



Queensland

Criminal Law (Historical Homosexual Convictions Expungement) Regulation 2018

Subordinate Legislation 2018 No. 70

made under the

Criminal Law (Historical Homosexual Convictions Expungement) Act 2017

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[s 1]

1 Short title

This regulation may be cited as the *Criminal Law (Historical Homosexual Convictions Expungement) Regulation 2018*.

2 Commencement

This regulation commences on 30 June 2018.

3 Definitions

The dictionary in schedule 3 defines particular words used in this regulation.

4 Requirement for expungement application made by eligible person's guardian or attorney—Act, s 12

- (1) This section applies if an expungement application is made for an eligible person by the person's guardian or attorney under an enduring power of attorney under section 11(2) of the Act.
- (2) For section 12(2)(c) of the Act, the application must be accompanied by—
 - (a) if the application is made by the eligible person's guardian—a certified copy of the order appointing the guardian; or
 - (b) if the application is made by the eligible person's attorney under an enduring power of attorney—a certified copy of the enduring power of attorney.

5 Prescribed evidence of identity—Act, s 12

- (1) For section 12(5) of the Act, definition *evidence of identity*, the evidence of identity prescribed for an applicant is—
 - (a) 1 primary identification document; and
 - (b) 1 secondary identification document.
- (2) If the applicant's name in a document differs from the applicant's current name, the evidence of identity prescribed

for the applicant includes an official document evidencing the applicant's change of name.

- (3) Each document must be a certified copy of an original document.

6 Prescribed statement for public records about expungement—Act, s 28

For section 28(2)(a)(ii) of the Act, a statement that complies, or substantially complies, with the following is prescribed—

‘DO NOT RELEASE

By decision dated [*insert date*], this entry has been expunged under the *Criminal Law (Historical Homosexual Convictions Expungement) Act 2017 (the Act)* and is not part of the person's criminal history.

Disclosure of this entry or information about a legal process associated with this entry may result in penalties under the Act.’.

Schedule 1 Primary identification documents

schedule 3, definition *primary identification document*

- birth certificate
- current Australian driver licence containing a photograph of the applicant
- international travel document
- evidence of Australian citizenship document
- current visa under the *Migration Act 1958* (Cwlth)
- current consular identity document containing a photograph of the applicant

Schedule 2 Secondary identification documents

schedule 3, definition *secondary identification document*

- recent account or notice issued by a public utility

Examples—

council rates notice, electricity account statement, gas account statement, land valuation notice, telephone account statement

- recent document evidencing electoral enrolment
- current identification card issued by the Commonwealth or a State as evidence of the applicant's entitlement to a financial benefit

Examples—

Commonwealth seniors health card, health care card, medicare card, pensioner concession card, repatriation health card

- current account card, or current credit card, issued by a financial institution
- recent account statement issued by a financial institution
- recent passbook issued by a financial institution

Schedule 3 Dictionary

section 3

Australian driver licence see the *Transport Operations (Road Use Management) Act 1995*, schedule 4.

Australian electoral roll means an electoral roll kept under a law of the Commonwealth or a State.

birth certificate, for an applicant, means a birth certificate of the applicant containing the name of at least 1 of the applicant's parents.

consular identity document, for an applicant, means a document showing the applicant is a member of a consular post within the meaning of the *Consular Privileges and Immunities Act 1972* (Cwlth).

document evidencing electoral enrolment, for an applicant, means—

- (a) a document that is part of an Australian electoral roll and shows the applicant's name; or
- (b) a document, issued by an entity responsible for keeping an Australian electoral roll, that shows the applicant's name on the Australian electoral roll.

evidence of Australian citizenship document, for an applicant, means—

- (a) a notice given to the applicant under the *Australian Citizenship Act 2007* (Cwlth), part 2, division 4 stating the applicant is an Australian citizen at a particular time; or
- (b) a certificate, declaration or other instrument evidencing the applicant is an Australian citizen or Australian national issued under the repealed *Australian Citizenship Act 1948* (Cwlth).

international travel document means—

- (a) a current passport; or

- (b) any other current identity document that—
 - (i) has the characteristics of a passport; and
 - (ii) was issued by a government, the United Nations or an agency of the United Nations for the purposes of international travel; or
- (c) an expired passport that expired less than 2 years before the expungement application to which the expired passport relates is made; or
- (d) another expired identity document that—
 - (i) has the characteristics of a passport; and
 - (ii) was issued by a government, the United Nations or an agency of the United Nations for the purposes of international travel; and
 - (iii) expired less than 2 years before the expungement application to which the expired identity document relates is made.

primary identification document means a document mentioned in schedule 1.

recent, for a secondary identification document, means the issuing date for the document is not earlier than 1 year before the expungement application to which the document relates is made.

secondary identification document means a document mentioned in schedule 2.

ENDNOTES

- 1 Made by the Governor in Council on 14 June 2018.
- 2 Notified on the Queensland legislation website on 15 June 2018.
- 3 The administering agency is the Department of Justice and Attorney-General.

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