



New South Wales

## Criminal Records Regulation 1999

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 repeal and remake, with no substantive changes, the provisions of the *Criminal Records Regulation 1994*. The new Regulation:

- (a) excludes persons who apply for appointment or employment in the Office of the Director of Public Prosecutions or the Independent Commission Against Corruption from the provisions of section 12 of the *Criminal Records Act 1991* (which relates to the consequences of convictions becoming spent), with the result that such persons may be required to disclose their spent convictions in their job applications or interviews with the DPP or ICAC, and
- (b) permits the disclosure of information concerning spent convictions by the officer in charge of the Criminal Records Unit of the Police Service in certain circumstances to persons employed in the Department of Corrective Services, the Australian Customs Service, the Bureau of Crime Statistics, the Sheriff's Office or the Department of Fair Trading or to the Director of Casino Surveillance or the Director of Liquor and Gaming.

This Regulation is made under the *Criminal Records Act 1991*, including section 25 (the general regulation-making power, in particular section 25 (3)).

This Regulation comprises matters of a machinery nature.

This Regulation is made in connection with the staged repeal of subordinate legislation under the *Subordinate Legislation Act 1989*.

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## Criminal Records Regulation 1999

### 1 Name of Regulation

This Regulation is the *Criminal Records Regulation 1999*.

### 2 Commencement

This Regulation commences on 1 September 1999.

### 3 Definition

(1) In this Regulation:

*the Act* means the *Criminal Records Act 1991*.

(2) The explanatory note and table of contents do not form part of this Regulation.

### 4 Exclusion of applicants for employment in Office of DPP from consequences of conviction being spent

Section 12 of the Act does not apply in relation to an application by a person for appointment or employment as an Officer within the meaning of the *Director of Public Prosecutions Act 1986*.

### 5 Exclusion of applicants for employment with ICAC from consequences of conviction being spent

Section 12 of the Act does not apply in relation to an application by a person for appointment or employment as an officer of the Commission within the meaning of the *Independent Commission Against Corruption Act 1988*.

### 6 Disclosure to Corrective Services and Customs

(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 a person employed in the Department of Corrective Services or the Australian Customs Service.

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- (2) However, subclause (1) has effect only if:
  - (a) at the time the officer in charge discloses the information, the officer is satisfied that within the Department or Service concerned, there are policies and procedures in place that will ensure that the information will not be disclosed, or used or taken into account in any decision taken or other thing done, by any person employed in the Department or Service concerned, and
  - (b) the information is made available only together with information relating to all the other convictions of the relevant person.
- (3) This clause ceases to have effect on 1 November 2000.

### **7 Disclosure to Bureau of Crime Statistics and Research**

- (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 a person employed in the Bureau of Crime Statistics and Research.
- (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 Bureau of Crime Statistics and Research there are policies and procedures in place that will ensure that:
  - (a) the information concerning the conviction will only be used in research by that Bureau, the production of statistics by that Bureau and the publication of those statistics and of reports relating to that research, and
  - (b) any such publication does not name or otherwise identify the person who was the subject of the conviction.

### **8 Disclosure to Office of Sheriff or Department of Fair Trading**

- (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 a person employed in the Office of the Sheriff or in the Department of Fair Trading.

- (2) However, subclause (1) has effect only if:
- (a) at the time the officer in charge discloses the information, the officer is satisfied that within that Office or Department there are policies and procedures in place that will ensure that the information will not be disclosed, or used or taken into account in any decision taken, or other thing done, by any person employed in that Office or Department, and
  - (b) the information is made available only together with information relating to all the other convictions of the relevant person.
- (3) This clause ceases to have effect on 1 November 2000.

**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.

BY AUTHORITY

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