

Stewart Dalley guides us through the process of applying for historical homosexual offences to be wiped from criminal records.

Who Can Apply?

Persons convicted, or those acting on behalf of a deceased convicted person, can apply personally or through a representative.

What Can Be Wiped?

The list of offences you can apply to wipe are limited to:

- section 141 (indecent between males) Crimes Act 1961;
- section 142 (sodomy) Crimes Act 1961;
- section 146 (keeping place of resort for homosexual acts) Crimes Act 1961;
- section 153 (unnatural offence) Crimes Act 1908 but only for offences committed with any other male human being; and
- section 154 (attempt to commit unnatural offence) Crimes Act 1908 but only for offences attempted to be committed with or against any other male human being

Any of the above can be wiped, if the Secretary of Justice determines that on the balance of probabilities the conviction relates to consensual sexual activity between males 16 years and over.

If you do not know the exact crime you were convicted of, apply for your own (or someone else's) criminal record. See: www.justice.govt.nz/criminal-records/

How to Apply

You can apply for one or more offences on the same downloadable application form: www.justice.govt.nz/justice-sector-policy/key-initiatives/historical-homosexual-convictions/

There is no application fee payable.

Provide as much information as you can about the offence, courts, and others involved. Additionally, provide a detailed description of the factual circumstances. Also supply any helpful documents, such as old correspondence relating to the offending, newspaper clips, or court papers. Where documents are lacking, consider asking those with knowledge of the events to provide a supporting statement.

Even if you do not have all the information you can still make the application. However, in these circumstances you may first wish to take some advice about evidence gathering.

Where necessary, the Secretary of Justice can make their own enquires with other government agencies. However, the Secretary must consult you, if they want to contact a private individual about your application.

Completed application forms, including an identity document, any other supporting documents, and proof of relationship to convicted person (where applicable) can be sent by email to wiped@justice.govt.nz or by freepost to the Secretary for Justice, Ministry of Justice, SX10088, Wellington.

Decisions

Where successful, you will receive a confirmation letter, and the Secretary of Justice will make the necessary arrangements to wipe your criminal record. Thereafter, you will not be required to disclose the conviction to anyone.

Where refused, the Secretary must provide reasons in writing. In some circumstances you can apply for a reconsideration. Ultimately, if you remain dissatisfied, you may wish to consider judicial review proceedings through the courts. In such instances you should first consult a lawyer.

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