

POLICE — FIREARMS LICENCE APPLICATIONS

715. Hon RICK MAZZA to the minister representing the Minister for Police:

I refer to my question of Thursday, 23 August 2018 regarding firearms licence applications and a line of questioning by the firearms licensing division around the provision of property letters. Specifically, I asked —

Under which section of the act or regulations are these questions being asked?

The minister's response was, "It is under section 11A of the Firearms Act 1973."

I have carefully read that section of the act and can find absolutely no provision for a line of questioning around the relationship of an applicant to the provider of a property letter.

- (1) Can the minister iterate the wording of section 11A(2) of the act or any other subsection that provides for any line of questioning regarding property letters?
- (2) Can the minister advise whether all applicants are subject to this line of questioning?
- (3) Can the minister advise when this line of questioning was introduced and why?
- (4) Given that there is no provision or requirement under either the act or the regulations, under whose authority are these questions being asked?

Hon STEPHEN DAWSON replied:

I thank the honourable member for some notice of the question. The following information has been provided to me by the Minister for Police. The Western Australia Police Force advises the following.

- (1) Section 11 of the Firearms Act 1973, "Exercise of Commissioner's discretion", states —
 - (1) The Commissioner cannot grant an approval or permit or issue a licence under this Act to a person if the Commissioner is of the opinion that —
 - (a) to do so would be contrary to section 11A or regulations under section 11B or 11C; or
 - (b) it is not desirable in the interests of public safety; or
 - (c) the person is not a fit and proper person to hold the approval, permit, or licence.
- Section 11A of the Firearms Act 1973, "Genuine reason required in all cases", states —
- (1) An approval or permit cannot be granted, and a licence cannot be issued, under this Act to a person who, in the Commissioner's opinion, has not been shown to have a genuine reason for acquiring or possessing the firearm or ammunition for which the approval, permit, or licence is sought.
 - (2) A person has a genuine reason for acquiring or possessing a firearm or ammunition if and only if —
 - (a) it is for use by the person as a member of an approved shooting club and the person is an active and financial member of the club; or
 - (b) it is for use by the person as a member of an organisation approved under this paragraph; or
 - (c) it is for use in hunting or shooting of a recreational nature on land the owner of which has given written permission for that hunting or shooting; or
 - (d) it is required by the person in the course of the person's occupation; or
 - (da) in the case of a prescribed paintball gun, it is required by the person to conduct or engage in paintball in accordance with this Act; or
 - (e) it is to form part of a genuine firearm collection or genuine ammunition collection; or
 - (f) it is for another approved purpose.
 - (3) A person does not have a genuine reason for acquiring or possessing a firearm or ammunition of a particular kind unless the Commissioner is satisfied not only as to the person's reason for acquiring or possessing a firearm or ammunition but also that the particular kind of firearm or ammunition can be reasonably justified.

When assessing an application for any firearm, the Commissioner of Police, or his delegate, is bound by legislation to ascertain whether a person has a genuine reason to acquire or possess a firearm and that the type of firearm they are acquiring is also reasonably justified. The Commissioner of Police, or his delegate, has wide-ranging powers and thus these powers can be used to satisfy the Commissioner of Police, or his delegate, of the applicant's genuine reason; whether the applicant is a "fit and proper" person; and whether it is in the interests of public safety.

Section 22 of the Firearms Act 1973, “Reviews by SAT”, provides a legislative right of appeal to the State Administrative Tribunal when an applicant is aggrieved about the final decision on their application. It states —

- (1) In this section —
decision includes a restriction, limitation or condition imposed under this Act.
- (2) A person aggrieved by a decision made by or on behalf of the Commissioner may apply to the State Administrative Tribunal for a review of the decision.
- (2) No. These questions are asked of new—original—firearms applicants or those applicants who are applying for an additional firearm that is of a category for which they are not licensed. There were some occasions in which these questions were asked of firearms owners who were applying for the same category of firearm that they own already. This was not in accordance with instructions or current policy and has since been rectified.
- (3) It is the current practice as at 20 August 2018. Proper consideration is given to sections 11, 11A(1), (2) and (3) of the Firearms Act 1973.
- (4) The Commissioner of Police, or his delegate, under the wideranging powers, is entitled to ask questions to ascertain the genuine reason for applicants to make an appropriate assessment of a firearms application to meet the genuine reason requirements under sections 11, 11A(1), (2) and (3).