



# **Child Protection (Offender Prohibition Order) Act 2008**

**Current as at 1 July 2012**

# Information about this reprint

This Act is reprinted as at 1 July 2012. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

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Queensland

# Child Protection (Offender Prohibition Order) Act 2008

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# Child Protection (Offender Prohibition Order) Act 2008

[as amended by all amendments that commenced on or before 1 July 2012]

**An Act to provide for the protection of the lives of children and for their sexual safety, and to amend other Acts relating to the protection of children**

## Part 1 Preliminary

### 1 Short title

This Act may be cited as the *Child Protection (Offender Prohibition Order) Act 2008*.

### 2 Commencement

This Act commences on 2 June 2008.

### 3 Main purpose of Act

- (1) The main purpose of this Act is to provide for the protection of the lives of children and for their sexual safety.
- (2) This Act achieves the main purpose—
  - (a) by providing for the making of orders prohibiting particular sexual offenders from engaging in conduct posing a risk to the lives or sexual safety of children; and
  - (b) by providing that, if the respondent for an order mentioned in paragraph (a) is not a reportable offender for the Offender Reporting Act when the order is made,

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on the making of the order, the respondent is taken to be a reportable offender for that Act.

#### **4 Definitions**

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

#### **5 Explanation of references to offender prohibition orders**

- (1) In this Act, the term *order* is generally used to refer to an offender prohibition order made under section 8 and the term *temporary order* is used to refer to a temporary offender prohibition order made under section 15 or 16.
- (2) The term *offender prohibition order* is generally used to refer to both an order and a temporary order.
- (3) However, in part 2, division 2, an order made under section 8 is referred to as a *final order* to distinguish it from a *temporary order* made under section 15 or 16.

## **Part 2 Offender prohibition orders**

### **Division 1 Orders**

#### **6 Application**

- (1) The commissioner may apply in the approved form to a court for an offender prohibition order (an ***order***) for a person if the commissioner believes on reasonable grounds that the person—
  - (a) is a relevant sexual offender; and
  - (b) has recently engaged in concerning conduct.
- (2) The application must state each of the following—



- (a) each conviction of the respondent for a reportable offence committed against a child;
  - (b) the particulars of the concerning conduct the respondent is alleged to have engaged in;
  - (c) when the respondent is alleged to have engaged in the concerning conduct;
  - (d) the conduct of the respondent proposed to be prohibited under the order, including the conditions sought by the commissioner.
- (3) In this section—

***concerning conduct*** means conduct the nature or pattern of which poses a risk to the lives or sexual safety of 1 or more children, or of children generally.

*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
- residing near education and care service premises or a child care centre
- residing or boarding in a household with children under 16 years

## **7 How a proceeding for an order is started**

- (1) The commissioner starts a proceeding against a respondent under section 6(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 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.

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- (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 57.

- (4) Also, for a child respondent, the 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 order sought is likely to result in the child respondent needing to change his or her place of residence; and
  - (b) a parent of the child respondent, if the commissioner is able to find a parent of the child respondent after making reasonable attempts.

## **8 Making an order**

- (1) A court may make an order if the court is satisfied, on the balance of probabilities, after considering the matters mentioned in section 9—
- (a) the respondent is a relevant sexual offender; and
  - (b) having regard to the nature and pattern of conduct recently engaged in by the respondent—
    - (i) the respondent poses an unacceptable risk to the lives or sexual safety of children; and
    - (ii) the making of the order will reduce the risk.
- (2) Also, for a child respondent, the court may only make the order—
- (a) after considering a report given to the court under section 10; and
  - (b) if satisfied the making of the 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, particular children or a particular class of child.
- (4) The application for the order may be heard in the respondent's absence if the court is satisfied the respondent was served with the application documents under section 7(3).
- (5) However, the court may, at any time before making the order, direct the commissioner to give a further appearance notice to the respondent as directed by the court.

## **9 Matters a court must consider before making an order**

- (1) The matters a court must consider for section 8(1) are as follows—
  - (a) the seriousness of the respondent's reportable offences committed against a child, whether committed in Queensland or elsewhere;
  - (b) the period since the reportable offences were committed;
  - (c) 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;
  - (d) the respondent's present age;
  - (e) the seriousness of the respondent's criminal history;
  - (f) the effect of the order sought on the respondent in comparison with the level of risk of the respondent committing a reportable offence against a child;
  - (g) the respondent's circumstances, to the extent the circumstances relate to the conduct sought to be prohibited;

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*Examples—*

- the respondent's accommodation, employment, health, cultural and social needs
  - the need for the respondent's reintegration into the community
- (h) for a child respondent—the child respondent's educational needs;
- (i) anything else the court considers relevant.
- (2) In this section—

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

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

*Note—*

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

- (e) an indictment.

**criminal history**, of a person, means the following—

- (a) despite the *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 6, every conviction of the person for a reportable offence committed against a child, in Queensland or elsewhere, whether before or after the commencement of this Act;
- (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 of this Act—
  - (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;
- (c) every charge made against the person for a reportable offence committed against a child, in Queensland or elsewhere, whether before or after the commencement of this Act, that has been withdrawn or discontinued because the complainant died or was unable or unwilling to proceed with the matter.

## **10 Court must order a report before making an order for a child respondent**

- (1) This section applies if the court is satisfied of the matters mentioned in section 8(1) in relation to a child respondent.
- (2) Before making an 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 the child respondent, the child respondent's family or other matters.
- (3) The report may contain the opinion of the chief executive (communities) on what impact an order may have on the child respondent in relation to his or her 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.

## **11 Conduct that may be prohibited**

- (1) An order may prohibit particular conduct by the respondent, including, for example, prohibiting the respondent from the following—
  - (a) associating with, or otherwise contacting, stated persons or a stated type of person;

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*Example—*

corresponding with other relevant sexual offenders

- (b) being in stated locations or a stated type of location;

*Example—*

within 200m of a school between 7a.m. and 7p.m. on school days

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

*Examples—*

- a residence within 200m of education and care service premises or a child care centre
- a residence where children under 16 years reside

- (d) engaging in stated behaviour;

*Example—*

taking photographs or images of children at the beach in the South Bank Parklands

- (e) being in stated employment, or a stated type 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) An order may prohibit conduct absolutely or on the terms the court making the order considers appropriate and states in the order.
- (3) An 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 an 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 order provides for the respondent to recover the respondent's personal property from the place.

*Example—*

A provision of an 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.

## 12 Term of an order

- (1) An order takes effect on the day notice of it is given to the respondent and, subject to subsection (3), remains in force for the following term—
  - (a) for an adult respondent—5 years;
  - (b) for a child respondent—2 years.
- (2) Subsection (3) applies if an application—
  - (a) is for a new order for a respondent; and
  - (b) is made before the end of the term of the existing order for the respondent; and
  - (c) is not decided before the day the existing order ends.
- (3) The existing order continues to have effect until the application for the new order is decided.
- (4) The term of a new order mentioned in subsection (3) starts when the term of the existing order mentioned in the subsection ends.

*Example—*

The term of the existing order ends on 30 June 2008. An application for a new order is made on 31 May 2008. The application for the new order is decided, and the new order is made, on 1 August 2008. Under subsection (3), the term of the existing order is extended until the new order is made on 1 August 2008. Although the new order takes effect on 1 August 2008 under subsection (1), its term starts on 1 July 2008 under subsection (4).

- (5) In this section—

*term*, of an existing order, does not include the period for which the existing order's effect is continued under subsection (3).

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## **Division 2                      Temporary orders**

### **13            Definitions for div 2**

In this division—

*final order* means an order under section 8(1).

*temporary order* means an order under section 15 or 16.

### **14            Applying for a temporary order**

- (1) The commissioner may apply in the approved form to a magistrate for a temporary order for a person if the commissioner—
  - (a) has the belief mentioned in section 6(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 lives or sexual safety of children; and
    - (ii) the making of the order will reduce the risk.
- (2) The application must state—
  - (a) the matters mentioned in section 6(2); and
  - (b) why the temporary order is necessary before a final order is made.
- (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 to the magistrate; and
  - (b) that the respondent may be present before the magistrate when the application is made and may make submissions to the magistrate.



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- (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.

## **15 Temporary order made by a 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 8(1).
- (2) For subsection (1)—
- (a) the reference in section 8(1)(b)(ii) to an 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, particular children or a particular class of child; and
  - (c) sections 8(2), (4) and (5), 9 and 10 do not apply.
- (3) Also, for subsection (1), if the application 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 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 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.

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- (6) On the making of the temporary order, the commissioner must immediately start a proceeding under section 7(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).

## **16 Temporary order made by a 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 8(1); and
  - (b) after the temporary order is made, adjourns the proceedings.
- (3) For subsection (2)(a)—
  - (a) the reference in section 8(1)(b)(ii) to an 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, particular children or a particular class of child; and
  - (c) sections 8(2), (4) and (5), 9 and 10 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 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 7(3).

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## 17 Conduct that may be prohibited

Section 11 applies to a temporary order as if—

- (a) a reference in the section to an order were a reference to a temporary order; and
- (b) a reference in the section to the court included, for section 15, a reference to a magistrate.

## 18 Term of a temporary order

(1) A temporary order takes effect—

- (a) if the respondent is present before the magistrate or court when the order is made—when it is made; or
- (b) if the respondent is not present before the magistrate or court when the order is made—when a copy of the order is served on the respondent under section 24(2).

(2) The temporary order remains in force until whichever of the following happens first—

- (a) if the temporary order is made under section 15—a proceeding for a final order is not started by the return date and time fixed by a magistrate under section 15(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 19;
- (c) the prescribed period ends;
- (d) a court decides the application for the final order;
- (e) the commissioner discontinues the application for the final order;
- (f) the temporary order is revoked under section 22 or on appeal.

(3) In this section—

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

***prescribed period*** means—

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- (a) if paragraph (b) does not apply—28 days; or
- (b) the period for which the temporary order is extended under section 19.

## **19 Extending a temporary order if an application for a final order is 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 7(3).

## **Division 3 Other provisions about offender prohibition orders**

### **20 Who may be present at the hearing of an application**

- (1) A magistrate or court hearing an application for an offender prohibition order must hear the application in the presence of only the following—
  - (a) the applicant;
  - (b) unless the application is heard in the respondent's absence—the respondent;
  - (c) any witness the magistrate or court allows for the application;

- (d) another person the magistrate or court considers appropriate to be present and allows to be present;

*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);
- (f) a person whose presence the magistrate or court considers is necessary or desirable for the proper conduct of the proceedings.

*Example—*

a recorder or shorthand reporter 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.

## **21 Making an offender prohibition order for an adult respondent by consent**

- (1) This section applies if an application is made to a magistrate or court for an offender prohibition order for an adult respondent.
- (2) The magistrate or court may make the offender prohibition order if the applicant and the respondent consent to it being made.
- (3) Despite section 8(1), before making an order under that section with the consent of the applicant and the respondent, the court is not required to consider the matters mentioned in section 9 unless the court considers it is in the interests of justice.

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- (4) In considering the interests of justice for subsection (3), the matters to which the court may have regard include the following—
- (a) whether the respondent has obtained legal advice about the proposed offender prohibition order;
  - (b) whether the respondent—
    - (i) has an intellectual disability; or
    - (ii) is a person for whom an order appointing a guardian is in force under the *Guardianship and Administration Act 2000*; or
    - (iii) is illiterate, or is not literate in the English language; or
    - (iv) 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 8, 15 or 16.

## **22 Varying or revoking an offender prohibition order**

- (1) The 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—
- (a) it is in the interests of justice, having regard to changes in the respondent's circumstances, or circumstances affecting the respondent, since the 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 order, the respondent is prohibited from going within a stated distance of a stated child care centre, and the child care centre has closed down since the 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 8 and 9, 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 24(2).
- (6) A revocation takes effect when it is made.

## **23 Explaining and giving notice of an offender prohibition order to the respondent**

- (1) Subsection (2) applies if the respondent is present before a magistrate when the magistrate makes an offender prohibition

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order or before 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) his or her obligations under the offender prohibition order or variation; and
  - (b) the consequences that may follow if he or she 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 commissioner must give the respondent a notice complying with section 54 of the Offender Reporting Act (*section 54 notice*), in relation to the respondent as a reportable offender.
- (5) Subsection (4) applies despite section 54(4) of the Offender Reporting Act.
- (6) Failure to comply with either or both of subsections (2) and (4) does not affect the validity of the offender prohibition order.

## **24 Giving the respondent a copy of an offender prohibition order dealt with in the 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 57.



- (3) In each case, the respondent must be served with a copy of the order making, varying or revoking the offender prohibition order.
- (4) In addition, 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 order under corresponding provisions, the 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—a section 54 notice in relation to the respondent as a reportable offender.
- (5) Also, for a child respondent, the 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 order is likely to result in the child respondent needing to change his or her place of residence; and
  - (b) a parent of the child respondent, if the 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 order.
- (7) In this section—

*corresponding provisions* means provisions corresponding to part 3.

## 25 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

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- (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 16.
- (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 positive notice or positive exemption notice; or
  - (b) apply for a prescribed notice or exemption notice.
- (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 children's commissioner to issue a positive notice or positive exemption notice to the person.
- (4) The following provisions apply to the making of the disqualification order—
  - (a) if the relevant application is made under section 15—section 15(3) to (7);
  - (b) if the relevant application is made under section 16—section 16(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.
- (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.

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## 26 Term of a 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 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 order is made—when a copy of the order is served on the person under section 25(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 15—a proceeding for a final order is not started by the return date and time fixed by the magistrate under section 15(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 27;
  - (c) the prescribed period ends;
  - (d) a court decides the application for the final order;
  - (e) the commissioner discontinues the application for the final order;
  - (f) the disqualification order is revoked under section 28.
- (3) In this section—

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

***prescribed period*** means—
  - (a) if paragraph (b) does not apply—28 days; or
  - (b) the period for which the disqualification order is extended under section 27.

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## **27 Extending a disqualification order if an application for a final order is adjourned**

Section 19 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.

## **28 Revoking a 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 children's commissioner to issue a positive notice or positive exemption notice to the person.
- (5) A revocation takes effect when it is made.

## **29 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 application as frivolous or vexatious or another abuse of process.

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## Part 3 Corresponding order

### 30 Application for registration of a corresponding order in Queensland

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

### 31 Registration of a corresponding order

- (1) This section applies if the registrar is satisfied that—
  - (a) the corresponding order is in force; and
  - (b) the corresponding order was served, or was taken to be served, on the person against whom it was made under the law of the jurisdiction where the 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 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 commissioner to give a further appearance notice to the respondent.

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- (7) Section 20 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 can be considered under sections 8 and 9 on an application for an order under section 8; 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;
  - (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

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respondent's absence if the respondent fails to appear at the hearing.

### **32 Action by the registrar and commissioner after registration of a corresponding order**

- (1) No later than 2 business days after registering a corresponding order, the registrar must give the commissioner a certificate of the registration with a copy of the registered corresponding order attached.
- (2) The registrar may not ask the commissioner for any fee, or reimbursement for any expenses incurred, under this part.
- (3) After receiving a copy of the registered corresponding order, the 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—a section 54 notice in relation to the respondent as a reportable offender.

*Note—*

Under section 33(1)(a), the registered corresponding order has the same effect as an order made under this Act.

- (4) Also, for a child respondent, the commissioner must, as soon as practicable after receiving a copy of the registered corresponding order, give a copy of the order to—
  - (a) the chief executive (child safety), if the order is likely to result in the respondent needing to change his or her place of residence; and
  - (b) a parent of the child respondent, if the commissioner is able to find a parent of the child respondent after making reasonable attempts.
- (5) Failure to comply with either or both of subsections (3) and (4) does not affect the validity of the registration of the corresponding order.

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### **33 Effect of registration of a corresponding order**

- (1) A registered corresponding order—
  - (a) has the same effect as an order made under this Act; and
  - (b) may be enforced against the respondent as if it were an order made under this Act.
- (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 31(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.

### **34 Varying a registered corresponding order**

- (1) The 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 can be considered under sections 8 and 9 on an application for an order under section 8; and
  - (b) any changes in the respondent's circumstances since the registered corresponding order was registered or last varied.
- (3) Also section 22(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.

### **35 Cancelling the registration of a registered corresponding order**

- (1) The commissioner or the respondent may apply to the court for an order cancelling the registration of a registered corresponding order.



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- (2) In deciding the application, the court must consider—
    - (a) anything that can be considered under sections 8 and 9 for an application on an order under section 8; and
    - (b) any changes in the respondent's circumstances since the registered corresponding order was registered.
  - (3) Also section 22(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 Act, stops having effect in Queensland.

## **Part 4**                      **Reportable offender obligations**

### **36**      **Offender reporting requirement after an offender prohibition order is made**

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

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**37 Offender reporting requirement after the registration of a 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 for the Offender Reporting Act; and
  - (c) the length of the respondent's reporting period for that Act 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 of the Offender Reporting Act.

## **Part 5 Offences**

**38 Failure to comply with an 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—2 years imprisonment.
- (2) If an issue is raised in a proceeding of whether the respondent had knowledge of the offender prohibition order, it is enough if it is proved—

- 
- (a) the respondent was present in court when the order was made; or
  - (b) the respondent was served personally with a copy of the order; or
  - (c) a police officer told the respondent about the existence of the order.
- (3) A respondent for a registered corresponding order must not contravene the registered corresponding order, unless the respondent has a reasonable excuse.

Maximum penalty—2 years imprisonment.

- (4) If an issue is raised in a proceeding of whether the respondent for a registered corresponding order had knowledge of the order, it is enough if it is proved—
- (a) the respondent was present in court when the order was made and the 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 order could be registered in another jurisdiction; or
  - (d) that the respondent knew or ought to have known that the order was registered in this jurisdiction.
- (5) In this section—

*police officer*, for subsection (4)(c), includes a member of the police force of the jurisdiction where the registered corresponding order was made.

### **39 Proof of knowledge of a particular condition in a particular circumstance**

- (1) Subsection (2) applies if—

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- (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.

#### **40 Matters relevant to the reasonable excuse defence**

When deciding whether a respondent had a reasonable excuse for contravening section 38(1) or (3), the court must have regard to each of the following—

- (a) the respondent's age;
- (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;
- (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;
- (d) any other matter the court considers appropriate.

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## **41 Prohibition on disclosing particular matter**

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

Maximum penalty—2 years imprisonment.

- (2) Subsection (1) does not apply to any of the following—
- (a) a disclosure authorised by a magistrate or court in a proceeding under this Act;
  - (b) a disclosure authorised under an offender prohibition order or registered corresponding order;
  - (c) the disclosure by a person identifying himself or herself as a person mentioned in relation to any matter under this Act;
  - (d) a disclosure made in a proceeding before a court or tribunal;
  - (e) a disclosure to a respondent made for the purposes of the administration of this Act or the operation of the relevant offender prohibition order or registered corresponding order;
  - (f) a disclosure to a police officer, or someone else who is a member of a law enforcement agency of the State or of the Commonwealth or another State, for the purpose of the performance of the police officer's or other person's functions;
  - (g) a disclosure made for the purpose of an Act the operation of which requires the disclosure;
  - (h) a disclosure to a person involved in the respondent's assessment and management under an Act;

*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 this Act;

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- (j) a disclosure to anyone else to whom the disclosure is required or permitted to be made under an Act.

*Example—*

a person to whom the disclosure may be made under part 6

- (3) A person must not disclose protected information to another person with intention to incite anyone to intimidate or harass a respondent.

Maximum penalty—2 years imprisonment.

- (4) In this section—

*Act*, in subsection (2)(g) and (h), includes an Act of the Commonwealth or another State.

*intimidate or harass* includes intimidate or harass whether on 1 or more than 1 occasion and also vilify, persecute, victimise and engage in any act of vigilantism.

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

*protected information* means any of the following—

- (a) the name of a respondent;
- (b) the name of any victim of a reportable offence committed by a respondent;
- (c) the name of any particular person referred to as a person at risk because of the conduct prohibited or proposed to be prohibited by an offender prohibition order or registered corresponding order;
- (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.

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## Part 6                      Obtaining and disclosing    particular information

### 42            Commissioner to be given information about a relevant    sexual offender

- (1) For the purpose of deciding whether to make an application for an offender prohibition order, the commissioner may direct a government entity to give the commissioner any information—
  - (a) held by the government entity; and
  - (b) relevant to an assessment of whether the respondent for the proposed offender prohibition order poses an unacceptable risk of committing a reportable offence against a child.
- (2) The direction must be given in writing and must state the day on or before which the information must be given.
- (3) The government entity is authorised and, despite any other Act, required to give the commissioner the information sought by the direction.
- (4) However, the government entity is not required to give information if it is subject to legal professional privilege.
- (5) In this section—

*government entity* does not include the chief executive of the department in which the *Hospital and Health Boards Act 2011* is administered or a Hospital and Health Service under that Act.

### 43            Commissioner may give information about an offender    prohibition order to prescribed entities

- (1) The commissioner may give to a prescribed entity the following information about an offender prohibition order—
  - (a) the respondent's name and date of birth;
  - (b) the term of the order;

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- (c) the conduct by the respondent that the order prohibits;
- (d) anything else the commissioner reasonably considers is necessary to allow the prescribed entity to identify the respondent to ensure the safety of—
  - (i) a child or children in the prescribed entity's care;  
or
  - (ii) the respondent.

*Example—*

a photograph of the respondent

- (2) If the commissioner gives information about an offender prohibition order to a prescribed entity and the offender prohibition order is later varied or revoked, the commissioner must give the prescribed entity written notice of the variation or revocation.
- (3) In this section—  
***offender prohibition order*** includes a registered corresponding order.

#### **44 Disclosure of information by particular officials**

- (1) This section applies if a prescribed entity is given information about an offender prohibition order under section 43(1).
- (2) If the prescribed entity reasonably believes the giving of the information to a person is necessary—
  - (a) for the purpose of the person performing a function under a relevant Act; or
  - (b) for the purpose of an approved teacher protecting the life or sexual safety of a student of a school;the prescribed entity may give the information to the person.
- (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 43(2).
  - (4) The prescribed entity must give written notice of the variation or revocation to the person.
  - (5) A person given information under subsection (2) or (4) must not disclose the information, unless authorised to do so under section 41 or the relevant Act.
  - (6) In this section—

**approved teacher** means an approved teacher within the meaning of the *Education (Queensland College of Teachers) Act 2005*.

**offender prohibition order** includes a registered corresponding order.

**relevant Act** means—

- (a) for the chief executive (child safety)—the *Child Protection Act 1999*; or
- (b) for the chief executive (communities)—the *Youth Justice Act 1992*; or
- (c) for the chief executive (education)—the *Education (General Provisions) Act 2006*; or
- (d) for the children’s commissioner—the *Commission for Children and Young People and Child Guardian Act 2000*.

#### **45 Chief executive (communities) to be given information about a child respondent**

- (1) For the purpose of giving a report to the court in compliance with a direction of the court under section 10(2), the chief executive (communities) may ask a government entity to give the chief executive (communities) any information—
  - (a) held by the government entity; and
  - (b) relevant for the report.

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- (2) The request must be in writing and must 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.

#### **46 Duty of officials obtaining information**

- (1) This section applies to a person who obtains information under sections 42 to 45.
- (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.

#### **47 Commissioner may give information about an offender prohibition order to other particular persons**

To the extent the 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 commissioner may give information about an offender prohibition order or registered corresponding order to any of the following—

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

#### **48 Protection from liability for giving information**

- (1) This section applies if a person, acting honestly, gives information in compliance with this part.
- (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.

## **Part 7                      Legal proceedings**

### **49      Application of pt 7**

This part applies to a proceeding under this Act.

### **50      Application of Evidence Act 1977**

- (1) The relevant provision applies for the purpose of proving the following—
  - (a) an offender prohibition order or another order made under this Act;
  - (b) a corresponding order;
  - (c) the registration of a corresponding order under this Act.
- (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—

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- (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.

## 51 Evidentiary provisions

- (1) An averment in a complaint that—
- (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; or
  - (b) a stated process server was authorised to serve a stated corresponding order; or
  - (c) the respondent for an offender prohibition order or corresponding order was present in court when the order was made; or
  - (d) the respondent for a registered corresponding order was present in court when the order was registered;
- is evidence of the stated matters.
- (2) 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.
- (3) If a defendant intends to challenge a matter stated in any of the following paragraphs at a hearing in a proceeding for an

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offence against this Act, 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) an averment mentioned in subsection (1);
  - (b) an affidavit mentioned in subsection (2).
- (4) In this section—

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

*process server* means—

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

## Part 8 Appeals

### 52 Who may appeal

The 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 Act (the *relevant decision*) in relation to the relevant order—

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

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### **53 Starting an appeal**

- (1) The appeal must be started within 28 days after the following (the *appeal period*)—
  - (a) the day the relevant decision is made;
  - (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 the following—
  - (a) the appellant;
  - (b) the respondent;
  - (c) any witness the appeal court allows for the proceeding;
  - (d) anyone else the appeal court considers appropriate to be present and allows to be present;

*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).

## **54 Nature of an appeal**

- (1) The appeal is by way of rehearing and, subject to section 53, 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.

## **55 Powers on an 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.

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

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

## **Part 9 Miscellaneous**

**57 Service of documents**

- (1) This section applies if a provision of this Act requires a police officer, including the commissioner, to serve a document on a respondent for a proposed offender prohibition order, an offender prohibition order, a corresponding order or 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 reasonable attempts being made, a police officer is unable to personally serve a document on the respondent, the 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 his or her place of employment or school, unless there is no other place where the document may reasonably be served on the child respondent.

#### **58 No filing fee is payable**

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

#### **59 Approval of forms**

The commissioner may approve forms for use under this Act.

#### **60 Review of Act**

- (1) The Crime and Misconduct Commission must review the operation of this Act and 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 Misconduct Commission for the CMC Act.
- (3) The review must be started as soon as practicable after 5 years after the commencement of this section.
- (4) The Crime and Misconduct Commission must give a copy of the report to the Speaker for tabling in the Legislative Assembly.
- (5) In this section—  
*CMC Act* means the *Crime and Misconduct Act 2001*.

[s 61]

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*Crime and Misconduct Commission* means the Crime and Misconduct Commission established under the CMC Act.

**61 Regulation-making power**

The Governor in Council may make regulations under this Act.

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# Schedule Dictionary

## section 4

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

***appeal court***, for part 8, see section 52.

***appearance notice***, for a proceeding for an 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 under the Offender Reporting Act; and
  - (ii) the respondent is prohibited from applying for a prescribed notice or exemption notice; and
  - (iii) any positive notice, positive notice blue card or positive exemption notice 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 order, see section 7(3).

***approved form*** means a form approved under section 59.

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

***children's commissioner*** means the Commissioner for Children and Young People and Child Guardian under the *Commission for Children and Young People and Child Guardian Act 2000*.

***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.

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

***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 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.

***court*** means—

- (a) for an offender prohibition order for a child respondent—the Childrens Court constituted by a Childrens Court magistrate; or
- (b) otherwise—a Magistrates Court, other than a Magistrates Court constituted by justices who are not magistrates.

***disqualification order*** see section 25(2).

***education and care service premises*** see the Education and Care Services National Law (Queensland), section 5(1).

***exemption notice*** means an exemption notice under the *Commission for Children and Young People and Child Guardian Act 2000*.

***final order*** see section 13.

***forensic order*** means a following order within the meaning of the *Mental Health Act 2000*—

- (a) forensic order (Criminal Code);
- (b) forensic order (Mental Health Court);
- (c) forensic order (Mental Health Court—Disability).

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

***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.

***offender prohibition order*** means an order or, other than in section 6, a temporary order prohibiting a relevant sexual offender named in the order from engaging in particular conduct.

***Offender Reporting Act*** means the *Child Protection (Offender Reporting) Act 2004*.

***order*** see section 6(1).

**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*.

**positive exemption notice** means a positive exemption notice under the *Commission for Children and Young People and Child Guardian Act 2000*.

**positive notice** means a positive notice under the *Commission for Children and Young People and Child Guardian Act 2000*.

**positive notice blue card** means a positive notice blue card under the *Commission for Children and Young People and Child Guardian Act 2000*.

**prescribed entity** means any of the following entities—

- (a) the chief executive (child safety);
- (b) the chief executive (communities);
- (c) the chief executive (education);
- (d) children’s commissioner.

**prescribed notice** means a prescribed notice under the *Commission for Children and Young People and Child Guardian Act 2000*.

**registered corresponding order** means a corresponding order registered under section 31.

**registrar**, for part 3, see section 30.

**relevant decision**, for part 8, see section 52.

**relevant order**, for part 8, see section 52.

**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 the Offender Reporting Act, section 5.

***reportable offence*** means a reportable offence under the Offender Reporting Act.

***reportable offender*** means a person who is a reportable offender under the Offender Reporting Act.

***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 was made.

***section 54 notice*** see section 23(4).

***temporary order*** see section 13.

## Endnotes

### 1 Index to endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 1 July 2012. Future amendments of the Child Protection (Offender Prohibition Order) Act 2008 may be made in accordance with this reprint under the Reprints Act 1992, section 49.



### 3 Key

#### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

### 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments included	Effective	Notes
1	none	2 June 2008	
1A	2009 Act No. 25	2 November 2009	
1B	2009 Act No. 34	29 March 2010	
1C	2010 Act No. 5	1 July 2010	
1D	2011 Act No. 13	1 July 2011	
1E	2011 Act No. 38	1 January 2012	
1F	2011 Act No. 32 (amd) 2012 Act No. 9)	1 July 2012	

### 5 List of legislation

**Child Protection (Offender Prohibition Order) Act 2008 No. 17**  
date of assent 23 April 2008

Endnotes

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ss 1–2 commenced on date of assent  
remaining provisions commenced 2 June 2008 (see s 2)

amending legislation—

**Criminal Code and Other Legislation (Misconduct, Breaches of Discipline and Public Sector Ethics) Amendment Act 2009 No. 25 pt 1, s 83 sch**

date of assent 11 August 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 2 November 2009 (2009 SL No. 241)

**Juvenile Justice and Other Acts Amendment Act 2009 No. 34 ss 1, 2(2), 45(1) sch pt 1 amdt 6**

date of assent 17 September 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 29 March 2010 (2010 SL No. 37)

**Criminal History Screening Legislation Amendment Act 2010 No. 5 pts 1, 4**

date of assent 4 March 2010

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2010 (2010 SL No. 53)

**Forensic Disability Act 2011 No. 13 ch 1 pt 1, s 270 sch 2 pt 2**

date of assent 19 May 2011

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2011 (2011 SL No. 121 item 1)

**Hospital and Health Boards Act 2011 No. 32 ss 1–2, 332 sch 1 pt 2 (prev Health and Hospitals Network Act 2011) (this Act is amended, see amending legislation below)**

date of assent 28 October 2011

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2012 (2012 SL No. 61 item 3) (previous proclamation 2012 SL No. 23 item 3 was rep (2012 SL No. 61))

amending legislation—

**Health and Hospitals Network and Other Legislation Amendment Act 2012 No. 9 ss 1–2(1), 47 (amends 2011 No. 32 above)**

date of assent 27 June 2012

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2012 (see s 2(1))

**Education and Care Services National Law (Queensland) Act 2011 No. 38 ss 1–2, pt 5 div 3**

date of assent 24 November 2011

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 2012 (2011 SL No. 277)

## 6 List of annotations

### Application

s 6 amd 2011 No. 38 s 56

### Conduct that may be prohibited

s 11 amd 2011 No. 38 s 57

### Making disqualification order instead of temporary order

s 25 amd 2010 No. 5 s 53

### Revoking a disqualification order

s 28 amd 2010 No. 5 s 54

### Commissioner to be given information about a relevant sexual offender

s 42 amd 2011 No. 32 s 332 sch 1 pt 2 (amd 2012 No. 9 s 47)

### Disclosure of information by particular officials

s 44 amd 2009 No. 34 s 45(1) sch pt 1 amdt 6

### PART 10—AMENDMENT OF CHILD PROTECTION AMENDMENT ACT 2000

pt 10 (ss 62–63) om R1 (see RA ss 7(1)(k) and 40)

### PART 11—AMENDMENT OF CHILD PROTECTION (OFFENDER REPORTING) ACT 2004

pt 11 (ss 64–66) om R1 (see RA ss 7(1)(k) and 40)

### SCHEDULE—DICTIONARY

def “**appearance notice**” amd 2010 No. 5 s 55(2)–(3)

def “**chief executive (communities)**” amd 2009 No. 34 s 45(1) sch pt 1 amdt 6

def “**education and care service premises**” ins 2011 No. 38 s 58

def “**exemption notice**” ins 2010 No. 5 s 55(1)

def “**forensic order**” sub 2011 No. 13 s 270 sch 2 pt 2

def “**government entity**” sub 2009 No. 25 s 83 sch

def “**positive exemption notice**” ins 2010 No. 5 s 55(1)

def “**prescribed notice**” ins 2010 No. 5 s 55(1)

## 7 List of forms notified or published in the gazette

(The following information about forms is taken from the gazette and is included for information purposes only. Because failure by a department to notify or publish a form in the gazette does not invalidate the form, you should check with the relevant government department for the latest information about forms (see Statutory Instruments Act, section 58(8)).)

Form 1 Version 1—Application for Offender Prohibition Order (pubd gaz 30 October 2009 p 655)

Endnotes

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Form 2 Version 1—Appearance Notice (pubd gaz 30 October 2009 p 655)

Form 3 Version 1—Appearance Notice (Corresponding Order) (pubd gaz 30 October 2009 p 655)

Form 4 Version 1—Application for a Temporary (Offender Prohibition) Order (pubd gaz 30 October 2009 p 655)

Form 5 Version 1—Notice to Respondent—Application for a Temporary (Offender Prohibition) Order (pubd gaz 30 October 2009 p 655)

Form 6 Version 1—Application for the Registration of a Corresponding Order (pubd gaz 30 October 2009 p 655)

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