

Can I conceal my convictions when I answer forms when travelling overseas or completing visa application forms?

No. Your clean slate does not apply when you deal with a foreign country or where it relates to a matter of foreign law (such as obtaining a visa, dealing with immigration and customs etc). The weight that is given to the conviction will be at the discretion of the country in question.

What if I still want a copy of all of my convictions and not have them concealed?

Under the provisions of the Privacy Act 1993 you will still be able to request a copy of all information held about you by the Ministry of Justice. This will involve a written request to the Ministry of Justice.

I am an employer. How does this law impact on what questions I can ask an applicant in an application form or an interview?

The law applies to employment and any other situation where an individual is asked about his/her criminal record (e.g. tenancy, insurance, and bank application forms).

It enables someone who meets the eligibility criteria to answer a question asked about his/her convictions or criminal record by stating that he/she has no criminal record.

It will be an offence for any person, without lawful authority, to require or request that an individual disclose their criminal record, when he/she is lawfully entitled not to. The maximum penalty for this offence is a fine not exceeding \$10,000.

How can I get more information?

A copy of the Criminal Records (Clean Slate) Act 2004 can be purchased from Bennetts Government Bookshops or downloaded for free from:
www.legislation.govt.nz

Alternatively, you can seek independent legal advice from your solicitor or your local Community Law Centre.

This pamphlet is also available in Maori, Cook Island Maori, Samoan, Tongan and Niuean, and is available on the Ministry's web site.



www.justice.govt.nz

Criminal Records (Clean Slate) Act 2004

**What does it
mean for me?**

What does this law do?

The “clean slate” law will help you put your past behind you by giving you the right, in some circumstances, to withhold information about your convictions. To do so, you will have to meet a range of conditions to do with your conviction history. However, youth court outcomes, infringements, and overseas convictions are not “convictions” under the clean slate scheme, so will not be included when weighing up whether you qualify for a “clean slate”.

The Criminal Records (Clean Slate) Act 2004 will apply from 29 November 2004.

What conditions do I have to meet?

You must meet all conditions in section 7 of the Act (a summary is set out below) before your convictions can be withheld. The Act should be consulted for full information.

You must have:

- no convictions within the last 7 years;
- never been sentenced to a custodial sentence e.g. imprisonment, corrective training, borstal;
- never been ordered by a Court following a criminal case to be detained in a hospital due to your mental condition, instead of being sentenced;
- not been convicted of a “specified offence” (e.g. sexual offending against children and young people or the mentally impaired);
- paid in full any fine, reparation, or costs ordered by the Court in a criminal case;

- never been indefinitely disqualified from driving under section 65 Land Transport Act 1998 or earlier equivalent provision.

How will I know if I meet the conditions?

The Act creates an automatic scheme – therefore, it will not be necessary to apply for a “clean slate”.

Once it comes into force, you can request a copy of your criminal record from the Privacy Assistant of the Ministry of Justice to see if you meet the conditions. If you are eligible under the scheme your convictions will be concealed. If your convictions remain on your criminal record, you do not meet the eligibility conditions.

You can get information about obtaining a copy of your criminal record and an application form from:

- (a) the Ministry of Justice website – www.justice.govt.nz
- (b) your local court; or
- (c) by writing to:

The Privacy Assistant
Ministry of Justice, National Office
PO Box 2750, Wellington

There are two situations where people who do not meet the criteria can apply to the Court to have a conviction disregarded: where there is a conviction for an offence that has been decriminalised; where a non-custodial sentence was imposed for a “specified offence”. You should seek legal advice about whether you can make an application in these circumstances.

What if I am convicted of another offence after I get a “clean slate”?

Having a “clean slate” is based on meeting the conditions set out above: if you later break the conditions you lose the right to a “clean slate” until the conditions are again met.

Are there any circumstances where my convictions will still be disclosed?

Sometimes, your convictions can continue to be disclosed (see Section 19). Examples include:

- if you apply for certain types of employment (e.g. a member of Police, prison or probation officer, national security positions, a judge, or JP) or roles involving the care and protection of children (e.g. foster parent)
- investigation and prosecution of further offences; and
- criminal or civil proceedings.

Where an “employment” exception applies the application form should explicitly state that all convictions must be disclosed, regardless of whether you are eligible for a “clean slate” at the time. In these situations all convictions must be disclosed on the application form and if your criminal record is disclosed by either the Ministry of Justice or the New Zealand Police your complete criminal record will be disclosed.

You should seek independent legal advice if you have any queries about whether a particular role fits within an exception to the legislation.