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COMMUNITY PROTECTION (OFFENDER REPORTING)
ACT 2004

**COMMUNITY PROTECTION
(OFFENDER REPORTING)
REGULATIONS 2004**

Western Australia

Community Protection (Offender Reporting) Regulations 2004

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Community Protection (Offender Reporting) Act 2004

Community Protection (Offender Reporting) Regulations 2004

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Community Protection (Offender Reporting) Regulations 2004*.

2. Commencement

These regulations come into operation on 1 February 2005.

3. Definition

In these regulations —

“**Department of Justice**” means the department of the Public Service principally assisting in the administration of the *Sentence Administration Act 2003*.

4. Authorised persons (s. 3)

A person is prescribed to be an authorised person for the purposes of the definition of that term in section 3 of the Act if the person is —

- (a) an employee of the Police Service (other than a police officer); and
- (b) authorised in writing by the Commissioner for the purposes of this regulation.

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5. Corresponding Acts (s. 3)

Each of the following laws is prescribed to be a corresponding Act for the purposes of the definition of that term in section 3 of the Act —

- (a) the *Child Protection (Offenders Registration) Act 2000* of New South Wales;
- (b) the *Sex Offenders Registration Act 2004* of Victoria;
- (c) the *Child Protection (Offender Reporting) Act 2004* of Queensland;
- (d) the *Child Protection (Offender Reporting and Registration) Act 2004* of the Northern Territory.

6. Corresponding offender reporting orders (s. 3)

Each of the following orders is prescribed to be a corresponding offender reporting order for the purposes of the definition of that term in section 3 of the Act —

- (a) a child protection registration order made under the *Child Protection (Offenders Registration) Act 2000* of New South Wales section 3D;
- (b) a sex offender registration order made under the *Sex Offenders Registration Act 2004* of Victoria section 11;
- (c) an offender reporting order made under the *Child Protection (Offender Reporting) Act 2004* of Queensland Part 3;
- (d) an offender reporting order made under the *Child Protection (Offender Reporting and Registration) Act 2004* of the Northern Territory section 13.

7. Supervising authorities (s. 3)

- (1) Except as stated in subregulation (2), the chief executive officer of the Department of Justice is prescribed to be the supervising authority for the purposes of the definition of that term in

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section 3 of the Act in relation to a reportable offender who is —

- (a) in strict government custody;
 - (b) in government custody;
 - (c) subject to a community order;
 - (d) subject to supervision as a condition of parole; or
 - (e) an existing licensee.
- (2) The chief executive officer of the Department of Health is prescribed to be the supervising authority for the purposes of the definition of that term in section 3 of the Act in relation to a reportable offender who is subject to a custody order made under the *Criminal Law (Mentally Impaired Defendants) Act 1996* Part 4 unless the offender —
- (a) is detained in a prison or detention centre; or
 - (b) as a condition of being released under a release order, is subject to supervision by an officer of the Department of Justice.
- (3) In subregulation (2) —
- “Department of Health”** means the department of the Public Service principally assisting in the administration of the *Health Act 1911*;
- “detention centre”** has the same meaning as it has in the *Young Offenders Act 1994* section 3;
- “prison”** has the same meaning as it has in the *Prisons Act 1981* section 3;
- “release order”** means an order made under the *Criminal Law (Mentally Impaired Defendants) Act 1996* section 35.

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8. Offences — relevance if committed by child (s. 6)

For the purposes of section 6(4) of the Act, the following offences are prescribed —

- (a) an offence under the *Censorship Act 1996* section 60;
- (b) an offence under the *Censorship Act 1996* section 101.

9. Foreign witness protection laws (s. 6 and s. 75)

For the purposes of sections 6(5) and 75(2) of the Act, the following foreign witness protection laws are specified —

- (a) the *Witness Protection Act 1994* of the Commonwealth;
- (b) the *Witness Protection Act 1995* of New South Wales;
- (c) the *Witness Protection Act 1991* of Victoria;
- (d) the *Witness Protection Act 2000* of Queensland;
- (e) the *Witness Protection Act 1996* of South Australia;
- (f) the *Witness Protection Act 2000* of Tasmania;
- (g) the *Witness Protection (Northern Territory) Act* of the Northern Territory;
- (h) the *Witness Protection Act 1996* of the Australian Capital Territory.

10. Specified date for determining New South Wales reportable offenders (s. 8)

For the purposes of section 8 of the Act, 1 February 2005 is specified.

11. Class 2 offences (s. 11)

- (1) For the purposes of section 11(c) of the Act, the following offences are prescribed to be Class 2 offences —
 - (a) an offence under the Code Act section 474.19;
 - (b) an offence under the Code Act section 474.20;
 - (c) an offence under the Code Act section 474.22;

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- (d) an offence under the Code Act section 474.23;
- (e) an offence under the Code Act section 474.26;
- (f) an offence under the Code Act section 474.27.

(2) In subregulation (1) —

“**Code Act**” means the *Criminal Code Act 1995* of the Commonwealth.

12. Means of contacting authorised person for certain persons entering Western Australia (s. 27)

(1) For the purposes of section 27(2) of the Act, the following means of contacting an authorised person are prescribed —

- (a) by facsimile;
- (b) by email;
- (c) by mail.

(2) The Commissioner is to nominate the relevant facsimile number, email address and postal address for the purposes of subregulation (1).

13. Manner of reporting change of reportable offender’s travel plans while out of Western Australia (s. 31)

For the purposes of section 31(3)(b) of the Act, the reportable offender is permitted to make a report by mail to a postal address nominated by the Commissioner.

14. Directions as to police station or approved place at which reportable offender must report (s. 34)

For the purposes of section 34(1)(c) of the Act, a direction as to the police station or approved place at which a report is to be made may be given by an approved person.

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15. Form of identification for reporting in person (s. 38)

- (1) For the purposes of section 38(1)(a) of the Act, the following forms of identification of, or other documents relating to, a reportable offender that are to be presented for inspection when the reportable offender or another person makes a report in person are specified —
 - (a) any one of the forms of identification to which subregulation (3) applies; and
 - (b) any one of the forms of identification or other documents to which subregulation (4) applies.
- (2) For the purposes of section 38(1)(c) of the Act, the following forms of identification of, or documents relating to, a person (other than the reportable offender) that are to be presented when the person makes a report (in this regulation called the “**relevant report**”) in person are specified —
 - (a) any one of the forms of identification to which subregulation (3) applies; and
 - (b) any one of the forms of identification or other documents to which subregulation (4) applies.
- (3) This subregulation applies to —
 - (a) a current motor driver’s licence that displays a photograph of the licence holder;
 - (b) a current Australian or overseas passport;
 - (c) an Australian naturalisation or citizenship document; and
 - (d) an original birth certificate or a certified copy, or certified extract, of a birth certificate.
- (4) This subregulation applies to —
 - (a) a current signed credit or debit card, a passbook or a statement of account issued by a bank, building society or credit union;

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- (b) a current Medicare card;
 - (c) a gas, water, electricity or telephone account issued within 12 months before the relevant report is made;
 - (d) a notice of rates from a local government (however described) or a notice of water service charges or land valuation;
 - (e) a pensioner concession card, a Commonwealth seniors health card, an entitlement card issued under the *Veterans' Entitlements Act 1986* of the Commonwealth, or another entitlement card issued by the Commonwealth government or a State or Territory government;
 - (f) a lease or rental agreement;
 - (g) a motor vehicle registration notice or certificate;
 - (h) a renewal notice for a home building or contents, or a motor vehicle, policy of insurance;
 - (i) a student identity card or a certificate or statement of enrolment from an educational institution; and
 - (j) an electoral enrolment card or other evidence of electoral enrolment.
- (5) A form of identification or other document is not valid for the purposes of subregulation (4)(d) to (j) unless it was issued or entered into, as the case requires, within 2 years before the relevant report is made.
- (6) Except as stated in subregulation (3)(d), a form of identification or other document is not valid for the purposes of this regulation unless it is an original.

16. Prescribed distance — reporting by remote offenders (s. 43)

For the purposes of section 43(1) of the Act, the prescribed distance is 100 km.

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17. Offences — approval by Commissioner of suspension of reporting obligations (s. 61)

For the purposes of section 61(1)(a) of the Act, the following offences are prescribed —

- (a) an offence under *The Criminal Code* section 186;
- (b) an offence under *The Criminal Code* section 321, but only if, when the offence was committed —
 - (i) the offender was under the age of 18 years; and
 - (ii) the child against whom the offence was committed was not under the care, supervision or authority of the offender;
- (c) an offence under *The Criminal Code* section 321A;
- (d) an offence under *The Criminal Code* section 323;
- (e) an offence under *The Criminal Code* section 324, but only if the “circumstances of aggravation”, as defined in *The Criminal Code* section 319(1), that applied to the offence were those circumstances described in paragraph (a)(ii) or (b) of that definition;
- (f) an offence under *The Criminal Code* section 329;
- (g) an offence under the *Censorship Act 1996* section 60;
- (h) an offence under the *Censorship Act 1996* section 101;
- (i) an offence under the *Crimes Act 1914* of the Commonwealth section 50BA;
- (j) an offence under the *Crimes Act 1914* of the Commonwealth section 50BC.

18. Sentences — approval by Commissioner of suspension of reporting obligations (s. 61)

For the purposes of section 61(1)(b) of the Act, the following sentences are prescribed —

- (a) an exercise of power under the *Sentencing Act 1995* Part 6;

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- (b) a conditional release order under the *Sentencing Act 1995* Part 7;
- (c) a fine under the *Sentencing Act 1995* Part 8;
- (d) a community based order under the *Sentencing Act 1995* Part 9;
- (e) an exercise of power under the *Young Offenders Act 1994* section 66, 67, 69 or 70;
- (f) a fine under the *Young Offenders Act 1994* Part 7 Division 5;
- (g) a youth community based order under the *Young Offenders Act 1994* Part 7 Division 6.

19. Persons required to give notice of reporting obligations etc. to reportable offenders (s. 67)

For the purposes of section 67(4) of the Act, the following persons are specified —

- (a) for a reportable offender who is sentenced for a reportable offence and enters government custody as a result of that sentence — an officer of the Department of Justice, or other person, authorised in writing for the purposes of this paragraph by the chief executive officer of that department;
- (b) for a reportable offender who is present in court when sentenced for a reportable offence in the District Court and does not enter government custody as a result of that sentence — an officer of the District Court;
- (c) for a reportable offender who is not present in court when sentenced for a reportable offence in the District Court and does not enter government custody as a result of that sentence — the Commissioner;
- (d) for a reportable offender who is sentenced for a reportable offence in a court other than the District Court and does not enter government custody as a result of that sentence — the Commissioner;

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- (e) for a reportable offender who is released from government custody (whether in government custody for a reportable offence or otherwise) — an officer of the Department of Justice, or other person, authorised in writing for the purposes of this paragraph by the chief executive officer of that department;
- (f) for a reportable offender who enters Western Australia, if he or she has not previously been given notice of his or her reporting obligations in Western Australia — the Commissioner;
- (g) for a person who becomes a corresponding reportable offender, if he or she is in Western Australia at that time — the Commissioner.

20. Details to be included in notice given by supervising authority to Commissioner (s. 70)

For the purposes of section 70(3) of the Act, the following details are prescribed —

- (a) the name of the reportable offender;
- (b) the relevant event listed in section 70(1) of the Act that has occurred;
- (c) the date on which that event occurred;
- (d) the name, title and signature of the supervising authority who gives the notice;
- (e) the date on which the notice is given.

21. Corresponding prohibition orders (s. 85)

Each of the following orders is prescribed to be a corresponding prohibition order for the purposes of the definition of that term in section 85 of the Act —

- (a) an order made under the *Child Protection (Offenders Prohibition Orders) Act 2004* of New South Wales Part 2;

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- (b) a prohibition order made under the *Child Protection (Offender Reporting and Registration) Act 2004* of the Northern Territory Part 5.

By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.

