

Child Protection (Offender Reporting) and Other Legislation Amendment Bill 2010

Explanatory Notes

General Outline

Short Title

The short title of the Bill is the Child Protection (Offender Reporting) and Other Legislation Amendment Bill 2010.

Policy Objectives of the Bill

The Child Protection (Offender Reporting) and Other Legislation Amendment Bill 2010 (the Bill) is intended to enhance the *Child Protection (Offender Reporting) Act 2004*.

The *Child Protection (Offender Reporting) Act 2004* requires offenders who commit sexual or particular other serious offences against children to keep police informed of their whereabouts and other personal details for inclusion in Queensland's child protection register. This enables compliance management and monitoring of reportable offenders in the community.

Queensland's child protection register was established by the *Child Protection (Offender Reporting) Act 2004* which commenced on 1 January 2005. The register contributes to the national scheme for the compliance management and monitoring of reportable offenders. In particular, through corresponding legislation and registers implemented in all Australian police jurisdictions. To this end, the register established by the *Child Protection (Offender Reporting) Act 2004* forms the Queensland component of the Australian National Child Offender Register (ANCOR).

ANCOR is premised on the serious nature of the offences and the continuing risks posed by offenders who commit sexual or particular other serious offences against children. It is utilised by all Australian police jurisdictions for information sharing relevant to compliance management

and monitoring of reportable offenders and investigation of any suspected non-compliance.

Overall, the Bill encompasses a suite of amendments to enhance the *Child Protection (Offender Reporting) Act 2004* and the national (ANCOR) scheme by implementing amendments that contribute towards national legislative consistency in compliance management and monitoring of reportable offenders and improvements in investigation of any suspected non-compliance to ensure the highest possible levels of protection for children.

Means of Achieving Policy Objectives

The Bill achieves the policy objectives by amending the *Child Protection (Offender Reporting) Act 2004*, *Police Powers and Responsibilities Act 2000* and the *Births, Deaths and Marriages Registration Act 2003*. There are no alternative means of achieving the policy objectives other than by legislative reform.

Policy Objectives of Changes to the *Child Protection (Offender Reporting) Act 2004*, *Police Powers and Responsibilities Act 2000* and the *Births, Deaths and Marriages Registration Act 2003*.

Child Protection (Offender Reporting) Act 2004:

- Reduce the time limit for initial reports;
- Expand the personal details required to be reported;
- Reduce the time for reporting the names and ages of any children who ‘generally reside’ with a reportable offender, or with whom they have regular ‘unsupervised contact’;
- Require reportable offenders to obtain the police commissioner’s approval before changing their name;
- Require reportable offenders to present their passport and travel documents for inspection after returning from travel outside Australia;
- Implement safeguards for persons with special needs when reporting;
- Allow DNA samples to be taken from reportable offenders as permitted, if no record exists;

- Increase the penalties for ‘failing to comply with reporting obligations’, or giving ‘false or misleading information’, and re-classify these offences as crimes;
- Add further Class 1 and 2 offences listed respectively in Schedules 1 and 2 of the *Child Protection (Offender Reporting) Act 2004*;
- Allow ‘offender reporting orders’ to be made for the Criminal Code offences of s 354 (child) ‘Kidnapping’, s 363 ‘Child-stealing’ and s 363A ‘Abduction of a child under 16’; and
- Declare that the disclosure and release of information to all other Australian police jurisdictions for the purposes of *Child Protection (Offender Reporting) Act 2004* and corresponding legislation is and always was lawful.

Police Powers and Responsibilities Act 2000:

Underpin provisions in the *Child Protection (Offender Reporting) Act 2004* that allow DNA samples to be taken from reportable offenders by inserting provisions to give effect to it under Chapter 17 of the *Police Powers and Responsibilities Act 2000*.

Births, Deaths and Marriages Registration Act 2003:

Provide for the Registrar to correct the register used to record any name change by a reportable offender on application from the police commissioner, if a reportable offender proceeds to change his or her name without the necessary approval under the provisions of the *Child Protection (Offender Reporting) Act 2004*.

Reasons for the Bill

On 19 June 2009 the Ministerial Council for Police and Emergency Management – Police (MCPEMP) considered a report containing 14 recommendations which sought to align jurisdictional responses for the compliance management and monitoring of reportable offenders. The MCPEMP resolved to note agreement by jurisdictions to implement changes and endorsed the recommendations contained in the report, subject to the endorsement of respective Cabinets where necessary.

In addition to the work of the MCPEMP, the Queensland Police Service conducted a review of the *Child Protection (Offender Reporting) Act 2004* and recommended further legislative changes to enhance compliance management and monitoring of reportable offenders and improve

investigation of any suspected non-compliance in order to ensure the highest possible levels of protection for children.

Consistency with Fundamental Legislative Principles

The Bill encompasses a suite of amendments to enhance the *Child Protection (Offender Reporting) Act 2004* and contribute towards national legislative consistency. The amendments are balanced and justified with regard to respecting the rights of individuals but also ensuring the highest possible levels of protection for children as the most vulnerable members of the community.

Fundamental Legislative Principles – amendments to the *Child Protection (Offender Reporting) Act 2004*

- Reducing the time limit for initial reports; and
- Reducing the time for reporting the names and ages of any children who ‘generally reside’ with a reportable offender, or with whom they have regular ‘unsupervised contact’:

Both of these amendments are intended to enhance the ability of police to monitor reportable offenders in the community and identify where children may be exposed to risk at a much earlier stage. The time limit for completing an ‘initial report’ will be reduced from 28 days to 7 days and the time for reporting when a child ‘generally resides’ with a reportable offender, or with whom they have regular ‘unsupervised contact’ will be effectively reduced from 28 days to 4 days, within 24 hours of 3 days contact with a child. This will significantly contribute to ensuring the highest possible levels of protection for children.

- Expanding the personal details required to be reported.

This amendment requires reportable offenders to report carriage services, internet service providers, email addresses and/or other electronic identifiers used or intended to be used. It overcomes a significant deficiency in the *Child Protection (Offender Reporting) Act 2004*, and contributes to the monitoring and investigation of use of such devices by reportable offenders often associated with particular kinds of crimes committed by child sex offenders.

The obligation for reportable offenders to provide these personal details will contribute to deterring such offenders from accessing child

exploitation material and/or engaging in predatory behavior such as ‘grooming’ children via the internet, for examples.

Reportable offenders will also be required to report their passport details relevant to compliance management and monitoring and verification of reported travel outside Australia which will effectively contribute toward deterring child sex tourism and support investigation of it.

- Requiring reportable offenders to obtain the police commissioner’s approval before changing their name.

This amendment will effectively contribute to preventing reportable offenders from establishing new identities to avoid monitoring by police and thereby potentially enabling them to re-offend in the community. It supports rigorous monitoring of reportable offenders who pose a risk to the most vulnerable members of the community.

- Requiring reportable offenders to present their passport and travel documents for inspection after returning from travel outside Australia.

This amendment further contributes to compliance management and monitoring of reportable offenders by requiring verification of reported travel, and thereby also effectively contributes to deterring child sex tourism and supports investigation of it.

- Allowing DNA samples to be taken from reportable offenders as permitted, if no record exists.

The amendment to allow DNA samples to be taken from reportable offenders as permitted, if no record exists, is considered of high importance because of the risk of recidivism by such offenders. Although it is acknowledged that recidivism risk varies across sex offenders and that research indicates that juvenile sex offenders are qualitatively different to adult sex offenders in terms of recidivism risk, the abhorrent nature of serious sexual offences warrants the taking of DNA samples to protect children.

- Increasing the penalties for ‘failing to comply with reporting obligations’, or giving ‘false or misleading information’, also reclassifying these offences as crimes.

The amendments increasing penalties is to convey the seriousness of such offending and the impact it has on the community. Reporting obligations are imposed on certain offenders because of the abhorrent nature of sexual or particular other serious offences against children. The increase in penalties is intended to contribute to compliance management and

monitoring of reportable offenders by deterring such offending, further contributing to ensuring the highest possible levels of protection for children.

- Adding further class 1 and 2 offences listed respectively in schedules 1 and 2 of the *Child Protection (Offender Reporting) Act 2004*.

The new Class 1 and 2 offences to be listed in Schedules 1 and 2 of the *Child Protection (Offender Reporting) Act 2004* reflect, in part, recent amendments made to the *Criminal Code Act 1995 (Cwth)* and effectively contribute to the comprehensive coverage of serious offences against children. They are largely restricted to the kinds of offences already listed in Schedules 1 and 2.

The addition of the new offences will have a retrospective application because the definition of a reportable offender includes, in part, a person who is or was sentenced for a reportable offence (i.e. a Class 1 or Class 2 offence) and/or released from custody for a reportable offence after the commencement of the *Child Protection (Offender Reporting) Act 2004* (1 January 2005). This will cause certain offenders whose convictions are in the past and who are not currently entered in the child protection register to become reportable offenders, unless their reporting period is deemed to have already expired under Part 4, Division 5 of the *Child Protection (Offender Reporting) Act 2004*.

However, the purpose of the scheme is not punishment, and mandatory registration is not a form of sentence. These issues were canvassed when the *Child Protection (Offender Reporting) Bill 2004* was introduced into the Parliament.

The issue of additional punishment and retrospectivity has been judicially considered in the context of section 19 of *Criminal Law Amendment Act 1945* (since repealed). The Queensland Court of Appeal in *R v C* [2002] QCA 156 held that an order under section 19 was not intended to impose a form of punishment but rather its purpose was to protect a vulnerable part of the community.

The retrospective application of registration schemes has also been judicially tested in the United States of America, with the United Kingdom scheme considered by the European Commission of Human Rights. In each case, the registration requirements were found not to impose additional punishment.

Any extent to which the Bill might be argued to impose obligations retrospectively is justified by the protective effect the Bill has for children.

Sections 35 and 36 of the *Child Protection (Offender Reporting) Act 2004* will apply to a person who becomes a reportable offender because of the added offences, meaning the reporting period will commence retrospectively. To ensure fairness, however, reporting obligations will not apply unless the police commissioner has given the person a ‘notice of reporting obligations’ under section 59 of the Act (see clause 23, new section 82).

- Allowing ‘offender reporting orders’ to be made for the Criminal Code offences of ‘kidnapping’ (section 354) (where the victim is a child), ‘child stealing’ (section 363) and ‘abduction of a child under 16 years’ (section 363A).

The legislation will give courts a wider discretion to make an ‘offender reporting order’ for any non-familial offences of (child) kidnapping, child-stealing or abduction of child under 16 years. It lowers the threshold for the making of an order in relation to these three offences from the current “risk to life or sexual safety” to simply that the court considers the order appropriate. An example of an appropriate case for an order under the new provision that could not be made under the existing provision is where a person abducts a child with the intention to raise the child as their own.

The legislation makes it more likely, but not mandatory, that a person who commits one of these offences will become a reportable offender. This expanded power impacts on the rights and liberties of people who commit these offences but whom a court would not be satisfied poses a risk to the life or sexual safety of children. This impact is justified when balanced against the protective benefits the provision will provide for children.

- Declaration about disclosure or release of personal information.

The inclusion of a declaratory provision is to put beyond any doubt whatsoever that the disclosure or release of personal information from the Queensland Child Protection Offender Register to corresponding registrars in foreign jurisdictions is and always was lawful.

At the commencement of the *Child Protection (Offender Reporting) Act 2004* and *Child Protection (Offender Reporting) Regulation 2004*, only New South Wales, Victoria and Western Australian were recognised as having corresponding legislation. Since then, corresponding legislation has been enacted in all other foreign jurisdictions. However, until the *Child*

Protection (Offender Reporting) Regulation 2004 was amended to recognise all foreign jurisdictions as having corresponding legislation, the Queensland Police Service relied on provisions under the *Police Service Administration Act 1990* to disclose or release personal information from the Queensland Child Protection Offender Register to the corresponding registrars as they progressively came into existence since 1 January 2005.

Importantly, it is acknowledged that each foreign jurisdiction's legislation was enacted in order to contribute to the national ANCOR scheme for sharing personal information about registered persons.

The Queensland Police Service has identified a potential interpretation of the legislation that could result in some disclosures having been technically unlawful but holds the view that previous disclosures were done in the proper exercise of the Commissioner's discretion under the *Police Service Administration Act 1990*. The declaratory provision will clarify that these disclosures are and always were lawful.

No-one will be disadvantaged by this provision because it has always been widely understood that the *Child Protection (Offender Reporting) Act 2004* facilitates the Queensland component of ANCOR, and that all participating jurisdictions share information for ANCOR purposes.

Fundamental Legislative Principles – amendments to the *Police Powers and Responsibilities Act 2000*:

- Underpin provisions in the *Child Protection (Offender Reporting) Act 2004* that allow DNA samples to be taken from reportable offenders by inserting provisions to give effect to it under Chapter 17 of the *Police Powers and Responsibilities Act 2000*.

Fundamental Legislative Principles – amendments to the *Births, Deaths and Marriages Registration Act 2003*:

- Provide for the Registrar to correct register (i.e. to record a name change) on application from the police commissioner, if a reportable offender proceeds to change his or her name without the necessary approval under the relevant provisions of the *Child Protection (Offender Reporting) Act 2004*.

These amendments are consequential in nature to support the amendments to the *Child Protection (Offender Reporting) Act 2004*, as explained and

justified to ensure the highest possible levels of protection for children as the most vulnerable members of the community.

Estimate Cost of Implementation

The costs of implementing the amendments will be met from existing departmental resources and budget allocations.

Consultation

Government

The following agencies have been consulted in relation to the amendments to the *Child Protection (Offender Reporting) Act 2004*, *Police Powers and Responsibilities Act 2000* and the *Births, Deaths and Marriages Registration Act 2003*:

- Department of the Premier and Cabinet;
- Department of Justice and Attorney-General;
- Department of Community Safety;
- Queensland Treasury;
- Office of Queensland Parliamentary Counsel; and
- Department of Communities.

Community

There was no community consultation undertaken in relation to the amendments and/or the Child Protection (Offender Reporting) and Other Legislation Amendment Bill 2010.

Notes on Provisions

Part 1 Preliminary

Short title

Clause 1 states that the short title is proposed to be cited as the *Child Protection (Offender Reporting) and Other Legislation Amendment Act 2010*.

Commencement

Clause 2 provides that the *Child Protection (Offender Reporting) and Other Legislation Amendment Act 2010* is to commence on a date to be fixed by proclamation.

Part 2 Amendment of Child Protection (Offender Reporting) Act 2004

Act amended

Clause 3 confirms Part 2 amends the *Child Protection (Offender Reporting) Act 2004*.

Omission of s 4 (Notes in text)

Clause 4 deletes section 4 of the Act. Section 14(4) of the *Acts Interpretation Act 1954* declares that certain material including 'notes in text' are not part of an Act, and section 4 is therefore redundant and omitted accordingly.

Amendment of s 13 (Offender reporting orders)

Clause 5 amends section 13 of the *Child Protection (Offender Report) Act 2004* and gives courts a wider discretion to make an 'offender reporting order' for any non-familial offences of (child) kidnapping, child-stealing or

abduction of child under 16 years. It lowers the threshold for the making of an order in relation to these three offences from the current “risk to life or sexual safety” to simply that the court considers the order appropriate. An example of an appropriate case for an order under the new provision that could not be made under the existing provision is where a person abducts a child with the intention to raise the child as their own.

The power is not available in circumstances that could be considered familial – for example, a dispute that could legitimately be the subject of proceedings under the *Family Law Act 1975* (Cwth). Note, however, that the existing power for a court to make an order in relation to any offence where it is satisfied the person poses a risk to the lives or the sexual safety of one or more children, or of children generally, will continue to apply in relation to kidnapping, child stealing or child abduction even where there is a familial relationship.

In deciding whether it would be appropriate to make an order, the court will need to consider the circumstances of the case and the context in which the offence was committed.

To provide an understanding of what may be considered merely incidental, it is useful to consider the following example reported by the New South Wales Ombudsman in the *Review of the Child Protection Register: Report under s 25(1) of the Child Protection (Offenders Registration) Act 2000* (2005, p. 25):

One case involved a kidnapping in which a child was only peripheral to the incident, as the woman who was detained had a child with her. Really the child didn't have a lot to do with it but it automatically becomes a registrable offence.

Amendment of s 14 (When initial report must be made)

Clause 6 amends section 14 of the *Child Protection (Offender Report) Act 2004* and requires a reportable offender to make their ‘initial report’ within 7 days in all cases. An enhanced ability to monitor reportable offenders in the community, will assist police and other agencies to identify situations where children may be potentially at risk at a much earlier stage.

Amendment of s 15 (When offender must make new initial report after previous reporting obligations have stopped)

Clause 7 amends section 15 of the *Child Protection (Offender Report) Act 2004* and requires a reportable offender to make their ‘initial report’ within 7 days in all cases where a reportable offender’s reporting obligations have stopped but then the reportable offender is subsequently required to make a new ‘initial report’ (i.e. further reporting period). The requirement to complete the new ‘initial report’ within 7 days will avoid any protracted interruption in the compliance management and monitoring of a reportable offender and continue to ensure the highest possible levels of protection for children.

Amendment of s 16 (Personal details that are to be reported)

Clause 8 expands the personal details a reportable offender is required to report and inserts the obligation to report carriage services, internet service providers, any email addresses and/or other electronic identifiers used or intended to be used by a reportable offender. It overcomes a significant deficiency in the *Child Protection (Offender Reporting) Act 2004* concerning the frequent use of such devices in the kinds of crimes committed by child sex offenders. The obligation for a reportable offender to provide these particular details is intended to contribute to deterrence from accessing child exploitation material and/or engaging in predatory behavior such as ‘grooming’ children via the internet, and will effectively support investigation of such offences.

The obligation to also report the passport number and country of issue for each passport held by a reportable offender is also to enhance compliance management and improve monitoring of reportable offenders as well as deter child sex tourism and support investigation of it.

Redefining the terms ‘unsupervised contact’ and/or ‘generally resides’ with a child to 3 days is intended require offenders to report such contact with children at a much earlier stage in order to identify situations where children may be potentially at risk in a more timely manner and ensure the highest possible levels of protection for children.

Amendment of s 19 (Reportable offender must report changes to relevant personal details)

Clause 9 requires a reportable offender to notify the police commissioner of a change in relevant personal details within 24 hours of any change

relating to ‘generally residing’ or having ‘regular unsupervised contact’ with a child under section 19(2)(a) and 19(2)(b). In all other circumstances, a change in relevant personal details must be reported within 14 days including for any motor vehicle that the reportable offender owns or generally drives. This enhances the ability of police and other agencies to identify situations where children may be potentially at risk at a much earlier stage. It also contributes to standardised and simplified reporting obligations for reportable offenders, and will further verify the deliberate nature of any non-compliance.

Amendment of s 22 (Reportable offender to report return to Queensland or decision not to leave)

Clause 10 requires a reportable offender to present their passport(s) and travel documentation when returning from travel outside Australia, expanding the details to be reported his or her return to Queensland to the police commissioner as currently required under section 22. This measure is to improve monitoring of reportable offenders, particularly to deter child sex tourism, and support investigation of it.

Amendment of s 26 (How reports must be made)

Clause 11 simply clarifies that section 26(1)(a) and 26(1)(b) refers to ‘initial reports’ and ‘annual reports’ respectively and that such reports are to be made in person by a reportable offender.

Amendment of s 27 (Right to privacy and support when reporting)

Clause 12 inserts safeguards for persons with special needs to ensure they are accompanied by an adult support person, if practicable, when making a report. The safeguards allow for the person to be accompanied by an adult support person of their own choice, otherwise requires the police officer or person receiving the report to arrange, if practicable, for an adult support to be present when the subject person is making a report. In order to be present as allowed, the adult support person must sign an undertaking not to disclose any information derived from the report unless required under any Act or law to do so.

Amendment of s 33 (Reporting by remote offenders)

Clause 13 requires a reportable offender residing more than 100 kilometres from the nearest police station that is not a restricted police station, to provide their personal details at the same time the reportable offender seeks an extension of time to report in person, as agreed between the commissioner and the reportable offender. This will enable Police and other agencies to identify situations where children may be potentially at risk at a much earlier stage. It is also intended to avoid any protracted interruption in the compliance management and monitoring of a reportable offender in remote locations.

Division 5A Obligations about DNA sampling and analysis

Clause 14 inserts new section 40A under Part 4 (Reporting Obligations) to allow a DNA sample to be taken from a reportable offender but this is limited to obtaining a DNA sample at either an 'initial report' or 'annual report' and is subject to certain conditions. Firstly, a DNA sample can only be taken if a DNA record for the person is not kept, and, secondly, for a corresponding reportable offender, a DNA sample can only be taken if, had the offender had remained in the foreign jurisdiction, the offender would be required in that jurisdiction to allow a DNA sample to be taken.

The recording of DNA samples from reportable offenders who commit sexual or particular other serious offences against children is considered to be of high importance because of the abhorrent nature of serious sexual offences and risk of recidivism. DNA records are necessary to support investigations and deter offending behaviour.

In following, a reportable offender must allow a DNA sample to be taken as permitted, and any failure to comply will be considered an offence against section 50 (Fail to comply with reporting obligations) of the *Child Protection (Offender Reporting) Act 2004*.

Amendment of s 50 (Failure to comply with reporting obligations)

Clauses 15 and 16 increases the penalty for offences against section 50 (Fail to comply with reporting obligations) and section 51 (False or misleading information) of the *Child Protection (Offender Reporting) Act 2004*, increasing the punishment from 150 penalty units or 2 years imprisonment to 300 penalty units or 5 years imprisonment. It also declares any offence against sections 50 and/or 51 to be crimes.

This increase conveys the seriousness of such offending in terms of the potential risks it poses to the most vulnerable members of the community, also contributing to ensuring the highest possible levels of protection for children by enabling courts to adequately punish such offenders including to deter crime and uphold safety in the community.

Insertion of new ss 52A and 52B- 52A Proceedings for an indictable offence and 52B Limitation on who may summarily hear a proceeding for an indictable offence and the level of penalty

Clause 17 allows for offences against section 50 (Fail to comply with reporting obligations) and/or section 51 (False or misleading information) of the *Child Protection (Offender Reporting) Act 2004* to be dealt with summarily at the election of the prosecution. However, the maximum penalty that may be imposed for any summary offence is currently limited to 100 penalty units or 3 years imprisonment. Therefore, if at any stage during summary proceeding a magistrate is satisfied that the defendant may not be adequately punished on summary conviction, the matter must be committed for trial or sentence in accordance with relevant procedures and laws mentioned in the *Child Protection (Offender Reporting) Act 2004*. This is a standardised approach, and consistent with other Queensland legislation.

Amendment of s 61 (Failure to comply with procedural requirements does not affect reportable offender's obligations)

Clause 18 is an administrative amendment and updates the note provided under section 61 of the *Child Protection (Offender Reporting) Act 2004*, referring to existing section 50(3) to confirm the particular subsection referred to in the note is being renumbered as section 50(4), otherwise not affecting section 61.

Part 5A Change of Name- Insertion of new s 74A (Change of name of reportable offender)

Clause 19 inserts new Part 5A (Change of Name) and new section 74A (Change of name of reportable offender) to require a reportable offender to obtain the police commissioner's written permission before making application to change his or her name under the *Births, Deaths and Marriages Registration Act 2003* or a law of a foreign jurisdiction, each

considered to be a ‘relevant law’ for the purpose of obliging a reportable offender to seek permission for a name change. The amendment is to prevent reportable offenders from establishing new identities, particularly to avoid compliance management and monitoring in the community.

Insertion of new s 74B (Declaration about disclosure or release of personal information to particular corresponding registrars)

Clause 20 inserts new section 74B under new Part 5A to declare that the disclosure and release of information to all other Australian police jurisdictions is and always was lawful.

This section has been inserted to declare beyond any doubt the lawfulness of information sharing that has taken place with other jurisdictions where corresponding legislation has been introduced since the commencement of the *Child Protection (Offender Reporting) Act 2004*, and regardless of the jurisdictions not previously being recognised under the *Child Protection (Offender Reporting) Regulation 2004* for the purposes of information sharing pursuant to section 71 of the *Child Protection (Offender Reporting) Act 2004*.

Replacement of Part 7 heading ‘Transitional’

Clause 21 is an administrative amendment and inserts Part 7 ‘Transitional Provisions’; Division 1 ‘Provisions for Criminal Code and Other Acts Amendment Act 2008’.

Amendment of s 79 (Transitional provision for the Criminal Code and Other Acts Amendment Act 2008)

Clause 22 is an administrative amendment and omits the wording in the heading after provision- *for the Criminal Code and Other Acts Amendment Act 2008*.

Insertion of new pt 7, div 2

Clause 23 inserts a new Part 7 Division 2 and new sections 80, 81 and 82 to ensure that initial reporting obligations already imposed on a person continue and the person does not commit an offence provided the ‘initial report’ is made within the pre-amended time allowed. This also applies to persons in remote locations who have entered into an agreement as allowed to complete a report as agreed between the commissioner and the person.

New section 82 provides that reporting obligations do not apply to a person who becomes a reportable offender by virtue of the new legislation unless the police commissioner has given the person a ‘notice of reporting obligations’ under section 59 of the *Child Protection (Offender Reporting) Act 2004*, ensuring the offence provisions have no retrospective application.

Amendment of Schedule 1 (Class 1 offences) and Schedule 2 (Class 2 offences)

Clause 24 and 25 expand mandatory reportable offences under Schedule 1 and 2 of the *Child Protection (Offender Reporting) Act 2004* by adding further Class 1 and 2 offences respectively. In part, the new reportable offences reflect recent amendments made to the *Criminal Code Act 1995 (Cwth)*, and contribute to ensuring the comprehensive coverage of sexual offences against children. The new Class 1 and 2 offences are also largely restricted to including the kinds of offences already listed in Schedules 1 and 2. The addition of all the new offences is deemed necessary to contribute towards national legislative consistency and to ensure the highest possible levels of protection for children.

Amendment of sch 3 (Dictionary)

Clause 26 is an administrative amendment and adds further definitions to the *Child Protection (Offender Reporting) Act 2004*.

Part 3 Amendment of the Births, Deaths and Marriages Registration Act 2003

Act amended

Clause 27 indicates this part amends the *Births, Deaths and Marriages Registration Act 2003*.

Amendment of s 42 (Correcting the register)

Clause 28 authorises the police commissioner, if a reportable offender changes their name under the *Births, Deaths and Marriages Registration Act 2003* without the necessary approval (*refer Clause 18*), to apply to the registrar to have the register corrected. The amendment is to prevent reportable offenders from establishing new identities, particularly to avoid compliance management and monitoring in the community.

Part 4 Amendment of the Police Powers and Responsibilities Act 2000

Act amended

Clause 29 indicates this part amends the *Police Powers and Responsibilities Act 2000*.

Insertion of new s 488A

Clause 30 inserts a new section 488A into the PPRA to allow a DNA sampler to take a DNA sample from a reportable offender for analysis. It underpins the corresponding section(s) in the *Child Protection (Offender Reporting) Act 2004*, (*refer Clause 13*). It is considered to be of high importance to obtain DNA records for reportable offenders because of the abhorrent nature of serious sexual offences and risk of recidivism. DNA records are necessary to support investigations and deter offending behaviour. Accordingly, a reportable offender must allow a DNA sample taken as permitted for DNA analysis, and any failure to comply will be considered an offence against section 50 (Fail to comply with reporting obligations) of the *Child Protection (Offender Reporting) Act 2004*.

Insertion of new s 490A

Clause 31 requires that a DNA sample taken from a reportable offender because the person is a reportable offender must be destroyed within a reasonably practicable time after the person stops being a reportable offender under the *Child Protection (Offender Reporting) Act 2004*.

For when a person stops being a reportable offender, see existing section 5(4) of the *Child Protection (Offender Reporting) Act 2004*.

Amendment of sch 6 (Dictionary)

Clause 32 is an administrative amendment inserts the definition of reportable offender into the dictionary of the *Police Powers and Responsibilities Act 2000*.

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