

Version No. 012
Sex Offenders Registration Act 2004
Act No. 56/2004
Version incorporating amendments as at 3 April 2006

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Version No. 012
Sex Offenders Registration Act 2004
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The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY MATTERS

1. Purpose and outline

- (1) The purpose of this Act is—
 - (a) to require certain offenders who commit sexual offences to keep police informed of their whereabouts and other personal details for a period of time—
 - (i) to reduce the likelihood that they will re-offend; and
 - (ii) to facilitate the investigation and prosecution of any future offences that they may commit;
 - (b) to prevent registered sex offenders working in child-related employment;
 - (c) to empower the Police Ombudsman to monitor compliance with Part 4 of this Act.
- (2) In outline this Act—
 - (a) provides for the establishment of a Register of Sex Offenders; and
 - (b) requires certain offenders who are sentenced for registrable offences on or after 1 October 2004 to report specified personal details for inclusion in the Register (and extends this

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- requirement to certain offenders sentenced for registrable offences before that date); and
- (c) enables the sentencing court to order juvenile offenders and offenders who commit certain sexual offences against adult victims to comply with the reporting obligations of the Act; and
 - (d) requires those offenders to keep those details up to date, to report those details annually and to also report certain of their travel plans; and
 - (e) imposes those reporting obligations for a period of between 4 years and life, depending on the number, severity and timing of the offences committed, and the age of the offender at the time an offence was committed; and
 - (f) allows for the recognition of the period of reporting obligations imposed under laws of foreign jurisdictions; and
 - (g) makes it an offence for registered sex offenders to work in child-related employment; and
 - (h) empowers the Police Ombudsman to monitor compliance with Part 4 of this Act.

2. Commencement

This Act comes into operation on 1 October 2004.

3. Definitions

In this Act—

"child" means any person who is under the age of 18 years;

"Class 1 offence" means an offence listed in Schedule 1;

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"Class 2 offence" means an offence listed in Schedule 2;

"Class 3 offence" has the meaning set out in section 8(1);

S. 3 def. of "Class 3 offence" substituted by No. 34/2005 s. 4(1).

"Class 4 offence" has the meaning set out in section 8(2);

S. 3 def. of "Class 4 offence" substituted by No. 34/2005 s. 4(1).

"community service order" means—

- (a) an order under Division 3 of Part 3 of the **Sentencing Act 1991** to which a program condition referred to in section 38(1)(b) or (d) is attached; or
- (b) a youth attendance order within the meaning of the **Children and Young Persons Act 1989**; or
- (c) a youth supervision order within the meaning of the **Children and Young Persons Act 1989** where the person is required to engage in community service activities by a direction under section 164(1)(g) of that Act;

"corresponding Act" means a law of a foreign jurisdiction—

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

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"corresponding registrable offence" means an offence that is a registrable offence for the purposes of a corresponding Act but is not a registrable offence within the meaning of this Act;

"corresponding registrable offender" has the meaning set out in section 9;

"corresponding registrar" means the person whose duties and functions under a corresponding Act most closely correspond to the duties and functions of the Chief Commissioner of Police under this Act;

"corresponding sex offender registration order" means an order made under a corresponding Act that falls within a class of order that the regulations state is a corresponding sex offender registration order for the purposes of this Act;

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

"detainee" means a person who is detained in a youth training centre or youth residential centre within the meaning of the **Children and Young Persons Act 1989**;

"Director" means the Director, Police Integrity under section 102A(2) of the **Police Regulation Act 1958**;

"disability" has the same meaning as "impairment" has in the **Equal Opportunity Act 1995**;

Note: The meaning of "disability" is affected by section 5(2).

S. 3 def. of
"Director"
inserted by
No. 79/2004
s. 100(1)(a).

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"existing controlled registrable offender"

means a person who, as a result of having been sentenced for a registrable offence, was under the supervision of a supervising authority or any other person or body immediately before 1 October 2004;

"existing license" means a person who under section 6C of the **Corrections Act 1986** is not regarded as being in the Secretary's legal custody and includes a person who has a similar status under the laws of a foreign jurisdiction;

"fingerscan" means fingerprints taken by means of a device to obtain a record of the fingerprints;

"finding of guilt"—see section 4;

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

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

"forensic patient" has the same meaning as in the **Crimes (Mental Impairment and Unfitness to be Tried) Act 1997**;

"forensic resident" has the same meaning as in the **Crimes (Mental Impairment and Unfitness to be Tried) Act 1997**;

S. 3 def. of
"forensic
resident"
inserted by
No. 34/2005
s. 4(2).

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"good behaviour bond" means—

- (a) an order under Subdivision (2) or (3) of Division 5 of Part 3 of the **Sentencing Act 1991** for the release of an offender on an adjournment (with or without recording a conviction); or
- (b) a bond under section 144 of the **Children and Young Persons Act 1989**;

"government custody" means—

- (a) custody as—
 - (i) an inmate; or
 - (ii) a detainee; or
 - (iii) a forensic patient under a custodial supervision order within the meaning of the **Crimes (Mental Impairment and Unfitness to be Tried) Act 1997**; or
 - (iv) a forensic resident under a custodial supervision order within the meaning of the **Crimes (Mental Impairment and Unfitness to be Tried) Act 1997**; or
 - (v) a security patient under a hospital security order made under section 93(1)(e) of the **Sentencing Act 1991**; or
 - (vi) a security patient under a restricted hospital transfer order made under section 16(3)(b) of the **Mental Health Act 1986**; or

S. 3 def. of "government custody" amended by No. 34/2005 s. 4(3).

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(vii) an involuntary patient under a hospital order made under section 93(1)(d) of the **Sentencing Act 1991**; or

(ix) an involuntary patient under a hospital transfer order made under section 16(3)(a) of the **Mental Health Act 1986**; or

(b) custody under a law of a foreign jurisdiction in the nature of custody referred to in paragraph (a);

"inmate" means a person who under Part 1A of the **Corrections Act 1986** is deemed to be in the legal custody of the Secretary or the Chief Commissioner of Police;

"involuntary patient" has the same meaning as in the **Mental Health Act 1986**;

S. 3 def. of "involuntary patient" inserted by No. 34/2005 s. 4(2).

"New South Wales Act" means the Child Protection (Offenders Registration) Act 2000 of New South Wales;

"New South Wales registrable offender" has the meaning set out in section 10;

"parole" means an order referred to in section 74 of the **Corrections Act 1986** and includes any equivalent order made under the laws of a foreign jurisdiction;

"personal details" means the information listed in section 14(1);

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

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S. 3 def. of
"Police
Ombudsman"
repealed by
No. 79/2004
s. 100(1)(b).

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"Register" means the Register of Sex Offenders established under section 62;

"registrable offence" has the meaning set out in section 7;

"registrable offender" has the meaning set out in section 6;

"reporting obligations", in relation to a registrable 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 registrable offender must comply with his or her reporting obligations;

"Secretary" has the same meaning as in the **Corrections Act 1986**;

S. 3 def. of
"security
patient"
inserted by
No. 34/2005
s. 4(2).

"security patient" has the same meaning as in the **Mental Health Act 1986**;

S. 3 def. of
"sentence"
amended by
No. 34/2005
s. 4(4)(a)(b).

"sentence" includes—

- (a) any order that is a sentencing order within the meaning of the **Magistrates' Court Act 1989** or the **Children and Young Persons Act 1989**, including an order for the adjournment of a proceeding under section 128A of the **Magistrates' Court Act 1989**; and

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- (ab) a declaration under section 18(4)(a) or 23(a) of the **Crimes (Mental Impairment and Unfitness to be Tried) Act 1997** that the defendant is liable to supervision under Part 5 of that Act; and
 - (ac) an order that the defendant be released unconditionally made under section 18(4)(b) or 23(b) of the **Crimes (Mental Impairment and Unfitness to be Tried) Act 1997**; and
 - (ad) an order made under section 93(1)(d) of the **Sentencing Act 1991**; and
 - (b) any order made under the laws of a foreign jurisdiction that is equivalent to an order referred to in paragraph (a);

"sex offender registration order" means an order made under section 11 and includes a corresponding sex offender registration order;

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S. 3 def. of "strict government custody" repealed by No. 34/2005 s. 4(5).

"strict supervision" means supervision by—

- (a) the Secretary or a person employed within the Department of Justice; or
- (b) the Secretary to the Department of Human Services or a person employed within that Department—

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

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S. 3 def. of
"supervised
sentence"
amended by
No. 34/2005
s. 4(6).

"supervised sentence" means—

- (a) a sentence referred to in section 6C(1) of the **Corrections Act 1986**; or
- (b) a community service order; or
- (c) a good behaviour bond under which the person is required to submit to strict supervision; or
- (ca) an order referred to in section 137(1) of the **Children and Young Persons Act 1989** under which the child is required to submit to strict supervision; or
- (cb) an order made under section 15A of the **Mental Health Act 1986**; or
- (d) a non-custodial supervision order within the meaning of the **Crimes (Mental Impairment and Unfitness to be Tried) Act 1997**;

"supervising authority", in relation to an offender, means the authority prescribed by the regulations as the supervising authority of the class of offender to which he or she belongs.

4. Meaning of finding of guilt

- (1) For the purposes of this Act, a reference to a finding of guilt in relation to an offence (however expressed) committed by a person is a reference to any of the following—
 - (a) a court making a formal finding of guilt in relation to the offence;
 - (b) a court accepting a plea of guilty from the person in relation to the offence;

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Part 1—Preliminary Matters

s. 5

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- (c) a court accepting an admission made under and for the purposes of section 100 of the **Sentencing Act 1991**, or under equivalent provisions of the laws of a foreign jurisdiction;
 - (d) a finding in relation to the offence under section 17(1)(b) or (c) of the **Crimes (Mental Impairment and Unfitness to be Tried) Act 1997** or under section 17(1)(c) of that Act in relation to an offence available as an alternative or a finding under that Act of not guilty because of mental impairment, or a finding under equivalent provisions of the laws of a foreign jurisdiction.
- (2) A reference to a finding of guilt in this Act does not include a finding of guilt that is subsequently quashed or set aside by a court.

5. 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 are committed against the same person.
 - (2) For the purposes of this Act and without limiting the meaning of "disability" given by section 3, a person has a disability if he or she is a forensic patient or a forensic resident within the meaning of the **Crimes (Mental Impairment and Unfitness to be Tried) Act 1997**.
 - (3) A reference to doing a thing "in person" in this Act is a reference to doing the thing by personal attendance at a place—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

s. 6

PART 2—OFFENDERS TO WHOM ACT APPLIES

6. Who is a registrable offender?

- (1) Subject to sub-sections (3) to (6), a registrable offender is a person whom a court has at any time (whether before, on or after 1 October 2004) sentenced for a registrable offence.

Note 1: "Sentence" is broadly defined in section 3.

Note 2: This Act applies to persons sentenced by a court of a foreign jurisdiction for certain offences under the law of that jurisdiction—see the definition of "court" in section 3 and see section 7 for the definition of "registrable offence".

Note 3: This Act applies to certain people who are registrable offenders for the purposes of equivalent laws outside Victoria, even though they are not registrable offenders under this Act—see section 15.

Note 4: The effect of this Act is that any adult offender sentenced at any time (including before 1 October 2004 and still subject to supervision immediately before that date) for a class 1 or class 2 offence (other than a single class 2 offence for which he or she was not imprisoned or put under supervision) must comply with the reporting obligations of Part 3.

- (2) A person who is—
- (a) a corresponding registrable offender; or
 - (b) a New South Wales registrable offender—
- is also a registrable offender.
- (3) Unless he or she is a registrable offender because of sub-section (2), a person is not a registrable offender merely because he or she—
- (a) as a child committed a Class 1 or Class 2 offence for which he or she has been sentenced; or

**Note 4 to
s. 6(1)
inserted by
No. 34/2005
s. 5.**

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Part 2—Offenders to Whom Act Applies

s. 6

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- (b) is a person in respect of whom a court has made an order referred to in section 137(1)(b), (c) or (d) of the **Children and Young Persons Act 1989** (or an equivalent order under the laws of a foreign jurisdiction) in respect of a Class 1 or Class 2 offence; or
- (c) is a person on whom a sentence has been imposed in respect of a single Class 2 offence, if the sentence did not include—
- (i) a term of imprisonment; or
 - (ii) a requirement that the person be under the supervision of a supervising authority or any other person or body.
- Note: The meaning of "single offence" is qualified by sub-section (8) and by section 5(1).
- (4) Unless he or she is a registrable offender because of sub-section (2) or is an existing controlled registrable offender, a person is not a registrable offender merely because he or she was sentenced for a registrable offence before 1 October 2004.
- (5) A person is also not a registrable offender if he or she is receiving protection under a foreign witness protection law specified by the regulations for the purposes of this sub-section, 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 sub-section.
- (6) A person ceases to be a registrable offender if—
- (a) his or her finding of guilt in respect of the only registrable offence that makes him or her a registrable offender for the purposes of this Act is quashed or set aside by a court; or

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Part 2—Offenders to Whom Act Applies

s. 7

- (b) his or her sentence in respect of that offence is reduced or altered so that he or she would have been a person described in sub-section (3)(b) or (c) had the amended sentence been the original sentence; or
 - (c) he or she is a registrable offender only because he or she is subject to a sex offender registration order and that order is quashed on appeal.
- (7) 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 sex offender registration order.
- (8) A reference to a single offence in sub-section (3)(c) includes a reference to more than one offence that are the same arising from the same incident.

S. 6(8)
amended by
No. 34/2005
s. 6(1).

Note to s. 6(8)
inserted by
No. 34/2005
s. 6(2).

Note: The meaning of "single offence" is qualified by section 5(1).

7. What is a registrable offence?

- (1) A registrable offence is—
 - (a) a Class 1 offence; or
 - (b) a Class 2 offence; or
 - (c) an offence that results in the making of a sex offender registration order.
- (2) Schedule 1 lists the offences that are Class 1 offences for the purposes of this Act.
- (3) Schedule 2 lists the offences that are class 2 offences for the purposes of this Act.

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s. 8

8. What are class 3 and class 4 offences?

- (1) A Class 3 offence is an offence listed in Schedule 3 committed against a person other than a child by a person who is (whether because of, or apart from, that offence) a serious sexual offender for the purposes of this section.
- (2) A Class 4 offence is an offence listed in Schedule 4 committed against a person other than a child by a person who is (whether because of, or apart from, that offence) a serious sexual offender for the purposes of this section.
- (3) For the purposes of this section a person is a serious sexual offender if he or she has at any time (whether before, on or after 1 October 2004) been sentenced by a court for 2 or more offences listed in a Schedule to this Act whether—
 - (a) in the one trial or hearing; or
 - (b) in different trials or hearings held at different times; or
 - (c) in separate trials of different counts in the one presentment.

Note: The term "serious sexual offender" is also defined in section 6B of the **Sentencing Act 1991** for the purposes of Part 2A of that Act. However, the term is differently defined in that Act.

9. Who is a corresponding registrable offender?

- (1) A corresponding registrable offender is a person who—
 - (a) had at any time (whether before, on or after the commencement of section 8 of the **Sex Offenders Registration (Amendment) Act 2005**) been in a foreign jurisdiction and at that time had been required to report to the corresponding registrar in that jurisdiction; and

S. 8
substituted by
No. 34/2005
s. 7.

S. 9
substituted by
No. 34/2005
s. 8.

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s. 10

(b) would, if he or she were currently in that jurisdiction, be still required to report to that corresponding registrar.

- (2) A person referred to in sub-section (1) is a corresponding registrable offender even if the offence in respect of which he or she is required to report in the foreign jurisdiction is not a registrable offence for the purposes of this Act.

10. Who is a New South Wales registrable offender?

A New South Wales registrable offender is a person who had been in New South Wales at a time before the date specified by the regulations for the purposes of this section and whose reporting obligations under the New South Wales Act had begun at that time, other than a person who falls within a class of person whom the regulations prescribe not to be a New South Wales registrable offender for the purposes of this Act.

11. Sex offender registration order

- (1) If a court finds a person guilty of an offence that is not a Class 1 or Class 2 offence (including an offence that is a Class 3 or Class 4 offence), it may order that the person comply with the reporting obligations of this Act.
- (2) A court on sentencing a person for a Class 1 or Class 2 offence committed as a child may order that the person comply with the reporting obligations of this Act if, because of section 6(3)(a), the person is not a registrable offender.
- (3) The court may only make an order under this section if, after taking into account any matter that it considers appropriate, it is satisfied, beyond reasonable doubt, that the person poses a risk to the sexual safety of one or more persons or of the community.

S. 11(3)
amended by
No. 34/2005
s. 9(1).

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Part 2—Offenders to Whom Act Applies

s. 11

(4) For the purposes of sub-section (3), it is not necessary that the court be able to identify a risk to particular people, or a particular class of people.

(5) The court may only make an order under this section if it has imposed a sentence in relation to the offence (other than an order referred to in section 137(1)(b), (c) or (d) of the **Children and Young Persons Act 1989**).

S. 11(5)
amended by
No. 34/2005
s. 9(2)(a)(b).

(6) The court may only make an order under this section if an application for the making of the order is made by the prosecution not later than 30 days after the sentence is imposed.

S. 11(6)
amended by
No. 34/2005
s. 9(3).

(6A) If an application for the making of an order under this section is made after the sentence is imposed and an appeal against the finding of guilt or sentence is made before that application is determined, that application must not be determined before the appeal is determined.

S. 11(6A)
inserted by
No. 34/2005
s. 9(4).

* * * * *

S. 11(7)
repealed by
No. 34/2005
s. 10(1).

(8) Division 5 of Part 3 applies to a person subject to an order made under sub-section (2) as it would have if this Act had not contained section 6(3)(a).

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Part 3—Reporting Obligations

s. 12

PART 3—REPORTING OBLIGATIONS

Division 1—Initial Report

12. When the report must be made

- (1) A registrable offender of a kind referred to in column 1 of the Table must report his or her personal details to the Chief Commissioner of Police within the period specified in relation to him or her in column 2 of the Table—

TABLE

<i>Column 1</i>	<i>Column 2</i>
<i>Registrable Offender</i>	<i>Period for Initial Report</i>
A registrable offender (other than a corresponding registrable offender) who enters government custody in Victoria on or after 1 October 2004 as a consequence of having been sentenced for a registrable offence and who ceases to be in government custody whilst in Victoria	Within 28 days after he or she ceases to be in government custody
A registrable offender (other than a corresponding registrable offender) in government custody in Victoria immediately before 1 October 2004 and who ceases to be in government custody whilst in Victoria	Within 28 days after he or she ceases to be in government custody

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Part 3—Reporting Obligations

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<i>Column 1</i>	<i>Column 2</i>
<i>Registrable Offender</i>	<i>Period for Initial Report</i>
A registrable offender (other than a corresponding registrable offender) who is in Victoria on 1 October 2004, but who is not in government custody at that time	Within 45 days after 1 October 2004
Any other registrable offender who is sentenced for a registrable offence in Victoria	Within 28 days after he or she is sentenced for the registrable offence
A registrable offender who enters Victoria from a foreign jurisdiction and who has not previously been required under this section to report his or her personal details to the Chief Commissioner of Police	Within 14 days after entering and remaining in Victoria for 14 or more consecutive days, not counting any days spent in government custody
A corresponding registrable offender who has not previously reported his or her personal details to the Chief Commissioner of Police and who is in Victoria on the date on which he or she becomes a corresponding registrable offender	Within 28 days after he or she becomes a corresponding registrable offender or 28 days after he or she ceases to be in government custody, whichever is the later

- (2) Despite sub-section (1), a registrable offender must report his or her personal details to the Chief Commissioner of Police before leaving Victoria unless he or she entered Victoria from a foreign jurisdiction and remained in Victoria for less than 14 consecutive days, not counting any days spent in government custody.

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13. When new initial report must be made by offender whose previous reporting obligations have ceased

- (1) If a registrable offender's reporting period expires but he or she is then sentenced for a registrable offence, he or she must report his or her personal details to the Chief Commissioner of Police—
 - (a) within 28 days after he or she is sentenced for the registrable offence; or
 - (b) if the registrable offender is in government custody, within 28 days after he or she ceases to be in government custody—whichever is the later.
- (2) If a registrable offender's reporting period expires but he or she then becomes a corresponding registrable offender who must under section 37 continue to comply with the reporting obligations imposed by this Part for any period, he or she must report his or her personal details to the Chief Commissioner of Police—
 - (a) within 28 days after he or she becomes a corresponding registrable offender; or
 - (b) if the registrable offender is in government custody, within 28 days after he or she ceases to be in government custody—whichever is the later.
- (3) If a registrable offender's reporting obligations are suspended by an order under section 40 (or an equivalent order in a foreign jurisdiction) and that order ceases to have effect under section 44 (or an equivalent provision of the laws of a foreign jurisdiction), he or she must report his or her personal details to the Chief Commissioner of Police—
 - (a) within 28 days after the order ceases to have effect; or

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- (b) if the registrable offender is in government custody, within 28 days after he or she ceases to be in government custody—
whichever is the later.
- (4) If a registrable offender is not in Victoria at the time he or she would be required under sub-section (1), (2) or (3) to report his or her personal details to the Chief Commissioner of Police, then he or she must report his or her personal details within 14 days after entering and remaining in Victoria for 14 or more consecutive days, not counting any days spent in government custody.
- (5) Despite sub-sections (1) to (3), a registrable offender must report his or her personal details to the Chief Commissioner of Police before leaving Victoria unless he or she entered Victoria from a foreign jurisdiction and remained in Victoria for less than 14 consecutive days, not counting any days spent in government custody.

14. Initial report by registrable offender of personal details

- (1) The details the registrable 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;
 - (b) in respect of each name other than his or her current name, the period during which he or she was known by that other name;
 - (c) his or her date of birth;
 - (d) the address of each of the premises at which he or she generally resides or, if he or she does not generally reside at any particular premises, the name of each of the localities in which he or she can generally be found;
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- (e) the names and ages of any children who generally reside in the same household as that in which he or she generally resides, or with whom he or she has regular unsupervised contact;
 - (f) if he or she is employed—
 - (i) the nature of his or her employment; and
 - (ii) the name of his or her employer (if any); and
 - (iii) the address of each of the premises at which he or she is generally employed or, if he or she is not generally employed at any particular premises, the name of each of the localities in which he or she is generally employed;
 - (g) details of his or her affiliation with any club or organisation that has child membership or child participation in its activities;
 - (h) the make, model, colour and registration number of any motor vehicle owned by, or generally driven by, him or her;
 - (i) details of any tattoos or permanent distinguishing marks that he or she has (including details of any tattoo or mark that has been removed);
 - (j) whether he or she has ever been found guilty in any foreign jurisdiction of a registrable offence or of an offence that required him or her to report to a corresponding registrar or been subject to a corresponding sex offender registration order and, if so, where that finding occurred or that order was made;
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- (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 registrable offence or corresponding registrable offence, details of when and where that government custody occurred;
- (l) if, at the time of making a report under this Division, he or she leaves, or intends to leave, Victoria to travel elsewhere in Australia on an average of at least once a month (irrespective of the length of any such absence)—
- (i) in general terms, the reason for travelling; and
 - (ii) in general terms, the frequency and destinations of the travel.
- (2) For the purposes of this section—
- (a) a registrable offender does not generally reside at any particular premises unless he or she resides at those premises for at least 14 days (whether consecutive or not) in any period of 12 months; and
 - (b) a child does not generally reside in the same household as a registrable offender unless they reside together in that household for at least 14 days (whether consecutive or not) in any period of 12 months; and
 - (c) a registrable offender does not have regular unsupervised contact with a child unless he or she has unsupervised contact with the child for at least 14 days (whether consecutive or not) in any period of 12 months; and
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- (d) a registrable offender is not generally employed at any particular premises unless he or she is employed at those premises for at least 14 days (whether consecutive or not) in any period of 12 months; and
 - (e) a registrable offender does not generally drive a particular motor vehicle unless the person drives that vehicle on at least 14 days (whether consecutive or not) in any period of 12 months.
- (3) For the purposes of this section, a person is 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 sub-contractor; or
 - (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.
- (4) For the purposes of this section, a person is an employer if the person—
- (a) arranges, in the course of business, for the registrable offender to be employed by another person; or
 - (b) engages the registrable offender under contract to carry out work.
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15. Persons required to report under corresponding Act

- (1) This section applies to a person (other than one to whom Division 9 applies) who has been required to report to a corresponding registrar, irrespective of whether he or she is a registrable offender for the purposes of this Act.
- (2) Unless the person has previously complied with the obligation imposed by this section, he or she must, within 7 days after entering and remaining in Victoria or within 14 days after the commencement of section 11 of the **Sex Offenders Registration (Amendment) Act 2005** if he or she entered Victoria 7 days or more before that commencement and remained in Victoria, contact (by telephone or another prescribed means) a person prescribed by the regulations for the purposes of this section.
- (3) The contacted person must advise the person whether he or she is a registrable offender for the purposes of this Act and any reporting obligations that he or she has under this Act.
- (4) A person is not guilty of an offence against section 46 because of a failure to comply with the reporting obligation imposed by sub-section (2) if he or she—
 - (a) is not a registrable offender for the purposes of this Act; or
 - (b) has not been notified of that reporting obligation; or
 - (c) does not remain in Victoria for 14 or more consecutive days, not counting any days spent in government custody; or
 - (d) reports in accordance with section 12.

S. 15(2)
amended by
No. 34/2005
s. 11.

Division 2—Ongoing Reporting Obligations

16. Registrable offender must report annually

- (1) A registrable offender must report his or her personal details to the Chief Commissioner of Police each year.
- (2) The registrable offender must make the report by the end of the calendar month in which the anniversary of the date on which he or she first reported in accordance with this Act or a corresponding Act falls.

Example

J first reported his personal details to the Chief Commissioner of Police on 11 October 2004. This section requires J to make a further report of those details on or before 31 October 2005, 31 October 2006 (and so on).

- (3) If the registrable offender has been in government custody since he or she last reported his or her personal details under this section, the details he or she must report include details of when and where that custody occurred.
- (4) If a registrable offender's reporting period expires, but he or she is then required to report again under section 13, the reference to the date on which he or she first reported is to be read as a reference to the date on which he or she first reported in respect of the current reporting period.

17. Registrable offender must report changes to relevant personal details

- (1) A registrable offender must report to the Chief Commissioner of Police any change in his or her personal details within 14 days after that change occurs.
- (2) For the purposes of sub-section (1), a change occurs in the premises or household where the registrable offender or a child generally resides, or as to when the registrable offender has unsupervised contact with a child, or in the premises where the registrable offender is generally employed, or the motor vehicle that he or she generally drives, only on the expiry of the relevant 14 day period referred to in section 14(2).
- (3) If the personal details of a registrable offender (other than one to whom Division 9 applies) change while he or she is not in Victoria, he or she must report the change to the Chief Commissioner of Police within 14 days after entering and remaining in Victoria for 14 or more consecutive days, not counting any days spent in government custody.

Note: Under section 32, certain reporting obligations of a registrable offender are suspended while he or she is out of Victoria unless Division 9 applies to him or her.

- (4) A registrable offender who is in government custody for 14 or more consecutive days must report his or her personal details to the Chief Commissioner of Police—
 - (a) within 28 days after he or she ceases to be in government custody; or
 - (b) before leaving Victoria—whichever is the sooner.

18. Intended absence from Victoria to be reported

- (1) This section applies if a registrable offender—
 - (a) intends to leave Victoria for 14 or more consecutive days to travel elsewhere in Australia; or
 - (b) intends to leave Victoria to travel out of Australia.
 - (2) At least 7 days before leaving Victoria, the registrable offender must report the intended travel to the Chief Commissioner of Police and must provide details of—
 - (a) each State, Territory or country to which he or she intends to go while out of Victoria; and
 - (b) the approximate dates during which he or she intends to be in each of those States, Territories or countries; and
 - (c) each address or location within each State, Territory or country at which he or she intends to reside (to the extent that they are known) and the approximate dates during which he or she intends to reside at those addresses or locations; and
 - (d) if he or she intends to return to Victoria, the approximate date on which he or she intends to return; and
 - (e) if he or she does not intend to return to Victoria, a statement of that intention.
 - (3) If circumstances arise making it impracticable for a registrable offender to make the report 7 days before he or she leaves, it is sufficient compliance with sub-section (2) if the registrable offender reports the required information to the Chief Commissioner of Police at least 24 hours before leaving Victoria.
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19. Change of travel plans while out of Victoria to be given

- (1) This section applies if a registrable offender who is out of Victoria decides—
 - (a) to extend a stay elsewhere in Australia beyond 13 days; or
 - (b) to change any details given to the Chief Commissioner of Police under section 18.
- (2) As soon as is practicable after making the decision, the registrable offender must—
 - (a) if sub-section (1)(a) applies, report the details required by section 18(2) to the Chief Commissioner of Police (including those details as they relate to the travel that has already been completed);
 - (b) if sub-section (1)(b) applies, report the changed details to the Chief Commissioner of Police.
- (3) The registrable offender must make the report—
 - (a) by writing sent by post or transmitted electronically to the Chief Commissioner of Police or to any other address permitted by the regulations; or
 - (b) in any other manner permitted by the regulations.

20. Registrable offender to report return to Victoria or decision not to leave

- (1) This section applies if a registrable offender was required to report that he or she intended to leave Victoria under section 18.
 - (2) If the registrable offender left Victoria, he or she must report his or her return to Victoria to the Chief Commissioner of Police within 14 days after entering and remaining in Victoria for 14 or
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more consecutive days, not counting any days spent in government custody.

- (3) If the registrable offender decides not to leave Victoria, he or she must report his or her change of intention to the Chief Commissioner of Police within 14 days after deciding not to leave.

21. Report of other absences from Victoria

- (1) This section applies if a registrable offender, at the time of making a report under this Division, leaves, or intends to leave, Victoria to travel elsewhere in Australia on an average of at least once a month (irrespective of the length of any such absence).
- (2) The registrable offender must report the following details to the Chief Commissioner of Police—
 - (a) in general terms, the reason for travelling; and
 - (b) in general terms, the frequency and destinations of the travel.

Division 3—Provisions Applying to All Reporting Obligations

22. Where report is to be made

- (1) A report under this Part is to be made—
 - (a) if a direction is given in accordance with the regulations as to the police station at which the report is to be made, at the police station so directed; or
 - (b) at some other place approved (either generally or in a particular case) by the Chief Commissioner of Police.
- (2) This section does not apply if, under section 23(2), a report is permitted to be made in a way that is inconsistent with this section.

23. How reports to be made

- (1) A registrable offender must make the following reports under this Part in person—
 - (a) a report required by Division 1 (initial report); and
 - (b) a report required by section 16 (annual report); and
 - (c) a report of a change of address of the premises at which he or she generally resides or, if he or she does not generally reside at any particular premises, of the localities in which he or she can generally be found; and
 - (d) a report of the acquisition of, removal of, or change to, any tattoo or permanent distinguishing mark.
 - (2) A registrable offender may make any other report that he or she is required to make in person or in any other way permitted by the regulations or by the Chief Commissioner of Police, either generally or in a particular case.
 - (3) Only a member of the police force approved for the purpose by the Chief Commissioner of Police may receive a report made in person and only a member of the police force or other person approved for the purpose by the Chief Commissioner of Police may receive a report made in another way in accordance with subsection (2).
 - (4) If a registrable offender attending in person is a child or has a disability that renders it impossible or impracticable for him or her to make a report—
 - (a) in the case of a child, any parent or guardian of the child or, if neither a parent or guardian is available, an independent person who is accompanying the registrable offender; and
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- (b) in the case of a person who has a disability, any parent, guardian, carer or other person nominated by the registrable offender who is accompanying the registrable offender—

may make the report on the registrable offender's behalf.

- (5) Similarly, if a registrable offender who is permitted to make a report other than in person in accordance with sub-section (2) is a child or has a disability that renders it impossible or impracticable for him or her to make the report himself or herself—

- (a) in the case of a child, any parent or guardian of the child or, if neither a parent or guardian is available, an independent person; and

- (b) in the case of a person who has a disability, any parent, guardian, carer or other person nominated by the registrable offender—

may make the report on the registrable offender's behalf.

24. Right to privacy and support when reporting

- (1) A person making a report under this Part at a police station or a place approved by the Chief Commissioner of Police—
- (a) is entitled to make the report out of the hearing of members of the public; and
- (b) is entitled to be accompanied by a support person of his or her own choosing and, in the case of a child, must be accompanied by a parent or guardian of the child or, if neither a parent or guardian is available, an independent person.

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- (2) A member of the police force or other person receiving the report may arrange for an interpreter to be present when a person is making a report under this Part.
 - (3) A member of the police force receiving the report must not allow an interpreter to be present when a person is making a report under this Part unless the interpreter has signed an undertaking not to disclose any information derived from the report unless required or authorised by or under any Act or law to do so.

25. Receipt of information to be acknowledged

- (1) As soon as is practicable after receiving a report under this Part, the member of the police force or other person receiving the report must acknowledge the making of the report.
- (2) The acknowledgment must be in writing, must be given to the person who made the report and must include—
 - (a) the name and signature of the member of the police force or other person who received the report; and
 - (b) the date and time when, and the place where, the report was received; and
 - (c) a copy of the information that was reported.
- (3) The Chief Commissioner of Police must ensure that a copy of every acknowledgment is retained.

26. Additional matters to be provided

- (1) If a report is required to be made in person, the person making the report must also—
 - (a) present for inspection the registrable offender's driver licence (if any) or any other form of identification or other document specified by the regulations for the purposes of this section to verify or support details in the report; and
 - (b) provide a photograph of the registrable offender's head and face of a type suitable for use in an Australian passport; and
 - (c) if not the registrable offender, present for inspection his or her driver licence (if any) or any other form of identification specified by the regulations for the purposes of this section.
 - (2) The member of the police force receiving the report may waive the requirements of subsection (1)(a) or (b) if the member of the police force—
 - (a) takes the fingerprints, or a fingerscan, of the registrable offender immediately before or after the report is made and, in the case of a child, does so in the presence of a parent or guardian of the child or, if neither a parent or guardian is available, an independent person; or
 - (b) is otherwise satisfied as to the registrable offender's identity.
 - (3) The member of the police force receiving the report may waive the requirements of subsection (1)(c) if he or she is otherwise satisfied as to the person's identity.
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- (4) The member of the police force receiving a report may copy any document presented to the member for inspection under sub-section (1)(a) or (c).
- (5) If a report is made otherwise than in person, the regulations may specify—
- (a) the circumstances in which—
 - (i) information concerning the identity of the registrable offender and the identity of the person making the report; and
 - (ii) a document verifying or supporting details in the report—are required; and
 - (b) the manner in which that information or document is to be provided—
- but may not require an original document to be provided.

27. Power to take fingerprints or fingerscan

- (1) A member of the police force receiving a report made in person under this Part may take, or may cause to be taken by a person authorised by him or her, the fingerprints or a fingerscan of the registrable offender if not reasonably satisfied as to the identity of the registrable offender after the member has examined all the material relating to identity provided or presented to him or her by, or on behalf of, the registrable offender.
- (2) A member of the police force may only take, or cause to be taken, the fingerprints or a fingerscan of a child under sub-section (1) if the child is accompanied by his or her parent or guardian or, if neither a parent or guardian is available, an independent person.

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S. 27A
inserted by
No. 34/2005
s. 12.

27A. Power to take photographs

- (1) A member of the police force receiving a report made in person under this Part may require the registrable offender—
 - (a) to be photographed; and
 - (b) to expose any part of his or her body on which there are any tattoos or permanent distinguishing marks to enable that part of the body to be photographed—
by the member or a person authorised by the member.
- (2) A member of the police force cannot, under this section, require a registrable offender to expose his or her genitals, the anal area of his or her buttocks or, in the case of females or transgender people who identify as females, their breasts.

28. Reasonable force may be used to obtain fingerprints

S. 28(1)
amended by
No. 34/2005
s. 13(1)(a).

- (1) Before attempting to exercise a power under section 27 or 27A, the member of the police force must inform the registrable offender in language likely to be understood by him or her—

S. 28(1)(a)
amended by
No. 34/2005
s. 13(1)(b).

- (a) of the purpose for which the power is to be exercised and, in the case of a power under section 27, why the member is not satisfied as to the registrable offender's identity; and

S. 28(1)(b)
amended by
No. 34/2005
s. 13(1)(c).

- (b) that if the registrable offender refuses to give his or her fingerprints, or to submit to a fingerscan or to expose part of his or her body (as the case requires), voluntarily, reasonable force may be used; and

S. 28(1)(c)
amended by
No. 34/2005
s. 13(1)(d).

- (c) that the fingerprints, fingerscan or photographs will be retained by the Chief Commissioner of Police.

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- (2) A member of the police force, or a person authorised by him or her, may use reasonable force to take the fingerprints or a fingerscan of a registrable offender or to expose a part of the body of a registrable offender that the member of the police force is authorised under section 27A to ask the registrable offender to expose to enable the taking of photographs of that part of the body if—
- (a) the registrable offender refuses to co-operate voluntarily; and
 - (b) the use of reasonable force is authorised by a member of the police force in charge of a police station at the time of the request or a member of or above the rank of sergeant.
- (3) If reasonable force is to be used under section 27 or 27A, a person of the same sex as the registrable offender must, if practicable, be the person who uses the reasonable force.

S. 28(2)
amended by
No. 34/2005
s. 13(2).

S. 28(3)
amended by
No. 34/2005
s. 13(3).

29. Photographs

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S. 29(1)(2)
repealed by
No. 34/2005
s. 14(1).

- (3) Any photograph taken under section 27A must be taken—
- (a) in a place where no members of the public are present; and
 - (b) if practicable, by a person of the same sex as the registrable offender.
- (4) If practicable, any member of the police force present in a place while a photograph is being taken under section 27A must be of the same sex as the registrable offender.

S. 29(3)
amended by
No. 34/2005
s. 14(2).

S. 29(4)
amended by
No. 34/2005
s. 14(2).

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S. 29(5)
amended by
No. 34/2005
s. 14(2).

- (5) A registrable offender who is to be photographed under section 27A is entitled to be accompanied by a support person of his or her own choosing and, in the case of a child, must be accompanied by his or her parent or guardian or, if neither a parent or guardian is available, an independent person.

30. Retention of material for certain purposes

The Chief Commissioner of Police may, during the reporting period of a registrable offender, retain for law enforcement, crime prevention or child protection purposes any of the following taken under this Division from, or in relation to, the registrable offender—

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

and, at the end of that period, the Chief Commissioner of Police must cause them to be destroyed.

31. Reporting by remote offenders

- (1) This section applies if a registrable offender resides more than the prescribed distance from the nearest police station.
- (2) A registrable offender need not comply with a time limit concerning the making of a report in person under this Part if—
 - (a) he or she, or a person entitled to make the report on his or her behalf, contacts the Chief Commissioner of Police before the time limit expires; and

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- (b) the Chief Commissioner of Police agrees to allow the report to be made at a specific time that is after the time limit and at a specific place; and
 - (c) before the time limit expires he or she provides the Chief Commissioner of Police by telephone or other means with the information required to be reported under Division 1 or 2.
- (3) The Chief Commissioner of Police must ensure that there is a method of recording all agreements made under this section.

Division 4—Suspension and Extension of Reporting Obligations

32. Suspension and extension of reporting obligations

- (1) Any obligation imposed on a registrable offender by this Part is suspended for any period during which he or she—
 - (a) is in government custody; or
 - (b) is outside Victoria 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 under Division 6 (or an equivalent order made under the laws of a foreign jurisdiction).
- (2) The period for which a registrable offender's reporting obligations continue is extended by any length of time for which those obligations are suspended under sub-section (1)(a).

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Division 5—Reporting Period

33. When reporting obligations begin

For the purposes of this Division, a registrable offender's reporting obligations in respect of a registrable offence begin—

- (a) when the registrable offender is sentenced for the offence; or
- (b) when the registrable offender ceases to be in government custody in relation to the offence—

whichever is the later.

34. Length of reporting period

(1) A registrable offender must continue to comply with the reporting obligations imposed by this Part for—

- (a) 8 years, if he or she has only ever been found guilty of a single Class 2 offence; or
- (b) 15 years, if he or she—
 - (i) has only ever been found guilty of a single Class 1 offence; or
 - (ii) has ever been found guilty of 2 Class 2 offences; or

S. 34(1)(b)(ii)
substituted by
No. 34/2005
s. 15(1).

- (c) the remainder of his or her life, if he or she—
 - (i) has ever been found guilty of 2 or more Class 1 offences; or
 - (ii) has ever been found guilty of a Class 1 offence and 1 or more Class 2 offences; or

S. 34(1)(c)
substituted by
No. 34/2005
s. 15(2).

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- (iii) has ever been found guilty of 3 or more Class 2 offences.

Note: A life-long reporting obligation may be suspended under Division 6.

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

Note: The meaning of "single offence" is qualified by section 5(1).

- (4) For the purposes of this Division, a person subject to a sex offender registration order—
- (a) if found guilty of a Class 3 offence is deemed to have been found guilty of a Class 1 offence; and
- (b) if found guilty of a Class 4 offence or any other offence other than a Class 3 offence is deemed to have been found guilty of a Class 2 offence.

S. 34(4)
inserted by
No. 34/2005
s. 10(2).

35. Reduced period applies for juvenile registrable offenders

- (1) The reporting periods specified in section 34 do not apply to a person who was a child at the time at which he or she committed each registrable offence.

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- (2) Instead, a reporting period that is half the reporting period that would otherwise apply to the person under section 34 (or 7½ years in the case of a reporting period for life) applies to him or her.

36. Extended reporting period if registrable offender still on parole

- (1) This section applies if—
- (a) a registrable offender is on parole, or is an existing licensee, in respect of a registrable offence; and
 - (b) the reporting period in respect of the offence will end before the expiry of the sentence of imprisonment to which the parole or existing licence relates.
- (2) Despite anything to the contrary in this Division, the reporting period is extended until the expiry of the term of imprisonment to which the parole or existing licence relates.

37. Reporting period for corresponding registrable offenders

- (1) A corresponding registrable offender must continue to comply with the reporting obligations imposed by this Part until he or she would not be required, if he or she were in a foreign jurisdiction, to report to the corresponding registrar of that foreign jurisdiction.
- (2) For the purposes of this section, if a corresponding registrable offender is a corresponding registrable offender under the laws of more than one jurisdiction, the period for which he or she must continue to comply with the reporting obligations imposed by this Part is the longest period for which he or she would be required to report to the corresponding registrar of a foreign jurisdiction.

S. 37
substituted by
No. 34/2005
s. 16.

38. Reporting period for New South Wales registrable offenders

- (1) Subject to sub-section (2), a New South Wales registrable offender must continue to comply with the reporting obligations imposed by this Part for the period he or she is required to report in accordance with the New South Wales Act.
- (2) A New South Wales registrable offender who, on or after the date specified by the regulations for the purposes of section 10, is sentenced for a registrable offence or becomes a corresponding registrable offender must continue to comply with the reporting obligations imposed by this Part for—
 - (a) the period referred to in sub-section (1); or
 - (b) the period that he or she is required to report in accordance with this Division (other than this section)—whichever is longer.

Division 6—Exemption From Reporting Obligations

39. Supreme Court may exempt certain registrable offenders

- (1) This Division applies to a registrable offender who is required to continue to comply with the reporting obligations imposed by this Part for the remainder of his or her life.
- (2) If—
 - (a) a period of 15 years has passed (ignoring any period during which the registrable offender was in government custody) since he or she was last sentenced or released from government custody in respect of a registrable offence or a corresponding registrable offence, whichever is later; and

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- (b) he or she did not become the subject of a life-long reporting period under a corresponding Act whilst in a foreign jurisdiction before becoming the subject of such a period in Victoria; and
- (c) he or she is not on parole in respect of a registrable offence—

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

40. Order for suspension

- (1) On the application under section 39(2), the Supreme Court may make an order suspending the registrable offender's reporting obligations.
- (2) The Court must not make the order unless it is satisfied that the registrable offender does not pose a risk to the sexual safety of one or more persons or of the community.
- (3) In deciding whether to make the order, the Court must take into account—
 - (a) the seriousness of the registrable offender's registrable offences and corresponding registrable offences; and
 - (b) the period of time since those offences were committed; and
 - (c) the age of the registrable offender, the age of the victims of those offences and the difference in age between the registrable offender and the victims of those offences, as at the time those offences were committed; and
 - (d) the registrable offender's present age; and

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- (e) the registrable offender's total criminal record; and
 - (f) any other matter the Court considers appropriate.

41. Chief Commissioner is party to application

The Chief Commissioner of Police is a party to an application under section 39(2) and may make any submission to the Supreme Court in respect of the application.

42. No costs to be awarded

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

43. Restriction on right of unsuccessful applicant to re-apply for order

A registrable offender in respect of whom the Supreme Court refuses to make an order under this Division is not entitled to make a further application to the Court until 5 years have elapsed from the date of the refusal, unless the Court otherwise orders at the time of the refusal.

44. Cessation of order

- (1) An order made under this Division ceases to have effect if, at any time after the making of the order, the registrable offender—
 - (a) is made subject to a sex offender registration order; or
 - (b) is found guilty of a registrable offence; or
 - (c) becomes a corresponding registrable offender who must under section 37 continue to comply with the reporting obligations imposed by this Part for any period.

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- (2) An order that ceased to have effect in accordance with sub-section (1) is revived if—
- (a) the finding of guilt that caused the order to cease to have effect is quashed or set aside by a court; or
 - (b) the order ceased to have effect in accordance with sub-section (1)(a) and the sex offender registration order is quashed on appeal or the registrable offender's finding of guilt in respect of the offence that resulted in the making of that order is quashed or set aside by a court.
- (3) For 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 or a sex offender registration order.

45. Application for new order

- (1) If an order ceases to have effect in accordance with section 44(1), the registrable offender may apply under this Division for a new order.
- (2) Section 43 does not apply with respect to an application referred to in sub-section (1).
- (3) If an order ceases to have effect in accordance with section 44(1)(b) or (c), on an application under this Division for a new order, section 39(2)(a) applies as if the period referred to were a period of 15 years (ignoring any period during which he or she was in government custody) since he or she last committed a registrable offence or a corresponding registrable offence.

Division 7—Offences

46. Offence of failing to comply with reporting obligations

- (1) A registrable offender must not fail to comply with any of his or her reporting obligations without a reasonable excuse.

Penalty: 240 penalty units or imprisonment for 2 years.

- (2) In determining whether a person had a reasonable excuse for failing to comply with his or her reporting obligations, the court before which the proceedings are being heard is to have regard to the following matters—

- (a) the person's age; and
- (b) whether the person has a disability that affects the person's ability to understand, or to comply with, those obligations; and
- (c) whether the form of notification given to the registrable offender as to his or her obligations was adequate to inform him or her of those obligations, having regard to the offender's circumstances; and
- (d) any other matter the court considers appropriate.

- (3) It is a defence to proceedings for an offence of failing to comply with a reporting obligation if it is established by or on behalf of the person charged with the offence that, at the time the offence is alleged to have occurred, the person had not received notice, and was otherwise unaware, of the obligation.

47. Offence of furnishing false or misleading information

A person must not, in purported compliance with this Part, furnish information that the person knows to be false or misleading in a material particular.

Penalty: 240 penalty units or imprisonment for 2 years.

48. Time limit for prosecutions waived

Despite anything to the contrary in section 26(4) of the **Magistrates' Court Act 1989**, a proceeding for an offence under this Act may be commenced at any time.

49. Bar to prosecution for failing to report leaving Victoria

- (1) This section applies if a registrable offender leaves Victoria and is found guilty of failing to report his or her presence in a foreign jurisdiction as required by a corresponding Act.
- (2) The registrable offender is not to be prosecuted for a failure to comply with section 18 in respect of the travel out of Victoria.

Division 8—Notification of Reporting Obligations

50. Notice to be given to registrable offender

- (1) A registrable offender is to be given written notice of—
 - (a) his or her reporting obligations; and
 - (b) the consequences that may arise if he or she fails to comply with those obligations.
- (2) A registrable offender is to be given a notice under this section as soon as practicable after any of the following events happens—

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- (a) he or she is sentenced for a registrable offence;
- (b) he or she is released from government custody (whether in government custody for a registrable offence or not);
- (c) he or she enters Victoria if he or she has not previously been given notice of his or her reporting obligations in Victoria;
- (d) he or she becomes a corresponding registrable offender, if he or she is in Victoria at that time.
- (3) A notice under this section is to be given by the person or body specified in, or determined in accordance with, the regulations.
- (4) A person or body is not required to give a notice under this section if the notice has been given by another person or body.
- (5) Despite anything in this Division, a court that—
- (a) makes any order or imposes any sentence that has the effect of making a person a registrable offender for the purposes of this Act; or
- (b) imposes any sentence on a person in relation to a registrable offence—
- must ensure that the person is, at the time the order is made or the sentence imposed, given a written notice specifying the reporting period that applies to him or her consequent on the order or sentence.
- (6) In sub-section (5), "**court**" does not include a court of a foreign jurisdiction.

S. 50(5)
substituted by
No. 34/2005
s. 17.

S. 50(6)
inserted by
No. 34/2005
s. 17.

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s. 51

S. 51
(Heading)
amended by
No. 34/2005
s. 18(1).

51. Courts to provide information to Chief Commissioner of Police

- (1) This section applies if a court—
- (a) makes any order or imposes any sentence that has the effect of making a person a registrable offender for the purposes of this Act; or
 - (b) imposes any sentence on a person in relation to a registrable offence; or
 - (ba) determines an appeal made to it by a registrable offender against the finding of guilt or sentence in respect of a registrable offence or against the making of a sex offender registration order in respect of an offence; or
 - (c) makes any order in relation to a registrable offender that has the effect of removing the person from the ambit of this Act.

S. 51(1)(ba)
inserted by
No. 34/2005
s. 18(2).

Example:

Paragraph (c) would apply, for instance, if a court on appeal quashes a person's finding of guilt in relation to a registrable offence in respect of which he or she had been sentenced and that was the only offence in respect of which he or she had ever been found guilty.

S. 51(2)
amended by
No. 34/2005
s. 18(3)(a)(b).

- (2) The court must ensure that details of the order, sentence or determination of appeal are provided to the Chief Commissioner of Police as soon as is practicable after the making or imposition of the order or sentence or the determination of the appeal (as the case requires).
- (3) In this section, "**court**" does not include a court of a foreign jurisdiction.

52. Notice to be given when reporting period changes

- (1) This section applies to a registrable offender whose reporting period has changed since he or she was last notified of his or her reporting period in Victoria.
- (2) The Chief Commissioner of Police must give (or cause to be given) written notice to the registrable offender as soon as is practicable after the change and in no case later than the time the offender next reports in accordance with this Act.

53. Supervising authority to notify Chief Commissioner of Police of certain events

- (1) This section applies if a registrable offender—

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S. 53(1)(a)
repealed by
No. 34/2005
s. 19.

- (b) ceases to be in government custody; or
- (c) ceases to be subject to a supervised sentence;
or
- (d) ceases to participate in a diversion program under section 128A of the **Magistrates' Court Act 1989**; or
- (e) ceases to be subject to a condition of parole requiring the person to be subject to supervision; or
- (f) ceases to be an existing licensee—

regardless of the reason why the registrable offender was in custody, was subject to the sentence, was in the program, was on parole or was a licensee.

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- (2) As soon as is practicable before or after the relevant event listed in sub-section (1) occurs, the supervising authority is to give written notice of the event to the Chief Commissioner of Police.
 - (3) The notice must include any details required by the regulations.

54. Notices may be given by Chief Commissioner

The Chief Commissioner of Police may, at any time, cause written notice to be given to a registrable offender of—

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

55. Failure to comply with procedural requirements does not affect registrable offender's obligations

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

Note: This section aims to prevent a registrable offender who was not given notice of a reporting obligation by an official as required by this Part from arguing that the obligation does not apply to him or her as a result of that failure if there is evidence that the registrable offender was aware of the obligation through some other means. (If there is no such evidence then the registrable offender would have a defence to the charge under section 46(3) on the basis that he or she was not aware of the obligation.)

Division 9—Modified Reporting Procedures for Protected Witnesses

56. Who this Division applies to

- (1) This Division applies to each of the following—
 - (a) any registrable offender who is currently a participant in a Victorian witness protection program;
 - (b) any registrable offender who is the subject of an order in force under this Division declaring that he or she is a person to whom this Division applies.
- (2) This Division (except sections 58 to 60) also applies to a registrable offender who is receiving protection under a foreign witness protection law specified by the regulations for the purposes of this sub-section, 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 sub-section.
- (3) In this Division, "**Victorian witness protection program**" has the same meaning as it has in the **Witness Protection Act 1991**.

Note: Section 6(5) excludes from the definition of "registrable offender" persons receiving protection under foreign witness protection laws prescribed for the purposes of that section or who have the same status as such persons under a corresponding Act that is so prescribed.

57. 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 such of the information that he or she is required to report under this Part as the Chief Commissioner of Police requires him or her to report and does so at the times, and in a manner, authorised by the Chief Commissioner of Police 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 Chief Commissioner of Police.

58. Order as to whether this Division applies

- (1) The Chief Commissioner of Police must make an order declaring that a registrable offender who is a participant in a Victorian witness protection program either is, or is not, a person to whom this Division applies—
 - (a) when the registrable offender ceases to be a participant in the program as a consequence of a request under section 16(1) of the **Witness Protection Act 1991**; or
 - (b) when the Chief Commissioner of Police makes a decision under section 16(2) of the **Witness Protection Act 1991** that the protection and assistance provided to the registrable offender under the program be terminated.
 - (2) On making such an order, the Chief Commissioner of Police must take reasonable steps to notify the registrable offender of the terms of the order.
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- (3) A person who receives such a notification may, within 28 days after receiving it, apply in writing to the Chief Commissioner of Police for a review of the order.
 - (4) On receiving an application for a review, the Chief Commissioner of Police—
 - (a) must review the order, and confirm or reverse it; and
 - (b) before making a decision on the matter, must give the applicant a reasonable opportunity to state his or her case; and
 - (c) after making a decision on the matter, must give written notice of the decision to the applicant.
 - (5) If the decision of the Chief Commissioner of Police is to confirm the order, the notice of the decision must inform the applicant of his or her rights under section 59.

59. Appeal against order

- (1) A person who is aggrieved by a decision of the Chief Commissioner of Police in relation to an order under this Division may appeal to the Director against the decision within 3 days after receiving notice of the decision.
- (2) The Director, in determining the appeal, may make any decision that could have been made by the Chief Commissioner of Police.
- (3) The Director's decision in respect of the appeal has effect according to its terms.

S. 59(1)
amended by
No. 79/2004
s. 100(2)(a)(i).

S. 59(2)
amended by
No. 79/2004
s. 100(2)(a)(i).

S. 59(3)
amended by
No. 79/2004
s. 100(2)(a)(ii).

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Part 3—Reporting Obligations

s. 60

60. When order takes effect

- (1) An order declaring that this Division applies to a registrable offender takes effect immediately.
- (2) An order declaring that this Division does not apply to a registrable offender takes effect—
 - (a) at the end of 28 days after notice of the making of the order is given to the registrable offender; or
 - (b) if an application referred to in section 58(3) is made before the end of that period, at the end of 3 days after notice is given to the applicant as referred to in section 58(4)(c); or
 - (c) if an appeal is made under section 59 before the end of that 3 day period, on the date on which the Director determines the appeal—

whichever is the later.

61. Modification of ongoing reporting obligations

Sections 14(1), 18 to 21 and 49 apply with respect to a person to whom this Division applies as if any reference in them to Victoria were a reference to the jurisdiction in which the person generally resides.

S. 60(2)(c)
amended by
No. 79/2004
s. 100(2)(b).

PART 4—THE SEX OFFENDER REGISTER

62. Register of Sex Offenders

- (1) The Chief Commissioner of Police is to establish and maintain a Register of Sex Offenders.
- (2) The Register is to contain the following information in respect of each registrable offender (to the extent that it is known by the Chief Commissioner of Police)—
 - (a) the registrable offender's name and other identifying particulars; and
 - (b) details of each Class 1 or Class 2 offence of which the registrable offender has been found guilty or with which he or she has been charged; and
 - (c) details of each offence of which the registrable offender has been found guilty that resulted in the making of a sex offender registration order; and
 - (d) the date on which the registrable offender was sentenced for any registrable offence; and
 - (e) the date on which the registrable offender ceased to be in government custody in respect of a registrable offence, or entered or ceased to be in government custody in respect of any offence during his or her reporting period; and
 - (f) any information reported in respect of the registrable offender under Part 3; and
 - (g) any other information that the Chief Commissioner of Police considers appropriate to include in the Register.

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Part 4—The Sex Offender Register

s. 63

63. Access to the Register to be restricted

- (1) The Chief Commissioner of Police must ensure—
- (a) that the Register, or any part of the Register, is only accessed by a person, or a class of person, who is authorised to do so by the Chief Commissioner of Police; and
 - (b) that personal information in the Register is only disclosed by a person with access to the Register, or the relevant part of the Register, for law enforcement or judicial functions or activities and then, in any case, only to a government department, public statutory authority or court or as otherwise required by or under any Act or law.
- (1A) Despite sub-section (1)(b), the Chief Commissioner of Police may notify the Registrar within the meaning of the **Births, Deaths and Marriages Registration Act 1996** of the name (including any other name by which he or she is, or has previously been, known), date of birth and residential address or addresses of any registrable offender as stated in the Register.
- (2) The Chief Commissioner of Police must develop guidelines in relation to the accessing and disclosure of personal information in the Register that attempt to ensure that access to the personal information in the Register is restricted to the greatest extent that is possible without interfering with the purpose of this Act.
- (3) For the purposes of this section, the Register includes any information from any register maintained under a corresponding Act that is accessible by the Chief Commissioner of Police, regardless of whether or not that information is physically part of the Register.

S. 63(1)(b)
amended by
No. 34/2005
s. 20(1)(a)–(c).

S. 63(1A)
inserted by
No. 34/2005
s. 20(2).

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- (4) This section has effect despite any other Act or law to the contrary.

64. Person with access to Register not to disclose personal information from it

A person authorised to have access to the Register or any part of the Register must not disclose any personal information in the Register except, for law enforcement functions or activities, to a government department or public statutory authority or as otherwise required by or under any Act or law.

Penalty: 240 penalty units or imprisonment for 2 years.

65. Restriction on who may access personal information on protected witnesses

The Chief Commissioner of Police must ensure that any personal information in the Register about a person to whom Division 9 of Part 3 applies cannot be accessed other than by a person authorised by the member of the police force or officer of an approved authority (within the meaning of the **Witness Protection Act 1991**) responsible for the day to day operation of the witness protection program.

66. Registrable offender's rights in relation to Register

- (1) If asked to do so by a registrable offender, the Chief Commissioner of Police must provide the registrable offender with a copy of all the reportable information that is held in the Register in relation to the registrable offender.

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Part 4—The Sex Offender Register

s. 66A

- (2) The Chief Commissioner of Police must comply with sub-section (1) as soon as is practicable after being asked to do so.
- (3) A registrable offender may ask the Chief Commissioner of Police to amend any reportable information held in the Register in relation to the registrable offender that is incorrect.
- (4) The Chief Commissioner of Police must comply with such a request on being satisfied that the information is incorrect.
- (5) In this section, "**reportable information**" means any information supplied to the Chief Commissioner of Police by, or on behalf of, the registrable offender that the registrable offender is required to report to the Chief Commissioner and that is still held in the Register.

S. 66A
inserted by
No. 79/2004
s. 101 (as
amended by
No. 97/2004
s. 9(7)).

66A. Director to monitor compliance

The Director is to monitor compliance with this Part by the Chief Commissioner of Police and other persons authorised by the Chief Commissioner of Police to have access to the Register of Sex Offenders or any part of that Register.

S. 66B
inserted by
No. 79/2004
s. 101 (as
amended by
No. 97/2004
s. 9(7)).

66B. Director to be given reasonable assistance

The Chief Commissioner of Police must ensure that members of the police force and other persons authorised by him or her to have access to the Register of Sex Offenders or any part of that Register give the Director any assistance that the Director reasonably requires to enable the Director to perform the Director's functions under this Part.

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Part 4—The Sex Offender Register

s. 66C

66C. Powers in relation to monitoring

- (1) An authorised officer may, after notifying the Chief Commissioner of Police of the intended entry—
 - (a) enter at any time premises occupied by the police force at which the Director reasonably believes there are documents that contain, or relate to, the Register of Sex Offenders or any part of that Register or that are relevant to the Director's functions under this Part; and
 - (b) inspect or copy any document found at any premises entered under paragraph (a); and
 - (c) do anything that it is necessary or convenient to do to enable an inspection to be carried out under this section.
- (2) For the purposes of this section, an "**authorised officer**" is—
 - (a) the Director; or
 - (b) a member of staff of the Office of Police Integrity within the meaning of the **Police Regulation Act 1958** who is authorised under sub-section (3); or
 - (c) a person who has taken an oath or made an affirmation under section 102D(3) of the **Police Regulation Act 1958** and who is authorised under sub-section (3).
- (3) The Director may authorise a member of staff of the Office of Police Integrity or a person who has taken an oath or made an affirmation under section 102D(3) of the **Police Regulation Act 1958** to exercise the powers of an authorised officer under this section.

S. 66C
inserted by
No. 79/2004
s. 101 (as
amended by
No. 97/2004
s. 9(7)).

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Part 4—The Sex Offender Register

s. 66D

S. 66D
inserted by
No. 79/2004
s. 101 (as
amended by
No. 97/2004
s. 9(7)).

66D. Reports on monitoring compliance

- (1) The Director may at any time give the Minister a written report on—
 - (a) the results of any inspections carried out under section 66C; and
 - (b) compliance with this Part in the period to which the report relates by the Chief Commissioner of Police and other persons authorised by the Chief Commissioner of Police to have access to the Register of Sex Offenders or any part of that Register.
- (2) If requested by the Minister to do so, the Director must give the Minister a report under sub-section (1) as soon as practicable after receiving the request.
- (3) The Director must give a copy of any report under sub-section (1) to the Chief Commissioner of Police.

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Part 5—Registered Sex Offenders Prohibited from Child-Related
Employment

s. 67

**PART 5—REGISTERED SEX OFFENDERS PROHIBITED
FROM CHILD-RELATED EMPLOYMENT**

67. Definitions

(1) In this Part—

"child-related employment" means employment involving contact with a child in connection with—

S. 67(1) def. of
"child-related
employment"
amended by
No. 57/2005
s. 51(1).

- (a) child protection services;
- (b) child care services mentioned in section 194(1) of the A New Tax System (Family Assistance) (Administration) Act 1999 of the Commonwealth;
- (c) children's services within the meaning of the **Children's Services Act 1996**;
- (d) educational institutions;
- (e) community services, remand centres, youth residential centres, youth supervision units or youth training centres, within the meaning of the **Children and Young Persons Act 1989** or probation services under that Act;
- (f) refuges or other residential facilities used by children;
- (g) paediatric wards of public hospitals within the meaning of the **Health Services Act 1988** or of private hospitals within the meaning of that Act;
- (h) clubs, associations or movements (including of a cultural, recreational or sporting nature) that provide services or conduct activities for, or directed at,

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s. 67

children or whose membership is
mainly comprised of children;

- (i) religious organisations;
- (j) baby sitting or child minding services
arranged by a commercial agency;
- (k) fostering children;
- (l) providing, on a publicly-funded or
commercial basis, a transport service
specifically for children;
- (m) coaching or private tuition services of
any kind for children;
- (n) counselling or other support services
for children;
- (o) overnight camps for children regardless
of the type of accommodation or of
how many children are involved;
- (p) school crossing services, being services
provided by people employed to assist
children to cross roads on their way to
or from school;
- (q) providing, on a commercial basis and
not merely incidentally to or in support
of other business activities, an
entertainment or party service
specifically for children;
- (r) providing, on a commercial basis and
not merely incidentally to or in support
of other business activities, gym or play
facilities specifically for children;

Example

The provision of play facilities for children by a
fast-food business may be merely incidental to
the business of providing food.

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- (s) providing, on a commercial basis and not merely incidentally to or in support of other business activities, photography services specifically for children;
- (t) talent or beauty competitions held for children on a commercial basis and not merely incidentally to or in support of other business activities;

"contact" means any form of contact between a person and a child and includes—

- (a) any form of physical contact;
- (b) any form of oral communication, whether face to face or by telephone;
- (c) any form of written communication, including electronic communication;

"educational institution" means—

- (a) any State school established under section 21 of the **Education Act 1958** or any school registered under Part III of that Act; or
- (b) any of the following—
 - (i) a TAFE college within the meaning of the **Vocational Education and Training Act 1990**;
 - (ii) a university with a TAFE division within the meaning of the **Vocational Education and Training Act 1990** to the extent that the university provides technical or further education;

S. 67(1) def. of "educational institutions for children" substituted as "educational institution" by No. 57/2005 s. 51(2).

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(iii) a provider of adult, community and further education, within the meaning of the **Adult, Community and Further Education Act 1991**, that is eligible for funding under section 6(1)(b) of that Act;

(iv) an adult education institution within the meaning of the **Adult, Community and Further Education Act 1991**;

(v) an organisation on the Register of Education and Training Organisations within the meaning of the **Victorian Qualifications Authority Act 2000**—

to the extent that the college, university, provider, institution or organisation provides a program of study or training primarily for, or directed at, children, and that leads to the award of a Senior Secondary Certificate of Education that is recognised by the AQF within the meaning of the **Victorian Qualifications Authority Act 2000**; or

(c) any other institution that provides a program of study or training primarily for, or directed at, children—

but does not include—

(d) except to the extent provided by paragraph (b), a university specified in Schedule 1 to the **Tertiary Education Act 1993**; or

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Part 5—Registered Sex Offenders Prohibited from Child-Related
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- (e) except to the extent provided by paragraph (b), a TAFE college within the meaning of the **Vocational Education and Training Act 1990** or an adult education institution within the meaning of the **Adult, Community and Further Education Act 1991**—

even if that university, college or institution has a student under 18 years of age;

"employment" means—

- (a) performance of work—
- (i) under a contract of employment or a contract for services (whether written or unwritten); or
 - (ii) as a minister of religion or as part of the duties of a religious vocation; or
- (b) undertaking practical training as part of an educational or vocational course other than under an arrangement within the meaning of Part IVA of the **Education Act 1958** where the pupil is of or under 18 years of age; or
- (c) performance of work as a volunteer including the performance of unpaid community work under a community-based order, a drug treatment order or an intensive correction order within the meaning of the **Sentencing Act 1991**;

"officer"—

- (a) in relation to a body corporate that is a corporation within the meaning of the Corporations Act, has the same meaning as in section 9 of that Act; and

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(b) in relation to any other body corporate, means any person (by whatever name called) who is concerned or takes part in the management of the body corporate;

"registered sex offender" means a registrable offender or a person subject to a sex offender registration order.

- (2) For the purposes of this Act, a person is engaged in child-related employment if he or she is—
- (a) an officer of a body corporate that is engaged in child-related employment; or
 - (b) a member of the committee of management of an unincorporated body or association that is engaged in child-related employment; or
 - (c) a member of a partnership that is engaged in child-related employment.

68. Registered sex offender excluded from child-related employment

S. 68(1)
amended by
No. 57/2005
s. 51(3).

- (1) A registered sex offender must not—
- (a) apply for; or
 - (b) engage in—

employment that is child-related employment.

Penalty: 240 penalty units or imprisonment for 2 years.

- (2) In a proceeding for an offence against subsection (1), it is a defence to the charge for the accused to prove that, at the time the offence is alleged to have been committed, he or she did not know that the employment was child-related employment.

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69. Offence to fail to disclose charges

- (1) A person engaged in child-related employment (including employment under a contract for services) who is charged with a registrable offence must disclose the charge to his or her employer within 7 days after the filing of the charge or (in the case of a charge that is pending immediately before the commencement of this sub-section) within 7 days after that commencement.

Penalty: 60 penalty units.

- (2) A person who applies for employment (including employment under a contract for services) that is child-related employment and against whom there is a pending charge of a registrable offence must disclose the charge to his or her prospective employer at the time of making the application.

Penalty: 60 penalty units.

- (3) A person who has (whether before or after the commencement of this sub-section) applied for employment (including employment under a contract for services) that is child-related employment and who, while the application is still current, is charged with a registrable offence must disclose the charge to his or her prospective employer within 7 days after the filing of the charge or (in the case of a charge that is pending immediately before the commencement of this sub-section) within 7 days after that commencement.

Penalty: 60 penalty units.

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Employment

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70. Confidentiality of information

- (1) A person must not give to any other person, whether directly or indirectly, any information acquired by the person under section 69.

Penalty: 60 penalty units.

- (2) Sub-section (1) does not apply to the giving of information—

(a) to a court or tribunal in the course of legal proceedings; or

(b) pursuant to an order of a court or tribunal; or

(c) to the extent reasonably required to enable the investigation or the enforcement of a law of this State or of any other State or of a Territory or of the Commonwealth; or

(d) to an Australian legal practitioner (within the meaning of the **Legal Profession Act 2004**) for the purpose of obtaining legal advice or representation relating to a matter under this Act; or

(e) with the written authority of the person to whom the information relates or, if the person to whom the information relates is a child or a person with impaired mental functioning within the meaning of Subdivision (8D) of Division 1 of Part I of the **Crimes Act 1958**, with the written authority of a person authorised to act on that person's behalf; or

(f) in good faith for the purposes of this Act; or

(g) as required or authorised by or under any other Act.

S. 70(2)(d)
amended by
No. 18/2005
s. 18(Sch. 1
item 99).

S. 70(2)(e)
amended by
No. 57/2005
s. 51(4).

PART 6—OTHER MATTERS

71. Exclusion of liability

- (1) An act or omission that a person does or omits to do in good faith in the administration or execution of this Act does not subject the person personally to any action, liability, claim or demand.
- (2) Section 86J of the **Police Regulation Act 1958** extends to any act purporting to be done by the Director or any other person referred to in that section in pursuance of the Director's functions under Part 4 of this Act.

S. 71(2)
substituted by
No. 79/2004
s. 102.

72. Effect of spent convictions

- (1) The fact that an offence in respect of which a registrable offender has been found guilty becomes spent does not affect—
 - (a) the status of the offence as a registrable offence for the purposes of this Act in respect of the registrable offender; or
 - (b) any reporting obligations of the registrable offender.
- (2) For the purposes of this section, an offence becomes spent if, under a law in any jurisdiction, the registrable offender is permitted to not disclose the fact that he or she was convicted or found guilty of the offence.

73. Certificate concerning evidence

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

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s. 73A

- (a) at any particular date contained information specified in the certificate; or
- (b) indicated that, during any particular period, a specified person failed to notify information as required by this Act—

is evidence, and in the absence of evidence to the contrary is proof, of the details specified in the certificate.

- (2) For 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 facts stated in the certificate.

S. 73A
inserted by
No. 34/2005
s. 25.

**73A. Transitional provisions—Sex Offenders
Registration (Amendment) Act 2005**

- (1) The amendments of section 34 of this Act made by section 15 of the **Sex Offenders Registration (Amendment) Act 2005** apply to any person who is sentenced for a registrable offence on or after the commencement of that section of that Act.
- (2) Despite the repeal of section 50(5) effected by section 17 of the **Sex Offenders Registration (Amendment) Act 2005** and the revocation of any regulations made for the purpose of that section 50(5), those regulations continue to have effect with respect to a registrable offender who is sentenced for a registrable offence before the commencement of that section of that Act (a "pre-commencement offence") and who is not again sentenced for a registrable offence on or after the commencement of that section of that Act before his or her reporting obligations commence in respect of the pre-commencement offence.

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Part 6—Other Matters

s. 74

74. Supreme Court—limitation of jurisdiction

(1) It is the intention of section 71 to alter or vary section 85 of the **Constitution Act 1975**.

S. 74
amended by
No. 79/2004
s. 103 (LA
s. 39B(1)).

(2) It is the intention of section 71, as amended by section 102 of the **Major Crime (Investigative Powers) Act 2004**, to alter or vary section 85 of the **Constitution Act 1975**.

S. 74(2)
inserted by
No. 79/2004
s. 103.

75. Regulations

(1) The Governor in Council may make regulations for or with respect to—

(a) matters incidental to the making of reports under Part 3 including—

(i) the manner and form in which a report must be made; and

(ii) the nature of any verifying documentation or evidence to be produced in support of a report; and

(iii) requiring that a report contain additional information to that required by that Part;

(b) the form of, or the information to be included in, any notice or other document that is required by this Act to be given to registrable offenders;

(c) the manner and form in which the Register is to be established and maintained, including the manner and form in which information is to be entered in the Register;

(d) requiring or permitting the Chief Commissioner of Police to remove specified information, or information of a specified class, from the Register;

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Part 6—Other Matters

s. 75

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- (e) the notification of reporting obligations to registrable offenders, including—
- (i) the manner and form in which the information is to be given to registrable offenders;
 - (ii) permitting the person notifying a registrable offender to ask the registrable offender to acknowledge being given the notice;
 - (iii) making special provision for the notification of registrable offenders who are children or who have disabilities or other special needs;
 - (iv) permitting or requiring a person or body to be notified of a registrable offender's status as a child or person who has a disability or other special need to facilitate notification and reporting;
 - (v) providing for the notification to be given to a carer of, or a person nominated by, a registrable offender who may be unable to understand his or her reporting obligations or the consequences of failing to comply with those obligations;
 - (vi) requiring that a registrable offender be given additional information to that required by this Act;
 - (vii) requiring a person or body to provide specified information to registrable offenders concerning their reporting obligations;
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s. 75

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- (viii) requiring a person or body to inform the Chief Commissioner of Police—
 - (A) that a registrable offender has left the custody or control of the person or body;
 - (B) that the person or body has given specified information to a registrable offender;
 - (C) that, in the opinion of the person or body, a registrable offender does or does not have the legal capacity to understand specified information;
 - (ix) requiring a person or body to give the Chief Commissioner of Police any acknowledgment by a registrable offender of the receipt of a notice or any other specified information that is held by the person or body;
 - (f) empowering the Chief Commissioner of Police to give directions as to which police stations are to be used as a venue for the making of reports;
 - (g) providing that a police station, or a class of police station, is not to be used as a venue for the making of reports without the consent of the Chief Commissioner of Police;
 - (h) requiring a person or body to create records for the purposes of this Act and to retain those records for a specified period or an unlimited period;
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Part 6—Other Matters

s. 75

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- (i) prescribing a person included in a specified class of persons as a corresponding registrable offender for the purposes of this Act;
 - (j) stating that a specified class of order made under a specified corresponding Act is a corresponding sex offender registration order for the purposes of this Act;
 - (k) prescribing any other matter required or permitted by this Act to be prescribed or that it is necessary or convenient to prescribe to give effect to this Act.
- (2) The regulations—
- (a) may be of general or of specially limited application; and
 - (b) may differ according to differences in time, place or circumstance; and
 - (c) may require a matter affected by the regulations to be—
 - (i) in accordance with a specified standard or specified requirement; or
 - (ii) approved by or to the satisfaction of a specified person or a specified class of person; or
 - (iii) as specified in both sub-paragraphs (i) and (ii); and
 - (d) may confer a discretionary authority or impose a duty on a specified person or a specified class of person; and
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Act No. 56/2004

Part 6—Other Matters

s. 75

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- (e) may provide in a specified case or class of case for the exemption of persons or things from any of the provisions of the regulations, whether unconditionally or on specified conditions, and either wholly or to such an extent as is specified; and
 - (f) may impose a penalty not exceeding 20 penalty units for a contravention of the regulations.
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Sex Offenders Registration Act 2004
Act No. 56/2004

Part 7—Amendment of Other Acts

s. 76

PART 7—AMENDMENT OF OTHER ACTS

See:
Act No.
8414.
Reprint No. 6
as at
1 January
2002
and
amending
Act Nos
2/2001,
23/2002,
103/2003 and
32/2004.
LawToday:
www.dms.
dpc.vic.
gov.au

76. Role of Police Ombudsman under Ombudsman Act 1973

(1) After section 6A(3) of the **Ombudsman Act 1973** insert—

"(3A) Without limiting sub-section (3), the Police Ombudsman is also to monitor compliance with Part 4 of the **Sex Offenders Registration Act 2004** by the Chief Commissioner of Police and other persons authorised by the Chief Commissioner of Police to have access to the Register of Sex Offenders or any part of that Register."

(2) In section 13(3A)(c)(i) of the **Ombudsman Act 1973**, for "or (2AB)" substitute ", (2AB) or section 6A(3A)".

77. New Division 3B inserted in Part 4 of the Ombudsman Act 1973

After Division 3A of Part IV of the **Ombudsman Act 1973** insert—

"Division 3B—Monitoring Compliance With Sex Offenders Registration Act 2004

22D. Police Ombudsman to be given reasonable assistance

The Chief Commissioner of Police must ensure that members of the police force and other persons authorised by him or her to have access to the Register of Sex Offenders or any part of that Register give the Police Ombudsman any assistance that the Police Ombudsman reasonably requires to enable the Police Ombudsman to exercise the Police Ombudsman's functions in relation to Part 4

Sex Offenders Registration Act 2004
Act No. 56/2004

Part 7—Amendment of Other Acts

s. 78

of the **Sex Offenders Registration Act 2004**.

22E. Powers in relation to monitoring

The Police Ombudsman or an employee referred to in section 7 authorised by the Police Ombudsman in that behalf may, after notifying the Chief Commissioner of Police of the intended entry—

- (a) enter at any time any premises occupied by the police force at which the Police Ombudsman reasonably believes there are documents that contain, or relate to, the Register of Sex Offenders or any part of that Register or that are relevant to the Police Ombudsman's functions in relation to Part 4 of the **Sex Offenders Registration Act 2004**; and
- (b) inspect or copy any document found at any premises entered under paragraph (a); and
- (c) do anything that it is necessary or convenient to do to enable an inspection to be carried out under this section."

78. New section 25B inserted in Ombudsman Act 1973

After section 25A of the **Ombudsman Act 1973** insert—

"25B. Reports on monitoring compliance with Sex Offenders Registration Act 2004

- (1) The Police Ombudsman may at any time give the Minister administering the **Sex Offenders Registration Act 2004** a written report on—
 - (a) the results of any inspections carried out under section 22E; and

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Act No. 56/2004

Part 7—Amendment of Other Acts

s. 79

-
- (b) compliance with Part 4 of that Act in the period to which the report relates by the Chief Commissioner of Police and other persons authorised by the Chief Commissioner of Police to have access to the Register of Sex Offenders or any part of that Register.
- (2) If requested by the Minister administering the **Sex Offenders Registration Act 2004** to do so, the Police Ombudsman must give that Minister a report under sub-section (1) as soon as practicable after receiving the request.
- (3) The Police Ombudsman must give a copy of any report under sub-section (1) to the Chief Commissioner of Police."

79. Consequential amendment of Crimes Act 1958

In section 566 of the **Crimes Act 1958**, in the definition of "sentence", after paragraph (b) **insert—**

"(c) any order made under section 11 of the **Sex Offenders Registration Act 2004**; and".

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Sch. 1

SCHEDULES

SCHEDULE 1

Section 7(2)

CLASS 1 OFFENCES

1. An offence against the **Crimes Act 1958** that involves sexual penetration (within the meaning given by section 35(1) of the **Crimes Act 1958**) where the person against whom the offence is committed is a child.

Note: Item 1 covers any offence against the **Crimes Act 1958** that involves sexual penetration where the victim is a child including rape (section 38), incest (section 44), sexual penetration of child under 16 (section 45(1)), sexual penetration of 16 or 17 year old (section 48(1)), sexual penetration of person with impaired mental functioning (section 51(1)) and sexual penetration of resident of residential facility (section 52(1)).

Sch. 1 item 1 amended by No. 34/2005 s. 24(1)(a).

Note to item 1 inserted by No. 34/2005 s. 24(1)(b).
2. An offence against section 47A of the **Crimes Act 1958** (sexual relationship with child under the age of 16).
3. An offence against section 49A of the **Crimes Act 1958** (facilitating sexual offences against children).

* * * * *

Sch. 1 items 4, 5 repealed by No. 34/2005 s. 24(1)(c).
6. An offence against a provision of the **Crimes Act 1958** amended or repealed before 1 October 2004 of which the necessary elements at the time it was committed consisted of elements that constitute any of the offences referred to in items 1 to 3.

Sch. 1 item 6 amended by No. 34/2005 s. 24(1)(d).
- 6A. An offence against section 60AC of the **Crimes Act 1958** (aggravated sexual servitude).

Sch. 1 item 6A inserted by No. 34/2005 s. 21.
- 6A. Without limiting item 6, an offence referred to in any of the following paragraphs of Schedule 1 to the **Sentencing Act 1991** where the person against whom the offence is committed is a child—
 - (a) paragraph (ab);

Sch. 1 item 6A inserted by No. 34/2005 s. 24(1)(e).

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Sch. 1

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- (b) paragraph (ac);
 - (c) paragraph (b)(i) and (ii);
 - (d) paragraph (c)(iii), (iv), (vi), (vii), (ix), (x), (xii), (xiii), (xvi), (xvii) and (xix);
 - (e) paragraph (d)(i), (ii), (iii), (v), (vi), (viii), (ix), (xi), (xii) and (xiii);
 - (f) paragraph (e)(i) and (ii).
7. An offence against section 50BA, 50BB, 50DA or 50DB of the Crimes Act 1914 of the Commonwealth (offences involving sexual intercourse outside Australia with child under the age of 16).
 8. An offence against section 270.6 of the Criminal Code of the Commonwealth, where the person against whom the offence is committed is a child.
 9. Any offence under a law of a foreign jurisdiction that, if it had been committed in Victoria, would have constituted an offence of a kind listed in this Schedule.
 10. An offence under a law of a foreign jurisdiction that the regulations state is a Class 1 offence.
 11. An offence an element of which is an intention to commit an offence of a kind listed in this Schedule.
 12. An offence of attempting, or of conspiracy or incitement, to commit an offence of a kind listed in this Schedule.
 13. An offence that, at the time it was committed—
 - (i) was a Class 1 offence for the purposes of this Act; or
 - (ii) in the case of an offence committed before 1 October 2004, was an offence of a kind listed in this Schedule.
-

SCHEDULE 2

Section 7(3)

CLASS 2 OFFENCES

1. An offence against section 39 of the **Crimes Act 1958** (indecent assault) where the person against whom the offence is committed is a child.
2. An offence against section 40(1) of the **Crimes Act 1958** (assault with intent to rape) where the person against whom the offence is committed is a child.
3. An offence against section 47(1) of the **Crimes Act 1958** (indecent act with child under the age of 16).
4. An offence against section 49(1) of the **Crimes Act 1958** (indecent act with 16 year old child).
5. An offence against section 51(2) of the **Crimes Act 1958** (indecent act with person with impaired mental functioning) where the person against whom the offence is committed is a child.
6. An offence against section 52(2) of the **Crimes Act 1958** (indecent act with resident of residential facility) where the person against whom the offence is committed is a child.
7. An offence against section 53 of the **Crimes Act 1958** (administration of drugs etc.) where the person against whom the offence is committed is a child.
8. An offence against section 54 of the **Crimes Act 1958** (occupier etc. permitting unlawful sexual penetration).
9. An offence against section 55 of the **Crimes Act 1958** (abduction or detention) where the person against whom the offence is committed is a child.
10. An offence against section 56 of the **Crimes Act 1958** (abduction of child under the age of 16).
11. An offence against section 57 of the **Crimes Act 1958** (procuring sexual penetration by threats or fraud) where the person against whom the offence is committed is a child.
12. An offence against section 58 of the **Crimes Act 1958** (procuring sexual penetration of child under the age of 16).
13. An offence against section 59 of the **Crimes Act 1958** (bestiality).

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Sch. 2

Sch. 2
item 14A
inserted by
No. 34/2005
s. 22(1).

14. An offence against section 60 of the **Crimes Act 1958** (soliciting acts of sexual penetration or indecent acts).

14A. An offence against section 60AE of the **Crimes Act 1958** (aggravated deceptive recruiting for commercial sexual services).

15. An offence against section 60B(2) of the **Crimes Act 1958** (loitering near schools etc.).

16. An offence against section 68(1) of the **Crimes Act 1958** (production of child pornography).

17. An offence against section 69 of the **Crimes Act 1958** (procurement of minor for child pornography).

18. An offence against section 70(1) of the **Crimes Act 1958** (possession of child pornography).

Sch. 2
item 18A
inserted by
No. 34/2005
s. 22(2).

18A. An offence against section 70AC of the **Crimes Act 1958** (sexual performance involving a minor).

19. An offence against section 76 of the **Crimes Act 1958** (burglary) in circumstances where the offender entered the building or part of the building as a trespasser with intent to commit a sexual or indecent assault on a child.

20. An offence against section 77 of the **Crimes Act 1958** (aggravated burglary) in circumstances where the offender entered the building or part of the building as a trespasser with intent to commit a sexual or indecent assault on a child.

21. An offence against section 5(1) of the **Prostitution Control Act 1994** (causing or inducing a child to take part in prostitution).

22. An offence against section 6(1) of the **Prostitution Control Act 1994** (obtaining payment for sexual services provided by a child).

23. An offence against section 7(1) of the **Prostitution Control Act 1994** (agreement for provision of sexual services by a child).

24. An offence against section 11(1) of the **Prostitution Control Act 1994** (allowing child to take part in prostitution).

25. An offence against section 57A of the **Classification (Publications, Films and Computer Games) (Enforcement) Act 1995** (publication or transmission of child pornography).

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Act No. 56/2004

Sch. 2

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26. An offence against a provision of an Act amended or repealed before 1 October 2004 of which the necessary elements at the time it was committed consisted of elements that constitute any of the offences referred to in items 1 to 25.
- 26A. Without limiting item 26, an offence referred to in paragraph (ab), (ac), (b), (c), (d) or (e) of Schedule 1 to the **Sentencing Act 1991** where the person against whom the offence is committed is a child other than an offence that is a Class 1 offence for the purposes of this Act by force of item 6A of Schedule 1. **Sch. 2
item 26A
inserted by
No. 34/2005
s. 24(2).**
27. An offence against section 50BC or 50BD of the Crimes Act 1914 of the Commonwealth.
28. An offence against section 270.7 of the Criminal Code of the Commonwealth, where the person against whom the offence is committed is a child.
- 28AA. An offence against section 271.4 (trafficking in children) or section 271.7 (domestic trafficking in children) of the Criminal Code of the Commonwealth in circumstances where the purpose of the exploitation is to provide sexual services within the meaning of that section. **Sch. 2
item 28AA
inserted by
No. 57/2005
s. 51(5).**
- 28A. An offence against any of the following sections of the Criminal Code of the Commonwealth— **Sch. 2
item 28A
inserted by
No. 34/2005
s. 22(3).**
- (i) section 474.19(1) (using a carriage service for child pornography material);
 - (ii) section 474.20(1) (possessing, controlling, producing, supplying or obtaining child pornography material for use through a carriage service);
 - (iii) section 474.22(1) (using a carriage service for child abuse material);
 - (iv) section 474.23(1) (possessing, controlling, producing, supplying or obtaining child abuse material through a carriage service);
 - (v) section 474.26 (using a carriage service to procure persons under 16 years of age);
 - (vi) section 474.27 (using a carriage service to "groom" persons under 16 years of age).
29. An offence against section 233BAB of the Customs Act 1901 of the Commonwealth involving items of child pornography or of child abuse material.
30. Any offence under a law of a foreign jurisdiction that, if it had been committed in Victoria, would have constituted an offence of a kind listed in this Schedule.
-

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Sch. 2

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31. An offence under a law of a foreign jurisdiction that the regulations state is a Class 2 offence.
 32. An offence an element of which is an intention to commit an offence of a kind listed in this Schedule.
 33. An offence of attempting, or of conspiracy or incitement, to commit an offence of a kind listed in this Schedule.
 34. 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 1 October 2004, was an offence of a kind listed in this Schedule.
-

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Sch. 3

SCHEDULE 3

Section 8(1)

CLASS 3 OFFENCES

1. An offence against the **Crimes Act 1958** that involves sexual penetration (within the meaning given by section 35(1) of the **Crimes Act 1958**).

Note: Item 1 covers any offence against the **Crimes Act 1958** that involves sexual penetration where the victim is an adult including rape (section 38), incest (section 44), sexual penetration of person with impaired mental functioning (section 51(1)) and sexual penetration of resident of residential facility (section 52(1)).

**Note to item 1
inserted by
No. 34/2005
s. 24(3)(a).**

2. An offence against a provision of the **Crimes Act 1958** amended or repealed before 1 October 2004 of which the necessary elements at the time it was committed consisted of elements that constitute an offence referred to in item 1.
- 2A. Without limiting item 2, an offence referred to in any of the following paragraphs of Schedule 1 to the **Sentencing Act 1991**—
 - (a) paragraph (b)(i) and (ii);
 - (b) paragraph (c)(iii), (iv), (vi), (vii), (xvi), (xvii) and (xix);
 - (c) paragraph (d)(i), (ii), (iii), (xi), (xii) and (xiii);
 - (d) paragraph (e)(i) and (ii).
3. Any offence under a law of a foreign jurisdiction that, if it had been committed in Victoria, would have constituted an offence of a kind listed in this Schedule.
4. An offence under a law of a foreign jurisdiction that the regulations state is a Class 3 offence.
5. An offence an element of which is an intention to commit an offence of a kind listed in this Schedule.
6. An offence of attempting, or of conspiracy or incitement, to commit an offence of a kind listed in this Schedule.

**Sch. 3 item 2A
inserted by
No. 34/2005
s. 24(3)(b).**

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Sch. 3

7. 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 1 October 2004, was an offence of a kind listed in this Schedule.
-

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Sch. 4

SCHEDULE 4

Section 8(2)

CLASS 4 OFFENCES

1. An offence against section 39 of the **Crimes Act 1958** (indecent assault).
2. An offence against section 40(1) of the **Crimes Act 1958** (assault with intent to rape).
3. An offence against section 51(2) of the **Crimes Act 1958** (indecent act with person with impaired mental functioning).
4. An offence against section 52(2) of the **Crimes Act 1958** (indecent act with resident of residential facility).
5. An offence against section 53 of the **Crimes Act 1958** (administration of drugs etc.).
6. An offence against section 55 of the **Crimes Act 1958** (abduction or detention).
7. An offence against section 57 of the **Crimes Act 1958** (procuring sexual penetration by threats or fraud).
- 7A. An offence against section 60AB of the **Crimes Act 1958** (sexual servitude).
- 7B. An offence against section 60AD of the **Crimes Act 1958** (deceptive recruiting for commercial sexual services).
8. An offence against section 76 of the **Crimes Act 1958** (burglary) in circumstances where the offender entered the building or part of the building as a trespasser with intent to commit a sexual or indecent assault.
9. An offence against section 77 of the **Crimes Act 1958** (aggravated burglary) in circumstances where the offender entered the building or part of the building as a trespasser with intent to commit a sexual or indecent assault.
10. An offence against a provision of the **Crimes Act 1958** amended or repealed before 1 October 2004 of which the necessary elements at the time it was committed consisted of elements that constitute any of the offences referred to in items 1 to 9.

Sch. 4 item 7A
inserted by
No. 34/2005
s. 23.

Sch. 4 item 7B
inserted by
No. 34/2005
s. 23.

Sex Offenders Registration Act 2004
Act No. 56/2004

Sch. 4

Sch. 4
item 10A
inserted by
No. 34/2005
s. 24(4).

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- 10A. Without limiting item 10, an offence referred to in paragraph (ab), (ac), (b), (c), (d) or (e) of Schedule 1 to the **Sentencing Act 1991** other than an offence that is for the purposes of this Act—
 - (a) a Class 1 offence by force of item 6A of Schedule 1; or
 - (b) a Class 2 offence by force of item 26A of Schedule 2; or
 - (c) a Class 3 offence by force of item 2A of Schedule 3.
 11. Any offence under a law of a foreign jurisdiction that, if it had been committed in Victoria, would have constituted an offence of a kind listed in this Schedule.
 12. An offence under a law of a foreign jurisdiction that the regulations state is a Class 4 offence.
 13. An offence an element of which is an intention to commit an offence of a kind listed in this Schedule.
 14. An offence of attempting, or of conspiracy or incitement, to commit an offence of a kind listed in this Schedule.
 15. An offence that, at the time it was committed—
 - (i) was a Class 4 offence for the purposes of this Act; or
 - (ii) in the case of an offence committed before 1 October 2004, was an offence of a kind listed in this Schedule.
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ENDNOTES

1. General Information

Minister's second reading speech—

Legislative Assembly: 3 June 2004

Legislative Council: 15 September 2004

The long title for the Bill for this Act was "to require certain offenders who commit sexual offences to keep police informed of their whereabouts and other personal details for a period of time and thereby reduce the likelihood that they will re-offend and facilitate the investigation and prosecution of any future offences that they may commit, to prevent registered sex offenders working in child-related employment, to amend the **Ombudsman Act 1973** and for other purposes."

Constitution Act 1975:

Section 85(5) statement:

Legislative Assembly: 3 June 2004

Legislative Council: 15 September 2004

Absolute majorities:

Legislative Assembly: 25 August 2004

Legislative Council: 15 September 2004

The **Sex Offenders Registration Act 2004** was assented to on 21 September 2004 and came into operation on 1 October 2004: section 2.

Sex Offenders Registration Act 2004
Act No. 56/2004

Endnotes

2. Table of Amendments

This Version incorporates amendments made to the **Sex Offenders Registration Act 2004** by Acts and subordinate instruments.

Major Crime (Investigative Powers) Act 2004, No. 79/2004 (as amended by No. 97/2004)

Assent Date: 16.11.04
Commencement Date: Ss 100–103 on 16.11.04: Special Gazette (No. 237) 16.11.04 p. 2
Current State: This information relates only to the provision/s amending the **Sex Offenders Registration Act 2004**

Legal Profession (Consequential Amendments) Act 2005, No. 18/2005

Assent Date: 24.5.05
Commencement Date: S. 18(Sch. 1 item 99) on 12.12.05: Government Gazette 1.12.05 p. 2781
Current State: This information relates only to the provision/s amending the **Sex Offenders Registration Act 2004**

Sex Offenders Registration (Amendment) Act 2005, No. 34/2005

Assent Date: 21.6.05
Commencement Date: S. 24(1)(2) on 1.10.04: s. 2(2); s. 24(3)(4) on 22.6.05: s. 2(1); ss 4–16, 18–23, 25 on 1.8.05: Government Gazette 28.7.05 p. 1642; s. 17 on 1.10.05: s. 2(4)
Current State: This information relates only to the provision/s amending the **Sex Offenders Registration Act 2004**

Working with Children Act 2005, No. 57/2005

Assent Date: 13.9.05
Commencement Date: S. 51 on 3.4.06: Government Gazette 30.3.06 p. 615
Current State: This information relates only to the provision/s amending the **Sex Offenders Registration Act 2004**

Sex Offenders Registration Act 2004
Act No. 56/2004

Endnotes

3. Explanatory Details

No entries at date of publication.