CRIMINAL RECORDS ACT 2026
(ACT NO. 6 OF 2026)

SECTIONS

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ACT NO. 6 OF 2026

I assent.

RATU N. T. LALABALAVU

President

[2 June 2026]

AN ACT

TO PROVIDE FOR SPENT CONVICTIONS OF REHABILITATED PERSONS, EXPUNGED HISTORICAL CONVICTIONS, EXPIATION OF FIXED PENALTY OFFENCES, SEALING AND MANAGEMENT OF CRIMINAL RECORDS AND FOR RELATED MATTERS

ENACTED by the Parliament of the Republic of Fiji—

PART 1—PRELIMINARY

Short title and commencement

1.—(1) This Act may be cited as the Criminal Records Act 2026.

(2) This Act comes into force on a date or dates appointed by the Minister by notice in the Gazette.

Interpretation

2.—(1) In this Act, unless the context otherwise requires—

"applicant" for the purposes of Part 4 means—

(a) an eligible person referred to in section 20(1) who makes an application under that subsection; or

(b) a kin representative referred to in section 20(2) who makes an application under that subsection in respect of an eligible person who is deceased;

"child" in relation to a person convicted of an offence, means a person who is under the age of 18 years at the time of the commission of the offence;

"Child Justice Court" means the court established under section 34 of the Child Justice Act 2024;

"Constitution" means Constitution of the Republic of Fiji;

"conviction" has the meaning given in section 3;

"conviction record holder" means a Government office that holds or has access to a public record that contains information in relation to a spent conviction, an expunged conviction or an expiated fixed penalty offence or lists spent convictions, expunged convictions or expiated fixed penalty offences;

"COVID-19 related offence" means an offence against a public health order made pursuant to section 69 of the Public Health Act 1935 in relation to the COVID-19 pandemic;

"criminal record" in relation—

(a) to a question asked of a person, means any—

(i) charges laid against him or her that have resulted in a conviction;

(ii) convictions recorded against him or her;

(iii) sentences imposed on him or her; and

(iv) orders imposed on him or her as a result of a conviction; and

(b) to a request for disclosure or an obligation to conceal, means any public record including an electronic record, that is kept by, or on behalf of, the State of—

(i) charges that result in conviction;

(ii) convictions entered (including, without limitation, any item on a list of previous convictions);

(iii) sentences imposed (including, without limitation, any item on a list of previous sentences); or

(iv) orders imposed on an offender as a result of a conviction;

"custodial sentence" has the meaning given in section 4;

"*de facto* relationship" has the same meaning as in the Succession, Probate and Administration Act 1970;

"eligible applicant" means—

(a) a person who is the subject of a decision under section 28(1) to refuse an application; or

(b) a kin representative of a person referred to in paragraph *(a)*;

"eligible person" means—

(a) a person referred to in section 20(1); or

(b) a person who was convicted of a historical offence and is deceased;

"expiated fixed penalty offence" means a fixed penalty offence that is expiated in accordance with Part 5;

"expunge" has the meaning given in section 6;

"expunged conviction" means a conviction that has become an expunged conviction under section 26(3) or section 31(2)*(a)*;

"Fiji Police clearance certificate" means a certificate relating to the criminal record of a person issued by the Fiji Police Force to a person or an organisation on authorisation of the person;

"Fiji Police Force" has the meaning given in the Police Act 1965;

"fine" has the meaning given in the Sentencing and Penalties Act 2009;

"fixed penalty conviction" means a fixed penalty notice that takes effect as a conviction under a law of Fiji;

"fixed penalty notice" means a notice in respect of a fixed penalty offence served or to be served in accordance with an Act or subsidiary legislation;

"foreign law" means a law of a country other than Fiji;

"governing principles" means the principles set out in Part 2;

"Government office" has the meaning given in the Public Records Act 1969;

"historical conviction" mean a conviction recorded against a person for a historical offence;

"historical offence" means a homosexual offence;

"homosexual offence" means—

(a) an offence against section 175*(a)* and *(c)* or section 177 of the Penal Code, as in force at any time by which any form of homosexual conduct, whether consensual or non-consensual or penetrative or non-penetrative, could be punished, whether or not heterosexual conduct could also be punished by the offence;

(b) an offence of aiding, abetting, counselling or procuring the commission of an offence referred to in paragraph *(a)*; or

(c) an offence of inciting to commit an offence referred to in paragraph *(a)*;

"juvenile court" means a juvenile court established under section 16 of the Juveniles Act 1973;

"kin representative" in relation to a deceased person who was convicted of a historical offence, means any of the following—

(a) spouse;

(b) child;

(c) adopted child including a child who is not the subject of a final adoption order under the Adoption Act 2020 but who is under the supervision of the person;

(d) parent or step-parent;

(e) sibling or step-sibling;

(f) grandparent;

(g) grandchild;

(h) uncle or aunt;

(i) nephew or niece; or

(j) headman of a *mataqali*;

"law enforcement agency" means the Fiji Police Force or any other agency that has power to investigate an indictable offence;

"*mataqali*" means the primary social division in Fiji, larger than *i tokatoka* and smaller than *yavusa*;

"Mercy Commission" means the Mercy Commission continued under section 119(1) of the Constitution;

"Permanent Secretary" means the permanent secretary responsible for justice;

"public record" has the meaning given in the Public Records Act 1969;

"rehabilitation period" has the meaning given in section 7;

"seal" means to apply the actions required under section 49(3) to a public record that contains information in relation to an expunged conviction or lists an expunged conviction;

"serious conviction" means—

(a) a conviction for which the sentence imposed includes a custodial sentence of more than 30 months;

(b) a conviction of a person for a sexual offence; or

(c) a conviction of a person for a serious violence offence;

"serious violence offence" means—

(a) murder;

(b) manslaughter;

(c) an offence against any of the following sections of the Crimes Act 2009—

(i) section 253 (disabling in order to commit an offence);

(ii) section 254 (stupefying in order to commit an offence);

(iii) section 255 (acts intended to cause grievous harm or prevent arrest);

(iv) section 258 (grievous harm);

(v) section 259 (attempting to injure by explosive substances);

(vi) section 260 (maliciously administering poison with intent to harm);

(vii) section 277 (serious assaults);

(viii) section 279 (kidnapping);

(ix) section 280 (kidnapping or abducting in order to murder);

(x) section 281 (kidnapping or abducting with intent to confine person);

(xi) section 282 (kidnapping or abducting in order to subject person to grievous harm, slavery etc.); or

(xii) section 362 (arson);

(d) an offence or an element of which is an intention to commit an offence of a kind referred to in this definition;

(e) an offence of conspiracy to commit, incitement to commit or attempting to commit an offence referred to in this definition; or

(f) an offence, whether committed in Fiji or elsewhere, the necessary elements of which consist of elements that constitute an offence of a kind referred to in this definition;

"sexual offence" means—

(a) any of the following offences—

(i) an offence against Part 12B of the Crimes Act 2009;

(ii) an offence against Part 13 of the Crimes Act 2009;

(iii) an offence an element of which involves—

(A) a person engaging in sexual activity;

(B) a person taking part in a sexual act;

(C) a commercial sexual service; or

(D) a sexual performance involving a child;

(iv) an offence an element of which involves—

(A) an intention that any of the conduct referred to in subparagraph (iii) is to occur; or

(B) soliciting, procuring, enabling or threatening any of the conduct referred to in subparagraph (iii) may occur;

(v) an offence an element of which involves child abuse material;

(vi) an offence an element of which involves indecency;

(vii) an offence of attempting to commit, or of incitement or conspiracy to commit, an offence referred to in subparagraph (i), (ii), (iii), (iv), (v) or (vi);

(b) in determining whether an offence at common law is a sexual offence, it does not matter that the offence has since been abolished;

(c) in determining whether an offence against an enactment is a sexual offence, it does not matter that the enactment has since been repealed; and

(d) in determining whether an offence is a sexual offence, it does not matter that the offence is described in this definition—

(i) differently from how it is described in the enactment or common law that establishes the offence; or

(ii) by reference to an enactment that was not in operation on the date on which the offence is alleged to have been committed;

"spent conviction" means a conviction that has become spent due to the operation of Part 3;

"spouse" of a person means—

(a) an adult person to whom the person is married; or

(b) an adult person to whom the person is not married but with whom the person is in a *de facto* relationship as a couple where one or each of them provides personal or financial commitment and support of a domestic nature for the material benefit of the other, irrespective of their genders and whether or not they are living under the same roof, but does not include a person who provides domestic support and personal care to the person—

(i) for fee or reward; or

(ii) on behalf of another person or an organisation (including a government, a government agency, a body corporate or a charitable or benevolent organisation);

"*vanua*" means the land, region and place to which an indigenous person belongs; and

"young offender" means a person who at the time of being sentenced is under the age of 24 years.

Meaning of conviction

3.—(1) Subject to subsection (2), in this Act "conviction" means—

(a) a finding of guilt by a court, tribunal, a body or person exercising judicial functions for an offence—

(i) whether or not a conviction is recorded by the court; and

(ii) whether the offence is an indictable offence or a summary offence; or

(b) a fixed penalty conviction for an offence.

(2) In relation to a spent conviction, a conviction includes an offence against a foreign law that, if it had been committed in Fiji, would have constituted an offence against a law of Fiji.

Meaning of custodial sentence

4.—(1) For the purposes of this Act, a sentence imposed on a person for a conviction includes a custodial sentence if the sentence is or includes an order that the person—

(a) serves a term of imprisonment;

(b) in the case of a person who is a child, serves a term of detention under section 31 of the Juveniles Act 1973 in an approved institution or be held in custody in an approved rehabilitation centre under section 50*(m)*(i) of the Child Justice Act 2024; or

(c) be confined in a mental hospital, prison, a declared mental health facility or other suitable place under the Criminal Procedure Act 2009.

(2) Notwithstanding subsection (1), a sentence that is or includes an order referred to in subsection (1)*(a)*, *(b)* or *(c)* is deemed to be a sentence that does not include a custodial sentence if the length of the custodial sentence served is zero days.

(3) If an aggregate sentence that includes a custodial sentence of a particular length is imposed on a person under section 30(3) of the Juveniles Act 1973, section 50*(m)* of the Child Justice Act 2024 or section 17 of the Sentencing and Penalties Act 2009, each conviction to which the aggregate sentence relates is deemed to have a sentence that includes a custodial sentence of that length.

(4) For the purposes of this Act, the length of a custodial sentence is to be determined in accordance with section 5.

Determining the length of custodial sentence

5.—(1) The length of a custodial sentence included in a sentence imposed on a person is, subject to this section, the length of time that the person is liable under that sentence—

(a) to be imprisoned;

(b) to be detained in an approved institution or committed to prison in accordance with the Juveniles Act 1973;

(c) to be held in custody in an approved rehabilitation centre in accordance with the Child Justice Act 2024; or

(d) to be confined in a mental hospital, prison, a declared mental health facility or other suitable place for safe custody in accordance with the Criminal Procedure Act 2009.

(2) The length of a custodial sentence includes any part of the custodial sentence during which the person is released on parole but does not include any time to which subsection (3) applies.

(3) Time to which this section applies is time—

(a) that a sentence provides—

(i) is to be served other than by the person being imprisoned or detained as described in subsection (1); or

(ii) is to elapse without that imprisonment or detention occuring; and

(b) that is served, or that elapses, in that way.

(4) Without limiting subsection (3), time to which that subsection applies includes any part of a term of imprisonment or detention that was suspended and that elapsed without being served in prison or detention.

(5) The fact that a custodial sentence is served concurrently with another term of imprisonment or detention imposed for another conviction does not reduce the length of the custodial sentence.

Meaning of expunge

6. For the purposes of this Act, to expunge a conviction is—

(a) to permanently seal any public record of the conviction of a person for a historical offence; and

(b) to make lawful any claim or statement by a person that he or she has not been convicted of a historical offence.

Meaning of rehabilitation period

7.—(1) In this Act, "rehabilitation period" means—

(a) a period of 2 years where—

(i) a person has a conviction for one or more offences; and

(ii) a custodial sentence was not imposed in respect of the conviction; and

(b) a period of 5 years where—

(i) a person has a conviction for one or more offences; and

(ii) a custodial sentence of up to 30 months was imposed in respect of the conviction.

(2) For the purposes of this section, the rehabilitation period for a conviction for an offence against a foreign law is deemed to be the rehabilitation period specified in subsection (1) for a conviction for the offence under the law of Fiji that corresponds (or most closely corresponds) to that conviction.

Objectives

8. The objectives of this Act are to—

(a) provide for governing principles that apply to the functions and powers under this Act;

(b) to provide for certain convictions to become spent automatically, spent on the expiry of a rehabilitation period or by force of a court order;

(c) to provide for historical convictions to be expunged;

(d) to confer on the Mercy Commission the authority to review a decision to refuse an application to expunge historical convictions;

(e) to provide for the effect of a spent conviction, an expunged conviction or an expiated fixed penalty offence;

(f) to provide for limitations and exceptions to the collection, use and disclosure of a spent conviction of a person for certain purposes such as the administration of justice or the performance of statutory functions;

(g) to provide for the sealing of public records of expunged convictions; and

(h) to make provision for spent convictions, expunged historical convictions and expiated fixed penalty offences in relation to Fiji Police clearance certificates.

Act to bind the State

9. This Act binds the State.

Application of Act

10.—(1) This Act applies to a conviction for an offence to which Part 3 applies or a historical offence, irrespective of when the offence is committed or the conviction is recorded or findings of guilt are made.

(2) Part 4 does not limit or affect the application of Part 3 to a person who has a conviction.

PART 2—GOVERNING PRINCIPLES

Governing principles

11.—(1) This Part sets out the governing principles that apply to this Act.

(2) Any person who performs any function or exercises any power under this Act must do so in a manner intended to promote the governing principles.

Rehabilitation principle

12. The rehabilitation of a person who has been convicted of an offence, is to be promoted and respected and the person is to be supported as a valued member of the community.

Forgiveness principle

13. The forgiveness by victims, families, members of community, *mataqali* and *vanua* of a person who has been convicted of an offence is to be recognised as important for the person to change and be rehabilitated.

Respect principle

14. A person who has been convicted of an offence and attempts to change and be rehabilitated so as to be a valued member of the community is to be supported and respected.

Young person principle

15. The opportunity for a young person to learn from being convicted of an offence and change his or her life is to be promoted and supported, including by providing opportunities for a fresh start to engage in education and employment.

Second chance principle

16. A person who has been convicted of an offence and engages in the process of rehabilitation is to be given a second chance to be a valued member of the community through education and employment.

PART 3—SPENT CONVICTIONS

Convictions spent with immediate effect

17.—(1) Subject to subsection (2), a conviction for an offence against the law of Fiji, including a COVID-19 related offence, or foreign law by a natural person becomes spent on the day on which the person is convicted if—

(a) a finding of guilt is made by a court without recording a conviction;

(b) the conviction is a qualified finding of guilt by reason of the person being found to be unfit to plead or establish a defence under law related to the person's mental impairment or a finding under a foreign law that corresponds;

(c) the conviction, excluding a serious conviction, is for an offence committed when the person was under the age of 15 years;

(d) the only penalty imposed by a court on conviction is a fine that is less than $10,000;

(e) the only penalty imposed on conviction is a fine imposed by a juvenile court, a Child Justice Court or a court of a country other than Fiji that corresponds to the children's jurisdiction; or

(f) the conviction is a fixed penalty conviction or a conviction under a foreign law that corresponds to a fixed penalty conviction.

(2) If a court imposes a penalty with a condition attached to the conviction, the person's conviction does not become spent under this section until the person completes all conditions attached to the penalty.

Convictions spent on expiry of rehabilitation period

18. A conviction for an offence against a law of Fiji, including a COVID-19 related offence, or a foreign law by a natural person becomes spent on the day on which the rehabilitation period for the conviction expires unless—

(a) the conviction is a serious conviction; or

(b) section 17 applies to the conviction.

Commencement and recommencement of rehabilitation period

19.—(1) Subject to subsection (2), the rehabilitation period for a conviction commences on the day a court, a tribunal, a body or person, exercising judicial functions makes the finding of guilt that constitutes the conviction.

(2) If, after a rehabilitation period commences for a conviction of a person, ("first conviction") a subsequent conviction of the person is made ("later conviction"), the rehabilitation period for the first conviction is deemed to run from the day that the later conviction is made unless—

(a) the person is the subject of a later conviction that is a conviction—

(i) for which the only penalty imposed is an order to pay an amount as restitution or compensation;

(ii) for which no penalty is imposed; or

(iii) for which no conviction is recorded by the court, the tribunal or the body or person exercising judicial functions; or

(b) the person is a young offender who is the subject of a later conviction—

(i) of a kind referred to in paragraph *(a)*; or

(ii) for an offence where a conviction is recorded and it is not a serious conviction, and there is no more than one later conviction imposed on the young offender during the rehabilitation period.

PART 4—EXPUNGED CONVICTIONS

Division 1—Convictions for historical offences expunged on application

Application to Permanent Secretary and approved form

20.—(1) A person who has been convicted of a historical offence is eligible to apply to the Permanent Secretary for the conviction to be expunged.

(2) A kin representative of a person who was convicted of a historical offence and is deceased may apply to the Permanent Secretary for the person's conviction to be expunged.

(3) An application must—

(a) be in the form approved by the Minister;

(b) be signed by the applicant;

(c) include any identifying information approved by the Minister.

(4) The approved form must provide for the Permanent Secretary to be given the following information—

(a) the full name of the eligible person, and any other names by which the eligible person is or has been known;

(b) the residential address and telephone number of the applicant;

(c) the date and place of birth of the eligible person;

(d) the gender of the eligible person;

(e) an address where notice and other documents addressed to the applicant may be served, which may be a residential or business address, a post office box or an email address;

(f) the residential address of the eligible person at the time of the offence and of the conviction; and

(g) in relation to the historical offence to which the application relates, so far as known to the applicant—

(i) the name and location of the court by which the eligible person was convicted;

(ii) the date of the conviction;

(iii) the name of the offence; and

(iv) details of the offence and the offending conduct.

(5) The approved form must include provision for the applicant to—

(a) authorise the conduct of a police clearance check on the eligible person in relation to the conviction to which the application relates; and

(b) consent to the disclosure to the Permanent Secretary of any public records relating to that conviction created by a court, a tribunal, the Fiji Police Force or the Office of the Director of Public Prosecutions, whether held by that entity or by any other entity.

(6) An application may be accompanied by statements by the applicant or written evidence given by any other person, including a person involved in the conduct constituting the offence, about matters which the Permanent Secretary must be satisfied to determine an application under this section.

(7) The approved form and a list of the types of identifying information, must be published by the Permanent Secretary on a website maintained by the Ministry.

Permanent Secretary may require further information

21.—(1) If the Permanent Secretary receives an application that does not include all the information required by section 20, the Permanent Secretary may require the applicant to provide that information to the Permanent Secretary within 28 days or any longer period determined by the Permanent Secretary.

(2) Nothing in subsection (1) prevents the Permanent Secretary considering an application that does not include all the information required by section 20, if the Permanent Secretary chooses to do so.

Division 2—Determining applications for expungement of convictions for historical offences

Consideration of application

22.—(1) The Permanent Secretary in considering an application—

(a) must give proper consideration to any available record of the investigation of the historical offence, and of any proceedings relating to it, that the Permanent Secretary considers to be relevant;

(b) must give proper consideration to any statement or written evidence given in accordance with section 20(6);

(c) may request that any person or body give to the Permanent Secretary any relevant information about the offence, including any tribunal, court, the Fiji Police Force and the office of the Director of Public Prosecutions;

(d) may require the applicant to provide any further information that the Permanent Secretary thinks fit in the manner required by the Permanent Secretary within 28 days or any longer period that the Permanent Secretary determines; and

(e) must give proper consideration to any further information that the Permanent Secretary has required the applicant to provide under section 21(1).

(2) The Permanent Secretary must not hold an oral hearing for the purposes of determining an application.

(3) The Permanent Secretary, as soon as practicable after obtaining the record of the investigation of the offence—

(a) must give the applicant access to it, except so far as it contains information relating to the personal information of any person other than the applicant; and

(b) must give written notice to the applicant that the Permanent Secretary will not proceed to determine the application until at least 28 days, or any longer period that the Permanent Secretary determines and specifies in the notice, have passed from the day on which the applicant is given access to the record.

(4) In subsection (3) "personal information" means information—

(a) that identifies a person or discloses his or her address or location; or

(b) from which a person's identity, address or location can reasonably be determined.

Person or body must provide information required by Permanent Secretary

23.—(1) A person to whom a request for information is made by the Permanent Secretary under section 22(1)*(c)* must respond to the request as soon as practicable.

(2) A person or body, in responding to a request, is not bound by any duty of confidentiality imposed on the person or body by or under any Act or agreement, despite anything to the contrary in that Act or agreement.

Determination of application in relation to homosexual offence

24.—(1) The Permanent Secretary must refuse an application made under section 20 in respect of a homosexual offence, unless satisfied—

(a) that the offence with which the eligible person has been or was convicted is a homosexual offence; and

(b) that, on the balance of probabilities, both of the following tests are satisfied in relation to the eligible person—

(i) the eligible person would not have been charged with the homosexual offence but for the fact that the eligible person was suspected of having engaged in the conduct constituting the offence for the purposes of, or in connection with, sexual activity of a homosexual nature; and

(ii) that conduct, if engaged in by the eligible person at the time of the making of the application, would not constitute an offence under the law of Fiji.

(2) In considering whether the test set out in subsection (1)*(b)*(ii) is satisfied, the Permanent Secretary must, where relevant, have regard to—

(a) whether any person involved in the conduct constituting the offence, including the eligible person, consented to the conduct; and

(b) the ages, or respective ages, of any such persons at the time of that conduct.

(3) Subsection (4) applies if—

(a) consent of a person is a relevant issue in determining whether the test set out in subsection (1)*(b)*(ii) is satisfied; and

(b) the Permanent Secretary is not satisfied, from the available records, that consent had been given.

(4) The Permanent Secretary may only be satisfied on the issue of consent by written evidence touching on that issue—

(a) from a person, other than the eligible person, who was involved in the conduct constituting the offence; or

(b) if no such person can be found after reasonable enquiries are made by the applicant from a person, other than the applicant, with knowledge of the circumstances in which that conduct occurred.

Withdrawal of application

25.—(1) An applicant may withdraw his or her application at any time before the Permanent Secretary determines it.

(2) The Permanent Secretary may treat an application as having been withdrawn if the applicant does not, within the applicable period, provide any information required under section 21(1) or further information required under section 22(1)*(d)*.

(3) Despite an application being withdrawn or treated as being withdrawn under this section, the Permanent Secretary may reinstate the application if satisfied that the applicant wants to proceed with it and has provided any information required under section 21(1) or further information required under section 22(1)*(d)*.

Determination of application by Permanent Secretary

26.—(1) The Permanent Secretary must determine an application by approving or refusing it as soon as practicable after it is received.

(2) The Permanent Secretary must give written notice of the decision to the applicant within 14 days of making it.

(3) If an application is approved, the historical conviction is expunged by force of this section, 28 days after the day of the making of the decision.

(4) If the decision is a refusal of the application, the written notice must—

(a) state the reasons for the decision;

(*b*) inform the applicant that they may apply to the Mercy Commission to have the decision reviewed; and

(*c*) explain how an application may be made to the Mercy Commission.

(5) If the determination is an approval of the application, the written notice must state the reasons for the decision.

Restriction on right to re-apply

27.—(1) A person whose application in respect of a historical conviction has been refused by the Permanent Secretary is only entitled to have a further application in respect of that conviction considered by the Permanent Secretary in the circumstances set out in subsection (2).

(2) The circumstances are that the Permanent Secretary is satisfied that necessary supporting information contained in the further application became available only after the earlier application was determined.

Division 3—Review of decisions by Mercy Commission

Application for review of Permanent Secretary decision by Mercy Commission

28.—(1) An eligible applicant may apply to the Mercy Commission for the review of a decision of the Permanent Secretary under section 26(1) to refuse an application.

(2) An application for review under subsection (1) must be made within 28 days after the day on which the applicant is given notice of the decision of the Permanent Secretary.

Notice requirements

29. If an application under section 28(1) is made for review of a decision, the eligible applicant must give notice of the application and any interim or temporary advice of the Mercy Commission in respect of the application to—

(*a*) the Permanent Secretary;

(*b*) the Minister responsible for justice; and

(*c*) the Commissioner of Police.

Application to Mercy Commission may be withdrawn in certain circumstances

30.—(1) An eligible applicant under section 28 may withdraw his or her application at any time before the Mercy Commission determines it.

(2) The Mercy Commission may treat an application as having been withdrawn if the eligible applicant does not provide any information requested in a specified period by the Mercy Commission.

Power of Mercy Commission to make determination

31.—(1) In making a determination under this section the Mercy Commission must perform the function of reviewing a decision of the Permanent Secretary in accordance with section 138 of the Constitution.

(2) In determining an application under section 28(1), the Mercy Commission may determine that the application of the eligible applicant—

(a) satisfies the matters and tests under section 24 in relation to a homosexual offence and replace the decision of the Permanent Secretary with a decision approving the application; or

(b) does not satisfy the matters and tests under section 24 in relation to a homosexual offence and uphold the decision of the Permanent Secretary refusing the application.

Orders made by Mercy Commission

32. In an application under this Division, the Mercy Commission may make interim orders or temporary orders that it considers necessary.

Division 4—General matters

Confidentiality

33.—(1) A person commits an offence if he or she directly or indirectly, makes a record of, or discloses or communicates to any person, any information relating to an application under this Part acquired by him or her in performing a function or exercising a power under this Part.

(2) A person who contravenes subsection (1) without reasonable excuse commits an offence and is liable on conviction to a fine not exceeding $10,000 or a term of imprisonment not exceeding 1 year, or both.

Evidentiary provisions

34.—(1) This section applies to a document purporting to be given by the Permanent Secretary or the Mercy Commission certifying as to whether an application in respect of a historical conviction was approved or refused.

(2) The document is admissible in evidence in any proceedings and, in the absence of evidence to the contrary, is proof of the matters stated in the document.

(3) The document must be presumed in any proceedings, in the absence of evidence to the contrary, to have been given by the Permanent Secretary or the Mercy Commission, as the case requires.

No entitlement to compensation

35. If a conviction for a historical offence is expunged under section 26 or 31, a person is not entitled to compensation of any kind, on account of that conviction becoming expunged, in respect of the fact that—

(a) the person was charged with, or prosecuted for, the historical offence;

(b) the person was convicted of, or sentenced for, the historical offence;

(c) the person served a sentence for the historical offence;

(d) the person was required to pay a fine or other money (including costs or any amount by way of restitution or compensation) on account of being convicted of, or sentenced for, the historical offence;

(e) the person has an expunged conviction; or

(f) the person incurred any loss, or suffered any consequence, as a result of an event referred to in paragraph *(a)*, *(b)*, *(c)*, *(d)* or *(e)*, whether or not that person was the person whose conviction was expunged.

Prerogative of mercy not affected

36. Nothing in this Act is to be deemed to affect the prerogative of mercy.

PART 5—EXPIATED FIXED PENALTY OFFENCES

Expiating the offence

37.—(1) This Part applies if a fixed penalty notice is not withdrawn and the fixed penalty and any fee added to the fixed penalty under any written law, is paid within the period specified in the notice or late payment is accepted.

(2) A person on whom the fixed penalty notice is served has expiated the offence by—

(a) payment of the fixed penalty and any fee added to the fixed penalty; or

(b) serving a term of imprisonment in default of payment.

(3) A fixed penalty paid in accordance with the relevant Act or subsidiary legislation must be applied in the same way as a fine paid under an order of a court made on an offender being convicted or found guilty of the offence to which the fixed penalty relates.

Effect of expiated fixed penalty offence

38.—(1) Subject to this Act and any other written law, if a person has expiated an offence under section 37—

(a) no further proceedings may be taken against the person on whom the fixed penalty notice was served in respect of the offence; and

(b) no conviction is to be taken to have been recorded against that person for the offence.

(2) The payment of a fixed penalty by a person is not and must not be taken to be—

(a) an admission of guilt in relation to the offence; or

(b) an admission of liability for the purpose of any civil claim or proceeding arising out of the same occurrence, and the payment of the fixed penalty does not in any way affect or prejudice any such claim or proceeding.

(3) The serving of a term of imprisonment by a person in default of payment of a fixed penalty is not and must not be deemed to be—

(a) an admission of guilt in relation to the offence the subject of the fixed penalty; or

(b) an admission of liability for the purpose of any civil claim or proceeding arising out of the same occurrence and does not in any way affect or prejudice any such claim or proceeding.

(4) The payment of a fixed penalty or the serving of a term of imprisonment must not be referred to or provided to a court for the purpose of determining sentence for any offence.

(5) For the avoidance of doubt, if a fixed penalty and any fee added to the fixed penalty are paid and the offence is expiated in accordance with section 37, no further action in respect of the offence may be taken under any Act or subsidiary legislation by—

(a) the person who was served with the fixed penalty notice; or

(b) the law enforcement agency, public agency or department that served the notice.

Demerit schemes

39. Despite anything to the contrary in this Part, the expiation of an offence under this Part in relation to an offence which is a fixed penalty offence under any Act or subsidiary legislation, does not prevent the incurring of demerit points under that Act or subsidiary legislation in relation to the fixed penalty offence.

PART 6—CONVICTION RECORDS

Division 1—Effect of spent conviction or spent conviction order

Effect of spent conviction on a person

40.—(1) If a person's conviction is spent with immediate effect by force of section 17, on expiry of the rehabilitation period under section 16 or by operation of a spent conviction order, he or she is deemed to have no criminal record for the purposes of any question asked of him or her about his or her criminal record.

(2) The person may answer a question asked of him or her about his or her criminal record by stating that he or she has no criminal record.

(3) Nothing in subsection (1) or (2)—

(a) prevents the person stating that he or she has a criminal record, disclosing his or her criminal record, or consenting to the disclosure of his or her criminal record; or

(b) authorises the person to answer a question asked of him or her about his or her criminal record by stating that he or she has no criminal record if the question is asked—

(i) under the jurisdiction of the law of a foreign country while a person is outside Fiji; or

(ii) while he or she is in Fiji but relates to a matter dealt with by the law of a foreign country.

(4) Subsections (1) and (2) are subject to the exceptions in section 46.

Duty of head of Government office that holds public record of spent conviction or spent conviction order

41.—(1) This section applies to the head of a Government office that is a conviction record holder.

(2) Subject to section 46, a person to whom this section applies must take all reasonable steps to ensure that the Government office and its employees and contractors—

(a) conceal any spent conviction records of a person;

(b) that the spent conviction of a person when a request is made for a criminal record in relation to the person is not disclosed, other than for a request made by the person to whom the spent conviction relates; and

(c) do not use any spent conviction record of a person, other than for a purpose authorised under this Act.

Effect of a spent conviction on conviction record holder, employee and contractor

42.—(1) Subject to section 46, a conviction record holder, or an employee or contractor of a conviction record holder, that holds or has access to criminal records that is responding to a request for the disclosure of a person's criminal record or any information about a person's criminal record, other than a request from the person, must not disclose any spent conviction of the person.

(2) A conviction record holder, or an employee or contractor of a conviction record holder, that holds or has access to the criminal records of a person must not use those criminal records other than for a purpose authorised under this Act.

Offence to unlawfully disclose spent conviction or information relating to spent conviction

43.—(1) An employee or a contractor of a conviction record holder commits an offence if the employee or the contractor knowing that he or she does not have lawful authority under this Act, or being reckless as to whether or not he or she has lawful authority under this Act discloses to a person, body or agency a spent conviction or information about a spent conviction of a person that is required to be concealed.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding $10,000.

Offence to require or request an individual to disclose a spent conviction

44.—(1) A person commits an offence if, without lawful authority under this Act, the person requires or requests that an individual—

(a) disregard the effect of a spent conviction when answering a question about his or her criminal record; or

(b) disregard the effect of a spent conviction and disclose or give consent to the disclosure of his or her spent convictions.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding $10,000.

Offence of obtaining spent conviction information by fraud or dishonesty

45. A person commits an offence if the person obtains information relating to a spent conviction by fraud or dishonesty and is liable on conviction to a fine not exceeding $10,000.

Exception to spent conviction and spent conviction order

46.—(1) A person must state that he or she has a criminal record if subsection (3) applies to him or her.

(2) A Government office or an employee or contractor of a Government office, that holds or has access to criminal records may disclose the criminal record or information about the criminal record of a person if subsection (3) applies to him or her.

(3) This subsection applies to a person if—

(a) the person's criminal record or information about the person's criminal record is necessary for any of the following purposes—

(i) a law enforcement function that includes the prevention, detection, investigation or prosecution of a crime by a law enforcement agency or foreign law enforcement agency whose functions correspond to the law enforcement agency in Fiji;

(ii) the administration of a sentence or remand by a law enforcement agency;

(iii) any criminal or civil proceeding before a court or a tribunal or a parole tribunal;

(iv) the performance of a function of a security intelligence agency or officer of a security intelligence agency of Fiji; and

(v) to assess the person's suitability to work with children or persons with a disability;

(b) the person's criminal record or information about the person's criminal record is relevant to any criminal or civil proceedings before a tribunal or court, including sentencing, or proceedings before the parole tribunal;

(c) the person has made an application to serve in the Fiji Police Force, Fiji Corrections Service or the Republic of Fiji Military Forces;

(d) the person has made an application for employment in a national security agency of Fiji or for appointment as a judicial officer; and

(e) the person has made an application to act in a role that predominantly involves children.

Limits on use of criminal record

47.—(1) A person, body or agency to whom the criminal record of a person, or information about the criminal record of a person, has been disclosed under section 46, must not use that criminal record or information about the criminal record for any purpose other than the purpose in relation to which it was disclosed to the person, body or agency.

(2) Any person, body or agency or employee of a body or agency that holds or has access to the criminal records of a person who has a spent conviction, unless the person has disclosed the spent conviction under section 46, must not use those records or any information about those records for any purpose other than for a purpose for which those records or that information may also be disclosed under section 46.

Division 2—Effect of expunged convictions

Effect of expunged conviction on a person

48.—(1) If a person's conviction for a historical offence is an expunged conviction, for the purposes of the laws of Fiji, the expungement of the conviction has the effects set out in this section.

(2) A question about the person's criminal record, including one put in a legal proceeding and required to be answered under oath or by affirmation, is to be deemed not to refer to the expunged conviction, but to refer only to any conviction that the person has that is not expunged.

(3) The person is not required to disclose to any other person for any purpose, including when giving evidence on oath or affirmation in a legal proceeding, information concerning any expunged conviction.

(4) In the application to the convicted person of a written law or arrangement including an agreement, contract, deed or trust—

(a) a reference to a conviction, however expressed, is to be deemed not to refer to any expunged conviction; and

(b) a reference to the person's character or fitness, however expressed, is not to be deemed as allowing or requiring account to be taken of any expunged conviction.

(5) Any expunged conviction, or the non-disclosure of any expunged conviction, is not a proper ground for—

(a) refusing the person any appointment, post, status, or privilege; or

(b) revoking any appointment, status, or privilege held by the person, or dismissing the person from any post.

(6) The fact that a refusal, revocation, or dismissal of that kind occurred, solely on account of that historical conviction, before the historical conviction became an expunged conviction is not a proper ground for a refusal, revocation, or dismissal, solely on account of that conviction, occurring after the expungement.

(7) Expungement of a historical conviction requires the records of the expunged conviction to be sealed.

Obligation in relation to public record and expunged conviction

49.—(1) The Permanent Secretary, within the prescribed period after a conviction becomes an expunged conviction, must notify any relevant conviction record holder in writing of that fact.

(2) A conviction record holder must take the action set out in subsection (3) in relation to any public record relating to an expunged conviction under his or her management or control as soon as reasonably practicable after receiving the notice under subsection (1) and, in any event, not later than the prescribed period after receiving it.

(3) The action is to seal any public record relating to an expunged conviction—

(a) by marking any file or any document with a prescribed statement to the effect that it relates to an expunged conviction;

(b) by annotating any electronic entry in a public record with a statement to the effect that it relates to an expunged conviction; or

(c) for public records or secondary records held in an electronic format by Fiji Police Force or the office of the Director of Public Prosecutions, take any necessary steps to do one or more of the following—

(i) remove the entry;

(ii) make the entry incapable of being found; or

(iii) de-identify the information contained in the entry and destroy any link between it and information that would identify the person to whom it referred.

(4) As soon as practicable after taking action in relation to a file, document or entry in a public record, the conviction record holder must give notice of the action taken to the Permanent Secretary.

(5) As soon as practicable after the Permanent Secretary is satisfied that all necessary action has been taken in relation to files, documents or entries in public records, the Permanent Secretary must give written notice of that fact to the person who has the expunged conviction.

Effect of expungement on request to disclose, and use of expunged conviction

50.—(1) This section applies to a conviction record holder, employee or contractor of a conviction record holder, that holds or has access to public records that contains information in relation to an expunged conviction or lists expunged convictions.

(2) The conviction record holder, employee or contractor in responding to a request for disclosure of a person's criminal record or any information about a person's criminal record, must not disclose the criminal record of an expunged conviction.

Offence to unlawfully disclose expunged conviction or information relating to expunged conviction required to be sealed

51.—(1) This section applies to a person who—

(a) is an employee or contractor of a conviction record holder; and

(b) has access to public records that contains information in relation to an expunged conviction or lists an expunged conviction.

(2) Subject to subsection (3), a person commits an offence if the person—

(a) discloses to any person, body or agency the public record that contains information in relation to an expunged conviction or lists an expunged conviction, or information about the public record; and

(b) discloses that public record or that information knowing that the person does not have lawful authority from the person who has the expunged conviction.

(3) Subsection (2) does not apply to or prevent disclosure of a public record that contains information in relation to an expunged conviction or lists an expunged conviction, if the person who has the expunged conviction gives written consent authorising the disclosure of his or her criminal record including the expunged conviction.

(4) A person who contravenes this section commits an offence and is liable on conviction to a fine not exceeding $20,000.

Offence to require or request person to disregard expungement

52.—(1) A person commits an offence if the person requires or requests that a person who has an expunged conviction—

(a) disregard the effect of expungement under this Act when answering a question about the person's criminal record, or disclosing information concerning any convictions of the person, or both; or

(b) disregard the effect of expungement under this Act and disclose, or give consent to the disclosure of, any public records that contain information in relation to the person's expunged conviction or lists the person's expunged conviction.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding $10,000.

Division 3—Fiji Police Force clearance certificate

Certification of criminal record

53.—(1) The Fiji Police Force must not require a person who applies for certification of his or her criminal record to disclose a spent conviction, an expunged conviction or an expiated fixed penalty offence.

(2) The Fiji Police Force must not issue a Fiji Police clearance certificate to a person that contains any of the following—

(a) a spent conviction, unless an exception under section 46(3) applies to the person;

(b) an expunged conviction; and

(c) an expiated fixed penalty offence.

PART 7—MISCELLANEOUS

Operation of this Act

54. This Act does not limit or affect the operation of the Registration of Sex Offenders Act 2021.

Regulations

55. The Minister may make regulations to prescribe matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act and generally for achieving the purposes of this Act including—

(a) forms and procedures for the making of applications;

(b) forms and procedures for providing evidence of matters for the determination of applications made to the Permanent Secretary or Mercy Commission;

(c) procedures for the handling of information about spent convictions;

(d) procedures for sealing records of expunged convictions;

(e) guidelines for applicants for a spent conviction order or expungement of a historical conviction; and

(f) guidelines on matters in relation to historical convictions, kin representatives and requests for further information from applicants.

Repeal

56. The Rehabilitation of Offenders (Irrelevant Convictions) Act 1997 is repealed.

Revocation

57. The Rehabilitation of Offenders (Irrelevant Convictions) Regulations 1998 are revoked.

Transitional

58.—(1) This Act applies to a conviction for an offence to which Part 3 applies or a historical offence irrespective of when the offence is committed, the conviction is recorded or findings of guilt are made.

(2) On and from the commencement of this Act, the rehabilitation period for a conviction for an offence irrespective of when the offence was committed or the conviction was recorded or findings of guilt were made is to be in accordance with this Act.

(3) An application made under section 27 of the Rehabilitation of Offenders (Irrelevant Convictions) Act 1997 but not determined immediately before the commencement of this Act, is deemed to be an application under this Act to which, as the case requires—

(a) section 17 applies so that the conviction is spent with immediate effect; or

(b) section 18 applies so that the conviction is spent on expiry of the rehabilitation period.

(4) This Act applies to—

(a) an answer given on or after the commencement of Part 6 by a person who has a spent conviction or an expunged conviction, to a question asked about his or her criminal record before the commencement of Part 6; and

(b) a response given on or after the commencement of this Act to a request made before the commencement of this Act for the disclosure of a person's criminal record or information about a person's criminal record if, on commencement of this Act, the person to whom the request relates has become any of the following—

(i) an applicant for the purposes of Part 3;

(ii) an eligible person who made an application under section 20(1); or

(iii) an eligible person in respect of whom an application is made under section 20(2).

Passed by the Parliament of the Republic of Fiji this 27th day of May 2026.

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