



Queensland

# Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004

## Current as at [Not applicable]

### Indicative reprint note

This is an **unofficial** version of a reprint of this Act that incorporates all proposed amendments to the Act included in the Child Protection (Offender Reporting and Offender Prohibition Order) and Other Legislation Amendment Bill 2022. This indicative reprint has been prepared for information only—***it is not an authorised reprint of the Act.***

Amendments to this Act are also included in the Public Sector Bill 2022 and the Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Bill 2022. These proposed amendments are not included in this indicative reprint.

The point-in-time date for this indicative reprint is the introduction date for the Child Protection (Offender Reporting and Offender Prohibition Order) and Other Legislation Amendment Bill 2022—26 October 2022.

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Queensland

# Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004

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# Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004

An Act to require particular offenders who commit sexual, or particular other serious, offences against children to keep police informed of their whereabouts and other personal details for a period of time, to reduce the likelihood that they will re-offend, and to facilitate the investigation and prosecution of any future offences that they may commit, and for related purposes

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## Part 1 Preliminary

### 1 Short title

This Act may be cited as the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*.

### 2 Commencement

This Act commences on a day to be fixed by proclamation.

### 3 Purposes of this Act

- (1) Parliament recognises that any risk to the lives or sexual safety of 1 or more children, or of children generally, is unacceptable.
- (1A) The purposes of this Act are—
  - (a) to provide for the protection of the lives of children and their sexual safety; and

[s 3]

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- (b) to require particular offenders who commit sexual, or particular other serious, offences against children to keep police informed of the offender's whereabouts and other personal details for a period of time after the offender's release into the community—
    - (i) to reduce the likelihood that the offender will re-offend; and
    - (ii) to facilitate the investigation and prosecution of any future offences that the offender may commit.
- (2) In outline, this Act—
  - (a) provides for the establishment of a child protection register; and
  - (b) requires offenders who are sentenced for reportable offences after the commencement date to report specified personal details for inclusion in the register, and extends this requirement to particular offenders sentenced for reportable offences before that date; and
  - (c) requires those reportable offenders to keep those details up to date, to report those details periodically and to also report particular travel plans; and
  - (d) imposes those reporting obligations for a period of between 2½ years and life, depending on the number, severity and timing of the offences committed, and the age of the reportable offender at the time an offence was committed; and
  - (e) allows for the recognition of the period of reporting obligations imposed under laws of foreign jurisdictions; and
  - (f) provides for the making of orders against particular offenders who commit sexual, or particular other serious, offences against children to—
    - (i) prohibit the offenders from engaging in conduct posing a risk to the safety or wellbeing of 1 or more children, or of children generally; or

- (ii) require the offenders to do particular things to reduce the risk to the safety or wellbeing of 1 or more children, or of children generally.
- (3) Subsection (2) is intended only as a guide to readers about the general scheme and effect of this Act.

#### **4 Relationship between this Act and Dangerous Prisoners (Sexual Offenders) Act 2003**

- (1) This section applies to a person who is, for a period (the *concurrent period*)—
  - (a) a reportable offender subject to reporting obligations under this Act; and
  - (b) subject to the requirements of a supervision order under the *Dangerous Prisoners (Sexual Offenders) Act 2003*.
- (2) During the concurrent period, the reportable offender is not required to make any report under this Act other than an initial report.

## **Part 2 Interpretation**

#### **5 Reportable offender defined**

- (1) A *reportable offender* is a person who is—
  - (a) sentenced for a reportable offence after the commencement of this section; or
  - (aa) sentenced for an offence for which a court has made a declaration under subsection (5A); or
  - (b) an existing reportable offender; or
  - (c) a corresponding reportable offender; or
  - (d) subject to an offender reporting order; or
  - (e) subject to an offender prohibition order; or
  - (f) a post-DPSOA reportable offender.

[s 5]

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- (2) However, a person mentioned in subsection (1)(a) is not a reportable offender only because—
- (a) the person was convicted of a prescribed offence, if the conviction was not recorded under the *Penalties and Sentences Act 1992*, section 12 or the *Youth Justice Act 1992*, section 183, (or an equivalent order under the laws of a foreign jurisdiction); or
  - (b) the person was sentenced for a single prescribed offence, if the sentence did not include—
    - (i) a term of imprisonment; or
    - (ii) a requirement that the person be under the supervision of a supervising authority or another person or body; or
  - (c) the person, as a child, committed—
    - (i) a single offence against the *Classification of Computer Games and Images Act 1995*, section 26(3), the *Classification of Films Act 1991*, section 41 or 42 or the *Classification of Publications Act 1991*, section 13, 14, 15 or 16; or
    - (ii) a single offence of possessing or publishing child pornography (in whatever terms expressed) under the laws of Queensland; or
    - (iii) a single offence of possessing or publishing child pornography (in whatever terms expressed) under the laws of a foreign jurisdiction; or
    - (iv) a single offence (including an offence under the law of a foreign jurisdiction) that falls within a class of offence that the regulations state is an offence for the purposes of this subparagraph.
- (3) Also, a person is not a reportable offender if the person—
- (a) is receiving protection under a foreign witness protection law specified under a regulation for the purposes of this subsection; or

- (b) has the same status as a person mentioned in paragraph (a) under an order made under a corresponding Act specified under a regulation for the purposes of this subsection.
- (4) For this section, it is irrelevant whether or not a person may lodge, or has lodged, an appeal in relation to a finding of guilt, sentence or offender reporting order.
- (5) For subsection (1)(a), a person is a reportable offender even if the reportable offence was committed before the commencement of this section.
- (5A) For subsection (1)(aa), if a court finds a person guilty of an offence other than a reportable offence, it may also declare it is satisfied the facts and circumstances surrounding the offence constitute elements of a reportable offence.
- (6) For subsection (1)(b) to (d), a person is a reportable offender even if the person was sentenced for the reportable offence before the commencement of this section.
- (7) A reference to a single offence in subsection (2)(b) and (c) includes a reference to more than 1 offence arising from the same incident.

*Note—*

For when offences arise from the same incident, see section 11.

- (8) In subsection (2)(b)(ii)—

*supervision* of a supervising authority does not include supervision under a fine option order.

## 6 ***Existing reportable offender defined***

- (1) An *existing reportable offender* is—
  - (a) a person who, as a result of having been sentenced for a reportable offence before the commencement date—
    - (i) is serving a term of imprisonment; or
    - (ii) is subject to a supervision order; or

[s 7]

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- (b) a person who, immediately before the commencement date, was subject to a reporting order made under the *Criminal Law Amendment Act 1945*, section 19.
- (2) Subsection (1)(a) does not apply if a conviction was not recorded under the *Penalties and Sentences Act 1992*, section 12 or the *Youth Justice Act 1992*, section 183.

## **7 Corresponding reportable offender defined**

A *corresponding reportable offender* is a person who—

- (a) had at any time (whether before or after the commencement of this section) been in a foreign jurisdiction and at that time had been required to report to the corresponding registrar in that jurisdiction for a longer period than the person would be required to report under this Act; and
- (b) would, if the person were currently in that foreign jurisdiction, be required to report to the corresponding registrar in that jurisdiction for a longer period (the *recognised foreign reporting period*) than the person would be required to report under this Act; and
- (c) falls within a class of person whom a regulation states is a corresponding reportable offender.

*Note—*

A regulation might prescribe a person to be a corresponding reportable offender if the longer reporting period arises because the foreign jurisdiction recognises, as a reportable offence, an offence that is not a reportable offence under this Act, or the corresponding Act commenced earlier than this Act, or for any other reason.

## **7A Post-DPSOA reportable offender defined**

- (1) A *post-DPSOA reportable offender* is a person who—
  - (a) was sentenced for a reportable offence, whether before or after the commencement date; and



- (b) was, but is no longer, subject to a division 3 order under the *Dangerous Prisoners (Sexual Offenders) Act 2003*; and
  - (c) at the time the person stopped being subject to the division 3 order mentioned in paragraph (b), was not subject to reporting obligations as a reportable offender under section 5(1)(a), (aa) or (b).
- (2) A person becomes a post-DPSOA reportable offender when the person stops being subject to the division 3 order mentioned in subsection (1)(b).

## **8 When a person stops being a reportable offender**

A person stops being a reportable offender when any of the following events happen—

- (a) the finding of guilt in relation to the only offence that makes the person a reportable offender under this Act is quashed or set aside by a court;
- (b) the person's sentence for the only reportable offence that makes the person a reportable offender under this Act is reduced or altered so that the person would have been a person mentioned in section 5(2)(a) or (b) had the amended sentence been the original sentence;
- (c) the offender reporting order that makes the person a reportable offender under this Act—
  - (i) is quashed on appeal; or
  - (ii) if the offender reporting order was made with a forensic order—ends because the forensic order is revoked;
- (d) the end of all reporting periods to which the person is subject, including under an offender prohibition order.

## **9 Reportable offence defined**

*A reportable offence* is—

[s 9A]

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- (a) an offence (a *prescribed offence*) that is mentioned in schedule 1, item 9, if—
  - (i) the offence is committed in respect of a child; or
  - (ii) the police commissioner reasonably believes the reportable offender committed the offence in the belief that the person in respect of whom the offence was committed was a child; or
- (b) another offence (also a *prescribed offence*) that is mentioned in schedule 1; or
- (c) another offence that results in an offender reporting order being made.

## **9A      *Reportable contact defined***

- (1) A reportable offender has *reportable contact* with a child if the offender—
  - (a) has physical contact with the child; or
  - (b) communicates with the child orally, whether in person, by telephone or over the internet; or
  - (c) communicates with the child in writing (including by electronic communication).
- (2) Without limiting subsection (1), reportable contact includes contact with a child when the offender is—
  - (a) supervising or caring for any child; or
  - (b) exchanging contact details with any child; or
  - (c) attempting to befriend any child.
- (3) Reportable contact does not include contact with a child that is incidental to the offender's daily life unless the contact—
  - (a) involves an attempt by the offender to befriend, or establish further contact with, the child; or
  - (b) occurs with a regularity or frequency, or in a way, that may reasonably be expected to result in a level of familiarity or trust between the offender and the child

beyond what may reasonably be expected to be incidental to the offender's daily life.

*Examples of contact with a child that is incidental to a reportable offender's daily life—*

- the offender buys a newspaper from a shop where the shop attendant is a child
- the offender buys takeaway food from a shop that has child employees

(4) In this section—

**contact** means contact that happens in Queensland or elsewhere.

## 10 **Finding of guilt defined**

- (1) A reference to a **finding of guilt** in relation to an offence (however expressed) committed by a person is a reference to any of the following—
  - (a) a court making a formal finding of guilt in relation to the offence;
  - (b) a court convicting the person of the offence, if there has been no formal finding of guilt before conviction;
  - (c) a court accepting a plea of guilty from the person in relation to the offence;
  - (d) a court accepting an admission of guilt from the person in relation to the offence for the purpose of the offence being taken into account under the *Penalties and Sentences Act 1992*, section 189 or the *Youth Justice Act 1992*, section 157, or under equivalent provisions of the laws of a foreign jurisdiction.
- (2) However, a reference to a finding of guilt does not include a finding of guilt that is later quashed or set aside by a court.

## 10A **Personal details defined**

The **personal details** of a reportable offender are the details mentioned in schedule 2 for the offender.

[s 10B]

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**10B When a person poses a risk to children**

A person poses a risk to the lives or sexual safety of 1 or more children, or of children generally, if there is a risk that the person will engage in conduct that may constitute a reportable offence against or in relation to a child or children.

**11 References to other terms and concepts**

- (1) Offences arise from the same incident only if they are committed—
  - (a) within a single period of 24 hours; and
  - (b) against the same person.
- (2) A reference to doing a thing *in person* is a reference to doing the thing by personal attendance at a place, and is not a reference to attending the place by phone or by other electronic means.

**12 Definitions**

The dictionary in schedule 5 defines particular words used in this Act.

**Part 3 Offender reporting orders**

**Division 1 Making offender reporting orders**

**12A Offender reporting order defined**

An *offender reporting order* is an order made against a person that the person comply with the reporting obligations imposed on a reportable offender under this Act.

## **12B Making offender reporting order—conviction for offence other than prescribed offence**

- (1) This section applies if a court—
  - (a) finds a person guilty of an offence other than a prescribed offence; and
  - (b) records a conviction and imposes a sentence for the offence.

*Note—*

For when no conviction is recorded, see the *Penalties and Sentences Act 1992*, section 12 and the *Youth Justice Act 1992*, section 183.

- (2) The court may also make an offender reporting order against the person if satisfied, on the balance of probabilities, after considering the matters mentioned in section 12D—
  - (a) the person poses a risk to the lives or the sexual safety of 1 or more children, or of children generally; or
  - (b) for a person convicted of a child abduction offence—
    - (i) the context in which the offence was committed was not familial; and
    - (ii) it is appropriate in the circumstances to make the order.

*Example of circumstances in which it is appropriate to make the order—*

The commission of the offence was not merely incidental.

- (3) For subsection (2)(a), it is not necessary that the court be able to identify a risk to particular children, or a particular class of children.

## **12C Making offender reporting order—forensic order**

- (1) This section applies if a court makes a forensic order in relation to a person.
- (2) The court may also make an offender reporting order against the person if satisfied, on the balance of probabilities, after considering the matters mentioned in section 12D—

[s 12D]

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- (a) the person poses a risk to the lives or the sexual safety of 1 or more children, or of children generally; or
  - (b) if the forensic order was made in relation to a child abduction offence—
    - (i) the context in which the offence was committed was not familial; and
    - (ii) it is appropriate in the circumstances to make the order.
- (3) For subsection (2)—
  - (a) a reference in section 12D to an offence is a reference to the offence in relation to which the forensic order is made; and
  - (b) a reference in section 12D to the conduct the subject of the order is a reference to the conduct that constitutes that offence.
- (4) For subsection (2)(a), it is not necessary that the court be able to identify a risk to particular children, or a particular class of children.
- (5) An offender reporting order made under subsection (2) ends if the forensic order is revoked under the *Mental Health Act 2016*, section 441.

## **12D Matters court must consider before making offender reporting order**

The matters a court must consider for section 12B(2) or 12C(2) are—

- (a) when the conduct the subject of the proposed offender reporting order happened; and
- (b) the nature and seriousness of the conduct; and
- (c) for each offence to which the proposed order relates—
  - (i) the age of the respondent, the age of the victim of the offence and the difference in their ages when the offence was committed; and

- (ii) the relationship, if any, between the respondent and the victim of the offence; and
- (d) the respondent's criminal history, including the seriousness of the criminal history; and
- (e) the respondent's circumstances, including—
  - (i) the access the respondent has to children, including access through the respondent's employment; and
  - (ii) the respondent's needs in relation to accommodation, employment, health and mental health; and
- (f) anything else the court considers relevant.

## **12E Court may act on own initiative or application**

- (1) A court may make an offender reporting order—
  - (a) on its own initiative; or
  - (b) on the application of the prosecution.
- (2) The prosecution may make an application under subsection (1)(b) at any time within 6 months after the day the court—
  - (a) imposes the sentence for the offence; or
  - (b) makes the forensic order.

## **Division 2 Appeals**

### **12F Appeal under Criminal Code**

- (1) If a court makes an offender reporting order against a person under section 12B, the person may appeal against the making of the order under the Criminal Code, chapter 67.
- (2) If a court refuses an application for an offender reporting order to be made against a person under section 12B, the

[s 12G]

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Attorney-General may appeal against the refusal under the Criminal Code, chapter 67.

- (3) For subsections (1) and (2), the Criminal Code, chapter 67 applies as if the order, or the refusal, were a sentence pronounced on conviction of the person for an indictable offence.

## **12G Appeal under Mental Health Act 2016**

- (1) If a court makes an offender reporting order against a person under section 12C, the person may appeal against the making of the order under the *Mental Health Act 2016*.
- (2) If a court refuses an application for the imposition of an offender reporting order against a person under section 12C, the Attorney-General may appeal against the refusal under the *Mental Health Act 2016*.
- (3) For subsections (1) and (2), the *Mental Health Act 2016* applies as if—
  - (a) the order or refusal were a decision of the Mental Health Court; and
  - (b) a reference in the *Mental Health Act 2016* to the Mental Health Court were a reference to the court that made the order or refused the application.



## Part 3A Offender prohibition orders

### Division 1 Offender prohibition orders

#### Subdivision 1 Prohibition orders

##### 13A Application

- (1) The police commissioner may apply to a court for a prohibition order for a person if the police commissioner believes, on reasonable grounds, the person—
  - (a) is a relevant sexual offender; and
  - (b) has engaged in concerning conduct.
- (2) The application must be in the approved form and must state—
  - (a) the particulars of each conviction of the respondent for a reportable offence committed against a child; and
  - (b) the particulars of the concerning conduct the respondent is alleged to have engaged in; and
  - (c) when the respondent is alleged to have engaged in the concerning conduct; and
  - (d) the conduct of the respondent proposed to be prohibited under the prohibition order, including the conditions sought by the police commissioner.
- (3) In this section—

**concerning conduct** means an act or omission, or a course of conduct, the nature or pattern of which poses a risk to the safety or wellbeing of 1 or more children, or of children generally, and may include the following—

  - (a) conduct that constitutes an offence;
  - (b) conduct that is a single act or omission.

[s 13B]

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*Examples—*

- loitering at or near a park fitted with playground equipment regularly used by children
- seeking employment or volunteer work that will involve the employee coming into contact with children, including, for example, door-to-door sales or collecting
- living near a school
- living in a household with children under 16 years

### **13B How proceeding for prohibition order is started**

- (1) The police commissioner starts a proceeding against a respondent under section 13A(1) by issuing an appearance notice for the proceeding.
- (2) As soon as practicable after starting the proceeding, and before the time the respondent is required to appear at a place before a court under the appearance notice, the police commissioner must file the following documents with the registrar of the court at the place—
  - (a) the application for the proceeding;
  - (b) a copy of the appearance notice for the proceeding.
- (3) A police officer must serve a copy of the application and the appearance notice (the *application documents*) on the respondent.

*Note—*

For further provisions about service, see section 13ZL.

- (4) Also, for a child respondent, the police commissioner must, as soon as practicable after starting the proceeding, give a copy of the application documents to—
  - (a) the chief executive (child safety), if the prohibition order sought is likely to result in the child respondent needing to change the child respondent's place of residence; and
  - (b) a parent of the child respondent, if the police commissioner is able to find a parent of the child respondent after making reasonable attempts.

### **13C Making prohibition order**

- (1) A court may make a prohibition order if the court is satisfied, on the balance of probabilities, after considering the matters mentioned in section 13D—
  - (a) the respondent is a relevant sexual offender; and
  - (b) having regard to the nature or pattern of conduct engaged in by the respondent—
    - (i) the respondent poses an unacceptable risk to the safety or wellbeing of 1 or more children, or of children generally; and
    - (ii) the making of the prohibition order will reduce the risk.
- (2) Also, for a child respondent, the court may only make the prohibition order—
  - (a) after considering a report given to the court under section 13E; and
  - (b) if satisfied the making of the prohibition order is a last resort and the most effective way of reducing the risk mentioned in subsection (1)(b)(i).
- (3) For subsection (1), it is not necessary for the court to be able to identify a risk to a particular child or particular children.
- (4) The application for the prohibition order may be heard in the respondent's absence if the court is satisfied the respondent was served with the application documents under section 13B(3).
- (5) However, the court may, at any time before making the prohibition order, direct the police commissioner to give a further appearance notice to the respondent as directed by the court.

### **13D Matters court must consider before making prohibition order**

The matters a court must consider for section 13C(1) are—

[s 13D]

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- (a) when the conduct that is the subject of the proposed prohibition order happened; and
- (b) the seriousness of the respondent's reportable offences committed against a child, whether committed in Queensland or elsewhere; and
- (c) the period since the reportable offences were committed; and
- (d) for each reportable offence—
  - (i) the age of the respondent, and the age of the victim of the offence, when the offence was committed; and
  - (ii) the difference in age between the respondent and the victim of the offence; and
- (e) the respondent's present age; and
- (f) the seriousness of the respondent's criminal history; and
- (fa) whether the respondent has ever been subject to a division 3 order under the *Dangerous Prisoners (Sexual Offenders) Act 2003*; and
- (g) the effect of the prohibition order sought on the respondent in comparison with the level of risk of the respondent committing a reportable offence against a child; and
- (h) the respondent's circumstances—
  - (i) to the extent the circumstances relate to the conduct sought to be prohibited; and
  - (ii) including the reportable offender's accommodation, employment needs and integration into the community; and
- (i) for a child respondent—the child respondent's educational needs; and
- (j) anything else the court considers relevant.

**13E Court must order report before making prohibition order for child respondent**

- (1) This section applies if the court is satisfied of the matters mentioned in section 13C(1) in relation to a child respondent.
- (2) Before making a prohibition order for the child respondent, the court must direct the chief executive (communities) to give to the court a written report containing stated information, assessments and reports about—
  - (a) the child respondent; or
  - (b) the child respondent's family; or
  - (c) other matters.
- (3) The report may contain the opinion of the chief executive (communities) on what impact a prohibition order may have on the child respondent in relation to the child respondent's accommodation, educational, health, cultural or social needs.
- (4) The report must be given to the court within the period stated by the court in the direction.
- (5) When the report is given to the court under subsection (4), the registrar of the court must give a copy of the report to each party to the proceeding.

**13F Conduct that may be prohibited**

- (1) A prohibition order may prohibit the respondent from engaging in stated conduct, including, for example—
  - (a) associating with, or otherwise contacting, stated persons or a stated kind of person; or  
*Example—*  
corresponding with other relevant sexual offenders
  - (b) being in stated locations or a stated kind of location; or  
*Example—*  
within 200m of a school between 7a.m. and 7p.m. on school days

[s 13F]

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- (c) residing at a stated residence, stated residences, a stated kind of residence or a residence at a stated location; or

*Examples—*

- a residence within 200m of a school
- a residence where children under 16 years reside

- (d) engaging in stated behaviour; or

*Examples—*

- taking photos of children
- downloading from the internet catalogues that feature child models
- using internet chat rooms that are primarily aimed at children

- (e) being in stated employment, or a stated kind of employment, whether paid or voluntary, that is likely to bring the respondent into contact with children.

*Examples—*

- employment in a cafe in the vicinity of a school
- door-to-door sales or collecting

- (2) A prohibition order may prohibit conduct—

- (a) absolutely; or  
(b) on the terms the court considers appropriate.

- (3) A prohibition order may prohibit the respondent from entering or remaining in a stated place even if the respondent has a right to enter or to be in the place.

- (4) If a prohibition order prohibits the respondent from entering or remaining in a place as mentioned in subsection (3), the court must, if satisfied it is necessary to do so, ensure the prohibition order provides for the respondent to recover the respondent's personal property from the place.

*Example—*

A provision of a prohibition order may allow a respondent to enter a stated place between stated times, if accompanied by a police officer, to recover the respondent's property.

### 13FA Conduct that may be required

- (1) A prohibition order may require the respondent to do any of the following things—
  - (a) wear a tracking device for a stated period;
  - (b) comply with a condition the court considers necessary to facilitate the operation of a tracking device;
  - (c) reside at a particular place of residence;
  - (d) submit to psychological treatment;
  - (e) comply with a condition the court considers necessary to reduce the risk to the safety or wellbeing of 1 or more children, or of children generally.
- (2) This section does not limit section 13F.
- (3) In this section—

*tracking device* means an electronic device capable of being worn, and not removed, by a person for the purpose of the police service, or the chief executive (corrective services), finding or monitoring the geographical location of the person.

### 13G Term of prohibition order

- (1) A prohibition order—
  - (a) takes effect on the day notice of it is given to the respondent; and
  - (b) subject to subsection (3), remains in force for the following term—
    - (i) for an adult respondent—5 years;
    - (ii) for a child respondent—2 years.
- (2) Subsection (3) applies if an application for a new prohibition order for a respondent—
  - (a) is made before the end of the term of the existing prohibition order for the respondent; and

[s 13H]

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- (b) is not decided before the day the existing prohibition order ends.
- (3) The existing prohibition order continues to have effect until the application for the new prohibition order is decided.
- (4) The term of a new prohibition order mentioned in subsection (3) starts when the term of the existing prohibition order mentioned in the subsection ends.

*Example—*

The term of the existing prohibition order ends on 30 June 2018. An application for a new prohibition order is made on 31 May 2018. The application for the new prohibition order is decided, and the new prohibition order is made, on 1 August 2018.

Under subsection (3), the term of the existing prohibition order is extended until the new prohibition order is made on 1 August 2018. Although the new prohibition order takes effect on 1 August 2018 under subsection (1), its term starts on 1 July 2018 under subsection (4).

- (5) In this section—  
*term*, of an existing prohibition order, does not include the period for which the existing prohibition order's effect is continued under subsection (3).

## Subdivision 2 Temporary orders

### 13H Definition for subdivision

In this subdivision—

*final order* means an order under section 13C(1).

### 13I Applying for temporary order

- (1) The police commissioner may apply in the approved form to a magistrate for a temporary order for a person if the police commissioner—
  - (a) has the belief mentioned in section 13A(1) about the person; and



- (b) also believes on reasonable grounds that—
  - (i) the making of a temporary order for the person is necessary to prevent an immediate risk of the respondent engaging in conduct posing a risk to the safety or wellbeing of 1 or more children, or of children generally; and
  - (ii) the making of the temporary order will reduce the risk.
- (2) The application must state—
  - (a) the matters mentioned in section 13A(2); and
  - (b) why the police commissioner believes the temporary order is necessary.
- (3) The application may be made without notice being given to the respondent, or a police officer may give notice, in the approved form, to the respondent stating—
  - (a) when and how the application will be made; and
  - (b) that the respondent—
    - (i) may be present before the magistrate when the application is made; and
    - (ii) may make submissions to the magistrate.
- (4) The *Police Powers and Responsibilities Act 2000*, sections 800 to 802 apply to the application for the temporary order as if the temporary order were a prescribed authority within the meaning of that Act.

*Note—*

The *Police Powers and Responsibilities Act 2000*, sections 800 to 802 provide for obtaining prescribed authorities by phone, fax, radio, email or another similar facility.

### **13J Temporary order made by magistrate**

- (1) A magistrate may make a temporary order if the magistrate is satisfied, on the balance of probabilities, of the matters mentioned in section 13C(1).

[s 13K]

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- (2) For subsection (1)—
  - (a) the reference in section 13C(1)(b)(ii) to the prohibition order is taken to be a reference to the temporary order; and
  - (b) it is not necessary for the magistrate to be able to identify a risk to a particular child or particular children; and
  - (c) sections 13C(2), (4) and (5), 13D and 13E do not apply.
- (3) Also, for subsection (1), if the application for the temporary order is made without notice being given to the respondent, the magistrate may not make the temporary order unless the magistrate considers it necessary to make the temporary order without notice to the respondent in the particular circumstances of the case.
- (4) The temporary order need only be supported by information the magistrate considers sufficient and appropriate having regard to the temporary nature of the temporary order.

*Example—*

oral submissions, rather than evidence on oath

- (5) When the magistrate makes the temporary order, the magistrate must fix a return date, time and place for an application for a final order.
- (6) On the making of the temporary order, the police commissioner must immediately start a proceeding under section 13B(1) for the final order.
- (7) The date, time and place stated in the appearance notice for the final order must be the date, time and place fixed under subsection (5).

### **13K Temporary order made by court**

- (1) During a proceeding for a final order for a respondent, the court must, on its own initiative or on application by a party to the proceeding, decide whether to make a temporary order for the respondent.

- (2) However, the court may only make the temporary order if the court—
  - (a) is satisfied, on the balance of probabilities, of the matters mentioned in section 13C(1); and
  - (b) after the temporary order is made, adjourns the proceedings.
- (3) For subsection (2)(a)—
  - (a) the reference in section 13C(1)(b)(ii) to the prohibition order is taken to be a reference to the temporary order; and
  - (b) it is not necessary for the court to be able to identify a risk to a particular child or particular children; and
  - (c) sections 13C(2), (4) and (5), 13D and 13E do not apply.
- (4) The temporary order need only be supported by information the court considers sufficient and appropriate having regard to the temporary nature of the temporary order.
- (5) The temporary order may be made in the respondent's absence if the court is satisfied application documents for the final order were served on the respondent under section 13B(3).

### **13L Conduct that may be prohibited**

Section 13F applies to a temporary order as if—

- (a) a reference in the section to a prohibition order were a reference to a temporary order; and
- (b) a reference in the section to the court included, for section 13J a reference to a magistrate.

### **13LA Conduct that may be required**

Section 13FA applies to a temporary order as if—

- (a) a reference in the section to a prohibition order were a reference to a temporary order; and

[s 13M]

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- (b) a reference in the section to the court included, for section 13J, a reference to a magistrate.

### **13M Term of temporary order**

- (1) A temporary order takes effect—
  - (a) if the respondent is present before the magistrate or court when the temporary order is made—when it is made; or
  - (b) if the respondent is not present before the magistrate or court when the temporary order is made—when a copy of the temporary order is served on the respondent under section 13S(2).
- (2) The temporary order remains in force until whichever of the following happens first—
  - (a) if the temporary order is made under section 13J—a proceeding for a final order is not started by the return date and time fixed by a magistrate under section 13J(5);
  - (b) the application for the final order is next mentioned in a court and the court does not extend the term of the temporary order under section 13N;
  - (c) the prescribed period ends;
  - (d) a court decides the application for the final order;
  - (e) the police commissioner discontinues the application for the final order;
  - (f) the temporary order is revoked under section 13Q or on appeal.

- (3) In this section—

***final order*** means a final order for the respondent for the temporary order.

***prescribed period*** means—

- (a) the period for which the temporary order is extended under section 13N; or

- (b) otherwise—28 days.

**13N Extending temporary order if application for final order adjourned**

- (1) This section applies if—
- (a) a temporary order is in force for the respondent to an application for a final order; and
  - (b) the court adjourns the application; and
  - (c) the temporary order will end before the application is decided.
- (2) The court may, on application or on its own initiative, extend the temporary order for not more than 28 days, or a longer period to which the respondent consents.
- (3) The temporary order may be extended in the respondent's absence if the court is satisfied application documents for the final order were served on the respondent under section 13B(3).

**Subdivision 3 Other provisions about offender prohibition orders**

**13O Who may be present at hearing of application**

- (1) A magistrate or court hearing an application for an offender prohibition order must hear the application in the presence of only—
- (a) the applicant; and
  - (b) unless the application is heard in the respondent's absence—the respondent; and
  - (c) any witness the magistrate or court allows for the application; and
  - (d) another person the magistrate or court considers appropriate to be present and allows to be present; and

[s 13P]

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*Examples—*

- a parent of a child respondent
  - another person who is able to provide cultural or emotional support for the respondent, or for a witness whom the magistrate or court has allowed to be present
  - a person conducting relevant academic or scientific research
- (e) a lawyer representing anyone mentioned in paragraph (a), (b) or (c); and
- (f) a person whose presence the magistrate or court considers is necessary or desirable for the proper conduct of the proceedings.

*Example—*

a recorder performing a function under the *Recording of Evidence Act 1962*

- (2) This section does not limit the *Police Service Administration Act 1990*, section 10.24.

*Note—*

The *Police Service Administration Act 1990*, section 10.24 provides for the representation of police officers in court.

### **13P Making order for adult respondent by consent**

- (1) This section applies if an application is made to a magistrate or court for an order under this part for an adult respondent.
- (2) The magistrate or court may make the order if the applicant and the respondent consent to the making of the order.
- (3) The court may make an offender prohibition order with the consent of the applicant and the respondent without being satisfied of the matters stated in section 13C, or considering the matters mentioned in section 13D, unless the court considers it is not in the interests of justice to do so.
- (4) In considering the interests of justice for subsection (3), the matters to which the court may have regard include—
- (a) whether the respondent has obtained legal advice about the proposed offender prohibition order; and

- (b) whether the respondent—
- (i) has an intellectual disability or cognitive impairment; or

*Examples—*

an acquired brain injury, Alzheimer's disease or dementia

- (ii) has a significant mental illness that requires ongoing treatment by a psychiatrist; or
- (iii) has an alcohol or drug addiction that impairs the respondent's decision-making ability or has caused the respondent to be hospitalised; or
- (iv) is a person for whom an order appointing a guardian is in force under the *Guardianship and Administration Act 2000*; or
- (v) is illiterate, or is not literate in the English language; or

*Example—*

a person from a non-English speaking background

- (vi) is subject to some other condition preventing the respondent from understanding the effect of consenting to the proposed offender prohibition order being made.
- (5) This section does not limit the magistrate's or court's power under section 13C, 13J, 13K or 13Q.

### **13Q Varying or revoking offender prohibition order**

- (1) The police commissioner, or the respondent, may apply to the court under the relevant rules of court for the variation or revocation of an offender prohibition order.
- (2) However, other than in relation to an offender prohibition order made in the respondent's absence, the respondent may only make an application under subsection (1) with the court's leave.
- (3) The court may grant the leave if satisfied—

[s 13Q]

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- (a) it is in the interests of justice, having regard to changes in the respondent's circumstances, or circumstances affecting the respondent, since the prohibition order was made or last varied; or

*Example of the respondent's circumstances—*

the respondent's accommodation, employment, health, cultural or social needs

*Example of circumstances affecting the respondent—*

Under the prohibition order, the respondent is prohibited from going within a stated distance of stated premises and the premises have closed down since the prohibition order was made.

- (b) it is appropriate on compassionate grounds, including having regard to the respondent's culturally specific needs.

*Examples—*

- to visit a relative who is seriously ill
- to attend a relative's funeral

- (4) In deciding the application, the court must have regard to—

- (a) the matters mentioned in sections 13C and 13D, to the extent the magistrate or court that made the offender prohibition order was required to have regard to those matters; and
- (b) any changes in the respondent's circumstances since the offender prohibition order was made or last varied.

- (5) A variation takes effect—

- (a) if the respondent is present in court when the variation is made—when it is made; or
- (b) if the respondent is not present in court when the variation is made—when a copy of the order varying the offender prohibition order is served on the respondent under section 13S(2).

- (6) A revocation takes effect when it is made.



**13R Explaining and giving notice of offender prohibition order to respondent**

- (1) Subsection (2) applies if the respondent is present before—
  - (a) a magistrate when the magistrate makes an offender prohibition order; or
  - (b) a court when the court makes or varies an offender prohibition order.
- (2) The magistrate or court must ensure all reasonable steps are taken to explain to the respondent in language likely to be understood by the respondent—
  - (a) the respondent's obligations under the offender prohibition order or variation; and
  - (b) the consequences that may follow if the respondent fails to comply with the obligations.
- (3) Also, subsection (4) applies if the respondent was not a reportable offender immediately before the offender prohibition order was made.
- (4) As soon as practicable after the offender prohibition order is made, the police commissioner must give the respondent an initial reporting obligations notice.
- (5) Subsection (4) applies despite section 54(4).
- (6) Failure to comply with subsection (2) or (4) does not affect the validity of the offender prohibition order.

**13S Giving respondent copy of offender prohibition order dealt with in respondent's absence**

- (1) This section applies if a magistrate or court makes, varies or revokes an offender prohibition order in the respondent's absence.
- (2) A police officer must serve the respondent with the documents mentioned in subsections (3) and (4).

*Note—*

For further provisions about service, see section 13ZL.

[s 13T]

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- (3) In each case, the respondent must be served with a copy of the order making, varying or revoking the offender prohibition order.
- (4) Also, if the magistrate or court makes an offender prohibition order, the respondent must be served with—
  - (a) a notice stating that, if a law of another jurisdiction provides for registration of the offender prohibition order under corresponding provisions, the offender prohibition order may be registered in the other jurisdiction; and
  - (b) if the respondent was not a reportable offender immediately before the offender prohibition order was made—an initial reporting obligations notice in relation to the respondent as a reportable offender.
- (5) Also, for a child respondent, the police commissioner must, as soon as practicable after the magistrate or court makes, varies or revokes the offender prohibition order, give a copy of the court's or magistrate's order to—
  - (a) the chief executive (child safety), if the offender prohibition order is likely to result in the child respondent needing to change the child respondent's place of residence; and
  - (b) a parent of the child respondent, if the police commissioner is able to find a parent of the child respondent after making reasonable attempts.
- (6) Failure to comply with any of subsections (2) to (5) does not affect the validity of the offender prohibition order.
- (7) In this section—  
***corresponding provisions*** means provisions corresponding to division 2.

### **13T Making disqualification order instead of temporary order**

- (1) This section applies if—

- (a) a magistrate hearing an application for a temporary order (the **relevant application**) for a person decides not to make the temporary order; or
- (b) a court hearing an application for an offender prohibition order (also the **relevant application**) for a person—
  - (i) has not made a final order for the person; and
  - (ii) decides not to make a temporary order for the person under section 13K.
- (2) The magistrate or court must consider whether to make an order (**disqualification order**) in relation to the person stating the person may not—
  - (a) hold a working with children authority; or
  - (b) make a working with children check application.
- (3) However, the magistrate or court may make the disqualification order only if the magistrate or court considers it would not be in the interests of children for the chief executive (justice) to issue a working with children authority to the person.
- (4) The following provisions apply to the making of the disqualification order—
  - (a) if the relevant application is made under section 13I—section 13J(3) to (7);
  - (b) if the relevant application is made under section 13K—section 13K(4) and (5).
- (5) The provisions mentioned in subsection (4) apply for that subsection as if—
  - (a) a reference in the provisions to the respondent were a reference to the person; and
  - (b) a reference in the provisions to a temporary order were a reference to the disqualification order.

[s 13U]

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- (6) If the magistrate or court makes the disqualification order in the person's absence, a police officer must serve the person with a copy of the disqualification order.

### **13U Term of disqualification order**

- (1) A disqualification order takes effect—
- (a) if the person who is subject to the disqualification order is present before the magistrate or court when the disqualification order is made—when it is made; or
  - (b) if the person who is subject to the disqualification order is not present before the magistrate or court when the disqualification order is made—when a copy of the disqualification order is served on the person under section 13T(6).
- (2) The disqualification order remains in force until whichever of the following happens first—
- (a) if the disqualification order is made by a magistrate hearing an application for a temporary order under section 13J—a proceeding for a final order is not started by the return date and time fixed by the magistrate under section 13J(5);
  - (b) the application for the final order is next mentioned in a court and the court does not extend the term of the disqualification order under section 13V;
  - (c) the prescribed period ends;
  - (d) a court decides the application for the final order;
  - (e) the police commissioner discontinues the application for the final order;
  - (f) the disqualification order is revoked under section 13W.
- (3) In this section—

***final order*** means a final order for the person.

***prescribed period*** means—

- (a) the period for which the disqualification order is extended under section 13V; or
- (b) otherwise—28 days.

### **13V Extending disqualification order if application for final order adjourned**

Section 13N applies in relation to a disqualification order as if—

- (a) a reference in the section to a temporary order were a reference to the disqualification order; and
- (b) a reference in the section to the respondent were a reference to the person who is subject to the disqualification order.

### **13W Revoking disqualification order**

- (1) A person who is subject to a disqualification order may apply to the court under the relevant rules of court for revocation of the disqualification order.
- (2) However, other than in relation to a disqualification order made in the person's absence, the person may only make an application under subsection (1) with the court's leave.
- (3) The court may grant the leave if satisfied it is in the interests of justice to do so.
- (4) In deciding the application, the court must have regard to whether it would be in the best interests of children for the chief executive (justice) to issue a working with children authority to the person.
- (5) A revocation takes effect when it is made.

### **13X Costs**

A court must not award costs on an application for an offender prohibition order or for a variation or revocation of an offender prohibition order unless the court dismisses the

[s 13Y]

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application as frivolous or vexatious or another abuse of process.

## **Division 2                      Corresponding orders**

### **13Y      Application for registration of corresponding order in Queensland**

The police commissioner may apply in the approved form to the registrar of a Magistrates Court (the *registrar*) for the registration of a corresponding order.

### **13Z      Registration of corresponding order**

- (1) This section applies if the registrar is satisfied—
  - (a) the corresponding order is in force; and
  - (b) the corresponding order was served on the person against whom it was made under the law of the jurisdiction where the corresponding order was made.
- (2) Subject to subsections (3) and (10), the registrar must register the corresponding order.
- (3) The registrar must refer the corresponding order to the court for adaptation or modification for its effective operation in the State if—
  - (a) the registrar believes it is necessary to do so; or
  - (b) the police commissioner asks the registrar to do so.
- (4) If the corresponding order is referred to the court, a police officer must serve a copy of the application for registration of the corresponding order and an appearance notice on the respondent.
- (5) The application may be heard in the respondent's absence if the court is satisfied a copy of the application and an appearance notice were served on the respondent under subsection (4).

- (6) However, the court may, at any time before deciding the application, direct the police commissioner to give a further appearance notice to the respondent.
- (7) Section 13O applies to the hearing for the variation of the corresponding order as if the hearing were a hearing for an offender prohibition order.
- (8) The court may vary the corresponding order for the purposes of its registration by adapting or modifying it in a way the court considers necessary or desirable for its effective operation in the State.
- (9) For varying the corresponding order as mentioned in subsection (8), the court must consider—
  - (a) anything that may be considered under sections 13C and 13D on an application for a prohibition order under section 13C; and
  - (b) any changes in the respondent's circumstances since the corresponding order was made.
- (10) The registrar must register the corresponding order as varied by the court.
- (11) A registered corresponding order is registered for the period during which the corresponding order, as originally made, is in force.
- (12) A regulation may—
  - (a) prescribe the way the registrar is to register a corresponding order or a varied corresponding order; and
  - (b) provide for the keeping of the register and access to it.
- (13) In this section—

**appearance notice** means a notice, in the approved form, stating the following in relation to a corresponding order—

  - (a) that an application for the registration of the corresponding order has been referred to the court;
  - (b) when and where the application is to be heard;

[s 13ZA]

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- (c) that the respondent is required to appear at the hearing;
- (d) that the court may register the corresponding order, or the corresponding order as varied by the court, in the respondent's absence if the respondent fails to appear at the hearing.

**13ZA Action by registrar and police commissioner after registration of corresponding order**

- (1) No later than 2 business days after registering a corresponding order, the registrar must give the police commissioner a certificate of the registration with a copy of the registered corresponding order attached.
- (2) The registrar may not ask the police commissioner for any fee, or reimbursement for any expenses incurred, under this division.
- (3) After receiving a copy of the registered corresponding order, the police commissioner must serve on the respondent—
  - (a) a copy of the registered corresponding order; and
  - (b) if the respondent for the registered corresponding order was not a reportable offender immediately before its registration—an initial reporting obligations notice in relation to the respondent as a reportable offender.

*Note—*

Under section 13ZB(1)(a), the registered corresponding order has the same effect as a prohibition order made under this part.

- (4) Also, for a child respondent, the police commissioner must, as soon as practicable after receiving a copy of the registered corresponding order, give a copy of the registered corresponding order to—
  - (a) the chief executive (child safety), if the registered corresponding order is likely to result in the respondent needing to change the respondent's place of residence; and



- (b) a parent of the child respondent, if the police commissioner is able to find a parent of the child respondent after making reasonable attempts.
- (5) Failure to comply with subsection (3) or (4) does not affect the validity of the registration of the corresponding order.

### **13ZB Effect of registration of corresponding order**

- (1) A registered corresponding order—
  - (a) has the same effect as a prohibition order made under this part; and
  - (b) may be enforced against the respondent as if it were a prohibition order made under this part.
- (2) Subsection (1) has effect even if the corresponding order was registered in the respondent's absence.
- (3) Subsection (4) applies if the corresponding order was varied under section 13Z(8) in the respondent's absence, and the respondent has not been notified of the variation.
- (4) Despite subsection (2), until the respondent is notified of the variation, the registered corresponding order has effect and is enforceable against the respondent as if it had not been varied.

### **13ZC Varying registered corresponding order**

- (1) The police commissioner, or the respondent, may apply to the court under the relevant rules of court for a variation of a registered corresponding order.
- (2) In deciding the application, the court must consider—
  - (a) anything that must be considered under sections 13C and 13D on an application for a prohibition order under section 13C; and
  - (b) any changes in the respondent's circumstances since the registered corresponding order was registered or last varied.

[s 13ZD]

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- (3) Also, section 13Q(2), (3) and (5) applies to the application as if a reference in the subsections to an offender prohibition order were a reference to a registered corresponding order.

### **13ZD Cancelling registration of registered corresponding order**

- (1) The police commissioner, or the respondent, may apply to the court for an order cancelling the registration of a registered corresponding order.
- (2) In deciding the application, the court must consider—
  - (a) anything that must be considered under sections 13C and 13D on an application for a prohibition order under section 13C; and
  - (b) any changes in the respondent's circumstances since the registered corresponding order was registered.
- (3) Also, section 13Q(2) and (3) applies to the application as if a reference in the subsections to an offender prohibition order were a reference to a registered corresponding order.
- (4) If the court cancels the registration of the registered corresponding order, the corresponding order, or the corresponding order as varied under this part, stops having effect in Queensland.

## **Division 3 Reportable offender obligations**

### **13ZE Offender reporting requirement after offender prohibition order made**

- (1) If a court makes an offender prohibition order for a respondent who is not a reportable offender—
  - (a) the respondent becomes a reportable offender; and
  - (b) the length of the respondent's reporting period is taken to be the period for which the offender prohibition order has effect.
- (2) Subsection (1)(b) has effect despite sections 36 and 37.

### 13ZF Offender reporting requirement after registration of corresponding order

- (1) If the respondent for a registered corresponding order is not a reportable offender immediately before the registration of the corresponding order, on its registration—
  - (a) the respondent is taken to be a reportable offender; and
  - (b) the registered corresponding order is taken to be an offender reporting order; and
  - (c) the length of the respondent's reporting period is taken to be—
    - (i) for an adult respondent—5 years, or the period for which the registered corresponding order has effect, whichever is shorter; or
    - (ii) for a child respondent—2 years, or the period for which the registered corresponding order has effect, whichever is shorter.
- (2) Subsection (1)(c) has effect despite sections 36 and 37.

## Division 4 Appeals

### 13ZG Who may appeal

The police commissioner, or the respondent for an offender prohibition order or registered corresponding order (the **relevant order**), may appeal to the following entity (the **appeal court**) against a decision made by a court under this part (the **relevant decision**) in relation to the relevant order—

- (a) for a child respondent—a Childrens Court constituted by a Childrens Court judge;
- (b) otherwise—the District Court.

[s 13ZH]

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### **13ZH Starting appeal**

- (1) The appeal must be started within 28 days (the *appeal period*) after—
  - (a) the day the relevant decision is made; or
  - (b) if the relevant decision was made in the absence of the respondent for the relevant order—the day on which a copy of the order resulting from the relevant decision is served on the respondent for the relevant order.
- (2) On application, the appeal court may extend the appeal period.
- (3) The appeal must be started by filing a notice of appeal in writing with the registrar of the appeal court.
- (4) If it appears to the appeal court that it is not reasonably practicable to serve a copy of the notice of appeal on the respondent to the appeal, the appeal court may make an order substituting another way of serving the notice of appeal.
- (5) The appeal must be heard in the presence of only—
  - (a) the appellant; and
  - (b) the respondent; and
  - (c) any witness the appeal court allows for the proceeding; and
  - (d) anyone else the appeal court considers appropriate to be present and allows to be present; and

#### *Examples—*

- a parent of a child respondent
  - another person who is able to provide cultural or emotional support for the respondent or a witness
  - a person conducting relevant academic or scientific research
- (e) a lawyer representing anyone mentioned in paragraph (a), (b) or (c).

### **13ZI Nature of appeal**

- (1) The appeal is by way of rehearing and, subject to section 13ZH, under the *Uniform Civil Procedure Rules 1999* or, to the extent the rules can not be applied to the appeal, in accordance with directions given by a judge of—
  - (a) for a child respondent—the Childrens Court; or
  - (b) otherwise—the District Court.
- (2) Despite subsection (1), further evidence may not be admitted on the appeal.
- (3) An appeal against a relevant decision does not stay the operation of the relevant order, unless the appeal court orders otherwise.

### **13ZJ Powers on appeal**

- (1) The appeal court may, on an appeal against a relevant decision about an offender prohibition order—
  - (a) make, vary or revoke the offender prohibition order, as it considers appropriate; or
  - (b) make another order or decision it considers should have been made.
- (2) The appeal court may, on an appeal against a relevant decision about a registered corresponding order—
  - (a) register, or revoke the registration of, the corresponding order or a variation of it; or
  - (b) make another order or decision it considers should have been made.
- (3) An order or decision made under subsection (1)(b) or (2)(b) takes effect from when it is made.

[s 13ZK]

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**13ZK Court may not award costs unless application is frivolous or vexatious or another abuse of process**

An appeal court must not award costs on an appeal under this division unless the appeal court dismisses the application as frivolous or vexatious or another abuse of process.

**Division 5 Miscellaneous**

**13ZL Service of documents**

- (1) This section applies if a provision of this part requires a police officer, including the police commissioner, to serve a document on a respondent for—
  - (a) a proposed offender prohibition order; or
  - (b) an offender prohibition order; or
  - (c) a corresponding order; or
  - (d) a registered corresponding order.
- (2) This section also applies for the purpose of service of notice on a respondent in relation to an application for a temporary order if notice is given.
- (3) The document must be served personally on the respondent.
- (4) However, if, despite making reasonable attempts, a police officer is unable to personally serve a document on the respondent, the police commissioner may apply to the court to authorise substituted service under subsection (5).
- (5) If it appears to the court that it is not reasonably practicable to serve the document personally on the respondent, the court may authorise another way of serving it (*substituted service*).

*Example—*

by personal service of the document on a relative, guardian or other person with whom the respondent is known to associate

- (6) When serving an appearance notice personally on the respondent, the police officer must explain the contents of the appearance notice to the respondent in language likely to be

understood by the respondent, having regard, for example, to the respondent's age and cultural, educational and social background.

- (7) A document that is to be served personally on a child respondent—
- (a) must be served on the child respondent as discreetly as possible; and
  - (b) must not be served on the child respondent at or in the vicinity of the child respondent's place of employment or school, unless there is no other place where the document may reasonably be served on the child respondent.

### **13ZM No filing fee is payable**

A fee is not payable for making an application, or filing another document, under this part.

### **13ZN Approval of forms**

The police commissioner may approve forms for use under this part.

## **Part 4 Reporting obligations**

### **Division 1 Initial report**

#### **14 When reportable offender must make initial report**

- (1) This section applies to a reportable offender mentioned in schedule 3, column 1.
- (2) If the police commissioner gives the reportable offender an initial reporting obligations notice, the offender must make a report (the *initial report*) of the offender's personal details to the commissioner when the offender receives the notice.

[s 14]

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- (3) However, if it is not reasonably practicable for the reportable offender to make the initial report when the offender receives the notice, the offender must make the initial report—
  - (a) within 7 days after the day the offender receives the notice; or
  - (b) if the offender intends to leave Queensland before the end of 7 days after the offender receives the notice—before the offender leaves Queensland.
- (4) If the police commissioner does not give the reportable offender an initial reporting obligations notice, the offender must make the offender's initial report to the commissioner—
  - (a) within the period stated for the offender in schedule 3, column 2; or
  - (b) if more than 1 circumstance mentioned in schedule 3, column 1 applies to the offender—within the shorter of the applicable periods stated for the offender in schedule 3, column 2; or
  - (c) if the offender intends to leave Queensland before the end of the period stated for the offender in schedule 3, column 2—before the offender leaves Queensland.
- (5) However, subsection (4)(c) does not apply to an offender who enters Queensland from a foreign jurisdiction and remains for less than 7 consecutive days.
- (6) Also, if—
  - (a) a reportable offender's reporting period for a reportable offence ends; and
  - (b) the offender is later sentenced for another reportable offence when the offender is not in Queensland;the offender must make the offender's initial report to the police commissioner within 7 days after entering and remaining in Queensland for 7 or more consecutive days.
- (7) The 7 or more consecutive days does not include any day the reportable offender spends in government detention.



**15 Request for and provision of personal details by corrective services**

- (1) This section applies if a reportable offender is in government detention in Queensland.
- (2) The chief executive (corrective services) may ask the offender to give the chief executive (corrective services) details of—
  - (a) the address of the premises where the offender intends to reside when the offender is released; or
  - (b) if the offender does not intend to reside at particular premises when the offender is released—each locality where the offender intends to generally be found.
- (3) The request may be made—
  - (a) orally or in writing; and
  - (b) on or before the offender's release from government detention.
- (4) The offender may, but is not required to, comply with the request.
- (5) The chief executive (corrective services) may give the police commissioner the following personal details about the offender—
  - (a) the offender's name;
  - (b) the offender's date of birth;
  - (c) the address where the offender generally resided before the offender entered government detention;
  - (d) if the offender complied with a request under subsection (2)—the address or locality given to the chief executive (corrective services) in response to the request.
- (6) The details are taken to be the reportable offender's initial report for the purposes of including the details in the register established under section 68.
- (7) Subsection (6) does not affect the reportable offender's reporting obligations under section 14.

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**16 Persons required to report under corresponding Act**

- (1) This section applies to a person (other than a protected witness) who—
  - (a) is or has been required to report to a corresponding registrar, whether or not the person is a reportable offender under this Act; and
  - (b) has not previously complied with the obligation imposed by this section.
- (2) The person must, within 7 days after entering and remaining in Queensland (not including any day spent in government detention), contact a nominated person—
  - (a) by telephone; or
  - (b) in another way prescribed by regulation.
- (3) The police commissioner must ensure the nominated person's contact details are available at any police station.
- (4) When contacted, the nominated person must advise the person—
  - (a) whether the person is a reportable offender under this Act; and
  - (b) about any reporting obligations the person has under this Act.
- (5) A person is not guilty of an offence against section 50 because of a failure to comply with subsection (2) if the person—
  - (a) is not a reportable offender under this Act; or
  - (b) could not reasonably have been expected to have known that the person was required to report under this Act; or
  - (c) does not remain in Queensland for 7 or more consecutive days, not counting any day spent in government detention; or
  - (d) makes an initial report under section 14.
- (6) In this section—

***nominated person*** means a person nominated by the police commissioner for this section.

## **Division 2                      Ongoing reporting obligations**

### **Subdivision 1              Preliminary**

#### **17              Application of div 2**

This division applies to a reportable offender who has made an initial report.

### **Subdivision 2              Periodic reporting**

#### **18              Requirement to make periodic reports**

- (1) A reportable offender must periodically make reports (each a ***periodic report***) of the offender's personal details to the police commissioner until the offender's reporting period ends.
- (2) However, a reportable offender whose reporting obligations are suspended under section 4 or division 4, 6 or 10 is not required to make periodic reports while the suspension is in force.
- (3) A periodic report includes a report that simply confirms that the reportable offender's personal details stated in the last report previously made by the offender—
  - (a) are correct; and
  - (b) have not changed since the offender made the last report.

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## **19 When periodic reports must be made**

- (1) A reportable offender must make a periodic report in each reporting month, starting in the first reporting month after the offender makes the offender's initial report.
- (2) However, the police commissioner may at any time require the reportable offender to make periodic reports more frequently, if the commissioner is reasonably satisfied more frequent periodic reporting is necessary to protect the lives or sexual safety of children.
- (3) If the police commissioner decides to require the reportable offender to make periodic reports more frequently, the commissioner must, as soon as reasonably practicable, give the offender a reporting obligations notice stating when the offender is required to make periodic reports.

## **Subdivision 3 Reporting change in personal details**

### **19A Reporting changes in personal details**

- (1) A reportable offender must report any change in the offender's personal details to the police commissioner—
  - (a) for a change relating to reportable contact between the offender and a child—within 24 hours after the change happens; or
  - (aa) if the offender has ever been subject to a division 3 order under the *Dangerous Prisoners (Sexual Offenders) Act 2003* and the change relates to any premises where the offender generally resides, or a locality where the offender can generally be found—within 24 hours after the change happens; or
  - (b) for a change relating to the reportable offender being in government detention for at least 7 consecutive days—
    - (i) within 7 days after the offender stops being in government detention; or

- (ii) if the offender intends to leave Queensland before the end of the period mentioned in subparagraph (i)—before the offender leaves Queensland; or
- (c) for any other change—
  - (i) within 7 days after the change happens; or
  - (ii) if the offender intends to leave Queensland before the end of the period mentioned in subparagraph (i)—before the offender leaves Queensland.
- (2) However, if a reportable offender (other than a protected witness) is not in Queensland when the change in the offender's personal details happens, the offender must report the change within 48 hours after entering and remaining in Queensland for 48 consecutive hours, not counting any time spent in government detention.

*Note—*

For the suspension of reporting obligations while a reportable offender (other than a protected witness) is not in Queensland, see section 34.

- (3) Also, if a reportable offender made a statement to the police commissioner under section 20(2)(e), the offender is not required to report a change in the offender's personal details unless—
  - (a) the offender returns to Queensland and is required to make a report under section 22(2); or
  - (b) the offender decides not to leave Queensland and is required to make a report under section 22(4).
- (4) The obligation on a reportable offender under this section applies in addition to any other reporting obligation imposed on the offender under this part.
- (5) In this section—

***change***, in relation to a reportable offender's personal details, includes any of the personal details no longer applying to the offender.

[s 19B]

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*Example—*

A reportable offender has advised the police commissioner of the details of a car the offender bought. The sale of the car is a change in the offender's personal details that must be reported to the police commissioner.

**19B Requirement to report each change in premises or locality at which offender stays or can be found**

- (1) The police commissioner may require a reportable offender to report the changes in the offender's personal details mentioned in subsection (3) if the commissioner is reasonably satisfied that doing so is necessary to protect the lives or sexual safety of children.
- (2) The police commissioner imposes the requirement under subsection (1) on the offender by giving the offender a reporting obligations notice under section 54A(3) stating that the offender is required to report the changes.
- (3) The reportable offender must report each change in the premises where the offender stays, or locality where the offender can generally be found—
  - (a) during each period of 3 or more consecutive days in which—
    - (i) the offender does not stay at the premises where the offender generally resides; or
    - (ii) the offender does not generally reside at any premises; and
  - (b) within 24 hours after the change happens.

**Subdivision 4 Other reporting**

**20 Intended absence from Queensland to be reported**

- (1) This section applies if a reportable offender—

- (a) intends to leave Queensland for 48 or more consecutive hours to travel elsewhere in Australia; or

*Note—*

If a reportable offender intends to leave Queensland to travel elsewhere in Australia on an average of at least once a month, irrespective of the length of the absence, see section 23.

- (b) intends to leave Queensland to travel out of Australia.
- (2) At least 7 days before leaving Queensland, the reportable offender must report the intended travel to the police commissioner and must give details of—
- (aa) any child the reportable offender—
    - (i) intends to leave Queensland with; or
    - (ii) intends to have reportable contact with while out of Queensland; and
  - (a) each State, Territory or country to which the offender intends to go while out of Queensland; and
  - (b) the approximate dates during which the offender intends to be in each of those States, Territories or countries; and
  - (c) each address or location within each State, Territory or country at which the offender intends to reside (to the extent that they are known) and the approximate dates during which the offender intends to reside at those addresses or locations; and
  - (d) if the offender intends to return to Queensland, the approximate date on which the offender intends to return; and
  - (e) if the offender does not intend to return to Queensland, a statement of that intention.
- (3) If circumstances arise making it impracticable for a reportable offender to make the report 7 days before the offender leaves, it is sufficient compliance with subsection (2) if the offender reports the required information to the police commissioner at least 24 hours before the intended travel.

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**21 Change of travel plans while out of Queensland to be given**

- (1) This section applies if a reportable offender who is out of Queensland decides—
  - (a) to extend a stay elsewhere in Australia beyond 48 hours; or
  - (b) to change any details given to the police commissioner under section 20.
- (2) Within 48 hours after making the decision, the reportable offender must—
  - (a) if subsection (1)(a) applies—report the details required by section 20(2) to the police commissioner (including those details as they relate to the travel that has already been completed); or
  - (b) if subsection (1)(b) applies—report the changed details to the police commissioner.
- (3) The reportable offender must make the report in a way allowed under a regulation.

**22 Reportable offender to report return to Queensland or decision not to leave**

- (1) This section applies if a reportable offender was required to report that the offender intended to leave Queensland under section 20.
- (2) If the reportable offender left Queensland, the offender must report his or her return to Queensland to the police commissioner within 48 hours after entering and remaining in Queensland for 48 consecutive hours, not counting any time spent in government detention.
- (3) A report made under subsection (2) in relation to travel out of Australia must be accompanied by a copy of the reportable offender's passport and travel documents verifying or supporting details in the report.



- (4) If the reportable offender decides not to leave Queensland, the offender must report his or her change of intention to the police commissioner within 48 hours after deciding not to leave.

## **23 Report of recurring absences from Queensland**

- (1) This section applies if a reportable offender leaves, or intends to leave, Queensland to travel elsewhere in Australia on an average of at least once a month (irrespective of the length of the absence).
- (2) The reportable offender must make a report to the police commissioner stating—
  - (a) in general terms—
    - (i) the expected frequency of the offender's travel; and
    - (ii) the offender's travel destinations; and
    - (iii) the offender's reasons for travelling to the destinations with the expected frequency; and
  - (b) whether the offender expects to travel with a child or have reportable contact with a child while travelling.
- (3) The reportable offender must make the report within 7 days before, but not less than 24 hours before, the offender first travels.

### *Note—*

The reportable offender is not required to make another report under this section unless the information that is required to be reported under subsection (2) changes, including, for example, the travel destination.

- (4) The reportable offender must report any change in the information to the police commissioner—
  - (a) for a change in the information mentioned in subsection (2)(a)—
    - (i) if the change happens when the offender is out of Queensland—within 48 hours after the offender returns to Queensland; or

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- (ii) otherwise—within 7 days after the change happens; or
- (b) for a change relating to travel with a child or reportable contact the offender has had, or expects to have, with a child—within 24 hours after the change happens.

**24 Information about international travel to be given to Commonwealth agencies**

As soon as practicable after receiving a report under section 20, 21 or 22 about a reportable offender's intentions in relation to travel out of Australia, the police commissioner must ensure that a copy of the report is given to—

- (a) the Australian Border Force Commissioner; and
- (b) the secretary of the home affairs department; and
- (c) the commissioner of the Australian Federal Police.

**Division 3 Other provisions applying to reporting obligations**

**25 Initial report must be made in person**

- (1) A reportable offender must make the offender's initial report—
  - (a) in person; and
  - (b) at the police station or other place stated for making the report in a reporting obligations notice given to the offender.
- (2) A police officer, or another person approved by the police commissioner, may receive a reportable offender's initial report.

## **26 How other reports must be made**

- (1) A reportable offender must make a report the offender is required to make under this part, other than the offender's initial report—
  - (a) if a reporting obligations notice given to the offender states a way in which the report must be made—in the stated way; or
  - (b) otherwise—
    - (i) in a way in which the report may be made stated in a reporting obligations notice given to the offender; or
    - (ii) in a way allowed under a regulation.
- (2) If, under subsection (1)(a), a reportable offender is required to make a report in person, the offender must make the report at the place stated in a reporting obligations notice given to the offender as the place where the report must be made.

*Note—*

The place stated in the reporting obligations notice may be a police station.

- (3) A police officer, or another person approved by the police commissioner, may receive a report made by a reportable offender.

## **26A Reportable offender with disability may be assisted to make report**

- (1) This section applies if—
  - (a) a reportable offender is a person with disability; and
  - (b) because of the offender's disability, it is impracticable for the offender to make a report the offender is required to make under this part.
- (2) A parent, guardian or carer of the reportable offender, or another person nominated by the offender, may—

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- (a) if the offender is required to make the report in person—accompany the offender to the place where the offender is required to make the report; and
- (b) make the report on the offender's behalf.

## **27 Right to privacy and support when reporting**

- (1) A person making a report under this part at a police station or a place approved by the police commissioner—
  - (a) is entitled to make the report out of the hearing of members of the public; and
  - (b) is entitled to be accompanied by a support person of the person's own choosing.
- (2) Subsection (3) applies if a police officer or other person receiving the report is aware the person making the report—
  - (a) has special needs; and
  - (b) because of the special needs, needs to be accompanied by an adult support person when making the report.
- (3) If it is not practicable for the person to be accompanied by an adult support person of the person's own choice, the police officer or person receiving the report must arrange, if practicable, for an adult support person to be present when the person is making the report.
- (4) A police officer or other person receiving the report may arrange for an interpreter to be present when a person is making a report under this part.
- (5) A police officer or other person receiving a report under this part must not allow a support person or interpreter to be present when a person is making the report unless the support person or interpreter has signed an undertaking not to disclose any information derived from the report unless required or authorised by or under any Act or law to do so.
- (6) In this section—

*special needs*, of a person, means the person's needs by taking into account—

- (a) the person's age, sex or cultural background; and
- (b) any disability the person has.

## **28 Receipt of information to be acknowledged**

- (1) As soon as practicable after receiving a report under this part, the police officer or other person receiving the report must acknowledge the making of the report.
- (2) The acknowledgement—
  - (a) must be in writing; and
  - (b) must be given to the person who made the report; and
  - (c) must include—
    - (i) the date and time when, and the place where, the report was received; and
    - (ii) a copy of the information that was reported; and
    - (iii) a copy of the record of any agreement made under subsection (4).
- (3) If a report is not made in person, the police officer or other person who received the report must as soon as practicable—
  - (a) give the person making the report a unique reference number; and
  - (b) record that number on the relevant reportable offender's file and on the acknowledgement.
- (4) The police commissioner may make an agreement with the reportable offender about the way in which a reference number or acknowledgement required to be given by this section may be given.
- (5) The police commissioner must ensure—
  - (a) that there is a method of recording an agreement made under subsection (4); and

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- (b) that, except with the reportable offender's written consent, a reference number or acknowledgement required to be given by this section is given in accordance with the agreement while the agreement remains in force.
- (6) The police commissioner must ensure that a copy of every acknowledgement is kept.

## **29 Additional matters to be given**

- (1) If a report is required to be made in person, the person making the report must also—
  - (a) if the person is the reportable offender—
    - (i) present for inspection the offender's driver licence (if any) or another form of identification or other document specified by a regulation for the purposes of this section to verify or support details in the report; and
    - (ii) provide a photograph of the reportable offender's head and face of a type suitable for use in an Australian passport; or
  - (b) if the person is not the reportable offender—present for inspection the person's driver licence (if any) or another form of identification specified by a regulation for the purposes of this section.
- (2) The police officer receiving the report may waive the requirements of subsection (1)(a) or (b) if—
  - (a) the reportable offender permits his or her fingerprints to be taken immediately before or after the report is made; or
  - (b) the police officer is otherwise satisfied about the reportable offender's identity.
- (3) The police officer receiving the report may waive the requirements of subsection (1)(b) if the officer is otherwise satisfied about the person's identity.

- (4) The police officer receiving a report may copy a document presented to the officer for inspection under subsection (1)(a) or (b).
- (5) If a report is made otherwise than in person, a regulation may specify—
  - (a) the circumstances in which—
    - (i) information about the identity of the reportable offender and the identity of the person making the report are required; and
    - (ii) a document verifying or supporting details in the report are required; and
  - (b) the way in which the information or document must be given;but may not require an original document to be given.

### **30 Power to take fingerprints**

- (1) This section applies if a reportable offender makes a report under this part in person to a police officer.
- (2) The police officer may take, or cause a person authorised by the officer to take, the reportable offender's fingerprints.

### **31 Power to take photographs**

- (1) A police officer may require a reportable offender—
  - (a) to be photographed; or
  - (b) to expose any part of the offender's body to enable that part of the body to be photographed by the officer or a person authorised by the officer.
- (2) However, a police officer can not require a reportable offender to expose—
  - (a) the offender's genitals; or
  - (b) the anal area of the offender's buttocks; or

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- (c) if the offender is a female or a transgender person who identifies as a female—the offender’s breasts.
- (3) Also, a police officer may photograph a thing if a reportable offender is required to report information about the thing under this part.

*Example—*

A police officer may photograph a car that a reportable offender has reported as just having been bought by the reportable offender.

## **32 Retention of material for law enforcement, crime prevention or child protection**

For law enforcement, crime prevention or child protection purposes, the police commissioner may keep any of the following taken under this division from a person—

- (a) copies of any documents;
- (b) any fingerprints;
- (c) any photographs.

## **33 Reporting by remote offenders**

- (1) This section applies if a reportable offender resides more than 100 kilometres from—
  - (a) the nearest police station; or
  - (b) the place stated in a reporting obligations notice given to the offender as the place where the offender is required to make a report under this part.
- (2) A reportable offender need not comply with a time limit about the making of a report in person under this part if—
  - (a) the offender, or a person entitled to make the report on the offender’s behalf, contacts the police commissioner before the time limit ends; and
  - (b) the police commissioner agrees to allow the report to be made at a specific time, that is after the time limit, and at a specific place; and



- (c) when contacting the police commissioner under paragraph (a), the person gives the police commissioner, by phone or another way, the information required to be reported under division 1 or 2.
- (3) The police commissioner must ensure that there is a method of recording all agreements made under this section.
- (4) Without limiting subsection (3), the recording method must result in the creation of a written record that—
  - (a) is identified by a unique reference number; and
  - (b) identifies when and where each agreement was made; and
  - (c) identifies the person who enters into any agreement; and
  - (d) contains the terms of any agreement.
- (5) If an agreement is made under this section, the police commissioner must ensure that the reportable offender is given the reference number mentioned in subsection (4)(a).
- (6) The police commissioner must ensure that there is a method of recording all information given under subsection (2).

## **Division 4                      Suspension and extension of reporting obligations**

### **34            Suspension and extension of reporting obligations**

- (1) Any obligation imposed on a reportable offender by this part is suspended for any period during which the offender—
  - (a) is in government detention; or
  - (b) is outside Queensland unless—
    - (i) the offender is someone to whom division 9 applies; or
    - (ii) the obligation is under section 21; or

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- (c) is the subject of an order under division 6 (or an equivalent order in a foreign jurisdiction); or
- (d) is the subject of a decision made by the police commissioner under division 10.

*Note—*

For the effect of a decision of a Magistrates Court on an appeal from a decision by the police commissioner under division 10, see section 67J(5).

- (2) The period for which a reportable offender's reporting obligations continue is extended by any length of time for which the obligations are suspended under subsection (1)(a).
- (3) This section does not apply to a forensic reportable offender.

## **Division 5                      Reporting period**

### **35            When reporting obligations begin**

- (1) A reportable offender's reporting obligations in relation to a reportable offence begin—
    - (a) for a forensic reportable offender—when an offender reporting order is imposed on the reportable offender; or
    - (aa) for a post-DPSOA reportable offender—when the offender becomes a post-DPSOA reportable offender; or
    - (b) for another reportable offender—
      - (i) when the reportable offender is sentenced for the offence; or
      - (ii) when an offender reporting order or offender prohibition order is imposed on the reportable offender; or
      - (iii) when the reportable offender stops being in government detention for the offence;
- whichever is the later.

- (2) Subsection (1) applies even if the reportable offender is already complying with reporting obligations in relation to another reportable offence.
- (3) For an existing reportable offender, if an event mentioned in subsection (1)(b) happened before the commencement date, the reportable offender's reporting obligations begin when the event happened.
- (4) Subsection (1)(b) is subject to section 36(5).

### **36 Length of reporting period**

- (1) A reportable offender must continue to comply with the reporting obligations imposed by this part for—
  - (a) 5 years, if the offender—
    - (i) has ever been found guilty of 1 reportable offence; or
    - (ii) has been found guilty of more than 1 reportable offence and paragraph (b) or (c) does not apply to the offender; or
  - (b) 10 years, if the offender—
    - (i) has ever been found guilty of 1 or more reportable offences; and
    - (ii) in relation to the offence or offences, has been given notice of the offender's reporting obligations under this Act or a corresponding Act; and
    - (iii) after being given the notice, commits and is found guilty of 1 single further reportable offence; or
  - (c) the remainder of the offender's life, if the offender—
    - (i) has ever been found guilty of 1 or more reportable offences; and
    - (ii) in relation to the offence or offences, has been given notice of the offender's reporting obligations under this Act or a corresponding Act; and

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- (iii) after being given the notice, commits and is found guilty of more than 1 single further reportable offence.
- (2) Subsection (1)(b) applies even if the reportable offender's reporting obligations under subsection (1)(a) ended before the offender commits and is found guilty of another reportable offence.
- (2A) Subsection (1)(c) applies even if the reportable offender's reporting obligations under subsection (1)(a) or (1)(b) ended before the offender commits and is found guilty of another reportable offence.
- (3) A reference in subsection (1) to an offence extends to an offence committed before 1 January 2005.
- (4) For this section, 2 or more offences that arise from the same incident are to be treated as a single offence.

*Note—*

The meaning of *single offence* is qualified by subsection (4) and by section 11(1).

- (5) For this section, to work out when the reporting obligations of an existing reportable offender end, the offender's reporting obligations in relation to a reportable offence are taken to have commenced—
  - (a) when the reportable offender was sentenced for the offence; or
  - (b) if the reportable offender is subject to an order under the *Criminal Law Amendment Act 1945*, section 19—when the order under that section was imposed on the reportable offender; or
  - (c) when the reportable offender stopped being in government detention for the offence;whichever was the later.
- (6) Despite anything to the contrary in this section or section 37, a forensic reportable offender must continue to comply with the reporting obligations imposed by this part until the person stops being a reportable offender.

**37 Reduced period applies for child reportable offenders**

- (1) The reporting periods stated in section 36 do not apply to a reportable offender who was a child at the time at which the offender committed each reportable offence.
- (2) Instead, a reporting period that is half the reporting period that would otherwise apply to the offender under section 36 (or 7½ years for a reporting period for life) applies to the offender.

**38 Extended reporting period if reportable offender still on parole**

- (1) This section applies if—
  - (a) a reportable offender is on parole in relation to a reportable offence; and
  - (b) the reporting period for the offence will end before the expiry of the sentence of imprisonment to which the parole relates.
- (2) Despite anything to the contrary in this division, the reporting period is extended until the end of the term of imprisonment to which the parole relates.

**38A Extended reporting period if reportable offender ever subject to division 3 order**

- (1) This section applies to a reportable offender who has ever been subject to a division 3 order under the *Dangerous Prisoners (Sexual Offenders) Act 2003*.
- (2) Despite anything to the contrary in this division, the offender must continue to comply with the reporting obligations imposed by this part for the remainder of the offender's life.

**39 Reporting period for corresponding reportable offenders**

- (1) Despite anything to the contrary in this part, a corresponding reportable offender must continue to comply with the

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reporting obligations imposed by this part for the recognised foreign reporting period mentioned in section 7(b).

- (2) For this section, if a corresponding reportable offender is a corresponding reportable offender under the laws of more than 1 jurisdiction, the recognised foreign reporting period is the longest period for which the offender would be required to report to the corresponding registrar of a foreign jurisdiction.

## **Division 5A                      Obligations about DNA sampling and analysis**

### **40A      Allowing DNA sample to be taken**

- (1) A reportable offender must comply with a written notice given to the offender by the police commissioner requiring the offender to—
  - (a) attend at a stated time and place; and
  - (b) allow a DNA sampler to take a DNA sample from the offender for DNA analysis.

*Note—*

For the offence for failing to comply with a notice, see section 50.

- (2) However, a reportable offender need not comply with subsection (1) if either of the following is currently kept under the *Police Powers and Responsibilities Act 2000*—
  - (a) a DNA sample taken from the reportable offender;
  - (b) the results of a DNA analysis of the DNA sample.
- (3) The *Police Powers and Responsibilities Act 2000*, chapter 17, part 5 applies in relation to a DNA sample taken under this section.
- (4) In this section—

**DNA sample** see the *Police Powers and Responsibilities Act 2000*, schedule 6.

*DNA sampler* see the *Police Powers and Responsibilities Act 2000*, schedule 6.

## Division 6 Exemption from reporting obligations

### 41 Supreme Court may exempt particular reportable offenders

- (1) This division applies to a reportable offender who is required to continue to comply with the reporting obligations imposed by this part for the rest of the offender's life.
- (2) If—
  - (a) a period of 15 years has passed (ignoring any period during which the reportable offender was in government detention) since the later of the following days—
    - (i) the day the offender was last sentenced in relation to a reportable offence or a corresponding reportable offence;
    - (ii) the day the offender was last released from government detention in relation to a reportable offence or a corresponding reportable offence;
    - (iii) the day the offender was last subject to a division 3 order under the *Dangerous Prisoners (Sexual Offenders) Act 2003*; and
  - (b) the offender did not become the subject of a life-long reporting period under a corresponding Act while in a foreign jurisdiction before becoming the subject of a life-long reporting period in Queensland; and
  - (c) the offender is not subject to parole in relation to a reportable offence;

the offender may apply to the Supreme Court for an order suspending the reporting obligations.

## **42 Order for suspension**

- (1) On the application of a reportable offender mentioned in section 41(2), the Supreme Court may make an order suspending the offender's reporting obligations.
- (2) The court must not make the order unless it is satisfied that the offender does not pose a risk to the safety of children.
- (3) When deciding whether to make the order, the court must take into account—
  - (a) the seriousness of the offender's reportable offences and corresponding reportable offences; and
  - (b) the period of time since the offences were committed; and
  - (c) the age of the offender, the age of the victims of the offences, and the difference in age between the offender and the victims, when the offences were committed; and
  - (d) the offender's present age; and
  - (e) the offender's criminal record; and
  - (f) any other matter that the court considers appropriate.

## **44 Police to be notified of order**

A registrar of the Supreme Court must notify the police commissioner of the terms of any order made under this division, unless the police commissioner is a party to the application.

## **45 No costs to be awarded**

The Supreme Court may not award costs in relation to proceedings under this division.



## **46 Right of appeal**

A party to proceedings under this division may appeal to the Court of Appeal, on a question of law, from any decision of the Supreme Court in the proceedings.

## **47 Restriction on right of unsuccessful applicant to re-apply for order**

If the Supreme Court refuses to make an order under this division, the reportable offender is not entitled to make a further application to the court until 5 years have elapsed from the date of the refusal, unless the court otherwise orders at the time of the refusal.

## **48 When order stops having effect**

- (1) An order made under this division stops having effect if, at any time after the making of the order, the reportable offender becomes—
  - (a) a reportable offender, other than a corresponding reportable offender; or
  - (b) a corresponding reportable offender who must, under section 39, continue to comply with the reporting obligations imposed by this part for any period.
- (2) An order that stopped having effect under subsection (1) is revived if—
  - (a) the finding of guilt that caused the order to stop having effect is quashed or set aside by a court; or
  - (b) for an order that stopped having effect under subsection (1)(a)—
    - (i) the offender reporting order is quashed on appeal; or
    - (ii) the offender's finding of guilt in relation to the offence that resulted in the making of that order is quashed or set aside by a court.

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- (3) For this section, it is irrelevant whether or not a person may lodge, or has lodged, an appeal in relation to a finding of guilt or offender reporting order.

#### **49 Application for new order**

- (1) If an order stops having effect under section 48(1), the reportable offender may apply under this division for a new order.
- (2) Section 47 does not apply to an application under subsection (1).
- (3) If an order stops having effect under section 48(1), on an application under this division for a new order, section 41(2)(a) applies as if the period referred to were a period of 15 years (ignoring any period during which the offender was in government detention) since the offender last committed a reportable offence or corresponding reportable offence.

### **Division 7 Offences**

#### **50 Failure to comply with reporting obligations**

- (1) A reportable offender must comply with the offender's reporting obligations, unless the offender has a reasonable excuse.  
  
Maximum penalty—300 penalty units or 5 years imprisonment.
- (2) An offence against subsection (1) is a crime.
- (3) When deciding whether a reportable offender has a reasonable excuse, the court must have regard to—
  - (a) the offender's age; and
  - (b) whether the offender has a disability that affects the offender's ability to understand, or to comply with, the obligations; and

- (c) whether the form of notice given to the offender about the obligations was adequate to inform the offender of the obligations, having regard to the offender's circumstances; and
  - (d) any matter specified by a regulation for the purposes of this section; and
  - (e) any other matter that the court considers is appropriate.
- (4) It is a defence to proceedings for an offence of failing to comply with a reporting obligation if it is established by or on behalf of the person charged with the offence that, at the time the offence is alleged to have occurred, the person had not received notice, and was otherwise unaware, of the obligation.
- (5) If a reportable offender is convicted of an offence against subsection (1), the police commissioner may, by giving the offender a reporting obligations notice under section 54A(3), require the offender to report the unreported information to the commissioner.
- (6) The ***unreported information*** is the personal details, change in personal details or other information the reportable offender was required to report under a reporting obligation the offender is convicted of failing to comply with.
- (7) A reporting obligations notice mentioned in subsection (5) must state—
- (a) the personal details, change in personal details or other information the offender is required to report; and
  - (b) the ways in which the offender is required to, or may, make the report; and
  - (c) that the offender must make the report—
    - (i) if the offender is sentenced to, and serves, a term of imprisonment for the offence—within 7 days after the offender is released from government detention for the offence; or
    - (ii) otherwise—within 7 days after being given the notice.

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- (8) Section 26 applies for making the report under subsection (5) as if the report were a periodic report.
- (9) For subsection (1), a reportable offender's reporting obligations include complying with the requirement imposed on the offender under subsection (5).

### **53 Bar to prosecution for failing to report leaving Queensland**

- (1) This section applies if—
  - (a) a reportable offender leaves Queensland; and
  - (b) the offender is found guilty of failing to report his or her presence in a foreign jurisdiction, as required by a corresponding Act.
- (2) The offender must not be prosecuted for a failure to comply with section 20 in relation to the travel out of Queensland.

## **Division 8 Notification of reporting obligations**

### **54 Initial notice to be given to reportable offender**

- (1) A reportable offender must be given written notice of—
  - (a) his or her reporting obligations; and
  - (b) the consequences that may arise if the offender fails to comply with those obligations.
- (2) A reportable offender must be given the notice as soon as practicable after any of the following events happen—
  - (a) the offender is—
    - (i) sentenced for a reportable offence; or
    - (ii) made subject to an offender reporting order or offender prohibition order;

- (b) the offender is released from government detention (whether in government detention for a reportable offence or otherwise);
  - (c) the offender enters Queensland, if the offender has not previously been given notice of his or her reporting obligations in Queensland;
  - (d) the offender becomes a corresponding reportable offender, if the person is in Queensland at that time.
- (3) The notice must be given by the entity specified in, or determined under, a regulation.
- (4) However, an entity is not required to give the notice if—
- (a) it has been given by another entity; or
  - (b) the police commissioner has given the reportable offender a reporting obligations notice.
- (5) A regulation under subsection (3) must not specify a court, or an officer of the court, to be an entity except when the court has made an offender reporting order.
- (6) Despite anything to the contrary in this division, a notice given under this section is not required to specify the reportable offender's reporting period if, as required by a regulation, a notice containing that information is given to the reportable offender when reporting his or her personal details to the police commissioner.

#### **54A Reporting obligations notice**

- (1) As soon as practicable after an event mentioned in section 54(2) happens in relation to a reportable offender, the police commissioner must give the offender a written notice (a ***reporting obligations notice*** and also an ***initial reporting obligations notice***) about—
- (a) the offender's reporting obligations; and
  - (b) the consequences that may arise if the offender fails to comply with the obligations.

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- (2) An initial reporting obligations notice must state—
  - (a) the police station or other place where the offender is required to make the offender's initial report; and
  - (b) the ways in which the offender is required to, or may, make a periodic report; and
  - (c) if the notice states that the offender must make a periodic report in person—the police station or other place where the offender is required to make the report.
- (3) The police commissioner may give a reportable offender a further notice about the offender's reporting obligations (also a **reporting obligations notice**) at any other time.
- (4) A reporting obligations notice under subsection (3) may state the following matters—
  - (a) the ways in which the offender is required to, or may, make—
    - (i) a periodic report; or
    - (ii) another report the offender is required to make under this part;
  - (b) if the notice states that the offender must make a report in person—the police station or other place where the offender is required to make the report;
  - (c) if the police commissioner decides to change the frequency of the offender's periodic reports under section 19—when the offender is required to make periodic reports;
  - (d) if the police commissioner decides to require the offender to report changes in the offender's personal details under section 19B—that the offender is required to report the changes in the offender's personal details mentioned in section 19B(3);
  - (e) if the commissioner decides to require a reportable offender convicted of an offence against section 50(1) to report the unreported information under section 50(5)—the information stated in section 50(7).

- (5) A reporting obligations notice applies to a reportable offender until—
  - (a) the offender's reporting period ends; or
  - (b) the police commissioner gives the offender another reporting obligations notice under this section.
- (6) A police officer is authorised to give a reporting obligations notice to a reportable offender on behalf of the police commissioner.

## 55 Courts to provide sentencing information to police commissioner

- (1) This section applies if a court—
  - (a) makes any order or imposes any sentence that has the effect of making a person a reportable offender for this Act; or
  - (b) imposes any sentence on a person for a reportable offence; or
  - (c) makes any order in relation to a reportable offender that has the effect of removing the offender from the ambit of this Act.

### *Example—*

Paragraph (c) would apply, for instance, if a court on appeal quashes a person's finding of guilt for a reportable offence for which the person had been sentenced and that was the only reportable offence that the person had ever been found guilty of.

- (2) The court must ensure that details of the order or sentence are given to the police commissioner as soon as practicable after the making or imposition of the order or sentence.
- (3) For subsection (2), it is sufficient for the verdict and judgement record, made under the Criminal Practice Rules, to be given to the police commissioner.
- (4) In this section—  
***court*** does not include a court of a foreign jurisdiction.

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**56 Notice to be given when reporting period changes**

- (1) This section applies to a reportable offender whose reporting period has changed since the offender was last notified of his or her reporting period in Queensland.
- (2) The police commissioner must give written notice to the reportable offender as soon as practicable after the change.

**57 Supervising authority to notify police commissioner of personal details**

- (1) For the purposes of this Act, the police commissioner may require a supervising authority who the police commissioner reasonably considers has the personal details of a reportable offender to give the details to the police commissioner.
- (2) The supervising authority is authorised and directed to give the details to the police commissioner.

*Example—*

If a reportable offender has failed to report and can not be located, the police commissioner may ask the supervising authority for the offender's address.

**58 Supervising authority to notify police commissioner of particular events**

- (1) As soon as practicable before or after a decision mentioned in any of the following provisions of the *Mental Health Act 2016* is made in relation to a forensic reportable offender, the supervising authority is authorised and directed to give written notice of that fact to the police commissioner—
  - (a) chapter 5, part 4, division 2, subdivision 2;
  - (b) section 221;
  - (c) chapter 12, part 3, division 4;
  - (d) section 525.
- (2) As soon as practicable before or after any other reportable offender—



- (a) is on unescorted leave of absence; or
  - (b) is authorised to leave Queensland under the *Corrective Services Act 2006* or the *Youth Justice Act 1992*; or
  - (c) stops being in government detention, including because of the making of a supervision order; or
  - (d) stops being subject to a supervision order;
- the supervising authority is authorised and directed to give written notice of that fact to the police commissioner.
- (3) A notice under this section must include any details required by a regulation.
  - (4) Subsection (2) applies regardless of why a reportable offender who was in government detention or subject to the supervision order was in government detention or subject to the supervision order.

## **60 Power of detention to enable notice to be given**

- (1) This section applies if there are reasonable grounds to suspect that—
  - (a) a person is a reportable offender; and
  - (b) the person has not been given notice, or is otherwise unaware, of his or her reporting obligations.
- (2) A police officer may detain the person if it is reasonably necessary to do so—
  - (a) to enable a decision to be made about—
    - (i) whether or not the person is a reportable offender; or
    - (ii) if the person is a reportable offender—whether or not the person has been given notice, or is aware, of his or her reporting obligations; or
  - (b) to enable the person to be given notice of those obligations if the person is not aware of them.

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- (3) When detaining the person, the police officer must tell the person—
  - (a) why the person is being detained; and
  - (b) that the detention is authorised under this Act; and
  - (c) that the person will be released immediately after the reasons for the detention are satisfied.
- (4) The detained person—
  - (a) may be taken to the nearest police station; and
  - (b) must—
    - (i) not be held for longer than is reasonably necessary to enable the purpose of the detention to be satisfied; and
    - (ii) not be held only because the person has refused to sign an acknowledgement that the person has been given notice of the person's reporting obligations; and
    - (iii) be released immediately after the purpose of detention is satisfied.

**61 Failure to comply with procedural requirements does not affect reportable offender's obligations**

A failure by a person other than a reportable offender to comply with a procedural requirement imposed on the person by this part or a regulation does not, of itself, affect a reportable offender's reporting obligations.

*Note—*

This section aims to prevent a reportable offender who was not given notice of a reporting obligation by an official as required by this part from arguing that the obligation does not apply to him or her as a result of that failure if there is evidence that the reportable offender was aware of the obligation through some other way. If there is no evidence of that, then the reportable offender would have a defence to the charge under section 50(4) on the basis that the person was not aware of the obligation.

## Division 9                      Modified reporting procedures for protected witnesses

### 62      Who this division applies to

- (1) This division applies to a reportable offender who—
  - (a) is currently a participant in a witness protection program; or
  - (b) is the subject of an order in force under this division declaring that the person is a person to whom this division applies; or
  - (c) has been a participant in a witness protection program but in relation to whom an order under this division is not yet in effect.
- (2) This division (other than sections 64 to 66) also applies to a reportable offender who—
  - (a) is receiving protection under a foreign witness protection law specified by a regulation for the purposes of this subsection; or
  - (b) has the same status as a person mentioned in paragraph (a) under an order made under a corresponding Act specified by a regulation for the purposes of this subsection.
- (3) In this division—

***witness protection program*** has the same meaning as it has in the *Witness Protection Act 2000*.

*Note—*

Section 5(3) excludes from the definition *reportable offender* persons receiving protection under foreign witness protection laws prescribed for the purposes of that section or who have the same status as those persons under a corresponding Act that is so prescribed.

### 63      Report need not be made in person

It is sufficient compliance with this part if—

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- (a) a person to whom this division applies reports the information that the person is required to report under this part at the times, and in a way, authorised by the police commissioner for the purposes of this section; and
- (b) the acknowledgement of the making of a report is given in a way approved by the police commissioner.

#### **64 Order about whether this division applies**

- (1) The police commissioner must make an order declaring that a reportable offender who is, or has been, a participant in a witness protection program either is, or is not, a person to whom this division applies—
  - (a) when the reportable offender stops being a participant in the program as a result of a withdrawal under the *Witness Protection Act 2000*, section 13; or
  - (b) when the chairperson of the Crime and Corruption Commission makes a decision under the *Witness Protection Act 2000*, section 14, to end the protection and assistance given to the reportable offender under the program.
- (2) On making the order, the police commissioner must take reasonable steps to notify the reportable offender of the terms of the order.
- (3) A person who receives the notice may, within 28 days after receiving it, apply in writing to the police commissioner for a review of the decision.
- (4) On receiving an application for a review, the police commissioner must—
  - (a) give the applicant a reasonable opportunity to state his or her case before making a decision on the matter; and
  - (b) review the order, and confirm or reverse it; and
  - (c) give written notice of the decision to the applicant.

- (5) If the police commissioner's decision is to confirm the order, the notice of the decision must inform the applicant of his or her rights under section 65.

## **65 Appeal against order**

- (1) A person who is aggrieved by a decision of the police commissioner about an order under this division may appeal to the Supreme Court against the decision within 3 days after receiving notice of the decision.
- (2) The Supreme Court, in deciding the appeal, may make any decision that could have been made by the police commissioner.
- (3) The Supreme Court's decision for the appeal is final and has effect according to its terms.

## **66 When order takes effect**

- (1) An order declaring that this division applies to a reportable offender takes effect immediately.
- (2) An order declaring that this division does not apply to a reportable offender takes effect—
  - (a) at the end of 28 days after notice of the making of the order is given to the reportable offender; or
  - (b) if an application mentioned in section 64(3) is made before the end of that period, at the end of 3 days after notice is given to the applicant as mentioned in section 64(4)(c); or
  - (c) if an appeal is made under section 65 before the end of that 3 day period, on the day on which the Supreme Court decides the appeal;whichever is the later.

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## **67 Modification of reporting obligations**

Sections 20 to 23 and 53 and schedule 2 apply to a person to whom this division applies as if a reference to Queensland were a reference to the jurisdiction in which the person generally resides.

## **Division 10 Police commissioner may suspend reporting obligations for particular reportable offenders**

### **67A Application of this division**

This division applies to a reportable offender who—

- (a) was a child when he or she committed the offence that makes the person a reportable offender; or
- (b) has a cognitive or physical impairment; or
- (c) has a mental illness.

### **67B Reportable offenders under legal guardianship**

- (1) This section applies if the police commissioner is required under this division to give written notice to a reportable offender who is—
  - (a) a child; or
  - (b) an adult for whom a legal guardian has been appointed.
- (2) The police commissioner must give a copy of the notice to—
  - (a) the reportable offender; and
  - (b) either—
    - (i) if the reportable offender is a child—the offender's parent or legal guardian; or
    - (ii) if the reportable offender is an adult for whom a legal guardian has been appointed—the offender's legal guardian.

**67C Suspension of reporting obligations of reportable offenders on police commissioner's own initiative**

- (1) The police commissioner may suspend the reportable offender's reporting obligations on the commissioner's own initiative only if satisfied, on reasonable grounds, that—
  - (a) the offender does not pose a risk to the lives or sexual safety of 1 or more children, or of children generally; and
  - (b) if the offender has a cognitive or physical impairment—the impairment is a significant impairment; and
  - (c) if the offender has a mental illness—the illness is a significant mental illness.
- (2) The police commissioner must give the reportable offender written notice of the suspension as soon as reasonably practicable.
- (3) The suspension takes effect when the commissioner gives the notice to the reportable offender.

**67D Reportable offenders may apply for suspension of reporting obligations**

- (1) The reportable offender may apply, in writing, to the police commissioner for a suspension of the offender's reporting obligations.
- (2) If the reportable offender is a child or an adult for whom a legal guardian has been appointed, the offender's parent or guardian may apply for the offender.
- (3) The reportable offender's reporting obligations are not suspended only because the application is made.
- (4) The police commissioner must decide whether to grant or refuse the application as soon as reasonably practicable after receiving the application.
- (5) The police commissioner may grant the application only if satisfied, on reasonable grounds, that—

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- (a) the reportable offender does not pose a risk to the lives or sexual safety of 1 or more children, or of children generally; and
  - (b) if the reportable offender has a cognitive or physical impairment—the impairment is a significant impairment; and
  - (c) if the offender has a mental illness—the illness is a significant mental illness.
- (6) The police commissioner must give written notice of the grant or refusal of the application to the reportable offender as soon as reasonably practicable.
- (7) A suspension of the reportable offender's reporting obligations takes effect when the commissioner gives the notice to the reportable offender.

#### **67E Effect of suspension**

While a suspension granted under this division is in force, the reportable offender is not required to make any report other than an initial report.

#### **67F Revocation of suspension**

- (1) The police commissioner may at any time revoke a suspension made under this division if the commissioner believes, on reasonable grounds—
- (a) the reportable offender poses, or may pose, a risk to the lives or sexual safety of 1 or more children, or of children generally; or
  - (b) if the reportable offender has a cognitive or physical impairment—the impairment is not, or is no longer, a significant impairment; or
  - (c) if the offender has a mental illness—the illness is not, or is no longer, a significant mental illness.



- (2) If the police commissioner revokes a suspension, the police commissioner must give the reportable offender written notice of the revocation as soon as reasonably practicable.
- (3) The revocation takes effect when the police commissioner gives the notice to the reportable offender.

## **Part 4AA                      Offences and proceedings for offences**

### **Division 1                      Offences**

#### **67FA    Failing to comply with offender prohibition order**

- (1) A respondent for an offender prohibition order must not contravene the offender prohibition order, unless the respondent has a reasonable excuse.

Maximum penalty—300 penalty units or 5 years imprisonment.

- (2) An offence against subsection (1) is a crime.
- (3) If an issue is raised in a proceeding of whether the respondent knew of the offender prohibition order, it is enough if it is proved—
  - (a) the respondent was present in court when the prohibition order was made; or
  - (b) the respondent was served personally with a copy of the prohibition order; or
  - (c) a police officer told the respondent about the existence of the prohibition order.
- (4) A respondent for a registered corresponding order must not contravene the registered corresponding order, unless the respondent has a reasonable excuse.

Maximum penalty—300 penalty units or 5 years imprisonment.

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- (5) An offence against subsection (4) is a crime.
- (6) If an issue is raised in a proceeding of whether the respondent for a registered corresponding order knew of the registered corresponding order, it is enough if it is proved—
  - (a) the respondent was present in court when the corresponding order was made and the corresponding order stated that it could be registered in another jurisdiction; or
  - (b) the respondent was served personally with a copy of the corresponding order and the order stated that it could be registered in another jurisdiction; or
  - (c) a police officer told the respondent about the existence of the corresponding order, including the fact that the corresponding order could be registered in another jurisdiction; or
  - (d) that the respondent ought to have known that the corresponding order was registered in this jurisdiction.
- (7) In this section—

*police officer*, for subsection (6)(c), includes a member of the police force of the jurisdiction where the registered corresponding order was made.

#### **67FB Reasonable excuse defence for contravening offender prohibition order**

When deciding whether a respondent had a reasonable excuse for contravening section 67FA(1) or (4), the court must have regard to—

- (a) the respondent's age; and
- (b) whether the respondent had, at the time of the contravention, a disability that affected the respondent's ability to understand, or to comply with, the offender prohibition order or registered corresponding order; and
- (c) whether the form of notice given to the respondent about the offender prohibition order or registered

corresponding order was adequate to inform the respondent of the respondent's obligations under the order, having regard to the respondent's circumstances; and

- (d) any other matter the court considers appropriate.

## **67FC Access information for digital devices**

- (1) This section applies if an authorised police officer suspects, on reasonable grounds, that a reportable offender has committed an indictable offence against this Act.
- (2) The authorised police officer may require the reportable offender to—
  - (a) give a police officer access to a digital device—
    - (i) that is in the offender's possession; or
    - (ii) to which the offender has access; or
  - (b) give a police officer access information for the device or any assistance necessary for the officer to gain access to device information from the device; or
  - (c) allow a police officer to—
    - (i) use the access information to gain access to device information from the device; or
    - (ii) examine device information from the device, including by using a software program on the device, to find out whether the information may be relevant evidence; or
    - (iii) make a copy of device information from the device that may be relevant evidence, including by using another digital device; or
    - (iv) convert device information from the device that may be relevant evidence into documentary form, or another form, that enables the information to be understood by a person.

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- (3) The reportable offender must comply with the requirement, unless the reportable offender has a reasonable excuse.  
Maximum penalty—300 penalty units or 5 years imprisonment.
- (4) An offence against subsection (3) is a crime.
- (5) It is not a reasonable excuse to fail to comply with the requirement that complying might tend to incriminate the reportable offender or expose the offender to a penalty.
- (6) The *Police Powers and Responsibilities Act 2000*, sections 161 to 163 apply as if a reference in those sections to a police officer exercising powers under section 160 of that Act were a reference to the authorised police officer exercising a power under subsection (2) of this section.
- (7) The reportable offender does not commit an offence against subsection (3) unless a magistrate makes a post-search approval order under the *Police Powers and Responsibilities Act 2000*, section 162 in relation to the exercise of a power under subsection (2).
- (8) The police officer must inform the reportable offender, in a way that is reasonable in the circumstances, that the offender must comply with the requirement even though complying might tend to incriminate the offender or expose the offender to a penalty.
- (9) If a court convicts a reportable offender of an offence against subsection (3), the court may, as well as imposing a penalty for the offence, order the offender to comply with the requirement.
- (10) In this section—  
**access information**, for a digital device, means information necessary for a person to access or read device information from the device.

*Examples—*

userid, username, passcode, password

***authorised police officer*** means a police officer authorised in writing by the police commissioner to exercise a power under this Act.

***device information***, from a digital device, means—

- (a) information stored on the device; or
- (b) information accessed, communicated or distributed by using the device, including by using an application on the device.

*Examples—*

- images stored on a computer
- location data stored on or sent from a mobile phone
- emails or text messages sent from a smart phone
- messages or videos distributed from a social media application on a tablet computer

***relevant evidence*** means evidence of the commission of—

- (a) a reportable offence; or
- (b) an offence against this Act.

## **67FD False or misleading information**

- (1) A person must not give information to a person under this Act that the person knows is false or misleading in a material particular.

Maximum penalty—300 penalty units or 5 years imprisonment.

- (2) An offence against subsection (1) is a crime.
- (3) Subsection (1) does not apply to information given in a document, if the person when giving the document—
  - (a) informs the person being given the document, to the best of the person's ability, how the information is false or misleading; and
  - (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.

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- (4) It is enough for a complaint against a person for an offence against subsection (1) to state that the information was ‘false or misleading’, without specifying whether it was false or whether it was misleading.

### **67FE Prohibition on disclosing protected information**

- (1) A person who obtains protected information because of the person’s involvement in the administration of part 3A, including a proceeding under part 3A, must not disclose the information to anyone else.

Maximum penalty—2 years imprisonment.

- (2) Subsection (1) does not apply to—
- (a) a disclosure authorised by a magistrate or court in a proceeding under part 3A; or
  - (b) a disclosure authorised under an offender prohibition order or registered corresponding order; or
  - (c) a disclosure by a person that the person is a respondent; or
  - (d) a disclosure made in a proceeding before a court or tribunal; or
  - (e) a disclosure to a respondent made for the purposes of—
    - (i) the administration of part 3A; or
    - (ii) the operation of the relevant offender prohibition order or registered corresponding order; or
  - (f) a disclosure to a police officer, or someone else who is a member of a law enforcement agency of a State or the Commonwealth, for the purpose of the performance of the police officer’s or other person’s functions; or
  - (g) a disclosure made for the purpose of an Act the operation of which requires the disclosure; or
  - (h) a disclosure to a person involved in the respondent’s assessment and management under an Act; or

*Example—*

a corrective services officer under the *Corrective Services Act 2006*

- (i) a disclosure to a lawyer representing a person who is, or was, a party to a proceeding under part 3A; or
  - (j) a disclosure to anyone else to whom the disclosure is required or permitted to be made under an Act; or
  - (k) if the protected information relates to a child—a disclosure for a purpose directly related to the child's protection or wellbeing.
- (3) A person must not disclose protected information to another person with intention to incite anyone to intimidate or harass a respondent.

Maximum penalty—300 penalty units or 5 years imprisonment.

- (4) An offence against subsection (3) is a crime.
- (5) In this section—

**Act** includes an Act of the Commonwealth or another State.

**intimidate or harass** includes—

- (a) intimidate or harass whether on 1, or more than 1, occasion; and
- (b) vilify, persecute, victimise and engage in any act of vigilantism.

**proceeding** includes an application under part 3A and any prosecution for an offence against this Act.

**protected information** means—

- (a) the name of a respondent; or
- (b) the name of any victim of a reportable offence committed by a respondent; or
- (c) the name of any particular person referred to in a proceeding under part 3A as a person at risk because of the conduct prohibited, or proposed to be prohibited, by

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an offender prohibition order or registered corresponding order; or

- (d) anything else reasonably likely to enable a person mentioned in paragraph (a), (b) or (c) to be identified.

**respondent** means a respondent for a proposed offender prohibition order, an offender prohibition order, a corresponding order or a registered corresponding order.

## Division 2                      Proceedings for offences

### 67FF    No time limit for prosecutions

Despite anything to the contrary in the *Justices Act 1886*, a proceeding for an offence under this Act may be started at any time.

### 67FG    Proceedings for an indictable offence

- (1) A proceeding for a charge of an indictable offence under this Act may, at the prosecution's election, be taken—
  - (a) by way of summary proceedings before a magistrate under the *Justices Act 1886*; or
  - (b) on indictment.
- (2) Subsection (3) applies if at any stage during a summary proceeding the magistrate is satisfied that the defendant may not be adequately punished on summary conviction because of the nature and seriousness of the offence or any other relevant consideration.
- (3) The Magistrates Court—
  - (a) must not decide the charge as a summary offence; and
  - (b) must proceed by way of an examination of witnesses in relation to an indictable offence.
- (4) If a Magistrates Court acts under subsection (3)—



- (a) any plea of the person charged, made at the start of the proceeding, must be disregarded; and
  - (b) any evidence brought in the proceeding before the magistrate decided to act under subsection (3) is taken to be evidence in the proceeding for the committal of the person for trial or sentence; and
  - (c) before committing the person for trial or sentence the magistrate must make a statement to the person under the *Justices Act 1886*, section 104(2)(b).
- (5) The magistrate must invite and hear any submissions from the prosecution and defence before making a decision under subsection (2).

#### **67FH Constitution of court and maximum penalty for indictable offences dealt with summarily**

- (1) A Magistrates Court that summarily deals with a charge of an indictable offence must be constituted by a magistrate.
- (2) However, if a proceeding for the offence is brought before a justice who is not a magistrate, jurisdiction is limited to taking or making a procedural action or order within the meaning of the *Justices of the Peace and Commissioners for Declarations Act 1991*.
- (3) The maximum penalty that may be imposed on a summary conviction of the offence is 200 penalty units or 3 years imprisonment.

## **Part 4A                      Reviews and appeals**

### *Notes—*

- For review of a decision of the police commissioner under section 64, see section 64(4).
- For review of a decision about an entry on the register, see section 74.

## **Division 1                      Preliminary**

### **67G      Application of pt 4A**

This part applies if a reportable offender is dissatisfied with a decision mentioned in schedule 4.

## **Division 2                      Internal review**

### **67H      Application for internal review**

- (1) The reportable offender may apply to the police commissioner for an internal review of the decision.
- (2) However, if the application is for an internal review of a decision to place on the register information that a person is a reportable offender who has been convicted of a device inspection offence, the application may only be made on the grounds that—
  - (a) the device inspection offence the reportable offender has been convicted of is a relevant offence; and
  - (b) a decision that the person committed the offence using an electronic communication network or digital device has been made in error.
- (3) The application must—
  - (a) be in writing; and
  - (b) state the grounds on which the reportable offender seeks the review of the decision; and
  - (c) be made within 28 days after the reportable offender receives written notice of the decision.
- (4) However, the police commissioner may at any time extend the time for making the application.
- (5) In this section—

**relevant offence** means an offence mentioned in the *Police Powers and Responsibilities Act 2000*, section 21B(5), definition *device inspection offence*—

- (a) paragraph (b) or (d); or
- (b) paragraph (f) that, if the offence had been committed in Queensland, would have constituted an offence mentioned in paragraph (b) or (d) of that definition.

## **67I Internal review**

- (1) As soon as reasonably practicable after receiving the application, the police commissioner must—
  - (a) review the decision; and
  - (b) decide to—
    - (i) confirm the decision; or
    - (ii) amend the decision; or
    - (iii) substitute another decision for the decision.
- (2) The application must not be decided by—
  - (a) the person who made the decision; or
  - (b) a person in a less senior office than the person who made the decision.
- (3) Subsection (2)—
  - (a) applies despite the *Acts Interpretation Act 1954*, section 27A; and
  - (b) does not apply to a decision made by the police commissioner.
- (4) If the police commissioner decides to confirm or amend the decision, the decision, or the amended decision, is taken to be the police commissioner's decision for the purpose of an appeal under division 3.
- (5) The police commissioner must give the reportable offender a written notice that states—

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- (a) the decision on the review; and
  - (b) the reasons for the decision; and
  - (c) that the offender may appeal against the decision to a Magistrates Court within 28 days after the day when the notice is given to the offender.
- (6) If the police commissioner does not give the notice to the reportable offender within 10 business days after making his or her decision, the commissioner is taken to have confirmed the decision.

## **Division 3                      Appeals to Magistrates Court**

### **67J      Appeal**

- (1) The reportable offender may appeal against the police commissioner's decision under section 67I by filing a notice of appeal with a Magistrates Court within—
  - (a) 28 days after the day when the offender receives, or ought to have received, the notice; or
  - (b) if the Court extends the time for filing the notice of appeal—the time allowed by the Court.
- (2) The reportable offender must serve a copy of the notice of appeal on the police commissioner.
- (3) The procedure for an appeal under this part must be in accordance with the rules of court applicable to the appeal.
- (4) In deciding an appeal, the Magistrates Court may—
  - (a) confirm the decision; or
  - (b) amend the decision; or
  - (c) set aside the decision and substitute a decision the Court considers should have been made.
- (5) If the Magistrates Court amends the decision or substitutes another decision, the amended decision, or the substituted

decision, is taken to be the decision of the police commissioner for the purposes of this Act, other than this part.

- (6) The Magistrates Court must not award costs in relation to an appeal under this part.

## **Part 5                      The register**

### **68            Child protection register**

- (1) The police commissioner must establish a child protection register or arrange with another entity to establish a child protection register on his or her behalf.
- (2) The register may contain the following information in relation to each reportable offender (to the extent that it is known by the police commissioner)—
  - (a) the offender's name and other identifying particulars;
  - (b) details of each reportable offence of which the offender has been found guilty or with which the person has been charged;
  - (c) details of each offence of which the offender has been found guilty that resulted in the making of an offender reporting order;
  - (d) the date on which the offender was sentenced for any reportable offence;
  - (e) the date on which the offender—
    - (i) was released from government detention for a reportable offence; or
    - (ii) entered, or was released from, government detention for any offence during his or her reporting period;
  - (f) whether the reportable offender is an offender who has been convicted of a device inspection offence;

*Note—*

See the *Police Powers and Responsibilities Act 2000*, section 21B for the power of a police officer to require a reportable offender who has been convicted of a device inspection offence to produce or otherwise make available for inspection each digital device in the reportable offender's possession.

- (g) any information reported in relation to the reportable offender under part 4;
  - (h) any other information that the police commissioner considers appropriate to include in the register.
- (3) The register may have various constituent parts, including, for example, a part maintained by any of the following entities—
- (a) the Queensland Police Service;
  - (b) the police service of another State;
  - (c) the Australian Federal Police;
  - (d) the Australian Criminal Intelligence Commission;
  - (e) another entity or agency of the Commonwealth or a State prescribed by regulation.
- (4) If information that a reportable offender is an offender who has been convicted of a device inspection offence is placed on the register, the police commissioner must give the offender a written notice that states that fact as soon as practicable after the information is placed on the register.

## **69 Access to the register to be restricted**

- (1) The police commissioner must ensure—
- (a) that the register, or any part of the register, is only accessed by a person, or a class of person, who is authorised to do so by the police commissioner; and
  - (b) that personal information in the register is only disclosed by a person with access to the register, or the relevant part of the register, in circumstances authorised

by the police commissioner or as otherwise required by or under any Act or law.

- (2) The police commissioner must develop guidelines about the access to, and disclosure of, personal information in the register that attempt to ensure that access to the personal information in the register is restricted to the greatest extent possible without interfering with the purpose of this Act.
- (3) For this section, the register includes any information from any register maintained under a corresponding Act that is accessible by the police commissioner, regardless of whether or not that information is physically part of the register.
- (4) This section has effect despite any other Act or law to the contrary.

## **70 Confidentiality**

- (1) A person authorised to have access to the register or any part of the register must not disclose any personal information in the register, unless the person—
  - (a) is authorised by the police commissioner to disclose the information; or
  - (b) is otherwise required, under any Act or law, to disclose the information.

Maximum penalty—150 penalty units or 2 years imprisonment.

- (2) If the person is a police officer, an authorisation for subsection (1)(a) may be given under this Act or the *Police Service Administration Act 1990*, section 10.2.

## **71 Release of information to corresponding registrar and Commonwealth agencies**

The police commissioner may release personal information in the register to—

- (a) a corresponding registrar for the purpose of a corresponding Act; or

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- (b) for the purpose of investigating or preventing a breach of this Act, an order under this Act or the commission of a prescribed offence—
  - (i) the Australian Border Force Commissioner; or
  - (ii) the secretary of the home affairs department; or
  - (iii) the commissioner of the Australian Federal Police.

## **72 Restriction on who may access personal information on protected witnesses**

The police commissioner must ensure that any personal information in the register about a person to whom part 4, division 9 applies can not be accessed other than by a person authorised by the officer responsible for the day to day operation of the witness protection program.

*Note—*

Part 4, division 9 applies to particular people who are, or were, in witness protection programs.

## **73 Reportable offender's rights in relation to register**

- (1) If asked to do so by a reportable offender, the police commissioner must give the offender a copy of all the reportable information that is held in the register in relation to the offender.
- (2) The police commissioner must comply with subsection (1) as soon as practicable after being asked to do so.
- (3) However, despite subsections (1) and (2), the police commissioner must not give the offender a copy of reportable information, or other information, held in the register that may identify a child with whom the offender has had reportable contact, other than—
  - (a) the first initial of the child's first and last names; and
  - (b) the date of the reportable contact.



*Note—*

See schedule 2, item 6 for the reportable information held in the register about a child with whom the offender has had reportable contact.

- (4) A reportable offender may ask the police commissioner to amend any reportable information held on the register in relation to the offender that is incorrect.
- (5) The police commissioner must comply with a request under subsection (4) on being satisfied that the information is incorrect.
- (6) A request may be made under subsection (1) or (4) for a reportable offender by another person only if the other person has been authorised in writing by the reportable offender to make the request.
- (7) In this section—

***reportable information*** means any information given to the police commissioner by, or on behalf of, the reportable offender that the offender is required to report to the police commissioner and that is still held in the register.

## 74 Review about entry on register

- (1) A person may apply to the police commissioner to review—
  - (a) if the person believes that the person has been placed on the register in error, including, for example, because the police commissioner's belief mentioned in section 9(a)(ii) is not a reasonable belief—the decision to place the person on the register; or
  - (b) if the person believes an error has been made in working out the length of the person's reporting period—the decision about the length of the period.
- (2) The application must be made—
  - (a) in writing; and
  - (b) within 28 days after the person is given an initial reporting obligations notice.

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- (3) The application may be made by another person (an *agent*) on the person's behalf only if the person has authorised the agent in writing to make the application.
- (4) The person's reporting obligations are not suspended because the person made the application.
- (5) On receiving an application for a review, the police commissioner must—
  - (a) give the person a reasonable opportunity to state his or her case before making a decision on the matter; and
  - (b) if the application relates to a decision to place the person on the register—review the decision to place the person on the register and confirm or revoke it; and
  - (c) if the application relates to a decision about the length of the person's reporting period—review the decision and confirm or change it; and
  - (d) give the person written notice—
    - (i) of the decision; and
    - (ii) informing the person of the person's right to a copy of all reportable information that is held in the register in relation to the person under section 73.
- (6) If the police commissioner revokes a decision to place a person on the register, the police commissioner must ensure that the person's personal details are removed from the register, and any copies of documents, fingerprints or photographs taken from the person under this Act are not kept.
- (7) If the police commissioner otherwise changes a decision, the police commissioner must ensure the register is corrected to reflect the change.

*Note—*

See also sections 67G and 67H and schedule 4 in relation to review of a decision to place on the register information that a person is a reportable offender who has been convicted of a device inspection offence.

## Part 5A Change of name

### 74A Change of name of reportable offender

- (1) This section applies if a reportable offender intends to change his or her name under the *Births, Deaths and Marriages Registration Act 2003* or a law of a foreign jurisdiction (each the **relevant law**).
- (2) The reportable offender must obtain the police commissioner's written permission before changing, or applying to change, the offender's name under the relevant law.  
  
Maximum penalty—20 penalty units or 6 months imprisonment.
- (3) In deciding whether to give the permission, the police commissioner must consider each of the following—
  - (a) the safety of the reportable offender and other persons;
  - (b) the reportable offender's rehabilitation or care or treatment;
  - (c) whether the proposed name change could be used to further an unlawful activity or purpose;
  - (d) whether the proposed name change could be considered offensive to a victim of a crime or an immediate family member of a deceased victim of a crime.
- (4) Subsection (5) applies if the police commissioner becomes aware that the reportable offender has failed to comply with subsection (2) in registering, under the *Births, Deaths and Marriages Registration Act 2003*, a change of name.
- (5) The police commissioner may apply to the registrar under the *Births, Deaths and Marriages Registration Act 2003* for the cancellation of the registration.

## Part 6 Other matters

### 74B Declaration about disclosure or release of personal information to particular corresponding registrars

- (1) This section applies to a disclosure or release of personal information in the register made under or purportedly under this Act or the *Police Service Administration Act 1990*—
  - (a) by the commissioner before the prescribed day; and
  - (b) to a person who became a corresponding registrar on the prescribed day.
- (2) The disclosure or release is and always was as lawfully made as if it were made on the prescribed day.
- (3) In this section—

**prescribed day** means the day each of the following Acts became a corresponding Act—

  - (a) the *Child Protection (Offender Reporting and Registration) Act* (NT);
  - (b) the *Child Sex Offenders Registration Act 2006* (SA);
  - (c) the *Community Protection (Offender Reporting) Act 2005* (Tas);
  - (d) the *Crimes (Child Sex Offenders) Act 2005* (ACT).

### 74C Review of Act

- (1) The Crime and Corruption Commission must—
  - (a) review the operation of this Act; and
  - (b) prepare a report on the review.
- (2) The conduct of the review, and the preparation of the report, is a function of the Crime and Corruption Commission for the *Crime and Corruption Act 2001*.
- (3) The review must be started as soon as practicable after 5 years after the commencement.

- (4) The Crime and Corruption Commission must give a copy of the report to the Speaker for tabling in the Legislative Assembly.

#### **74D Giving information to police commissioner**

- (1) For the purposes of this Act, the police commissioner may direct an entity to give the police commissioner any information about a reportable offender, including about an order made under this Act in relation to the offender, held by the entity that is relevant to—
- (a) deciding whether an application for an order under this Act should be made; or
  - (b) the making of an order under this Act; or
  - (c) amending or revoking an order under this Act; or
  - (d) serving an application or order under this Act; or
  - (e) investigating an alleged breach of this Act or an order under this Act.
- (2) The direction must—
- (a) be given in writing; and
  - (b) state the day on or before which the information must be given.
- (3) The entity is authorised and, despite any other Act, required to give the information sought by the direction to the police commissioner.
- (4) However, the entity is not required to give the information if the information is subject to legal professional privilege.
- (5) This section does not apply to the following entities—
- (a) the chief executive of the department in which the *Hospital and Health Boards Act 2011* is administered;
  - (b) a Hospital and Health Service under that Act.
- (6) In this section—  
**entity** includes a government entity.

[s 74E]

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**74E Police commissioner may give information to government and other entities**

- (1) For the purposes of this Act, the police commissioner may give the following information about a reportable offender, including about an order made under this Act in relation to the offender, to an entity—
  - (a) the offender's name and date of birth;
  - (b) the term of any order;
  - (c) the conduct by the offender that any order prohibits;
  - (d) anything else the police commissioner reasonably considers is necessary to allow the entity to identify the offender to ensure the safety of—
    - (i) a child or children in the entity's care; or
    - (ii) the offender.

*Example—*

a photo of the offender

- (2) If—
  - (a) the police commissioner gives information about an order to an entity; and
  - (b) the order is later varied or revoked;the police commissioner must give notice of the variation or revocation to the entity.
- (3) Information or notice under subsection (1) or (2) may be given orally or in writing.
- (4) In this section—

**entity** includes a government entity.

**order** includes a registered corresponding order.

**74F Disclosing information about offender prohibition orders**

- (1) This section applies if a prescribed entity is given information about an offender prohibition order under section 74E(1).

- (2) The prescribed entity may give the information to a person if the entity reasonably believes the giving of the information is necessary for the person to perform a function for which the person is employed.
- (3) Subsection (4) applies if—
  - (a) a prescribed entity has given information about an offender prohibition order to a person under subsection (2); and
  - (b) the prescribed entity is given notice of the variation or revocation of the offender prohibition order under section 74E(2).
- (4) The prescribed entity must give notice of the variation or revocation to the person.
- (5) Information or notice under subsection (2) or (4) may be given orally or in writing.
- (6) A person given information under subsection (2) or (4) must not disclose the information, unless permitted to do so under section 67FE or under another Act.
- (7) In this section—

*Act* includes an Act of the Commonwealth or another State.

*offender prohibition order* includes a registered corresponding order.

*prescribed entity* means—

  - (a) the chief executive of a government entity; or
  - (b) another entity that is wholly or partly funded by the State or the Commonwealth.

#### **74G Chief executive (communities) to be given information about child respondent**

- (1) For the purpose of giving a report to the court in compliance with a direction of the court under section 13E(2), the chief executive (communities) may ask a government entity to give the chief executive (communities) any information—

[s 74H]

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- (a) held by the government entity; and
  - (b) relevant for the report.
- (2) The request must—
  - (a) be given in writing; and
  - (b) state the day on or before which the information is to be given.
- (3) The government entity is authorised, despite any other Act, to give the chief executive (communities) the information requested.

#### **74H Duty of persons obtaining information**

- (1) This section applies to a person who obtains information under sections 74D to 74G.
- (2) It is the duty of the person to take all reasonable steps to ensure the information is used or disclosed only for the purpose for which it was obtained.

#### **74I Police commissioner may give information about order to other particular persons**

To the extent the police commissioner reasonably considers it necessary and appropriate to reduce a risk to the lives or sexual safety of 1 or more children, or of children generally, the police commissioner may give information about an order made under this Act to a person, including, for example—

- (a) if the respondent is a child respondent—a parent or guardian of the child respondent; or
- (b) a parent or guardian of any child protected by the order.

#### **74J Protection from liability for giving information**

- (1) This section applies if a person, acting honestly, gives information under this Act.



- (2) The person is not liable, civilly, criminally or under an administrative process, for giving the information.
- (3) Without limiting subsection (2)—
  - (a) in a proceeding for defamation, the person has a defence of absolute privilege for disclosing the information; and
  - (b) if the person would otherwise be required to maintain confidentiality about the information under an Act, the person does not contravene the Act by giving the information.

## **75 Protection from personal liability**

- (1) A person acting in the administration or execution of this Act does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act.
- (2) If subsection (1) prevents civil liability attaching to the person, the liability attaches instead to the State.

## **76 Effect of spent convictions**

- (1) The fact that an offence for which a reportable offender has been found guilty becomes spent does not affect—
  - (a) the status of the offence as a reportable offence under this Act in relation to the offender; or
  - (b) any reporting obligations of the offender.
- (2) For this section, an offence becomes spent if, under a law in any jurisdiction, the reportable offender is allowed to not disclose the fact that the person was convicted or found guilty of the offence.

## **77 Evidentiary provisions**

- (1) In a proceeding under this Act, a statement by the prosecution that the register—

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- (a) at a particular date contained particular information, including information that a stated person was a reportable offender; or
- (b) indicated that, during a particular period, a specified person failed to notify information as required by this Act;

is evidence of the stated matters.

- (2) For this Act, a certificate that would be evidence under a corresponding Act that at a specified time, or during a specified period, a person was required to report to a corresponding registrar under that Act is evidence of the facts stated in the certificate.
- (3) In a proceeding under this Act, a statement by the prosecution about the following matters is evidence of the matters—
  - (a) a stated person was served with a copy of a stated offender prohibition order, stated corresponding order or stated registered corresponding order by a stated process server on a stated date;
  - (b) a stated process server was authorised to serve a stated corresponding order;
  - (c) the respondent for an offender prohibition order, or corresponding order, was present in court when the order was made;
  - (d) the respondent for a registered corresponding order was present in court when the order was registered;
  - (e) a stated person was given a stated reporting obligations notice by a stated police officer on a stated date.
- (4) In a proceeding under this Act—
  - (a) an affidavit by a stated process server stating the date, time and way the process server served a stated offender prohibition order on a stated person is evidence of the stated matters; and
  - (b) an affidavit by a stated police officer stating the date, time and way the police officer served a stated reporting

obligations notice on a stated person is evidence of the stated matters.

- (5) If a defendant intends to challenge a matter stated in either of the following paragraphs at a hearing in a proceeding for an offence against this part, the defendant must give written notice of the challenge to the prosecution at least 3 business days before the day fixed for the hearing—
  - (a) a statement mentioned in subsection (3);
  - (b) an affidavit mentioned in subsection (4).

- (6) In this section—

***court***, in relation to the making of a corresponding order, means any court of another jurisdiction that made the corresponding order.

***process server*** means—

- (a) a police officer; or
- (b) in relation to a registered corresponding order—
  - (i) a member of the police force of the jurisdiction where the corresponding order was made; or
  - (ii) another person authorised under the law of that jurisdiction to serve the corresponding order.

## **77A Legal proceedings for pt 3A**

- (1) An application under part 3A may be made, and a court may deal with the application, even if a person concerned in the application has been charged with an offence arising out of conduct on which the application is based.
- (2) The *Uniform Civil Procedure Rules 1999* apply to a proceeding under part 3A, other than a proceeding for—
  - (a) a temporary order; or
  - (b) an offence against this Act.
- (3) A question of fact in a proceeding under part 3A is to be decided on the balance of probabilities.

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## **77B Cross-examining protected witnesses**

The *Evidence Act 1977*, part 2, division 6 applies to a proceeding under this Act as if—

- (a) a reference to a protected witness included a reference to an alleged victim of the offence who was under 16 years when the offence was committed, irrespective of the alleged victim's age when giving evidence; and
- (b) a reference to a person charged were a reference to—
  - (i) a reportable offender; or
  - (ii) a respondent in a proceeding under this Act.

## **77C Application of Evidence Act 1977, s 53**

- (1) In a proceeding under part 3A, the relevant provision applies for the purpose of proving—
  - (a) an offender prohibition order or another order made under part 3A; or
  - (b) a corresponding order; or
  - (c) the registration of a corresponding order under part 3A.
- (2) For applying the relevant provision as mentioned in subsection (1)(a)—
  - (a) a reference to a court in subsection (1)(a) to (f) of the relevant provision includes a reference to a magistrate; and
  - (b) a reference to a court in subsection (1)(g) of the relevant provision, in relation to an order made by a magistrate, includes a reference to the court where the magistrate usually constitutes the court.
- (3) For applying the relevant provision as mentioned in subsection (1)(b) or (c)—
  - (a) a reference to a court in subsection (1)(a) of the relevant provision includes—

- (i) a judicial officer of a court of another jurisdiction who has made a corresponding order; and
    - (ii) a registrar of a Magistrates Court who has registered a corresponding order; and
  - (b) a reference to a court in subsection (1)(g) of the relevant provision includes a reference to the court where the corresponding order was registered.
- (4) In this section—

***relevant provision*** means the *Evidence Act 1977*, section 53.

*Note—*

See also the *Evidence Act 1995* (Cwlth), sections 5, 157 and 158 for proof of corresponding orders.

## **77D Proof of knowledge of order conditions**

- (1) Subsection (2) applies if—
- (a) an issue is raised in a proceeding of whether a respondent for an offender prohibition order or registered corresponding order knew about a particular condition of the order alleged to have been contravened; and
  - (b) there is evidence that the respondent only knew of the existence of the order because a police officer told the respondent about its existence.
- (2) The respondent can not be convicted unless it is proved that the police officer told the respondent about the particular condition.
- (3) In this section—
- police officer***, in relation to a registered corresponding order, includes a member of the police force of the jurisdiction where the corresponding order was made.

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## **77F Concurrent criminal proceeding**

- (1) An application under this Act may be made, and a court may deal with the application, even if a person concerned in the application has been charged with an offence arising out of conduct on which the application is based.
- (2) However, if a person is charged with an offence arising out of conduct on which an application under this Act is based, a reference to any of the following is admissible in the trial of the person for the offence only with the leave of the court—
  - (a) the existence of the application;
  - (b) the existence of any proceeding relating to the application;
  - (c) the making of, or refusal to make, any order relating to the application;
  - (d) the making of, or refusal to make, any variation of any order relating to the application;
  - (e) the fact that evidence of a particular nature or content was given in any proceeding relating to the application.
- (3) To remove any doubt, it is declared that, subject to this section, an application, proceeding or order under this Act in relation to the conduct of a person does not affect—
  - (a) any proceeding for an offence against the person arising out of the same conduct; or
  - (b) any civil liability of the person.
- (4) The person may be punished for the offence mentioned in subsection (3)(a) despite any order made against the person under this Act.

## **78 Regulation-making power**

- (1) The Governor in Council may make regulations under this Act.

- (2) Without limiting subsection (1), the Governor in Council may make a regulation imposing a penalty of not more than 20 penalty units for a contravention of a regulation.

## **Part 7 Transitional provisions**

### **Division 1 Provision for the Criminal Code and Other Acts Amendment Act 2008**

#### **79 Transitional provision**

Schedule 1 applies as if the reference to the Criminal Code, section 208 included a reference to the Criminal Code, section 209 as in force at any time before its repeal by the *Criminal Code and Other Acts Amendment Act 2008*.

### **Division 2 Provisions for the Child Protection (Offender Reporting) and Other Legislation Amendment Act 2011**

#### **80 Declaration about application of s 14**

- (1) This section applies to a reportable offender who—
- (a) before the commencement, was required to make an initial report; but
  - (b) had not made the report before the commencement because the period, stated in pre-amended section 14, for making the report had not ended.
- (2) To remove any doubt, it is declared that pre-amended section 14 continues to apply to the reportable offender for making the report.
- (3) In this section—

***commencement*** means the commencement of this section.

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*pre-amended section 14* means section 14 as in force immediately before the commencement.

## **81 Application of s 33**

- (1) This section applies if—
  - (a) before the commencement, the police commissioner agreed, under section 33(2), to allow a reportable offender to make a report at a specific time; and
  - (b) at the commencement, the specific time had not ended and the offender had not made the report.
- (2) Section 33(2) as in force immediately before the commencement continues to apply to the reportable offender until the end of the specific time.
- (3) In this section—

*commencement* means the commencement of this section.

## **82 Declaration and other provision about effect of previous sentence for a new class 1 or class 2 offence**

- (1) This section applies to a person who—
  - (a) before the commencement, was sentenced for an offence that is a new class 1 or 2 offence; but
  - (b) immediately before the commencement, was not a reportable offender.
- (2) To remove any doubt, it is declared that, subject to section 5, the person is a reportable offender.
- (3) However, a reporting obligation does not apply to the person unless the police commissioner has given the person a notice under section 59.
- (4) In this section—

*commencement* means the commencement of this section.

*new class 1 or 2 offence* means an offence that—



- (a) before the commencement, was not a class 1 or 2 offence; but
- (b) on the commencement, is a class 1 or 2 offence.

## **Division 3**

### **Transitional provisions for Child Protection (Offender Reporting) and Other Legislation Amendment Act 2014**

#### **83 Definitions for div 3**

In this division—

*amending Act* means the *Child Protection (Offender Reporting) and Other Legislation Amendment Act 2014*.

*commencement* means the time of commencement of the provision in which this term appears.

*pre-amended Act* means this Act as in force immediately before it was amended by the amending Act.

#### **84 Single offence by child against Criminal Code, s 210**

To remove any doubt, it is declared that a person is not a reportable offender under this Act only because the person committed a single offence against the Criminal Code, section 210—

- (a) when the person was a child; and
- (b) before the commencement.

#### **85 New South Wales reportable offenders**

(1) This section applies to a person who—

- (a) was, immediately before the commencement, a New South Wales reportable offender under the pre-amended Act, section 8; and

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- (b) would, except for the amendment made by the amending Act, have continued to be a New South Wales reportable offender for a period (the *remaining reporting period*) after the commencement.
- (2) The person is taken to be a corresponding reportable offender under this Act until—
  - (a) the remaining reporting period ends; or
  - (b) the person otherwise stops being a reportable offender.

## **86 Reportable offenders who have made annual report before commencement**

- (1) This section applies if a reportable offender has, before the commencement, made an annual report for 2014 under the pre-amended Act, section 18.
- (2) The reportable offender must start making periodic reports—
  - (a) if the police commissioner gives the offender a notice under section 19(3)—at the time stated in the notice; or
  - (b) otherwise—
    - (i) if the anniversary of the date when the offender made the initial report falls in a reporting month—in that month; or
    - (ii) if the anniversary does not fall in a reporting month—in the next reporting month after the anniversary.

*Example for paragraph (b)—*

A reportable offender makes an annual report in March 2014. If the amending Act commences in April 2014, the offender must start making periodic reports in May 2015.

## **87 Evidence certificates for existing proceedings**

Section 77 of the pre-amended Act continues to apply to a proceeding started before the commencement, despite the amendment of section 77.

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**Division 4**                      **Transitional provision for Health  
and Other Legislation Amendment  
Act 2016**

**88**            **Sch 1 references to the Criminal Code, s 215**

Schedule 1 applies as if the reference to the Criminal Code, section 215 included a reference to—

- (a) the Criminal Code, section 208 as in force at any time before its repeal by the *Health and Other Legislation Amendment Act 2016*; and
- (b) the Criminal Code, section 209 as in force at any time before its repeal by the *Criminal Code and Other Acts Amendment Act 2008*.

**Division 5**                      **Transitional provisions for Child  
Protection (Offender Reporting) and  
Other Legislation Amendment Act  
2017**

**89**            **References to Child Protection (Offender Prohibition  
Order) Act 2008**

If the context allows, a reference in an Act or other document to the *Child Protection (Offender Prohibition Order) Act 2008* (the *repealed Act*) is taken to be a reference to this Act.

**90**            **Documents under Child Protection (Offender Prohibition  
Order) Act 2008**

- (1) This section applies to a document under the repealed Act that is in effect immediately before the Act is repealed.
- (2) The document continues to have effect according to its terms and conditions.
- (3) This Act applies to the document as if the document had been made under this Act.

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- (4) To remove any doubt, it is declared that the document took effect or was made, given or received when the document took effect or was made, given or received under the repealed Act.
- (5) In this section—  
*document* includes—
  - (a) an offender prohibition order or any other order; and
  - (b) a direction; and
  - (c) a delegation; and
  - (d) a notice.

## **91 Taking fingerprints**

- (1) This section applies to a reportable offender who, before the commencement—
  - (a) made an initial report of the offender's personal details to the police commissioner after receiving a notice under section 54(5); and
  - (b) when making the initial report, was not required to allow a police officer to take, or cause a person authorised by the officer to take, the offender's fingerprints.
- (2) The police commissioner must, by written notice, require the reportable offender to allow a police officer to take, or cause a person authorised by the officer to take, the offender's fingerprints when the offender is next required under this Act to make a report.

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**Division 6**                      **Transitional provisions for Police Powers and Responsibilities and Other Legislation Amendment Act 2020**

**92**            **Definitions for division**

In this division—

***amending Act*** means the *Police Powers and Responsibilities and Other Legislation Amendment Act 2020*.

***former section 51B*** means section 51B as in force from time to time before it was amended by part 2 of the amending Act.

**93**            **Saving of former s 51B**

Former section 51B continues to apply, as if part 2 of the amending Act had not commenced, in relation to a requirement imposed under former section 51B(2) before the commencement.

**94**            **Declaratory provision about effect of amending Act**

- (1) This section applies for deciding, after the commencement, a matter to which former section 51B applies.
- (2) The amendment of former section 51B by the amending Act is to be disregarded.

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## **Division 7**

# **Transitional provisions for Child Protection (Offender Reporting and Offender Prohibition Order) and Other Legislation Amendment Act 2022**

### **95 Definitions for division**

In this division—

***amending Act*** means the *Child Protection (Offender Reporting and Offender Prohibition Order) and Other Legislation Amendment Act 2022*.

***former***, for a provision of this Act, means the provision in force from time to time before the commencement.

***new***, for a provision of this Act, means the provision in force from the commencement.

### **96 Existing offender reporting orders**

An offender reporting order made under former section 13 is taken to be an offender reporting order made under—

- (a) for an order made against a person convicted of an offence that is not a prescribed offence—new section 12B; or
- (b) for an order made against a person the subject of a forensic order—new section 12C.

### **97 Existing applications for offender reporting order**

- (1) An application for an offender reporting order mentioned in former section 13(5)(b) is taken to be an application for an offender reporting order mentioned in new section 12E.
- (2) This Act as in force from the commencement applies for hearing and deciding the application.

**98 Existing appeals against making of, or refusal to make, offender reporting order**

- (1) This section applies to an appeal under former section 13(6) or (7) started, but not decided, before the commencement.
- (2) The court to which the appeal was made may continue to hear and decide the appeal as if the amending Act had not been enacted.

**99 Existing rights of appeal against making of, or refusal to make, offender reporting order**

- (1) This section applies if, immediately before the commencement—
  - (a) a person could have, but had not, started an appeal under former section 13(6) or (7); and
  - (b) the period within which the person could start the appeal had not ended.
- (2) The person may, within the period mentioned in subsection (1)(b), start the appeal and the court to which the appeal is made may hear and decide the appeal as if the amending Act had not been enacted.

**100 Existing notices about reporting obligations given by police commissioner**

- (1) This section applies if, immediately before the commencement, a reportable offender's reporting period had not ended.
- (2) A notice given to the reportable offender by the police commissioner under former section 54(5) before the commencement is taken to be a reporting obligations notice given to the offender under new section 54A.
- (3) If the notice is the first notice the police commissioner gave the reportable offender after an event mentioned in former section 54(2) happened, the notice is taken to be the initial

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reporting obligations notice given to the offender under new section 54A(1).

**101 Reporting offenders convicted of device inspection offences**

- (1) This section applies in relation to a person who, on the commencement, is a reportable offender who has been convicted of a device inspection offence.
- (2) The police commissioner must ensure new section 68(2)(f) and (4) are complied with in relation to the reportable offender within 3 months after the commencement.

*Note—*

See new section 74(2) and (3) for the reportable offender's right to apply for a review of the decision to place on the register information that the person is a reportable offender who has been convicted of a device inspection offence.

**102 Existing reviews about entry on register**

- (1) This section applies to a review under former section 74 started, but not decided, before the commencement.
- (2) The police commissioner may continue to consider, and decide, the review under former section 74 as if the amending Act had not been enacted.

**103 Existing rights of review about entry on register**

- (1) This section applies if, immediately before the commencement—
  - (a) a person could have, but had not, applied to the police commissioner for a review under former section 74; and
  - (b) the period within which the person could apply for the review had not ended.
- (2) The person may, within the period mentioned in subsection (1)(b), apply for the review and the police commissioner may consider and decide the review, under



former section 74, as if the amending Act had not been enacted.

Not authorised—indicative only

## **Schedule 1      Prescribed offences**

section 9(a) and (b)

- 1    An offence against any of the following provisions of the *Classification of Computer Games and Images Act 1995*—
  - section 26(3) (Possession of objectionable computer game)
  - section 27(3) or (4) (Making objectionable computer game)
  - section 28 (Obtaining minor for objectionable computer game).
- 2    An offence against any of the following provisions of the *Classification of Films Act 1991*—
  - section 41(3) (Possession of objectionable film)
  - section 42(3) or (4) (Making objectionable film)
  - section 43 (Procurement of minor for objectionable film).
- 3    An offence against any of the following provisions of the *Classification of Publications Act 1991*—
  - section 12 (Sale etc. of prohibited publication), if the offence involves a child abuse publication
  - section 13 (Possession of prohibited publication), if the offence involves a child abuse publication
  - section 14 (Possession of child abuse publication)
  - section 15 (Exhibition or display of prohibited publication), if the offence involves a child abuse publication
  - section 16 (Leaving prohibited publication in or on public place), if the offence involves a child abuse publication

- section 17(1) or (2) (Producing prohibited publication), if the offence involves a child abuse publication
  - section 17(3) or (4) (Producing prohibited publication)
  - section 18 (Procurement of minor for RC publication), if the offence involves a child abuse publication
  - section 20 (Leaving prohibited publication in or on private premises), if the offence involves a child abuse publication.
- 4 An offence against any of the following provisions of the Criminal Code—
- section 210 (Indecent treatment of children under 16)
  - section 213 (Owner etc. permitting abuse of children on premises)
  - section 215 (Carnal knowledge with or of children under 16)
  - section 218A (Using internet etc. to procure children under 16)
  - section 218B (Grooming child under 16 years or parent or carer of child under 16 years)
  - section 219 (Taking child for immoral purposes)
  - section 228A (Involving child in making child exploitation material)
  - section 228B (Making child exploitation material)
  - section 228C (Distributing child exploitation material)
  - section 228D (Possessing child exploitation material)
  - section 228DA (Administering child exploitation material website)
  - section 228DB (Encouraging use of child exploitation material website)
  - section 228DC (Distributing information about avoiding detection)

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- section 228I (Producing or supplying child abuse object)
  - section 228J (Possessing child abuse object)
  - section 229B (Maintaining a sexual relationship with a child).
- 5 An offence against either of the following provisions of the Criminal Code, as in force from time to time before being repealed by *The Criminal Code, Evidence Act and Other Acts Amendment Act 1989*—
- section 212 (Defilement of Girls under Twelve)
  - section 214 (Attempt to Abuse Girls under Ten).
- 6 An offence against any of the following provisions of the Criminal Code (Cwlth)—
- section 271.4 (Offence of trafficking in children)
  - section 271.7 (Offence of domestic trafficking in children)
  - section 272.8 (Sexual intercourse with child outside Australia)
  - section 272.9 (Sexual activity (other than sexual intercourse) with child outside Australia)
  - section 272.10 (Aggravated offence—child with mental impairment or under care, supervision or authority of defendant)
  - section 272.11 (Persistent sexual abuse of child outside Australia)
  - section 272.12 (Sexual intercourse with young person outside Australia—defendant in position of trust or authority)
  - section 272.13 (Sexual activity (other than sexual intercourse) with young person outside Australia—defendant in position of trust or authority)
  - section 272.14 (Procuring child to engage in sexual activity outside Australia)

- section 272.15 (“Grooming” child to engage in sexual activity outside Australia)
- section 272.15A (“Grooming” person to make it easier to engage in sexual activity with a child outside Australia)
- section 272.18 (Benefiting from offence against this Division)
- section 272.19 (Encouraging offence against this Division)
- section 272.20 (Preparing for or planning offence against this Division)
- section 273.5 (Possessing, controlling, producing, distributing or obtaining child pornography material outside Australia)
- section 273.6 (Possessing, controlling, producing, distributing or obtaining child abuse material outside Australia)
- section 273.7 (Aggravated offence—offence involving conduct on 3 or more occasions and 2 or more people)
- section 273A.1 (Possession of child-like sex dolls etc.)
- section 471.16 (Using a postal or similar service for child pornography material)
- section 471.17 (Possessing, controlling, producing, supplying or obtaining child pornography material for use through a postal or similar service)
- section 471.19 (Using a postal or similar service for child abuse material)
- section 471.20 (Possessing, controlling, producing, supplying or obtaining child abuse material for use through a postal or similar service)
- section 471.22 (Aggravated offence—offence involving conduct on 3 or more occasions and 2 or more people)
- section 471.24 (Using a postal or similar service to procure persons under 16)

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- section 471.25 (Using a postal or similar service to “groom” persons under 16)
- section 471.25A (Using a postal or similar service to “groom” another person to make it easier to procure persons under 16)
- section 471.26 (Using a postal or similar service to send indecent material to person under 16)
- section 474.19 (Using a carriage service for child pornography material)
- section 474.20 (Possessing, controlling, producing, supplying or obtaining child pornography material for use through a carriage service)
- section 474.22 (Using a carriage service for child abuse material)
- section 474.22A (Possessing or controlling child abuse material obtained or accessed using a carriage service)
- section 474.23 (Possessing, controlling, producing, supplying or obtaining child abuse material for use through a carriage service)
- section 474.23A (Conduct for the purposes of electronic service used for child abuse material)
- section 474.24A (Aggravated offence—offence involving conduct on 3 or more occasions and 2 or more people)
- section 474.25A (Using a carriage service for sexual activity with person under 16 years of age)
- section 474.25B (Aggravated offence—child with mental impairment or under care, supervision or authority of defendant)
- section 474.25C (Using a carriage service to prepare or plan to cause harm to, engage in sexual activity with, or procure for sexual activity, persons under 16)
- section 474.26 (Using a carriage service to procure persons under 16 years of age)

- section 474.27 (Using a carriage service to “groom” persons under 16 years of age)
  - section 474.27AA (Using a carriage service to “groom” another person to make it easier to procure persons under 16 years of age)
  - section 474.27A (Using a carriage service to transmit indecent communication to person under 16 years of age).
- 7 An offence against any of the following provisions of the *Crimes Act 1914* (Cwlth), as in force from time to time before being repealed by the *Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010* (Cwlth)—
- section 50BA (Sexual intercourse with child under 16)
  - section 50BB (Inducing child under 16 to engage in sexual intercourse)
  - section 50BC (Sexual conduct involving child under 16)
  - section 50BD (Inducing child under 16 to be involved in sexual conduct)
  - section 50DA (Benefiting from offence against this Part)
  - section 50DB (Encouraging offence against this Part).
- 8 An offence against the *Customs Act 1901* (Cwlth), section 233BAB (Special offence relating to tier 2 goods) that involves child pornography or child abuse material.
- 9 Any of the following offences—
- (a) an offence against any of the following provisions of the Criminal Code—
- section 216 (Abuse of persons with an impairment of the mind)
  - section 217 (Procuring young person etc. for carnal knowledge)
  - section 218 (Procuring sexual acts by coercion etc.)
  - section 221 (Conspiracy to defile)

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- section 222 (Incest)
  - section 228 (Obscene publications and exhibitions)
  - section 229G (Procuring engagement in prostitution)
  - section 229H (Knowingly participating in provision of prostitution)
  - section 229I (Persons found in places reasonably suspected of being used for prostitution etc.)
  - section 229L (Permitting young person etc. to be at place used for prostitution)
  - section 300 (Unlawful homicide) in circumstances that amount to murder
  - section 349 (Rape)
  - section 350 (Attempt to commit rape)
  - section 351 (Assault with intent to commit rape)
  - section 352 (Sexual assaults);
- (b) an offence against the Criminal Code, section 220 (Unlawful Detention with Intent to Defile or in a Brothel), as in force from time to time before being repealed by *The Criminal Code, Evidence Act and Other Acts Amendment Act 1989*;
- (c) an offence against either of the following provisions of the Criminal Code, as in force from time to time before being repealed by the *Criminal Law Amendment Act 1997*—
- section 223 (Incest by adult female)
  - section 344 (Aggravated assaults), if the offence was of a sexual nature as defined by the *Criminal Law Amendment Act 1945*, section 2A;
- (d) an offence against either of the following provisions of the Criminal Code (Cwlth), as in force from time to time before being amended by the *Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Act 2013*—



- section 270.6 (Sexual servitude offences)
  - section 270.7 (Deceptive recruiting for sexual services);
- (e) an offence against the Criminal Code, section 337 (Sexual assaults), as in force from time to time before being repealed by the *Criminal Law Amendment Act 2000*;
- (f) an offence under a law of a foreign jurisdiction that, if it had been committed in Queensland, would have constituted an offence of a kind listed in this schedule;
- (g) an offence under a law of a foreign jurisdiction that is stated in a regulation to be a prescribed offence;
- (h) an offence that has, as an element, an intention to commit an offence of a kind listed in this schedule;
- (i) an offence of attempting, or of conspiracy or incitement, to commit an offence of a kind listed in this schedule.
- 10 An offence that, at the time it was committed, was a class 1 offence or a class 2 offence within the meaning of this Act as in force immediately before the commencement of the *Child Protection (Offender Reporting) and Other Legislation Amendment Act 2014*.

## **Schedule 2      Personal details for reportable offenders**

### **section 10A**

- 1    The reportable offender's—
  - (a)   name; and
  - (b)   if the offender is, or has previously been, known by another name—
    - (i)   each other name; and
    - (ii)  the period during which the offender was known by each other name.
- 2    The reportable offender's date and place of birth.
- 3    Details of any tattoos or permanent distinguishing marks that the reportable offender has, including details of any tattoo or mark that has been removed or changed.
- 4    Details of—
  - (a)   any premises where the reportable offender generally resides; or
  - (b)   if the offender does not generally reside at particular premises—each locality where the offender can generally be found.
- 5    If, since a reportable offender last reported the offender's personal details under this Act, the offender has stopped generally residing at particular premises and has not started generally residing at other premises—
  - (a)   a statement that the offender has stopped generally residing at the particular premises; and
  - (b)   details of each locality where the offender can generally be found.
- 6    The following details, if known to the offender, for any child with whom the reportable offender has reportable contact—

- (a) the child's name and address;
  - (b) the child's age and date of birth;
  - (c) the nature of the reportable contact;
  - (d) any telephone contact number for the child;
  - (e) any email address belonging to the child or to which the child has access.
- 7 If the reportable offender is employed—
- (a) the nature of the employment; and
  - (b) if the offender is employed by an employer—the name of the employer; and
  - (c) the address or locality of each of the offender's usual places of employment.
- 8 Details of any club or organisation of which the reportable offender is an associate, employee, member, official or subordinate that—
- (a) has child members; or
  - (b) organises, supports or undertakes activities in which children participate; or
  - (c) directly supports the function or operation of a club or organisation of a type mentioned in paragraph (a) or (b).
- 9 The make, model, colour and registration number of the following vehicles, and the media access control (MAC) address of a radio or other electronic communication device that is part of, or installed in, the vehicle—
- (a) any vehicle that the reportable offender—
    - (i) owns; or
    - (ii) has driven on at least 7 days within a 1-year period, whether or not the days are consecutive;
  - (b) any caravan or trailer—
    - (i) that the reportable offender generally resides in; or
    - (ii) that was attached to a vehicle driven by the reportable offender, if the offender has driven the

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vehicle on at least 7 days within a 1-year period, whether or not the days are consecutive.

- 10 Whether the reportable offender has ever been—
  - (a) subject to a corresponding offender reporting order; and
  - (b) if so, where and when the order was made.
- 11 Whether the reportable offender has ever been—
  - (a) found guilty in a foreign jurisdiction of a reportable offence, or an offence that required the offender to report to a corresponding registrar; and
  - (b) if so, where and when the finding was made.
- 12 If the reportable offender has been in government detention since the offender was sentenced or was released from government detention for a reportable offence or corresponding reportable offence—details of when and where the government detention occurred.
- 13 Details of any of the following used, or intended to be used, by the reportable offender—
  - (a) a carriage service within the meaning of the *Telecommunications Act 1997* (Cwlth), including—
    - (i) the name of the carriage service provider; and
    - (ii) any current telephone number for the service;
  - (b) an internet carriage service within the meaning of the *Broadcasting Services Act 1992* (Cwlth), including—
    - (i) the name of the internet service provider; and
    - (ii) whether the connection is a wireless, broadband, ADSL or dial-up connection; and
    - (iii) any current telephone number for the service.
- 14 Details of any social networking site that the reportable offender joins, participates in or contributes to, or with which the offender registers or opens an account, including passwords for the registration or account.
- 15 Details of either of the following used, or intended to be used, by the reportable offender, including passwords—

- (a) an email address;
- (b) for each account used, or intended to be used, by the offender to communicate through the internet or another electronic communication service—the unique name, number or other identifier used by an internet-based application or the electronic communication service to identify the user's account with the application or service.

*Examples of accounts used to communicate through the internet or another electronic communication service—*

an instant messaging service, a chat room, a social networking site

15A Details of each digital device in the reportable offender's possession, or that the offender has access to, including—

- (a) the media access control (MAC) address of the device; and
- (b) details of each software application stored on the device, or that can be accessed using the device, that is designed or used to hide—
  - (i) the identity or location of a person who administers, accesses or uses a network, computer, the device or another digital device; or
  - (ii) information stored on a network, computer, the device or another digital device, including, for example, photographs, username and password combinations, and other software applications; or
  - (iii) communication, including the exchange of information, between 2 or more persons using a network, computer, the device or another digital device; or
  - (iv) the location of a network, computer, the device or another digital device.

*Examples of software applications for paragraph (b)—*

a password manager, a hidden digital vault, a virtual environment, software that encrypts, or encrypts and hides, information

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- 16 The passport number and country of issue of each passport held by the reportable offender.
- 17 For a reportable offender who is making the offender's initial report and intends to travel outside Queensland, but within Australia, on an average of at least once a month (irrespective of the length of the period of travel)—
  - (a) the reason for travelling, in general terms; and
  - (b) the frequency and destinations of the travel, in general terms.

## Schedule 3 When reportable offender must make initial report

section 14

Column 1 Reportable offender	Column 2 Period within which initial report must be made
A reportable offender who is sentenced for a reportable offence in Queensland	Whichever of the following periods ends later— (a) 7 days after the reportable offender is sentenced for the reportable offence; or (b) if the reportable offender is in government detention—7 days after the offender stops being in detention
A reportable offender who is a post-DPSOA reportable offender	24 hours after the reportable offender becomes a post-DPSOA reportable offender
A reportable offender (other than a corresponding reportable offender) who is subject to an offender reporting order	Whichever of the following periods ends later— (a) 7 days after the offender reporting order is made; or (b) if the reportable offender is in government detention—7 days after the offender stops being in detention
A reportable offender (other than a corresponding reportable offender) who is released from government detention in Queensland	7 days after the reportable offender is released from government detention

## Schedule 3

<b>Column 1</b>	<b>Column 2</b>
<b>Reportable offender</b>	<b>Period within which initial report must be made</b>
A reportable offender who— (a) enters Queensland from a foreign jurisdiction; and (b) has not previously been required to report the offender's personal details to the police commissioner	7 days after entering and remaining in Queensland for 7 or more consecutive days, not counting any day spent in government detention
A reportable offender— (a) for whom a reporting period ends; and (b) who is then sentenced for another reportable offence	Whichever of the following periods ends later— (a) 7 days after the reportable offender is sentenced for the other reportable offence; (b) if the reportable offender is in government detention—7 days after the offender stops being in detention
A reportable offender who becomes a corresponding reportable offender who under section 39 must comply with the reporting obligations imposed by part 4	Whichever of the following periods ends later— (a) 7 days after the reportable offender becomes a corresponding reportable offender; (b) if the reportable offender is in government detention—7 days after the offender stops being in detention



Column 1 <b>Reportable offender</b>	Column 2 <b>Period within which initial report must be made</b>
<p>A reportable offender—</p> <p>(a) for whom reporting obligations are suspended by an order under section 42, or an equivalent order made in a foreign jurisdiction; and</p> <p>(b) for whom the order stops having effect under section 48, or an equivalent provision of the laws of a foreign jurisdiction</p>	<p>Whichever of the following periods ends later—</p> <p>(a) 7 days after the order stops having effect;</p> <p>(b) if the reportable offender is in government detention—7 days after the offender stops being in detention</p>
<p>A corresponding reportable offender who—</p> <p>(a) has not previously been required to report the offender's personal details to the police commissioner; and</p> <p>(b) is in Queensland on the day when the person becomes a corresponding reportable offender</p>	<p>Whichever of the following periods ends later—</p> <p>(a) 7 days after the reportable offender becomes a corresponding reportable offender;</p> <p>(b) if the reportable offender is in government detention—7 days after the offender stops being in detention</p>
<p>A reportable offender who is taken to be a reportable offender when a court makes an offender prohibition order</p>	<p>7 days after the offender prohibition order is made</p>

## Schedule 4 Decisions subject to review

section 67G

Provision of Act	Description of decision
section 19(2)	decision of police commissioner to require reportable offender to make periodic reports more frequently than in each reporting month
section 19B(1)	decision of police commissioner to require reportable offender to report each change in the premises where the offender stays, or locality where the offender can generally be found
section 67D(4)	decision of police commissioner to refuse to suspend a reportable offender's reporting obligations
section 67F(1)	decision of police commissioner to revoke a suspension of a reportable offender's reporting obligations
section 68(2)(f)	decision of police commissioner to place on the register information that a person is a reportable offender who has been convicted of a device inspection offence

## Schedule 5 Dictionary

### section 12

***adult respondent*** means a respondent who is not a child respondent.

***appeal court***, for part 3A, division 4, see section 13ZG.

***appearance notice***, for a proceeding for an offender prohibition order, means a notice in the approved form stating the following in relation to the order—

- (a) that an application for the order will be made against the respondent;
- (b) when and where the application is to be heard;
- (c) that the respondent is required to appear at the hearing to be heard on the application;
- (d) that the court may make the order in the respondent's absence if the respondent fails to appear at the hearing;
- (e) that on the making of the order—
  - (i) the respondent becomes a reportable offender; and
  - (ii) the respondent is prohibited from making a working with children check application; and
  - (iii) any working with children authority or working with children card held by the respondent is—
    - (A) if the order is a temporary order—suspended; or
    - (B) if the order is a final order—cancelled;
- (f) that the order may be registered in a jurisdiction other than Queensland, including a jurisdiction outside Australia, if a law of the other jurisdiction provides for the registration.

***application documents***, for an offender prohibition order, see section 13B(3).

***approved form*** means a form approved under section 13ZN.

***Australian Border Force Commissioner*** means the Australian Border Force Commissioner under the *Australian Border Force Act 2015* (Cwlth).

***Australian Criminal Intelligence Commission*** means the Australian Criminal Intelligence Commission established under the *Australian Crime Commission Act 2002* (Cwlth).

***caravan or trailer*** means a vehicle without a motor—

- (a) designed to be attached to, or towed by, another vehicle that is designed to be propelled by a motor; and
- (b) whether or not the vehicle is attached to the other vehicle mentioned in paragraph (a).

***charge***, of an offence, means a charge in any form, including, for example—

- (a) a charge on an arrest; and
- (b) a notice to appear served under the *Police Powers and Responsibilities Act 2000*, section 382; and
- (c) a complaint under the *Justices Act 1886*; and
- (d) a charge by a court under the *Justices Act 1886*, section 42(1A), or another provision of an Act; and

*Note—*

The *Justices Act 1886*, section 42 deals with the commencement of proceedings.

- (e) an indictment.

***chief executive (child safety)*** means the chief executive of the department in which the *Child Protection Act 1999* is administered.

***chief executive (communities)*** means the chief executive of the department in which the *Youth Justice Act 1992* is administered.

***chief executive (corrective services)*** means the chief executive of the department in which the *Corrective Services Act 2006* is administered.

**chief executive (education)** means the chief executive of the department in which the *Education (General Provisions) Act 2006* is administered.

**chief executive (justice)** means the chief executive of the department in which the *Attorney-General Act 1999* is administered.

**child abduction offence** means—

- (a) an offence against the Criminal Code, section 354 involving the kidnap of a child; or
- (b) an offence against the Criminal Code, section 363 or 363A.

**child detainee** means a child who is detained in a detention centre under the *Youth Justice Act 1992*.

**child respondent** means—

- (a) for a temporary order—a respondent who is a child when the application for the temporary order is made; or
- (b) for a corresponding order or registered corresponding order—a respondent who is a child when the corresponding order is registered under this Act; or
- (c) otherwise—a respondent who is a child when the application for the offender prohibition order is made.

**commencement date** means 1 January 2005.

**committed against a child** includes committed in relation to a child.

**conduct** includes an act, omission and course of conduct.

**conviction** includes a finding of guilt, and the acceptance of a plea of guilty, by a court, whether or not a conviction is recorded.

**corresponding Act** means a law of a foreign jurisdiction—

- (a) that provides for people who have committed specified offences—
  - (i) to report, in that jurisdiction, information about themselves; and

- (ii) to keep that information current for a specified period; and

- (b) that a regulation states is a corresponding Act.

***corresponding offender reporting order*** means an order made under a corresponding Act that falls within a class of order that a regulation states is a corresponding offender reporting order.

***corresponding order*** means an order made under a law of a jurisdiction other than Queensland, including a jurisdiction outside Australia, that closely corresponds to an offender prohibition order.

***corresponding registrar*** means the person whose functions under a corresponding Act most closely correspond to the functions of the police commissioner under this Act.

***corresponding reportable offence*** means an offence that is a reportable offence under a corresponding Act, but is not a reportable offence under this Act.

***corresponding reportable offender*** see section 7.

***court***—

- (a) for an offender prohibition order for a child respondent—means the Childrens Court constituted by a Childrens Court magistrate; or
- (b) for any other offender prohibition order—means a Magistrates Court, other than a Magistrates Court constituted by justices who are not magistrates; or
- (c) otherwise, includes a court of a foreign jurisdiction, however described.

***criminal history***, of a person, means, despite the *Criminal Law (Rehabilitation of Offenders) Act 1986*, sections 5, 6, 8 and 9—

- (a) every conviction of the person for a reportable offence committed against a child, in Queensland or elsewhere, whether before or after the commencement; and
- (b) every charge made against the person for a reportable offence committed against a child, in Queensland or

elsewhere, whether before or after the commencement—

- (i) that has not been withdrawn or discontinued, or dismissed by a court; or
- (ii) for which the respondent has not been acquitted or convicted; or
- (iii) that has been withdrawn or discontinued because the complainant died or was unable or unwilling to proceed with the matter.

**details**, of a locality where a reportable offender can generally be found, means a description of, or directions to, a place or area where the offender can generally be found that is sufficiently described to allow a reasonable person to locate the place or area based on the description or directions.

*Examples of details of a locality where a reportable offender can generally be found—*

- the name and location of a caravan park where the offender can generally be found
- a description of, and directions to, the part of a camping area within a national park where the offender can generally be found

**device inspection offence** see the *Police Powers and Responsibilities Act 2000*, section 21B(5).

**digital device**—

- (a) means a device on which information may be stored or accessed electronically by a person using the device; and
- (b) includes a computer, memory stick, portable hard drive, smart phone and tablet computer; and
- (c) does not include a device if the only information stored on or accessed from the device is stored or accessed automatically when the device is used or operated in the usual way.

*Examples for paragraph (c)—*

digital scales, a fridge with smart technology

**disability** has the same meaning as it has in the *Disability Services Act 2006*, section 11.

**disqualification order** see section 13T(2).

**employer**, for a reportable offender, includes a person who—

- (a) arranges, in the course of business, for the offender to be employed by another person; or
- (b) engages the offender under a contract of employment.

**employment**, for a reportable offender, includes any of the following activities engaged in, or carried out, by the offender—

- (a) working under a contract of employment;
- (b) working as a self-employed person or a subcontractor;
- (c) working for an organisation as a volunteer;
- (d) working as a minister of religion or for a religious organisation in another capacity;
- (e) undertaking practical training as part of an educational or vocational course.

**existing reportable offender** see section 6.

**final order** see section 13H.

**finding of guilt** see section 10.

**fingerprints** includes fingerprints taken by a device to obtain a record of the fingerprints.

**foreign jurisdiction** means a jurisdiction other than Queensland, including jurisdictions outside Australia.

**foreign witness protection law** means a law of a foreign jurisdiction that provides for the protection of witnesses.

**forensic order** means a following order under the *Mental Health Act 2016*—

- (a) a forensic order (mental health);
- (b) a forensic order (disability);
- (c) a forensic order (Criminal Code).



**forensic patient** means a person in relation to whom a forensic order has been made.

**forensic reportable offender** means a person who is subject to an offender reporting order that was made with a forensic order under the *Mental Health Act 2016*.

**generally reside**, for a reportable offender, means reside for at least 7 days, whether consecutive or not, within a 1-year period.

**government detention** means—

- (a) detention, other than under a supervision order, of—
  - (i) a prisoner under the *Corrective Services Act 2006*; or
  - (ii) a child detainee under the *Youth Justice Act 1992*; including if the prisoner or child detainee is on unescorted leave of absence; or
- (b) detention under a law of a foreign jurisdiction in the nature of detention mentioned in paragraph (a); or
- (c) detention under the *Mental Health Act 2016*; or
- (d) detention under the *Migration Act 1958* (Cwlth).

**government entity** see the *Public Service Act 2008*, section 24.

**hide**, information or a thing, includes—

- (a) delete or encrypt the information, or information about the information; and
- (b) delete or encrypt information about the thing.

**home affairs department** means the department of the Commonwealth responsible for administering the *Migration Act 1958* (Cwlth).

**imprisonment** includes detention under the *Youth Justice Act 1992*.

**initial report** see section 14(2).

**initial reporting obligations notice** see section 54A(1).

***intensive correction order*** means—

- (a) an intensive correction order under the *Penalties and Sentences Act 1992*; or
- (b) an intensive supervision order under the *Youth Justice Act 1992*.

***lawyer*** means an Australian lawyer within the meaning of the *Legal Profession Act 2007* who, under that Act, may engage in legal practice in this State.

***magistrate***, for a child respondent, means a Childrens Court magistrate.

***media access control (MAC) address***, for a communication device or digital device connected to a network, means the number that uniquely identifies the device for the network—

- (a) that is usually a 12 digit hexadecimal number; and
- (b) that is usually assigned to the device by its manufacturer when the device is made, but can also be defined by the user; and
- (c) that may, for a particular device, be referred to by another name, including, for example, the device's hardware ID, physical address, wireless ID or wi-fi address.

***network***—

- (a) means a network of computers or other devices, whether or not part of the internet; and
- (b) includes part of a network of computers or other devices.

***offender prohibition order*** means—

- (a) a prohibition order; or
- (b) a temporary order.

***offender reporting order***—

- (a) see section 12A; and
- (b) includes a corresponding reporting order.

**parent**, of a person, means a parent or guardian of the person and includes—

- (a) for an Aboriginal person—a person who, under Aboriginal tradition, is regarded as a parent of the person; or
- (b) for a Torres Strait Islander person—a person who, under Island custom, is regarded as a parent of the person;

but does not include an approved carer of the person under the *Child Protection Act 1999*.

**parole order** means—

- (a) a parole order under the *Corrective Services Act 2006*; or
- (b) any equivalent order made under the laws of a foreign jurisdiction.

**periodic report** see section 18(1).

**personal details**, of a reportable offender, see section 10A.

**personal information** means information about an individual whose identity is apparent or can reasonably be ascertained from the information.

**police commissioner** means the commissioner of the police service.

**post-DPSOA reportable offender** see section 7A.

**prescribed offence** see section 9.

**prisoner** means a person who is in custody of the chief executive (corrective services), including a person who is subject to a parole order.

**prohibition order** means an order under section 13C.

**protected witness** means a reportable offender to whom part 4, division 9 applies.

**register** means the child protection register established under section 68.

**registered corresponding order** means a corresponding order registered under section 13Z.

**registrar**, for part 3A, division 2, see section 13Y.

**released** from government detention includes discharged from custody.

**relevant decision**, for part 3A, division 4, see section 13ZG.

**relevant order**, for part 3A, division 4, see section 13ZG.

**relevant sexual offender** means a following person who is not subject to a supervision order or interim supervision order under the *Dangerous Prisoners (Sexual Offenders) Act 2003* or a forensic order—

- (a) a person who is a reportable offender;
- (b) a person who would be a reportable offender if the person's sentence for a reportable offence had not ended before the commencement of section 5;
- (c) a person who would be a reportable offender if all the reporting periods for the person had not ended, as mentioned in section 8(d).

**repealed Act** see section 89.

**reportable contact** see section 9A.

**reportable offence** see section 9.

**reportable offender** see section 5.

**reporting month** means each of the following—

- (a) February;
- (b) May;
- (c) August;
- (d) November.

**reporting obligations**, in relation to a reportable offender, means the obligations imposed on the offender by part 4.

**reporting obligations notice** see section 54A(1) and (3).

**reporting period** means the period, worked out under part 4, division 5, during which a reportable offender must comply with his or her reporting obligations.

***respondent*** means—

- (a) for a proposed offender prohibition order—the person who is the respondent to the application for the proposed offender prohibition order; or
- (b) for an offender prohibition order—the person against whom the offender prohibition order is made; or
- (c) for a corresponding order or a registered corresponding order—the person against whom the corresponding order is made.

***restricted police station*** see section 25(3).

***sentence*** includes something in the nature of a sentence imposed under the laws of a foreign jurisdiction.

***significant impairment***, for a reportable offender, means a cognitive or physical impairment that—

- (a) seriously impedes the offender's ability to comply with the offender's reporting obligations under part 4; or
- (b) makes the offender incapable of complying with the offender's reporting obligations under part 4.

***significant mental illness***, for a reportable offender, means a mental illness that—

- (a) seriously impedes the offender's ability to comply with the offender's reporting obligations under part 4; or
- (b) makes the offender incapable of complying with the offender's reporting obligations under part 4.

***social networking site*** includes an internet-based application designed to be used, and used, by users of the application—

- (a) for social networking or to make social connections with other users of the application; and
- (b) to share user-generated content with other users of the application.

***supervising authority***, in relation to a reportable offender, means an authority that a regulation states is the authority having control of the offender.

***supervision order*** means—

- (a) a community service order, a probation order, an intensive correction order, or an order that a term of imprisonment be suspended, under the *Penalties and Sentences Act 1992*; or
- (b) a community service order, probation order, intensive supervision order, conditional release order, or supervised release order, under the *Youth Justice Act 1992*; or
- (c) a parole order; or
- (d) a continuing detention order or supervision order under the *Dangerous Prisoners (Sexual Offenders) Act 2003*; or
- (e) an order equivalent to any order mentioned in paragraph (a), (b), (c) or (d) made under the laws of a foreign jurisdiction.

***temporary order*** means an order made under section 13J or 13K.

***unescorted leave of absence*** means—

- (a) for a prisoner—leave of absence granted under the *Corrective Services Act 2006*, section 72 if the prisoner is not ordered to remain in the physical custody of a corrective services officer under that Act during the leave; or
- (b) for a child detainee—leave of absence granted under the *Youth Justice Act 1992*, section 269 if the child detainee is not in the physical custody of a person under that Act during the leave.

***usual place of employment***, for a reportable offender, means particular premises or a particular locality where the offender is employed for at least 7 days, whether consecutive or not, within a 1-year period.

***vehicle*** includes—

- (a) a vehicle designed to be propelled by a motor that forms part of the vehicle, even if the vehicle is not capable of

being used, including, for example, because the vehicle is mechanically defective or part of the vehicle has been removed or is missing; and

(b) a caravan or trailer.

***Working with Children Act*** means the *Working with Children (Risk Management and Screening) Act 2000*.

***working with children authority*** see the Working with Children Act, schedule 7.

***working with children card*** see the Working with Children Act, schedule 7.

***working with children check application*** see the Working with Children Act, schedule 7.