



New South Wales

Criminal Records Amendment (Disclosure of Spent Convictions) Regulation 1996

under the

Criminal Records Act 1991

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Criminal Records Act 1991*.

J W SHAW

Attorney General

Explanatory note

The object of this Regulation is to ensure that the officer in charge of the Criminal Records Unit of the Police Service does not commit an offence of unlawful disclosure of information concerning spent convictions (section 13 of the *Criminal Records Act 1991*) whenever the Director of Casino Surveillance, the Director of Liquor and Gaming or a person authorised in writing by either Director accesses the Unit's convictions database.

At present the computer records of convictions of a person that are treated as spent by the Act cannot be separated from the computer records relating to the other convictions of that person. The result is that if the Director of Casino Surveillance, the Director of Liquor and Gaming or a person authorised in writing by either Director accessed criminal records by on-line computer facilities, they would automatically receive data relating to all the convictions (including spent convictions) of a person. This would mean that the officer in charge of the Criminal Records Unit of the Police Service would be committing an offence against section 13 whenever those persons accessed the database.

This Regulation (made under the general power in section 25 to make regulations disapplying sections of the Act) ensures that the officer in charge of that Unit does not commit an offence in the circumstances described.

Criminal Records Amendment (Disclosure of Spent Convictions) Regulation 1996

1 Name of Regulation

This Regulation is the *Criminal Records Amendment (Disclosure of Spent Convictions) Regulation 1996*.

2 Amendment of Criminal Records Regulation 1994

The *Criminal Records Regulation 1994* is amended as set out in Schedule 1.

3 Notes

The explanatory note does not form part of this Regulation.

Schedule 1 Amendment of Criminal Records Regulation 1994

(Clause 2)

Clause 9

Insert after clause 8:

9 Disclosure to Director of Casino Surveillance or Director of Liquor and Gaming

- (1) Section 13 of the Act does not apply to the disclosure of information concerning a spent conviction by the officer in charge of the Criminal Records Unit of the Police Service to the Director of Casino Surveillance, the Director of Liquor and Gaming or a person authorised in writing by either Director.
- (2) However, subclause (1) has effect only if, at the time the officer in charge discloses the information, the officer is satisfied that within the administration of the Director concerned there are policies and procedures in place that will ensure that the information will be used only in deciding whether to commence a prosecution for an offence against the person who was the subject of the spent conviction.