

Child Protection (Offender Prohibition Order) Bill 2007

Amendments agreed to during Consideration

1 **Clause 2 (Commencement)**

At page 6, line 7, ‘a day to be fixed by proclamation’—

omit, insert—

‘2 June 2008’.

2 **Clause 16 (Temporary order made by a court)**

At page 16, lines 26 and 27—

omit, insert—

‘court must, on its own initiative or on application by a party to the proceeding, decide whether to make a temporary order for the respondent.’.

3 **After clause 24—**

At page 24, after line 2—

insert—

‘24A Making disqualification order instead of temporary order

‘(1) This section applies if—

- (a) a magistrate hearing an application for a temporary order (the *relevant application*) for a person decides not to make the temporary order; or
- (b) a court hearing an application for an offender prohibition order (also the *relevant application*) for a person—
 - (i) has not made a final order for the person; and

- (ii) decides not to make a temporary order for the person under section 16.
- ‘(2) The magistrate or court must consider whether to make an order (*disqualification order*) in relation to the person stating that the person may not hold a positive notice, or apply for a prescribed notice, under the *Commission for Children and Young People and Child Guardian Act 2000*.
- ‘(3) However, the magistrate or court may make the disqualification order only if the magistrate or court considers it would not be in the interests of children for the children’s commissioner to issue a positive notice to the person.
- ‘(4) The following provisions apply to the making of the disqualification order—
 - (a) if the relevant application is made under section 15—section 15(3) to (7);
 - (b) if the relevant application is made under section 16—section 16(4) and (5).
- ‘(5) The provisions mentioned in subsection (4) apply for that subsection as if—
 - (a) a reference in the provisions to the respondent were a reference to the person; and
 - (b) a reference in the provisions to a temporary order were a reference to the disqualification order.
- ‘(6) If the magistrate or court makes the disqualification order in the person’s absence, a police officer must serve the person with a copy of the disqualification order.

‘24B Term of a disqualification order

- ‘(1) A disqualification order takes effect—
 - (a) if the person who is subject to the disqualification order is present before the magistrate or court when the order is made—when it is made; or
 - (b) if the person who is subject to the disqualification order is not present before the magistrate or court when the

order is made—when a copy of the order is served on the person under section 24A(6).

- ‘(2) The disqualification order remains in force until whichever of the following happens first—
- (a) if the disqualification order is made by a magistrate hearing an application for a temporary order under section 15—a proceeding for a final order is not started by the return date and time fixed by the magistrate under section 15(5);
 - (b) the application for the final order is next mentioned in a court and the court does not extend the term of the disqualification order under section 24C;
 - (c) the prescribed period ends;
 - (d) a court decides the application for the final order;
 - (e) the commissioner discontinues the application for the final order;
 - (f) the disqualification order is revoked under section 24D.

- ‘(3) In this section—

final order means a final order for the person.

prescribed period means—

- (a) if paragraph (b) does not apply—28 days; or
- (b) the period for which the disqualification order is extended under section 24C.

‘24C Extending a disqualification order if an application for a final order is adjourned

‘Section 19 applies in relation to a disqualification order as if—

- (a) a reference in the section to a temporary order were a reference to the disqualification order; and
- (b) a reference in the section to the respondent were a reference to the person who is subject to the disqualification order.

‘24D Revoking a disqualification order

- ‘(1) A person who is subject to a disqualification order may apply to the court under the relevant rules of court for revocation of the disqualification order.
- ‘(2) However, other than in relation to a disqualification order made in the person’s absence, the person may only make an application under subsection (1) with the court’s leave.
- ‘(3) The court may grant the leave if satisfied it is in the interests of justice to do so.
- ‘(4) In deciding the application, the court must have regard to whether it would be in the best interests of children for the children’s commissioner to issue a positive notice to the person.
- ‘(5) A revocation takes effect when it is made.’.

4 Clauses 63 to 73—

At page 46, lines 3 to 26, and pages 47 to 51—
omit.

5 Schedule (Dictionary)—

At page 52, line 22, ‘is cancelled;’—
omit, insert—
‘is—

- (A) if the order is a temporary order—suspended; or
- (B) if the order is a final order—cancelled;’.

6 Schedule (Dictionary)—

- (1) At page 54, after line 3—
insert—
‘disqualification order see section 24A(2).’.

- (2) At page 54, line 4, ‘, for part 2, division 2,’—
omit.

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