



New South Wales

# **Criminal Records Amendment (Historical Homosexual Offences) Regulation 2017**

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*.

MARK SPEAKMAN, MP  
Attorney General

## **Explanatory note**

The object of this Regulation is to prescribe various former obscene or indecent exposure offences as eligible homosexual offences in order for a person who has been convicted of such an offence in certain circumstances to apply to the Secretary of the Department of Justice for the conviction to become extinguished.

This Regulation is made under the *Criminal Records Act 1991*, including sections 19A (d) and 25 (the general regulation-making power).

## **Criminal Records Amendment (Historical Homosexual Offences) Regulation 2017**

under the

Criminal Records Act 1991

### **1 Name of Regulation**

This Regulation is the *Criminal Records Amendment (Historical Homosexual Offences) Regulation 2017*.

### **2 Commencement**

This Regulation commences on the day on which it is published on the NSW legislation website.

### **3 Amendment of Criminal Records Regulation 2014**

#### **Clause 9A**

Insert after clause 9:

#### **9A Prescribed eligible homosexual offences**

- (1) For the purposes of paragraph (d) of the definition of *eligible homosexual offence* in section 19A of the Act, the following offences are prescribed:
  - (a) the former offence under section 483 (b) of the *Crimes Act 1900* committed by an adult,
  - (b) the former offence under section 6 of the *Offences in Public Places Act 1979*,
  - (c) the former offence under section 78 of the *Police Offences Act 1901*,
  - (d) the former offences under sections 11 and 12 of the *Summary Offences Act 1970*,
  - (e) the former offence under section 4 (2) (d) of the *Vagrancy Act 1902*.
- (2) However, a former offence referred to in subclause (1) is an eligible homosexual offence only if:
  - (a) the offence was committed by a person (the *offender*) while engaging in a form of sexual activity with another person of the same sex, and
  - (b) the offence was not witnessed by a person except:
    - (i) any person engaged in the sexual activity, or
    - (ii) a police officer, and
  - (c) the offender had not previously been convicted of the former offence.