



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

**Reprinted as in force on 4 April 2005  
(includes commenced amendments up to 2005 Act No. 9)**

**Reprint No. 1A**

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The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

This page is specific to this reprint. See previous reprint for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

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Queensland

# Child Protection (Offender Reporting) Act 2004

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

[as amended by all amendments that commenced on or before 4 April 2005]

**An Act to require particular offenders who commit sexual, or particular other serious, offences against children to keep police informed of their whereabouts and other personal details for a period of time, to reduce the likelihood that they will re-offend, and to facilitate the investigation and prosecution of any future offences that they may commit, and for related purposes**

## **Part 1 Preliminary**

### **1 Short title**

This Act may be cited as the *Child Protection (Offender Reporting) Act 2004*.

### **2 Commencement**

This Act commences on a day to be fixed by proclamation.

### **3 Purpose of this Act**

- (1) The purpose of this Act is to require particular offenders who commit sexual, or particular other serious, offences against children to keep police informed of their whereabouts and other personal details for a period of time after their release into the community—
  - (a) to reduce the likelihood that they will re-offend; and
  - (b) to facilitate the investigation and prosecution of any future offences that they may commit.
- (2) In outline, this Act—

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- (a) provides for the establishment of a child protection register; and
  - (b) requires offenders who are sentenced for reportable offences after the commencement date to report specified personal details for inclusion in the register, and extends this requirement to particular offenders sentenced for reportable offences before that date; and
  - (c) requires those reportable offenders to keep those details up to date, to report those details annually and to also report particular travel plans; and
  - (d) imposes those reporting obligations for a period of between 4 years and life, depending on the number, severity and timing of the offences committed, and the age of the reportable offender at the time an offence was committed; and
  - (e) allows for the recognition of the period of reporting obligations imposed under laws of foreign jurisdictions.
- (3) Subsection (2) is intended only as a guide to readers about the general scheme and effect of this Act.

#### **4 Notes in text**

A note in the text of this Act is part of the Act.

## **Part 2 Interpretation**

### **5 *Reportable offender defined***

- (1) A *reportable offender* is—
- (a) a person who is sentenced for a reportable offence after the commencement of this section; or
  - (b) a person who is—
    - (i) an existing reportable offender; or
    - (ii) a corresponding reportable offender; or



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- (iii) a New South Wales reportable offender; or
  - (iv) subject to an offender reporting order.
- (2) However, a person mentioned in subsection (1)(a) is not a reportable offender merely because—
- (a) the person was convicted of a class 1 or 2 offence, if the conviction was not recorded under the *Penalties and Sentences Act 1992*, section 12 or the *Juvenile Justice Act 1992*, section 183, (or an equivalent order under the laws of a foreign jurisdiction); or
  - (b) the person was sentenced for a single class 2 offence, if the sentence did not include—
    - (i) a term of imprisonment, including a term of imprisonment that is the subject of a home detention order or an equivalent order under the laws of a foreign jurisdiction; or
    - (ii) a requirement that the person be under the supervision of a supervising authority or another person or body; or
  - (c) the person, as a child, committed—
    - (i) a single offence against the Criminal Code, section 210;<sup>1</sup> or
    - (ii) a single offence against the *Classification of Computer Games and Images Act 1995*, section 26(3),<sup>2</sup> the *Classification of Films Act 1991*, section 41 or 42<sup>3</sup> or the *Classification of Publications Act 1991*, section 13, 14, 15 or 16;<sup>4</sup> or

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1 Criminal Code, section 210 (Indecent treatment of children under 16)

2 *Classification of Computer Games and Images Act 1995*, section 26 (Possession of objectionable computer game)

3 *Classification of Films Act 1991*, section 41 (Possession of objectionable film) or 42 (Making objectionable film)

4 *Classification of Publications Act 1991*, section 13 (Possession of prohibited publication), 14 (Possession of child abuse publication or child abuse photograph), 15 (Exhibition or display of prohibited publication or child abuse photograph) or 16 (Leaving prohibited publication or child abuse photograph in or on public place)

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- (iii) a single offence of possessing or publishing child pornography (in whatever terms expressed) under the laws of Queensland; or
  - (iv) a single offence of possessing or publishing child pornography (in whatever terms expressed) under the laws of a foreign jurisdiction; or
  - (v) a single offence (including an offence under the law of a foreign jurisdiction) that falls within a class of offence that the regulations state is an offence for the purposes of this subparagraph.
- (3) Also, a person is not a reportable offender if the person—
- (a) is receiving protection under a foreign witness protection law specified under a regulation for the purposes of this subsection; or
  - (b) has the same status as a person mentioned in paragraph (a) under an order made under a corresponding Act specified under a regulation for the purposes of this subsection.
- (4) A person stops being a reportable offender if—
- (a) the finding of guilt in relation to the only offence that makes the person a reportable offender under this Act is quashed or set aside by a court; or
  - (b) the person's sentence for the only offence that makes the person a reportable offender under this Act is reduced or altered so that the person would have been a person mentioned in subsection (2)(a) or (b) had the amended sentence been the original sentence; or
  - (c) the offender reporting order that makes the person a reportable offender under this Act—
    - (i) is quashed on appeal; or
    - (ii) if the order was made with a forensic order—ends because of the revocation of the forensic order.
- (5) For this section, it is irrelevant whether or not a person may lodge, or has lodged, an appeal in relation to a finding of guilt, sentence or offender reporting order.

- (6) For subsection (1)(a), a person is a reportable offender even if the reportable offence was committed before the commencement of this section.
- (7) For subsection (1)(b), a person is a reportable offender even if the person was sentenced for the reportable offence before the commencement of this section.
- (8) A reference to a single offence in subsection (2)(b) and (c) includes a reference to more than 1 offence of the same kind arising from the same incident.
- (9) In subsection (2)(b)(ii)—  
*supervision* of a supervising authority does not include supervision under a fine option order.

## 6 ***Existing reportable offender defined***

- (1) An *existing reportable offender* is—
  - (a) a person who, as a result of having been sentenced for a reportable offence before the commencement date—
    - (i) is serving a term of imprisonment; or
    - (ii) is subject to a supervision order; or
  - (b) a person who, immediately before the commencement date, was subject to a reporting order made under the *Criminal Law Amendment Act 1945*, section 19.<sup>5</sup>
- (2) Subsection (1)(a) does not apply if a conviction was not recorded under the *Penalties and Sentences Act 1992*, section 12 or the *Juvenile Justice Act 1992*, section 183.

## 7 ***Corresponding reportable offender defined***

A *corresponding reportable offender* is a person who—

- (a) had at any time (whether before or after the commencement of this section) been in a foreign jurisdiction and at that time had been required to report to the corresponding registrar in that jurisdiction for a

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<sup>5</sup> *Criminal Law Amendment Act 1945*, section 19 (Sexual offender to report name and address)

longer period than the person would be required to report under this Act; and

- (b) would, if the person were currently in that foreign jurisdiction, be required to report to the corresponding registrar in that jurisdiction for a longer period (the ***recognised foreign reporting period***) than the person would be required to report under this Act; and
- (c) falls within a class of person whom a regulation states is a corresponding reportable offender.

*Note—*

A regulation might prescribe a person to be a corresponding reportable offender if the longer reporting period arises because the foreign jurisdiction recognises, as a reportable offence, an offence that is not a reportable offence under this Act, or the corresponding Act commenced earlier than this Act, or for any other reason.

## **8 *New South Wales reportable offender defined***

- (1) A ***New South Wales reportable offender*** is a person who had been in New South Wales at a time before the date stated in a regulation for the purposes of this section and whose reporting obligations under the New South Wales Act had begun at that time, other than a person whom a regulation prescribes not to be a New South Wales reportable offender for this Act.
- (2) A regulation may prescribe a date before the commencement date for subsection (1).

## **9 *Reportable offence defined***

A ***reportable offence*** is—

- (a) a class 1 offence; or
- (b) a class 2 offence; or
- (c) an offence that results in the making of an offender reporting order.

**10 Finding of guilt defined**

- (1) A reference to a *finding of guilt* in relation to an offence (however expressed) committed by a person is a reference to any of the following—
  - (a) a court making a formal finding of guilt in relation to the offence;
  - (b) a court convicting the person of the offence, if there has been no formal finding of guilt before conviction;
  - (c) a court accepting a plea of guilty from the person in relation to the offence;
  - (d) a court accepting an admission of guilt from the person in relation to the offence for the purpose of the offence being taken into account under the *Penalties and Sentences Act 1992*, section 189 or the *Juvenile Justice Act 1992*, section 157, or under equivalent provisions of the laws of a foreign jurisdiction.
- (2) However, a reference to a finding of guilt does not include a finding of guilt that is later quashed or set aside by a court.

**11 References to other terms and concepts**

- (1) Offences arise from the same incident only if they are committed—
  - (a) within a single period of 24 hours; and
  - (b) against the same person.
- (2) A reference to doing a thing *in person* is a reference to doing the thing by personal attendance at a place, and is not a reference to attending the place by phone or by other electronic means.

**12 Definitions**

The dictionary in schedule 3 defines particular words used in this Act.

## Part 3 Offender reporting orders

### 13 Offender reporting orders

- (1) If a court—
  - (a) finds a person guilty of an offence that is not a class 1 or 2 offence; or
  - (b) makes a forensic order in relation to a person;the court may also make an order that the person comply with the reporting obligations of this Act (an ***offender reporting order***).
- (2) However, the court may only make the offender reporting order if it is satisfied that the person poses a risk to the lives or the sexual safety of 1 or more children, or of children generally.
- (3) For subsection (2), it is not necessary that the court be able to identify a risk to particular children, or a particular class of children.
- (4) A court may only make an offender reporting order under subsection (1)(a) if it—
  - (a) imposes a sentence for the offence unless no conviction is recorded under the *Penalties and Sentences Act 1992*, section 12<sup>6</sup> or the *Juvenile Justice Act 1992*, section 183;<sup>7</sup> and
  - (b) makes the order concurrently with the sentence.

*Note—*

The effect of this subsection is to prevent an offender reporting order being made concurrently with an order dismissing the charge or conditionally discharging the accused.

- (5) A court may only make an offender reporting order if an application for the imposition of the order is made by the prosecution.

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6 *Penalties and Sentences Act 1992*, section 12 (Court to consider whether or not to record conviction)

7 *Juvenile Justice Act 1992*, section 183 (Recording of conviction)

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- (6) If a court—
- (a) has made an offender reporting order under subsection (1)(a) in relation to a person, the person may appeal against the making of the order under the Criminal Code, chapter 67 as if the order were a sentence pronounced on the conviction of the person for an indictable offence; or
  - (b) has refused to make an offender reporting order under subsection (1)(a) in relation to a person, the Attorney-General may appeal against the refusal under the Criminal Code, chapter 67 as if the refusal were a sentence pronounced on conviction of the person for an indictable offence.
- (7) If a court—
- (a) has made an offender reporting order under subsection (1)(b) in relation to a person, the person may appeal against the making of the order under the *Mental Health Act 2000*, chapter 8, part 2 as if the order were a decision of the Mental Health Court; or
  - (b) has refused to make an offender reporting order under subsection (1)(b), the Attorney-General may appeal against the refusal under the *Mental Health Act 2000*, chapter 8, part 2 as if the order were a decision of the Mental Health Court.
- (8) For subsection (7), a reference to the Mental Health Court in the *Mental Health Act 2000*, chapter 8, part 2 is to be read as a reference to the court that made, or refused to make, the offender reporting order.
- (9) An order made under subsection (1)(b) ends if the forensic order is revoked under the *Mental Health Act 2000*, section 203.<sup>8</sup>
- (10) For part 4, division 5, if, under subsection (1)(a), an offender reporting order is imposed on a person for an offence, the person is taken to have been found guilty of a class 2 offence.

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8 *Mental Health Act 2000*, section 203 (Decisions on review)

## Part 4 Reporting obligations

### Division 1 Initial report

#### 14 When initial report must be made

- (1) A reportable offender of a kind mentioned in column 1 of the table must report his or her personal details to the police commissioner within the period specified for the offender in column 2 of the table—

**Table**

<b>Column 1 Reportable offender</b>	<b>Column 2 Period for initial report</b>
<p>A reportable offender (other than a corresponding reportable offender) who—</p> <p>(a) enters government detention in Queensland on or after the commencement date as a result of having been sentenced for a reportable offence; and</p> <p>(b) stops being in government detention while in Queensland</p>	<p>Within 28 days after the person stops being in government detention</p>
<p>A reportable offender (other than a corresponding reportable offender) who—</p> <p>(a) is in government detention in Queensland immediately before the commencement date; and</p> <p>(b) stops being in government detention while in Queensland</p>	<p>Within 90 days after the commencement date or 28 days after the person stops being in government detention, whichever is the later</p>



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<b>Column 1 Reportable offender</b>	<b>Column 2 Period for initial report</b>
A reportable offender (other than a corresponding reportable offender) who— (a) is in Queensland on the commencement date; but (b) is not in government detention at that time	Within 90 days after the commencement date or, if the person is given written notice of his or her reporting obligations within 72 days after that date, within 28 days after the person is given that notice
A reportable offender (other than a corresponding reportable offender) who is subject to an offender reporting order	Within 28 days after the offender reporting order is made
Any other reportable offender who is sentenced for a reportable offence in Queensland	Within 28 days after the person is sentenced for the reportable offence
A reportable offender who— (a) enters Queensland from a foreign jurisdiction; and (b) has not previously been required under this section to report his or her personal details to the police commissioner	Within 14 days after entering and remaining in Queensland for 14 or more consecutive days, not counting any days spent in government detention
A corresponding reportable offender who— (a) has not previously reported his or her personal details to the police commissioner; and (b) is in Queensland on the date on which the person becomes a corresponding reportable offender	Within 28 days after the person becomes a corresponding reportable offender or 28 days after the person stops being in government detention, whichever is the later

(2) Despite subsection (1), a reportable offender must report his or her personal details to the police commissioner before leaving Queensland unless the offender—

(a) entered Queensland from a foreign jurisdiction; and

- (b) remained in Queensland for less than 14 consecutive days, not counting any days spent in government detention.
- (3) If more than 1 circumstance mentioned in column 1 applies to a reportable offender, the reportable offender must make an initial report within the shorter of the periods mentioned in column 2 for the circumstances.

**15 When offender must make new initial report after previous reporting obligations have stopped**

- (1) If a reportable offender's reporting period ends, but the offender is then sentenced for a reportable offence, the offender must report his or her personal details to the police commissioner—
  - (a) within 28 days after the offender is sentenced for the reportable offence; or
  - (b) if the reportable offender is in government detention—within 28 days after the offender stops being in government detention;

whichever is the later.
- (2) If a reportable offender's reporting period ends, but the offender then becomes a corresponding reportable offender who must under section 39<sup>9</sup> continue to comply with the reporting obligations imposed by this part for any period, the offender must report his or her personal details to the police commissioner—
  - (a) within 28 days after the offender becomes a corresponding reportable offender; or
  - (b) if the reportable offender is in government detention—within 28 days after the offender stops being in government detention;

whichever is the later.

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9 Section 39 (Reporting period for corresponding reportable offenders)

- (3) If a reportable offender's reporting obligations are suspended by an order under section 42<sup>10</sup> (or an equivalent order in a foreign jurisdiction) and that order stops having effect under section 48<sup>11</sup> (or an equivalent provision of the laws of a foreign jurisdiction), the offender must report his or her personal details to the police commissioner—
- (a) within 28 days after the order stops having effect; or
  - (b) if the reportable offender is in government detention—within 28 days after the offender stops being in government detention;
- whichever is the later.
- (4) If a reportable offender is not in Queensland when the offender would be required under subsection (1), (2) or (3) to report his or her personal details to the police commissioner, the offender must report his or her personal details within 14 days after entering and remaining in Queensland for 14 or more consecutive days, not counting any days spent in government detention.
- (5) Despite subsections (1) to (3), a reportable offender must report his or her personal details to the police commissioner before leaving Queensland, unless the offender—
- (a) entered Queensland from a foreign jurisdiction; and
  - (b) remained in Queensland for less than 14 consecutive days, not counting any days spent in government detention.

## **16 Personal details that are to be reported**

- (1) The details that the reportable offender must report are—
- (a) the offender's name, together with any other name by which the offender is, or has previously been, known; and

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10 Section 42 (Order for suspension)

11 Section 48 (When order stops having effect)

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- (b) for each name other than the offender's current name, the period during which the offender was known by that other name; and
- (c) the offender's date of birth; and
- (d) the address of each of the premises at which the offender generally resides or, if the offender does not generally reside at any particular premises, the name of each of the localities in which the offender can generally be found; and
- (e) the names and ages of any children who generally reside in the same household as that in which the offender generally resides, or with whom the offender has regular unsupervised contact; and
- (f) if the offender is employed—
  - (i) the nature of his or her employment; and
  - (ii) the name of his or her employer (if any); and
  - (iii) the address of each of the premises at which the offender is generally employed or, if the offender is not generally employed at any particular premises, the name of each of the localities in which the offender is generally employed; and
- (g) details of the offender's affiliation with any club or organisation that has child membership or child participation in its activities; and
- (h) the make, model, colour and registration number of any motor vehicle owned by, or generally driven by, the offender; and
- (i) details of any tattoos or permanent distinguishing marks that the offender has, including details of any tattoo or mark that has been removed or changed; and
- (j) whether the offender has ever been found guilty in any foreign jurisdiction of a reportable offence or of an offence that required the offender to report to a corresponding registrar, or been subject to a corresponding offender reporting order and, if so, where that finding occurred or that order was made; and

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- (k) if the offender has been in government detention since the offender was sentenced or released from government detention for a reportable offence or corresponding reportable offence—details of when and where the government detention occurred; and
  - (l) if, when a report is made under this division, the offender leaves, or intends to leave, Queensland to travel elsewhere in Australia on an average of at least once a month (irrespective of the length of the absence)—
    - (i) the reason for travelling, in general terms; and
    - (ii) the frequency and destinations of the travel, in general terms.
- (2) For this section—
- (a) a reportable offender does not generally reside at any particular premises unless the offender resides at those premises for at least 14 days (whether consecutive or not) in any period of 1 year; and
  - (b) a child does not generally reside in the same household as a reportable offender unless they reside together in that household for at least 14 days (whether consecutive or not) in any period of 1 year; and
  - (c) a reportable offender does not have regular unsupervised contact with a child unless the offender has unsupervised contact with the child for at least 14 days (whether consecutive or not) in any period of 1 year; and
  - (d) a reportable offender is not generally employed at any particular premises unless the offender is employed at those premises for at least 14 days (whether consecutive or not) in any period of 1 year; and
  - (e) a reportable offender does not generally drive a particular motor vehicle unless the offender drives the vehicle on at least 14 days (whether consecutive or not) in any period of 1 year.
- (3) For this section, an offender is employed if the offender—
- (a) works under a contract of employment; or
  - (b) works as a self-employed person or sub-contractor; or

- (c) works as a volunteer for an organisation; or
  - (d) undertakes practical training as part of an educational or vocational course; or
  - (e) works as a minister of religion, or in any other capacity, for a religious organisation.
- (4) For this section, a person is an employer if the person—
- (a) arranges, in the course of business, for the reportable offender to be employed by another person; or
  - (b) engages the reportable offender under contract to work.

## **17 Persons required to report under corresponding Act**

- (1) This section applies to a person (other than one to whom division 9 applies) who has been required to report to a corresponding registrar, irrespective of whether the person is a reportable offender for this Act.
- (2) Unless the person has previously complied with the obligation imposed by this section, the person must, within 7 days after entering and remaining in Queensland, contact (by phone, or another way prescribed under a regulation) a person nominated by the police commissioner for the purposes of this section.
- (3) The contact details of the nominated persons must be available by contacting any police station.
- (4) When contacted, a nominated person must advise the person—
- (a) whether the person is a reportable offender under this Act; and
  - (b) any reporting obligations that the person has under this Act.
- (5) A person is not guilty of an offence against section 50<sup>12</sup> because of a failure to comply with the reporting obligation imposed by subsection (2) if the person—
- (a) is not a reportable offender under this Act; or

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12 Section 50 (Failure to comply with reporting obligations)

- (b) has not been notified of that reporting obligation; or
- (c) does not remain in Queensland for 14 or more consecutive days, not counting any days spent in government detention; or
- (d) reports under section 14.<sup>13</sup>

## **Division 2                      Ongoing reporting obligations**

### **18            Reportable offender must report annually**

- (1) A reportable offender must report his or her personal details to the police commissioner each year.
- (2) The reportable offender must make the report by the end of the calendar month in which the anniversary of the date on which the offender first reported under this Act, or a corresponding Act, falls.

*Example—*

J first reported his personal details to the police commissioner on 11 May 2004. This section requires J to make a further report of those details on or before 31 May 2005, 31 May 2006 ... (and so on).

- (3) If the reportable offender has been in government detention since the offender last reported his or her personal details under this section, the details that the offender must report include details of when and where that government detention occurred.
- (4) If a reportable offender's reporting period ends, but the offender is then required to report again under section 15,<sup>14</sup> the reference to the date on which the offender first reported is to be read as a reference to the date on which the offender first reported in relation to the current reporting period.

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13 Section 14 (When initial report must be made)

14 Section 15 (When offender must make new initial report after previous reporting obligations have stopped)

**19 Reportable offender must report changes to relevant personal details**

- (1) A reportable offender must report to the police commissioner any change in his or her personal details within 14 days after the change occurs.
- (2) For subsection (1), a change occurs—
  - (a) in the place where the reportable offender or a child generally resides; or
  - (b) as to when the reportable offender has unsupervised contact with a child; or
  - (c) in the place where the reportable offender is generally employed; or
  - (d) to the motor vehicle that the person generally drives;only at the end of the relevant 14 day period mentioned in section 16(2).<sup>15</sup>
- (3) If the personal details of a reportable offender (other than one to whom division 9 applies) change while the offender is not in Queensland, the offender must report the change to the police commissioner within 14 days after entering and remaining in Queensland for 14 or more consecutive days, not counting any days spent in government detention.

*Note—*

Under section 34,<sup>16</sup> the reporting obligations of a reportable offender are suspended while the offender is out of Queensland unless division 9 applies to the offender.

- (4) A reportable offender who is in government detention for 14 or more consecutive days must report his or her personal details to the police commissioner—
  - (a) within 28 days after the offender stops being in government detention; or
  - (b) before leaving Queensland;whichever is the sooner.

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15 Section 16 (Personal details that are to be reported)

16 Section 34 (Suspension and extension of reporting obligations)



**20 Intended absence from Queensland to be reported**

- (1) This section applies if a reportable offender—
  - (a) intends to leave Queensland for 14 or more consecutive days to travel elsewhere in Australia; or
  - (b) intends to leave Queensland to travel out of Australia.
- (2) At least 7 days before leaving Queensland, the reportable offender must report the intended travel to the police commissioner and must give details of—
  - (a) each State, Territory or country to which the offender intends to go while out of Queensland; and
  - (b) the approximate dates during which the offender intends to be in each of those States, Territories or countries; and
  - (c) each address or location within each State, Territory or country at which the offender intends to reside (to the extent that they are known) and the approximate dates during which the offender intends to reside at those addresses or locations; and
  - (d) if the offender intends to return to Queensland, the approximate date on which the offender intends to return; and
  - (e) if the offender does not intend to return to Queensland, a statement of that intention.
- (3) If circumstances arise making it impracticable for a reportable offender to make the report 7 days before the offender leaves, it is sufficient compliance with subsection (2) if the offender reports the required information to the police commissioner at least 24 hours before the intended travel.

**21 Change of travel plans while out of Queensland to be given**

- (1) This section applies if a reportable offender who is out of Queensland decides—
  - (a) to extend a stay elsewhere in Australia beyond 13 days; or

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- (b) to change any details given to the police commissioner under section 20.
- (2) As soon as practicable after making the decision, the reportable offender must—
  - (a) if subsection (1)(a) applies—report the details required by section 20(2) to the police commissioner (including those details as they relate to the travel that has already been completed); or
  - (b) if subsection (1)(b) applies—report the changed details to the police commissioner.
- (3) The reportable offender must make the report—
  - (a) by fax or email sent to the police commissioner, or to another address allowed under a regulation; or
  - (b) in another way allowed under a regulation.

**22 Reportable offender to report return to Queensland or decision not to leave**

- (1) This section applies if a reportable offender was required to report that the offender intended to leave Queensland under section 20.
- (2) If the reportable offender left Queensland, the offender must report his or her return to Queensland to the police commissioner within 14 days after entering and remaining in Queensland for 14 or more consecutive days, not counting any days spent in government detention.
- (3) If the reportable offender decides not to leave Queensland, the offender must report his or her change of intention to the police commissioner within 14 days after deciding not to leave.

**23 Report of other absences from Queensland**

- (1) This section applies if a reportable offender, at the time of making a report under this division, leaves, or intends to leave, Queensland to travel elsewhere in Australia on an average of at least once a month (irrespective of the length of the absence).

- (2) The reportable offender must report the following details to the police commissioner—
- (a) the reason for travelling, in general terms;
  - (b) the frequency and destinations of the travel, in general terms.

## **24 Information about international travel to be given to the AFP**

As soon as practicable after receiving a report under section 20, 21 or 22 about a reportable offender's intentions in relation to travel out of Australia, the police commissioner must ensure that a copy of the report is given to the commissioner of the Australian Federal Police.

## **Division 3 Provisions applying to all reporting obligations**

### **25 Where report must be made**

- (1) A report under this part must be made—
- (a) at any police station in the locality in which the reportable offender is currently residing (subject to subsection (2)); or
  - (b) if a direction is given under a regulation about the police station at which the report must be made, at that police station; or
  - (c) at some other place approved (either generally or in a particular case) by the police commissioner.

*Example—*

The police commissioner may approve all authorised mental health services under the *Mental Health Act 2000* to be approved places for forensic patients to report under this part.

- (2) If a police station in the locality in which a reportable offender is currently residing is a restricted police station, the offender—

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- (a) with the police commissioner's approval, may make the report at that station; or
  - (b) may make the report at the next nearest police station that is not a restricted police station.
- (3) For subsection (2), a ***restricted police station*** is a police station that is a police station, or that falls within a class of police station, that a regulation states is not to be used as a venue for the purposes of this section without the police commissioner's approval.
- (4) This section does not apply if, under section 26(2), a report is allowed to be made in a way that is inconsistent with this section.

## **26 How reports must be made**

- (1) A reportable offender must make the following reports in person—
- (a) a report required by division 1 (initial report);
  - (b) a report required by section 18 (annual report);
  - (c) a report of a change of address of the premises at which the offender generally resides or, if the offender does not generally reside at any particular premises, of the localities in which the offender can generally be found;
  - (d) a report of the acquisition of, removal of, or change to, any tattoo or distinguishing mark.
- (2) A reportable offender may make any other report that the offender is required to make in person, or in another way allowed under a regulation or by the police commissioner, either generally or in a particular case.
- (3) Only a police officer may receive a report made in person and only a police officer, or another person approved by the police commissioner, may receive a report made in another way under subsection (2).
- (4) If a reportable offender attending in person has a disability that makes it impracticable for the offender to make a report, any parent, guardian, carer or other person nominated by the

offender who is accompanying the offender may make the report on the offender's behalf.

- (5) Similarly, if a reportable offender who is allowed to make a report other than in person under subsection (2) has a disability that makes it impracticable for the offender to make the report himself or herself, a parent, guardian, carer or other person nominated by the offender may make the report on the offender's behalf.

## **27 Right to privacy and support when reporting**

- (1) A person making a report under this part at a police station or a place approved by the police commissioner—
  - (a) is entitled to make the report out of the hearing of members of the public; and
  - (b) is entitled to be accompanied by a support person of the person's own choosing.
- (2) A police officer or other person receiving the report may arrange for an interpreter to be present when a person is making a report under this part.
- (3) A police officer or other person receiving the report must not allow an interpreter to be present when a person is making a report under this part unless the interpreter has signed an undertaking not to disclose any information derived from the report unless required or authorised by or under any Act or law to do so.

## **28 Receipt of information to be acknowledged**

- (1) As soon as practicable after receiving a report under this part, the police officer or other person receiving the report must acknowledge the making of the report.
- (2) The acknowledgment—
  - (a) must be in writing; and
  - (b) must be given to the person who made the report; and
  - (c) must include—

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- (i) the name and signature of the police officer or other person who received the report; and
  - (ii) the date and time when, and the place where, the report was received; and
  - (iii) a copy of the information that was reported; and
  - (iv) a copy of the record of any agreement made under subsection (4).
- (3) If a report is not made in person, the police officer or other person who received the report must as soon as practicable—
  - (a) give the person making the report a unique reference number; and
  - (b) record that number on the relevant reportable offender's file and on the acknowledgment.
- (4) The police commissioner may make an agreement with the reportable offender about the way in which a reference number or acknowledgement required to be given by this section may be given.
- (5) The police commissioner must ensure—
  - (a) that there is a method of recording an agreement made under subsection (4); and
  - (b) that, except with the reportable offender's written consent, a reference number or acknowledgement required to be given by this section is given in accordance with the agreement while the agreement remains in force.
- (6) The police commissioner must ensure that a copy of every acknowledgment is kept.

**29 Additional matters to be given**

- (1) If a report is required to be made in person, the person making the report must also—
  - (a) if the person is the reportable offender—
    - (i) present for inspection the offender's driver licence (if any) or another form of identification or other document specified by a regulation for the

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purposes of this section to verify or support details in the report; and

- (ii) provide a photograph of the reportable offender's head and face of a type suitable for use in an Australian passport; or
  - (b) if the person is not the reportable offender—present for inspection the person's driver licence (if any) or another form of identification specified by a regulation for the purposes of this section.
- (2) The police officer receiving the report may waive the requirements of subsection (1)(a) or (b) if—
- (a) the reportable offender permits his or her fingerprints to be taken immediately before or after the report is made; or
  - (b) the police officer is otherwise satisfied about the reportable offender's identity.
- (3) The police officer receiving the report may waive the requirements of subsection (1)(b) if the officer is otherwise satisfied about the person's identity.
- (4) The police officer receiving a report may copy a document presented to the officer for inspection under subsection (1)(a) or (b).
- (5) If a report is made otherwise than in person, a regulation may specify—
- (a) the circumstances in which—
    - (i) information about the identity of the reportable offender and the identity of the person making the report are required; and
    - (ii) a document verifying or supporting details in the report are required; and
  - (b) the way in which the information or document must be given;

but may not require an original document to be given.

**30 Power to take fingerprints**

- (1) This section applies if a police officer—
  - (a) is receiving a report made in person under this part; and
  - (b) is not reasonably satisfied about the reportable offender's identity after the officer has examined all the material relating to identity given or presented to the officer by, or on behalf of, the reportable offender.
- (2) The officer may take, or cause a person authorised by the officer to take, the reportable offender's fingerprints.

**31 Power to take photographs**

- (1) A police officer receiving a report made in person under this part may require the reportable offender—
  - (a) to be photographed; or
  - (b) to expose any part of the offender's body to enable that part of the body to be photographed by the officer or a person authorised by the officer.
- (2) However, a police officer can not require a reportable offender to expose—
  - (a) the offender's genitals; or
  - (b) the anal area of the offender's buttocks; or
  - (c) if the offender is a female or a transgender person who identifies as a female—the offender's breasts.

**32 Retention of material for law enforcement, crime prevention or child protection**

For law enforcement, crime prevention or child protection purposes, the police commissioner may keep any of the following taken under this division from a person—

- (a) copies of any documents;
- (b) any fingerprints;
- (c) any photographs.



**33 Reporting by remote offenders**

- (1) This section applies if a reportable offender resides more than 100 kilometres from the nearest police station that is not a restricted police station.
- (2) A reportable offender need not comply with a time limit about the making of a report in person under this part if—
  - (a) the offender, or a person entitled to make the report on the offender's behalf, contacts the police commissioner before the time limit ends; and
  - (b) the police commissioner agrees to allow the report to be made at a specific time, that is after the time limit, and at a specific place; and
  - (c) before the specific time, the person gives the police commissioner, by phone or another way, the information required to be reported under division 1 or 2.
- (3) The police commissioner must ensure that there is a method of recording all agreements made under this section.
- (4) Without limiting subsection (3), the recording method must result in the creation of a written record that—
  - (a) is identified by a unique reference number; and
  - (b) identifies when and where each agreement was made; and
  - (c) identifies the person who enters into any agreement; and
  - (d) contains the terms of any agreement.
- (5) If an agreement is made under this section, the police commissioner must ensure that the reportable offender is given the reference number mentioned in subsection (4)(a).
- (6) The police commissioner must ensure that there is a method of recording all information given under subsection (2).

## **Division 4                      Suspension and extension of reporting obligations**

### **34                      Suspension and extension of reporting obligations**

- (1) Any obligation imposed on a reportable offender by this part is suspended for any period during which the offender—
  - (a) is in government detention; or
  - (b) is outside Queensland unless—
    - (i) the offender is someone to whom division 9 applies; or
    - (ii) the obligation is under section 21;<sup>17</sup> or
  - (c) is the subject of an order under division 6 (or an equivalent order in a foreign jurisdiction).
- (2) The period for which a reportable offender's reporting obligations continue is extended by any length of time for which the obligations are suspended under subsection (1)(a).
- (3) This section does not apply to a forensic reportable offender.

## **Division 5                      Reporting period**

### **35                      When reporting obligations begin**

- (1) A reportable offender's reporting obligations in relation to a reportable offence begin—
  - (a) for a forensic reportable offender—when an offender reporting order is imposed on the reportable offender; or
  - (b) for another reportable offender—
    - (i) when the reportable offender is sentenced for the offence; or
    - (ii) when an offender reporting order is imposed on the reportable offender; or

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17 Section 21 (Change of travel plans while out of Queensland to be given)

- (iii) when the reportable offender stops being in government detention for the offence;
- whichever is the later.
- (2) For an existing reportable offender, if an event mentioned in subsection (1)(b) happened before the commencement date, the reportable offender's reporting obligations begin when the event happened.
  - (3) Subsection (1)(b) is subject to section 36(5).

### **36 Length of reporting period**

- (1) A reportable offender must continue to comply with the reporting obligations imposed by this part for—
  - (a) 8 years, if the offender has only ever been found guilty of a single class 2 offence; or
  - (b) 15 years, if the offender—
    - (i) has only ever been found guilty of a single class 1 offence; or
    - (ii) has ever been found guilty of more than a single reportable offence, but is not covered by paragraph (c); or
  - (c) the remainder of the offender's life, if the offender is a reportable offender in relation to—
    - (i) a class 1 offence and the offender later commits, and is found guilty of, another reportable offence; or
    - (ii) a class 2 offence and the offender later commits, and is found guilty of, a class 1 offence; or
    - (iii) a class 2 offence and the offender later commits, and is found guilty of, another class 2 offence and the offender has ever been found guilty of 3 or more class 2 offences.

*Note—*

A life-long reporting obligation may be suspended under division 6.

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- (2) Subsection (1)(c) does not apply if the reportable offender was not given notice of his or her reporting obligations under this Act, or a corresponding Act, before the offender committed the subsequent offence.
- (3) A reference in subsection (1) to an offence extends to an offence committed before the commencement of subsection (1).
- (4) For this section—
  - (a) 2 or more offences that arise from the same incident are to be treated as a single offence; and
  - (b) 2 or more offences that arise from the same incident are to be treated as a single class 1 offence if at least 1 of those offences is a class 1 offence.

*Note—*

The meaning of *single offence* is qualified by subsection (4) and by section 11(1).<sup>18</sup>

- (5) For this section, to work out when the reporting obligations of an existing reportable offender end, the offender's reporting obligations in relation to a reportable offence are taken to have commenced—
  - (a) when the reportable offender was sentenced for the offence; or
  - (b) if the reportable offender is subject to an order under the *Criminal Law Amendment Act 1945*, section 19—when the order under that section was imposed on the reportable offender; or
  - (c) when the reportable offender stopped being in government detention for the offence;

whichever was the later.
- (6) Despite anything to the contrary in this section or section 37, a forensic reportable offender must continue to comply with the reporting obligations imposed by this part until the person stops being a reportable offender.<sup>19</sup>

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<sup>18</sup> Section 11 (References to other terms and concepts)

<sup>19</sup> For when a person stops being a reportable offender, see section 5(4) (*Reportable offender* defined).

**37 Reduced period applies for juvenile reportable offenders**

- (1) The reporting periods stated in section 36 do not apply to a reportable offender who was a child at the time at which the offender committed each reportable offence.
- (2) Instead, a reporting period that is half the reporting period that would otherwise apply to the offender under section 36 (or 7½ years for a reporting period for life) applies to the offender.

**38 Extended reporting period if reportable offender still on post-prison community based release**

- (1) This section applies if—
  - (a) a reportable offender is on post-prison community based release in relation to a reportable offence; and
  - (b) the reporting period for the offence will end before the expiry of the sentence of imprisonment to which the post-prison community based release relates.
- (2) Despite anything to the contrary in this division, the reporting period is extended until the end of the term of imprisonment to which the post-prison community based release relates.

**39 Reporting period for corresponding reportable offenders**

- (1) Despite anything to the contrary in this part, a corresponding reportable offender must continue to comply with the reporting obligations imposed by this part for the recognised foreign reporting period mentioned in section 7(b).<sup>20</sup>
- (2) For this section, if a corresponding reportable offender is a corresponding reportable offender under the laws of more than 1 jurisdiction, the recognised foreign reporting period is the longest period for which the offender would be required to report to the corresponding registrar of a foreign jurisdiction.

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20 Section 7 (*Corresponding reportable offender* defined)

**40 Reporting period for New South Wales reportable offenders**

- (1) A New South Wales reportable offender must continue to comply with the reporting obligations imposed by this part for the period that the person is required to report under the New South Wales Act.
- (2) However, a New South Wales reportable offender who, on or after the date specified by a regulation for the purposes of section 8,<sup>21</sup> is sentenced for a reportable offence or becomes a corresponding reportable offender must continue to comply with the reporting obligations imposed by this part for—
  - (a) the period mentioned in subsection (1); or
  - (b) the period that the person is required to report under this division (other than this section);whichever is longer.

**Division 6 Exemption from reporting obligations****41 Supreme Court may exempt particular reportable offenders**

- (1) This division applies to a reportable offender who is required to continue to comply with the reporting obligations imposed by this part for the rest of the offender's life.
- (2) If—
  - (a) a period of 15 years has passed (ignoring any period during which the reportable offender was in government detention) since the offender was last sentenced or released from government detention in relation to a reportable offence or a corresponding reportable offence, whichever is later; and
  - (b) the offender did not become the subject of a life-long reporting period under a corresponding Act while in a

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21 Section 8 (*New South Wales reportable offender* defined)

foreign jurisdiction before becoming the subject of a life-long reporting period in Queensland; and

- (c) the offender is not subject to post-prison community based release in relation to a reportable offence;

the offender may apply to the Supreme Court for an order suspending the reporting obligations.

## **42 Order for suspension**

- (1) On the application of a reportable offender mentioned in section 41(2), the Supreme Court may make an order suspending the offender's reporting obligations.
- (2) The court must not make the order unless it is satisfied that the offender does not pose a risk to the safety of children.
- (3) When deciding whether to make the order, the court must take into account—
  - (a) the seriousness of the offender's reportable offences and corresponding reportable offences; and
  - (b) the period of time since the offences were committed; and
  - (c) the age of the offender, the age of the victims of the offences, and the difference in age between the offender and the victims, when the offences were committed; and
  - (d) the offender's present age; and
  - (e) the offender's criminal record; and
  - (f) any other matter that the court considers appropriate.

## **43 Commission for Children and Young People and Child Guardian is party to an application**

- (1) The Commission for Children and Young People and Child Guardian (the *commission*) is entitled, as of right, to be a party to any proceedings for an order under this division.
- (2) The commission may make submissions in opposition to, or in support of, the making of the order.

- (3) As soon as is practicable after receiving an application under this division, a registrar of the Supreme Court must notify the commission of the application.
- (4) For the purpose of preparing submissions, the commission may direct a government entity or local government to give it information relevant to an assessment of whether the applicant poses a risk to the safety of children.
- (5) The government entity or local government is authorised and directed to give the commission the information sought by the direction.

**44 Police to be notified of order**

A registrar of the Supreme Court must notify the police commissioner of the terms of any order made under this division, unless the police commissioner is a party to the application.

**45 No costs to be awarded**

The Supreme Court may not award costs in relation to proceedings under this division.

**46 Right of appeal**

A party to proceedings under this division may appeal to the Court of Appeal, on a question of law, from any decision of the Supreme Court in the proceedings.

**47 Restriction on right of unsuccessful applicant to re-apply for order**

If the Supreme Court refuses to make an order under this division, the reportable offender is not entitled to make a further application to the court until 5 years have elapsed from the date of the refusal, unless the court otherwise orders at the time of the refusal.



**48 When order stops having effect**

- (1) An order made under this division stops having effect if, at any time after the making of the order, the reportable offender becomes—
  - (a) a reportable offender, other than a corresponding reportable offender; or
  - (b) a corresponding reportable offender who must, under section 39,<sup>22</sup> continue to comply with the reporting obligations imposed by this part for any period.
- (2) An order that stopped having effect under subsection (1) is revived if—
  - (a) the finding of guilt that caused the order to stop having effect is quashed or set aside by a court; or
  - (b) for an order that stopped having effect under subsection (1)(a)—
    - (i) the offender reporting order is quashed on appeal; or
    - (ii) the offender's finding of guilt in relation to the offence that resulted in the making of that order is quashed or set aside by a court.
- (3) For this section, it is irrelevant whether or not a person may lodge, or has lodged, an appeal in relation to a finding of guilt or offender reporting order.

**49 Application for new order**

- (1) If an order stops having effect under section 48(1), the reportable offender may apply under this division for a new order.
- (2) Section 47 does not apply to an application under subsection (1).

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22 Section 39 (Reporting period for corresponding reportable offenders)

- (3) If an order stops having effect under section 48(1), on an application under this division for a new order, section 41(2)(a)<sup>23</sup> applies as if the period referred to were a period of 15 years (ignoring any period during which the offender was in government detention) since the offender last committed a reportable offence or corresponding reportable offence.

## **Division 7                      Offences**

### **50            Failure to comply with reporting obligations**

- (1) A reportable offender must comply with the offender's reporting obligations, unless the offender has a reasonable excuse.

Maximum penalty—150 penalty units or 2 years imprisonment.

- (2) When deciding whether a reportable offender has a reasonable excuse, the court must have regard to—
- (a) the offender's age; and
  - (b) whether the offender has a disability that affects the offender's ability to understand, or to comply with, the obligations; and
  - (c) whether the form of notice given to the offender about the obligations was adequate to inform the offender of the obligations, having regard to the offender's circumstances; and
  - (d) any matter specified by a regulation for the purposes of this section; and
  - (e) any other matter that the court considers is appropriate.
- (3) It is a defence to proceedings for an offence of failing to comply with a reporting obligation if it is established by or on behalf of the person charged with the offence that, at the time the offence is alleged to have occurred, the person had not received notice, and was otherwise unaware, of the obligation.

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23 Section 41 (Supreme Court may exempt particular reportable offenders)

**51 False or misleading information**

- (1) A person must not give information to a person under this Act that the person knows is false or misleading in a material particular.

Maximum penalty—150 penalty units or 2 years imprisonment.

- (2) Subsection (1) does not apply to information given in a document, if the person when giving the document—
- (a) informs the person being given the document, to the best of the person's ability, how the information is false or misleading; and
  - (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.
- (3) It is enough for a complaint against a person for an offence against subsection (1) to state that the information was 'false or misleading', without specifying whether it was false or whether it was misleading.

**52 No time limit for prosecutions**

Despite anything to the contrary in the *Justices Act 1886*, a proceeding for an offence under this Act may be started at any time.

**53 Bar to prosecution for failing to report leaving Queensland**

- (1) This section applies if—
- (a) a reportable offender leaves Queensland; and
  - (b) the offender is found guilty of failing to report his or her presence in a foreign jurisdiction, as required by a corresponding Act.
- (2) The offender must not be prosecuted for a failure to comply with section 20<sup>24</sup> in relation to the travel out of Queensland.

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24 Section 20 (Intended absence from Queensland to be reported)

## **Division 8                      Notification of reporting obligations**

### **54            Notice to be given to reportable offender**

- (1) A reportable offender must be given written notice of—
  - (a) his or her reporting obligations; and
  - (b) the consequences that may arise if the offender fails to comply with those obligations.
- (2) A reportable offender must be given the notice as soon as practicable after any of the following events happen—
  - (a) the offender is—
    - (i) sentenced for a reportable offence; or
    - (ii) made subject to an offender reporting order;
  - (b) the offender is released from government detention (whether in government detention for a reportable offence or otherwise);
  - (c) the offender enters Queensland, if the offender has not previously been given notice of his or her reporting obligations in Queensland;
  - (d) the offender becomes a corresponding reportable offender, if the person is in Queensland at that time.
- (3) The notice must be given by the entity specified in, or determined under, a regulation.
- (4) However, an entity is not required to give a notice if the notice has been given by another entity.
- (5) A regulation under subsection (3) must not specify a court, or an officer of the court, to be an entity except when the court has made an offender reporting order.
- (6) Despite anything to the contrary in this division, the notice is not required to specify the reportable offender's reporting period if, as required by a regulation, a notice containing that information is given to the reportable offender when reporting his or her personal details to the police commissioner.

**55 Courts to provide sentencing information to police commissioner**

- (1) This section applies if a court—
  - (a) makes any order or imposes any sentence that has the effect of making a person a reportable offender for this Act; or
  - (b) imposes any sentence on a person for a reportable offence; or
  - (c) makes any order in relation to a reportable offender that has the effect of removing the offender from the ambit of this Act.

*Example—*

Paragraph (c) would apply, for instance, if a court on appeal quashes a person's finding of guilt for a reportable offence for which the person had been sentenced and that was the only reportable offence that the person had ever been found guilty of.

- (2) The court must ensure that details of the order or sentence are given to the police commissioner as soon as practicable after the making or imposition of the order or sentence.
- (3) For subsection (2), it is sufficient for the verdict and judgement record, made under the Criminal Practice Rules, to be given to the police commissioner.
- (4) In this section—

*court* does not include a court of a foreign jurisdiction.

**56 Notice to be given when reporting period changes**

- (1) This section applies to a reportable offender whose reporting period has changed since the offender was last notified of his or her reporting period in Queensland.
- (2) The police commissioner must give written notice to the reportable offender as soon as practicable after the change, but no later than the time that the offender next reports under this Act.

**57 Supervising authority to notify police commissioner of personal details**

- (1) For the purposes of this Act, the police commissioner may require a supervising authority who the police commissioner reasonably considers has the personal details of a reportable offender to give the details to the police commissioner.
- (2) The supervising authority is authorised and directed to give the details to the police commissioner.

*Example—*

If a reportable offender has failed to report and can not be located, the police commissioner may ask the supervising authority for the offender's address.

**58 Supervising authority to notify police commissioner of particular events**

- (1) As soon as practicable before or after a decision is made under section 173, 186, 203 or 289<sup>25</sup> of the *Mental Health Act 2000* in relation to a forensic reportable offender, the supervising authority is authorised and directed to give written notice of that fact to the police commissioner.
- (2) As soon as practicable before or after any other reportable offender—
  - (a) is on unescorted leave of absence; or
  - (b) is authorised to leave Queensland under the *Corrective Services Act 2000* or the *Juvenile Justice Act 1992*; or
  - (c) stops being in government detention, including because of the making of a supervision order; or
  - (d) stops being subject to a supervision order;
 the supervising authority is authorised and directed to give written notice of that fact to the police commissioner.
- (3) A notice under this section must include any details required by a regulation.

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<sup>25</sup> Section 173 (Tribunal's powers on application), 186 (Absence of particular patients with director's approval), 203 (Decisions on review) or 289 (Mental Health Court may order, approve or revoke limited community treatment) of the *Mental Health Act 2000*

- (4) Subsection (2) applies regardless of why a reportable offender who was in government detention or subject to the supervision order was in government detention or subject to the supervision order.

## **59 Notices may be given by police commissioner**

The police commissioner may, at any time, give a reportable offender written notice of—

- (a) his or her reporting obligations; and
- (b) the consequences that may arise if the offender fails to comply with those obligations.

## **60 Power of detention to enable notice to be given**

- (1) This section applies if there are reasonable grounds to suspect that—
- (a) a person is a reportable offender; and
  - (b) the person has not been given notice, or is otherwise unaware, of his or her reporting obligations.
- (2) A police officer may detain the person if it is reasonably necessary to do so—
- (a) to enable a decision to be made about—
    - (i) whether or not the person is a reportable offender; or
    - (ii) if the person is a reportable offender—whether or not the person has been given notice, or is aware, of his or her reporting obligations; or
  - (b) to enable the person to be given notice of those obligations if the person is not aware of them.
- (3) When detaining the person, the police officer must tell the person—
- (a) why the person is being detained; and
  - (b) that the detention is authorised under this Act; and
  - (c) that the person will be released immediately after the reasons for the detention are satisfied.

- (4) The detained person—
- (a) must not be held for a period that is longer than is reasonably necessary to enable the purpose of the detention to be satisfied; and
  - (b) must not be held only because the person has refused to sign an acknowledgment that the person has been given notice of his or her reporting obligations; and
  - (c) must be released immediately after the purpose of the detention is satisfied.

**61 Failure to comply with procedural requirements does not affect reportable offender's obligations**

A failure by a person other than a reportable offender to comply with a procedural requirement imposed on the person by this part or a regulation does not, of itself, affect a reportable offender's reporting obligations.

*Note—*

This section aims to prevent a reportable offender who was not given notice of a reporting obligation by an official as required by this part from arguing that the obligation does not apply to him or her as a result of that failure if there is evidence that the reportable offender was aware of the obligation through some other way. If there is no evidence of that, then the reportable offender would have a defence to the charge under section 50(3)<sup>26</sup> on the basis that the person was not aware of the obligation.

**Division 9 Modified reporting procedures for protected witnesses**

**62 Who this division applies to**

- (1) This division applies to a reportable offender who—
- (a) is currently a participant in a witness protection program; or

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26 Section 50 (Failure to comply with reporting obligations)



*Child Protection (Offender Reporting) Act 2004*

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- (b) is the subject of an order in force under this division declaring that the person is a person to whom this division applies; or
  - (c) has been a participant in a witness protection program but in relation to whom an order under this division is not yet in effect.
- (2) This division (other than sections 64 to 66<sup>27</sup>) also applies to a reportable offender who—
- (a) is receiving protection under a foreign witness protection law specified by a regulation for the purposes of this subsection; or
  - (b) has the same status as a person mentioned in paragraph (a) under an order made under a corresponding Act specified by a regulation for the purposes of this subsection.
- (3) In this division—

***witness protection program*** has the same meaning as it has in the *Witness Protection Act 2000*.

*Note—*

Section 5(3) excludes from the definition *reportable offender* persons receiving protection under foreign witness protection laws prescribed for the purposes of that section or who have the same status as those persons under a corresponding Act that is so prescribed.

### **63 Report need not be made in person**

It is sufficient compliance with this part if—

- (a) a person to whom this division applies reports the information that the person is required to report under this part at the times, and in a way, authorised by the police commissioner for the purposes of this section; and
- (b) the acknowledgment of the making of a report is given in a way approved by the police commissioner.

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<sup>27</sup> Sections 64 (Order about whether this division applies), 65 (Appeal against order) and 66 (When order takes effect)

**64 Order about whether this division applies**

- (1) The police commissioner must make an order declaring that a reportable offender who is, or has been, a participant in a witness protection program either is, or is not, a person to whom this division applies—
  - (a) when the reportable offender stops being a participant in the program as a result of a withdrawal under the *Witness Protection Act 2000*, section 13; or
  - (b) when the police commissioner makes a decision under the *Witness Protection Act 2000*, section 14, to end the protection and assistance given to the reportable offender under the program.
- (2) On making the order, the police commissioner must take reasonable steps to notify the reportable offender of the terms of the order.
- (3) A person who receives the notice may, within 28 days after receiving it, apply in writing to the police commissioner for a review of the decision.
- (4) On receiving an application for a review, the police commissioner must—
  - (a) give the applicant a reasonable opportunity to state his or her case before making a decision on the matter; and
  - (b) review the order, and confirm or reverse it; and
  - (c) give written notice of the decision to the applicant.
- (5) If the police commissioner's decision is to confirm the order, the notice of the decision must inform the applicant of his or her rights under section 65.

**65 Appeal against order**

- (1) A person who is aggrieved by a decision of the police commissioner about an order under this division may appeal to the Supreme Court against the decision within 3 days after receiving notice of the decision.
- (2) The Supreme Court, in deciding the appeal, may make any decision that could have been made by the police commissioner.

- (3) The Supreme Court's decision for the appeal is final and has effect according to its terms.

## **66 When order takes effect**

- (1) An order declaring that this division applies to a reportable offender takes effect immediately.
- (2) An order declaring that this division does not apply to a reportable offender takes effect—
- (a) at the end of 28 days after notice of the making of the order is given to the reportable offender; or
  - (b) if an application mentioned in section 64(3) is made before the end of that period, at the end of 3 days after notice is given to the applicant as mentioned in section 64(4)(c); or
  - (c) if an appeal is made under section 65 before the end of that 3 day period, on the day on which the Supreme Court decides the appeal;

whichever is the later.

## **67 Modification of reporting obligations**

Sections 16(1), 20 to 23 and 53<sup>28</sup> apply to a person to whom this division applies as if a reference to Queensland were a reference to the jurisdiction in which the person generally resides.

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28 Sections 16 (Personal details that are to be reported), 20 (Intended absence from Queensland to be reported), 21 (Change of travel plans while out of Queensland to be given), 22 (Reportable offender to report return to Queensland or decision not to leave), 23 (Report of other absences from Queensland) and 53 (Bar to prosecution for failing to report leaving Queensland)

## **Part 5**                      **The register**

### **68**      **Child protection register**

- (1) The police commissioner must establish a child protection register or arrange with another entity to establish a child protection register on his or her behalf.
- (2) The register must contain the following information in relation to each reportable offender (to the extent that it is known by the police commissioner)—
  - (a) the offender's name and other identifying particulars;
  - (b) details of each class 1 or 2 offence of which the offender has been found guilty or with which the person has been charged;
  - (c) details of each offence of which the offender has been found guilty that resulted in the making of an offender reporting order;
  - (d) the date on which the offender was sentenced for any reportable offence;
  - (e) the date on which the offender—
    - (i) was released from government detention for a reportable offence; or
    - (ii) entered, or was released from, government detention for any offence during his or her reporting period;
  - (f) any information reported in relation to the reportable offender under part 4;
  - (g) any other information that the police commissioner considers appropriate to include in the register.

### **69**      **Access to the register to be restricted**

- (1) The police commissioner must ensure—
  - (a) that the register, or any part of the register, is only accessed by a person, or a class of person, who is authorised to do so by the police commissioner; and

- (b) that personal information in the register is only disclosed by a person with access to the register, or the relevant part of the register, in circumstances authorised by the police commissioner or as otherwise required by or under any Act or law.
- (2) The police commissioner must develop guidelines about the access to, and disclosure of, personal information in the register that attempt to ensure that access to the personal information in the register is restricted to the greatest extent possible without interfering with the purpose of this Act.
- (3) For this section, the register includes any information from any register maintained under a corresponding Act that is accessible by the police commissioner, regardless of whether or not that information is physically part of the register.
- (4) This section has effect despite any other Act or law to the contrary.<sup>29</sup>

## **70 Confidentiality**

A person authorised to have access to the register or any part of the register must not disclose any personal information in the register, unless the person—

- (a) is authorised by the police commissioner to disclose the information; or
- (b) is otherwise required, under any Act or law, to disclose the information.

Maximum penalty—150 penalty units or 2 years imprisonment.

## **71 Release of information to corresponding registrar**

The police commissioner may release personal information in the register to a corresponding registrar for the purposes of a corresponding Act.

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<sup>29</sup> See the *Freedom of Information Act 1992*, schedule 1 for the exemption under that Act.

**72 Restriction on who may access personal information on protected witnesses**

The police commissioner must ensure that any personal information in the register about a person to whom part 4, division 9 applies can not be accessed other than by a person authorised by the officer responsible for the day to day operation of the witness protection program.

*Note—*

Part 4, division 9 applies to particular people who are, or were, in witness protection programs.

**73 Reportable offender's rights in relation to register**

- (1) If asked to do so by a reportable offender, the police commissioner must give the offender a copy of all the reportable information that is held in the register in relation to the offender.
- (2) The police commissioner must comply with subsection (1) as soon as practicable after being asked to do so.
- (3) A reportable offender may ask the police commissioner to amend any reportable information held on the register in relation to the offender that is incorrect.
- (4) The police commissioner must comply with the request on being satisfied that the information is incorrect.
- (5) In this section—

*reportable information* means any information given to the police commissioner by, or on behalf of, the reportable offender that the offender is required to report to the police commissioner and that is still held in the register.

**74 Review of decision to place person on register**

- (1) This section applies if a person believes that—
  - (a) the person has been placed on the register in error; or
  - (b) an error has been made in working out the length of the person's reporting period.

- (2) The person may apply in writing to the police commissioner to review the decision to place the person on the register.
- (3) The application must be made within 28 days after the person is given notice of his or her reporting obligations under section 54.<sup>30</sup>
- (4) The person's reporting obligations are not suspended because the person made the application.
- (5) On receiving an application for a review, the police commissioner must—
  - (a) give the person a reasonable opportunity to state his or her case before making a decision on the matter; and
  - (b) review the decision to place the person on the register and confirm or reverse it; and
  - (c) give the person written notice—
    - (i) of the decision; and
    - (ii) informing the person of the person's right to a copy of all reportable information that is held in the register in relation to the person under section 73.
- (6) If the police commissioner revokes the decision, the police commissioner must ensure that the person's personal details are removed from the register, and any copies of documents, fingerprints or photographs taken from the person under this Act are not kept.

## **Part 6                      Other matters**

### **75            Protection from personal liability**

- (1) A person acting in the administration or execution of this Act does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act.

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30 Section 54 (Notice to be given to reportable offender)

- (2) If subsection (1) prevents civil liability attaching to the person, the liability attaches instead to the State.

## **76 Effect of spent convictions**

- (1) The fact that an offence for which a reportable offender has been found guilty becomes spent does not affect—
- (a) the status of the offence as a reportable offence under this Act in relation to the offender; or
  - (b) any reporting obligations of the offender.
- (2) For this section, an offence becomes spent if, under a law in any jurisdiction, the reportable offender is allowed to not disclose the fact that the person was convicted or found guilty of the offence.

## **77 Evidence certificates**

- (1) In proceedings under this Act, a certificate signed by the police commissioner, or a police officer holding a position designated in writing by the police commissioner for the purposes of this section, certifying that the register—
- (a) at any particular date contained information in the certificate; or
  - (b) indicated that, during any particular period, a specified person failed to notify information as required by this Act;
- is evidence of the details in the certificate.
- (2) Not more than 3 positions may be designated at any 1 time under subsection (1).
- (3) For this Act, a certificate that would be evidence under a corresponding Act that at a specified time, or during a specified period, a person was required to report to a corresponding registrar under that Act is evidence of the facts stated in the certificate.



**78 Regulation-making power**

- (1) The Governor in Council may make regulations under this Act.
- (2) Without limiting subsection (1), the Governor in Council may make a regulation imposing a penalty of not more than 20 penalty units for a contravention of a regulation.

## **Schedule 1      Class 1 offences**

dictionary, definition *class 1 offence*

- 1 A class 1 offence is an offence against—
  - (a) any of the following provisions of the Criminal Code, if the offence is committed against or in relation to a child—
    - section 208 (Unlawful sodomy)
    - section 209 (Attempted sodomy)
    - section 215 (Carnal knowledge with or of children under 16)
    - section 222 (Incest)
    - section 229B (Maintaining a sexual relationship with a child)
    - section 300 (Unlawful homicide) in circumstances that amount to murder
    - section 349 (Rape)
    - section 350 (Attempt to commit rape); or
  - (b) any of the following provisions of the Criminal Code, as in force from time to time before being repealed by the *Criminal Code, Evidence Act and Other Acts Amendment Act 1989*—
    - section 212 (Defilement of girls under 12)
    - section 214 (Attempt to abuse girls under 10)
    - section 220 (Unlawful detention with intent to defile or in a brothel); or
  - (c) section 223 (Incest by adult female) of the Criminal Code, as in force from time to time before being repealed by the *Criminal Law Amendment Act 1997*; or
  - (d) either of the following provisions of the *Crimes Act 1914* (Cwlth)—

**Schedule 1 (continued)**

- section 50BA (Sexual intercourse with child under 16)
- section 50BB (Inducing child under 16 to engage in sexual intercourse).

**2 A class 1 offence also includes—**

- (a) any offence under a law of a foreign jurisdiction that, if it had been committed in Queensland, would have constituted an offence of a kind listed in this schedule; or
- (b) an offence under a law of a foreign jurisdiction that a regulation states is a class 1 offence; or
- (c) an offence that has, as an element, an intention to commit an offence of a kind listed in this schedule; or
- (d) an offence of attempting, or of conspiracy or incitement, to commit an offence of a kind listed in this schedule; or
- (e) an offence that, at the time it was committed was a class 1 offence.

## **Schedule 2      Class 2 offences**

dictionary, definition *class 2 offence*

- 1 A class 2 offence is an offence against—
  - (a) any of the following provisions of the Criminal Code, if the offence is committed against or in relation to a child—
    - section 210 (Indecent treatment of children under 16)
    - section 213 (Owner etc. permitting abuse of children on premises)
    - section 217 (Procuring young person etc. for carnal knowledge)
    - section 218 (Procuring sexual acts by coercion etc.)
    - section 218A (Using internet etc. to procure children under 16)
    - section 219 (Taking child for immoral purposes)
    - section 221 (Conspiracy to defile)
    - section 228 (Obscene publications and exhibitions)
    - section 228A (Involving child in making child exploitation material)
    - section 228B (Making child exploitation material)
    - section 228C (Distributing child exploitation material)
    - section 228D (Possessing child exploitation material)
    - section 229G (Procuring prostitution)
    - section 229H (Knowingly participating in provision of prostitution)
    - section 229I (Persons found in places reasonably suspected of being used for prostitution etc.)

**Schedule 2 (continued)**

- section 229L (Permitting young person etc. to be at place used for prostitution); or
- (b) any of the following provisions of the *Classification of Computer Games and Images Act 1995*—
- section 26(3) (Possession of objectionable computer game)
  - section 27(3) or (4) (Making objectionable computer game)
  - section 28 (Obtaining minor for objectionable computer game); or
- (c) any of the following provisions of the *Classification of Films Act 1991*—
- section 41(3) (Possession of objectionable film)
  - section 42(3) or (4) (Making objectionable film)
  - section 43 (Procurement of minor for objectionable film); or
- (d) any of the following provisions of the *Classification of Publications Act 1991*—
- section 14 (Possession of child abuse publication or child abuse photograph)
  - section 17(3) or (4) (Producing prohibited publication); or
- (e) any of the following provisions of the *Classification of Publications Act 1991* that involves a child abuse publication or child abuse photograph—
- section 12 (Sale etc. of prohibited publication or child abuse photograph)
  - section 13 (Possession of prohibited publication)
  - section 15 (Exhibition or display of prohibited publication or child abuse photograph)
  - section 16 (Leaving prohibited publication or child abuse photograph in or on public place)

## Schedule 2 (continued)

- section 17(1) or (2) (Producing prohibited publication)
  - section 18 (Procurement of minor for RC publication or child abuse photograph)
  - section 20 (Leaving prohibited publication or child abuse photograph in or on private premises); or
- (f) any of the following provisions of the *Crimes Act 1914* (Cwlth)—
- section 50BC (Sexual conduct involving child under 16)
  - section 50BD (Inducing child under 16 to be involved in sexual conduct)
  - section 50DA (Benefiting from offence against this part)
  - section 50DB (Encouraging offence against this part); or
- (g) either of the following provisions of the Criminal Code (Cwlth) if the offence is committed against or in relation to a child—
- section 270.6 (Sexual servitude offences)
  - section 270.7 (Deceptive recruiting for sexual services); or
- (h) the *Customs Act 1901* (Cwlth), section 233BAB,<sup>31</sup> that involves child pornography or child abuse material.
- 2 A class 2 offence also includes—
- (a) any offence under a law of a foreign jurisdiction that, if it had been committed in Queensland, would have constituted an offence of a kind listed in this schedule; or
- (b) an offence under a law of a foreign jurisdiction that a regulation states is a class 2 offence; or

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31 *Customs Act 1901* (Cwlth), section 233BAB (Special offence relating to tier 2 goods)

**Schedule 2 (continued)**

- (c) an offence that has, as an element, intention to commit an offence of a kind listed in this schedule; or
- (d) an offence of attempting, or of conspiracy or incitement, to commit an offence of a kind listed in this schedule; or
- (e) an offence that, at the time it was committed was a class 2 offence.

## Schedule 3 Dictionary

### section 12

***child detainee*** means a child who is detained in a detention centre under the *Juvenile Justice Act 1992*.

***class 1 offence*** means an offence listed in schedule 1.

***class 2 offence*** means an offence listed in schedule 2.

***class 1 or 2 offence*** means a class 1 offence or a class 2 offence.

***commencement date*** means the date on which section 14<sup>32</sup> commences.

***corresponding Act*** means a law of a foreign jurisdiction—

- (a) that provides for people who have committed specified offences—
  - (i) to report, in that jurisdiction, information about themselves; and
  - (ii) to keep that information current for a specified period; and
- (b) that a regulation states is a corresponding Act.

***corresponding offender reporting order*** means an order made under a corresponding Act that falls within a class of order that a regulation states is a corresponding offender reporting order.

***corresponding registrar*** means the person whose functions under a corresponding Act most closely correspond to the functions of the police commissioner under this Act.

***corresponding reportable offence*** means an offence that is a reportable offence under a corresponding Act, but is not a reportable offence under this Act.



## Schedule 3 (continued)

***corresponding reportable offender*** see section 7.<sup>33</sup>

***court*** includes a court of a foreign jurisdiction, however described.

***disability*** has the same meaning as it has in the *Disability Services Act 1992*, section 5.

***existing reportable offender*** see section 6.<sup>34</sup>

***finding of guilt*** see section 10.<sup>35</sup>

***fingerprints*** includes fingerprints taken by a device to obtain a record of the fingerprints.

***foreign jurisdiction*** means a jurisdiction other than Queensland, including jurisdictions outside Australia.

***foreign witness protection law*** means a law of a foreign jurisdiction that provides for the protection of witnesses.

***forensic order*** means a forensic order (Criminal Code) or forensic order (Mental Health Court) under the *Mental Health Act 2000*.

***forensic patient*** means a person in relation to whom a forensic order has been made.

***forensic reportable offender*** means a person who is subject to an offender reporting order that was made with a forensic order under the *Mental Health Act 2000*.

***government detention*** means—

- (a) detention, other than under a supervision order, of—
  - (i) a prisoner under the *Corrective Services Act 2000*;  
or
  - (ii) a child detainee under the *Juvenile Justice Act 1992*;

including if the prisoner or child detainee is on unescorted leave of absence; or

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33 Section 7 (*Corresponding reportable offender* defined)

34 Section 6 (*Existing reportable offender* defined)

35 Section 10 (*Finding of guilt* defined)

## Schedule 3 (continued)

- (b) detention under a law of a foreign jurisdiction in the nature of detention mentioned in paragraph (a).

**government entity** see the *Public Service Act 1996*, section 21.

**home detention order** has the same meaning as it has in the *Corrective Services Act 2000*.

**imprisonment** includes detention under the *Juvenile Justice Act 1992*.

**intensive correction order** means—

- (a) an intensive correction order under the *Penalties and Sentences Act 1992*; or
- (b) an intensive supervision order under the *Juvenile Justice Act 1992*.

**New South Wales Act** means the *Child Protection (Offenders Registration) Act 2000* (NSW).

**New South Wales reportable offender** see section 8.<sup>36</sup>

**offender reporting order** means—

- (a) an order made under section 13;<sup>37</sup> or
- (b) a corresponding offender reporting order.

**personal details** means the details listed in section 16(1).<sup>38</sup>

**personal information** means information about an individual whose identity is apparent or can reasonably be ascertained from the information.

**police commissioner** means the commissioner of the police service.

**post-prison community based release order** means—

- (a) a post-prison community based release order under the *Corrective Services Act 2000*; or

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36 Section 8 (*New South Wales reportable offender* defined)

37 Section 13 (Offender reporting orders)

38 Section 16 (Personal details that are to be reported)

## Schedule 3 (continued)

- (b) any equivalent order made under the laws of a foreign jurisdiction.

***prisoner*** means a person who is in custody of the chief executive (corrective services), including a person who is subject to a post-prison community based release order.

***register*** means the child protection register established under section 68.<sup>39</sup>

***released*** from government detention includes discharged from custody.

***reportable offence*** see section 9.<sup>40</sup>

***reportable offender*** see section 5.<sup>41</sup>

***reporting obligations***, in relation to a reportable offender, means the obligations imposed on the offender by part 4.

***reporting period*** means the period, worked out under part 4, division 5, during which a reportable offender must comply with his or her reporting obligations.

***sentence*** includes something in the nature of a sentence imposed under the laws of a foreign jurisdiction.

***supervising authority***, in relation to a reportable offender, means an authority that a regulation states is the authority having control of the offender.

***supervision order*** means—

- (a) a community service order, a probation order, an intensive correction order, or an order that a term of imprisonment be suspended, under the *Penalties and Sentences Act 1992*; or
- (b) a community service order, probation order, intensive supervision order, conditional release order, or supervised release order, under the *Juvenile Justice Act 1992*; or

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39 Section 68 (Child protection register)

40 Section 9 (*Reportable offence* defined)

41 Section 5 (*Reportable offender* defined)

**Schedule 3 (continued)**

- (c) a post-prison community based release order; or
- (d) a continuing detention order or supervision order under the *Dangerous Prisoners (Sexual Offenders) Act 2003*; or
- (e) an order equivalent to any order mentioned in paragraph (a), (b), (c) or (d) made under the laws of a foreign jurisdiction.

***unescorted leave of absence*** means—

- (a) for a prisoner—leave of absence granted under the *Corrective Services Act 2000*, section 58<sup>42</sup> if the prisoner is not ordered to remain in the physical custody of a corrective services officer under that Act during the leave; or
- (b) for a child detainee—leave of absence granted under the *Juvenile Justice Act 1992*, section 269<sup>43</sup> if the child detainee is not in the physical custody of a person under that Act during the leave.

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42 *Corrective Services Act 2000*, section 58 (Leave of absence)

43 *Juvenile Justice Act 1992*, section 269 (Leave of absence)

## Endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 4 April 2005. Future amendments of the Child Protection (Offender Reporting) Act 2004 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No.[X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
o in c	= order in council	s	= section
om	= omitted	sch	= schedule
orig	= original	sdiv	= subdivision
p	= page	SIA	= Statutory Instruments Act 1992
para	= paragraph	SIR	= Statutory Instruments Regulation 2002
prec	= preceding	SL	= subordinate legislation
pres	= present	sub	= substituted
prev	= previous	unnum	= unnumbered

## 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments included	Effective	Notes
1	none	1 January 2005	
1A	to 2005 Act No. 9	4 April 2005	

## 5 List of legislation

### **Child Protection (Offender Reporting) Act 2004 No. 52**

date of assent 29 November 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 2005 (2004 SL No. 295)

amending legislation—

### **Criminal Code (Child Pornography and Abuse) Amendment Act 2005 No. 9 pts 1, 3**

date of assent 18 March 2005

ss 1–2 commenced on date of assent

remaining provisions commenced 4 April 2005 (2005 SL No. 48)

## 6 List of annotations

### **PART 7—CONSEQUENTIAL AMENDMENTS**

**pt 7 (ss 79–96)** om R1 (see RA ss 7(1)(k) and 40)

### **SCHEDULE 2—CLASS 2 OFFENCES**

amd 2005 No. 9 s 9