Western Australia

Spent Convictions Act 1988

Spent Convictions Regulations 1992

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Defined terms

Spent Convictions Regulations 1992

1. Citation

These regulations may be cited as the *Spent Convictions Regulations 1992*.

2. Commencement

These regulations come into operation on the day on which the Act comes into operation.

3. Minor punishment, amount prescribed (Act s. 3)

For the purposes of the definition of "minor punishment" in section 3 of the Act, the amount of $1 500 is prescribed.

[Regulation 3 inserted: Gazette 4 Nov 2005 p. 5318; amended: SL 2023/122 r. 4.]

*[**4.** Deleted: Gazette 4 Nov 2005 p. 5318.]*

5. Application form prescribed (Act s. 7(1))

The form of application set out in Schedule 1 is prescribed for the purposes of section 7(1) of the Act.

6A. Persons and laws prescribed (Act s. 28(2))

For the purposes of section 28(2) of the Act —

(a) each person specified in Column 2 of an item in the Table is prescribed in respect of the law specified in Column 3 of that item; and

(b) each law specified in Column 3 in the Table is prescribed.

Table

Column 1 **Item**	**Column 2** **Prescribed person**	**Column 3** **Prescribed law**
1.	The Commissioner for Fair Trading appointed under the *Fair Trading (Australian Consumer Law) Act 1992* (Australian Capital Territory) section 32	*Working with Vulnerable People (Background Checking) Act 2011* (Australian Capital Territory)
2.	The Commissioner of the NDIS Quality and Safeguards Commission referred to in the *National Disability Insurance Scheme Act 2013* (Commonwealth) section 181C	*National Disability Insurance Scheme Act 2013* (Commonwealth)
3.	The Children's Guardian appointed under the *Children's Guardian Act 2019* (New South Wales) section 115(2)	*Child Protection (Working with Children) Act 2012* (New South Wales)

Column 1 Item	Column 2 Prescribed person	Column 3 Prescribed law
4.	The Screening Agency as defined in the *National Disability Insurance Scheme (Worker Checks) Act 2018* (New South Wales) section 4	*National Disability Insurance Scheme (Worker Checks) Act 2018* (New South Wales)
5.	The Screening Authority established under the *Care and Protection of Children Act 2007* (Northern Territory) section 196(1)	*Care and Protection of Children Act 2007* (Northern Territory)
6.	The Screening Agency as defined in the *National Disability Insurance Scheme (Worker Clearance) Act 2020* (Northern Territory) section 7(1)	*National Disability Insurance Scheme (Worker Clearance) Act 2020* (Northern Territory)
7.	The chief executive referred to in the *Disability Services Act 2006* (Queensland) section 40 and as defined in the *Acts*	*Disability Services Act 2006* (Queensland)

Column 1 Item	Column 2 Prescribed person	Column 3 Prescribed law
	Interpretation Act 1954 (Queensland) section 33(11)	
8.	The Queensland College of Teachers established under the *Education (Queensland College of Teachers) Act 2005* (Queensland) section 229(1)	*Education (Queensland College of Teachers) Act 2005* (Queensland)
9.	The chief executive referred to in the *Working with Children Check Act 2000* (Queensland) section 8 and as defined in the *Acts Interpretation Act 1954* (Queensland) section 33(11)	*Working with Children Check Act 2000* (Queensland)

Column 1 Item	Column 2 Prescribed person	Column 3 Prescribed law
10.	The central assessment unit established under the *Child Safety (Prohibited Persons) Act 2016* (South Australia) section 20(1)	*Child Safety (Prohibited Persons) Act 2016* (South Australia)
11.	The central assessment unit established under the *Child Safety (Prohibited Persons) Act 2016* (South Australia) section 20(1)	*Disability Inclusion Act 2018* (South Australia)
12.	The Registrar appointed under the *Registration to Work with Vulnerable People Act 2013* (Tasmania) section 11	*Registration to Work with Vulnerable People Act 2013* (Tasmania)
13.	The Disability Worker Registration Board of Victoria established under the *Disability Service Safeguards Act 2018* (Victoria) section 8	*Disability Service Safeguards Act 2018* (Victoria)

Column 1 Item	Column 2 Prescribed person	Column 3 Prescribed law
14.	The Victorian Disability Worker Commission established under the *Disability Service Safeguards Act 2018* (Victoria) section 21(1)	*Disability Service Safeguards Act 2018* (Victoria)
15.	The Victorian Disability Worker Commissioner appointed under the *Disability Service Safeguards Act 2018* (Victoria) section 26(1)	*Disability Service Safeguards Act 2018* (Victoria)
16.	The Secretary as defined in the *Worker Screening Act 2020* (Victoria) section 3(1)	*Worker Screening Act 2020* (Victoria)

[Regulation 6A inserted: SL 2021/6 r. 4.]

6. Form of notice (Act s. 33(2))

The form of notice set out in Schedule 2 is prescribed for the purposes of section 33(2) of the Act.

7. Transitional provision for *Spent Convictions Amendment Regulations 2023*

(1) In this regulation —

amendment day means the day on which the *Spent Convictions Amendment Regulations 2023* regulation 5 comes into operation;

conviction includes a conviction for an offence against Commonwealth law or the law of another State or of a Territory.

(2) In relation to a conviction incurred before amendment day, regulation 3 continues to apply as if it had not been amended by the *Spent Convictions Amendment Regulations 2023* regulation 4.

[Regulation 7 inserted: SL 2023/122 r. 5.]

Schedule 1

[r. 5]

[Heading inserted: Gazette 1 Apr 2008 p. 1280.]

SPENT CONVICTIONS ACT 1988 — SECTION 7(1)

APPLICATION FOR CERTIFICATE THAT LESSER CONVICTION IS SPENT

Particulars of applicant —

SURNAME: .....
OTHER NAMES: .....
ANY NAME PREVIOUSLY USED (ALIAS): .....
DATE OF BIRTH: ...../...../..... PLACE OF BIRTH: .....
RESIDENTIAL ADDRESS: .....
.....
POSTAL ADDRESS (If different from above): .....
.....

I apply to the Commissioner of Police for a certificate that any lesser Western Australian convictions that may be eligible in accordance with the *Spent Convictions Act 1988* are spent.

Signature of applicant: _____
(To be signed in the presence of an authorised witness*)

* see Information for Applicant

Declaration of authorised witness —

I declare that I have —

- sighted original identification documentation that confirms the identity of the applicant; and
- witnessed the applicant's signature.

Signature of witness: _____

Full name of witness: _____

Authority of witness: _____

Date: / /

INFORMATION FOR APPLICANT

1. Use of this form

This form is only to be used for lesser convictions for offences against the law of Western Australia.

A lesser conviction is one for which imprisonment for one year or less, and a fine of less than $15 000, was imposed.

All other convictions only become spent by order of the District Court.

2. When application can be made

An application for a certificate that a lesser conviction is spent cannot be made until a period has expired after the conviction without any further conviction being incurred (unless no punishment or only a fine of $1 500 or less was awarded for the further conviction).

The period is 10 years plus any period of imprisonment relevant to the conviction.

There are rules in the *Spent Convictions Act 1988* section 11 for working out this period.

The period is different if there is a subsequent conviction.

3. Witnessing the signature of applicant

The following persons are authorised to witness the applicant's signature —

- an Australia Post officer;
- a police officer;
- any other person listed in the *Oaths, Affidavits and Statutory Declarations Act 2005* Schedule 2.

4. Evidence of identity

Identification documents to a value of 100 points, as set out below must be produced and sighted by the person witnessing the applicant's signature. At least one identification document must include a photograph of the applicant.

Primary Identification

70 points for each document produced —

- Birth certificate (not extract of birth)
- Australian passport (current or expired within last 2 years)
- Current overseas passport
- Australian citizenship certificate.

Secondary Identification

Category 1

40 points for the first document produced;

25 points for each additional document produced —

- Drivers' licence with photo identity issued under the *Road Traffic (Authorisation to Drive) Act 2008*, or equivalent licence issued by another State or Territory
- A current photo card as defined in the *Western Australian Photo Card Regulations 2014* regulation 3
- Licence with photo identity issued under the *Firearms Act 2024*, or equivalent licence issued by another State or Territory
- Employee identity card (with photo identity) issued by a State or Commonwealth government department or agency
- Photo identity card issued by a tertiary education institution
- Learners' permit issued under the *Road Traffic (Authorisation to Drive) Act 2008*, or equivalent permit issued by another State or Territory
- Department of Veteran Affairs card
- Centrelink or Social Security card.

Category 2

25 points for each document produced —

- Proof of age card issued under the *Liquor Control Regulations 1989* regulation 18B
- Medicare card
- Local government rates notice
- Property lease/rental agreement
- Property insurance papers
- Motor vehicle registration or insurance papers
- Professional or trade association card.

Category 3

25 points for each document produced —

(Each document must be from a different organisation)

- Utility bills (e.g. telephone, gas, electricity, water)
- Credit or bank account card
- Bank statement or passbook.

5. Issue of certificate

The certificate will be posted to the postal address shown in the application. Should this change you should notify the Commissioner of Police.

[Schedule 1 inserted: Gazette 1 Apr 2008 p. 1280-3; amended: Gazette 27 Jun 2014 p. 2351; 10 Feb 2015 p. 621; SL 2023/122 r. 6; SL 2024/300 r. 10.]

Schedule 2

[Regulation 6]

SPENT CONVICTIONS ACT 1988

Notice under section 33(2)

THE EFFECT OF A CONVICTION BECOMING SPENT

The following is a summary of the legal effect of a conviction becoming spent under the *Spent Convictions Act 1988*.

REFERENCES TO CONVICTIONS IN STATE LAWS

A reference in a law of this State to a conviction of a person does not include a spent conviction.

DISCLOSURE

The conviction and the charge that led to it do not have to be disclosed by the person concerned or anyone else, except where required in court or tribunal proceedings, and even then the court or tribunal has to act to avoid or minimize publicity.

ACCESS TO CRIMINAL RECORDS

It is an offence for a person to obtain information about a spent conviction, or the charge that led to it, from official criminal records, unless the person has a lawful reason.

CHARACTER ASSESSMENT

A person who would otherwise be able under a law of this State to take into account a conviction or the charge that led to it when assessing a person's character or fitness cannot do so in the case of a spent conviction.

DISCRIMINATION

Applicants for employment

A person from whom a person is seeking employment cannot use a spent conviction against the applicant —

- in arrangements made for deciding who should be offered employment

- in deciding who should be offered employment
- in the terms or conditions on which employment is offered.

Employees

An employer cannot use a spent conviction against an employee —

- in the terms or conditions of employment provided
- in access to opportunities for promotion, transfer, training or any other benefits
- to dismiss the employee
- otherwise to the detriment of the employee.

Persons who apply to be appointed, or who are appointed, as commission agents

The position is similar as for applicants for employment and employees.

Employment agencies

An employment agency cannot use a spent conviction to discriminate against a person in relation to any service that it provides —

- by refusing to provide the service
- in the terms or conditions on which the service is offered
- in the way in which it provides the service.

Unions and employer organisations

A union or employer organisation cannot use a spent conviction against a person —

- to reject an application for membership
- in setting the terms or conditions of admission to membership
- to take away membership or vary its terms
- in access to benefits provided
- otherwise to the detriment of the person.

Contract workers

A principal cannot use a spent conviction against a contract worker —

- to refuse to allow the contract worker to work
- in the terms or conditions on which the contract worker is allowed to work
- in access to any benefits associated with the contract work
- otherwise to the detriment of the contract worker.

Occupational licensing bodies

A body that has the power to confer an authorisation or a qualification for the carrying on of an occupation cannot use a spent conviction against a person —

- to deprive the person of the authorisation or qualification
- in setting the terms and conditions on which the person may hold the authorisation or qualification.

How to complain

If you believe that a person has discriminated against you in a way that is prohibited, you may lodge a complaint under the *Equal Opportunity Act 1984* with the Commissioner for Equal Opportunity.

EXCEPTIONS

There are a number of exceptions to the above.

There is general exception for decisions as to bail for a court appearance.

The other exceptions relate to persons who are being considered for certain positions (for example, police or prison officers, school teachers and other school staff) or who have applied for certain authorisations (for example, security agents, child care or education and care service providers, casino employees). These exceptions are in Schedule 3 to the Act which was added by the *Spent Convictions Regulations 1992*. This should be referred to for particulars.

[Schedule 2 amended: Gazette 4 Nov 2005 p. 5319; 12 Dec 2014 p. 4720.]

Notes

This is a compilation of the *Spent Convictions Regulations 1992* and includes amendments made by other written laws. For provisions that have come into operation, and for information about any reprints, or versions that include editorial changes made under the *Legislation Act 2021* Part 3, see the compilation table. For provisions affected by editorial changes see the editorial changes table.

Compilation table

Citation	Published	Commencement
Spent Convictions Regulations 1992	26 Jun 1992 p. 2715-22	1 Jul 1992 (see r. 2 and *Gazette* 26 Jun 1992 p. 2644)
Reprint 1: The *Spent Convictions Regulations 1992* as at 12 Dec 2003		
Spent Convictions Amendment Regulations 2005	4 Nov 2005 p. 5318-19	4 Nov 2005
Spent Convictions Amendment Regulations 2007	1 Apr 2008 p. 1280-3	r. 1 and 2: 1 Apr 2008 (see r. 2(a)); Regulations other than r. 1 and 2: 2 Apr 2008 (see r. 2(b))
Reprint 2: The *Spent Convictions Regulations 1992* as at 16 May 2008 (includes amendments listed above)		
Spent Convictions Amendment Regulations (No. 2) 2010	24 Dec 2010 p. 6806-7	r. 1 and 2: 24 Dec 2010 (see r. 2(a)); Regulations other than r. 1 and 2: 25 Dec 2010 (see r. 2(b))
Spent Convictions Amendment Regulations (No. 2) 2013	13 Aug 2013 p. 3736-7	r. 1 and 2: 13 Aug 2013 (see r. 2(a)); Regulations other than r. 1 and 2: 14 Aug 2013 (see r. 2(b))
Spent Convictions Amendment Regulations (No. 2) 2014	13 Jun 2014 p. 1897	r. 1 and 2: 13 Jun 2014 (see r. 2(a)); Regulations other than r. 1 and 2: 14 Jun 2014 (see r. 2(b))
Spent Convictions Amendment Regulations (No. 3) 2014	27 Jun 2014 p. 2351	r. 1 and 2: 27 Jun 2014 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2014 (see r. 2(b)(i) and *Gazette* 17 Jun 2014 p. 1955)

Citation	Published	Commencement
Spent Convictions Amendment Regulations (No. 5) 2014	23 Sep 2014 p. 3476-7	r. 1 and 2: 23 Sep 2014 (see r. 2(a)); Regulations other than r. 1 and 2: 24 Sep 2014 (see r. 2(b))
Spent Convictions Amendment Regulations 2014	12 Dec 2014 p. 4719-20	r. 1 and 2: 12 Dec 2014 (see r. 2(a)); Regulations other than r. 1 and 2: 13 Dec 2014 (see r. 2(b))
Spent Convictions Amendment Regulations 2015	10 Feb 2015 p. 621	r. 1 and 2: 10 Feb 2015 (see r. 2(a)); Regulations other than r. 1 and 2: 27 Apr 2015 (see r. 2(b) and *Gazette* 17 Apr 2015 p. 1371)
Reprint 3: The *Spent Convictions Regulations 1992* as at 4 Sep 2015 (includes amendments listed above)		
Spent Convictions Amendment Regulations 2021	SL 2021/6 29 Jan 2021	r. 1 and 2: 29 Jan 2021 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Feb 2021 (see r. 2(b) and SL 2021/4 cl. 2)
Spent Convictions Amendment Regulations 2023	SL 2023/122 2 Aug 2023	r. 1 and 2: 2 Aug 2023 (see r. 2(a)); Regulations other than r. 1 and 2: 3 Aug 2023 (see r. 2(b))
Attorney General Regulations Amendment (Firearms) Regulations 2024 Pt. 4	SL 2024/300 21 Dec 2024	31 Mar 2025 (see r. 2(b) and SL 2024/289 cl. 2)
***Spent Convictions Regulations 1992* with editorial changes as at 28 May 2026**		

Editorial changes table

The *Legislation Act 2021* Part 3 authorises the Parliamentary Counsel to make editorial changes to laws. This power cannot be used to change the effect of a law. If an editorial change is made to a law, the law has effect as if the change had been made by another law that amended the law and commenced on the day on which the change is made.

To see the editorial changes included in a version of a law, see the compare document for that version on the WA legislation website.

Provision/s affected	**Authorising provision of *Legislation Act 2021* Part 3**	**Effective date of change**
r. 6A, Table it. 9	s. 25(2)	28 May 2026

Defined terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

Defined term	Provision(s)
amendment day	7(1)
conviction	7(1)

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