

# **NORTHERN TERRITORY OF AUSTRALIA**

## **CHILD PROTECTION (OFFENDER REPORTING AND REGISTRATION) ACT 2004**

As in force at 12 January 2005

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 12 January 2005

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## CHILD PROTECTION (OFFENDER REPORTING AND REGISTRATION) ACT 2004

An Act to require certain offenders who commit sexual or certain other serious offences against children to keep police informed of their whereabouts and other personal details for a period of time in order to reduce the likelihood that they will re-offend and in order to facilitate the investigation and prosecution of any future offences that they may commit, to prohibit certain offenders from working in child-related employment, to enable courts to make orders prohibiting certain offenders from engaging in specified conduct, and for related purposes

### Part 1 Preliminary

#### 1 Short title

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

#### 2 Commencement

The provisions of this Act come into operation on the date, or respective dates, fixed by the Administrator by notice in the *Gazette*.

#### 3 Definitions

In this Act:

**child** means a person who is under the age of 18 years.

**Class 1 offence** has the meaning in section 12(2).

**Class 2 offence** has the meaning in section 12(3).

**commencement date** means the date on which section 14 comes into operation.

**Commissioner** means the Commissioner of Police.

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

- (a) that provides for people who have committed specified offences to report in that jurisdiction information about themselves and to keep that information current for a specified period; and
- (b) that the Regulations state is a corresponding Act for this Act;

**corresponding offender reporting order** means an order made under a corresponding Act that falls within a class of orders prescribed by the Regulations as a corresponding offender reporting order for this Act.

**corresponding registrar** means the person whose duties and functions under a corresponding Act most closely correspond to the duties and functions of the Commissioner under this Act.

**corresponding reportable offence** means an offence against a law of a foreign jurisdiction that results in a person becoming a corresponding reportable offender for this Act.

**corresponding reportable offender** has the meaning in section 8.

**court** includes a court (however described) of a foreign jurisdiction.

**deemed reportable offender** has the meaning in section 10.

**detainee** means a person who is a detainee within the meaning of the *Juvenile Justice Act*.

**existing controlled reportable offender.**

- (a) means a person who, as a result of having been sentenced by a Territory court for a reportable offence, was under the supervision of a supervising authority or any other person or body at the commencement date; and
- (b) includes a person who is, at the commencement date, in government custody in the Territory in respect of an offence that is a Class 1 or Class 2 offence.

**finding of guilt** has the meaning in section 4.

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

**foreign jurisdiction** means a jurisdiction other than the Territory, including a jurisdiction outside Australia.



**foreign reportable offence** means an offence that is a reportable offence for a foreign jurisdiction but is not a reportable offence within the meaning of this Act.

**foreign reportable offender** has the meaning in section 9.

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

**good behaviour bond** means:

- (a) an order under section 11(1)(b) of the *Sentencing Act*; or
- (b) an order under section 53(1)(d) of the *Juvenile Justice Act*.

**government custody** means:

- (a) custody as:
  - (i) a prisoner or detainee; or
  - (ii) a person who is subject to a custodial supervision order under Part IIA of the Criminal Code; or
- (b) custody under a law of a foreign jurisdiction in the nature of custody referred to in paragraph (a).

**home detention order** has the same meaning as in the *Sentencing Act*.

**non-custodial day** means a day not spent in government custody.

**offender reporting order** means an order made under section 13 and includes a corresponding offender reporting order.

**parole** means a parole order under the *Parole of Prisoners Act* and includes any equivalent order made under a law of a foreign jurisdiction.

**personal details** means the information listed in section 16(1).

**personal information** means information from which a person's identity is apparent or is reasonably able to be ascertained.

**prisoner** has the same meaning as in the *Prisons (Correctional Services) Act*.

**prohibition order** has the meaning in Part 5.

**public authority** means:

- (a) an Agency or department of the Public Service;
- (b) a council within the meaning of the *Local Government Act*; or
- (c) any other body, whether incorporated or not, established or continued for a public purpose under an Act and that, under the authority of an Act, performs a statutory function on behalf of the Territory.

**Register** means the Child Protection Offender Register established under section 64.

**reportable offence** has the meaning in section 12.

**reportable offender** has the meaning in section 6.

**reporting obligations**, in relation to a reportable offender, means the obligations imposed on him or her by Part 3.

**reporting period** means the period, as determined under Part 3, Division 5, during which a reportable offender must comply with his or her reporting obligations.

**sentence** includes:

- (a) an order under section 53 of the *Juvenile Justice Act*; and
- (b) a supervision order under Part IIA, Division 5 of the Criminal Code,

and includes any sentence or equivalent order or undertaking imposed under a law of a foreign jurisdiction.

**strict supervision** means supervision by:

- (a) the Director of Correctional Services or a person employed within the Agency responsible for correctional services; or
- (b) the Chief Executive Officer of, or a person employed within, the Agency responsible for mental health,

or supervision by an authority of a foreign jurisdiction in the nature of an authority referred to in paragraph (a) or (b).

**supervised sentence** means:

- (a) a sentence of imprisonment that is the subject of a home detention order;

- (b) a community work order under the *Sentencing Act* or the *Juvenile Justice Act*;
- (c) a good behaviour bond under which the person is required to submit to strict supervision; or
- (d) a non-custodial supervision order within the meaning of Part IIA of the Criminal Code.

**supervising authority**, in relation to a reportable offender, means an authority prescribed by the Regulations as the authority having control of the person.

**Territory reportable offender** has the meaning in section 7.

**Territory witness protection program** has the same meaning as in the *Witness Protection (Northern Territory) Act*.

#### **4 Finding of guilt**

- (1) A reference in this Act to a finding of guilt (however expressed) in relation to an offence 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 accepting a plea of guilty from the person in relation to the offence;
  - (c) a finding under section 43I(2) or 43X(2) or (3) of the Criminal Code or under equivalent provisions of a law of a foreign jurisdiction.
- (2) A reference in this Act to a finding of guilt does not include a finding of guilt that is subsequently quashed or set aside by a court.

#### **5 Other matters**

- (1) For this Act, offences arise from the same incident only if they are committed within a single period of 24 hours and are committed against the same person.
- (2) A reference in this Act to doing a thing in person is a reference to doing the thing by personal attendance at a place and it is not sufficient to attend the place by telephone or electronic means.

## **Part 2                      Offenders to whom Act applies**

### **6                      Reportable offenders**

- (1) A reportable offender is any of the following:
  - (a) a Territory reportable offender;
  - (b) a corresponding reportable offender;
  - (c) a foreign reportable offender;
  - (d) a deemed reportable offender.
- (2) The Regulations may provide that certain classes of offender who are foreign reportable offenders are not reportable offenders for this Act.
- (3) A person ceases to be a reportable offender if:
  - (a) the finding of guilt in respect of the only offence that makes him or her a reportable offender for this Act is quashed or set aside by a court; or
  - (b) he or she is a reportable offender only because he or she is the subject of an offender reporting order and that order is quashed on appeal.
- (4) For this section, it is immaterial whether a person may lodge, or has lodged, an appeal in respect of a finding of guilt, sentence or offender reporting order.

### **7                      Territory reportable offenders**

- (1) A Territory reportable offender is a person whom a Territory court has, on or after the commencement date, sentenced for a reportable offence or who has been made the subject of an offender reporting order.
- (2) An existing controlled reportable offender is also a Territory reportable offender.

### **8                      Corresponding reportable offenders**

A corresponding reportable offender is a person:

- (a) whom a court outside the Territory has, at any time before, on or after the commencement date, sentenced for an offence that is a reportable offence for this Act; or

- (b) who has been made the subject of a corresponding offender reporting order in a foreign jurisdiction,

and as a result was, is or would be required to report to the corresponding registrar in that jurisdiction.

## **9 Foreign reportable offenders**

A foreign reportable offender is a person:

- (a) whom a court outside the Territory has, at any time before, on or after the commencement date, sentenced for an offence that is not a reportable offence for this Act; or
- (b) who has been made the subject of a corresponding offender reporting order in a foreign jurisdiction,

and as a result was, is or would be required to report to the corresponding registrar in that jurisdiction.

## **10 Deemed reportable offenders**

A deemed reportable offender is a person whom a court outside the Territory has, at any time before, on or after the commencement date, sentenced for an offence that is a reportable offence for this Act, but who is not, was not or would not be required as a result, to report to a corresponding registrar in that jurisdiction.

## **11 Exceptions**

- (1) Subject to section 13, the following persons are not reportable offenders:
  - (a) a person who has been sentenced in respect of a Class 1 or Class 2 offence that he or she committed as a child;
  - (b) a person who is subject to a good behaviour bond (or an equivalent order under a law of a foreign jurisdiction) in respect of a Class 1 or Class 2 offence;
  - (c) a person who has been sentenced in respect of a single Class 2 offence, if the sentence did not include:
    - (i) a term of imprisonment; or
    - (ii) a requirement that the person be under the supervision of a supervising authority or another person or body.

- (2) A reference in subsection (1)(c) to a single offence includes a reference to more than one offence of the same kind arising from the same incident.

## **12 Reportable offences**

- (1) A reportable offence is:

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

- (2) A Class 1 offence is:

- (a) an offence against a provision specified in Schedule 1;
- (b) an offence under a law of a foreign jurisdiction that the Regulations prescribe to be a Class 1 offence;
- (c) an offence an element of which is an intention to commit an offence of a kind referred to in this subsection;
- (d) an offence of attempting, or of conspiracy or incitement, to commit an offence of a kind referred to in this subsection;
- (e) an offence that, at the time it was committed:
  - (i) was a Class 1 offence for this Act; or
  - (ii) if the offence was committed before the commencement date – was an offence of a kind referred to in this subsection; or
- (f) an offence under a law of a foreign jurisdiction that, if it had been committed in the Territory, would have constituted an offence of a kind referred to in this subsection.

- (3) A Class 2 offence is:

- (a) an offence against a provision specified in Schedule 2;
- (b) an offence under a law of a foreign jurisdiction that the Regulations prescribe to be a Class 2 offence;
- (c) an offence an element of which is an intention to commit an offence of a kind referred to in this subsection;

- (d) an offence of attempting, or of conspiracy or incitement, to commit an offence of a kind referred to in this subsection;
- (e) an offence that, at the time it was committed:
  - (i) was a Class 2 offence for this Act; or
  - (ii) if the offence was committed before the commencement date – was an offence of a kind referred to in this subsection; or
- (f) an offence under a law of a foreign jurisdiction that, if it had been committed in the Territory, would have constituted an offence of a kind referred to in this subsection.

### **13 Offender reporting orders**

- (1) If a court finds a person guilty of an offence that is not a Class 1 or Class 2 offence, it may order that the person comply with the reporting obligations of this Act.
- (2) If a court finds a person guilty of a Class 1 or Class 2 offence committed as a child (whether or not the person is still a child at the time of the finding of guilt), it may order that the person comply with the reporting obligations of this Act.
- (3) The court may make the order only if it is satisfied that the person poses a risk to the lives or the sexual safety of one or more children or children generally.
- (4) For subsection (3), it is not necessary that the court be able to identify a risk to a particular child, particular children or a particular class of children.
- (5) The court may make the order only if it imposes a sentence in relation to the offence and must make the order concurrently with that sentence.
- (6) The prosecution may apply for the order, but an application is not necessary for the court to make the order.
- (7) For Part 3, Division 5, a person who is the subject of an order made under this section is taken to have been found guilty of a Class 2 offence.

## **Part 3            Reporting obligations**

### **Division 1        Initial report**

#### **14            When initial report must be made**

- (1) A reportable offender who is not in government custody in the Territory on the commencement date must report his or her personal details to the Commissioner within 90 days of the commencement date.
- (2) Despite subsection (1), if the reportable offender is not in the Territory on the commencement date, he or she must report his or her personal details to the Commissioner within 14 non-custodial days after entering the Territory.
- (3) Despite subsections (1) and (2), if the reportable offender has not previously been given a notice advising him or her of his or her reporting obligations in the Territory, he or she must report his or her personal details to the Commissioner within 7 days after being advised of his or her obligations:
  - (a) by a notice under section 52 or 56; or
  - (b) as a result of contacting the Commissioner in accordance with section 17.
- (4) Despite the periods allowed in subsections (1), (2) and (3), a reportable offender must report his or her personal details to the Commissioner before leaving the Territory unless he or she entered and remained in the Territory for less than 14 non-custodial days.
- (5) A reportable offender who is in government custody in the Territory on the commencement date must report his or her personal details to the Commissioner:
  - (a) within 7 days after ceasing to be in government custody; or
  - (b) if the person leaves the Territory before the end of that period – before leaving the Territory.
- (6) A person who becomes a Territory reportable offender after the commencement date must report his or her personal details to the Commissioner:
  - (a) within 7 days after:
    - (i) being sentenced; or
    - (ii) ceasing to be in government custody in the Territory,



whichever is later; or

- (b) if the person leaves the Territory before the end of that period – before leaving the Territory.
- (7) A person who becomes a corresponding, foreign or deemed reportable offender after the commencement date must report his or her personal details to the Commissioner:
- (a) if he or she is in the Territory:
    - (i) within 7 days after becoming a reportable offender; or
    - (ii) if he or she leaves the Territory before the end of that period – before leaving the Territory; or
  - (b) if he or she is not in the Territory – within 14 non-custodial days after entering the Territory unless he or she leaves the Territory before the end of that period.

**15            When new initial report must be made by offender whose previous reporting obligations have ceased**

- (1) If a reportable offender's reporting period expires but he or she is then sentenced for a reportable offence, he or she must report his or her personal details to the Commissioner:
- (a) within 28 days after being sentenced for the reportable offence; or
  - (b) if the reportable offender is in government custody in the Territory – within 7 days after ceasing to be in government custody,

whichever period ends later.

- (2) If a reportable offender's reporting period expires but he or she then becomes a corresponding, foreign or deemed reportable offender who must under section 40 comply with the reporting obligations imposed by this Part for any period, he or she must report his or her personal details to the Commissioner:
- (a) within 28 days after becoming a corresponding, foreign or deemed reportable offender; or
  - (b) if the reportable offender is in government custody in the Territory – within 7 days after ceasing to be in government custody,

whichever period ends later.

- (3) If a reportable offender's reporting obligations are suspended by an order under section 42 (or an equivalent order in a foreign jurisdiction) and that order ceases to have effect under section 46 (or an equivalent provision of a law of a foreign jurisdiction), he or she must report his or her personal details to the Commissioner:
- (a) within 28 days after the order ceases to have effect; or
  - (b) if the reportable offender is in government custody in the Territory – within 7 days after ceasing to be in government custody,
- whichever period ends later.
- (4) If a reportable offender is not in the Territory at the time he or she would be required under subsection (1), (2) or (3) to report his or her personal details to the Commissioner, he or she must report his or her personal details within 14 non-custodial days after entering the Territory.
- (5) Despite the periods allowed in subsections (1), (2) and (3), a reportable offender must report his or her personal details to the Commissioner before leaving the Territory unless he or she entered and remained in the Territory for less than 14 non-custodial days.

## **16 Initial report by reportable offender of personal details**

- (1) In an initial report, the personal details the reportable offender must report are:
- (a) his or her current name, together with any other name by which he or she is, or has previously been, known;
  - (b) in respect of each name other than his or her current name, the period during which he or she was known by that other name;
  - (c) his or her date of birth;
  - (d) the address of each of the premises at which he or she generally resides or, if he or she does not generally reside at any particular premises, the name of each of the localities in which he or she can generally be found;
  - (e) the names and ages of any children who generally reside in the same household as that in which he or she generally resides or with whom he or she has regular unsupervised contact;

- (f) if he or she is employed:
    - (i) the nature of his or her employment;
    - (ii) the name of his or her employer (if any); and
    - (iii) the address of each of the premises at which he or she is generally employed or, if he or she is not generally employed at any particular premises, the name of each of the localities in which he or she is generally employed;
  - (g) details of his or her affiliation with any club or organisation that has child membership or child participation in its activities;
  - (h) the make, model, colour and registration number of any motor vehicle owned by, or generally driven by, him or her;
  - (i) details of any tattoos or permanent distinguishing marks that he or she has (including details of any tattoo or mark that has been removed);
  - (j) whether he or she has ever been found guilty in any foreign jurisdiction of a foreign reportable offence or an offence that required him or her to report to a corresponding registrar or been the subject of a corresponding offender reporting order and, if so, where that finding occurred or that order was made;
  - (k) if he or she has been in government custody, whether in the Territory or elsewhere, since he or she was sentenced or released from government custody (as the case may be) in respect of a reportable offence, foreign reportable offence or corresponding reportable offence – details of when and where that government custody occurred; and
  - (l) if, at the time of making a report under this Division, he or she regularly leaves, or intends to regularly leave, the Territory to travel elsewhere in Australia frequently (irrespective of the length of any such absence):
    - (i) in general terms, the reason for travelling; and
    - (ii) in general terms, the frequency and destinations of the travel.
- (2) For this section:
- (a) a reportable offender is taken to generally reside at any particular premises if he or she resides at those premises for 14 or more days (whether consecutive or not) in any period of 12 months;

- (b) a child is taken to generally reside in the same household as a reportable offender if they reside together in that household for 14 or more days (whether consecutive or not) in any period of 12 months;
  - (c) a reportable offender is taken to have regular unsupervised contact with a child if he or she has unsupervised contact with the child for 14 or more days (whether consecutive or not) in any period of 12 months;
  - (d) a reportable offender is taken to be generally employed at any particular premises if he or she is employed at those premises for 14 or more days (whether consecutive or not) in any period of 12 months; and
  - (e) a reportable offender is taken to generally drive a particular motor vehicle if he or she drives that vehicle on 14 or more days (whether consecutive or not) in any period of 12 months.
- (3) For this section, a reportable offender is taken to be employed if he or she:
  - (a) carries out work under a contract of employment;
  - (b) carries out work as a self-employed person or as a sub-contractor;
  - (c) carries out work as a volunteer for an organisation;
  - (d) undertakes practical training as part of an educational or vocational course; or
  - (e) carries out work as a minister of religion or in any other capacity for the purposes of a religious organisation.
- (4) For this section, a person is taken to be 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 carry out work.
- (5) In subsection (1)(l):

**frequently** means in the order of 10 or more times in a year.

**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, whether or not he or she is a reportable offender for the purposes of this Act.
- (2) Unless the person has previously complied with the obligation imposed by this section, he or she must contact the Commissioner within 7 days after entering the Territory.
- (3) For subsection (2), contact may be made in person at a police station, by telephone or by any other means prescribed by the Regulations.
- (4) The Commissioner must advise the person whether he or she is a reportable offender for this Act and any reporting obligations that he or she has under this Act.
- (5) A person is not guilty of an offence against section 48 because of a failure to comply with the reporting obligation imposed by subsection (2) if he or she:
  - (a) is not a reportable offender for the purposes of this Act;
  - (b) has not been notified of that reporting obligation;
  - (c) remains in the Territory for less than 14 non-custodial days; or
  - (d) reports in accordance with section 14.

**Division 2            Ongoing reporting obligations**

**18            Reportable offender must report annually**

- (1) A reportable offender must report his or her personal details to the Commissioner each year.
- (2) The reportable offender must make the report in each year during the calendar month in which he or she first reported in accordance with this Act.
- (3) If the reportable offender has been in government custody, whether in the Territory or elsewhere, since he or she last reported his or her personal details under this section, the details he or she must report include details of when and where that custody occurred.
- (4) If a reportable offender's reporting period expires, but he or she is then required to report again under section 15, the reference in subsection (2) to the month during which he or she first reported is

to be read as a reference to the month during which he or she first reported in respect of the current reporting period.

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

- (1) A reportable offender must report to the Commissioner any change in his or her personal details within 14 days after that change occurs.
- (2) For subsection (1), a change occurs in the place where the reportable offender or a child generally resides, or as to when the reportable offender has unsupervised contact with a child, or in the place where the reportable offender is generally employed, or the motor vehicle that he or she generally drives, only if the minimum number of days referred to in section 16(2) is reached or exceeded.
- (3) If the personal details of a reportable offender (other than one to whom Division 9 applies) change while he or she is not in the Territory, he or she must report the change to the Commissioner within 14 non-custodial days after entering the Territory unless he or she leaves the Territory before the end of that period.
- (4) A reportable offender who is in government custody in the Territory for 14 or more consecutive days must report his or her personal details to the Commissioner:
  - (a) within 7 days after ceasing to be in government custody; or
  - (b) if he or she leaves the Territory before the end of that period – before leaving the Territory.

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

- (1) This section applies to a reportable offender who:
  - (a) intends to leave the Territory for 14 or more consecutive days to travel elsewhere in Australia; or
  - (b) intends to leave the Territory to travel out of Australia.
- (2) At least 7 days before leaving the Territory, the reportable offender must report the intended travel to the Commissioner and must provide details of:
  - (a) each State, Territory or country to which he or she intends to travel while out of the Territory;
  - (b) the approximate dates during which he or she intends to be in each of those States, Territories or countries;

- (c) each address or location within each State, Territory or country at which he or she intends to reside (to the extent that they are known) and the approximate dates during which he or she intends to reside at those addresses or locations;
  - (d) if he or she intends to return to the Territory, the approximate date on which he or she intends to return; and
  - (e) if he or she does not intend to return to the Territory, a statement of that intention.
- (3) If, in the circumstances, it is impracticable for a reportable offender to make the report 7 days before he or she leaves, it is sufficient compliance with subsection (2) if the reportable offender reports the required information to the Commissioner at least 24 hours before the intended travel.

## **21            Change of travel plans while out of Territory to be given**

- (1) This section applies to a reportable offender who is out of the Territory if the reportable offender:
- (a) did not report to the Commissioner under section 20, but later decides to extend his or her absence from the Territory to 14 or more consecutive days; or
  - (b) did report to the Commissioner under section 20, but later decides to change one or more of the details provided in the report.
- (2) As soon as is 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 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 Commissioner.
- (3) The reportable offender must make the report:
- (a) by facsimile or email sent to the Commissioner; or
  - (b) in any other manner permitted by the Regulations.

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

- (1) This section applies to a reportable offender who was required under section 20 to report that he or she intended to leave the Territory.
- (2) If the reportable offender left the Territory, he or she must report his or her return to the Territory to the Commissioner within 14 non-custodial days after entering the Territory unless he or she leaves the Territory before the end of that period.
- (3) If the reportable offender has, in accordance with section 20, reported an intention to leave the Territory but later decides not to leave the Territory, he or she must report his or her change of intention to the Commissioner within 7 days after deciding not to leave.

**23            Report of other absences from Territory**

- (1) A reportable offender who, at the time of making a report under this Division, regularly leaves, or intends to regularly leave, the Territory to travel elsewhere in Australia frequently (irrespective of the length of any such absence), must report the following details to the Commissioner:
  - (a) in general terms, the reason for travelling;
  - (b) in general terms, the frequency and destinations of the travel.
- (2) This section does not affect a reportable offender's obligations under sections 20, 21 and 22.
- (3) In subsection (1):

***frequently*** means in the order of 10 or more times in a year.

**24            Information concerning international travel to be given to AFP**

As soon as practicable after receiving a report under section 20, 21 or 22 concerning a reportable offender's intentions in relation to travel out of Australia, the Commissioner must ensure that the details of the proposed travel are given to the Commissioner of the Australian Federal Police.



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

### **25            Where reports to be made**

Subject to section 26, a reportable offender must make a report under this Part:

- (a) at a police station in the locality in which the reportable offender is currently residing;
- (b) at another place approved (either generally or in a particular case) by the Commissioner; or
- (c) if a direction is given in accordance with the Regulations as to the police station or approved place at which the report is to be made, at the police station or approved place so directed.

### **26            How reports to be made**

- (1) Subject to subsection (2), a reportable offender may make a report under this Part in person or in any other way permitted by the Regulations or by the Commissioner, either generally or in a particular case.
- (2) A reportable offender must make the following reports under this Part in person:
  - (a) an initial report required by Division 1;
  - (b) an annual report required by section 18;
  - (c) a report of a change of address of the premises at which he or she generally resides or, if he or she does not generally reside at any particular premises, of the localities in which he or she can generally be found;
  - (d) a report of the acquisition of, removal of, or change to, any tattoo or distinguishing mark.
- (3) Only a member of the Police Force may receive a report under this Part.
- (4) If a reportable offender attending in person is a child or has a disability that makes it impracticable for him or her to make a report, a parent, guardian, carer or other person nominated by the reportable offender who is accompanying the reportable offender may make the report on the reportable offender's behalf.
- (5) If a reportable offender who is permitted to make a report other than in person in accordance with subsection (1) has a disability that

makes it impracticable for him or her to make the report, a parent, guardian, carer or other person nominated by the reportable offender may make the report on the reportable 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 Commissioner is entitled to:
  - (a) make the report out of the hearing of members of the public; and
  - (b) be accompanied by a support person of his or her own choice.
- (2) A member of the Police Force receiving the report may arrange for an interpreter to be present when a person is making a report under this Part, but must not allow the interpreter to be present 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.
- (3) A person who breaches his or her undertaking under subsection (2) commits an offence.

Penalty:        100 penalty units or imprisonment for 2 years.

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

- (1) As soon as practicable after receiving a report under this Part, the member of the Police Force receiving the report must acknowledge the making of the report.
- (2) The acknowledgement must be in writing, must be given to the person who made the report and must include the following:
  - (a) the name and signature of the member who received the report;
  - (b) the date and time when, and the place where, the report was received;
  - (c) a copy of the information that was reported.
- (3) If a report is not made in person, the member who received the report must as soon as is 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 acknowledgement.
- (4) The Commissioner may make an agreement with the reportable offender as to the manner in which any acknowledgement or reference number required to be given by this section may be given.
- (5) The Commissioner must ensure:
  - (a) that there is a method of recording an agreement made under subsection (4);
  - (b) that a copy of the agreement is given to the reportable offender; and
  - (c) that, except with the written consent of the reportable offender, any acknowledgement or reference number required to be given by this section is given in accordance with the agreement while the agreement remains in force.
- (6) The Commissioner must ensure that a copy of every acknowledgement is retained.

## **29 Additional matters to be provided**

- (1) If a report is required to be made in person, the person making the report must also:
  - (a) present for inspection the reportable offender's driver's licence, or other form of identification or other document specified by the Regulations for this paragraph, to verify or support details in the report;
  - (b) provide a photograph of the reportable offender's head and face of a type suitable for use in an Australian passport; and
  - (c) if the person making the report is not the reportable offender – present for inspection his or her own driver's licence or other form of identification specified by the Regulations for this paragraph.
- (2) The member of the Police Force receiving the report may waive the requirements of subsection (1)(a) or (b) if:
  - (a) the reportable offender permits his or her fingerprints, or a fingerscan, to be taken immediately before or after the report is made; or

- (b) the member is otherwise satisfied as to the reportable offender's identity.
- (3) The member of the Police Force receiving the report may waive the requirements of subsection (1)(c) if he or she is otherwise satisfied as to the person's identity.
- (4) The member of the Police Force receiving a report may copy any document presented to the member for inspection under subsection (1)(a) or (c).
- (5) For a report that is made otherwise than in person, the Regulations may specify when and how:
  - (a) information concerning the identity and location of the reportable offender and the identity of the person making a report on behalf of a reportable offender must be provided; and
  - (b) documentary verification of details in the report must be provided.
- (6) For subsection (5), the Regulations cannot require the production of an original document.

### **30                      Power to take fingerprints or fingerscan**

If a member of the Police Force receiving a report under this Part that must be made in person is not, after examining all the material relating to identity provided or presented to him or her by or on behalf of the reportable offender, reasonably satisfied as to the identity of the reportable offender, the member may require the reportable offender to give his or her fingerprints or submit to a fingerscan.

### **31                      Power to take photographs**

- (1) A member of the Police Force 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 his or her body to enable that part of the body to be photographed by the member or a person authorised by the member.
- (2) A member of the Police Force cannot, under this section, require a reportable offender to expose his or her genitals, the anal area of his or her buttocks or, for females or transgender people who identify as females, their breasts.

- (3) A photograph taken under this section must be taken:
  - (a) in a place where no members of the public are present; and
  - (b) if practicable, by a person who is the same sex as the reportable offender.
- (4) If practicable, any member of the Police Force who is present while a photograph is being taken under this section must be of the same sex as the reportable offender.
- (5) If a reportable offender is to be photographed under this section, the following applies:
  - (a) a reportable offender who is a child must not be photographed unless he or she is accompanied by a parent or guardian or, if neither a parent or guardian is available, an independent person;
  - (b) a reportable offender who is not a child is entitled to be accompanied by a support person of his or her own choice.

**32            Reasonable force may be used to obtain fingerprints or photographs**

- (1) Before attempting to exercise a power under section 30 or 31, a member of the Police Force must inform the reportable offender in language likely to be understood by the reportable offender:
  - (a) of the purpose for which the power is to be exercised and, in the case of section 30, why the member is not satisfied as to the reportable offender's identity;
  - (b) that reasonable force may be used if the reportable offender does not give his or her fingerprints, submit to a fingerscan or expose the relevant part of his or her body (as the case may be) voluntarily; and
  - (c) that the fingerprints, fingerscan or photographs will be retained by the Commissioner.
- (2) If the reportable offender does not voluntarily cooperate, a member of the Police Force or a person authorised by him or her may, if the use of reasonable force is authorised by the officer in charge of the police station or a member of the Police Force of or above the rank of Sergeant, use reasonable force:
  - (a) to take the fingerprints or a fingerscan of the reportable offender; or

- (b) to expose a part of a body of the reportable offender that the member is authorised under section 31 to require the reportable offender to expose to enable that part of the body to be photographed.
- (3) If practicable, the person who uses the reasonable force must be of the same sex as the reportable offender.

### **33            Retention of material for certain purposes**

The Commissioner may retain and use for law enforcement, crime prevention and child protection purposes any of the following taken under this Division from or in relation to a reportable offender:

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

### **34            Reporting by remote offenders**

- (1) If a reportable offender resides more than 100 km from the nearest police station, the reportable offender, or a person entitled to make the report on his or her behalf, need not comply with a time limit concerning the making of a report in person under this Part if:
  - (a) he or she contacts the Commissioner before the time limit expires;
  - (b) the Commissioner agrees to allow the report to be made at a specific time that is after the time limit expires and at a specific place; and
  - (c) before the time limit expires, he or she provides the Commissioner by telephone or other means acceptable to the Commissioner with the information required to be reported.
- (2) The Commissioner must ensure that there is a method of recording:
  - (a) all agreements made under this section; and
  - (b) all information provided under subsection (1).
- (3) Without limiting subsection (2), the recording method adopted must result in the creation of a written record for each agreement:
  - (a) that is identified by a unique reference number;
  - (b) that identifies when and where the agreement was made;

- (c) that identifies the person who enters into the agreement; and
  - (d) that contains the terms of the agreement.
- (4) If an agreement is made under this section, the Commissioner must ensure that the reportable offender is provided with the reference number required by subsection (3)(a).
- (5) The Commissioner must ensure that there is a method of recording all information provided under subsection (1).

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

### **35            Suspension and extension**

- (1) This section applies to a reportable offender unless he or she is a person to whom Division 9 applies or is exempted by an order under Division 6 (or an equivalent order of a foreign jurisdiction) from reporting.
- (2) An obligation imposed on a reportable offender by this Part is suspended for any period during which he or she:
- (a) is in government custody, whether in the Territory or elsewhere; or
  - (b) is outside the Territory (unless the obligation arises under section 21).
- (3) The period for which a reportable offender's reporting obligations continue is extended by any length of time for which those obligations are suspended under subsection (2)(a).
- (4) If a prohibition order is made in respect of a reportable offender whose reporting obligations would (apart from this subsection) expire during the period for which the reportable offender is the subject of the prohibition order, the reportable offender must comply with the reporting obligations until the expiry of the prohibition order.
- (5) If a prohibition order is made in respect of a reportable offender whose reporting obligations have expired:
- (a) the reportable offender is taken, for this Part (but not for section 37), to have been sentenced for a reportable offence; and
  - (b) the reportable offender must comply with the reporting obligations imposed by this Part until the expiry of the prohibition order.

## **Division 5            Reporting period**

### **36            When reporting obligations begin**

- (1) For this Division, a Territory reportable offender's reporting obligations in respect of a reportable offence begin:
  - (a) when he or she is sentenced for the offence; or
  - (b) when he or she ceases to be in government custody in relation to the offence,whichever is later.
- (2) The reporting obligations for a corresponding, foreign or deemed reportable offender begin:
  - (a) if the reportable offender is in the Territory:
    - (i) when he or she is sentenced for the offence; or
    - (ii) when he or she ceases to be in government custody,whichever is later; or
  - (b) when the reportable offender enters the Territory from a foreign jurisdiction.

### **37            Length of reporting period**

- (1) A person who is a reportable offender in respect of a single Class 2 offence must comply with the reporting obligations imposed by this Part for 8 years.
- (2) A person who is a reportable offender in respect of:
  - (a) a single Class 1 offence; or
  - (b) more than a single reportable offence but where subsection (3) does not apply,must comply with the reporting obligations imposed by this Part for 15 years.
- (3) A person who is a reportable offender in respect of:
  - (a) a Class 1 offence and who subsequently commits and is found guilty of another reportable offence;
  - (b) a Class 2 offence and who subsequently commits and is found guilty of a Class 1 offence; or



- (c) a Class 2 offence and who subsequently commits and is found guilty of another Class 2 offence and has ever been found guilty of 3 or more Class 2 offences,

must comply with the reporting obligations imposed by this Part for the remainder of his or her life.

- (4) A reference in subsection (1), (2) or (3) to an offence includes an offence committed before the commencement of that subsection.
- (5) For this section:
  - (a) 2 or more offences arising from the same incident are to be treated as a single offence; and
  - (b) 2 or more offences arising from the same incident are to be treated as a single Class 1 offence if at least one of those offences is a Class 1 offence.

### **38            Reduced period applies for juvenile reportable offenders**

Despite section 37, if a reportable offender was a child at the time he or she committed each reportable offence, he or she must comply with the reporting obligations imposed by this Part for:

- (a) in the circumstances described by section 37(1) – 4 years; and
- (b) in the circumstances described by section 37(2) or (3) – 7½ years.

### **39            Extended reporting period if reportable offender still on parole**

If a reportable offender is on parole in respect of a reportable offence and the reporting period in respect of the offence would, but for this section, end before the expiry of the sentence of imprisonment to which the parole relates, the reportable offender must comply with the reporting obligations until the expiry of the term of imprisonment to which the parole relates.

### **40            Reporting period for foreign, deemed and corresponding reportable offenders**

- (1) Despite anything in this Part, a reportable offender must comply with the reporting obligations imposed by this Part for the longest period for which he or she would be required to report, whether to the Commissioner or to the corresponding registrar of a foreign jurisdiction.

- (2) For this section, the longest period is the last of all of the reporting periods to expire.

## **Division 6            Exemption from reporting obligations**

### **41            Supreme Court may exempt certain reportable offenders**

- (1) This Division applies in relation to a reportable offender who is required to comply with the reporting obligations imposed by this Part for the remainder of his or her life.

- (2) If:

- (a) a period of 15 years has passed since the reportable offender was last sentenced or released from government custody, whether in the Territory or elsewhere, in respect of a reportable offence or foreign reportable offence (ignoring any other periods during which he or she was in government custody);
- (b) he or she did not become the subject of a life-long reporting period under a corresponding Act whilst in a foreign jurisdiction before becoming the subject of such a period in the Territory; and
- (c) he or she is not subject to parole in respect of a reportable offence,

the reportable offender may apply to the Supreme Court for an order suspending his or her reporting obligations.

### **42            Order for suspension**

- (1) On an application under section 41(2), the Supreme Court may make an order suspending the reportable offender's reporting obligations.
- (2) The Court must not make the order unless it is satisfied that the reportable offender does not pose a risk to the lives or the sexual safety of one or more children or children generally.
- (3) In deciding whether to make the order, the Court must take into account:
  - (a) the seriousness of the reportable offender's reportable offences, corresponding reportable offences and foreign reportable offences;
  - (b) the period of time since those offences were committed;

- (c) the age of the reportable offender, and the age of the victims of those offences, at the time those offences were committed;
- (d) the difference in age between the reportable offender and the victims of those offences;
- (e) the reportable offender's present age;
- (f) the seriousness of the reportable offender's total criminal record;
- (g) whether the reportable offender is the subject of a prohibition order; and
- (h) any other matter the Court considers appropriate.

#### **43 Other parties to application**

- (1) The Commissioner is a party to any proceedings for an order under this Division.
- (2) The Chief Executive Officers of the Agencies responsible for:
  - (a) children's services;
  - (b) mental health; and
  - (c) correctional services,are each entitled to be a party to any proceedings for an order under this Division.
- (3) As soon as is practicable after receiving an application under this Division, the registrar of the Supreme Court must notify the Commissioner and each Chief Executive Officer of the application.
- (4) For the purpose of preparing submissions, the Commissioner may require any public authority to provide the Commissioner with information relevant to an assessment of whether the applicant poses a risk to the safety of children.
- (5) A public authority to which a requirement under subsection (4) is given is authorised and required to provide the Commissioner with the information sought by the requirement.

#### **44 No costs to be awarded**

The Supreme Court must not award costs in respect of proceedings under this Division.

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

A reportable offender in respect of whom the Supreme Court refuses to make an order under this Division cannot 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.

**46      Cessation of order**

- (1) An order made under this Division ceases to have effect if, at any time after the making of the order, the reportable offender:
  - (a) is found guilty of a reportable offence;
  - (b) is made the subject of an offender reporting order or prohibition order; or
  - (c) becomes a corresponding, foreign or deemed reportable offender who must under section 40 comply with the reporting obligations imposed by this Part for any period.
- (2) An order that ceased to have effect in accordance with subsection (1) is revived if:
  - (a) the finding of guilt that caused the order to cease to have effect is quashed or set aside by a court; or
  - (b) the order ceased to have effect in accordance with subsection (1)(a) and either of the following applies:
    - (i) the offender reporting order or prohibition order is quashed on appeal;
    - (ii) for an offender reporting order – the reportable offender's finding of guilt in respect of the offence that resulted in the making of that order is quashed or set aside by a court.
- (3) For this section, it is immaterial whether a person may lodge, or has lodged, an appeal in respect of the finding of guilt, offender reporting order or prohibition order.

**47      Application for new order**

- (1) If an order ceases to have effect in accordance with section 46(1), the reportable offender may apply under this Division for a new order.

- (2) Section 45 does not apply with respect to an application referred to in subsection (1).
- (3) If an order ceases to have effect in accordance with section 46(1)(b) or (c), on an application under this Division for a new order, section 41(2)(a) applies as if the period referred to were a period of 15 years since he or she last committed a reportable offence or foreign reportable offence (ignoring any period during which the reportable offender was in government custody, whether in the Territory or elsewhere).

## **Division 7            Offences**

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

- (1) A reportable offender who, without reasonable excuse, fails to comply with any of his or her reporting obligations commits an offence.

Penalty:        100 penalty units or imprisonment for 2 years.

- (2) A court, in determining whether a person had a reasonable excuse for failing to comply with his or her reporting obligations, must have regard to the following matters:
  - (a) the person's age;
  - (b) whether the person has a disability that affects his or her ability to understand or comply with those obligations;
  - (c) whether the form of notification given to the reportable offender as to his or her obligations was adequate to inform him or her of those obligations, having regard to the offender's circumstances;
  - (d) any matter specified by the Regulations for this section;
  - (e) any other matter the court considers appropriate.
- (3) It is a defence to a prosecution for an offence of failing to comply with a reporting obligation if it is established that, at the time the offence is alleged to have occurred, the defendant had not received notice, and was otherwise unaware, of the obligation.

**49            Offence of furnishing false or misleading information**

A person who, in purported compliance with this Part, provides information that he or she knows to be false or misleading in a material particular commits an offence.

Penalty:        100 penalty units or imprisonment for 2 years.

**50            Time limit for prosecutions waived**

Despite any other Act, a proceeding for an offence under this Act may be commenced at any time.

**51            Bar to prosecution for failing to report leaving Territory**

- (1) This section applies if a reportable offender leaves the Territory and is found guilty of failing to report his or her presence in a foreign jurisdiction as required by a corresponding Act.
- (2) The reportable offender must not be prosecuted for a failure to comply with section 20 in respect of the travel out of the Territory.

**Division 8            Notification of reporting obligations**

**52            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 follow if he or she fails to comply with those obligations.
- (2) A reportable offender must be given a notice under this section as soon as practicable after he or she:
  - (a) is sentenced for a reportable offence;
  - (b) is released from government custody in the Territory (whether in government custody for a reportable offence or otherwise);
  - (c) enters the Territory, if he or she has not previously been given notice of his or her reporting obligations in the Territory; or
  - (d) becomes a corresponding, foreign or deemed reportable offender, if he or she is in the Territory at that time.
- (3) Subsection (2)(b) is taken to be complied with if the reportable offender is given the notice within 7 days before his or her release from government custody.

- (4) A notice under this section must be given by the person, a member of a class of persons, or the body specified in or determined in accordance with the Regulations.
- (5) A person or body is not required to give a notice under this section if the notice has been given by another person or body.

**53            Court to provide sentencing information to Commissioner**

If a Territory court:

- (a) makes an order or imposes a sentence that has the effect of making a person a Territory reportable offender for this Act;
- (b) imposes a sentence on a person in respect of a reportable offence; or
- (c) makes an order in respect of a reportable offender that has the effect of removing the person from the ambit of this Act,

the court must ensure that details of the order or sentence are provided to the Commissioner as soon as is practicable after the making of the order or the imposition of the sentence.

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

- (1) This section applies in relation to a reportable offender whose reporting period has changed since he or she was last notified of his or her reporting period in the Territory.
- (2) The Commissioner must give written notice to the reportable offender as soon as is practicable after the change and, in any event, no later than the time the offender next reports in accordance with this Act.

**55            Supervising authority to notify Commissioner of certain events**

- (1) This section applies if a reportable offender:
  - (a) ceases to be in government custody in the Territory;
  - (b) ceases to be subject to a supervised sentence; or
  - (c) ceases to be subject to a condition of parole requiring the person to be subject to supervision,

regardless of the reason why the reportable offender was in custody, was subject to the sentence or was on parole.

- (2) As soon as is practicable before or after the relevant event listed in subsection (1) occurs, the supervising authority must give written notice of the event to the Commissioner.
- (3) The notice must include any details prescribed by the Regulations.
- (4) For the purposes of subsection (2), the Commissioner may inform a supervising authority whether or not a person is a reportable offender.

**56                      Notices may be given by Commissioner**

The Commissioner may, at any time, cause written notice to be given to a reportable offender of:

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

**57                      Constructive notice of reporting obligations**

If a reportable offender refuses to cooperate with a member of the Police Force who makes reasonable attempts to give the reportable offender a notice of his or her reporting obligations and obtain acknowledgement from the reportable offender, the reportable offender is taken to have received the notice and have understood the obligations and the consequences that may follow if he or she fails to comply with the obligations.

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

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

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

**59                      Who this Division applies to**

- (1) This Division applies to the following:
  - (a) a reportable offender who is a participant in a Territory witness protection program;



- (b) a reportable offender who is a participant in a complementary witness protection program within the meaning of the *Witness Protection (Northern Territory) Act*;
  - (c) a reportable offender who is the subject of a determination under section 61 that is in force and to the effect that he or she is a person to whom this Division applies.
- (2) This Division (except sections 61 and 62) also applies to a reportable offender who is receiving protection under a foreign witness protection law specified by the Regulations for this subsection, or who has the same status as such a person under an order made under a corresponding Act specified by the Regulations for this subsection.

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

It is sufficient compliance with the requirements of this Part:

- (a) if a person to whom this Division applies reports the information he or she is required to report under this Part:
  - (i) to the extent that the information is required by the Commissioner to be reported by the person; and
  - (ii) at the times, and in a manner, authorised by the Commissioner for this section; and
- (b) if the acknowledgement of the making of a report is given in a manner approved by the Commissioner.

## **61                      Determination as to whether this Division applies**

- (1) The Commissioner must make a determination that a reportable offender who is a participant in a Territory witness protection program either is or is not a person to whom this Division applies:
- (a) when the reportable offender ceases to be a participant in the program as a consequence of a request under section 19(2) of the *Witness Protection (Northern Territory) Act*; or
  - (b) when the Commissioner (or the Deputy Commissioner) makes a decision under section 19(1) of the *Witness Protection (Northern Territory) Act* that the protection and assistance given to the reportable offender under the program be terminated.
- (2) On making the determination, the Commissioner must take reasonable steps to notify the reportable offender of the terms of the determination.

- (3) A reportable offender may, within 28 days after receiving such a notification, apply in writing to the Commissioner for a review of the determination.
- (4) On receiving an application for a review, the Commissioner:
  - (a) must review the determination and confirm or reverse it;
  - (b) before making a decision on the matter, must give the applicant a reasonable opportunity to state his or her case; and
  - (c) after making a decision on the matter, must give written notice of the decision to the applicant.

## **62 When determination takes effect**

- (1) A determination that this Division applies to a reportable offender takes effect immediately.
- (2) A determination 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 determination is given to the reportable offender; or
  - (b) if an application referred to in section 61(3) is made before the end of that period, at the end of 3 days after notice is given to the applicant in accordance with section 61(4)(c).

## **63 Modification of ongoing reporting obligations**

Sections 16(1), 20, 21, 22, 23 and 51 apply with respect to a person to whom this Division applies as if any reference in them to the Territory were a reference to the jurisdiction in which the person generally resides.

# **Part 4 Child Protection Offender Register**

## **64 Requirement to establish and maintain Register**

- (1) The Commissioner must:
  - (a) establish and maintain a Child Protection Offender Register; or
  - (b) arrange for another person or body to establish and maintain a Child Protection Offender Register on the Commissioner's behalf.

- (2) The Register must contain the following information in respect of each reportable offender (to the extent that it is known to the Commissioner):
- (a) the reportable offender's name and other identifying particulars;
  - (b) details of each Class 1 and Class 2 offence of which the reportable offender has been found guilty or with which he or she has been charged;
  - (c) details of each offence of which the reportable offender has been found guilty that resulted in the making of an offender reporting order or an equivalent order in a foreign jurisdiction;
  - (d) details of any prohibition order made in respect of the reportable offender;
  - (e) the date on which the reportable offender was sentenced for any reportable offence;
  - (f) the date on which the reportable offender ceased to be in government custody in respect of a reportable offence, or entered or ceased to be in government custody in respect of any offence during his or her reporting period;
  - (g) any information reported in respect of the reportable offender under Part 3;
  - (h) any other information that the Commissioner considers appropriate to include in the Register.

## **65 Access to Register to be restricted**

- (1) The Commissioner must ensure:
- (a) that the Register, or any part of the Register, is only accessed by a person or class of persons authorised to do so by the 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 Commissioner or as otherwise required or authorised by or under any Act or law.
- (2) Personal information in the Register that is to be disclosed under subsection (1)(b) otherwise than to a member of the Police Force or a law enforcement agency may only be disclosed by a person authorised to do so by the Commissioner.

- (3) The Commissioner must develop guidelines in relation to the accessing and disclosure of personal information in the Register to ensure that access to the personal information in the Register is restricted to the greatest extent that is possible without interfering with the objects of this Act.
- (4) For this section, the Register includes any information from any register maintained under a corresponding Act and that is accessible by the Commissioner, whether or not the information is contained in the Register.
- (5) This section has effect despite any other Act or law to the contrary.
- (6) In subsection (2):

***law enforcement agency*** means:

- (a) the Commissioner of the Australian Federal Police; or
- (b) the Commissioner (however designated) of the police force of a State, another Territory or another country.

**66 Person with access to Register not to disclose personal information from it**

- (1) A person must not, directly or indirectly, record, disclose or make use of any personal information in the Register except:
  - (a) in the course of the person's duties;
  - (b) as required or authorised by or under this Act or another Act;
  - (c) for the purpose of proceedings under this Act;
  - (d) with the written authority of the Commissioner or the person to whom the information relates; or
  - (e) in other circumstances prescribed by the Regulations.

**Penalty:** If the person recording, disclosing or making use of the information did not gain and did not intend to gain a benefit from the recording, disclosure or use of the information – 100 penalty units or imprisonment for 2 years.

If the person gained or intended to gain a benefit from the recording, disclosure or use – 250 penalty units or imprisonment for 5 years.

If the person gained a benefit from the recording, disclosure or use and the value of the benefit was more than \$10 000 – 500 penalty units or imprisonment for 10 years.

- (2) The prohibition in subsection (1) extends to the giving of evidence or the production of a book, document or record in civil proceedings in a court or tribunal.

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

The Commissioner must ensure that any personal information in the Register about a person to whom Part 3, Division 9 applies cannot be accessed other than by a person authorised by the officer responsible for the day-to-day operation of the Territory witness protection program.

**68            Reportable offender's rights in relation to Register**

- (1) On request by a reportable offender, the Commissioner must, as soon as is practicable, provide the reportable offender with a copy of all the reportable information that is held in the Register in relation to the reportable offender.
- (2) A reportable offender may ask the Commissioner to amend any reportable information held on the Register in relation to the reportable offender that is incorrect.
- (3) The Commissioner must comply with such a request on being satisfied that the information is incorrect.
- (4) In this section:

***reportable information*** means any information supplied to the Commissioner by, or on behalf of, the reportable offender that the reportable offender is required to report to the Commissioner and that is held in the Register.

**Part 5            Prohibition orders**

**Division 1       Preliminary**

**69            Definitions**

In this Part:

***child protection prohibition order*** means a child protection prohibition order made under section 72 or 75(1).

**conduct** includes an act or omission or a course of conduct.

**corresponding prohibition order** means an order made under a corresponding Act that falls within a class of orders prescribed by the Regulations as corresponding prohibition orders for this Act.

**court** means:

- (a) if the respondent is a young reportable offender – the Juvenile Court; and
- (b) otherwise – the Court of Summary Jurisdiction.

**interim prohibition order** means an interim child protection prohibition order made under section 75(2) or 76.

**prohibition order** means a child protection prohibition order or an interim prohibition order.

**registrar** means the registrar of the court to which an application for a prohibition order is made.

**respondent** means:

- (a) for an application by the Commissioner for a prohibition order to be made, varied or revoked – the reportable offender who is the subject of the prohibition order or in respect of whom the prohibition order is sought; or
- (b) for an application by a reportable offender for a prohibition order to be varied or revoked – the Commissioner.

**young reportable offender** means a reportable offender who is a child.

## **70            Evidence**

Evidence may be given at a hearing under this Part (including a further hearing under section 76) orally or by affidavit.

## **Division 2            Orders**

### **71            Commissioner may apply for order**

The Commissioner may apply to a court for a child protection prohibition order prohibiting a reportable offender from engaging in specified conduct.

## **72 Court may make child protection prohibition order**

- (1) A court may make a child protection prohibition order prohibiting a person from engaging in conduct specified in the order if the court is satisfied that the person is a reportable offender and, on the balance of probabilities, that:
  - (a) there is reasonable cause to believe, having regard to the nature and pattern of conduct of the person, that the person poses a risk to the lives or sexual safety of one or more children or children generally; and
  - (b) the making of the order may reduce that risk.
- (2) For the purposes of subsection (1), it is not necessary that the court be able to identify a risk to a particular child or particular children or a particular class of children.
- (3) In determining whether to make an order under this section in respect of a reportable offender, a court must take into account:
  - (a) the seriousness of the reportable offender's reportable offences and foreign reportable offences;
  - (b) the period of time since those offences were committed;
  - (c) the age of the reportable offender, and the age of the victims of those offences, at the time those offences were committed;
  - (d) the difference in age between the reportable offender and the victims of those offences;
  - (e) the reportable offender's present age;
  - (f) the seriousness of the reportable offender's total criminal record;
  - (g) the effect of the order sought on the reportable offender in comparison with the level of the risk that a further reportable offence, or an offence that may give rise to an offender reporting order, may be committed by the reportable offender;
  - (h) to the extent that they relate to the conduct sought to be prohibited – the circumstances of the reportable offender, including the reportable offender's accommodation, employment needs and integration into the community;
  - (i) in the case of a young reportable offender – the educational needs of the young reportable offender; and

- (j) any other matter the court considers relevant.
- (4) If:
  - (a) a reportable offender is already the subject of a child protection prohibition order;
  - (b) a further child protection prohibition order is sought in respect of him or her; and
  - (c) the court decides to make a new order,the court must:
  - (d) revoke the existing order and incorporate any continuing matters into the further order; or
  - (e) vary the existing order to include the matters with respect to which the court has decided to make the new order.
- (5) An order is not invalidated by a failure to comply with subsection (4).

### **73            Conduct that may be the subject of order**

- (1) A child protection prohibition order may prohibit conduct of any of the following kinds:
  - (a) associating with or other contact with specified persons or kinds of persons;
  - (b) being in specified locations or kinds of locations;
  - (c) engaging in specified behaviour;
  - (d) being in specified employment or employment of a specified kind.
- (2) A child protection prohibition order may prohibit conduct absolutely or on the terms that the court considers appropriate.
- (3) A child protection prohibition order may prohibit a person from entering or remaining in a place even if the person has a legal or equitable right to be at the place.
- (4) If a court makes a child protection prohibition order that imposes a prohibition referred to in subsection (3) and the court is satisfied that it is necessary to do so, the court must ensure that the order provides for the person in respect of whom the order is made to recover personal property, or other property prescribed by the Regulations, from a place specified in the order:



- (a) in the manner set out in the order; or
  - (b) in accordance with procedures prescribed by the Regulations.
- (5) Subsection (1) does not limit the kinds of conduct that may be prohibited by a child protection prohibition order.

#### **74            Term of child protection prohibition orders**

- (1) The court must specify the term for which a child protection prohibition order remains in force.
- (2) The term cannot be more than:
- (a) 5 years; or
  - (b) if the order is in respect of a young reportable offender – 2 years,
- after the order is made, but an application can be made for a further order.

#### **75            Consent orders**

- (1) A court may make a child protection prohibition order if the applicant and the reportable offender consent to the making of the order.
- (2) A court may make an interim prohibition order if the applicant and the reportable offender consent to the making of the order.
- (3) The court is not required to conduct a hearing before making an order under this section unless the court considers that it is in the interests of justice to conduct the hearing.
- (4) Without limiting subsection (3), in determining whether it is in the interests of justice to conduct the hearing, the court may have regard to the following:
- (a) whether the reportable offender has obtained legal advice in relation to the order concerned;
  - (b) whether the reportable offender:
    - (i) has impaired intellectual functioning;
    - (ii) is a person in respect of whom a guardianship order is in force under the *Adult Guardianship Act* or the *Guardianship of Infants Act*;
    - (iii) is illiterate or is not literate in the English language; or

- (iv) is subject to some other condition that may prevent the reportable offender from understanding the effect of giving consent to the making of the order.

### **Division 3            Interim orders**

#### **76            Application for and making of interim order**

- (1) A member of the Police Force may apply by telephone or other means prescribed by the Regulations to a magistrate for an order under this section.
- (2) A court may make an interim child protection prohibition order prohibiting a reportable offender from engaging in specified conduct if it appears to the court that it is necessary to do so to prevent an immediate risk to the lives or the sexual safety of one or more children or children generally.
- (3) For subsection (2), it is not necessary that the court be able to identify a risk to a particular child or particular children or a particular class of children.
- (4) An interim prohibition order may be made by a court whether or not:
  - (a) the reportable offender is present at the proceedings; or
  - (b) the reportable offender has been notified of the proceedings.
- (5) When an interim prohibition order is made by a court, the court must:
  - (a) fix a day, time and place for a further hearing of the application as soon as is practicable after the interim prohibition order is made;
  - (b) issue a summons requiring the reportable offender to attend the court for the further hearing; and
  - (c) notify the applicant of the further hearing.
- (6) An interim prohibition order remains in force until the further hearing unless the application is sooner discontinued by the applicant.

#### **77            Notification of order made in absence of respondent**

The registrar of a court that makes, varies or revokes a prohibition order in the absence of the respondent must cause a copy of the order to be served on the respondent.

## **Division 4            Variation or revocation**

### **78                    Variation or revocation of orders**

- (1) The Commissioner may apply to a court for an order varying or revoking a child protection prohibition order.
- (2) A reportable offender the subject of a child protection prohibition order may apply to a court for an order varying or revoking the order.
- (3) A reportable offender cannot make an application under subsection (2) except by leave of the court.
- (4) The court may grant leave only if satisfied that, having regard to changes in the reportable offender's circumstances since the child protection prohibition order was made or last varied, it is in the interests of justice that leave be granted.

## **Division 5            Procedural matters**

### **79                    How application to be disposed of**

- (1) The court may dispose of an application under section 71 or 76:
  - (a) by making a prohibition order;
  - (b) by dismissing the application; or
  - (c) at the request of the applicant, by discontinuing the application.
- (2) At a further hearing under section 76, the court must dispose of an application that resulted in an interim prohibition order as an application for a child protection prohibition order, and section 72 applies to the application accordingly.

### **80                    Explanation of orders**

- (1) A court that makes a prohibition order must ensure that all reasonable steps are taken to explain to the reportable offender in language likely to be understood by the reportable offender:
  - (a) his or her obligations under the order; and
  - (b) the consequences that may follow if he or she fails to comply with those obligations.
- (2) An order is not invalidated by a failure to comply with subsection (1).

## **81            Fixing dates for hearings**

- (1) When an application for a child protection prohibition order is made the registrar must:
  - (a) fix a day, time and place for the hearing;
  - (b) prepare a summons in the prescribed form;
  - (c) cause the summons to be served on the reportable offender; and
  - (d) notify the applicant of the hearing.
- (2) When an application for the variation or revocation of a child protection prohibition order is made by a reportable offender, the registrar must:
  - (a) fix a day, time and place for a hearing at which the court will consider whether to grant leave for the reportable offender to continue the application; and
  - (b) notify the applicant of the hearing.
- (3) The hearing in relation to the granting of leave must be held in the absence of the Commissioner.
- (4) When an application for the variation or revocation of a child protection prohibition order is made by the Commissioner, or a reportable offender has been granted leave to continue such an application, the registrar must:
  - (a) fix a day, time and place for the hearing;
  - (b) prepare a summons in the prescribed form;
  - (c) cause the summons to be served on the respondent; and
  - (d) notify the applicant of the hearing.

## **82            Attendance at hearings**

- (1) If the applicant does not attend a hearing fixed under section 81 or a further hearing under section 76, the court:
  - (a) if it is satisfied the applicant was notified of the hearing – must dismiss the application; or
  - (b) otherwise – must adjourn the hearing.

- (2) If the applicant attends a hearing fixed under section 82 or a further hearing under section 76 but the respondent does not attend, the court:
  - (a) if it is satisfied that the respondent was served with a summons requiring the respondent to attend the hearing – must hear the matter in the absence of the respondent; or
  - (b) otherwise – must adjourn the hearing.
- (3) The registrar of a court that adjourns a hearing must notify any party permitted to attend the hearing who was not present when the hearing was adjourned.

## **Division 6            Offence**

### **83            Failure to comply with orders**

- (1) A person the subject of a prohibition order who, without reasonable excuse, fails to comply with the prohibition order commits an offence.

Penalty:        100 penalty units or imprisonment for 2 years.

- (2) A police officer who suspects on reasonable grounds that a person has committed an offence under subsection (1) may arrest the person without a warrant.

## **Division 7            Review by Supreme Court**

### **84            Application for and determination of review**

- (1) A person aggrieved by the decision of a court:
  - (a) under section 79(1)(b) to dismiss an application; or
  - (b) to make, vary or revoke a prohibition order,may make application to the Supreme Court for a review of the decision.
- (2) In determining the review, the Supreme Court may:
  - (a) affirm the decision reviewed;
  - (b) vary the decision reviewed; or
  - (c) quash the decision reviewed and substitute its own decision.

**85                      Application for review does not stay order**

An application for review of an order made under this Part does not operate to stay the operation of the order unless the court to which the application is made so orders.

**Division 8                      Miscellaneous**

**86                      Applications not to be heard in public**

- (1) Proceedings in relation to an application under this Part must be heard in the absence of the public.
- (2) Despite subsection (1), the court hearing the proceedings may, if it considers it to be appropriate, permit to be present during the hearing of the proceedings persons who are not:
  - (a) parties to the proceedings; or
  - (b) the legal representatives of those parties.

**87                      Commissioner to be given information relating to reportable offenders**

- (1) When determining whether to make an application under this Part, or when making an application under this Part, the Commissioner may, by notice in writing, direct any public authority to provide to the Commissioner, on or before a day specified in the notice, any information held by the public authority that is relevant to an assessment of whether the reportable offender poses a risk to the lives or the sexual safety of one or more children or children generally.
- (2) A public authority to which a direction under subsection (1) is given is authorised and required to provide to the Commissioner the information sought by the direction.
- (3) A public authority is not required to give information that is subject to legal professional privilege.

**88                      Restriction on publication of identity of reportable offenders and victims**

- (1) A person must not, in relation to any proceedings relating to a prohibition order, publish:
  - (a) personal information of the person in respect of whom the order is sought or any such order is made;

- (b) the name of any victim of a reportable offence committed by a reportable offender;
- (c) the name of any particular person referred to as a person at risk because of the conduct proposed to be prohibited; or
- (d) any matter reasonably likely to enable a person referred to in paragraph (b) or (c) to be identified.

Penalty:        100 penalty units or imprisonment for 2 years.

- (2) Subsection (1) does not apply in relation to the publication of any matter with the authority of the court to which the application was made or any publication by a person of his or her name.
- (3) Subsection (1) does not apply in relation to the publication of any matter to:
  - (a) the reportable offender;
  - (b) a person or class of persons specified in the order concerned;
  - (c) a member of the Police Force or a member of a law enforcement agency of the Commonwealth or a State or another Territory in that member's official capacity;
  - (d) a person involved in the administration of the order;
  - (e) a member of staff of a public authority involved in the assessment and management of the reportable offender;
  - (f) a person for the purpose of an investigation of an alleged breach of the order or a person involved in proceedings for any such breach; or
  - (g) any other person to whom the matter is required or authorised to be disclosed by or under any Act or law.

**89            Prohibition orders have no effect to extent of inconsistency with certain other orders**

- (1) If a prohibition order is inconsistent with an order of the Family Court or a restraining order under the *Domestic Violence Act* (whether the prohibition order is made before or after the Family Court order or restraining order), the Family Court order or restraining order prevails and the prohibition order has no effect to the extent of the inconsistency.

- (2) For subsection (1), a prohibition order is not inconsistent with another order merely because it imposes a longer term in relation to any prohibited conduct than was imposed by the other order.

**90 Recognition of prohibition orders made in other jurisdictions**

- (1) The Regulations may provide for the recognition in the Territory of corresponding prohibition orders.
- (2) In particular, the Regulations may provide for any of the following matters:
- (a) applications for recognition in the Territory of orders as corresponding prohibition orders;
  - (b) the conferral on courts of jurisdiction with respect to the recognition in the Territory of corresponding prohibition orders;
  - (c) the modification of corresponding prohibition orders for the purposes of their recognition in the Territory;
  - (d) the effect of the recognition in the Territory of corresponding prohibition orders;
  - (e) the conferral on courts of jurisdiction with respect to the variation or revocation of corresponding prohibition orders.

**Part 6 Reportable offenders prohibited from child-related employment**

**91 Child-related employment**

- (1) For this Part, child-related employment is employment involving contact with a child and includes employment in connection with any of the following:
- (a) child protection services;
  - (b) child care centres or pre-schools;
  - (c) educational institutions for children;
  - (d) juvenile detention centres;
  - (e) refuges or other residential facilities used by children;
  - (f) wards of public or private hospitals in which children are ordinarily patients;



- (g) clubs, associations or movements (including of a cultural, recreational or sporting nature) with significant child membership or involvement;
  - (h) religious organisations;
  - (i) baby sitting or child minding services;
  - (j) fostering children;
  - (k) providing taxi services for the transport of children;
  - (l) private tuition services of any kind for children;
  - (m) counselling or other support services for children;
  - (n) overnight camps regardless of the type of accommodation or of how many children are involved;
  - (o) school crossing services provided to assist children to cross roads on their way to or from school.
- (2) For this Part, a person is engaged in child-related employment if he or she is:
- (a) an officer of a body corporate that is engaged in child-related employment;
  - (b) a member of the committee of management of an unincorporated body or association that is engaged in child-related employment; or
  - (c) a member of a partnership that is engaged in child-related employment.
- (3) In this section:
- contact** means any form of contact between a person and a child and includes:
- (a) any form of physical contact;
  - (b) any form of oral communication, whether face to face or by telephone; and
  - (c) any form of written communication, including electronic communication.

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***educational institutions for children*** includes any government school established under the *Education Act* and any school registered under Part VII of that Act but does not include an educational facility that is specified in the Regulations.

***employment*** means performance of work:

- (a) under a contract of employment or a contract for services (whether written or unwritten);
- (b) as a minister of religion or as part of the duties of a religious vocation; or
- (c) as a volunteer (including the performance of unpaid community work).

***officer.***

- (a) in relation to a body corporate that is a corporation within the meaning of the Corporations Act 2001, has the same meaning as in section 9 of that Act; and
- (b) in relation to any other body corporate, means any person (by whatever name called) who is concerned or takes part in the management of the body corporate.

## **92 Reportable offenders excluded from child-related employment**

- (1) A reportable offender must not, during the prohibited period:

- (a) apply for; or
- (b) engage in,

employment that is child-related employment.

Penalty: 100 penalty units or imprisonment for 2 years.

- (2) It is a defence to a prosecution for an offence against subsection (1) to prove that the defendant did not know, at the time the offence is alleged to have been committed, that the employment was child-related employment.
- (3) For subsection (1):

***prohibited period*** means:

- (a) the period set by the sentencing court at the time of sentencing the reportable offender or, if no period is set by the sentencing court, the period for which the reportable offender is required to report under this Act; or

- (b) the varied period (whether reduced or extended) set by the Supreme Court on application at any time by the reportable offender or the Commissioner.

## **Part 7            Miscellaneous**

### **Division 1       Reporting**

#### **93            Annual reports**

- (1) The Commissioner must, at the end of each financial year, report to the Minister in respect of that financial year on:
  - (a) the number of reportable offenders registered in the Territory;
  - (b) the number of reportable offenders in the Territory who have life-time reporting obligations;
  - (c) the number of juvenile reportable offenders in the Territory;
  - (d) the number of persons in the Territory who are reportable offenders because they are the subject of an offender reporting order without committing a Class 1 or Class 2 offence;
  - (e) the number of persons in the Territory who are reportable offenders and were sentenced for a subsequent Class 1 or Class 2 offence during the year;
  - (f) the number of suspension orders under Part 3, Division 6 that were made or revoked during the year;
  - (g) the number of prohibition orders made during the year;
  - (h) the number of prosecutions during the year for offences under the Act; and
  - (i) any other matter relating to reportable offenders, the Register or the administration of this Act, as directed by the Minister.
- (2) The Commissioner must forward the report to the Minister within 3 months after the end of the financial year.
- (3) The Minister must lay the report before the Legislative Assembly within 3 sitting days of the Legislative Assembly after the report is received by the Minister.

**94                      Other reports**

- (1) The Minister may, at any time, request the Commissioner to report to him or her on a matter in relation to the operation of this Act.
- (2) The Commissioner must comply with the request of the Minister.

**95                      Keeping of records**

The Commissioner must keep the records that are necessary to comply with the reporting requirements under this Division.

**Division 2                      Other matters**

**96                      Delegation**

- (1) Subject to subsection (2), the Commissioner may, in writing, delegate to a member of the Police Force all or any of his or her powers and functions under this Act.
- (2) The Commissioner must not delegate:
  - (a) his or her powers and functions under section 65(1) or (2), 66(1)(d) or 67; or
  - (b) his or her power of delegation under subsection (1).

**97                      Effect of spent convictions**

- (1) The fact that an offence in respect of which a reportable offender has been found guilty becomes spent does not affect:
  - (a) the status of the offence as a reportable offence for the purposes of this Act in respect of the reportable offender;
  - (b) any reporting obligations of the reportable offender;
  - (c) any prohibition order in respect of the reportable offender; or
  - (d) the period for which the reportable offender is prohibited from engaging in child-related employment.
- (2) For this section, an offence becomes spent if, under a law in any jurisdiction, the reportable offender is permitted to not disclose the fact that he or she was convicted or found guilty of the offence.

## **98                      Certificate concerning evidence**

(1) In proceedings under this Act, a certificate signed by the Commissioner, or a member of the Police Force holding a position designated in writing by the Commissioner for the purposes of this section, certifying that the Register:

- (a) at any particular date contained information specified 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 and, in the absence of evidence to the contrary, is proof of the details specified in the certificate.

(2) 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 and, in the absence of evidence to the contrary, is proof of the facts stated in the certificate.

## **99                      Regulations**

(1) The Administrator may make regulations, not inconsistent with this Act, prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) The Regulations may deal with any of the following:

- (a) matters incidental to the making of reports under Part 3, including:
  - (i) the manner and form in which a report must be made;
  - (ii) the nature of any documentation or evidence to be produced to verify any details of such a report; and
  - (iii) further information that must be included in a report in addition to information required by that Part;
- (b) the form of, or the information to be included in, any notice or other document that is required by this Act to be given to reportable offenders;

- (c) the manner and form in which the Register must be established and maintained, including the manner and form in which information must be entered in the Register;
- (d) requiring or permitting the Commissioner to remove specified information, or information of a specified class, from the Register;
- (e) the notification of reporting obligations to reportable offenders, including:
  - (i) the manner and form in which the information must be given to reportable offenders;
  - (ii) requiring the reportable offender to acknowledge being given the notice;
  - (iii) making special provision for notification to reportable offenders who are children or who have disabilities or other special needs;
  - (iv) permitting or requiring a person or body to be notified of a reportable offender's status as a child or person who has a disability or other special need to facilitate notification and reporting;
  - (v) providing for the notification to be given to a carer of, or a person nominated by, a reportable offender who may be unable to understand his or her reporting obligations or the consequences of failing to comply with those obligations;
  - (vi) prescribing information that must be given to reportable offenders in addition to information specified by this Act;
  - (vii) requiring a person or body to provide specified information to reportable offenders concerning their reporting obligations;
  - (viii) requiring a person or body to inform the Commissioner:
    - (A) that a reportable offender has left the custody or control of the person or body;
    - (B) that the person or body has given specified information to a reportable offender; and
    - (C) that, in the opinion of the person or body, a reportable offender does or does not have the legal capacity to understand specified information; and

- (ix) requiring a person or body to give the Commissioner any acknowledgement by a reportable offender of the receipt of a notice or any other specified information that is held by the person or body;
  - (f) empowering the Commissioner to give directions as to which police stations must be used as a venue for the making of reports;
  - (g) providing that a police station, or a class of police station, is not to be used as a venue for the making of reports without the consent of the Commissioner;
  - (h) requiring a person or body to create records for the purposes of this Act and to retain those records for a specified period or an unlimited period;
  - (i) stating that a specified class of order made under a specified corresponding Act is a corresponding offender reporting order for this Act.
- (3) The Regulations may:
- (a) be of general or of specially limited application;
  - (b) differ in effect according to differences in time, place or circumstance;
  - (c) require a matter affected by the Regulations to be:
    - (i) in accordance with a specified standard or specified requirement;
    - (ii) approved by or to the satisfaction of a specified person or a specified class of persons; or
    - (iii) as specified in both subparagraphs (i) and (ii);
  - (d) confer a discretionary authority or impose a duty on a specified person or a specified class of persons;
  - (e) provide in a specified case or class of cases for the exemption of persons or things from any of the provisions of the Regulations, whether unconditionally or on specified conditions, and either wholly or to such an extent as is specified; and
  - (f) impose a penalty not exceeding 20 penalty units for a contravention of the Regulations.

## **Schedule 1      Class 1 offences**

section 12(2)

1. An offence against section 127 of the Criminal Code (sexual intercourse or gross indecency involving child under 16 years).
2. An offence against section 130 of the Criminal Code (sexual intercourse or gross indecency by provider of services to mentally ill or handicapped person) – where the victim is a child.
3. An offence against section 131A of the Criminal Code (sexual relationship with a child).
4. An offence against section 134(2) or (3) of the Criminal Code (incest) - where the close family member is a child.
5. An offence against section 162 or 163 of the Criminal Code (murder and manslaughter, respectively) – where the victim is a child.
6. An offence against section 192 of the Criminal Code (sexual intercourse and gross indecency without consent) – where the victim is a child.
7. An offence against section 192B of the Criminal Code (coerced sexual self-manipulation) – where the victim is a child.
8. An offence against section 202B(2) or (3) of the Criminal Code (sexual servitude) – where the victim is a child.
9. An offence against section 202C(2) or (3) of the Criminal Code (conducting business involving sexual servitude) – where the victim is a child.
10. An offence against section 202D(2) of the Criminal Code (deceptive recruiting for sexual services) – where the victim is a child.
11. An offence committed against section 60 to 69 (inclusive), 70(2), 71, 72 or 74 of the *Criminal Law Consolidation Act* – where the victim was a child.
12. An offence against section 50BA of the *Crimes Act 1914* of the Commonwealth (sexual intercourse with child under 16 years).
13. An offence against section 50BB of the *Crimes Act 1914* of the Commonwealth (inducing child under 16 years to engage in sexual intercourse).



## **Schedule 2      Class 2 offences**

section 12(3)

1. An offence against section 125B of the Criminal Code (possession of child pornography and certain indecent articles).
2. An offence against section 125C of the Criminal Code (publishing indecent articles) – where the article is indecent because it portrays a child who is under, or who looks like he or she is under, the age of 16 years.
3. An offence against section 128 of the Criminal Code (sexual intercourse or gross indecency involving child over 16 years under special care).
4. An offence against section 131 of the Criminal Code (attempts to procure child under 16 years).
5. An offence against section 132 of the Criminal Code (indecent dealing with child under 16 years).
6. An offence against section 188(1) of the Criminal Code committed in the circumstances referred to in subsection (2)(k) of that section (indecent assault) – where the victim is a child.
7. An offence against section 193 of the Criminal Code (assaults with intent to commit an offence) – where the intent is to commit a reportable offence.
8. An offence against section 201 of the Criminal Code (abduction, enticement or detention of child under 16 years for immoral purpose).
9. An offence against section 13 of the *Prostitution Regulation Act* (causing or inducing infant to take part in prostitution).
10. An offence against section 14 of the *Prostitution Regulation Act* (allowing infant to take part in prostitution).
11. An offence against section 15 of the *Prostitution Regulation Act* (obtaining payment in respect of prostitution services provided by infant).
12. An offence against section 16 of the *Prostitution Regulation Act* (entering into agreement for provision of prostitution services by infant).
13. An offence against section 50BC of the *Crimes Act 1914* of the Commonwealth (sexual conduct involving child under 16 years).

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14. An offence against section 50BD of the *Crimes Act 1914* of the Commonwealth (inducing child under 16 years to be involved in sexual conduct).
  15. An offence against section 50DA or 50DB of the *Crimes Act 1914* of the Commonwealth (benefiting from offence and encouraging offence, respectively).

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## ENDNOTES

### 1

### KEY

Key to abbreviations

amd = amended  
app = appendix  
bl = by-law  
ch = Chapter  
cl = clause  
div = Division  
exp = expires/expired  
f = forms  
Gaz = Gazette  
hdg = heading  
ins = inserted  
lt = long title  
nc = not commenced

od = order  
om = omitted  
pt = Part  
r = regulation/rule  
rem = remainder  
renum = renumbered  
rep = repealed  
s = section  
sch = Schedule  
sdiv = Subdivision  
SL = Subordinate Legislation  
sub = substituted

### 2

### LIST OF LEGISLATION

***Child Protection (Offender Reporting and Registration) Act 2004 (Act No. 60, 2004)***

Assent date	4 November 2004
Commenced	12 January 2005 ( <i>Gaz</i> G2, 12 January 2005, p 2)