

Authorised Version No. 052
Sex Offenders Registration Act 2004
No. 56 of 2004

Authorised Version incorporating amendments as at
1 June 2016

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1 June 2016

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 IBAC to monitor compliance with Part 4 of this Act.

**S. 1(1)(c)
amended by
No. 82/2012
s. 129(1).**

- (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 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 IBAC to monitor compliance with Part 4 of this Act.

S. 1(2)(h)
amended by
No. 82/2012
s. 129(2).

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;

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 (as in force before the commencement of section 21 of the **Sentencing Amendment (Community Correction Reform) Act 2011**); or
- (ab) an order under Part 3A of the **Sentencing Act 1991** to which one or more conditions referred to in section 48D, 48E, 48F, 48G, 48H, 48I or 48K or a requirement under section 48LA of the **Sentencing Act 1991** is attached; or

S. 3 def. of *community service order* amended by Nos 48/2006 s. 42(Sch. item 33.1), 65/2011 s. 107(Sch. items 12.1, 12.2), 32/2013 s. 60.

- (b) a youth attendance order within the meaning of the **Children, Youth and Families Act 2005**; or
- (c) a youth supervision order within the meaning of the **Children, Youth and Families Act 2005** where the person is required to engage in community service activities by a direction under section 389(1)(g) of that Act;

S. 3 def. of
contact
inserted by
No. 82/2014
s. 3(1).

contact—see section 4A;

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;

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 detained in a youth justice centre or youth residential centre within the meaning of the **Children, Youth and Families Act 2005**;

S. 3 def. of *detainee* substituted by No. 82/2014 s. 3(2).

* * * * *

S. 3 def. of *Director* inserted by No. 79/2004 s. 100(1)(a), amended by No. 34/2008 s. 143(Sch. 2 item 10.1), repealed by No. 82/2012 s. 130(3).

disability has the same meaning as it has in the **Equal Opportunity Act 2010**;

Note

The meaning of *disability* is affected by section 5(2).

S. 3 def. of *disability* substituted by No. 16/2010 s. 209(Sch. item 8) (as amended by No. 26/2011 s. 34(Sch. item 10.3)).

existing controlled registrable offender means a person who, as a result of having been sentenced for a registrable offence committed when he or she was 18 years of age or older, was immediately before 1 October 2004—

(a) an inmate; or

S. 3 def. of *existing controlled registrable offender* substituted by No. 79/2006 s. 53(1), amended by Nos 55/2014 s. 152(1)(a), 82/2014 s. 3(3).

- (b) a person detained in a youth training centre or youth residential centre within the meaning of the **Children and Young Persons Act 1989**; or
- (c) a forensic patient detained in custody under a custodial supervision order made under section 26 of the **Crimes (Mental Impairment and Unfitness to be Tried) Act 1997**; or
- (d) serving a sentence referred to in section 6C(1) of the **Corrections Act 1986**; or
- (e) serving an order referred to in paragraph (a) of the definition of *community service order* in section 3; or
- (f) serving an order referred to in paragraph (a) of the definition of *good behaviour bond* in section 3 under which the person is required to submit to strict supervision;
- (g) serving a non-custodial supervision order made under section 26 of the **Crimes (Mental Impairment and Unfitness to be Tried) Act 1997**; or
- (h) in custody under a law of a foreign jurisdiction in the nature of custody referred to in paragraph (a), (b) or (c) or serving a sentence imposed or order made under the laws of a foreign jurisdiction that is equivalent to a sentence or order referred to in paragraph (d), (e), (f) or (g);

existing licensee 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).

good behaviour bond means—

- (a) an order under Subdivision (2) or (3) of Division 1 of Part 3BA 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 367 of the **Children, Youth and Families Act 2005**;

S. 3 def. of *good behaviour bond* amended by Nos 48/2006 s. 42(Sch. item 33.2), 65/2011 s. 107(Sch. item 12.3), 26/2012 s. 78.

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S. 3 def. of
*government
custody*
amended by
Nos 34/2005
s. 4(3),
69/2005
s. 30(a),
26/2014
s. 455(Sch.
item 27.1(a)),
55/2014
s. 152(1)(b).

government custody means—

(a) custody as—

- (i) an inmate; or
- (ii) a detainee; or
- (iii) a forensic patient under a custodial supervision order made under section 26 of the **Crimes (Mental Impairment and Unfitness to be Tried) Act 1997** who is not under a grant of extended leave under section 57 of that Act; or
- (iv) a forensic resident under a custodial supervision order made under section 26 of the **Crimes (Mental Impairment and Unfitness to be Tried) Act 1997** who is not under a grant of extended leave under section 57 of that Act; or
- (v) a security patient subject to a Court Secure Treatment Order within the meaning of the **Sentencing Act 1991**; or
- (vi) a security patient subject to a Secure Treatment Order within the meaning of the **Mental Health Act 2014**; or

* * * * *

- (ix) a security patient taken to another designated mental health service under section 291 or 292 of the **Mental Health Act 2014**; or

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

IBAC has the same meaning as it has in the **Independent Broad-based Anti-corruption Commission Act 2011**;

S. 3 def. of *IBAC* inserted by No. 82/2012 s. 130(2).

IBAC Commissioner means the *Commissioner* within the meaning of the **Independent Broad-based Anti-corruption Commission Act 2011**;

S. 3 def. of *IBAC Commissioner* inserted by No. 82/2012 s. 130(2).

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 patient has in section 3(1) of the **Mental Health Act 2014**;

S. 3 def. of *involuntary patient* inserted by No. 34/2005 s. 4(2), substituted by No. 26/2014 s. 455(Sch. item 27.1(b)).

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;

S. 3 def. of *police officer* inserted by No. 37/2014 s. 10(Sch. item 154.1).

police officer has the same meaning as in the **Victoria Police Act 2013**;

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

* * * * *

S. 3 def. of *Register* amended by No. 20/2015 s. 13.

Register means the Register of Sex Offenders established, or arranged to be 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**;

security patient has the same meaning as in the
Mental Health Act 2014;

S. 3 def. of
*security
patient*
inserted by
No. 34/2005
s. 4(2),
amended by
No. 26/2014
s. 455(Sch.
item 27.1(c)).

sentence includes—

- (a) a sentence within the meaning of the
Criminal Procedure Act 2009 or the
**Children, Youth and Families
Act 2005**, including an order for the
adjournment of a proceeding under
section 59 of the **Criminal Procedure
Act 2009**; and
- (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 accused is
liable to supervision under Part 5 of
that Act; and
- (aba) a declaration under section 38Y(4)(a)
or 38ZD(1)(a) of the **Crimes (Mental
Impairment and Unfitness to be
Tried) Act 1997** that the child is liable
to supervision under Division 5 of
Part 5A of that Act; and
- (ac) an order that the accused be released
unconditionally made under
section 18(4)(b), 23(b), 38Y(4)(b)
or 38ZD(1)(b) of the **Crimes (Mental
Impairment and Unfitness to be
Tried) Act 1997**; and

S. 3 def. of
sentence
amended by
Nos 34/2005
s. 4(4)(a)(b),
69/2005
s. 30(b),
48/2006
s. 42(Sch.
item 33.3(a)),
68/2009
s. 97(Sch.
item 112.1),
55/2014
s. 152(1)(c)(d).

- (ad) an order made under section 93 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;

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);

S. 3 def. of ***supervised sentence*** amended by Nos 34/2005 s. 4(6), 48/2006 s. 42(Sch. item 33.3(b)), 26/2014 s. 455(Sch. item 27.1(d)), 55/2014 s. 152(1)(e).

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 360(1) of the **Children, Youth and Families Act 2005** under which the child is required to submit to strict supervision; or

* * * * *

- (d) a non-custodial supervision order made under section 26(2)(b) or 38ZH(5)(b) of the **Crimes (Mental Impairment and Unfitness to be Tried) Act 1997**;

supervising authority means—

- (a) the Secretary in relation to an offender serving—
- (i) a sentence of imprisonment that was wholly or partly suspended and who is in the community in accordance with that sentence; or
 - (ii) an order referred to in paragraph (a) of the definition of *good behaviour bond* in section 3 under which the person is required to submit to strict supervision; and
- (b) the entity deemed by the regulations for the purposes of this definition to have custody of, or to be responsible for supervising, the class of offender to which any other offender belongs;

S. 3 def. of *supervising authority* substituted by No. 79/2006 s. 53(2), amended by No. 82/2012 s. 130(1).

sworn IBAC Officer has the same meaning as it has in the **Independent Broad-based Anti-corruption Commission Act 2011**.

S. 3 def. of *sworn IBAC Officer* inserted by No. 82/2012 s. 130(2).

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;
 - (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) or section 38X(1)(b) or (c) of the **Crimes (Mental Impairment and Unfitness to be Tried) Act 1997** or under section 17(1)(c) or 38X(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.

S. 4(1)(d)
amended by
No. 55/2014
s. 152(2).

4A When does a registrable offender have contact with a child?

For the purposes of this Act, a registrable offender has contact with a child if the offender—

- (a) resides with the child; or
- (b) stays overnight at a place of residence where the child resides or is staying overnight; or

S. 4A
inserted by
No. 82/2014
s. 4.

- (c) cares for, or supervises, the child; or
- (d) provides the offender's contact details to the child or receives the child's contact details from the child; or
- (e) engages in any of the following with the child for the purpose of forming a personal relationship with the child—
 - (i) any form of actual physical contact;
 - (ii) any form of oral communication (whether face to face, by telephone or by use of the internet);
 - (iii) any form of written communication (whether electronic or otherwise).

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.

Part 2—Offenders to whom Act applies

6 Who is a registrable offender?

- (1) Subject to subsections (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.

Notes

- 1 *Sentence* is broadly defined in section 3.
- 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*.
- 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.
- 4 The effect of this Act is that any adult offender sentenced at any time (including before 1 October 2004 and still serving the sentence immediately before that date) for a class 1 or class 2 offence must comply with the reporting obligations of Part 3.

Note 4 to
s. 6(1)
inserted by
No. 34/2005
s. 5,
amended by
Nos 79/2006
s. 54(1),
55/2009
s. 48(1).

- (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 subsection (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

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(b) is a person in respect of whom a court has made an order referred to in section 360(1)(b), 360(1)(c) or 360(1)(d) of the **Children, Youth and Families Act 2005** (or an equivalent order under the laws of a foreign jurisdiction) in respect of a Class 1 or Class 2 offence.

S. 6(3)(b) amended by Nos 48/2006 s. 42(Sch. item 33.4), 52/2007 s. 13(a).

* * * * *

S. 6(3)(c) repealed by No. 52/2007 s. 13(b).

* * * * *

Note to s. 6(3)(c) repealed by No. 52/2007 s. 13(c).

- (4) Unless he or she is a registrable offender because of subsection (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 subsection, or who has the same status as such a person under an order made under a corresponding Act specified by the regulations for the purposes of this subsection.
- (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

S. 6(6)(b)
amended by
No. 55/2009
s. 48(2).

- (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 subsection (3)(b) 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.

S. 6(8)
amended by
No. 34/2005
s. 6(1),
repealed by
No. 55/2009
s. 48(3).

* * * * *

Note to s. 6(8)
inserted by
No. 34/2005
s. 6(2),
repealed by
No. 55/2009
s. 48(4).

* * * * *

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.

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 charges in the one indictment.

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

S. 8(3)(c)
amended by
No. 68/2009
s. 97(Sch.
item 112.2).

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

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

corresponding registrar in that jurisdiction;
and

- (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 subsection (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 committed as an adult 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.

S. 11(1)
amended by
No. 82/2014
s. 5(1).

Sex Offenders Registration Act 2004
No. 56 of 2004
Part 2—Offenders to whom Act applies

- | | |
|---|---|
| (2A) If a court finds a person guilty of an offence committed as a child that is not a Class 1 or 2 offence (including a Class 3 or 4 offence) it may order that the person comply with the reporting obligations of this Act. | S. 11(2A)
inserted by
No. 55/2009
s. 41. |
| (2B) An order under subsection (2A), for any period during which the person is a child, may—

(a) exempt the person from any particular reporting obligation; or

(b) modify any particular reporting obligation. | S. 11(2B)
inserted by
No. 82/2014
s. 5(2). |
| (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). |
| (4) For the purposes of subsection (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 360(1)(b), 360(1)(c) or 360(1)(d) of the Children, Youth and Families Act 2005). | S. 11(5)
amended by
Nos 34/2005
s. 9(2)(a)(b),
48/2006
s. 42(Sch.
item 33.5). |
| (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 45 days after the sentence is imposed. | S. 11(6)
amended by
Nos 34/2005
s. 9(3),
82/2014
s. 5(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). |

Sex Offenders Registration Act 2004
No. 56 of 2004
Part 2—Offenders to whom Act applies

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 subsection (2) as it would have if this Act had not contained section 6(3)(a).

S. 11(9)
inserted by
No. 32/2016
s. 43.

(9) Despite anything to the contrary in this section, in the circumstances specified in section 6B of the **Serious Sex Offenders (Detention and Supervision) Act 2009**, if an offender is not already a registrable offender under this Act, the court must make an order, in accordance with section 6B of that Act, that a person comply with the reporting obligations under this Act.

S. 11(10)
inserted by
No. 32/2016
s. 43.

- (10) On the making of an order referred to in subsection (9)—
- (a) the offender is subject to that sex offender registration order; and
 - (b) the offender is subject to the reporting obligations under this Act for the period specified in the sex offender registration order, being a period of at least 15 years; and
 - (c) subject to section 6(5), the offender is taken to be a *registrable offender* for the purposes of this Act.

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—

<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 7 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 7 days after he or she ceases to be in government custody
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

S. 12(1)
(Table)
amended by
Nos 55/2009
s. 44(1)(2),
32/2016 s. 44.

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<i>Column 1</i>	<i>Column 2</i>
<i>Registrable Offender</i>	<i>Period for Initial Report</i>
Any other registrable offender who is sentenced for a registrable offence in Victoria	Within 7 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 7 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 7 days after he or she becomes a corresponding registrable offender or 7 days after he or she ceases to be in government custody, whichever is the later
A registrable offender referred to in section 11(9) and (10)	Within 7 days after the order referred to in section 11(9) is made

- (2) Despite subsection (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.

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 7 days after he or she is sentenced for the registrable offence; or

S. 13(1)(a)
amended by
No. 55/2009
s. 44(3).

(b) if the registrable offender is in government custody, within 7 days after he or she ceases to be in government custody—

S. 13(1)(b)
amended by
No. 55/2009
s. 44(3).

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 7 days after he or she becomes a corresponding registrable offender; or

S. 13(2)(a)
amended by
No. 55/2009
s. 44(4).

(b) if the registrable offender is in government custody, within 7 days after he or she ceases to be in government custody—

S. 13(2)(b)
amended by
No. 55/2009
s. 44(4).

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—

S. 13(3)(a)
amended by
No. 55/2009
s. 44(5).

(a) within 7 days after the order ceases to have effect; or

S. 13(3)(b)
amended by
No. 55/2009
s. 44(5).

(b) if the registrable offender is in government custody, within 7 days after he or she ceases to be in government custody—

whichever is the later.

S. 13(4)
amended by
No. 55/2009
s. 44(6).

- (4) If a registrable offender is not in Victoria at the time he or she would be required under subsection (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 7 days after entering and remaining in Victoria for 14 or more consecutive days, not counting any days spent in government custody.
- (5) Despite subsections (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;

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- (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;
- (da) his or her telephone number (if any); **S. 14(1)(da) inserted by No. 52/2007 s. 14(1).**
- (db) his or her email address (if any); **S. 14(1)(db) inserted by No. 52/2007 s. 14(1).**
- (dc) if the registrable offender has an Internet service provider, the name and business address of that Internet service provider; **S. 14(1)(dc) inserted by No. 52/2007 s. 14(1).**
- (dd) any— **S. 14(1)(dd) inserted by No. 55/2009 s. 42(1).**
- (i) Internet user names; or
- (ii) instant messaging user names; or
- (iii) chat room user names; or
- (iv) other user name or identity—
used or intended to be used by the registrable offender through the Internet or other electronic communication service;
- (e) the name of each child with whom he or she has contact; **S. 14(1)(e) substituted by No. 82/2014 s. 6(1).**
- (ea) in respect of each child with whom he or she has contact— **S. 14(1)(ea) inserted by No. 82/2014 s. 6(1).**
- (i) the child's age, residential address and telephone number; or

- (ii) if the child's age, residential address or telephone number is not known to him or her—the location where the contact takes place;
- (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;
- (m) the passport number and country of issue of each passport held by the registrable offender.
- (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 7 days (whether consecutive or not) in any period of 12 months; and
- * * * * *
- S. 14(1)(l)(ii) amended by No. 55/2009 s. 42(2).
- S. 14(1)(m) inserted by No. 55/2009 s. 42(3).
- S. 14(2)(a) amended by No. 82/2014 s. 6(2).
- S. 14(2)(b)(c) amended by No. 52/2007 s. 14(2), repealed by No. 82/2014 s. 6(3).

- (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.

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 subsection (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) Subject to subsections (1A) and (1B), a registrable offender must report to the Chief Commissioner of Police any change in his or her personal details within 7 days after that change occurs.

S. 17(1)
amended by
Nos 52/2007
s. 15(1),
55/2009
s. 42(4)(5),
82/2014
s. 7(1).

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- (1A) A registrable offender must report to the Chief Commissioner of Police any change in his or her personal details to which section 14(1)(d) or (1)(e) applies within one day after that change occurs. **S. 17(1A) inserted by No. 52/2007 s. 15(2), amended by Nos 55/2009 s. 43, 82/2014 s. 7(2).**
- (1B) A registrable offender must report to the Chief Commissioner of Police any change in his or her personal details to which section 14(1)(m) applies—
- (a) within 7 days after that change occurs; or **S. 17(1B)(a) amended by No. 82/2014 s. 7(3).**
- (b) if the registrable offender intends to leave Victoria to travel out of Australia within 7 days after that change occurs, at least 7 days before leaving Victoria. **S. 17(1B)(b) amended by No. 82/2014 s. 7(3).**
- (2) For the purposes of subsection (1) or (1A), a change occurs in the premises or household where the registrable offender generally resides, or as to when the registrable offender has 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 period referred to in section 14(2). **S. 17(2) amended by Nos 52/2007 s. 15(3), 82/2014 s. 7(4).**
- (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 7 days after entering and **S. 17(3) amended by No. 82/2014 s. 7(5).**

remaining in Victoria for 7 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 7 days after he or she ceases to be in government custody; or

S. 17(4)(a)
amended by
No. 82/2014
s. 7(6).

- (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 2 or more consecutive days to travel elsewhere in Australia; or
- (b) intends to leave Victoria to travel out of Australia.

S. 18(1)(a)
amended by
No. 82/2014
s. 8.

- (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 subsection (2) if the registrable offender reports the required information to the Chief Commissioner of Police at least 24 hours before leaving Victoria.

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 2 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 subsection (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);

S. 19(1)(a)
amended by
No. 82/2014
s. 9.

(b) if subsection (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 and was elsewhere in Australia, he or she must report his or her return to Victoria to the Chief Commissioner of Police within 7 days after entering and remaining in Victoria for 7 or more consecutive days, not counting any days spent in government custody.
- (2A) If the registrable offender left Victoria and was out of Australia, he or she must report his or her return to Victoria to the Chief Commissioner of Police within 1 day after entering and remaining in Victoria for 2 or 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 7 days after deciding not to leave.

S. 20(2)
substituted by
No. 82/2014
s. 10(1).

S. 20(2A)
inserted by
No. 82/2014
s. 10(1).

S. 20(3)
amended by
No. 82/2014
s. 10(2).

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.

21A Additional reporting obligation in relation to travel out of Australia

**S. 21A
inserted by
No. 82/2014
s. 11.**

- (1) This section applies if a registrable offender is required to report in accordance with—
 - (a) section 18 that the registrable offender intends to leave Victoria to travel out of Australia; or
 - (b) section 20(2A) that the registrable offender has returned to Victoria after the period of travel referred to in paragraph (a).
- (2) The registrable offender must, at the time of making a report referred to in subsection (1), produce to the Chief Commissioner of Police—
 - (a) the registrable offender's passport; and
 - (b) documents specified by the regulations for the purposes of this section to verify or support the details in the report; and
 - (c) in the case of a report referred to in subsection (1)(b)—if the registrable offender, during the period of travel referred to in subsection (1)(a), made a report under

section 19, documents specified by the regulations for the purposes of this section to verify or support the details in that report.

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
 - (ba) a report required by section 18(1)(b) (intended absence from Victoria to travel out of Australia); and
 - (bb) a report required by section 20(2A) (registrable offender to report return to Victoria after travel out of Australia); 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

S. 23(1)(ba)
inserted by
No. 82/2014
s. 12.

S. 23(1)(bb)
inserted by
No. 82/2014
s. 12.

- 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 police officer approved for the purpose by the Chief Commissioner of Police may receive a report made in person and only a police officer 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
- (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 subsection (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—

S. 23(3)
amended by
No. 37/2014
s. 10(Sch.
item 154.2).

- (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.
- (2) A police officer 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 police officer 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.

S. 24(2)
amended by
No. 37/2014
s. 10(Sch.
item 154.2).

S. 24(3)
amended by
No. 37/2014
s. 10(Sch.
item 154.2).

25 Receipt of information to be acknowledged

(1) As soon as is practicable after receiving a report under this Part, the police officer or other person receiving the report must acknowledge the making of the report.

S. 25(1)
amended by
No. 37/2014
s. 10(Sch.
item 154.2).

(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 police officer or other person who received the report; and

S. 25(2)(a)
amended by
No. 37/2014
s. 10(Sch.
item 154.2).

(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.

Sex Offenders Registration Act 2004
No. 56 of 2004
Part 3—Reporting obligations

S. 26(2)
amended by
No. 37/2014
s. 10(Sch.
item 154.3(a)).

- (2) The police officer receiving the report may waive the requirements of subsection (1)(a) or (b) if the police officer—
- (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.

S. 26(3)
amended by
No. 37/2014
s. 10(Sch.
item 154.3(a)).

- (3) The police officer receiving the report may waive the requirements of subsection (1)(c) if he or she is otherwise satisfied as to the person's identity.

S. 26(4)
amended by
No. 37/2014
s. 10(Sch.
item 154.3(b)).

- (4) The police officer receiving a report may copy any document presented to the police officer for inspection under subsection (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 police officer 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 police officer has examined all the material relating to identity provided or presented to him or her by, or on behalf of, the registrable offender. **S. 27(1) amended by No. 37/2014 s. 10(Sch. item 154.4(a)).**
- (2) A police officer may only take, or cause to be taken, the fingerprints or a fingerscan of a child under subsection (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. **S. 27(2) amended by No. 37/2014 s. 10(Sch. item 154.4(b)).**

27A Power to take photographs

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

- (1) A police officer receiving a report made in person under this Part may require the registrable offender— **S. 27A(1) amended by No. 37/2014 s. 10(Sch. item 154.5(a)).**
- (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 police officer or a person authorised by the police officer.
- (2) A police officer 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. **S. 27A(2) amended by No. 37/2014 s. 10(Sch. item 154.5(b)).**

28 Reasonable force may be used to obtain fingerprints

S. 28(1)
amended by
Nos 34/2005
s. 13(1)(a),
37/2014
s. 10(Sch.
item
154.6(a)(i)).

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

S. 28(1)(a)
amended by
Nos 34/2005
s. 13(1)(b),
37/2014
s. 10(Sch.
item
154.6(a)(ii)).

(a) of the purpose for which the power is to be exercised and, in the case of a power under section 27, why the police officer 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.

S. 28(2)
amended by
Nos 34/2005
s. 13(2),
37/2014
s. 10(Sch.
item
154.6(b)(i)).

(2) A police officer, 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 police officer 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—

S. 28(2)(b)
amended by
No. 37/2014
s. 10(Sch.
item 154.6(b)).

(a) the registrable offender refuses to co-operate voluntarily; and

(b) the use of reasonable force is authorised by a police officer in charge of a police station at the time of the request or a police officer 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(3)
amended by
No. 34/2005
s. 13(3).

29 Photographs

* * * * *

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.

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

- (4) If practicable, any police officer 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(4)
amended by
Nos 34/2005
s. 14(2),
37/2014
s. 10(Sch.
item 154.7).

- (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.

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

30 Retention of material for certain purposes

- (1) The Chief Commissioner of Police may retain for law enforcement, crime prevention or child protection purposes any of the following taken under this Division from, or in relation to, a registrable offender whose reporting period ends on or after the commencement day—

S. 30
substituted by
No. 82/2014
s. 13.

- (a) copies of any documents;
 - (b) any fingerprints or fingerscans;
 - (c) any photographs.
- (2) In this section, **commencement day** means the day on which section 13 of the **Sex Offenders Registration Amendment Act 2014** comes into operation.

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
 - (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); or
- (d) is the subject of a notice under section 45A.

**S. 32(1)(c)
amended by
No. 82/2014
s. 14(a).**

**S. 32(1)(d)
inserted by
No. 82/2014
s. 14(b).**

(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 subsection (1)(a).

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—

S. 34(1)(b)(i)
amended by
No. 18/2008
s. 18(1).

- (i) has only ever been found guilty of a single Class 1 offence (other than an offence referred to in item 2 of Schedule 1); or

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

- (ii) has ever been found guilty of 2 Class 2 offences; or

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

(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

S. 34(1)(c)(ia)
inserted by
No. 18/2008
s. 18(2).

- (ia) has ever been found guilty of a single offence referred to in item 2 of Schedule 1; or

- (ii) has ever been found guilty of a Class 1 offence and 1 or more Class 2 offences; or

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

Note to
s. 34(1)
substituted by
No. 55/2009
s. 45(1).

Notes

- 1 If every registrable offence for which a person has been found guilty is committed when he or she is a child, the reporting period is reduced—see section 35. If one or more of the offences for which a person has ever been found guilty is committed when that person is an adult, the reporting periods specified in section 34 apply as if the Act did not contain section 35.
- 2 A life-long reporting obligation may be suspended under Division 6.

- (1A) A reference in subsection (1) to an offence extends to an offence committed as a child.
- (2) A reference in subsection (1) to an offence extends to an offence committed before the commencement of that subsection.
- (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.

S. 34(1A)
inserted by
No. 55/2009
s. 45(2).

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.

- (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.
- (3) This section does not apply if a person has committed a registrable offence as an adult in addition to an offence or offences committed as a child.

S. 35(3)
inserted by
No. 55/2009
s. 46.

S. 35A
inserted by
No. 55/2009
s. 37.

35A Reporting period to run during suspension

If the Supreme Court grants a suspension order under section 40(1A) in respect of a registrable offender who is not required to continue to comply with the reporting obligations imposed by this Part for the remainder of his or her life, the period of suspension of the registrable offender's reporting period is counted when calculating the remainder of that reporting period.

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

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

- (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.

38 Reporting period for New South Wales registrable offenders

- (1) Subject to subsection (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 subsection (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.

Pt 3 Div. 6
(Heading)
substituted by
No. 82/2014
s. 15(1).

Division 6—Suspension from reporting obligations

S. 39
(Heading)
amended by
No. 82/2014
s. 15(2).

39 Supreme Court may suspend certain registrable offenders' reporting obligations

S. 39(1)
amended by
No. 55/2009
s. 34.

(1) This section 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
- (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.

S. 39A
(Heading)
amended by
No. 82/2014
s. 15(3).

39A Chief Commissioner may apply for suspension from reporting obligations

S. 39A
inserted by
No. 55/2009
s. 35.

The Chief Commissioner may at any time apply to the Supreme Court for an order suspending the reporting obligations under this Part of a registrable offender.

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.

(1A) On the application under section 39A, the Supreme Court may make an order suspending the registrable offender's reporting obligations for the period of time specified in the order (which may be the remainder of the offender's life).

S. 40(1A)
inserted by
No. 55/2009
s. 36(1).

(2) The Court must not make an order under this section 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.

S. 40(2)
amended by
No. 55/2009
s. 36(2).

(3) In deciding whether to make an order under this section, the Court must take into account—

S. 40(3)
amended by
No. 55/2009
s. 36(3).

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

S. 40(4)
inserted by
No. 55/2009
s. 36(4).

(4) In deciding whether to make an order under subsection (1), the Court must also take into account any submissions made by the Chief Commissioner under section 41.

S. 40(5)
inserted by
No. 55/2009
s. 36(4).

(5) In deciding whether to make an order under subsection (1A), the Court must also take into account any evidence presented by the Chief Commissioner as to the risk that the registrable offender presents to the sexual safety of one or more persons or the community.

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.

S. 43
amended by
No. 55/2009
s. 38.

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 section 40(1) 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.
- (2) An order that ceased to have effect in accordance with subsection (1) is revived if—
 - (a) the finding of guilt that caused the order to cease to have effect is quashed or set aside by a court; or
 - (b) the order ceased to have effect in accordance with subsection (1)(a) and 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.

44A Chief Commissioner may apply for revocation of suspension order

- (1) The Chief Commissioner may apply to the Supreme Court for the revocation of an order granted under section 40(1A) on the ground that the circumstances in which that order was sought have materially changed.
- (2) The order under section 40(1A) ceases to have effect on the making of an order under subsection (1).

S. 44A
(Heading)
amended by
No. 82/2014
s. 15(4).

S. 44A
inserted by
No. 55/2009
s. 39.

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.

S. 45(1A)
inserted by
No. 55/2009
s. 40(1).

(1A) If an order ceases to have effect in accordance with section 44(1), the Chief Commissioner may apply under this Division for a new order.

(2) Section 43 does not apply with respect to an application referred to in subsection (1).

S. 45(3)
amended by
No. 55/2009
s. 40(2).

(3) If an order ceases to have effect in accordance with section 44(1)(b) or (c), on an application under section 39(2) 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.

S. 45A
inserted by
No. 82/2014
s. 16.

45A Chief Commissioner of Police may suspend reporting obligations for period not exceeding 12 months in certain circumstances

(1) Subject to subsection (2), the Chief Commissioner of Police, by written notice served on a registrable offender, may suspend the registrable offender's reporting obligations for a period (not exceeding 12 months) specified in the notice.

(2) The Chief Commissioner of Police must not act under subsection (1) unless 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 act under subsection (1), the Chief Commissioner of Police 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
 - (e) the registrable offender's total criminal record; and
 - (f) the extent to which the registrable offender has complied with their reporting obligations; and
 - (g) the registrable offender's physical or cognitive capacity to comply with their reporting obligations; and
 - (h) any other matter that the Chief Commissioner of Police considers appropriate.
- (4) The Chief Commissioner of Police—
- (a) may suspend a registrable offender's reporting obligations more than once; and
 - (b) may cancel a suspension under this section at any time.
- (5) A suspension under this section is taken to be cancelled if during the period of the suspension an order is made under section 40 in respect of the registrable offender.

Division 7—Offences

46 Offence of failing to comply with reporting obligations

S. 46(1)
amended by
No. 52/2007
s. 16,
substituted by
No. 82/2014
s. 17.

(1) A registrable offender who without reasonable excuse fails to comply with any of the registrable offender's reporting obligations (other than reporting obligations in respect of details to which section 14 applies) is guilty of an offence and liable to level 6 imprisonment (5 years maximum).

S. 46(1A)
inserted by
No. 82/2014
s. 17.

(1A) A registrable offender who without reasonable excuse fails to comply with any of the registrable offender's reporting obligations in respect of details to which section 14(1)(d), (da), (db), (dc), (dd), (e), (ea), (f), (g), (j), (k) or (m) applies is guilty of an offence and liable to level 6 imprisonment (5 years maximum).

S. 46(1B)
inserted by
No. 82/2014
s. 17.

(1B) A registrable offender who without reasonable excuse fails to comply with any of the registrable offender's reporting obligations in respect of details to which section 14(1)(a), (b), (c), (h), (i) or (l) applies is guilty of an offence and liable to level 7 imprisonment (2 years maximum).

(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

S. 47
substituted by
No. 82/2014
s. 18.

- (1) A registrable offender who in purported compliance with this Part furnishes details (other than details to which section 14 applies) that the registrable offender knows to be false or misleading in a material particular is guilty of an offence and liable to level 7 imprisonment (2 years maximum) or a level 7 fine (240 penalty units).
- (2) A registrable offender who in purported compliance with this Part furnishes details to which section 14(1)(d), (da), (db), (dc), (dd), (e), (ea), (f), (g), (j), (k) or (m) applies that the registrable offender knows to be false or misleading in a material particular is guilty of an offence and liable to level 6 imprisonment (5 years maximum).
- (3) A registrable offender who in purported compliance with this Part furnishes details to which section 14(1)(a), (b), (c), (h), (i) or (l) applies that the registrable offender knows to be false or misleading in a material particular is guilty of an offence and liable to level 7 imprisonment (2 years maximum).

S. 48
amended by
No. 68/2009
s. 97(Sch.
item 112.3).

48 Time limit for prosecutions waived

Despite anything to the contrary in section 7(1) of the **Criminal Procedure Act 2009**, 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—
 - (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 subsection (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.

51 Courts to provide information to Chief Commissioner of Police

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

- (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

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

- (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.

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—

* * * * *

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 59 of the **Criminal Procedure
Act 2009**; 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—

S. 53(1)(d)
amended by
No. 68/2009
s. 97(Sch.
item 112.4).

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.

- (2) As soon as is practicable before or after the relevant event listed in subsection (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 subsection, or who has the same status as such a person under an order made under a

corresponding Act specified by the regulations for the purposes of this subsection.

- (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.
- (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 IBAC against the decision within 3 days after receiving notice of the decision.

S. 59(1)
amended by
Nos 79/2004
s. 100(2)(a)(i),
82/2012
s. 131(1).

(2) The IBAC, in determining the appeal, may make any decision that could have been made by the Chief Commissioner of Police.

S. 59(2)
amended by
Nos 79/2004
s. 100(2)(a)(i),
82/2012
s. 131(1).

(3) The IBAC's decision in respect of the appeal has effect according to its terms.

S. 59(3)
amended by
Nos 79/2004
s. 100(2)(a)(ii),
82/2012
s. 131(2).

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 IBAC determines the appeal—

S. 60(2)(c)
amended by
Nos 79/2004
s. 100(2)(b),
82/2012 s. 132.

whichever is the later.

61 Modification of ongoing reporting obligations

Sections 14(1), 18 to 21A 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. 61
amended by
No. 82/2014
s. 19.

Part 4—The Sex Offender Register

62 Register of Sex Offenders

S. 62(1)
amended by
No. 20/2015
s. 14.

- (1) The Chief Commissioner of Police is to establish and maintain, or arrange for another entity 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.

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 in accordance with this Act.

S. 63(1)(b)
amended by
No. 34/2005
s. 20(1)(a)–(c),
substituted by
No. 52/2007
s. 17.

(1A) Despite subsection (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.

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

(1B) Despite subsection (1)(b), for the purposes of administering the **Working with Children Act 2005**, the Chief Commissioner of Police may notify the Secretary 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.

S. 63(1B)
inserted by
No. 55/2009
s. 47.

(1C) Despite subsection (1)(b), for the purposes of administering the **Firearms Act 1996**, the Chief Commissioner of Police may notify the Firearms Appeals Committee established under Part 9 of that Act, and any person assisting that Committee, of part or all of the information relating to a registrable offender that is in the Register.

S. 63(1C)
inserted by
No. 82/2014
s. 20.

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

S. 64
substituted by
No. 52/2007
s. 18.

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

- (1) A person authorised to have access to the Register or any part of the Register must not disclose any personal information in the Register to any person.

Penalty: 240 penalty units or imprisonment for 2 years.

- (2) Despite subsection (1), the Chief Commissioner of Police or a person authorised to have access to the Register or any part of the Register may disclose personal information in the Register to a government department, public statutory authority or court—
 - (a) for the purpose of law enforcement or judicial functions or activities; or
 - (b) as authorised or required by or under any Act or law; or

S. 64(2)(b)
amended by
No. 82/2014
s. 21.

(c) if the Chief Commissioner or a person authorised to have access to the Register believes on reasonable grounds that to do so is necessary to enable the proper administration of this Act.

(3) Despite subsection (1), the Chief Commissioner of Police or a person authorised to have access to the Register or any part of the Register may disclose personal information in the Register to the CrimTrac Agency for entry on the Australian National Child Offender Register.

S. 64(3)
inserted by
No. 20/2015
s. 15.

(4) In this section—

CrimTrac Agency means the Executive Agency known as CrimTrac and established by the Governor-General by order under section 65 of the Public Service Act 1999 of the Commonwealth.

S. 64(4)
inserted by
No. 20/2015
s. 15.

64A Disclosure of de-identified information

S. 64A
inserted by
No. 82/2014
s. 22.

(1) The Chief Commissioner of Police, if the Chief Commissioner considers it appropriate to do so, may provide to any person information in the Register in respect of one or more registrable offenders if the information is de-identified information.

(2) The Chief Commissioner of Police may impose any restriction or condition that the Chief Commissioner thinks fit on the use of de-identified information disclosed under subsection (1).

- (3) A person to whom de-identified information is disclosed under subsection (1) must comply with any restriction or condition on its use that is imposed by the Chief Commissioner.

Penalty: 10 penalty units in the case of a natural person;
50 penalty units in the case of a body corporate.

- (4) In this section—

de-identified information means information about an individual whose identity, or the identity of any other individual, is not apparent or cannot reasonably be ascertained from the information.

S. 65
amended by
No. 37/2014
s. 10(Sch.
item 154.7).

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 police officer 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.
- (2) The Chief Commissioner of Police must comply with subsection (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.

66A IBAC to monitor compliance

The IBAC 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. 66A
(Heading)
amended by
No. 82/2012
s. 133(1).
S. 66A
inserted by
No. 79/2004
s. 101 (as
amended by
No. 97/2004
s. 9(7)),
amended by
No. 82/2012
s. 133(2).

66B IBAC to be given reasonable assistance

The Chief Commissioner of Police must ensure that police officers 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 IBAC any assistance that the IBAC reasonably requires to enable the IBAC to perform the IBAC's functions under this Part.

S. 66B
(Heading)
amended by
No. 82/2012
s. 133(3).
S. 66B
inserted by
No. 79/2004
s. 101 (as
amended by
No. 97/2004
s. 9(7)),
amended by
Nos 82/2012
s. 133(4),
37/2014
s. 10(Sch.
item 154.8).

66C Powers in relation to monitoring

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

(1) An authorised officer may, after notifying the Chief Commissioner of Police of the intended entry—

S. 66C(1)(a)
amended by
Nos 82/2012
s. 134(1),
37/2014
s. 10(Sch.
item 154.9).

- (a) enter at any time premises occupied by Victoria Police at which the IBAC Commissioner 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 IBAC'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.

S. 66C(2)
amended by
No. 34/2008
s. 143(Sch. 2
item 10.2),
substituted by
No. 82/2012
s. 134(2).

(2) For the purposes of this section, an *authorised officer* is—

- (a) the IBAC Commissioner; or
- (b) a sworn IBAC Officer who is authorised under subsection (3).

S. 66C(3)
amended by
No. 34/2008
s. 143(Sch. 2
item 10.3),
substituted by
No. 82/2012
s. 134(3).

(3) The IBAC may authorise a sworn IBAC Officer to exercise the powers of an authorised officer under this section.

66D Reports on monitoring compliance

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

- (1) The IBAC 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 IBAC must give the Minister a report under subsection (1) as soon as practicable after receiving the request.
- (3) The IBAC must give a copy of any report under subsection (1) to the Chief Commissioner of Police.

S. 66D(1)
amended by
No. 82/2012
s. 135.

S. 66D(2)
amended by
No. 82/2012
s. 135.

S. 66D(3)
amended by
No. 82/2012
s. 135.

Part 5—Registered sex offenders prohibited from child-related employment

67 Definitions

(1) In this Part—

S. 67(1) def. of *child-related employment* amended by Nos 57/2005 s. 51(1), 48/2006 s. 42(Sch. item 33.6), 80/2011 s. 79(Sch. item 6).

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

- (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**;
- (ca) education and care services within the meaning of the Education and Care Services National Law (Victoria);
- (d) educational institutions;
- (e) community services, remand centres, youth residential centres, youth supervision units or youth justice centres, within the meaning of the **Children, Youth and Families Act 2005** 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, 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.

- (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;

S. 67(1) def. of *contact* repealed by No. 82/2014 s. 23.

* * * * *

S. 67(1) def. of *educational institutions for children* substituted as *educational institution* by No. 57/2005 s. 51(2), substituted by No. 24/2006 s. 6.1.2(Sch. 7 item 36.1(a)), amended by No. 76/2013 s. 22.

educational institution means—

- (a) any Government school or non-Government school within the meaning of the **Education and Training Reform Act 2006**; or
- (b) any of the following—
 - (i) a TAFE institute within the meaning of the **Education and Training Reform Act 2006**;
 - (ii) a dual sector university within the meaning of the **Education and Training Reform Act 2006**;

- (iii) a provider of adult, community and further education, within the meaning of the **Education and Training Reform Act 2006**, that is eligible for funding under that Act;
- (iv) an adult education institution within the meaning of the **Education and Training Reform Act 2006**;
- (v) an education and training organisation registered on the State Register under the **Education and Training Reform Act 2006**—

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 **Education and Training Reform Act 2006**; 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 within the meaning of the **Education and Training Reform Act 2006**; or

- (e) except to the extent provided by paragraph (b), a TAFE institute or an adult education institution within the meaning of the **Education and Training Reform Act 2006**—

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
 - (ia) for gain or reward other than under a contract of employment or contract for services; 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 under Part 5.4 of the **Education and Training Reform Act 2006** if the student is of or under 18 years of age; or
- (c) performance of work as a volunteer including the performance of unpaid community work under—
- (i) a drug treatment order within the meaning of the **Sentencing Act 1991**; or
 - (ii) an old community-based order within the meaning of clause 1 of Schedule 3 to the **Sentencing Act 1991**; or

S. 67(1) def. of *employment* amended by Nos 24/2006 s. 6.1.2(Sch. 7 item 36.1(b)), 52/2007 s. 19, 65/2011 s. 107(Sch. item 12.4).

- (iii) an old intensive correction order within the meaning of clause 1 of Schedule 3 to the **Sentencing Act 1991**; or
- (iv) a fine conversion order within the meaning of the **Sentencing Act 1991**; or
- (v) a fine default unpaid community work order within the meaning of the **Sentencing Act 1991**; or
- (d) performance of work as a volunteer including the performance of unpaid community work under a community 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
- (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.

69 Offence to fail to disclose charges

S. 69(1)
amended by
No. 68/2009
s. 97(Sch.
item 112.5).

- (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-sheet charging the offence or (in the case of a charge that is pending immediately before the commencement of this subsection) 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 subsection) 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-sheet charging the offence or (in the case of a charge that is pending immediately before the commencement of this subsection) within 7 days after that commencement.

S. 69(3)
amended by
No. 68/2009
s. 97(Sch.
item 112.5).

Penalty: 60 penalty units.

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) Subsection (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 for the purpose of obtaining legal advice or representation relating to a matter under this Act; or

S. 70(2)(d)
amended by
Nos 18/2005
s. 18(Sch. 1
item 99),
17/2014
s. 160(Sch. 2
item 90).

Sex Offenders Registration Act 2004

No. 56 of 2004

Part 5—Registered sex offenders prohibited from child-related employment

S. 70(2)(e)
amended by
Nos 57/2005
s. 51(4),
28/2007
s. 3(Sch.
item 61.1).

- (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 a cognitive impairment 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.

Part 5A—Change of name

Pt 5A
(Heading and
ss 70A–70K)
inserted by
No. 52/2007
s. 20.

70A Application of Part

This Part applies despite anything to the contrary in the **Births, Deaths and Marriages Registration Act 1996**.

S. 70A
inserted by
No. 52/2007
s. 20.

70B Definitions

In this Part—

change of name application means an application by or on behalf of a registrable offender for registration of a change of the offender's name for which approval is required under section 70C;

Interstate Registrar means an authority responsible under a law of another State or Territory for the registration of births, deaths and marriages;

Victorian Registrar means the Registrar of Births, Deaths and Marriages under the **Births, Deaths and Marriages Registration Act 1996**.

S. 70B
inserted by
No. 52/2007
s. 20.

70C Applications for change of name by or on behalf of a registrable offender

(1) A registrable offender must not—

- (a) apply to the Victorian Registrar to register a change of his or her name under the **Births, Deaths and Marriages Registration Act 1996**; or

S. 70C
inserted by
No. 52/2007
s. 20.

- (b) apply to an Interstate Registrar to register a change of his or her name under a law of another State or Territory that is the equivalent of the **Births, Deaths and Marriages Registration Act 1996**—

without having first obtained the written approval of the Chief Commissioner of Police.

Penalty: 5 penalty units.

- (2) A person must not, on behalf of a registrable offender—

- (a) apply to the Victorian Registrar to register a change of his or her name under the **Births, Deaths and Marriages Registration Act 1996**; or

- (b) apply to an Interstate Registrar to register a change of his or her name under a law of another State or Territory that is the equivalent of the **Births, Deaths and Marriages Registration Act 1996**—

without having first obtained the written approval of the Chief Commissioner of Police.

Penalty: 5 penalty units.

S. 70D
inserted by
No. 52/2007
s. 20.

70D Approval by Chief Commissioner of Police

- (1) Subject to subsection (2), the Chief Commissioner of Police may only approve a change of name application if the Chief Commissioner is satisfied that the change of name is in all the circumstances necessary or reasonable.
- (2) The Chief Commissioner of Police must not approve a change of name application if the Chief Commissioner is satisfied that the change of name would, if registered, be reasonably likely—

- (a) to be regarded as offensive by a victim of crime or an appreciable sector of the community; or
- (b) to frustrate the administration of this Act in respect of the registrable offender.

70E Approval to be notified in writing

If the Chief Commissioner of Police approves a change of name application, the Chief Commissioner must—

- (a) as soon as practicable, give written notice of the approval to the person who made the application; and
- (b) if the registrable offender consents, give a copy of the written notice of approval to the Victorian Registrar or the Interstate Registrar (as the case so requires).

S. 70E
inserted by
No. 52/2007
s. 20.

70F Registration of change of name

(1) The Victorian Registrar must not register a change of name under the **Births, Deaths and Marriages Registration Act 1996** if—

- (a) the Victorian Registrar knows that—
 - (i) the application for the change of name is made by or on behalf of a registrable offender; and
 - (ii) the change of name relates to the name of the registrable offender; and
- (b) the Victorian Registrar has not received a copy of the notice of approval of the Chief Commissioner of Police under section 70E.

(2) If the Victorian Registrar does not register a change of name because of the operation of subsection (1), the Victorian Registrar must give written notice of the application to the Chief Commissioner of Police.

S. 70F
inserted by
No. 52/2007
s. 20.

S. 70G
inserted by
No. 52/2007
s. 20.

70G Registrar may correct Register

Without limiting section 43 of the **Births, Deaths and Marriages Registration Act 1996**, the Victorian Registrar may correct the Register under that section if—

- (a) the name of a registrable offender on the Register has been changed; and
- (b) the Chief Commissioner of Police has not approved that change under this Part.

S. 70H
inserted by
No. 52/2007
s. 20.

70H Lapse of application where offender ceases to be a registrable offender

A change of name application under this Part by or on behalf of an offender lapses if—

- (a) the registrable offender ceases to be a registrable offender; and
- (b) the Victorian Registrar has not registered the change of name before the registrable offender ceases to be a registrable offender.

S. 70I
inserted by
No. 52/2007
s. 20.

70I Information-sharing between the Secretary and the Victorian Registrar

- (1) Despite any law to the contrary—
 - (a) the Secretary or the Chief Commissioner of Police may notify the Victorian Registrar of the name (including any other name by which a registrable offender is or has previously been known), date of birth and residential address or addresses of the registrable offender; and
 - (b) if the Secretary or the Chief Commissioner of Police has given notification under paragraph (a) in respect of a registrable offender, the Secretary or the Chief Commissioner must notify the Victorian Registrar as soon as practicable after the

registrable offender ceases to be a registrable offender.

- (2) Nothing in this section affects the operation of the Charter of Human Rights and Responsibilities.

70J Registrable offender who is also subject to a supervision or detention order or extended supervision order

S. 70J inserted by No. 52/2007 s. 20, substituted by No. 91/2009 s. 219(Sch. 3 item 3).

- (1) This section applies to a registrable offender who is also subject to—

(a) a supervision order, detention order or interim order within the meaning of the **Serious Sex Offenders (Detention and Supervision) Act 2009**; or

(b) an extended supervision order or interim extended supervision order within the meaning of the **Serious Sex Offenders Monitoring Act 2005**.

S. 70J(1)(b) amended by No. 43/2012 s. 3(Sch. item 48).

- (2) Despite this Part, an application by or on behalf of a registrable offender to whom this section applies for registration of a change of the offender's name must be made under and in accordance with the **Serious Sex Offenders (Detention and Supervision) Act 2009**.

70K Registrable offender who is also a prisoner on parole

S. 70K inserted by No. 52/2007 s. 20.

Despite this Part, an application by or on behalf of a registrable offender who is also a prisoner on parole within the meaning of Division 6 of Part 8 of the **Corrections Act 1986** for registration of a change of the offender's name must be made under and in accordance with that Division of that Part of that Act.

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.

S. 71(2)
substituted by
No. 79/2004
s. 102,
repealed by
No. 82/2012
s. 136.

* * * * *

71A Disclosure of personal information—supervising authorities

S. 71A
inserted by
No. 52/2007
s. 21,
amended by
No. 60/2014
s. 140(Sch. 3
item 43).

Despite anything to the contrary in this Act, the **Privacy and Data Protection Act 2014** or any other Act (other than the Charter of Human Rights and Responsibilities), a supervising authority (the first mentioned supervising authority) may disclose to another supervising authority (the second mentioned supervising authority) any personal information it holds and that was provided to it in accordance with the provisions of this Act in respect of a registrable offender if the first mentioned supervising authority believes on reasonable grounds that to do so is necessary for the proper administration of this Act.

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 police officer holding a position designated in writing by the Chief Commissioner of Police for the purposes of this section, certifying that the Register—

S. 73(1)
amended by
No. 37/2014
s. 10(Sch.
item 154.10).

(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.

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

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

(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.

S. 73B
inserted by
No. 79/2006
s. 55.

73B Transitional provision—Justice Legislation (Further Amendment) Act 2006

The amendments of section 3 of this Act made by section 53 of the **Justice Legislation (Further Amendment) Act 2006** do not affect the rights of the parties in the proceeding known as *DPP v Neisser* [2006] VSC 218 (No. 9544 of 2005) in the Supreme Court of Victoria.

S. 73C
inserted by
No. 18/2008
s. 19.

73C Transitional provision—Justice Legislation Amendment (Sex Offences Procedure) Act 2008

- (1) The amendments made to this Act by section 18 of the **Justice Legislation Amendment (Sex Offences Procedure) Act 2008** apply to a person who is sentenced for a registrable offence on or after the commencement of that section.
- (2) For the purposes of subsection (1), a sentence imposed by an appellate court on setting aside a sentencing order must be taken to have been imposed at the time the original sentencing order was made.

**73D Transitional provision—Integrity and
Accountability Legislation Amendment Act 2012**

S. 73D
inserted by
No. 82/2012
s. 137.

- (1) If, before the commencement day, the Director had received an appeal under section 59 but had not determined it, the IBAC must determine the appeal in accordance with that section.
- (2) If, before the commencement day, the Director has carried out an inspection under section 66C but has not provided a written report to the Minister under section 66D in relation to that inspection, on and from the commencement day, the IBAC may report on that inspection as if the IBAC had carried out that inspection.
- (3) If, before the commencement day, the Director had been requested under section 66D(2) by the Minister to give a report but had not commenced that report, or had commenced the report but not completed it, on and from the commencement day, the IBAC must give that report, or complete that report, as the case requires, as if the Minister had requested IBAC to make that report.
- (4) The IBAC must give a copy of a report referred to in subsection (3) to the Chief Commissioner in accordance with section 66D(3).
- (5) In this section, *commencement day* means the day on which section 16 of the **Independent Broad-based Anti-corruption Commission Amendment (Investigative Functions) Act 2012** comes into operation.

**73E Transitional provisions—Sex Offenders
Registration Amendment Act 2014**

S. 73E
inserted by
No. 82/2014
s. 24.

- (1) Section 11(6), as amended by section 5(3) of the **Sex Offenders Registration Amendment Act 2014**, applies only to a sentence that is imposed on or after the commencement of

section 5(3) of the **Sex Offenders Registration Amendment Act 2014**.

- (2) Section 17(1), (1A), (1B), (2) and (3), as amended by section 7 of the **Sex Offenders Registration Amendment Act 2014**, applies only to a change to personal details that occurs on or after the commencement of section 7 of the **Sex Offenders Registration Amendment Act 2014**.
- (3) Section 17(4), as amended by section 7 of the **Sex Offenders Registration Amendment Act 2014** applies only to a registrable offender who ceases to be in government custody on or after the commencement of section 7 of the **Sex Offenders Registration Amendment Act 2014**.
- (4) Section 18(1)(a), as amended by section 8 of the **Sex Offenders Registration Amendment Act 2014**, applies only in respect of an absence from Victoria that is to commence on or after the day that is 9 days after the commencement of section 8 of the **Sex Offenders Registration Amendment Act 2014** comes into operation.
- (5) Section 19(1)(a), as amended by section 9 of the **Sex Offenders Registration Amendment Act 2014**, applies only in respect of an extension of a stay elsewhere in Australia that commences on or after the day that is 9 days after the commencement of section 9 of the **Sex Offenders Registration Amendment Act 2014** comes into operation.
- (6) Section 20(2), as substituted by section 10(1) of the **Sex Offenders Registration Amendment Act 2014**, applies only to a registrable offender who returns to Victoria on or after the commencement of section 10(1) of the **Sex Offenders Registration Amendment Act 2014**.

- (7) Section 20(2A) applies only to a registrable offender who returns to Victoria on or after the commencement of section 10(1) of the **Sex Offenders Registration Amendment Act 2014**.
- (8) Section 20(3), as amended by section 10(2) of the **Sex Offenders Registration Amendment Act 2014**, applies only to a registrable offender's decision on or after the commencement of section 10(2) of the **Sex Offenders Registration Amendment Act 2014** not to leave Victoria.
- (9) Section 21A applies only in respect of a report of a kind referred to in that section that is made on or after the commencement of section 11 of the **Sex Offenders Registration Amendment Act 2014**.

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**.
- (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
amended by
No. 79/2004
s. 103 (ILA
s. 39B(1)).

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

S. 75(1)(a)(iv)
inserted by
No. 82/2014
s. 25.

- (iii) requiring that a report contain additional information to that required by that Part;
- (iv) without limiting any other power under this section, for the purposes of section 21A, the documents to be produced to verify or support the details in a report referred to in that section;
- (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;
- (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;
- (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;
- (ha) prescribing an entity as the supervising authority in relation to a class of offender;
- (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.

S. 75(1)(ha)
inserted by
No. 79/2006
s. 54(2).

- (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 subparagraphs (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
 - (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.
- (3) Regulations made under section 75(1)(ha) may prescribe an entity as the supervising authority in relation to a class of offender even if the entity has no direct or actual supervision of offenders belonging to that class.

S. 75(3)
inserted by
No. 79/2006
s. 54(3).

Sex Offenders Registration Act 2004
No. 56 of 2004

Pt 7 (Heading
and ss 76–79)
repealed by
No. 28/2007
s. 3(Sch.
item 61.2).

* * * * *

Schedules

Schedule 1—Class 1 offences

Section 7(2)

- | | |
|--|---|
| 1. An offence against a provision of Subdivision (8A) of Division 1 of Part I of the Crimes Act 1958 that involves sexual penetration where the person against whom the offence is committed is a child. | Sch. 1 item 1 amended by Nos 34/2005 s. 24(1)(a), 2/2006 s. 45(1)(a), substituted by No. 74/2014 s. 33(1). |
| * * * * * | Note to item 1 inserted by No. 34/2005 s. 24(1)(b), amended by No. 2/2006 s. 45(1)(a) repealed by No. 74/2014 s. 33(1). |
| 1A. An offence against a provision of Subdivisions (8B) to (8EA) of Division 1 of Part I of the Crimes Act 1958 that involves sexual penetration where the person against whom the offence is committed is a child. | Sch. 1 item 1A inserted by No. 2/2006 s. 45(1)(b), substituted by No. 74/2014 s. 33(1). |
| 2. An offence against section 47A of the Crimes Act 1958 (persistent sexual abuse of child under the age of 16). | Sch. 1 item 2 amended by No. 2/2006 s. 45(1)(c). |
| 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). |
| * * * * * | |

Sex Offenders Registration Act 2004
No. 56 of 2004
Schedule 1—Class 1 offences

Sch. 1 item 6
amended by
No. 34/2005
s. 24(1)(d).

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 6A
inserted by
No. 34/2005
s. 21,
re-numbered
as Sch. 1
item 6AA by
No. 14/2006
s. 20.

6AA. An offence against section 60AC of the **Crimes Act 1958** (aggravated sexual servitude).

Sch. 1 item 6A
inserted by
No. 34/2005
s. 24(1)(e),
amended by
No. 42/2015
s. 28(1).

6A. Without limiting item 6, an offence referred to in any of the following paragraphs of clause 1 of Schedule 1 to the **Sentencing Act 1991** where the person against whom the offence is committed is a child—

- (a) paragraph (ab);
- (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).

Sch. 1 item 7
repealed by
No. 82/2014
s. 26(1).

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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.

Sex Offenders Registration Act 2004
No. 56 of 2004
Schedule 1—Class 1 offences

- 8A. An offence against any of the following sections of the Criminal Code of the Commonwealth—
- (i) section 272.8(1) and (2) (sexual intercourse with child outside Australia);
 - (ii) section 272.9(1) and (2) (sexual activity (other than sexual intercourse) with child outside Australia);
 - (iii) section 272.10(1) (aggravated offence—child with mental impairment or under care, supervision or authority of defendant);
 - (iv) section 272.11(1) (persistent sexual abuse of child outside Australia);
 - (v) section 272.12(1) and (2) (sexual intercourse with young person outside Australia—defendant in position of trust or authority);
 - (vi) section 272.13(1) and (2) (sexual activity (other than sexual intercourse) with young person outside Australia—defendant in position of trust or authority);
 - (vii) section 272.14(1) (procuring child to engage in sexual activity outside Australia);
 - (viii) section 272.15(1) ("grooming" child to engage in sexual activity outside Australia).
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.

Sch. 1 item 8A
inserted by
No. 82/2014
s. 26(2).

Sex Offenders Registration Act 2004
No. 56 of 2004
Schedule 1—Class 1 offences

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—Class 2 offences

Section 7(3)

1. An offence against section 40(1) (sexual assault), or 41(1) (sexual assault by compelling sexual touching), of the **Crimes Act 1958** where the person against whom the offence is committed is a child. Sch. 2 item 1 amended by No. 74/2014 s. 33(2)(a).
2. An offence against section 42(1) (assault with intent to commit a sexual offence), or 43(1) (threat to commit a sexual offence), of the **Crimes Act 1958** where the person against whom the offence is committed is a child. Sch. 2 item 2 amended by No. 74/2014 s. 33(2)(b).
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 or 17 year old child). Sch. 2 item 4 amended by No. 2/2006 s. 45(2)(a).
- 4A. An offence against section 49B(2) of the **Crimes Act 1958** (grooming for sexual conduct with child under the age of 16 years). Sch. 2 item 4A inserted by No. 7/2014 s. 5(1).
5. An offence against section 51(2) of the **Crimes Act 1958** (indecent act with person with a cognitive impairment by providers of medical or therapeutic services) where the person against whom the offence is committed is a child. Sch. 2 item 5 amended by No. 2/2006 s. 45(2)(b).
6. An offence against section 52(2) of the **Crimes Act 1958** (indecent act with person with a cognitive impairment by providers of special programs) where the person against whom the offence is committed is a child. Sch. 2 item 6 amended by No. 2/2006 s. 45(2)(c).
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.

Sex Offenders Registration Act 2004
No. 56 of 2004
Schedule 2—Class 2 offences

- Sch. 2 item 12
amended by
No. 2/2006
s. 45(2)(d).
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 a child).
13. An offence against section 59 of the **Crimes Act 1958**
(bestiality).
- Sch. 2 item 14
repealed by
No. 2/2006
s. 45(2)(e).
- * * * * *
- Sch. 2
item 14A
inserted by
No. 34/2005
s. 22(1).
- 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 18AAAA
inserted by
No. 42/2015
s. 28(2).
- 18AAAA. An offence against section 70AAAB of the
Crimes Act 1958 (administering a child
pornography website).
- Sch. 2
item 18AAA
inserted by
No. 42/2015
s. 28(2).
- 18AAA. An offence against section 70AAAC of the
Crimes Act 1958 (encouraging use of a website
to deal with child pornography).

Sex Offenders Registration Act 2004
No. 56 of 2004
Schedule 2—Class 2 offences

- | | |
|---|---|
| 18AA. An offence against section 70AAAD of the Crimes Act 1958 (assisting a person to avoid apprehension). | Sch. 2
item 18AA
inserted by
No. 42/2015
s. 28(2). |
| 18A. An offence against section 70AC of the Crimes Act 1958 (sexual performance involving a minor). | Sch. 2
item 18A
inserted by
No. 34/2005
s. 22(2). |
| 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 an offence against a provision of Subdivisions (8A) to (8EA) of Division 1 of Part I of the Crimes Act 1958 on a child. | Sch. 2 item 19
amended by
Nos 74/2014
s. 33(2)(c),
52/2015 s. 47. |
| 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 an offence against a provision of Subdivisions (8A) to (8EA) of Division 1 of Part I of the Crimes Act 1958 on a child. | Sch. 2 item 20
amended by
Nos 74/2014
s. 33(2)(c),
52/2015 s. 47. |
| 21. An offence against section 5(1) of the Sex Work Act 1994 (causing or inducing a child to take part in sex work). | Sch. 2 item 21
amended by
No. 63/2010
s. 81(Sch.
item 12.1). |
| 22. An offence against section 6(1) of the Sex Work Act 1994 (obtaining payment for sexual services provided by a child). | Sch. 2 item 22
amended by
No. 63/2010
s. 81(Sch.
item 12.2). |
| 23. An offence against section 7(1) of the Sex Work Act 1994 (agreement for provision of sexual services by a child). | Sch. 2 item 23
amended by
No. 63/2010
s. 81(Sch.
item 12.2). |
| 24. An offence against section 11(1) of the Sex Work Act 1994 (allowing child to take part in sex work). | Sch. 2 item 24
amended by
No. 63/2010
s. 81(Sch.
item 12.3). |

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

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.

Sch. 2
item 26A
inserted by
No. 34/2005
s. 24(2),
amended by
No. 42/2015
s. 28(3)(a).

26A. Without limiting item 26, an offence referred to in paragraph (ab), (ac), (b), (c), (d) or (e) of clause 1 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 27
repealed by
No. 82/2014
s. 27(1).

* * * * *

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.

Sch. 2
item 28AA
inserted by
No. 57/2005
s. 51(5).

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 28AB
inserted by
No. 82/2014
s. 27(2).

28AB. An offence against any of the following sections of the Criminal Code of the Commonwealth—

- (i) section 272.18(1) (benefiting from offence against this Division);
- (ii) section 272.19(1) (encouraging offence against this Division);
- (iii) section 272.20(1) and (2) (preparing for or planning offence against this Division);

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- (iv) section 273.5(1) (possessing, controlling, producing, distributing or obtaining child pornography material outside Australia);
- (v) section 273.6(1) (possessing, controlling, producing, distributing or obtaining child abuse material outside Australia);
- (vi) section 273.7(1) (aggravated offence—offence involving conduct on 3 or more occasions and 2 or more people).

28A. An offence against any of the following sections of the Criminal Code of the Commonwealth—

- (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);
- (vii) section 474.27A(1) (using a carriage service to transmit indecent communication to person under 16 years of age).

Sch. 2
item 28A
inserted by
No. 34/2005
s. 22(3),
amended by
No. 82/2014
s. 27(3).

29. An offence against section 233BAB of the Customs Act 1901 of the Commonwealth involving items of child pornography or of child abuse material.

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Schedule 2—Class 2 offences

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.
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.

Schedule 3—Class 3 offences

Section 8(1)

1. An offence against a provision of Subdivision (8A) of Division 1 of Part I of the **Crimes Act 1958** that involves sexual penetration.
- * * * * *
- 1A. An offence against a provision of Subdivisions (8B) to (8EA) of Division 1 of Part I of the **Crimes Act 1958** that involves sexual penetration.
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 clause 1 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).
- Sch. 3 item 1 substituted by No. 74/2014 s. 33(3).
- Note to item 1 inserted by No. 34/2005 s. 24(3)(a), amended by No. 2/2006 s. 45(3)(a), repealed by No. 74/2014 s. 33(3).
- Sch. 3 item 1A inserted by No. 2/2006 s. 45(3)(b) (as amended by No. 27/2006 s. 19), substituted by No. 74/2014 s. 33(3).
- Sch. 3 item 2A inserted by No. 34/2005 s. 24(3)(b), amended by No. 42/2015 s. 28(3)(b).

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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.
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.

Schedule 4—Class 4 offences

Section 8(2)

- | | |
|---|--|
| 1. An offence against section 40(1) (sexual assault), or 41(1) (sexual assault by compelling sexual touching), of the Crimes Act 1958 . | Sch. 4 item 1 amended by No. 74/2014 s. 33(4)(a). |
| 2. An offence against section 42(1) (assault with intent to commit a sexual offence), or 43(1) (threat to commit a sexual offence), of the Crimes Act 1958 . | Sch. 4 item 2 amended by No. 74/2014 s. 33(4)(b). |
| 3. An offence against section 51(2) of the Crimes Act 1958 (indecent act with person with a cognitive impairment by providers of medical or therapeutic services). | Sch. 4 item 3 amended by No. 2/2006 s. 45(4)(a). |
| 4. An offence against section 52(2) of the Crimes Act 1958 (indecent act with person with a cognitive impairment by providers of special programs). | Sch. 4 item 4 amended by No. 2/2006 s. 45(4)(b). |
| 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). | Sch. 4 item 7A inserted by No. 34/2005 s. 23. |
| 7B. An offence against section 60AD of the Crimes Act 1958 (deceptive recruiting for commercial sexual services). | Sch. 4 item 7B inserted by No. 34/2005 s. 23. |
| 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 an offence against a provision of Subdivisions (8A) to (8EA) of Division 1 of Part I of the Crimes Act 1958 . | Sch. 4 item 8 amended by Nos 74/2014 s. 33(4)(c), 52/2015 s. 48. |

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Sch. 4 item 9
amended by
Nos 74/2014
s. 33(4)(c),
52/2015 s. 48.

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 an offence against a provision of Subdivisions (8A) to (8EA) of Division 1 of Part I of the **Crimes Act 1958**.
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 10A
inserted by
No. 34/2005
s. 24(4),
amended by
No. 42/2015 s.
28(3)(c).

- 10A. Without limiting item 10, an offence referred to in paragraph (ab), (ac), (b), (c), (d) or (e) of clause 1 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.

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Schedule 4—Class 4 offences

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

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative 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.

INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

Style changes

Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

References to ILA s. 39B

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided section or clause of a Schedule is amended by the insertion of one or more subsections or subclauses, the original section or clause becomes subsection or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original section or clause.

Interpretation

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

- **Headings**

All headings included in an Act which is passed on or after 1 January 2001 form part of that Act. Any heading inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. This includes headings to Parts, Divisions or Subdivisions in a Schedule; sections; clauses; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A).

- **Examples, diagrams or notes**

All examples, diagrams or notes included in an Act which is passed on or after 1 January 2001 form part of that Act. Any examples, diagrams or notes inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, form part of that Act. See section 36(3A).

- **Punctuation**

All punctuation included in an Act which is passed on or after 1 January 2001 forms part of that Act. Any punctuation inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. See section 36(3B).

- **Provision numbers**

All provision numbers included in an Act form part of that Act, whether inserted in the Act before, on or after 1 January 2001. Provision numbers include section numbers, subsection numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**

A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of an Act is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

- **Other material**

Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of an Act. See section 36(3)(3D)(3E).

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2 Table of Amendments

This publication 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**

Sentencing and Mental Health Acts (Amendment) Act 2005, No. 69/2005

Assent Date: 11.10.05
Commencement Date: S. 30 on 1.10.06: s. 2(3)
Current State: This information relates only to the provision/s amending the **Sex Offenders Registration Act 2004**

Crimes (Sexual Offences) Act 2006, No. 2/2006 (as amended by No. 27/2006)

Assent Date: 7.3.06
Commencement Date: S. 45 on 1.12.06: s. 2(2)
Current State: This information relates only to the provision/s amending the **Sex Offenders Registration Act 2004**

Justice Legislation (Miscellaneous Amendments) Act 2006, No. 14/2006

Assent Date: 11.4.06
Commencement Date: S. 20 on 1.8.05: s. 2(3)
Current State: This information relates only to the provision/s amending the **Sex Offenders Registration Act 2004**

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Education and Training Reform Act 2006, No. 24/2006

Assent Date: 16.5.06
Commencement Date: S. 6.1.2(Sch. 7 item 36) on 1.7.07: Government Gazette 28.6.07 p. 1304
Current State: This information relates only to the provision/s amending the **Sex Offenders Registration Act 2004**

Children, Youth and Families (Consequential and Other Amendments) Act 2006, No. 48/2006

Assent Date: 15.8.06
Commencement Date: S. 42(Sch. item 33) on 23.4.07: s. 2(3)
Current State: This information relates only to the provision/s amending the **Sex Offenders Registration Act 2004**

Justice Legislation (Further Amendment) Act 2006, No. 79/2006

Assent Date: 10.10.06
Commencement Date: Ss 53–55 on 1.10.04: s. 2(2)
Current State: This information relates only to the provision/s amending the **Sex Offenders Registration Act 2004**

Statute Law Revision Act 2007, No. 28/2007

Assent Date: 26.6.07
Commencement Date: S. 3(Sch. item 61.1) on 1.12.06: s. 2(2)(c); s. 3(Sch. item 61.2) on 27.6.07: s. 2(1)
Current State: This information relates only to the provision/s amending the **Sex Offenders Registration Act 2004**

Justice and Road Legislation Amendment (Law Enforcement) Act 2007, No. 52/2007

Assent Date: 17.10.07
Commencement Date: Ss 13, 16–19, 21 on 28.2.08: Government Gazette 31.1.08 p. 196; ss 14, 15, 20 on 1.6.08: s. 2(2)
Current State: This information relates only to the provision/s amending the **Sex Offenders Registration Act 2004**

Justice Legislation Amendment (Sex Offences Procedure) Act 2008, No. 18/2008

Assent Date: 13.5.08
Commencement Date: Ss 18, 19 on 1.7.08: s. 2(2)
Current State: This information relates only to the provision/s amending the **Sex Offenders Registration Act 2004**

Police Integrity Act 2008, No. 34/2008

Assent Date: 1.7.08
Commencement Date: S. 143(Sch. 2 item 10) on 5.12.08: Special Gazette (No. 340) 4.12.08 p. 1
Current State: This information relates only to the provision/s amending the **Sex Offenders Registration Act 2004**

Justice Legislation Further Amendment Act 2009, No. 55/2009

Assent Date: 22.9.09
Commencement Date: Ss 34–48 on 31.5.10: s. 2(4)
Current State: This information relates only to the provision/s amending the **Sex Offenders Registration Act 2004**

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Criminal Procedure Amendment (Consequential and Transitional Provisions) Act 2009, No. 68/2009

Assent Date: 24.11.09
Commencement Date: S. 97(Sch. item 112) on 1.1.10: Government Gazette 10.12.09 p. 3215
Current State: This information relates only to the provision/s amending the **Sex Offenders Registration Act 2004**

Serious Sex Offenders (Detention and Supervision) Act 2009, No. 91/2009

Assent Date: 15.12.09
Commencement Date: S. 219(Sch. 3 item 3) on 1.1.10: Government Gazette 24.12.09 p. 3397
Current State: This information relates only to the provision/s amending the **Sex Offenders Registration Act 2004**

Equal Opportunity Act 2010, No. 16/2010 (as amended by No. 26/2011)

Assent Date: 27.4.10
Commencement Date: S. 209(Sch. item 8) on 1.8.11: s. 2(4)
Current State: This information relates only to the provision/s amending the **Sex Offenders Registration Act 2004**

Consumer Affairs Legislation Amendment (Reform) Act 2010, No. 63/2010

Assent Date: 28.9.10
Commencement Date: S. 81(Sch. item 12) on 1.11.10: s. 2(2)
Current State: This information relates only to the provision/s amending the **Sex Offenders Registration Act 2004**

Sentencing Amendment (Community Correction Reform) Act 2011, No. 65/2011

Assent Date: 22.11.11
Commencement Date: S. 107(Sch. item 12) on 16.1.12: Special Gazette (No. 423) 21.12.11 p. 3
Current State: This information relates only to the provision/s amending the **Sex Offenders Registration Act 2004**

Children's Services Amendment Act 2011, No. 80/2011

Assent Date: 21.12.11
Commencement Date: S. 79(Sch. item 6) on 1.1.12: Special Gazette (No. 423) 21.12.11 p. 2
Current State: This information relates only to the provision/s amending the **Sex Offenders Registration Act 2004**

Courts and Sentencing Legislation Amendment Act 2012, No. 26/2012

Assent Date: 29.5.12
Commencement Date: S. 78 on 16.7.12: Special Gazette (No. 237) 3.7.12 p. 1
Current State: This information relates only to the provision/s amending the **Sex Offenders Registration Act 2004**

Statute Law Revision Act 2012, No. 43/2012

Assent Date: 27.6.12
Commencement Date: S. 3(Sch. item 48) on 28.6.12: s. 2(1)
Current State: This information relates only to the provision/s amending the **Sex Offenders Registration Act 2004**

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Integrity and Accountability Legislation Amendment Act 2012, No. 82/2012

Assent Date: 18.12.12
Commencement Date: Ss 129–137 on 10.2.13: Special Gazette (No. 32)
6.2.13 p. 2
Current State: This information relates only to the provision/s
amending the **Sex Offenders Registration Act 2004**

Sentencing Amendment (Abolition of Suspended Sentences and Other Matters) Act 2013, No. 32/2013

Assent Date: 4.6.13
Commencement Date: S. 60 on 27.7.13: Special Gazette (No. 226) 25.6.13
p. 1
Current State: This information relates only to the provision/s
amending the **Sex Offenders Registration Act 2004**

Education and Training Reform Amendment (Dual Sector Universities) Act 2013, No. 76/2013

Assent Date: 17.12.13
Commencement Date: S. 22 on 1.1.14: s. 2(4)
Current State: This information relates only to the provision/s
amending the **Sex Offenders Registration Act 2004**

Crimes Amendment (Grooming) Act 2014, No. 7/2014

Assent Date: 25.2.14
Commencement Date: S. 5(1) on 9.4.14: Special Gazette (No. 112) 8.4.14
p. 1
Current State: This information relates only to the provision/s
amending the **Sex Offenders Registration Act 2004**

Legal Profession Uniform Law Application Act 2014, No. 17/2014

Assent Date: 25.3.14
Commencement Date: S. 160(Sch. 2 item 90) on 1.7.15: Special Gazette
(No. 151) 16.6.15 p. 1
Current State: This information relates only to the provision/s
amending the **Sex Offenders Registration Act 2004**

Mental Health Act 2014, No. 26/2014

Assent Date: 8.4.14
Commencement Date: S. 455(Sch. item 27) on 1.7.14: s. 2(1)
Current State: This information relates only to the provision/s
amending the **Sex Offenders Registration Act 2004**

Victoria Police Amendment (Consequential and Other Matters) Act 2014, No. 37/2014

Assent Date: 3.6.14
Commencement Date: S. 10(Sch. item 154) on 1.7.14: Special Gazette
(No. 200) 24.6.14 p. 2
Current State: This information relates only to the provision/s
amending the **Sex Offenders Registration Act 2004**

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**Criminal Organisations Control and Other Acts Amendment Act 2014,
No. 55/2014**

Assent Date: 26.8.14
Commencement Date: S. 152 on 31.10.14: Special Gazette (No. 330) 23.9.14
p. 1
Current State: This information relates only to the provision/s
amending the **Sex Offenders Registration Act 2004**

Privacy and Data Protection Act 2014, No. 60/2014

Assent Date: 2.9.14
Commencement Date: S. 140(Sch. 3 item 43) on 17.9.14: Special Gazette
(No. 317) 16.9.14 p. 1
Current State: This information relates only to the provision/s
amending the **Sex Offenders Registration Act 2004**

Crimes Amendment (Sexual Offences and Other Matters) Act 2014, No. 74/2014
(as amended by No. 20/2015)

Assent Date: 21.10.14
Commencement Date: S. 33 on 1.7.15: s. 2(3)
Current State: This information relates only to the provision/s
amending the **Sex Offenders Registration Act 2004**

Sex Offenders Registration Amendment Act 2014, No. 82/2014

Assent Date: 21.10.14
Commencement Date: Ss 13–16, 20 on 22.10.14: s. 2(1); ss 3–12, 17–19,
21–27 on 1.6.15: s. 2(3)
Current State: This information relates only to the provision/s
amending the **Sex Offenders Registration Act 2004**

Justice Legislation Amendment Act 2015, No. 20/2015

Assent Date: 16.6.15
Commencement Date: Ss 13–15 on 17.6.15: s. 2(3)
Current State: This information relates only to the provision/s
amending the **Sex Offenders Registration Act 2004**

**Crimes Amendment (Child Pornography and Other Matters) Act 2015,
No. 42/2015**

Assent Date: 22.9.15
Commencement Date: S. 28 on 1.12.15: s. 2(2)
Current State: This information relates only to the provision/s
amending the **Sex Offenders Registration Act 2004**

**Serious Sex Offenders (Detention and Supervision) and Other Acts
Amendment Act, No. 52/2015**

Assent Date: 13.10.15
Commencement Date: Ss 47, 48 on 14.10.15: s. 2(1)
Current State: This information relates only to the provision/s
amending the **Sex Offenders Registration Act 2004**

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**Serious Sex Offenders (Detention and Supervision) Amendment
(Community Safety) Act 2016, No. 32/2016**

Assent Date: 31.5.16
Commencement Date: Ss 43, 44 on 1.6.16: s. 2(1)
Current State: This information relates only to the provision/s
amending the **Sex Offenders Registration Act 2004**

3 Amendments Not in Operation

This publication does not include amendments made to the **Sex Offenders Registration Act 2004** by the following Act/s.

Sex Offenders Registration Amendment Act 2016, No. 21/2016

<i>Assent Date:</i>	26.4.16
<i>Commencement Date:</i>	Ss 4–19 not yet proclaimed
<i>Current State:</i>	This information relates only to the provision/s amending the Sex Offenders Registration Act 2004

At the date of this publication, the following provisions amending the **Sex Offenders Registration Act 2004** were Not in Operation:

Amending Act/s:

Sex Offenders Registration Amendment Act 2016, No. 21/2016

4 Purpose and outline

- (1) In section 1(1) of the Principal Act—
 - (a) in paragraph (c), for "this Act." **substitute** "this Act;";
 - (b) after paragraph (c) **insert**—

"(d) to provide for the making of prohibition orders to prevent registrable offenders engaging in certain conduct."
- (2) In section 1(2) of the Principal Act—
 - (a) in paragraph (h), for "this Act." **substitute** "this Act;";
 - (b) after paragraph (h) **insert**—

"(i) provides for the making of prohibition orders to prevent registrable offenders engaging in certain conduct."

5 Definitions

In section 3 of the Principal Act—

(a) **insert** the following definitions—

"corresponding prohibition order means an order that—

- (a) is made under a corresponding prohibition order Act; and
- (b) substantially corresponds to a final prohibition order;

corresponding prohibition order Act means a law of another State or a Territory—

- (a) that provides for the making of orders restricting behaviour of corresponding registrable offenders who have committed specified offences; and
- (b) that is prescribed as a corresponding prohibition order Act for the purposes of this Act;

final prohibition order means an order made under section 66I;

guardianship order has the same meaning as in the **Guardianship and Administration Act 1986**;

interim prohibition order means an order made under section 66E;

prohibition order means an interim prohibition order or a final prohibition order;

registration order means an order made under section 66ZR for the registration of a corresponding prohibition order;"

- (b) in the definition of *court*, before "includes" **insert** ", except in Part 4A,".

6 Register of Sex Offenders

After section 62(2)(f) of the Principal Act **insert**—

- "(fa) if a prohibition order or a registration order has been made against the registrable offender, the details of that order; and".

7 Person with access to Register not to disclose personal information from it

(1) In section 64(2) of the Principal Act—

- (a) in paragraph (c), for "Act." **substitute** "Act; or";

(b) after paragraph (c) **insert**—

"(d) for the purposes of an order made under Part 4A (other than an order under section 66ZD or 66ZE).".

(2) After section 64(3A) of the Principal Act **insert**—

- "(3B) Despite subsection (1), the Chief Commissioner of Police may disclose personal information from the Register as authorised by section 66ZZC.".

8 New Part 4A inserted

After Part 4 of the Principal Act insert—

"Part 4A—Prohibition orders

Division 1—Preliminary

66A Definitions

In this Part—

approved test procedures means test procedures approved by the Chief Commissioner of Police under section 66S(2);

assessment report means a report prepared under section 66L;

community treatment report means a report prepared under section 66M;

drug of dependence has the same meaning as in section 4 of the **Drugs, Poisons and Controlled Substances Act 1981**;

monitoring condition means a condition of a prohibition order referred to in section 66U(1);

properly notified, in relation to the making of an order, has the meaning given in section 66C(1).

66B Sexual safety of the community paramount in prohibition order decisions

- (1) The court must give paramount consideration to the sexual safety of the community in deciding whether to—
 - (a) make, vary, revoke or extend a prohibition order; or

- (b) vary a corresponding prohibition order before registration or vary a registration order.
- (2) For the purposes of subsection (1), it is not necessary that the court be able to identify a risk posed by the registrable offender to the sexual safety of a particular person or a particular class of person.

66C When is a registrable offender properly notified of an order?

- (1) For the purposes of this Part, a registrable offender is properly notified of an order—
 - (a) if the registrable offender is before the court when the order is made, on the making of the order; or
 - (b) otherwise, when a copy of the order is served on the registrable offender.
- (2) An order made under this Part has effect on its making but a prohibition order or a registration order, or an order varying a prohibition order or a variation order, cannot be enforced against a registrable offender until the registrable offender is properly notified that the order has been made.

Division 2—Application for a prohibition order

66D Making application for a prohibition order

- (1) The Chief Commissioner of Police may apply for a prohibition order in respect of a registrable offender.

- (2) An application under subsection (1) must be made—
 - (a) if the registrable offender is a child, to the Criminal Division of the Children's Court; or
 - (b) in any other case, to the Magistrates' Court.
- (3) An application under subsection (1) must—
 - (a) be made in writing; and
 - (b) include the name of the registrable offender; and
 - (c) include an affidavit made by a police officer setting out the grounds on which the prohibition order is sought; and
 - (d) include any other information prescribed by the regulations.
- (4) An application for a prohibition order must be served on the registrable offender as soon as practicable after the application is made.

Division 3—Interim prohibition orders

66E Court may make an interim prohibition order

- (1) The court may make an interim prohibition order on an application under section 66D if the court is satisfied, on the balance of probabilities, that—
 - (a) the registrable offender poses a risk to the sexual safety of one or more persons or of children or the community generally; and

- (b) it is necessary to make an interim prohibition order to reduce that risk pending a final decision about the application.
- (2) If the registrable offender is an adult, the court may make an interim prohibition order—
- (a) whether or not the registrable offender has been served with a copy of the application for the prohibition order; and
 - (b) whether or not the registrable offender is present when the interim prohibition order is made.
- (3) If the registrable offender is an adult, the court may make an interim prohibition order by consent of the parties—
- (a) without being satisfied as to any matter in subsection (1); and
 - (b) without conducting a hearing in relation to the particulars of the application unless, in the court's opinion, it is in the interests of justice to do so.
- (4) For the purposes of subsection (3)(b), in determining whether it is in the interests of justice to conduct a hearing, the court may take into account whether the registrable offender—
- (a) is legally represented; or
 - (b) has impaired intellectual functioning; or
 - (c) is a person in respect of whom a guardianship order is in force; or
 - (d) has the capacity to understand the proceeding; or

- (e) may otherwise be prevented from understanding the effect of consenting to the order.

66F Explanation of interim prohibition order

- (1) If the court makes an interim prohibition order, the court must give the registrable offender a written notice that—
 - (a) states that the interim prohibition order has been made; and
 - (b) states the date on which the interim prohibition order was made; and
 - (c) sets out the conditions included in the interim prohibition order; and
 - (d) sets out when the interim prohibition order ends; and
 - (e) states that it is an offence to contravene the interim prohibition order, and the maximum penalties that apply to a contravention; and
 - (f) includes any other prescribed information.
- (2) The written notice must—
 - (a) if the registrable offender is before the court, be given to the registrable offender with the copy of the interim prohibition order; or
 - (b) if the registrable offender is not before the court, be served on the registrable offender with the copy of the interim prohibition order.

66G Hearing to be listed about final prohibition order as soon as practicable

If the court makes an interim prohibition order, the court must ensure the application under section 66D is listed for hearing about the final prohibition order as soon as practicable.

66H Duration of interim prohibition orders

An interim prohibition order ends on the earliest of the following—

- (a) if the interim prohibition order is revoked by the court, on its revocation;
- (b) if the court makes a final prohibition order, when the registrable offender is properly notified of the making of the final prohibition order;
- (c) if the court refuses to make a final prohibition order, on the refusal to make the order;
- (d) if the application under section 66D is withdrawn, at the time the application is withdrawn.

Division 4—Final prohibition orders

66I Court may make a final prohibition order

- (1) The court may make a final prohibition order if the court is satisfied, on the balance of probabilities, that—
 - (a) the registrable offender has engaged in behaviour alleged in the application; and
 - (b) having regard to the nature and pattern of that behaviour, that the registrable offender poses a risk to the sexual

safety of one or more persons or of children or the community generally; and

- (c) making the final prohibition order will reduce that risk.
- (2) For the purposes of subsection (1)(b), it is not necessary that the court be able to identify a risk posed by the registrable offender to the sexual safety of a particular person or a particular class of person.
- (3) If the registrable offender is an adult, the court may make a final prohibition order by consent of the parties—
- (a) without being satisfied as to any matter in subsection (1); and
 - (b) without conducting a hearing in relation to the particulars of the application unless, in the court's opinion, it is in the interests of justice to do so.
- (4) For the purposes of subsection (3)(b), in determining whether it is in the interests of justice to conduct a hearing, the court may take into account whether the registrable offender—
- (a) is legally represented; or
 - (b) has impaired intellectual functioning; or
 - (c) is a person in respect of whom a guardianship order is in force; or
 - (d) has the capacity to understand the proceeding; or
 - (e) may otherwise be prevented from understanding the effect of consenting to the order.

66J Considerations in making a final prohibition order

In determining whether to make a final prohibition order, the court must consider the following—

- (a) the registrable offender's findings of guilt or charges for sexual and other relevant offences, and for each offence—
 - (i) the seriousness and nature of the offence; and
 - (ii) the period since the offence was committed; and
 - (iii) the ages of the registrable offender and the victim of the offence when the offence was committed; and
 - (iv) if the victim was a child when the offence was committed, the age difference between the registrable offender and the victim;
- (b) the registrable offender's age;
- (c) if known, whether the registrable offender's behaviour alleged in the application is similar to behaviour that was preparatory to previous relevant offences;
- (d) the registrable offender's circumstances, to the extent that they relate to the conduct sought to be prohibited by the order;

Examples

- 1 The registrable offender's accommodation and employment needs.
- 2 The registrable offender's need for reintegration into the community.

- (e) whether making the order is proportionate to the risk of the registrable offender committing further registrable offences;
- (f) the impact of the conditions of the order on the treatment and rehabilitation of the registrable offender;
- (g) the impact of the conditions of the order on the registrable offender's family;
- (h) any other matter the court considers relevant.

66K Additional considerations if the registrable offender is a child

- (1) In addition to the matters in section 66J, in determining whether to make a final prohibition order against a registrable offender who is a child, the Children's Court must consider the following—
 - (a) the child's educational, training and employment needs;
 - (b) whether the order would prevent the child accessing therapeutic services, and if so, the availability of alternative strategies to manage the child's behaviour;
 - (c) the need to strengthen and preserve the relationship between the child and the child's family;
 - (d) the need to minimise the stigma to the child resulting from the making of a final prohibition order;

- (e) the desirability of allowing the child's living arrangements to continue without interruption or disturbance;
 - (f) if relevant, the need to ensure that the child is aware that the child must bear responsibility for the child's actions against the law.
- (2) In addition to the matters specified in subsection (1), the Children's Court must have regard to the assessment report, and any community treatment report.

66L Children's Court must order assessment report

- (1) In determining an application for a final prohibition order against a registrable offender who is a child, the Children's Court must order that an assessment report be prepared by—
- (a) the Children's Court Clinic; or
 - (b) another person or body who has relevant expertise.
- (2) An assessment report must include information and assessments about the registrable offender, the registrable offender's family and any other matters stated in the order under subsection (1).
- (3) An assessment report must include an opinion about the impact that making the final prohibition order may have on the registrable offender's accommodation, educational, health, cultural and social needs.
- (4) The assessment report must be filed with the court within the period specified in the order under subsection (1).

- (5) Subject to subsection (6), the Children's Court must release a copy of the assessment report to each party to the proceeding.
- (6) The Children's Court, after having regard to the views of the parties to the proceeding, may refuse to release an assessment report or a particular part of an assessment report if the Court is satisfied that the release of the report or part of the report may be prejudicial to the development or mental health of the child.

66M Where assessment report raises concerns about impact of final prohibition order

- (1) This section applies if—
 - (a) the Children's Court is satisfied that there are grounds for making a final prohibition order against a registrable offender who is a child; and
 - (b) the assessment report raises concerns about the impact on the child of making a final prohibition order.
- (2) The Children's Court may request the Secretary to the Department of Health and Human Services to provide a report to the Court about options for treatment of the child in the community.

66N Court to consider interim prohibition order if hearing adjourned

If the hearing of an application for a final prohibition order is adjourned, the court must consider making an interim prohibition order.

66O Explanation of final prohibition order

- (1) If the court makes a final prohibition order, the court must give the registrable offender a written notice that—
 - (a) states that the final prohibition order has been made; and
 - (b) states the date on which the final prohibition order was made; and
 - (c) sets out the conditions included in the final prohibition order; and
 - (d) sets out when the final prohibition order ends; and
 - (e) states that it is an offence to contravene the final prohibition order, and the maximum penalties that apply to a contravention; and
 - (f) includes any other prescribed information.
- (2) The written notice must—
 - (a) if the registrable offender is before the court, be given to the registrable offender with the copy of the final prohibition order; or
 - (b) if the registrable offender is not before the court, be served on the registrable offender with the copy of the final prohibition order.

66P Duration of final prohibition order

- (1) A final prohibition order remains in force for the period specified by the court, unless it is extended under section 66ZN.

- (2) The court must not specify a period that—
- (a) if the registrable offender is an adult, is more than 5 years; or
 - (b) if the registrable offender is a child, is more than 2 years; or
 - (c) in any case, would exceed the registrable offender's reporting period.

Division 5—Prohibition order conditions

66Q Conditions to be included in prohibition order

- (1) The court may include in a prohibition order any conditions that appear to be necessary or desirable in the circumstances.
- (2) Without limiting subsection (1), a prohibition order may include conditions—
- (a) prohibiting the registrable offender associating with or otherwise contacting a specified person or class of person; and

Examples

Persons aged less than 18 years, victims of the registrable offender or the victim's family members.

- (b) prohibiting the registrable offender being in, or anywhere within a specified distance of, a specified place or class of place; and
- (c) subject to section 66R, excluding the registrable offender from premises at which the registrable offender generally resides; and

- (d) prohibiting the registrable offender from engaging in specified behaviour; and
 - (e) prohibiting the registrable offender from engaging in specified community activities; and
 - (f) subject to subsection (3), prohibiting the registrable offender from engaging in specified employment or a specified kind of employment; and
 - (g) prohibiting the registrable offender from consuming alcohol; and
 - (h) prohibiting the registrable offender from using, or unlawfully obtaining, a drug of dependence.
- (3) In deciding whether to include a condition referred to in subsection (2)(f) in a prohibition order against a registrable offender who is a child, the Children's Court must consider the desirability of allowing the treatment, education, training or employment of the child to continue without interruption or disturbance.
- (4) For the purposes of this section and section 66R, *employment* means—
- (a) work carried out under a contract of employment; or
 - (b) work carried out as a self-employed person or as a sub-contractor; or
 - (c) work carried out as a volunteer for an organisation; or
 - (d) practical training undertaken as part of an educational or vocational course; or

- (e) work carried out as a minister of religion or in any other capacity for the purposes of a religious organisation.

66R Exclusion conditions where registrable offender is a child

- (1) In deciding whether to include a condition referred to in section 66Q(2)(c) in a prohibition order against a registrable offender who is a child, the Children's Court must consider the following—
 - (a) the desirability of the child being supported to gain access to appropriate educational services and health services;
 - (b) the desirability of allowing the education, training or employment of the child to continue without interruption;
 - (c) the desirability of minimising disruption to the child and the importance of maintaining social networks and support which may be lost if the child were required to leave the residence.
- (2) The Children's Court may only include an exclusion condition in a prohibition order against a registrable offender who is a child if it is satisfied that, if the child is excluded from the child's residence, the child will have appropriate alternative accommodation and appropriate care and supervision.
- (3) For the purposes of considering a matter referred to in subsection (2), the Children's Court may request the Secretary to the Department of Health and Human Services to give the Court a report about the options

available for the appropriate accommodation, care and supervision of the child if the exclusion condition were included in the prohibition order.

- (4) If the Secretary receives a request under subsection (3)—
- (a) the Secretary must give the report to the court in the period ordered by the court or, if no period is ordered, within the prescribed time; and
 - (b) for a request relating to a child under the age of 17 years, section 30 of the **Children, Youth and Families Act 2005** applies in relation to the request for the report as if the request were a report received under section 28 of that Act.

66S Drug testing conditions and alcohol testing conditions

- (1) If the court includes in a prohibition order a condition referred to in section 66Q(2)(g) or (h), the court may also include a condition that the registrable offender submit to breath testing, urinalysis or other approved test procedures—
- (a) in the case of a condition referred to in section 66Q(2)(g), for the detection of alcohol; or
 - (b) in the case of a condition referred to in section 66Q(2)(h), for the detection of drugs of dependence.
- (2) The Chief Commissioner of Police may approve, in writing, test procedures (other than blood tests) for the detection of alcohol or drugs of dependence for the purposes of subsection (1).

66T Registrable offender to submit to testing for drugs and alcohol

- (1) If a prohibition order includes a drug testing condition or an alcohol testing condition, a police officer may direct the registrable offender, in accordance with this section, to submit to breath testing, urinalysis or other approved test procedures.
- (2) The police officer must not give a direction under subsection (1) unless the police officer has reasonable grounds to suspect that the registrable offender has contravened a condition of the prohibition order by consuming alcohol or using or unlawfully obtaining drugs of dependence (as the case requires).
- (3) Before giving the registrable offender a direction under subsection (1), the police officer must—
 - (a) specify the grounds on which the police officer reasonably suspects that the registrable offender has contravened a condition of the prohibition order; and
 - (b) state that the registrable offender may contravene the prohibition order by refusing to comply with the direction.
- (4) A registrable offender who is directed to submit to drug testing or alcohol testing may request that the police officer state, orally or in writing, the officer's name, rank and place of duty.
- (5) A police officer must not, in response to a request under subsection (4)—
 - (a) refuse or fail to comply with the request; or

- (b) state a name or rank that is false in a material particular; or
- (c) state as the police officer's place of duty an address other than the name of the police station which is the police officer's ordinary place of duty.

Division 6—Monitoring conditions and powers of entry, search and seizure under monitoring conditions

66U Court may include monitoring conditions in a prohibition order

- (1) If the court considers that it is necessary to monitor the registrable offender's compliance with one or more specified conditions included in a prohibition order under section 66Q, the court may include a monitoring condition in the prohibition order.
- (2) A monitoring condition authorises a police officer, in accordance with this Division, to do any of the following for the purposes of monitoring the registrable offender's compliance with any specified conditions—
 - (a) enter premises at which the registrable offender usually resides, at any time at which the police officer reasonably suspects that the registrable offender is present at those premises; and
 - (b) in the presence of the registrable offender—
 - (i) search and examine the premises, and any thing (including a vehicle) belonging to, or in the possession or under the control of, the registrable offender; and

- (ii) seize any thing belonging to, or in the possession or under the control of, the registrable offender; and
 - (c) search and examine the registrable offender at those premises.
- (3) For the purposes of a monitoring condition, the court may include a further condition requiring that the registrable offender be at premises at which the registrable offender usually resides on specified days or at specified times of day.

66V Powers of entry under monitoring condition

- (1) If a prohibition order includes a monitoring condition, a police officer, at any time, may enter premises at which the registrable offender usually resides if the police officer reasonably suspects that the registrable offender is present at those premises.
- (2) If necessary, a police officer may use reasonable force to enter premises under subsection (1).
- (3) A police officer exercising a power of entry under this section—
- (a) must announce that the police officer is authorised to enter the premises by a monitoring condition included in a prohibition order; and
 - (b) if the police officer has been unable to obtain unforced entry, must give any person at the premises an opportunity to allow entry to the premises.

- (4) As soon as possible after gaining entry to the premises, the police officer must inform the registrable offender that the police officer may—
- (a) search and examine the premises, and any thing (including a vehicle) belonging to, or in the possession or under the control of, the registrable offender; and
 - (b) seize any thing at the premises belonging to, or in the possession or under the control of, the registrable offender; and
 - (c) search and examine the registrable offender; and
 - (d) detain the registrable offender for so long as is reasonably necessary to conduct a search of the registrable offender or examine any thing under section 66W;
 - (e) if necessary, use such force as is reasonably necessary to conduct a search or seize any thing.
- (5) The registrable offender may request that the police officer state, orally or in writing, the officer's name, rank and place of duty.
- (6) A police officer must not, in response to a request under subsection (5)—
- (a) refuse or fail to comply with the request; or
 - (b) state a name or rank that is false in a material particular; or

- (c) state as the police officer's place of duty an address other than the name of the police station which is the police officer's ordinary place of duty.

66W Search powers after entry

- (1) A police officer may exercise a power under this section only if the police officer suspects on reasonable grounds that the search is necessary—
 - (a) to monitor the registrable offender's compliance with a condition to which the monitoring condition relates; or
 - (b) because the police officer suspects on reasonable grounds the registrable offender of behaviour or conduct associated with an increased risk of contravening a condition to which the monitoring condition relates.
- (2) A police officer exercising a power of entry under a monitoring condition may search and examine—
 - (a) any part of the premises occupied by the registrable offender; and
 - (b) any thing (including a vehicle) belonging to, or in the possession or control of, the registrable offender; and
 - (c) the registrable offender.
- (3) For the purposes of subsection (2)(c), a search of the registrable offender means either or both a garment search or a pat-down search.
- (4) To the extent practicable, a pat-down search must be conducted by a police officer of the same sex as the registrable offender being searched.

- (5) A police officer may use such force as is reasonably necessary to conduct a search or examine any thing under this section, if that use of force is authorised by the most senior police officer present during the search.
- (6) A police officer may detain the registrable offender for so long as is reasonably necessary to conduct a search or examine any thing under this section.
- (7) A search under this section may continue only for as long as necessary to achieve the purpose of the search.
- (8) In this section—

garment search means a search of any article of clothing worn by a person or in the person's possession, where the article of clothing is touched and removed from the person's body;

pat-down search means a search of a person where the person's clothed body is touched.

**66X Police officer may direct registrable offender to provide assistance—
computers and other devices**

- (1) This section applies in relation to a computer or device that belongs to, or is in the possession or under the control of, the registrable offender—
 - (a) at the premises being searched under section 66W; or
 - (b) that has been seized under section 66Y.
- (2) A police officer may direct the registrable offender to provide information or other assistance that is reasonably necessary to enable the police officer to—

- (a) access data held in, or accessible from, the computer or device; or
 - (b) copy to a data storage device data held in, or accessible from, the computer or device; or
 - (c) convert into documentary or another intelligible form—
 - (i) data held in, or accessible from, the computer or device; or
 - (ii) data held in a data storage device to which the data was copied as described in paragraph (b).
- (3) Before giving a direction under subsection (2), the police officer must state that the registrable offender may commit an offence if the registrable offender—
- (a) has relevant knowledge of—
 - (i) the computer or device or a computer network of which the computer or device forms or formed a part; or
 - (ii) measures applied to protect data held in, or accessible from, the computer or device; and
 - (b) without reasonable excuse, fails to comply with the direction.
- (4) A registrable offender who has relevant knowledge and who has been given a warning under subsection (3) must not, without reasonable excuse, fail to comply with a direction given under subsection (2).
- Penalty: Level 6 imprisonment (5 years maximum).

(5) In this section—

access, in relation to data held in a computer or device, means—

- (a) the display of the data by the computer or device or any other output of the data from the computer or device; or
- (b) the copying or moving of the data to any other place in the computer or to a device; or
- (c) in the case of a program, the execution of the program;

data includes—

- (a) information in any form; and
- (b) any program or part of a program;

data held in a computer or device includes—

- (a) data entered or copied into the computer or device; and
- (b) data held in any removable data storage device for the time being in the computer; and
- (c) data held in a data storage device on a computer network of which the computer or device forms part;

data storage device means any thing containing or designed to contain data for use by a computer;

Examples

A USB storage device or a file server.

device includes a data storage device and a smartphone;

relevant knowledge means information or other assistance that would enable the police officer to—

- (a) access data held in, or accessible from, a computer or device that belongs to or is in the possession or under the control of the registrable offender at the premises being searched; or
- (b) copy to a data storage device data held in, or accessible from, a computer or device referred to in paragraph (a); or
- (c) convert into documentary or another intelligible form—
 - (i) data held in, or accessible from, a computer or device referred to in paragraph (a); or
 - (ii) data held in a data storage device to which the data was copied as described in paragraph (b).

66Y Power to seize

In conducting a search of premises or the registrable offender under section 66W, a police officer may seize or take a sample of any thing belonging to or found in the possession or under the control of the registrable offender—

- (a) which the police officer suspects on reasonable grounds—
 - (i) will compromise the registrable offender's compliance with a condition of the prohibition order

to which the monitoring condition relates; or

- (ii) relates to behaviour or conduct associated with an increased risk of the registrable offender contravening a condition to which the monitoring condition relates; or

- (b) if the police officer suspects on reasonable grounds that—

- (i) the thing will afford evidence of the contravention by the registrable offender of a condition to which the monitoring condition relates; and

- (ii) it is necessary to seize or take a sample of that thing in order to prevent its concealment, loss or destruction.

66Z Recording and register of seized things

- (1) A police officer who seizes a thing under section 66Y must photograph or otherwise record the thing seized.
- (2) The Chief Commissioner of Police must establish and maintain a register of things seized under section 66Y.
- (3) The register must contain the prescribed details for each thing seized.

66ZA Police officer must provide receipt for seized things

- (1) As soon as practicable after seizing a thing under section 66Y, a police officer must—
 - (a) give the registrable offender a receipt for the thing; or

- (b) if the registrable offender refuses to accept the receipt, leave the receipt in a conspicuous place at the premises being searched.
- (2) A receipt must—
 - (a) contain the prescribed information; and
 - (b) be signed in accordance with the regulations.

66ZB Retention of seized things by Chief Commissioner of Police

The Chief Commissioner of Police may retain any thing seized under section 66Y for as long as—

- (a) one of the following conditions are met—
 - (i) if the thing was seized under section 66Y(a)(i), the police officer suspects on reasonable grounds that the thing will compromise the registrable offender's compliance with a condition of the prohibition order to which the monitoring condition relates;
 - (ii) if the thing was seized under section 66Y(a)(ii), the police officer suspects on reasonable grounds that the thing relates to behaviour or conduct associated with an increased risk of the registrable offender contravening a condition to which the monitoring condition relates;

(iii) in any case, the thing is reasonably required for the purposes of an investigation of, or a proceeding for, an offence against this Act or any other Act; and

(b) the thing is not subject to forfeiture, destruction or disposal under any other Act.

66ZC Return of seized property—retrieval notices

- (1) If the Chief Commissioner of Police is no longer authorised under section 66ZB(a) to retain a thing seized under section 66Y, the Chief Commissioner of Police must make reasonable efforts to notify in writing—
 - (a) the registrable offender; or
 - (b) if the Chief Commissioner believes that the registrable offender is not the owner of the thing, another person who the Chief Commissioner of Police believes to be the owner of the seized thing.
- (2) A notification under subsection (1) must be given in accordance with the regulations and include any prescribed information.
- (3) If the Chief Commissioner of Police has made reasonable efforts to notify a person in accordance with this section and the regulations, and the thing has not been retrieved, the thing is to be dealt with under Division 3 of Part 4 of the **Victoria Police Act 2013** as if it were unclaimed property.

66ZD Return of seized property—application to Magistrates' Court

- (1) The following persons may apply to the Magistrates' Court for the return of a thing seized under section 66Y—
 - (a) the registrable offender;
 - (b) if the registrable offender is not the owner of the thing seized, the owner.
- (2) The applicant must serve a copy of the application as soon as practicable on the Chief Commissioner of Police.
- (3) The Magistrates' Court may order the seized thing be returned to the applicant if satisfied on the balance of probabilities that—
 - (a) the Chief Commissioner of Police is not authorised to retain the thing under section 66ZB(a); and
 - (b) the thing is not subject to forfeiture, destruction or disposal under this Act or any other Act.
- (4) The Magistrates' Court may refuse to make an order under subsection (3) if the Court is satisfied that the applicant is not the owner of the thing.

66ZE Chief Commissioner of Police may apply for disposal order

- (1) The Chief Commissioner of Police may apply to the Magistrates' Court for an order that a thing seized under section 66Y may be destroyed or disposed of.
- (2) A copy of an application under subsection (1) must be served on the following persons as soon as practicable—
 - (a) the registrable offender; and

- (b) if the Chief Commissioner believes that the registrable offender is not the owner of the thing, any other person who the Chief Commissioner of Police believes to be the owner of the seized thing.
- (3) On an application under this section, the Magistrates' Court may order—
 - (a) that the seized thing be forfeited to the Crown and destroyed or disposed of in accordance with the order; or
 - (b) that the thing be returned to the owner.
- (4) The Magistrates' Court may order that the seized thing be forfeited to the Crown and destroyed or disposed of in accordance with the order if satisfied on the balance of probabilities that—
 - (a) if the thing was seized under section 66Y(a), the Chief Commissioner of Police is authorised to retain the thing under section 66ZB(a)(i) or (ii); and
 - (b) the thing is no longer reasonably required for the purposes of an investigation of or a proceeding for an offence against this Act or any other Act; and
 - (c) the thing is not subject to forfeiture, destruction or disposal under any other Act.
- (5) If the Magistrates' Court orders that the seized thing be disposed of by sale, the Court may order that the proceeds of the sale be paid to the owner of the thing.

- (6) The Magistrates' Court may order that the seized thing be returned to the owner if satisfied on the balance of probabilities that—
- (a) the Chief Commissioner of Police is not authorised to retain the thing under section 66ZB(a); and
 - (b) the thing is not subject to forfeiture, destruction or disposal under any other Act.
- (7) An order under subsection (4) or (6) does not take effect until—
- (a) the day that is 30 days after the day on which the order was made; or
 - (b) if an appeal is made before the expiry of the period referred to in paragraph (a), the appeal is determined.

66ZF Destruction or disposal of seized things with owner's consent

The Chief Commissioner of Police may destroy or dispose of a seized thing with the consent of the owner.

66ZG Proceeds of sale or disposal to be paid into Consolidated Fund

Subject to an order to the contrary under section 66ZE(5), any amount received from the sale or disposal of seized things under this Division must be paid into the Consolidated Fund.

Division 7—Variation, extension and revocation of prohibition orders

66ZH Application to vary or revoke a prohibition order

- (1) The Chief Commissioner of Police or, subject to subsection (2), the registrable offender may apply to the court for an order varying or revoking a prohibition order.
- (2) The registrable offender may only apply for the variation or revocation of a prohibition order—
 - (a) if the Chief Commissioner of Police consents to the making of the application; or
 - (b) otherwise, with the leave of the court.
- (3) An application under subsection (1) must—
 - (a) be made in writing; and
 - (b) include the name of the registrable offender; and
 - (c) include an affidavit setting out the grounds on which the variation or revocation of the prohibition order is sought; and
 - (d) include any other information prescribed by the regulations.
- (4) The court may grant leave under subsection (2)(b) if satisfied that it is in the interests of justice to do so, having regard to changes in the registrable offender's circumstances, or circumstances affecting the registrable offender, since the prohibition order was made or last varied.

- (5) As soon as practicable after an application for an order varying or revoking a prohibition order is made, the application must be served on the registrable offender or the Chief Commissioner of Police (as the case requires).

66ZI Application to extend a final prohibition order

- (1) The Chief Commissioner of Police may apply to the court for an order extending a final prohibition order.
- (2) An application under subsection (1) must—
- (a) be made in writing; and
 - (b) include the name of the registrable offender; and
 - (c) include an affidavit setting out the grounds on which extension of the final prohibition order is sought; and
 - (d) include any other information prescribed by the regulations.
- (3) As soon as practicable after an application for an order extending a final prohibition order is made, the application must be served on the registrable offender.

66ZJ Considerations in determining whether to vary or revoke interim prohibition orders

In determining whether to vary or revoke an interim prohibition order, the court must have regard to—

- (a) the reasons for making the interim prohibition order; and

- (b) any change in the registrable offender's circumstances since the interim prohibition order was made or last varied.

66ZK Considerations in varying, revoking or extending final prohibition orders

- (1) In determining whether to vary, revoke or extend a final prohibition order, the court must have regard to—
 - (a) the reasons for making the final prohibition order; and
 - (b) any change in the registrable offender's circumstances since the final prohibition order was made or last varied; and
 - (c) the matters set out in section 66J; and
 - (d) if the registrable offender is a child, the matters set out in section 66K; and
 - (e) any other matters that the court considers relevant.
- (2) In determining an application for a variation, revocation or extension of a final prohibition order made against a registrable offender who is a child, the Children's Court may—
 - (a) have regard to the assessment report, and any community treatment report, prepared for the hearing for the final prohibition order;
 - (b) order the preparation of a new assessment report;

- (c) order the preparation of a community treatment report if—
 - (i) the assessment report prepared for the hearing for the final prohibition order raised concerns about the impact on the child of making the final prohibition order; or
 - (ii) a new assessment report raises concerns about the impact on the child of varying or extending, or not revoking, the final prohibition order.
- (3) Section 66L applies in respect of a further assessment report ordered under subsection (2)(b), as if the report had been ordered by the Children's Court under section 66L(1).

66ZL Court may vary a prohibition order

- (1) The court may vary an interim prohibition order if satisfied on the balance of probabilities that—
 - (a) it is necessary to vary the order to reduce the risk that the registrable offender poses to the sexual safety of one or more persons or of children or the community generally pending a final decision about the application for a final prohibition order; or
 - (b) one or more conditions of the order are no longer required to reduce the risk that the registrable offender poses to the sexual safety of one or more persons or of children or the community generally pending a final determination about the

- application for a final prohibition order;
or
- (c) it is otherwise appropriate to vary the order, having regard to the registrable offender's specific needs.
- (2) The court may vary a final prohibition order if it is satisfied on the balance of probabilities that—
- (a) it is necessary to vary the order to reduce the risk that the registrable offender poses to the sexual safety of one or more persons, or of children or the community generally; or
 - (b) one or more conditions of the order are no longer required to reduce the risk that the registrable offender poses to the sexual safety of one or more persons, or of children or the community generally; or
 - (c) it is otherwise appropriate to vary the order, having regard to the registrable offender's specific needs.
- (3) If the registrable offender is an adult, the court may vary an interim prohibition order—
- (a) whether or not the registrable offender has been served with a copy of the application for the variation of the interim prohibition order; and
 - (b) whether or not the registrable offender is present when the interim prohibition order is varied.

- (4) If the court varies a prohibition order, the court must give the registrable offender—
- (a) a copy of the prohibition order as varied by the order; and
 - (b) a written notice that—
 - (i) states that an order varying the prohibition order has been made; and
 - (ii) states the date on which the order varying the prohibition order was made; and
 - (iii) sets out the conditions included, removed or altered by the order varying the prohibition order; and
 - (iv) includes any other prescribed information.
- (5) The written notice and copy of the prohibition order as varied by the order must—
- (a) if the registrable offender is before the court, be given to the registrable offender with a copy of the order varying the prohibition order; or
 - (b) if the registrable offender is not before the court, be served on the registrable offender with a copy of the order varying the prohibition order.

66ZM Court may revoke a prohibition order

- (1) The court may revoke a prohibition order if it is satisfied on the balance of probabilities that the registrable offender does not pose a risk to the sexual safety of one or more persons, or of children or the community generally.

- (2) If the court makes an order revoking a prohibition order, the court must give the registrable offender a written notice that states—
 - (a) that the prohibition order has been revoked; and
 - (b) the date on which the prohibition order was revoked.
- (3) The written notice must—
 - (a) if the registrable offender is before the court, be given to the registrable offender with a copy of the order revoking the prohibition order; or
 - (b) if the registrable offender is not before the court, be served on the registrable offender with a copy of the order revoking the prohibition order.

66ZN Court may extend a final prohibition order

- (1) Subject to subsection (2), the court may extend the duration of a final prohibition order if satisfied, on the balance of probabilities, that it is necessary to extend the duration of the order to reduce the risk that the registrable offender poses to the sexual safety of one or more persons, or of children or the community generally.
- (2) The court must not extend the duration of a final prohibition order to a date that—
 - (a) if the registrable offender is an adult, is more than 5 years after the day on which the final prohibition order was made; or

- (b) if the registrable offender is a child, is more than 2 years after the day on which the final prohibition order was made; or
 - (c) in any case, would be after the day on which the registrable offender's reporting period ends.
- (3) If the court makes an order extending the duration of a final prohibition order, the court must give the registrable offender—
- (a) a copy of the final prohibition order as extended by the order extending the final prohibition order; and
 - (b) a written notice that—
 - (i) states that an order extending the duration of the final prohibition order has been made; and
 - (ii) states the date on which the order extending the duration of the final prohibition order was made; and
 - (iii) sets out when the final prohibition order (as extended by the order) ends; and
 - (iv) includes any other prescribed information.
- (4) The written notice and a copy of the final prohibition order as extended by the order extending the final prohibition order must—
- (a) if the registrable offender is before the court, be given to the registrable offender with the copy of the order extending the duration of the final prohibition order; or

- (b) if the registrable offender is not before the court, be served on the registrable offender with a copy of the order extending the duration of the final prohibition order.

66ZO Court may make orders under this Division by consent

- (1) The court may make an order varying or revoking an interim prohibition order by consent of the parties—
 - (a) without being satisfied as to any matter in section 66ZJ or—
 - (i) section 66ZL(1), in the case of an order varying an interim prohibition order; or
 - (ii) section 66ZM(1), in the case of an order revoking an interim prohibition order; and
 - (b) without conducting a hearing in relation to the particulars of the application unless, in the court's opinion, it is in the interests of justice to do so.
- (2) The court may make an order varying, revoking or extending a final prohibition order by consent of the parties—
 - (a) without being satisfied as to any matter in section 66ZK or—
 - (i) section 66ZL(2), in the case of an order varying a final prohibition order; or
 - (ii) section 66ZM(1), in the case of an order revoking a final prohibition order; or

- (iii) section 66ZN(1), in the case of an order extending a final prohibition order; and
 - (b) without conducting a hearing in relation to the particulars of the application unless, in the court's opinion, it is in the interests of justice to do so.
- (3) For the purposes of subsection (1)(b) and (2)(b), in determining whether it is in the interests of justice to conduct a hearing, the court may take into account whether the registrable offender—
- (a) is legally represented; or
 - (b) is a child; or
 - (c) has impaired intellectual functioning; or
 - (d) is a person in respect of whom a guardianship order is in force; or
 - (e) has the capacity to understand the proceeding; or
 - (f) is subject to some other condition that may prevent the registrable offender from understanding the effect of consenting to the order.

Division 8—Contravention of prohibition order

66ZP Offence to contravene prohibition order

- (1) This section applies to a registrable offender—
- (a) against whom a prohibition order has been made; and
 - (b) who has been properly notified of the making of the order.

- (2) The registrable offender must not contravene the prohibition order without reasonable excuse.

Penalty: Level 6 imprisonment (5 years maximum).

Division 9—Corresponding prohibition orders

66ZQ Application for registration of corresponding prohibition order

- (1) The Chief Commissioner of Police may apply for the registration of a corresponding prohibition order—
- (a) if the corresponding registrable offender is a child, to the Criminal Division of the Children's Court; or
 - (b) in any other case, to the Magistrates' Court.
- (2) An application for a registration order must—
- (a) be made in writing; and
 - (b) be accompanied by a copy of the corresponding prohibition order; and
 - (c) include an affidavit stating that, at the time of making the application, the corresponding prohibition order is in force in the State or Territory in which it was made; and
 - (d) if the Chief Commissioner of Police seeks to register the corresponding prohibition order with variations—
 - (i) include details of the variations sought; and

- (ii) include in the affidavit referred to in paragraph (c) the grounds on which those variations are sought.
- (3) An application for a registration order must be served on the corresponding registrable offender as soon as practicable after the application is made.

66ZR Registration of corresponding prohibition order

- (1) On application by the Chief Commissioner of Police under section 66ZQ, the court must make an order for the registration of a corresponding prohibition order if satisfied that, at the time the application was made, the corresponding prohibition order was in force in the State or Territory in which it was made.
- (2) Subject to section 66ZS, the court may vary the conditions of the corresponding prohibition order before making a registration order—
 - (a) as sought in the application; or
 - (b) as the court considers necessary to enable the enforcement of the order as a prohibition order.
- (3) The court may vary the conditions of a corresponding prohibition order under subsection (2) to include any condition the court could have included in a prohibition order under Division 5 or 6.
- (4) If the corresponding prohibition order is to be registered without variation, the court may make a registration order without conducting a hearing.

- (5) If the court makes a registration order without a hearing, as soon as practicable after the order is made, the court must cause the Chief Commissioner of Police to be notified of the registration order.

66ZS Variation of corresponding prohibition order before registration if corresponding registrable offender is a child

- (1) If the corresponding registrable offender is a child, in determining whether to vary a corresponding prohibition order before registration, the Children's Court must have regard to the matters set out in section 66K.
- (2) The Children's Court may also—
- (a) order the preparation of an assessment report; and
 - (b) if the assessment report raises concerns about the impact on the child of varying the corresponding prohibition order, request the preparation of a community treatment report.
- (3) Section 66L applies in respect of an assessment report ordered under subsection (2)(a), as if the report had been ordered by the Children's Court under section 66L(1).

66ZT Corresponding registrable offender to be notified of registration order

- (1) If the court makes a registration order, the court must give the corresponding registrable offender a written notice that—
- (a) states that a registration order has been made; and
 - (b) states the date on which the registration order was made; and

- (c) if the corresponding prohibition order was registered with variations, sets out the variations made by the registration order; and
 - (d) sets out the effect of the registration order, including—
 - (i) the effect of any variations made to the corresponding prohibition order before it was registered; and
 - (ii) that the corresponding prohibition order may be enforced against the corresponding registrable offender under this Act, as if it were a prohibition order; and
 - (iii) that it is an offence to contravene a prohibition order, and the maximum penalties that apply to a contravention; and
 - (e) sets out when the registration order ends, including that the registration order ceases to have effect if the corresponding prohibition order ceases to have effect in the State or Territory in which it was made; and
 - (f) includes any other prescribed information.
- (2) A written notice under subsection (1) must—
- (a) if the corresponding registrable offender is before the court, be given to the corresponding registrable offender with a copy of the registration order; or
 - (b) if the registrable offender is not before the court, be served on the corresponding registrable offender with a copy of the registration order.

66ZU Duration of registration order

Unless it is earlier revoked, a registration order expires on—

- (a) the day on which the corresponding prohibition order (as in force at the time of registration) expires; or
- (b) if the court specifies an earlier day, that day.

Note

The expiry of a registration order has no effect on the validity of the corresponding prohibition order.

66ZV Effect of registration order

- (1) Subject to subsection (2), if a corresponding registrable offender has been properly notified of the making of a registration order, the corresponding prohibition order (whether varied before registration or not) may be enforced against the corresponding registrable offender as if it were a prohibition order.
- (2) A registration order cannot be enforced against the corresponding registrable offender if the corresponding prohibition order has expired or otherwise has ceased to have effect in the State or Territory in which it was made.

Note

A registration order may be revoked under section 66ZZA if the corresponding prohibition order has ceased to have effect in the State or Territory in which it was made.

66ZW No effect in Victoria if corresponding prohibition order varied or extended by interstate court

The variation or extension of a corresponding prohibition order by a court of the State or Territory in which it was made after the order is registered under this Division has no effect in Victoria.

66ZX Application for variation of a registration order

- (1) The Chief Commissioner of Police or, subject to subsection (2), the corresponding registrable offender may apply to the court for an order varying a registration order.
- (2) The corresponding registrable offender may only apply for an order varying a registration order—
 - (a) if the Chief Commissioner of Police consents to the making of the application; or
 - (b) in any other case, with the leave of the court.
- (3) The court may grant leave under subsection (2)(b) if satisfied that it is in the interests of justice, having regard to changes in the corresponding registrable offender's circumstances, or circumstances affecting the corresponding registrable offender, since the registration order was made or last varied.
- (4) As soon as practicable after an application under subsection (1) is made, the application must be served on the corresponding registrable offender or the Chief Commissioner of Police (as the case requires).

**66ZY Considerations in making an order
varying a registration order**

- (1) In determining whether to vary a registration order, the court must have regard to—
 - (a) the reasons for making the registration order; and
 - (b) any change in the corresponding registrable offender's circumstances since the registration order was made or last varied; and
 - (c) the matters set out in section 66J and, if the corresponding registrable offender is a child, section 66K; and
 - (d) any other matters that the court considers relevant.
- (2) In determining an application for variation of a registration order made against a corresponding registrable offender who is a child, the Children's Court may—
 - (a) have regard to any assessment report and community treatment report prepared for the hearing for the registration order;
 - (b) order the preparation of a new assessment report;
 - (c) if an assessment report referred to in paragraph (a) or (b) raises concerns about the impact of varying the registration order on the child, order the preparation of a community treatment report.
- (3) Section 66L applies in respect of an assessment report ordered under subsection (2)(b), as if the report had been

ordered by the Children's Court under section 66L(1).

66ZZ Court may vary a registration order

- (1) The court may vary a registration order—
 - (a) if satisfied that—
 - (i) there has been a change in the corresponding registrable offender's circumstances since the registration order was made so that a variation is necessary to enable enforcement of the registration order; or
 - (ii) the corresponding prohibition order has been varied in the State or Territory in which it was made, and a corresponding variation of the registration order is appropriate; or
 - (b) in the case of an application for variation made by the corresponding registrable offender, if the Chief Commissioner of Police consents to the variation.
- (2) The court may vary a registration order to include any condition the court could have included in a prohibition order under Division 5 or 6.
- (3) If the court varies a registration order, the court must give the corresponding registrable offender a written notice that—
 - (a) states that an order varying the registration order has been made; and
 - (b) states the date on which the order varying the registration order was made; and

- (c) sets out the conditions of the corresponding prohibition order included, removed or altered by the order varying the registration order; and
 - (d) includes any other prescribed information.
- (4) The written notice must—
- (a) if the corresponding registrable offender is before the court, be given to the corresponding registrable offender with a copy of the order varying the registration order; or
 - (b) if the corresponding registrable offender is not before the court, be served on the corresponding registrable offender with a copy of the order varying the registration order.

66ZZA Revocation of a registration order

- (1) On a written application made by the Chief Commissioner of Police, the court must revoke a registration order if it is satisfied that the corresponding prohibition order is no longer in effect in the State or Territory in which it was made.
- (2) If the court revokes a registration order, the court must give the corresponding registrable offender a written notice that states—
 - (a) that the registration order has been revoked; and
 - (b) the date on which the registration order was revoked.
- (3) The written notice must be served on the corresponding registrable offender with a copy of the order revoking the registration order.

Division 10—Miscellaneous

66ZZB Court may prohibit publication of proceedings

- (1) The court may order that a person must not publish, or cause to be published, a report of a proceeding under this Part or about an order made under this Part that contains any particulars likely to lead to the identification of—
 - (a) the registrable offender or corresponding registrable offender; or
 - (b) a victim of an offence committed by the registrable offender or corresponding registrable offender; or
 - (c) any person protected by a prohibition order, a registration order or a corresponding prohibition order.
- (2) For the purposes of subsection (1), the particulars likely to lead to the identification of a person include, but are not limited to, the following—
 - (a) the person's name, title, pseudonym or alias;
 - (b) the address of any premises at which the person lives or works, or the locality in which the premises are situated;
 - (c) the address of a school attended by the person or the locality in which the school is situated;
 - (d) the physical description or the style of dress of the person;

- (e) any employment or occupation engaged in, profession practised or calling pursued by, the person or any official or honorary position held by the person;
 - (f) the relationship of the person to identified relatives of the person or the association of the person with identified friends or identified business, official or professional acquaintances of the person;
 - (g) the recreational interests or the political, philosophical or religious beliefs or interests of the person;
 - (h) any real or personal property in which the person has an interest or with which the person is associated.
- (3) An order under subsection (1) does not prohibit the publication of particulars that are likely to lead to the identification of a registrable offender by—
- (a) the Chief Commissioner of Police under section 61A(1); or
 - (b) if those particulars have been published by the Chief Commissioner of Police under section 61A(1), any other person.

66ZZC Chief Commissioner of Police may disclose personal information about prohibition orders and registration orders

- (1) If the Chief Commissioner of Police believes on reasonable grounds that the disclosure is necessary for the purposes of an order made under this Part (other than an order made under section 66ZD or 66ZE), the Chief Commissioner may disclose personal information relating to the order or the registrable offender or corresponding

registrable offender against whom the order was made—

- (a) if the registrable offender or corresponding registrable offender is a child, to a parent of the child; or
 - (b) to a parent or guardian of a named child protected by the order; or
 - (c) subject to subsection (2), to any other person.
- (2) The Chief Commissioner of Police may only disclose information under subsection (1)(c) if the disclosure is reasonably necessary for the enforcement of the order.
- (3) If the Chief Commissioner of Police discloses information to a person under this section, the disclosure must—
- (a) be made in writing; and
 - (b) state that it is an offence for the person to disclose personal information to another person.
- (4) A person to whom personal information has been disclosed in accordance with this section must not disclose that information to any person.

Penalty: 60 penalty units or imprisonment for 6 months or both.

66ZZD Service of orders and applications made by Chief Commissioner of Police

- (1) An application made by the Chief Commissioner of Police under this Part (other than an application under section 66ZF) must be served personally on the registrable offender or corresponding registrable offender by a police officer.

- (2) If the court makes a prohibition order or a registration order, or an order varying, revoking or extending a prohibition order or registration order, a copy of the order must be served personally on the registrable offender or corresponding registrable offender by a police officer.
- (3) The court may not make an order for substituted service in respect of an application or order referred to in this section."

9 Chief Commissioner of Police to report to the Minister

After section 70P(1)(b) of the Principal Act
insert—

- "(ba) the number of prohibition orders made in the financial year ending on the immediately preceding 30 June;
- (bb) the number of registration orders made in the financial year ending on the immediately preceding 30 June;"

10 Regulations

After section 75(1)(j) of the Principal Act
insert—

- "(ja) matters in respect of or incidental to prohibition orders and registration orders including the form of, and information to be included in, any notice required to be given to the registrable offender or any other person;
- (jb) matters in respect of or incidental to seizure of things under Part 4A, including the form of, and information to be included in, receipts and registers, and processes for returning seized things;"

11 New Division 10 of Part 3 inserted

After Division 9 of Part 3 of the Principal Act
insert—

**"Division 10—Publication of
information about registrable offender
who fails to comply with reporting
obligations**

**61A Chief Commissioner of Police may publish
information if registrable offender cannot
be located**

- (1) Subject to sections 61B and 61C, the Chief Commissioner of Police may publish, on an Internet site maintained by the Chief Commissioner, information about a registrable offender if—
 - (a) the Chief Commissioner is satisfied that the registrable offender—
 - (i) has failed to comply with the registrable offender's reporting obligations; or
 - (ii) in purported compliance with the registrable offender's reporting obligations, has reported details that are false or misleading in any particular; and
 - (b) the Chief Commissioner is satisfied that publishing the information may—
 - (i) assist police in locating the registrable offender; or
 - (ii) protect the sexual safety of the community; and

- (c) the registrable offender's whereabouts are not known to the Chief Commissioner.
- (2) The Chief Commissioner of Police may publish under subsection (1)—
 - (a) personal information about a registrable offender, including—
 - (i) any photographs of the registrable offender; and
 - (ii) subject to section 61C(4), information reported by the registrable offender under this Part; and
 - (b) information disclosing that the registrable offender is a registrable offender.

61B Chief Commissioner of Police must attempt to notify registrable offender before publication

If the Chief Commissioner of Police intends to publish information under section 61A(1) about a registrable offender, the Chief Commissioner must make reasonable efforts to contact the registrable offender and advise that information about the registrable offender may be published if the offender does not report to the Chief Commissioner.

61C Restrictions on publication

- (1) The Chief Commissioner of Police must not publish under section 61A—
 - (a) any information about a registrable offender who is a child; or

- (b) any information that may identify a child (including a registrable offender who is a child).
- (2) The Chief Commissioner of Police must not publish under section 61A any information about a registrable offender to whom Division 9 applies.
- (3) The Chief Commissioner of Police must consult with the Commissioner for Corrections before publishing under section 61A any information about a registrable offender who is—
- (a) on parole; or
 - (b) subject to a supervision order, detention order or an interim order within the meaning of the **Serious Sex Offenders (Detention and Supervision) Act 2009**.
- (4) The Chief Commissioner of Police must not publish under section 61A any personal details reported by the registrable offender under section 14(1)(d), (f) or (g) unless any other person to whom those details relate (or the other person's representative) has been notified of the intended publication.
- (5) Despite subsection (4), the Chief Commissioner of Police is not required to notify a person if the notification would compromise a police investigation.

61D Chief Commissioner of Police to take into account certain matters before publishing

The Chief Commissioner of Police may have regard to any of the following in deciding whether to publish information about a registrable offender under section 61A—

- (a) the benefit to the community of publication;
- (b) the effect that publication might have on a victim of an offence committed by the registrable offender;
- (c) if known, the views of a victim of an offence committed by the registrable offender;
- (d) any medical, psychiatric, psychological or other assessment relating to the registrable offender;
- (e) any information indicating whether or not the registrable offender is likely to commit an offence in future;
- (f) whether or not there is a pattern of offending behaviour on the part of the registrable offender;
- (g) the registrable offender's criminal record;
- (h) if the registrable offender is awaiting trial for an offence, whether the publication might prejudice the fair trial of the registrable offender;
- (i) any other matter that the Chief Commissioner of Police considers relevant.

61E Removal of information

- (1) As soon as practicable after the registrable offender about whom information was published is located (whether or not by making a report to police), the Chief Commissioner of Police must remove from the Internet site any information about the registrable offender published under section 61A(1).

- (2) In addition to subsection (1), the Chief Commissioner of Police may, at any time, remove from the Internet site any information published under section 61A(1).
- (3) The Chief Commissioner of Police may, at any time, republish, in accordance with section 61A, any information removed under this section.

61F Disclosure by senior police of personal information published under this Division

The Chief Commissioner of Police or a police officer of or above the rank of superintendent may disclose personal information about a registrable offender if that information—

- (a) has been published by the Chief Commissioner of Police under section 61A(1); and
- (b) at the time of making the disclosure, has not been removed from the Internet site by the Chief Commissioner of Police under section 61E.

61G Offence—republishing by third parties that would incite, or would be likely to incite, animosity or harassment

- (1) This section applies in respect of information about a registrable offender that has been published by the Chief Commissioner of Police under section 61A(1).
- (2) A person must not publish information about a registrable offender if the person knows, or ought reasonably to know, that the publication would create, promote or increase animosity towards, or harassment of, the registrable offender or an associate of the registrable offender.

Penalty: In the case of an individual,
240 penalty units or 2 years
imprisonment;
In the case of a body corporate,
1200 penalty units.

(3) In this section—

publish means disseminate or provide access
to the public or a section or member of
the public by any means, including
by—

- (a) publication in a book, newspaper,
magazine or other written
publication; or
- (b) broadcast by radio or television;
or
- (c) public exhibition; or
- (d) broadcast or electronic
communication."

12 Person with access to Register not to disclose personal information from it

After section 64(3) of the Principal Act **insert**—

"(3A) Despite subsection (1), the Chief
Commissioner of Police or a person
authorised to have access to the Register
or any part of the Register may disclose
personal information from the Register as
authorised by Division 10 of Part 3."

13 Purpose and outline

In section 1 of the Principal Act, for "Part 4"
(wherever occurring) **substitute** "Parts 3 and 4".

14 Sections 66A to 66D repealed

Sections 66A to 66D of the Principal Act are
repealed.

15 New Part 5B inserted

After Part 5A of the Principal Act insert—

**"Part 5B—Monitoring of
compliance and reporting**

**70L IBAC to monitor compliance with
Parts 3 and 4**

- (1) The IBAC is to monitor compliance with Part 3 by the Chief Commissioner of Police and persons authorised to receive reports.
- (2) The IBAC is to monitor compliance with Part 4 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.

70M IBAC to be given reasonable assistance

The Chief Commissioner of Police must ensure that each of the following persons gives the IBAC any assistance that the IBAC reasonably requires to enable the IBAC to perform the IBAC's functions under this Part—

- (a) police officers and other persons authorised by the Chief Commissioner of Police to have access to the Register of Sex Offenders;
- (b) persons authorised to receive reports under Part 3.

70N 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 Victoria Police at which the IBAC Commissioner 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 IBAC'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 IBAC Commissioner; or
 - (b) a sworn IBAC Officer who is authorised under subsection (3).
- (3) The IBAC may authorise a sworn IBAC Officer to exercise the powers of an authorised officer under this section.

700 Reports on monitoring compliance

- (1) The IBAC may at any time give the Minister a written report on—
- (a) the results of any inspections carried out under section 70N; and
 - (b) compliance with Part 3 in the period to which the report relates by the Chief Commissioner of Police and police officers receiving reports; and

- (c) compliance with Part 4 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 IBAC must give the Minister a report under subsection (1) as soon as practicable after receiving the request.
- (3) The IBAC must give a copy of any report under subsection (1) to the Chief Commissioner of Police.
- (4) The Chief Commissioner of Police must advise the Minister of any information included in a copy of a report received under subsection (3) that, in the Chief Commissioner's opinion, should be excluded from the report before the report is laid before Parliament because the information could be reasonably expected to—
 - (a) endanger a person's safety; or
 - (b) prejudice an investigation or prosecution; or
 - (c) compromise operational activities or methodologies of Victoria Police or the IBAC.
- (5) The Minister must—
 - (a) exclude information from the report if satisfied on the advice of the Chief Commissioner of Police of any of the grounds set out in subsection (4); and

- (b) cause a copy of a report under this section to be laid before each House of Parliament within 15 sitting days after the day on which the Minister receives the report.

70P Chief Commissioner of Police to report to Minister

- (1) The Chief Commissioner of Police must report to the Minister, before 30 September in each year, on the following matters—
 - (a) the total number of registered offenders as at the immediately preceding 30 June;
 - (b) the number of offenders added to the Register in the financial year ending on the immediately preceding 30 June;
 - (c) any other prescribed information.
- (2) The Minister must cause the information reported under subsection (1) to be included in Victoria Police's annual report of operations for a financial year under Part 7 of the **Financial Management Act 1994**.
- (3) The Chief Commissioner of Police must not report under subsection (1) any personal information unless the information is de-identified information.
- (4) For the purposes of subsection (3), *de-identified information* has the same meaning as in section 64A."

16 Transitional provision—Integrity and Accountability Legislation Amendment Act 2012

After section 73D(5) of the Principal Act **insert—**

"(6) In this section—

- (a) a reference to section 66C is a reference to section 66C as in force immediately before the commencement of Part 4 of the **Sex Offenders Registration Amendment Act 2016**; and
- (b) a reference to section 66D is a reference to section 66D as in force immediately before the commencement of Part 4 of the **Sex Offenders Registration Amendment Act 2016**."

17 New section 73F inserted

After section 73E of the Principal Act **insert—**

"73F Transitional provisions—Sex Offenders Registration Amendment Act 2016

- (1) If, immediately before the commencement of Part 4 of the **Sex Offenders Registration Amendment Act 2016**, the IBAC had carried out an inspection under section 66C as in force immediately before the commencement of that Part, but had not given the Minister a report about that inspection, the IBAC may report on the inspection under section 70O as if the inspection had been conducted under section 70N.
- (2) Section 70O does not apply to a report given by the IBAC to the Minister under section 66D before the commencement of Part 4 of the **Sex Offenders Registration Amendment Act 2016**."

18 Notice to be given under this Division

- (1) After section 50(5) of the Principal Act **insert**—
 - "(5A) The court may issue a further notice to correct an error in a notice given to a person under this section."
- (2) In section 50(6) of the Principal Act, for "subsection (5)" **substitute** "subsections (5) and (5A)".

19 Schedule 2—Class 2 offences

- (1) After item 28AB of Schedule 2 to the Principal Act **insert**—

"28AC. An offence against any of the following sections of the Criminal Code of the Commonwealth—

 - (i) section 471.16 (using a postal or similar service for child pornography material);
 - (ii) section 471.17 (possessing, controlling, producing, supplying or obtaining child pornography material for use through a postal or similar service);
 - (iii) section 471.19 (using a postal or similar service for child abuse material);
 - (iv) section 471.20 (possessing, controlling, producing, supplying or obtaining child abuse material for use through a postal or similar service);
 - (v) section 471.22 (aggravated offence—offence involving conduct on 3 or more occasions and 2 or more people);
 - (vi) section 471.24 (using a postal or similar service to procure persons under 16);

(vii) section 471.25 (using a postal or similar service to "groom" persons under 16);

(viii) section 471.26 (using a postal or similar service to send indecent material to person under 16)."

(2) After item 28A(iv) of Schedule 2 to the Principal Act **insert**—

"(iva) section 474.24A (aggravated offence— offence involving conduct on 3 or more occasions and 2 or more people);

(ivb) section 474.25A (using a carriage service for sexual activity with person under 16 years of age);

(ivc) section 474.25B (aggravated offence— child with mental impairment or under care, supervision or authority of defendant);".

4 Explanatory details

No entries at date of publication.