

Criminal Records Regulation 2019

[2019-425]



New South Wales

Status Information

Currency of version

Historical version for 30 August 2019 to 2 May 2024 (accessed 26 November 2024 at 14:47)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Editorial note**

The Parliamentary Counsel's Office is progressively updating certain formatting styles in versions of NSW in force legislation published from 29 July 2019. For example, colons are being replaced by em-dashes. Text of the legislation is not affected.

This version has been updated.

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 1 September 2019

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Criminal Records Regulation 2019



New South Wales

1 Name of Regulation

This Regulation is the *Criminal Records Regulation 2019*.

2 Commencement

This Regulation commences on 1 September 2019 and is required to be published on the NSW legislation website.

Note—

This Regulation replaces the *Criminal Records Regulation 2014*, which is repealed on 1 September 2019 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation—

Corrective Services NSW has the same meaning as in the *Crimes (Administration of Sentences) Act 1999*.

the Act means the *Criminal Records Act 1991*.

Note—

The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

(2) Notes included in this Regulation do not form part of this Regulation.

4 Prescribed sexual offences

(1) For the purposes of paragraph (h) of the definition of **sexual offences** in section 7 (4) of the Act, the following are prescribed as sexual offences—

(a) an offence under section 61JA, 61KC, 61KD, 61KE, 61KF, 66DA, 66DB, 66DC, 66DD, 66DE, 66DF, 66EA, 66EB, 66EC, 73A, 80D, 80E, 80G, 91H, 91J, 91K, 91L, 91M, 91P, 91Q or 91R of the *Crimes Act 1900*,

(b) an offence under section 11G of the *Summary Offences Act 1988*,

(c) an offence that, at the time it was committed, was prescribed as a sexual offence for the purposes of that paragraph.

(2) A conviction for an offence referred to in subclause (1) is taken never to have been spent or never to be capable of becoming spent.

5 Spent convictions

For the purposes of section 8 (5) of the Act, the former offence of a self-excluded person (within the meaning of section 84 of the *Casino Control Act 1992*) entering or remaining in a casino to which an exclusion order in respect of the person relates is prescribed.

6 Exclusion of applicants from consequences of conviction being spent

Section 12 of the Act does not apply in relation to the following—

- (a) an application for admission as a lawyer under the *Legal Profession Uniform Law (NSW)*,
- (b) an application for engagement as a consultant to the Commission or Inspector under the *Law Enforcement Conduct Commission Act 2016*,
- (c) an application for appointment to, or employment in, a role specified in Column 2 of the following table under the corresponding Act specified in Column 1—

Column 1	Column 2
Act	Role
<i>Crime Commission Act 2012</i>	an officer of the Commission
<i>Crown Prosecutors Act 1986</i>	a Crown Prosecutor
<i>Director of Public Prosecutions Act 1986</i>	an Officer
<i>Independent Commission Against Corruption Act 1988</i>	an officer of the Commission an officer of the Inspector
<i>Law Enforcement Conduct Commission Act 2016</i>	an officer of the Commission an officer of the Inspector

7 Criminal organisation declarations

Section 12 of the Act does not apply in relation to an application under Part 2 of the *Crimes (Criminal Organisations Control) Act 2012* or the making of a decision by the Supreme Court under that Part.

8 Disclosure of spent convictions by NSW Police Force

It is not an offence for the officer in charge of the Criminal Records Section of the NSW Police Force to make information relating to a spent conviction available to the following—

- (a) a judicial officer of the Supreme Court for the purposes of an application under Part 2 of the *Crimes (Criminal Organisations Control) Act 2012*,
- (b) the Chairperson of the Independent Liquor and Gaming Authority, or a person authorised in writing by the Chairperson,
- (c) a person employed in the Bureau of Crime Statistics and Research, Department of Communities and Justice if—
 - (i) the information is to be used only by the Bureau for research, reports relating to that research and the production of statistics, and
 - (ii) any publication of the Bureau does not name or otherwise identify the person who was the subject of the spent conviction,
- (d) a person employed in Corrective Services NSW, NSW Fair Trading or the Office of the Sheriff, Department of Communities and Justice (a **prescribed agency**) if—
 - (i) the information is only made available together with information relating to all other convictions of the relevant person, and
 - (ii) at the time of making the information available the officer in charge is satisfied the prescribed agency has policies and procedures that will ensure the information will not be disclosed, or used or taken into account in any decision made or other thing done, by any person employed in the prescribed agency.

9 Prescribed law enforcement agencies

For the purposes of paragraph (o) of the definition of **law enforcement agency** in section 13 (5) of the Act, the following are prescribed—

- (a) the Office of the Inspector of the Law Enforcement Conduct Commission,
- (b) the Australian Border Force,
- (c) New Zealand Police,
- (d) the Australian Commission for Law Enforcement Integrity.

10 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 a

boy, youth or adult (as referred to in that section and sections 484, 485 and 486 of that Act),

(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.

11 Savings

Any act, matter or thing that, immediately before the repeal of the *Criminal Records Regulation 2014*, had effect under that Regulation continues to have effect under this Regulation.