



23 January 2012

C62, 82.7  
RB;rp

Proposal to amend the *Spent Convictions Act 2009*  
c/- Legislation and Legal Services  
Attorney-General's Department  
DX 336  
ADELAIDE SA

Dear Sir/Madam

**Proposal to amend the *Spent Convictions Act 2009***

I refer to a letter from the Attorney-General (3 December 2011) in which he invited the Society to consider the above Discussion Paper. Thank you for providing the Society with an extension of time for the provision of comments in relation to this matter.

The Discussion Paper has been considered by the Society's Criminal Law Committee. We provide the following comments in relation to the specific questions posted in the Paper.

**1 *Very old and minor convictions to become spent for all occupational purposes***

As we understand the proposal, very old and minor convictions which are currently the subject of exceptions under the current Act, would now be considered spent "for all occupational purposes" after 20 years. We note that the Discussion Paper does not appear to seek to define "occupational purposes" nor the current Act appear to define this concept.

As a matter of principle, the Society supports this proposal. However, we are concerned that the proposed period of 20 years may in fact still be too harsh and that given that the maximum qualification period in the current Act is 10 consecutive years, this may be a more appropriate qualifying period.

We note that the Discussion Paper also seeks to include drug offences and offences of violence or dishonesty. Under the current Act they would appear to already be "spent".

**1 *How should a very minor offence be defined?***

We agree with the threshold limit of a \$500 fine or community service of no more than 40 hours.

**2 *How long a period of good behaviour should be required?***

As previously stated, we consider that the qualifying period should be the same as that currently contained in the current Act. It is highly unlikely that an offender who has been convicted of what is in effect defined as a minor offence and who has not offended during the 10-year qualifying period will do so thereafter.

**3 Should all offence types be treated alike?**

We suggest that the answer to this question is "yes". We recognise that the existing Act does seek to segregate certain offences particularly those of a sexual nature. However to the purposes of minor offences all offences that fall within the proposed definition should be included.

**4 Where no conviction is recorded, the offence should be immediately spent**

As we understand the current Act, this already occurs. If no conviction is recorded then no record of it should appear. We note that the Discussion Paper refers to the record of the prosecution appearing on a police check. If this is the true intent of this proposal then the current Act would need to be amended generally as it appears to only relate to convictions as opposed to the fact of a prosecution.

We trust these comments are of assistance and should you require anything further please do not hesitate to the writer.

Yours sincerely



Ralph Bönig  
**PRESIDENT**