



New South Wales

# Criminal Records Amendment (Eligible Homosexual Offences) Regulation 2024

under the

Criminal Records Act 1991

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

MICHAEL DALEY, MP  
Attorney General

## Explanatory note

The object of this regulation is to prescribe former offences under the repealed *Government Railways Act 1912*, the *Offences in Public Places Act 1979* and the *Vagrancy Act 1902* as eligible homosexual offences for the *Criminal Records Act 1991*. Under that Act, a person who has been convicted of an eligible homosexual offence may apply to the Secretary of the Department of Communities and Justice for the conviction to be extinguished.

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### **1 Name of regulation**

This regulation is the *Criminal Records Amendment (Eligible Homosexual Offences) Regulation 2024*.

### **2 Commencement**

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

## Schedule 1 Amendment of Criminal Records Regulation 2019

### Clause 10

Omit clause 10. Insert instead—

#### 10 Prescribed eligible homosexual offences

- (1) For the Act, section 19A, definition of *eligible homosexual offence*, paragraph (d), the following offences are prescribed—
  - (a) the former offence under the *Crimes Act 1900*, section 483(b), committed by a boy, youth or adult, as referred to in that section and that Act, sections 484, 485 and 486,
  - (b) the former offence under the *Government Railways Act 1912*, section 133A,
  - (c) the former offences under the *Offences in Public Places Act 1979*, sections 5 and 6,
  - (d) the former offence under the *Police Offences Act 1901*, section 78,
  - (e) the former offences under the *Summary Offences Act 1970*, sections 11 and 12,
  - (f) the former offences under the *Vagrancy Act 1902*, sections 4(2)(d) and 8A(a).
- (2) However, a former offence referred to in subclause (1) is an eligible homosexual offence only if the offence—
  - (a) was committed by a person while engaging in a form of sexual activity with another person of the same sex, and
  - (b) was not witnessed by a person except—
    - (i) any person engaged in the sexual activity, or
    - (ii) a police officer.