

Version No. 010
Sex Offenders Registration Regulations 2004
S.R. No. 121/2004

Version incorporating amendments as at 9 March 2006

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PART 1—PRELIMINARY

1. Objectives

The objectives of these Regulations are to provide for—

- (a) reporting obligations of registrable offenders under Part 3 of the **Sex Offenders Registration Act 2004**;
- (b) the notification of reporting obligations to registrable offenders;
- (c) various other matters authorised to be prescribed under the Act.

2. Authorising provision

These Regulations are made under section 75 of the **Sex Offenders Registration Act 2004**.

3. Commencement

These Regulations come into operation on 1 October 2004.

4. Definitions

In these Regulations—

"Registrar" means the member of the police force appointed by the Chief Commissioner of Police to be Registrar for the purposes of these Regulations;

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Reg. 4 def. of
"supervising
authority"
revoked by
S.R. No.
135/2004
reg. 4.

* * * * *

"the Act" means the Sex Offenders Registration Act 2004.

Reg. 5
substituted by
S.R. No.
94/2005 reg. 5.

5. Corresponding Act

For the purpose of the definition of "corresponding Act" in section 3 of the Act, the following are corresponding Acts for the purposes of the Act—

- (a) the New South Wales Act;
- (b) the Child Protection (Offender Reporting) Act 2004 of Queensland;
- (c) the Community Protection (Offender Reporting) Act 2004 of Western Australia;
- (d) the Child Protection (Offender Reporting and Registration) Act 2004 of the Northern Territory;
- (e) the Crimes (Child Sex Offenders) Act 2005 of the Australian Capital Territory.

Reg. 5
inserted by
S.R. No.
94/2005 reg. 5.

5A. Corresponding sex offender registration order

For the purpose of the definition of "corresponding sex offender registration order" in section 3 of the Act, the following are corresponding sex offender registration orders for the purposes of the Act—

- (a) a child protection registration order under the New South Wales Act;
- (b) an offender reporting order under the Child Protection (Offender Reporting) Act 2004 of Queensland;

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- (c) an offender reporting order under the Community Protection (Offender Reporting) Act 2004 of Western Australia;
 - (d) an offender reporting order under the Child Protection (Offender Reporting and Registration) Act 2004 of the Northern Territory;
 - (e) a child sex offender registration order under the Crimes (Child Sex Offenders) Act 2005 of the Australian Capital Territory.

6. Foreign witness protection laws

For the purposes of sections 6(5) and 56(2) of the Act, the following laws are foreign witness protection laws—

- (a) the Witness Protection Act 1994 of the Commonwealth;
- (b) the Witness Protection Act 1995 of New South Wales;
- (c) the Witness Protection Act 2000 of Queensland;
- (d) the Witness Protection Act 2000 of Tasmania;
- (e) the Witness Protection Act 1996 of South Australia;
- (f) the Witness Protection (Western Australia) Act 1996 of Western Australia;
- (g) the Witness Protection Act 1996 of the Australian Capital Territory;
- (h) the Witness Protection (Northern Territory) Act 2002 of the Northern Territory.

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7. New South Wales registrable offenders

The specified date before which persons were to have been in New South Wales in order to be a New South Wales registrable offender for the purposes of section 10 of the Act, is 1 October 2004.

PART 2—REPORTING OBLIGATIONS

Division 1—Preliminary

8. Persons required to report under corresponding Act

The Registrar is the person to be contacted for the purposes of section 15 of the Act.

9. Police stations

- (1) The Chief Commissioner of Police may give directions nominating the police stations that are to be used under Part 3 of the Act.
- (2) The Registrar may give a direction to a registrable offender specifying the police station at which the registrable offender must report.

Division 2—Making Reports

10. Making a report other than in person

- (1) A registrable offender may make a report under section 19 of the Act by telephone to the Chief Commissioner of Police.
- (2) For the purposes of section 23(2) of the Act, a registrable offender may make any report that he or she is required to make under the Act, other than a report referred to in section 23(1) of the Act, by telephone to the Registrar.

11. Alternative additional identification

- (1) This regulation applies to a report that is required to be made in person if the person making the report does not have a driver licence.

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Part 2—Reporting Obligations

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- (2) For the purposes of section 26(1)(a) of the Act, if the person making the report is the registrable offender, that person must present for inspection original documents that identify him or her, being any one of the documents specified in Column 1 of the Table and any two of the documents specified in Column 2 of the Table.
- (3) For the purposes of section 26(1)(c) of the Act, if the person making the report is not the registrable offender, that person must present for inspection—
- (a) original documents required by sub-regulation (2) that identify the registrable offender; and
 - (b) original documents referred to in sub-regulation (2) that identify the person making the report.

TABLE

<i>Column 1</i>	<i>Column 2</i>
<i>One original document required</i>	<i>Two original documents required</i>
A current Australian passport	A current signed credit card or account card from a bank, building society or credit union or a passbook or account statement
An Australian naturalisation or citizenship certificate	A current Medicare card
An original birth certificate or certified birth extract	A gas, water, electricity or telephone account issued within the previous 6 months
	A current local rates or land valuation notice
	A pension concession card or other entitlement issued by the Commonwealth Government
	A lease or rental agreement

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<i>Column 1</i>	<i>Column 2</i>
<i>One original document required</i>	<i>Two original documents required</i>

A motor vehicle registration notice or certificate

A renewal notice for house, contents or motor vehicle insurance

A student identity card or a certificate or statement of enrolment from an educational institution

12. Verifying documentation or evidence

A person making a report referred to in section 23(1) must present the following documents to verify or support details in the report—

- (a) in relation to personal details (if any) referred to in section 14(1)(f) of the Act, a copy of two payslips issued to the registrable offender within the previous 2 months;
- (b) in relation to personal details referred to in section 14(1)(h) of the Act, a copy of a current motor vehicle registration notice or certificate for any vehicle owned by the registrable offender or a document that confirms that a vehicle is generally driven by the registrable offender.

13. Reporting by remote offenders

For the purpose of section 31(1) of the Act, the prescribed distance is 100 kilometres.

Division 3—Notification of Reporting Obligations

14. Manner of providing notice to registrable offender

- (1) A notice required to be given to a registrable offender under section 50(1) of the Act must be in writing and handed to the person.
- (2) Despite sub-regulation (1), if the registrable offender is a child or a person who has disabilities or other special need and is unable to understand his or her reporting obligations or the consequences of failing to comply with those obligations, the supervising authority may give the notice to the carer of, or a person nominated in writing by, that registrable offender.

15. Information to be included in notices

A notice required to be given to a registrable offender under section 50(1) of the Act must contain the following information—

- (a) the name of the registrable offender;
- (b) a statement setting out—
 - (i) the obligations of the registrable offender to make an initial report (including the period within which the initial report must be made); and
 - (ii) the obligations of the registrable offender to make an annual report; and
 - (iii) the obligations of the registrable offender to report changes of personal details; and
 - (iv) the details the registrable offender is required to report under section 14 of the Act and under these Regulations; and

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- (v) the obligations of the registrable offender to report under sections 18, 19, 20 and 21 of the Act (including the periods within which the reports must be made); and
 - (vi) the circumstances in which the registrable offender must make a report in person; and
 - (vii) the form of identification to be presented by the person who makes a report; and
 - (viii) the documentation that the registrable offender must present to verify or support details in the report;
- (c) a toll free telephone number on which the Registrar can be contacted;
 - (d) the consequences which may arise if a registrable offender fails to comply with his or her reporting obligations;
 - (e) the date of the notice;
 - (f) the name, signature and position of the person giving the notice.

16. Notice of reporting obligations

- (1) A notice required to be given under section 50(1) of the Act is not required to specify the registrable offender's reporting period.

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Reg. 16(2)
revoked by
S.R. No.
94/2005 reg. 6.

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Part 2—Reporting Obligations

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17. Acknowledgement of receipt of notice

- (1) A person who gives a notice under Part 3 of the Act to a registrable offender may request the registrable offender to acknowledge receipt of that notice.
- (2) The person must, within 3 days after giving the notice—
 - (a) inform the Chief Commissioner of Police in writing—
 - (i) that the registrable offender has been given a notice of his or reporting obligations; and
 - (ii) the date on which the registrable offender was given that notice; and
 - (b) if the registrable offender has acknowledged to the person receipt of the notice, provide the Chief Commissioner of Police with a copy of that acknowledgement.

18. Supervising authority

- (1) For the purpose of section 50(3) of the Act, the person or body that is required to give notice to a registrable offender is the supervising authority specified in column 2 of Table A in the Schedule for the class of offender specified in column 1 of the Table to which the registrable offender belongs.
- (2) For the purpose of section 53 of the Act, the person or body that is required to give notice to the Chief Commissioner of Police is the supervising authority specified in column 2 of Table B in the Schedule for the class of offender specified in column 1 of the Table to which the registrable offender belongs.

Reg. 18
substituted by
S.R. No.
135/2004
reg. 5.

Reg. 18(2)
amended by
S.R. No.
94/2005 reg. 7.

19. Notices where reporting period has changed

A notice required to be given under section 52(2) of the Act to a registrable offender whose reporting period has changed since he or she was last notified of his or her reporting period in Victoria must contain the following information—

- (a) the name of the registrable offender;
- (b) the registrable offender's new reporting period;
- (c) the date of the notice;
- (d) the name, signature and position of the person giving the notice.

20. Notices from supervising authority

For the purpose of section 53 of the Act, a notice required to be given to the Chief Commissioner of Police by the supervising authority, upon the occurrence of an event listed in section 53(1) of the Act, must contain the following information—

- (a) the name of the registrable offender;
 - (b) the date of the notice;
 - (c) the event that has occurred and the date of that occurrence;
 - (d) the name, signature and position of the person giving the notice.
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Sch.

Sch.
substituted by
S.R. Nos
135/2004
reg. 6, 94/2005
reg. 8.

SCHEDULE

Regulation 18(1)

**SUPERVISING AUTHORITIES TO PROVIDE NOTICE TO A
REGISTRABLE OFFENDER UNDER SECTION 50(3) OF THE ACT**

TABLE A

<i>Column 1</i> <i>Class of offender</i>	<i>Column 2</i> <i>Supervising Authority</i>
1. A registrable offender who is sentenced for a registrable offence by the Magistrates' Court	Magistrates' Court
2. A registrable offender who is sentenced for a registrable offence by the County Court	County Court
3. A registrable offender who is sentenced for a registrable offence by the Supreme Court	Supreme Court
4. A registrable offender who is sentenced for a registrable offence by the Children's Court	Children's Court
5. A registrable offender who is released from government custody and who is—	Secretary to the Department of Human Services
(a) a forensic patient in respect of whom a supervision order committing the person to custody in an appropriate place has been made under the Crimes (Mental Impairment and Unfitness to be Tried) Act 1997 ; or	
(b) a forensic resident in respect of whom a supervision order committing the person to custody in an appropriate place has been made under the Crimes (Mental Impairment and Unfitness to be Tried) Act 1997 ; or	

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Sch.

<i>Column 1</i> <i>Class of offender</i>	<i>Column 2</i> <i>Supervising Authority</i>
<p>(c) a security patient in respect of whom a hospital security order has been made under section 93(1)(e) of the Sentencing Act 1991 and who is a patient of an approved mental health service within the meaning of the Mental Health Act 1986; or</p> <p>(d) a security patient in respect of whom a restricted hospital transfer order has been made under section 16(3)(b) of the Mental Health Act 1986 and who is a patient of an approved mental health service within the meaning of that Act; or</p> <p>(e) an involuntary patient in respect of whom a hospital order has been made under section 93(1)(d) of the Sentencing Act 1991; or</p> <p>(f) an involuntary patient in respect of whom a hospital transfer order has been made under section 16(3)(a) of the Mental Health Act 1986 and who is a patient of an approved mental health service within the meaning of that Act; or</p> <p>(g) a detainee</p>	
<p>6. A registrable offender who is released from government custody and who is not a person referred to in item 5</p>	<p>Secretary to the Department of Justice</p>
<p>7. A registrable offender who enters Victoria, if he or she has not previously been given notice of his or her reporting obligations in Victoria</p>	<p>The Chief Commissioner of Police</p>
<p>8. A registrable offender who is not a person referred to in items 1 to 7</p>	<p>Secretary to the Department of Justice</p>

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Regulation 18(2)

**SUPERVISING AUTHORITIES TO PROVIDE NOTICE TO THE
CHIEF COMMISSIONER OF POLICE UNDER SECTION 53 OF
THE ACT**

TABLE B

<i>Column 1</i> <i>Class of offender</i>	<i>Column 2</i> <i>Supervising Authority</i>
1. A registrable offender who ceases to be in government custody and who is— (a) a forensic patient in respect of whom a supervision order committing the person to custody in an appropriate place has been made under the Crimes (Mental Impairment and Unfitness to be Tried) Act 1997 ; or (b) a forensic resident in respect of whom a supervision order committing the person to custody in an appropriate place has been made under the Crimes (Mental Impairment and Unfitness to be Tried) Act 1997 ; or (c) a security patient in respect of whom a hospital security order has been made under section 93(1)(e) of the Sentencing Act 1991 and who is a patient of an approved mental health service within the meaning of the Mental Health Act 1986 ; or (d) a security patient in respect of whom a restricted hospital transfer order has been made under section 16(3)(b) of the Mental Health Act 1986 and who is a patient of an approved mental health service within the meaning of that Act; or (e) an involuntary patient in respect of whom a hospital order has been made under section 93(1)(d) of the Sentencing Act 1991 ; or	Secretary to the Department of Human Services

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<i>Column 1</i>	<i>Column 2</i>
<i>Class of offender</i>	<i>Supervising Authority</i>
<p>(f) an involuntary patient in respect of whom a hospital transfer order has been made under section 16(3)(a) of the Mental Health Act 1986 and who is a patient of an approved mental health service within the meaning of that Act; or</p> <p>(g) a detainee</p>	
2. A registrable offender who ceases to be in government custody and who is not a person referred to in item 1	Secretary to the Department of Justice
3. A registrable offender who is an adult who ceases to be subject to a supervised sentence	Secretary to the Department of Justice
4. A registrable offender who is subject to a supervised sentence and who is a child in respect of whom an order has been made under section 137(1) of the Children and Young Persons Act 1989 committing the person to strict supervision by a person referred to in paragraph (a) of the definition of "strict supervision"	Secretary to the Department of Justice
5. A registrable offender who is subject to a supervised sentence and who is a child in respect of whom an order has been made under section 137(1) of the Children and Young Persons Act 1989 committing the person to strict supervision by a person referred to in paragraph (b) of the definition of "strict supervision"	Secretary to the Department of Human Services
6. A registrable offender in respect of whom a restricted community treatment order is made under section 15A of the Mental Health Act 1986	Secretary to the Department of Human Services
7. A registrable offender who ceases to participate in a diversion program under section 128A of the Magistrates' Court Act 1989	Magistrates' Court

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<i>Column 1</i> <i>Class of offender</i>	<i>Column 2</i> <i>Supervising Authority</i>
8. A registrable offender who ceases to be subject to a condition of parole requiring the person to be subject to supervision and who is an adult (other than a person referred to in item 9)	Secretary to the Department of Justice
9. A registrable offender who ceases to be subject to a condition of parole requiring the person to be subject to supervision and who is— (a) a child; or (b) an adult who is subject to the jurisdiction of the Youth Parole Board	Secretary to the Department of Human Services
10. A registrable offender who ceases to be an existing licensee	Secretary to the Department of Justice
11. A registrable offender who is not a person referred to in items 1 to 10	Secretary to the Department of Justice

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Endnotes

ENDNOTES

1. General Information

The Sex Offenders Registration Regulations 2004, S.R. No. 121/2004 were made on 28 September 2004 by the Governor in Council under section 75 of the **Sex Offenders Registration Act 2004**, No. 56/2004 and came into operation on 1 October 2004: regulation 3.

The Sex Offenders Registration Regulations 2004 will sunset 10 years after the day of making on 28 September 2014 (see section 5 of the **Subordinate Legislation Act 1994**).

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Endnotes

2. Table of Amendments

This Version incorporates amendments made to the Sex Offenders Registration Regulations 2004 by statutory rules, subordinate instruments and Acts.

Sex Offenders Registration (Amendment) Regulations 2004, S.R. No. 135/2004

Date of Making: 3.11.04

Date of Commencement: 3.11.04

Sex Offenders Registration (Amendment) Regulations 2005, S.R. No. 94/2005

Date of Making: 27.7.05

Date of Commencement: Regs 5, 7, 8 on 1.8.05: reg. 3(1); reg. 6 on 1.10.05:
reg. 3(2)

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Endnotes

3. Explanatory Details

No entries at date of publication.