



Western Australia

# **Community Protection (Offender Reporting) Act 2004**



# Community Protection (Offender Reporting) Act 2004

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**Defined terms**

Western Australia

## **Community Protection (Offender Reporting) Act 2004**

**An Act to require certain offenders who commit sexual or certain other serious offences to keep police informed of their whereabouts and other personal details for a period of time to reduce the likelihood that they will re-offend and to facilitate the investigation and prosecution of any future offences that they may commit, to enable information to be published about certain offenders, to enable courts to make orders prohibiting certain offenders from engaging in specified conduct, and for related purposes.**

*[Long title amended: No. 1 of 2012 s. 4.]*

## **Part 1 — Preliminary matters**

### **1. Short title**

This Act may be cited as the *Community Protection (Offender Reporting) Act 2004*.

### **2. Commencement**

- (1) This Act comes into operation on a day fixed by proclamation.
- (2) Different days may be fixed under subsection (1) for different provisions.

### **3. Terms used**

In this Act, unless the context otherwise requires —

***approved place*** means a place approved by the Commissioner under section 34(1)(b);

***authorised person*** means a police officer or a person, or a person who falls within a class of persons, prescribed by the regulations;

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

***Class 1 offence*** has the meaning given to that term in section 10;

***Class 2 offence*** has the meaning given to that term in section 11;

***Class 3 offence*** has the meaning given to that term in section 12;

***commencement day*** means the day on which section 24 comes into operation;

***Commissioner*** means the person holding or acting in the office of Commissioner of Police under the *Police Act 1892*;

***community order*** means —

- (a) a community based order or intensive supervision order made under the *Sentencing Act 1995*; or

- (b) a youth community based order or intensive youth supervision order made under the *Young Offenders Act 1994*; or
- (c) a community supervision order or an interim or extended community supervision order under the *Criminal Law (Mental Impairment) Act 2023*, or an interim disposition under section 205(1)(b) of that Act;

**corresponding Act** means a law of a foreign jurisdiction that —

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

**corresponding juvenile offender exemption order** means an order of a prescribed class of court orders that —

- (a) are made under a corresponding Act; and
- (b) exempt an offender from being a reportable offender (however described) under a corresponding Act in relation to an offence committed by the offender when they were a child;

**corresponding juvenile offender non-registration order** means an order of a prescribed class of court orders that —

- (a) are made under a corresponding Act; and
- (b) have the effect of not subjecting an offender to requirements for the offender to report under a corresponding Act in relation to an offence committed by the offender when they were a child;

**corresponding juvenile offender reporting order** means an order of a prescribed class of court orders that —

- (a) are made under a corresponding Act; and

- (b) have the effect of requiring an offender to report under a corresponding Act in relation to an offence committed by the offender when they were a child;

**corresponding juvenile scheme jurisdiction** means a foreign jurisdiction that has a corresponding Act in force under which any of the following may be made —

- (a) a corresponding juvenile offender reporting order;
- (b) a corresponding juvenile offender non-registration order;

**corresponding offender reporting order** means an order made under a corresponding Act that falls within a class of orders that are prescribed to be corresponding offender reporting orders for the purposes of this Act;

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

**corresponding reportable offence** means an offence that is a reportable offence for the purposes of a corresponding Act but is not a reportable offence as defined in section 9;

**corresponding reportable offender** has the meaning given to that term in section 7;

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

**detainee** means a person who is detained in a detention centre, as defined in the *Young Offenders Act 1994* section 3;

**detainee under the CLMI Act** means a person subject to a custody order or an interim or extended custody order under the *Criminal Law (Mental Impairment) Act 2023*, or an interim disposition under section 205(1)(a) of that Act;

**disability**, in relation to a person, means —

- (a) any defect or disturbance in the normal structure or functioning of the person's body; or
- (b) any defect or disturbance in the normal structure or functioning of the person's brain; or

- (c) any illness or condition that impairs the person's thought processes, perception of reality, emotions or judgment or that results in disturbed behaviour,

whether arising from a condition subsisting at birth or from an illness or injury;

**electronic device** means any device capable of storing or accessing electronic data;

**existing controlled reportable offender** means a person who, as a result of having been sentenced for a reportable offence, was under the supervision of a supervising authority or any other person immediately before the commencement day and includes a person who was in government custody in respect of a reportable offence at that time;

**existing licensee** means a person who is released under —

- (a) a re-entry release order made under the *Sentence Administration Act 2003*; or
- (b) a supervised release order made under the *Young Offenders Act 1994*,

and includes a person who has a similar status under the laws of a foreign jurisdiction;

**finding of guilt** has the meaning given to that term in section 4;

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

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

**government custody** means —

- (a) custody as a prisoner, detainee or detainee under the CLMI Act; or
- (b) custody under a law of a foreign jurisdiction in the nature of custody referred to in paragraph (a); or
- (c) immigration detention under a law of a foreign jurisdiction;

***immigration detention*** —

- (a) includes immigration detention as defined in the *Migration Act 1958* (Commonwealth) section 5(1); but
- (b) does not include detention during a period when a person undertakes the detention in the community;

Example for this definition:

For the purposes of paragraph (b) — detention of a person subject to a residence determination under the *Migration Act 1958* (Commonwealth) section 197AB(1).

***juvenile offender exemption order*** means an order made under section 14E or 14F;

***juvenile offender reporting order*** means an order made under section 14B;

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

***New South Wales reportable offender*** has the meaning given to that term in section 8;

***non-intimate identifying procedure*** has the meaning given in the *Criminal Investigation (Identifying People) Act 2002* section 3(1);

***offender reporting order*** means an order made under section 13 or 14A and includes a corresponding offender reporting order;

***parole*** means parole under an order made under the *Sentence Administration Act 2003* and includes parole under an equivalent order made under the laws of a foreign jurisdiction;

***past offender reporting order*** means an order made under section 15A or 15B;

***personal details*** means the information listed in section 26(1);

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

***premises*** includes part of premises;

**prescribed** means prescribed by regulations made under this Act;

**prisoner** has the meaning given to that term in the *Prisons Act 1981* section 3;

**protection order** has the meaning given to that term in section 85;

**public authority** means —

- (a) a department of the Public Service; or
- (b) a local government, regional local government or regional subsidiary; or
- (c) a body, whether incorporated or not, or the holder of an office, being a body or office that is established for a public purpose under a written law and that, under the authority of a written law, performs a function on behalf of the State;

**Register** means the Community Protection Offender Register established under section 80;

**reportable contact** has the meaning given in section 4A;

**reportable contact details** has the meaning given in section 4B;

**reportable offence** has the meaning given to that term in section 9;

**reportable offender** has the meaning given to that term in section 6;

**reporting obligations**, in relation to a reportable offender, means the obligations imposed on the offender by Part 3;

**reporting order** means any of the following —

- (a) an offender reporting order;
- (b) a past offender reporting order;
- (c) a juvenile offender reporting order;
- (d) a corresponding juvenile offender reporting order;

Note for this definition:

For the purposes of paragraph (a) — an offender reporting order includes a corresponding offender reporting order.

**reporting period** means the period, as determined under Part 3 Division 5, during which a reportable offender must comply with the offender's reporting obligations;

**senior police officer** means a police officer of, or acting in, the rank of sergeant or a higher rank;

**sentence** includes —

- (a) an exercise of power under the *Sentencing Act 1995* Part 6; and
- (b) an order under the *Sentencing Act 1995* Part 7; and
- (c) an exercise of power under the *Young Offenders Act 1994* section 66, 67, 69 or 70; and
- (d) a custody order or an interim or extended custody order under the *Criminal Law (Mental Impairment) Act 2023*, or an interim disposition under section 205(1)(a) of that Act; and
- (e) a special order made under the *Young Offenders Act 1994* section 126; and
- (f) anything prescribed to be a sentence for the purposes of this definition,

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

**strict government custody**, in relation to a reportable offender, means custody as a person in immigration detention, as a prisoner, detainee or detainee under the CLMI Act, but does not include such custody if the reportable offender —

- (a) is regularly permitted to be absent from a place of custody for any period, regardless of its length, whether on leave of absence or otherwise; and

- (b) is not during any such period under the immediate supervision of an officer of a supervising authority or other person having custody of the reportable offender;

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

**WA Police** has the meaning given in the *Criminal Investigation (Identifying People) Act 2002* section 3(1);

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

[Section 3 amended: No. 47 of 2011 s. 15; No. 54 of 2012 s. 4 and 39; No. 26 of 2016 s. 46; No. 10 of 2023 s. 285; No. 31 of 2024 s. 28; No. 35 of 2024 s. 4, 59 and 68.]

#### 4. Meaning of finding of guilt

- (1) For the purposes of this Act, a reference to a finding of guilt (however expressed) in relation to an offence 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 convicting the person of the offence, if there has been no formal finding of guilt before conviction;
  - (c) a court accepting a plea of guilty from the person in relation to the offence;
  - (ca) a finding under the *Criminal Law (Mental Impairment) Act 2023* section 41(2)(c) or an equivalent finding under provisions of the laws of a foreign jurisdiction;
  - (d) a finding under *The Criminal Code* section 27 that the person is not guilty of the offence on account of mental impairment or a finding under equivalent provisions of the laws of a foreign jurisdiction.

**s. 4A**

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- (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.

*[Section 4 amended: No. 10 of 2023 s. 286 and 412.]*

**4A. Meaning of reportable contact**

- (1) A reportable offender has **reportable contact** with a child if the offender has contact with the child when the offender —
- (a) supervises or cares for the child; or
  - (b) visits or stays at a household where the child is present; or
  - (c) gives their contact details to the child or receives the child's contact details; or
  - (d) befriends or attempts to befriend the child.
- (2) For the purposes of this section, contact with a child by a reportable offender includes any of the following —
- (a) the offender having physical contact with the child;
  - (b) the offender being in very close physical proximity to the child;
  - (c) the offender communicating with the child (including oral or written communication or communication that takes place by mail, in person, by telephone or by electronic means).

Examples for this subsection:

For the purposes of paragraph (c), electronic means includes internet, email, messaging service, chat room, social networking site, message board.

*[Section 4A inserted: No. 35 of 2024 s. 5.]*

**4B. Meaning of reportable contact details**

- (1) For the purposes of this Act, *reportable contact details*, in relation to a reportable offender's reportable contact or likely reportable contact with a child, are —
- (a) the name, age and residential address (if known) and any other known contact details of each child with whom the offender has reportable contact or is likely to have reportable contact; and
  - (b) the name and residential address (if known) and any other known contact details of each parent or guardian of each child referred to in paragraph (a); and
  - (c) details related to the reportable contact or likely reportable contact with the child referred to in paragraph (a).
- (2) For the purposes of this section, details related to reportable contact or likely reportable contact with a child by a reportable offender are —
- (a) a description of the type of contact the offender has with the child or is likely to have with the child; and
  - (b) whether the contact occurs or is likely to occur when the offender —
    - (i) supervises or cares for the child; or
    - (ii) visits or stays at a household where the child is present; or
    - (iii) gives their contact details to the child or receives the child's contact details; or
    - (iv) befriends or attempts to befriend the child;and
  - (c) any other prescribed details relating to the contact or likely contact.

Examples for this subsection:

For the purposes of paragraph (a) — whether the contact involves or is likely to involve physical contact with the child, being in very close proximity to the child, or communication with the child (including communication by mail, in person, by telephone or by electronic means).

For the purposes of paragraph (c) — frequency of contact.

*[Section 4B inserted: No. 35 of 2024 s. 5.]*

**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 against the same person.
- (2) A reference in this Act to doing a thing *in person* is a reference to doing the thing by personal attendance at a place, and it is not sufficient to attend the place by telephone or by any other electronic means.

## **Part 2 — Offenders to whom Act applies**

### **Division 1 — General**

#### **6. Reportable offenders**

- (1) Subject to subsections (4), (5) and (5A), a reportable offender is a person whom a court, on or after the commencement day, sentences for a reportable offence.
- (2) A person is also a reportable offender if —
  - (a) the person was sentenced for a reportable offence before the commencement day and is an existing controlled reportable offender in respect of that offence; or
  - (b) if paragraph (a) does not apply, the person —
    - (i) was sentenced before the commencement day for 2 or more reportable offences; and
    - (ii) at least one of those offences was committed within 8 years before that day.
- (3) A person who is —
  - (a) a corresponding reportable offender; or
  - (b) a New South Wales reportable offender,is also a reportable offender.
- (4) Unless a person is a reportable offender because of subsection (3), a person is not a reportable offender merely because the person as a child committed a single offence (including an offence under the laws of a foreign jurisdiction) that falls within a class of offences that are prescribed to be offences for the purposes of this subsection.
- (5) A person is also not a reportable offender if the person 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

**Community Protection (Offender Reporting) Act 2004**

**Part 2** Offenders to whom Act applies

**Division 1** General

**s. 6**

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

- (5A) If a reporting order is made in relation to an offence committed by a person after the person is sentenced for the offence, the person is taken to be a reportable offender when the order is made rather than when the person is sentenced for the offence.
- (6) A person ceases to be a reportable offender if —
- (a) the finding of guilt in respect of the only offence that makes the person a reportable offender for the purposes of this Act is quashed or set aside by a court; or
  - (b) the person is a reportable offender only because the person is subject to an offender reporting order or past offender reporting order and that order is quashed on appeal; or
  - (c) the person is a reportable offender only because the person is subject to a juvenile offender reporting order, or corresponding juvenile offender reporting order, and that order is —
    - (i) quashed on appeal; or
    - (ii) revoked;or
  - (d) the person is a reportable offender only because the person committed an offence when the person was a child and —
    - (i) a juvenile offender exemption order is made in relation to the person; or
    - (ii) a corresponding juvenile offender exemption order is made in relation to the person.

Note for this subsection:

For the purposes of paragraph (c)(ii) — a juvenile offender reporting order may be revoked under section 14C or 14D.

- (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, reporting order or corresponding juvenile offender non-registration order.
- (8) A reference to a single offence in subsection (4) includes a reference to more than one offence of the same kind arising from the same incident.

*[Section 6 amended: No. 31 of 2024 s. 28; No. 35 of 2024 s. 6, 59 and 69.]*

## **7. Corresponding reportable offenders**

A corresponding reportable offender is a person —

- (a) who had at any time (whether before, on or after the commencement day) been in a foreign jurisdiction and at that time had been required to report to the corresponding registrar in that jurisdiction; and
- (b) who —
- (i) would, if the person were currently in that foreign jurisdiction, be required to report to the corresponding registrar in that jurisdiction for a particular period; or
  - (ii) falls within a class of persons who are prescribed to be corresponding reportable offenders for the purposes of this Act.

*[Section 7 amended: No. 54 of 2012 s. 5; No. 31 of 2024 s. 28; No. 35 of 2024 s. 59.]*

## **8. New South Wales reportable offenders**

A New South Wales reportable 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 prescribed not to be a

New South Wales reportable offender for the purposes of this Act.

*[Section 8 amended: No. 35 of 2024 s. 59.]*

**9. Meaning of reportable offence**

For the purposes of this Act, a **reportable offence** is —

- (a) any of the following offences (other than an offence committed by a person when they were a child) —
  - (i) a Class 1 offence;
  - (ii) a Class 2 offence;or
- (b) if the person concerned has previously been found guilty of a Class 3 offence (whether or not committed by the person when they were a child) — another Class 3 offence (other than an offence committed by the person when they were a child); or
- (c) an offence that results in the making of an offender reporting order or past offender reporting order; or
- (d) a Class 1 offence or Class 2 offence committed by a person when they were a child that results in the making of a juvenile offender reporting order; or
- (e) a Class 1 offence or Class 2 offence against a law of a foreign jurisdiction committed by a person when they were a child that —
  - (i) in relation to a foreign jurisdiction in which a corresponding juvenile offender non-registration order may be made — does not result in the making of that order; or
  - (ii) in relation to a foreign jurisdiction in which a corresponding juvenile offender reporting order may be made — results in the making of that order; or

- (f) a Class 1 offence or Class 2 offence against a law of a foreign jurisdiction committed by a person when they were a child that results in a finding of guilt by a court of a foreign jurisdiction (other than in a corresponding juvenile scheme jurisdiction); or
- (g) if the person concerned has previously been found guilty of a Class 3 offence committed when they were a child — another Class 3 offence committed by the person when they were a child that results in the making of a juvenile offender reporting order; or
- (h) if the person concerned has previously been found guilty of a Class 3 offence committed when they were a child — another Class 3 offence committed against a law of a foreign jurisdiction by the person when they were a child that —
  - (i) in relation to a foreign jurisdiction in which a corresponding juvenile offender non-registration order may be made — does not result in the making of that order; or
  - (ii) in relation to a foreign jurisdiction in which a corresponding juvenile offender reporting order may be made — results in the making of that order; or
- (i) if the person concerned has previously been found guilty of a Class 3 offence committed when they were a child — another Class 3 offence —
  - (i) committed against a law of a foreign jurisdiction committed by the person when they were a child; and
  - (ii) that results in a finding of guilt by a court of a foreign jurisdiction (other than a corresponding juvenile scheme jurisdiction).

*[Section 9 inserted: No. 35 of 2024 s. 70.]*

**10. Class 1 offences**

A Class 1 offence is —

- (a) an offence against a provision listed in Schedule 1; or
- (b) an offence under a law of a foreign jurisdiction the elements of which, if they had occurred in Western Australia, would have constituted an offence of a kind referred to in this section; or
- (c) an offence under a law of a foreign jurisdiction that is prescribed to be a Class 1 offence; or
- (d) an offence an element of which is an intention to commit an offence of a kind referred to in this section; or
- (e) an offence of attempting, or of conspiracy or incitement, to commit an offence of a kind referred to in this section; or
- (f) 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 the commencement day — was an offence of a kind referred to in this section.

*[Section 10 amended: No. 35 of 2024 s. 59.]*

**11. Class 2 offences**

A Class 2 offence is —

- (a) an offence against a provision listed in Schedule 2; or
- (b) an offence under a law of a foreign jurisdiction the elements of which, if they had occurred in Western Australia, would have constituted an offence of a kind referred to in this section; or
- (c) an offence under a law of a foreign jurisdiction that is prescribed to be a Class 2 offence; or

- (d) an offence an element of which is an intention to commit an offence of a kind referred to in this section; or
- (e) an offence of attempting, or of conspiracy or incitement, to commit an offence of a kind referred to in this section; or
- (f) an offence that, at the time it was committed —
  - (i) was a Class 2 offence for the purposes of this Act; or
  - (ii) in the case of an offence committed before the commencement day — was an offence of a kind referred to in this section.

*[Section 11 amended: No. 35 of 2024 s. 59.]*

*[12. Has not come into operation.]*

### **Division 1A — Offender reporting orders**

*[Heading inserted: No. 35 of 2024 s. 71.]*

## **13. Offender reporting orders**

- (1) If —
  - (a) a court finds a person guilty of an offence that is not —
    - (i) a Class 1 offence or a Class 2 offence; or
    - (ii) an offence referred to in section 14B(1) committed by the person when they were a child;
  - and
  - (b) apart from this section, that offence would not result in the person becoming a reportable offender,

the court may order that the offender comply with the reporting obligations of this Act.

- (2) The court may make the order only if it is satisfied that the offender poses a risk to the lives or the sexual safety of one or more persons, or persons generally.

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- (3) For the purposes of subsection (2), it is not necessary that the court be able to identify a risk to a particular person or particular persons or a particular class of persons.
- (4) In deciding whether to make the order in relation to an offence, the court may take into account the following —
- (a) any evidence given during proceedings for the offence;
  - (b) any document or record (including an electronic document or record) served on the offender by the prosecution;
  - (c) any statement tendered, or deposition made, or exhibit tendered, at any proceedings in relation to the offence;
  - (d) any evidence given by a victim or the offender in relation to the making of the order;
  - (e) any pre-sentence report given to the court;
  - (f) any victim impact statement given to the court;
  - (g) any mediation report given to the court;
  - (h) any other matter the court considers relevant.
- (5) The court may make the order at the time the person is sentenced for the offence.
- (6) An application for the imposition of the order may be made by the prosecution, but an application is not necessary for the court to make the order.
- (7A) If the order is not made at the time the person is sentenced for the offence, an application for the imposition of the order may be made to the court by the Commissioner —
- (a) within the period of 6 months after the person is sentenced for the offence; or
  - (b) if the person is in government custody during all or any part of that period — within the period that begins when the person is sentenced for the offence and ends

6 months after the person ceases to be in government custody.

- (7B) For the purposes of an application made under subsection (7A), the reference in subsection (4)(b) to the prosecution is taken to include a reference to the Commissioner.

*[(7C) deleted]*

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

*[Section 13 amended: No. 54 of 2012 s. 6; No. 35 of 2024 s. 72.]*

**14A. Consent orders**

On an application under section 13(6) or (7A), a court may make an offender reporting order without being subject to section 13 if the applicant and the offender consent to the making of the order.

*[Section 14A inserted: No. 54 of 2012 s. 7.]*

**Division 1B — Juvenile offender reporting orders**

*[Heading inserted: No. 35 of 2024 s. 73.]*

**14B. Juvenile offender reporting orders**

- (1) This section applies if a court finds an offender guilty of any of the following offences committed when the offender was a child —
- (a) a Class 1 offence;
  - (b) a Class 2 offence;
  - (c) if the offender concerned has previously been found guilty of a Class 3 offence — another Class 3 offence.

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- (2) The court must consider making an order under subsection (3) at the time the offender is sentenced for the offence.
- (3) The court may make an order that the offender comply with the reporting obligations of this Act if the court is satisfied that the offender poses a risk to the lives or the sexual safety of 1 or more persons, or persons generally.
- (4) For the purposes of subsection (3), it is not necessary that the court is able to identify a risk to a particular person or particular persons or a particular class of persons.
- (5) In deciding whether to make the order in relation to an offence, the court may take into account the following —
  - (a) any evidence given during proceedings for the offence;
  - (b) any document or record (including an electronic document or record) served on the offender by the prosecution;
  - (c) any statement tendered, or deposition made, or exhibit tendered, at any proceedings in relation to the offence;
  - (d) any evidence given by a victim or the offender in relation to the making of the order;
  - (e) any pre-sentence report given to the court;
  - (f) any victim impact statement given to the court;
  - (g) any mediation report given to the court;
  - (h) any other matter the court considers relevant.
- (6) The court may make the order in relation to an offence —
  - (a) at the time the person is sentenced for the offence; or
  - (b) at a later time if more time is necessary to enable the information referred to in subsection (5) to be presented to the court.
- (7) The court may make an order under subsection (3) on application from the prosecution or on the court's own initiative.

- (8) Despite subsection (7), if the court does not consider making an order under subsection (3), an application for the order may be made to the court by the prosecution or the Commissioner within the period of 6 months after the day on which the person is sentenced for the offence.
- (9) For the purposes of an application made under subsection (8), the reference in subsection (5)(b) to the prosecution is taken to include a reference to the Commissioner.
- (10) The court cannot make an order under subsection (3) in relation to a person merely because the person as a child committed a single offence (including an offence under a law of a foreign jurisdiction) that falls within a class of offences that are prescribed under section 6(4).

*[Section 14B inserted: No. 35 of 2024 s. 73.]*

#### **14C. Revoking juvenile offender reporting orders**

- (1) This section applies if —
  - (a) a juvenile offender reporting order applies to a reportable offender; and
  - (b) the offender has been subject to the reporting obligations under this Act for at least half of the offender's reporting period.
- (2) The offender may apply to the Children's Court for an order to revoke the juvenile offender reporting order.
- (3) The offender cannot make an application under subsection (2) if an application previously made by the offender under subsection (2) has been disposed of under section 18(a) or (b).
- (4) The court may revoke a juvenile offender reporting order if the court is satisfied that the offender does not pose a risk to the lives or the sexual safety of 1 or more persons, or persons generally.

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- (5) For the purposes of subsection (4), it is not necessary that the court is able to identify a risk to a particular person or particular persons or a particular class of persons to find that an offender poses a risk to the lives or the sexual safety of 1 or more persons, or persons generally.
- (6) In deciding whether to revoke the juvenile offender reporting order, the court may take into account —
- (a) the matters that were taken into account under section 14B(5) in relation to the making of the order; and
  - (b) any other matter the court considers relevant.
- (7) For the purposes of subsection (1)(b), section 44(2) does not apply to extend the length of an offender’s reporting period.
- (8) For the purposes of subsection (1)(b), time for which an offender has been subject to reporting obligations must be calculated by —
- (a) including a period of suspension under section 61; but
  - (b) excluding a period of suspension under section 44(1)(a).

*[Section 14C inserted: No. 35 of 2024 s. 73.]*

**14D. Consent orders**

On application under section 14C(2), the Children’s Court may order that a juvenile offender reporting order is revoked without being subject to section 14C(4) to (6), if the offender and the Commissioner consent to revoking the order.

*[Section 14D inserted: No. 35 of 2024 s. 73.]*

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**Division 1C — Juvenile offender exemption orders**

*[Heading inserted: No. 35 of 2024 s. 73.]*

**14E. Juvenile offender exemption orders**

- (1) This section applies if —
  - (a) an offender is a reportable offender only because the offender committed an offence when the offender was a child; and
  - (b) the offender was sentenced for the offence before the day (the **stage 2 commencement day**) on which the *Community Protection (Offender Reporting) Amendment Act 2024* section 67 comes into operation.
- (2) The offender may apply to the Children’s Court for an order to exempt the offender from being a reportable offender —
  - (a) in relation to any reportable offence, under this Act as in force before the stage 2 commencement day, sentenced by a court in this State; but
  - (b) not in relation to a reportable offence, under this Act as in force before the stage 2 commencement day, sentenced by a court in a foreign jurisdiction.

Note for this subsection:

An offender may be a reportable offender in this State in relation to a sentence by a court in a foreign jurisdiction. See section 6(6)(d)(ii) in relation to corresponding juvenile offender exemption orders.

- (3) The offender cannot make an application under subsection (2) if 2 applications previously made by the offender under subsection (2) have been disposed of under section 18(a) or (b).
- (4) The offender cannot make an application under subsection (2) after their first application has been finally determined under section 18(b) unless the offender has been subject to the reporting obligations under this Act for at least half of the offender’s reporting period.

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- (5) The court may make the order if the court is satisfied that the offender does not pose a risk to the lives or the sexual safety of 1 or more persons, or persons generally.
- (6) For the purposes of subsection (5), it is not necessary that the court is able to identify a risk to a particular person or particular persons or a particular class of persons to find that an offender poses a risk to the lives or the sexual safety of 1 or more persons, or persons generally.
- (7) In deciding whether to make the order, the court may take into account any of the following —
- (a) any evidence given during proceedings for a reportable offence;
  - (b) any document or record (including an electronic document or record) served on the offender by the prosecution or Commissioner;
  - (c) any statement tendered, or deposition made, or exhibit tendered, at any proceedings in relation to a reportable offence;
  - (d) any evidence given by a victim or the offender in relation to the making of the order;
  - (e) any pre-sentence report given to the court;
  - (f) any victim impact statement given to the court;
  - (g) any mediation report given to the court;
  - (h) any other matter the court considers relevant.
- (8) For the purposes of subsection (4), section 44(2) does not apply to extend the length of an offender's reporting period.
- (9) For the purposes of subsection (4), time for which an offender has been subject to reporting obligations must be calculated by —
- (a) including a period of suspension under section 61; but

(b) excluding a period of suspension under section 44(1)(a).

*[Section 14E inserted: No. 35 of 2024 s. 73.]*

**14F. Consent orders**

On application under section 14E(2), the Children’s Court may make a juvenile offender exemption order without being subject to section 14E(5) to (7) if the offender and the Commissioner consent to the making of the order.

*[Section 14F inserted: No. 35 of 2024 s. 73.]*

**Division 2 — Past offender reporting orders**

**14. Terms used**

In this Division —

***court*** means —

- (a) if the respondent is a child — the Children’s Court; or
- (b) otherwise, the District Court;

***past offender*** has the meaning given in section 15.

*[Section 14 amended: No. 35 of 2024 s. 7 and 74.]*

**15. Commissioner may apply for past offender reporting orders**

If —

- (a) a person (a ***past offender***) has been sentenced before the commencement day for an offence; and
- (b) the person is not and has not been a reportable offender in respect of that offence,

the Commissioner may apply to a court for an order that the person comply with the reporting obligations of this Act.

*[Section 15 amended: No. 35 of 2024 s. 75.]*

**15A. Court may make past offender reporting orders**

- (1) The court may make an order that a past offender comply with the reporting obligations of this Act if the court is satisfied that the past offender poses a risk to the lives or the sexual safety of 1 or more persons, or persons generally.
- (2) For the purposes of subsection (1), it is not necessary that the court is able to identify a risk to a particular person or particular persons or a particular class of persons.
- (3) In deciding whether to make an order under this section in respect of an offence, the court may take into account the following —
  - (a) any evidence given during proceedings for the offence;
  - (b) any document or record (including an electronic document or record) served on the past offender by the prosecution or the Commissioner;
  - (c) any statement tendered, or deposition made, or exhibit tendered, at any proceedings in relation to the offence;
  - (d) the period of time since the offence was committed;
  - (e) the age of the past offender and the age of any victim of the offence at the time the offence was committed;
  - (f) the difference in age between the past offender and any victim of the offence;
  - (g) the seriousness of the past offender's total criminal record;
  - (h) any other matter the court considers relevant.
- (4) The fact that an offence in respect of which a past offender has been found guilty becomes spent does not affect the consideration of the offence as part of the past offender's total criminal record for the purposes of subsection (3)(g).
- (5) For the purposes of Part 3 Division 5, a person subject to an order made under this section in respect of an offence that is a

reportable offence is taken to have been found guilty of, and to have been sentenced for, the offence when the order was made.

- (6) For the purposes of Part 3 Division 5, a person subject to an order made under this section in respect of an offence that is not a reportable offence is taken to have been found guilty of, and to have been sentenced for, a Class 2 offence when the order was made.

*[Section 15A inserted: No. 35 of 2024 s. 76.]*

**15B. Consent orders**

On application under section 15, a court may make an order that a past offender comply with the reporting obligations of this Act without being subject to section 15A if the applicant and the past offender consent to the making of the order.

*[Section 15B inserted: No. 35 of 2024 s. 76.]*

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*[Heading inserted: No. 35 of 2024 s. 77.]*

**15C. Terms used**

In this Division —

***registrar*** means the clerk or registrar of the court to which a relevant application is made;

***relevant applicant*** means any of the following —

- (a) in relation to an application made under section 13(7A) for an offender reporting order — the Commissioner;
- (b) in relation to an application made under section 14B(8) for a juvenile offender reporting order — the prosecution or the Commissioner;
- (c) in relation to an application made under section 14C(2) to revoke a juvenile offender reporting order — the offender;

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- (d) in relation to an application made under section 14E(2) for a juvenile offender exemption order — the offender;
- (e) in relation to an application made under section 15 for a past offender reporting order — the Commissioner;

Note for this definition:

A parent or guardian or certain other persons may apply on behalf of a relevant applicant who is a juvenile offender (see section 15D).

**relevant application** means any of the following —

- (a) an application made under section 13(7A) for an offender reporting order;
- (b) an application made under section 14B(8) for a juvenile offender reporting order;
- (c) an application made under section 14C(2) to revoke a juvenile offender reporting order;
- (d) an application made under section 14E(2) for a juvenile offender exemption order;
- (e) an application made under section 15 for a past offender reporting order;

**relevant court** means the court to which the relevant application is made;

**relevant respondent** means any of the following —

- (a) in relation to an application made under section 13(7A) for an offender reporting order — the offender;
- (b) in relation to an application made under section 14B(8) for a juvenile offender reporting order — the offender;
- (c) in relation to an application made under section 14C(2) to revoke a juvenile offender reporting order — the Commissioner;
- (d) in relation to an application made under section 14E(2) for a juvenile offender exemption order — the Commissioner;

- (e) in relation to an application made under section 15 for a past offender reporting order — the offender.

*[Section 15C inserted: No. 35 of 2024 s. 77.]*

**15D. Persons who may act on behalf of offender who is child**

- (1) In this section —  
*child welfare officer* means the CEO as defined in the *Children and Community Services Act 2004* section 3.
- (2) An application or appeal under this Part may be made on behalf of an offender who is a child by —
  - (a) a parent or guardian of the offender; or
  - (b) a child welfare officer; or
  - (c) a person of a prescribed class of person acting on behalf of the offender.
- (3) A document or information under this Part that is required to be served on, or notified to, an offender who is a child must also be served by the person required to serve it on —
  - (a) a parent or guardian of the offender; or
  - (b) a child welfare officer; or
  - (c) a person of a prescribed class of person acting on behalf of the offender.

*[Section 15D inserted: No. 35 of 2024 s. 77.]*

**16. Fixing a hearing**

When a relevant application is made the registrar must —

- (a) fix a day, time and place for the hearing; and
  - (b) if the offender is the relevant respondent —
    - (i) prepare a summons in the prescribed form; and
    - (ii) cause the summons to be served on the offender;
- and

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- (c) notify the following of the hearing —
  - (i) the relevant applicant; and
  - (ii) if the Commissioner is the relevant respondent — the Commissioner.

[(d) *deleted*]

[Section 16 amended: No. 35 of 2024 s. 8 and 78.]

**17. Evidence**

- (1) Evidence may be given at a hearing for an order under this Part orally or by affidavit.
- (2) An affidavit for use in the hearing for an order under this Part must be confined to the evidence the person making it could give orally, except that it may contain statements based on information and belief if the person making the affidavit states the source of the information and the grounds for the belief.
- (3) For the purposes of the hearing for an order under this Part, the Commissioner is entitled, on request, to inspect or obtain a copy of any document relating to the respondent held by the Children's Court —
  - (a) that is part of the court record; or
  - (b) that was received by that court in sentencing proceedings.
- (4) In subsection (3) —  
***court record*** has the meaning given in the *Children's Court of Western Australia Act 1988* section 51A(1).
- (5) Subsection (3) does not limit the *Children's Court of Western Australia Act 1988* section 51A(3).

[Section 17 amended: No. 54 of 2012 s. 8; No. 35 of 2024 s. 79.]

**18. How application to be disposed of**

The relevant court may dispose of a relevant application —

- (a) by making the order applied for; or
- (b) by dismissing the application; or
- (c) at the request of the relevant applicant — by discontinuing the application.

*[Section 18 amended: No. 35 of 2024 s. 9 and 80.]*

*[19, 20A. Deleted: No. 35 of 2024 s. 81.]*

**20. Attendance at hearings**

- (1) If the relevant applicant does not attend a hearing fixed under section 16, the relevant court —
  - (a) if it is satisfied the relevant applicant was notified of the hearing — must dismiss the application; or
  - (b) otherwise, must adjourn the hearing.
- (2) If the relevant respondent does not attend a hearing fixed under section 16 and the relevant applicant does attend, the relevant court —
  - (a) if it is satisfied that the relevant respondent was served with a summons requiring the relevant respondent to attend the hearing — must hear the matter in the absence of the relevant respondent; or
  - (b) otherwise, must adjourn the hearing.
- (3) The registrar of a court that adjourns a hearing must notify any party permitted to attend the hearing who was not present when the hearing was adjourned.

*[Section 20 amended: No. 35 of 2024 s. 82.]*

**21. Notification of orders made in absence of respondent**

The registrar of a court that makes an order in relation to a relevant application in the absence of the relevant respondent

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must cause a copy of the order to be served on the relevant respondent.

*[Section 21 amended: No. 35 of 2024 s. 11 and 83.]*

**22. Appeals**

- (1) A person listed in column 3 of the Table opposite a decision in column 2 of the Table may appeal against the decision in accordance with this section.

**Table**

<b>Item</b>	<b>Decision</b>	<b>Person</b>
1.	a decision under section 13 to make an offender reporting order	the offender
2.	a decision under section 13 not to make an offender reporting order	the prosecution or Commissioner
3.	a decision under section 14B to make a juvenile offender reporting order	the offender
4.	a decision under section 14B not to make a juvenile offender reporting order	the prosecution or Commissioner
5.	a decision under section 14C to revoke a juvenile offender reporting order	the Commissioner

<b>Item</b>	<b>Decision</b>	<b>Person</b>
6.	a decision under section 14E to make a juvenile offender exemption order	the Commissioner
7.	a decision under section 15A to make a past offender reporting order	the offender
8.	a decision under section 18(b) to dismiss a relevant application	the relevant applicant

- (1A) If the decision was made by the Magistrates Court, the appeal is to be made to a single judge of the Supreme Court in accordance with the *Criminal Appeals Act 2004* Part 2 Division 2.
- (2) If the decision was made by the District Court, the appeal is to be made to the Court of Appeal in accordance with the *District Court of Western Australia Act 1969* section 79(1)(a).
- (3) If the decision was made by the Children’s Court when constituted so as not to consist of or include a judge, the appeal is to be made as if the decision were a decision to which the *Children’s Court of Western Australia Act 1988* section 41 applied.
- (4) If the decision was made by the Children’s Court when constituted so as to consist of or include a judge, the appeal is to be made as if the decision were a decision to which the *Children’s Court of Western Australia Act 1988* section 43 applied.

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- (5) If the decision was made by the Supreme Court, the appeal is to be made to the Court of Appeal and the Court of Appeal has jurisdiction to hear and determine the appeal.

Note for this section:

Decisions under section 14B, 14C or 14E made by the Children's Court when constituted so as not to consist of or include a judge are reviewable under the *Children's Court of Western Australia Act 1988* section 40A.

*[Section 22 amended: No. 5 of 2008 s. 127(2); No. 54 of 2012 s. 11; No. 35 of 2024 s. 12 and 84.]*

**23. Appeal does not stay order**

An appeal against an order made under this Part does not operate to stay the operation of the order unless the court to which the appeal is made so orders.

## Part 3 — Reporting obligations

### Division 1 — Initial report

**24. When report must be made**

- (1) Subject to subsection (2A), a reportable offender of a kind referred to in column 1 of the Table to this subsection must report the offender’s personal details to the Commissioner within the period specified in column 2 of the Table.

**Table**

<b>Column 1 Reportable offender</b>	<b>Column 2 Period for initial report</b>
A reportable offender (other than a corresponding reportable offender) who enters government custody in Western Australia on or after the commencement day as a consequence of having been sentenced for a reportable offence and who ceases to be in government custody while in Western Australia	Within 7 days after the offender ceases to be in government custody
A reportable offender (other than a corresponding reportable offender) in government custody in Western Australia immediately before the commencement day and who ceases to be in government custody while in Western Australia	Within 60 days after the commencement day or 7 days after the offender ceases to be in government custody, whichever is the later

**Community Protection (Offender Reporting) Act 2004**

**Part 3** Reporting obligations

**Division 1** Initial report

**s. 24**

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<b>Column 1</b> <b>Reportable offender</b>	<b>Column 2</b> <b>Period for initial report</b>
A reportable offender (other than a corresponding reportable offender) who is in Western Australia on the commencement day, but who is not in government custody at that time	Within 60 days after the commencement day or, if the offender is given written notice of the offender's reporting obligations within 53 days after that day, within 7 days after the offender is given that notice
Any other reportable offender who is sentenced in Western Australia for a reportable offence	Within 7 days after the offender is sentenced
A reportable offender who enters Western Australia from a foreign jurisdiction and who has not previously been required under this section to report the offender's personal details to the Commissioner	Within 14 days after entering Western Australia, if remaining in Western Australia for 14 or more consecutive days, not counting any days spent in government custody
A corresponding reportable offender who has not previously reported the offender's personal details to the Commissioner and who is in Western Australia on the date on which the offender becomes a corresponding reportable offender	Within 7 days after the offender becomes a corresponding reportable offender or 7 days after the offender ceases to be in government custody, whichever is the later

- (2A) A reportable offender who must comply with the reporting obligations of this Act because of the making of a reporting order must report the offender's personal details to the Commissioner —
- (a) within 7 days after the order is made; or
  - (b) if the offender is in government custody — within 7 days after ceasing to be in government custody.

- (2) Despite subsections (1) and (2A), a reportable offender must report the offender's personal details to the Commissioner before leaving Western Australia unless the offender entered Western Australia from a foreign jurisdiction and remained in Western Australia for less than 14 consecutive days, not counting any days spent in government custody.

*[Section 24 amended: No. 54 of 2012 s. 12; No. 31 of 2024 s. 28; No. 35 of 2024 s. 13.]*

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

- (1) If a reportable offender's reporting period expires but the offender is then sentenced for a reportable offence, the offender must report the offender's personal details to the Commissioner —
- (a) within 7 days after being sentenced for the reportable offence; or
  - (aa) if the offence results in the making of a reporting order that is not made at the time of sentencing for the offence – within 7 days after the order is made; or
  - (b) if the offender is in government custody — within 7 days after ceasing to be in government custody,
- whichever is the later.
- (2) If a reportable offender's reporting period expires but the offender then becomes a corresponding reportable offender who must under section 49 continue to comply with the reporting obligations imposed by this Part for any period, the offender must report the offender's personal details to the Commissioner —
- (a) within 7 days after becoming a corresponding reportable offender; or
  - (b) if the offender is in government custody — within 7 days after ceasing to be in government custody,

whichever is the later.

- (3) If a reportable offender's reporting obligations are suspended by an order made under section 53 (or an equivalent order in a foreign jurisdiction) and that order ceases to have effect under section 59 (or an equivalent provision of the laws of a foreign jurisdiction), the reportable offender must report the offender's personal details to the Commissioner —
- (a) within 7 days after the order ceases to have effect; or
  - (b) if the offender is in government custody — within 7 days after ceasing to be in government custody,

whichever is the later.

- (4) If a reportable offender's reporting obligations are suspended by an approval granted under section 61 and that approval ceases to have effect under section 62, the reportable offender must report the offender's personal details to the Commissioner —
- (a) within 7 days after the approval ceases to have effect; or
  - (b) if the offender is in government custody — within 7 days after ceasing to be in government custody,

whichever is the later.

- (5) If a reportable offender is not in Western Australia at the time the offender would be required under subsection (1), (2), (3) or (4) to report the offender's personal details to the Commissioner, then the offender must report the offender's personal details within 14 days after entering Western Australia.
- (6) A person does not commit an offence against section 63 because of a failure to comply with the reporting obligation imposed by subsection (5) if the person does not remain in Western Australia for 14 or more consecutive days, not counting any days spent in government custody.
- (7) Despite subsections (1), (2), (3) and (4), a reportable offender must report the offender's personal details to the Commissioner

before leaving Western Australia unless the offender entered Western Australia from a foreign jurisdiction and remained in Western Australia for less than 14 consecutive days, not counting any days spent in government custody.

*[Section 25 amended: No. 31 of 2024 s. 28; No. 35 of 2024 s. 14.]*

**26. Initial report by reportable offender of personal details**

- (1) The details the reportable offender must report are —
- (a) the offender's name, together with any other name by which the offender is, or has previously been, known; and
  - (b) in respect of each name other than the offender's current name, the period during which the offender was known by that other name; and
  - (c) the offender's date of birth; and
  - (ca) the offender's sex or gender —
    - (i) as registered under the *Births, Deaths and Marriages Registration Act 1998* or a corresponding law (as defined in section 4 of that Act); or
    - (ii) as acknowledged in a document issued under the *Births, Deaths and Marriages Registration Act 1998* section 36ZA, or a document issued under a corresponding law (as defined in section 4 of that Act), for the purpose of acknowledging a person's sex or gender; or
    - (iii) if neither subparagraph (i) nor (ii) apply in respect of the offender — being a sex or gender prescribed in regulations under the *Births, Deaths and Marriages Registration Act 1998* and identified by the offender as the offender's sex or gender;

and

- (cb) details of each foreign citizenship that the offender holds (if any), including the name of the country for which it is held; and
- (daa) details of each passport that the offender holds (if any), including its number and expiry date and the name of the country that issued it; and
- (d) the address of each of the following —
  - (i) each premises at which the offender generally resides or, if they do not generally reside at any particular premises, the name of each of the localities in which they can generally be found;
  - (ii) each other premises (including a storage facility), if any, owned or rented by the offender or of which the offender has control or management;

and

- (da) each telephone number that the offender has or that the offender regularly uses; and
- (db) each email address (if any) that the offender has or that the offender regularly uses; and
- (dc) the name of each Internet service provider whose Internet carriage service —
  - (i) the offender is supplied with; or
  - (ii) the offender regularly uses;

and

- (dd) each name (other than a name reported under paragraph (a)), if any, that the offender uses, or by which the offender is known, when using each of the following (if any) —
  - (i) the internet for the purposes of communication;
  - (ii) an electronic communication service;

- (iii) an incidental communication application;
- and
- (de) the name or URL of each of the following (if any) in connection with which the offender uses a name referred to in paragraph (a) or (dd) or an email address referred to in paragraph (db) —
  - (i) a website;
  - (ii) an electronic communication service;
  - (iii) an incidental communication application;
- and
- (df) each user name, code, password or other information (if any) that the offender uses to gain access to —
  - (i) the internet generally or a particular website, other than a website operated by an authorised deposit-taking institution, as defined in the *Banking Act 1959* (Commonwealth), or a website approved by the Commissioner under subsection (1b); or
  - (ii) an email address referred to in paragraph (db) or an electronic communication service referred to in paragraph (de); or
  - (iii) an incidental communication application referred to in paragraph (de);
- and
- (e) reportable contact details of each reportable contact (if any) the offender —
  - (i) has with a child; or
  - (ii) is likely to have with a child within the period of 12 months after the day on which the report is made;
- and
- [(fa) *deleted*]

- (f) if the offender is employed —
  - (i) the nature of the offender’s employment; and
  - (ii) the name of the offender’s employer (if any); and
  - (iii) the address of each of the premises at which the offender is generally employed or, if the offender is not generally employed at any particular premises, the name of each of the localities in which the offender is generally employed;and
- (g) details of the offender’s affiliation with each club or organisation (if any) that has members who are children or that conducts activities in which children participate; and
- (h) the make, model, colour and registration number of each motor vehicle (if any) owned by, or generally driven by, the offender; and
- (i) details of each tattoo or permanent distinguishing mark that the offender has (including details of each tattoo or mark that has been removed) if any; and
- (j) whether the offender has ever been found guilty in any foreign jurisdiction of a reportable offence or of an offence that required the offender to report to a corresponding registrar or been subject to a corresponding offender reporting order, corresponding juvenile offender reporting order or a corresponding protection order recognised under section 108 and, if so, where that finding occurred or that order was made; and
- (k) if the offender has been in government custody since the offender was sentenced or released from government custody (as the case may be) in respect of a reportable offence or corresponding reportable offence — details of when and where that government custody occurred; and
- (l) if, at the time of making a report under this Division, the offender leaves, or intends to leave, Western Australia 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;

and

- (m) the name of each authorised deposit-taking institution, as defined in the *Banking Act 1959* (Commonwealth) section 5(1), or other prescribed financial service provider, with which the offender has an account or dealings; and
- (n) any other prescribed information.

(1a) In subsection (1)(dc) —

***Internet carriage service*** and ***Internet service provider*** have the same meanings as they have in Schedule 5 to the *Broadcasting Services Act 1992* of the Commonwealth.

(1b) For the purposes of subsection (1)(df)(i), the Commissioner may, at the written request of a reportable offender, approve a website used by the offender if the Commissioner is satisfied that the website is used by the offender only for lawful purposes in connection with recording financial information or making financial transactions.

(2) For the purposes of this section —

- (a) a reportable offender does not generally reside at, own, rent, control or manage any particular premises unless the offender (as the case requires) resides at, owns, rents, controls or manages those premises for at least 3 days (whether consecutive or not) in any period of 12 months; and

*[(b)-(db) deleted]*

- (d) a reportable offender is not generally employed at any particular premises unless the offender is employed at those premises for at least 3 days (whether consecutive or not) in any period of 12 months; and
  - (e) a reportable offender does not generally drive a particular motor vehicle unless the person drives that vehicle for at least 3 days (whether consecutive or not) in any period of 12 months.
- (3) For the purposes of this section, a person is taken to be employed if the person —
- (a) carries out work under a contract of employment; or
  - (b) carries out work as a self-employed person or as a subcontractor; 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 taken to be an employer of a reportable offender if the person —
- (a) arranges, in the course of business, for the reportable offender to be employed by another person; or
  - (b) engages the reportable offender under contract to carry out work.
- (5) For the purposes of subsection (1)(dd), (de) or (df), an **incidental communication application** includes software, an application or an electronic device that may be used for communication or that has communication as an incidental function.

Example for this subsection:

Computer games or consoles.

*[Section 26 amended: No. 27 of 2008 s. 4; No. 54 of 2012 s. 13 and 42(2); No. 31 of 2024 s. 24 and 28; No. 35 of 2024 s. 15 and 85.]*

**27. Persons required to report under corresponding Act**

- (1) This section applies to a person (other than a person to whom Division 10 applies) who has been required to report to a corresponding registrar, whether or not the person is a reportable offender for the purposes of this Act.
- (2) Unless the person has previously complied with the obligation imposed by this section, the person must, within 7 days after entering Western Australia, contact (by telephone or another means prescribed) an authorised person nominated by the Commissioner for the purposes of this section.
- (3) The contacted authorised person must advise the person whether the person is a reportable offender for the purposes of this Act and any reporting obligations that the person has under this Act.
- (4) A person does not commit an offence against section 63 because of a failure to comply with the reporting obligation imposed by subsection (2) if the person —
  - (a) is not a reportable offender for the purposes of this Act; or
  - (b) has not been notified of that reporting obligation; or
  - (c) does not remain in Western Australia for 14 or more consecutive days, not counting any days spent in government custody; or
  - (d) reports in accordance with section 24.

*[Section 27 amended: No. 31 of 2024 s. 28; No. 35 of 2024 s. 59.]*

## **Division 2 — Ongoing reporting obligations**

### **Subdivision 1 — General**

*[Heading inserted: No. 35 of 2024 s. 16.]*

#### **28. Reportable offender to report annually and as required by Commissioner**

- (1) A reportable offender must report the offender's personal details to the Commissioner each year.
- (2) The reportable offender must make the report in each year during the calendar month in which the offender first reported in accordance with this Act or a corresponding Act.
- (3) The Commissioner may, at any time, cause written notice to be given to a reportable offender requiring the reportable offender to report the offender's personal details to the Commissioner at the time or times stated in the notice.
- (4) A reportable offender must report the offender's personal details to the Commissioner in accordance with a notice under subsection (3).
- (5) If the reportable offender has been in government custody for any period since the offender last reported the offender's personal details under this section, the details the offender must report include details of when and where that custody occurred.
- (6) If a reportable offender's reporting period expires but the offender is then required to report again under section 25, the reference in subsection (2) to the month during which the offender first reported is to be read as a reference to the month during which the offender first reported in respect of the current reporting period.

*[Section 28 amended: No. 31 of 2024 s. 28.]*

**29. Reportable offender to report changes to relevant personal details**

- (1) A reportable offender must report to the Commissioner any change in the offender's personal details —
  - (a) if the change relates to any of the details referred to in section 26(1)(d), within 24 hours after the change occurs; or
  - (b) if the change relates to any of the details referred to in section 26(1)(f) or (h), within 3 days after the change occurs; or
  - (c) otherwise, within 7 days after the change occurs.
- (2) For the purposes of subsection (1), a change occurs on the expiry of the 3 day period referred to in section 26(2)(a), (d) or (e) in relation to —
  - (a) the premises that the reportable offender resides at, owns, rents, controls or manages; or
  - (b) the premises where the reportable offender is generally employed; or
  - (c) the motor vehicle that the reportable offender generally drives.
- (2A) For the purposes of subsection (1), a change occurs in a reportable offender's personal details relating to sex or gender only if —
  - (a) the registration of the offender's sex or gender under the *Births, Deaths and Marriages Registration Act 1998* or a corresponding law (as defined in section 4 of that Act) is changed; or
  - (b) a document is issued under the *Births, Deaths and Marriages Registration Act 1998* section 36ZA or a corresponding law (as defined in section 4 of that Act) for the purpose of acknowledging the offender's sex or gender.

- (3) If the personal details of a reportable offender (other than one to whom Division 10 applies) change while the offender is not in Western Australia, the offender must report the change to the Commissioner within 7 days after entering Western Australia.
- (4) A person does not commit an offence against section 63 because of a failure to comply with the reporting obligation imposed by subsection (3) if the person does not remain in Western Australia for 14 or more consecutive days, not counting any days spent in government custody.
- (5) A reportable offender who is in government custody for 14 or more consecutive days must report the offender's personal details to the Commissioner —
  - (a) within 7 days after ceasing to be in government custody; or
  - (b) before leaving Western Australia, if the offender leaves within that 7 day period.
- (6) Despite a reporting obligation in this section, a reportable offender is not required to report a change under this section that relates to reportable contact with a child referred to in section 26(1)(e).

Note for this subsection:

A reportable offender's ongoing obligations in relation to reportable contact with a child are provided under section 33A.

*[Section 29 amended: No. 54 of 2012 s. 14; No. 31 of 2024 s. 25 and 28; No. 35 of 2024 s. 17.]*

**29A. Intended absence from place of residence to be reported**

- (1) In this section, a reference to the place where a reportable offender generally resides is a reference to —
  - (a) the premises, or each of the premises, where the offender generally resides, as determined in accordance with section 26(2)(a); or

- (b) if the offender does not generally reside at any particular premises, the localities in which the offender can generally be found.
- (2) This section applies to a reportable offender who —
  - (a) intends to leave the place where the offender generally resides for 7 or more consecutive days; and
  - (b) does not intend to leave Western Australia.
- (3) At least 7 days before leaving the place where the offender generally resides, the reportable offender must report the intended absence to the Commissioner and must provide details of —
  - (a) the dates, or approximate dates, of the period during which the offender intends to be absent from the place where the offender generally resides; and
  - (b) each address or location within Western Australia at which the offender intends to reside (to the extent that they are known) and the dates, or approximate dates, of the periods during which the offender intends to reside at those addresses or locations.
- (4) If circumstances arise making it impracticable for a reportable offender to make the report at least 7 days before the offender leaves, it is sufficient compliance with subsection (3) if the reportable offender reports the required information to the Commissioner no later than 24 hours after leaving the place where the offender generally resides.
- (5) If the reportable offender decides not to leave the place where the offender generally resides, the offender must report the offender's change of intention to the Commissioner within 7 days after deciding not to leave.
- (6) This section does not limit any requirement under this Act for a reportable offender to report a change in the place where the offender generally resides.

*[Section 29A inserted: No. 27 of 2008 s. 5; amended: No. 31 of 2024 s. 28.]*

**30. Intended absence from Western Australia to be reported**

- (1) This section applies to a reportable offender who intends to leave Western Australia, whether to travel elsewhere in Australia or to travel out of Australia.
- (2) At least 7 days before leaving Western Australia, the reportable offender must report the intended travel to the Commissioner and must provide details of —
  - (a) each State, Territory or country to which the offender intends to go while out of Western Australia; and
  - (b) the approximate dates of the periods during which the offender 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 the offender intends to reside (to the extent that they are known) and the approximate dates of the periods during which the offender intends to reside at those addresses or locations; and
  - (d) if the offender intends to return to Western Australia, the approximate date on which the offender intends to return; and
  - (e) if the offender does not intend to return to Western Australia, a statement of that intention.
- (3) If circumstances arise making it impracticable for a reportable offender to make the report at least 7 days before the offender leaves, it is sufficient compliance with subsection (2) if the reportable offender reports the required information to the Commissioner no later than 24 hours after leaving Western Australia.

- (4) A reportable offender who reports under subsection (3) after leaving Western Australia must make the report —
- (a) by facsimile or email sent to the Commissioner or to any other address permitted by the regulations; or
  - (b) in any other manner permitted by the regulations.

*[Section 30 amended: No. 27 of 2008 s. 6; No. 31 of 2024 s. 28.]*

**31. Change of travel plans while out of Western Australia to be reported**

- (1) This section applies to a reportable offender who —
- (a) is in Western Australia, having left the place where the offender generally resides (as described in section 29A(1)), and decides to change any details given to the Commissioner under section 29A; or
  - (b) is out of Western Australia and decides to change any details given to the Commissioner under section 30.
- (2) As soon as is practicable after making the decision, the reportable offender must report the changed details to the Commissioner.
- (3) If subsection (1)(b) applies, the reportable offender must make the report —
- (a) by facsimile or email sent to the Commissioner or to any other address permitted by the regulations; or
  - (b) in any other manner permitted by the regulations.

*[Section 31 amended: No. 27 of 2008 s. 7; No. 31 of 2024 s. 28.]*

**32. Reportable offender to report return to Western Australia or decision not to leave**

- (1) This section applies to a reportable offender who was required to report under section 30 that the offender intended to leave Western Australia.
- (2) If the reportable offender left Western Australia, the offender must report the offender's return to Western Australia to the Commissioner within 7 days after entering Western Australia.
- (2a) If the reportable offender left Western Australia to travel out of Australia, the offender must, in addition to reporting under subsection (2), produce to the Commissioner within 7 days after entering Western Australia —
  - (a) the offender's passport; and
  - (b) any other document in the offender's possession that contains information indicating where the offender travelled while out of Australia.
- (3) A person does not commit an offence against section 63 because of a failure to comply with the reporting obligation imposed by subsection (2) or (2a) if the person does not remain in Western Australia for 14 or more consecutive days, not counting any days spent in government custody.
- (4) If the reportable offender decides not to leave Western Australia, the offender must report the offender's change of intention to the Commissioner within 7 days after deciding not to leave.

*[Section 32 amended: No. 27 of 2008 s. 8; No. 31 of 2024 s. 28.]*

**33. Report of other absences from Western Australia**

- (1) This section applies to a reportable offender who, at the time of making a report under this Division, leaves or intends to leave Western Australia to travel elsewhere in Australia on an average

of at least once a month (irrespective of the length of any such absence).

- (2) The reportable offender must report to the Commissioner —
  - (a) in general terms, the reason for travelling; and
  - (b) in general terms, the frequency and destinations of the travel.

**Subdivision 2 — Reportable contact with child**

*[Heading inserted: No. 35 of 2024 s. 18.]*

**33A. Ongoing reporting of reportable contact with child**

If a reportable offender has reportable contact with a child, the reportable offender must report to the Commissioner the following details within 24 hours after each reportable contact with the child occurs unless the offender is exempt from reporting reportable contact with the child —

- (a) reportable contact details of the reportable contact;
- (b) reportable contact details of any likely reportable contact with the child within the period of 12 months after the day on which the report is given.

*[Section 33A inserted: No. 35 of 2024 s. 18.]*

**33B. Exemption from ongoing reporting of reportable contact with child**

- (1) The Commissioner may, by written notice, exempt a reportable offender from the requirement to report reportable contact with a child under section 33A if the offender has given reportable contact details in relation to reportable contact and likely reportable contact with the child to the Commissioner.
- (2) In deciding whether to grant an exemption, the Commissioner must take into account the following —
  - (a) whether the reportable offender normally lives with the child;

- (b) how frequently the reportable offender has reportable contact, or is likely to have reportable contact, with the child;
  - (c) the nature of the reportable contact with the child;
  - (d) any other matter the Commissioner considers relevant.
- (3) The exemption has effect from the time the notice under subsection (1) is given to the offender or from any later date specified in the notice.
- (4) The Commissioner may revoke a reportable offender's exemption at any time by giving written notice to the offender.
- (5) The revocation has effect from the time the notice is given to the offender under subsection (4).
- (6) This section is in addition to, and does not limit, any other provision which provides for an exemption or suspension of a reporting obligation.

*[Section 33B inserted: No. 35 of 2024 s. 18.]*

**33C. When exemptions end**

- (1) A reportable offender's exemption under section 33B ceases to have effect when —
- (a) at any time after the exemption is granted, the offender —
    - (i) is made subject to a reporting order or a protection order; or
    - (ii) is found guilty of a reportable offence; or
    - (iii) becomes a corresponding reportable offender who must under section 49 continue to comply with the reporting obligations imposed by this Part for any period; or
    - (iv) is given a notice under section 33B(4);
- or

- (b) the reportable contact details given by the offender to the Commissioner for the exemption have changed since they were given or are not accurate.
- (2) An exemption that ceases to have effect in accordance with subsection (1) is revived if —
  - (a) the finding of guilt that caused the approval to cease to have effect is quashed or set aside by a court; or
  - (b) the approval ceased to have effect in accordance with subsection (1)(a)(i) and —
    - (i) the reporting order or protection order is quashed on appeal; or
    - (ii) in the case of a reporting order — the 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 reporting order or protection order.

*[Section 33C inserted: No. 35 of 2024 s. 18.]*

**33D. Reporting of reportable contact with child ceasing for 60 days**

- (1) This section applies if —
  - (a) a reportable offender has an exemption under section 33B from reporting reportable contact with a child under section 33A; and
  - (b) the offender does not have reportable contact with the child for a period (the *non-contact period*) of 60 consecutive days beginning on the day after the day on which the offender's last reportable contact with the child occurred.

- (2) The reportable offender must report the following to the Commissioner within 1 day after the end of the non-contact period —
- (a) the name of the child;
  - (b) details about why the reportable contact has stopped for the non-contact period.

*[Section 33D inserted: No. 35 of 2024 s. 18.]*

**Division 3 — Provisions applying to all reporting obligations**

**34. Where reports must be made**

- (1) A report under this Part must be made —
- (a) at any police station in the locality in which the reportable offender is currently residing; or
  - (b) at another place approved (either generally or in a particular case) by the Commissioner; or
  - (c) if a direction is given in accordance with the regulations as to the police station or approved place at which the report must be made, at the police station or approved place so directed.
- (2) This section does not apply if, under section 35(2), a report is permitted or required to be made in a way that is inconsistent with this section.

*[Section 34 amended: No. 35 of 2024 s. 19.]*

*[Section 34. Modifications to be applied in order to give effect to Cross-border Justice Act 2008: section altered 1 Nov 2009. See endnote 1M.]*

**35. How reports must be made**

*[(1) deleted]*

- (2) A reportable offender must make a report —
- (a) if the report is required under this Part to be made in a certain manner — in the manner required under this Part; or
  - (b) if the report is not required under this Part to be made in a certain manner — in any of the following ways —
    - (i) in person;
    - (ii) in any way prescribed;
    - (iii) in any way permitted by the Commissioner in a particular case, for a class of cases or for all cases.
- (3) Only an authorised person may receive a report made under this Part unless the report is made electronically —
- (a) in accordance with the regulations; or
  - (b) in a way permitted by the Commissioner under subsection (2)(b)(iii).
- (4) If a reportable offender attending in person is a child, or has a disability that makes it impossible or impracticable for the offender to make a report, any parent, guardian, carer or other person nominated by the reportable offender who is accompanying the reportable offender may make the report on the reportable offender's behalf.
- (5) If a reportable offender is permitted or required to make a report otherwise than in person in accordance with subsection (2), any of the following may make a report on the offender's behalf —
- (a) if the offender has a disability that makes it impossible or impracticable for them to make the report — a parent, guardian, carer or other person nominated by the offender;

- (b) if the offender has a guardian under the *Guardianship and Administration Act 1990* — the guardian.

*[Section 35 amended: No. 31 of 2024 s. 28; No. 35 of 2024 s. 20.]*

**36. Right to privacy and support when reporting**

- (1) A person making a report under this Part at a police station or approved place —
  - (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 the person's own choosing.
- (2) An authorised person receiving the report may arrange for an interpreter to be present when a person is making a report under this Part.
- (3) An authorised person receiving the report may allow an interpreter to be present when a person is making a report under this Part only if the interpreter has signed an undertaking not to disclose any information derived from the report unless required or authorised by or under any written or other law to do so.

*[Section 36 amended: No. 31 of 2024 s. 28.]*

**37. Receipt of information to be acknowledged**

- (1) Subject to subsection (3C), as soon as is practicable after receiving a report under this Part, an authorised person must acknowledge the making of the report.
- (2) If a report under this Part is made in person, 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 authorised person who received the report; and

- (b) the date and time when, and the place where, the report was received; and
  - (c) a copy of the information that was reported in accordance with this Part.
- (3) Subject to subsection (3C), if a report under this Part is made otherwise than in person, an authorised person must as soon as is practicable —
  - (a) give the person making the report a unique reference number; and
  - (b) record that number on the relevant reportable offender's file and on the acknowledgment.
- (3A) If a report under this Part is made electronically, any unique reference number or acknowledgment required to be given by this section may be given electronically.
- (3B) The regulations may prescribe the manner in which a unique reference number or acknowledgment may be given electronically under subsection (3A).
- (3C) If a report is made electronically by a person, it may be received by an automated system and an automated system may give an acknowledgement including a unique reference number to the person.
- (4) The Commissioner may make an agreement with the reportable offender as to the manner in which any reference number or acknowledgment required to be given by this section may be given.
- (5) The Commissioner must ensure —
  - (a) that there is a method of recording an agreement made under subsection (4); and
  - (b) that a copy of the agreement is given to the reportable offender; and

- (c) that, except with the written consent of the reportable offender, any reference number or acknowledgment required to be given by this section is given in accordance with the agreement while the agreement remains in force.
- (6) The Commissioner must ensure that a copy of every acknowledgment is retained.

*[Section 37 amended: No. 54 of 2012 s. 15; No. 35 of 2024 s. 21.]*

**38. 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 to verify or support details in the report —
      - (i) any passport that the reportable offender holds; or
      - (ii) if the reportable offender does not hold a passport — the identification documents, relating to the identity of the reportable offender, required by subsection (2A);
- and
- (b) provide a photograph of the reportable offender’s head and face of a type suitable for use in an Australian passport; and
  - (c) if not the reportable offender — present for inspection —
    - (i) any passport that the person holds; or
    - (ii) if the person does not hold a passport — the identification documents, relating to the identity of the person making the report, required by subsection (2A).

- (2A) For the purposes of subsection (1)(a)(ii) and (c)(ii), the identification documents required are —
- (a) any one of the following —
    - (i) a current driver’s licence that displays a photograph or digital image of the licence holder;
    - (ii) an Australian naturalisation or citizenship document;
    - (iii) an original birth certificate or a certified copy, or certified extract, of a birth certificate;
    - (iv) a form of identification or document prescribed for the purposes of this paragraph;
- and
- (b) any one of the following —
    - (i) a current signed credit or debit card, a passbook or a statement of account issued by a bank, building society or credit union;
    - (ii) a current Medicare card;
    - (iii) a gas, water, electricity or telephone account issued within 12 months before the report is made;
    - (iv) a notice of rates from a local government (however described) or a notice of water service charges or land valuation;
    - (v) a pensioner concession card, a Commonwealth seniors health card, an entitlement card issued under the *Veterans’ Entitlements Act 1986* (Commonwealth) or another entitlement card issued by the Commonwealth government or a State or Territory government;
    - (vi) a lease or rental agreement;
    - (vii) a motor vehicle registration notice or certificate;

- (viii) a renewal notice for a home building or contents, or a motor vehicle, policy of insurance;
  - (ix) a student identity card or a certificate or statement of enrolment from an educational institution;
  - (x) an electoral enrolment card or other evidence of electoral enrolment;
  - (xi) a form of identification or document prescribed for the purposes of this paragraph.
- (2B) A form of identification or other document is not valid for the purposes of subsection (2A)(b)(iv) to (xi) unless it was issued or entered into, as the case requires, within 2 years before the report is made.
- (2C) Except as stated in subsection (2A)(a)(iii), a form of identification or other document is not valid for the purposes of subsection (2A) unless it is an original.
- (2) The authorised person receiving the report may waive the requirements of subsection (1)(a) if —
- (a) the reportable offender permits the offender's fingerprints to be taken immediately before or after the report is made; or
  - (b) the authorised person is otherwise satisfied as to the reportable offender's identity.
- (3) The authorised person receiving the report may waive the requirement of subsection (1)(c) if the authorised person is otherwise satisfied as to the person's identity.
- (4) The authorised person receiving a report may copy any document presented to the person for inspection under subsection (1)(a).

- (5) For the purposes of a report that is made otherwise than in person, the regulations may specify —
- (a) the circumstances in which —
    - (i) information concerning the identity of the reportable 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 must be provided,

but cannot require an original document to be provided.

*[Section 38 amended: No. 54 of 2012 s. 16; No. 31 of 2024 s. 28.]*

**39. Power to take fingerprints**

- (1) This section applies if an authorised person receiving a report made in person under this Part is not reasonably satisfied as to the identity of the reportable offender after the authorised person has examined all the material relating to identity provided or presented to the authorised person by, or on behalf of, the reportable offender.
- (2) The authorised person may take, or may cause to be taken by a person authorised by the authorised person, the fingerprints of the reportable offender.

*[Section 39 amended: No. 31 of 2024 s. 28.]*

**40. Power to take photographs**

- (1) An authorised person receiving a report made in person under this Part may require the reportable offender —
- (a) to be photographed; and

- (b) to expose any part of the reportable offender's body to enable that part of the body to be photographed by the authorised person or a person authorised by the authorised person.
- (2) An authorised person cannot, under subsection (1), require a reportable offender to expose their genitals, the anal area of their buttocks or, in the case of females, or persons identifying as female, their breasts.
- (3) An authorised person may photograph any premises or vehicle included in the personal details reported by a reportable offender under this Part.
- (4) Subsection (3) does not confer a power on an authorised person to enter any premises or vehicle.

*[Section 40 amended: No. 54 of 2012 s. 17; No. 31 of 2024 s. 26.]*

**40A. Power to obtain DNA profiles**

- (1) In this section —  
*forensic database* has the meaning given in the *Criminal Investigation (Identifying People) Act 2002* section 61.
- (2) This section applies if an authorised person reasonably suspects a reportable offender's DNA profile is not held, or may not be held, by the WA Police or in a forensic database.
- (3) An authorised person receiving a report made in person under this Part may require the reportable offender to submit to a non-intimate identifying procedure for the purpose of obtaining the offender's DNA profile.
- (4) The non-intimate identifying procedure for the purpose of obtaining the reportable offender's DNA profile must be done in accordance with the *Criminal Investigation (Identifying People) Act 2002* Part 8 (other than section 54(1)).

- (5) This section applies despite the *Criminal Investigation (Identifying People) Act 2002* section 11(3).

*[Section 40A inserted: No. 35 of 2024 s. 22.]*

**41. Reasonable force may be used to obtain DNA profiles, fingerprints and photographs**

- (1) Before attempting to exercise a power under section 39, 40 or 40A, the authorised person must inform the reportable offender in language likely to be understood by the offender —
- (a) of the purpose for which the power is to be exercised and —
    - (i) in the case of section 39, why the authorised person is not satisfied as to the identity of the offender; or
    - (ii) in the case of section 40A, why the authorised person reasonably suspects the offender’s DNA profile is not held, or may not be held, by the WA Police or in a forensic database;
- and
- (b) that reasonable force may be used if the reportable offender does not voluntarily give the offender’s fingerprints, expose part of the offender’s body or submit to a non-intimate identifying procedure being done on the offender (as the case may be); and
  - (c) that the fingerprints or photographs will be retained by the Commissioner or the DNA profile will be retained in accordance with the law.
- (2) If the reportable offender does not voluntarily cooperate and the use of reasonable force is authorised by a police officer in charge of a police station at the time of the request to use reasonable force or by a senior police officer, a police officer may use reasonable force —
- (a) to take the fingerprints of the reportable offender; or

- (b) to expose a part of the body of the reportable offender that an authorised person is authorised under section 40(1) to require the reportable offender to expose to enable that part of the body to be photographed; or
  - (c) to carry out a non-intimate identifying procedure on the reportable offender for the purpose of obtaining the offender's DNA profile.
- (3) If reasonable force is to be used in relation to section 39, 40 or 40A, a person of the same sex as the reportable offender must, if practicable, be the person who uses the reasonable force.
- (4) This section applies despite the *Criminal Investigation (Identifying People) Act 2002* section 11(3).

Note for this section

A police officer may authorise as many other persons to assist in the exercise of the police officer's powers under this Act as are reasonably necessary in the circumstances (see section 109A).

*[Section 41 amended: No. 54 of 2012 s. 18; No. 31 of 2024 s. 28; No. 35 of 2024 s. 23.]*

## **42. Retention of material for certain purposes**

The Commissioner may retain for law enforcement, crime prevention or community protection purposes any of the following taken under this Division from, or in relation to, a reportable offender —

- (a) copies of any documents;
- (b) any fingerprints;
- (c) any photographs.

Note for this section:

A reportable offender's DNA profile obtained under this Division may be dealt with under the *Criminal Investigation (Identifying People) Act 2002* section 68B.

*[Section 42 amended: No. 35 of 2024 s. 24.]*

**43. Reporting by remote offenders**

- (1) This section applies to a reportable offender who resides more than the distance prescribed from the nearest police station or approved place.
- (2) Different distances may be prescribed for the purposes of subsection (1) in respect of different areas of Western Australia.
- (3) The reportable offender need not comply with a time limit concerning the making of a report in person under this Part if —
  - (a) the offender, or a person entitled to make the report on the offender's behalf, contacts the Commissioner before the time limit expires; and
  - (b) the Commissioner agrees to allow the report to be made at a specific time that is after the time limit expires and at a specific place; and
  - (c) before the time limit expires the offender provides the Commissioner by telephone or other means acceptable to the Commissioner with the information required to be reported under Division 1 or 2 (as the case may be).
- (4) The Commissioner must ensure that there is a method of recording —
  - (a) all information provided under subsection (3); and
  - (b) the agreements made under this section.
- (5) Without limiting subsection (4)(b), the recording method adopted must result in the creation of a written record for each agreement —
  - (a) that is identified by a unique reference number; and
  - (b) that identifies when and where the agreement is made; and
  - (c) that identifies the person who enters into the agreement; and
  - (d) that contains the terms of the agreement.

- (6) If an agreement is made under this section, the Commissioner must ensure that the reportable offender is provided with the reference number required by subsection (5)(a).

*[Section 43 amended: No. 31 of 2024 s. 28; No. 35 of 2024 s. 59.]*

**43A. Time for reporting**

If a reportable offender is required to report to the Commissioner under this Part, the *Interpretation Act 1984* section 61(e) and (h) do not apply to extend the time by which the report must be made.

*[Section 43A inserted: No. 35 of 2024 s. 25.]*

**43B. Powers additional**

The powers that a police officer may exercise under this Division are in addition to, and do not limit, the powers that a police officer has under this Act or any other law.

*[Section 43B inserted: No. 35 of 2024 s. 25.]*

**Division 4 — Suspension and extension of reporting obligations**

**44. Suspension and extension of reporting obligations**

- (1) Any obligation imposed on a reportable offender by this Part is suspended for any period during which the offender —
- (a) is in government custody; or
  - (b) is outside Western Australia, unless the offender is a person to whom Division 10 applies or the obligation is under section 30(4) or 31; or
  - (c) is the subject of an order made under Division 6 (or an equivalent order in a foreign jurisdiction); or
  - (d) is the subject of an approval granted by the Commissioner under Division 7.

- (2) The period for which a reportable offender's reporting obligations continue is extended by any length of time for which those obligations are suspended under subsection (1)(a).
- (3) If a child protection order is made under section 90 in respect of a reportable offender whose reporting obligations would (apart from this subsection) expire during the period that the reportable offender is subject to the order, the reportable offender must continue to comply with those obligations until the expiry of that period.
- (4) If a child protection order is made under section 90 in respect of a reportable offender whose reporting obligations have expired —
  - (a) the reportable offender is taken, for the purposes of this Part, to have been sentenced for a reportable offence; and
  - (b) the reportable offender must continue to comply with the reporting obligations imposed by this Part until the expiry of the period during which the offender is subject to the order.

*[Section 44 amended: No. 54 of 2012 s. 42(3); No. 31 of 2024 s. 28.]*

### **Division 5 — Reporting period**

#### **45. When reporting obligations begin**

For the purposes of this Division, a reportable offender's reporting obligations in respect of a reportable offence begin when the latest of the following occurs —

- (a) the reportable offender is sentenced for the offence;
- (b) the reportable offender ceases to be in government custody in respect of the offence;
- (c) a reporting order is made in respect of the offence.

*[Section 45 amended: No. 35 of 2024 s. 26.]*

**46. Length of reporting period**

- (1) A reportable offender must continue to comply with the reporting obligations imposed by this Part for 8 years, if the offender has only ever been found guilty of a single Class 2 offence.
- (2) A reportable offender must continue to comply with the reporting obligations imposed by this Part for 15 years, if the offender —
  - (a) has only ever been found guilty of a single Class 1 offence; or
  - (aa) has only ever been found guilty of 2 Class 2 offences; or
  - (b) has only ever been found guilty of 2 Class 3 offences; or
  - (c) is not covered by subsection (3) and has ever been found guilty of more than 1 reportable offence; or
  - (d) is not covered by subsection (3) and has ever been found guilty of a single reportable offence and 1 or more offences, committed by the offender when they were a child, that would have been reportable offences if —
    - (i) a juvenile offender reporting order was made in relation to the offences; or
    - (ii) a corresponding juvenile offender reporting order was made in relation to the offences; or
    - (iii) a corresponding juvenile offender non-registration order was not made in relation to the offences.
- (3) A reportable offender must continue to comply with the reporting obligations imposed by this Part for the remainder of the offender's life, if the offender is a reportable offender in respect of —
  - (a) a Class 1 offence, and the offender then commits and is found guilty of a Class 1 offence, a Class 2 offence or a Class 3 offence; or

- (b) a Class 2 offence or a Class 3 offence, and the offender then commits and is found guilty of a Class 1 offence; or
- (c) a Class 2 offence, and the offender then commits and is found guilty of a Class 2 offence or a Class 3 offence and has ever been found guilty of —
  - (i) 3 or more Class 2 offences; or
  - (ii) 2 or more Class 3 offences;or
- (d) a Class 3 offence, and the offender then commits and is found guilty of a Class 2 offence and has ever been found guilty of 3 or more Class 2 offences; or
- (e) a Class 3 offence, and the offender then commits and is found guilty of a Class 3 offence.

*[(4) deleted]*

- (5) For the purposes of this section, a person is a reportable offender in respect of a Class 3 offence if the person is sentenced for a Class 3 offence and has previously been found guilty of another Class 3 offence.
- (6) 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; and
  - (c) 2 or more offences arising from the same incident are to be treated as a single Class 3 offence if at least one of those offences is a Class 3 offence.

*[Section 46 amended: No. 31 of 2024 s. 28; No. 35 of 2024 s. 27 and 86.]*

**47. Reduced period applies for young reportable offenders**

- (1) The reporting periods specified in section 46 do not apply to a person who was a child at the time the person committed each relevant offence and who has not committed a reportable offence on or after the day on which the person turns 18 years of age.
- (2) Instead, a reporting period that is half the reporting period that would otherwise apply to the person under section 46 (or 7½ years in the case of a reporting period for life) applies to the person .

*[Section 47 amended: No. 31 of 2024 s. 28; No. 35 of 2024 s. 87.]*

**48. Extended reporting period if reportable offender still on parole**

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

**49. Reporting period for corresponding reportable offenders**

- (1) Despite anything in this Part, a corresponding reportable offender must continue to comply with the reporting obligations imposed by this Part for —
  - (a) the period (the *recognised foreign reporting period*) referred to in section 7(b)(i); or

- (b) the period that, apart from this section, the offender would be required to report under this Act,

whichever is the longer period.

- (2) For the purposes of this section, if a corresponding reportable offender is a corresponding reportable offender under the laws of more than one jurisdiction, the recognised foreign reporting period is the longest period for which the offender would be required to report to the corresponding registrar of a foreign jurisdiction.

*[Section 49 amended: No. 54 of 2012 s. 19; No. 31 of 2024 s. 28.]*

**50. Reporting period for New South Wales reportable offenders**

- (1) Subject to subsection (2), a New South Wales reportable offender must continue to comply with the reporting obligations imposed by this Part for the period the offender is required to report in accordance with the New South Wales Act.
- (2) A New South Wales reportable offender who, on or after the date specified by the regulations for the purposes of section 8, is sentenced for a reportable offence or becomes a corresponding reportable 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 the offender is required to report in accordance with this Division (apart from this section),

whichever is longer.

*[Section 50 amended: No. 31 of 2024 s. 28.]*

## **Division 6 — Exemption from reporting obligations**

### **51. Application of Division**

- (1) Subject to subsection (2), this Division applies to a reportable offender who is required to continue to comply with the reporting obligations imposed by this Part for the remainder of the offender's life.
- (2) This Division does not apply to a reportable offender who is required to comply with those obligations for the remainder of the offender's life as a result of being found guilty of —
  - (a) an offence under *The Criminal Code* section 279(1); or
  - (b) an offence under a law of a foreign jurisdiction the elements of which, if they had occurred in Western Australia, would have constituted an offence of the kind referred to in paragraph (a); or
  - (c) an offence that, at the time it was committed, was an offence of the kind referred to in this subsection.

*[Section 51 amended: No. 31 of 2024 s. 28.]*

### **52. District Court may exempt certain reportable offenders**

If —

- (a) a period of 15 years has passed (ignoring any period during which the reportable offender was in government custody) since the offender was last sentenced or released from government custody in respect of a reportable offence or a corresponding reportable offence, whichever is later; and
- (b) the offender did not become the subject of a life-long reporting period under a corresponding Act while in a foreign jurisdiction before becoming the subject of such a period in Western Australia; and
- (c) the offender is not on parole in respect of a reportable offence,

the reportable offender may apply to the District Court for an order suspending the offender's reporting obligations.

*[Section 52 amended: No. 31 of 2024 s. 28.]*

**53. Order for suspension**

- (1) On an application under section 52, the District Court may make an order suspending the reportable offender's reporting obligations.
- (2) The Court may make the order only if it is satisfied that the reportable offender does not pose a risk to the lives or the sexual safety of one or more persons, or persons generally.
- (3) In deciding whether to make the order, the Court must take into account the following —
  - (a) the seriousness of the reportable offender's reportable offences and corresponding reportable offences;
  - (b) the period of time since those offences were committed;
  - (c) the age of the reportable offender and the age of the victims of those offences at the time the offences were committed;
  - (d) the difference in age between the reportable offender and the victims of those offences;
  - (e) the reportable offender's present age;
  - (f) the seriousness of the reportable offender's total criminal record;
  - (g) any other matter the Court considers relevant.

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

- (1) In this section —

*relevant authority* means —

  - (a) the Commissioner; or

- (b) the chief executive officer of the department of the Public Service principally assisting the Minister in the administration of the *Children and Community Services Act 2004*; or
  - (c) the chief executive officer of the department of the Public Service principally assisting the Minister in the administration of the *Sentence Administration Act 2003*.
- (2) Each relevant authority is entitled to be a party to any proceedings for an order under this Division and may make submissions in opposition to, or in support of, the making of the order.
  - (3) As soon as is practicable after receiving an application under this Division, the Registrar of the District Court must notify the relevant authorities of the application.
  - (4) For the purposes of preparing submissions, a relevant authority may, by notice in writing, direct any public authority to provide to the relevant authority, on or before a day specified in the notice, any information held by the public authority that is relevant to an assessment of whether the applicant poses a risk to the lives or the sexual safety of one or more persons, or persons generally.
  - (5) A public authority to which a direction under subsection (4) is given is authorised and required to provide to the relevant authority the information sought by the direction.
  - (6) A public authority is not required to give information that is subject to legal professional privilege.

**55. Commissioner to be notified of order**

Unless the Commissioner was a party to the proceedings for the order, the Registrar of the District Court must notify the Commissioner of the terms of an order made under this Division.

**56. No costs to be awarded**

The District Court must not award costs in respect of proceedings under this Division.

**57. Applications not to be heard in public on application of party to proceedings**

If, on the application of a party to the proceedings for an order under this Division, the District Court is satisfied that there is good reason for those proceedings to be heard in the absence of the public, the proceedings must be heard accordingly.

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

A reportable offender in respect of whom the District Court refuses to make an order under this Division cannot 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.

**59. 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 reportable offender —
  - (a) is made subject to an offender reporting order, a past offender reporting order or a protection order; or
  - (b) is found guilty of a reportable offence; or
  - (c) becomes a corresponding reportable offender who must under section 49 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 —
  - (i) the offender reporting order, past offender reporting order or protection order is quashed on appeal; or
  - (ii) in the case of an offender reporting order or past offender reporting order — the reportable 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 an offender reporting order, past offender reporting order or protection order.

*[Section 59 amended: No. 54 of 2012 s. 42(2).]*

**60. Application for new order**

- (1) If an order ceases to have effect in accordance with section 59(1), the reportable offender may apply under this Division for a new order.
- (2) Section 58 does not apply with respect to an application referred to in subsection (1).
- (3) If an order ceases to have effect in accordance with section 59(1)(b) or (c), on an application under this Division for a new order, section 52(a) applies as if the period referred to were a period of 15 years (ignoring any period during which the reportable offender was in government custody) since the offender last committed a reportable offence or a corresponding reportable offence.

*[Section 60 amended: No. 31 of 2024 s. 28.]*

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**Division 7 — Suspension of reporting obligations of certain reportable offenders**

**61. Commissioner may approve suspension of reporting obligations**

*[(1) deleted]*

- (2) The Commissioner may approve a suspension of a reportable offender's reporting obligations.
- (2A) The Commissioner may approve the suspension only if the Commissioner is satisfied that the reportable offender does not pose a risk to the lives or the sexual safety of 1 or more persons, or persons generally.
- (3) In deciding whether to grant approval, the Commissioner must take into account the following —
  - (a) the seriousness of the reportable offender's reportable offences and corresponding reportable offences;
  - (b) the period of time since those offences were committed;
  - (c) the age of the reportable offender and the age of the victims of those offences at the time those offences were committed;
  - (d) the difference in age between the reportable offender and the victims of those offences;
  - (e) the reportable offender's present age;
  - (f) the seriousness of the reportable offender's total criminal record;
  - (g) any other matter the Commissioner considers relevant.
- (4) If the Commissioner approves the suspension of the reportable offender's reporting obligations, the Commissioner must give the reportable offender written notice of the suspension.
- (5) For the purposes of section 44(1)(d), the approval of the suspension of the reportable offender's reporting obligations has

effect from the date of the notice given to the offender under subsection (4) or from any later date specified in the notice.

*[Section 61 amended: No. 31 of 2024 s. 28; No. 35 of 2024 s. 28.]*

**62. Cessation of approval**

- (1) The approval of the suspension of a reportable offender's reporting obligations under this Division ceases to have effect if, at any time after the suspension, the reportable offender —
  - (a) is made subject to a reporting order or a protection order; or
  - (b) is found guilty of a reportable offence; or
  - (c) becomes a corresponding reportable offender who must under section 49 continue to comply with the reporting obligations imposed by this Part for any period.
- (2A) The approval of the suspension of a reportable offender's reporting obligations under this Division also ceases to have effect if the Commissioner —
  - (a) is no longer satisfied that the reportable offender does not pose a risk to the lives or the sexual safety of one or more persons, or persons generally; and
  - (b) gives the reportable offender written notice to that effect.
- (2) The approval of the suspension of a reportable offender's reporting obligations that ceased to have effect in accordance with subsection (1) is revived if —
  - (a) the finding of guilt that caused the approval to cease to have effect is quashed or set aside by a court; or
  - (b) the approval ceased to have effect in accordance with subsection (1)(a) and —
    - (i) the a reporting order or protection order is quashed on appeal; or

- (ii) in the case of a reporting order — the 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 reporting order or protection order.

*[Section 62 amended: No. 54 of 2012 s. 20 and 42(2); No. 35 of 2024 s. 29.]*

### **Division 8 — Offences**

#### **63. Failure to comply with reporting obligations**

- (1) A reportable offender who, without reasonable excuse, fails to comply with any of the offender's reporting obligations commits a crime.

Penalty for this subsection: imprisonment for 5 years.

Summary conviction penalty for this subsection: imprisonment for 2 years and a fine of \$24 000.

- (2) In determining whether a person had a reasonable excuse for failing to comply with the person's reporting obligations, a court must have regard to the following matters —
  - (a) the person's age;
  - (b) whether the person has a disability that affects the person's ability to understand, or to comply with, those obligations;
  - (c) whether the form of notification given to the person as to the person's obligations was adequate to inform the person of those obligations, having regard to the person's circumstances;
  - (d) any matter specified by the regulations for the purposes of this section;
  - (e) 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 that, at the time the offence is alleged to have occurred, the person had not received notice, and was otherwise unaware, of the obligation.

*[Section 63 amended: No. 54 of 2012 s. 21; No. 31 of 2024 s. 27 and 28; No. 35 of 2024 s. 30.]*

**64. Providing false or misleading information**

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

Penalty: imprisonment for 5 years.

Summary conviction penalty for this subsection: imprisonment for 2 years and a fine of \$24 000.

*[Section 64 amended: No. 54 of 2012 s. 22; No. 35 of 2024 s. 31.]*

**65. No time limit for prosecutions**

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

**66. Bar to prosecution for failing to report leaving Western Australia**

- (1) This section applies if a reportable offender leaves Western Australia and is found guilty of failing to report the offender's presence in a foreign jurisdiction as required by a corresponding Act.
- (2) The reportable offender is not to be prosecuted for a failure to comply with section 30 in respect of the travel out of Western Australia.

*[Section 66 amended: No. 31 of 2024 s. 28.]*

## **Division 9 — Notification of reporting obligations**

### **67. Notice to be given to reportable offender**

- (1) A reportable offender must be given written notice of —
  - (a) the offender's reporting obligations; and
  - (b) the consequences that may arise if the offender fails to comply with those obligations.
- (2) A reportable offender must be given a notice under this section, as the case requires, as soon as is practicable after the offender —
  - (a) is sentenced for a reportable offence or is made subject to a reporting order; or
  - (b) is released from government custody (whether in government custody for a reportable offence or otherwise); or
  - (c) enters Western Australia, if the offender has not previously been given notice of the offender's reporting obligations in Western Australia; or
  - (d) becomes a corresponding reportable offender, if the offender is in Western Australia at that time.
- (3) Subsection (2)(b) is taken to have been complied with if the reportable offender is given the notice within 7 days before the offender's release from government custody.
- (4) A notice under this section must be given by the person, or a person who falls within a class of persons, specified in, or determined in accordance with, the regulations.
- (5) A person is not required to give a notice under this section if the notice has been given by another person.
- (6) Despite anything in this Division, the regulations may provide that a notice given under this section is not required to specify the reportable offender's reporting period if the regulations require a notice containing that information to be given at the

time the reportable offender first reports the offender's personal details to the Commissioner.

*[Section 67 amended: No. 31 of 2024 s. 28; No. 35 of 2024 s. 32.]*

**68. Courts to provide sentencing information to Commissioner**

- (1) In this section —  
*court* does not include a court of a foreign jurisdiction.
- (2) This section applies if a court —
  - (a) makes an order in relation to a person or sentences a person with the effect of making the person a reportable offender for the purposes of this Act; or
  - (b) sentences a person for a reportable offence; or
  - (c) makes an order in relation to a reportable offender with the effect of removing the person from the ambit of this Act.
- (3) The court must ensure that details of the order or sentence are provided to the Commissioner as soon as is practicable after the order is made or the person is sentenced.

**69. Notice to be given when reporting period changes**

- (1) This section applies to a reportable offender whose reporting period has changed since the offender was last notified of the offender's reporting period in Western Australia.
- (2) The Commissioner must give written notice to the reportable offender of the changed reporting period as soon as is practicable after the change occurs and, in any event, no later than the time the offender next reports in accordance with this Act.

*[Section 69 amended: No. 31 of 2024 s. 28.]*

**70. Supervising authority to notify Commissioner of certain events**

- (1) This section applies if a reportable offender —
- (a) ceases to be in strict government custody; or
  - (b) ceases to be in government custody; or
  - (c) ceases to be subject to a custody order or an interim or extended custody order under the *Criminal Law (Mental Impairment) Act 2023*, or an interim disposition under section 205(1)(a) of that Act, and is not immediately made subject to another of those orders; or
  - (d) ceases to be subject to a community order; or
  - (e) ceases to be subject to a condition of parole requiring the person to be subject to supervision; or
  - (f) ceases to be an existing licensee,

regardless of the reason why the reportable offender was in custody, was subject to the order, was on parole or was an existing licensee.

- (2) As soon as is practicable before or after the relevant event listed in subsection (1) occurs, the supervising authority must give written notice of the event to the Commissioner.
- (3) The notice must include any details prescribed.
- (4) For the purposes of subsection (2), the Commissioner may inform a supervising authority whether or not a person is a reportable offender.

*[Section 70 amended: No. 10 of 2023 s. 287; No. 35 of 2024 s. 59.]*

**71. Notices may be given by Commissioner**

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

- (a) the offender's reporting obligations; and

- (b) the consequences that may arise if the offender fails to comply with those obligations.

*[Section 71 amended: No. 31 of 2024 s. 28.]*

**72. Power of detention to enable notice to be given**

- (1) This section applies if there are reasonable grounds to suspect that a person is a reportable offender and that the person has not been given notice, or is otherwise unaware, of the person's reporting obligations.
- (2) A police officer may detain the person if it is reasonably necessary to do so —
  - (a) to enable a determination to be made as to whether or not the person is a reportable offender, or if the person is a reportable offender, as to whether or not the person has been given notice, or is aware, of the person's reporting obligations; and
  - (b) to enable the person to be given notice of those obligations if the person is not aware of them.
- (3) In detaining the person, the police officer must tell the person —
  - (a) why the person is being detained; and
  - (b) that the detention is authorised under this Act; and
  - (c) that the person will be released immediately after the purpose of the detention is fulfilled.
- (4) The detained person —
  - (a) must not be held for a period that is longer than is reasonably necessary to enable the purpose of the detention to be fulfilled; and
  - (b) must not be held merely because the person has refused to sign an acknowledgment that the person has been given notice of the person's reporting obligations; and
  - (c) must be released immediately after the purpose of the detention is fulfilled.

*[Section 72 amended: No. 31 of 2024 s. 28.]*

**73. Failure to comply with procedural requirements does not affect reportable offender's obligations**

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

**Division 10 — Modified reporting procedures for participants in witness protection programs**

**74. Term used: witness protection program**

In this Division —

*witness protection program* has the meaning given to the term *State Witness Protection Program* in the *Witness Protection (Western Australia) Act 1996* section 3.

**75. Application of this Division**

- (1) This Division applies to the following —
  - (a) a reportable offender who is a participant in a witness protection program;
  - (b) a reportable offender who is the subject of an order in force under this Division declaring that the offender is a person to whom this Division applies.
- (2) This Division (except sections 77 and 78) also applies to a reportable offender who is receiving protection under a foreign witness protection law specified by the regulations for the purposes of this subsection, or who has the same status as such a person under an order made under a corresponding Act specified by the regulations for the purposes of this subsection.

*[Section 75 amended: No. 31 of 2024 s. 28.]*

**76. Report need not be made in person**

It is sufficient compliance with the requirements of this Part —

- (a) if a person to whom this Division applies reports the information the person is required to report under this Part —
  - (i) to the extent that that information is required by the Commissioner to be reported by the person; and
  - (ii) at the times, and in a manner, authorised by the Commissioner for the purposes of this section; and
- (b) if the acknowledgment of the making of a report is given in a manner approved by the Commissioner.

*[Section 76 amended: No. 31 of 2024 s. 28.]*

**77. Determination as to whether this Division applies**

- (1) The Commissioner must make a determination that a reportable offender who is a participant in a witness protection program either is or is not a person to whom this Division applies —
  - (a) when the reportable offender ceases to be a participant in the program as a consequence of a request under the *Witness Protection (Western Australia) Act 1996* section 25(1); or
  - (b) when the Commissioner makes a decision under the *Witness Protection (Western Australia) Act 1996* section 25(2) that the protection and assistance given to the reportable offender under the program be terminated.
- (2) On making the determination, the Commissioner must take reasonable steps to notify the reportable offender of the terms of the determination.

- (3) A reportable offender may, within 28 days after receiving such a notification, apply in writing to the Commissioner for a review of the determination.
- (4) On receiving an application for a review, the Commissioner —
  - (a) must review the determination and confirm or reverse it; and
  - (b) before making a decision on the matter, must give the applicant a reasonable opportunity to state the applicant's case; and
  - (c) after making a decision on the matter, must give written notice of the decision to the applicant.
- (5) Subject to subsection (3), the determination cannot be the subject of appeal or judicial review or otherwise be called in question in any proceedings.

*[Section 77 amended: No. 31 of 2024 s. 28.]*

**78. When determination takes effect**

- (1) A determination that a reportable offender is a person to whom this Division applies takes effect immediately.
- (2) A determination that a reportable offender is not a person to whom this Division applies takes effect —
  - (a) at the end of 28 days after notification of the terms of the determination is given to the reportable offender; or
  - (b) if an application referred to in section 77(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 77(4)(c),

whichever is the later.

**79. Modification of reporting obligations**

Sections 26(1), 29A to 33 and 66 apply with respect to a person to whom this Division applies as if any reference in them to

**Community Protection (Offender Reporting) Act 2004**

**Part 3** Reporting obligations

**Division 10** Modified reporting procedures for participants in witness protection programs

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Western Australia were a reference to the jurisdiction in which the person generally resides.

*[Section 79 amended: No. 27 of 2008 s. 9.]*

## Part 4A — Change of name

[Heading inserted: No. 54 of 2012 s. 23.]

### 80A. Terms used

In this Part —

**change of name application** means an application proposed to be made by or in respect of a reportable offender for the registration of a change of the reportable offender's name for which approval is required under section 80C;

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

**Registration Act** means the *Births, Deaths and Marriages Registration Act 1998*;

**WA Registrar** means the Registrar as defined in the Registration Act section 4.

[Section 80A inserted: No. 54 of 2012 s. 23.]

### 80B. Application

This Part applies despite anything to the contrary in the Registration Act.

[Section 80B inserted: No. 54 of 2012 s. 23.]

### 80C. Application for change of name by or in respect of reportable offender

- (1) A reportable offender must not —
  - (a) apply to the WA Registrar to register a change of the offender's name under the Registration Act; or

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- (b) apply to an interstate Registrar to register a change of the offender's name under a law of another State or a Territory that is the equivalent of the Registration Act,

without having first obtained the written approval of the Commissioner.

Penalty for this subsection: imprisonment for 2 years and a fine of \$24 000.

- (2) A person must not in respect of a reportable offender —
  - (a) apply to the WA Registrar to register a change of the reportable offender's name under the Registration Act; or
  - (b) apply to an interstate Registrar to register a change of the reportable offender's name under a law of another State or a Territory that is the equivalent of the Registration Act,

without having first obtained the written approval of the Commissioner.

Penalty for this subsection: imprisonment for 2 years and a fine of \$24 000.

*[Section 80C inserted: No. 54 of 2012 s. 23; amended: No. 31 of 2024 s. 28; No. 35 of 2024 s. 33.]*

**80D. Approval by Commissioner**

- (1) A person may apply to the Commissioner for approval of a change of name application.
- (2) The application must be made in a manner approved by the Commissioner.
- (3) The Commissioner may approve a change of name application only if the Commissioner is satisfied that the change of name is in all the circumstances necessary or reasonable.

- (4) The Commissioner must not approve a change of name application if the 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 a significant sector of the community; or
  - (b) to frustrate the administration of this Act in respect of the reportable offender who is the subject of the change of name application.
- (5) If the Commissioner approves a change of name application, the Commissioner must —
- (a) as soon as is practicable, give written notice of the approval to the person who made the application under subsection (1); and
  - (b) give a copy of the written notice of approval to the WA Registrar or the interstate Registrar, as the case requires.

*[Section 80D inserted: No. 54 of 2012 s. 23.]*

**80E. Registration of change of name**

- (1) The WA Registrar must not register a change of name under the Registration Act if —
- (a) the WA Registrar knows that the change of name relates to the name of a reportable offender; and
  - (b) the WA Registrar has not received a copy of the written notice of approval of the Commissioner under section 80D.
- (2) If the WA Registrar does not register a change of name because of the operation of subsection (1), the WA Registrar must give written notice to the Commissioner of the application to register the change of name.

*[Section 80E inserted: No. 54 of 2012 s. 23.]*

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**80F. WA Registrar to correct Registration Act Register**

- (1) In this section —  
*Registration Act Register* means the Register referred to in the Registration Act section 49(1).
- (2) Without limiting the Registration Act section 51, the WA Registrar must correct the Registration Act Register under that section if the WA Registrar knows that —
  - (a) the name of a reportable offender on the Registration Act Register has been changed on or after the commencement of this Part; and
  - (b) the Commissioner has not approved that change under this Part.

*[Section 80F inserted: No. 54 of 2012 s. 23.]*

**80G. Exchange of information between Commissioner and WA Registrar**

- (1) The Commissioner must notify the WA Registrar —
  - (a) of the name (including any other name by which the reportable offender is or has previously been known of which the Commissioner is aware) and date of birth of every reportable offender; and
  - (b) of an application made to the Commissioner to approve a change of name application.
- (2) Without limiting section 80E(2), the WA Registrar may notify the Commissioner of an application made to the WA Registrar to register a change of name that the WA Registrar suspects may relate to the name of a reportable offender.
- (3) The WA Registrar must maintain the confidentiality of any information given by the Commissioner under this Part.

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

*[Section 80G inserted: No. 54 of 2012 s. 23.]*

## **Part 4 — Community Protection Offender Register**

### **80. Requirement to establish and maintain Community Protection Offender Register**

- (1) The Commissioner must establish and maintain a Community Protection Offender Register or arrange with another person for the establishment and maintenance of a Community Protection Offender Register on the Commissioner's behalf.
- (2) The Register must contain the following information in respect of each reportable offender (to the extent that it is known by the Commissioner) —
  - (a) the reportable offender's name, address and date of birth;
  - (b) details of each Class 1 offence, Class 2 offence or Class 3 offence of which the reportable offender has been found guilty or with which the offender has been charged;
  - (c) details of each offence of which the reportable offender has been found guilty that resulted in the making of an offender reporting order or a past offender reporting order;
  - (d) details of any protection order, or supervision order under the *High Risk Serious Offenders Act 2020*, made in respect of the reportable offender;
  - (e) the date on which the reportable offender was sentenced for any reportable offence;
  - (f) the date on which the reportable offender ceased to be in government custody in respect of a reportable offence, or entered or ceased to be in government custody in respect of any offence during the offender's reporting period;
  - (g) any information reported in respect of the reportable offender under Part 3;

- (h) any other information that the Commissioner considers appropriate to include in the Register.

*[Section 80 amended: No. 54 of 2012 s. 24; No. 29 of 2020 s. 121; No. 31 of 2024 s. 28.]*

**81. Access to Register to be restricted**

- (1) The Commissioner may authorise a person or class of persons to access the Register, or any part of the Register, for the administration of this Act.
- (2) The Commissioner must ensure that the Register, or any part of the Register, is only accessed by a person who is authorised to access the Register under —
  - (a) subsection (1); or
  - (b) another enactment.

*[(3), (4) deleted]*

- (5) For the purposes of this section, the Register includes any information from any register maintained under a corresponding Act that is accessible by the Commissioner, whether or not that information is contained in the Register.

*[(6) deleted]*

*[Section 81 amended: No. 35 of 2024 s. 34.]*

**82. Confidentiality**

- (1A) In this section —

***agency official*** means any of the following —

- (a) a person appointed or employed under a written law or a law of the Commonwealth, another State or a Territory;
- (b) the chief executive officer of an agency, as defined in the *Public Sector Management Act 1994* section 3(1), or a person employed in that agency;

- (c) an Agency Head, as defined in the *Public Service Act 1999* (Commonwealth) section 7, or an APS employee of the Agency Head's Agency as defined in that section of that Act;
- (d) the chief executive officer, however designated, of a department of a Territory or another State or a person employed in that department;

*APS employee* has the meaning given in the *Public Service Act 1999* (Commonwealth) section 7.

- (1) A person commits a crime if the person discloses any personal information in the Register except —
  - (a) in the course of the person's duty; or
  - (b) as required or authorised by or under this Act or another written law; or
  - (c) for the purpose of an investigation or proceedings for an offence under this Act or another written law; or
  - (ca) in making a disclosure to a police officer for law enforcement purposes; or
  - (cb) in making a disclosure to a prescribed agency official or class of agency official for any of the following purposes —
    - (i) law enforcement;
    - (ii) the protection and welfare of children;
    - (iii) the assessment and management of reportable offenders;or
  - (cd) if the disclosure is by the Commissioner and the Commissioner considers the disclosure is in the public interest; or
  - (da) for the purpose of proceedings on an application for, or for the variation or revocation of, a protection order or reporting order; or

- (d) with the written authority of the Minister or the person to whom the information relates; or
- (e) in other circumstances prescribed.

Penalty for this subsection:

- (a) in the case where the person disclosing the information gained a benefit from the disclosure of the information, and the value of the benefit was more than \$10 000 — imprisonment for 10 years and a fine of \$120 000;
- (b) in the case where the person disclosing the information gained or intended to gain a benefit from the disclosure of the information, and paragraph (a) does not apply — imprisonment for 5 years and a fine of \$60 000;
- (c) in any other case —
  - (i) for a summary conviction — imprisonment for 2 years and a fine of \$24 000;
  - (ii) otherwise — imprisonment for 3 years and a fine of \$36 000.

*[(2) deleted]*

- (3) The prohibition in subsection (1) extends to the giving of evidence or the production of a book, document or record in civil proceedings in a court or tribunal.

*[Section 82 amended: No. 54 of 2012 s. 25; No. 35 of 2024 s. 35 and 59.]*

## **82A. Delegation by Commissioner**

The Commissioner may delegate under section 110 a power of the Commissioner under section 82(1)(cd) only to —

- (a) a police officer of, or acting in, the rank of inspector or a higher rank; or

- (b) a person employed in a prescribed position in the department of the Public Service principally assisting the Minister in the administration of this Act.

*[Section 82A inserted: No. 35 of 2024 s. 36.]*

**83. Restriction on who may access personal information on protected witnesses**

The Commissioner must ensure that any personal information in the Register about a person to whom Part 3 Division 10 applies cannot be accessed otherwise than by a person authorised by the officer responsible for the day to day operation of the witness protection program.

**84. Reportable offender's rights in relation to Register**

- (1) In this section —  
*reportable information* means any information supplied to the Commissioner by, or on behalf of, a reportable offender that the reportable offender is required under Part 3 to report to the Commissioner and that is held in the Register.
- (2) If asked to do so by a reportable offender, the Commissioner must, as soon as is practicable, provide the reportable offender with a copy of all the reportable information that is held in the Register in relation to the reportable offender.
- (3) A reportable offender may ask the Commissioner to amend any reportable information held on the Register in relation to the reportable offender that is incorrect.
- (4) The Commissioner must comply with the request on being satisfied that the information is incorrect.

## Part 5A — Publication of information about offenders

[Heading inserted: No. 1 of 2012 s. 5.]

### Division 1 — Preliminary

[Heading inserted: No. 1 of 2012 s. 5.]

#### 85A. Terms used

In this Part —

**HRO supervision order** means a supervision order under the *High Risk Serious Offenders Act 2020*;

**locality**, of a person, means a description of the general locality, such as the town or suburb, in which the person resides;

**photograph** includes a digital image;

**publish**, except in section 85M, means make available for inspection by members of the public on a website maintained by the Commissioner;

**serious sexual offence** means —

- (a) an offence specified in the *High Risk Serious Offenders Act 2020* Schedule 1, other than an offence under —
  - (i) the *Bush Fires Act 1954* section 32; or
  - (ii) the *Road Traffic Act 1974* section 59; or
  - (iia) the *Western Australian Marine Act 1982* section 75B(1), 75B(2), 75BA(1) or 75BA(2); or
  - (iii) *The Criminal Code* section 279, 280, 281, 283, 294, 297, 304(2), 332, 333, 338E, 343 392, 393, 444 or 445A;

or

- (b) an offence under a written law that has been repealed, if the offender's acts or omissions that constituted the offence under the repealed provision would constitute a serious sexual offence under paragraph (a); or

- (c) an offence of conspiracy, attempt or incitement to commit an offence that is a serious sexual offence under paragraph (a) or (b); or
- (d) an offence against the law of the Commonwealth or of any place outside Western Australia, if the offender's acts or omissions that constituted the offence under that law would constitute a serious sexual offence under paragraph (a) or (c); or
- (e) an offence against the law of the Commonwealth if —
  - (i) the offence is of a sexual nature; and
  - (ii) the penalty for the offence specified by the law of the Commonwealth is or includes imprisonment for 7 years or more; and
  - (iii) the offence is prescribed to be a serious sexual offence.

*[Section 85A inserted: No. 1 of 2012 s. 5; amended: No. 29 of 2020 s. 93; No. 31 of 2023 s. 29; No. 10 of 2023 s. 288; No. 35 of 2024 s. 37.]*

**85B. Delegation by Commissioner**

The Commissioner may delegate under section 110 a power of the Commissioner —

- (a) under section 85J only to a police officer of, or acting in, the rank of inspector or a higher rank; or
- (b) under Division 2 (other than section 85J) only to a police officer who holds or is acting in the office of Deputy Commissioner or Assistant Commissioner.

*[Section 85B inserted: No. 1 of 2012 s. 5; amended: No. 35 of 2024 s. 38.]*

**85C. Commissioner not required to publish or provide information**

Nothing in this Part requires the Commissioner to publish or provide information about any reportable offender or other person.

*[Section 85C inserted: No. 1 of 2012 s. 5.]*

**85D. Restriction on information about protected witnesses**

Nothing in this Part authorises the Commissioner to publish or provide information about a person to whom Part 3 Division 10 applies.

*[Section 85D inserted: No. 1 of 2012 s. 5.]*

**Division 2 — Commissioner may publish information**

*[Heading inserted: No. 1 of 2012 s. 5.]*

**85E. Application**

This Division has effect despite any written or other law to the contrary.

*[Section 85E inserted: No. 1 of 2012 s. 5.]*

**85F. Commissioner may publish personal details of certain reportable offenders**

(1) In this section —

*personal details*, in relation to a reportable offender, means the information listed in section 26(1) and —

- (a) includes a photograph or digital image of the offender; but
- (b) does not include any details that the offender reports under section 26(1)(e) or any other details that would identify a child.

- (2) The Commissioner may publish any or all of the personal details of a reportable offender, other than a reportable offender who is a child, if —
- (a) the Commissioner is satisfied that the reportable offender —
    - (i) has failed to comply with any of the offender’s reporting obligations; or
    - (ii) in purported compliance with Part 3, has provided information that is false or misleading in a material particular;
- and
- (b) the reportable offender’s whereabouts are not known to the Commissioner.
- (3) The Commissioner may at any time —
- (a) remove any or all of the personal details of a reportable offender from the website on which they are published under subsection (2); or
  - (b) again publish under subsection (2) any or all of the personal details of the reportable offender after their removal under paragraph (a).
- (4) If —
- (a) the Commissioner has published any personal details of a reportable offender under subsection (2); and
  - (b) the reportable offender subsequently reports the offender’s whereabouts to the Commissioner under Part 3,

the Commissioner must, as soon as is practicable after receiving the report, remove those personal details from the website on which they are published.

*[Section 85F inserted: No. 1 of 2012 s. 5; amended: No. 31 of 2024 s. 28.]*

**85G. Commissioner may publish photograph and locality of certain persons**

(1) In this section —

*Department of Corrective Services* means the department of the Public Service principally assisting the Minister in the administration of the *Prisons Act 1981*;

*prescribed offence* means a Class 1 offence, a Class 2 offence or a sexual offence, as defined in the *Evidence Act 1906* section 36A.

(2) Subject to this section, the Commissioner may publish a photograph and the locality of a person, other than a person who is a child —

(a) if —

- (i) the person has been convicted of a serious sexual offence; and
- (ii) the person is subject to a HRO supervision order; and
- (iii) that order does not provide that the person's photograph and locality are not to be published under this section;

or

(b) if —

- (i) the person, after becoming a reportable offender, commits and is found guilty of a prescribed offence; and
- (ii) any offence committed by the person, including the prescribed offence, is a Class 1 offence or an offence committed against a child under *The Criminal Code* section 323 or 324;

or

- (c) if —
  - (i) the person has been found guilty of an offence punishable by imprisonment for 5 years or more; and
  - (ii) the publication is authorised by the Minister under section 85GB.
- (3) If the Commissioner proposes to publish the photograph and locality of a person under subsection (2), the Commissioner —
  - (a) must give the person written notice of the proposal and the reasons for it; and
  - (b) must inform the person in that notice that the person has a specified period (of not less than 21 days) to make submissions or be heard in relation to the proposal; and
  - (c) if subsection (2)(a) applies in relation to the person, must give written notice of the proposal to the chief executive officer of the Department of Corrective Services.
- (4) Before publishing the photograph and locality of the person, the Commissioner must have regard to —
  - (a) any submission made, or information or document provided, by the person within the period referred to in subsection (3)(b); and
  - (b) if notice is given under subsection (3)(c), any submission made by the chief executive officer of the Department of Corrective Services within the period of 21 days after that notice is given.

*[(5)-(8) deleted]*

*[Section 85G inserted: No. 1 of 2012 s. 5; amended: No. 29 of 2020 s. 94; No. 31 of 2024 s. 28; No. 35 of 2024 s. 39.]*

**85GA. Notice to give address and photograph to Commissioner**

- (1) This section applies if —
  - (a) the Commissioner proposes to publish the photograph and locality of a person under section 85G(2) and the person is not a reportable offender; or
  - (b) the Commissioner —
    - (i) has published the photograph and locality of a person under section 85G(2) and the person is not a reportable offender; and
    - (ii) reasonably believes the person’s appearance or address has changed since their photograph or address was last given to the Commissioner.
- (2) The Commissioner may, by written notice, require the person to give any of the following (the *information*) to the Commissioner in accordance with the notice —
  - (a) the address of each of the premises at which the person generally resides;
  - (b) if a person does not generally reside at any particular premises, the name of each of the localities in which the person can generally be found;
  - (c) a current photograph of the person’s head and face of a type suitable for use in an Australian passport.
- (3) A notice under subsection (2) may require a person to do 1 or more of the following —
  - (a) to give their address and photograph by post, email or by other electronic means;
  - (b) to attend in person at a certain time and place to give their address to, and have their photograph taken by, an authorised person.
- (4) A person given written notice under subsection (2) must comply with the requirement to give the information in accordance with the notice.

Penalty for this subsection: imprisonment for 2 years and a fine of \$24 000.

*[Section 85GA inserted: No. 35 of 2024 s. 40.]*

**85GB. Authorisation by Minister to publish photograph and locality in relation to certain offences**

- (1) On application from the Commissioner, the Minister may authorise the publication under section 85G(2)(c)(ii) of a photograph and locality of a person referred to in section 85G(2)(c)(i) if satisfied that the person poses a risk to the lives or the sexual safety of 1 or more persons, or persons generally.
- (2) An authorisation cannot be for a period greater than 5 years.
- (3) For the purposes of subsection (1), it is not necessary that the Minister is able to identify a risk to a particular person or particular persons or a particular class of persons.
- (4) In determining whether to authorise publication under subsection (1), the Minister may take into account the following —
  - (a) any medical, psychiatric, psychological or other assessment relating to the person;
  - (b) any information indicating whether or not the person is likely to commit a prescribed offence, as defined in section 85G(1), in the future;
  - (c) whether or not there is any pattern of offending behaviour on the part of the person;
  - (d) the person's antecedents and the seriousness of the person's total criminal record;
  - (e) the person's age and the age of any victims of any offences committed by the person at the time those offences were committed;

- (f) the difference in age between the person and any victims of those offences;
  - (g) any other matter the Minister considers relevant.
- (5) The Commissioner must provide with an application under subsection (1) any information available to the Commissioner that is relevant to the Minister's determination whether to authorise publication.
- (6) The fact that an offence in respect of which a person has been found guilty becomes spent does not affect the consideration of the offence as part of the person's total criminal record for the purposes of subsection (4)(d).
- (7) The Minister may —
- (a) revoke an authorisation; or
  - (b) make further authorisations, each of no more than 5 years in duration, in respect of a person for whom an authorisation has previously been made.

*[Section 85GB inserted: No. 35 of 2024 s. 40.]*

**85H. Removal of photograph and locality from website**

- (1) The Commissioner may at any time —
- (a) remove the photograph and locality of a person from the website on which they are published under section 85G(2); or
  - (b) again publish under section 85G(2) the photograph and locality of a person after their removal under paragraph (a).
- (2) If —
- (a) the Commissioner has published a photograph and the locality of a person under section 85G(2)(a); and
  - (b) the person ceases to be subject to the HRO supervision order; and

- (c) neither section 85G(2)(b) nor (c) applies in relation to the person,

the Commissioner must, as soon as is practicable, remove the photograph and locality from the website on which they are published.

- (3) If —
  - (a) the Commissioner has published a photograph and the locality of a person under section 85G(2)(b); and
  - (b) the person’s reporting obligations expire; and
  - (c) neither section 85G(2)(a) nor (c) applies in relation to the person,

the Commissioner must, as soon as is practicable, remove the photograph and locality from the website on which they are published.

- (4) The Commissioner must, as soon as is practicable, remove a photograph and locality of a person from the website on which they are published if —
  - (a) the Commissioner has published the photograph and the locality of the person under section 85G(2)(c); and
  - (b) the authorisation in relation to the person is revoked under section 85GB(7)(a) or expires.

*[Section 85H inserted: No. 1 of 2012 s. 5; amended: No. 29 of 2020 s. 95; No. 35 of 2024 s. 41.]*

**85I. Commissioner may take into account certain matters**

- (1) In determining whether or not —
  - (a) to publish any personal details of a person who is a reportable offender under section 85F(2) or a photograph and the locality of a person under section 85G(2) (the *identifying information*); or

- (b) to remove the identifying information from a website under section 85F(3) or 85H(1),

the Commissioner may take into account the matters to which this section applies.

- (2) This section applies to these matters —
  - (a) whether the publication of the identifying information about a person would interfere with —
    - (i) an investigation by police officers in relation to the person; or
    - (ii) the person's compliance with the reporting obligations of this Act; or
    - (iii) the operation of a community order under the *Sentencing Act 1995*, a HRO supervision order or any other order or requirement under a written law to which the person is subject;
  - (b) whether the publication of the identifying information about the person might identify a victim of an offence, or the school attended by a victim of an offence, committed by the person;
  - (c) the effect that the publication of the identifying information about the person might have on a victim of an offence committed by the person;
  - (d) whether, in statements made by the victim to the Commissioner, the publication of the identifying information about the person has been supported or opposed by a victim of an offence committed by the person;
  - (e) whether the publication of the identifying information about the person would increase the risk of the person committing offences;
  - (f) the Commissioner's assessment of the benefit to the community of the publication of the identifying information about the person;

- (g) if the identifying information is about a person who is awaiting trial on a charge of an offence — whether the publication of the identifying information might prejudice the fair trial of the person;
- (h) any other matter the Commissioner considers relevant.

*[Section 85I inserted: No. 1 of 2012 s. 5; amended: No. 29 of 2020 s. 96.]*

**85J. Commissioner may inform child’s parent or guardian whether specified person is reportable offender**

- (1) A person may apply to the Commissioner to be informed whether or not a person specified in the application (the ***specified person***), other than a person who is a child, is a reportable offender.
- (2) The application must be made in a manner approved by the Commissioner.
- (3) The applicant must provide, in support of the application, any evidence required by the Commissioner to be satisfied that the specified person has had reportable contact with a child of whom the applicant is a parent or guardian in the period of 12 months before the day on which the application is made.
- [(4) deleted]*
- (5) If the Commissioner is satisfied that the specified person has had reportable contact with a child of whom the applicant is a parent or guardian in the period of 12 months before the day on which the application is made, the Commissioner may inform the applicant whether or not the specified person is a reportable offender.

*[Section 85J inserted: No. 1 of 2012 s. 5; amended: No. 31 of 2024 s. 28; No. 35 of 2024 s. 42.]*

**85K. Protection as to publication and other provision of information**

- (1) In this section —  
*information* includes the identifying information referred to in section 85I.
- (2) If the Commissioner or a delegate under section 85B determines in good faith —
- (a) to publish or provide any information under this Division; or
  - (b) not to publish or provide any information under this Division,

no civil or criminal liability attaches to the Commissioner, a delegate under section 85B, the Minister or the State by reason of publishing or providing that information or omitting to publish or provide that information.

- (3) If information is published or provided by the Commissioner or a delegate under section 85B under this Division, that publication or provision of information is not to be regarded —
- (a) as a breach of any duty of confidentiality or secrecy imposed by law; or
  - (b) as a breach of professional ethics or standards or as unprofessional conduct.

*[Section 85K inserted: No. 1 of 2012 s. 5; amended: No. 35 of 2024 s. 43.]*

### **Division 3 — Offences**

*[Heading inserted: No. 1 of 2012 s. 5.]*

**85L. Conduct intended to incite animosity towards or harassment of identified offenders**

(1) In this section —

*animosity towards* means hatred of or serious contempt for;  
*harassment* includes threat, serious and substantial abuse and severe ridicule;

*identified offender* means —

- (a) a person whose personal details are published by the Commissioner under section 85F; or
- (b) a person whose photograph and locality are published by the Commissioner under section 85G; or
- (c) a person in relation to whom the Commissioner provides the information under section 85J that the person is a reportable offender;

*public place* includes —

- (a) a place to which the public, or any section of the public, has or is permitted to have access, whether on payment or otherwise; and
  - (b) a privately owned place to which the public has access with the express or implied approval of, or without interference from, the owner, occupier or person who has the control or management of the place; and
  - (c) a school, university or other place of education, other than a part of it to which neither students nor the public usually have access.
- (2) A reference in subsection (4) or (6) to conduct includes a reference to conduct occurring on a number of occasions over a period of time.

- (3) For the purposes of subsection (4) or (6), conduct is taken not to occur in private if it —
- (a) consists of any form of communication with the public or a section of the public; or
  - (b) occurs in a public place or in sight or hearing of people who are in a public place.

- (4) A person must not engage in any conduct, otherwise than in private, by which the person intends to create, promote or increase animosity towards, or harassment of, a person as an identified offender.

Penalty for this subsection: imprisonment for 10 years.

- (5) An offence under subsection (4) is a crime.

- (6) A person must not engage in any conduct, otherwise than in private, that is likely to create, promote or increase animosity towards, or harassment of, a person as an identified offender.

Penalty for this subsection: imprisonment for 2 years.

*[Section 85L inserted: No. 1 of 2012 s. 5; amended: No. 35 of 2024 s. 44.]*

**85M. Publication, display and distribution of identifying information**

- (1) In this section —

*display* means display in or within view of a public place, as defined in section 85L(1);

*distribute* means distribute to the public or a section of the public;

*identifying information* means information that is identifiable as —

- (a) the personal details of a person published by the Commissioner under section 85F; or

- (b) the photograph and locality of a person published by the Commissioner under section 85G; or
- (c) the information that a person is a reportable offender provided by the Commissioner under section 85J;

***publish*** means publish to the public or a section of the public.

- (2) A person must not, without having first obtained the written approval of the Minister, publish, distribute or display any identifying information.

Penalty for this subsection: imprisonment for 2 years.

*[Section 85M inserted: No. 1 of 2012 s. 5; amended: No. 35 of 2024 s. 45.]*

## Part 5 — Protection orders

[Heading amended: No. 54 of 2012 s. 40.]

### Division 1 — Preliminary

#### 85. Terms used

In this Part —

**authorised police officer** means a police officer authorised in writing by the Commissioner for the purposes of the provision in which the term is used;

**child protection order** means a child protection order made under section 90 or 95(1);

**conduct** includes an act or omission or a course of conduct;

**corresponding protection order** means an order made by a court of a foreign jurisdiction that falls within a class of orders that are prescribed to be corresponding protection orders for the purposes of this Act;

**court** means —

- (a) if the respondent is a young reportable offender — the Children’s Court; or
- (b) otherwise, the District Court;

**interim protection order** means an interim child protection order made under section 92 or 95(2);

**protection order** means a child protection order or an interim protection order;

**registrar** means the clerk or registrar of the court to which an application for a protection order is made;

**respondent** means —

- (a) in the case of an application by the Commissioner for a protection order to be made, varied or revoked — the

reportable offender who is subject to the protection order or in respect of whom the protection order is sought;

- (b) in the case of an application by a reportable offender for a child protection order to be varied or revoked — the Commissioner.

*[Section 85 amended: No. 54 of 2012 s. 26 and 41; No. 35 of 2024 s. 59.]*

**86. Evidence**

- (1) Evidence may be given at a hearing under this Part (including a further hearing fixed under section 92) orally or by affidavit.
- (2) An affidavit for use in the hearing must be confined to the evidence the person making it could give orally, except that it may contain statements based on information and belief if the person making the affidavit states the source of the information and the grounds for the belief.
- (3) For the purposes of the hearing, the Commissioner is entitled, on request, to inspect or obtain a copy of any document held by the Children's Court relating to the reportable offender —
- (a) that is part of the court record; or
- (b) that was received by that court in sentencing proceedings.
- (4) In subsection (3) —
- court record*** has the meaning given in the *Children's Court of Western Australia Act 1988* section 51A(1).
- (5) Subsection (3) does not limit the *Children's Court of Western Australia Act 1988* section 51A(3).

*[Section 86 amended: No. 54 of 2012 s. 27.]*

## **Division 2 — Orders**

### **87. Commissioner may apply for orders**

- (1) The Commissioner may apply to a court for a protection order —
  - (a) prohibiting a reportable offender from engaging in specified conduct; or
  - (b) requiring a reportable offender to comply with the orders of the Commissioner, as referred to in section 94A; or
  - (c) imposing on a reportable offender a prohibition under paragraph (a) and a requirement under paragraph (b).
- (2) If the reportable offender is in government custody, an application may be made for an interim protection order only if the offender is expected to be released from government custody within the period of 30 days after the application is made.

*[Section 87 inserted: No. 54 of 2012 s. 28.]*

### **88. Fixing a hearing**

When an application for a protection order is made the registrar must —

- (a) fix a day, time and place for the hearing; and
- (b) prepare a summons in the prescribed form; and
- (c) cause the summons to be served on the reportable offender; and
- (d) notify the applicant of the hearing.

*[Section 88 amended: No. 54 of 2012 s. 42(2).]*

### **89. How application to be disposed of**

The court may dispose of the application —

- (a) by making a protection order; or
- (b) by dismissing the application; or

- (c) at the request of the applicant — by discontinuing the application.

*[Section 89 amended: No. 54 of 2012 s. 42(2).]*

**90. Court may make child protection orders**

- (1) A court may make a child protection order only if the court is satisfied that the person is a reportable offender and —
  - (a) that the person poses a risk to the lives or sexual safety of one or more children, or children generally; and
  - (b) that making the order will reduce that risk.
- (2) For the purposes of subsection (1), it is not necessary that the court be able to identify a risk to a particular child or particular children or a particular class of children.
- (3) In determining whether to make an order under this section in respect of a reportable offender, a court must take into account the following —
  - (a) the seriousness of the reportable offender's reportable offences and corresponding reportable offences;
  - (b) the period of time since those offences were committed;
  - (c) the age of the reportable offender and the age of the victims of those offences at the time those offences were committed;
  - (d) the difference in age between the reportable offender and the victims of those offences;
  - (e) the reportable offender's present age;
  - (f) the seriousness of the reportable offender's total criminal record;
  - (ga) any document or record (including an electronic document or record) served on the reportable offender by the Commissioner;
  - (g) the effect of the order sought on the reportable offender in comparison with the level of the risk that a further

reportable offence, or an offence that may give rise to an offender reporting order or a juvenile offender reporting order, may be committed by the reportable offender;

- (h) to the extent that they relate to the conduct sought to be prohibited — the circumstances of the reportable offender, including the reportable offender's accommodation, employment needs and integration into the community;
  - (i) in the case of a young reportable offender — the educational needs of the young reportable offender;
  - (j) any other matter the court considers relevant.
- (4) If a reportable offender in respect of whom an order (the ***new order***) is sought is already subject to a protection order (the ***existing order***) and no application has been made to revoke the existing order, the court must if it decides to make the new order —
- (a) revoke the existing order and replace it with the new order (which may contain matters relating to the existing order); or
  - (b) vary the existing order to include the matters with respect to which the court has decided to make the new order.
- (5) An order is not invalidated by a failure to comply with subsection (4).

*[Section 90 amended: No. 54 of 2012 s. 29 and 42(2); No. 35 of 2024 s. 88.]*

## **91. Term of child protection orders**

- (1) The court must specify the term for which a child protection order remains in force.
- (2) Subject to subsection (3), the term for which a child protection order remains in force is at the discretion of the court, but an application can be made for a further order.

- (3) The term for which a child protection order remains in force, including the term of any further order, cannot extend beyond the reporting period that applies to the reportable offender.

*[Section 91 amended: No. 54 of 2012 s. 30 and 42(3).]*

**92. Interim child protection orders**

- (1) A court may make an interim child protection order prohibiting a reportable offender from engaging in conduct specified in the order if it appears to the court that it is necessary to do so —
- (a) to prevent an immediate risk to the lives or the sexual safety of one or more children, or children generally; or
  - (b) if the reportable offender is in government custody — to prevent such a risk from arising on the offender's release from government custody.
- (2) For the purposes of subsection (1), it is not necessary that the court be able to identify a risk to a particular child or particular children or a particular class of children.
- (3) Section 90 does not apply to an application for an interim protection order.
- (4) An interim protection order may be made by a court whether or not —
- (a) the reportable offender is present at the proceedings; or
  - (b) the reportable offender has been notified of the proceedings.
- (5A) Despite section 88, a court sentencing a reportable offender for an offence may, after imposing the sentence —
- (a) hear an application for an interim protection order; and
  - (b) dispose of the application in accordance with section 89.

- (5) When an interim protection order is made by a court, the court must —
- (a) subject to subsection (6A), fix a day, time and place for a further hearing of the application as soon as is practicable after the interim protection order is made; and
  - (b) issue a summons requiring the reportable offender to attend the court for the further hearing.
- (6A) If the reportable offender is in government custody when an interim protection order is made, the court must fix the further hearing of the application for a time after the offender's release from government custody.
- (6) The registrar must —
- (a) prepare the summons in the prescribed form; and
  - (b) cause the summons to be served on the reportable offender; and
  - (c) notify the applicant of the further hearing.
- (7) An interim protection order remains in force until the further hearing unless, at the request of the applicant, the application is sooner discontinued.
- (8) At the further hearing, section 90 applies to the application.  
*[Section 92 amended: No. 54 of 2012 s. 31 and 42(2).]*

**93. Conduct that may be subject of orders**

- (1) A protection order may prohibit conduct of any of the following kinds —
- (a) associating with or other contact with specified persons or kinds of persons;
  - (b) being in specified locations or kinds of locations;
  - (ca) residing at a specified place;

- (cb) a person changing the place where the person generally resides (as described in section 29A(1)) without first having obtained the permission of the Commissioner to do so;
  - (cc) travelling out of Australia without first having obtained the permission of the Commissioner to do so;
  - (cd) consuming or using alcohol, drugs or other specified substances;
  - (c) engaging in other specified behaviour;
  - (d) being in specified employment or employment of a specified kind.
- (2) Subsection (1) does not limit the kinds of conduct that may be prohibited by a protection order.
- (3) A protection order may prohibit conduct absolutely or on the terms that the court considers appropriate.
- (4) A protection order may prohibit a person from entering or remaining in a place, including a place where the person resides, even if the person has a legal or equitable right to be at the place.
- (5) If a court makes a protection order that imposes a prohibition referred to in subsection (4) and the court is satisfied that it is necessary to do so, the court must ensure that the order provides for the person in respect of whom the order is made to recover personal property, or other property prescribed, from a place specified in the order —
- (a) in the manner set out in the order; or
  - (b) in accordance with procedures prescribed.
- (6) A protection order may, in addition to or instead of prohibiting conduct, impose requirements on a reportable offender as the court considers appropriate to reduce the risk posed by the reportable offender to the lives or sexual safety of one or more children, or children generally.

*[Section 93 amended: No. 54 of 2012 s. 32 and 42(2); No. 31 of 2024 s. 28; No. 35 of 2024 s. 59.]*

**94A. Reportable offenders may be required to undergo assessment and treatment**

- (1) Without limiting section 93(6), a protection order may require a reportable offender to comply with the orders of the Commissioner as to undergoing assessment by a medical practitioner, a psychiatrist, a psychologist or a social worker, or more than one of them and, if necessary, appropriate treatment.
- (2) The Commissioner must not order a reportable offender to undergo treatment of any sort unless a person qualified to recommend or administer the treatment has recommended that the offender undergo that treatment.
- (3) A person must not administer treatment of any sort that is the subject of an order of the Commissioner without the informed consent of the reportable offender who is to undergo the treatment.
- (4) The requirement for a reportable offender to comply with the orders of the Commissioner as to undergoing any assessment or treatment ceases to be in force when —
  - (a) the Commissioner, on the recommendation of the person administering the treatment (if applicable), gives the offender notice to that effect; or
  - (b) the protection order, or that requirement imposed by the protection order, ceases to be in force,whichever happens first.
- (5) The regulations may —
  - (a) provide for the authorisation of absences from assessment or treatment required to be undergone by the orders of the Commissioner under subsection (1);

- (b) regulate the consequences of injury or sickness with respect to complying with the orders of the Commissioner under subsection (1);
- (c) prescribe the matters that a person providing assessment or administering treatment for the purposes of a protection order under this section must report to the Commissioner;
- (d) without limiting section 96, provide for the variation of protection orders under this section in relation to reportable offenders —
  - (i) who fail to comply with the orders of the Commissioner under subsection (1); or
  - (ii) whose compliance with those orders is affected by an authorised absence, injury or sickness,including the variation of protection orders by the imposition of additional requirements on those offenders;
- (e) authorise the Commissioner to approve forms for the purposes of this subsection.

*[Section 94A inserted: No. 54 of 2012 s. 33.]*

**94B. Reportable offenders may be required to submit to tests or give samples for analysis**

- (1) If a protection order prohibits a reportable offender from consuming or using alcohol, drugs or any other specified substance, or requires a reportable offender to comply with an order of the Commissioner to undergo treatment that consists of or includes the taking of any specified medication, an authorised police officer may exercise the powers under this section to determine whether there is any evidence that the person has breached the order.

- (2) An authorised police officer may require the reportable offender to do one or more of the following —
- (a) submit to a breath test or an oral fluid test;
  - (b) give a sample of the offender’s blood, hair, urine or oral fluid for analysis.
- (3) A requirement under subsection (2)(b) must —
- (a) state that the reportable offender is to accompany a police officer to a police station or another specified place or specify the day on which and time and place at which the reportable offender is to attend; and
  - (b) indicate what sample or samples are to be given.
- (4) If a requirement is made under subsection (2) —
- (a) any breath test or oral fluid test is to be conducted; and
  - (b) any sample is to be taken and dealt with,
- in accordance with the regulations.
- (5) A person who, without reasonable excuse, fails to comply with a requirement under subsection (2) commits an offence.
- Penalty for this subsection: imprisonment for 2 years and a fine of \$24 000.
- (6) When requiring a reportable offender to submit to a test or give a sample under subsection (2), an authorised police officer must warn the offender that it is an offence to fail to comply with the requirement unless the offender has a reasonable excuse.
- (7) A person must not use a sample provided in compliance with a requirement under subsection (2) to obtain the DNA of the person who provided the sample.
- Penalty for this subsection: imprisonment for 12 months.
- (8) The regulations may provide for the following matters —
- (a) the manner of making requirements under subsection (2);

- (b) the manner of conducting breath tests and oral fluid tests and taking, collecting or dealing with samples of blood, hair, urine and oral fluid and their analysis;
  - (c) the authorisation of persons as analysts for the purposes of this section;
  - (d) the reporting of the results of breath or oral fluid tests or blood, hair, urine or oral fluid analysis;
  - (e) the collection, keeping and disposal of samples;
  - (f) the approval of equipment or apparatus for the purposes of testing or analysis;
  - (g) the devices used in conducting breath tests and oral fluid tests, including the calibration, inspection and testing of those devices;
  - (h) the requirement that a person who submits to a breath test or oral fluid test, or who gives a sample of blood, hair, urine or oral fluid for analysis, is to provide proof of the person's identity;
  - (i) the admissibility in any proceedings of certificate evidence, including certificate evidence of —
    - (i) the authorisation referred to in paragraph (c); and
    - (ii) the results referred to in paragraph (d); and
    - (iii) the approval referred to in paragraph (f).
- (9) The powers that a police officer may exercise under this section are in addition to, and do not derogate from, the powers that the police officer has under any other law.

*[Section 94B inserted: No. 54 of 2012 s. 33; amended: No. 31 of 2024 s. 28; No. 35 of 2024 s. 46.]*

**94C. Authorised police officers may enter premises to inspect electronic devices**

- (1) In this section —  
*generally resides* has the meaning given to that term in section 29A(1).
- (2) If a protection order prohibits conduct that relates to the use by a reportable offender of the internet, an authorised police officer may, at any time and without a warrant, enter premises where the offender generally resides and exercise a power under subsection (3) to determine whether there is any evidence that the offender has breached the order.
- (3) The authorised police officer may —
- (a) inspect any electronic device that is at the premises; or
  - (b) seize any electronic device at the premises and remove it from the premises for the purpose of inspecting it.
- (4) The reportable offender must if required by the authorised police officer to do so —
- (a) provide the officer with any user name, code, password or other information the offender knows is needed to gain access to the electronic data stored in an electronic device; or
  - (b) otherwise assist the officer to gain access to the electronic data stored in a or accessed through an electronic device.

Penalty for this subsection: imprisonment for 2 years and a fine of \$24 000.

- (5) If a person is found guilty of an offence in relation to an electronic device under 1 or more of the following provisions, the electronic device is forfeited to the State —
- (a) under section 101(1) in relation to conduct of the kind referred to in subsection (2) of this section;
  - (b) under subsection (4).

- (6) The *Criminal and Found Property Disposal Act 2006* applies to and in relation to an electronic device that is seized under subsection (3) or forfeited under subsection (5).
- (7) An authorised police officer may use reasonable force in the exercise of a power under subsection (2) or (3).
- (8) Unless the exercise of the power is authorised by a senior police officer, a power under subsection (2) or (3) must not be exercised in relation to particular premises more than once in any period of 12 months.
- (9) The powers that a police officer may exercise under this section are in addition to, and do not derogate from, the powers that the police officer has under any other law.

*[Section 94C inserted: No. 54 of 2012 s. 33; amended: No. 35 of 2024 s. 47.]*

**94. Explanation of orders**

- (1) A court that makes a protection order must ensure that all reasonable steps are taken to explain to the reportable offender in language likely to be understood by the offender —
  - (a) the offender's obligations under the order; and
  - (b) the consequences that may arise if the offender fails to comply with those obligations.

- (2) An order is not invalidated by a failure to comply with subsection (1).

*[Section 94 amended: No. 54 of 2012 s. 42(2); No. 31 of 2024 s. 28.]*

**95. Consent orders**

- (1) A court may make a child protection order without being subject to section 90 if the applicant and the reportable offender consent to the making of the order.

- (2) A court may make an interim protection order without being subject to section 92 if the applicant and the reportable offender consent to the making of the order.
- (3) The court is not required to conduct a hearing before making an order under this section unless the court considers that it is in the interests of justice to conduct the hearing.
- (4) Without limiting subsection (3), in determining whether it is in the interests of justice to conduct the hearing the court may have regard to the following —
  - (a) whether the reportable offender has obtained legal advice in relation to the order concerned;
  - (b) whether the reportable offender —
    - (i) has impaired intellectual functioning; or
    - (ii) is a person in respect of whom a guardianship order is in force under the *Guardianship and Administration Act 1990*; or
    - (iii) is illiterate or is not literate in the English language; or
    - (iv) is subject to some other condition that may prevent the reportable offender from understanding the effect of giving consent to the making of the order.

*[Section 95 amended: No. 54 of 2012 s. 42(2) and (3).]*

### **Division 3 — Variation or revocation**

#### **96. Variation or revocation of child protection orders**

- (1) The Commissioner may apply to a court for an order varying or revoking a child protection order.
- (2) A reportable offender subject to a child protection order may apply to a court for an order varying or revoking the order.

- (3) A reportable offender cannot make an application under subsection (2) except by leave of the court.
- (4) The court may grant leave only if the court is satisfied that, having regard to changes in the reportable offender's circumstances since the order was made or last varied, it is in the interests of justice that leave be granted.

*[Section 96 amended: No. 54 of 2012 s. 42(3).]*

**97. Fixing a hearing**

- (1) When an application for the variation or revocation of a child protection order is made by a reportable offender, the registrar must —
  - (a) fix a day, time and place for a hearing at which the court will consider whether to grant leave for the reportable offender to continue the application; and
  - (b) notify the applicant of the hearing.
- (2) The hearing in relation to the granting of leave must be held in the absence of the Commissioner.
- (3) When an application for the variation or revocation of a child protection order is made by the Commissioner, or a reportable offender has been granted leave to continue such an application, the registrar must —
  - (a) fix a day, time and place for the hearing; and
  - (b) prepare a summons in the prescribed form; and
  - (c) cause the summons to be served on the respondent; and
  - (d) notify the applicant of the hearing.

*[Section 97 amended: No. 54 of 2012 s. 42(3).]*

**98. How application to be disposed of**

The court may dispose of the application —

- (a) by varying or revoking the child protection order; or

- (b) by dismissing the application; or
- (c) at the request of the applicant — by discontinuing the application.

*[Section 98 amended: No. 54 of 2012 s. 42(3).]*

#### **Division 4 — Attendance at hearings**

##### **99. Attendance at hearings**

- (1) If the applicant does not attend a hearing fixed under section 88 or 97 or a further hearing fixed under section 92, the court —
  - (a) if it is satisfied the applicant was notified of the hearing — must dismiss the application; or
  - (b) otherwise, must adjourn the hearing.
- (2) If the respondent does not attend a hearing fixed under section 88 or 97 or a further hearing fixed under section 92 and the applicant does attend, the court —
  - (a) if it is satisfied that the respondent was served with a summons requiring the respondent to attend the hearing — must hear the matter in the absence of the respondent; or
  - (b) otherwise, must adjourn the hearing.
- (3) The registrar of a court that adjourns a hearing must notify any party permitted to attend the hearing who was not present when the hearing was adjourned.

##### **100. Notification of orders made in absence of respondent**

The registrar of a court that makes, varies or revokes a protection order in the absence of the respondent must cause a copy of the order to be served on the respondent.

*[Section 100 amended: No. 54 of 2012 s. 42(2).]*

### **Division 5 — Offence**

#### **101. Failure to comply with orders**

- (1) A person subject to a protection order who, without reasonable excuse, fails to comply with the protection order commits a crime.

Penalty for this subsection: imprisonment for 5 years.

Summary conviction penalty for this subsection: imprisonment for 2 years and a fine of \$24 000.

- (2A) Subsection (1) does not apply in relation to a failure to comply with an order of the Commissioner under section 94A(1) to undergo assessment or treatment.
- (2) A police officer who suspects on reasonable grounds that a person has committed an offence under subsection (1) may, without a warrant, arrest the person.

*[Section 101 amended: No. 54 of 2012 s. 34 and 42(2); No. 35 of 2024 s. 48.]*

### **Division 6 — Appeals**

#### **102. Appeals**

- (1) A person aggrieved by the decision of a court —
- (a) under section 89(b) or 98(b) to dismiss an application; or
  - (b) to make, vary or revoke a protection order,
- may appeal against that decision in accordance with this Division.
- (2) If the decision was made by the District Court, the appeal is to be made to the Court of Appeal in accordance with the *District Court of Western Australia Act 1969* section 79(1)(a).

- (3) If the decision was made by the Children's Court when constituted so as not to consist of or include a judge, the appeal is to be made as if the decision were a decision to which the *Children's Court of Western Australia Act 1988* section 41 applied.
- (4) If the decision was made by the Children's Court when constituted so as to consist of or include a judge, the appeal is to be made as if the decision were a decision to which the *Children's Court of Western Australia Act 1988* section 43 applied.

*[Section 102 amended: No. 5 of 2008 s. 127(3); No. 54 of 2012 s. 42(2).]*

**103. Appeal does not stay order**

An appeal against an order made under this Part does not operate to stay the operation of the order unless the court to which the appeal is made so orders.

**Division 7 — Miscellaneous**

**104. Applications not to be heard in public**

- (1) Proceedings under this Part must be heard in the absence of the public.
- (2) Despite subsection (1), the court hearing the proceedings may, if it considers it to be appropriate, permit to be present during the hearing of the proceedings persons who are not —
  - (a) parties to the proceedings; or
  - (b) the legal representatives of those parties.

*[105. Deleted: No. 54 of 2012 s. 35.]*

**106. Restriction on publication of identity of reportable offenders and victims**

- (1) A person must not, in relation to any proceedings relating to a protection order, publish —
- (a) personal information relating to the person in respect of whom the order is sought or any such order is made;
  - (b) the name of any victim of a reportable offence committed by a reportable offender;
  - (c) the name of any particular person referred to as a person at risk because of the conduct proposed to be prohibited;
  - (d) any matter reasonably likely to enable a person referred to in paragraph (b) or (c) to be identified.

Penalty for this subsection: imprisonment for 2 years and a fine of \$24 000.

- (2) Subsection (1) does not apply in relation to the publication of any matter with the authority of the court to which the application was made or any publication by a person of the person's name.
- (3) Subsection (1) does not apply in relation to the publication of any matter to —
- (a) the reportable offender; or
  - (b) a person specified, or of a class specified, in the order concerned; or
  - (c) a police officer or a member of a law enforcement agency of the Commonwealth or another State or a Territory in that police officer's or member's official capacity; or
  - (d) a person involved in the administration of the order; or
  - (e) a member of staff of a public authority involved in the assessment and management of the reportable offender; or

- (f) a person for the purpose of an investigation of an alleged breach of the order or to a person involved in proceedings for any such breach; or
- (g) any other person to whom the matter is required or authorised to be disclosed by or under any written or other law.

[Section 106 amended: No. 54 of 2012 s. 42(2); No. 31 of 2024 s. 28; No. 35 of 2024 s. 49.]

**107. Protection orders have no effect to extent of inconsistency with certain other orders**

- (1) In this section —  
*family order* has the meaning given to that term in the *Restraining Orders Act 1997* section 5;  
*restraining order* means —
  - (a) a restraining order as defined in the *Restraining Orders Act 1997* section 3(1); or
  - (b) a police order as defined in the *Restraining Orders Act 1997* section 3(1).
- (2) If a protection order is inconsistent with a family order or restraining order (whether the protection order is made before or after the family order or restraining order), the family order or restraining order prevails and the protection order has no effect to the extent of the inconsistency.
- (3) For the purposes of subsection (2), a protection order is not inconsistent with another order merely because the protection order imposes a longer term in relation to any prohibited conduct than was imposed by the other order.

[Section 107 amended: No. 54 of 2012 s. 42(2); No. 49 of 2016 s. 96.]

**108. Recognition of protection orders made in other jurisdictions**

- (1) The regulations may provide for the recognition in Western Australia of corresponding protection orders.
- (2) In particular, the regulations may provide for the following matters —
  - (a) applications for the recognition in Western Australia of corresponding protection orders;
  - (b) the conferral on courts of jurisdiction with respect to the recognition in Western Australia of corresponding protection orders;
  - (c) the modification of corresponding protection orders for the purposes of their recognition in Western Australia;
  - (d) the effect of the recognition in Western Australia of corresponding protection orders;
  - (e) the conferral on courts of jurisdiction with respect to the variation or revocation of corresponding protection orders.

*[Section 108 amended: No. 54 of 2012 s. 42(1).]*

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**Part 5B — Power to enter and search premises and  
vehicles in relation to serious reportable offenders**

*[Heading inserted: No. 35 of 2024 s. 50.]*

**108A. Serious reportable offenders**

- (1) For the purposes of this Part, a reportable offender is a *serious reportable offender* if —
- (a) the offender’s reporting period has not ended; and
  - (b) the offender’s reporting obligations are not suspended under section 44, 53 or 61; and
  - (c) the offender has been sentenced for any of the following —
    - (i) a single Class 1 offence;
    - (ii) a single Class 2 offence against *The Criminal Code* section 204A, 204B(2), 204B(3), 217, 218, 219, 220, 320(6), 321(6) or 322(6);
    - (iii) a single offence under a law of a foreign jurisdiction, the elements of which, if they had occurred in Western Australia, would have constituted an offence of a kind referred to in subparagraph (ii);
    - (iv) a single prescribed offence under a law of a foreign jurisdiction, the elements of which are similar to an offence of a kind referred to in subparagraph (ii);
    - (v) 2 or more reportable offences.
- (2) For the purposes of subsection (1)(c)(v), 2 or more offences arising from the same incident are to be treated as a single offence.

*[Section 108A inserted: No. 35 of 2024 s. 50.]*

**s. 108B**

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**108B. Restriction on exercise of powers under Part**

A power under this Part must not be exercised unless it is exercised —

- (a) for the purpose of monitoring a serious reportable offender's compliance with this Act; and
- (b) with the written approval of a police officer of, or acting in, the rank of an inspector or a higher rank.

*[Section 108B inserted: No. 35 of 2024 s. 50.]*

**108C. Additional police powers in relation to serious reportable offenders may be exercised without warrant**

The powers that a police officer may exercise under this Part —

- (a) are in addition to, and do not limit, the powers that a police officer has under this Act or any other law; and
- (b) may be exercised by a police officer without a warrant.

*[Section 108C inserted: No. 35 of 2024 s. 50.]*

**108D. Use of force when exercising powers under this Part**

- (1) When exercising a power under this Part, a police officer may use any force against any person or thing that it is reasonably necessary to use in the circumstances —
  - (a) to exercise the power; and
  - (b) to overcome any resistance to exercising the power that is offered, or that the person exercising the power suspects on reasonable grounds will be offered, by any person.
- (2) If under subsection (1) a police officer uses force, the force may be of a kind that causes damage to the property of another person.

- (3) Any use of force under subsection (1) against a person is subject to *The Criminal Code* Chapter XXVI.

*[Section 108D inserted: No. 35 of 2024 s. 50.]*

**108E. Entry to and search of premises and vehicles in relation to serious reportable offenders**

- (1) A police officer may exercise 1 or more of the following powers if the officer reasonably suspects premises are occupied by, or under the management or control of, a serious reportable offender —
- (a) enter and search the premises, including entering and searching a vehicle at the premises;
  - (b) enter and search a vehicle occupied by, or under the management or control of, a serious reportable offender if the vehicle is parked in the neighbourhood where the premises are located.
- (2) A police officer who enters or searches the premises or the vehicle may do 1 or more of the following —
- (a) inspect any electronic device that is at the premises or in the vehicle;
  - (b) seize any electronic device at the premises or in the vehicle and remove it from the premises or vehicle for the purpose of inspecting it;
  - (c) require that the serious reportable offender must remain at the premises or near the vehicle for the duration of the entry and search of the premises or vehicle.
- (3) If a requirement is made under subsection (2)(c) to a serious reportable offender, the offender must remain at the premises or near the vehicle for the duration of the entry and search of the premises or vehicle.

Penalty for this subsection: imprisonment for 2 years and a fine of \$24 000.

**s. 108E**

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- (4) The power given to search premises or a vehicle includes the power to break open —
- (a) any part of the premises or vehicle; or
  - (b) any thing at the premises or in the vehicle.
- (5) If required by a police officer inspecting or seizing an electronic device under subsection (2), a serious reportable offender must do 1 or more of the following as required by the police officer —
- (a) provide the officer with any user name, code, password or other information known to the offender that is needed to gain access to the electronic data —
    - (i) that is stored in the electronic device; or
    - (ii) that is accessed through the electronic device;
  - (b) otherwise assist the officer to gain access to the electronic data referred to in paragraph (a).

Penalty for this subsection: imprisonment for 2 years and a fine of \$24 000.

Example for this subsection:

For the purposes of paragraph (a)(ii) — electronic data stored on cloud storage.

- (6) A police officer is authorised to use for the purposes of this Part any user name, code, password or other information provided under subsection (5) or reported under Part 3 by a serious reportable offender.
- (7) If a person is found guilty of an offence under subsection (5) in relation to an electronic device, the electronic device is forfeited to the State.

*[Section 108E inserted: No. 35 of 2024 s. 50.]*

**108F. Power to seize things relevant to offences**

- (1) In this section —  
*thing relevant to an offence* has the meaning given in the  
*Criminal Investigation Act 2006* section 5.
- (2) If a police officer doing a search under this Part finds a thing relevant to an offence, the police officer may seize it if the police officer has 1 or more of the reasonable suspicions set out in the *Criminal Investigation Act 2006* section 146.
- (3) The *Criminal Investigation Act 2006* sections 147 to 152 apply to and in respect of the seizing of a thing under this Part as if it were the seizing under that Act of a thing relevant to an offence.  
*[Section 108F inserted: No. 35 of 2024 s. 50.]*

## **Part 6 — Other matters**

### **109. Protection from liability**

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

### **109A. Assistance when exercising powers**

- (1) A police officer or authorised person may authorise as many other persons to assist in the exercise of their powers under this Act as are reasonably necessary in the circumstances.
- (2) A person authorised under subsection (1) may assist the police officer or the authorised person, as the case requires, to exercise the powers.

*[Section 109A inserted: No. 35 of 2024 s. 51.]*

### **110A. Public authorities to provide Commissioner with certain information**

- (1) In this section —  
*application* means —
  - (a) an application under section 13(7A) for the imposition of an offender reporting order; or

- (aa) an application under section 14B for a juvenile offender reporting order; or
- (ab) an application under section 14C for an order revoking a juvenile offender reporting order; or
- (ac) an application under section 14E for a juvenile offender exemption order; or
- (b) an application under section 15 for an order that a person comply with the reporting obligations of this Act; or
- (c) an application for an order under Part 5;

**management**, of a reportable offender, includes monitoring the reportable offender's compliance with the reporting obligations of this Act.

- (2) The Commissioner may, by notice in writing, direct any public authority to provide to the Commissioner, on or before a day specified in the notice, any information held by the public authority that is relevant to —
  - (a) the assessment and management of a reportable offender; or
  - (b) the Commissioner's determination whether to make an application; or
  - (c) the Commissioner's making or responding to an application;
  - (d) the Commissioner's making or responding to a review or appeal against a decision to make or not make an order in relation to an application.
- (3) A public authority given a direction under subsection (2) is authorised and required to provide to the Commissioner the information sought by the direction.
- (4) A public authority is not required to give information that is subject to legal professional privilege.

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*[Section 110A inserted: No. 54 of 2012 s. 36; amended: No. 35 of 2024 s. 89.]*

**110. Delegation by Commissioner**

- (1) The Commissioner may delegate any power or duty of the Commissioner under another provision of this Act to —
  - (a) in relation to a power or duty under section 82(1)(cd) — a person as set out in section 82A; or
  - (b) in relation to a power or duty under Part 5A Division 2 — a person as set out in section 85B; or
  - (c) in any other case —
    - (i) a police officer who is specified, or of a class specified, in the delegation; or
    - (ii) a person employed under the *Public Sector Management Act 1994* Part 3 who is specified, or of a class specified, in the delegation.
- (2) The delegation must be in writing signed by the Commissioner.
- (3) A person to whom a power or duty is delegated under this section cannot delegate that power or duty.
- (4) A person exercising or performing a power or duty that has been delegated to the person under this section is taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (5) Nothing in this section limits the ability of the Commissioner to perform a function through an officer or agent.

*[Section 110 inserted: No. 35 of 2024 s. 52.]*

**111. Effect of spent convictions**

- (1) The fact that an offence in respect of which a reportable offender has been found guilty becomes spent does not affect —
- (a) the status of the offence as a reportable offence for the purposes of this Act in respect of the reportable offender; or
  - (b) the consideration of the offence as part of the reportable offender's total criminal record for the purposes of section 53(3)(f), 61(3)(f) or 90(3)(f); or
  - (c) the inclusion of information about the offence in the Register; or
  - (d) any reporting obligations of the reportable offender; or
  - (e) any protection order in respect of the reportable offender.
- (2) For the purposes of this section, an offence becomes spent if, under a law in any jurisdiction, the reportable offender is permitted not to disclose the fact that the offender was convicted or found guilty of the offence.

*[Section 111 amended: No. 54 of 2012 s. 42(2); No. 31 of 2024 s. 28.]*

**112. Civil standard of proof**

When a court is determining whether it is satisfied as to a matter for the purposes of making an order under section 13, 14B, 14C, 14E, 15A, 53 or 90, the standard of proof is proof on the balance of probabilities.

*[Section 112 amended: No. 35 of 2024 s. 90.]*

**113. Certificate concerning evidence**

- (1) In this section —  
*specified* means specified in the relevant certificate.

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- (2) In proceedings under this Act or another written law, a certificate signed by the Commissioner certifying that the Register —
- (a) at any particular date contained specified information; or
  - (b) indicated that, during any particular period, a specified person failed to notify information as required by this Act,

is evidence, and in the absence of evidence to the contrary is proof, of the matters stated in the certificate.

- (3) For the purposes of this Act, a certificate that would be evidence under a corresponding Act that at a specified time, or during a specified period, a person was required to report to a corresponding registrar under that Act is evidence, and in the absence of evidence to the contrary is proof, of the matters stated in the certificate.

*[Section 113 amended: No. 35 of 2024 s. 53.]*

**114. Regulations**

- (1) The Governor may make regulations prescribing all matters that are required or authorised by this Act to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Act.
- (2) Without limiting subsection (1), regulations may be made for or with respect to —
- (a) matters incidental to the making of reports under Part 3 including —
    - (i) the manner and form in which a report must be made; and
    - (ii) the nature of any verifying documentation or evidence to be produced in support of a report; and

- (iii) requiring that a report contain information additional to that required by that Part;
- and
- (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 reportable offenders; and
  - (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; and
  - (d) requiring or authorising the Commissioner to remove specified information, or information of a specified class, from the Register; and
  - (e) the notification of reporting obligations to reportable offenders, including —
    - (i) the manner and form in which the information is to be given to reportable offenders; and
    - (ii) requiring the reportable offender to acknowledge being given the notice and prescribing how that acknowledgment is to be given; and
    - (iii) making special provision for the notification of reportable offenders who are children or who have disabilities or other special needs; and
    - (iv) requiring or authorising a person to be notified of a reportable offender's status as a child or person who has a disability or other special need to facilitate notification and reporting; and
    - (v) providing for the notification to be given to a carer of, or a person nominated by, a reportable offender who may be unable to understand the offender's reporting obligations or the consequences of failing to comply with those obligations; and

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- (vi) requiring that a reportable offender be given additional information to that required by this Act; and
  - (vii) requiring a person to provide specified information to reportable offenders concerning their reporting obligations; and
  - (viii) requiring a person to inform the Commissioner —
    - (I) that a reportable offender has left the custody or control of the person;
    - (II) that the person has given specified information to a reportable offender;
    - (III) that, in the opinion of the person, a reportable offender does or does not have the legal capacity to understand specified information;and
  - (ix) requiring a person to give the Commissioner any acknowledgment by a reportable offender of the receipt of a notice or any other specified information that is held by the person;
- and
- (f) empowering the Commissioner to give directions as to which police stations or approved places are to be used as a venue for the making of reports; and
  - (g) requiring a person to create records for the purposes of this Act and to retain those records for a specified period or an unlimited period; and
  - (h) prescribing a person who falls within a specified class of persons as a corresponding reportable offender for the purposes of this Act; and

- (i) stating that an order of a specified class made under a specified corresponding Act is a corresponding offender reporting order for the purposes of this Act.
- (3) The regulations may provide that a contravention of a regulation is an offence and prescribe, for an offence against the regulations, a penalty not exceeding a fine of \$6 000.

*[Section 114 amended: No. 31 of 2024 s. 28.]*

**115. Minister to review and report on Act**

- (1) The Minister must carry out a review of the operation and effectiveness of this Act as soon as is practicable after the fifth anniversary of the commencement day.
- (2A) The Minister must carry out a review of the operation and effectiveness of the amendments made to this Act by the *Community Protection (Offender Reporting) Amendment Act 2012* as soon as is practicable after the third anniversary of the coming into operation of section 5 of that Act.
- (2) The Minister must prepare a report based on each review and, as soon as is practicable after the report is prepared, must cause it to be laid before each House of Parliament.

*[Section 115 amended: No. 1 of 2012 s. 6.]*

**Community Protection (Offender Reporting) Act 2004**

**Part 7** Transitional matters and consequential amendment

**Division 1** Transitional matters relating to Community Protection  
(Offender Reporting) Amendment Act 2008

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**Part 7 — Transitional matters and consequential amendment**

*[Heading inserted: No. 35 of 2024 s. 54.]*

**Division 1 — Transitional matters relating to Community Protection (Offender Reporting) Amendment Act 2008**

*[Heading inserted: No. 35 of 2024 s. 54.]*

**115A. Transitional arrangements for certain offenders**

- (1) A person who was sentenced for an offence against *The Criminal Code* section 204B(2) or (3) (a **relevant offence**) before the day on which the *Community Protection (Offender Reporting) Amendment Act 2008* section 12 came into operation (the **relevant day**) is taken for the purposes of this Act —
  - (a) to be a reportable offender in respect of a Class 2 offence; and
  - (b) to have been sentenced for that offence on the relevant day.
- (2) Subsection (1) does not apply to a person who was sentenced for a relevant offence before the relevant day and is subject to an offender reporting order in respect of that offence.
- (3) Nothing in this section limits the operation of this Act in respect of a person who is sentenced for a relevant offence on or after the relevant day.

*[Section 115A inserted: No. 27 of 2008 s. 10.]*

**Division 2 — Transitional matters relating to *Community Protection (Offender Reporting) Amendment Act (No. 2) 2012*  
and consequential amendment**

*[Heading inserted: No. 35 of 2024 s. 55.]*

**115B. Further transitional arrangements for certain offenders sentenced for Class 2 offences**

- (1) This section applies to a person —
- (a) who was sentenced on or after the commencement day and before the day (the **relevant day**) on which the *Community Protection (Offender Reporting) Amendment Act (No. 2) 2012* section 38 came into operation for an offence (a **relevant offence**) against —
    - (i) *The Criminal Code* section 204A; or
    - (ii) *The Criminal Code* section 332 or 343, if the person against whom the offence was committed was, at the time the offence was committed, a child who was neither a de facto child nor lineal relative, as defined in *The Criminal Code* section 329(1), of the offender;
- and
- (b) who is not, apart from this section, a reportable offender.
- (2) This section also applies to a person —
- (a) who would have been an existing controlled reportable offender on the commencement day if the amendments made to Schedule 2 by the *Community Protection (Offender Reporting) Amendment Act (No. 2) 2012* section 38 were in effect on that day; and
  - (b) who is not, apart from this section, a reportable offender.

**Community Protection (Offender Reporting) Act 2004**

**Part 7** Transitional matters and consequential amendment

**Division 3** Transitional matters relating to Community Protection  
(Offender Reporting) Amendment Act 2024

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- (3) If this section applies to a person, the person is taken for the purposes of this Act —
- (a) to be a reportable offender in respect of a Class 2 offence; and
  - (b) to have been sentenced for that offence on the relevant day.
- (4) Nothing in this section limits the operation of this Act in respect of a person who is sentenced for a relevant offence on or after the relevant day.

*[Section 115B inserted: No. 54 of 2012 s. 37.]*

**[116.** *Omitted under the Reprints Act 1984 s. 7(4)(e).]*

**Division 3 — Transitional matters relating to Community Protection (Offender Reporting) Amendment Act 2024**

*[Heading inserted: No. 35 of 2024 s. 56.]*

**Subdivision 1 — General**

*[Heading inserted: No. 35 of 2024 s. 56.]*

**117. Interpretation Act 1984 not affected**

This Part is in addition to the provisions of the *Interpretation Act 1984* and does not limit or otherwise affect the operation of those provisions.

*[Section 117 inserted: No. 35 of 2024 s. 56.]*

**118. Transitional regulations**

- (1) In this section —
- publication day**, for regulations made under subsection (2), means the day on which those regulations are published on the WA legislation website;
- specified** means specified or described in regulations made under subsection (2);

*transitional matter* —

- (a) means a matter that needs to be dealt with for the purpose of effecting the transition required because of the enactment of the *Community Protection (Offender Reporting) Amendment Act 2024*; and
  - (b) includes a saving or application matter.
- (2) If there is no sufficient provision in this Division for dealing with a transitional matter, the Governor may make regulations prescribing matters —
- (a) required to be prescribed for the purpose of dealing with the transitional matter; or
  - (b) necessary or convenient to be prescribed for the purpose of dealing with the transitional matter.
- (3) Regulations made under subsection (2) may provide that specified provisions of the *Community Protection (Offender Reporting) Amendment Act 2024* —
- (a) do not apply to or in relation to a specified matter; or
  - (b) apply with specified modifications to or in relation to a specified matter.
- (4) If regulations made under subsection (2) provide that a specified state of affairs is taken to have existed, or not to have existed, on and after a day that is earlier than publication day for those regulations but not earlier than the day on which the relevant provision of *Community Protection (Offender Reporting) Amendment Act 2024* came into operation, the regulations have effect according to their terms.
- (5) If regulations made under subsection (2) contain a provision referred to in subsection (4), the provision does not operate so as to —
- (a) affect in a manner prejudicial to a person (other than the State or an authority of the State) the rights of that

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person existing before publication day for those regulations; or

- (b) impose liabilities on a person (other than the State or an authority of the State) in respect of an act done or omission made before publication day for those regulations.

[Section 118 inserted: No. 35 of 2024 s. 56.]

**Subdivision 2 — Stage 1 transitional provisions**

[Heading inserted: No. 35 of 2024 s. 56.]

**119. Term used: commencement day**

In this Subdivision —

**commencement day** means the day on which the *Community Protection (Offender Reporting) Amendment Act 2024* section 3 comes into operation.

[Section 119 inserted: No. 35 of 2024 s. 56.]

**120. Notifying reporting obligations and reporting periods before commencement day**

- (1) Section 67 does not apply in relation to a reportable offender if the Commissioner gives the offender written notice of the following before commencement day —
  - (a) the reporting obligations the offender will have under this Act as in force on commencement day; and
  - (b) the reporting period the offender will have under this Act as in force on commencement day; and
  - (c) the consequences that may arise if the offender fails to comply with those obligations under this Act as in force on commencement day.

- 
- (2) However, section 67 applies in relation to a reportable offender who has been given notice under subsection (1) if any of the following occurs on or after commencement day —
- (a) the offender is sentenced for a reportable offence or is made subject to a reporting order;
  - (b) the offender is released from government custody (whether or not the offender was in government custody for a reportable offence);
  - (c) the offender enters Western Australia, if the offender has not previously been given notice of the offender's reporting obligations in Western Australia;
  - (d) the offender becomes a corresponding reportable offender, if the offender is in Western Australia at that time.
- (3) Section 69 does not apply in relation to changes to a reportable offender's reporting period on commencement day if the Commissioner gives the offender written notice before commencement day of the changed reporting period that the offender will have under this Act as in force on commencement day.

*[Section 120 inserted: No. 35 of 2024 s. 56.]*

**121. Reporting period and reporting obligations in relation to person who was reportable offender or committed offence before commencement day**

- (1) A reporting period under this Act applies in relation to a person who is a reportable offender even if the person was a reportable offender before commencement day.
- (2) A reference in section 46 to an offence includes a reference to an offence committed before commencement day.
- (3) A reporting obligation under this Act applies in relation to a person who is a reportable offender for the remainder of the

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person's reporting period even if the person was a reportable offender before commencement day.

- (4) Section 29 (including any references in that section to section 26) of this Act as in force immediately before commencement day continues to apply to a reportable offender until the offender makes a report (an *updated report*) under any of the following provisions of the details listed in section 26(1) as in force on commencement day —
  - (a) section 24;
  - (b) section 25;
  - (c) section 28.
- (5) Reporting obligations under sections 29 and 33A do not apply to a reportable offender until the offender makes an updated report.
- (6) Despite *The Criminal Code* section 11, a person may be prosecuted and punished for an offence committed against section 63 in relation to a failure to comply with a reporting obligation under this Act as in force immediately before commencement day.
- (7) Despite *The Criminal Code* section 11, a person may be prosecuted and punished for an offence committed against section 64 in relation to purported compliance with Part 3 under this Act as in force immediately before commencement day.

*[Section 121 inserted: No. 35 of 2024 s. 56.]*

**122. Reporting period in relation to reportable offender in immigration detention before commencement day**

- (1) This section applies to a reportable offender who was in immigration detention for a period beginning before commencement day.
- (2) Any period for which the offender was in immigration detention before commencement day while they were a reportable offender must not be taken to extend the offender's reporting

period under section 44(2) as if that period of immigration detention were a period in which the offender was in government custody.

- (3) Part 3 Division 1 does not apply to the offender in relation to the offender ceasing to be in that immigration detention on or after commencement day if the offender has made an initial report under Part 3 Division 1 before commencement day.
- (4) Section 45(b) does not apply to the offender if the offender is released from the immigration detention on or after commencement day.
- (5) A reference to government custody in Part 3 Division 6 in relation to the offender is taken to include a reference to any period for which the offender was in immigration detention before commencement day while they were a reportable offender.
- (6) Despite *The Criminal Code* section 11, a person may be prosecuted and punished for an offence committed against section 63 in relation to a failure to comply with a reporting obligation under this Act as in force immediately before commencement day during a period while the person was in the immigration detention before commencement day.
- (7) Despite *The Criminal Code* section 11, a person may be prosecuted and punished for an offence committed against section 64 in relation to purported compliance with Part 3 under this Act as in force immediately before commencement day during a period while the person was in the immigration detention before commencement day.

*[Section 122 inserted: No. 35 of 2024 s. 56.]*

**123. References to personal details of reportable offenders before commencement day**

- (1) In section 85F a reference to section 26(1) or 26(1)(e) is taken to include a reference to that provision under this Act as in force

immediately before commencement day in relation to a person who was a reportable offender before commencement day.

- (2) In sections 85F, 85I, 85L and 85M a reference to personal details is taken to include a reference to personal details under this Act as in force immediately before commencement day in relation to a person who was a reportable offender before commencement day.

*[Section 123 inserted: No. 35 of 2024 s. 56.]*

**124. Application to person not sentenced before commencement day**

This Act applies to an offender including in relation to an offender sentenced on or after commencement day even if the offender committed or was found guilty of an offence before commencement day.

*[Section 124 inserted: No. 35 of 2024 s. 56.]*

**125. Application of powers in relation to person who was reportable offender, or in relation to offence committed, before commencement day**

- (1) A power under this Act that may be exercised in relation to a reportable offender may be exercised in relation to that offender even if they were a reportable offender before commencement day.
- (2) A reference in Part 5A and 5B to an offence includes a reference to an offence committed before commencement day.

*[Section 125 inserted: No. 35 of 2024 s. 56.]*

**126. Minister may revoke authorisations to publish photograph and locality given before commencement day**

- (1) This section applies if the Minister authorised the publication of a photograph and locality of a person under section 85G(2)(c) of this Act as in force immediately before commencement day.

- (2) Subject to subsection (3), the authorisation continues in force on and after commencement day.
- (3) The Minister may revoke the authorisation.
- (4) A revocation under subsection (3) is taken to be a revocation under section 85GB(7)(a).

*[Section 126 inserted: No. 35 of 2024 s. 56.]*

**Subdivision 3 — Stage 2 transitional provisions**

*[Heading inserted: No. 35 of 2024 s. 91.]*

**127. Term used: commencement day**

In this Subdivision —

***commencement day*** means the day on which the *Community Protection (Offender Reporting) Amendment Act 2024* section 67 comes into operation;

*[Section 127 inserted: No. 35 of 2024 s. 91.]*

**128. Juvenile offender reporting orders in relation to offenders not sentenced before commencement day**

- (1) A ***pre-commencement juvenile offence*** means an offence referred to in section 14B(1) —
  - (a) committed before commencement day when the offender was a child; but
  - (b) for which the offender was not sentenced before commencement day.
- (2) A court sentencing an offender in relation to a pre-commencement juvenile offence must consider making a juvenile offender reporting order in relation to the offender under section 14B(2).
- (3) A juvenile offender reporting order may be made under section 14B in relation to a pre-commencement juvenile offence.

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- (4) An application for a juvenile offender reporting order may be made under section 14B(7) and (8) in relation to a pre-commencement juvenile offence.

*[Section 128 inserted: No. 35 of 2024 s. 91.]*

**129. Reportable offences sentenced before commencement day**

A reference to a reportable offence in the following provisions includes a reference to a reportable offence under this Act as in force immediately before commencement day if the offender was sentenced for the offence before commencement day —

- (a) section 6;
- (b) section 14E;
- (c) section 15A;
- (d) section 24;
- (e) section 25;
- (f) section 45;
- (g) section 46;
- (h) section 47;
- (i) section 48;
- (j) section 50;
- (k) section 61;
- (l) section 68;
- (m) section 80;
- (n) section 90;
- (o) section 106;
- (p) section 108A;
- (q) section 111.

*[Section 129 inserted: No. 35 of 2024 s. 91.]*

**130. Reporting period in relation to person who was reportable offender or committed offence before commencement day**

- (1) A reporting period under this Act applies in relation to a person who is a reportable offender even if the person was a reportable offender before commencement day.
- (2) A reference in section 46 to an offence includes a reference to an offence committed before commencement day.
- (3) Section 69 does not apply in relation to changes to a reportable offender's reporting period on commencement day if the Commissioner gives the offender written notice before commencement day of the changed reporting period the offender will have under this Act as in force on commencement day.

*[Section 130 inserted: No. 35 of 2024 s. 91.]*

**131. Reportable offender who committed offence as child in foreign jurisdiction before commencement day**

- (1) In this section —  
*pre-commencement offence* means a reportable offence under section 9 of this Act as in force immediately before commencement day.
- (2) This section applies to a person if the only offences that made the person a reportable offender are pre-commencement offences that —
  - (a) were committed by the person when the person was a child in a foreign jurisdiction; and
  - (b) are no longer reportable offences on commencement day.
- (3) The person ceases to be a reportable offender on commencement day.

*[Section 131 inserted: No. 35 of 2024 s. 91.]*

**132. Past offender reporting orders made before commencement day**

- (1) A past offender reporting order made under section 19 of this Act as in force immediately before commencement day is taken to be a past offender reporting order made under section 15A.
- (2) A past offender reporting order made under section 20A of this Act as in force immediately before commencement day is taken to be a past offender reporting order made under section 15B.

*[Section 132 inserted: No. 35 of 2024 s. 91.]*

**133. Application to person not sentenced before commencement day**

This Act applies to an offender including in relation to an offender sentenced on or after commencement day even if the offender committed or was found guilty of an offence before commencement day.

*[Section 133 inserted: No. 35 of 2024 s. 91.]*

**134. Application of powers in relation to person who was reportable offender before commencement day**

A power under this Act that may be exercised in relation to a reportable offender may be exercised in relation to that offender even if they were a reportable offender before commencement day.

*[Section 134 inserted: No. 35 of 2024 s. 91.]*

## Schedule 1 — Class 1 offences

[s. 10]

<b>Enactment</b>	<b>Description of offence</b>
<i>The Criminal Code</i>	
s. 187	Facilitating sexual offences against children outside Western Australia
s. 279	Murder (if the person against whom the offence is committed is a child)
s. 320 (except s. 320(6))	Sexual offences against child under 13
s. 321 (except s. 321(6))	Sexual offences against child of or over 13 and under 16
s. 321A	Persistent sexual conduct with child under 16
s. 322 (except s. 322(6))	Sexual offences against child of or over 16 by person in authority etc.
s. 325	Sexual penetration without consent (if the person against whom the offence is committed is a child)
s. 326	Aggravated sexual penetration without consent (if the person against whom the offence is committed is a child)
s. 327	Sexual coercion (if the person against whom the offence is committed is a child)
s. 328	Aggravated sexual coercion (if the person against whom the offence is committed is a child)
s. 329 (except s. 329(8))	Sexual offences by relatives and the like
s. 330	Sexual offences against incapable person

*[Schedule 1 amended: No. 2 of 2008 s. 58; No. 27 of 2008 s. 11; No. 29 of 2008 s. 25(2) and (3); No. 35 of 2024 s. 57.]*

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**Schedule 2 — Class 2 offences**

[s. 11]

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<b>Enactment</b>	<b>Description of offence</b>
<i>The Criminal Code</i>	
s. 186	Occupier or owner allowing child to be on premises for unlawful carnal knowledge
s. 204A	Showing offensive material to child under 16
s. 204B(2)	Using electronic communication to procure, or to expose to indecent matter, a child under 16
s. 204B(3)	Using electronic communication to procure, or to expose to indecent matter, a child under 13
s. 217	Involving child in child exploitation
s. 218	Production of child exploitation material
s. 219	Distribution of child exploitation material
s. 220	Possession of child exploitation material
s. 320(6)	Indecently recording child under 13
s. 321(6)	Indecently recording child of or over 13 and under 16
s. 322(6)	Indecently recording child of or over 16 by person in authority etc.
s. 323	Indecent assault (if the person against whom the offence is committed is a child)
s. 324	Aggravated indecent assault (if the person against whom the offence is committed is a child)
s. 331B	Sexual servitude (if the person against whom the offence is committed is a child)

<b>Enactment</b>	<b>Description of offence</b>
s. 331C	Conducting business involving sexual servitude (if the person against whom the offence is committed is a child)
s. 331D	Deceptive recruiting for commercial sexual services (if the person against whom the offence is committed is a child)
s. 332	Kidnapping (if the person against whom the offence is committed is a child who is neither a de facto child nor lineal relative, as defined in <i>The Criminal Code</i> section 329(1), of the offender)
s. 343	Child stealing (if the child against whom the offence is committed is neither a de facto child nor lineal relative, as defined in <i>The Criminal Code</i> section 329(1), of the offender)
s. 557K(6)	Child sex offender being in or near a place where children are regularly present
<i>Criminal Law (Unlawful Consorting and Prohibited Insignia) Act 2021</i>	
s. 17(1)	Unlawful consorting (if the offender has a conviction for a child sex offence (as defined in the <i>Criminal Law (Unlawful Consorting and Prohibited Insignia) Act 2021</i> section 7) and has consorted with another person who has a conviction for a child sex offence in the course of committing the offence)
<i>Prostitution Act 2000</i>	
s. 16	Causing, permitting or seeking to induce child to act as prostitute
s. 17	Obtaining payment for prostitution by a child

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**Schedule 2** Class 2 offences

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<b>Enactment</b>	<b>Description of offence</b>
<i>Classification (Publications, Films and Computer Games) Enforcement Act 1996</i>	
the deleted s. 60	Child pornography
s. 101	Objectionable material offences (if the objectionable material is child pornography)
<i>Children and Community Services Act 2004</i>	
s. 192	Employment of child to perform in indecent manner

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*[Schedule 2 amended: No. 27 of 2008 s. 12; No. 21 of 2010 s. 13; No.  
54 of 2012 s. 38; No. 25 of 2021 s. 64; No. 35 of 2024 s. 58.]*

*[Schedule 3 has not come into operation.]*

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## Notes

This is a compilation of the *Community Protection (Offender Reporting) Act 2004* and includes amendments made by other written laws <sup>1M</sup>. For provisions that have come into operation and for information about any reprints, see the compilation table. For provisions that have not yet come into operation see the uncommenced provisions table.

### Compilation table

Short title	Number and year	Assent	Commencement
<i>Community Protection (Offender Reporting) Act 2004</i>	72 of 2004	8 Dec 2004	s. 1 and 2: 8 Dec 2004; s. 3-5, Pt. 4 and 6: 25 Dec 2004 (see s. 2 and <i>Gazette</i> 24 Dec 2004 p. 6266); Pt. 2 (except s. 6(2)(b) and 12) and Pt. 3 and 5 and Sch. 1 and 2: 1 Feb 2005 (see s. 2 and <i>Gazette</i> 24 Dec 2004 p. 6266); s. 6(2)(b): 1 Jul 2005 (see s. 2 and <i>Gazette</i> 24 Dec 2004 p. 6266)
<i>Criminal Law and Evidence Amendment Act 2008</i> s. 58	2 of 2008	12 Mar 2008	27 Apr 2008 (see s. 2 and <i>Gazette</i> 24 Apr 2008 p. 1559)
<i>Acts Amendment (Justice) Act 2008</i> s. 127	5 of 2008	31 Mar 2008	30 Sep 2008 (see s. 2(d) and <i>Gazette</i> 11 Jul 2008 p. 3253)
<i>Criminal Law Amendment (Homicide) Act 2008</i> s. 25(1)-(3)	29 of 2008	27 Jun 2008	1 Aug 2008 (see s. 2(b) and (d) and <i>Gazette</i> 22 Jul 2008 p. 3353)
<i>Community Protection (Offender Reporting) Amendment Act 2008</i> s. 4-12	27 of 2008	1 Jul 2008	2 Jul 2008 (see s. 2(b))
<b>Reprint 1: The <i>Community Protection (Offender Reporting) Act 2004</i> as at 14 Nov 2008</b> (includes amendments listed above)			
<i>Child Pornography and Exploitation Material and Classification Legislation Amendment Act 2010</i> s. 13	21 of 2010	7 Jul 2010	28 Aug 2010 (see s. 2(b) and <i>Gazette</i> 27 Aug 2010 p. 4105)
<i>Statutes (Repeals and Minor Amendments) Act 2011</i> s. 15	47 of 2011	25 Oct 2011	26 Oct 2011 (see s. 2(b))

**Community Protection (Offender Reporting) Act 2004****Notes**                      Compilation table

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<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Community Protection (Offender Reporting) Amendment Act 2012 Pt. 2</i>	1 of 2012	15 Mar 2012	1 Jul 2012 (see s. 2(b) and <i>Gazette</i> 22 Jun 2012 p. 2777)
<i>Community Protection (Offender Reporting) Amendment Act (No. 2) 2012 Pt. 2 (s. 3-42)</i>	54 of 2012	3 Dec 2012	s. 3-22, 27, 34(1) and (2) and 35-38: 23 Feb 2013 (see s. 2(b) and <i>Gazette</i> 22 Feb 2013 p. 1045); s. 23-26, 28-33, 34(3) and 39-42: 9 Nov 2013 (see s. 2(b) and <i>Gazette</i> 8 Nov 2013 p. 4969)
<b>Reprint 2: The Community Protection (Offender Reporting) Act 2004 as at 5 Dec 2014</b> (includes amendments listed above)			
<i>Local Government Legislation Amendment Act 2016 Pt. 3 Div. 10</i>	26 of 2016	21 Sep 2016	21 Jan 2017 (see s. 2(b) and <i>Gazette</i> 20 Jan 2017 p. 648)
<i>Restraining Orders and Related Legislation Amendment (Family Violence) Act 2016 Pt. 3 Div. 3</i>	49 of 2016	29 Nov 2016	1 Jul 2017 (see s. 2(b) and <i>Gazette</i> 7 Feb 2017 p. 1157)
<i>High Risk Serious Offenders Act 2020 Pt. 9 Div. 1 and s. 121</i>	29 of 2020	9 Jul 2020	26 Aug 2020 (see s. 2(1)(c) and SL 2020/131 cl. 2)
<i>Criminal Law (Unlawful Consorting and Prohibited Insignia) Act 2021 Pt. 6 Div. 1</i>	25 of 2021	13 Dec 2021	24 Dec 2021 (see s. 2(b) and SL 2021/219 cl. 2)
<i>Criminal Law (Mental Impairment) Act 2023 Pt. 15 Div. 3 and s. 412</i>	10 of 2023	13 Apr 2023	1 Sep 2024 (see s. 2(b) and SL 2024/175 cl. 2)
<i>Western Australian Marine Amendment Act 2023 s. 29</i>	31 of 2023	11 Dec 2023	21 Dec 2023 (see s. 2(c) and SL 2023/202 cl. 2(a))
<i>Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Act 2024 Pt. 4 Div. 2</i>	31 of 2024	26 Sep 2024	30 May 2025 (see s. 2(b) and SL 2025/80 cl. 2)

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Community Protection (Offender Reporting) Amendment Act 2024 Pt. 2 Div. 1 and Pt. 3 Div. 1</i>	35 of 2024	22 Oct 2024	Pt. 2 Div. 1: 28 Jul 2025 (see s. 2(b) and SL 2025/137 cl. 2); Pt. 3 Div. 1: 31 Dec 2025 (see s. 2(b) and SL 2025/201 cl. 2)

### Uncommenced provisions table

To view the text of the uncommenced provisions see *Acts as passed* on the WA legislation website.

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Community Protection (Offender Reporting) Act 2004 s. 12 and Sch. 3</i>	72 of 2004 (as amended by No. 29 of 2008 s. 25(4))	8 Dec 2004	To be proclaimed (see s. 2)
<i>Prostitution Amendment Act 2008 s. 29</i>	13 of 2008	14 Apr 2008	To be proclaimed (see s. 2(b))
<i>Community Protection (Offender Reporting) Amendment Act 2024 Pt. 4</i>	35 of 2024	22 Oct 2024	To be proclaimed (see s. 2(b))
<i>Evidence Act 2025 s. 492(2)</i>	15 of 2025	25 Sep 2025	To be proclaimed (see s. 2(e))

### Other notes

<sup>1M</sup> Under the *Cross-border Justice Act 2008* section 14, in order to give effect to that Act, this Act must be applied with the modifications prescribed by the *Cross-border Justice Regulations 2009* Part 3 Division 5 as if this Act had been altered in that way. If a modification is to replace or insert a numbered provision, the new provision is identified by the superscript 1M appearing after the provision number. If a modification is to replace or insert a definition, the new definition is identified by the superscript 1M appearing after the defined term.

## Defined terms

*[This is a list of terms defined and the provisions where they are defined.  
The list is not part of the law.]*

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young reportable offender.....	3

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