

I certify that this is a copy of the authorised version of this Act as at 1 March 2022, and that it incorporates all amendments, if any, made before and in force as at that date and any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 1 March 2022.

Robyn Webb
Chief Parliamentary Counsel
Dated 3 March 2022



TASMANIA

COMMUNITY PROTECTION (OFFENDER REPORTING) ACT 2005

No. 61 of 2005

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COMMUNITY PROTECTION (OFFENDER REPORTING) ACT 2005

No. 61 of 2005

An Act to require certain offenders who commit sexual or certain other serious offences to keep police informed of their whereabouts and other personal details for a period of time (to reduce the likelihood that they will reoffend and to facilitate the investigation of any future offences that they may commit), to enable courts to make orders specifying certain offenders to be reportable offenders, and for related purposes

[Royal Assent 15 December 2005]

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

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Part 1 – Preliminary matters

PART 1 – PRELIMINARY MATTERS

1. Short title

This Act may be cited as the *Community Protection (Offender Reporting) Act 2005*.

2. Commencement

This Act commences on a day to be proclaimed.

3. Interpretation

In this Act, unless the context otherwise requires –

approved place means a place approved by the Registrar under section 20;

authorised person means a police officer of a class prescribed by the regulations;

child means a person who is under 18 years of age;

Class 1 offence has the meaning given to that term in section 13;

Class 2 offence has the meaning given to that term in section 14;

Class 3 offence has the meaning given to that term in section 15;

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Commissioner means the person holding or acting in the office of Commissioner of Police under the *Police Service Act 2003*;

community order means –

- (a) a community service order or probation order made under the *Sentencing Act 1997*; or
- (b) a community service order or probation order made under the *Youth Justice Act 1997*;

community protection order has the meaning given to that term in section 3A;

corresponding Act means a law of a foreign jurisdiction that –

- (a) 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) is prescribed by the regulations to be a corresponding Act for the purposes of this Act;

corresponding offender reporting order means an order made under a corresponding Act that falls within a class of orders that are prescribed by the regulations to be corresponding offender

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reporting orders for the purposes of this Act;

corresponding registrar means the person whose functions under a corresponding Act most closely correspond to the functions of the Registrar under this Act;

corresponding reportable offence means an offence that is a reportable offence for the purposes of a corresponding Act but is not a reportable offence as referred to in section 12(a), (b) or (c);

corresponding reportable offender has the meaning given to that term in section 11;

court includes a court (however described) of a foreign jurisdiction;

detainee means a person who is subject to a detention order under section 47 of the *Youth Justice Act 1997*;

existing controlled offender means a person who, as a result of having been sentenced for a reportable offence, is subject to a community order or parole or is under the supervision of a supervising authority immediately before the commencement of this Act and includes a person who was under similar supervision under the laws of a foreign jurisdiction and a person who was in government custody in respect of a reportable offence at that time;

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foreign jurisdiction means a jurisdiction other than Tasmania (including jurisdictions outside Australia);

foreign witness-protection law means a law of a foreign jurisdiction that provides for the protection of witnesses;

government custody means –

- (a) custody as a prisoner or detainee or as a mentally impaired defendant where the order made under the *Criminal Justice (Mental Impairment) Act 1999* requires the person to be detained in a secure mental health unit (or, in the case of an order made under Part 4 of that Act before 20 February 2006, detained in a special facility within the meaning of that Act as originally enacted) or to be kept in government custody; or
- (b) custody under a law of a foreign jurisdiction in the nature of custody referred to in paragraph (a);

non-intimate forensic procedure means non-intimate forensic procedure as defined in the *Forensic Procedures Act 2000*;

offender reporting order means an order made under section 6, 7 or 9 and includes a corresponding offender reporting order;

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parole means parole under an order made under the *Corrections Act 1997* and includes parole under an equivalent order made under the laws of a foreign jurisdiction;

personal details means the information listed in section 17(1);

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

prisoner has the meaning given to that term in the *Corrections Act 1997*;

public authority means –

- (a) a State Service Agency; or
- (b) a council; or
- (c) any other body, whether incorporated or not, that is established or continued for a public purpose under a written law and that, under the authority of a written law, performs a statutory function on behalf of the State;

Register means the Community Protection Offender Register established under section 43;

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Registrar means a police officer appointed to that position under section 42;

reportable contact, in relation to a reportable offender's contact with a child, means the contact listed in section 17(4);

reportable offence has the meaning given to that term in section 12;

reportable offender has the meaning given to that term in section 5;

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 Division 5 of Part 3, during which a reportable offender must comply with his or her reporting obligations;

sentence includes –

- (a) an exercise of power under section 7 of the *Sentencing Act 1997*; and
- (b) an exercise of power under section 47 of the *Youth Justice Act 1997*; and
- (c) an order made under the *Criminal Justice (Mental Impairment) Act 1999*; and

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(d) anything prescribed by the regulations to be a sentence for the purposes of this definition –

and any sentence or equivalent exercise of power or order under the laws of a foreign jurisdiction;

supervising authority, in relation to a class of reportable offenders, means the authority prescribed by the regulations as the supervising authority of that class of reportable offenders;

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

3A. Community protection order

For the purposes of this Act, a community protection order includes each of the following orders:

- (a) a community protection order made, and in force, under section 10A;
- (b) an interim community protection order made, and in force, under section 10B;
- (c) an order made and in force in a State or Territory, or in New Zealand, that corresponds, or substantially corresponds, with an order made under section 10A or 10B.

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4. Other reference provisions

- (1) For the purposes of this Act, offences arise from the same incident only if they are committed within a single period of 24 hours and 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 by any other electronic means.

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Part 2 – Offenders to whom Act applies

PART 2 – OFFENDERS TO WHOM ACT APPLIES

5. Reportable offenders

- (1) A reportable offender is a person –
 - (a) whom a court, on or after the commencement of this Act, sentences for a reportable offence; and
 - (b) in respect of whom the court makes an order under section 6.
- (2) A person is also a reportable offender if the person was sentenced for a reportable offence before the commencement of this Act and is an existing controlled offender in respect of that offence and is made subject to an order under section 9.
- (3) A person is also a reportable offender if the person is subject to an order under section 7.
- (4) A person who is a corresponding reportable offender is also a reportable offender.
- (5) A person ceases to be a reportable offender if –
 - (a) the finding of guilt in respect of the only offence that makes the person a reportable offender for the purposes of this Act is quashed or set aside by a court; or
 - (b) the person is a reportable offender only because he or she is subject to an

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offender reporting order and that order is
quashed on appeal.

- (6) For the purposes of this section, it is irrelevant whether or not a person may lodge, or has lodged, an appeal in respect of a finding of guilt, sentence or offender reporting order.

6. Order requiring registration of offender

- (1) The court is to make an order directing that –
- (a) the Registrar cause the name of a person whom the court sentences for a reportable offence to be placed on the Register; and
 - (b) the person comply with the reporting obligations under this Act –

unless the court is satisfied that the person does not pose a risk of committing a reportable offence in the future.

- (2) The court is to make the order at the time the person is sentenced for the reportable offence.
- (3) For the purposes of subsection (1), it is not necessary that the court be able to identify a risk of offending against a particular person or particular persons or a particular class of persons.

7. Reporting orders for other offences

- (1) If –

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- (a) a court sentences a person for an offence that is not a Class 1 offence, Class 2 offence or Class 3 offence; and
- (b) apart from this section, that offence would not result in the person becoming a reportable offender –

the court may make an order directing that –

- (c) the Registrar cause the name of the person to be placed on the Register; and
- (d) the person comply with the reporting obligations under this Act –

if the court is satisfied that the person poses a risk of committing a reportable offence in the future.

- (2) For the purposes of subsection (1), it is not necessary that the court be able to identify a risk of offending against a particular person or particular persons or a particular class of persons.
- (3) The court must make the order at the time the person is sentenced for the offence.
- (4) An application for the imposition of an order under subsection (1) may be made by the prosecution, but an application is not necessary for the court to make the order.
- (5) For the purposes of Division 5 of Part 3, a person subject to an order made under this section in respect of an offence that is not a

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reportable offence is taken to have been sentenced for a Class 2 offence when the order was made.

8. Commissioner may apply for reporting order

If –

- (a) a person has been sentenced before the commencement of this Act for a Class 1 offence, a Class 2 offence or a Class 3 offence; and
- (b) the person is not and has not been a reportable offender in respect of that offence –

the Commissioner may apply to a magistrate for an order that the person's name be placed on the Register and that the person comply with the reporting obligations under this Act.

9. Magistrate may make reporting order on application from Commissioner

- (1) In relation to an application under section 8, the magistrate may make an order that a person comply with the reporting obligations under this Act if the magistrate is satisfied that the person poses a risk of committing a reportable offence in the future.
- (2) For the purposes of subsection (1), it is not necessary that the magistrate be able to identify a risk of offending against a particular person or

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particular persons or a particular class of persons.

- (3) For the purposes of Division 5 of Part 3, a person subject to an order made under this section is taken to have been sentenced for a Class 2 offence.

10. Matters to be taken into account

- (1) In deciding whether to make an order under section 6 or 7 in relation to an offence, the court may take into account the following:
- (a) any evidence given during proceedings for the offence;
 - (b) any document or record (including an electronic document or record) served on the offender by the prosecution;
 - (c) any statement tendered or deposition made, or exhibit tendered, at any proceedings in relation to the offence;
 - (d) any evidence given by a victim or the offender in relation to the making of the order;
 - (e) any pre-sentence report given to the court;
 - (f) any victim impact statement given to the court;
 - (g) any other matter the court considers relevant.

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- (2) In deciding whether to make an order under section 9, the magistrate may take into account the following:
- (a) any evidence given during proceedings in relation to the offence referred to in section 8(a);
 - (b) any document or record (including an electronic document or record) served on the offender by the prosecution;
 - (c) any statement tendered or deposition made, or exhibit tendered, at any proceedings in relation to the offence referred to in section 8(a);
 - (d) any evidence given by a victim or the offender in relation to the making of the order;
 - (e) any pre-sentence report given to the court that sentenced the offender for the offence referred to in section 8(a);
 - (f) any victim impact statement given to the court that sentenced the offender for the offence referred to in section 8(a);
 - (g) any other matter that the magistrate considers relevant.

10A. Magistrate may make community protection order on application from Commissioner

- (1) If the Commissioner is satisfied that a reportable offender poses a risk to the safety or wellbeing

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of any child, or children, the Commissioner may apply to a magistrate for a community protection order prohibiting or restricting the movement, or conduct, of the reportable offender.

- (2) In relation to an application made under subsection (1), a magistrate may make a community protection order relating to a reportable offender if the magistrate is satisfied that –
- (a) the reportable offender poses a risk to the safety or wellbeing of any child or children; and
 - (b) the making of the community protection order will reduce that risk.
- (3) A community protection order relating to a reportable offender made under subsection (2) may for a period specified in the order not exceeding 12 months, or for any further period specified in the order that the magistrate considers reasonably necessary to prevent a risk to any child, or children, prohibit or restrict the following movement or conduct:
- (a) the reportable offender associating with, or making contact or communicating with, a specified person, or persons of a specified class;
 - (b) the reportable offender being present at, or in the vicinity of, a specified place or specified premises or a place or premises of a specified class;

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- (c) the reportable offender undertaking specified employment or employment of a specified kind;
 - (d) the reportable offender consuming intoxicating liquor;
 - (e) the reportable offender taking, or being in possession of, a controlled substance as defined in the *Misuse of Drugs Act 2001*;
 - (f) any other movement or conduct of a kind specified in the order if it is reasonably necessary to prohibit or restrict the movement or conduct in order to reduce the risk that a reportable offender poses to the safety or wellbeing of any child or children.

10B. Magistrate may make interim community protection order

- (1) At any stage during proceedings under section 10A, a magistrate may make an interim community protection order relating to a reportable offender, if the magistrate is satisfied in accordance with section 10A(2).
- (2) An interim community protection order relating to a reportable offender made under subsection (1) may prohibit or restrict the movement or conduct referred to in section 10A(3).

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- (3) An interim community protection order is revoked –
 - (a) when a community protection order in respect of the same parties takes effect under section 10A; or
 - (b) on a date ordered by a magistrate –whichever is the earlier.
- (4) An interim community protection order may be varied or extended at any time until the relevant application under section 10A has been determined.
- (5) An interim community protection order may be made, varied or extended in the absence of the person against whom it is made.
- (6) An interim community protection order or a variation or extension of such an order, takes effect –
 - (a) if the respondent to the application is present before the court when the interim community protection order, variation or extension is made – on the making of the order, variation or extension; or
 - (b) if the respondent to the application is not present before the court when the interim community protection order, variation or extension is made – when the respondent is served personally with the order, variation or extension or a copy of it.

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- (7) Without limiting the power of the Supreme Court under section 107 of the *Justices Act 1959*, on application by a person who is aggrieved by a decision of a magistrate made under this section or section 10A, the Supreme Court may –
- (a) order a stay of any proceeding under the decision; or
 - (b) make any such other order in respect of the decision that the Supreme Court considers appropriate.

11. Corresponding reportable offenders

A corresponding reportable offender is a person –

- (a) who had at any time (whether before, on or after the commencement of this Act) been in a foreign jurisdiction and at that time had been required to report to the corresponding registrar in that jurisdiction; and
- (b) who would, if he or she were currently in that foreign jurisdiction, be required to report to the corresponding registrar in that jurisdiction for a longer period than he or she would be required to report under this Act.

12. Reportable offences

A reportable offence is –

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- (a) a Class 1 offence; or
- (b) a Class 2 offence; or
- (c) a Class 3 offence; or
- (d) an offence that results in the making of an offender reporting order.

13. Class 1 offences

A Class 1 offence is –

- (a) an offence against a provision listed in Schedule 1; or
- (b) an offence under a law of a foreign jurisdiction the elements of which, if they had occurred in Tasmania, would have constituted an offence of a kind referred to in this section; or
- (c) an offence an element of which is an intention to commit an offence of a kind referred to in this section; or
- (d) an offence of attempting, or of conspiracy or incitement, to commit an offence of a kind referred to in this section; or
- (e) an offence that, at the time it was committed –
 - (i) was a Class 1 offence for the purposes of this Act; or

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- (ii) in the case of an offence committed before the commencement of this Act, was an offence of a kind referred to in this section.

14. Class 2 offences

A Class 2 offence is –

- (a) an offence against a provision listed in Schedule 2; or
- (b) an offence under a law of a foreign jurisdiction the elements of which, if they had occurred in Tasmania, would have constituted an offence of a kind referred to in this section; or
- (c) an offence an element of which is an intention to commit an offence of a kind referred to in this section; or
- (d) an offence of attempting, or of conspiracy or incitement, to commit an offence of a kind referred to in this section; or
- (e) an offence that, at the time it was committed –
 - (i) was a Class 2 offence for the purposes of this Act; or
 - (ii) in the case of an offence committed before the commencement of this Act, was

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an offence of a kind referred to in
this section.

15. Class 3 offences

A Class 3 offence is –

- (a) an offence against a provision listed in Schedule 3; or
- (b) an offence under a law of a foreign jurisdiction the elements of which, if they had occurred in Tasmania, would have constituted an offence of a kind referred to in this section; or
- (c) an offence an element of which is an intention to commit an offence of a kind referred to in this section; or
- (d) an offence of attempting, or of conspiracy or incitement, to commit an offence of a kind referred to in this section; or
- (e) an offence that, at the time it was committed –
 - (i) was a Class 3 offence for the purposes of this Act; or
 - (ii) in the case of an offence committed before the commencement of this Act, was an offence of a kind referred to in this section; or

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- (f) an offence against section 158 of the *Criminal Code* if there are reasonable grounds to believe that, in the course of or as part of the events surrounding the commission of that offence, an offence specified in Schedule 1, 2 or 3 was committed by the offender; or
 - (g) an offence against section 159 of the *Criminal Code* if there are reasonable grounds to believe that, in the course of or as part of the events surrounding the commission of that offence, an offence specified in Schedule 1, 2 or 3 was committed by the offender.

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Part 3 – Reporting obligations

PART 3 – REPORTING OBLIGATIONS

Division 1 – Report

16. Reporting obligations of reportable offenders

A reportable offender must report to the Registrar or an authorised person –

- (a) within 7 days of the court making an order under section 6 or 7 or a magistrate making an order under section 9; or
- (b) if the offender is not a corresponding reportable offender and is in government custody, within 7 days after he or she ceases to be in government custody; or
- (c) if the offender is a corresponding reportable offender, within 3 days of arriving in Tasmania if he or she intends to remain in Tasmania for any period; or
- (d) subject to paragraph (da), if the reportable offender intends to leave Tasmania for any period, no later than 7 days before leaving Tasmania; or
- (da) if circumstances make it impracticable for a reportable offender who intends to leave Tasmania for any period to make a report no later than 7 days before leaving Tasmania, no later than 24 hours before leaving Tasmania; or

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- (e) if the reportable offender has been absent from Tasmania for any period, within 7 days of entering Tasmania; or
 - (f) subject to paragraph (fa), any changes to his or her personal details, within 7 days of the change of those details; or
 - (fa) any changes to his or her reportable contact with a child, within 24 hours of the change of the reportable contact; or
 - (g) any changes to his or her personal details which have occurred whilst absent from Tasmania within 7 days of entering Tasmania.

17. Report by reportable offender of personal details

- (1) The details the reportable offender must report are –
 - (a) his or her name, together with any other name by which he or she is, or has previously been, known; and
 - (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; and
 - (ba) any application he or she has made, or intends to make, to the Registrar of Births, Deaths and Marriages for a change of details; and
 - (c) his or her date of birth; and

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- (d) the address of each of the premises at which he or she generally resides; and
- (da) the names and ages of any children with whom he or she engages in any form of direct or indirect communication for the purpose of inviting any further communication or contact with the child; and
- (e) the address of any premises to which he or she has unrestricted access for the purposes of storing any item or for any other purpose; and
- (ea) the names and ages of any children with whom he or she has reportable contact; and
- (eb) details of his or her parental status, including whether or not a partner or the reportable offender is pregnant; and
- (ec) the name and address of the school or child care facility attended by any child with whom he or she has reportable contact; and
- (ed) details of the existence of any family law court order that involves a child with whom he or she has reportable contact; and
- (f) if he or she is employed –
 - (i) the nature of his or her employment; and

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- (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; and
 - (g) details of his or her affiliation with any club or organisation that has members who are children or that conducts activities in which children participate; and
 - (h) the make, model, colour and registration number of any motor vehicle, boat, caravan, motorhome, jet ski, or other vehicle, owned by, or generally driven by, him or her; and
 - (i) details of any tattoos or permanent distinguishing marks (including details of any tattoo or mark that has been removed) and any surgery or cosmetic procedure which has significantly altered his or her appearance; and
 - (ia) details of any internet service provider or provider of a carriage service (within the meaning of the *Telecommunications Act 1997* of the Commonwealth) used, or intended to be used, by the person; and

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- (ib) details of the type of any internet connection used, or intended to be used, by the person, including whether the connection is a wireless, broadband, asymmetric digital subscriber line (ADSL), satellite or dial-up connection; and
- (ic) details of any email addresses, internet user names, instant messaging user names, chat room user names or any other user name or identity used, or intended to be used, by the person through the internet or other electronic communication service and any passwords associated with each of these; and
- (id) details of any passwords, codes or other information or assistance required to enable the Registrar, or a police officer of a class authorised in writing by the Registrar, to gain access to data stored on any computer, mobile telephone or other electronic device capable of storing electronic data owned, used, or intended to be used, by the person; and
- (ie) details of any mobile or fixed telephone number used, or intended to be used, by the person; and
- (j) whether he or she has ever been found guilty in any foreign jurisdiction of a reportable offence or of an offence that required him or her to report to a

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corresponding registrar or been subject to a corresponding offender reporting order and, if so, where that finding occurred or that order was made; and

- (k) if he or she has been in government custody since he or she was sentenced or released from government custody (as the case may be) in respect of a reportable offence or corresponding reportable offence, details of when and where that government custody occurred.
- (1A) A reportable offender must present to the Registrar or an authorised person for inspection all valid passports held by the offender and provide to the Registrar or an authorised person updated details in relation to any of those passports.
- (1B) A reportable offender must present to the Registrar, or an authorised person, for inspection, any computer, mobile telephone, or other electronic device capable of storing electronic data, owned, used, or intended to be used, by the reportable offender.
- (2) For the purposes of this section, a person is taken to be employed if he or she –
 - (a) carries out work under a contract of employment; or
 - (b) carries out work as a self-employed person or as a subcontractor; or

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- (c) carries out work as a volunteer for an organisation; or
 - (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.
- (3) For the purposes of this section, a person is taken to be an employer of a reportable offender 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.
- (4) For the purposes of this Act, a reportable offender is taken to have reportable contact with a child if the reportable offender –
 - (a) generally resides in the same premises as the child, for at least 3 days (whether or not consecutive) in a period of 12 months; or
 - (b) is unsupervised and cares for, or supervises, the child for at least 3 days (whether or not consecutive) in a period of 12 months; or

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- (c) provides his or her contact details to the child or receives the child's contact details from the child; or
 - (d) engages in any of the following with the child for the purpose of inviting any further contact or communication with the child:
 - (i) any form of actual physical contact;
 - (ii) any form of oral communication (whether face-to-face, by telephone or by use of the internet);
 - (iii) any form of communication made in a document (whether by writing or printing).
 - (5) The regulations may amend the personal details listed in subsection (1), by omitting personal details listed, amending personal details listed or adding new personal details to that list.

Division 2 – Ongoing reporting obligations

18. Reportable offender to report annually and as required by the Registrar

- (1) A reportable offender must report to the Registrar and provide his or her personal details to the Registrar each year.
- (2) The reportable offender must report to the Registrar and provide his or her personal details

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each year during the calendar month in which he or she first reported in accordance with this Act or a corresponding Act or at such other time as directed by the Registrar.

19. Intended absence from Tasmania to be reported

- (1) This section applies to a reportable offender who intends to leave Tasmania for any period to travel elsewhere.
- (2) At least 7 days before leaving Tasmania or, if circumstances make 7 days before leaving Tasmania impracticable, no later than 24 hours before leaving Tasmania, the reportable offender must report the intended travel to the Registrar and must provide –
 - (a) details of each State, Territory or country to which he or she intends to go while out of Tasmania; and
 - (b) details of the approximate dates of the periods during which he or she intends to be in each of those States, Territories or countries; and
 - (c) details of 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 of the periods during which he or she intends to reside at those addresses or locations; and

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- (d) if he or she intends to return to Tasmania, the approximate date on which he or she intends to return; and
 - (e) if he or she does not intend to return to Tasmania, a statement of that intention; and
 - (f) all valid passports for inspection.
- (2A) A reportable offender must present all valid passports to the Registrar or an authorised person for inspection within 7 days after returning to Tasmania.
- (3) A reportable offender, whether in Tasmania or elsewhere, who decides to make a change to anything presented to the Registrar or an authorised person under subsection (2A) must, as soon as practicable, notify the Registrar of the change.
- (4) For the purposes of subsection (3), the reportable offender must make the notification –
- (a) by facsimile or email sent to the Registrar; or
 - (b) in any other manner permitted by the Registrar.

Division 3 – Provisions applying to all reporting obligations

20. Where reports must be made

- (1) A report under this Part must be made in person by the reportable offender at a place approved

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(either generally or in a particular case) by the Registrar.

- (2) If a reportable offender is a child, or has a disability or requires an interpreter, any parent, guardian, carer or other person nominated by the reportable offender may accompany the reportable offender when the reportable offender makes his or her report under this Part.
- (3) Only the Registrar or an authorised person may receive a report made under this Part.

21. Power to take photographs and carry out non-intimate forensic procedures

- (1) The Registrar or an authorised person may take, or may cause to be taken by a person authorised by him or her, the photograph of the reportable offender or may require the reportable offender to expose any part of his or her body to enable that part of the body to be photographed by the Registrar, authorised person or person authorised by the Registrar or authorised person.
- (1A) The Registrar or an authorised person may carry out, or may cause to be carried out by a person authorised by him or her, a non-intimate forensic procedure on a reportable offender.
- (2) The Registrar or authorised person, on receipt of a report made in person under this Part, may require the reportable offender –
 - (a) to be photographed; and

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- (b) to undergo a non-intimate forensic procedure; and
 - (c) to expose any part of his or her body to enable that part of the body to be photographed as provided under subsection (1); and
 - (d) to present for inspection any form of identification or other document, relating to the identity of the reportable offender, or to verify or support details in the report as specified by the Registrar or authorised person.
 - (3) In order to exercise a power under this section, the Registrar or an authorised person may detain a reportable offender, and authorise the use of reasonable force in respect of a reportable offender, if it is reasonably necessary to do so –
 - (a) to enable the reportable offender to be photographed; or
 - (b) to enable a non-intimate forensic procedure to be carried out in respect of the reportable offender; or
 - (c) to prevent loss, destruction or contamination of any forensic material taken from the reportable offender in accordance with this section.
 - (3A) In detaining a reportable offender under subsection (3), the Registrar or authorised officer must tell the reportable offender –

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- (a) why the reportable offender is being detained; and
 - (b) that the detention is authorised under this Act; and
 - (c) that the reportable offender will be released immediately after the purpose of the detention is fulfilled.
- (3B) A reportable offender detained under this section –
 - (a) must not be held for a period that is longer than is reasonably necessary to enable the purpose for the detention to be fulfilled; and
 - (b) must be released immediately after the purpose for the detention is fulfilled.
- (4) The Registrar or an authorised person cannot, under this section, require a reportable offender to expose his or her genitals, the anal area of his or her buttocks or, in the case of a female, her breasts.
- (5) The Registrar or an authorised person on receipt of a report may copy any document presented to the Registrar or authorised person for inspection.
- (6) Before attempting to exercise a power under this section, the Registrar or an authorised person must inform the reportable offender in language likely to be understood by him or her that the photographs or any forensic material, within the meaning of the *Forensic Procedures Act 2000*,

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taken as a result of the carrying out of the non-intimate forensic procedure on the reportable offender will be retained by the Commissioner.

- (7) A non-intimate forensic procedure carried out on a reportable offender –
- (a) must be carried out in circumstances affording reasonable privacy to the reportable offender undergoing the non-intimate forensic procedure; and
 - (b) is to be carried out in a manner consistent with appropriate medical or other relevant professional standards.

22. Retention of material for certain purposes

The Commissioner may retain for law enforcement, crime prevention or community 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 forensic material, within the meaning of the *Forensic Procedures Act 2000*, taken as a result of the carrying out of a non-intimate forensic procedure on a reportable offender;
- (c) any photographs.

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22A. DNA profile to be included on DNA database system

(1) In this section –

DNA database system has the same meaning as in the *Forensic Procedures Act 2000*;

serious offenders index has the same meaning as in the *Forensic Procedures Act 2000*.

(2) If forensic material has been taken in accordance with section 21 from a reportable offender, the Commissioner may cause –

(a) the forensic material to be supplied to any person for analysis for the purpose of deriving a DNA profile; and

(b) the DNA profile to be included on the serious offenders index of the DNA database system.

(3) Forensic material supplied to a person for analysis for the purposes of subsection (2) is taken to be approved forensic material for the purposes of section 52 of the *Forensic Procedures Act 2000*.

(4) If –

(a) a person's DNA profile is only included on the serious offenders index of the DNA database by reason of the person being a reportable offender; and

(b) the person ceases to be a reportable offender –

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that reportable offender's DNA profile must be removed from the serious offenders index of the DNA database as soon as practicable.

Division 4 – Suspension and extension of reporting obligations

23. Suspension and extension of reporting obligations

- (1) Any obligation imposed on a reportable offender by this Part is suspended for any period during which he or she –
 - (a) is in government custody; or
 - (b) is outside Tasmania, unless he or she is a person to whom Division 9 applies or the obligation is under section 19; or
 - (c) is the subject of an order made under Division 6 (or an equivalent order in a foreign jurisdiction).
- (2) The period for which a reportable offender's reporting obligations continue is extended by any length of time for which those obligations are suspended under subsection (1)(a).

Division 4A – Suspension and variation of reporting obligations for young reportable offenders

23A. Application of this Division

This Division applies to a young reportable offender.

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23B. Variation of reporting obligations of young reportable offenders

- (1) The Commissioner may vary any one or more of a young reportable offender's reporting obligations on the Commissioner's own initiative, if the Commissioner is satisfied, on reasonable grounds, that the young reportable offender does not pose a risk to the safety or wellbeing of any child or children.
- (2) The Commissioner must give the young reportable offender or his or her parent, guardian or carer written notice of the variation of the young reportable offender's reporting obligations as soon as reasonably practicable.
- (3) The variation of the young reportable offender's reporting obligations takes effect when the Commissioner gives the written notice under subsection (2) to the young reportable offender or his or her parent, guardian or carer.

23C. Suspension of reporting obligations of young reportable offenders

- (1) The Commissioner may suspend a young reportable offender's reporting obligations on the Commissioner's own initiative, if the Commissioner is satisfied, on reasonable grounds, that the young reportable offender does not pose a risk to the safety or wellbeing of any child or children.
- (2) The Commissioner must give the young reportable offender or his or her parent, guardian

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or carer written notice of the suspension of the young reportable offender's reporting obligations as soon as reasonably practicable.

- (3) The suspension of the young reportable offender's reporting obligations takes effect when the Commissioner gives the written notice under subsection (2) to the young reportable offender or his or her parent, guardian or carer.

23D. Effect of variation

While a variation of a young reportable offender's reporting obligations made under this Division is in force, the young reportable offender is required to meet his or her reporting obligations as varied.

23E. Effect of suspension

While a suspension of a young reportable offender's reporting obligations made under this Division is in force, the young reportable offender is not required to meet his or her reporting obligations other than by making an initial report.

23F. Revocation of suspension or variation

- (1) The Commissioner may at any time revoke a suspension, or variation, made under this Division if the Commissioner believes, on reasonable grounds, that the reportable offender –

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- (a) poses, or may pose, a risk to the life of a child or children; or
 - (b) poses, or may pose, a risk to the safety of a child or children; or
 - (c) is exposing, or may expose, a child or children to sexual conduct or sexual material.
- (2) If the Commissioner revokes a suspension, or variation, under subsection (1) he or she must give the young reportable offender or his or her parent, guardian or carer written notice of the revocation as soon as reasonably practicable.
- (3) The revocation takes effect when the Commissioner gives the written notice under subsection (2) to the young reportable offender or his or her parent, guardian or carer.

Division 5 – Reporting period

24. Length of reporting period

- (1) A reportable offender must continue to comply with the reporting obligations imposed by this Part for such period not exceeding 8 years as is determined by the court, if he or she has been sentenced for not more than one Class 1 offence.
- (2) A reportable offender must continue to comply with the reporting obligations imposed by this Part for such period not exceeding 15 years as is determined by the court, if he or she –

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- (a) has been sentenced for not more than one Class 2 offence or not more than one Class 3 offence; or
 - (b) has been sentenced for more than one Class 1 offence.
 - (3) A reportable offender must continue to comply with the reporting obligations imposed by this Part for the remainder of his or her life or such lesser period as is determined by the court, if he or she –
 - (a) is a reportable offender in respect of an offence described by section 15(f) or (g); or
 - (b) has been sentenced for –
 - (i) 2 or more Class 2 offences; or
 - (ii) 2 or more Class 3 offences; or
 - (iii) one or more Class 2 offences and one or more Class 3 offences.
 - (4) A reference in this section to an offence includes an offence committed before the commencement of this Act.

25. Reduced period applies for young reportable offenders

- (1) The reporting periods specified in section 24 do not apply to a person who was a child at the time when he or she committed each relevant offence.

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- (2) The maximum reporting period for a person who was a child at the time when he or she committed an offence referred to in section 24(1) must not exceed 4 years.
- (3) The maximum reporting period for a person who was a child when he or she committed an offence referred to in section 24(2) or (3) must not exceed 7 years 6 months.

26. Reporting period for corresponding reportable offenders

- (1) Despite anything in this Part, a corresponding reportable offender must continue to comply with the reporting obligations imposed by this Part for the longer period (the “**recognised foreign reporting period**”) referred to in section 11(b).
- (2) For the purposes of this section, if a corresponding reportable offender is a corresponding reportable offender under the laws of more than one jurisdiction, the recognised foreign reporting period is the longest period for which he or she would be required to report to the corresponding registrar of a foreign jurisdiction.

Division 6 – Exemption from reporting obligations

27. Application of Division

- (1) Subject to subsection (2), this Division applies to a reportable offender who is required to comply

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with the reporting obligations imposed by this Part.

- (2) This Division does not apply to a reportable offender who is required to comply with those obligations for the remainder of his or her life as a result of being found guilty of –
- (a) an offence under section 158 of the *Criminal Code*; or
 - (b) an offence under a law of a foreign jurisdiction the elements of which, if they had occurred in Tasmania, would have constituted an offence of the kind referred to in paragraph (a).

28. Magistrate may exempt certain reportable offenders

- (1) A reportable offender who is required to comply with the reporting obligations imposed by this Part for the remainder of his or her life may apply to a magistrate for an order suspending his or her reporting obligations if –
- (a) a period of 15 years has passed (ignoring any period during which the reportable offender was in government custody) since he or she was last sentenced or released from government custody in respect of a reportable offence or a corresponding reportable offence, whichever is later; and

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- (b) he or she did not become the subject of a lifelong reporting period under a corresponding Act while in a foreign jurisdiction before becoming the subject of such a period in Tasmania; and
 - (c) he or she is not on parole in respect of a reportable offence.
- (2) A reportable offender, other than a reportable offender referred to in subsection (1), may apply to a magistrate for an order suspending his or her reporting obligations if –
 - (a) the reportable offender has complied with the reporting obligations imposed on the offender for at least three-quarters of the period for which the offender was required to meet those obligations; and
 - (b) he or she is not on parole in respect of a reportable offence.

29. Order for suspension

- (1) On an application under section 28, a magistrate may make an order suspending the reportable offender's reporting obligations.
- (2) A magistrate may make the order only if he or she is satisfied that the reportable offender does not pose a risk of committing a reportable offence in the future.

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30. Commissioner and certain chief executive officers entitled to be parties to proceedings

(1) In this section –

relevant authority means –

- (a) the Commissioner; or
 - (b) the secretary of the responsible Department in relation to the *Children, Young Persons and Their Families Act 1997*; or
 - (c) the secretary of the responsible Department in relation to the *Corrections Act 1997*; or
 - (d) the Director of Public Prosecutions.
- (2) Each relevant authority is entitled to be a party to any proceedings for an order under this Division and may make submissions in opposition to, or in support of, the making of the order.
- (3) As soon as is practicable after receiving an application under this Division, the magistrate must cause the Commissioner to be notified of the application.
- (4) For the purposes of preparing submissions, a relevant authority may, by notice in writing, direct any public authority to provide to the relevant authority, on or before a day specified in the notice, any information held by the public

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authority that is relevant to an assessment of whether the applicant poses a risk to the lives or the sexual safety of one or more persons, or persons generally.

- (5) A public authority to which a direction under subsection (4) is given is authorised and required to provide to the relevant authority the information sought by the direction.
- (6) A public authority is not required to give information that is subject to legal professional privilege.

31. No costs to be awarded

A magistrate must not award costs in respect of proceedings under this Division.

32. Restriction on right of unsuccessful applicant to reapply for order

A reportable offender in respect of whom a magistrate refuses to make an order under this Division cannot make a further application to the magistrate until 5 years have elapsed from the date of the refusal, unless the magistrate otherwise orders at the time of the refusal.

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Division 7 – Offences

33. Failure to comply with reporting obligations

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

Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 2 years, or both.

33A. Failure to comply with community protection order

A person who, without reasonable excuse, fails to comply with a community protection order made, and in force, in respect of the person commits an offence.

Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 6 months, or both.

34. Providing false or misleading information

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

Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 6 months, or both.

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35. No time-limit for prosecutions

Proceedings for an offence against this Act may be commenced at any time.

Division 8 – Notification of reporting obligations

36. Notice to be given to reportable offender

- (1) A court must provide a reportable offender with written notice of –
 - (a) his or her reporting obligations; and
 - (b) the consequences that may ensue if he or she fails to comply with those, or any of those, obligations.
- (2) A court may order that a reportable offender remain in the court until a notice of his or her reporting obligations can be prepared and served on the offender.

36A. Power of detention to enable notice to be given

- (1) This section applies if there are reasonable grounds to suspect –
 - (a) that a person is a reportable offender; and
 - (b) that the person has not been given written notice of his or her reporting requirements in accordance with section 36, or is otherwise unaware of his or her reporting requirements.

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- (2) A police officer may detain the person if it is reasonably necessary to do so –
- (a) to enable a decision to be made about –
 - (i) whether or not the person is a reportable offender; or
 - (ii) if the person is a reportable offender, whether or not the person has been given written notice of his or her reporting requirements in accordance with section 36 or is otherwise aware of his or her reporting requirements; or
 - (b) to enable the person to be given written notice of those reporting requirements in accordance with section 36 if the person is not aware of them.
- (3) When detaining the person, the police officer must tell the person –
- (a) why the person is being detained; and
 - (b) that the detention is authorised under this Act; and
 - (c) that the person will be released immediately after the reasons for the detention are satisfied.
- (4) The detained person –
- (a) may be taken to a police station; and

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- (b) must not be held for longer than is reasonably necessary to enable the purpose of the detention to be satisfied; and
- (c) must be released immediately after the purpose of the detention is satisfied.

36B. Failure to comply with procedural requirement does not affect reportable offender's reporting requirements

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

37. Courts to provide details of orders to Commissioner

- (1) In this section –

court does not include a court of a foreign jurisdiction.

- (2) This section applies if a court –

- (a) makes an order in relation to a person with the effect of making the person a reportable offender for the purposes of this Act; or
- (b) makes an order in relation to a reportable offender with the effect of removing the person from the ambit of this Act.

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- (3) The court must provide details of the order to the Commissioner as soon as is practicable after the order is made.

38. Supervising authority to notify Commissioner of certain events

- (1) As soon as is practicable before a reportable offender ceases to be in government custody, the supervising authority must give written notice to the Commissioner of that fact.
- (2) For the purposes of subsection (1), the Commissioner may inform a supervising authority whether or not a person is a reportable offender.

***Division 9 – Modified reporting procedures for participants
in witness protection programs***

39. Term used in this Division

In this Division –

witness protection program has the meaning given to the term “Tasmanian witness protection program” in section 3 of the *Witness Protection Act 2000*.

40. Who this Division applies to

- (1) This Division applies to a reportable offender who is a participant in a witness protection program.

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- (2) This Division also applies to a reportable offender who is receiving protection under a foreign witness-protection law specified by the regulations for the purposes of 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 the purposes of this subsection.

41. 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 that 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 the purposes of this section; and
- (b) if the acknowledgment of the making of a report is given in a manner approved by the Commissioner.

PART 4 – COMMUNITY PROTECTION OFFENDER REGISTER

42. Registrar

The Commissioner may appoint a police officer to be the Registrar.

43. Requirement to establish and maintain Community Protection Offender Register

- (1) The Commissioner must establish and maintain a Community Protection Offender Register or arrange with another person for the establishment and maintenance of a Community Protection Offender Register on his or her behalf.
- (2) The Register must contain the following information in respect of each reportable offender (to the extent that it is known by the Registrar):
 - (a) the reportable offender's name, address and date of birth;
 - (b) details of each Class 1 offence, Class 2 offence or Class 3 offence of which the reportable offender has been found guilty;
 - (c) details of each offence of which the reportable offender has been sentenced that resulted in the making of an offender reporting order;

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- (d) the date on which an order under this Act or the date on which a corresponding offender reporting order was made in respect of the reportable offender;
- (e) 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 other offence during his or her reporting period;
- (f) any information reported in respect of the reportable offender under Part 3;
- (g) any other information that the Registrar considers appropriate to include in the Register.

44. Access to Register to be restricted

- (1) The Register, or any part of the Register, is only to be accessed by a person who is authorised to do so by the Commissioner.
- (2) Personal information in the Register is only to be disclosed by a police officer 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 written or other law.
- (3) Personal information in the Register that is to be disclosed under subsection (2) otherwise than to a police officer or a law enforcement agency

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may only be disclosed by the Commissioner or the Registrar.

(4) In subsection (3) –

law enforcement agency means –

- (a) the Commissioner of the Australian Federal Police; or
 - (b) the Commissioner (however designated) of the police force of another State or a Territory or another country.
- (5) For the purposes of this Part, the Register includes any information from any register maintained under a corresponding Act that is accessible by the Commissioner, whether or not that information is contained in the Register.
- (6) This section has effect despite any written or other law to the contrary.

44A. Provision of information to Registrar of Births, Deaths and Marriages

- (1) The Commissioner or the Registrar may in writing provide to the Registrar of Births, Deaths and Marriages information from the Register, including but not limited to the name, date of birth and addresses of a reportable offender.
- (2) The Registrar of Births, Deaths and Marriages must inform the Commissioner in writing of any application received from a reportable offender for a change of name of the reportable offender.

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- (3) On receipt of the information under subsection (2) –
 - (a) the Commissioner may, in writing, order the Registrar of Births, Deaths and Marriages to refuse to register the change of name of a reportable offender; and
 - (b) advise the reportable offender in writing that the Commissioner has ordered the Registrar of Births, Deaths and Marriages to refuse to register the change of name.
- (4) A reportable offender who is aggrieved by the decision of the Commissioner to order the Registrar of Births, Deaths and Marriages to refuse to register the change of name may apply to the Magistrates Court (Administrative Appeals Division) for a review of that decision.

44B. Provision of information to prescribed entities

- (1) The Commissioner may in writing provide, to an entity prescribed by the regulations to be a prescribed entity for the purposes of this section, any information from the Register in respect of a reportable offender.
- (2) Information may only be provided under subsection (1) –
 - (a) for the purposes of law enforcement, judicial functions or activities; or

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- (b) as authorised or required by or under any Act or law; or
 - (c) if the Commissioner believes on reasonable grounds that to do so is necessary and appropriate to ensure the safety and wellbeing of a child or children.
 - (3) If, under subsection (1), the Commissioner provides any information from the Register, or chooses not to provide any such information, no civil or criminal liability attaches to the Commissioner or the State by reason of the provision, or not, of that information.
 - (4) If, under subsection (1), the Commissioner provides any information from the Register, or chooses not to provide any such information, that provision, or not, of information is not to be regarded –
 - (a) as a breach of any duty of confidentiality or secrecy imposed by law; or
 - (b) as a breach of professional ethics or standards or as unprofessional conduct.

44C. Disclosure of information to parent, guardian or carer

- (1) The Commissioner, or the Secretary of the responsible Department in relation to the *Children, Young Persons and Their Families Act 1997*, may disclose to the parent, guardian or carer of a child that a person who has reportable

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contact with the child is a reportable offender, if the Commissioner, or the Secretary, considers on reasonable grounds that it is necessary and appropriate for the purpose of ensuring the safety and wellbeing of a child or children.

- (2) If, under subsection (1), the Commissioner makes a disclosure of information to a parent, guardian or carer of a child, or chooses not to make such a disclosure, no civil or criminal liability attaches to the Commissioner or the State by reason of the disclosure, or non-disclosure, of that information.
- (3) If, under subsection (1), the Commissioner makes a disclosure of information to a parent, guardian or carer of a child, or chooses not to make such a disclosure, that disclosure, or non-disclosure, of information is not to be regarded –
 - (a) as a breach of any duty of confidentiality or secrecy imposed by law; or
 - (b) as a breach of professional ethics or standards or as unprofessional conduct.
- (4) In disclosing information to a parent, guardian or carer of a child under subsection (1), the Commissioner or the Secretary must inform the parent, guardian or carer, in writing, of his or her obligations under section 44D to keep that information secret.

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44D. Prescribed entities and parents, guardians or carers to keep information secret

- (1) An entity prescribed for the purposes of section 44B to whom information from the Register is provided under that section, and a parent, guardian or carer to whom information is disclosed under section 44C, commits an offence if the prescribed entity or the parent, guardian or carer –
- (a) makes a record of the provision or disclosure of that information and produces that record to any other person, or is reckless about whether or not any other person can access that record; or
 - (b) recklessly divulges or communicates that information to another person.

Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 6 months, or both.

- (2) Subsection (1) does not apply if the record of the provided, or disclosed, information is made, or the information is divulged or communicated, under this Act or another law of this State.

45. Confidentiality

- (1) Except as otherwise provided by this section, a person who has access to any information contained in the Register must not intentionally disclose or cause the disclosure of that information.

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Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 2 years, or both.

- (2) A person may only disclose information contained in the Register in one or more of the following cases:
- (a) in the course of the person's duty;
 - (b) for the purposes of the investigation of any offences or other offences generally;
 - (c) as required or authorised by or under this Act or another written law;
 - (d) for the purpose of proceedings for an offence under this Act;
 - (e) with the written authority of the Minister or the person to whom the information relates;
 - (f) in other circumstances prescribed by the regulations.
- (3) 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.

PART 5 – OTHER MATTERS

45A. Interpretation

In this Part –

conveyance means any vehicle, vessel or aircraft, or any other contrivance intended to be, or being, used to carry people, animals or goods over land or water or in the air;

premises, in relation to a reportable offender, means the premises reported by the reportable offender, in his or her personal details, as the premises at which he or she generally resides.

45B. Power to enter and search premises to verify personal details

- (1) A police officer may, without warrant and using reasonable force if necessary, enter into, remain on, search and inspect a reportable offender's premises for the purpose of verifying any personal details reported by the reportable offender.
- (2) Before entering premises under subsection (1), a police officer must communicate to, or attempt to communicate to, a reportable offender within the premises the police officer's authority to enter the premises, unless the police officer reasonably believes that communicating or

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attempting to communicate with the reportable offender would be likely to endanger any person.

- (3) A reportable offender must allow a police officer to enter, remain on, search and inspect premises for the purposes of this section and must cooperate with the police officer with respect to that entry, search and inspection.

45C. Power to enter and search places, premises, conveyances and containers

- (1) If a police officer reasonably suspects a reportable offender is committing, or has committed, an offence against this Act, the police officer may without warrant, enter into, remain on, search and inspect any place, premises, conveyance or container that the police officer reasonably believes is being, or has been, used by the reportable offender.
- (2) In entering into, remaining on, searching and inspecting any place, premises, conveyance or container under subsection (1), a police officer may exercise all or any of the following powers:
 - (a) use any force as is reasonably necessary;
 - (b) inspect, take copies of or seize any records, documents or other thing the police officer considers relevant that is kept at, or in, the place, premises, conveyance or container;

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- (c) break open and search any cupboards, drawers, chests, trunks, boxes, packages or other things, whether fixtures or not;
 - (d) require any conveyance to be stopped;
 - (e) inspect any computer, mobile telephone or device capable of storing electronic data;
 - (f) remove from the place, premises, conveyance or container any computer, mobile telephone or other device capable of storing electronic data for the purpose of inspecting the computer, mobile telephone or device.
- (3) If a reportable offender is aware that, in order to gain access to data stored on a computer, mobile telephone or other device being inspected or removed by a police officer under this section, it is necessary to enter any password, code or other information, or to perform any function in relation to the data, he or she must provide the police officer with that password, code or information or assist the police officer in performing that function.
- Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 6 months, or both.
- (4) A reportable offender must allow a police officer to enter into, remain on, search and inspect any place, premises, conveyance or container for the purposes of this section and must cooperate with

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the police officer with respect to that entry, search and inspection.

Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 6 months, or both.

- (5) This section does not authorise the entry into any part of a place that is being used solely for residential purposes by a person other than a reportable offender, except –
- (a) with the consent of that person; or
 - (b) under the authority of a search warrant.

45D. Failure to comply with Act

- (1) A reportable offender who, without reasonable excuse, fails to comply with this Act commits an offence.

Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 6 months, or both.

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

46. Certain Acts not to apply

The *Right to Information Act 2009* does not apply to any document or information referred to in this Act.

47. Matters not to be heard in public

Proceedings in relation to any matter under section 8, 28, 33, 34 or 44A must be heard in the absence of the public unless the court otherwise determines.

47A. Publication of personal details of certain reportable offenders

(1) In this section –

personal details includes photographs and digital images.

(2) This section does not apply to a young reportable offender or corresponding reportable offender who is a child.

(3) The Commissioner may publish any or all of the personal details of a reportable offender, or corresponding reportable offender, if –

(a) the Commissioner is satisfied that –

(i) the reportable offender or corresponding reportable offender has failed to comply with any one or more of his or her reporting obligations; or

(ii) in purported compliance with Part 3, the reportable offender or corresponding reportable offender has provided material that is false or misleading in a material particular; and

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- (b) the reportable offender's or corresponding reportable offender's whereabouts are not known.

48. Protection from liability

- (1) An action in tort does not lie against a person for anything that the person has done, in good faith, in the performance or purported performance of a function under this Act.
- (2) The State is relieved of any liability that it might otherwise have had for another person having done anything as described in subsection (1).
- (3) The protection given by this section applies even though the thing done as described in subsection (1) may have been capable of being done whether or not this Act had been enacted.
- (4) In this section, a reference to the doing of anything includes a reference to the omission to do anything.

49. Civil standard of proof

When a court is determining whether it is satisfied as to a matter for the purposes of making an order under this Act, the standard of proof is proof on the balance of probabilities.

50. Certificate concerning evidence

- (1) In this section –

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specified means specified in the relevant certificate.

- (2) In proceedings under this Act, a certificate signed by the Commissioner certifying that the Register –
- (a) at any particular date contained specified information; 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 matters stated in the certificate.

- (3) For the purposes of 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 matters stated in the certificate.

50A. Appeals

- (1) An offender reporting order made by the Supreme Court under this Act may be appealed against in the Court of Criminal Appeal as if that order were a sentence imposed on conviction.
- (2) An appeal against an offender reporting order may be made by the prosecution or the person

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against whom the offender reporting order has been made.

- (3) On an appeal against an offender reporting order, the Court of Criminal Appeal may affirm, quash or vary the order.
- (3A) The prosecution may appeal against a decision of the Supreme Court not to make an offender reporting order or a failure to make such an order.
- (3B) On an appeal under subsection (3A), the Court of Criminal Appeal may –
 - (a) affirm that an offender reporting order not be made; or
 - (b) make an offender reporting order.
- (4) Nothing in this section restricts or affects any right of appeal that a person would have apart from this section.

51. Regulations

- (1) The Governor may make regulations for the purposes of this Act.
- (2) The regulations may be made so as to apply differently according to such factors as are specified in the regulations.
- (3) The regulations may authorise any matter to be from time to time determined, applied or regulated by the Commissioner.

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52. Minister to review and report on Act

- (1) The Minister must carry out a review of the operation and effectiveness of this Act as soon as is practicable after the fifth anniversary of the commencement of this Act.
- (2) The Minister must prepare a report based on the review and, as soon as is practicable after the report is prepared, must cause it to be laid before each House of Parliament.

53. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Minister for Police and Public Safety; and
- (b) the department responsible to that Minister in relation to the administration of this Act is the Department of Police and Public Safety.

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SCHEDULE 1 – CLASS 1 OFFENCES

Section 13

| Enactment | Description of offence |
|---|--|
| <i>Classification (Publications, Films and Computer Games) Enforcement Act 1995</i> | |
| Section 74A | Possessing, accessing or attempting to access child exploitation material |
| <i>Criminal Code</i> | |
| Section 125D(3) | Grooming with intent to expose a child [or young person] to indecent material |
| Section 130C | Possessing child exploitation material |
| Section 130D | Accessing child exploitation material |
| Section 137 | Indecency |
| Section 138 | Exhibiting obscene matter |
| <i>Customs Act 1914 of the Commonwealth</i> | |
| Section 233BAB | Special offences relating to tier 2 goods (if the offence involves items of child pornography or of child exploitation material) |

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| Enactment | Description of offence |
|---|---|
| <i>Criminal Code Act 1995 of the Commonwealth</i> | |
| Section 273.5 | Possessing, controlling, producing, distributing or obtaining child pornography material outside Australia |
| Section 273.6 | Possessing, controlling, producing, distributing or obtaining child abuse material outside Australia |
| Section 471.16 | Using a postal or similar service for child pornography material |
| Section 471.17 | Possessing, controlling, producing, supplying or obtaining child pornography material for use through a postal or similar service |
| Section 471.19 | Using a postal or similar service for child abuse material |
| Section 471.20 | Possessing, controlling, producing, supplying or obtaining child abuse material for use through a postal or similar service |
| Section 471.24 | Using a postal or similar service to procure persons under 16 |

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| Enactment | Description of offence |
|------------------|--|
| Section 471.25 | Using a postal or similar service to “groom” persons under 16 |
| Section 471.26 | Using a postal or similar service to send indecent material to person under 16 |
| Section 474.19 | Using a carriage service for child pornography material |
| Section 474.20 | Possessing, controlling, producing, supplying or obtaining child pornography material for use through a carriage service |
| Section 474.22 | Using a carriage service for child abuse material |
| Section 474.23 | Possessing, controlling, producing, supplying or obtaining child abuse material for use through a carriage service |
| Section 474.25A | Using a carriage service for sexual activity with person under 16 years of age |
| Section 474.26 | Using a carriage service to procure persons under 16 years of age |

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| Enactment | Description of offence |
|---------------------------------|---|
| Section 474.27 | Using a carriage service to “groom” persons under 16 years of age |
| Section 474.27A | Using a carriage service to transmit indecent communication to person under 16 years of age |
| <i>Police Offences Act 1935</i> | |
| Section 7A | Loitering near children |
| Section 8(1A)(a) | Exposing person |
| Section 13A | Observation or recording in breach of privacy |
| Section 13B | Publishing or distributing prohibited visual recording |
| Section 13C | Possession of prohibited visual recording |
| Section 21 | Indecent or offensive behaviour |
| Section 35(3) | Assaulting with indecent intent |

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SCHEDULE 2 – CLASS 2 OFFENCES

Section 14

| Enactment | Description of offence |
|---|---|
| <i>Classification (Publications, Films and Computer Games) Enforcement Act 1995</i> | |
| Section 72A | Making or reproducing child exploitation material, causing or permitting child exploitation material to be made or being in any way involved in the making or reproduction of child exploitation material |
| Section 73A | Distributing child exploitation material or facilitating the distribution of child exploitation material |
| <i>Criminal Code Act 1995 of the Commonwealth</i> | |
| Section 272.9 | Sexual activity (other than sexual intercourse) with a child outside Australia |
| Section 272.12 | Sexual intercourse with young person outside Australia – defendant in position of trust or authority |

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| Enactment | Description of offence |
|----------------------|---|
| Section 272.13 | Sexual activity (other than sexual intercourse) with young person outside Australia – defendant in position of trust or authority |
| Section 272.14 | Procuring child to engage in sexual activity outside Australia |
| Section 272.15 | “Grooming” child to engage in sexual activity outside Australia |
| Section 272.20 | Preparing for or planning offence against this Division |
| Section 273.7 | Aggravated offence – offence involving conduct on 3 or more occasions and 2 or more people |
| Section 471.22 | Aggravated offence – offence involving conduct on 3 or more occasions and 2 or more people |
| Section 474.24A | Aggravated offence – offence involving conduct on 3 or more occasions and 2 or more people |
| Section 474.25B | Aggravated offence – child with mental impairment or under care, supervision or authority of defendant |
| <i>Criminal Code</i> | |
| Section 122 | Bestiality |

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| Enactment | Description of offence |
|------------------|--|
| Section 124 | Penetrative sexual abuse of a child [<i>or</i> young person] |
| Section 125 | Permitting penetrative sexual abuse of a child [<i>or</i> young person] on premises |
| Section 125A | Persistent sexual abuse of a child [<i>or</i> young person] |
| Section 125B | Indecent act with or directed at a child [<i>or</i> young person] |
| Section 125C(3) | Procuring a child [<i>or</i> young person] for indecent act |
| Section 126 | Penetrative sexual abuse of a person with a mental impairment |
| Section 127(1) | Indecent assault |
| Section 127A(1) | Aggravated sexual assault |
| Section 130A | Producing child exploitation material |
| Section 130B(1) | Distributing child exploitation material |
| Section 133(1) | Incest |
| Section 139(b) | Interfering (indecently) with human remains |

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| Enactment | Description of offence |
|---------------------------------------|---|
| Section 169 | Administering a drug with intent to facilitate the commission of an offence |
| Section 186(1) | Forcible abduction |
| Section 189 | Abduction of a young person under the age of 17 years |
| Section 192(1) | Stalking and bullying |
| <i>Sex Industry Offences Act 2005</i> | |
| Section 7(1)(a) | Intimidating, assaulting or threatening to assault a sex worker |
| Section 7(1)(d) | Administering to a sex worker, or causing a sex worker to take, any drug or other substance with the intent to stupefy or overpower that sex worker |
| Section 7(2) | Intimidating, assaulting or threatening to assault person or threatening to cause person to be deported for purpose of inducing provision or continued provision of – <ul style="list-style-type: none"> (a) sexual services in a sexual services business; or |

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| Enactment | Description of offence |
|------------------|---|
| | (b) fee or reward derived from provision of sexual services in a sexual services business |

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SCHEDULE 3 – CLASS 3 OFFENCES

Section 15

| Enactment | Description of offence |
|---|---|
| <i>Classification (Publications, Films and Computer Games) Enforcement Act 1995</i> Section 73 | Procuring, or inviting or attempting to procure, child to be involved in making child exploitation material |
| <i>Criminal Code Act 1995 of the Commonwealth</i> Section 272.8 | Sexual intercourse with a child outside Australia |
| Section 272.10 | Aggravated offence – child with mental impairment or under care, supervision or authority of defendant |
| Section 272.11 | Persistent sexual abuse of child outside Australia |
| Section 272.18 | Benefiting from offence against this Division |
| Section 272.19 | Encouraging offence against this Division |
| <i>Criminal Code</i> | |

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| Enactment | Description of offence |
|------------------|--|
| Section 125C(2) | Procuring a child [<i>or</i> young person] for penetrative sexual abuse |
| Section 125D(1) | Grooming with intent to procure a child [<i>or</i> young person] for sexual abuse |
| Section 127A(1) | Aggravated sexual assault (if the person against whom the offence is committed is a child) |
| Section 130 | Involving a person under the age of 18 years in the production of child exploitation material |
| Section 133(1) | Incest (if the person against whom the offence is committed is a child) |
| Section 169 | Administering a drug with intent to facilitate the commission of an offence (if the person against whom the offence is committed is a child) |
| Section 185 | Rape |
| Section 191(1) | Abduction of a child |
| Section 191(2) | Harbouring an abducted child |
| Section 191A(a) | Kidnapping |

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| Enactment | Description of offence |
|---------------------------------------|---|
| Section 192(1) | Stalking and bullying (if the person against whom the offence is committed is a child) |
| <i>Sex Industry Offences Act 2005</i> | |
| Section 9(1) | Procuring or otherwise causing or permitting a child to provide sexual services in a sexual services business |
| Section 9(2) | Receiving a fee or reward from sexual services provided by a child in a sexual services business |

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NOTES

The foregoing text of the *Community Protection (Offender Reporting) Act 2005* comprises those instruments as indicated in the following table. Any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 1 March 2022 are not specifically referred to in the following table of amendments.

| Act | Number and year | Date of commencement |
|--|-------------------|----------------------|
| <i>Community Protection (Offender Reporting) Act 2005</i> | No. 61 of 2005 | 1.3.2006 |
| <i>Justice and Related Legislation (Further Miscellaneous Amendments) Act 2006</i> | No. 43 of 2006 | 18.12.2006 |
| <i>Mental Health (Miscellaneous Amendments) Act 2007</i> | No. 1 of 2007 | 17.4.2007 |
| <i>Police Offences Amendment Act 2007</i> | No. 39 of 2007 | 21.11.2007 |
| <i>Justice and Related Legislation (Miscellaneous Amendments) Act 2008</i> | No. 18 of 2008 | 26.6.2008 |
| <i>Right to Information (Consequential and Transitional) Act 2009</i> | No. 54 of 2009 | 1.7.2010 |
| <i>Community Protection (Offender Reporting) Amendment Act 2011</i> | No. 11 of 2011 | 16.6.2011 |
| <i>Justice and Related Legislation (Miscellaneous Amendments) Act 2013</i> | No. 20 of 2013 | 20.6.2013 |
| <i>Community Protection (Offender Reporting) Amendment Act 2016</i> | No. 53 of 2016 | 29.11.2017 |
| <i>Community Protection (Offender Reporting) Amendment Regulations 2017</i> | S.R. 2017, No. 75 | 29.11.2017 |
| <i>Administrative Arrangements (Removal of Inconsistency) Order 2018</i> | S.R. 2018, No. 26 | 1.7.2018 |
| <i>Criminal Code Amendment (Bullying) Act 2019</i> | No. 34 of 2019 | 8.10.2019 |
| <i>Criminal Code Amendment (Sexual Abuse Terminology) Act 2020</i> | No. 8 of 2020 | 6.4.2020 |
| <i>Police Legislation Miscellaneous Amendments Act 2020</i> | No. 20 of 2020 | 28.9.2020 |
| <i>Alcohol and Drug Dependency Repeal</i> | No. 30 of 2021 | 1.3.2022 |

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| Act | Number and year | Date of commencement |
|-----------------|-----------------|-------------------------|
| <i>Act 2021</i> | | |

TABLE OF AMENDMENTS

| Provision affected | How affected |
|-----------------------|--|
| Section 3 | Amended by No. 1 of 2007, s. 14, No. 53 of 2016, s. 4 and No. 20 of 2020, s. 4 |
| Section 3A | Inserted by No. 20 of 2020, s. 5 |
| Section 10A | Inserted by No. 53 of 2016, s. 5 |
| | Amended by No. 30 of 2021, s. 4 |
| Section 10B | Inserted by No. 53 of 2016, s. 5 |
| Section 15 | Amended by No. 11 of 2011, s. 4 |
| Section 16 | Amended by No. 53 of 2016, s. 6 |
| Section 17 | Amended by No. 11 of 2011, s. 5, No. 53 of 2016, s. 7 and S.R. 2017, No. 75 |
| Section 19 | Amended by No. 11 of 2011, s. 6 and No. 53 of 2016, s. 8 |
| Section 21 | Amended by No. 53 of 2016, s. 9 |
| Section 22 | Amended by No. 53 of 2016, s. 10 |
| Section 22A | Inserted by No. 53 of 2016, s. 11 |
| Section 23A of Part 3 | Inserted by No. 53 of 2016, s. 12 |
| Section 23B of Part 3 | Inserted by No. 53 of 2016, s. 12 |
| Section 23C of Part 3 | Inserted by No. 53 of 2016, s. 12 |
| Section 23D of Part 3 | Inserted by No. 53 of 2016, s. 12 |
| Section 23E of Part 3 | Inserted by No. 53 of 2016, s. 12 |
| Section 23F of Part 3 | Inserted by No. 53 of 2016, s. 12 |
| Section 24 | Amended by No. 11 of 2011, s. 7 |
| Section 25 | Amended by No. 11 of 2011, s. 8 |
| Section 33 | Amended by No. 11 of 2011, s. 9 |
| Section 33A | Inserted by No. 53 of 2016, s. 13 |
| | Amended by No. 20 of 2020, s. 6 |
| Section 34 | Amended by No. 53 of 2016, s. 14 |
| Section 36 | Substituted by No. 11 of 2011, s. 10 |
| Section 36A | Inserted by No. 53 of 2016, s. 15 |
| Section 36B | Inserted by No. 53 of 2016, s. 15 |
| Section 44 | Amended by No. 53 of 2016, s. 16 |
| Section 44A | Inserted by No. 11 of 2011, s. 11 |
| Section 44B | Inserted by No. 53 of 2016, s. 17 |
| Section 44C | Inserted by No. 53 of 2016, s. 17 |
| | Amended by S.R. 2018, No. 26 |

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| Provision affected | How affected |
|--------------------|--|
| Section 44D | Inserted by No. 53 of 2016, s. 17 |
| Section 45A | Inserted by No. 53 of 2016, s. 18 |
| Section 45B | Inserted by No. 53 of 2016, s. 18 |
| Section 45C | Inserted by No. 53 of 2016, s. 18 |
| Section 45D | Inserted by No. 53 of 2016, s. 18 |
| Section 46 | Amended by No. 54 of 2009, Sched. 1 |
| Section 47 | Amended by No. 43 of 2006, s. 12 and No. 11 of 2011, s. 12 |
| Section 47A | Inserted by No. 53 of 2016, s. 19 |
| Section 50A | Inserted by No. 18 of 2008, s. 15 Amended by No. 20 of 2013, s. 24 |
| Schedule 1 | Amended by No. 39 of 2007, s. 19, No. 11 of 2011, s. 13, No. 53 of 2016, s. 20 and No. 8 of 2020, s. 7 |
| Schedule 2 | Amended by No. 11 of 2011, s. 14, No. 34 of 2019, s. 6 and No. 8 of 2020, s. 8 |
| Schedule 3 | Amended by No. 11 of 2011, s. 15, No. 34 of 2019, s. 7 and No. 8 of 2020, s. 9 |
