

NORTHERN TERRITORY OF AUSTRALIA
CRIMINAL RECORDS (SPENT CONVICTIONS) AMENDMENT ACT 2002

Act No. 26 of 2002

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 26 of 2002

AN ACT

to amend the *Criminal Records (Spent Convictions) Act*

[Assented to 5 July 2002]
[Second reading 15 May 2002]

The Legislative Assembly of the Northern Territory enacts as follows:

1. Short title

This Act may be cited as the *Criminal Records (Spent Convictions) Amendment Act 2002*.

2. Commencement

This Act comes into operation on the date fixed by the Administrator by notice in the *Gazette*.

3. Principal Act

The *Criminal Records (Spent Convictions) Act* is in this Act referred to as the Principal Act.

4. Convictions may be spent

Section 6 of the Principal Act is amended –

- (a) by omitting from subsection (1) "subsection (2)" and substituting "this section"; and
- (b) by inserting after subsection (2) the following:

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"(2A) If the offender was convicted in a court other than the Juvenile Court (within the meaning of the *Juvenile Justice Act*) for an offence that the offender committed before attaining 18 years of age, his or her criminal record is, subject to this section and section 6A, a spent conviction on the expiration of the period specified in subsection (2)(b)."

5. New section

The Principal Act is amended by inserting after section 6 the following:

"6A. Spent convictions for offenders under 18 convicted in court other than Juvenile Court

"(1) In this section –

'criminal record' has the same meaning as in section 6;

'offender' means a person who was convicted in a court other than the Juvenile Court (within the meaning of the *Juvenile Justice Act*) for an offence the offender committed before attaining the age of 18 years.

"(2) The criminal record of an offender is not a spent conviction unless –

(a) subject to this section –

(i) 5 years has expired since the date of conviction of the offence; and

(ii) the offender applies under subsection (3) for the conviction to be a spent conviction and is given notification under subsection (6) that the conviction is a spent conviction; or

(b) subject to section 6, the period specified in section 6(2)(b) has expired.

"(3) After the expiry of 5 years after the date an offender is convicted of an offence, the offender may apply to the Commissioner of Police for the conviction to be a spent conviction.

"(4) On receipt of the application, the Commissioner must conduct an inquiry to ascertain whether 5 years during which the offender has not –

(a) been convicted of an offence punishable by imprisonment; or

(b) served all or any part of a sentence of imprisonment,

has expired since the date of the offender's conviction.

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- "(5) In ascertaining whether the 5 year period has expired –
- (a) a conviction for a subsequent traffic offence and any period of imprisonment served in respect of the offence is taken into account in calculating the 5 year period only in respect of a conviction relating to a traffic offence; and
 - (b) a conviction for a subsequent non-traffic offence and any period of imprisonment served in respect of the offence is taken into account in calculating the 5 year period only in respect of a conviction relating to a non-traffic offence.
- "(6) If the 5 year period has expired in accordance with subsections (4) and (5), the conviction is a spent conviction and the Commissioner must give written notice to the offender accordingly."
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