
JUSTICE

JU301*

Spent Convictions Act 1988

**Spent Convictions (Act Amendment)
Regulations 2005**

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Spent Convictions (Act Amendment) Regulations 2005*.

2. *Spent Convictions Act 1988* Schedule 3 amended

The amendments in these regulations are to the *Spent Convictions Act 1988** Schedule 3.

[* *Reprinted as at 1 September 2000.*

For amendments to 11 May 2005 see Western Australian Legislation Information Tables for 2004, Table 1, p. 418-19.]

3. Clause 1 amended

(1) The table to clause 1(1) is amended as follows:

(a) in items 3 and 4 by inserting after “person” —
“ appointed as or ”;

(b) by inserting after item 4 —

“

4A.	A person appointed, or being considered for appointment, by the Commissioner of Police acting as an employing authority under the <i>Public Sector Management Act 1994</i> to an office, post or position the duties of which are such that the holder of it is, or may be required, to provide services to persons who are not of full legal capacity or to deal in any manner with persons who are not of full legal capacity.	Section 18 and Division 4
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”;

(c) in item 6 by inserting after “person” —
“ employed or ”.

(2) Clause 1(2) is amended by deleting paragraphs (a) and (b) and “or” after paragraph (a) and inserting instead —

“

- (a) has appointed, employed, seconded or engaged the person or is considering the person for appointment, employment, secondment or engagement;
- (b) has issued a permit to the person or is considering issuing a permit to the person;
- (c) is considering granting or issuing a licence to the person; or
- (d) has authorised the person or is considering the person for authorisation,

”.

(3) After clause 1(2) the following subclauses are inserted —

“

- (3) The persons specified in the table to this subclause are excepted from the provisions of sections 18, 19, 20 and 22 and Division 4 of Part 3 in respect of all spent convictions.

Table

- 1. A person who is employed, or who is being considered for employment, in the Department of Education and Training.
- 2. A person who is employed, or who is being considered for employment, in the Department of Education Services.

3. A person who is a member of the governing body of a school that is registered under Part 4 of the *School Education Act 1999* or who is named as a member of the governing body in an application for registration made under section 158 of that Act.
4. A person who is employed, or who is being considered for employment, in a school that is registered under Part 4 of the *School Education Act 1999*.
5. A person who is a member of the governing body of a community kindergarten that is registered under Part 5 of the *School Education Act 1999* or who is named as a member of the governing body in an application for registration made under section 193 of that Act.
6. A person who is employed, or who is being considered for employment, in a community kindergarten that is registered under Part 5 of the *School Education Act 1999*.
7. A person who is engaged, or who is being considered for engagement, whether for reward or not, to carry out duties that may require the person to come into contact with children of a school (whether in or outside school premises) for purposes related to school activities, for purposes related to health or for religious purposes.
8. A person who is engaged, or who is being considered for engagement, whether for reward or not, to carry out duties that may require the person to come into contact with children of a community kindergarten that is registered under Part 5 of the *School Education Act 1999* (whether in or outside the premises of the community kindergarten) for purposes related to activities of the community kindergarten, for purposes related to health or for religious purposes.
9. A person who is employed, or who is being considered for employment, in a college established under section 35 of the *Vocational Education and Training Act 1996*.
10. A person who is employed, or who is being considered for employment, by a registered training provider under the *Vocational Education and Training Act 1996*.
11. A person who is a member of the governing body of an organisation registered under the *Education Service Providers (Full Fee Overseas Students) Registration Act 1991* or is named as a member of the governing body in an application for the registration of an organisation made under that Act.

12. A person who is employed, or who is being considered for employment, by an organisation registered under the *Education Service Providers (Full Fee Overseas Students) Registration Act 1991*.
 13. A person who is employed, or who is being considered for employment, by the Country High Schools Hostels Authority.
 14. A person who has been appointed, or who is being considered for appointment, as a member of the Board established under section 7 of the *Western Australian College of Teaching Act 2004*.
 15. A person who is employed, or who is being considered for employment, by the Western Australian College of Teaching.
 16. A person who is registered or provisionally registered as a teacher or holds a limited authority to teach under the *Western Australian College of Teaching Act 2004* or who has applied for membership of the Western Australian College of Teaching in the category of registration as a teacher, provisional registration as a teacher or limited authority to teach.
 17. A person who is employed, or who is being considered for employment, by an organisation that has obtained funding or is proposing to obtain funding under a funding agreement with the Minister administering the *School Education Act 1999*.
 18. A person who is placed, or who is being considered for placement, in a school as part of a course of training that the person is undertaking for the purpose of obtaining a vocational qualification.
- (4) In the case of a person referred to in an item of the table to subclause (3), the exception in that subclause extends to any other person —
- (a) who has employed, appointed or placed the person or is considering the person for employment, appointment or placement;
 - (b) who has registered a school, community kindergarten or organisation of whose governing body the person is a member or is considering registering a school, community kindergarten or organisation of whose governing body the person is named as a member;
 - (c) for whom the person provides, or has offered to provide, services on a voluntary basis; or
 - (d) who has registered, provisionally registered or issued limited authority to the person or is

considering registering, provisionally registering or issuing limited authority to the person,

whichever is relevant for the purposes of the item.

- (5) The persons specified in the first column of the table to this subclause are excepted from the provisions of Part 3 specified in the second column in respect of all spent convictions.

Table

	Person excepted	Provisions of Part 3
1.	A person who is employed, or who is being considered for employment, by the Director General of the Department for Community Development if the person may in the course of the person's duties deal with children and their families or with sensitive and confidential information about children and their families.	Sections 18 and 20 and Division 4
2.	A person —	Sections 18 and 20 and Division 4
	(a) who is placed, or who is being considered for placement, as a student or trainee; or	
	(b) who is engaged, or who is being considered for engagement, in an unpaid capacity,	
	in the Department for Community Development if the person may in the course of the person's service deal with children and their families or with sensitive and confidential information about children and their families.	
3.	A person who is a member, or who is being considered for membership, of a committee or other body advising the Minister for Community Development or the Director General of the Department for Community Development if the committee or body may in the course of performing its functions deal with children and their families or with sensitive and confidential information about children and their families.	Sections 18 and 20 and Division 4

	Person excepted	Provisions of Part 3
4.	A person who has been engaged, or who is being considered for engagement, either for reward or in an unpaid capacity by the Department for Community Development to provide overnight care for a child or children, whether in the person's home or otherwise.	Sections 18 and 20 and Division 4
5.	A person applying for a licence or permit to provide a child care service under the <i>Community Services Act 1972</i>	Sections 18 and 20 and Division 4
6.	A person applying under section 38(1) of the <i>Adoption Act 1994</i> to be assessed for suitability for adoptive parenthood.	Division 4

- (6) In the case of a person referred to in an item of the table to subclause (5), the exception in that subclause extends to any other person who —
- (a) has employed, placed, appointed or engaged the person or is considering the person for employment, placement, appointment or engagement;
 - (b) is considering issuing or granting a licence or permit to the person; or
 - (c) is assessing the suitability of the person,
- whichever is relevant for the purposes of the item.
- (7) The persons specified in the table to this subclause are excepted from the provisions of sections 18, 19, 20 and 22 and Division 4 of Part 3 in respect of all spent convictions.

Table

1. A person who is employed or seconded, or who is being considered for employment or secondment, by the Director General of the Department of Health under the —
 - (a) *Health Act 1911*;
 - (b) *Hospitals and Health Services Act 1927*;
 - (c) *Mental Health Act 1996*; or
 - (d) *Alcohol and Drug Authority Act 1974*.
 2. A person who is placed, or who is being considered for placement, as a student undertaking a practicum or in an unpaid capacity in the Department of Health.
- (8) In the case of a person referred to in an item of the table to subclause (7) the exception in that subclause extends to any other person who has employed, seconded or placed the person or is considering the person for employment, secondment or placement.

- (9) The persons specified in the table to this subclause are excepted from the provisions of sections 18, 19, 20 and 22 and Division 4 of Part 3 in respect of all spent convictions.

Table

1. A person who is employed, or who is being considered for employment, in the Disability Services Commission referred to in section 6 of the *Disability Services Act 1993*.
 2. A person who is appointed, or who is being considered for appointment, as a member of the board of the Disability Services Commission referred to in section 7 of the *Disability Services Act 1993*.
 3. A person who is a member, or who is being considered for appointment as a member, of the Ministerial Advisory Council on Disability referred to in section 22 of the *Disability Services Act 1993*.
 4. A person who is a member, or who is being considered for appointment or election as a member, of the governing body of an organisation that is funded by the Disability Services Commission under Part 4 or 4A of the *Disability Services Act 1993*.
 5. A person who is employed, or who is being considered for employment, in an organisation that is funded by the Disability Services Commission under Part 4 or 4A of the *Disability Services Act 1993*.
 6. A person who is placed, or who is being considered for placement, in an unpaid capacity in an organisation that is funded by the Disability Services Commission under Part 4 or 4A of the *Disability Services Act 1993*.
- (10) In the case of a person referred to in an item of the table to subclause (9), the exception in that subclause extends to any other person who has employed, placed or appointed the person or is considering the person for employment, placement or appointment.
- (11) In the case of a person referred to in —
- (a) item 5 or 12 of the table to subclause (1);
 - (b) item 1, 2, 6 to 10, 12, 13, 15 or 17 of the table to subclause (3);
 - (c) item 1 of the table to subclause (5);
 - (d) item 1 of the table to subclause (7); or
 - (e) item 1 or 5 of the table to subclause (9),

the exception in the relevant subclause extends to any other person who is or may become the principal of that person for the purposes of section 20.

4. Clause 2 amended

- (1) The table to clause 2(1) is amended as follows:
- (a) by deleting items 1, 2 and 3;
 - (b) in item 4 by deleting “school,”;
 - (c) by deleting item 5;
 - (d) in item 8 by deleting “by” and inserting instead —
“ in ”.
- (2) Clause 2(4) is amended by deleting paragraphs (a) to (d) and “or” after paragraph (c) and inserting instead —
“
 - (a) is considering the person for employment or has employed the person; or
 - (b) is considering the person for participation in a scheme,
”.
- (3) After clause 2(4) the following subclauses are inserted —
“
 - (5) In the case of a person referred to in item 8 of the table to subclause (1), the exception in that subclause extends to any other person who is or may become the principal of that person for the purposes of section 20.
 - (6) The persons specified in the table to this subclause are excepted from the provisions of sections 27 and 28 in respect of all spent convictions.
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Table

- 1. A person in respect of whom section 34 of the *Working with Children (Criminal Record Checking) Act 2004* applies.
- 2. A person making, or giving effect to, a request for a criminal record check as defined in section 4 of the *Working with Children (Criminal Record Checking) Act 2004*.

By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.