

NORTHERN TERRITORY OF AUSTRALIA

CHILD PROTECTION (OFFENDER REPORTING AND REGISTRATION) LEGISLATION AMENDMENT ACT 2010

Act No. 43 of 2010

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 43 of 2010

An Act to amend the *Child Protection (Offender Reporting and Registration) Act* and *Child Protection (Offender Reporting and Registration) Regulations*

[Assented to 13 December 2010]
[Second reading 27 October 2010]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Child Protection (Offender Reporting and Registration) Legislation Amendment Act 2010*.

2 Commencement

This Act commences on the day fixed by the Administrator by *Gazette* notice.

Part 2 Amendment of Child Protection (Offender Reporting and Registration) Act

3 Act amended

This Part amends the *Child Protection (Offender Reporting and Registration) Act*.

4 Section 3 amended

- (1) Section 3, definitions *court*, *personal details*, *prohibition order* and *strict supervision*

omit

- (2) Section 3

insert (in alphabetical order)

child protection prohibition order, for Part 5, see section 69.

child-related employment, see section 91(1).

conduct, for Part 5, see section 69.

corresponding prohibition order, for Part 5, see section 69.

court, for:

- (a) Parts 1 to 4, 6 and 7 – includes a court (however described) of a foreign jurisdiction; or

- (b) Part 5 – see section 69.

interim prohibition order, for Part 5, see section 69.

personal details, in relation to a reportable offender, include:

- (a) the information listed in section 16(1); and
- (b) details of the person's physical appearance.

prohibition order, see section 69.

registrar, for Part 5, see section 69.

respondent, for Part 5, see section 69.

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

young reportable offender, for Part 5, see section 69.

- (3) Section 3, definitions *Class 1 offence*, *Class 2 offence*, *corresponding reportable offender*, *deemed reportable offender*, *finding of guilt*, *foreign reportable offender*, *reportable offence*, *reportable offender* and *Territory reportable offender*

omit

has the meaning in

insert

, see

- (4) Section 3, definition *home detention*

omit

has the same meaning as in

insert

, means an order under Part 3, Division 5, Subdivision 2 of

- (5) Section 3, definition *prisoner*

omit

has the same meaning as in

insert

, see section 5 of

- (6) Section 3, definitions *public authority*, paragraph (a), and *supervised sentence*, paragraphs (a) and (b), at the end

insert

or

- (7) Section 3, definition *sentence*, paragraph (b)

omit

Code,

insert

Code;

- (8) Section 3, definition ***Territory witness protection program***

omit

has the same meaning as in

insert

, see definition ***TWPP*** in section 3(1) of

5 Section 16 amended

- (1) Section 16(1)

omit

the personal details the reportable offender must report are –

insert

the following are personal details that a reportable offender must report:

- (2) Section 16(1)(f)(i), at the end

insert

and

- (3) Section 16(1)(k)

omit

; and

insert

;

- (4) Section 16(1)(l)

omit, insert

- (l) if, at the time of making a report under this Division, the reportable offender travels or intends to travel, within the Territory or elsewhere, frequently (irrespective of the length of any such travel):

- (i) in general terms, the reason for travelling; and
 - (ii) in general terms, the frequency and destinations of the travel;
 - (m) a telephone number at the premises where the reportable offender generally resides or, if the reportable offender does not generally reside at any particular premises, at least one telephone number by which the reportable offender may be contacted for each of the localities in which he or she can generally be found;
 - (n) the number of each mobile telephone used by the reportable offender;
 - (o) each email address used by the reportable offender;
 - (p) the name of each internet service provider the reportable offender uses to access the internet, and usernames adopted by the reportable offender;
 - (q) any other information prescribed by regulation.
- (5) Section 16(2)(a) to (c), at the end
- insert*
- and
- (6) Section 16(3)(a) to (c), at the end
- insert*
- or

6 Section 19 amended

- (1) Section 19(1)
- omit*
- 14 days
- insert*
- 7 days

(2) After section 19(1)

insert

- (1A) If the change is a change to the reportable offender's personal appearance that only alters the offender's appearance in a way that is insignificant, the offender need not report the change.
- (1B) Despite subsection (1A), if the change includes any of the following the reportable offender must report the change under subsection (1) even if the offender believes the change alters his or her appearance in a way that is insignificant:
- (a) shaving off a moustache or beard, growing a moustache or beard or applying a false moustache or beard;
 - (b) colouring hair so it is a different colour (as opposed to a mere change in the shade of colour);
 - (c) changing hair styles by shaving the head so it is bald, curling straight hair, straightening curly or wavy hair, shortening hair previously worn long or wearing a wig.
- (1C) If the change includes a change of the reportable offender's name, he or she must give the Commissioner, at the time of making the report, a copy of:
- (a) any new birth certificate issued in relation to the change of name; and
 - (b) any other documents relating to the change of name.
- (1D) A reportable offender must also report to the Commissioner, within 7 days, any additional personal details as required by section 16(1) that have not been previously reported to the Commissioner.

*Example for subsection (1D)**Additional personal details would include additional telephone numbers, email addresses or internet service providers used by the reportable offender that have not been previously reported to the Commissioner.*

(3) After section 19(2)

insert

- (2A) Subsection (2) does not limit a requirement under section 20 for a reportable offender to report intended travel merely because the travel results (or will result) in a change in a place where the reportable offender generally resides.

Example for subsection (2A)

A reportable offender travels to another place within Australia and takes up residence at the other place. Although the reportable offender is not required to report the change in the place of residence until 14 days after the number of days mentioned in section 16(2) have been reached, the reportable offender must have reported the intended travel to the Commissioner before leaving the Territory as required by section 20.

7 Sections 19A and 19B inserted

After section 19

insert

19A Commissioner may require reportable offender to attend

- (1) The Commissioner may give a reportable offender a written notice requiring the offender to attend, at a time and place specified in the notice, and answer questions about his or her personal details if the Commissioner:
 - (a) suspects, on reasonable grounds, the personal details of the offender have changed and the offender has not reported the change; or
 - (b) requires the offender to clarify or expand on information the Commissioner has received from the offender or other sources.
- (2) A reportable offender commits an offence if he or she:
 - (a) fails to attend in compliance with the notice; or
 - (b) attends but fails to answer reasonable and relevant questions.

Maximum penalty: 100 penalty units or imprisonment for 2 years.

- (3) Answers given by a reportable offender under this section are not admissible as evidence in a prosecution of the offender for an offence against this Act, other than an offence against section 49.

19B Personal details prescribed by regulation

If a regulation prescribes additional personal details to be reported, the additional reporting obligation applies only when a reportable offender is next required to report under section 18 or 19 or to answer questions under section 19A.

8 Section 20 amended

- (1) Section 20, heading

omit

absence from Territory

insert

travel

- (2) Section 20(1)

omit, insert

- (1) This section applies to a reportable offender who intends to:

- (a) travel within the Territory; or
- (b) leave the Territory to travel within Australia for 14 or more consecutive days; or
- (c) leave the Territory to travel outside of Australia.

- (1A) If the reportable offender intends to travel within the Territory, he or she must, at least 7 days before starting to travel, report the intended travel to the Commissioner, including:

- (a) details of each address or location at which the offender intends to stay while travelling; and
- (b) the dates on which the offender intends to be at each address or location mentioned in paragraph (a).

- (3) Section 20(2)

omit

all words from "At least" to "report"

insert

If the reportable offender intends to leave the Territory, he or she must, at least 7 days before leaving the Territory, report

- (4) Section 20(2)(a) to (c), at the end

insert

and

(5) Section 20(2)(c)

omit (all references)

reside

insert

stay

(6) Section 20(3)

omit, insert

- (3) If, in the circumstance, it is impracticable for a reportable offender to report 7 days before starting to travel within, or before leaving, the Territory, it is sufficient compliance with subsection (1A) or (2) if the offender reports the required information to the Commissioner at least 24 hours before starting the travel.

- (4) The Regulations may specify circumstances in which subsection (1A) does not apply to travel within the Territory.

9 Section 21 amended

(1) Section 21, heading

omit

while out of Territory

(2) Section 21(1) and (2)

omit, insert

- (1) This section applies to a reportable offender who:
- (a) did not report to the Commissioner under section 20 and later decides to extend his or her travel out of the Territory but within Australia to 14 or more consecutive days; or
 - (b) did report under section 20 and later decides to change one or more of the details provided in the report.
- (2) As soon as possible after making the decision, the reportable offender must:
- (a) if subsection (1)(a) applies – report the travel to the Commissioner, including the details required under section 20(2) as they relate to the travel already undertaken and the remaining intended travel; or

-
- (b) if subsection (1)(b) applies – report the changes to the Commissioner.

10 Section 22 amended

After section 22(2)

insert

- (2A) If the reportable offender left Australia, the report under subsection (2) must be made in person and the reportable offender must present his or her passport and any other relevant travel documents for copying.

Examples of other relevant travel documents include the following:

- (a) a loose leaf visa;
(b) accommodation receipts.

11 Section 23 amended

- (1) Section 23, heading

omit

other absences from Territory

insert

intended frequent travel

- (2) Section 23(1)

omit, insert

- (1) This section applies to a reportable offender to whom, at the time of making a report under this Division, any of the following applies:
- (a) the offender travels frequently, or intends to travel frequently, within the Territory;
 - (b) the offender leaves the Territory frequently, or intends to leave the Territory frequently, to travel within Australia or elsewhere;
 - (c) the offender travels frequently, or intends to travel frequently, in a combination of travel within the Territory, within Australia or elsewhere.
- (1A) The reportable offender 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.

12 Section 26 amended

(1) Section 26(2)(d)

omit, insert

- (d) a report of a significant change to the reportable offender's physical appearance, including acquiring, changing or removing any tattoo or distinguishing marks;
- (e) a report of a change of the reportable offender's name.

(2) After section 26(2)

insert

- (2A) To avoid doubt, subsection (2) does not limit any other provision under this Act expressly requiring a report to be made in person.

Example for subsection (2A)

Section 22(2A) requires a reportable offender who left Australia to report in person on return to the Territory.

(3) Section 26(3)

omit

a member of the Police Force

insert

a police officer

13 Section 57 replaced

Section 57

repeal, insert

57 Constructive notice of obligations

- (1) This section applies if a reportable offender does not cooperate with a police officer who makes a reasonable attempt to give the reportable offender a notice about the reportable offender's reporting obligations, or a notice under section 19A, and obtain acknowledgement from the reportable offender.

-
- (2) The reportable offender is taken to have:
- (a) received the notice; and
 - (b) have understood the notice and the consequences that may follow if the reportable offender fails to comply with the notice.

14 Part 8 inserted

After section 99

insert

**Part 8 Transitional matters for Child Protection
(Offender Reporting and Registration)
Legislation Amendment Act 2010**

100 Definitions

In this Part:

amending Act means the *Child Protection (Offender Reporting and Registration) Legislation Amendment Act 2010*.

commencement means the commencement of this section.

101 Changes to personal information

If a reportable offender's personal details as reported to the Commissioner are correct immediately before the commencement, despite the amendments made to the definition ***personal details*** by the amending Act, the reportable offender need not report the further details until he or she is next required to report under section 18 or 19 or to answer questions under section 19A.

102 Changes to reporting obligations

- (1) The amendments made by the amending Act to section 20 apply to travel by a reportable offender on, or within 7 days after, the commencement, but it is sufficient compliance with that section if the reportable offender reports information required by it within 7 days after the commencement.
- (2) The amendments made by the amending Act to section 21 apply to a reportable offender even if the reportable offender started his or her travel before the commencement.

-
- (3) The amendments made by the amending Act to section 22 apply to a reportable offender even if the reportable offender had left the Territory before the commencement.

103 Amendment to Schedules if person is reportable offender

- (1) This section applies if:
- (a) immediately before the commencement – a person was a reportable offender; and
 - (b) at any time before the commencement – the person had committed an offence that, because of the amendments made by the amending Act, becomes a reportable offence.
- (2) The person's reporting period does not increase, regardless of whether the person was sentenced before, or is sentenced after, the commencement for the offence mentioned in subsection (1)(b).

104 Amendment to Schedules if person is not reportable offender

- (1) This section applies if:
- (a) immediately before the commencement – a person was not a reportable offender; and
 - (b) at any time before the commencement – the person had committed an offence that, because of the amendments made by the amending Act, becomes a reportable offence.
- (2) If, after the commencement, the person is sentenced by a Territory court for the offence mentioned in subsection (1)(b), the person becomes a Territory reportable offender as defined in section 7(1).

15 Schedule 1 amended

- (1) Schedule 1, before item 1

insert

- 1A. An offence against section 125E of the Criminal Code (using child for production of child abuse material or pornographic or abusive performance).

- (2) Schedule 1, items 12 and 13

omit

of the Commonwealth

insert

(Cth)

16 Schedule 2 amended

- (1) Schedule 2, items 13, 14 and 15

omit

of the Commonwealth

insert

(Cth)

- (2) Schedule 2, after item 15

insert

16. An offence against section 271.4(1) or (2) of the *Criminal Code Act 1995* (Cth) (trafficking in children to provide sexual services).
17. An offence against section 271.7 of the *Criminal Code Act 1995* (Cth) (domestic trafficking in children to provide sexual services).
18. An offence against section 474.19 of the *Criminal Code Act 1995* (Cth) (using a carriage service for child pornography material).
19. An offence against section 474.20 of the *Criminal Code Act 1995* (Cth) (possessing, controlling, producing, supplying or obtaining child pornography material for use through a carriage service).
20. An offence against section 474.26 of the *Criminal Code Act 1995* (Cth) (using a carriage service to procure persons under 16 years of age).
21. An offence against section 474.27 of the *Criminal Code Act 1995* (Cth) (using a carriage service to "groom" persons under 16 years of age).

**Part 3 Amendment of Child Protection (Offender
Reporting and Registration) Regulations**

17 Regulations amended

This Part amends the *Child Protection (Offender Reporting and Registration) Regulations*.

18 Regulation 5 amended

Regulation 5(f)

omit, insert

(f) *Crimes (Child Sex Offenders) Act 2005 (ACT);*

(g) *Child Sex Offenders Registration Act 2006 (SA).*

19 Regulation 6 amended

Regulation 6

omit

131 444 during business hours

insert

(08) 8922 1560 at any time

20 Regulation 6A inserted

After regulation 6

insert

6A Circumstances in which travel within Territory need not be reported

For section 20(4) of the Act, travel within the Territory need not be reported under section 20(1A) of the Act if either or both of the following circumstances apply:

- (a) the reportable offender travels less than 200 km from his or her place of residence;
- (b) the reportable offender is absent from his or her place or residence for less than 14 consecutive days.

21 Regulation 7 amended

(1) Regulation 7, heading

omit

while out of Territory

(2) Regulation 7(a)

omit

131 444 during business hours

insert

(08) 8922 1560 at any time

22 Regulation 12 amended

(1) Regulation 12, heading

omit, insert

12 Circumstances in which Commissioner may disclose information from Register

(2) After regulation 12(2)

insert

(3) The Commissioner may also disclose information from the Register to the Chief Executive Officer of an Agency if:

- (a) the Agency has responsibilities in relation to the reportable offender or children (whether specifically or generally); and
- (b) the Commissioner considers the disclosure is appropriate to assist the Agency in meeting a duty of care in relation to those responsibilities.

Part 4 Further amendments

23 Act and Regulations further amended

The Schedule has effect.

Schedule Act and Regulations further amended

section 23

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
<i>Child Protection (Offender Reporting and Registration) Act</i>		
Part 1, heading	Preliminary	Preliminary matters
section 6(1)	reportable offender	<i>reportable offender</i>
section 7(1) and (2)	Territory reportable offender	<i>Territory reportable offender</i>
section 8	corresponding reportable offender	<i>corresponding reportable offender</i>
section 9	foreign jurisdiction,	foreign jurisdiction;
	foreign reportable offender	<i>foreign reportable offender</i>
section 10	foreign jurisdiction,	foreign jurisdiction;
	deemed reportable offender	<i>deemed reportable offender</i>
section 12(1)	reportable offence	<i>reportable offence</i>
section 12(1)(a), at the end		or
section 12(2)	A Class 1 offence is –	A <i>Class 1 offence</i> is any of the following:
section 12(2)(e)(ii) and (3)(e)(ii)	or	
section 12(3)	A Class 2 offence is –	A <i>Class 2 offence</i> is any of the following:
section 14(6)(a)(ii)	in the Territory,	in the Territory;

section 15(1)(b), (2)(b) and (3)(b)	be in government custody,	be in government custody;
section 17(5)(a)	the purposes of this Act;	this Act; or
sections 17(5)(b) and 25(a) at the end		or
section 27(2)	member of the Police Force	police officer
section 27(3)	Penalty	Maximum penalty
section 28(1)	member of the Police Force	police officer
section 28(2)(a) and (3)	the member	the police officer
sections 28(5)(a) and 29(1)(a), at the end		and
sections 29(2), (3) and (4), 30, 31(1), (2) and (4) and 32(1) and (2)	member of the Police Force <i>(all references)</i>	police officer
sections 29(2)(b) and (4), 30, 31(1)(b) and 32(1)(a) and (2)(b)	the member <i>(all references)</i>	the police officer
sections 32(1)(a) and 34(1)(a) and (3)(a) and (b), at the end		and
section 36(1)(b)	offence,	offence;
section 36(2)(a)(ii)	custody,	custody;
section 37(2)(b)	apply,	apply;
section 37(3)(a), at the end		or
section 37(3)(c)	offences,	offences;
section 41(2)(a), at the end		and
section 41(2)(c)	offence,	offence;

section 42(3), after "take"		the following
section 42(3)(g)	and	
section 43(2)(a), at the end		and
section 43(2)(c)	services,	services;
section 46(1)(a), at the end		or
section 48(1), penalty provision	Penalty	Maximum penalty
sections 52(2)(a) and (b) and 53(a), at the end		or
section 53(c)	Act,	Act;
section 55(1)(a), at the end		or
section 55(1)(c)	supervision,	supervision;
section 55(4)	the purposes of	
section 61(4)(a), at the end		and
section 65(2)	member of the Police Force	police officer
section 65(6)	subsection (2)	this section
section 66(1)(a) to (c), at the end		or
section 66(1), penalty provision	Penalty	Maximum penalty
section 72(2)	the purposes of	
section 72(3), after "take"		the following
section 72(3)(i)	and	

section 72(4)(a), at the end		and
section 72(4)(c)	order,	order;
section 74(2)(b)	years,	years;
sections 75(4)(b)(i) and (ii) and 79(1)(a), at the end		or
section 76(1)	member of the Police Force	police officer
sections 76(5)(a), 81(1)(a) and (b) and (4)(a) and (b), at the end		and
section 83(1), penalty provision	Penalty	Maximum penalty
section 84(1)(b)	order,	order;
sections 84(2)(a) and 88(1)(a) and (b), at the end		or
section 88(1), penalty provision	Penalty	Maximum penalty
section 88(3)	matter to –	matter to any of the following:
section 88(3)(c)	member of the Police Force	police officer
section 88(3)(f)	; or	;
section 90(2)(c)	the purposes of	
section 91(2)(a), at the end		or
section 91(3), definition contact , paragraph (a), at the end		and

section 91(3), definition <i>employment</i> , paragraph (a), at the end		or
section 92(1)(b)	in,	in;
section 92(1), penalty provision	Penalty	Maximum penalty
section 93(1)	on	about the following
section 93(1)(h)	and	
section 93(3)	all words from "lay" to "after"	table a copy of the report in the Legislative Assembly within 3 sitting days after
section 96(1)	member of the Police Force	police officer
section 97(1)(a)	the purposes of	
section 97(1)(a) and (b), at the end		or
section 98(1)	all words from "member" to "the purposes of"	police officer holding a position designated in writing by the Commissioner for
section 98(1)(b)	Act,	Act;
section 99(2)(a)(i), (e)(viii)(A) and (3)(a), (b), (c)(iii) and (d), at the end		and
section 99(3)(c)(i), at the end		or
section 99(2)(h)	the purposes of	

***Child Protection
(Offender Reporting
and Registration)
Regulations***

regulation 3(1), definition <i>support person</i> , paragraph (a)	the purposes of	
regulations 3(2)(a)(iii), (b) and (c) and 4(2)(a) to (c), at the end		or
regulation 8(7)	member of the Police Force	police officer
	the member	the officer
regulation 9(a) and (b), at the end		or
regulation 14(1)(a), at the end		and
regulation 14(1)(c)	order,	order;
regulation 15(1)(b)	need,	need;
regulation 15(5)(a), at the end		and
