

When is a conviction spent?

Advising clients on the
Spent Convictions Act
& Related Legislation

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Foley's List

Setting the scene

1. The impetus for change: a long time coming in Victoria
2. The framework: the Spent Convictions Act & Regulations
3. Categories: convictions and findings of guilt
4. What does the regime mean for you and your clients?
5. Exemptions to the regime
6. Protections against improper disclosure
7. Moving forward...?

Purposes of the Act

1 Purposes

The purposes of this Act are—

- (a) to establish a scheme for convictions to become spent automatically or on application; and
- (b) to provide for limited collection, use and disclosure of a spent conviction of a person for the purposes of administration of justice or performance of statutory functions; and
- (c) to create offences for disclosing information about a spent conviction or obtaining information about a spent conviction fraudulently or dishonestly; and
- (d) to amend the Equal Opportunity Act 2010 to make a spent conviction an attribute on the basis of which discrimination is prohibited under that Act.

Adults:

four categories of 'convictions'

1. Spent automatically: immediate
2. Spent automatically: after the conviction period has passed
3. Not spent automatically: application to the Court required
4. Never spent

Young persons:

**three categories of
'convictions'**

1. Spent automatically: immediate
2. Spent automatically: after the conviction period has passed
3. Not spent automatically: application to the Court required

Interaction with other regimes

1. Exemptions: disclosing a spent conviction
Example: Working with Children checks
2. Reading the legislation: a quick reference for clients
3. Protections against misuse of spent conviction information
4. Critical analysis and improvement

Exemptions to the regime

- a. courts and tribunals
- b. law enforcement agencies (Victoria Police, Corrections, and equivalents in other States)
- c. entities with child wellbeing, family violence, or NDIS-related obligations
- d. certain entities with licensing, accreditation, and registration functions
- e. migration-related decision makers

Reading the legislation

a quick reference for clients

Entity	Function	Under law
Australian Health Practitioner Regulation Agency	Registration and accreditation of health professionals	Health Practitioner Regulation National Law
Safe Transport Victoria	Bus driver accreditation	Transport (Compliance and Miscellaneous) Act 1983
Victorian Legal Admissions Board	Admission to the Australian legal profession in Victoria	Legal Profession Uniform Law Application Act 2014

Protections

misuse of spent conviction information

Spent Convictions Act

Sections 23-24: prohibitions on and penalties for disclosing or obtaining information

Equal Opportunity Act 2010

Part 2—What is discrimination?

6 Attributes The following are the attributes on the basis of which discrimination is prohibited in the areas of activity set out in Part 4—

- (a) age;
- (b) breastfeeding;
- (c) employment activity;
- (d) gender identity;
- [...]
- (pb) a spent conviction;

Other avenues?

**Where to from
here?**

Results of the first review of the
Act and Regulations

Questions?

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