



New South Wales

Crimes (Administration of Sentences) Amendment (Parole Applications) Regulation 2017

under the

Crimes (Administration of Sentences) Act 1999

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Crimes (Administration of Sentences) Act 1999*.

DAVID ELLIOTT, MP
Minister for Corrections

Explanatory note

The object of this Regulation is to amend the *Crimes (Administration of Sentences) Regulation 2014* to revise the circumstances that constitute manifest injustice for the purpose of enabling the State Parole Authority to consider whether to release an offender on parole without a further parole application having to be made or before an application is permitted to be made.

This Regulation:

- (a) enables the manifest injustice circumstances to apply where a parole order has been revoked before or after an offender is released as well as where there has been a refusal to make a parole order, and
- (b) ensures that the circumstances cover all situations where a matter that was relevant to a decision to refuse or revoke parole is no longer relevant or has been, or can be (by imposing parole conditions) satisfactorily resolved in a way that warrants reconsideration of the decision, and
- (c) includes in the circumstances the situation where a Community Corrections officer requests reconsideration and there is less than 12 months of the offender's sentence remaining, and
- (d) includes in the circumstances the situation where a Community Corrections officer requests reconsideration and parole was revoked because the offender committed an offence for which the offender received a non-custodial sentence, a sentence with a non-parole period of less than 12 months or a sentence with a fixed term of less than 12 months.

This Regulation is made under the *Crimes (Administration of Sentences) Act 1999*, including sections 137B and 271 (the general regulation-making power).

Crimes (Administration of Sentences) Amendment (Parole Applications) Regulation 2017

under the

Crimes (Administration of Sentences) Act 1999

1 Name of Regulation

This Regulation is the *Crimes (Administration of Sentences) Amendment (Parole Applications) Regulation 2017*.

2 Commencement

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

Schedule 1 Amendment of Crimes (Administration of Sentences) Regulation 2014

Clause 223 Circumstances constituting manifest injustice

Omit clause 223 (1). Insert instead:

- (1) For the purposes of section 137B of the Act, the following circumstances are prescribed as circumstances of manifest injustice where parole has been refused or revoked (whether before or after release):
 - (a) if it becomes apparent that the decision to refuse or revoke parole was made on the basis of false, misleading or irrelevant information,
 - (b) if it becomes apparent that a matter that was relevant to the decision to refuse or revoke parole is no longer relevant,
 - (c) if it becomes apparent that a matter that was relevant to the decision to refuse or revoke parole has been addressed in a way that warrants reconsideration of the decision or can be so addressed by imposing additional conditions on parole,
 - (d) if a Community Corrections officer requests that the Parole Authority reconsider the decision to refuse or revoke parole and less than 12 months of the offender's sentence remains to be served,
 - (e) if a Community Corrections officer requests that the Parole Authority reconsider the decision to revoke parole and parole has been revoked because the offender, while on release on parole, committed an offence for which any of the following sentences was imposed:
 - (i) a non-custodial sentence,
 - (ii) a custodial sentence with a non-parole period of a term of less than 12 months,
 - (iii) a sentence with a fixed term of less than 12 months.