

Applicant Checklist:

The Spent Convictions scheme allows for convictions for certain offences to be withheld from your police record (spent) if you have not re-offended for a certain period of time. More serious convictions require a court order, this is called a Spent Conviction Order. You can apply for this order by using this form if you meet the eligibility criteria. The following checklist will assist you to determine if you are eligible. The checklist also sets out the supporting documents you need to include in your application.

Eligible convictions:

Adults

- ☐ I was 21 years or older at the time of sentencing and the court made a 'with conviction' finding for:
 - a serious violence offence or sexual offence (see page 3 for more detail), but I was not given a prison sentence, or
 - an offence, other than a serious violence or sexual offence, where I was sentenced to a term of imprisonment of more than 30 months, but less than or equal to five years for the individual charge (not total effective sentence); and
- ☐ The conviction period (see page 3) to which this application relates has expired, being **10 years**.

Child/Young offender

- ☐ I was 15 years or older at the time of offending, but under 21 years old when I was sentenced, and the court made a 'with conviction' sentencing order for:
 - a serious violence offence or sexual offence (see page 3 for more detail), or
 - an offence where I was sentenced to a youth justice centre order or youth residential centre order of more than 30 months; and
- ☐ The conviction period (see page 3) to which this application relates has expired, being **5 years**.

Supporting documents:

- ☐ Required: A copy of my National Police Check (NPC) is attached, this may also include a digital National Police Check (eNPCs). Police checks can be obtained from Victoria Police or an Australian Criminal Intelligence Commission accredited body.
- ☐ The NPC I have attached is not older than 6 months.
- ☐ Material supporting my application is attached (please include any other material you wish the Court to consider e.g. information in support of your rehabilitation).

Previous applications:

- ☐ I have not applied to the Magistrates' Court of Victoria for a Spent Conviction Order in relation to this conviction and been refused within the last two (2) years.

Guardians:

A guardian can complete this form on your behalf if you have one appointed to you under the *Guardianship and Administration Act 2019* because you have a disability.

- ☐ A copy of the guardianship order is attached to this application.

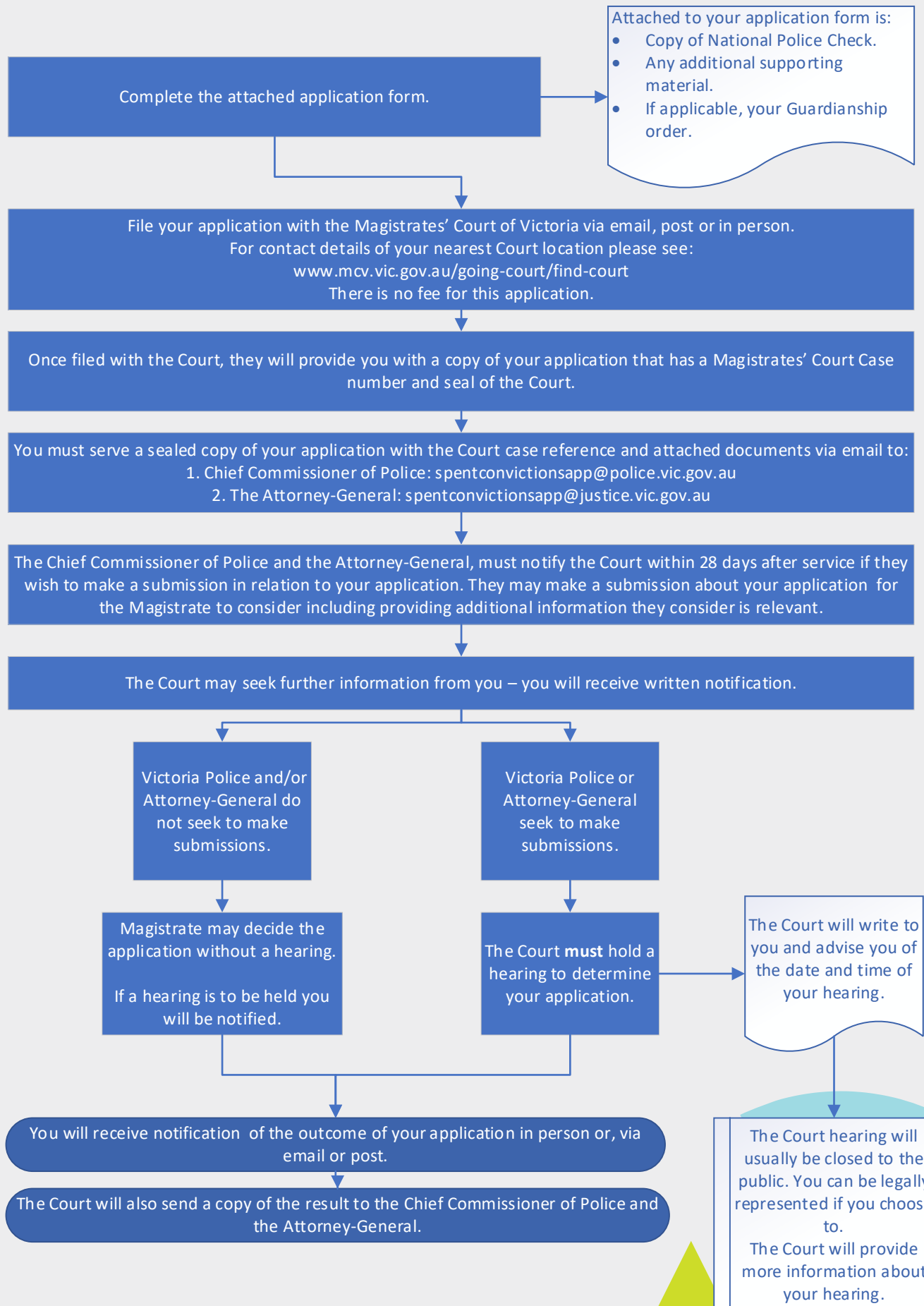
For more information

Visit our website at <https://www.mcv.vic.gov.au/criminal-matters/spent-convictions-scheme>.

You can also visit <https://www.justice.vic.gov.au/spent-convictions-applications> for general information about the application process.

SPENT CONVICTION ORDER PROCESS

Please ensure that you meet the eligibility criteria using the checklist on page 1



How do I calculate my conviction period?

A conviction for a new offence will restart the conviction period, unless one of the following circumstances apply:

- A finding by a court made 'without conviction'
- No penalty is ordered
- The only penalty is a fine of no more than 10 penalty units
- The only penalty is an order to pay a victim compensation (such as for pain and suffering) or restitution (such as to restore stolen property)

What are sexual offences and serious violence offences?

Sexual offence is:

Crimes Act 1958

- subdivision 8A - Rape, sexual assault and associated sexual offences
- subdivision 8B - Sexual offences against children
- subdivision 8C - Incest
- subdivision 8D - Child abuse material
- subdivision 8E - Sexual offences against persons with a cognitive impairment or mental illness
- subdivision 8F - Sexual servitude
- subdivision 8FA - Bestiality
- section 327(2) - Failure to disclose a sexual offence committed against a child under the age of 16 years
- section 49C(2) - Failure by person in authority to protect child from sexual offence as in force before the commencement of section 16 of the Crimes Amendment (Sexual Offences) Act 2016.

Sex Work Act 1994

- section 5(1) - Causing or inducing child to take part in sex work
- section 6(1) - Obtaining payment for sexual services provided by a child
- section 7(1) - Agreement for provision of sexual services by a child
- section 8(1) - Forcing person into or to remain in sex work
- section 9(1) - Forcing person to provide financial support out of sex work
- section 11(1) - Allowing child to take part in sex work

Other offences – any Victorian Act

An offence an element of which involves—

- any person engaging in sexual activity; or
- any person taking part in a sexual act; or
- commercial sexual services; or
- a sexual performance involving a child;
 - an intention that any of the conduct referred to above is to occur; or
 - soliciting, procuring, enabling or threatening any of the conduct referred above or inducing or knowingly allowing a child to enter or remain on premises so that any of the conduct referred to above may occur;
- child abuse material;
- indecency;
- an offence of attempting to commit, or of incitement or conspiracy to commit any of the above.

Serious violence offence is:

A conviction for committing, conspiracy to commit, incitement to commit or attempting to commit:

- Murder
- Manslaughter (except for culpable driving causing death).
- An offence against any of the following sections of the Crimes Act 1958—
 - section 5A (child homicide);
 - section 5B (homicide by firearm);
 - section 9AD (defensive homicide), if the offender was convicted and sentenced to imprisonment;
 - section 15A (causing serious injury intentionally in circumstances of gross violence);
 - section 15B (causing serious injury recklessly in circumstances of gross violence);
 - section 16 (causing serious injury intentionally);
 - section 17 (causing serious injury recklessly);
 - section 63A (kidnapping);
 - section 197A (arson causing death).
- An offence at common law of kidnapping.
- Offences either in Victoria or elsewhere that have the same elements as any of the above

You do not need to apply for a spent conviction order if:

- Convictions other than sexual and serious violence offences with a sentencing outcome of 30 months imprisonment or less will be spent automatically after a 10-year conviction-free period for people over the age of 21 years, and a 5-year conviction-free period for children/young offenders.
- Some convictions, including non-conviction outcomes and convictions for offences committed when a person was under the age of 15 will be spent immediately from the date of a person's conviction. Non-conviction outcomes with conditions attached will be automatically spent when the conditions are completed.

FORM 1 - APPLICATION FOR A SPENT CONVICTION ORDER

Spent Convictions Act 2021
Section 11

Case number:

Person applying to have a conviction spent

Applicant's name

Date of Birth

Gender

	☐ Male ☐ Female ☐ Other:
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Address Details

What are the best ways to contact you?

Telephone:

Email:

Do you identify as Aboriginal and/or Torres Strait Islander?

- | | | |
|-------------------------------------|---|---|
| ☐ Aboriginal | ☐ Torres Strait Islander | ☐ Both Aboriginal and Torres Strait Islander |
| ☐ Neither | ☐ Prefer not to say | |

Guardianship

Are you the person that was convicted of the offence?

- | |
|---|
| ☐ Yes – proceed to Page 5 |
| ☐ No – if no, complete below |

If you are making this application on behalf of someone, please provide your details in this section. If you are the convicted person, tick 'yes'. You are not required to fill in the remaining details.

Name

Address

What is the best way to contact you?

Telephone:

Email:

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The applicant is:

- | |
|--|
| ☐ The convicted person's guardian within the meaning of the Guardianship and Administration Act 2019. |
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If the convicted person has a disability within the meaning of the Equal Opportunity Act 2010, the person's guardian may apply on behalf of the person in relation to a serious conviction of the person.

Details of conviction

NOTICE TO THE APPLICANT: Please ensure you have included all relevant and required details and have provided the accompanying documents with your application.

The following circumstances apply to this application (select one only)

- | | |
|---|---|
| ☐ I was 21 years or older at the time of sentencing and the court made a 'with conviction' finding for: <ul style="list-style-type: none"> ▪ a serious violence offence or sexual offence, but I was not given a prison sentence, or ▪ an offence, other than a serious violence or sexual offence, where I was sentenced to a term of imprisonment of more than 30 months, but less than or equal to five years for the individual charge (not total effective sentence). | ☐ I was 15 years or older at the time of offending, but under 21 years old when I was sentenced, and the court made a 'with conviction' sentencing order for: <ul style="list-style-type: none"> ▪ a serious violence offence or sexual offence, or ▪ an offence where I was sentenced to a youth justice centre order or youth residential centre order of more than 30 months; |
|---|---|

Conviction details – conviction(s) that this application seeks to have spent:

☐ Children's Court	☐ Magistrates' Court	☐ County Court	☐ Supreme Court
Case number (if known)			
Court location			
Date of hearing			
Offence details			
Sentence imposed			

☐ There are other convictions that this application relates to, please see Form 2 attached (Select if applies)

Previous Applications for a Spent Conviction Order

Is this the first time you have applied for a Spent Conviction Order in relation to this conviction?

☐ Yes ☐ No – provide details of previous application/ order

Court Location

Date

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If your application was previously refused, you must wait two years to apply again. You must outline the new facts that you wish the court to consider for this new application. You can add more information on additional paper, or attached statements or affidavits, if you need to.

Details of subsequent convictions

Since you were convicted of the offence you are applying to be spent, have you been convicted of any other offences in either Victoria or in another jurisdiction?

Some subsequent convictions may restart the conviction period you need to complete before your initial conviction(s) can be spent. See page 3 for guidance.

- ☐ Yes – if yes, complete below
☐ No – proceed to Page 7

Details of subsequent conviction(s)

- ☐ Children's Court ☐ Magistrates' Court ☐ County Court ☐ Supreme Court
☐ Other (*please specify*):

Case number (<i>if known</i>)	
Court location	
Date of hearing	
Offence details	
Sentence imposed	

- ☐ Children's Court ☐ Magistrates' Court ☐ County Court ☐ Supreme Court
☐ Other (*please specify*):

Case number (<i>if known</i>)	
Court location	
Date of hearing	
Offence details	
Sentence imposed	

Supporting material

Please provide any information you wish the court to consider in assessing your application. You can include a statement below and/or attach supporting material to this form.

You can add more information on additional paper if you need to.

Signature of the Applicant

I, _____ born on _____ / _____ / _____ declare that the contents of my application are true and correct to the best of my knowledge and belief.

(Signature)

REGISTRY USE ONLY

Seal of the Court	Date
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Court Location	
Email address for correspondence	

Service of your Application for a Spent Conviction Order

The Applicant must serve a copy of this application and the supporting material as soon as practicable on:

The Chief Commissioner of Police spentconvictionsapp@police.vic.gov.au

The Attorney General spentconvictionsapp@justice.vic.gov.au

To ensure there is not a delay in hearing your application, please serve the application in the next 14 days.