

## **The Impact of the Criminal Records (Clean Slate) Act 2004 on Applications for Manager's Certificates under the Sale of Liquor Act 1989**

The Criminal Records (Clean Slate) Act 2004 commences on Monday, 29 November 2004. The Act will enable individuals who satisfy all the eligibility criteria to conceal all of their convictions in most circumstances. It sets a high threshold for eligibility.

The general criteria for obtaining the benefits of the 'clean slate' scheme are set out below. Section 7 of the Act should be consulted for full information.

The individual 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 during a criminal case to be detained in a hospital due to his/her 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 – see interpretation section for a full list);
- 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 of the Land Transport Act 1998 or an earlier equivalent provision (section 65 relates to mandatory penalties for repeat offences involving use of alcohol or drugs).

There are some exceptions under section 19 of the Act where all convictions must continue to be disclosed. However, no exception applies for the purposes of determining applications for manager's certificates under the Sale of Liquor Act 1989. Section 21 of the Criminal Records (Clean Slate) Act 2004 provides that any reference in a provision to an individual's criminal record or character or fitness must be interpreted in a way that is consistent with the clean slate scheme. Therefore, where an individual is eligible for a "clean slate", he or she will be entitled to conceal their criminal record, and their criminal record would not be accessed or used when determining whether or not the individual is a "fit and proper person".

There is additional information about the legislation on the Ministry of Justice website: <http://www.justice.govt.nz/privacy/clean-slate.html> In addition, the Ministry has produced a pamphlet which will be available on the website as well as at courts, police stations, citizens advice bureaux and community law centres.