

Child Protection (Offender Reporting) Regulation 2015

Explanatory notes for SL 2015 No. 172

made under the

Child Protection (Offender Reporting) Act 2004

General Outline

Short title

Child Protection (Offender Reporting) Regulation 2015

Authorising law

Section 78 of the *Child Protection (Offender Reporting) Act 2004*

Policy objectives and the reasons for them

The objective of the *Child Protection (Offender Reporting) Regulation 2015* (the new regulation) is to replace the *Child Protection (Offender Reporting) Regulation 2004* (CPORR) and make minor amendments to streamline the administration of the legislation.

Section 54 of the *Statutory Instruments Act 1992* (SIA) expires subordinate legislation after 10 years. The CPORR was due to expire on 1 September 2015. However, an exemption from expiry has been provided under section 56A of the SIA until 1 September 2016. The new regulation will not expire for a further 10 years.

The new regulation will also make some minor amendments to reflect changes to the *Child Protection (Offender Reporting) Act 2004* (CPORA) as a consequence of the 2014 review of that Act.

In this regard, the new regulation will amend:

- Section 12 Form of identification to be presented with reports made in person-Act, s 29(1)(a)(i) and (b). The new regulation replaces the reference to the *Passports Act 1938*, with the *Australian Passports Act 2005* (Cwlth). This is a technical amendment to reflect a change in the Commonwealth legislation.

- Section 13 Reports not made in person-Act, s 29(5). A reportable offender is required to provide either his or her unique identification number or enough personal information to verify his or her identity, for example by providing their place and date of birth and current residential address, when making a report other than in person. There is no capacity for additional inquiries to be made, where concerns are held about the report maker's identity.

The new regulation addresses this by requiring a reportable offender, who is making a report, other than in person, to provide his or her unique identification number and enough personal information reasonably necessary to verify the person's identity. The amendment safeguards offender information and mitigates the risk of another person reporting on behalf of the reportable offender.

The new regulation also extends the application of section 13 to allow a person authorised by the police commissioner to receive a report that is not made in person. Currently, only a police officer can take a report under section 13 of the CPORR. This is inconsistent with the CPORA, which allows a person, who is authorised by the police commissioner, to take a report from a reportable offender. The introduction of quarterly reporting has increased the administrative functions associated with offender reporting by 300%. The amendment aims to alleviate this administrative impost on sworn police to enable them to perform other vital policing services.

Achievement of policy objectives

The new regulation achieves its objective by replacing the CPORR with the *Child Protection (Offender Reporting) Regulation 2015* and making minor amendments to streamline the administration of the legislation.

Consistency with policy objectives of authorising law

The new regulation is consistent with the objectives of the CPORA, including the requirement for particular offenders, who commit sexual, or particular other serious offences against children, to keep police informed of their whereabouts and personal details for a period of time.

Inconsistency with policy objectives of other legislation

The regulation is not inconsistent with the policy objectives of other legislation.

Benefits and costs of implementation

The replacement of the regulation will not impose any additional cost on Government.

Consistency with fundamental legislative principles

The new regulation has been drafted with due consideration to section 4 of the *Legislative Standards Act 1992* (LSA), in particular *whether legislation has sufficient regard to the rights and liberties of individuals*, LSA section 4(2)(a).

Section 13 - Reports not made in person-Act, s 29(5)

The new regulation creates an additional impost on reportable offenders by requiring sufficient personal information to be provided by the offender to verify their identity when they are making the report, other than in person. The personal information that is required is linked to schedule 2 of the CPORA.

In the past 12 months, approximately 15,500 reports have been made by telephone and/or other electronic means. Verifying the identity of the caller is limited to either the personal identification number issued by the National Child Offender System or personal identifying information. This leaves the reporting process open to abuse either by the offender, who may have someone else report on his or her behalf, or by another person who may have access to one of the required pieces of information and is intent on making a vexatious report.

The new regulation minimises some of the risks by requiring the offender to provide their unique identification number and enough personal information to satisfy the call taker that the person is in fact the reportable offender.

Consultation

Consultation regarding the new regulation and proposed amendments to the regulation has been undertaken with the relevant State government agencies.

The Office of Best Practice Regulation has advised that a Regulatory Impact Statement is not required.