



Queensland

Child Protection (Offender Prohibition Order) Bill 2007



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Child Protection (Offender Prohibition Order) Bill 2007

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A Bill

for

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

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The Parliament of Queensland enacts—		1
Part 1	Preliminary	2
1	Short title	3
	This Act may be cited as the <i>Child Protection (Offender Prohibition Order) Act 2007</i> .	4 5
2	Commencement	6
	This Act commences on a day to be fixed by proclamation.	7
3	Main purpose of Act	8
	(1) The main purpose of this Act is to provide for the protection of the lives of children and for their sexual safety.	9 10
	(2) This Act achieves the main purpose—	11
	(a) by providing for the making of orders prohibiting particular sexual offenders from engaging in conduct posing a risk to the lives or sexual safety of children; and	12 13 14 15
	(b) by providing that, if the respondent for an order mentioned in paragraph (a) is not a reportable offender for the Offender Reporting Act when the order is made, on the making of the order, the respondent is taken to be a reportable offender for that Act.	16 17 18 19 20
4	Definitions	21
	The dictionary in the schedule defines particular words used in this Act.	22 23

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5	Explanation of references to offender prohibition orders	1
	(1) In this Act, the term <i>order</i> is generally used to refer to an offender prohibition order made under section 8 and the term <i>temporary order</i> is used to refer to a temporary offender prohibition order made under section 15 or 16.	2 3 4 5
	(2) The term <i>offender prohibition order</i> is generally used to refer to both an order and a temporary order.	6 7
	(3) However, in part 2, division 2, an order made under section 8 is referred to as a <i>final order</i> to distinguish it from a <i>temporary order</i> made under section 15 or 16.	8 9 10
Part 2		
	Offender prohibition orders	11
Division 1		
	Orders	12
6	Application	13
	(1) The commissioner may apply in the approved form to a court for an offender prohibition order (an <i>order</i>) for a person if the commissioner believes on reasonable grounds that the person—	14 15 16 17
	(a) is a relevant sexual offender; and	18
	(b) has recently engaged in concerning conduct.	19
	(2) The application must state each of the following—	20
	(a) each conviction of the respondent for a reportable offence committed against a child;	21 22
	(b) the particulars of the concerning conduct the respondent is alleged to have engaged in;	23 24
	(c) when the respondent is alleged to have engaged in the concerning conduct;	25 26

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(d)	the conduct of the respondent proposed to be prohibited under the order, including the conditions sought by the commissioner.	1 2 3
(3)	In this section—	4
	<i>concerning conduct</i> means conduct the nature or pattern of which poses a risk to the lives or sexual safety of 1 or more children, or of children generally.	5 6 7
	<i>Examples—</i>	8
	<ul style="list-style-type: none"> • loitering at or near a park fitted with playground equipment regularly used by children • seeking employment or volunteer work that will involve the employee coming into contact with children, including, for example, door-to-door sales or collecting • residing near a child care centre • residing or boarding in a household with children under 16 years 	9 10 11 12 13 14 15
7	How a proceeding for an order is started	16
(1)	The commissioner starts a proceeding against a respondent under section 6(1) by issuing an appearance notice for the proceeding.	17 18 19
(2)	As soon as practicable after starting the proceeding, and before the time the respondent is required to appear at a place before a court under the appearance notice, the commissioner must file the following documents with the registrar of the court at the place—	20 21 22 23 24
	(a) the application for the proceeding;	25
	(b) a copy of the appearance notice for the proceeding.	26
(3)	A police officer must serve a copy of the application and the appearance notice (the <i>application documents</i>) on the respondent.	27 28 29
	<i>Note—</i>	30
	For further provisions about service, see section 53.	31
(4)	Also, for a child respondent, the commissioner must, as soon as practicable after starting the proceeding, give a copy of the application documents to—	32 33 34

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

8 Making an order

- (1) A court may make an order if the court is satisfied, on the balance of probabilities, after considering the matters mentioned in section 9—
 - (a) the respondent is a relevant sexual offender; and
 - (b) having regard to the nature and pattern of conduct recently engaged in by the respondent—
 - (i) the respondent poses an unacceptable risk to the lives or sexual safety of children; and
 - (ii) the making of the order will reduce the risk.
- (2) Also, for a child respondent, the court may only make the order—
 - (a) after considering a report given to the court under section 10; and
 - (b) if satisfied the making of the order is a last resort and the most effective way of reducing the risk mentioned in subsection (1)(b)(i).
- (3) For subsection (1), it is not necessary for the court to be able to identify a risk to a particular child, particular children or a particular class of child.
- (4) The application for the order may be heard in the respondent's absence if the court is satisfied the respondent was served with the application documents under section 7(3).
- (5) However, the court may, at any time before making the order, direct the commissioner to give a further appearance notice to the respondent as directed by the court.

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9	Matters a court must consider before making an order	1
(1)	The matters a court must consider for section 8(1) are as follows—	2 3
	(a) the seriousness of the respondent’s reportable offences committed against a child, whether committed in Queensland or elsewhere;	4 5 6
	(b) the period since the reportable offences were committed;	7 8
	(c) for each reportable offence—	9
	(i) the age of the respondent, and the age of the victim of the offence, when the offence was committed; and	10 11 12
	(ii) the difference in age between the respondent and the victim of the offence;	13 14
	(d) the respondent’s present age;	15
	(e) the seriousness of the respondent’s criminal history;	16
	(f) the effect of the order sought on the respondent in comparison with the level of risk of the respondent committing a reportable offence against a child;	17 18 19
	(g) the respondent’s circumstances, to the extent the circumstances relate to the conduct sought to be prohibited;	20 21 22
	<i>Examples—</i>	23
	• the respondent’s accommodation, employment, health, cultural and social needs	24 25
	• the need for the respondent’s reintegration into the community	26 27
	(h) for a child respondent—the child respondent’s educational needs;	28 29
	(i) anything else the court considers relevant.	30
(2)	In this section—	31
	charge , of an offence, means a charge in any form, including, for example, the following—	32 33
	(a) a charge on an arrest;	34

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- (b) a notice to appear served under the *Police Powers and Responsibilities Act 2000*, section 382; 1
2
- (c) a complaint under the *Justices Act 1886*; 3
- (d) a charge by a court under the *Justices Act 1886*, section 42(1A), or another provision of an Act; 4
5
- Note—* 6
- The *Justices Act 1886*, section 42 deals with the commencement of proceedings. 7
8
- (e) an indictment. 9
- criminal history***, of a person, means the following— 10
- (a) despite the *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 6, every conviction of the person for a reportable offence committed against a child, in Queensland or elsewhere, whether before or after the commencement of this Act; 11
12
13
14
15
- (b) every charge made against the person for a reportable offence committed against a child, in Queensland or elsewhere, whether before or after the commencement of this Act— 16
17
18
19
- (i) that has not been withdrawn or discontinued, or dismissed by a court; or 20
21
- (ii) for which the respondent has not been acquitted or convicted; 22
23
- (c) every charge made against the person for a reportable offence committed against a child, in Queensland or elsewhere, whether before or after the commencement of this Act, that has been withdrawn or discontinued because the complainant died or was unable or unwilling to proceed with the matter. 24
25
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10 Court must order a report before making an order for a child respondent 30
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- (1) This section applies if the court is satisfied of the matters mentioned in section 8(1) in relation to a child respondent. 32
33

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- (2) Before making an order for the child respondent, the court must direct the chief executive (communities) to give to the court a written report containing stated information, assessments and reports about the child respondent, the child respondent's family or other matters. 1
2
3
4
5
- (3) The report may contain the opinion of the chief executive (communities) on what impact an order may have on the child respondent in relation to his or her accommodation, educational, health, cultural or social needs. 6
7
8
9
- (4) The report must be given to the court within the period stated by the court in the direction. 10
11
- (5) When the report is given to the court under subsection (4), the registrar of the court must give a copy of the report to each party to the proceeding. 12
13
14
- 11 Conduct that may be prohibited** 15
- (1) An order may prohibit particular conduct by the respondent, including, for example, prohibiting the respondent from the following— 16
17
18
- (a) associating with, or otherwise contacting, stated persons or a stated type of person; 19
20
- Example—* 21
- corresponding with other relevant sexual offenders 22
- (b) being in stated locations or a stated type of location; 23
- Example—* 24
- within 200m of a school between 7a.m. and 7p.m. on school days 25
26
- (c) residing at a stated residence, stated residences, a stated type of residence or a residence at a stated location; 27
28
- Examples—* 29
- a residence within 200m of a child care centre 30
 - a residence where children under 16 years reside 31
- (d) engaging in stated behaviour; 32

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<i>Example—</i>	1
taking photographs or images of children at the beach in the South Bank Parklands	2 3
(e) being in stated employment, or a stated type of employment, whether paid or voluntary, that is likely to bring the respondent into contact with children.	4 5 6
<i>Examples—</i>	7
• employment in a cafe in the vicinity of a school	8
• door-to-door sales or collecting	9
(2) An order may prohibit conduct absolutely or on the terms the court making the order considers appropriate and states in the order.	10 11 12
(3) An order may prohibit the respondent from entering or remaining in a stated place even if the respondent has a right to enter or to be in the place.	13 14 15
(4) If an order prohibits the respondent from entering or remaining in a place as mentioned in subsection (3), the court must, if satisfied it is necessary to do so, ensure the order provides for the respondent to recover the respondent's personal property from the place.	16 17 18 19 20
<i>Example—</i>	21
A provision of an order may allow a respondent to enter a stated place between stated times, if accompanied by a police officer, to recover the respondent's property.	22 23 24
12 Term of an order	25
(1) An order takes effect on the day notice of it is given to the respondent and, subject to subsection (3), remains in force for the following term—	26 27 28
(a) for an adult respondent—5 years;	29
(b) for a child respondent—2 years.	30
(2) Subsection (3) applies if an application—	31
(a) is for a new order for a respondent; and	32
(b) is made before the end of the term of the existing order for the respondent; and	33 34

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- (c) is not decided before the day the existing order ends. 1
- (3) The existing order continues to have effect until the 2
application for the new order is decided. 3
- (4) The term of a new order mentioned in subsection (3) starts 4
when the term of the existing order mentioned in the 5
subsection ends. 6
- Example—* 7
- The term of the existing order ends on 30 June 2008. An application for 8
a new order is made on 31 May 2008. The application for the new order 9
is decided, and the new order is made, on 1 August 2008. Under 10
subsection (3), the term of the existing order is extended until the new 11
order is made on 1 August 2008. Although the new order takes effect on 12
1 August 2008 under subsection (1), its term starts on 1 July 2008 under 13
subsection (4). 14
- (5) In this section— 15
- term*, of an existing order, does not include the period for 16
which the existing order's effect is continued under subsection 17
(3). 18

Division 2 Temporary orders 19

13 Definitions for div 2 20

In this division— 21

final order means an order under section 8(1). 22

temporary order means an order under section 15 or 16. 23

14 Applying for a temporary order 24

- (1) The commissioner may apply in the approved form to a 25
magistrate for a temporary order for a person if the 26
commissioner— 27
- (a) has the belief mentioned in section 6(1) about the 28
person; and 29
- (b) also believes on reasonable grounds that— 30

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(i)	the making of a temporary order for the person is necessary to prevent an immediate risk of the respondent engaging in conduct posing a risk to the lives or sexual safety of children; and	1 2 3 4
(ii)	the making of the order will reduce the risk.	5
(2)	The application must state—	6
(a)	the matters mentioned in section 6(2); and	7
(b)	why the temporary order is necessary before a final order is made.	8 9
(3)	The application may be made without notice being given to the respondent or a police officer may give notice in the approved form to the respondent stating—	10 11 12
(a)	when and how the application will be made to the magistrate; and	13 14
(b)	that the respondent may be present before the magistrate when the application is made and may make submissions to the magistrate.	15 16 17
(4)	The <i>Police Powers and Responsibilities Act 2000</i> , sections 800 to 802, apply to the application for the temporary order as if the temporary order were a prescribed authority within the meaning of that Act.	18 19 20 21
	<i>Note—</i>	22
	The <i>Police Powers and Responsibilities Act 2000</i> , sections 800 to 802 provide for obtaining prescribed authorities by phone, fax, radio, email or another similar facility.	23 24 25
15	Temporary order made by a magistrate	26
(1)	A magistrate may make a temporary order if the magistrate is satisfied, on the balance of probabilities, of the matters mentioned in section 8(1).	27 28 29
(2)	For subsection (1)—	30
(a)	the reference in section 8(1)(b)(ii) to an order is taken to be a reference to the temporary order; and	31 32

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- (b) it is not necessary for the magistrate to be able to identify a risk to a particular child, particular children or a particular class of child; and
- (c) sections 8(2), (4) and (5), 9 and 10 do not apply.
- (3) Also, for subsection (1), if the application is made without notice being given to the respondent, the magistrate may not make the temporary order unless the magistrate considers it necessary to make the order without notice to the respondent in the particular circumstances of the case.
- (4) The temporary order need only be supported by information the magistrate considers sufficient and appropriate having regard to the temporary nature of the order.
- Example—*
- oral submissions, rather than evidence on oath
- (5) When the magistrate makes the temporary order, the magistrate must fix a return date, time and place for an application for a final order.
- (6) On the making of the temporary order, the commissioner must immediately start a proceeding under section 7(1) for the final order.
- (7) The date, time and place stated in the appearance notice for the final order must be the date, time and place fixed under subsection (5).

16 Temporary order made by a court

- (1) During a proceeding for a final order for a respondent, the court may, on its own initiative or on application by a party to the proceeding, make a temporary order for the respondent.
- (2) However, the court may only make the temporary order if the court—
- (a) is satisfied, on the balance of probabilities, of the matters mentioned in section 8(1); and
- (b) after the temporary order is made, adjourns the proceedings.
- (3) For subsection (2)(a)—

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- | | | |
|-----------|---|----------------|
| | (a) the reference in section 8(1)(b)(ii) to an order is taken to be a reference to the temporary order; and | 1
2 |
| | (b) it is not necessary for the court to be able to identify a risk to a particular child, particular children or a particular class of child; and | 3
4
5 |
| | (c) sections 8(2), (4) and (5), 9 and 10 do not apply. | 6 |
| (4) | The temporary order need only be supported by information the court considers sufficient and appropriate having regard to the temporary nature of the order. | 7
8
9 |
| (5) | The temporary order may be made in the respondent's absence if the court is satisfied application documents for the final order were served on the respondent under section 7(3). | 10
11
12 |
|
 | | |
| 17 | Conduct that may be prohibited | 13 |
| | Section 11 applies to a temporary order as if— | 14 |
| | (a) a reference in the section to an order were a reference to a temporary order; and | 15
16 |
| | (b) a reference in the section to the court included, for section 15, a reference to a magistrate. | 17
18 |
|
 | | |
| 18 | Term of a temporary order | 19 |
| (1) | A temporary order takes effect— | 20 |
| | (a) if the respondent is present before the magistrate or court when the order is made—when it is made; or | 21
22 |
| | (b) if the respondent is not present before the magistrate or court when the order is made—when a copy of the order is served on the respondent under section 24(2). | 23
24
25 |
| (2) | The temporary order remains in force until whichever of the following happens first— | 26
27 |
| | (a) if the temporary order is made under section 15—a proceeding for a final order is not started by the return date and time fixed by a magistrate under section 15(5); | 28
29
30 |

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- (b) the application for the final order is next mentioned in a court and the court does not extend the term of the temporary order under section 19;
- (c) the prescribed period ends;
- (d) a court decides the application for the final order;
- (e) the commissioner discontinues the application for the final order;
- (f) the temporary order is revoked under section 22 or on appeal.
- (3) In this section—
- final order* means a final order for the respondent for the temporary order.
- prescribed period* means—
- (a) if paragraph (b) does not apply—28 days; or
- (b) the period for which the temporary order is extended under section 19.
- 19 Extending a temporary order if an application for a final order is adjourned**
- (1) This section applies if—
- (a) a temporary order is in force for the respondent to an application for a final order; and
- (b) the court adjourns the application; and
- (c) the temporary order will end before the application is decided.
- (2) The court may, on application or on its own initiative, extend the temporary order for not more than 28 days, or a longer period to which the respondent consents.
- (3) The temporary order may be extended in the respondent's absence if the court is satisfied application documents for the final order were served on the respondent under section 7(3).

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Division 3	Other provisions about offender prohibition orders	1 2
20	Who may be present at the hearing of an application	3
	(1) A magistrate or court hearing an application for an offender prohibition order must hear the application in the presence of only the following—	4 5 6
	(a) the applicant;	7
	(b) unless the application is heard in the respondent's absence—the respondent;	8 9
	(c) any witness the magistrate or court allows for the application;	10 11
	(d) another person the magistrate or court considers appropriate to be present and allows to be present;	12 13
	<i>Examples—</i>	14
	• a parent of a child respondent	15
	• another person who is able to provide cultural or emotional support for the respondent, or for a witness whom the magistrate or court has allowed to be present	16 17 18
	• a person conducting relevant academic or scientific research	19
	(e) a lawyer representing anyone mentioned in paragraph (a), (b) or (c);	20 21
	(f) a person whose presence the magistrate or court considers is necessary or desirable for the proper conduct of the proceedings.	22 23 24
	<i>Example—</i>	25
	a recorder or shorthand reporter performing a function under the <i>Recording of Evidence Act 1962</i>	26 27
	(2) This section does not limit the <i>Police Service Administration Act 1990</i> , section 10.24.	28 29
	<i>Note—</i>	30
	The <i>Police Service Administration Act 1990</i> , section 10.24 provides for the representation of police officers in court.	31 32

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21	Making an offender prohibition order for an adult respondent by consent	1 2
	(1) This section applies if an application is made to a magistrate or court for an offender prohibition order for an adult respondent.	3 4 5
	(2) The magistrate or court may make the offender prohibition order if the applicant and the respondent consent to it being made.	6 7 8
	(3) Despite section 8(1), before making an order under that section with the consent of the applicant and the respondent, the court is not required to consider the matters mentioned in section 9 unless the court considers it is in the interests of justice.	9 10 11 12 13
	(4) In considering the interests of justice for subsection (3), the matters to which the court may have regard include the following—	14 15 16
	(a) whether the respondent has obtained legal advice about the proposed offender prohibition order;	17 18
	(b) whether the respondent—	19
	(i) has an intellectual disability; or	20
	(ii) is a person for whom an order appointing a guardian is in force under the <i>Guardianship and Administration Act 2000</i> ; or	21 22 23
	(iii) is illiterate, or is not literate in the English language; or	24 25
	(iv) is subject to some other condition preventing the respondent from understanding the effect of consenting to the proposed offender prohibition order being made.	26 27 28 29
	(5) This section does not limit the magistrate's or court's power under section 8, 15 or 16.	30 31

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22	Varying or revoking an offender prohibition order	1
(1)	The commissioner or the respondent may apply to the court under the relevant rules of court for the variation or revocation of an offender prohibition order.	2 3 4
(2)	However, other than in relation to an offender prohibition order made in the respondent's absence, the respondent may only make an application under subsection (1) with the court's leave.	5 6 7 8
(3)	The court may grant the leave if satisfied—	9
(a)	it is in the interests of justice, having regard to changes in the respondent's circumstances, or circumstances affecting the respondent, since the order was made or last varied; or	10 11 12 13
	<i>Example of the respondent's circumstances—</i>	14
	the respondent's accommodation, employment, health, cultural or social needs	15 16
	<i>Example of circumstances affecting the respondent—</i>	17
	Under the order, the respondent is prohibited from going within a stated distance of a stated child care centre, and the child care centre has closed down since the order was made.	18 19 20
(b)	it is appropriate on compassionate grounds, including having regard to the respondent's culturally specific needs.	21 22 23
	<i>Examples—</i>	24
	• to visit a relative who is seriously ill	25
	• to attend a relative's funeral	26
(4)	In deciding the application, the court must have regard to—	27
(a)	the matters mentioned in sections 8 and 9, to the extent the magistrate or court that made the offender prohibition order was required to have regard to those matters; and	28 29 30 31
(b)	any changes in the respondent's circumstances since the offender prohibition order was made or last varied.	32 33
(5)	A variation takes effect—	34

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	(a) if the respondent is present in court when the variation is made—when it is made; or	1 2
	(b) if the respondent is not present in court when the variation is made—when a copy of the order varying the offender prohibition order is served on the respondent under section 24(2).	3 4 5 6
	(6) A revocation takes effect when it is made.	7
23	Explaining and giving notice of an offender prohibition order to the respondent	8 9
	(1) Subsection (2) applies if the respondent is present before a magistrate when the magistrate makes an offender prohibition order or before a court when the court makes or varies an offender prohibition order.	10 11 12 13
	(2) The magistrate or court must ensure all reasonable steps are taken to explain to the respondent in language likely to be understood by the respondent—	14 15 16
	(a) his or her obligations under the offender prohibition order or variation; and	17 18
	(b) the consequences that may follow if he or she fails to comply with the obligations.	19 20
	(3) Also, subsection (4) applies if the respondent was not a reportable offender immediately before the offender prohibition order was made.	21 22 23
	(4) As soon as practicable after the offender prohibition order is made, the commissioner must give the respondent a notice complying with section 54 of the Offender Reporting Act (<i>section 54 notice</i>), in relation to the respondent as a reportable offender.	24 25 26 27 28
	(5) Subsection (4) applies despite section 54(4) of the Offender Reporting Act.	29 30
	(6) Failure to comply with either or both of subsections (2) and (4) does not affect the validity of the offender prohibition order.	31 32 33

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24	Giving the respondent a copy of an offender prohibition order dealt with in the respondent's absence	1 2
	(1) This section applies if a magistrate or court makes, varies or revokes an offender prohibition order in the respondent's absence.	3 4 5
	(2) A police officer must serve the respondent with the documents mentioned in subsections (3) and (4).	6 7
	<i>Note—</i>	8
	For further provisions about service, see section 53.	9
	(3) In each case, the respondent must be served with a copy of the order making, varying or revoking the offender prohibition order.	10 11 12
	(4) In addition, if the magistrate or court makes an offender prohibition order, the respondent must be served with—	13 14
	(a) a notice stating that, if a law of another jurisdiction provides for registration of the order under corresponding provisions, the order may be registered in the other jurisdiction; and	15 16 17 18
	(b) if the respondent was not a reportable offender immediately before the offender prohibition order was made—a section 54 notice in relation to the respondent as a reportable offender.	19 20 21 22
	(5) Also, for a child respondent, the commissioner must, as soon as practicable after the magistrate or court makes, varies or revokes the offender prohibition order, give a copy of the court's or magistrate's order to—	23 24 25 26
	(a) the chief executive (child safety), if the order is likely to result in the child respondent needing to change his or her place of residence; and	27 28 29
	(b) a parent of the child respondent, if the commissioner is able to find a parent of the child respondent after making reasonable attempts.	30 31 32
	(6) Failure to comply with any of subsections (2) to (5) does not affect the validity of the order.	33 34
	(7) In this section—	35

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<i>corresponding provisions</i>	means provisions corresponding to part 3.	1 2
25	Costs	3
	A court must not award costs on an application for an offender prohibition order or for a variation or revocation of an offender prohibition order unless the court dismisses the application as frivolous or vexatious or another abuse of process.	4 5 6 7 8
Part 3	Corresponding order	9
26	Application for registration of a corresponding order in Queensland	10 11
	The commissioner may apply in the approved form to the registrar of a Magistrates Court (the <i>registrar</i>) for the registration of a corresponding order.	12 13 14
27	Registration of a corresponding order	15
	(1) This section applies if the registrar is satisfied that—	16
	(a) the corresponding order is in force; and	17
	(b) the corresponding order was served, or was taken to be served, on the person against whom it was made under the law of the jurisdiction where the order was made.	18 19 20
	(2) Subject to subsections (3) and (10), the registrar must register the corresponding order.	21 22
	(3) The registrar must refer the corresponding order to the court for adaptation or modification for its effective operation in the State if—	23 24 25
	(a) the registrar believes it is necessary to do so; or	26
	(b) the commissioner asks the registrar to do so.	27

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- (4) If the corresponding order is referred to the court, a police officer must serve a copy of the application for registration of the corresponding order and an appearance notice on the respondent. 1
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- (5) The application may be heard in the respondent's absence if the court is satisfied a copy of the application and an appearance notice were served on the respondent under subsection (4). 5
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- (6) However, the court may, at any time before deciding the application, direct the commissioner to give a further appearance notice to the respondent. 9
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- (7) Section 20 applies to the hearing for the variation of the corresponding order as if the hearing were a hearing for an offender prohibition order. 12
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- (8) The court may vary the corresponding order for the purposes of its registration by adapting or modifying it in a way the court considers necessary or desirable for its effective operation in the State. 15
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- (9) For varying the corresponding order as mentioned in subsection (8), the court must consider— 19
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- (a) anything that can be considered under sections 8 and 9 on an application for an order under section 8; and 21
22
- (b) any changes in the respondent's circumstances since the corresponding order was made. 23
24
- (10) The registrar must register the corresponding order as varied by the court. 25
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- (11) A registered corresponding order is registered for the period during which the corresponding order, as originally made, is in force. 27
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- (12) A regulation may— 30
- (a) prescribe the way the registrar is to register a corresponding order or a varied corresponding order; and 31
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- (b) provide for the keeping of the register and access to it. 34
- (13) In this section— 35

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	<i>appearance notice</i> means a notice in the approved form	1
	stating the following in relation to a corresponding order—	2
	(a) that an application for the registration of the	3
	corresponding order has been referred to the court;	4
	(b) when and where the application is to be heard;	5
	(c) that the respondent is required to appear at the hearing;	6
	(d) that the court may register the corresponding order, or	7
	the corresponding order as varied by the court, in the	8
	respondent's absence if the respondent fails to appear at	9
	the hearing.	10
28	Action by the registrar and commissioner after	11
	registration of a corresponding order	12
	(1) No later than 2 business days after registering a corresponding	13
	order, the registrar must give the commissioner a certificate of	14
	the registration with a copy of the registered corresponding	15
	order attached.	16
	(2) The registrar may not ask the commissioner for any fee, or	17
	reimbursement for any expenses incurred, under this part.	18
	(3) After receiving a copy of the registered corresponding order,	19
	the commissioner must serve on the respondent—	20
	(a) a copy of the registered corresponding order; and	21
	(b) if the respondent for the registered corresponding order	22
	was not a reportable offender immediately before its	23
	registration—a section 54 notice in relation to the	24
	respondent as a reportable offender.	25
	<i>Note—</i>	26
	Under section 29(1)(a), the registered corresponding order has the same	27
	effect as an order made under this Act.	28
	(4) Also, for a child respondent, the commissioner must, as soon	29
	as practicable after receiving a copy of the registered	30
	corresponding order, give a copy of the order to—	31
	(a) the chief executive (child safety), if the order is likely to	32
	result in the respondent needing to change his or her	33
	place of residence; and	34

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(b)	a parent of the child respondent, if the commissioner is able to find a parent of the child respondent after making reasonable attempts.	1 2 3
(5)	Failure to comply with either or both of subsections (3) and (4) does not affect the validity of the registration of the corresponding order.	4 5 6
29	Effect of registration of a corresponding order	7
(1)	A registered corresponding order—	8
(a)	has the same effect as an order made under this Act; and	9
(b)	may be enforced against the respondent as if it were an order made under this Act.	10 11
(2)	Subsection (1) has effect even if the corresponding order was registered in the respondent’s absence.	12 13
(3)	Subsection (4) applies if the corresponding order was varied under section 27(8) in the respondent’s absence, and the respondent has not been notified of the variation.	14 15 16
(4)	Despite subsection (2), until the respondent is notified of the variation, the registered corresponding order has effect and is enforceable against the respondent as if it had not been varied.	17 18 19
30	Varying a registered corresponding order	20
(1)	The commissioner or the respondent may apply to the court under the relevant rules of court for a variation of a registered corresponding order.	21 22 23
(2)	In deciding the application, the court must consider—	24
(a)	anything that can be considered under sections 8 and 9 on an application for an order under section 8; and	25 26
(b)	any changes in the respondent’s circumstances since the registered corresponding order was registered or last varied.	27 28 29
(3)	Also section 22(2), (3) and (5) applies to the application as if a reference in the subsections to an offender prohibition order were a reference to a registered corresponding order.	30 31 32

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31	Cancelling the registration of a registered corresponding order	1 2
	(1) The commissioner or the respondent may apply to the court for an order cancelling the registration of a registered corresponding order.	3 4 5
	(2) In deciding the application, the court must consider—	6
	(a) anything that can be considered under sections 8 and 9 for an application on an order under section 8; and	7 8
	(b) any changes in the respondent’s circumstances since the registered corresponding order was registered.	9 10
	(3) Also section 22(2) and (3) applies to the application as if a reference in the subsections to an offender prohibition order were a reference to a registered corresponding order.	11 12 13
	(4) If the court cancels the registration of the registered corresponding order, the corresponding order, or the corresponding order as varied under this Act, stops having effect in Queensland.	14 15 16 17
Part 4		
	Reportable offender obligations	18 19
32	Offender reporting requirement after an offender prohibition order is made	20 21
	(1) If a court makes an offender prohibition order for a respondent who is not a reportable offender—	22 23
	(a) the respondent is taken to be a reportable offender; and	24
	(b) the offender prohibition order is taken to be an offender reporting order for the Offender Reporting Act; and	25 26
	(c) the length of the respondent’s reporting period for that Act is taken to be the period for which the offender prohibition order has effect.	27 28 29

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	(2) Subsection (1)(c) has effect despite sections 36 and 37 of the Offender Reporting Act.	1 2
33	Offender reporting requirement after the registration of a corresponding order	3 4
	(1) If the respondent for a registered corresponding order is not a reportable offender immediately before the registration of the corresponding order, on its registration—	5 6 7
	(a) the respondent is taken to be a reportable offender; and	8
	(b) the registered corresponding order is taken to be an offender reporting order for the Offender Reporting Act; and	9 10 11
	(c) the length of the respondent’s reporting period for that Act is taken to be—	12 13
	(i) for an adult respondent—5 years, or the period for which the registered corresponding order has effect, whichever is shorter; or	14 15 16
	(ii) for a child respondent—2 years, or the period for which the registered corresponding order has effect, whichever is shorter.	17 18 19
	(2) Subsection (1)(c) has effect despite sections 36 and 37 of the Offender Reporting Act.	20 21

Part 5Offences22

34	Failure to comply with an offender prohibition order	23
	(1) A respondent for an offender prohibition order must not contravene the offender prohibition order, unless the respondent has a reasonable excuse.	24 25 26
	Maximum penalty—2 years imprisonment.	27

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- (2) If an issue is raised in a proceeding of whether the respondent had knowledge of the offender prohibition order, it is enough if it is proved—
- (a) the respondent was present in court when the order was made; or
 - (b) the respondent was served personally with a copy of the order; or
 - (c) a police officer told the respondent about the existence of the order.
- (3) A respondent for a registered corresponding order must not contravene the registered corresponding order, unless the respondent has a reasonable excuse.
Maximum penalty—2 years imprisonment.
- (4) If an issue is raised in a proceeding of whether the respondent for a registered corresponding order had knowledge of the order, it is enough if it is proved—
- (a) the respondent was present in court when the order was made and the order stated that it could be registered in another jurisdiction; or
 - (b) the respondent was served personally with a copy of the corresponding order and the order stated that it could be registered in another jurisdiction; or
 - (c) a police officer told the respondent about the existence of the corresponding order, including the fact that the order could be registered in another jurisdiction; or
 - (d) that the respondent knew or ought to have known that the order was registered in this jurisdiction.
- (5) In this section—
police officer, for subsection (4)(c), includes a member of the police force of the jurisdiction where the registered corresponding order was made.

- 35 Proof of knowledge of a particular condition in a particular circumstance**
- (1) Subsection (2) applies if—

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- (a) an issue is raised in a proceeding of whether a respondent for an offender prohibition order or registered corresponding order knew about a particular condition of the order alleged to have been contravened; and
- (b) there is evidence that the respondent only knew of the existence of the order because a police officer told the respondent about its existence.
- (2) The respondent can not be convicted unless it is proved that the police officer told the respondent about the particular condition.
- (3) In this section—
police officer, in relation to a registered corresponding order, includes a member of the police force of the jurisdiction where the corresponding order was made.
- 36 Matters relevant to the reasonable excuse defence**
- When deciding whether a respondent had a reasonable excuse for contravening section 34(1) or (3), the court must have regard to each of the following—
- (a) the respondent's age;
- (b) whether the respondent had, at the time of the contravention, a disability that affected the respondent's ability to understand, or to comply with, the offender prohibition order or registered corresponding order;
- (c) whether the form of notice given to the respondent about the offender prohibition order or registered corresponding order was adequate to inform the respondent of the respondent's obligations under the order, having regard to the respondent's circumstances;
- (d) any other matter the court considers appropriate.
- 37 Prohibition on disclosing particular matter**
- (1) A person who obtains protected information because of the person's involvement in the administration of this Act,

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- including a proceeding under this Act, must not disclose the information to anyone else. 1
2
- Maximum penalty—2 years imprisonment. 3
- (2) Subsection (1) does not apply to any of the following— 4
- (a) a disclosure authorised by a magistrate or court in a proceeding under this Act; 5
6
 - (b) a disclosure authorised under an offender prohibition order or registered corresponding order; 7
8
 - (c) the disclosure by a person identifying himself or herself as a person mentioned in relation to any matter under this Act; 9
10
11
 - (d) a disclosure made in a proceeding before a court or tribunal; 12
13
 - (e) a disclosure to a respondent made for the purposes of the administration of this Act or the operation of the relevant offender prohibition order or registered corresponding order; 14
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 - (f) a disclosure to a police officer, or someone else who is a member of a law enforcement agency of the State or of the Commonwealth or another State, for the purpose of the performance of the police officer's or other person's functions; 18
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 - (g) a disclosure made for the purpose of an Act the operation of which requires the disclosure; 23
24
 - (h) a disclosure to a person involved in the respondent's assessment and management under an Act; 25
26
- Example—* 27
- a corrective services officer under the *Corrective Services Act 2006* 28
29
- (i) a disclosure to a lawyer representing a person who is or was a party to a proceeding under this Act; 30
31
 - (j) a disclosure to anyone else to whom the disclosure is required or permitted to be made under an Act. 32
33
- Example—* 34
- a person to whom the disclosure may be made under part 6 35

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- (3) A person must not disclose protected information to another person with intention to incite anyone to intimidate or harass a respondent. 1
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3
Maximum penalty—2 years imprisonment. 4
- (4) In this section— 5
- Act**, in subsection (2)(g) and (h), includes an Act of the Commonwealth or another State. 6
7
- intimidate or harass** includes intimidate or harass whether on 1 or more than 1 occasion and also vilify, persecute, victimise and engage in any act of vigilantism. 8
9
10
- proceeding** includes an application under this Act and any prosecution for an offence against this Act. 11
12
- protected information** means any of the following— 13
- (a) the name of a respondent; 14
- (b) the name of any victim of a reportable offence committed by a respondent; 15
16
- (c) the name of any particular person referred to as a person at risk because of the conduct prohibited or proposed to be prohibited by an offender prohibition order or registered corresponding order; 17
18
19
20
- (d) anything else reasonably likely to enable a person mentioned in paragraph (a), (b) or (c) to be identified. 21
22
- respondent** means a respondent for a proposed offender prohibition order, an offender prohibition order, a corresponding order or a registered corresponding order. 23
24
25

Part 6	Obtaining and disclosing particular information	1 2
38	Commissioner to be given information about a relevant sexual offender	3 4
	(1) For the purpose of deciding whether to make an application for an offender prohibition order, the commissioner may direct a government entity to give the commissioner any information—	5 6 7 8
	(a) held by the government entity; and	9
	(b) relevant to an assessment of whether the respondent for the proposed offender prohibition order poses an unacceptable risk of committing a reportable offence against a child.	10 11 12 13
	(2) The direction must be given in writing and must state the day on or before which the information must be given.	14 15
	(3) The government entity is authorised and, despite any other Act, required to give the commissioner the information sought by the direction.	16 17 18
	(4) However, the government entity is not required to give information if it is subject to legal professional privilege.	19 20
	(5) In this section—	21
	<i>government entity</i> does not include the chief executive of the department in which the <i>Health Services Act 1991</i> is administered.	22 23 24
39	Commissioner may give information about an offender prohibition order to prescribed entities	25 26
	(1) The commissioner may give to a prescribed entity the following information about an offender prohibition order—	27 28
	(a) the respondent’s name and date of birth;	29
	(b) the term of the order;	30
	(c) the conduct by the respondent that the order prohibits;	31

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- (d) anything else the commissioner reasonably considers is necessary to allow the prescribed entity to identify the respondent to ensure the safety of—
- (i) a child or children in the prescribed entity’s care; or
- (ii) the respondent.
- Example—*
- a photograph of the respondent
- (2) If the commissioner gives information about an offender prohibition order to a prescribed entity and the offender prohibition order is later varied or revoked, the commissioner must give the prescribed entity written notice of the variation or revocation.
- (3) In this section—
- offender prohibition order*** includes a registered corresponding order.

- 40 Disclosure of information by particular officials**
- (1) This section applies if a prescribed entity is given information about an offender prohibition order under section 39(1).
- (2) If the prescribed entity reasonably believes the giving of the information to a person is necessary—
- (a) for the purpose of the person performing a function under a relevant Act; or
- (b) for the purpose of an approved teacher protecting the life or sexual safety of a student of a school;
- the prescribed entity may give the information to the person.
- (3) Subsection (4) applies if—
- (a) a prescribed entity has given information about an offender prohibition order to a person under subsection (2); and
- (b) the prescribed entity is given notice of the variation or revocation of the offender prohibition order under section 39(2).

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- (4) The prescribed entity must give written notice of the variation or revocation to the person. 1
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- (5) A person given information under subsection (2) or (4) must not disclose the information, unless authorised to do so under section 37 or the relevant Act. 3
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- (6) In this section— 6
- approved teacher* means an approved teacher within the meaning of the *Education (Queensland College of Teachers) Act 2005*. 7
8
9
- offender prohibition order* includes a registered corresponding order. 10
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- relevant Act* means— 12
- (a) for the chief executive (child safety)—the *Child Protection Act 1999*; or 13
14
- (b) for the chief executive (communities)—the *Juvenile Justice Act 1992*; or 15
16
- (c) for the chief executive (education)—the *Education (General Provisions) Act 2006*; or 17
18
- (d) for the children’s commissioner—the *Commission for Children and Young People and Child Guardian Act 2000*. 19
20
21
- 41 Chief executive (communities) to be given information about a child respondent** 22
23
- (1) For the purpose of giving a report to the court in compliance with a direction of the court under section 10(2), the chief executive (communities) may ask a government entity to give the chief executive (communities) any information— 24
25
26
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- (a) held by the government entity; and 28
- (b) relevant for the report. 29
- (2) The request must be in writing and must state the day on or before which the information is to be given. 30
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(3)	The government entity is authorised, despite any other Act, to give the chief executive (communities) the information requested.	1 2 3
42	Duty of officials obtaining information	4
(1)	This section applies to a person who obtains information under sections 38 to 41.	5 6
(2)	It is the duty of the person to take all reasonable steps to ensure the information is used or disclosed only for the purpose for which it was obtained.	7 8 9
43	Commissioner may give information about an offender prohibition order to other particular persons	10 11
	To the extent the commissioner reasonably considers it necessary and appropriate to reduce a risk to the lives or sexual safety of 1 or more children, or of children generally, the commissioner may give information about an offender prohibition order or registered corresponding order to any of the following—	12 13 14 15 16 17
	(a) if the respondent is a child respondent—a parent of the child respondent;	18 19
	(b) a parent or guardian of any child protected by the order.	20
44	Protection from liability for giving information	21
(1)	This section applies if a person, acting honestly, gives information in compliance with this part.	22 23
(2)	The person is not liable, civilly, criminally or under an administrative process, for giving the information.	24 25
(3)	Without limiting subsection (2)—	26
	(a) in a proceeding for defamation, the person has a defence of absolute privilege for disclosing the information; and	27 28
	(b) if the person would otherwise be required to maintain confidentiality about the information under an Act, the person does not contravene the Act by giving the information.	29 30 31 32

Part 7	Legal proceedings	1
45	Application of pt 7	2
	This part applies to a proceeding under this Act.	3
46	Application of Evidence Act 1977	4
	(1) The relevant provision applies for the purpose of proving the following—	5 6
	(a) an offender prohibition order or another order made under this Act;	7 8
	(b) a corresponding order;	9
	(c) the registration of a corresponding order under this Act.	10
	(2) For applying the relevant provision as mentioned in subsection (1)(a)—	11 12
	(a) a reference to a court in subsection (1)(a) to (f) of the relevant provision includes a reference to a magistrate; and	13 14 15
	(b) a reference to a court in subsection (1)(g) of the relevant provision, in relation to an order made by a magistrate, includes a reference to the court where the magistrate usually constitutes the court.	16 17 18 19
	(3) For applying the relevant provision as mentioned in subsection (1)(b) or (c)—	20 21
	(a) a reference to a court in subsection (1)(a) of the relevant provision includes—	22 23
	(i) a judicial officer of a court of another jurisdiction who has made a corresponding order; and	24 25
	(ii) a registrar of a Magistrates Court who has registered a corresponding order; and	26 27
	(b) a reference to a court in subsection (1)(g) of the relevant provision includes a reference to the court where the corresponding order was registered.	28 29 30

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(4) In this section—	1
<i>relevant provision</i> means the <i>Evidence Act 1977</i> , section 53.	2
<i>Note</i> —	3
See also the <i>Evidence Act 1995</i> (Cwlth), sections 5, 157 and 158 for proof of corresponding orders.	4 5
47 Evidentiary provisions	6
(1) An averment in a complaint that—	7
(a) a stated person was served with a copy of a stated offender prohibition order, stated corresponding order or stated registered corresponding order by a stated process server on a stated date; or	8 9 10 11
(b) a stated process server was authorised to serve a stated corresponding order; or	12 13
(c) the respondent for an offender prohibition order or corresponding order was present in court when the order was made; or	14 15 16
(d) the respondent for a registered corresponding order was present in court when the order was registered;	17 18
is evidence of the stated matters.	19
(2) An affidavit by a stated process server stating the date, time and way the process server served a stated offender prohibition order on a stated person is evidence of the stated matters.	20 21 22 23
(3) If a defendant intends to challenge a matter stated in any of the following paragraphs at a hearing in a proceeding for an offence against this Act, the defendant must give written notice of the challenge to the prosecution at least 3 business days before the day fixed for the hearing—	24 25 26 27 28
(a) an averment mentioned in subsection (1);	29
(b) an affidavit mentioned in subsection (2).	30
(4) In this section—	31

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- court***, in relation to the making of a corresponding order, means any court or judicial officer of another jurisdiction that made the order. 1
2
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- process server*** means— 4
- (a) a police officer; or 5
- (b) in relation to a registered corresponding order, a member of the police force of the jurisdiction where the order was made or another person authorised under the law of that jurisdiction to serve the order. 6
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Part 8 Appeals 10

- 48 Who may appeal 11**
- The commissioner, or the respondent for an offender prohibition order or registered corresponding order (the ***relevant order***), may appeal to the following entity (the ***appeal court***) against a decision made by a court under this Act (the ***relevant decision***) in relation to the relevant order— 12
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- (a) for a child respondent—a Childrens Court constituted by a Childrens Court judge; or 17
18
- (b) otherwise—the District Court. 19
- 49 Starting an appeal 20**
- (1) The appeal must be started within 28 days after the following (the ***appeal period***)— 21
22
- (a) the day the relevant decision is made; or 23
- (b) if the relevant decision was made in the absence of the respondent for the relevant order—the day on which a copy of the order resulting from the relevant decision is served on the respondent for the relevant order. 24
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- (2) On application, the appeal court may extend the appeal period. 28
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- | | |
|---|----------------------|
| (3) The appeal must be started by filing a notice of appeal in writing with the registrar of the appeal court. | 1
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| (4) If it appears to the appeal court that it is not reasonably practicable to serve a copy of the notice of appeal on the respondent to the appeal, the appeal court may make an order substituting another way of serving the notice of appeal. | 3
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6 |
| (5) The appeal must be heard in the presence of only the following— | 7
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| (a) the appellant; | 9 |
| (b) the respondent; | 10 |
| (c) any witness the appeal court allows for the proceeding; | 11 |
| (d) anyone else the appeal court considers appropriate to be present and allows to be present; | 12
13 |
| <i>Examples—</i> | 14 |
| • a parent of a child respondent | 15 |
| • another person who is able to provide cultural or emotional support for the respondent or a witness | 16
17 |
| • a person conducting relevant academic or scientific research | 18 |
| (e) a lawyer representing anyone mentioned in paragraph (a), (b) or (c). | 19
20 |
| 50 Nature of an appeal | 21 |
| (1) The appeal is by way of rehearing and, subject to section 49, under the <i>Uniform Civil Procedure Rules 1999</i> or, to the extent the rules can not be applied to the appeal, in accordance with directions given by a judge of— | 22
23
24
25 |
| (a) for a child respondent—the Childrens Court; or | 26 |
| (b) otherwise—the District Court. | 27 |
| (2) Despite subsection (1), further evidence may not be admitted on the appeal. | 28
29 |
| (3) An appeal against a relevant decision does not stay the operation of the relevant order, unless the appeal court orders otherwise. | 30
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Child Protection (Offender Prohibition Order) Bill
2007

51	Powers on an appeal	1
	(1) The appeal court may, on an appeal against a relevant decision about an offender prohibition order—	2 3
	(a) make, vary or revoke the offender prohibition order, as it considers appropriate; or	4 5
	(b) make another order or decision it considers should have been made.	6 7
	(2) The appeal court may, on an appeal against a relevant decision about a registered corresponding order—	8 9
	(a) register, or revoke the registration of, the corresponding order or a variation of it; or	10 11
	(b) make another order or decision it considers should have been made.	12 13
	(3) An order or decision made under subsection (1)(b) or (2)(b) takes effect from when it is made.	14 15
 52	 Court may not award costs unless an application is frivolous or vexatious or another abuse of process	 16 17
	An appeal court must not award costs on an appeal under this part unless the appeal court dismisses the application as frivolous or vexatious or another abuse of process.	18 19 20
 Part 9	 Miscellaneous	 21
 53	 Service of documents	 22
	(1) This section applies if a provision of this Act requires a police officer, including the commissioner, to serve a document on a respondent for a proposed offender prohibition order, an offender prohibition order, a corresponding order or a registered corresponding order.	23 24 25 26 27

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(2)	This section also applies for the purpose of service of notice on a respondent in relation to an application for a temporary order if notice is given.	1 2 3
(3)	The document must be served personally on the respondent.	4
(4)	However if, despite reasonable attempts being made, a police officer is unable to personally serve a document on the respondent, the commissioner may apply to the court to authorise substituted service under subsection (5).	5 6 7 8
(5)	If it appears to the court that it is not reasonably practicable to serve the document personally on the respondent, the court may authorise another way of serving it (<i>substituted service</i>).	9 10 11
	<i>Example—</i>	12
	by personal service of the document on a relative, guardian or other person with whom the respondent is known to associate	13 14
(6)	When serving an appearance notice personally on the respondent, the police officer must explain the contents of the appearance notice to the respondent in language likely to be understood by the respondent, having regard, for example, to the respondent's age and cultural, educational and social background.	15 16 17 18 19 20
(7)	A document that is to be served personally on a child respondent—	21 22
(a)	must be served on the child respondent as discreetly as possible; and	23 24
(b)	must not be served on the child respondent at or in the vicinity of his or her place of employment or school, unless there is no other place where the document may reasonably be served on the child respondent.	25 26 27 28
54	No filing fee is payable	29
	A fee is not payable for making an application, or filing another document, under this Act.	30 31
55	Approval of forms	32
	The commissioner may approve forms for use under this Act.	33

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56	Review of Act	1
	(1) The Crime and Misconduct Commission must review the operation of this Act and prepare a report on the review.	2 3
	(2) The conduct of the review and the preparation of the report is a function of the Crime and Misconduct Commission for the CMC Act.	4 5 6
	(3) The review must be started as soon as practicable after 5 years after the commencement of this section.	7 8
	(4) The Crime and Misconduct Commission must give a copy of the report to the Speaker for tabling in the Legislative Assembly.	9 10 11
	(5) In this section—	12
	<i>CMC Act</i> means the <i>Crime and Misconduct Act 2001</i> .	13
	<i>Crime and Misconduct Commission</i> means the Crime and Misconduct Commission established under the CMC Act.	14 15
57	Regulation-making power	16
	The Governor in Council may make regulations under this Act.	17 18
Part 10	Amendment of Child Protection Amendment Act 2000	19 20
58	Act amended in pt 10	21
	This part amends the <i>Child Protection Amendment Act 2000</i> .	22
59	Amendment of schedule (Amendments for omission of chapter 7, part 7 of the <i>Child Protection Act 1999</i>)	23 24
	Schedule, item 4—	25
	<i>omit, insert</i> —	26

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‘4	Chapter 9, after section 260—	1
	<i>insert—</i>	2
‘Part 2A	Saving provision for Child Protection Amendment Act 2000	3
		4
		5
‘260A	Declaration under repealed s 243 (Transfer from a non-participating State)	6
		7
	‘A child protection order made by declaration under section 243 before the repeal of that section, and in force immediately before the repeal, is not affected by the repeal.’.	8
		9
		10
Part 11	Amendment of Child Protection (Offender Reporting) Act 2004	11
		12
60	Act amended in pt 11	13
	This part amends the <i>Child Protection (Offender Reporting) Act 2004</i> .	14
		15
61	Amendment of s 5 (<i>Reportable offender</i> defined)	16
	Section 5(1)—	17
	<i>insert—</i>	18
	‘(c) a person who, under the <i>Child Protection (Offender Prohibition Order) Act 2007</i> , is taken to be a reportable offender.’.	19
		20
		21
62	Amendment of s 13 (Offender reporting orders)	22
	Section 13(5)—	23
	<i>omit, insert—</i>	24
	‘(5) A court may make an offender reporting order—	25
	(a) on its own initiative; or	26

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	(b) on an application for the imposition of the order made by the prosecution.’.	1 2
63	Insertion of new s 50A	3
	After section 50—	4
	<i>insert—</i>	5
‘50A	Doing things prohibited under Commission for Children and Young People and Child Guardian Act 2000	6 7 8
	‘A reportable offender must not, after the commencement of the <i>Commission for Children and Young People and Child Guardian Act 2000</i> , section 101AA—	9 10 11
	(a) sign an application as a relevant person under section 100 of that Act; or	12 13
	(b) make an application under section 101 of that Act; if the reportable offender’s reporting period has not ended.	14 15
	Maximum penalty—150 penalty units or 2 years imprisonment.’.	16 17
Part 12	Amendment of Commission for Children and Young People and Child Guardian Act 2000	18 19 20
64	Act amended in pt 12	21
	This part amends the <i>Commission for Children and Young People and Child Guardian Act 2000</i> .	22 23
65	Amendment of s 95 (Main purpose of pt 6)	24
	(1) Section 95, heading, ‘Main purpose’—	25
	<i>omit, insert—</i>	26

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<p style="margin-left: 40px;">‘Purposes’.</p> <p>(2) Section 95—</p> <p style="margin-left: 40px;"><i>insert—</i></p> <p>‘(2) Another purpose is to ensure that a person who is a relevant reportable offender—</p> <p style="margin-left: 40px;">(a) does not hold a positive notice; and</p> <p style="margin-left: 40px;">(b) is not employed in regulated employment; and</p> <p style="margin-left: 40px;">(c) does not carry on a regulated business.’.</p>	<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p>
<p>66 Insertion of new s 99EA</p> <p style="margin-left: 40px;">After section 99E—</p> <p style="margin-left: 40px;"><i>insert—</i></p> <p>‘99EA Who is a <i>reportable offender</i> or a <i>relevant reportable offender</i></p> <p>‘(1) A <i>reportable offender</i> is a person who is a reportable offender under the <i>Child Protection (Offender Reporting) Act 2004</i>.</p> <p>‘(2) A <i>relevant reportable offender</i> is—</p> <p style="margin-left: 40px;">(a) a reportable offender whose reporting period for the <i>Child Protection (Offender Reporting) Act 2004</i> has not ended; or</p> <p style="margin-left: 40px;">(b) a respondent for an offender prohibition order or registered corresponding order under the <i>Child Protection (Offender Prohibition Order) Act 2007</i>.’.</p>	<p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
<p>67 Amendment of s 101A (Notice of change of employment, or name and contact details in application under s 100 or 101)</p> <p>(1) Section 101A, heading—</p> <p style="margin-left: 40px;"><i>omit, insert—</i></p> <p>‘101A Notice of change of details for application under s 100 or 101’.</p> <p>(2) Section 101A(1)—</p>	<p>23</p> <p>24</p> <p>25</p> <p>26</p> <p>27</p> <p>28</p> <p>29</p> <p>30</p>

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	<i>insert—</i>	1
	‘(d) the relevant person becomes a relevant reportable offender.’.	2 3
68	Insertion of new s 101AA	4
	After section 101A—	5
	<i>insert—</i>	6
	‘101AA Relevant reportable offender prohibited from signing or making an application	7 8
	‘(1) This section applies to a relevant reportable offender if immediately before the commencement of this section, the relevant reportable offender did not hold a current positive notice.	9 10 11 12
	‘(2) The relevant reportable offender can not—	13
	(a) sign an application as a relevant person under section 100; or	14 15
	(b) make an application under section 101.	16
	<i>Note—</i>	17
	See the <i>Child Protection (Offender Reporting) Act 2004</i> , section 50A.’.	18
69	Amendment of s 102 (Decision on application)	19
	Section 102—	20
	<i>insert—</i>	21
	‘(9) Subsection (10) applies to a relevant person whether or not the commissioner is aware of a conviction of the relevant person as mentioned in subsection (6)(a) or (b).	22 23 24
	‘(10) If, under an Act, the commissioner is notified by the police commissioner that, for the relevant person, there is an outstanding charge for an offence against the <i>Child Protection (Offender Reporting) Act 2004</i> , section 50A, the commissioner must issue a negative notice to the relevant person.’.	25 26 27 28 29 30

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70	Insertion of new pt 6, div 4A	1
	After section 120A—	2
	<i>insert—</i>	3
‘Division 4A	Other provisions about reportable offenders	4
		5
‘120B	Reportable offender who is a respondent for a temporary order	6
		7
	‘(1) This section applies to a person who—	8
	(a) holds a current positive notice; and	9
	(b) becomes a respondent for a temporary order under the	10
	<i>Child Protection (Offender Prohibition Order) Act 2007.</i>	11
	‘(2) The person is taken, for section 119C, to have been charged	12
	with an excluding offence.	13
	‘(3) The person’s positive notice must be suspended under section	14
	119C.	15
	‘(4) While the temporary order is in force, the person can not	16
	make an application under section 119D.	17
	‘(5) However, when the temporary order stops being in force,	18
	section 119D applies to the person as if the person had not	19
	been convicted of an offence for which the positive notice was	20
	suspended.	21
‘120C	Other reportable offenders	22
	‘(1) This section applies to a person, other than a person to whom	23
	section 120B applies, who holds a current positive notice	24
	and—	25
	(a) on the commencement of this section, is a relevant	26
	reportable offender; or	27
	(b) becomes a relevant reportable offender.	28
	‘(2) The commissioner must cancel the person’s positive notice	29
	and substitute a negative notice under section 119A.	30
	‘(3) For subsection (2)—	31

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(a)	the person is taken to have been convicted, after the commencement of section 119A, of an excluding offence for which an imprisonment order is imposed; and	1 2 3 4
(b)	section 119B and 119D do not apply to the person.	5
‘(4)	However, if the person is no longer a relevant reportable offender because the reporting period for the person for the <i>Child Protection (Offender Reporting) Act 2004</i> has ended, section 119(2)(b) applies in relation to the person as if the penalty that required the commissioner to cancel the positive notice and issue a negative notice were not upheld on appeal.	6 7 8 9 10 11
‘120D Application for review that is taken to be withdrawn		12
	‘An application made by a person to the Children Services Tribunal for a review of a decision mentioned in section 121(1) is taken to be withdrawn if—	13 14 15
(a)	for an application made before the commencement of this section—on the commencement the person is, or after the commencement the person subsequently becomes, a relevant reportable offender; or	16 17 18 19
(b)	otherwise—at the time of the application the person is, or after the application is made the person subsequently becomes, a relevant reportable offender.	20 21 22
‘120E Disclosure of information about offender prohibition orders		23 24
‘(1)	The police commissioner must disclose to the commissioner information identifying a person as a respondent for an offender prohibition order or registered corresponding order under the <i>Child Protection (Offender Prohibition Order) Act 2007</i> .	25 26 27 28 29
‘(2)	If the person stops being a respondent for the order mentioned in subsection (1), the police commissioner must notify the commissioner that the person is no longer a respondent for the order.’.	30 31 32 33

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71	Amendment of s 121 (Person may apply for review of decision)	1 2
	(1) Section 121(1A), after ‘excluding offence’—	3
	<i>insert</i> —	4
	‘or a section 50A offence’.	5
	(2) Section 121—	6
	<i>insert</i> —	7
	‘(1B) Also, a person may apply to the Children Services Tribunal for a review of the issue of a negative notice under section 102(10) if the person claims there is no outstanding charge against the person for a section 50A offence.’.	8 9 10 11
	(3) Section 121(2) and (3), after ‘subsection (1)’—	12
	<i>insert</i> —	13
	‘or (1B)’.	14
	(4) Section 121(5)—	15
	<i>insert</i> —	16
	‘ <i>section 50A offence</i> means an offence against the <i>Child Protection (Offender Reporting) Act 2004</i> , section 50A.’.	17 18
72	Omission of s 121B (Police commissioner not to delegate power under s 121A)	19 20
	Section 121B—	21
	<i>omit</i> .	22
73	Amendment of sch 4 (Dictionary)	23
	Schedule 4—	24
	<i>insert</i> —	25
	‘ <i>relevant reportable offender</i> , for part 6, see section 99EA(2).	26
	<i>reportable offender</i> , for part 6, see section 99EA(1).’.	27

Schedule	Dictionary	1
	section 4	2
	<i>adult respondent</i> means a respondent who is not a child respondent.	3 4
	<i>appeal court</i> , for part 8, see section 48.	5
	<i>appearance notice</i> , for a proceeding for an order, means a notice in the approved form stating the following in relation to the order—	6 7 8
	(a) that an application for the order will be made against the respondent;	9 10
	(b) when and where the application is to be heard;	11
	(c) that the respondent is required to appear at the hearing to be heard on the application;	12 13
	(d) that the court may make the order in the respondent's absence if the respondent fails to appear at the hearing;	14 15
	(e) that on the making of the order—	16
	(i) the respondent becomes a reportable offender under the Offender Reporting Act; and	17 18
	(ii) the respondent is prohibited from applying for a positive notice; and	19 20
	(iii) any positive notice or positive notice blue card held by the respondent is cancelled;	21 22
	(f) that the order may be registered in a jurisdiction other than Queensland, including a jurisdiction outside Australia, if a law of the other jurisdiction provides for the registration.	23 24 25 26
	<i>application documents</i> , for an order, see section 7(3).	27
	<i>approved form</i> means a form approved under section 55.	28
	<i>chief executive (child safety)</i> means the chief executive of the department in which the <i>Child Protection Act 1999</i> is administered.	29 30 31

Schedule (continued)

chief executive (communities) means the chief executive of the department in which the <i>Juvenile Justice Act 1992</i> is administered.	1 2 3
chief executive (education) means the chief executive of the department in which the <i>Education (General Provisions) Act 2006</i> is administered.	4 5 6
children’s commissioner means the Commissioner for Children and Young People and Child Guardian under the <i>Commission for Children and Young People and Child Guardian Act 2000</i> .	7 8 9 10
child respondent means—	11
(a) for a temporary order—a respondent who is a child when the application for the temporary order is made; or	12 13
(b) for a corresponding order or registered corresponding order—a respondent who is a child when the corresponding order is registered under this Act; or	14 15 16
(c) otherwise—a respondent who is a child when the application for the offender prohibition order is made.	17 18
commissioner means the commissioner of the police service.	19
committed against a child includes committed in relation to a child.	20 21
conduct includes an act, omission and course of conduct.	22
conviction includes a finding of guilt, and the acceptance of a plea of guilty, by a court, whether or not a conviction is recorded.	23 24 25
corresponding order means an order made under a law of a jurisdiction other than Queensland, including a jurisdiction outside Australia, that closely corresponds to an offender prohibition order.	26 27 28 29
court means—	30
(a) for an offender prohibition order for a child respondent—the Childrens Court constituted by a Childrens Court magistrate; or	31 32 33

Schedule (continued)

(b) otherwise—a Magistrates Court, other than a Magistrates Court constituted by justices who are not magistrates.	1 2 3
<i>final order</i> , for part 2, division 2, see section 13.	4
<i>forensic order</i> means a forensic order (Criminal Code) or a forensic order (Mental Health Court) within the meaning of the <i>Mental Health Act 2000</i> .	5 6 7
<i>government entity</i> means a government entity within the meaning of the <i>Public Service Act 1996</i> .	8 9
<i>lawyer</i> means an Australian lawyer within the meaning of the <i>Legal Profession Act 2007</i> who, under that Act, may engage in legal practice in this State.	10 11 12
<i>magistrate</i> , for a child respondent, means a Childrens Court magistrate.	13 14
<i>offender prohibition order</i> means an order or, other than in section 6, a temporary order prohibiting a relevant sexual offender named in the order from engaging in particular conduct.	15 16 17 18
<i>Offender Reporting Act</i> means the <i>Child Protection (Offender Reporting) Act 2004</i> .	19 20
<i>order</i> see section 6(1).	21
<i>parent</i> , of a person, means a parent or guardian of the person and includes—	22 23
(a) for an Aboriginal person—a person, who under Aboriginal tradition, is regarded as a parent of the person; or	24 25 26
(b) for a Torres Strait Islander person—a person, who under Island custom, is regarded as a parent of the person;	27 28
but does not include an approved carer of the person under the <i>Child Protection Act 1999</i> .	29 30
<i>positive notice</i> means a positive notice under the <i>Commission for Children and Young People and Child Guardian Act 2000</i> .	31 32

Schedule (continued)

<i>positive notice blue card</i> means a positive notice blue card under the <i>Commission for Children and Young People and Child Guardian Act 2000</i> .	1 2 3
<i>prescribed entity</i> means any of the following entities—	4
(a) the chief executive (child safety);	5
(b) the chief executive (communities);	6
(c) the chief executive (education);	7
(d) children’s commissioner.	8
<i>registered corresponding order</i> means a corresponding order registered under section 27.	9 10
<i>registrar</i> , for part 3, see section 26.	11
<i>relevant decision</i> , for part 8, see section 48.	12
<i>relevant order</i> , for part 8, see section 48.	13
<i>relevant sexual offender</i> means a following person who is not subject to a supervision order or interim supervision order under the <i>Dangerous Prisoners (Sexual Offenders) Act 2003</i> or a forensic order—	14 15 16 17
(a) a person who is a reportable offender;	18
(b) a person who would be a reportable offender if the person’s sentence for a reportable offence had not ended before the commencement of the Offender Reporting Act, section 5.	19 20 21 22
<i>reportable offence</i> means a reportable offence under the Offender Reporting Act.	23 24
<i>reportable offender</i> means a person who is a reportable offender under the Offender Reporting Act.	25 26
<i>respondent</i> means—	27
(a) for a proposed offender prohibition order—the person who is the respondent to the application for the proposed offender prohibition order; or	28 29 30
(b) for an offender prohibition order—the person against whom the offender prohibition order is made; or	31 32

Schedule (continued)

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| (c) for a corresponding order or a registered corresponding order—the person against whom the corresponding order was made. | 1
2
3 |
| <i>section 54 notice</i> see section 23(4). | 4 |
| <i>temporary order</i> see section 13. | 5 |