

DRAFT FOR CONSULTATION

Criminal Records (Clean Slate) (Additional Eligibility) Amendment Bill

Member's Bill

Explanatory note

General policy statement

This Bill expands the class of people who are eligible for the clean slate scheme with regard to their criminal record after 10 years of lawful behaviour. The people who are currently not eligible, who will become so, are individuals who have had a custodial sentence of up to 12 months, provided they have completed a 10 year “rehabilitation period” (meaning they have not reoffended) since their custodial sentence ended and individuals who have been subject to mandatory disqualification from driving for repeat offences, provided that they too have completed a 10 year rehabilitation period.

Currently many of these former offenders struggle to find well paid work, and are repeatedly further punished for historical offending, despite having long ago changed their behaviour.

This will encourage those who have offended (often in their youth, and/or when under the influence of addiction to drugs such as alcohol) to rehabilitate by rewarding sustained law abiding behaviour. It will be the light at the end of the tunnel for many people. It allows for a fresh start, which practically will mean such individuals can look forward to getting out of low wage and precarious work which can bring many of our most vulnerable families out of poverty.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause and provides for this Bill to come into force on the day after Royal assent.

Clause 3 identifies the Criminal Records (Clean Slate) Act 2004 as the Act being amended by the Bill (the **principal Act**).

Clause 4 inserts transitional provisions into the principal Act relating to the changes made by this Bill.

Clause 5 inserts a *new section 7A* into the principal Act to provide for additional eligibility under the clean slate scheme in respect of individuals who would otherwise be ineligible under section 7(1). This additional eligibility extends to individuals who have had a custodial sentence of up to 12 months, provided that they have completed a 10 year rehabilitation period since their custodial sentence ended; and to individuals who have been subject to mandatory disqualification from driving for repeat offences, provided that they have completed a 10 year rehabilitation period since their disqualification ceased to have effect.

Clause 6 inserts a *new Schedule 1* into the principal Act to provide for the transitional arrangements relating to the changes made by this Bill.

Clause 7 provides for consequential amendments.

Tangi Utikere

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Criminal Records (Clean Slate) (Additional Eligibility) Amendment Act **2023**.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

3 Principal Act

This Act amends the Criminal Records (Clean Slate) Act 2004 (the **principal Act**).

4 New section 4A inserted (Transitional, savings, and related provisions)

After section 4, insert:

4A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in **Schedule 1** have effect according to their terms.

5 New section 7A inserted (Additional eligibility under clean slate scheme)

After section 7, insert:

7A Additional eligibility under clean slate scheme

- (1) An individual who would be eligible under section 7(1) but for the application of section 7(1)(b), is eligible under the clean slate scheme if—
 - (a) any custodial sentence imposed on the individual was—
 - (i) of less than 12 months duration; and
 - (ii) in respect of a category 2 offence; and
 - (b) they have completed a rehabilitation period of not less than 10 consecutive years since the date on which their last custodial sentence was completed.
- (2) An individual who would be eligible under section 7(1) but for the application of section 7(1)(g), is eligible under the clean slate scheme if they have completed a rehabilitation period of not less than 10 consecutive years since the date on which the last order made under section 65 of the Land Transport Act 1998 or under section 30A of the Transport Act 1962 in respect of the individual ceases to have effect.
- (3) In this section, **category 2 offence** has the same meaning as in section 6(1) of the Criminal Procedure Act 2011.

6 New Schedule 1 inserted

Insert the **Schedule 1** set out in the **Schedule 1** of this Act as the first schedule to appear after the last section of the principal Act.

7 Consequential amendments

Amend the principal Act as set out in **Schedule 2**.

Schedule 1
New Schedule 1 inserted

s 6

Schedule 1
Transitional, savings, and related provisions

s 4A

Part 1
Provisions relating to Criminal Records (Clean Slate) (Additional Eligibility) Amendment Act 2021

1 Transitional provision relating to answers and responses to questions and requests asked or made before commencement of section 7A

Section 7A applies to a request made before the commencement of the Criminal Records (Clean Slate) (Additional Eligibility) Amendment Act **2021** for the disclosure of an individual’s criminal record or information about an individual’s criminal record if, on the commencement of that Act, the individual to whom the request relates became an eligible individual.

Schedule 2
Consequential amendments to principal Act

s 7

Section 4

In section 4, definition of **eligible individual**, after “section 7(1)”, insert “, **section 7A**,”.

In section 4, replace the definition of **rehabilitation period** with:

rehabilitation period, in relation to an individual, means a period in which the individual has not been convicted of an offence

Section 7

In section 7(1)(a), after “rehabilitation period”, insert “of not less than 7 consecutive years”

In section 7(1)(b), after “him or her”, insert “(but *see* **section 7A(1)**)”.

In section 7(1)(g), after “Transport Act 1962”, insert “(but *see* **section 7A(2)**)”.

In section 7(2), after “Transport Act 1962”, insert “unless **section 7A(2)** applies.”

Section 8

In section 8(1), replace “either under section 7(1) or”, with “under section 7(1), **section 7A**, or”

Replace section 8(2), with:

- (2) An individual referred to in subsection (1) again becomes an eligible individual if he or she meets the requirements of section 7 or **section 7A** following that conviction.