



Factsheet 17: Disclosing convictions

You may be required to disclose any charges or convictions when applying for certain jobs, licenses, visas or court proceedings.

Different disclosure requirements apply depending on what you are applying for.

What is a spent conviction?

In the ACT, a conviction becomes “spent” after 10 years (or 5 years if you were dealt with as a child when you were convicted) of being “crime free”, unless you were sentenced to longer than 6 months imprisonment, or convicted of a sexual offence. 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. **If a conviction is “spent” it generally means that you no longer have to disclose to anyone that you have been charged or convicted of that crime.** In fact, in the ACT, you may be able to argue that you have been discriminated against if you have been dismissed, treated unfairly or had unfavourable conditions imposed upon you at work because of a spent conviction.

If a conviction of a person is spent

- you don’t have to disclose information about the spent conviction to anyone; and
- a question about your criminal history or a conviction is taken not to refer to any spent conviction, but will still refer to convictions that are not spent; and
- a reference to your character (however expressed) does not allow or require anyone to take the spent conviction into account.

However, there are lots of exclusions to this.

Spent convictions may still be relevant for

- an appointment or employment as a judge, magistrate, justice of the peace, police officer, prison officer, teacher, teacher’s aide, childcare provider, aged care provider or
- provider of care for people with a disability, or childcare worker, aged care worker or worker with people with a disability; or in relation to the working with children, older people or people with a disability;
- as a casino employee under the *Casino Control Act 2006*;
- if you are seeking registration under the *Working with Vulnerable People (Background Checking) Act 2011* (that is, you are applying for a Working With Vulnerable People card)
- if you have been convicted of arson or attempted arson and want to be appointed, employed or otherwise engaged (whether or not for financial reward) in any capacity in firefighting or fire prevention.
- It does not apply in relation to a proceeding before a court such as giving evidence or sentencing.
- It does not apply in relation to the making of a decision under the *Firearms Act 1996* about a person’s suitability (such as for a firearms licence).
- It does not apply in relation to the making of a decision under the *Casino Control Act 2006* about whether a person is an eligible person for that Act.
- It does not apply if you are seeking registration or approval under the *Sports Bookmaking Act 2001*, *Prostitution Act 1992*, (Registration) or the making of an application for a licence under the *Security Industry Act 2003*; and for registration or renewal of a registration or permit to teach under the *ACT Teacher Quality Institute Act 2010*.



What offences do I have to disclose when applying for a job?

For example, if you are applying for a job working with children, an adult who suffers from social or financial hardship, or an adult who has difficulty communicating in English, you may have to apply for registration under the *Working with Vulnerable People (Background Checking) Act 2011* (Cth).

When applying for registration you must consent to the commissioner checking your criminal history, and you must state whether you have been convicted or found guilty of a relevant offence outside Australia.

If you are registered on the Working with Vulnerable People Register, you must tell the Commissioner for Fair Trading within 10 days after being charged, convicted or found guilty with a relevant offence. It is an offence not to do so.

A “relevant offence” is one that is:

- a sexual offence;
- an offence against the person;
- an offence involving violence;
- an offence involving dishonesty or fraud;
- an offence relating to property;
- an offence involving possession of, or trafficking in, a drug of
- dependence or controlled drug;
- an offence against an animal;
- a driving offence.

When else might I have to disclose a spent conviction?

You may also have to disclose spent convictions if you are applying for a firearms licence, applying to be a security guard, to be a casino employee, to be engaged to work with children, or when applying for visas. Some court proceedings will also require you to disclose spent convictions. You should check what offences are required to be disclosed prior to making a statement as to your criminal history.

Where can I seek help?

- Call Street Law on 6218 7995 or drop in. We are a free legal service for people who are homeless or at risk of becoming homeless. If we cannot assist you we will refer you to another service for help.
- Visit the www.humanrights.gov.au for more information.