tribunal must reach the "correct or preferable" decision.

When determining an application SACAT can make the following orders:

- confirm that the decision is correct;
- vary the decision in some way; or
- find that the decision was incorrect and either:
 - substitute its own decision; or
 - send it back to the Registrar for further consideration.

10. How do I apply?

The SACAT application form is available from our website; www.sacat.sa.gov.au.

The form is an online form and can be found by using a keyword search '**firearms**'.

If you are unable to complete the form online, you can contact the Tribunal for assistance on 1800 723 767.

Fees can be paid online at the time of lodging your application. Please check the SACAT website for current information on fees and fee waiver options.

You must pay the required fee before your application will be listed for a hearing.



11. How long do I have to seek a review from SACAT?

You must lodge your application for review **within 28 days** of receiving the decision you wish to review.

SACAT may allow an extension of time if satisfied that special circumstances exist and another party will not be unreasonably disadvantaged by the delay in commencing the proceedings.

12. Who can help me prepare my case?

There are numerous organisations who provide free legal advice to eligible people. These are listed below.

If you require assistance in deciding who might be able to assist you please ring SACAT on 1800 723 767 and speak to a community access officer.

Organisations that may be able to assist are:

Legal Services Commission

- **Phone:** (08) 8111 5576 or 1300 366 424
- **Website:** www.lsc.sa.gov.au

Southern Community Justice Centre

- **Phone:** (08) 8384 5222
- **Website:** www.communityjusticesa.org.au

Northern Community Legal Service

- **Phone:** (08) 8226 8570
- **Website:** www.northerncommunitylegalservice.weebly.com

Limestone Coast Community Justice Centre

- **Phone:** (08) 8723 1396
- **Website:** www.communityjusticesa.org.au

Riverland Community Justice Centre

- **Phone:** (08) 8582 4998
- **Website:** www.communityjusticesa.org.au

13. Useful Links

[Firearms Act 2015](#)

[Firearms Regulations 2017](#)

SACAT does not guarantee the accuracy or completeness of this Information Sheet and does not accept any responsibility if you rely on it.

You should always seek your own legal advice.