



Queensland

Protecting Queenslanders from Violent and Child Sex Offenders Amendment Bill 2018



Queensland

Protecting Queenslanders from Violent and Child Sex Offenders Amendment Bill 2018

Contents

		Page
1	Short title	4
2	Act amended	4
3	Amendment of s 3 (Objects of this Act)	4
4	Insertion of new s 3A	4
	3A Safety and protection of community paramount in decisions under this Act	4
5	Amendment of s 13 (Division 3 orders)	4
6	Omission of s 13A (Fixing of period of supervision order)	5
7	Insertion of new s 14A	5
	14A Effect of supervision order	5
8	Replacement of pt 2, div 4A (Extending supervised release) ...	6
	Division 4A Reviews of supervision orders	
	19B Review of supervision order made after the commencement	6
	19C Review of supervision order made before the commencement	6
	19D Provision about reviews under ss 19B and 19C	7
	19E Examinations for purposes of reviews under ss 19B and 19C	8
9	Insertion of new s 43AAA	8
	43AAA Definitions for part	8
10	Insertion of new pt 4B	8
	Part 4B Indeterminate supervision orders for repeat offenders	
	Division 1 Interpretation	
	43AJ Definitions for part	9

Contents

	Division 2	Indeterminate supervision orders	
	43AK	Application of division	9
	43AL	Repeat offender is subject to indeterminate supervision order	9
	43AM	Effect of indeterminate supervision order	10
	Division 3	Review of indeterminate supervision order	
	43AN	Application of division	11
	43AO	Examination of repeat offender	11
	43AP	Giving examination report to repeat offender	11
	43AQ	Review of supervision order by Attorney-General . . .	11
	Division 4	Relationship with division 3 orders	
	43AR	Effect of division 3 order on indeterminate supervision order	12
11		Insertion of new s 51A	13
	51A	Review of amendments	13
12		Insertion of new pt 10	13
	Part 10	Transitional provisions for Protecting Queenslanders from Violent and Child Sex Offenders Amendment Act 2018	
	66	References to supervision orders	13
	67	Application of ss 3A and 13	13
	68	Application for further supervision order not finally decided	14
	69	Application of pt 4B	14
Schedule 1	Consequential amendments	15

2018

A Bill

for

An Act to amend the *Dangerous Prisoners (Sexual Offenders) Act 2003* for particular purposes

	The Parliament of Queensland enacts—	1
Clause 1	Short title	2
	This Act may be cited as the <i>Protecting Queenslanders from Violent and Child Sex Offenders Amendment Act 2018</i> .	3 4
Clause 2	Act amended	5
	This Act amends the <i>Dangerous Prisoners (Sexual Offenders) Act 2003</i> .	6 7
Clause 3	Amendment of s 3 (Objects of this Act)	8
	Section 3(a), ‘adequate’—	9
	<i>omit, insert—</i>	10
	the safety and	11
Clause 4	Insertion of new s 3A	12
	After section 3—	13
	<i>insert—</i>	14
	3A Safety and protection of community paramount in decisions under this Act	15 16
	An entity making a decision under this Act must give paramount consideration to the safety and protection of the community.	17 18 19
Clause 5	Amendment of s 13 (Division 3 orders)	20
	(1) Section 13—	21
	<i>insert—</i>	22
	(4A) Also, in deciding whether there is an unacceptable risk as mentioned in subsection (2), the court must not have regard to—	23 24 25

	(a) the means of managing the risk; or	1
	(b) the likely impact of a division 3 order on the prisoner.	2 3
	(4B) The court may be satisfied a prisoner is a serious danger to the community as mentioned in subsection (1) even if the likelihood that the prisoner will commit a serious sexual offence is less than more than likely than not.	4 5 6 7 8
	(2) Section 13(6)(a), ‘to be the need to ensure adequate’—	9
	<i>omit, insert</i> —	10
	the safety and	11
	(3) Section 13(6)(b)(i), ‘adequate’—	12
	<i>omit, insert</i> —	13
	the safety and	14
Clause 6	Omission of s 13A (Fixing of period of supervision order)	15
	Section 13A—	16
	<i>omit.</i>	17
Clause 7	Insertion of new s 14A	18
	After section 14—	19
	<i>insert</i> —	20
	14A Effect of supervision order	21
	A supervision order has effect in accordance with its terms—	22 23
	(a) on the order being made or on the prisoner’s release day, whichever is the later; and	24 25
	(b) until the Governor in Council decides under section 19B(4) that the supervision order no longer applies to the released prisoner.	26 27 28

[s 8]

Clause 8	Replacement of pt 2, div 4A (Extending supervised release)	1 2	
	Part 2, division 4A—	3	
	<i>omit, insert—</i>	4	
	Division 4A	Reviews of supervision orders	5 6
	19B Review of supervision order made after the commencement	7 8	
	(1) This section applies to a released prisoner subject to a supervision order made after the commencement.	9 10 11	
	(2) The Governor in Council must review the released prisoner’s supervision order within 5 years after the order is made by the court.	12 13 14	
	(3) There must be subsequent annual reviews while a released prisoner’s supervision order continues to have effect.	15 16 17	
	(4) On a review, if the Governor in Council is satisfied that the released prisoner is no longer a serious danger to the community, the Governor in Council may decide that the supervision order no longer applies to the released prisoner.	18 19 20 21 22	
	19C Review of supervision order made before the commencement	23 24	
	(1) This section applies to a released prisoner subject to a supervision order made before the commencement if the period fixed under repealed section 13A has not ended on the commencement.	25 26 27 28	
	(2) The Governor in Council must review a released prisoner’s supervision order.	29 30	
	(3) The review must be undertaken during the last 6 months of the released prisoner’s supervision	31 32	

order.	1
(4) On the review, if the Governor in Council is satisfied that the released prisoner continues to be a serious danger to the community, the Governor in Council may decide that the supervision order continues—	2 3 4 5 6
(a) in accordance with its terms; and	7
(b) until the Governor in Council decides under subsection (6) that it no longer applies to the released prisoner.	8 9 10
(5) There must be subsequent annual reviews while a released prisoner’s supervision order continues to have effect.	11 12 13
(6) On a subsequent review, if the Governor in Council is satisfied that the released prisoner is no longer a serious danger to the community, the Governor in Council may decide that the supervision order no longer applies to the released prisoner.	14 15 16 17 18 19
19D Provision about reviews under ss 19B and 19C	20
(1) This section applies to a review of a released prisoner’s supervision order under section 19B or 19C.	21 22 23
(2) In deciding whether a released prisoner is a serious danger to the community, the Governor in Council must have regard to—	24 25 26
(a) the matters mentioned in section 13(4)(aa) to (j); and	27 28
(b) any report produced for the review under section 19E.	29 30
(3) Notice of the outcome of a review under section 19B or 19C must be given to the released prisoner.	31 32 33

[s 9]

19E Examinations for purposes of reviews under ss 19B and 19C	1
	2
(1) This section applies to a review of a released prisoner’s supervision order under section 19B or 19C.	3
	4
	5
(2) For the purposes of the review, the released prisoner must be examined by 2 psychiatrists.	6
	7
(3) For subsection (2), sections 11 and 12 apply with necessary changes.	8
	9
(4) Subsection (2) authorises examinations of the released prisoner by the 2 psychiatrists.	10
	11

Clause 9	Insertion of new s 43AAA	12
	Before section 43AA—	13
	<i>insert—</i>	14
	43AAA Definitions for part	15
	In this part—	16
	<i>released prisoner</i> includes a person subject to an indeterminate supervision order that has taken effect under section 43AM.	17
		18
		19
	<i>relevant order</i> , for a person subject to an indeterminate supervision order, means the indeterminate supervision order.	20
		21
		22

Clause 10	Insertion of new pt 4B	23
	After section 43AI—	24
	<i>insert—</i>	25
	Part 4B	26
	Indeterminate supervision orders for repeat offenders	27
		28
	Division 1	29
	Interpretation	

43AJ Definitions for part	1
In this part—	2
<i>indeterminate supervision order</i> see section 43AL(2).	3 4
<i>repeat offender</i> means an offender who is convicted of two or more serious sexual offences committed by the offender when the offender was an adult.	5 6 7 8
Division 2 Indeterminate supervision orders	9 10
43AK Application of division	11
This division applies to a repeat offender who is—	12 13
(a) a prisoner detained in custody serving a period of imprisonment; or	14 15
(b) subject to a division 3 order.	16
43AL Repeat offender is subject to indeterminate supervision order	17 18
(1) A repeat offender is, by operation of law and without specific order, subject to the following requirements—	19 20 21
(a) the requirement that the repeat offender wear a device for monitoring the repeat offender’s location (a <i>monitoring device requirement</i>);	22 23 24 25
(b) the following requirements (the <i>other requirements</i>)—	26 27
(i) a requirement that the repeat offender must not, without reasonable excuse, be within 200m of a school;	28 29 30

[s 10]

(ii)	a requirement that the repeat offender must not live within 1km of a place, where children are regularly present, published on the department’s website;	1 2 3 4
	<i>Examples of places where children are regularly present—</i>	5 6
	schools, parks, shopping centres	7
(iii)	a requirement that the repeat offender report to a corrective services officer once every month;	8 9 10
(iv)	a requirement that the repeat offender must not leave or stay out of Queensland without the permission of a corrective services officer.	11 12 13 14
(2)	The requirements imposed under subsection (1) are an <i>indeterminate supervision order</i> .	15 16
	43AM Effect of indeterminate supervision order	17
(1)	An indeterminate supervision order takes effect—	18
(a)	for a repeat offender who is a prisoner—on the prisoner’s release day; or	19 20
(b)	for a repeat offender subject to a division 3 order—on the day on which the division 3 order ends.	21 22 23
(2)	The repeat offender is subject to the monitoring device requirement of the indeterminate supervision order indefinitely.	24 25 26
(3)	The repeat offender is subject to the other requirements of the indeterminate supervision order until the Attorney-General decides under section 43AQ(2) that the other requirements no longer apply to the repeat offender.	27 28 29 30 31
Division 3	Review of indeterminate supervision order	32 33

43AN Application of division	1
This division applies to a repeat offender who is	2
subject to an indeterminate supervision order that	3
has taken effect under section 43AM.	4
43AO Examination of repeat offender	5
(1) The Attorney-General must ensure a repeat	6
offender is examined at least once every 3 years	7
by 2 psychiatrists.	8
(2) A repeat offender must submit to an examination	9
required by the Attorney-General under	10
subsection (1).	11
(3) A psychiatrist who conducts an examination of a	12
repeat offender under subsection (1) must give the	13
Attorney-General a report that indicates the	14
psychiatrist's assessment of the level of risk that	15
the repeat offender will commit an offence of a	16
sexual nature and the reasons for the assessment.	17
43AP Giving examination report to repeat offender	18
The Attorney-General must, as soon as	19
practicable after receiving a report about a repeat	20
offender under section 43AO, give a copy of the	21
report to the repeat offender.	22
43AQ Review of supervision order by	23
Attorney-General	24
(1) The Attorney-General must, as soon as	25
practicable after receiving a report about a repeat	26
offender under section 43AO, consider the report	27
and make a decision under this section.	28
(2) If the Attorney-General is satisfied that subjecting	29
the repeat offender to the other requirements of	30
the repeat offender's indeterminate supervision	31
order is no longer in the public interest, the	32
Attorney-General may decide that the other	33

[s 10]

requirements no longer apply to the repeat offender.	1 2
(3) If the Attorney-General is satisfied that subjecting the repeat offender to the other requirements of the repeat offender's indeterminate supervision order continues to be in the public interest, the Attorney-General may decide that the other requirements continue to apply to the repeat offender.	3 4 5 6 7 8 9
(4) Notice of the Attorney-General's decision under subsection (2) or (3) must be given to the repeat offender.	10 11 12
Division 4 Relationship with division 3 orders	13 14
43AR Effect of division 3 order on indeterminate supervision order	15 16
(1) Nothing in this part affects—	17
(a) the power of the Attorney-General to apply to the court for a division 3 order in relation to a prisoner; or	18 19 20
(b) the power of the court to make a division 3 order in relation to a prisoner.	21 22
(2) Subsection (3) applies if—	23
(a) the court or the relevant appeal court makes a division 3 order in relation to a prisoner; and	24 25 26
(b) the prisoner is subject to an indeterminate supervision order.	27 28
(3) The prisoner's indeterminate supervision order is suspended for the period of the division 3 order.	29 30

Clause 11	Insertion of new s 51A	1
	After section 51—	2
	<i>insert—</i>	3
	51A Review of amendments	4
	(1) The Attorney-General must review the amendments to this Act made by the <i>Protecting Queenslanders from Violent and Child Sex Offenders Amendment Act 2018</i> as soon as reasonably practicable after 3 years after that Act’s commencement.	5 6 7 8 9 10
	(2) The Attorney-General must, as soon as reasonably practicable after finishing the review, table a report about the outcome of the review in the Legislative Assembly.	11 12 13 14
 Clause 12	 Insertion of new pt 10	 15
	After section 65—	16
	<i>insert—</i>	17
	Part 10	Transitional provisions
		for Protecting
		Queenslanders from
		Violent and Child Sex
		Offenders Amendment
		Act 2018
	66	References to supervision orders
	In this Act, a reference to a supervision order includes a reference to a further supervision order made under this Act before the commencement.	24 25 26 27
	67	Application of ss 3A and 13
	(1) Sections 3A and 13 apply to a decision relating to	28 29

[s 12]

an existing application.	1
(2) In this section—	2
<i>existing application</i> means an application under	3
this Act made but not decided before the	4
commencement.	5
68 Application for further supervision order not finally decided	6 7
(1) This section applies if immediately before the commencement an application for a further supervision order had been made but not finally dealt with.	8 9 10 11
(2) The application is withdrawn.	12
69 Application of pt 4B	13
For applying part 4B, it does not matter whether any or all of the two or more serious sexual offences were committed, or the offender was convicted, before or after the commencement.	14 15 16 17

Schedule 1	Consequential amendments	1
	section 2	2
1	Section 15, heading, ‘supervision order or’— <i>omit.</i>	3 4
2	Section 15, ‘A supervision order or’— <i>omit, insert—</i> An	5 6 7
3	Section 44(1), ‘8(1), 18 or 19D(2)’— <i>omit, insert—</i> 8(1) or 18	8 9 10
4	Section 49(1), ‘19D,’— <i>omit.</i>	11 12
5	Section 49(2), ‘8, 18 or 19D’— <i>omit, insert—</i> 8 or 18	13 14 15
6	Schedule, definitions <i>current order, further supervision order, released prisoner, relevant order and supervision order—</i> <i>omit.</i>	16 17 18 19
7	Schedule— <i>insert—</i>	20 21

Schedule 1

	<i>indeterminate supervision order</i> see section 43AL(2).	1 2
	<i>monitoring device requirement</i> see section 43AL(1)(a).	3 4
	<i>other requirements</i> see section 43AL(1)(b).	5
	<i>released prisoner</i> —	6
	(a) generally—see section 18(1)(a); or	7
	(b) for part 4A—see section 43AAA.	8
	<i>relevant order</i> , for a released prisoner—	9
	(a) generally—means the supervision order or interim supervision order to which the released prisoner is subject; or	10 11 12
	(b) for part 4A—see section 43AAA.	13
	<i>repeat offender</i> , for part 4B, see section 43AJ.	14
	<i>supervision order</i> means a supervision order made under section 13(5)(b).	15 16
8	Schedule, definition <i>interim supervision order</i>, ‘19D(2),’—	17 18
	<i>omit.</i>	19