

WORKING WITH VULNERABLE PEOPLE**APPLICATION FOR REGISTRATION***Working with Vulnerable People (Background Checking) Act 2011***OFFICE USE ONLY**

Application Number

GENERAL INFORMATION**Cost of application**Working with Vulnerable People Registration application fee: \$71.00 for paid employees or FREE for volunteers**Please note that if you are in paid employment in a regulated activity and also volunteer, you are required to pay the fee****Lodge in person**

- Complete and sign (pages 6 & 7) application for registration.
- Proof of identity documents ready (see **Proof of Identity Requirements** below).
- Payment ready, if applicable.
- Attend shopfront to submit (see **Locations** below).

Belconnen Canberra Connect*Swanson Plaza,
Swanson Court
Belconnen ACT 2616**Tuggeranong Canberra Connect***Homeworld Shopping Centre
Scollay Street
Tuggeranong ACT 2900**Dickson Canberra Connect***Level Ground Floor,
Dickson Motor Registry
13 - 15 Challis Street
Dickson ACT 2602**Woden Canberra Connect***Level Ground Floor, Woden Library
Corner of Furzer and Corinna Street
Woden ACT 2606**Fyshwick ORS Shopfront**Level Ground Floor,
255 Canberra Avenue
Fyshwick ACT 2609**Lodge by**

- Complete and sign (pages 6 & 7) application for registration.
- Obtain certified copies of all proof of identity documents (see **Proof of Identity Requirements** and **Authorised Persons**).
- Provide an 'Australian Passport Photo Card' from Australia Post or Two recent identical colour 'Passport Standard' photographs. One of the photographs must be endorsed by an authorised person with the words "this is a true photo of (insert applicant's name)" (see **Authorised Persons**, Page 9).
- Payment enclosed, if applicable.
- Post application to "**Office of Regulatory Services**, GPO BOX 158, Canberra ACT 2601."

For assistance contact ORS on: * Canberra Connect staff cannot provide assistance to complete applicationsTelephone: **(02) 6207 3000** (9:00am to 4:30pm Monday to Friday)Website address: www.ors.act.gov.au Email: wwvp@act.gov.au**PROOF OF IDENTITY REQUIREMENTS**—Provide at least 3 forms of identification, including at least 1 form of Primary identification. If you cannot meet the identity requirements, please contact ORS on (02) 6207 3000 for assistance.**Primary Proof of Identity**

- A Photographic Driver Licence issued in Australia (current or expired up to 2 years).
- Full Australian Birth Certificate (not a Commemorative Certificate or an extract). If the certificate is not in the name currently used appropriate linking documentation will be required.
- Australian Passport (current or expired up to 2 years).
- Overseas Passport (expired by up to 2 years if accompanied by a current Australian Visa).
- Australian Citizenship Certificate or Naturalisation Certificate.
- Department of Immigration and Citizenship travel document (valid up to 5 years after issue).
- Department of Immigration and Citizenship Certificate of Evidence of Resident Status.
- ACT Police Officer Photo-identity card.
- Australian Proof of Age Card (includes NSW Photo Card) with appropriate security features, showing date of issue by an Authority (current or expired up to 2 years).

Secondary Proof of Identity

- Current Medicare Card.
- Current Credit Card or Account Card, with signature and embossed name from a Bank, Building Society or Credit Union.
- Current Student Identity Document (with photo and / or signature) issued by an Educational Institution.
- Current Centrelink or Department of Veterans Affairs Concession Card.
- Australian-issued Security Guard / Crowd Controller Licence (with photo).
- ACT Working with Vulnerable People Registration Card (current or expired up to 2 years).
- Australian-issued Firearm Licence (with photo).
- Current Consular photograph identity card issued by Department of Foreign Affairs and Trade.
- Current State, Territory, or Federal Government employee photo-identity card.
- Australian Defence Force Photo-identity card (excluding civilians).
- ACT Services Access Card issued by the ACT Government (for Asylum seekers).

WORKING WITH VULNERABLE PEOPLE

APPLICATION FOR REGISTRATION

Working with Vulnerable People (Background Checking) Act 2011

PURPOSE OF APPLICATION

This form is used to apply for registration under the *Working with Vulnerable People (Background Checking) Act 2011* (the Act). Unless statutory obligations allow otherwise, the information provided on this form will not be used without the applicant's prior consent for any purpose other than as authorised in the Act.

Where there is an acceptable level of risk in a person's background, i.e. no relevant criminal history, non-conviction information, or other information that indicate an unacceptable risk to vulnerable people, the applicant will be issued with a general registration for a period of no more than three years.

The applicant can provide any documentation they believe will support their application. In some situations, the applicant may also be asked by ORS to provide further information. If the outcome of the risk assessment indicates that conditions are necessary to reduce the risk, or that their risk is unacceptable, the applicant will be informed in writing and given an opportunity to request reconsideration before it is finalised. The applicant may also withdraw their application at any time before a decision is made.

General registration is the default registration. Conditional or role-based registrations will be assessed on a case-by-case basis based on risks identified during the risk assessment. The Office of Regulatory Services (ORS) (ABN 98 636 852 025) will contact the applicant to progress conditional or role-based registration should this be required.

TYPES OF REGISTRATION

Anyone who intends to engage in a regulated activity must be registered in order to undertake the role. There are three types of registration:

1. **General Registration** – Registered persons may work or volunteer with children and vulnerable adults for the duration of their registration and may move between employers or volunteer positions without being rechecked.
2. **Conditional Registration** – If the risk assessment process identifies a specific risk in the applicant's background, the Commissioner for Fair Trading (the Commissioner) may issue a restricted registration with conditions to mitigate identified risks (e.g. *The person may only engage in a regulated activity for disadvantaged adults*). Conditional registration is transferrable between employers or positions.
3. **Role-based Registration** – A role-based registration recognises applicants may have a criminal history and/or other experiences in their life that may prevent them from obtaining a general registration. With the support of the applicant's employer (or potential employer) the Commissioner may be able to issue role-based registration which will allow them to work or volunteer in a specific role where they are engaged in a regulated activity.

NATIONAL POLICE HISTORY CHECK

A national police history check is a compulsory requirement of the assessment of the applicant's suitability to obtain a registration under the Act.

Applicants should note that the existence of a criminal record does not mean that they will be automatically assessed as being unsuitable, however, sufficient information on the circumstances of the offence is necessary. Each case will be assessed according to the 'Risk Assessment Guidelines' which can be found at www.legislation.act.gov.au/a/2011-44/li.asp.

Information extracted from this form will be forwarded to the CrimTrac Agency (an Agency of the Commonwealth of Australia Government) and other Australian police agencies for the purpose of a criminal history check. By signing this form the applicant is consenting to these agencies accessing their records to obtain and disclose police history information that relates to the applicant to the ORS and, where express consent is given, to the applicable employer/entity named on this form.

Police history information may include outstanding charges, and criminal convictions/findings of guilt recorded against the applicant 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 information may be collected in accordance with the Act. Each State and Territory's spent conviction information can be found at pages 10-12.

It is also a requirement of the Act that, prior to a decision being made, that if there is any change in the applicants criminal history, the applicant must tell the Commissioner within 10 days.

HUMAN RIGHTS

Section 40B of the *Human Rights Act 2004* requires public authorities to act compatibly with human rights and to give proper consideration to relevant human rights in decision making. The *Discrimination Act 1991* also imposes obligations on decision makers to avoid unlawful discrimination in areas of public life.

PRIVACY INFORMATION

The Act authorises the Commissioner to collect the information required in this form. The Commissioner prevents any unreasonable intrusion into a person's privacy in accordance with the *Privacy Act 1988* (C'wlth). The Commissioner may provide identifiable information to law enforcement organisations and authorised organisations that have legal authority to request information under prescribed circumstances. The Privacy Act can be located at: www.austlii.edu.au.


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PERMANENT RESIDENTIAL ADDRESS - Over the last 5 years (If more room is required, list on separate sheet, sign and submit the sheet with this application for registration). Additional sheet included? Yes No

Current Address	No./Street	<input type="text"/>																									
	Suburb	<input type="text"/>																		State / Territory						<input type="text"/>	
	Post Code	<input type="text"/>			Country <u>if not</u> Australia						<input type="text"/>																
	Period of Residence (if actual dates are unavailable, provide details of year)	<input type="text"/>		/		<input type="text"/>		/		<input type="text"/>		to CURRENT															

Previous Address 1	No./Street	<input type="text"/>																									
	Suburb	<input type="text"/>																		State / Territory						<input type="text"/>	
	Post Code	<input type="text"/>			Country <u>if not</u> Australia						<input type="text"/>																
	Period of Residence (if actual dates are unavailable, provide details of year)	<input type="text"/>		/		<input type="text"/>		/		<input type="text"/>		to <input type="text"/> / <input type="text"/> / <input type="text"/>															

Previous Address 2	No./Street	<input type="text"/>																									
	Suburb	<input type="text"/>																		State / Territory						<input type="text"/>	
	Post Code	<input type="text"/>			Country <u>if not</u> Australia						<input type="text"/>																
	Period of Residence (if actual dates are unavailable, provide details of year)	<input type="text"/>		/		<input type="text"/>		/		<input type="text"/>		to <input type="text"/> / <input type="text"/> / <input type="text"/>															

Previous Address 3	No./Street	<input type="text"/>																									
	Suburb	<input type="text"/>																		State / Territory						<input type="text"/>	
	Post Code	<input type="text"/>			Country <u>if not</u> Australia						<input type="text"/>																
	Period of Residence (if actual dates are unavailable, provide details of year)	<input type="text"/>		/		<input type="text"/>		/		<input type="text"/>		to <input type="text"/> / <input type="text"/> / <input type="text"/>															

POSTAL ADDRESS - If same as current permanent residential address, select 'Yes'

The registration card will be posted to the postal address.
 This address will be used for all correspondence where 'Post' has been selected as 'preferred method of correspondence'

No./Street	<input type="text"/>																									
Suburb	<input type="text"/>																		State / Territory						<input type="text"/>	
Post Code	<input type="text"/>			Country <u>if not</u> Australia						<input type="text"/>																

CORRESPONDENCE

What is your preferred method of receiving correspondence? Post Email (provide email on page 3)

NOTIFICATION

How would you like to be notified when your registration is complete? SMS Email



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REGULATED ACTIVITY EMPLOYER / ORGANISATION - If known (including for volunteers). If more room is required, list on separate sheet, sign and submit the sheet with this application. Additional sheet included? Yes No

EMPLOYER / ORGANISATION	Name	<input type="text"/>
	No./Street	<input type="text"/>
	Suburb	<input type="text"/>
	State / Territory	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
	Post Code	<input type="text"/>
	Applicant's Position / Role	<input type="text"/>
	Contact Person	<input type="text"/>
Contact's Phone Number (W)	<input type="text"/>	
	(M) <input type="text"/>	
Contact's Email Address	<input type="text"/>	

DATA COLLECTION - The following information is for statistical purposes only and is not compulsory to complete. This information will be de-identified and will not affect your application.

Are you of Aboriginal or Torres Strait Islander origin?

No Yes, Aboriginal Yes, Torres Strait Islander Yes, both Aboriginal and Torres Strait Islander

Are you from a culturally or linguistically diverse background?

No Yes, if yes, please specify

How do you intend to use the card? (please tick all that apply)

Full-Time employment Part-Time employment Casual employment Volunteer

What regulated activity do you intend to engage in? (please tick all that apply)

<input type="checkbox"/> Teaching	<input type="checkbox"/> Religious Organisations
<input type="checkbox"/> Child Protection Services	<input type="checkbox"/> Coaching and Tuition
<input type="checkbox"/> Justice Facilities for Children	<input type="checkbox"/> Vocational and Educational Training
<input type="checkbox"/> Childcare Services	<input type="checkbox"/> Clubs, Associations and Movements
<input type="checkbox"/> Child Education Services	<input type="checkbox"/> Migrants, Refugees and Asylum Seekers
<input type="checkbox"/> Child Accommodation Services	<input type="checkbox"/> Housing and Accommodation
<input type="checkbox"/> Counselling and Support Services for Children	<input type="checkbox"/> Prevention of Crime
<input type="checkbox"/> Commercial Services for Children	<input type="checkbox"/> Emergency Services Personnel
<input type="checkbox"/> Homeless People	<input type="checkbox"/> Transport
<input type="checkbox"/> Victims of Crime	<input type="checkbox"/> Mental Health
<input type="checkbox"/> Community Services	<input type="checkbox"/> Justice Facilities
<input type="checkbox"/> Disability Services	<input type="checkbox"/> Services for Addictions
<input type="checkbox"/> Respite Care Services	<input type="checkbox"/> Other, please specify: _____

Are you an ACT Government employee? NO YES, if yes which directorate?

<input type="checkbox"/> Chief Minister and Cabinet Directorate	<input type="checkbox"/> Health Directorate
<input type="checkbox"/> Community Services Directorate	<input type="checkbox"/> Justice and Community Safety Directorate
<input type="checkbox"/> Economic Development Directorate	<input type="checkbox"/> Territory and Municipal Services Directorate
<input type="checkbox"/> Education and Training Directorate	<input type="checkbox"/> Treasury Directorate
<input type="checkbox"/> Environment and Sustainable Development Directorate	



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DECLARATION

I, :
Given Names (Current) Last Name (Current)

1. have been convicted or found guilty of an offence, in Australia or another country; Yes No
2. am the subject of a charge(s) for an offence(s) still pending before a court, in Australia or another country; Yes No
3. have been convicted of, had a finding of guilt or a pecuniary penalty imposed, had an order made against me, or been issued with a reprimand or direction in relation to a "relevant offence"¹ before a court, tribunal, board or similar, in Australia or another country; Yes No
4. have charges pending against me in relation to a "relevant offence" before a court, tribunal, board or similar, in Australia or another country; Yes No
5. have been refused a *Working with Vulnerable People (Background Checking) Act 2011* registration in the ACT in the last 3 years; Yes No
6. have had a working with vulnerable people registration, however described, refused, suspended, cancelled or revoked, in a State or Territory; Yes No
7. am, or have previously been, registered as a 'Health Professional' or 'Health Practitioner'² in Australia; Yes No
8. have been the subject of an investigation by the ACT child protection agency of an allegation about abuse or neglect of a child or young person in the ACT; Yes No
9. have been the subject of an investigation of an allegation about abuse or neglect of a child or young person by a child protection agency in any other State or Territory (if yes, please name which State/Territory in 'Further Information'); Yes No

Note: If you have answered **Yes** to any of the above questions, you are requested to provide further information about the matter on **page 8**. If the offence or finding of guilt referred to in **question 1** occurred less than five (5) years ago the Commissioner will consider further information about the offence in accordance with the Risk Assessment Guidelines.

'Part B—Circumstances of an offence' can be used to provide this information. However, you may elect to provide this information in person to an ORS officer if you are not comfortable completing Part B.

- I have completed Part B OR
 I request an ORS officer contact me on (phone) to arrange a time to provide the required information.

8. am the applicant named in this form. All information in this form, and identification documents provided for this application, are true and correct;
9. acknowledge that the provision of false or misleading information is a serious offence and may result in a decision to refuse my application. I am also aware that it is an offence under the *Working with Vulnerable People (Background Checking) Act 2011* to fail to disclose a charge, conviction, or finding of guilt for a "relevant offence";
10. have fully completed the form, and the personal information in this application relates to me, contains my full name and all names previously used by me, and is correct;
11. acknowledge that personal information that I provide in this form will be disclosed to the Office of Regulatory Services (ORS) (ABN 98 636 852 025) (including contractors or related bodies corporate located in Australia or overseas) for administrative purposes;
12. have read the information relating to spent convictions on pages 8—10 and understand that Spent Convictions legislation (however described) in the Commonwealth and other States and Territories protects "spent convictions" from disclosure. However, I also understand that the *Working with Vulnerable People (Background Checking) Act 2011* allows for spent conviction information to be considered in assessing an application for registration;
13. understand that the ORS, an Accredited Agency, is collecting information in this form to provide to the CrimTrac Agency (an Agency of the Commonwealth of Australia) and the Australian Police Agencies for the purpose of conducting a criminal history check;
14. acknowledge that any information provided by me on this form relates specifically to the identified 'Registration Type'³. I acknowledge that any information provided by the Australian Police Agencies or the CrimTrac Agency, relates specifically to the identified 'Registration Type';
15. acknowledge that information obtained for the purpose of deciding this application under the Act could include, and is not limited to, details of convictions and pending or non-conviction charges, or information on the circumstances relating to offences committed or allegedly committed by me, regardless of when and where the offence or alleged offence occurred. I understand that information may include protection orders or disciplinary proceedings if relevant to the assessment;
16. acknowledge that it is usual practice for an applicant's personal information to be disclosed to Australian police agencies for them to use for their respective law enforcement purposes including the investigation of any outstanding criminal offences.

¹—ORS has produced a guide to the types of offences that are generally within a "Relevant Offence" category. Go to www.ors.act.gov.au to check. Traffic offences only include those which were heard in a Court, and a conviction recorded. Parking and speeding fines (i.e. Demerit points) are not criminal offences, but are non-conviction information.

²—the definition of a Health Practitioner is "someone who provides a health service while working in a regulated health profession." See the *Health Practitioner Regulation National Law* for further information on the regulated professions. Health Professionals are defined in the *Health Professionals Act 2004*.

³—the registration type has been identified on page 3 of this application form.

Applicant's Signature _____

Date

/ /



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CONSENT

I, :
Given Names (Current) Last Name (Current)

1. consent to the Commissioner, or delegate, checking my criminal history, non-conviction information and any other information that may be relevant to deciding this application;
2. consent to the ORS obtaining information from any police agency, court, prosecuting authority, other authorised agency or corresponding law authority for the purposes of assessing my eligibility to obtain a Working with Vulnerable People Check;
3. consent to the CrimTrac Agency disclosing personal information about me to Australian police agencies;
4. consent to the Australian police agencies disclosing to the CrimTrac Agency, from their records, details of convictions and outstanding charges, including findings of guilt or the acceptance of a plea of guilty by a court, that can be disclosed in accordance with the laws of the Commonwealth, States and Territories and, in the absence of any laws governing the disclosure of this information, disclosing in accordance with the policies of the police service concerned;
5. consent to the courts, a prosecuting authority, other authorised agency or corresponding law authority to disclose any information about my criminal history (including spent convictions and non-conviction information), for the purposes of assessing my eligibility to obtain a Working with Vulnerable People registration;
6. consent to the CrimTrac Agency providing the information disclosed by the Australian police agencies to the ORS in accordance with the laws of the Commonwealth;
7. consent to the Commissioner, or delegate, seeking information from any entity in relation to this application under section 33 of the Act;
8. consent to the Commissioner, or delegate, where applicable contacting the named employer in relation to the status of this application or subsequent registration;
9. consent to the Commissioner, or delegate, seeking information or advice from any entity while a registration remains current, in accordance with section 53 of the Act, and acknowledge that I will be informed in writing if a revised risk assessment is to be conducted;
10. acknowledge that where the Commissioner seeks information from an entity not listed in (2) above, the ORS will request my consent; and
11. consent to the Commissioner making limited details of my registration available through a validation process.

Applicant's Signature _____ **Date** / /

Parent / Guardian Consent—If you're under 18 years of age a parent / guardian must provide their consent

Parent / Guardian Last Name

Parent / Guardian Given Names

Parent / Guardian Signature _____ **Date** / /



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Further Information - Attach more pages if further space is required.

Additional page attached? Yes No

Use this section to provide further information about the matter/s you selected 'Yes' for on Page 6.

Large empty rectangular area for providing further information.

OFFICE USE ONLY

Registration Type Granted

Registration Number

Date Registration Granted

Approving Officer



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PAYMENT DETAILS - Complete payment details only for postal applications AND if you are NOT a volunteer

Card Type	<input type="checkbox"/> Visa	<input type="checkbox"/> MasterCard
Cardholder Name	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	
Card Holder Signature	<input type="text"/>	Amount \$ <input type="text"/>
Card Number	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	Expiry Date <input type="text"/> / <input type="text"/>

PLEASE NOTE: Payments may be made by cheque, money order or credit card if lodged by post, or also by cash or EFTPOS if lodged in person. Applications paid by personal cheque will be held for 7-10 working days for the cheque to clear.

AUTHORISED PERSONS - Only required if you intend to POST your application (Proof of identity and photograph need to be certified)

<p>(1) a person who is currently licensed or registered under a law to practice in one of the following occupations:</p> <ul style="list-style-type: none"> # Nurse # Optometrist # Patent attorney # Pharmacist # Physiotherapist # Psychologist # Trade marks attorney # Veterinary surgeon # Chiropractor # Dentist # Legal practitioner # Medical practitioner <p>(2) a person who is enrolled on the roll of the Supreme Court of a State or Territory, or the High Court of Australia, as a legal practitioner (however described); or</p> <p>(3) a person who is in the following list:</p> <ul style="list-style-type: none"> # Agent of the Australian Postal Corporation who is in charge of an office supplying postal services to the public # Australian Consular Officer or Australian Diplomatic Officer (within the meaning of the <i>Consular Fees Act 1955</i>) # Bailiff # Bank officer with 5 or more continuous years of service # Building society officer with 5 or more years of continuous service # Chief executive officer of a Commonwealth court # Clerk of a court # Commissioner for Affidavits # Commissioner for Declarations # Credit union officer with 5 or more years of continuous service # Employee of the Australian Trade Commission who is: <ul style="list-style-type: none"> a. in a country or place outside Australia; and b. authorised under paragraph 3 (d) of the <i>Consular Fees Act 1955</i>; and c. exercising his or her function in that place # Employee of the Commonwealth who is: <ul style="list-style-type: none"> a. in a country or place outside Australia; and b. authorised under paragraph 3 (c) of the <i>Consular Fees Act 1955</i>; and c. exercising his or her function in that place # Fellow of the National Tax Accountants' Association # Finance company officer with 5 or more years of continuous service # Holder of a statutory office not specified in another item in this list # Judge of a court # Justice of the Peace # Magistrate # Marriage celebrant registered under Subdivision C of Division 1 of Part IV of the <i>Marriage Act 1961</i> # Master of a court 	<ul style="list-style-type: none"> # Member of Chartered Secretaries Australia # Member of Engineers Australia, other than at the grade of student # Member of the Association of Taxation and Management Accountants # Member of the Australasian Institute of Mining and Metallurgy # Member of the Australian Defence Force who is: <ul style="list-style-type: none"> a. an officer; or b. a non-commissioned officer within the meaning of the <i>Defence Force Discipline Act 1982</i> with 5 or more years of continuous service; or c. a warrant officer within the meaning of that Act # Member of the Institute of Chartered Accountants in Australia, the Australian Society of Certified Practising Accountants or the National Institute of Accountants # Member of: <ul style="list-style-type: none"> a. the Parliament of the Commonwealth; or b. the Parliament of a State; or c. a Territory legislature; or d. a local government authority of a State or Territory # Minister of religion registered under Subdivision A of Division 1 of Part IV of the <i>Marriage Act 1961</i> # Notary public # Permanent employee of the Australian Postal Corporation with 5 or more years of continuous service who is employed in an office supplying postal services to the public # Permanent employee of: <ul style="list-style-type: none"> a. the Commonwealth or a Commonwealth authority; or b. a State or Territory or a State or Territory authority; or c. a local government authority; with 5 or more years of continuous service who is not specified in another item in this list # Person before whom a statutory declaration may be made under the law of the State or Territory in which the declaration is made # Police officer # Registrar, or Deputy Registrar, of a court # Senior Executive Service employee of: <ul style="list-style-type: none"> a. the Commonwealth or a Commonwealth authority; or b. a State or Territory or a State or Territory authority # Sheriff # Sheriff's officer # Teacher employed on a full-time basis at a school or tertiary education institution
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SPENT CONVICTIONS SCHEMES

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

The aim of spent convictions legislation¹ 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.

The Act allows for spent convictions to be considered during the risk assessment process.

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:

- ## it is 10 years since the date of the conviction (or 5 years for juvenile offenders); AND
- ## the individual was not sentenced to imprisonment or was not sentenced to imprisonment for more than 30 months; AND
- ## the individual has not re-offended during the 10 years (5 years for juvenile offenders) waiting period; AND
- ## 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:

- ## 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;
- ## 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.

¹— Applicable Spent Convictions legislation, as amended from time to time.

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:

- ## 10 years for convictions recorded as an adult; or
- ## 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.

However, certain convictions cannot become spent. These include:

- ## a conviction for which a sentence of imprisonment of longer than 6 months has been imposed;
- ## a conviction for a sexual offence;
- ## a conviction of a corporation;
- ## a conviction prescribed under the regulations

The effect of conviction becoming spent is that:

- ## 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;
- ## 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;
- ## 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;
- ## 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:

- ## 10 years for offences committed while an adult; and
- ## 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:

SPENT CONVICTIONS SCHEMES (Cont)**Northern Territory Continued...**

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

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).

Queensland

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

- ## 10 years for indictable offences where the offender was an adult at the time of conviction; and
- ## 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:

- ## the convicted person consents;
- ## the Minister has granted a permit authorising disclosure (where there is a legitimate and sufficient purpose for disclosing);
- ## 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:

- ## it includes a term of imprisonment longer than 30 months;
- ## it includes a serious, violent or sexual offence and the check is for the purpose of working with children, elderly people or disabled people;
- ## 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.

South Australia

Release of information on a National Police Check is governed by the South Australian *Spent Convictions Act 2009* (SA). 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:

- ## a formal finding of guilt by a Court;
- ## a finding by a Court that an offence has been proved.

Certain convictions can never be spent. These include but are not limited to:

- ## convictions of sex offences;
- ## 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:

- ## the care of children;
- ## the care of vulnerable people (including the aged and persons with a disability, illness or impairment);
- ## 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.

WORKING WITH VULNERABLE PEOPLE

APPLICATION FOR REGISTRATION

Working with Vulnerable People (Background Checking) Act 2011

SPENT CONVICTIONS SCHEMES (Cont)

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:

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

Tasmania

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

- ## 10 years where the offender was an adult at the time of conviction; or
- ## 5 years where the offender was a juvenile at the time of conviction.

Tasmania Continued...

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.

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