



Australian Capital Territory

Crimes (Child Sex Offenders) Act 2005

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About this republication

The republished law

This is a republication of the *Crimes (Child Sex Offenders) Act 2005* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 25 November 2010. It also includes any commencement, amendment, repeal or expiry affecting the republished law to 25 November 2010.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$110 for an individual and \$550 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

Crimes (Child Sex Offenders) Act 2005

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Australian Capital Territory

Crimes (Child Sex Offenders) Act 2005

An Act about registration and reporting requirements for certain offenders who commit sexual offences against children, and for other purposes

Chapter 1 Preliminary

1 Name of Act

This Act is the *Crimes (Child Sex Offenders) Act 2005*.

3 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this Act defines certain terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere.

For example, the signpost definition '*witness protection program*—see the *Witness Protection Act 1996*, dictionary.' means that the term 'witness protection program' is defined in that dictionary and the definition applies to this Act.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

4 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

5 Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

Note 1 Criminal Code

The Criminal Code, ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

Note 2 Penalty units

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

6 Purpose and outline

- (1) The purpose of this Act is to—
 - (a) require certain offenders who commit sexual offences to keep police informed of their whereabouts and other personal details for a period of time—
 - (i) to reduce the likelihood that they will reoffend; and
 - (ii) to facilitate the investigation and prosecution of future offences that they may commit; and
 - (b) prevent registrable offenders working in child-related employment.
- (2) In outline, this Act—
 - (a) provides for the establishment of a child sex offenders register; and
 - (b) requires certain offenders who are sentenced for registrable offences to report particular personal details for inclusion in the child sex offenders register; and

- (c) allows the sentencing court to order young offenders to comply with the reporting obligations of the Act; and
- (d) requires the offenders to keep their details up to date, to report their details annually and to also report certain travel details; and
- (e) imposes the reporting obligations for a period of between 4 years and life, depending on the number, severity and timing of the offences committed, and the age of the offender when an offence was committed; and
- (f) allows for the recognition of the period of reporting obligations imposed under laws of foreign jurisdictions; and
- (g) makes it an offence for registrable offenders to work in child-related employment; and
- (h) authorises the ombudsman to monitor compliance with chapter 4 (Child sex offenders register).

7 Meaning of *finding of guilt*

- (1) For 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 accepting a plea of guilty from the person in relation to the offence;
 - (c) an offence taken into account by a court under the *Crimes (Sentencing) Act 2005*, part 4.4 (Taking additional offences into account) in making a sentence-related order in relation to a principal offence, or an admission (however described) being accepted in relation to the offence under a corresponding provision of a foreign law;

(d) an order (however described) being made in relation to the offence under—

(i) the *Crimes (Sentencing) Act 2005*, section 17 (Non-conviction orders—general); or

Note An order under the *Crimes Act 1900*, s 402 (Conditional release of offenders without proceeding to conviction) (repealed) is taken to be a non-conviction order that is a good behaviour order under the *Crimes (Sentencing) Act 2005* (see *Crimes (Sentence Administration) Act 2005*, s 336).

(ii) a provision of a foreign law corresponding to a provision mentioned in subparagraph (i);

(e) a finding (however expressed) under the *Crimes Act 1900*, division 13.3 or the Criminal Code, section 28 (7) of not guilty because of mental impairment, or a finding under a corresponding provision of a foreign law.

(2) For this Act, a reference to a ***finding of guilt*** (however expressed) in relation to an offence does not include a reference to—

(a) a finding of guilt mentioned in subsection (1) (c) if—

(i) the offence was taken into account by a court under the *Crimes (Sentencing) Act 2005*, part 4.4 (Taking additional offences into account) in making a sentence-related order in relation to a principal offence; and

(ii) the decision to take the offence into account is subsequently quashed or set aside by a court; or

(b) a finding of guilt mentioned in subsection (1) (c) if—

(i) an admission (however described) was accepted in relation to the offence under a corresponding provision of a foreign law; and

(ii) the decision to accept the admission is subsequently quashed or set aside by a court; or

- (c) in any other case—a finding of guilt that is subsequently quashed or set aside by a court.
- (3) For this section, a reference to *taking into account* an offence includes the taking into account of the offence under the *Crimes Act 1900*, section 357 (repealed).

Chapter 2 Offenders to whom Act applies

Part 2.1 Who is a registrable offender?

8 Who is a *registrable offender*?

- (1) A person is a *registrable offender* if the person—
- (a) is sentenced by a court for a registrable offence; or
 - (b) is the subject of a child sex offender registration order; or
 - (c) is a prescribed corresponding offender.

Note 1 *Sentence* is broadly defined for this Act (see dict, def *sentence*).

Note 2 This Act applies to people sentenced by a court of a foreign jurisdiction for certain offences against the law of that jurisdiction (see dict, def *court* and s 10, def *registrable offence*).

Note 3 This Act applies to certain people who are registrable offenders for corresponding laws of foreign jurisdictions, even though they are not registrable offenders under this Act (see div 3.2.3 (People required to report under corresponding law)).

- (2) A person is also a *registrable offender* if—
- (a) the person has been sentenced by a court for a registrable offence before the commencement of this Act; and
 - (b) the person is—
 - (i) a prescribed corresponding offender; or
 - (ii) a person who, because of a sentence for a registrable offence, was under the supervision of a supervising authority immediately before the commencement of this Act.

- (3) This section is subject to the following sections:
- section 9 (*Registrable offender—exceptions*)
 - section 13 (Effect of quashing of finding of guilt etc).

9 Registrable offender—exceptions

- (1) A person is not a *registrable offender* only because—
- (a) a court has made an order against the person for a class 1 or class 2 offence under—
- (i) the *Crimes (Sentencing) Act 2005*, section 17 (Non-conviction orders—general); or
- Note* An order under the *Crimes Act 1900*, s 402 (Conditional release of offenders without proceeding to conviction) (repealed) is taken to be a non-conviction order that is a good behaviour order under the *Crimes (Sentencing) Act 2005* (see *Crimes (Sentence Administration) Act 2005*, s 336).
- (ii) a provision of a foreign law corresponding to a provision mentioned in subparagraph (i); or
- (b) the person has been sentenced for a single class 2 offence, and the sentence did not include—
- (i) a term of imprisonment; or
- (ii) a requirement that the person be under the supervision of a supervising authority or anyone else; or
- (c) the person, as a young person, has been sentenced for—
- (i) a single offence mentioned in schedule 2 (Class 2 offences), part 2.1 (Offences against ACT legislation), item 3, 4 or 9; or

(ii) a single class 1 or class 2 offence prescribed by regulation.

Note The offence mentioned in—

- sch 2, pt 2.1, item 3 is against the *Crimes Act 1900*, s 61 (1) (act of indecency with young person)
- sch 2, pt 2.1, item 4 is against the *Crimes Act 1900*, s 61 (2) (act of indecency with young person)
- sch 2, pt 2.1, item 9 is against the *Crimes Act 1900*, s 65 (1) (possessing child pornography).

(2) This section does not apply to a person who is a prescribed corresponding offender.

(3) In this section:

single offence includes a reference to more than 1 offence of the same kind arising from the same incident.

Note Offences arise from the *same incident* only if they are committed within a single period of 24 hours and are committed against the same person (see dict, def *same incident*).

(4) Subsection (1) (a) (i) note and this subsection expire on 3 June 2021.

10 What is a *registrable offence*?

(1) In this Act:

registrable offence means—

- (a) a class 1 offence; or
- (b) a class 2 offence; or

- (c) in relation to a person for whom a child sex offender registration order is made—an offence because of which the order was made.

Note If a person is found guilty of an offence that is not a class 1 or class 2 offence, the court may make a child sex offender registration order in relation to the person (see s 15). A **child sex offender registration order** is an order declaring that the person is a registrable offender for this Act (see s 14).

- (2) A **class 1 offence** is an offence mentioned in schedule 1, part 1.1 or part 1.2, column 2, committed in the circumstances (if any) mentioned in column 4 for the offence.
- (3) A **class 2 offence** is an offence mentioned in schedule 2, part 2.1 or part 2.2, column 2, committed in the circumstances (if any) mentioned in column 4 for the offence.

11 Who is a **prescribed corresponding offender**?

A person is a **prescribed corresponding offender** if the person—

- (a) had at any time (whether before or after the commencement of this Act) been in a foreign jurisdiction and had, at that time, been required to report to the corresponding registrar of the jurisdiction for a longer period than the person would be required to report under this Act; and
- (b) would, if the person were currently in the foreign jurisdiction, be required to report to the corresponding registrar of the jurisdiction for a longer period (the **recognised foreign reporting period**) than the person would be required to report under this Act; and
- (c) is, under a regulation, a prescribed corresponding offender for this Act.

12 Appeal proceedings irrelevant

For this division, it is irrelevant whether or not a person may begin, or has begun, an appeal for a finding of guilt, sentence or child sex offender registration order.

13 Effect of quashing of finding of guilt etc

- (1) A person stops being a registrable offender if—
 - (a) the person is a registrable offender because of only a single finding of guilt for a registrable offence and either—
 - (i) the finding of guilt is quashed or set aside by a court; or
 - (ii) the person's sentence for the offence is reduced or otherwise amended on appeal so that the person would have been a person mentioned in section 9 (1) (b) or (c) had the amended sentence been the original sentence; or
 - (b) the person is a registrable offender only because the person is subject to a child sex offender registration order and the order is quashed or set aside on appeal.
- (2) However, the person does not stop being a registrable offender under subsection (1) (a) (i) if the court orders that the person be retried for the registrable offence.

Part 2.2 Child sex offender registration orders

14 What is a *child sex offender registration order*?

A *child sex offender registration order*, in relation to a person, is—

- (d) an order declaring that the person is a registrable offender for this Act; or
- (e) a corresponding child sex offender registration order.

15 Court may make child sex offender registration order

- (1) If a person is found guilty of an offence that is not a class 1 or class 2 offence, the court sentencing the person for the offence may make a child sex offender registration order in relation to the person.
- (2) This section is subject to the following sections:
 - section 16 (Court may only make order if person risk to sexual safety)
 - section 17 (Court may only make order with sentence)
 - section 18 (Court may only make order on prosecution application).

16 Court may only make order if person risk to sexual safety

- (1) The court may make a child sex offender registration order only if, after taking into account anything the court considers appropriate, the court is satisfied that the person poses a risk to the sexual safety of 1 or more people or of the community.
- (2) For subsection (1), it is not necessary that the court can identify a risk to particular people, or a particular class of people.

17 Court may only make order with sentence

(1) The court may make a child sex offender registration order in relation to a person for an offence only if it imposes a sentence on the person for the offence, and must make the child sex offender registration order concurrent with the sentence.

(2) In this section:

sentence, for an offence, does not include an order against a young offender under the *Crimes (Sentencing) Act 2005*, section 13, 17, 18, 19, or 27.

18 Court may only make order on prosecution application

The court may make a child sex offender registration order only if an application for the order is made by the prosecution.

Chapter 3 Reporting

Part 3.1 Definitions for ch 3

19 What is a *reporting obligation*?

In this Act:

reporting obligation, for a registrable offender, means the offender's obligation under a reporting offence provision.

20 What is a *reporting offence*?

In this Act:

reporting offence means an offence against a provision of this chapter (a *reporting offence provision*).

Note The following provisions are reporting offence provisions:

- s 21 (Offence—offender in ACT at commencement of Act must report)
- s 22 (Offence—offender in custody at commencement of Act must report)
- s 23 (Offence—offender must report after sentencing)
- s 24 (Offence—offender entering ACT must report)
- s 25 (Offence—prescribed corresponding offender must report)
- s 28 (Offence—offender later sentenced for registrable offence must report)
- s 29 (Offence—offender who later becomes prescribed corresponding offender must report)
- s 30 (Offence—offender whose reporting suspension ceases must report)
- s 34 (Offence—offender entering ACT must make contact)
- s 37 (Offence—offender must report annually)
- s 42 (Offence—offender leaving ACT must report travel details)

- s 45 (Offence—offender outside ACT must report travel details)
- s 46 (Offence—offender outside ACT must report change of travel details)
- s 47 (Offence—offender must report return to ACT)
- s 48 (Offence—offender must report decision not to leave ACT)
- s 49 (Offence—offender must report regular travel)
- s 54 (Offence—offender in ACT must report change of details)
- s 55 (Offence—offender returning to ACT must report change of details)
- s 56 (Offence—offender leaving custody must report)
- s 70 (Offence—offender reporting in person must provide identification etc)
- s 71 (Offence—person reporting in person for offender must provide identification).

Part 3.2 When initial report must be made

Division 3.2.1 When registrable offender must make initial report of personal details

22 Offence—offender in custody at commencement of Act must report

A registrable offender commits an offence if—

- (a) the offender is in government custody immediately before the commencement of this Act; and
- (b) the offender later stops being in government custody in the ACT; and
- (c) the offender does not take all reasonable steps to report the offender's personal details, in person, to the chief police officer at an approved reporting place—
 - (i) within 7 days after the day the offender stops being in government custody (excluding days in government custody); or
 - (ii) if the offender leaves the ACT (other than in government custody) within the 7 days—before leaving the ACT; and

- (d) the offender's reporting period has not ended before the end of the 7 days.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

Note 1 For the offender's personal details, see s 59.

Note 2 A registrable offender reports in person at a place only if the offender reports by personally attending at the place (see dict, def *in person*). However, special provision has been made for young offenders and offenders with a disability (see s 65 and s 66).

Note 3 For approved reporting places, see s 64.

Note 4 In deciding whether a person took all reasonable steps to do something, a court must have regard to the person's age, any disability and whether the notice given to the person about the person's obligations was adequate to tell the person about the relevant obligation (see s 116).

23 Offence—offender must report after sentencing

A registrable offender commits an offence if—

- (a) the offender is sentenced in the ACT for a registrable offence; and
- (b) the offender does not take all reasonable steps to report the offender's personal details, in person, to the chief police officer at an approved reporting place—
- (i) if the offender is not in government custody on the day the offender is sentenced for the registrable offence—within 7 days after the day the offender is sentenced for the registrable offence (excluding days in government custody); or
- (ii) if the offender is in government custody on the day the offender is sentenced for the registrable offence and later stops being in government custody in the ACT—within 7 days after the day the offender stops being in

government custody (excluding days in government custody); or

- (iii) if the offender leaves the ACT (other than in government custody) within the 7 days mentioned in subparagraph (i) or (ii)—before leaving the ACT; and
- (c) the offender’s reporting period has not ended before the end of the period within which the report must be given.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

Note 1 For the offender’s personal details, see s 59.

Note 2 A registrable offender reports in person at a place only if the offender reports by personally attending at the place (see dict, def *in person*). However, special provision has been made for young offenders and offenders with a disability (see s 65 and s 66).

Note 3 For approved reporting places, see s 64.

Note 4 In deciding whether a person took all reasonable steps to do something, a court must have regard to the person’s age, any disability and whether the notice given to the person about the person’s obligations was adequate to tell the person about the relevant obligation (see s 116).

24 Offence—offender entering ACT must report

A registrable offender commits an offence if—

- (a) the offender enters the ACT, and remains in the ACT for 7 or more consecutive days (excluding days in government custody); and
- (b) the offender has not previously reported the offender’s personal details to the chief police officer; and
- (c) the offender does not take all reasonable steps to report the offender’s personal details, in person, to the chief police officer at an approved reporting place—

- (i) if the offender is not in government custody on the day the offender has been in the ACT for 7 consecutive days (excluding days in government custody)—within 7 days after that day (excluding days in government custody); or
 - (ii) if the offender is in government custody on the day the offender has been in the ACT for 7 consecutive days (excluding days in government custody), and later stops being in government custody in the ACT—within 7 days after the day the offender stops being in government custody (excluding days in government custody); or
 - (iii) if the offender leaves the ACT (other than in government custody) within the 7 days mentioned in subparagraph (i) or (ii)—before leaving the ACT; and
- (d) the offender's reporting period has not ended before the end of the period within which the report must be given.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

Note 1 For the offender's personal details, see s 59.

Note 2 A registrable offender reports in person at a place only if the offender reports by personally attending at the place (see dict, def *in person*). However, special provision has been made for young offenders and offenders with a disability (see s 65 and s 66).

Note 3 For approved reporting places, see s 64.

Note 4 In deciding whether a person took all reasonable steps to do something, a court must have regard to the person's age, any disability and whether the notice given to the person about the person's obligations was adequate to tell the person about the relevant obligation (see s 116).

25 Offence—prescribed corresponding offender must report

A prescribed corresponding offender commits an offence if—

- (a) the offender is in the ACT on the day the offender becomes a prescribed corresponding offender; and

- (b) the offender has not previously reported the offender's personal details to the chief police officer; and
- (c) the offender does not take all reasonable steps to report the offender's personal details, in person, to the chief police officer at an approved reporting place—
 - (i) if the offender is not in government custody on the day the offender becomes a prescribed corresponding offender—within 7 days after the day the offender becomes a prescribed corresponding offender (excluding days in government custody); or
 - (ii) if the offender is in government custody on the day the offender becomes a prescribed corresponding offender and later stops being in government custody in the ACT—within 7 days after the day the offender stops being in government custody (excluding days in government custody); or
 - (iii) if the offender leaves the ACT (other than in government custody) within the 7 days mentioned in subparagraph (i) or (ii)—before leaving the ACT; and
- (d) the offender's reporting period has not ended before the end of the period within which the report must be given.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

Note 1 For the offender's personal details, see s 59.

Note 2 A registrable offender reports in person at a place only if the offender reports by personally attending at the place (see dict, def *in person*). However, special provision has been made for young offenders and offenders with a disability (see s 65 and s 66).

Note 3 For approved reporting places, see s 64.

Note 4 In deciding whether a person took all reasonable steps to do something, a court must have regard to the person's age, any disability and whether the notice given to the person about the person's obligations was adequate to tell the person about the relevant obligation (see s 116).

26 Exception—offender's reporting obligations suspended

This division does not apply to a registrable offender during any period when the offender's reporting obligations are suspended under section 97 (Supreme Court may make suspension order).

27 Exception—protected registrable offender

This division does not apply to a registrable offender if—

- (a) the offender is a protected registrable offender; and
- (b) the offender reports such of the information that the offender is required to report under this division as the chief police officer requires the offender to report; and
- (c) the offender makes the report when, where, and in a way, approved by the chief police officer.

Division 3.2.2 When registrable offender must make new initial report of personal details

28 Offence—offender later sentenced for registrable offence must report

A registrable offender commits an offence if—

- (a) the offender's reporting period has ended; and
- (b) the offender is later sentenced in the ACT for a registrable offence (the *later registrable offence*); and
- (c) the offender does not take all reasonable steps to report the offender's personal details, in person, to the chief police officer at an approved reporting place—

- (i) if the offender is not in government custody on the day the offender is sentenced for the later registrable offence—within 7 days after the day the offender is sentenced for the later registrable offence (excluding days in government custody); or
 - (ii) if the offender is in government custody on the day the offender is sentenced for the later registrable offence and later stops being in government custody in the ACT—within 7 days after the day the offender stops being in government custody (excluding days in government custody); or
 - (iii) if the offender leaves the ACT (other than in government custody) within the 7 days mentioned in subparagraph (i) or (ii)—before leaving the ACT; and
- (d) the offender’s reporting period in relation to the later registrable offence has not ended before the end of the period within which the report must be given.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

Note 1 For the offender’s personal details, see s 59.

Note 2 A registrable offender reports in person at a place only if the offender reports by personally attending at the place (see dict, def *in person*). However, special provision has been made for young offenders and offenders with a disability (see s 65 and s 66).

Note 3 For approved reporting places, see s 64.

Note 4 In deciding whether a person took all reasonable steps to do something, a court must have regard to the person’s age, any disability and whether the notice given to the person about the person’s obligations was adequate to tell the person about the relevant obligation (see s 116).

29 Offence—offender who later becomes prescribed corresponding offender must report

A registrable offender commits an offence if—

- (a) the offender's reporting period has ended; and
- (b) the offender is in the ACT on the day the offender later becomes a prescribed corresponding offender; and
- (c) the offender has not previously reported the offender's personal details to the chief police officer; and
- (d) the offender does not take all reasonable steps to report the offender's personal details, in person, to the chief police officer at an approved reporting place—
 - (i) if the offender is not in government custody on the day the offender later becomes a prescribed corresponding offender—within 7 days after the day the offender later becomes a prescribed corresponding offender (excluding days in government custody); or
 - (ii) if the offender is in government custody on the day the offender later becomes a prescribed corresponding offender and later stops being in government custody in the ACT—within 7 days after the day the offender stops being in government custody (excluding days in government custody); or
 - (iii) if the offender leaves the ACT (other than in government custody) within the 7 days mentioned in subparagraph (i) or (ii)—before leaving the ACT; and

- (e) the offender's reporting period for the later offence has not ended before the end of the period within which the report must be given.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

Note 1 For the offender's personal details, see s 59.

Note 2 A registrable offender reports in person at a place only if the offender reports by personally attending at the place (see dict, def *in person*). However, special provision has been made for young offenders and offenders with a disability (see s 65 and s 66).

Note 3 For approved reporting places, see s 64.

Note 4 In deciding whether a person took all reasonable steps to do something, a court must have regard to the person's age, any disability and whether the notice given to the person about the person's obligations was adequate to tell the person about the relevant obligation (see s 116).

30 Offence—offender whose reporting suspension ceases must report

A registrable offender commits an offence if—

- (a) the offender's reporting obligations are suspended by a suspension order, or an equivalent order under a corresponding law; and
- (b) the offender is in the ACT on the day the suspension order ceases to have effect under section 101 (Suspension order ceases if offender reoffends) or an equivalent provision of a corresponding law; and
- (c) the offender does not take all reasonable steps to report the offender's personal details, in person, to the chief police officer at an approved reporting place—
- (i) if the offender is not in government custody on the day the suspension order ceases to have effect—within 7 days

after the day the suspension order ceases to have effect (excluding days in government custody); or

- (ii) if the offender is in government custody on the day the suspension order ceases to have effect and later stops being in government custody in the ACT—within 7 days after the day the offender stops being in government custody (excluding days in government custody); or
 - (iii) if the offender leaves the ACT (other than in government custody) within the 7 days mentioned in subparagraph (i) or (ii)—before leaving the ACT; and
- (d) the offender's reporting period has not ended before the end of the period within which the report must be given.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

Note 1 For the offender's personal details, see s 59.

Note 2 A registrable offender reports in person at a place only if the offender reports by personally attending at the place (see dict, def *in person*). However, special provision has been made for young offenders and offenders with a disability (see s 65 and s 66).

Note 3 For approved reporting places, see s 64.

Note 4 In deciding whether a person took all reasonable steps to do something, a court must have regard to the person's age, any disability and whether the notice given to the person about the person's obligations was adequate to tell the person about the relevant obligation (see s 116).

31 Exception—offender's reporting obligations suspended

This division, other than section 30, does not apply to a registrable offender during any period when the offender's reporting obligations are suspended under section 97 (Supreme Court may make suspension order).

32 Exception—protected registrable offender

This division does not apply to a registrable offender if—

- (a) the offender is a protected registrable offender; and
- (b) the offender reports such of the information that the offender is required to report under this division as the chief police officer requires the offender to report; and
- (c) the offender makes the report when, where, and in a way, approved by the chief police officer.

Division 3.2.3 People required to report under corresponding law

33 Person entering ACT must make contact

- (1) This section applies to a person (other than a protected registrable offender) if the person has, at any time, been required to report to a corresponding registrar.
- (2) If the person enters the ACT, and remains in the ACT for 7 or more consecutive days (excluding days in government custody), the person must take all reasonable steps to contact (by telephone or another way prescribed by regulation) someone (a *contact person*) prescribed by regulation for this division—
 - (a) if the person is not in government custody on the day the person has been in the ACT for 7 consecutive days (excluding days in government custody)—within 7 days after that day (excluding days in government custody); or
 - (b) if the person is in government custody on the day the person has been in the ACT for 7 consecutive days (excluding days in government custody), and later stops being in government custody in the ACT—within 7 days after the day the offender stops being in government custody (excluding days in government custody); or

- (c) if the person leaves the ACT (other than in government custody) within the 7 days mentioned in subparagraph (i) or (ii)—before leaving the ACT.
- (3) If the person contacts a contact person, the contact person must tell the person—
- (a) whether the person is a registrable offender for this Act; and
 - (b) if the person is a registrable offender—what the person's reporting obligations are under this Act.

34 Offence—offender entering ACT must make contact

A registrable offender (other than a protected registrable offender) commits an offence if—

- (a) the offender has, at any time, been required to report under this Act or a corresponding law; and
- (b) the offender enters the ACT, and remains in the ACT for 7 or more consecutive days (excluding days in government custody); and
- (c) the offender does not take all reasonable steps to either—
 - (i) contact a contact person (by telephone or another way prescribed by regulation); or
 - (ii) report the offender's personal details, in person, to the chief police officer at an approved reporting place; and
- (d) the offender does not take all reasonable steps to make the contact or report—
 - (i) if the offender is not in government custody on the day the offender has been in the ACT for 7 consecutive days (excluding days in government custody)—within 7 days after that day (excluding days in government custody); or

- (ii) if the offender is in government custody on the day the offender has been in the ACT for 7 consecutive days (excluding days in government custody), and later stops being in government custody in the ACT—within 7 days after the day the offender stops being in government custody (excluding days in government custody); or
 - (iii) if the offender leaves the ACT (other than in government custody) within the 7 days mentioned in subparagraph (i) or (ii)—before leaving the ACT; and
- (e) the offender’s reporting period has not ended before the end of the period within which the contact or report must be given.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

Note 1 For the offender’s personal details, see s 59.

Note 2 A registrable offender reports in person at a place only if the offender reports by personally attending at the place (see dict, def *in person*). However, special provision has been made for young offenders and offenders with a disability (see s 65 and s 66).

Note 3 For approved reporting places, see s 64.

Note 4 In deciding whether a person took all reasonable steps to do something, a court must have regard to the person’s age, any disability and whether the notice given to the person about the person’s obligations was adequate to tell the person about the relevant obligation (see s 116).

35 Exception—person has already made contact

This division does not apply to a person who enters the ACT, and remains in the ACT, if the person has previously contacted (by telephone or another way prescribed by regulation) a contact person in relation to that entry into the ACT.

36 Exception—offender’s reporting obligations suspended

Section 34 does not apply to a registrable offender during any period when the offender’s reporting obligations are suspended under section 97 (Supreme Court may make suspension order).

Part 3.3 Ongoing reporting

Division 3.3.1 Annual reporting

37 Offence—offender must report annually

- (1) A registrable offender commits an offence if—
- (a) the offender does not take all reasonable steps to—
 - (i) report, each year, the offender’s personal details, in person, to the chief police officer at an approved reporting place; and
 - (ii) if the offender has been in government custody since the offender last reported under this Act—also report to the chief police officer details of when and where the custody happened; and
 - (b) the offender does not take all reasonable steps to make a report for a year before the end of the month (the *offender’s reporting month*) in the year when the anniversary of the day the offender first reported under this Act or a corresponding law falls; and
 - (c) the offender’s reporting period has not ended before the end of the offender’s reporting month in the year.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

Example

J first reported his personal details to the chief police officer on 14 October 2005. This section requires J to make a further report of J’s details on or before 31 October 2006, 31 October 2007 (and so on).

Note 1 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

Note 2 For the offender's personal details, see s 59.

Note 3 A registrable offender reports in person at a place only if the offender reports by personally attending at the place (see dict, def *in person*). However, special provision has been made for young offenders and offenders with a disability (see s 65 and s 66).

Note 4 For approved reporting places, see s 64.

Note 5 In deciding whether a person took all reasonable steps to do something, a court must have regard to the person's age, any disability and whether the notice given to the person about the person's obligations was adequate to tell the person about the relevant obligation (see s 116).

- (2) For subsection (1) (c), if a registrable offender's reporting period has ended, but the offender is then required to report again under division 3.2.2 (When registrable offender must make new initial report of personal details), the day when the offender first reported is taken to be the day when the offender first reported for the current reporting period.

38 Exception—offender in government custody

This division does not apply to a registrable offender in relation to a year if the offender is in government custody at the end of the offender's reporting month in that year.

Example

J first reported his personal details to the chief police officer on 14 October 2005. However, J is in government custody from 1 October 2006 to 1 November 2006. Because of this section, J does not have to report his details on or before 31 October 2006. However, when J leaves custody, he will have to report any change to his personal details (see s 56).

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

39 Exception—offender outside ACT

This division does not apply to a registrable offender in relation to a year if the offender is outside the ACT for the last 7 days of the offender's reporting month in that year.

Example

J first reported his personal details to the chief police officer on 14 October 2005. However, J is out of the ACT from 1 October 2006 to 1 November 2006. Because of this section, J does not have to report his details on or before 31 October 2006. However, J must report his intention to travel outside the ACT (see s 42) and, when J returns to the ACT for 7 days, he will have to report any change to his personal details (see s 55).

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

40 Exception—offender's reporting obligations suspended

This division does not apply to a registrable offender during any period when the offender's reporting obligations are suspended under section 97 (Supreme Court may make suspension order).

41 Exception—protected registrable offender

This division does not apply to a registrable offender if—

- (a) the offender is a protected registrable offender; and
- (b) the offender reports such of the information that the offender is required to report under this division as the chief police officer requires the offender to report; and
- (c) the offender makes the report when, where, and in a way, approved by the chief police officer.

Division 3.3.2 Reporting of travel

42 Offence—offender leaving ACT must report travel details

A registrable offender commits an offence if—

- (a) the offender leaves the ACT; and
- (b) the offender intends to travel—
 - (i) outside the ACT but within Australia for 7 or more consecutive days; or
 - (ii) outside Australia; and
- (c) the offender does not take all reasonable steps to report the following details (the *travel details*), in person, to the chief police officer at least 7 days before leaving:
 - (i) each State, Territory or foreign country where the offender intends to go while outside the ACT;
 - (ii) the approximate dates when the offender intends to be in each State, Territory or foreign country;
 - (iii) each address or location in each State Territory or foreign country where the offender intends to live (to the extent that they are known) and the approximate dates when the offender intends to live at the addresses or locations;
 - (iv) if the offender intends to return to the ACT—the approximate date when the offender intends to return;
 - (v) if the offender does not intend to return to the ACT—a statement of that intention; and

- (d) the offender's reporting period has not ended before the offender leaves the ACT.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

Note 1 A registrable offender reports in person at a place only if the offender reports by personally attending at the place (see dict, def *in person*). However, special provision has been made for young offenders and offenders with a disability (see s 65 and s 66).

Note 2 For approved ways of reporting, see s 63.

Note 3 In deciding whether a person took all reasonable steps to do something, a court must have regard to the person's age, any disability and whether the notice given to the person about the person's obligations was adequate to tell the person about the relevant obligation (see s 116).

43 Defence—impracticable to report 7 days before leaving

It is a defence to a prosecution of a registrable offender for an offence against section 42 if—

- (a) circumstances make it impracticable for the registrable offender to make the report at least 7 days before leaving the ACT; and
- (b) the offender makes the report at least 24 hours before leaving the ACT.

44 Offender not to be punished twice for failing to report travel

A registrable offender is not liable to be punished for an offence against section 42 in relation to travel if, in relation to the travel, the offender has been punished for failing to report the offender's presence in a foreign jurisdiction as required under a corresponding law.

45 Offence—offender outside ACT must report travel details

- (1) A registrable offender commits an offence if—
- (a) the offender is outside the ACT; and
 - (b) the offender decides to stay outside the ACT but within Australia for 7 or more days; and
 - (c) the offender does not take all reasonable steps to report the offender's travel details (including details about the travel that has already been completed) to the chief police officer, in a way required under subsection (2), within 7 days after the day the decision is made; and
 - (d) the offender's reporting period has not ended before the end of the period within which the report must be given.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

Note In deciding whether a person took all reasonable steps to do something, a court must have regard to the person's age, any disability and whether the notice given to the person about the person's obligations was adequate to tell the person about the relevant obligation (see s 116).

- (2) The registrable offender must make the report in 1 of the following ways:
- (a) by sending it by prepaid post, addressed as required by regulation;
 - (b) by faxing it to a fax number prescribed by regulation;
 - (c) by emailing to an email address prescribed by regulation;
 - (d) in another way prescribed by regulation.
- (3) In this section:

travel details, for travel by a registrable offender—see section 42 (c).

46 Offence—offender outside ACT must report change of travel details

- (1) A registrable offender commits an offence if—
- (a) the offender is outside the ACT; and
 - (b) the offender decides to change any of the travel details given to the chief police officer; and
 - (c) the offender does not take all reasonable steps to report the changed travel details to the chief police officer, in a way required under subsection (2), within 7 days after the day the decision is made; and
 - (d) the offender’s reporting period has not ended before the end of the period within which the report must be given.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

Note In deciding whether a person took all reasonable steps to do something, a court must have regard to the person’s age, any disability and whether the notice given to the person about the person’s obligations was adequate to tell the person about the relevant obligation (see s 116).

- (2) The registrable offender must make the report in 1 of the following ways:
- (a) by sending it by prepaid post, addressed as required by regulation;
 - (b) by faxing it to a fax number prescribed by regulation;
 - (c) by emailing to an email address prescribed by regulation;
 - (d) in another way prescribed by regulation.

- (3) In this section:

travel details, for travel by a registrable offender—see section 42 (c).

47 Offence—offender must report return to ACT

A registrable offender commits an offence if—

- (a) the offender reported the offender's travel details under section 42 (Offence—offender leaving ACT must report travel details); and
- (b) the offender leaves the ACT; and
- (c) the offender returns to the ACT, and remains in the ACT for 7 consecutive days (excluding days in government custody); and
- (d) the offender does not take all reasonable steps to report the offender's return to the ACT to the chief police officer, in an approved way, within the 7 days; and
- (e) the offender's reporting period has not ended before the end of the 7 days.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

Note 1 For approved ways of reporting, see s 63. Special provision is made for young offenders and offenders with a disability (see s 65 and s 66).

Note 2 In deciding whether a person took all reasonable steps to do something, a court must have regard to the person's age, any disability and whether the notice given to the person about the person's obligations was adequate to tell the person about the relevant obligation (see s 116).

48 Offence—offender must report decision not to leave ACT

A registrable offender commits an offence if—

- (a) the offender reported the offender's travel details under section 42 (Offence—offender leaving ACT must report travel details) in relation to a proposed departure from the ACT; and
- (b) the offender later decides not to leave the ACT; and

- (c) the offender does not take all reasonable steps to report the change of decision to the chief police officer, in an approved way, within 7 days after the day the offender decides not to leave; and
- (d) the offender's reporting period has not ended before the end of the 7 days.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

Note 1 For approved ways of reporting, see s 63. Special provision is made for young offenders and offenders with a disability (see s 65 and s 66).

Note 2 In deciding whether a person took all reasonable steps to do something, a court must have regard to the person's age, any disability and whether the notice given to the person about the person's obligations was adequate to tell the person about the relevant obligation (see s 116).

49 Offence—offender must report regular travel

A registrable offender commits an offence if—

- (a) the offender is required to make a report under a reporting offence provision; and
- (b) the offender when making the report, intends to travel outside the ACT, but within Australia, on an average of at least once a month (irrespective of the length of the absence); and
- (c) the offender does not take all reasonable steps to report the frequency and destinations of the travel, in general terms, to the chief police officer in an approved way.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

Note 1 **Reporting offence provision** is defined in s 20.

Note 2 For approved ways of reporting, see s 63. Special provision is made for young offenders and offenders with a disability (see s 65 and s 66).

Note 3 In deciding whether a person took all reasonable steps to do something, a court must have regard to the person's age, any disability and whether the notice given to the person about the person's obligations was adequate to tell the person about the relevant obligation (see s 116).

50 Application to protected registrable offender

This division applies to a protected registrable offender as if a reference to the *ACT* were a reference to the jurisdiction where the protected registrable offender generally lives.

51 Exception—protected registrable offender

This division does not apply to a registrable offender if—

- (a) the offender is a protected registrable offender; and
- (b) the offender reports such of the information that the offender is required to report under this division as the chief police officer requires the offender to report; and
- (c) the offender makes the report when, where, and in a way, approved by the chief police officer.

52 Exception—offender in government custody

This division does not apply to a registrable offender in relation to a report if the offender is in government custody when the report is required to be made.

53 Exception—offender's reporting obligations suspended

This division does not apply to a registrable offender during any period when the offender's reporting obligations are suspended under section 97 (Supreme Court may make suspension order).

Division 3.3.3 Other reporting

54 Offence—offender in ACT must report change of details

- (1) A registrable offender commits an offence if—
- (a) any of the offender’s personal details change while the offender is in the ACT; and
 - (b) the offender does not take all reasonable steps to report the change to the chief police officer, in the way required under subsection (2), within 7 days after the day the change happens (excluding days in government custody); and
 - (c) the offender’s reporting period has not ended before the end of the 7 days.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

Note 1 For the offender’s personal details, see s 59.

Note 2 In deciding whether a person took all reasonable steps to do something, a court must have regard to the person’s age, any disability and whether the notice given to the person about the person’s obligations was adequate to tell the person about the relevant obligation (see s 116).

- (2) The registrable offender must report the change—
- (a) in person, at an approved reporting place, if the report is about a change in relation to—
 - (i) the address of any of the premises where the offender generally lives or, if the offender does not generally live at a particular premises, the name of any of the localities where the offender can generally be found; or
 - (ii) details of any tattoo or permanent distinguishing mark that the offender has (including details of a tattoo or mark that has been acquired or removed); or

(b) for any other change—in an approved way.

Note 1 The personal details in s (2) (a) (i) and (ii) are required under s 59 (d) and (i).

Note 2 A registrable offender reports in person at a place only if the offender reports by personally attending at the place (see dict, def *in person*). However, special provision has been made for young offenders and offenders with a disability (see s 65 and s 66).

Note 3 For approved reporting places, see s 64.

Note 4 For approved ways of reporting, see s 63.

(3) A change happens in the following personal details only at the end of the relevant 7-day period mentioned in section 60:

- (a) the premises where the offender generally lives;
- (b) the household in which the offender and a child generally live;
- (c) when the offender has unsupervised contact with a child;
- (d) the premises where the offender is generally employed;
- (e) the motor vehicle that the offender generally drives.

55 Offence—offender returning to ACT must report change of details

- (1) A registrable offender commits an offence if—
- (a) any of the offender’s personal details change while the offender is outside the ACT; and
 - (b) the offender enters the ACT, and remains in the ACT for 7 or more consecutive days (excluding days in government custody); and
 - (c) the offender does not take all reasonable steps to report the change to the chief police officer, in the way required under subsection (2), within 7 days after the day the offender has been in the ACT for 7 consecutive days (excluding days in government custody); and

- (d) the offender's reporting period has not ended before the end of the period within which the report must be given.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

Note 1 For the offender's personal details, see s 59.

Note 2 In deciding whether a person took all reasonable steps to do something, a court must have regard to the person's age, any disability and whether the notice given to the person about the person's obligations was adequate to tell the person about the relevant obligation (see s 116).

- (2) The registrable offender must report the change—
- (a) in person, at an approved reporting place, if the report is about a change in relation to—
- (i) the address of any of the premises where the offender generally lives or, if the offender does not generally live at a particular premises, the name of any of the localities where the offender can generally be found; or
- (ii) details of any tattoo or permanent distinguishing mark that the offender has (including details of a tattoo or mark that has been acquired or removed); or
- (b) for any other change—in an approved way.

Note 1 The personal details in s (2) (a) (i) and (ii) are required under s 59 (d) and (i).

Note 2 A registrable offender reports in person at a place only if the offender reports by personally attending at the place (see dict, def *in person*). However, special provision has been made for young offenders and offenders with a disability (see s 65 and s 66).

Note 3 For approved reporting places, see s 64.

Note 4 For approved ways of reporting, see s 63.

56 Offence—offender leaving custody must report

- (1) A registrable offender commits an offence if—

- (a) the offender is in government custody for 7 or more consecutive days; and
- (b) the offender leaves government custody in the ACT; and
- (c) the offender does not take all reasonable steps to report the offender's personal details, in person, to the chief police officer at an approved reporting place—
 - (i) within 7 days after the day the offender stops being in government custody in the ACT (excluding days in government custody); or
 - (ii) if the offender leaves the ACT (other than in government custody) within the 7 days mentioned in subparagraph (i)—before leaving the ACT; and
- (d) the offender's reporting period has not ended before the end of the period within which the report must be given.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

Note 1 For the offender's personal details, see s 59.

Note 2 A registrable offender reports in person at a place only if the offender reports by personally attending at the place (see dict, def *in person*). However, special provision has been made for young offenders and offenders with a disability (see s 65 and s 66).

Note 3 For approved reporting places, see s 64.

Note 4 In deciding whether a person took all reasonable steps to do something, a court must have regard to the person's age, any disability and whether the notice given to the person about the person's obligations was adequate to tell the person about the relevant obligation (see s 116).

57 Exception—offender's reporting obligations suspended

This division does not apply to a registrable offender during any period when the offender's reporting obligations are suspended under section 97 (Supreme Court may make suspension order).

58 Exception—protected registrable offender

- (1) Section 54 and section 56 do not apply to a registrable offender if—
 - (a) the offender is a protected registrable offender; and
 - (b) the offender reports such of the information that the offender is required to report under this division as the chief police officer requires the offender to report; and
 - (c) the offender makes the report when, where, and in a way, approved by the chief police officer.
- (2) Section 55 does not apply to a registrable offender if the offender is a protected registrable offender.

Part 3.4 Provisions applying to all reports

Division 3.4.1 What information is to be reported

59 What are *personal details*?

In this Act:

personal details, for a registrable offender, means the following:

- (a) the offender's name, together with any other name by which the offender is, or has previously been, known;
- (b) for each name other than the offender's current name—the period when the offender was known by the other name;
- (c) the offender's date of birth;
- (d) the address of each of the premises where the offender generally lives or, if the offender does not generally live at any particular premises, the name of each of the localities where the offender can generally be found;

Note A registrable offender generally lives at particular premises only if the offender lives at the premises for at least 7 days (whether or not consecutive) in a period of 12 months (see s 60 (a)).

- (e) the names and ages of children—
 - (i) who generally live in the same household as the offender;
or
 - (ii) with whom the offender has regular unsupervised contact;

Note 1 A child generally lives in the same household as a registrable offender only if they live together in the household for at least 7 days (whether or not consecutive) in a period of 12 months (see s 60 (b)).

Note 2 A registrable offender has regular unsupervised contact with a child only if the offender has unsupervised contact with the child

for at least 7 days (whether or not consecutive) in a period of 12 months (see s 60 (c)).

- (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 where the offender is generally employed or, if the offender is not generally employed at any particular premises, the name of each of the localities where the offender is generally employed;

Note A registrable offender is generally employed at particular premises only if the offender is employed at the premises for at least 7 days (whether or not consecutive) in a period of 12 months (see s 60 (d)). Employment is also dealt with in s 61.

- (g) details of the offender’s affiliation with any club or organisation that has child membership or child participation in its activities;
- (h) the make, model, colour, registration number, and any other particulars prescribed by regulation, of a motor vehicle owned by, or generally driven by, the offender;

Note A registrable offender generally drives a particular motor vehicle only if the offender drives the vehicle on at least 7 days (whether or not consecutive) in a period of 12 months (see s 60 (e)).

- (i) details of any tattoo or permanent distinguishing mark that the offender has (including details of a tattoo or mark that has been acquired or removed);
- (j) if the offender has ever been found guilty of a corresponding registrable offence—details of—
- (i) the offence; and
 - (ii) when and where the finding of guilt happened; and

- (iii) any order made by a court in relation to the finding of guilt;
- (k) if the offender has ever been found guilty under a corresponding law of an offence that required the offender to report to a corresponding registrar—details of—
 - (i) the offence; and
 - (ii) when and where the finding of guilt happened; and
 - (iii) any order made by a court in relation to the finding of guilt;
- (l) if the offender has ever been subject to a corresponding child sex offender registration order—details of—
 - (i) the order; and
 - (ii) when and where the order was made; and
 - (iii) the offence because of which the order was made;
- (m) if the offender has been in government custody since the offender was sentenced or released from government custody (as the case may be) for a registrable offence or corresponding registrable offence—details of when and where the government custody happened;
- (n) if, when making the report, the offender intends to travel outside the ACT, but within Australia, on an average of at least once a month (irrespective of the length of the absence)—in general terms, the frequency and destinations of the travel.

60 Meaning of some concepts in s 59

For section 59—

- (a) a registrable offender generally lives at particular premises only if the offender lives at the premises for at least 7 days (whether or not consecutive) in a period of 12 months; and

- (b) a child generally lives in the same household as a registrable offender only if they live together in the household for at least 7 days (whether or not consecutive) in a period of 12 months; and
- (c) a registrable offender has regular unsupervised contact with a child only if the offender has unsupervised contact with the child for at least 7 days (whether or not consecutive) in a period of 12 months; and
- (d) a registrable offender is generally employed at particular premises only if the offender is employed at the premises for at least 7 days (whether or not consecutive) in a period of 12 months; and
- (e) a registrable offender generally drives a particular motor vehicle only if the offender drives the vehicle on at least 7 days (whether or not consecutive) in a period of 12 months.

61 Meaning of employment in s 59

- (1) For section 59, a registrable offender is employed if the offender—
 - (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 another capacity for a religious organisation.
- (2) For section 59, a person is an employer if the person—
 - (a) arranges, in the course of business, for the registrable offender to be employed by someone else; or

(b) engages the offender under contract to carry out work.

62 Application of s 59 to protected registrable offender

Section 59 applies to a protected registrable offender as if a reference to the *ACT* were a reference to the jurisdiction where the offender generally lives.

Division 3.4.2 How report is to be made

63 How is a report made in an *approved way*?

For this Act, a registrable offender makes a report in an *approved way* if the offender makes the report—

- (a) in person; or
- (b) in another way prescribed by regulation.

Note A registrable offender reports in person at a place only if the offender reports by personally attending at the place (see dict, def *in person*).

64 Where are *approved reporting places*?

In this Act:

approved reporting place, for a registrable offender, means—

- (a) if a direction is given to the offender under a regulation about a police station where the report is to be made—at the police station directed; or
- (b) at another place prescribed by regulation.

65 Reports by young offenders

- (1) A registrable offender is taken to have made a report in person if—
 - (a) the offender is a young person; and

- (b) 1 of the following people makes the report, in person, for the offender:
 - (i) a person with parental responsibility for the offender; or
 - (ii) if a person with parental responsibility for the offender is unavailable, or is unacceptable to the offender—someone else (other than a police officer) who can represent the interests of the offender and who is, as far as is practicable in the circumstances, acceptable to the offender; and
 - (c) the offender accompanies the person when the person makes the report.
- (2) A registrable offender is taken to have made a report in another way if—
- (a) the offender is a young person; and
 - (b) 1 of the following people makes the report in that way for the offender:
 - (i) a person with parental responsibility for the offender; or
 - (ii) if a person with parental responsibility for the offender is unavailable, or is unacceptable to the—someone else (other than a police officer) who can represent the interests of the offender and who is, as far as is practicable in the circumstances, acceptable to the offender.

66 Reports by offenders with disability

- (1) A registrable offender is taken to have made a report in person if—
 - (a) the offender has a disability that makes it impracticable for the offender to make a report in person; and

- (b) 1 of the following people makes the report, in person, for the offender:
 - (i) the offender's parent or guardian;
 - (ii) the offender's carer;
 - (iii) someone else nominated by the offender; and
 - (c) the offender accompanies the person when the person makes the report (unless the offender's disability makes it impracticable).
- (2) A registrable offender is taken to have made a report in another way if—
- (a) the registrable offender has a disability that makes it impracticable for the offender to make a report in that way; and
 - (b) 1 of the following people makes the report in that way for the offender:
 - (i) the offender's parent or guardian;
 - (ii) the offender's carer;
 - (iii) someone else nominated by the offender.

67 Regulation about reports not made in person

For a report made otherwise than in person, a regulation may prescribe—

- (a) when information about the identity of the person making the report is required; and
- (b) when a document verifying or supporting details in the report is required; and
- (c) how the information mentioned in paragraph (a) or a document mentioned in paragraph (b) is to be provided.

68 Police officers who may receive reports

Only a police officer approved for the purpose by the chief police officer may receive a report made under this chapter.

69 Police officer receiving report may arrange interpreter

- (1) A police officer receiving a report under this chapter may arrange for an interpreter to be available.
- (2) A police officer receiving the report may allow an interpreter to be present only if the interpreter has signed an undertaking not to disclose information derived from the report unless required or authorised by law.

Division 3.4.3 Additional provisions for reports made in person

70 Offence—offender reporting in person must provide identification etc

A registrable offender commits an offence if—

- (a) the offender is required to make a report in person under a reporting offence provision; and
- (b) the offender makes the report in person, or accompanies someone else who makes the report in person for the offender; and
- (c) the offender or other person does not take all reasonable steps to—
 - (i) present for inspection the offender’s Australian driver licence (if any) or another form of identification, or other document, prescribed by regulation to verify or support details in the report; and

- (ii) provide a photograph of the offender's head and face of a kind suitable for use in an Australian passport.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

Note In deciding whether a person took all reasonable steps to do something, a court must have regard to the person's age, any disability and whether the notice given to the person about the person's obligations was adequate to tell the person about the relevant obligation (see s 116).

71 Offence—person reporting in person for offender must provide identification

A person commits an offence if—

- (a) an offender is required to make a report in person under a reporting offence provision; and
- (b) the person makes the report, in person, for the offender; and
- (c) the person does not take all reasonable steps to present for inspection the person's Australian driver licence (if any) or another form of identification, or other document, prescribed by regulation for this section.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

Note 1 A person may make a report for an offender if the offender is a young person or has a disability that makes it impracticable for the offender to make a report in person (see s 65 and s 66).

Note 2 In deciding whether a person took all reasonable steps to do something, a court must have regard to the person's age, any disability and whether the notice given to the person about the person's obligations was adequate to tell the person about the relevant obligation (see s 116).

72 Identification documents may be copied

A police officer receiving a report under this chapter may copy a document presented to the police officer for inspection under section 70 or section 71.

73 Right to privacy when reporting in person

A person making a report under this chapter in person is entitled to make the report outside the hearing of members of the public.

74 Right to have support person when reporting in person

- (1) A person making a report under this chapter in person is entitled to be accompanied by a support person of the person's own choosing.
- (2) A young person making a report under this chapter in person must be accompanied by—
 - (a) a person with parental responsibility for the young person; or
 - (b) if a person with parental responsibility for the young person is unavailable, or is unacceptable to the young person—someone else (other than a police officer) who can represent the interests of the young person and who is, as far as is practicable in the circumstances, acceptable to the young person.

75 Offender reporting in person may be fingerprinted to confirm identity

- (1) A police officer receiving a report made in person under this chapter may take, or may authorise someone else to take, the fingerprints of the registrable offender if the police officer—
 - (a) has examined all the material relating to identity provided or presented by, or for, the offender; but
 - (b) is not satisfied on reasonable grounds about the identity of the offender.

- (2) A young person's fingerprints may only be taken in the presence of—
- (a) a person with parental responsibility for the young person; or
 - (b) if a person with parental responsibility for the young person is unavailable, or is unacceptable to the young person—someone else (other than a police officer) who can represent the interests of the young person and who is, as far as is practicable in the circumstances, acceptable to the young person.
- (3) To remove any doubt, subsection (2) does not limit the people who may be present.
- (4) This section does not apply to a young person who is under 16 years old.

76 Offender to be told why fingerprints needed

Before a registrable offender's fingerprints are taken under section 75, the police officer must tell the offender, in language likely to be understood by the offender—

- (a) why the fingerprints are to be taken and why the police officer is not satisfied about the offender's identity; and
- (b) that it is an offence for the offender to fail to take all reasonable steps to allow the offender's fingerprints to be taken; and
- (c) that the fingerprints will be kept by the chief police officer.

77 Offence—offender must allow fingerprinting

A registrable offender commits an offence if—

- (a) a police officer receiving a report decides, under section 75, to take, or authorise someone else to take, the fingerprints of the offender; and

- (b) the offender fails to take all reasonable steps to allow the offender's fingerprints to be taken.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

78 Offender reporting in person may be photographed

- (1) A police officer receiving a report made in person by or for a registrable offender under this chapter may, with the offender's consent, arrange for the offender to be photographed.
- (2) If the offender consents to being photographed, the police officer must ask the offender to sign a written acknowledgment (an *acknowledgment of consent*) stating—
 - (a) that the offender was told that consent may be refused; and
 - (b) that the offender consented to being photographed; and
 - (c) the time and date when consent was given.
- (3) If the offender signs an acknowledgment of consent, the police officer must immediately give a copy to the offender.
- (4) A court must find that the offender did not consent to being photographed if—
 - (a) the question of whether the offender consented to being photographed arises in a proceeding in the court; and
 - (b) an acknowledgment of consent for the photography is not produced in evidence; and
 - (c) it is not proved that the offender consented to being photographed.
- (5) A police officer cannot, under this section, ask a registrable offender who is to be photographed to expose for that purpose—
 - (a) the offender's genitals; or

- (b) the anal area of the offender's buttocks; or
- (c) if the offender is female, or a transgender or intersex person who identifies as female—the offender's breasts.

Note **Transgender person** is defined in the Legislation Act, s 169A.
Intersex person is defined in the Legislation Act, s 169B.

79 Right to privacy when being photographed

- (1) A photograph taken under section 78 must be taken—
 - (a) in a place where no members of the public are present; and
 - (b) by a person of the same sex as the registrable offender.
- (2) A police officer present in a place while a photograph is being taken under this section must be of the same sex as the registrable offender.
- (3) If the offender is a transgender or intersex person who identifies as female, the offender is taken to be female for this section.
- (4) If the offender is a transgender or intersex person who identifies as male, the offender is taken to be male for this section.

80 Right to have support person when being photographed

- (1) A registrable offender to be photographed under section 78 is entitled to be accompanied by a support person of the offender's choosing.
- (2) A young person to be photographed under section 78 must be accompanied by—
 - (a) a person with parental responsibility for the young person; or
 - (b) if a person with parental responsibility for the young person is unavailable, or is unacceptable to the young person—someone else (other than a police officer) who can represent the interests of the young person and who is, as far as is practicable in the circumstances, acceptable to the young person.

Division 3.4.4 Report to be acknowledged

81 Receipt of report to be acknowledged

- (1) A police officer who receives a report under this chapter must acknowledge the making of the report as soon as practicable, but no later than 14 days after the day the police officer receives the report.
- (2) The acknowledgment must—
 - (a) be in writing; and
 - (b) be given to the person who made the report; and
 - (c) include the name and signature of the police officer who received the report; and
 - (d) state how the report was made; and
 - (e) state the date and time when the report was received; and
 - (f) if the report was made in person—state the place where the report was made; and
 - (g) include a copy of the information reported.
- (3) The chief police officer must ensure that a copy of every acknowledgment is kept.

Division 3.4.5 Keeping material for certain purposes

82 Documents, fingerprints, photographs may be kept

- (1) The chief police officer may, during a registrable offender's reporting period, keep for law enforcement, crime prevention or child protection purposes any of the following taken under this part from, or in relation to, the offender:
 - (a) copies of documents;
 - (b) fingerprints;

- (c) photographs.
- (2) At the end of the registrable offender's reporting period, the chief police officer must ensure that any item that is being kept under subsection (1) is destroyed.

Part 3.5 Reporting period

83 When reporting period begins

A registrable offender's reporting period for a registrable offence begins at the later of the following times:

- (a) when the offender is sentenced for the offence;
- (b) when the offender stops being in government custody for the offence.

84 Reporting period—single class 1 offence—15 years

If the only registrable offence that a registrable offender has ever been found guilty of is a single class 1 offence, the offender's reporting period is 15 years.

85 Reporting period—single class 2 offence—8 years

If the only registrable offence that a registrable offender has ever been found guilty of is a single class 2 offence, the offender's reporting period is 8 years.

86 Reporting period—2 class 2 offences—15 years

If the only registrable offences that a registrable offender has ever been found guilty of are 2 class 2 offences, the offender's reporting period is 15 years.

87 Reporting period—multiple offences—life

- (1) If a registrable offender has been found guilty of 2 registrable offences and 1 or both of the offences is a class 1 offence, the registrable offender's reporting period is the rest of the offender's life.

- (2) If a registrable offender has been found guilty of more than 2 registrable offences, the offender's reporting period is the rest of the offender's life.

Note A life-long reporting obligation may be suspended under s 97 (Supreme Court may make suspension order).

88 Offences committed before commencement of Act used to work out length of reporting period

A reference to an offence in any of the following sections includes an offence committed before the commencement of the section:

- (a) section 84 (Reporting period—single class 1 offence—15 years);
- (b) section 85 (Reporting period—single class 2 offence—8 years);
- (c) section 86 (Reporting period—2 class 2 offences—15 years);
- (d) section 87 (Reporting period—multiple offences—life).

89 Reduced reporting period for young offenders

- (1) If a registrable offender was a young person when the offender committed each registrable offence, the offender's reporting period is 7¹/₂ years.
- (2) However, if the only registrable offence that the offender has ever been found guilty of is a single class 2 offence, the offender's reporting period is 4 years.

90 Offences arising from same incident taken as 1 offence

- (1) For this part, 2 or more offences arising from the same incident are to be treated as a single offence.

- (2) For this part, 2 or more offences arising from the same incident are to be treated as a single class 1 offence if 1 or more of the offences is a class 1 offence.

Note Offences arise from the *same incident* only if they are committed within a single period of 24 hours and are committed against the same person (see dict, def *same incident*).

91 Reporting period for person subject to child sex offender registration order

For this part, if a court makes a child sex offender registration order in relation to a person for an offence, the person is taken to be a registrable offender found guilty of a class 2 offence.

Note A court may make a child sex offender registration order if a person is found guilty of an offence that is not a class 1 or class 2 offence and the court is satisfied that the person poses a risk to the sexual safety of 1 or more people or of the community (see s 15).

92 Extended reporting period for offenders on parole

- (1) This section applies if—
- (a) a registrable offender is on parole for a registrable offence; and
 - (b) the reporting period for the offence will end before the end of the term of the sentence of imprisonment to which the parole relates.
- (2) Despite anything in this part, the registrable offender's reporting period is extended until the end of the term of imprisonment to which the parole relates.

93 Extended reporting period for offender in custody

If a registrable offender spends time in government custody, the offender's reporting period is extended by the length of time the offender is in custody.

94 Reporting period for prescribed corresponding offenders

- (1) Despite anything in this part, a prescribed corresponding offender's reporting period is the recognised foreign reporting period mentioned in section 11 (b) (Who is a *prescribed corresponding offender*?) for the offender.
- (2) If the prescribed corresponding offender is a prescribed corresponding offender under a law of more than 1 foreign jurisdiction, the offender's reporting period is the longest recognised foreign reporting period.

Part 3.6 Suspension of reporting obligations

95 Pt 3.6 only applies to offender with life-long reporting period

This part applies only to a registrable offender whose reporting period under part 3.5 (Reporting periods) is the rest of the offender's life.

96 Eligibility of offender to apply for suspension order

A registrable offender is eligible to apply for an order suspending the offender's reporting obligations (a *suspension order*) only if—

- (a) 15 years have passed (excluding days in government custody) since the offender was last sentenced or released from government custody for a registrable offence or a corresponding registrable offence, whichever is later; and
- (b) the offender did not become the subject of a life-long reporting period under a corresponding law while in a foreign jurisdiction before becoming the subject of a life-long reporting period in the ACT; and
- (c) the offender is not on parole for a registrable offence.

97 Supreme Court may make suspension order

- (1) This section applies if a registrable offender is eligible to apply for a suspension order.
- (2) On application by the offender, the Supreme Court may make a suspension order.
- (3) The court may make the order only if satisfied that the registrable offender does not pose a risk to the sexual safety of 1 or more people or of the community.

- (4) In deciding whether to make the order, the court must take into account—
- (a) the seriousness of the offender’s registrable offences and corresponding registrable offences; and
 - (b) the period of time since the offences were committed; and
 - (c) the age of the offender, the age of the victims of the offences, and the difference in age between the offender and the victims of the offences, when the offences were committed; and
 - (d) the offender’s present age; and
 - (e) the offender’s total criminal record.
- (5) Subsection (4) does not limit the matters the court may take into account.

98 Chief police officer is party to application

The chief police officer is a party to an application for a suspension order and may make submissions to the Supreme Court in relation to the application.

99 No costs to be awarded for suspension order application

The Supreme Court may not award costs for a proceeding under this part.

100 Unsuccessful applicant cannot reapply for 5 years

If the Supreme Court refuses to make a suspension order in relation to a registrable offender, the offender is not eligible to reapply for a suspension order for 5 years after the day of the refusal, unless the court otherwise orders when refusing to make the order.

Note However, this section does not apply if a suspension order ceases to have effect under s 101 (1) (see s 102).

101 Suspension order ceases if offender reoffends

- (1) A suspension order made for a registrable offender ceases to have effect if, after the order is made, the offender—
 - (a) is found guilty of a registrable offence; or
 - (b) is made the subject of a child sex offender registration order; or
 - (c) becomes a prescribed corresponding offender.

Note If an offender's reporting obligations are suspended and the suspension order ceases to have effect, the offender must report the offender's personal details to the chief police officer at an approved reporting place within the time stated in s 30 (Offence—offender whose reporting suspension ceases must report).

- (2) A suspension order that has ceased to have effect under subsection (1) is revived if—
 - (a) the finding of guilt because of which the order ceased to have effect is quashed or set aside by a court; or
 - (b) the order ceased to have effect under subsection (1) (b) and the child sex offender registration order is quashed on appeal or the registrable offender's finding of guilt for the offence because of which the child sex offender registration order is made is quashed or set aside by a court.
- (3) For this section, it is irrelevant whether or not a registrable offender may begin, or has begun, an appeal in relation to a finding of guilt or a child sex offender registration order.

102 Application for new suspension order

- (1) If a suspension order made for a registrable offender ceases to have effect under section 101 (1), the offender may apply for a new order.
- (2) Section 100 (Unsuccessful applicant cannot reapply for 5 years) does not apply to the application.

- (3) If a suspension order made for a registrable offender ceases to have effect under section 101 (1) (b) or (c), and the offender applies for a new suspension order, section 96 (a) (Eligibility for offender to apply for suspension order) applies as if the 15-year period mentioned were a period of 15 years (excluding days in government custody) since the registrable offender last committed a registrable offence or a corresponding registrable offence.

Part 3.7 Notice of reporting obligations

103 What is a *reporting obligations notice*?

In this Act:

reporting obligations notice, for a registrable offender, means a written notice stating—

- (a) the offender's reporting obligations; and
- (b) the consequences that may arise if the offender does not take all reasonable steps to comply with the obligations.

104 Reporting obligations notice to be given when person becomes registrable offender

- (1) An entity prescribed by regulation for this section must give a registrable offender a reporting obligations notice as soon as practicable, but no later than 14 days after the day any of the following events happen:
 - (a) the offender is sentenced for a registrable offence;
 - (b) the offender is released from government custody (whether or not the person was in government custody for a registrable offence);
 - (c) the offender enters the ACT, and remains in the ACT for 7 days, if the offender has not previously been given notice of the offender's reporting obligations in the ACT;
 - (d) the offender becomes a prescribed corresponding offender, if the offender is in the ACT at the time.
- (2) An entity is not required to give a reporting obligations notice if the notice has been given by someone else.

- (3) Despite anything in this part, a regulation may provide that a reporting obligations notice is not required to state the registrable offender's reporting period if the regulation requires a notice containing that information to be given when the offender reports the offender's personal details in person under this chapter.

105 Reporting obligations notice may be given at any time

The chief police officer may, at any time, give a registrable offender a reporting obligations notice.

106 Courts to provide sentencing information to chief police officer

- (1) This section applies if a court—
- (a) makes a order or imposes a sentence that has the effect of making a person a registrable offender for this Act; or
 - (b) imposes a sentence on a person in relation to a registrable offence; or
 - (c) makes a order in relation to a registrable offender that has the effect of removing the person from the ambit of this Act.

Example for par (c)

a court on appeal quashes a finding of guilt in relation to a registrable offence for which a person had been sentenced and the offence was the only registrable offence for which the person had ever been found guilty

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) The court must give the chief police officer written notice of the order or sentence as soon as practicable.
- (3) In this section:
- court* does not include a court of a foreign jurisdiction.

107 Chief police officer must tell offender if reporting period changes

- (1) This section applies to a registrable offender whose reporting period has changed since the offender was last told of the offender's reporting period in the ACT.
- (2) The chief police officer must give written notice to the registrable offender as soon as practicable after the change, and in no case later than the time the offender next reports under this Act.

108 Supervising authority to tell chief police officer of certain events

- (1) This section applies if a registrable offender—
 - (a) stops being in government custody, irrespective of the reason the offender was in custody; or
 - (b) stops being subject to a community service order, irrespective of the reason the offender was subject to the order; or
 - (c) stops being subject to a good behaviour order under the *Crimes (Sentencing) Act 2005*; or

Note An order under the *Crimes Act 1900*, s 403 (1) (a) (Conditional release of offenders) (repealed) is taken to be a good behaviour order under the *Crimes (Sentencing) Act 2005* (see *Crimes (Sentence Administration) Act 2005*, s 337).

- (d) stops being subject to a condition of parole requiring the offender to be subject to supervision, irrespective of the reason the offender was on parole; or
 - (e) becomes a registrable offender prescribed by regulation for this section.
- (2) The supervising authority must give written notice of an event mentioned in subsection (1) to the chief police officer as soon as practicable, but no later than 14 days after the day the event happens.

- (3) The notice must include any details prescribed by regulation.
- (4) The following provisions expire on 3 June 2011:
 - (a) subsection (1) (c) note;
 - (b) dictionary, definition of *community service order*, paragraph (a) note;
 - (c) this subsection.

109 Procedural defects do not affect offender's obligations

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

Part 3.8 Protected witnesses

110 Who is a *protected registrable offender*?

- (1) A person is a *protected registrable offender* if the person is—
 - (a) a registrable offender who is—
 - (i) a participant in the witness protection program; or
 - (ii) the subject of a protected registrable offender declaration in force under this part; or
 - (b) a foreign protected witness.
- (2) In this section:

foreign protected witness means a person who—

- (a) is receiving protection under a law of a foreign jurisdiction that—
 - (i) provides for the protection of witnesses; and
 - (ii) is prescribed by regulation for this subsection; or
- (b) has the same status under a corresponding law as a person mentioned in paragraph (a).

111 Protected and unprotected registrable offender declarations

- (1) If a registrable offender is a participant in the witness protection program and stops being a participant in the program, the chief police officer must declare that the offender is either—
 - (a) a protected registrable offender (a *protected registrable offender declaration*); or
 - (b) not a protected registrable offender (an *unprotected registrable offender declaration*).

- (2) The chief police officer must take all reasonable steps to tell the registrable offender about the declaration.

112 Review of unprotected registrable offender declaration

- (1) Within 28 days after the registrable offender is told about the making of an unprotected registrable offender declaration, the offender may apply in writing to the chief police officer for review of the declaration.
- (2) On receiving an application for a review, the chief police officer must review the declaration, and confirm or reverse it.
- (3) Before making a decision on the application, the chief police officer must give the registrable offender a reasonable opportunity to state the offender's case.
- (4) After deciding the application, the chief police officer must give an internal review notice to the registrable offender.

Note 1 The requirements for internal review notices are prescribed under the *ACT Civil and Administrative Tribunal Act 2008*.

Note 2 **Internal review notice**—see the *ACT Civil and Administrative Tribunal Act 2008*, section 67B (1).

113 Chief police officer must tell offender about ACAT review

- (1) If the chief police officer confirms an unprotected registrable offender declaration under section 112 (2), the chief police officer must give the offender a reviewable decision notice in relation to the decision.

Note The requirements for reviewable decision notices are prescribed under the *ACT Civil and Administrative Tribunal Act 2008*.

- (2) To remove any doubt, for the *ACT Civil and Administrative Tribunal Act 2008*, section 67A (Reviewable decision notice), the offender is taken to be the only person whose interests are affected by the decision.

114 ACAT review of chief police officer's decision

A registrable offender may apply to the ACAT for review of a decision under section 112 (2) by the chief police officer to confirm an unprotected registrable offender declaration.

115 When protected and unprotected registrable offender declarations take effect

- (1) A protected registrable offender declaration takes effect immediately.
- (2) An unprotected registrable offender declaration made for a registrable offender takes effect on the later of the following days:
 - (a) at the end of 28 days after the day the offender is told about the making of the declaration;
 - (b) if the offender applies to the chief police officer for review of the declaration under section 112 (1)—at the end of 7 days after the day notice of the decision on the review is given to the offender under section 112 (4);
 - (c) if the offender applies to the ACAT under section 114 for review of the confirmation of an unprotected registrable offender declaration—on the day the ACAT decides the appeal.

Part 3.9 Reasonable steps to comply with reporting obligations

116 How court decides if person took all reasonable steps to comply with reporting obligations

- (1) In deciding whether a person took all reasonable steps to comply with a reporting obligation imposed on a person by a reporting offence, the court hearing the proceeding must have regard to—
 - (a) the person's age; and
 - (b) whether the person has a disability that affects the person's ability to understand, or to comply with, the obligation; and
 - (c) whether the form of notice given to the person about the person's obligations under this Act was adequate to tell the person about the obligation, having regard to the person's circumstances.
- (2) Subsection (1) does not limit the matters to which the court may have regard.

Chapter 4 Child sex offenders register

117 Establishment of child sex offenders register

- (1) The chief police officer must establish a register of sex offenders (the *child sex offenders register*), or arrange for another entity to establish the child sex offenders register.
- (2) The child sex offenders register must contain the following information about each registrable offender (to the extent that it is known by the chief police officer):
 - (a) the offender's name and other identifying particulars;
 - (b) details of each class 1 and class 2 offence of which the offender has been found guilty or with which the offender has been charged;
 - (c) details of each offence of which the offender has been found guilty that resulted in the making of a child sex offender registration order;
 - (d) the date the offender was sentenced for each registrable offence;
 - (e) the date the offender ceased to be in government custody for a registrable offence, or entered or ceased to be in government custody for a offence during the offender's reporting period;
 - (f) any information reported for the offender under chapter 3 (Reporting).
- (3) The child sex offenders register may also contain any other information that the chief police officer considers appropriate.

118 Access to child sex offenders register restricted

- (1) The chief police officer must ensure—
 - (a) that the child sex offenders register, or a part of the register, is only accessed by people who are authorised by the chief police officer or under a regulation; and
 - (b) that personal information in the child sex offenders register is only disclosed by a person with access to the register, or the relevant part of the register—
 - (i) for law enforcement functions or activities and then only to an entity prescribed by regulation; or
 - (ii) as otherwise required or authorised by a regulation or under an Act or other law.
- (2) The chief police officer must develop guidelines about access to, and disclosure of, personal information in the child sex offenders register to ensure that access to the personal information in the register is restricted to the greatest extent that is possible without interfering with the purpose of this Act.
- (3) For this section, the child sex offenders register includes information from a register maintained under a corresponding law that is accessible by the chief police officer, whether or not the information is physically part of the register.
- (4) This section has effect despite any other Act or law to the contrary.

119 Access to information about protected witnesses restricted

- (1) The chief police officer must ensure that personal information in the child sex offenders register about a protected registrable offender cannot be accessed other than by a person authorised by the police officer or officer of an approved authority responsible for the day-to-day operation of the witness protection program.

- (2) For this section:

approved authority—see the *Witness Protection Act 1996*, dictionary.

120 Offence—unauthorised person must not access child sex offenders register

A person commits an offence if the person—

- (a) accesses the child sex offenders register; and
- (b) is not authorised to have access to—
 - (i) the register; or
 - (ii) the part of the register that the person accesses.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

121 Offence—secrecy

- (1) In this section:

court includes a tribunal, authority or person having power to require the production of documents or the answering of questions.

divulge includes communicate.

person to whom this section applies means a person who exercises, or has exercised, a function under this Act.

produce includes allow access to.

protected information means information about a person that is disclosed to, or obtained by, a person to whom this section applies because of the exercise of a function under this Act by the person or someone else.

- (2) A person to whom this section applies commits an offence if—
 - (a) the person—

- (i) makes a record of protected information about someone else; and
 - (ii) is reckless about whether the information is protected information about someone else; or
- (b) the person—
- (i) does something that divulges protected information about someone else; and
 - (ii) is reckless about whether—
 - (A) the information is protected information about someone else; and
 - (B) doing the thing would result in the information being divulged to someone else.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (3) Subsection (2) does not apply if the record is made, or the information is divulged—
 - (a) under this Act or another territory law; or
 - (b) in relation to the exercise of a function, as a person to whom this section applies, under this Act or another territory law.
- (4) Subsection (2) does not apply to the divulging of protected information about someone with the person's consent.
- (5) Subsection (2) does not apply if the information is divulged for law enforcement functions or activities and then only to an entity prescribed by regulation.
- (6) A person to whom this section applies need not divulge protected information to a court, or produce a document containing protected information to a court, unless it is necessary to do so for this Act or another territory law.

122 Registrable offender may correct child sex offenders register

- (1) The chief police officer must, if asked by a registrable offender, give the offender a copy of all the reportable information held in the child sex offenders register in relation to the offender.
- (2) The chief police officer must comply with subsection (1) as soon as practicable, but no later than 14 days after the day the chief police officer was asked.
- (3) A registrable offender may ask the chief police officer to amend any incorrect reportable information held in the child sex offenders register in relation to the offender.
- (4) The chief police officer must comply with the request if satisfied that the information is incorrect.
- (5) In this section:
reportable information means information that—
 - (a) is given to the chief police officer by, or for, the registrable offender; and
 - (b) the offender is required to report to the chief police officer.

Chapter 5 Registrable offenders prohibited from child-related employment

123 **What is *employment*?**

In this chapter:

employment includes—

- (a) performance of work—
 - (i) under a contract of employment or contract for services (whether written or unwritten); or
 - (ii) as a minister of religion or as part of the duties of a religious vocation; or
- (b) undertaking practical training as part of an educational or vocational course; or
- (c) performance of work as a volunteer; or
- (d) performance of work under, or because of, a sentence, including a community service order.

124 **What is *child-related employment*?**

- (1) Employment is child-related (*child-related employment*) if the employment involves contact with a child in relation to any of the following:
 - (a) child protection services;
 - (b) preschools, kindergartens or child-care centres;
 - (c) family day care schemes;
 - (d) educational institutions for children;

- (e) detention places under the *Children and Young People Act 2008*;
- (f) refuges or other residential facilities used by children;
- (g) wards of public or private hospitals where children are ordinarily patients;
- (h) clubs, associations or movements (including of a cultural, recreational or sporting nature) with significant child membership or involvement (including involvement of a voluntary nature);
- (i) religious organisations;
- (j) babysitting or childminding services arranged by a commercial agency;
- (k) fostering children;
- (l) providing public or private transport services for the transport of children;
- (m) private tuition services of any kind for children arranged by a commercial agency;
- (n) counselling or other support services for children;
- (o) overnight camps, irrespective of the kind of accommodation or of how many children are involved;
- (p) school-crossing services;
- (q) before and after school care programs;
- (r) school holiday vacation programs;
- (s) work-related training contracts under the *Training and Tertiary Education Act 2003*;
- (t) anything else prescribed by regulation for this section.

(2) In this section:

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

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

educational institutions for children include the following:

- (a) a government school or non-government school under the *Education Act 2004*;
- (b) a registered training organisation, higher education provider or university under the *Training and Tertiary Education Act 2003*.

family day care scheme—see the *Children and Young People Act 2008*, section 734.

school-crossing services means services provided by people to assist children to cross roads on their way to or from school.

125 When is a person **engaged** in child-related employment?

- (1) A person is **engaged** in child-related employment if the person is—
- (a) an officer of a corporation that is engaged in child-related employment; or
 - (b) a member of the committee of management of an unincorporated body or association that is engaged in child-related employment; or
 - (c) a member of a partnership that is engaged in child-related employment.

(2) This section does not limit the circumstances in which a person can be taken to be engaged in child-related employment.

(3) In this section:

officer—

- (a) for a corporation within the meaning of the Corporations Act—see the Corporations Act, section 9; and
- (b) for any other corporation—means a person (by whatever name called) who is concerned, or takes part in, the management of the corporation.

126 Offence—offender must not apply for child-related employment

A registrable offender commits an offence if the offender—

- (a) applies for child-related employment; and
- (b) is reckless about whether the employment is child-related employment.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

127 Offence—offender must not engage in child-related employment

A registrable offender commits an offence if the offender engages in child-related employment.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

128 Offence—person in child-related employment must disclose charges

A person commits an offence if the person—

- (a) is engaged in child-related employment; and

- (b) is charged with a registrable offence; and
- (c) does not disclose the charge to the person's employer within 7 days after the day the person is charged with the registrable offence.

Maximum penalty: 50 penalty units.

130 Offence—person must disclose charges if applying for child-related employment

- (1) A person commits an offence if—
 - (a) a charge is pending against the person for a registrable offence; and
 - (b) the person applies for child-related employment; and
 - (c) the person does not disclose the charge to the person's prospective employer when making the application.

Maximum penalty: 50 penalty units.

- (2) A person commits an offence if—
 - (a) the person has applied for child-related employment; and
 - (b) the person is charged with a registrable offence while the application is still current; and
 - (c) the person does not disclose the charge to the person's prospective employer within 7 days after the day the person is charged with the registrable offence.

Maximum penalty: 50 penalty units.

132 Offence—employer must keep information secret

- (1) In this section:
court includes a tribunal, authority or person having power to require the production of documents or the answering of questions.

divulge includes communicate.

produce includes allow access to.

protected information means information about a person that is disclosed to an employer because of the person satisfying the person's obligations under section 128, section 129, section 130 or section 131.

- (2) An employer commits an offence if—
- (a) the employer—
 - (i) makes a record of protected information about someone else; and
 - (ii) is reckless about whether the information is protected information about someone else; or
 - (b) the employer—
 - (i) does something that divulges protected information about someone else; and
 - (ii) is reckless about whether—
 - (A) the information is protected information about someone else; and
 - (B) doing the thing would result in the information being divulged to someone else.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (3) Subsection (2) does not apply if the record is made, or the information is divulged—
- (a) under this Act or another territory law; or
 - (b) in relation to the exercise of a function as an employer.

- (4) Subsection (2) does not apply to the divulging of protected information about someone with the person's consent.
- (5) Subsection (2) does not apply if the information is divulged for law enforcement functions or activities and then only to an entity prescribed by regulation.
- (6) Subsection (2) does not apply if the information is divulged to a court in a legal proceeding or under an order of a court.
- (7) Subsection (2) does not apply if the information is divulged to a lawyer to obtain legal advice or representation relating to a matter under this Act.

Chapter 6 Miscellaneous

133 **Approved forms**

- (1) The chief executive may approve forms for this Act.
- (2) If the chief executive approves a form for a particular purpose, the approved form must be used for that purpose.

Note For other provisions about forms, see the Legislation Act, s 255.

- (3) An approved form is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

134 **Protection from liability**

- (1) A person is not personally liable for anything done or omitted to be done honestly and without recklessness—
 - (a) in the exercise of a function under this Act; or
 - (b) in the reasonable belief that the act was in the exercise of a function under this Act.

Note The dictionary defines *act* to include omission.

- (2) Any civil liability that would, apart from subsection (1), attach to a person attaches instead to the Territory.

135 **Effect of spent convictions**

- (1) The fact that an offence for which a registrable offender has been found guilty becomes spent does not affect—
 - (a) the status of the offence as a registrable offence for this Act for the offender; or
 - (b) a reporting obligation of the offender.

- (2) For this section, an offence becomes spent if, under a law in any jurisdiction, the registrable offender is permitted to not disclose the fact that the person was convicted or found guilty of the offence.
- (3) This section does not limit the effect of the *Spent Convictions Act 2000*, section 11 (2) (Which convictions can become spent?).

136 Evidentiary certificates

- (1) In a proceeding under this Act, a certificate signed by the chief police officer, or a police officer holding a position designated in writing by the chief police officer for this section, certifying that the child sex offenders register at a particular day contained information stated in the certificate is evidence, and in the absence of evidence to the contrary is proof, of the details stated in the certificate.
- (2) In a proceeding under this Act, a certificate signed by the chief police officer, or a police officer holding a position designated in writing by the chief police officer for this section, certifying that the child sex offenders register indicated that, during a particular period, a stated person failed to provide information as required by this Act is evidence, and in the absence of evidence to the contrary is proof, of the details stated in the certificate.
- (3) For this Act, a certificate that would be evidence under a corresponding law that at a stated time, or during a stated period, a person was required to report to a corresponding registrar under the Act is evidence, and in the absence of evidence to the contrary is proof, of the facts stated in the certificate.

137 Regulation-making power

- (1) The Executive may make regulations for this Act.

Note A regulation must be notified, and presented to the Legislative Assembly, under the Legislation Act.

- (2) A regulation may make provision in relation to the following:
- (a) matters incidental to the making of reports under chapter 3 (Reporting), including—
 - (i) how a report must be made; and
 - (ii) the verifying documentation or evidence to be provided in support of a report; and
 - (iii) requiring that a report contain additional information to that required by the chapter;
 - (b) the form of, or the information to be included in, a notice or other document required to be given to registrable offenders;
 - (c) how the child sex offenders register is to be established and maintained, including how information is to be entered in the register;
 - (d) the exchange of information about registrable offenders between the chief police officer and corresponding registrars of foreign jurisdictions, including arrangements between the Territory and foreign jurisdictions for accessing information in the child sex offenders register and registers maintained under corresponding laws;
 - (e) requiring or permitting the chief police officer to remove information from the child sex offenders register;
 - (f) telling registrable offenders about reporting obligations, including the following:
 - (i) how the information is to be given to offenders;
 - (ii) permitting the person telling an offender to ask the offender to acknowledge being given the notice;
 - (iii) making special provision for telling offenders who are young people or who have disabilities or other special needs;

- (iv) permitting or requiring an entity to be told about a registrable offender's status as a young person or person who has a disability or other special need, including to facilitate notifying and reporting;
- (v) providing for notice to be given to a carer of, or a person nominated by, a registrable offender who may be unable to understand the offender's reporting obligations or the consequences of failing to comply with the reporting obligations;
- (vi) requiring an offender to be given additional information to that required by this Act;
- (vii) requiring an entity to provide information to offenders about their reporting obligations;
- (viii) requiring an entity to tell the chief police officer—
 - (A) that an offender has left the custody or control of the entity; or
 - (B) that the entity has given stated information to an offender; or
 - (C) that, in the entity's opinion, an offender does or does not have the legal capacity to understand information;
- (ix) requiring an entity to give the chief police officer an acknowledgment by an offender of the receipt of a notice or other information that is held by the entity;
- (g) authorising the chief police officer to give directions about the police stations that are to be used as a place for making reports;
- (h) providing that a police station is not to be used as a place for making reports without the consent of the chief police officer;
- (i) requiring an entity to create records for this Act and to keep the records;

- (j) prescribing a person as a prescribed corresponding offender for this Act;
 - (k) declaring that an order (however described) made under a corresponding law is a corresponding child sex offender registration order for this Act.
- (3) A regulation—
- (a) may provide for the exemption of people or things from a provision of a regulation, whether unconditionally or on stated conditions, and either completely or to a stated extent; and
 - (b) may create offences and fix maximum penalties of not more than 20 penalty units for the offences.

Schedule 1 Class 1 offences

(see s 10 (2))

Part 1.1 Offences against ACT legislation

| column 1 item | column 2 offence | column 3 description | column 4 circumstances (if any) |
|------------------|--|------------------------------------|---|
| 1 | <i>Crimes Act 1900</i> , any offence | | the offence involved sexual intercourse (as defined in the <i>Crimes Act 1900</i> , section 50) with a child |
| 2 | <i>Crimes Act 1900</i> , section 12 (2) | murder | (a) the other person is a child; and (b) the person committed the murder in the course of, or immediately after, the commission or attempted commission by the person (or an accomplice of the person) of a class 1 or class 2 offence against the child |
| 3 | <i>Crimes Act 1900</i> , section 51 (1) | sexual assault in the first degree | (a) the other person (as mentioned in that section) is a child; or (b) the third person (as mentioned in that section) is a child |

Schedule 1
Part 1.1

Class 1 offences
Offences against ACT legislation

| column 1 item | column 2 offence | column 3 description | column 4 circumstances (if any) |
|--------------------------|--|--|--|
| 4 | <i>Crimes Act 1900</i> , section 51 (2) | sexual assault in the first degree | (a) the third person (as mentioned in that section) is a child; or (b) the other person who is present or nearby (as mentioned in that section) is a child |
| 5 | <i>Crimes Act 1900</i> , section 52 (1) | sexual assault in the second degree | (a) the other person (as mentioned in that section) is a child; or (b) the third person (as mentioned in that section) is a child |
| 6 | <i>Crimes Act 1900</i> , section 52 (2) | sexual assault in the second degree | (a) the third person (as mentioned in that section) is a child; or (b) the other person who is present or nearby (as mentioned in that section) is a child |
| 7 | <i>Crimes Act 1900</i> , section 53 (1) | sexual assault in the third degree | (a) the other person (as mentioned in that section) is a child; or (b) the third person (as mentioned in that section) is a child |

| column 1 item | column 2 offence | column 3 description | column 4 circumstances (if any) |
|--------------------------|--|--|--|
| 8 | <i>Crimes Act 1900</i> , section 53 (2) | sexual assault in the third degree | (a) the third person (as mentioned in that section) is a child; or (b) the other person who is present or nearby (as mentioned in that section) is a child |
| 9 | <i>Crimes Act 1900</i> , section 55 (1) | sexual intercourse with young person | |
| 10 | <i>Crimes Act 1900</i> , section 55 (2) | sexual intercourse with young person | |
| 11 | <i>Crimes Act 1900</i> , section 56 (2) | maintaining a sexual relationship with young person | |
| 12 | <i>Crimes Act 1900</i> , section 57 | act of indecency in the first degree | (a) the other person (as mentioned in that section) is a child; or (b) the third person (as mentioned in that section) is a child |

Part 1.2 Offences against other legislation

| column 1 item | column 2 offence | column 3 description | column 4 circumstances (if any) |
|------------------|--|--|--|
| 1 | <i>Criminal Code Act 1995</i> (Cwlth) section 270.6 (1) | sexual servitude | the other person (as mentioned in that section) is a child |
| 2 | <i>Criminal Code Act 1995</i> (Cwlth) section 270.6 (2) | sexual servitude | the other person (as mentioned in that section) is a child |
| 3 | <i>Criminal Code Act 1995</i> (Cwlth), section 272.8 (1) | sexual intercourse with child outside Australia | |
| 4 | <i>Criminal Code Act 1995</i> (Cwlth), section 272.8 (2) | cause child to engage in sexual intercourse in presence of defendant outside Australia | |

| column 1 item | column 2 offence | column 3 description | column 4 circumstances (if any) |
|--------------------------|---|---|--|
| 5 | <i>Criminal Code Act 1995</i> (Cwlth), section 272.10 | offence against Criminal Code (Cwlth), section 272.8 or section 272.9 involving child with mental impairment or under care, supervision or authority of defendant | |
| 6 | <i>Criminal Code Act 1995</i> (Cwlth), section 272.11 | persistent sexual abuse of child outside Australia | |
| 7 | <i>Criminal Code Act 1995</i> (Cwlth), section 272.12 | sexual intercourse with young person outside Australia by defendant in position of trust or authority | |
| 8 | <i>Criminal Code Act 1995</i> (Cwlth), section 272.18 | benefit from offence against Criminal Code (Cwlth), division 272 | |
| 9 | <i>Criminal Code Act 1995</i> (Cwlth), section 272.19 | encourage offence against Criminal Code (Cwlth), division 272 | |

Schedule 1
Part 1.2

Class 1 offences
Offences against other legislation

| column 1 item | column 2 offence | column 3 description | column 4 circumstances (if any) |
|--------------------------|--|---------------------------------|--|
| 10 | any offence under a corresponding law that, if it had been committed in the ACT, would have been a class 1 offence | | |

Schedule 2 Class 2 offences

(see s 10 (3))

Part 2.1 Offences against ACT legislation

| column 1 item | column 2 offence | column 3 description | column 4 circumstances (if any) |
|--------------------------|--|--|--|
| 1 | <i>Crimes Act 1900</i> , section 58 | act of indecency in the second degree | (a) the other person (as mentioned in that section) is a child; or (b) the third person (as mentioned in that section) is a child |
| 2 | <i>Crimes Act 1900</i> , section 59 | act of indecency in the third degree | (a) the other person (as mentioned in that section) is a child; or (b) the third person (as mentioned in that section) is a child |
| 3 | <i>Crimes Act 1900</i> , section 61 (1) | act of indecency with young person | |
| 4 | <i>Crimes Act 1900</i> , section 61 (2) | act of indecency with young person | |

Schedule 2
Part 2.1

Class 2 offences
Offences against ACT legislation

| column 1 item | column 2 offence | column 3 description | column 4 circumstances (if any) |
|--------------------------|---|---|--|
| 5 | <i>Crimes Act 1900</i> , section 63 | abduction | (a) the other person (as mentioned in that section) or the third person (as mentioned in that section) is a child; and (b) the person committed the abduction in the course of, or immediately after, the commission or attempted commission by the person (or an accomplice of the person) of a class 1 or class 2 offence against the child or the third person |
| 6 | <i>Crimes Act 1900</i> , section 64 (1) | using child for production of child pornography etc | |
| 7 | <i>Crimes Act 1900</i> , section 64 (3) | using child for production of child pornography etc | |
| 8 | <i>Crimes Act 1900</i> , section 64A (1) | trading in child pornography | |
| 9 | <i>Crimes Act 1900</i> , section 65 (1) | possessing child pornography | |

| column 1 item | column 2 offence | column 3 description | column 4 circumstances (if any) |
|--------------------------|--|--|--|
| 10 | <i>Crimes Act 1900</i> , section 66 (1) | using the internet etc to deprave young person | |
| 11 | <i>Crimes Act 1900</i> , section 66 (2) | using the internet etc to deprave young person | |
| 12 | <i>Prostitution Act 1992</i> section 19 (2) | accosting child for commercial sexual services | |
| 13 | <i>Prostitution Act 1992</i> section 20 (1) | causing child under 12 to provide commercial sexual services | |
| 14 | <i>Prostitution Act 1992</i> section 20 (3) | causing child 12 or older to provide commercial sexual services | |
| 15 | <i>Prostitution Act 1992</i> section 21 (1) | proceeds of child prostitution | |

Part 2.2 Offences against other legislation

| column 1 item | column 2 offence | column 3 description | column 4 circumstances (if any) |
|------------------|---|--|---|
| 1 | <i>Criminal Code Act 1995</i> (Cwlth) section 270.7 (1) and section 270.8 (1) | deceptive recruiting for sexual services | aggravated offence |
| 2 | <i>Criminal Code Act 1995</i> (Cwlth), section 271.4 (1) or (2) | trafficking in children | the first person (as mentioned in the subsection) intends or is reckless as to whether the other person (as mentioned in the subsection) will be used to provide sexual services or will be otherwise exploited for sexual services |

| column 1 item | column 2 offence | column 3 description | column 4 circumstances (if any) |
|--------------------------|--|---|---|
| 3 | <i>Criminal Code Act 1995</i> (Cwlth), section 271.7 (1) | domestic trafficking in children | the first person (as mentioned in the subsection) intends or is reckless as to whether the other person (as mentioned in the subsection) will be used to provide sexual services or will be otherwise exploited for sexual services |
| 4 | <i>Criminal Code Act 1995</i> (Cwlth), section 272.9 (1) | sexual activity (other than sexual intercourse) with child outside Australia | |
| 5 | <i>Criminal Code Act 1995</i> (Cwlth), section 272.9 (2) | cause child to engage in sexual activity (other than sexual intercourse) in presence of defendant outside Australia | |

Schedule 2
Part 2.2

Class 2 offences
Offences against other legislation

| column 1 item | column 2 offence | column 3 description | column 4 circumstances (if any) |
|--------------------------|---|---|--|
| 6 | <i>Criminal Code Act 1995</i> (Cwlth), section 272.13 (1) | sexual activity (other than sexual intercourse) with young person outside Australia, and defendant in position of trust or authority | |
| 7 | <i>Criminal Code Act 1995</i> (Cwlth), section 272.13 (2) | causing young person to engage in sexual activity (other than sexual intercourse) in presence of defendant outside Australia, and defendant in position of trust or authority | |
| 8 | <i>Criminal Code Act 1995</i> (Cwlth), section 272.14 (1) | procure child to engage in sexual activity outside Australia | |
| 9 | <i>Criminal Code Act 1995</i> (Cwlth), section 272.15 (1) | groom child for sexual activity outside Australia | |

| column 1 item | column 2 offence | column 3 description | column 4 circumstances (if any) |
|--------------------------|---|---|--|
| 10 | <i>Criminal Code Act 1995</i> (Cwlth), section 272.20 (1) | prepare or plan offence against Criminal Code (Cwlth), section 272.8, 272.9, 272.10, 272.11 or 272.18 | |
| 11 | <i>Criminal Code Act 1995</i> (Cwlth), section 272.20 (2) | prepare or plan offence against Criminal Code (Cwlth), section 272.12 or section 272.13 | |
| 12 | <i>Criminal Code Act 1995</i> (Cwlth), section 273.5 (1) | possess, control, produce, distribute or obtain child pornography material outside Australia | |
| 13 | <i>Criminal Code Act 1995</i> (Cwlth), section 273.6 (1) | possess, control, produce, distribute or obtain child abuse material outside Australia | |
| 14 | <i>Criminal Code Act 1995</i> (Cwlth), section 273.7 (1) | commit offence against Criminal Code (Cwlth), section 273.5 or section 273.6 on 3 or more occasions, and involving 2 or more people | |

Schedule 2
Part 2.2

Class 2 offences
Offences against other legislation

| column 1 item | column 2 offence | column 3 description | column 4 circumstances (if any) |
|--------------------------|---|---|--|
| 15 | <i>Criminal Code Act 1995</i> (Cwlth), section 471.16 | use postal service for child pornography material | |
| 16 | <i>Criminal Code Act 1995</i> (Cwlth), section 471.17 (1) | possess, control, produce, supply or obtain child pornography material for use through postal service | |
| 17 | <i>Criminal Code Act 1995</i> (Cwlth), section 471.19 | use postal service for child abuse material | |
| 18 | <i>Criminal Code Act 1995</i> (Cwlth), section 471.20 (1) | possess, control, produce, supply or obtain child abuse material for use through postal service | |
| 19 | <i>Criminal Code Act 1995</i> (Cwlth), section 471.22 (1) | commit offence against Criminal Code (Cwlth), section 471.16, 471.17, 471.19 or 471.20 on 3 or more occasions, and involving 2 or more people | |

| column 1 item | column 2 offence | column 3 description | column 4 circumstances (if any) |
|--------------------------|---|---|--|
| 20 | <i>Criminal Code Act 1995</i> (Cwlth), section 471.24 | use postal service to procure sexual activity with person under 16 years old | |
| 21 | <i>Criminal Code Act 1995</i> (Cwlth), section 471.25 | use postal service to groom person under 16 years old for sexual activity | |
| 22 | <i>Criminal Code Act 1995</i> (Cwlth), section 471.26 (1) | use postal service to send indecent material to person under 16 years old | |
| 23 | <i>Criminal Code Act 1995</i> (Cwlth), section 474.19 (1) | use carriage service for child pornography material | |
| 24 | <i>Criminal Code Act 1995</i> (Cwlth), section 474.20 (1) | possess, control, produce, supply or obtain child pornography material for use through carriage service | |
| 25 | <i>Criminal Code Act 1995</i> (Cwlth), section 474.22 (1) | use carriage service for child abuse material | |

Schedule 2
Part 2.2

Class 2 offences
Offences against other legislation

| column 1 item | column 2 offence | column 3 description | column 4 circumstances (if any) |
|--------------------------|--|---|--|
| 26 | <i>Criminal Code Act 1995</i> (Cwlth), section 474.23 (1) | possess, control, produce, supply or obtain child abuse material for use through carriage service | |
| 27 | <i>Criminal Code Act 1995</i> (Cwlth), section 474.24A (1) | commit offence against Criminal Code (Cwlth), section 474.19, 474.20, 474.22 or 474.23 on 3 or more occasions, and involving 2 or more people | |
| 28 | <i>Criminal Code Act 1995</i> (Cwlth), section 474.25A (1) | use carriage service to engage in sexual activity with child under 16 years old, and person at least 18 years old | |
| 29 | <i>Criminal Code Act 1995</i> (Cwlth), section 474.25A (2) | use carriage service to cause child under 16 years old to engage in sexual activity with person at least 18 years old | |

| column 1 item | column 2 offence | column 3 description | column 4 circumstances (if any) |
|--------------------------|---|--|--|
| 30 | <i>Criminal Code Act 1995</i> (Cwlth), section 474.25B (1) | commit offence against Criminal Code (Cwlth), section 474.25A (1) or section 474.25A (2) involving child with mental impairment or under care, supervision or authority of defendant | |
| 31 | <i>Criminal Code Act 1995</i> (Cwlth), section 474.26 (1), (2) or (3) | using carriage service to procure child under 16 | |
| 32 | <i>Criminal Code Act 1995</i> (Cwlth), section 474.27 (1) (2) or (3) | using carriage service to 'groom' child under 16 | |
| 33 | <i>Criminal Code Act 1995</i> (Cwlth), section 474.27A (1) | use carriage service to transmit indecent communication to person under 16 years old | |
| 34 | <i>Customs Act 1901</i> (Cwlth) section 233BAB (5) | importing tier 2 goods | the tier 2 goods are items of child pornography or child abuse material (see section 233BAB (1) (h)) |

Schedule 2
Part 2.2

Class 2 offences
Offences against other legislation

| column 1 item | column 2 offence | column 3 description | column 4 circumstances (if any) |
|--------------------------|--|---------------------------------|---|
| 35 | <i>Customs Act 1901</i> (Cwlth) section 233BAB (6) | exporting tier 2 goods | the tier 2 goods are items of child pornography or child abuse material (see section 233BAB (1) (h)) |
| 36 | any offence under a corresponding law that, if it had been committed in the ACT, would have been a class 2 offence | | |

Dictionary

(see s 3)

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 For example, the Legislation Act, dict, pt 1, defines the following terms:

- ACAT
- ACT
- Australia
- Australian driver licence
- change
- chief police officer
- child
- entity
- fail
- function
- parent
- police officer
- prescribed
- reviewable decision notice
- State.

act includes omission.

approved reporting place, for a registrable offender, for a report—see section 64.

approved way, for the making of a report—see section 63.

child-related employment, for chapter 5 (Registrable offenders prohibited from child-related employment)—see section 124.

child sex offender registration order—see section 14.

child sex offenders register—see section 117.

class 1 offence—see section 10 (2).

class 2 offence—see section 10 (3).

community service order means a community service order within the meaning of the *Crimes (Sentencing) Act 2005*, section 13 (6) (Good behaviour orders).

Note An order under the *Crimes Act 1900*, s 408 (Directions to perform work) (repealed) is taken to be a good behaviour order under the *Crimes (Sentencing) Act 2005* (see *Crimes (Sentence Administration) Act 2005*, s 339).

contact person—see section 33.

corresponding child sex offender registration order means an order (however described)—

- (a) made under a corresponding law; and
- (b) prescribed by regulation for this definition.

corresponding law means a law, or a provision of a law, of a foreign jurisdiction that—

- (a) provides for people who have committed particular offences to report in that jurisdiction information about themselves and to keep that information current for a time; or
- (b) is prescribed by regulation for this definition.

corresponding registrable offence means an offence that is a registrable offence for a corresponding law but is not a registrable offence under this Act.

corresponding registrar, for a foreign jurisdiction, means the entity exercising functions under the corresponding law of the jurisdiction that corresponds, or most closely corresponds, to the functions of the chief police officer under this Act.

court includes a court (however described) of a foreign jurisdiction.

disability—see *Discrimination Act 1991*, section 5AA (1).

employment, for chapter 5 (Registrable offenders prohibited from child-related employment)—see section 123.

engaged, in child-related employment, for chapter 5 (Registrable offenders prohibited from child-related employment)—see section 125.

fingerprints includes fingerscan.

fingerscan means fingerprints taken using a device to obtain a record of the fingerprints.

finding of guilt—see section 7.

foreign jurisdiction means a jurisdiction other than the ACT (including a jurisdiction outside Australia).

forensic patient—see the *Public Advocate Act 2005*, dictionary.

government custody means custody, whether in the ACT or elsewhere—

- (a) under a sentence of imprisonment; or
- (b) as a detainee under the *Corrections Management Act 2006*; or
- (c) as a forensic patient; or
- (d) under a corresponding law in the nature of custody mentioned in paragraph (a), (b) or (c), however described.

in person—a person does a thing ***in person*** at a place only if the person does the thing by personally attending at the place.

Examples of things not done in person

a person making a report by telephone or email

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

offender's reporting month, for a registrable offender—see section 37 (Offence—offender must report annually).

parole means parole under the *Crimes (Sentence Administration) Act 2005*, and includes an equivalent order (however described) made under a foreign law.

Note A parole order under the *Rehabilitation of Offenders (Interim) Act 2001* (repealed) is taken to be a parole order under the *Crimes (Sentence Administration) Act 2005* (see that Act, s 343 and s 344).

personal details, for a registrable offender—see s 59.

personal information means information about an individual whose identity is apparent, or can reasonably be found out, from the information.

person with parental responsibility, for a young person—means a person who has parental responsibility for the young person under the *Children and Young People Act 2008*, division 1.3.2.

prescribed corresponding offender—see section 11.

protected registrable offender—see section 110.

protected registrable offender declaration—see section 111 (a).

recognised foreign reporting period, for a prescribed corresponding offender—see section 11.

registrable offence—see section 10.

registrable offender—see section 8 and section 9.

reporting obligation—see section 19.

reporting obligations notice—see section 103.

reporting offence—see section 20.

reporting offence provision—see section 20.

reporting period, for a registrable offender, means the period, worked out under part 3.5 (Reporting period), during which the offender must comply with the offender's reporting obligations.

same incident—offences arise from the **same incident** only if they are committed within a single period of 24 hours and are committed against the same person.

sentence means—

- (a) when used as a noun—the penalty imposed for an offence; or
- (b) when used as a verb—to impose a penalty for an offence;

and includes a finding of guilt mentioned in section 7 (1) (c) or (e).

supervising authority, for a person, means the entity declared by regulation to be the person's supervising authority.

suspension order—see section 96.

travel details, for travel by a registrable offender—see section 42 (c).

unprotected registrable offender declaration—see section 111 (b).

witness protection program—see the *Witness Protection Act 1996*, dictionary.

young person—means a person who is not yet an adult.

Endnotes

1 About the endnotes

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

| | |
|--|--|
| A = Act | NI = Notifiable instrument |
| AF = Approved form | o = order |
| am = amended | om = omitted/repealed |
| amdt = amendment | ord = ordinance |
| AR = Assembly resolution | orig = original |
| ch = chapter | par = paragraph/subparagraph |
| CN = Commencement notice | pres = present |
| def = definition | prev = previous |
| DI = Disallowable instrument | (prev...) = previously |
| dict = dictionary | pt = part |
| disallowed = disallowed by the Legislative Assembly | r = rule/subrule |
| div = division | reloc = relocated |
| exp = expires/expired | renum = renumbered |
| Gaz = gazette | R[X] = Republication No |
| hdg = heading | RI = reissue |
| IA = Interpretation Act 1967 | s = section/subsection |
| ins = inserted/added | sch = schedule |
| LA = Legislation Act 2001 | sdiv = subdivision |
| LR = legislation register | SL = Subordinate law |
| LRA = Legislation (Republication) Act 1996 | sub = substituted |
| mod = modified/modification | <u>underlining</u> = whole or part not commenced or to be expired |

3 Legislation history

Crimes (Child Sex Offenders) Act 2005 A2005-30

notified LR 29 June 2005
s 1, s 2 commenced 29 June 2005 (LA s 75 (1))
remainder commenced 29 December 2005 (s 2 and LA s 79)

as amended by

Public Advocate Act 2005 A2005-47 sch 1 pt 1.3 (as am by A2006-3 amdt 1.8)

notified LR 2 September 2005
s 1, s 2 commenced 2 September 2005 (LA s 75 (1))
sch 1 pt 1.3 commenced 1 March 2006 (s 2 (1) as am by A2006-3 amdt 1.8)

Justice and Community Safety Legislation Amendment Act 2005 (No 4) A2005-60 sch 1 pt 1.11

notified LR 1 December 2005
s 1, s 2 taken to have commenced 23 November 2005 (LA s 75 (2))
sch 1 pt 1.11 commenced 29 December 2005 (LA s 79A and see A2005-30)

Human Rights Commission Legislation Amendment Act 2006 A2006-3 amdt 1.8

notified LR 22 February 2006
s 1, s 2 commenced 22 February 2006 (LA s 75 (1))
amdt 1.8 commenced 23 February 2006 (s 2)

Note This Act only amends the Public Advocate Act 2005 A2005-47

Sentencing Legislation Amendment Act 2006 A2006-23 sch 1 pt 1.8

notified LR 18 May 2006
s 1, s 2 commenced 18 May 2006 (LA s 75 (1))
sch 1 pt 1.8 commenced 2 June 2006 (s 2 (1) and see Crimes (Sentence Administration) Act 2005 A2005-59 s 2, Crimes (Sentencing) Act 2005 A2005-58, s 2 and LA s 79)

Statute Law Amendment Act 2006 A2006-42 sch 3 pt 3.8

notified LR 26 October 2006
s 1, s 2 taken to have commenced 12 November 2005 (LA s 75 (2))
sch 3 pt 3.8 commenced 16 November 2006 (s 2 (1))

Endnotes

4 Amendment history

Training and Tertiary Education Legislation Amendment Act 2007 A2007-12 sch 1 pt 1.7

notified LR 13 June 2007
s 1, s 2 commenced 13 June 2007 (LA s 75 (1))
sch 1 pt 1.7 commenced 1 July 2007 (s 2 and CN2007-3)

Children and Young People (Consequential Amendments) Act 2008 A2008-20 sch 2 pt 2.6, sch 3 pt 3.7, sch 4 pt 4.8

notified LR 17 July 2008
s 1, s 2 commenced 17 July 2008 (LA s 75 (1))
s 3 commenced 18 July 2008 (s 2 (1))
sch 2 pt 2.6 commenced 9 September 2008 (s 2 (3) and see Children and Young People Act 2008 A2008-19, s 2 and CN2008-13)
sch 3 pt 3.7 commenced 27 October 2008 (s 2 (4) and see Children and Young People Act 2008 A2008-19, s 2 and CN2008-13)
sch 4 pt 4.8 commenced 27 February 2009 (s 2 (5) and see Children and Young People Act 2008 A2008-19, s 2 and CN2008-17 (and see CN2008-13))

Statute Law Amendment Act 2008 A2008-28 sch 3 pt 3.19

notified LR 12 August 2008
s 1, s 2 commenced 12 August 2008 (LA s 75 (1))
sch 3 pt 3.19 commenced 26 August 2008 (s 2)

ACT Civil and Administrative Tribunal Legislation Amendment Act 2008 (No 2) A2008-37 sch 1 pt 1.26

notified LR 4 September 2008
s 1, s 2 commenced 4 September 2008 (LA s 75 (1))
sch 1 pt 1.26 commenced 2 February 2009 (s 2 (1) and see ACT Civil and Administrative Tribunal Act 2008 A2008-35, s 2 (1) and CN2009-2)

Crimes (Child Sex Offenders) Amendment Act 2010 A2010-45

notified LR 24 November 2010
s 1, s 2 commenced 24 November 2010 (LA s 75 (1))
remainder commenced 25 November 2010 (s 2)

4 Amendment history

Commencement

s 2 om LA s 89 (4)

Dictionary

s 3 am A2006-42 amdt 3.27

Meaning of *finding of guilt*

s 7 am A2006-23 amdts 1.80-1.83; A2008-20 amdt 4.21, amdt 4.22; pars renum R12 LA

Registrable offender—exceptions

s 9 am A2006-23 amdt 1.84, amdt 1.85; A2008-20 amdt 4.23, amdt 4.24; pars renum R12 LA
(1) (a) (i) note, (4) exp 3 June 2021 (s 9 (4))

Court may only make order with sentence

s 17 am A2008-20 amdt 4.25

Offence—offender in ACT at commencement of Act must report

s 21 exp 29 December 2007 (s 21 (2))

Offender reporting in person may be fingerprinted to confirm identity

s 75 am A2008-28 amdt 3.74

Supervising authority to tell chief police officer of certain events

s 108 am A2006-23 amdt 1.86, amdt 1.87
(1) (c) note, (4) exp 3 June 2011 (s 108 (4))

Review of unprotected registrable offender declaration

s 112 am A2008-37 amdt 1.101

Chief police officer must tell offender about ACAT review

s 113 sub A2008-37 amdt 1.102

ACAT review of chief police officer's decision

s 114 sub A2008-37 amdt 1.102

When protected and unprotected registrable offender declarations take effect

s 115 am A2008-37 amdt 1.103

Access to information about protected witnesses restricted

s 119 am A2006-42 amdt 3.28

What is *child-related employment*?

s 124 am A2007-12 amdt 1.11, amdt 1.12; A2008-20 amdt 2.17, amdt 4.26

Offence—person in child-related employment at commencement of Act must disclose charges

s 129 exp 29 December 2006 (s 129 (2))

Offence—person must disclose charges pending at commencement of Act if applying for child-related employment

s 131 exp 29 December 2006 (s 131 (2))

Endnotes

4 Amendment history

Approved forms

s 133 am A2006-42 amdt 3.29

Consequential amendments

ch 7 hdg om LA s 89 (3)

Legislation amended—sch 3

s 138 om LA s 89 (3)

Offences against other legislation

sch 1 pt 1.2 am A2010-45 s 4, s 5; items renum R13 LA

Offences against other legislation

sch 2 pt 2.2 am A2005-60 amdt 1.51; items renum R1 LA (see A2005-60 amdt 1.52); A2010-45 ss 6-8; items renum R13 LA

Ombudsman Act 1989—consequential amendments

sch 3 om LA s 89 (3)

Dictionary

dict am A2008-37 amdt 1.104
def **community service order** am A2006-23 amdt 1.88
sub A2008-20 amdt 4.27
(a) note exp 3 June 2011 (s 108 (4))
def **detainee** om A2006-23 amdt 1.89
def **forensic patient** sub A2005-47 amdt 1.8
def **government custody** om A2006-23 amdt 1.90
def **parole** sub A2006-23 amdt 1.91
def **person with parental responsibility** am A2008-20
amdt 3.16
def **witness protection program** am A2006-42 amdt 3.30

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised republication are identical.

| Republication No and date | Effective | Last amendment made by | Republication for |
|---------------------------|------------------------------|------------------------|--|
| R1 29 Dec 2005 | 29 Dec 2005– 28 Feb 2006 | A2005-60 | new Act and amendments by A2005-60 |
| R2 1 Mar 2006 | 1 Mar 2006– 1 June 2006 | A2006-3 | amendments by A2005-47 as amended by A2006-3 |
| R3 2 June 2006 | 2 June 2006– 15 Nov 2006 | A2006-23 | amendments by A2006-23 |
| R4 16 Nov 2006 | 16 Nov 2006– 29 Dec 2006 | A2006-42 | amendments by A2006-42 |
| R5 30 Dec 2006 | 30 Dec 2006– 30 June 2007 | A2006-42 | commenced expiry |
| R6 1 July 2007 | 1 July 2007– 29 Dec 2007 | A2007-12 | amendments by A2007-12 |
| R7 30 Dec 2007 | 30 Dec 2007– 25 Aug 2008 | A2007-12 | commenced expiry |
| R8 26 Aug 2008 | 26 Aug 2008– 8 Sept 2008 | A2008-28 | amendments by A2008-28 |
| R9 9 Sept 2008 | 9 Sept 2008– 26 Oct 2008 | <u>A2008-37</u> | amendments by A2008-20 |
| R10 27 Oct 2008 | 27 Oct 2008– 1 February | <u>A2008-37</u> | amendments by A2008-20 |

Endnotes

5 Earlier republications

| Republication No and date | Effective | Last amendment made by | Republication for |
|--------------------------------------|-----------------------------|---------------------------------------|------------------------------|
| R11 2 Feb 2009 | 2 Feb 2009– 26 Feb 2009 | A2008-37 | amendments by A2008-37 |
| R12 27 Feb 2009 | 27 Feb 2009– 24 Nov 2010 | A2008-37 | amendments by A2008-20 |

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