

DISASTER MANAGEMENT AMENDMENT BILL 2014

Explanatory Notes

FOR

Amendments To Be Moved During Consideration In Detail By The Honourable Jack Dempsey MP

Title of the Bill

Disaster Management Amendment Bill 2014

Objectives of the Amendment

The objective is to amend the definition of ‘relevant sexual offender’ under the *Child Protection (Offender Prohibition Order) Act 2008* (CPOPOA).

The purpose of CPOPOA is to allow an order to be made to prohibit a relevant sexual offender from engaging in conduct that would endanger the life or sexual safety of a child. A relevant sexual offender is defined under CPOPOA to include a person who is a reportable offender under the *Child Protection (Offender Reporting) Act 2004* (CPORA).

A prohibition order under CPOPOA can only be made against a person who:

- is a reportable offender; or
- is a person who would have been a reportable offender if the person’s sentence had not ended prior to the commencement of CPORA; and
- is not subject to a supervision or temporary supervision order under the *Dangerous Prisoners (Sex Offenders) Act 2003* or a forensic order.

CPORA was amended by the *Child Protection (Offender Reporting) and Other Legislation Amendment Act 2014* on 22 September 2014 to clarify that a person ceases to be a reportable offender when all reporting obligations for that person have ended. Prior to this amendment, any person who had ever been required to report under CPORA was considered to be a reportable offender even if his or her reporting obligations had ended.

The amendment, made on 22 September 2014, unintentionally limited who can be considered for a prohibition order under CPOPOA. Specifically, a person who now completes a period of reporting under CPORA will no longer be a reportable offender and cannot be subject to an offender prohibition order

The proposed amendment will ensure that reportable offenders who have completed their reporting obligations under CPORA may be subject to an offender prohibition order under CPOPOA, unless their reporting conditions cease because:

- the finding of guilt in relation to the offence which makes the person a reportable offender is quashed or set aside by the court; or
- the offender reporting order that makes the person a reportable offender is quashed on appeal, or
- the person's sentence in relation to a reportable offence is altered or reduced in such a way that the person no longer meets the criteria to be a reportable offender; or
- if the order was made with a forensic order and the forensic order is revoked.

Achievement of the Objectives

The objective is achieved by amending the definition of 'relevant sexual offender' to include any person who has ever been required to report under CPORA unless:

- the finding of guilt in relation to the offence which makes the person a reportable offender is quashed or set aside by the court; or
- the offender reporting order that makes the person a reportable offender is quashed on appeal, or
- the person's sentence in relation to a reportable offence is altered or reduced in such a way that the person no longer meets the criteria to be a reportable offender; or
- if the order was made with a forensic order and the forensic order is revoked.

Alternative Ways of Achieving Policy Objectives

There is no alternative way to achieve the policy objective.

Estimated Cost for Government Implementation

There are no costs associated with the amendments.

Consistency with Fundamental Legislative Principles

The amendment has been drafted with due regard to the fundamental legislative principles outlined in section 4 of the *Legislative Standards Act 1992* (the LSA). Section 4(2) of the LSA requires that legislation has sufficient regard to the rights and liberties of individuals and the institution of Parliament.

Amending the definition of 'relevant sexual offender' to include a person who has been required to meet reporting obligations under CPORA does not impose any additional restrictions on the rights and liberties of individual community members.

Prior to the September 2014 amendment to CPORA, a person continued to be a reportable offender regardless of that person's reporting status. Accordingly, a person who had ever been subject to a period of reporting (unless their sentence had been quashed on appeal or changed in some way which no longer met the definition of a reportable offender) would continue to meet the parameters of CPOPOA after their period of reporting had ended.

The amendment to CPOPOA simply redresses an unintentional consequence created by the 22 September 2014 amendments to CPORA.

Consultation

Consultation was undertaken with the Queensland Police Service, the Department of the Premier and Cabinet and the Office of the Queensland Parliamentary Counsel.

NOTES ON PROVISIONS

Amendment 1 amends the short title so that the Bill when enacted will be called the *Disaster Management and Another Act Amendment Act 2014*.

Amendment 2 inserts Part 4 into the Bill which includes new clauses 24 and 25.

Clause 24 provides that the new Part 4 amends the CPOPOA.

Clause 25 amends the definition of a *relevant sexual offender* to include a person who would be a reportable offender if all the reporting periods mentioned in section 8(d) of CPORA had not ended.

Amendment 3 amends the long title of the Bill to reflect that the Bill now amends the *Child Protection (Offender Prohibition Order) Act 2008*.