

Child Protection (Offender Reporting) and Other Legislation Amendment Regulation (No. 1) 2014

Explanatory notes for SL 2014 No. 208

made under the

Child Protection (Offender Reporting) Act 2004
Police Powers and Responsibilities Act 2000

General Outline

Short title

Child Protection (Offender Reporting) and Other Legislation Amendment Regulation (No. 1) 2014

Authorising law

Section 78 of the *Child Protection (Offender Reporting) Act 2004*
Section 809 of the *Police Powers and Responsibilities Act 2000*

Policy objectives and the reasons for them

The *Child Protection (Offender Reporting) and Other Legislation Amendment Act 2014* (the Amendment Act) was assented to on 12 June 2014.

The Amendment Act amends the *Child Protection (Offender Reporting) Act 2004* (the CPORA) and the *Police Powers and Responsibilities Act 2000* (the PPRA) to give effect to the government's commitment to impose more stringent monitoring of sex offenders and tougher conditions for offenders on the Queensland component of the National Child Offender System.

The policy objective of the *Child Protection (Offender Reporting) and Other Legislation Amendment Regulation (No. 1) 2014* (the Amendment Regulation) is to make minor consequential amendments that are machinery in nature and are necessary to give effect to the amendments made to the CPORA and the PPRA.

Achievement of policy objectives

The Amendment Regulation achieves the policy objective by making amendments that are required to give effect to the Amendment Act.

Child Protection (Offender Reporting) Regulation 2004

The Amendment Regulation omits section 5 of the *Child Protection (Offender Reporting) Regulation 2004* (the Regulation) as a consequence of the omission of section 8 of the CPORA.

The purpose of section 8 of the CPORA was to ensure that a New South Wales registered offender would be considered to be a reportable offender in Queensland. This was achieved by allowing section 8(1) of the CPORA to act retrospectively to capture those offenders who were required to report under the New South Wales legislation prior to the commencement of the CPORA. Section 5 of the Regulation had nominated this date to be 1 January 2005.

The retrospective capture of New South Wales reportable offenders is no longer required as New South Wales reportable offenders will be captured under section 6 of the Amendment Act. Consequently, section 5 of the Regulation is no longer required to support the functions of section 8 of the CPORA.

An amendment to section 8(2) of the Regulation reduces the time in which the police commissioner must give a 'notice to report' under section 25(1)(b) of the CPORA from 14 days to seven days. The amendment mirrors the reduction in reporting timeframes in the Amendment Act to create consistency across the legislation.

Section 9 of the Regulation has been amended with respect to where a reportable offender may make a periodic report. A reportable offender who has received a notice outlining his or her reporting obligations will only be able to make a periodic report at the police station nominated by the police commissioner in that notice. Reportable offenders who have not received a notice of their reporting obligations will be able to make a report at any police station in the locality where he or she resides, other than a police beat station. The amendment reflects the government's commitment to introduce more stringent reporting for all offenders on the National Child Protection System.

Section 10 of the Regulation has been amended to include new methods of reporting. Electronic reporting via an automated kiosk or online through a secure Queensland Police Service (QPS) website takes advantage of modern technology and allows greater flexibility and autonomy in the manner in which reports can be made. The term 'electronic reporting methods' is defined in the Regulation.

Sections 6, 15, 18 and 19 of the Regulation have been amended to reflect the renumbering of the CPORA which has occurred as a result of the Amendment Act. Consequently, section 6 will now refer to section 16(2) of the CPORA rather than 17(2). Section 15 will now refer to section 54(7) of the CPORA rather than 54(6). Sections 18 and 19 will now refer to schedule 5 rather than schedule 3 of the CPORA.

Police Powers and Responsibilities Regulation 2012

Section 60 of the CPORA allows a police officer to detain a person to establish his or her identity as a reportable offender for the purposes of giving a notice of reporting

obligations. Additionally, Schedule 1 of the Amendment Act, which amends the PPRA, allows police to enter the residence of a reportable offender to verify information that is required to be reported under the CPORA. However, where a police officer encounters a person outside of these circumstances (for example, loitering outside of a school during lunch time or as children are going to and from school), that officer does not have the capacity to require that person to provide his or her name and address.

The government has committed to introducing more stringent reporting and imposing tougher conditions for offenders on the National Child Offender System. To give effect to this commitment, the Amendment Regulation amends schedule 3 of the *Police Powers and Responsibilities Regulation 2012* to include the CPORA as a prescribed Act with respect to section 41(g) of the PPRA. This amendment will allow a police officer to require a person, who is believed to be a reportable offender, to provide his or her name and address for the purposes of administering the CPORA.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the policy objectives of the Amendment Act.

Inconsistency with policy objectives of other legislation

The Amendment Regulation is consistent with the policy objectives of other legislation.

Benefits and costs of implementation

The cost of implementing the amendments will be met within existing QPS budgets.

Consistency with fundamental legislative principles

The Amendment Regulation gives effect to amendments made by the Amendment Act, which has been drafted with due regard to the fundamental legislative principles set out in the *Legislative Standards Act 1992*.

The Amendment Regulation restricts where a reportable offender can make a report. A reportable offender who has received a notice of reporting obligations will be required to make a report at the station specified in the notice. This amendment supports section 16 of the Amendment Act which requires a reportable offender to make an initial report and each periodic report in the manner stated by the police commissioner in writing.

A reportable offender will continue to be able to make reports in relation to a change in personal particulars in a manner prescribed under a regulation. An amendment to section 10 will introduce new methods of reporting such as electronic reporting. Electronic reporting comprises of reporting via automated kiosk or by a secure online website. A 1300 telephone number will be introduced by the QPS to complement the new reporting options.

The timeframes for the police commissioner to give a reportable offender a notice directing him or her to report at a stated police station has been reduced from 14 days to seven days. This reduction aligns with the Amendment Act which has reduced all reporting timeframes to seven days. This amendment gives effect to the government's commitment to introduce more stringent monitoring of offenders on the Queensland component of the National Child Offender System.

Finally, the Amendment Regulation amends schedule 3 of the *Police Powers and Responsibilities Regulation 2012* to allow a police officer to require a person to state his or her name and address in circumstances where a police officer believes it is reasonably necessary for the administration or enforcement of the CPORA. There is limited opportunity for police to verify the details of a reportable offender outside of section 60 of the CPORA and schedule 1 of the Amendment Act.

Section 60 of the CPORA allows a police officer to detain a person to establish his or her identity as a reportable offender for the purposes of giving a notice of reporting obligations. Schedule 1 of the Amendment Act allows police to enter the residence of a reportable offender to verify information that is required to be reported under the CPORA. However, where a police officer encounters a person outside of these circumstances (for example, loitering outside of a school during lunch time or as children are going to and from school), police do not have the capacity to require that person to provide his or her name and address.

The government has committed to introducing these stringent monitoring and tougher conditions for sex offenders in Queensland. This amendment gives effect to this commitment and provides police with the tools needed to more effectively protect children in the community.

An amendment to section 9 of the Regulation allows a police beat, which is a class of restricted police station for the purposes of section 25(3) of the CPORA, to be published on the QPS website. The publication of this information will only impact on those offenders who have not been given a notice of reporting obligations under the CPORA.

There are currently 100 establishments across Queensland which are classified as police beat stations. This class of station is not equipped to take offender reports. Consequently, reportable offenders will not be able to make a report at these stations. Reportable offenders will still be able to make a report at any other police station in the locality where they reside. To mitigate the impact of this amendment, the QPS will introduce a 1300 telephone number to advise reportable offenders of the most appropriate venue to make a report until such time as a notice of reporting obligations has been given to them.

Consultation

The Department of the Premier and Cabinet, the Department of Justice and Attorney-General, the Department of Communities, Child Safety and Disability Services, the Department of Aboriginal and Torres Strait Islander and Multicultural Affairs, and Queensland Treasury and Trade were consulted. The Office of Best

Practice Regulation was consulted with regard to the Regulatory Impact Statement system. All Departments supported the amendments.