



GENERAL INFORMATION

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This Form is used as part of the assessment process to determine whether a person is suitable for employment or other engagement for work or other entitlements.

Unless statutory obligations require otherwise, the information provided on this Form will not be used without your prior consent for any purpose other than in relation to the assessment of your suitability. You may be required to complete another consent form in the future in relation to employment in other positions.

NATIONAL POLICE HISTORY CHECK

A national police history check is an integral part of the assessment of your suitability.

You should note that the existence of a record does not mean that you will be assessed automatically as being unsuitable. Each case will be assessed on its merit, so it is in your interest to provide full and frank details in the Form.

Information extracted from this Form will be forwarded to the CrimTrac Agency and other Australian police agencies¹ for checking action. By signing this Form you are consenting to these agencies accessing their records to obtain and disclose police history information that relates to you to:

- a) the Accredited Agency named in Section 3 above; and
- b) where applicable the employer/organisation named in Section 4 above.

Police history information may include outstanding charges, and criminal convictions/findings of guilt recorded against you that may be disclosed according to the laws of the relevant jurisdiction and, in the absence of any laws governing the release of that information, according to the relevant jurisdiction's information release policy.

SPENT CONVICTIONS SCHEMES

The following information is provided as general guidance and is not exhaustive.

The aim of Spent Convictions legislation² is to prevent discrimination on the basis of certain previous convictions. Spent convictions legislation limits the use and disclosure of older, less serious convictions and findings of guilt.

Spent convictions of specific offences will be released where the check is required for certain purposes regardless of how old the convictions are. Each Australian police agency will apply the relevant Spent Convictions legislation/information release policy prior to disclosure. If further information or clarification is required please contact the individual police agencies directly for further information about their release policies and any legislation that affects them.

Commonwealth

Part VIIC of the Crimes Act 1914 (Cth) deals with aspects of the collection, use and disclosure of old conviction information. The main element of this law is a "Spent Convictions Scheme". The aim of the Scheme is to prevent discrimination on the basis of certain previous convictions, once a waiting period (usually 10 years) has passed and provided the individual has not re-offended during this period. The Scheme also covers situations where an individual has had a conviction "quashed" or has been "pardoned".

A "spent conviction" is a conviction of a Commonwealth, Territory, State or foreign offence that satisfies all of the following conditions:

- i). it is 10 years since the date of the conviction (or 5 years for juvenile offenders); AND
- ii). the individual was not sentenced to imprisonment or was not sentenced to imprisonment for more than 30 months; AND
- iii). the individual has not re-offended during the 10 years (5 years for juvenile offenders) waiting period; AND
- iv). a statutory or prescribed exclusion does not apply. (A full list of exclusions is available from the Office of the Australian Information Commissioner).

The law affects Commonwealth authorities in the following ways:

- i). a person with a conviction protected by Part VIIC does not have to disclose that conviction to any person, including a Commonwealth authority, unless an exclusion applies;
 - ii). Commonwealth authorities are prohibited from accessing, disclosing or taking into account spent convictions of Commonwealth offences.
- Part VIIC and Crimes Regulations 1990 provide for "statutory" or "regulatory" exclusions that will prevent certain Commonwealth convictions from being spent in certain circumstances.

Queensland

Under Queensland's Criminal Law (Rehabilitation of Offenders) Act 1986 a conviction automatically becomes spent upon completion of the prescribed (rehabilitation) period. This period is:

- (i) 10 years for indictable offences where the offender was an adult at the time of conviction; and
- (ii) 5 years for other (summary offences or where the offender was a juvenile).

Where a person is convicted of a subsequent offence (an offence other than a simple or regulatory offence) during the rehabilitation period, the period runs from the date of the subsequent conviction.

Convictions where the offender is sentenced to more than 30 months imprisonment (whether or not that sentence is suspended) are excluded from the regime.

Once the rehabilitation period has expired, it is lawful for a person to deny (including under oath) that the person has been convicted of the offence, and the conviction must be disregarded for occupational licensing purposes (subject to certain exceptions, see below). It is unlawful for any person to disclose the conviction unless:

- (i) the convicted person consents;
- (ii) the Minister has granted a permit authorising disclosure (where there is a legitimate and sufficient purpose for disclosing);
- (iii) the disclosure is subject to an exemption.

Victoria Police

For the purposes of employment, voluntary work or occupational licensing/registration, police may restrict the release of a person's police record according to the Victoria Police "Information Release Policy". If you have a police record the "Information Release Policy" may take into account the age of the police record and the purpose for which the information is being released. If 10 years have elapsed since you were last found guilty of an offence, police will, in most instances, advise that you have no disclosable court outcomes. However, a record over 10 years may be released if:

- (i) it includes a term of imprisonment longer than 30 months;
- (ii) it includes a serious, violent or sexual offence and the check is for the purpose of working with children, elderly people or disabled people;
- (iii) it is in the interests of crime prevention or public safety.

Findings of guilt without conviction and good behaviour bonds may be released. Recent charges or outstanding matters under investigation that have not yet gone to court may also be released.

New South Wales

In New South Wales the Criminal Records Act 1991 (NSW) governs the effect of a person's conviction for a relatively minor offence if the person completes a period of crime-free behaviour, and makes provision with respect to quashed convictions and pardons.

A "quashed" conviction is a conviction that has been set aside by the Court. A "pardon" means a free and absolute pardon that has been granted to a person because he/she was wrongly convicted of a Commonwealth, Territory, State or foreign offence.

In relation to NSW convictions, a conviction generally becomes a "spent conviction" if a person has had a 10 year crime-free period from the date of the conviction. However, certain convictions may not become spent. These include:

- (i) where a prison sentence of more than 6 months has been imposed (periodic or home detention is not considered a prison sentence);
- (ii) convictions against companies and other corporate bodies; (iii) sexual offences pursuant to the Criminal Records Act 1991; and
- (iv) convictions prescribed by the Regulations

¹Australian Federal Police, The New South Wales Police Force, Victoria Police, Queensland Police Service, South Australia Police, Western Australia Police, Tasmania Police Service, Northern Territory Police Force.

²Applicable spent conviction legislation, as amended from time to time.



BACKGROUND EMPLOYMENT CHECKS

GENERAL INFORMATION (continued)

Tasmania

Under the Annulled Convictions Act 2003 (Tas) a conviction is annulled upon completion of the prescribed period of good behaviour. This period is:

- (i) 10 years where the offender was an adult at the time of conviction; or
- (ii) 5 years where the offender was a juvenile at the time of conviction.

A person is taken to be of good behaviour for the required period if, during that period, he or she is not convicted of an offence punishable by a term of imprisonment. If the person is so convicted, the qualifying period (for the original offence) starts to run from the date of the subsequent conviction. A subsequent traffic conviction is only taken into account for prior traffic offences (except more serious traffic offences which cause injury or death).

Only "minor" convictions can become annulled. A minor conviction is a conviction other than one for which a sentence of imprisonment of more than 6 months is imposed, a conviction for a sexual offence or a prescribed conviction. A minor conviction is also annulled if the offence ceases to be an offence.

Once an offence is annulled the convicted person is not required to disclose any information concerning the spent conviction. Any question concerning criminal history is taken only to apply to unspent convictions, and references in Acts or statutory instruments to convictions or character or fitness do not include spent convictions. An annulled conviction or the non-disclosure of the annulled conviction is not grounds for refusing the person any appointment, post, status or privilege or revoking any appointment, post, status or privilege.

- (i) a person is not required to disclose the existence of the conviction;
- (ii) questions relating to convictions and a person's criminal record will be taken only to apply to unspent convictions;
- (iii) it is unlawful for another person to disclose the existence of a spent conviction except as authorised by the Act;
- (iv) spent convictions are not to be taken account in making decisions about the convicted person's character or fitness.

South Australia

Release of information on a National Police Check is governed by the South Australian Spent Convictions Act 2009. It is an offence to release information regarding the convictions of a person if those convictions are deemed to be 'spent' under the Act.

A spent conviction is one that cannot be disclosed or taken into consideration for any purpose. Eligible convictions become spent following a 10-year conviction and proven offence-free period for adults, and a 5-year conviction and proven offence-free period for juveniles. The Act defines a conviction as:

- i). a formal finding of guilt by a Court;
 - ii). a finding by a Court that an offence has been proved.
- Certain convictions can never be spent. These include but are not limited to:

- i). convictions of sex offences;
 - ii). convictions where a sentence is imposed of more than 12 months imprisonment for an adult, or 24 months imprisonment for a juvenile.
- Schedule 1 of the Act sets out a number of exceptions to the rule where spent convictions can be released. Some examples of this include:
- i). the care of children;
 - ii). the care of vulnerable people (including the aged and persons with a disability, illness or impairment);
 - iii). activities associated with statutory character tests for licensing
- Interstate offences are released in accordance with that State or Territory's spent conviction / rehabilitation legislation and policy. Intelligence-type information is not released.

Western Australia

Under the provisions of Section 7(1) of the Spent Convictions Act 1988 (WA) only "lesser convictions" can be spent by Western Australia Police, after a time period of 10 years plus any term of imprisonment that may have been imposed. A lesser conviction is one for which imprisonment of 12 months or less, or a fine of less than \$15,000 was imposed. All other convictions, such as "serious convictions" applicable under Section 6 of the Act can only be spent by applying to the District Court. At the time of sentencing, the Court may make a "spent conviction order" under the Sentencing Act 1995 (WA) that the conviction is a spent conviction for the purposes of the Spent Convictions Act 1988 (WA).

Australian Capital Territory

Generally, under the Spent Convictions Act 2000 (ACT), a conviction becomes spent automatically at the completion of the prescribed (crime-free) period. This period is:

- (i) 10 years for convictions recorded as an adult; or
- (ii) 5 years for convictions recorded as a juvenile.

The period begins to run from the date a sentence of imprisonment is completed, or, where no sentence of imprisonment is imposed, from the date of conviction. A person must not be subject to a control order or convicted of an offence punishable by imprisonment during this period. If a person is convicted of an offence, which was committed in the crime-free period, but the conviction is not incurred until after the crime-free period, the spent conviction may be revived and will not become spent again until the offender has achieved the relevant crime-free period in respect of the later offence.

The effect of conviction becoming spent is that:

- (i) the convicted person is not required to disclose any information concerning the spent conviction;
- (ii) any question concerning criminal history is taken only to apply to unspent convictions;
- (iii) references in Acts or statutory instruments to convictions or character or fitness does not include spent convictions, and it is an offence to disclose information regarding spent convictions;
- (iv) it is unlawful for a person who has access to a person's criminal record held by a public authority to disclose a spent conviction;
- (v) it is unlawful for a person to fraudulently or dishonestly obtain information about a spent conviction from records kept by a public authority.

Northern Territory

Under the Criminal Records (Spent Convictions) Act 1992 (NT), a conviction becomes spent automatically (in the case of an adult or juvenile offender convicted in a Juvenile Court) and by application to the Police Commissioner (in the case of a juvenile convicted in an adult court) upon completion of the prescribed period. The prescribed period is:

- (i) 10 years for offences committed while an adult; and
- (ii) 5 years for offences committed as a juvenile

The period starts on completion of any sentence of imprisonment. A subsequent traffic conviction is only taken into account for prior traffic offences (except more serious traffic offences which cause injury or death). Once a conviction becomes spent:

- (i) a person is not required to disclose the existence of the conviction;
- (ii) questions relating to convictions and a person's criminal record will be taken only to apply to unspent convictions;
- (iii) it is unlawful for another person to disclose the existence of a spent conviction except as authorised by the Act;
- (iv) spent convictions are not to be taken account in making decisions about the convicted person's character or fitness.

PROVISION OF FALSE OR MISLEADING INFORMATION

You are asked to certify that the personal information you have provided on this form is correct. If it is subsequently discovered, for example as a result of a check of police records, that you have provided false or misleading information, you may be assessed as unsuitable. It is a serious offence to provide false or misleading information

Persons Authorised to Certify Documentation

In a situation where you are unable to bring your original 100 points of ID to be physically sighted by the organisation, you may have copies officially certified by a person listed below. Documents only need to be certified if you are unable to provide the original documents to the organisation performing the check.

1. Only persons holding positions identified below are authorised to certify documentation for the undertaking of a National Police History Check (NPHC). The exception to the list is where a potential conflict of interest may arise, such as certifying a family members identification
2. Authorised persons, in certifying a NPHC document, MUST:
 1. Sight ORIGINAL documentation
 2. Verify that the photocopy is a true and accurate record of the original document
 3. Verify that the photographic identification is a true and accurate likeness of the applicant
 4. Declare on the document to be signed that it is a 'true and accurate record of the original document
 5. Sign and date each photocopy as a true and accurate record of the original document
 6. Print your name and position (authorised position – below) on each document to be certified
3. Applicants must ensure that documents must be certified in accordance with the above

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|-------------------------------------------------|--------------------------------------------------------------------------------|
| - Australian Lawyer (Legal Profession Act 2004) | - Justice of the Peace, Bail Justice or Register of the magistrate's Court |
| - Registered Medical Practitioner | - Permanent employee of Australia Post with 5 or more years continuous service |
| - Pharmacist | - Permanent employee with 5 or more years of continuous service of: |
| - Member of the police force | (a) the Commonwealth or a Commonwealth authority; or |
| - Principal/teacher in the teaching service | (b) a State or Territory or a State or Territory authority; or |
| - Registered Nurse | (c) a local government authority; |
| - Secretary of building society | - Senior Executive Service employee of: |
| - Councillor of a Municipality | (a) the Commonwealth or a Commonwealth authority; or |
| - Public Notary | (b) a State or Territory or a State or Territory authority |
| - Veterinary Practitioner | - Accountant (member of the ICA, ASA or NIA) |
| - Registered Dentist (Dental Practice Act 1999) | - Bank manager or employee with 5 or more years of continuous service |
| | - Minister of Commonwealth or State Parliament |
| | - Casino special employee |