

Examples of Prohibiting Offences and Court Results

The following information is provided to assist people determine whether offences and court results make them eligible to make a section 189 application.

Example 1:

Court Date	Offence	Result
29.10.2008	Cultivate Narcotic Plant	Convicted and placed on a community based order for 12 months with a supervision condition.

Section 3(c)(ii) of the definition of a [prohibited person](#) in the *Firearms Act 1996* states that a person who is subject to a community based order which includes a condition referred to in section 38(1)(b) of the *Sentencing Act 1991* is barred from possessing a firearms licence for five years from the expiry of that community based order. This includes supervision conditions.

This person would be considered a prohibited person and unable to apply for a firearms licence until after 29/10/2014. They would also be unable to make a [section 189 application](#).

Example 2:

Court Date	Offence	Result
13.08.2009	Obtain Property By Deception	Six months imprisonment to be served by way of an intensive corrections order.

Section 3(a) of the definition of a [prohibited person](#) in the *Firearms Act 1996* provides that a person serving a [term of imprisonment](#) for an indictable offence is barred from possessing a firearms licence for five years from the expiry of the term of imprisonment.

This court result is considered a term of imprisonment even though the six month term is served by way of an intensive corrections order.

This person would be barred from applying for a firearms licence until after 13/2/2015. They would also be unable to make a [section 189 application](#).

Example 3:

Court Date	Offence	Result
23.06.2009	Criminal Damage	Without conviction, fined \$300.

Section 3(d)(iii) of the definition of a [prohibited person](#) in the *Firearms Act 1996* details that a person is a prohibited person for 12 months from the date they were found guilty by a court of an indictable offence.

Criminal damage is an indictable offence and findings of guilt include situations with or without conviction.

This person would be barred from possessing a firearms licence until 23/6/2010. They could however make a [section 189 application](#) to be non-prohibited as the court imposed a fine and not a [term of imprisonment](#).

Example 4:

Court Date	Offence	Result
01.07.2009	Possess Cannabis	With conviction, fined \$600.

Section 3(d)(iii) of the definition of a [prohibited person](#) in the *Firearms Act 1996* details that a person is a prohibited person for 12 months from the date they were found guilty by a court of an indictable offence.

Possessing cannabis is an indictable offence and findings of guilt include situations with or without conviction.

This person would be barred from possessing a firearms licence until 1.07.2010. They could however make a section 189 application to be non-prohibited as the court imposed a fine and not a [term of imprisonment](#).

Please Note: The following examples do not make a person prohibited. They may however, influence whether a person is considered to be fit and proper person able to possess a firearms licence.

Example 5:

Court Date	Offence	Result
15.02.2009	Behave in an Offensive Manner Drunk in a Public Place Unlawful Assault	Without conviction, good behaviour bond for 12 months.

Section 3 of the definition of a [prohibited person](#) in the *Firearms Act 1996* outlines the specific offences, orders and court outcomes that result in an individual being classified as a prohibited person.

This person would not be considered a prohibited person as the offences they committed were summary offences and not indictable offences. On this basis, they would not be barred from possessing a firearms licence.

If the person had been sentenced to a [term of imprisonment](#) for the unlawful assault they would have been prohibited during their imprisonment and the five year period following their imprisonment. They would not be able to make a [section 189 application](#) during this time.

Example 6:

Court Date	Offence	Result
01.05.2008	Theft	Released on a Diversion Order (including a letter of apology and pay \$300 to a nominated charity).

Section 3 of the definition of a [prohibited person](#) in the *Firearms Act 1996* outlines the specific offences, orders and court outcomes that result in an individual being classified as a prohibited person.

This person would not be considered a prohibited person. Even though the offence committed was an indictable offence, a diversion order is not considered a finding of guilt (according to section 4(C) of the *Criminal Procedure Act 2008*). On this basis, they would not be barred from possessing a firearms licence.