



Queensland

# **Criminal Law (Child Exploitation and Dangerous Drugs) Amendment Act 2013**

**Act No. 14 of 2013**





Queensland

# Criminal Law (Child Exploitation and Dangerous Drugs) Amendment Act 2013

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## **Criminal Law (Child Exploitation and Dangerous Drugs) Amendment Act 2013**

**Act No. 14 of 2013**

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**An Act to amend the Commission for Children and Young People and Child Guardian Act 2000, the Crime and Misconduct Act 2001, the Criminal Code, the Disability Services Act 2006, the Drugs Misuse Act 1986, the Drugs Misuse Regulation 1987 and the Evidence Act 1977, and to make minor and consequential amendments of other Acts as stated in the schedule, for particular purposes**

**[Assented to 29 April 2013]**

[s 1]

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**The Parliament of Queensland enacts—**

## **Part 1 Preliminary**

### **1 Short title**

This Act may be cited as the *Criminal Law (Child Exploitation and Dangerous Drugs) Amendment Act 2013*.

## **Part 2 Amendment of Commission for Children and Young People and Child Guardian Act 2000**

### **2 Act amended**

This part amends the *Commission for Children and Young People and Child Guardian Act 2000*.

*Note—*

See also the amendments in the schedule.

### **3 Amendment of s 305 (Police commissioner may decide that information about a person is investigative information)**

(1) Section 305(1)(a), (3)(a) and (4), after ‘schedule 6’—

*insert—*

‘or 6A’.

(2) Section 305(3), ‘*schedule 6 offence*’—

*omit, insert—*

‘*schedule 6 or 6A offence*’.

- (3) Section 305(3), note, ‘schedule 6’—  
*omit, insert*—  
‘schedules 6 and 6A’.

#### 4 Insertion of new ch 11, pt 16

Chapter 11—

*insert*—

### ‘Part 16 Transitional provisions for Criminal Law (Child Exploitation and Dangerous Drugs) Amendment Act 2013

#### ‘Division 1 Interpretation

##### ‘510 Definitions for pt 16

‘In this part—

*amended Act* means this Act as amended by the *Criminal Law (Child Exploitation and Dangerous Drugs) Amendment Act 2013*.

*commencement* means the commencement of this section.

*new disqualified person* means a person who is a disqualified person only because the person has been convicted or is convicted of a new disqualifying offence.

*new disqualifying offence* means an offence that is a disqualifying offence under this Act but was not a disqualifying offence under this Act immediately before the commencement.

*new relevant disqualified person* means a person who is a relevant disqualified person only because the person has been convicted or is convicted of a new disqualifying offence for which an imprisonment order has been or is imposed.

*new serious offence* means an offence that is a serious offence under this Act but was not a serious offence under this Act immediately before the commencement.

## **‘Division 2                    Eligibility applications and eligibility declarations**

### **‘511    Existing eligibility application**

- ‘(1) This section applies if—
- (a) before the commencement a person had made an eligibility application to the commissioner under section 178; and
  - (b) immediately before the commencement the person’s eligibility application had not been decided or withdrawn.
- ‘(2) At the commencement the commissioner must decide the application under the amended Act.

*Note—*

The commissioner may issue an eligibility declaration to a person if the person has been convicted of a disqualifying offence and is not a relevant disqualified person. See section 180(1).

### **‘512    Current eligibility declaration for new relevant disqualified person**

- ‘(1) This section applies to a person if—
- (a) before the commencement the commissioner had issued, or was taken to have issued, the person an eligibility declaration; and
  - (b) immediately before the commencement the person’s eligibility declaration had not expired; and
  - (c) at the commencement the person is a new relevant disqualified person.

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‘(2) At the commencement the person’s eligibility declaration is taken to have expired.

*Note—*

If the person also holds a positive notice, see section 519.

**‘513 Current eligibility declaration for person charged with new disqualifying offence or convicted of new serious offence**

‘(1) This section applies to a person if—

- (a) before the commencement the commissioner had issued, or was taken to have issued, the person an eligibility declaration; and
- (b) immediately before the commencement the person’s eligibility declaration had not expired; and
- (c) the person—
  - (i) was convicted of a new serious offence before the commencement; or
  - (ii) is charged with a new disqualifying offence at the commencement.

‘(2) At the commencement—

- (a) the amended Act applies to the person’s eligibility declaration; and
- (b) the person’s eligibility declaration is taken to have been issued on the commencement.

‘(3) If, after the commencement the commissioner is to make a decision under chapter 8, part 4, division 9 about the person, and it is the first time the commissioner is to make a decision under that division after the commencement, section 223(1)(b) does not apply to the commissioner making the decision.

**‘514 Other eligibility declarations**

‘(1) This section applies to a person if—

- (a) before the commencement the commissioner had issued, or was taken to have issued, the person an eligibility declaration; and
  - (b) immediately before the commencement the person's eligibility declaration had not expired; and
  - (c) at the commencement section 512 or 513 does not apply.
- ‘(2) At the commencement the amended Act applies to the person's eligibility declaration.

**‘515 Existing application for reversal of decision refusing an eligibility declaration**

- ‘(1) This section applies if—
- (a) before the commencement a person had made an application under section 186(2) to the commissioner; and
  - (b) immediately before the commencement the application had not been decided.
- ‘(2) At the commencement the amended Act applies and the commissioner may decide the application under the amended Act.

**‘Division 3 Prescribed notice applications and prescribed notices**

**‘516 Existing prescribed notice application by new relevant disqualified person**

- ‘(1) This section applies if—
- (a) before the commencement a prescribed notice application had been made about a person; and
  - (b) immediately before the commencement the application had not been decided or withdrawn; and



- 
- (c) at the commencement the person is a new relevant disqualified person.
- ‘(2) The person’s application is taken to be withdrawn.
- ‘(3) The commissioner must give written notice about the withdrawal of the application to—
- (a) the person; and
  - (b) each notifiable person for the person; and
  - (c) if the person is the director of a school’s governing board—the accreditation board.

**‘517 Existing prescribed notice application if person charged with new disqualifying offence or is new disqualified person but not new relevant disqualified person**

- ‘(1) This section applies if—
- (a) before the commencement a prescribed notice application had been made about a person; and
  - (b) immediately before the commencement the application had not been decided or withdrawn; and
  - (c) at the commencement the person—
    - (i) is charged with a new disqualifying offence; or
    - (ii) is a new disqualified person but not a new relevant disqualified person.

*Note—*

If a person holds a positive notice, see also sections 520 and 521.

- ‘(2) Subsection (3) applies if—
- (a) at the commencement the person is charged with a new disqualifying offence; or
  - (b) at the commencement the person is a new disqualified person but not a new relevant disqualified person and, at the time of making the application—

- (i) was not issued, or not taken to have been issued, an eligibility declaration; and
  - (ii) did not hold a positive notice.
- ‘(3) At the commencement—
  - (a) the application is taken to be withdrawn; and
  - (b) the commissioner must give written notice about the withdrawal of the application to—
    - (i) the person; and
    - (ii) each notifiable person for the person; and
    - (iii) if the person is the director of a school’s governing board—the accreditation board.
- Note—*

If a person charged with a new disqualifying offence also holds a positive notice, see also sections 521 and 240.
- ‘(4) Subsection (5) applies if the person is a new disqualified person but not a new relevant disqualified person and at the time of making the application the person—
  - (a) was not issued, or not taken to have been issued, an eligibility declaration; and
  - (b) held a positive notice that was not suspended.
- ‘(5) At the commencement—
  - (a) the person is taken to have been issued an eligibility declaration other than for section 223(1)(b); and
  - (b) the commissioner must decide the application under the amended Act.
- ‘(6) If the person is a new disqualified person but not a new relevant disqualified person and, at the time of the application the person was issued an eligibility declaration, at the commencement the commissioner must decide the application under the amended Act but section 223(1)(b) does not apply to the commissioner making the decision.

- ‘(7) For subsections (3) and (6), if before the commencement the commissioner had under section 236 cancelled a negative notice issued to the person, on the commencement section 223(1)(a) does not apply to the commissioner making the decision.

#### **‘518 Other existing prescribed notice applications**

- ‘(1) This section applies if—
- (a) before the commencement a prescribed notice application had been made about a person; and
  - (b) immediately before the commencement the application had not been decided or withdrawn; and
  - (c) section 516 or 517 does not apply.
- ‘(2) At the commencement the commissioner must decide the application under the amended Act.

#### **‘519 Current positive notice for new relevant disqualified person**

- ‘(1) This section applies if—
- (a) before the commencement a person held a positive notice; and
  - (b) immediately before the commencement the notice was current; and
  - (c) at the commencement the person is a new relevant disqualified person.
- ‘(2) At the commencement the amended Act applies and the commissioner must cancel the person’s positive notice and substitute a negative notice under section 239.

*Note—*

Under section 246, a person must return their cancelled positive notice and any positive notice blue card relating to the positive notice to the commissioner.

- ‘(3) Also, if the positive notice is suspended under section 240 or 242 at the commencement, any application for the cancellation of the suspension under section 241 or 243 that has not been decided or withdrawn at the commencement is taken to have been withdrawn.

**‘520 Current positive notice for new disqualified person other than new relevant disqualified person**

- ‘(1) This section applies if—
- (a) before the commencement a person held a positive notice; and
  - (b) immediately before the commencement the notice was current; and
  - (c) at the commencement the person is a new disqualified person but not a new relevant disqualified person.
- ‘(2) If, at the commencement, the person’s positive notice is suspended under section 240 or 242, the amended Act applies in relation to the positive notice.
- ‘(3) If, at the commencement, the person is not issued, or not taken to have been issued, an eligibility declaration and the person’s positive notice is not suspended under section 240 or 242—
- (a) the person is taken to have been issued an eligibility declaration under section 180; and
  - (b) the amended Act applies in relation to the positive notice.
- ‘(4) If, at the commencement, the person is issued, or taken to have been issued, an eligibility declaration and the person’s positive notice is not suspended under section 240 or 242, the amended Act applies in relation to the person’s positive notice.
- ‘(5) If, after the commencement the commissioner is to make a decision under chapter 8, part 4, division 9 about a person to whom this section applies, and it is the first time the commissioner is to make a decision under that division after

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the commencement, section 223(1)(b) does not apply to the commissioner making the decision.

**‘521 Other current positive notices**

- ‘(1) This section applies if—
- (a) before the commencement a person held a positive notice; and
  - (b) immediately before the commencement the positive notice was current; and
  - (c) section 519 or 520 does not apply.
- ‘(2) The amended Act applies to the person’s positive notice.

**‘Division 4 Exemption notice applications and exemption notices**

**‘522 Existing exemption notice application by new relevant disqualified person**

- ‘(1) This section applies if—
- (a) before the commencement an exemption notice application was made about a person; and
  - (b) immediately before the commencement the application had not been decided or withdrawn; and
  - (c) at the commencement the person is a new relevant disqualified person.
- ‘(2) The commissioner must decide the application under the amended Act.

*Note—*

See sections 285 and 224.

**‘523 Existing exemption notice application if person charged with new disqualifying offence or is new disqualified person but not new relevant disqualified person**

- ‘(1) This section applies if—
- (a) before the commencement an exemption notice application was made about a person; and
  - (b) immediately before the commencement the application had not been decided or withdrawn; and
  - (c) at the commencement the person—
    - (i) is charged with a new disqualifying offence; or
    - (ii) is a new disqualified person but not a new relevant disqualified person.
- ‘(2) At the commencement the commissioner must decide the application under the amended Act.
- ‘(3) However, if before the commencement the commissioner had under section 294 cancelled a negative exemption notice issued to the person, on the commencement section 223(1)(a) does not apply to the commissioner making the decision.
- ‘(4) Also, the commissioner may only act under section 283 or 284 if the commissioner has acted under section 286 or 287 after the commencement.

**‘524 Other existing exemption notice applications**

- ‘(1) This section applies if—
- (a) before the commencement an exemption notice application was made about a person; and
  - (b) immediately before the commencement the application had not been decided or withdrawn; and
  - (c) section 522 or 523 does not apply.
- ‘(2) At the commencement the commissioner must decide the application under the amended Act.

- 
- ‘(3) Also, the commissioner may only act under section 283 or 284 if the commissioner has acted under section 286 or 287 after the commencement.

**‘525 Current positive exemption notice for new relevant disqualified person**

- ‘(1) This section applies if—
- (a) before the commencement a person held a positive exemption notice; and
  - (b) immediately before the commencement the notice was current; and
  - (c) at the commencement the person is a new relevant disqualified person.
- ‘(2) At the commencement the amended Act applies and the commissioner must cancel the person’s positive exemption notice and substitute a negative exemption notice under section 297.

*Note—*

Under section 304, a person must return their cancelled positive exemption notice to the commissioner.

- ‘(3) Also, if the positive exemption notice is suspended under section 298 at the commencement, any application for the cancellation of the suspension under section 299 that has not been decided or withdrawn at the commencement is taken to have been withdrawn.

**‘526 Current positive exemption notice for person other than new relevant disqualified person**

- ‘(1) This section applies if—
- (a) before the commencement a person held a positive exemption notice; and
  - (b) immediately before the commencement the notice was current; and

- (c) at the commencement the person is not a new relevant disqualified person.
- ‘(2) At the commencement the amended Act applies to the positive exemption notice.

## **‘Division 5 Existing applications for cancellation or ending suspension of prescribed notices and exemption notices**

### **‘527 Existing application to cancel negative notice**

- ‘(1) This section applies if—
- (a) before the commencement a person had applied to the commissioner to cancel the person’s negative notice under section 236; and
  - (b) immediately before the commencement, the application had not been decided.
- ‘(2) At the commencement—
- (a) if the person is a new relevant disqualified person—
    - (i) the application is taken to be withdrawn; and
    - (ii) the commissioner must give written notice about the withdrawal of the application to the person; or
  - (b) if the person is not a new relevant disqualified person—the commissioner must decide the application under the amended Act.

### **‘528 Existing application to cancel negative exemption notice**

- ‘(1) This section applies if—
- (a) before the commencement a person had applied to the commissioner to cancel the person’s negative exemption notice under section 294; and



- 
- (b) immediately before the commencement, the application had not been decided.
- ‘(2) At the commencement—
- (a) if the person is a new relevant disqualified person—
    - (i) the application is taken to be withdrawn; and
    - (ii) the commissioner must give written notice about the withdrawal of the application to the person; or
  - (b) if the person is not a new relevant disqualified person—the commissioner must decide the application under the amended Act.

**‘529 Existing application to end suspension of positive notice for person other than new relevant disqualified person**

- ‘(1) This section applies if—
- (a) before the commencement a person had applied to the commissioner to cancel the person’s suspended positive notice under section 241 or 243; and
  - (b) immediately before the commencement the application had not been decided; and
  - (c) at the commencement the person is not a new relevant disqualified person.
- ‘(2) At the commencement the commissioner must decide the application under the amended Act.

**‘530 Existing application to end suspension of positive exemption notice for person other than new relevant disqualified person**

- ‘(1) This section applies if—
- (a) before the commencement a person had applied to the commissioner to cancel the person’s suspended positive exemption notice under section 299; and

- (b) immediately before the commencement the application had not been decided; and
  - (c) at the commencement the person is not a new relevant disqualified person.
- ‘(2) At the commencement the commissioner must decide the application under the amended Act.

## **‘Division 6                      Reviews and appeals**

### **‘531      Undecided reviews and appeals by new disqualified persons**

- ‘(1) This section applies if—
- (a) before the commencement, a person—
    - (i) applied, under section 354, for a review of a chapter 8 reviewable decision; or
    - (ii) appealed, under the QCAT Act, against a decision of QCAT relating to a chapter 8 reviewable decision; and
  - (b) at the commencement—
    - (i) the application or appeal has not been decided; and
    - (ii) the person is a new disqualified person.
- ‘(2) The application or appeal, and any proceeding in relation to the application or appeal, must be dismissed—
- (a) if a proceeding in relation to the application or appeal is before a court—by the court; or
  - (b) otherwise—by QCAT, even if the dismissal would be contrary to a direction of the Court of Appeal.

### **‘532      Review of chapter 8 reviewable decision about new disqualified person**

- ‘(1) This section applies if—

- 
- (a) before the commencement—
    - (i) the commissioner makes a chapter 8 reviewable decision about a person; and
    - (ii) the person has not applied for a review of the decision under section 354; and
  - (b) the person is a new disqualified person at the commencement.
- ‘(2) At the commencement, the amended Act applies.

*Note—*

Under section 354, only a person who is not a disqualified person may apply for a review of a chapter 8 reviewable decision.

**‘533 Appeal by new disqualified person against decision of QCAT on review of chapter 8 reviewable decision**

- ‘(1) This section applies if—
- (a) before the commencement, a person may appeal under the QCAT Act against a decision of QCAT relating to a chapter 8 reviewable decision; and
  - (b) at the commencement—
    - (i) the time within which the person may appeal under the QCAT Act has not passed; and
    - (ii) the person is a new disqualified person.
- ‘(2) Any appeal by the person against the decision must be dismissed—
- (a) if a proceeding in relation to the appeal is before a court—by the court; or
  - (b) otherwise—by QCAT, even if the dismissal would be contrary to a direction of the Court of Appeal.

**‘534 Existing appeal by commissioner against decision of QCAT on review of chapter 8 reviewable decision**

- ‘(1) This section applies if—

- (a) before the commencement, the commissioner appealed, under the QCAT Act, against a decision of QCAT relating to a chapter 8 reviewable decision about a person; and
  - (b) at the commencement—
    - (i) the appeal has not been decided; and
    - (ii) the person is a new disqualified person.
- ‘(2) The entity hearing the appeal must apply the amended Act in relation to the matter the subject of the appeal.

**‘535 Appeal by commissioner against decision of QCAT on review of chapter 8 reviewable decision**

- ‘(1) This section applies if—
- (a) before the commencement, the commissioner may appeal under the QCAT Act against a decision of QCAT relating to a chapter 8 reviewable decision about a person; and
  - (b) at the commencement—
    - (i) the time within which the commissioner may appeal under the QCAT Act (the *appeal period*) has not passed; and
    - (ii) the person is a new disqualified person.
- ‘(2) The commissioner may appeal against the decision within the appeal period and the entity hearing the appeal must apply the amended Act in relation to the matter the subject of the appeal.

**‘536 Existing reviews and appeals against chapter 8 reviewable decisions by persons other than new disqualified persons**

- ‘(1) This section applies if—
- (a) before the commencement—

- 
- (i) a person applied, under section 354, for a review of a chapter 8 reviewable decision; or
  - (ii) the commissioner or another person appealed, under the QCAT Act, against a decision of QCAT relating to a chapter 8 reviewable decision; and
- (b) at the commencement—
- (i) the review or appeal has not been decided; and
  - (ii) the person about whom the chapter 8 reviewable decision was made is not a new disqualified person.
- ‘(2) The entity hearing the review or appeal must apply the amended Act in relation to the matter the subject of the review or appeal.
- ‘(3) To remove any doubt, it is declared that section 355 applies in relation to the application for the review.

**‘537 Review of chapter 8 reviewable decision about person other than new disqualified person**

- ‘(1) This section applies if—
- (a) before the commencement—
    - (i) the commissioner makes a chapter 8 reviewable decision about a person; and
    - (ii) the person has not applied for a review of the decision under section 354; and
  - (b) at the commencement—
    - (i) the period within which the person could have applied for a review of the decision under section 354 (the *review period*) has not passed; and
    - (ii) the person is not a new disqualified person.
- ‘(2) The person may apply for a review of the decision under section 354 within the review period.

## **‘Division 7                      Miscellaneous**

### **‘538    Commissioner acting on own initiative**

- ‘(1) This section applies if—
- (a) before the commencement the commissioner had started, on the commissioner’s own initiative, to exercise a power in relation to the following—
    - (i) a person;
    - (ii) an eligibility application;
    - (iii) a prescribed notice;
    - (iv) an exemption notice; and
  - (b) on the commencement the commissioner may exercise the power under the amended Act in relation to the person, application or notice.
- ‘(2) The commissioner may exercise the power under the amended Act in relation to the person, application or notice.

### **‘539    Disqualification orders for acts done or omissions made before commencement**

‘A court may make a disqualification order under section 357 in relation to a person convicted of an offence after the commencement arising out of an act done or omission made before the commencement.

### **‘540    Effect of conviction or charge for new disqualifying offence or new serious offence**

- ‘(1) For applying section 169(1)(a) or 170(a) in relation to a person convicted of a new disqualifying offence, it is immaterial when the offence was committed or when the person was convicted of the offence.
- ‘(2) Section 240 applies in relation to a person holding a current positive notice who is charged with a new disqualifying

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offence even if the charge, or the acts or omissions constituting the alleged offence, happened before the commencement.

- ‘(3) Section 298 applies in relation to a person holding a current positive exemption notice who is charged with a new disqualifying offence even if the charge, or the acts or omissions constituting the alleged offence, happened before the commencement.
- ‘(4) Without limiting this division, in applying the amended Act on and from the commencement, it is immaterial—
- (a) when a new disqualifying offence or new serious offence was committed; or
  - (b) when a person was convicted of a new disqualifying offence or new serious offence; or
  - (c) when a charge for a new disqualifying offence, or the acts or omissions constituting the alleged offence, happened.

*Example—*

An offence may have been committed, and the person convicted of the offence, before the commencement.’.

## **5 Amendment of sch 2 (Current serious offences)**

- (1) Schedule 2, item 4, entry for Criminal Code—

*insert—*

‘218B Grooming children  
under 16’.

- (2) Schedule 2, item 4, entry for Criminal Code, entry for section 229G, after ‘Procuring’—

*insert—*

‘engagement in’.

- (3) Schedule 2, item 5, entry for *Drugs Misuse Act 1986*—

*insert—*

‘9D        Trafficking in  
             relevant substances  
             or things’.

(4)        Schedule 2, item 6, entry for *Crimes Act 1914* (Cwlth)—  
             *omit.*

(5)        Schedule 2, item 7, entry for Criminal Code (Cwlth)—  
             *insert—*

‘272.8     Sexual intercourse  
             with child outside  
             Australia

272.9     Sexual activity  
             (other than sexual  
             intercourse) with  
             child outside  
             Australia

272.10    Aggravated  
             offence—child  
             with mental  
             impairment or  
             under care,  
             supervision or  
             authority of  
             defendant

272.11    Persistent sexual  
             abuse of child  
             outside Australia

272.12    Sexual intercourse  
             with young person  
             outside Australia—  
             defendant in  
             position of trust or  
             authority



- 272.13 Sexual activity  
(other than sexual  
intercourse) with  
young person  
outside Australia—  
defendant in  
position of trust or  
authority
- 272.14 Procuring child to  
engage in sexual  
activity outside  
Australia
- 272.15 “Grooming” child  
to engage in sexual  
activity outside  
Australia
- 272.18 Benefiting from  
offence against this  
Division
- 272.19 Encouraging  
offence against this  
Division
- 272.20 Preparing for or  
planning offence  
against this  
Division
- 273.5 Possessing,  
controlling,  
producing,  
distributing or  
obtaining child  
pornography  
material outside  
Australia

- 273.6 Possessing,  
controlling,  
producing,  
distributing or  
obtaining child  
abuse material  
outside Australia
- 273.7 Aggravated  
offence—offence  
involving conduct  
on 3 or more  
occasions and 2 or  
more people
- 471.16 Using a postal or  
similar service for  
child pornography  
material
- 471.17 Possessing,  
controlling,  
producing,  
supplying or  
obtaining child  
pornography  
material for use  
through a postal or  
similar service
- 471.19 Using a postal or  
similar service for  
child abuse  
material
- 471.20 Possessing,  
controlling,  
producing,  
supplying or  
obtaining child  
abuse material for  
use through a postal  
or similar service

- 471.22 Aggravated offence—offence involving conduct on 3 or more occasions and 2 or more people
- 471.24 Using a postal or similar service to procure persons under 16
- 471.25 Using a postal or similar service to “groom” persons under 16
- 471.26 Using a postal or similar service to send indecent material to person under 16
- 474.24A Aggravated offence—offence involving conduct on 3 or more occasions and 2 or more people
- 474.25A Using a carriage service for sexual activity with person under 16 years of age

[s 6]

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474.25B Aggravated  
offence—child  
with mental  
impairment or  
under care,  
supervision or  
authority of  
defendant

474.27A Using a carriage  
service to transmit  
indecent  
communication to  
person under 16  
years of age’.

- (6) Schedule 2, items 7, as amended, and 8—  
*renumber* as schedule 2, items 6 and 7.

## 6 Amendment of sch 3 (Repealed or expired serious offences)

- (1) Schedule 3, entry for Criminal Code—  
*insert—*

‘218A Using internet etc. as the provision was in force from time  
to procure children to time before its repeal by the  
under 16 *Criminal Law (Child Exploitation and  
Dangerous Drugs) Amendment Act  
2013*’.

- (2) Schedule 3—  
*insert—*

‘2 *Crimes Act 1914* (Cwlth)

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
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50BA	Sexual intercourse with child under 16	as the provision was in force from time to time before its repeal by the <i>Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010</i> (Cwlth)
50BB	Inducing child under 16 to engage in sexual intercourse	as the provision was in force from time to time before its repeal by the <i>Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010</i> (Cwlth)
50BC	Sexual conduct involving child under 16	as the provision was in force from time to time before its repeal by the <i>Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010</i> (Cwlth)
50BD	Inducing child under 16 to be involved in sexual conduct	as the provision was in force from time to time before its repeal by the <i>Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010</i> (Cwlth)
50DA	Benefiting from offence against this Part	as the provision was in force from time to time before its repeal by the <i>Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010</i> (Cwlth)
50DB	Encouraging offence against this Part	as the provision was in force from time to time before its repeal by the <i>Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010</i> (Cwlth)'. .

## 7 Amendment of sch 4 (Current disqualifying offences)

- (1) Schedule 4, item 4, entry for Criminal Code—

*insert—*

‘218B Grooming children under 16’.

- (2) Schedule 4, item 4, entry for Criminal Code, entry for section 229G, after ‘Procuring’—

*insert—*

‘engagement in’.

- (3) Schedule 4, item 5, entry for *Crimes Act 1914* (Cwlth)—  
*omit.*
  - (4) Schedule 4, item 6, entry for Criminal Code (Cwlth)—  
*insert—*
- ‘272.8 Sexual intercourse  
with child outside  
Australia
- 272.9 Sexual activity  
(other than sexual  
intercourse) with  
child outside  
Australia
- 272.10 Aggravated  
offence—child  
with mental  
impairment or  
under care,  
supervision or  
authority of  
defendant
- 272.11 Persistent sexual  
abuse of child  
outside Australia
- 272.12 Sexual intercourse  
with young person  
outside Australia—  
defendant in  
position of trust or  
authority

- 272.13 Sexual activity  
(other than sexual  
intercourse) with  
young person  
outside Australia—  
defendant in  
position of trust or  
authority
- 272.14 Procuring child to  
engage in sexual  
activity outside  
Australia
- 272.15 “Grooming” child  
to engage in sexual  
activity outside  
Australia
- 272.18 Benefiting from  
offence against this  
Division
- 272.19 Encouraging  
offence against this  
Division
- 272.20 Preparing for or  
planning offence  
against this  
Division
- 273.5 Possessing,  
controlling,  
producing,  
distributing or  
obtaining child  
pornography  
material outside  
Australia

- 273.6 Possessing,  
controlling,  
producing,  
distributing or  
obtaining child  
abuse material  
outside Australia
- 273.7 Aggravated  
offence—offence  
involving conduct  
on 3 or more  
occasions and 2 or  
more people
- 471.16 Using a postal or  
similar service for  
child pornography  
material
- 471.17 Possessing,  
controlling,  
producing,  
supplying or  
obtaining child  
pornography  
material for use  
through a postal or  
similar service
- 471.19 Using a postal or  
similar service for  
child abuse  
material
- 471.20 Possessing,  
controlling,  
producing,  
supplying or  
obtaining child  
abuse material for  
use through a postal  
or similar service



- 471.22 Aggravated offence—offence involving conduct on 3 or more occasions and 2 or more people
- 471.24 Using a postal or similar service to procure persons under 16
- 471.25 Using a postal or similar service to “groom” persons under 16
- 471.26 Using a postal or similar service to send indecent material to person under 16
- 474.24A Aggravated offence—offence involving conduct on 3 or more occasions and 2 or more people
- 474.25A Using a carriage service for sexual activity with person under 16 years of age

[s 8]

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474.25B Aggravated  
offence—child  
with mental  
impairment or  
under care,  
supervision or  
authority of  
defendant

474.27A Using a carriage  
service to transmit  
indecent  
communication to  
person under 16  
years of age’.

- (5) Schedule 4, items 6, as amended, and 7—  
*renumber* as schedule 4, items 5 and 6.

## **8 Amendment of sch 5 (Repealed or expired disqualifying offences)**

- (1) Schedule 5, entry for Criminal Code—  
*insert—*

‘218A Using internet etc. as the provision was in force from  
to procure children time to time before its repeal by the  
under 16 *Criminal Law (Child Exploitation and  
Dangerous Drugs) Amendment Act  
2013*’.

- (2) Schedule 5—  
*insert—*

‘2 *Crimes Act 1914* (Cwlth)

<b>Provision of Act</b>	<b>Relevant heading</b>	<b>Qualification relating to the provision of the Act</b>
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50BA	Sexual intercourse with child under 16	as the provision was in force from time to time before its repeal by the <i>Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010</i> (Cwlth)
50BB	Inducing child under 16 to engage in sexual intercourse	as the provision was in force from time to time before its repeal by the <i>Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010</i> (Cwlth)
50BC	Sexual conduct involving child under 16	as the provision was in force from time to time before its repeal by the <i>Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010</i> (Cwlth)
50BD	Inducing child under 16 to be involved in sexual conduct	as the provision was in force from time to time before its repeal by the <i>Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010</i> (Cwlth)
50DA	Benefiting from offence against this Part	as the provision was in force from time to time before its repeal by the <i>Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010</i> (Cwlth)
50DB	Encouraging offence against this Part	as the provision was in force from time to time before its repeal by the <i>Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010</i> (Cwlth)'.

## 9 Amendment of sch 6 (Offences that may form basis of investigative information)

- (1) Schedule 6, item 4, entry for Criminal Code—

*insert—*

‘218B Grooming children under 16’.

- (2) Schedule 6, item 4, entry for Criminal Code, entry for section 229G, after ‘Procuring’—

*insert—*

‘engagement in’.

(3) Schedule 6, item 5, entry for *Crimes Act 1914* (Cwlth)—  
*omit.*

(4) Schedule 6, item 6, entry for Criminal Code (Cwlth)—  
*insert—*

‘272.8 Sexual intercourse  
with child outside  
Australia

272.9 Sexual activity  
(other than sexual  
intercourse) with  
child outside  
Australia

272.10 Aggravated  
offence—child  
with mental  
impairment or  
under care,  
supervision or  
authority of  
defendant

272.11 Persistent sexual  
abuse of child  
outside Australia

272.12 Sexual intercourse  
with young person  
outside Australia—  
defendant in  
position of trust or  
authority

272.13 Sexual activity  
(other than sexual  
intercourse) with  
young person  
outside Australia—  
defendant in  
position of trust or  
authority

272.14 Procuring child to  
engage in sexual  
activity outside  
Australia

272.15 “Grooming” child  
to engage in sexual  
activity outside  
Australia’.

- (5) Schedule 6, item 6, as amended—  
*renumber* as schedule 6, item 5.

## 10 Insertion of new sch 6A

After schedule 6—

*insert—*

### **‘Schedule 6A Repealed or expired offences that may form basis of investigative information**

section 305(3) and (4)

*‘Crimes Act 1914 (Cwlth)*

<b>Provision of Act</b>	<b>Relevant heading</b>	<b>Qualification relating to the provision of the Act</b>
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[s 11]

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50BA	Sexual intercourse with child under 16	as the provision was in force from time to time before its repeal by the <i>Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010</i> (Cwlth)
50BB	Inducing child under 16 to engage in sexual intercourse	as the provision was in force from time to time before its repeal by the <i>Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010</i> (Cwlth)
50BC	Sexual conduct involving child under 16	as the provision was in force from time to time before its repeal by the <i>Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010</i> (Cwlth)
50BD	Inducing child under 16 to be involved in sexual conduct	as the provision was in force from time to time before its repeal by the <i>Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010</i> (Cwlth)'.

## 11 Amendment of sch 7 (Dictionary)

- (1) Schedule 7, definitions *new disqualified person*, *new disqualifying offence* and *new relevant disqualified person*—  
*omit.*
- (2) Schedule 7—  
*insert*—  
*'amended Act*, for chapter 11, part 16, see section 510.  
*new disqualified person*—
  - (a) for chapter 11, part 13—see section 465; or
  - (b) for chapter 11, part 16—see section 510.*new disqualifying offence*—
  - (a) for chapter 11, part 13—see section 465; or
  - (b) for chapter 11, part 16—see section 510.*new relevant disqualified person*—
  - (a) for chapter 11, part 13—see section 465; or

- 
- (b) for chapter 11, part 16—see section 510.  
*new serious offence*, for chapter 11, part 16, see section 510.’.
- (3) Schedule 7, definition *commencement*, paragraphs (b) to (d)—  
*renumber* as paragraphs (c) to (e).
- (4) Schedule 7, definition *commencement*—  
*insert*—  
‘(b) for chapter 11, part 8—see section 430; or’.
- (5) Schedule 7, definition *commencement*—  
*insert*—  
‘(f) for chapter 11, part 16—see section 510.’.

## **Part 2A**                                    **Amendment of Crime and Misconduct Act 2001**

### **11A    Act amended**

This part amends the *Crime and Misconduct Act 2001*.

### **11B    Amendment of s 346A (Protection of particular documents)**

Section 346A(2), ‘8 May’—

*omit, insert*—

‘8 November’.

[s 12]

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## **Part 3**                              **Amendment of Criminal Code**

### **12**      **Code amended**

This part amends the Criminal Code.

### **13**      **Amendment of s 207A (Definitions for this chapter)**

Section 207A, definition *child exploitation material*,  
'someone'—

*omit, insert—*

'a person, or a representation of a person,'.

### **14**      **Amendment of s 208 (Unlawful sodomy)**

(1) Section 208—

*insert—*

'(2A) For an offence defined in subsection (1)(a) or (b) other than an attempt, the offender is liable to imprisonment for life if the offence is committed in respect of a child who is a person with an impairment of the mind.'

(2) Section 208—

*insert—*

'(5) For an offence defined in subsection (1)(a) or (b) alleged to have been committed with the circumstance of aggravation mentioned in subsection (2A), it is a defence to the circumstance of aggravation to prove that the accused person believed on reasonable grounds that the child was not a person with an impairment of the mind.'

### **15**      **Amendment of s 210 (Indecent treatment of children under 16)**

(1) Section 210—

*insert—*



‘(4A) If the child is a person with an impairment of the mind, the offender is guilty of a crime, and is liable to imprisonment for 20 years.’.

(2) Section 210—

*insert—*

‘(5A) If the offence is alleged to have been committed with the circumstance of aggravation mentioned in subsection (4A), it is a defence to the circumstance of aggravation to prove that the accused person believed on reasonable grounds that the child was not a person with an impairment of the mind.’.

## **16 Amendment of s 215 (Carnal knowledge with or of children under 16)**

(1) Section 215—

*insert—*

‘(4A) If the child is a person with an impairment of the mind, the offender is guilty of a crime, and is liable to imprisonment for life.’.

(2) Section 215—

*insert—*

‘(5A) If the offence is alleged to have been committed with the circumstance of aggravation mentioned in subsection (4A), it is a defence to the circumstance of aggravation to prove that the accused person believed on reasonable grounds that the child was not a person with an impairment of the mind.’.

## **17 Amendment of s 216 (Abuse of persons with an impairment of the mind)**

Section 216(2), ‘subsection (3)(c)’—

*omit, insert—*

‘subsections (3)(c) and (3A)’.

[s 18]

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**18 Amendment of s 218A (Using internet etc. to procure children under 16)**

(1) Section 218A(1) and (2)—

*omit, insert—*

‘(1) Any adult who uses electronic communication with intent to procure a person under the age of 16 years, or a person the adult believes is under the age of 16 years, to engage in a sexual act, either in Queensland or elsewhere, commits a crime.

Maximum penalty—10 years imprisonment.

‘(2) The adult is liable to 14 years imprisonment if—

(a) the person is—

(i) a person under 12 years; or

(ii) a person the adult believes is under 12 years; or

(b) the offence involves the adult—

(i) intentionally meeting the person; or

(ii) going to a place with the intention of meeting the person.’.

(2) Section 218A(3), (5) and (6), ‘(1)(a)’—

*omit, insert—*

‘(1)’.

(3) Section 218A(9)—

*omit, insert—*

‘(9) It is a defence to a charge under this section to prove the adult believed on reasonable grounds that the person was at least 16 years.

‘(9A) For an offence defined in subsection (1) alleged to have been committed with the circumstance of aggravation mentioned in subsection (2)(a)(i), it is a defence to the circumstance of aggravation to prove that the adult believed on reasonable grounds that the person was at least 12 years.’.

(4) Section 218A(10)—

*insert—*

*‘meeting* means meeting in person.’.

## 19 Insertion of new s 218B

After section 218A—

*insert—*

### **‘218B Grooming children under 16**

‘(1) Any adult who engages in any conduct in relation to a person under the age of 16 years, or a person the adult believes is under the age of 16 years, with intent to—

(a) facilitate the procurement of the person to engage in a sexual act, either in Queensland or elsewhere; or

(b) expose, without legitimate reason, the person to any indecent matter, either in Queensland or elsewhere;

commits a crime.

*Note—*

See section 1 for the definition *indecent matter*.

Maximum penalty—5 years imprisonment.

‘(2) The adult is liable to 10 years imprisonment if the person is—

(a) a person under 12 years; or

(b) a person the adult believes is under 12 years.

‘(3) For subsection (1)(a), a person engages in a sexual act if the person—

(a) allows a sexual act to be done to the person’s body; or

(b) does a sexual act to the person’s own body or the body of another person; or

(c) otherwise engages in an act of an indecent nature.

‘(4) Subsection (3) is not limited to sexual intercourse or acts involving physical contact.

[s 20]

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- ‘(5) For subsection (1)(a)—
- (a) it is not necessary to prove that the adult intended to facilitate the procurement of the person to engage in any particular sexual act; and
  - (b) it does not matter that, by reason of circumstances not known to the adult, it is impossible in fact for the person to engage in the sexual act; and
  - (c) it does not matter when the adult intended the person would be procured to engage in a sexual act.
- ‘(6) For subsection (1), it does not matter that the person is a fictitious person represented to the adult as a real person.
- ‘(7) Evidence that the person was represented to the adult as being under the age of 16 years, or 12 years, as the case may be, is, in the absence of evidence to the contrary, proof that the adult believed the person was under that age.
- ‘(8) It is a defence to a charge under this section to prove the adult believed on reasonable grounds that the person was at least 16 years.
- ‘(9) For an offence defined in subsection (1) alleged to have been committed with the circumstance of aggravation mentioned in subsection (2)(a), it is a defence to the circumstance of aggravation to prove that the adult believed on reasonable grounds that the person was at least 12 years.
- ‘(10) In this section—
- procure* means knowingly entice or recruit for the purposes of sexual exploitation.’.

## 20 Amendment of s 222 (Incest)

Section 222(8)—

*omit, insert*—

- ‘(8) This section does not apply to carnal knowledge between persons who are—
- (a) lawfully married; or

(b) if both persons are adults—entitled to be lawfully married.’.

**21 Amendment of s 228A (Involving child in making child exploitation material)**

Section 228A(1), penalty, ‘10 years imprisonment’—  
*omit, insert—*  
‘14 years imprisonment’.

**22 Amendment of s 228B (Making child exploitation material)**

Section 228B(1), penalty, ‘10 years imprisonment’—  
*omit, insert—*  
‘14 years imprisonment’.

**23 Amendment of s 228C (Distributing child exploitation material)**

Section 228C(1), penalty, ‘10 years imprisonment’—  
*omit, insert—*  
‘14 years imprisonment’.

**24 Amendment of s 228D (Possessing child exploitation material)**

Section 228D, penalty, ‘5 years imprisonment’—  
*omit, insert—*  
‘14 years imprisonment’.

**25 Amendment of s 228G (Forfeiture of child exploitation material etc.)**

Section 228G(1)(a)—

[s 26]

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*omit, insert—*

‘(a) section 210(1)(e) or (f), 218A or 218B; or’.

**26 Amendment of s 568 (Cases in which several charges may be joined)**

Section 568—

*insert—*

‘(10A) In an indictment against a person for an offence against section 228A, 228B, 228C or 228D, the person may be charged and proceeded against on 1 charge for the offence even though—

- (a) any number of separate acts constituting the offence have been committed, whether or not the separate acts constituting the offence can be identified; or
- (b) the separate acts constituting the offence have extended over any space of time; or
- (c) different acts constituting the offence took place at different times, whether or not the different acts can be identified.’.

**27 Insertion of new ch 91**

Part 9—

*insert—*

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## **‘Chapter 91      Transitional provisions for Criminal Law (Child Exploitation and Dangerous Drugs) Amendment Act 2013**

### **‘730      Indictments for offences**

‘This Code, as amended by the *Criminal Law (Child Exploitation and Dangerous Drugs) Amendment Act 2013*, section 26, applies to an indictment against a person for an offence against section 228A, 228B, 228C or 228D whether the act or omission constituting the offence happened before, on or after the commencement of this section.’.

## **Part 4                      Amendment of Disability Services Act 2006**

### **28      Act amended**

This part amends the *Disability Services Act 2006*.

### **29      Amendment of s 109 (Police commissioner may decide that information about a person is investigative information)**

- (1) Section 109(1)(a), (3)(a) and (4), after ‘schedule 6A’—  
*insert—*  
‘or 6B’.
- (2) Section 109(3), ‘*schedule 6A offence*’—  
*omit, insert—*  
‘*schedule 6A or 6B offence*’.

[s 30]

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- (3) Section 109(3), note, ‘schedule 6A’—  
*omit, insert*—  
‘schedules 6A and 6B’.

**30 Amendment of s 266 (Police commissioner’s decision that information is investigative information)**

Section 266(3), definition *schedule 6A offence*, after ‘section 109’—

*insert*—

‘as in force before the commencement of the *Criminal Law (Child Exploitation and Dangerous Drugs) Amendment Act 2013*, section 29’.

**31 Insertion of new pt 16, div 8**

Part 16—

*insert*—

**‘Division 8 Transitional provisions for Criminal Law (Child Exploitation and Dangerous Drugs) Amendment Act 2013**

**‘Subdivision 1 Interpretation**

**‘295 Definitions for div 8**

‘In this division—

*amended Act* means this Act as amended by the *Criminal Law (Child Exploitation and Dangerous Drugs) Amendment Act 2013*.

*commencement* means the commencement of this section.



*new disqualified person* means a person who is a disqualified person only because the person has been convicted or is convicted of a new disqualifying offence.

*new disqualifying offence* means an offence that is a disqualifying offence under this Act but was not a disqualifying offence under this Act immediately before the commencement.

*new relevant disqualified person* means a person who is a relevant disqualified person only because the person has been convicted or is convicted of a new disqualifying offence for which an imprisonment order has been or is imposed.

*new serious offence* means an offence that is a serious offence under this Act but was not a serious offence under this Act immediately before the commencement.

## **‘Subdivision 2 Prescribed notice applications and prescribed notices**

### **‘296 Existing prescribed notice application by new relevant disqualified person**

- ‘(1) This section applies if—
- (a) before the commencement a prescribed notice application had been made about a person; and
  - (b) immediately before the commencement the application had not been decided or withdrawn; and
  - (c) at the commencement the person is a new relevant disqualified person.
- ‘(2) The person’s application is taken to be withdrawn.
- ‘(3) The chief executive must give written notice about the withdrawal of the application to the person and the funded non-government service provider who made the application.

[s 31]

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**‘297 Existing prescribed notice application if person charged with new disqualifying offence or is new disqualified person but not new relevant disqualified person**

- ‘(1) This section applies if—
- (a) before the commencement a prescribed notice application had been made about a person; and
  - (b) immediately before the commencement the application had not been decided or withdrawn; and
  - (c) at the commencement the person—
    - (i) is charged with a new disqualifying offence; or
    - (ii) is a new disqualified person but not a new relevant disqualified person.

*Note—*

If a person holds a positive notice, see also sections 300 and 301.

- ‘(2) Subsection (3) applies if—
- (a) at the commencement the person is charged with a new disqualifying offence; or
  - (b) at the commencement the person is a new disqualified person but not a new relevant disqualified person and, at the time of making the application—
    - (i) was not issued, or not taken to have been issued, an eligibility declaration; and
    - (ii) did not hold a positive notice.

- ‘(3) At the commencement—
- (a) the application is taken to be withdrawn; and
  - (b) the chief executive must give written notice about the withdrawal of the application to the person and the funded non-government service provider who made the application.

*Note—*

If a person charged with a new disqualifying offence also holds a positive notice, see also sections 301 and 104.

- 
- ‘(4) Subsection (5) applies if the person is a new disqualified person but not a new relevant disqualified person and at the time of making the application the person—
- (a) was not issued, or not taken to have been issued, an eligibility declaration; and
  - (b) held a positive notice that was not suspended.
- ‘(5) At the commencement—
- (a) the person is taken to have been issued an eligibility declaration other than for section 85(6)(b); and
  - (b) the chief executive must decide the application under the amended Act.
- ‘(6) If the person is a new disqualified person but not a new relevant disqualified person and, at the time of the application the person was issued an eligibility declaration, at the commencement the chief executive must decide the application under the amended Act but section 85(6)(b) does not apply to the chief executive making the decision.
- ‘(7) For subsections (3) and (6), if before the commencement the chief executive had, under section 100, cancelled a negative notice issued to the person, on the commencement section 85(6)(a) does not apply to the chief executive making the decision.

## **‘298 Other existing prescribed notice applications**

- ‘(1) This section applies if—
- (a) before the commencement a prescribed notice application had been made about a person; and
  - (b) immediately before the commencement the application had not been decided or withdrawn; and
  - (c) section 296 or 297 does not apply.
- ‘(2) At the commencement the chief executive must decide the application under the amended Act.

[s 31]

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**‘299 Current positive notice for new relevant disqualified person**

- ‘(1) This section applies if—
- (a) before the commencement a person held a positive notice; and
  - (b) immediately before the commencement the notice was current; and
  - (c) at the commencement the person is a new relevant disqualified person.
- ‘(2) At the commencement the amended Act applies and the chief executive must cancel the person’s positive notice and substitute a negative notice under section 102.

*Note—*

Under section 99, a person must return their cancelled positive notice and any positive notice card issued to the person to the chief executive.

- ‘(3) Also, if the positive notice is suspended under section 104 at the commencement, any application for the cancellation of the suspension under section 105 that has not been decided or withdrawn at the commencement is taken to have been withdrawn.
- ‘(4) The chief executive must give written notice about the withdrawal of the application under subsection (3) to the person and the funded non-government service provider who made the application.

**‘300 Current positive notice for new disqualified person other than new relevant disqualified person**

- ‘(1) This section applies if—
- (a) before the commencement a person held a positive notice; and
  - (b) immediately before the commencement the notice was current; and
  - (c) at the commencement the person is a new disqualified person but not a new relevant disqualified person.

- 
- ‘(2) If, at the commencement, the person’s positive notice is suspended under section 104, the amended Act applies in relation to the positive notice.
  - ‘(3) If, at the commencement, the person is not issued, or not taken to have been issued, an eligibility declaration and the person’s positive notice is not suspended under section 104—
    - (a) the person is taken to have been issued an eligibility declaration under section 107H; and
    - (b) the amended Act applies in relation to the positive notice.
  - ‘(4) If, at the commencement, the person is issued, or taken to have been issued, an eligibility declaration and the person’s positive notice is not suspended under section 104, the amended Act applies in relation to the person’s positive notice.
  - ‘(5) If, after the commencement, the chief executive is to make a decision about the person under section 85, and it is the first time the chief executive is to make a decision under that section about the person after the commencement, section 85(6)(b) does not apply to the chief executive making the decision.

### ‘301 Other current positive notices

- ‘(1) This section applies if—
  - (a) before the commencement a person held a positive notice; and
  - (b) immediately before the commencement the positive notice was current; and
  - (c) section 299 or 300 does not apply.
- ‘(2) The amended Act applies to the person’s positive notice.

[s 31]

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### **‘Subdivision 3      Exemption notice applications and exemption notices**

#### **‘302      Existing exemption notice application by new relevant disqualified person or person charged with a new disqualifying offence**

- ‘(1) This section applies if—
- (a) before the commencement an exemption notice application was made about a person; and
  - (b) immediately before the commencement the application has not been decided or withdrawn; and
  - (c) at the commencement—
    - (i) the person is a new relevant disqualified person; or
    - (ii) the person is charged with a new disqualifying offence.
- ‘(2) The application is taken to be withdrawn.
- ‘(3) The chief executive must give written notice about the withdrawal of the application to the person and the funded non-government service provider who made the application.

#### **‘303      Existing exemption notice application if person is new disqualified person but not new relevant disqualified person**

- ‘(1) This section applies if—
- (a) before the commencement an exemption notice application was made about a person; and
  - (b) immediately before the commencement the application had not been decided or withdrawn; and
  - (c) at the commencement the person is a new disqualified person but not a new relevant disqualified person.
- ‘(2) At the commencement the chief executive must decide the application under the amended Act.

- 
- ‘(3) However, if before the commencement the chief executive had under section 100 cancelled a negative exemption notice issued to the person, on the commencement section 85(6)(a) does not apply to the chief executive making the decision.
  - ‘(4) The chief executive may only act under section 89C(3) if the chief executive has acted under section 89D after the commencement.

### **‘304 Other existing exemption notice applications**

- ‘(1) This section applies if—
  - (a) before the commencement an exemption notice application was made about a person; and
  - (b) immediately before the commencement the application had not been decided or withdrawn; and
  - (c) section 302 or 303 does not apply.
- ‘(2) At the commencement the chief executive must decide the application under the amended Act.
- ‘(3) Also, the chief executive may only act under section 89C(3) if the chief executive has acted under section 89D after the commencement.

### **‘305 Current positive exemption notice for person whose CCYPCG positive notice is cancelled**

- ‘(1) This section applies if—
  - (a) before the commencement a person held a positive exemption notice; and
  - (b) immediately before the commencement the notice was current; and
  - (c) at the commencement the person no longer holds a CCYPCG positive notice.
- ‘(2) At the commencement the person’s positive exemption notice ceases to have effect under section 89F.

[s 31]

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‘(3) Section 105C applies in relation to the positive exemption notice.

*Note—*

1 Section 105C(2) requires the chief executive to give notice to a person if the person’s positive exemption notice has ceased to have effect under section 89F.

2 Section 105C(5) requires the person to return their positive exemption notice to the chief executive.

‘(4) Also, if the person’s positive exemption notice was suspended under section 105A immediately before the commencement, any application for the cancellation of the suspension under section 105B that has not been decided or withdrawn at the commencement is taken to have been withdrawn.

‘(5) The chief executive must give written notice about the withdrawal of the application under subsection (4) to the person and the funded non-government service provider who made the application.

### ‘306 Other positive exemption notices

‘(1) This section applies if—

(a) before the commencement a person held a positive exemption notice; and

(b) immediately before the commencement the notice was current; and

(c) section 305 does not apply.

‘(2) At the commencement the amended Act applies to the positive exemption notice.



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**‘Subdivision 4 Existing applications for cancellation or ending suspension of prescribed notices and exemption notices**

**‘307 Existing applications to cancel negative notice or negative exemption notice**

- ‘(1) This section applies if—
- (a) before the commencement a person had applied to the chief executive to cancel the person’s negative notice or negative exemption notice under section 100; and
  - (b) immediately before the commencement, the application had not been decided.
- ‘(2) At the commencement—
- (a) if the person is a new relevant disqualified person—
    - (i) the application is taken to be withdrawn; and
    - (ii) the chief executive must give written notice about the withdrawal of the application to the person; or
  - (b) if the person is not a new relevant disqualified person—the chief executive must decide the application under the amended Act.

**‘308 Existing application to end suspension of positive notice for person other than new relevant disqualified person**

- ‘(1) This section applies if—
- (a) before the commencement a person had applied to the chief executive to cancel the person’s suspended positive notice under section 105; and
  - (b) immediately before the commencement the application had not been decided; and

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- (c) at the commencement the person is not a new relevant disqualified person.
- ‘(2) At the commencement the chief executive must decide the application under the amended Act.

**‘309 Existing application to end suspension of positive exemption notice for person other than new relevant disqualified person**

- ‘(1) This section applies if—
  - (a) before the commencement a person had applied to the chief executive to cancel the person’s suspended positive exemption notice under section 105B; and
  - (b) immediately before the commencement the application had not been decided; and
  - (c) at the commencement the person is not a new relevant disqualified person.
- ‘(2) At the commencement the chief executive must decide the application under the amended Act.

**‘Subdivision 5 Eligibility applications and eligibility declarations**

**‘310 Existing eligibility application**

- ‘(1) This section applies if—
  - (a) before the commencement a person had made an eligibility application to the chief executive under section 107F; and
  - (b) immediately before the commencement the person’s eligibility application had not been decided or withdrawn.
- ‘(2) At the commencement the chief executive must decide the application under the amended Act.

*Note—*

The chief executive may issue an eligibility declaration if the person has been convicted of a disqualifying offence and is not a relevant disqualified person. See section 107H(1).

**‘311 Current eligibility declaration for new relevant disqualified person or person charged with new disqualifying offence**

- ‘(1) This section applies to a person if—
- (a) before the commencement the chief executive had issued, or was taken to have issued, the person an eligibility declaration; and
  - (b) immediately before the commencement the person’s eligibility declaration had not expired; and
  - (c) at the commencement the person—
    - (i) is a new relevant disqualified person; or
    - (ii) is charged with a new disqualifying offence.
- ‘(2) At the commencement the person’s eligibility declaration is taken to have expired.

*Note—*

If the person also holds a positive notice, see sections 299 and 301.

**‘312 Current eligibility declaration for person convicted of new serious offence**

- ‘(1) This section applies to a person if—
- (a) before the commencement the chief executive had issued, or was taken to have issued, the person an eligibility declaration; and
  - (b) immediately before the commencement the person’s eligibility declaration had not expired; and
  - (c) before the commencement the person was convicted of a new serious offence.
- ‘(2) At the commencement—

[s 31]

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- (a) the amended Act applies to the person's eligibility declaration; and
  - (b) the person's eligibility declaration is taken to have been issued on the commencement.
- ‘(3) If, after the commencement, the chief executive is to make a decision about the person under section 85, and it is the first time the chief executive is to make a decision under that section about the person after the commencement, section 85(6)(b) does not apply to the chief executive making the decision.

### **‘313 Other eligibility declarations**

- ‘(1) This section applies to a person if—
- (a) before the commencement the chief executive had issued, or was taken to have issued, the person an eligibility declaration; and
  - (b) immediately before the commencement the person's eligibility declaration had not expired; and
  - (c) at the commencement section 311 or 312 does not apply.
- ‘(2) At the commencement the amended Act applies to the person's eligibility declaration.

### **‘314 Existing application for reversal of decision refusing an eligibility declaration**

- ‘(1) This section applies if—
- (a) before the commencement a person had made an application under section 107N(2) to the chief executive; and
  - (b) immediately before the commencement the application had not been decided.
- ‘(2) At the commencement the amended Act applies and the chief executive may decide the application under the amended Act.

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## **‘Subdivision 6      Reviews and appeals**

### **‘315      Undecided reviews and appeals by new disqualified persons**

- ‘(1) This section applies if—
- (a) before the commencement, a person—
    - (i) applied, under section 108A, for a review of a part 10 reviewable decision; or
    - (ii) appealed, under the QCAT Act, against a decision of the tribunal relating to a part 10 reviewable decision; and
  - (b) at the commencement—
    - (i) the application or appeal has not been decided; and
    - (ii) the person is a new disqualified person.
- ‘(2) The application or appeal, and any proceeding in relation to the application or appeal, must be dismissed—
- (a) if a proceeding in relation to the application or appeal is before a court—by the court; or
  - (b) otherwise—by the tribunal, even if the dismissal would be contrary to a direction of the Court of Appeal.

### **‘316      Review of part 10 reviewable decision about new disqualified person**

- ‘(1) This section applies if—
- (a) before the commencement—
    - (i) the chief executive makes a part 10 reviewable decision about a person; and
    - (ii) the person has not applied for a review of the decision under section 108A; and
  - (b) the person is a new disqualified person at the commencement.

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‘(2) At the commencement, the amended Act applies.

*Note—*

Under section 108A, only a person who is not a disqualified person may apply for a review of a part 10 reviewable decision.

**‘317 Appeal by new disqualified person against decision of tribunal on review of part 10 reviewable decision**

‘(1) This section applies if—

- (a) before the commencement, a person may appeal under the QCAT Act against a decision of the tribunal relating to a part 10 reviewable decision; and
- (b) at the commencement—
  - (i) the time within which the person may appeal under the QCAT Act has not passed; and
  - (ii) the person is a new disqualified person.

‘(2) Any appeal by the person against the decision must be dismissed—

- (a) if a proceeding in relation to the appeal is before a court—by the court; or
- (b) otherwise—by the tribunal, even if the dismissal would be contrary to a direction of the Court of Appeal.

**‘318 Existing appeal by chief executive against decision of tribunal on review of part 10 reviewable decision**

‘(1) This section applies if—

- (a) before the commencement, the chief executive appealed, under the QCAT Act, against a decision of the tribunal relating to a part 10 reviewable decision about a person; and
- (b) at the commencement—
  - (i) the appeal has not been decided; and
  - (ii) the person is a new disqualified person.

- 
- ‘(2) The entity hearing the appeal must apply the amended Act in relation to the matter the subject of the appeal.

**‘319 Appeal by chief executive against decision of tribunal on review of part 10 reviewable decision**

- ‘(1) This section applies if—
- (a) before the commencement, the chief executive may appeal under the QCAT Act against a decision of the tribunal relating to a part 10 reviewable decision about a person; and
  - (b) at the commencement—
    - (i) the time within which the chief executive may appeal under the QCAT Act (the *appeal period*) has not passed; and
    - (ii) the person is a new disqualified person.
- ‘(2) The chief executive may appeal against the decision within the appeal period and the entity hearing the appeal must apply the amended Act in relation to the matter the subject of the appeal.

**‘320 Existing reviews and appeals against part 10 reviewable decisions by persons other than new disqualified persons**

- ‘(1) This section applies if—
- (a) before the commencement—
    - (i) a person applied, under section 108A, for a review of a part 10 reviewable decision; or
    - (ii) the chief executive or another person appealed, under the QCAT Act, against a decision of the tribunal relating to a part 10 reviewable decision; and
  - (b) at the commencement—
    - (i) the review or appeal has not been decided; and

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- (ii) the person about whom the part 10 reviewable decision was made is not a new disqualified person.
- ‘(2) The entity hearing the review or appeal must apply the amended Act in relation to the matter the subject of the review or appeal.
- ‘(3) To remove any doubt, it is declared that section 108B applies in relation to the application for the review.

### **‘321 Review of part 10 reviewable decision about person other than new disqualified person**

- ‘(1) This section applies if—
  - (a) before the commencement—
    - (i) the chief executive makes a part 10 reviewable decision about a person; and
    - (ii) the person has not applied for a review of the decision under section 108A; and
  - (b) at the commencement—
    - (i) the period within which the person could have applied for a review of the decision under section 108A (the *review period*) has not passed; and
    - (ii) the person is not a new disqualified person.
- ‘(2) The person may apply for a review of the decision under section 108A within the review period.

## **‘Subdivision 7 Miscellaneous**

### **‘322 Chief executive acting on own initiative**

- ‘(1) This section applies if—
  - (a) before the commencement the chief executive had started, on the chief executive’s own initiative, to exercise a power in relation to the following—



- (i) a person;
  - (ii) an eligibility application;
  - (iii) a prescribed notice;
  - (iv) an exemption notice; and
  - (b) on the commencement the chief executive may exercise the power under the amended Act in relation to the person, application or notice.
- ‘(2) The chief executive may exercise the power under the amended Act in relation to the person, application or notice.

**‘323 Disqualification orders for acts done or omissions made before commencement**

‘A court may make a disqualification order under section 122 in relation to a person convicted of an offence after the commencement arising out of an act done or omission made before the commencement.

**‘324 Effect of conviction or charge for new disqualifying offence**

- ‘(1) For applying section 107D(1)(a) and schedule 7, definition *relevant disqualified person*, paragraph (a), it is immaterial when the offence mentioned in the provision was committed or when the person to whom the provision applies was convicted.
- ‘(2) Section 104 applies in relation to a person who holds a current positive notice who is charged with a new disqualifying offence even if the charge, or the acts or omissions constituting the alleged offence, happened before the commencement.
- ‘(3) Section 105A applies in relation to a person who holds a current positive exemption notice who is charged with a new disqualifying offence even if the charge, or the acts or omissions constituting the alleged offence, happened before the commencement.

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- ‘(4) Without limiting this division, in applying the amended Act on and from the commencement, it is immaterial—
- (a) when a new disqualifying offence or new serious offence was committed; or
  - (b) when a person was convicted of a new disqualifying offence or new serious offence; or
  - (c) when a charge for a new disqualifying offence, or the acts or omissions constituting the alleged offence, happened.

*Example—*

An offence may have been committed, and the person convicted of the offence, before the commencement.’.

## **32 Amendment of sch 3 (Current serious offences)**

- (1) Schedule 3, item 4, entry for Criminal Code—

*insert—*

‘218B Grooming children  
under 16’.

- (2) Schedule 3, item 4, entry for Criminal Code, entry for section 229G, after ‘Procuring’—

*insert—*

‘engagement in’.

- (3) Schedule 3, item 5, entry for *Drugs Misuse Act 1986*—

*insert—*

‘9D Trafficking in  
relevant substances  
or things’.

- (4) Schedule 3, item 6, entry for *Crimes Act 1914* (Cwlth)—

*omit.*

- (5) Schedule 3, item 7, entry for Criminal Code (Cwlth)—

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*insert—*

- ‘272.8 Sexual intercourse  
with child outside  
Australia
- 272.9 Sexual activity  
(other than sexual  
intercourse) with  
child outside  
Australia
- 272.10 Aggravated  
offence—child  
with mental  
impairment or  
under care,  
supervision or  
authority of  
defendant
- 272.11 Persistent sexual  
abuse of child  
outside Australia
- 272.12 Sexual intercourse  
with young person  
outside Australia—  
defendant in  
position of trust or  
authority
- 272.13 Sexual activity  
(other than sexual  
intercourse) with  
young person  
outside Australia—  
defendant in  
position of trust or  
authority

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- 272.14 Procuring child to engage in sexual activity outside Australia
- 272.15 “Grooming” child to engage in sexual activity outside Australia
- 272.18 Benefiting from offence against this Division
- 272.19 Encouraging offence against this Division
- 272.20 Preparing for or planning offence against this Division
- 273.5 Possessing, controlling, producing, distributing or obtaining child pornography material outside Australia
- 273.6 Possessing, controlling, producing, distributing or obtaining child abuse material outside Australia

- 273.7 Aggravated offence—offence involving conduct on 3 or more occasions and 2 or more people
- 471.16 Using a postal or similar service for child pornography material
- 471.17 Possessing, controlling, producing, supplying or obtaining child pornography material for use through a postal or similar service
- 471.19 Using a postal or similar service for child abuse material
- 471.20 Possessing, controlling, producing, supplying or obtaining child abuse material for use through a postal or similar service
- 471.22 Aggravated offence—offence involving conduct on 3 or more occasions and 2 or more people

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- 471.24 Using a postal or similar service to procure persons under 16
- 471.25 Using a postal or similar service to “groom” persons under 16
- 471.26 Using a postal or similar service to send indecent material to person under 16
- 474.24A Aggravated offence—offence involving conduct on 3 or more occasions and 2 or more people
- 474.25A Using a carriage service for sexual activity with person under 16 years of age
- 474.25B Aggravated offence—child with mental impairment or under care, supervision or authority of defendant
- 474.27A Using a carriage service to transmit indecent communication to person under 16 years of age’.

- (6) Schedule 3, items 7, as amended, and 8—  
*renumber* as schedule 3, items 6 and 7.

### 33 Amendment of sch 4 (Repealed or expired serious offences)

- (1) Schedule 4, entry for Criminal Code—  
*insert*—

‘218A Using internet etc. as the provision was in force from  
to procure children time to time before its repeal by the  
under 16 *Criminal Law (Child Exploitation  
and Dangerous Drugs) Amendment  
Act 2013*’.

- (2) Schedule 4—  
*insert*—

‘2 *Crimes Act 1914* (Cwlth)

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
50BA	Sexual intercourse with child under 16	as the provision was in force from time to time before its repeal by the <i>Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010</i> (Cwlth)
50BB	Inducing child under 16 to engage in sexual intercourse	as the provision was in force from time to time before its repeal by the <i>Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010</i> (Cwlth)
50BC	Sexual conduct involving child under 16	as the provision was in force from time to time before its repeal by the <i>Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010</i> (Cwlth)
50BD	Inducing child under 16 to be involved in sexual conduct	as the provision was in force from time to time before its repeal by the <i>Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010</i> (Cwlth)

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50DA	Benefiting from offence against this Part	as the provision was in force from time to time before its repeal by the <i>Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010</i> (Cwlth)
50DB	Encouraging offence against this Part	as the provision was in force from time to time before its repeal by the <i>Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010</i> (Cwlth)'.

### **34 Amendment of sch 5 (Current disqualifying offences)**

(1) Schedule 5, item 4, entry for Criminal Code—

*insert—*

‘218B Grooming children under 16’.

(2) Schedule 5, item 4, entry for Criminal Code, entry for section 229G, after ‘Procuring’—

*insert—*

‘engagement in’.

(3) Schedule 5, item 5, entry for *Crimes Act 1914* (Cwlth)—

*omit.*

(4) Schedule 5, item 6, entry for Criminal Code (Cwlth)—

*insert—*

‘272.8 Sexual intercourse with child outside Australia

272.9 Sexual activity (other than sexual intercourse) with child outside Australia



- 272.10 Aggravated offence—child with mental impairment or under care, supervision or authority of defendant
- 272.11 Persistent sexual abuse of child outside Australia
- 272.12 Sexual intercourse with young person outside Australia—defendant in position of trust or authority
- 272.13 Sexual activity (other than sexual intercourse) with young person outside Australia—defendant in position of trust or authority
- 272.14 Procuring child to engage in sexual activity outside Australia
- 272.15 “Grooming” child to engage in sexual activity outside Australia
- 272.18 Benefiting from offence against this Division

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- 272.19 Encouraging  
offence against this  
Division
- 272.20 Preparing for or  
planning offence  
against this  
Division
- 273.5 Possessing,  
controlling,  
producing,  
distributing or  
obtaining child  
pornography  
material outside  
Australia
- 273.6 Possessing,  
controlling,  
producing,  
distributing or  
obtaining child  
abuse material  
outside Australia
- 273.7 Aggravated  
offence—offence  
involving conduct  
on 3 or more  
occasions and 2 or  
more people
- 471.16 Using a postal or  
similar service for  
child pornography  
material

- 471.17 Possessing,  
controlling,  
producing,  
supplying or  
obtaining child  
pornography  
material for use  
through a postal or  
similar service
- 471.19 Using a postal or  
similar service for  
child abuse  
material
- 471.20 Possessing,  
controlling,  
producing,  
supplying or  
obtaining child  
abuse material for  
use through a postal  
or similar service
- 471.22 Aggravated  
offence—offence  
involving conduct  
on 3 or more  
occasions and 2 or  
more people
- 471.24 Using a postal or  
similar service to  
procure persons  
under 16
- 471.25 Using a postal or  
similar service to  
“groom” persons  
under 16

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471.26 Using a postal or similar service to send indecent material to person under 16

474.24A Aggravated offence—offence involving conduct on 3 or more occasions and 2 or more people

474.25A Using a carriage service for sexual activity with person under 16 years of age

474.25B Aggravated offence—child with mental impairment or under care, supervision or authority of defendant

474.27A Using a carriage service to transmit indecent communication to person under 16 years of age’.

(5) Schedule 5, items 6, as amended, and 7—  
*renumber* as schedule 5, items 5 and 6.

**35 Amendment of sch 6 (Repealed or expired disqualifying offences)**

(1) Schedule 6, entry for Criminal Code—

*insert—*

‘218A Using internet etc. to procure children under 16 as the provision was in force from time to time before its repeal by the *Criminal Law (Child Exploitation and Dangerous Drugs) Amendment Act 2013*’.

(2) Schedule 6—

*insert—*

‘2 *Crimes Act 1914* (Cwlth)

<b>Provision of Act</b>	<b>Relevant heading</b>	<b>Qualification relating to the provision of the Act</b>
50BA	Sexual intercourse with child under 16	as the provision was in force from time to time before its repeal by the <i>Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010</i> (Cwlth)
50BB	Inducing child under 16 to engage in sexual intercourse	as the provision was in force from time to time before its repeal by the <i>Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010</i> (Cwlth)
50BC	Sexual conduct involving child under 16	as the provision was in force from time to time before its repeal by the <i>Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010</i> (Cwlth)
50BD	Inducing child under 16 to be involved in sexual conduct	as the provision was in force from time to time before its repeal by the <i>Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010</i> (Cwlth)
50DA	Benefiting from offence against this Part	as the provision was in force from time to time before its repeal by the <i>Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010</i> (Cwlth)
50DB	Encouraging offence against this Part	as the provision was in force from time to time before its repeal by the <i>Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010</i> (Cwlth)’.

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**36 Amendment of sch 6A (Offences that may form basis of investigative information)**

(1) Schedule 6A, item 4, entry for Criminal Code—  
*insert—*

‘218B Grooming children  
under 16’.

(2) Schedule 6A, item 4, entry for Criminal Code, entry for section 229G, after ‘Procuring’—

*insert—*  
‘engagement in’.

(3) Schedule 6A, item 5, entry for *Crimes Act 1914* (Cwlth)—  
*omit.*

(4) Schedule 6A, item 6, entry for Criminal Code (Cwlth)—  
*insert—*

‘272.8 Sexual intercourse  
with child outside  
Australia

272.9 Sexual activity  
(other than sexual  
intercourse) with  
child outside  
Australia

272.10 Aggravated  
offence—child  
with mental  
impairment or  
under care,  
supervision or  
authority of  
defendant

- 
- 272.11 Persistent sexual abuse of child outside Australia
- 272.12 Sexual intercourse with young person outside Australia—defendant in position of trust or authority
- 272.13 Sexual activity (other than sexual intercourse) with young person outside Australia—defendant in position of trust or authority
- 272.14 Procuring child to engage in sexual activity outside Australia
- 272.15 “Grooming” child to engage in sexual activity outside Australia’.
- (5) Schedule 6A, item 6, as amended—  
*renumber* as schedule 6A, item 5.

**37 Insertion of new sch 6B**

After schedule 6A—  
*insert*—

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## **‘Schedule 6B Repealed or expired offences that may form basis of investigative information**

section 109

*‘Crimes Act 1914 (Cwlth)*

<b>Provision of Act</b>	<b>Relevant heading</b>	<b>Qualification relating to the provision of the Act</b>
50BA	Sexual intercourse with child under 16	as the provision was in force from time to time before its repeal by the <i>Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010</i> (Cwlth)
50BB	Inducing child under 16 to engage in sexual intercourse	as the provision was in force from time to time before its repeal by the <i>Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010</i> (Cwlth)
50BC	Sexual conduct involving child under 16	as the provision was in force from time to time before its repeal by the <i>Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010</i> (Cwlth)
50BD	Inducing child under 16 to be involved in sexual conduct	as the provision was in force from time to time before its repeal by the <i>Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010</i> (Cwlth)’.

### **38 Amendment of sch 7 (Dictionary)**

- (1) Schedule 7, definition *commencement*—  
*omit.*
- (2) Schedule 7—  
*insert—*



*'amended Act*, for part 16, division 8, see section 295.

*commencement*—

- (a) for part 16, division 2—see section 235; or
- (b) for part 16, division 3—see section 241(1); or
- (c) for part 16, division 5, subdivision 2—see section 253;  
or
- (d) for part 16, division 5, subdivision 3—see section 260;  
or
- (e) for part 16, division 5, subdivision 4—see section 270;  
or
- (f) for part 16, division 8—see section 295.

*new disqualified person*, for part 16, division 8, see section 295.

*new disqualifying offence*, for part 16, division 8, see section 295.

*new relevant disqualified person*, for part 16, division 8, see section 295.

*new serious offence*, for part 16, division 8, see section 295.ʹ.

- (3) Schedule 7, definition *unamended Act*, paragraph (c)—  
*omit, insert*—

ʹ(c) for part 16, division 5, subdivision 4—see section 270.ʹ.

## **Part 5**                                      **Amendment of Drugs Misuse Act 1986**

### **39     Act amended**

This part amends the *Drugs Misuse Act 1986*.

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#### **40 Amendment of s 4 (Definitions)**

- (1) Section 4—

*insert—*

‘***Australian Crime Commission*** means the Australian Crime Commission established under the *Australian Crime Commission Act 2002* (Cwlth), section 7.’

- (2) Section 4, definition *dangerous drug*, paragraph (c), from ‘that has a chemical structure’—

*omit, insert—*

‘that—

- (i) has a chemical structure that is substantially similar to the chemical structure of a thing referred to in paragraph (a) or (b); or
- (ii) has a pharmacological effect that is substantially similar to the pharmacological effect of a thing referred to in paragraph (a) or (b); or
- (iii) is intended to have a pharmacological effect that is substantially similar to the pharmacological effect of a thing referred to in paragraph (a) or (b);’.

- (3) Section 4, definition *dangerous drug*—

*insert—*

‘*Note—*

See also section 4BA for when a thing is intended to have a pharmacological effect that is substantially similar to the pharmacological effect of a thing referred to in paragraph (a) or (b).’.

#### **40A Insertion of new s 4BA**

After section 4B—

*insert—*

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**‘4BA Provision about s 4, definition *dangerous drug*, paragraph (c)(iii)**

- ‘(1) This section applies if, in a proceeding for an offence against this or another Act, it is relevant to prove that a thing is a dangerous drug under section 4, definition *dangerous drug*, paragraph (c)(iii).
- ‘(2) The thing is a dangerous drug if it is intended, by the accused person, to have a pharmacological effect that is substantially similar to the pharmacological effect of a thing referred to in section 4, definition *dangerous drug*, paragraph (a) or (b).’.

**41 Amendment of s 9A (Possessing relevant substances or things)**

Section 9A—

*insert—*

- ‘(1A) It is a defence to a charge of an offence against subsection (1) for a person to prove that the person has a reasonable excuse for possessing the relevant substance or thing.’.

**42 Insertion of new s 9D**

After section 9C—

*insert—*

**‘9D Trafficking in relevant substances or things**

‘A person who carries on the business of unlawfully trafficking in a relevant substance or thing as defined under section 9A(2), for use in connection with the commission of a crime under section 8, commits a crime.

Maximum penalty—20 years imprisonment.’.

**43 Amendment of s 10 (Possessing things)**

Section 10, after subsection (4)—

*insert—*

[s 44]

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‘(4AA) For subsection (4), it is immaterial whether the hypodermic syringe or needle was for use, or had been used, in connection with the administration of a dangerous drug.’.

**44 Amendment of s 30 (Interpretation)**

- (1) Section 30(1), definition *court*, paragraph (b)—  
*renumber* as paragraph (c).
- (2) Section 30(1), definition *court*—  
*insert*—  
‘(b) the District Court; or’.

**45 Amendment of s 43U (Confidentiality of information)**

- (1) Section 43U(2)(c) and (d)—  
*renumber* as section 43U(2)(d) and (e).
- (2) Section 43U(2)—  
*insert*—  
‘(c) disclosure of information to a member of the staff of the Australian Crime Commission to enable the member to perform his or her functions as a member of the staff of the Australian Crime Commission; or’.

**46 Amendment of s 46 (Definitions for pt 5B)**

Section 46, definition *serious offence*, paragraph (a)(ii), ‘or 8’—  
*omit, insert*—  
‘, 8 or 9D’.

**47 Replacement of pt 7, hdg (Transitional provisions)**

Part 7, heading—  
*omit, insert*—

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**‘Part 7**                                      **Transitional and validating provisions’.**

**48**                      **Insertion of new pt 7, div 8**

Part 7—

*insert—*

**‘Division 8**                                      **Provisions for Criminal Law (Child Exploitation and Dangerous Drugs) Amendment Act 2013**

**‘143**                      **Validation of orders for forfeiture or restraint made by District Court before commencement**

- ‘(1) This section applies to an order made before the commencement of this section by the District Court under part 5.
- ‘(2) The order is taken to be, and always to have been, as valid and effective as it would have been if section 30(1), definition *court* included a reference to the District Court at the relevant time.

**‘144**                      **Amendment of regulation by Criminal Law (Child Exploitation and Dangerous Drugs) Amendment Act 2013 does not affect powers of Governor in Council**

‘The amendment of the *Drugs Misuse Regulation 1987* by the *Criminal Law (Child Exploitation and Dangerous Drugs) Amendment Act 2013* does not affect the power of the Governor in Council to further amend the regulation or to repeal it.’.

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## **Part 6                                  Amendment of Drugs Misuse Regulation 1987**

### **49            Regulation amended**

This part amends the *Drugs Misuse Regulation 1987*.

### **50            Amendment of sch 8A (Gross weight of relevant substances for ss 9A, 9B and 9C of Act)**

(1) Schedule 8A, heading, 'and 9C'—

*omit, insert—*

**' , 9C and 9D'.**

(2) Schedule 8A, heading, '9C and 134'—

*omit, insert—*

'9C, 9D and 134'.

### **51            Amendment of sch 8B (Things specified for ss 9A, 9B and 9C, and prescribed for s 134, of Act)**

(1) Schedule 8B, heading, 'and 9C'—

*omit, insert—*

**' , 9C and 9D'.**

(2) Schedule 8B, heading, '9C and 134'—

*omit, insert—*

'9C, 9D and 134'.

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## **Part 7**    **Amendment of Evidence Act 1977**

### **52 Act amended**

This part amends the *Evidence Act 1977*.

### **53 Amendment of s 54 (Proof of identity of a person convicted)**

Section 54—

*omit, insert—*

### **‘54 Proof of identity of a person convicted**

- ‘(1) If a person (the *alleged offender*) is alleged to have been convicted in Queensland, the Commonwealth or another State or Territory of an offence, an affidavit that complies with subsection (2) is proof, unless the contrary is proved, the alleged offender—
- (a) has been convicted of an offence stated in the affidavit under subsection (2)(c)(iii); and
  - (b) is the person who is referred to as having been convicted in a certificate of conviction exhibited to the affidavit under subsection (2)(b).
- ‘(2) The affidavit must—
- (a) purport to be made by an expert; and
  - (b) exhibit a certificate of conviction for the offence the alleged offender is alleged to have been convicted of; and
  - (c) state the following—
    - (i) the expert’s field of expertise;
    - (ii) the process and evidence used by the expert to determine the identity of the alleged offender based on available identifying records;

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- (iii) any offence that, based on the results of the expert's determination mentioned in subparagraph (ii), a police record states the alleged offender has been convicted of;
  - (iv) that, based on the results of the expert's determination mentioned in subparagraph (ii), and the police record mentioned in subparagraph (iii), the expert believes that the alleged offender is the person who is referred to as having been convicted in the certificate of conviction exhibited to the affidavit under subsection (2)(b).
- '(3) If a party to a proceeding intends to rely on the affidavit (the *relying party*), the party must give a copy of the affidavit to each other party to the proceeding—
  - (a) at least 10 business days before the hearing day; or
  - (b) if, in the particular circumstances, the court considers it just to shorten the period mentioned in paragraph (a)—by a later date allowed by the court.
- '(4) If a party to the proceeding, other than the relying party, intends to challenge a matter stated in the affidavit, the party must give the relying party notice in writing of the matter to be challenged—
  - (a) at least 3 business days before the hearing day; or
  - (b) if subsection (3)(b) applies and, in the particular circumstances, the court considers it just to shorten the period mentioned in paragraph (a)—by a later date allowed by the court.
- '(5) If a party to the proceeding (the *notifying party*) gives the relying party a notice under subsection (4), then, unless the notifying party otherwise agrees, the relying party must ensure that the expert is available at the hearing of the proceeding for cross-examination on the affidavit.
- '(6) In this section—



***certificate of conviction***, for an offence, means a document purporting to be the certificate of conviction, or a certified copy of the certificate of conviction, for the offence.

***corresponding law***, in relation to a provision of a Queensland law, means a law of the Commonwealth or another State or Territory corresponding, or substantially corresponding, to the provision.

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

***expert*** means a person who is qualified to give opinion evidence as an expert witness in relation to the identity of a person based on the type of identifying records used by the expert to determine the identity of the alleged offender under subsection (2)(c)(ii).

***hearing day*** means the day fixed for the start of the hearing of the proceeding.

***identifying particulars*** see the Police Powers and Responsibilities Act 2000, schedule 6.

***identifying records***, of a person, means—

- (a) any identifying particulars of the person taken under the *Police Powers and Responsibilities Act 2000*, chapter 17, part 4 or a corresponding law; or
- (b) the results of a DNA analysis performed, under the *Police Powers and Responsibilities Act 2000*, chapter 17, part 5 or a corresponding law, on a DNA sample taken from the person under that part or a corresponding law; or
- (c) a DNA sample taken from the person under the *Police Powers and Responsibilities Act 2000*, chapter 17, part 5 or a corresponding law.

***party***, to a proceeding, means—

- (a) for a criminal proceeding—the prosecutor and each accused person; or

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- (b) for a civil proceeding—each person who is a party to the proceeding; or
- (c) for another proceeding—each person who has been given leave to appear in the proceeding.’.

## **Part 8**                      **Minor and consequential amendments**

### **54**      **Acts amended**

The schedule amends the Acts it mentions.

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**Schedule**                      **Other minor and consequential amendments**

section 54

**Child Protection (Offender Reporting) Act 2004**

**1**        **Schedule 2, item 1(a)—**

*insert—*

- section 218B (Grooming children under 16)’.

**Commission for Children and Young People and Child Guardian Act 2000**

**1**        **Section 180(2), ‘applies’—**

*omit, insert—*

‘apply’.

**2**        **Section 355(2)(b), ‘District Court’—**

*omit, insert—*

‘Court of Appeal’.

**3**        **Section 461, ‘section’—**

*omit, insert—*

‘sections’.

**4**        **Schedule 1, section 4(3)(a), examples—**

*omit, insert—*

*‘Examples of a service mentioned in paragraph (a)—*

- babysitting service
- nanny service
- a service, conducted by a hotel or resort, to provide child care to children who are short term guests
- a service for providing adjunct care’.

## **Corrective Services Act 2006**

### **1 Schedule 1, entry for Criminal Code—**

*insert—*

‘section 218B (Grooming children under 16)’.

## **Criminal Organisation Act 2009**

### **1 Schedule 1—**

*insert—*

‘218B Grooming children under 16’.

## **Disability Services Act 2006**

### **1 Section 108B(2)(b)—**

*omit, insert—*

‘(b) otherwise—by the tribunal, even if the dismissal would be contrary to a direction of the Court of Appeal.’.

**2 Section 108B(3), ‘QCAT’—**

*omit, insert—*

‘the tribunal’.

## **Police Powers and Responsibilities Act 2000**

**1 Section 379(1)(c), ‘or 8’—**

*omit, insert—*

‘, 8 or 9D’.

**2 Schedule 2, section 4—**

*insert—*

• section 218B (Grooming children under 16)’.

## **Private Employment Agents Act 2005**

**1 Section 39(3), definition *offence of a sexual nature*, after ‘218A’—**

*insert—*

‘, 218B’.

## **Prostitution Act 1999**

**1 Schedule 4, definition *disqualifying offence*, paragraph (a)(ii), after '5'—**

*insert—*

'or 9D'.

## **Transport Operations (Passenger Transport) Act 1994**

**1 Schedule 1A, part 1, division 1—**

*insert—*

'7A section 218B (Grooming children under 16)'.