

2005

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Crimes (Child Sex Offenders) Bill 2005

Contents

	Page
Chapter 1	
Preliminary	
1 Name of Act	2
2 Commencement	2
3 Dictionary	2
4 Notes	3
5 Offences against Act—application of Criminal Code etc	3
6 Purpose and outline	3
7 Meaning of <i>finding of guilt</i>	4

	Page
Chapter 2	Offenders to whom Act applies
Part 2.1	Who is a registrable offender?
8	Who is a <i>registrable offender</i> ? 7
9	<i>Registrable offender</i> —exceptions 8
10	What is a <i>registrable offence</i> ? 9
11	Who is a <i>prescribed corresponding offender</i> ? 10
12	Appeal proceedings irrelevant 10
13	Effect of quashing of finding of guilt etc 10
Part 2.2	Child sex offender registration orders
14	What is a <i>child sex offender registration order</i> ? 12
15	Court may make child sex offender registration order 12
16	Court may only make order if person risk to sexual safety 12
17	Court may only make order with sentence 13
18	Court may only make order on prosecution application 13
Chapter 3	Reporting
Part 3.1	Definitions for ch 3
19	What is a <i>reporting obligation</i> ? 14
20	What is a <i>reporting offence</i> ? 14
Part 3.2	When initial report must be made
Division 3.2.1	When registrable offender must make initial report of personal details
21	Offence—offender in ACT at commencement of Act must report 16
22	Offence—offender in custody at commencement of Act must report 17
23	Offence—offender must report after sentencing 18
24	Offence—offender entering ACT must report 19
25	Offence—prescribed corresponding offender must report 20
26	Exception—offender’s reporting obligations suspended 22
27	Exception—protected registrable offender 22

	Page
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 22
29	Offence—offender who later becomes prescribed corresponding offender must report 23
30	Offence—offender whose reporting suspension ceases must report 25
31	Exception—offender’s reporting obligations suspended 26
32	Exception—protected registrable offender 26
Division 3.2.3	People required to report under corresponding law
33	Person entering ACT must make contact 27
34	Offence—offender entering ACT must make contact 28
35	Exception—person has already made contact 29
36	Exception—offender’s reporting obligations suspended 29
Part 3.3	Ongoing reporting
Division 3.3.1	Annual reporting
37	Offence—offender must report annually 30
38	Exception—offender in government custody 31
39	Exception—offender outside ACT 32
40	Exception—offender’s reporting obligations suspended 32
41	Exception—protected registrable offender 32
Division 3.3.2	Reporting of travel
42	Offence—offender leaving ACT must report travel details 33
43	Defence—impracticable to report 7 days before leaving 34
44	Offender not to be punished twice for failing to report travel 34
45	Offence—offender outside ACT must report travel details 35
46	Offence—offender outside ACT must report change of travel details 36
47	Offence—offender must report return to ACT 37
48	Offence—offender must report decision not to leave ACT 37
49	Offence—offender must report regular travel 38
50	Application to protected registrable offender 39
51	Exception—protected registrable offender 39
52	Exception—offender in government custody 39
53	Exception—offender’s reporting obligations suspended 39

	Page
Division 3.3.3 Other reporting	
54 Offence—offender in ACT must report change of details	40
55 Offence—offender returning to ACT must report change of details	41
56 Offence—offender leaving custody must report	43
57 Exception—offender’s reporting obligations suspended	44
58 Exception—protected registrable offender	44
Part 3.4 Provisions applying to all reports	
Division 3.4.1 What information is to be reported	
59 What are <i>personal details</i> ?	45
60 Meaning of some concepts in s 59	48
61 Meaning of employment in s 59	48
62 Application of s 59 to protected registrable offender	49
Division 3.4.2 How report is to be made	
63 How is a report made in an <i>approved way</i> ?	49
64 Where are <i>approved reporting places</i> ?	49
65 Reports by young offenders	50
66 Reports by offenders with disability	51
67 Regulation about reports not made in person	51
68 Police officers who may receive reports	52
69 Police officer receiving report may arrange interpreter	52
Division 3.4.3 Additional provisions for reports made in person	
70 Offence—offender reporting in person must provide identification etc	52
71 Offence—person reporting in person for offender must provide identification	53
72 Identification documents may be copied	54
73 Right to privacy when reporting in person	54
74 Right to have support person when reporting in person	54
75 Offender reporting in person may be fingerprinted to confirm identity	54
76 Offender to be told why fingerprints needed	55
77 Offence—offender must allow fingerprinting	56
78 Offender reporting in person may be photographed	56
79 Right to privacy when being photographed	57

	Page
80 Right to have support person when being photographed	57
Division 3.4.4 Report to be acknowledged	
81 Receipt of report to be acknowledged	58
Division 3.4.5 Keeping material for certain purposes	
82 Documents, fingerprints, photographs may be kept	59
Part 3.5 Reporting period	
83 When reporting period begins	60
84 Reporting period—single class 1 offence—15 years	60
85 Reporting period—single class 2 offence—8 years	60
86 Reporting period—2 class 2 offences—15 years	60
87 Reporting period—multiple offences—life	60
88 Offences committed before commencement of Act used to work out length of reporting period	61
89 Reduced reporting period for young offenders	61
90 Offences arising from same incident taken as 1 offence	62
91 Reporting period for person subject to child sex offender registration order	62
92 Extended reporting period for offenders on parole	62
93 Extended reporting period for offender in custody	63
94 Reporting period for prescribed corresponding offenders	63
Part 3.6 Suspension of reporting obligations	
95 Pt 3.6 only applies to offender with life-long reporting period	64
96 Eligibility of offender to apply for suspension order	64
97 Supreme Court may make suspension order	64
98 Chief police officer is party to application	65
99 No costs to be awarded for suspension order application	65
100 Unsuccessful applicant cannot reapply for 5 years	66
101 Suspension order ceases if offender reoffends	66
102 Application for new suspension order	67
Part 3.7 Notice of reporting obligations	
103 What is a <i>reporting obligations notice</i> ?	68

Contents

	Page
104	Reporting obligations notice to be given when person becomes registrable offender 68
105	Reporting obligations notice may be given at any time 69
106	Courts to provide sentencing information to chief police officer 69
107	Chief police officer must tell offender if reporting period changes 70
108	Supervising authority to tell chief police officer of certain events 70
109	Procedural defects do not affect offender's obligations 71
Part 3.8 Protected witnesses	
110	Who is a <i>protected registrable offender</i> ? 72
111	Protected and unprotected registrable offender declarations 72
112	Review of unprotected registrable offender declaration 73
113	Chief police officer must tell offender about AAT review 73
114	AAT review of chief police officer's decision 74
115	When protected and unprotected registrable offender declarations take effect 74
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 75
Chapter 4 Child sex offenders register	
117	Establishment of child sex offenders register 76
118	Access to child sex offenders register restricted 77
119	Access to information about protected witnesses restricted 77
120	Offence—unauthorised person must not access child sex offenders register 78
121	Offence—secrecy 78
122	Registrable offender may correct child sex offenders register 80
Chapter 5 Registrable offenders prohibited from child-related employment	
123	What is <i>employment</i> ? 81

	Page
124	What is <i>child-related employment</i> ? 81
125	When is a person <i>engaged</i> in child-related employment? 83
126	Offence—offender must not apply for child-related employment 84
127	Offence—offender must not engage in child-related employment 84
128	Offence—person in child-related employment must disclose charges 85
129	Offence—person in child-related employment at commencement of Act must disclose charges 85
130	Offence—person must disclose charges if applying for child-related employment 85
131	Offence—person must disclose charges pending at commencement of Act if applying for child-related employment 86
132	Offence—employer must keep information secret 87
Chapter 6	Miscellaneous
133	Approved forms 89
134	Protection from liability 89
135	Effect of spent convictions 89
136	Evidentiary certificates 90
137	Regulation-making power 90
Chapter 7	Consequential amendments
138	Legislation amended—sch 3 94
Schedule 1	Class 1 offences 95
Part 1.1	Offences against ACT legislation 95
Part 1.2	Offences against other legislation 98
Schedule 2	Class 2 offences 100
Part 2.1	Offences against ACT legislation 100
Part 2.2	Offences against other legislation 103

Contents

	Page
Schedule 3 Ombudsman Act 1989—consequential amendments	105
Dictionary	108

2005

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Crimes (Child Sex Offenders) Bill 2005

A Bill for

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

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 **Chapter 1 Preliminary**

2 **1 Name of Act**

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

4 **2 Commencement**

5 This Act commences on a day fixed by the Minister by written
6 notice.

7 *Note 1* The naming and commencement provisions automatically commence on
8 the notification day (see Legislation Act, s 75 (1)).

9 *Note 2* A single day or time may be fixed, or different days or times may be
10 fixed, for the commencement of different provisions (see Legislation
11 Act, s 77 (1)).

12 *Note 3* If a provision has not commenced within 6 months beginning on the
13 notification day, it automatically commences on the first day after that
14 period (see Legislation Act, s 79).

15 **3 Dictionary**

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

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

20 For example, the signpost definition '*witness protection program*—see
21 the *Witness Protection Act 1996*, section 3.' means that the term
22 'witness protection program' is defined in that section and the definition
23 applies to this Act.

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

1 **4 Notes**

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

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

5 **5 Offences against Act—application of Criminal Code etc**

6 Other legislation applies in relation to offences against this Act.

7 *Note 1 Criminal Code*

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

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

14 *Note 2 Penalty units*

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

17 **6 Purpose and outline**

18 (1) The purpose of this Act is to—

19 (a) require certain offenders who commit sexual offences to keep
20 police informed of their whereabouts and other personal details
21 for a period of time—

22 (i) to reduce the likelihood that they will reoffend; and

23 (ii) to facilitate the investigation and prosecution of future
24 offences that they may commit; and

25 (b) prevent registrable offenders working in child-related
26 employment.

27 (2) In outline, this Act—

- 1 (a) provides for the establishment of a child sex offenders register;
2 and
- 3 (b) requires certain offenders who are sentenced for registrable
4 offences to report particular personal details for inclusion in
5 the child sex offenders register; and
- 6 (c) allows the sentencing court to order young offenders to comply
7 with the reporting obligations of the Act; and
- 8 (d) requires the offenders to keep their details up to date, to report
9 their details annually and to also report certain travel details;
10 and
- 11 (e) imposes the reporting obligations for a period of between
12 4 years and life, depending on the number, severity and timing
13 of the offences committed, and the age of the offender when an
14 offence was committed; and
- 15 (f) allows for the recognition of the period of reporting obligations
16 imposed under laws of foreign jurisdictions; and
- 17 (g) makes it an offence for registrable offenders to work in
18 child-related employment; and
- 19 (h) authorises the ombudsman to monitor compliance with
20 chapter 4 (Child sex offenders register).

21 **7 Meaning of *finding of guilt***

- 22 (1) For this Act, a reference to a ***finding of guilt*** (however expressed) in
23 relation to an offence committed by a person is a reference to any of
24 the following:
- 25 (a) a court making a formal finding of guilt in relation to the
26 offence;
- 27 (b) a court accepting a plea of guilty from the person in relation to
28 the offence;

-
- 1 (c) an offence being taken into account under the *Crimes*
2 *Act 1900*, section 357 (which is about taking outstanding
3 charges into account when passing sentence), or an admission
4 (however described) being accepted in relation to the offence
5 under a corresponding provision of a foreign law;
- 6 (d) an order (however described) being made in relation to the
7 offence under—
- 8 (i) the *Crimes Act 1900*, section 402 (Conditional release of
9 offenders without proceeding to conviction); or
- 10 (ii) the *Children and Young People Act 1999*, section 98
11 (Disposition without proceeding to conviction); or
- 12 (iii) a provision of a foreign law corresponding to a provision
13 mentioned in subparagraph (i) or (ii);
- 14 (e) a finding (however expressed) under the *Crimes Act 1900*,
15 division 13.3 or the Criminal Code, section 28 (7) of not guilty
16 because of mental impairment, or a finding under a
17 corresponding provision of a foreign law.
- 18 (2) For this Act, a reference to a ***finding of guilt*** (however expressed) in
19 relation to an offence does not include a reference to—
- 20 (a) a finding of guilt mentioned in subsection (1) (c) if—
- 21 (i) the offence was taken into account under the *Crimes*
22 *Act 1900*, section 357 in passing sentence for another
23 offence; and
- 24 (ii) the decision to take the offence into account is
25 subsequently quashed or set aside by a court; or
- 26 (b) a finding of guilt mentioned in subsection (1) (c) if—
- 27 (i) an admission (however described) was accepted in
28 relation to the offence under a corresponding provision of
29 a foreign law; and
-

Chapter 1 Preliminary

Section 7

- 1 (ii) the decision to accept the admission is subsequently
2 quashed or set aside by a court; or
3 (c) in any other case—a finding of guilt that is subsequently
4 quashed or set aside by a court.

1 **Chapter 2** **Offenders to whom Act applies**

2 **Part 2.1** **Who is a registrable offender?**

3 **8** **Who is a *registrable offender*?**

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

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

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

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

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

Section 9

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

4 **9 *Registrable offender—exceptions***

- 5 (1) A person is not a *registrable offender* only because—
6 (a) a court has made an order against the person for a class 1 or
7 class 2 offence under—
8 (i) the *Crimes Act 1900*, section 402 (Conditional release of
9 offenders without proceeding to conviction); or
10 (ii) the *Children and Young People Act 1999*, section 98
11 (Disposition without proceeding to conviction); or
12 (iii) a provision of a foreign law corresponding to a provision
13 mentioned in subparagraph (i) or (ii); or
14 (b) the person has been sentenced for a single class 2 offence, and
15 the sentence did not include—
16 (i) a term of imprisonment; or
17 (ii) a requirement that the person be under the supervision of
18 a supervising authority or anyone else; or
19 (c) the person, as a young person, has been sentenced for—
20 (i) a single offence mentioned in schedule 2 (Class 2
21 offences), part 2.1 (Offences against ACT legislation),
22 item 3, 4 or 9; or
23 (ii) a single class 1 or class 2 offence prescribed by
24 regulation.

- 25 *Note* The offence mentioned in—
26 • sch 2, pt 2.1, item 3 is against the *Crimes Act 1900*, s 61 (1)
27 (act of indecency with young person)

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

4 **11 Who is a *prescribed corresponding offender*?**

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

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

18 **12 Appeal proceedings irrelevant**

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

22 **13 Effect of quashing of finding of guilt etc**

- 23 (1) A person stops being a registrable offender if—
- 24 (a) the person is a registrable offender because of only a single
25 finding of guilt for a registrable offence and either—
- 26 (i) the finding of guilt is quashed or set aside by a court; or

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

1 **Part 2.2** **Child sex offender registration**
2 **orders**

3 **14** **What is a *child sex offender registration order*?**

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

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

8 **15** **Court may make child sex offender registration order**

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

18 **16** **Court may only make order if person risk to sexual safety**

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

1 **17 Court may only make order with sentence**

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

6 (2) In this section:

7 *sentence*, for an offence, does not include an order against a person
8 under—

9 (a) the *Children and Young People Act 1999*, section 96 (1) (a),
10 (b), (f), (g) or (h) (Disposition of young offenders); or

11 (b) the *Children and Young People Act 1999*, section 98
12 (Disposition without proceeding to conviction).

13 **18 Court may only make order on prosecution application**

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

1 **Chapter 3 Reporting**

2 **Part 3.1 Definitions for ch 3**

3 **19 What is a *reporting obligation*?**

4 In this Act:

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

7 **20 What is a *reporting offence*?**

8 In this Act:

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

11 *Note* The following provisions are reporting offence provisions:

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

- 1 • s 45 (Offence—offender outside ACT must report travel details)
- 2 • s 46 (Offence—offender outside ACT must report change of travel
- 3 details)
- 4 • s 47 (Offence—offender must report return to ACT)
- 5 • s 48 (Offence—offender must report decision not to leave ACT)
- 6 • s 49 (Offence—offender must report regular travel)
- 7 • s 54 (Offence—offender in ACT must report change of details)
- 8 • s 55 (Offence—offender returning to ACT must report change of
- 9 details)
- 10 • s 56 (Offence—offender leaving custody must report)
- 11 • s 70 (Offence—offender reporting in person must provide
- 12 identification etc)
- 13 • s 71 (Offence—person reporting in person for offender must
- 14 provide identification).

1 **Part 3.2** **When initial report must be made**

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

4 **21** **Offence—offender in ACT at commencement of Act must**
5 **report**

- 6 (1) A registrable offender commits an offence if—
- 7 (a) the offender is in the ACT immediately before the
8 commencement of this Act; and
- 9 (b) the offender is not in government custody at the time; and
- 10 (c) the offender does not take all reasonable steps to report the
11 offender's personal details, in person, to the chief police officer
12 at an approved reporting place—
- 13 (i) within 45 days after the day this Act commences
14 (excluding days in government custody); or
- 15 (ii) if the offender leaves the ACT (other than in government
16 custody) within the 45 days—before leaving the ACT;
17 and
- 18 (d) the offender's reporting period has not ended before the end of
19 the 45 days.

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

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

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

- 1 (c) the offender's reporting period has not ended before the end of
2 the period within which the report must be given.
- 3 Maximum penalty: 200 penalty units, imprisonment for 2 years or
4 both.
- 5 *Note 1* For the offender's personal details, see s 59.
- 6 *Note 2* A registrable offender reports in person at a place only if the offender
7 reports by personally attending at the place (see dict, def *in person*).
8 However, special provision has been made for young offenders and
9 offenders with a disability (see s 65 and s 66).
- 10 *Note 3* For approved reporting places, see s 64.
- 11 *Note 4* In deciding whether a person took all reasonable steps to do something,
12 a court must have regard to the person's age, any disability and whether
13 the notice given to the person about the person's obligations was
14 adequate to tell the person about the relevant obligation (see s 116).

15 **24 Offence—offender entering ACT must report**

16 A registrable offender commits an offence if—

- 17 (a) the offender enters the ACT, and remains in the ACT for 7 or
18 more consecutive days (excluding days in government
19 custody); and
- 20 (b) the offender has not previously reported the offender's
21 personal details to the chief police officer; and
- 22 (c) the offender does not take all reasonable steps to report the
23 offender's personal details, in person, to the chief police officer
24 at an approved reporting place—
- 25 (i) if the offender is not in government custody on the day
26 the offender has been in the ACT for 7 consecutive days
27 (excluding days in government custody)—within 7 days
28 after that day (excluding days in government custody); or
- 29 (ii) if the offender is in government custody on the day the
30 offender has been in the ACT for 7 consecutive days

- 1 (excluding days in government custody), and later stops
2 being in government custody in the ACT—within 7 days
3 after the day the offender stops being in government
4 custody (excluding days in government custody); or
- 5 (iii) if the offender leaves the ACT (other than in government
6 custody) within the 7 days mentioned in subparagraph (i)
7 or (ii)—before leaving the ACT; and
- 8 (d) the offender’s reporting period has not ended before the end of
9 the period within which the report must be given.

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

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

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

17 *Note 3* For approved reporting places, see s 64.

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

22 **25 Offence—prescribed corresponding offender must report**

23 A prescribed corresponding offender commits an offence if—

- 24 (a) the offender is in the ACT on the day the offender becomes a
25 prescribed corresponding offender; and
- 26 (b) the offender has not previously reported the offender’s
27 personal details to the chief police officer; and
- 28 (c) the offender does not take all reasonable steps to report the
29 offender’s personal details, in person, to the chief police officer
30 at an approved reporting place—

- 1 (i) if the offender is not in government custody on the day
2 the offender becomes a prescribed corresponding
3 offender—within 7 days after the day the offender
4 becomes a prescribed corresponding offender (excluding
5 days in government custody); or
- 6 (ii) if the offender is in government custody on the day the
7 offender becomes a prescribed corresponding offender
8 and later stops being in government custody in the
9 ACT—within 7 days after the day the offender stops
10 being in government custody (excluding days in
11 government custody); or
- 12 (iii) if the offender leaves the ACT (other than in government
13 custody) within the 7 days mentioned in subparagraph (i)
14 or (ii)—before leaving the ACT; and
- 15 (d) the offender’s reporting period has not ended before the end of
16 the period within which the report must be given.

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

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

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

24 *Note 3* For approved reporting places, see s 64.

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

- 1 **26** **Exception—offender’s reporting obligations suspended**
- 2 This division does not apply to a registrable offender during any
- 3 period when the offender’s reporting obligations are suspended
- 4 under section 97 (Supreme Court may make suspension order).
- 5 **27** **Exception—protected registrable offender**
- 6 This division does not apply to a registrable offender if—
- 7 (a) the offender is a protected registrable offender; and
- 8 (b) the offender reports such of the information that the offender is
- 9 required to report under this division as the chief police officer
- 10 requires the offender to report; and
- 11 (c) the offender makes the report when, where, and in a way,
- 12 approved by the chief police officer.
- 13 **Division 3.2.2** **When registrable offender must make**
- 14 **new initial report of personal details**
- 15 **28** **Offence—offender later sentenced for registrable offence**
- 16 **must report**
- 17 A registrable offender commits an offence if—
- 18 (a) the offender’s reporting period has ended; and
- 19 (b) the offender is later sentenced in the ACT for a registrable
- 20 offence (the *later registrable offence*); and
- 21 (c) the offender does not take all reasonable steps to report the
- 22 offender’s personal details, in person, to the chief police officer
- 23 at an approved reporting place—
- 24 (i) if the offender is not in government custody on the day
- 25 the offender is sentenced for the later registrable
- 26 offence—within 7 days after the day the offender is

- 1 sentenced for the later registrable offence (excluding days
2 in government custody); or
- 3 (ii) if the offender is in government custody on the day the
4 offender is sentenced for the later registrable offence and
5 later stops being in government custody in the ACT—
6 within 7 days after the day the offender stops being in
7 government custody (excluding days in government
8 custody); or
- 9 (iii) if the offender leaves the ACT (other than in government
10 custody) within the 7 days mentioned in subparagraph (i)
11 or (ii)—before leaving the ACT; and
- 12 (d) the offender's reporting period in relation to the later
13 registrable offence has not ended before the end of the period
14 within which the report must be given.

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

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

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

22 *Note 3* For approved reporting places, see s 64.

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

27 **29 Offence—offender who later becomes prescribed**
28 **corresponding offender must report**

29 A registrable offender commits an offence if—

- 30 (a) the offender's reporting period has ended; and

- 1 (b) the offender is in the ACT on the day the offender later
2 becomes a prescribed corresponding offender; and
- 3 (c) the offender has not previously reported the offender's
4 personal details to the chief police officer; and
- 5 (d) the offender does not take all reasonable steps to report the
6 offender's personal details, in person, to the chief police officer
7 at an approved reporting place—
- 8 (i) if the offender is not in government custody on the day
9 the offender later becomes a prescribed corresponding
10 offender—within 7 days after the day the offender later
11 becomes a prescribed corresponding offender (excluding
12 days in government custody); or
- 13 (ii) if the offender is in government custody on the day the
14 offender later becomes a prescribed corresponding
15 offender and later stops being in government custody in
16 the ACT—within 7 days after the day the offender stops
17 being in government custody (excluding days in
18 government custody); or
- 19 (iii) if the offender leaves the ACT (other than in government
20 custody) within the 7 days mentioned in subparagraph (i)
21 or (ii)—before leaving the ACT; and
- 22 (e) the offender's reporting period for the later offence has not
23 ended before the end of the period within which the report
24 must be given.

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

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

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

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

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

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

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

10 *Note 3* For approved reporting places, see s 64.

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

15 **31 Exception—offender's reporting obligations suspended**

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

20 **32 Exception—protected registrable offender**

21 This division does not apply to a registrable offender if—

22 (a) the offender is a protected registrable offender; and

23 (b) the offender reports such of the information that the offender is
24 required to report under this division as the chief police officer
25 requires the offender to report; and

26 (c) the offender makes the report when, where, and in a way,
27 approved by the chief police officer.

- 1 **34 Offence—offender entering ACT must make contact**
- 2 A registrable offender (other than a protected registrable offender)
- 3 commits an offence if—
- 4 (a) the offender has, at any time, been required to report under this
- 5 Act or a corresponding law; and
- 6 (b) the offender enters the ACT, and remains in the ACT for 7 or
- 7 more consecutive days (excluding days in government
- 8 custody); and
- 9 (c) the offender does not take all reasonable steps to either—
- 10 (i) contact a contact person (by telephone or another way
- 11 prescribed by regulation); or
- 12 (ii) report the offender’s personal details, in person, to the
- 13 chief police officer at an approved reporting place; and
- 14 (d) the offender does not take all reasonable steps to make the
- 15 contact or report—
- 16 (i) if the offender is not in government custody on the day
- 17 the offender has been in the ACT for 7 consecutive days
- 18 (excluding days in government custody)—within 7 days
- 19 after that day (excluding days in government custody); or
- 20 (ii) if the offender is in government custody on the day the
- 21 offender has been in the ACT for 7 consecutive days
- 22 (excluding days in government custody), and later stops
- 23 being in government custody in the ACT—within 7 days
- 24 after the day the offender stops being in government
- 25 custody (excluding days in government custody); or
- 26 (iii) if the offender leaves the ACT (other than in government
- 27 custody) within the 7 days mentioned in subparagraph (i)
- 28 or (ii)—before leaving the ACT; and

1 (e) the offender's reporting period has not ended before the end of
2 the period within which the contact or report must be given.

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

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

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

10 *Note 3* For approved reporting places, see s 64.

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

15 **35 Exception—person has already made contact**

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

20 **36 Exception—offender's reporting obligations suspended**

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

1 **Part 3.3 Ongoing reporting**

2 **Division 3.3.1 Annual reporting**

3 **37 Offence—offender must report annually**

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

5 (a) the offender does not take all reasonable steps to—

6 (i) report, each year, the offender’s personal details, in
7 person, to the chief police officer at an approved reporting
8 place; and

9 (ii) if the offender has been in government custody since the
10 offender last reported under this Act—also report to the
11 chief police officer details of when and where the custody
12 happened; and

13 (b) the offender does not take all reasonable steps to make a report
14 for a year before the end of the month (the *offender’s*
15 *reporting month*) in the year when the anniversary of the day
16 the offender first reported under this Act or a corresponding
17 law falls; and

18 (c) the offender’s reporting period has not ended before the end of
19 the offender’s reporting month in the year.

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

22 **Example**

23 J first reported his personal details to the chief police officer on 14 October 2005.
24 This section requires J to make a further report of J’s details on or before
25 31 October 2006, 31 October 2007 (and so on).

1 **39 Exception—offender outside ACT**

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

5 **Example**

6 J first reported his personal details to the chief police officer on 14 October 2005.
7 However, J is out of the ACT from 1 October 2006 to 1 November 2006.
8 Because of this section, J does not have to report his details on or before
9 31 October 2006. However, J must report his intention to travel outside the ACT
10 (see s 42) and, when J returns to the ACT for 7 days, he will have to report any
11 change to his personal details (see s 55).

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

15 **40 Exception—offender’s reporting obligations suspended**

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

19 **41 Exception—protected registrable offender**

20 This division does not apply to a registrable offender if—

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

1 **Division 3.3.2 Reporting of travel**

2 **42 Offence—offender leaving ACT must report travel details**

3 A registrable offender commits an offence if—

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

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

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

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

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

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

14 **43 Defence—impracticable to report 7 days before leaving**

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

17 (a) circumstances make it impracticable for the registrable
18 offender to make the report at least 7 days before leaving the
19 ACT; and

20 (b) the offender makes the report at least 24 hours before leaving
21 the ACT.

22 **44 Offender not to be punished twice for failing to report
23 travel**

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

-
- 1 **45 Offence—offender outside ACT must report travel details**
- 2 (1) A registrable offender commits an offence if—
- 3 (a) the offender is outside the ACT; and
- 4 (b) the offender decides to stay outside the ACT but within
- 5 Australia for 7 or more days; and
- 6 (c) the offender does not take all reasonable steps to report the
- 7 offender’s travel details (including details about the travel that
- 8 has already been completed) to the chief police officer, in a
- 9 way required under subsection (2), within 7 days after the day
- 10 the decision is made; and
- 11 (d) the offender’s reporting period has not ended before the end of
- 12 the period within which the report must be given.
- 13 Maximum penalty: 200 penalty units, imprisonment for 2 years or
- 14 both.
- 15 *Note* In deciding whether a person took all reasonable steps to do something,
- 16 a court must have regard to the person’s age, any disability and whether
- 17 the notice given to the person about the person’s obligations was
- 18 adequate to tell the person about the relevant obligation (see s 116).
- 19 (2) The registrable offender must make the report in 1 of the following
- 20 ways:
- 21 (a) by sending it by prepaid post, addressed as required by
- 22 regulation;
- 23 (b) by faxing it to a fax number prescribed by regulation;
- 24 (c) by emailing to an email address prescribed by regulation;
- 25 (d) in another way prescribed by regulation.
- 26 (3) In this section:
- 27 *travel details*, for travel by a registrable offender—see
- 28 section 42 (c).

- 1 **46** **Offence—offender outside ACT must report change of**
2 **travel details**
- 3 (1) A registrable offender commits an offence if—
- 4 (a) the offender is outside the ACT; and
- 5 (b) the offender decides to change any of the travel details given to
- 6 the chief police officer; and
- 7 (c) the offender does not take all reasonable steps to report the
- 8 changed travel details to the chief police officer, in a way
- 9 required under subsection (2), within 7 days after the day the
- 10 decision is made; and
- 11 (d) the offender’s reporting period has not ended before the end of
- 12 the period within which the report must be given.
- 13 Maximum penalty: 200 penalty units, imprisonment for 2 years or
- 14 both.
- 15 *Note* In deciding whether a person took all reasonable steps to do something,
- 16 a court must have regard to the person’s age, any disability and whether
- 17 the notice given to the person about the person’s obligations was
- 18 adequate to tell the person about the relevant obligation (see s 116).
- 19 (2) The registrable offender must make the report in 1 of the following
- 20 ways:
- 21 (a) by sending it by prepaid post, addressed as required by
- 22 regulation;
- 23 (b) by faxing it to a fax number prescribed by regulation;
- 24 (c) by emailing to an email address prescribed by regulation;
- 25 (d) in another way prescribed by regulation.
- 26 (3) In this section:
- 27 *travel details*, for travel by a registrable offender—see
- 28 section 42 (c).

- 1 **47 Offence—offender must report return to ACT**
- 2 A registrable offender commits an offence if—
- 3 (a) the offender reported the offender’s travel details under
4 section 42 (Offence—offender leaving ACT must report travel
5 details); and
- 6 (b) the offender leaves the ACT; and
- 7 (c) the offender returns to the ACT, and remains in the ACT for
8 7 consecutive days (excluding days in government custody);
9 and
- 10 (d) the offender does not take all reasonable steps to report the
11 offender’s return to the ACT to the chief police officer, in an
12 approved way, within the 7 days; and
- 13 (e) the offender’s reporting period has not ended before the end of
14 the 7 days.

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

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

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

23 **48 Offence—offender must report decision not to leave ACT**

- 24 A registrable offender commits an offence if—
- 25 (a) the offender reported the offender’s travel details under
26 section 42 (Offence—offender leaving ACT must report travel
27 details) in relation to a proposed departure from the ACT; and
- 28 (b) the offender later decides not to leave the ACT; and

- 1 (c) the offender does not take all reasonable steps to report the
2 change of decision to the chief police officer, in an approved
3 way, within 7 days after the day the offender decides not to
4 leave; and
- 5 (d) the offender's reporting period has not ended before the end of
6 the 7 days.
- 7 Maximum penalty: 200 penalty units, imprisonment for 2 years or
8 both.
- 9 *Note 1* For approved ways of reporting, see s 63. Special provision is made for
10 young offenders and offenders with a disability (see s 65 and s 66).
- 11 *Note 2* In deciding whether a person took all reasonable steps to do something,
12 a court must have regard to the person's age, any disability and whether
13 the notice given to the person about the person's obligations was
14 adequate to tell the person about the relevant obligation (see s 116).

15 **49 Offence—offender must report regular travel**

16 A registrable offender commits an offence if—

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

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

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

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

1 **Division 3.3.3 Other reporting**

2 **54 Offence—offender in ACT must report change of details**

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

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

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

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

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

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

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

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

8 *Note 3* For approved reporting places, see s 64.

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

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

12 (a) the premises where the offender generally lives;

13 (b) the household in which the offender and a child generally live;

14 (c) when the offender has unsupervised contact with a child;

15 (d) the premises where the offender is generally employed;

16 (e) the motor vehicle that the offender generally drives.

17 **55 Offence—offender returning to ACT must report change**
18 **of details**

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

20 (a) any of the offender’s personal details change while the
21 offender is outside the ACT; and

22 (b) the offender enters the ACT, and remains in the ACT for 7 or
23 more consecutive days (excluding days in government
24 custody); and

25 (c) the offender does not take all reasonable steps to report the
26 change to the chief police officer, in the way required under
27 subsection (2), within 7 days after the day the offender has

- 1 been in the ACT for 7 consecutive days (excluding days in
2 government custody); and
- 3 (d) the offender's reporting period has not ended before the end of
4 the period within which the report must be given.
- 5 Maximum penalty: 200 penalty units, imprisonment for 2 years or
6 both.
- 7 *Note 1* For the offender's personal details, see s 59.
- 8 *Note 2* In deciding whether a person took all reasonable steps to do something,
9 a court must have regard to the person's age, any disability and whether
10 the notice given to the person about the person's obligations was
11 adequate to tell the person about the relevant obligation (see s 116).
- 12 (2) The registrable offender must report the change—
- 13 (a) in person, at an approved reporting place, if the report is about
14 a change in relation to—
- 15 (i) the address of any of the premises where the offender
16 generally lives or, if the offender does not generally live
17 at a particular premises, the name of any of the localities
18 where the offender can generally be found; or
- 19 (ii) details of any tattoo or permanent distinguishing mark
20 that the offender has (including details of a tattoo or mark
21 that has been acquired or removed); or
- 22 (b) for any other change—in an approved way.
- 23 *Note 1* The personal details in s (2) (a) (i) and (ii) are required under s 59 (d)
24 and (i).
- 25 *Note 2* A registrable offender reports in person at a place only if the offender
26 reports by personally attending at the place (see dict, def *in person*).
27 However, special provision has been made for young offenders and
28 offenders with a disability (see s 65 and s 66).
- 29 *Note 3* For approved reporting places, see s 64.
- 30 *Note 4* For approved ways of reporting, see s 63.

- 1 **56 Offence—offender leaving custody must report**
- 2 (1) A registrable offender commits an offence if—
- 3 (a) the offender is in government custody for 7 or more
4 consecutive days; and
- 5 (b) the offender leaves government custody in the ACT; and
- 6 (c) the offender does not take all reasonable steps to report the
7 offender’s personal details, in person, to the chief police officer
8 at an approved reporting place—
- 9 (i) within 7 days after the day the offender stops being in
10 government custody in the ACT (excluding days in
11 government custody); or
- 12 (ii) if the offender leaves the ACT (other than in government
13 custody) within the 7 days mentioned in
14 subparagraph (i)—before leaving the ACT; and
- 15 (d) the offender’s reporting period has not ended before the end of
16 the period within which the report must be given.
- 17 Maximum penalty: 200 penalty units, imprisonment for 2 years or
18 both.
- 19 *Note 1* For the offender’s personal details, see s 59.
- 20 *Note 2* A registrable offender reports in person at a place only if the offender
21 reports by personally attending at the place (see dict, def *in person*).
22 However, special provision has been made for young offenders and
23 offenders with a disability (see s 65 and s 66).
- 24 *Note 3* For approved reporting places, see s 64.
- 25 *Note 4* In deciding whether a person took all reasonable steps to do something,
26 a court must have regard to the person’s age, any disability and whether
27 the notice given to the person about the person’s obligations was
28 adequate to tell the person about the relevant obligation (see s 116).

- 1 **57** **Exception—offender’s reporting obligations suspended**
- 2 This division does not apply to a registrable offender during any
- 3 period when the offender’s reporting obligations are suspended
- 4 under section 97 (Supreme Court may make suspension order).
- 5 **58** **Exception—protected registrable offender**
- 6 (1) Section 54 and section 56 do not apply to a registrable offender if—
- 7 (a) the offender is a protected registrable offender; and
- 8 (b) the offender reports such of the information that the offender is
- 9 required to report under this division as the chief police officer
- 10 requires the offender to report; and
- 11 (c) the offender makes the report when, where, and in a way,
- 12 approved by the chief police officer.
- 13 (2) Section 55 does not apply to a registrable offender if the offender is
- 14 a protected registrable offender.

1 **Part 3.4 Provisions applying to all reports**

2 **Division 3.4.1 What information is to be reported**

3 **59 What are *personal details*?**

4 In this Act:

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

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

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

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

22 *Note 1* A child generally lives in the same household as a registrable
23 offender only if they live together in the household for at least
24 7 days (whether or not consecutive) in a period of 12 months (see
25 s 60 (b)).

- 1 (ii) when and where the finding of guilt happened; and
- 2 (iii) any order made by a court in relation to the finding of
- 3 guilt;
- 4 (k) if the offender has ever been found guilty under a
- 5 corresponding law of an offence that required the offender to
- 6 report to a corresponding registrar—details of—
- 7 (i) the offence; and
- 8 (ii) when and where the finding of guilt happened; and
- 9 (iii) any order made by a court in relation to the finding of
- 10 guilt;
- 11 (l) if the offender has ever been subject to a corresponding child
- 12 sex offender registration order—details of—
- 13 (i) the order; and
- 14 (ii) when and where the order was made; and
- 15 (iii) the offence because of which the order was made;
- 16 (m) if the offender has been in government custody since the
- 17 offender was sentenced or released from government custody
- 18 (as the case may be) for a registrable offence or corresponding
- 19 registrable offence—details of when and where the
- 20 government custody happened;
- 21 (n) if, when making the report, the offender intends to travel
- 22 outside the ACT, but within Australia, on an average of at least
- 23 once a month (irrespective of the length of the absence)—in
- 24 general terms, the frequency and destinations of the travel.

1 **60 Meaning of some concepts in s 59**

2 For section 59—

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

6 (b) a child generally lives in the same household as a registrable
7 offender only if they live together in the household for at least
8 7 days (whether or not consecutive) in a period of 12 months;
9 and

10 (c) a registrable offender has regular unsupervised contact with a
11 child only if the offender has unsupervised contact with the
12 child for at least 7 days (whether or not consecutive) in a
13 period of 12 months; and

14 (d) a registrable offender is generally employed at particular
15 premises only if the offender is employed at the premises for at
16 least 7 days (whether or not consecutive) in a period of
17 12 months; and

18 (e) a registrable offender generally drives a particular motor
19 vehicle only if the offender drives the vehicle on at least 7 days
20 (whether or not consecutive) in a period of 12 months.

21 **61 Meaning of employment in s 59**

22 (1) For section 59, a registrable offender is employed if the offender—

23 (a) carries out work under a contract of employment; or

24 (b) carries out work as a self-employed person or as a
25 subcontractor; or

26 (c) carries out work as a volunteer for an organisation; or

27 (d) undertakes practical training as part of an educational or
28 vocational course; or

- 1 (e) carries out work as a minister of religion or in another capacity
2 for a religious organisation.
- 3 (2) For section 59, a person is an employer if the person—
- 4 (a) arranges, in the course of business, for the registrable offender
5 to be employed by someone else; or
- 6 (b) engages the offender under contract to carry out work.

7 **62 Application of s 59 to protected registrable offender**

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

11 **Division 3.4.2 How report is to be made**

12 **63 How is a report made in an *approved way*?**

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

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

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

19 **64 Where are *approved reporting places*?**

20 In this Act:

21 *approved reporting place*, for a registrable offender, means—

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

- 1 **65** **Reports by young offenders**
- 2 (1) A registrable offender is taken to have made a report in person if—
- 3 (a) the offender is a young person; and
- 4 (b) 1 of the following people makes the report, in person, for the
- 5 offender:
- 6 (i) a person with parental responsibility for the offender; or
- 7 (ii) if a person with parental responsibility for the offender is
- 8 unavailable, or is unacceptable to the offender—someone
- 9 else (other than a police officer) who can represent the
- 10 interests of the offender and who is, as far as is
- 11 practicable in the circumstances, acceptable to the
- 12 offender; and
- 13 (c) the offender accompanies the person when the person makes
- 14 the report.
- 15 (2) A registrable offender is taken to have made a report in another way
- 16 if—
- 17 (a) the offender is a young person; and
- 18 (b) 1 of the following people makes the report in that way for the
- 19 offender:
- 20 (i) a person with parental responsibility for the offender; or
- 21 (ii) if a person with parental responsibility for the offender is
- 22 unavailable, or is unacceptable to the—someone else
- 23 (other than a police officer) who can represent the
- 24 interests of the offender and who is, as far as is
- 25 practicable in the circumstances, acceptable to the
- 26 offender.

-
- 1 **66** **Reports by offenders with disability**
- 2 (1) A registrable offender is taken to have made a report in person if—
- 3 (a) the offender has a disability that makes it impracticable for the
- 4 offender to make a report in person; and
- 5 (b) 1 of the following people makes the report, in person, for the
- 6 offender:
- 7 (i) the offender’s parent or guardian;
- 8 (ii) the offender’s carer;
- 9 (iii) someone else nominated by the offender; and
- 10 (c) the offender accompanies the person when the person makes
- 11 the report (unless the offender’s disability makes it
- 12 impracticable).
- 13 (2) A registrable offender is taken to have made a report in another way
- 14 if—
- 15 (a) the registrable offender has a disability that makes it
- 16 impracticable for the offender to make a report in that way; and
- 17 (b) 1 of the following people makes the report in that way for the
- 18 offender:
- 19 (i) the offender’s parent or guardian;
- 20 (ii) the offender’s carer;
- 21 (iii) someone else nominated by the offender.
- 22 **67** **Regulation about reports not made in person**
- 23 For a report made otherwise than in person, a regulation may
- 24 prescribe—
- 25 (a) when information about the identity of the person making the
- 26 report is required; and

1 (b) when a document verifying or supporting details in the report
2 is required; and

3 (c) how the information mentioned in paragraph (a) or a document
4 mentioned in paragraph (b) is to be provided.

5 **68 Police officers who may receive reports**

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

8 **69 Police officer receiving report may arrange interpreter**

9 (1) A police officer receiving a report under this chapter may arrange
10 for an interpreter to be available.

11 (2) A police officer receiving the report may allow an interpreter to be
12 present only if the interpreter has signed an undertaking not to
13 disclose information derived from the report unless required or
14 authorised by law.

15 **Division 3.4.3 Additional provisions for reports**
16 **made in person**

17 **70 Offence—offender reporting in person must provide**
18 **identification etc**

19 A registrable offender commits an offence if—

20 (a) the offender is required to make a report in person under a
21 reporting offence provision; and

22 (b) the offender makes the report in person, or accompanies
23 someone else who makes the report in person for the offender;
24 and

25 (c) the offender or other person does not take all reasonable steps
26 to—

1 (i) present for inspection the offender's Australian driver
2 licence (if any) or another form of identification, or other
3 document, prescribed by regulation to verify or support
4 details in the report; and

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

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

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

13 **71 Offence—person reporting in person for offender must**
14 **provide identification**

15 A person commits an offence if—

16 (a) an offender is required to make a report in person under a
17 reporting offence provision; and

18 (b) the person makes the report, in person, for the offender; and

19 (c) the person does not take all reasonable steps to present for
20 inspection the person's Australian driver licence (if any) or
21 another form of identification, or other document, prescribed
22 by regulation for this section.

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

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

28 *Note 2* In deciding whether a person took all reasonable steps to do something,
29 a court must have regard to the person's age, any disability and whether

1 the notice given to the person about the person's obligations was
2 adequate to tell the person about the relevant obligation (see s 116).

3 **72 Identification documents may be copied**

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

7 **73 Right to privacy when reporting in person**

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

10 **74 Right to have support person when reporting in person**

11 (1) A person making a report under this chapter in person is entitled to
12 be accompanied by a support person of the person's own choosing.

13 (2) A young person making a report under this chapter in person must
14 be accompanied by—

15 (a) a person with parental responsibility for the young person; or

16 (b) if a person with parental responsibility for the young person is
17 unavailable, or is unacceptable to the young person—someone
18 else (other than a police officer) who can represent the interests
19 of the young person and who is, as far as is practicable in the
20 circumstances, acceptable to the young person.

21 **75 Offender reporting in person may be fingerprinted to
22 confirm identity**

23 (1) A police officer receiving a report made in person under this chapter
24 may take, or may authorise someone else to take, the fingerprints of
25 the registrable offender if the police officer—

26 (a) has examined all the material relating to identity provided or
27 presented by, or for, the offender; but

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

14 **76 Offender to be told why fingerprints needed**

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

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

1 **77 Offence—offender must allow fingerprinting**

2 A registrable offender commits an offence if—

- 3 (a) a police officer receiving a report decides, under section 75, to
4 take, or authorise someone else to take, the fingerprints of the
5 offender; and
- 6 (b) the offender fails to take all reasonable steps to allow the
7 offender’s fingerprints to be taken.

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

10 **78 Offender reporting in person may be photographed**

11 (1) A police officer receiving a report made in person by or for a
12 registrable offender under this chapter may, with the offender’s
13 consent, arrange for the offender to be photographed.

14 (2) If the offender consents to being photographed, the police officer
15 must ask the offender to sign a written acknowledgment (an
16 *acknowledgment of consent*) stating—

- 17 (a) that the offender was told that consent may be refused; and
18 (b) that the offender consented to being photographed; and
19 (c) the time and date when consent was given.

20 (3) If the offender signs an acknowledgment of consent, the police
21 officer must immediately give a copy to the offender.

22 (4) A court must find that the offender did not consent to being
23 photographed if—

- 24 (a) the question of whether the offender consented to being
25 photographed arises in a proceeding in the court; and
- 26 (b) an acknowledgment of consent for the photography is not
27 produced in evidence; and

1 (c) it is not proved that the offender consented to being
2 photographed.

3 (5) A police officer cannot, under this section, ask a registrable offender
4 who is to be photographed to expose for that purpose—

5 (a) the offender's genitals; or

6 (b) the anal area of the offender's buttocks; or

7 (c) if the offender is female, or a transgender or intersex person
8 who identifies as female—the offender's breasts.

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

11 **79 Right to privacy when being photographed**

12 (1) A photograph taken under section 78 must be taken—

13 (a) in a place where no members of the public are present; and

14 (b) by a person of the same sex as the registrable offender.

15 (2) A police officer present in a place while a photograph is being taken
16 under this section must be of the same sex as the registrable
17 offender.

18 (3) If the offender is a transgender or intersex person who identifies as
19 female, the offender is taken to be female for this section.

20 (4) If the offender is a transgender or intersex person who identifies as
21 male, the offender is taken to be male for this section.

22 **80 Right to have support person when being photographed**

23 (1) A registrable offender to be photographed under section 78 is
24 entitled to be accompanied by a support person of the offender's
25 choosing.

26 (2) A young person to be photographed under section 78 must be
27 accompanied by—

- 1 (a) a person with parental responsibility for the young person; or
2 (b) if a person with parental responsibility for the young person is
3 unavailable, or is unacceptable to the young person—someone
4 else (other than a police officer) who can represent the interests
5 of the young person and who is, as far as is practicable in the
6 circumstances, acceptable to the young person.

7 **Division 3.4.4 Report to be acknowledged**

8 **81 Receipt of report to be acknowledged**

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

- 1 **Division 3.4.5 Keeping material for certain purposes**
- 2 **82 Documents, fingerprints, photographs may be kept**
- 3 (1) The chief police officer may, during a registrable offender's
- 4 reporting period, keep for law enforcement, crime prevention or
- 5 child protection purposes any of the following taken under this part
- 6 from, or in relation to, the offender:
- 7 (a) copies of documents;
- 8 (b) fingerprints;
- 9 (c) photographs.
- 10 (2) At the end of the registrable offender's reporting period, the chief
- 11 police officer must ensure that any item that is being kept under
- 12 subsection (1) is destroyed.

1 **Part 3.5 Reporting period**

2 **83 When reporting period begins**

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

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

8 **84 Reporting period—single class 1 offence—15 years**

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

12 **85 Reporting period—single class 2 offence—8 years**

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

16 **86 Reporting period—2 class 2 offences—15 years**

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

20 **87 Reporting period—multiple offences—life**

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

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

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

6 **88 Offences committed before commencement of Act used**
7 **to work out length of reporting period**

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

- 10 (a) section 84 (Reporting period—single class 1 offence—
11 15 years);
12 (b) section 85 (Reporting period—single class 2 offence—
13 8 years);
14 (c) section 86 (Reporting period—2 class 2 offences—15 years);
15 (d) section 87 (Reporting period—multiple offences—life).

16 **89 Reduced reporting period for young offenders**

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

- 1 **90 Offences arising from same incident taken as 1 offence**
- 2 (1) For this part, 2 or more offences arising from the same incident are
- 3 to be treated as a single offence.
- 4 (2) For this part, 2 or more offences arising from the same incident are
- 5 to be treated as a single class 1 offence if 1 or more of the offences
- 6 is a class 1 offence.
- 7 *Note* Offences arise from the *same incident* only if they are committed within
- 8 a single period of 24 hours and are committed against the same person
- 9 (see dict, def *same incident*).
- 10 **91 Reporting period for person subject to child sex offender**
- 11 **registration order**
- 12 For this part, if a court makes a child sex offender registration order
- 13 in relation to a person for an offence, the person is taken to be a
- 14 registrable offender found guilty of a class 2 offence.
- 15 *Note* A court may make a child sex offender registration order if a person is
- 16 found guilty of an offence that is not a class 1 or class 2 offence and the
- 17 court is satisfied that the person poses a risk to the sexual safety of 1 or
- 18 more people or of the community (see s 15).
- 19 **92 Extended reporting period for offenders on parole**
- 20 (1) This section applies if—
- 21 (a) a registrable offender is on parole for a registrable offence; and
- 22 (b) the reporting period for the offence will end before the end of
- 23 the term of the sentence of imprisonment to which the parole
- 24 relates.
- 25 (2) Despite anything in this part, the registrable offender’s reporting
- 26 period is extended until the end of the term of imprisonment to
- 27 which the parole relates.

1 **93 Extended reporting period for offender in custody**

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

5 **94 Reporting period for prescribed corresponding offenders**

6 (1) Despite anything in this part, a prescribed corresponding offender's
7 reporting period is the recognised foreign reporting period
8 mentioned in section 11 (b) (Who is a *prescribed corresponding*
9 *offender*?) for the offender.

10 (2) If the prescribed corresponding offender is a prescribed
11 corresponding offender under a law of more than 1 foreign
12 jurisdiction, the offender's reporting period is the longest recognised
13 foreign reporting period.

1 **Part 3.6** **Suspension of reporting**
2 **obligations**

3 **95** **Pt 3.6 only applies to offender with life-long reporting**
4 **period**

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

8 **96** **Eligibility of offender to apply for suspension order**

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

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

20 **97** **Supreme Court may make suspension order**

- 21 (1) This section applies if a registrable offender is eligible to apply for a
22 suspension order.
- 23 (2) On application by the offender, the Supreme Court may make a
24 suspension order.

- 1 (3) The court may make the order only if satisfied that the registrable
2 offender does not pose a risk to the sexual safety of 1 or more
3 people or of the community.
- 4 (4) In deciding whether to make the order, the court must take into
5 account—
- 6 (a) the seriousness of the offender’s registrable offences and
7 corresponding registrable offences; and
- 8 (b) the period of time since the offences were committed; and
- 9 (c) the age of the offender, the age of the victims of the offences,
10 and the difference in age between the offender and the victims
11 of the offences, when the offences were committed; and
- 12 (d) the offender’s present age; and
- 13 (e) the offender’s total criminal record.
- 14 (5) Subsection (4) does not limit the matters the court may take into
15 account.

16 **98 Chief police officer is party to application**

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

20 **99 No costs to be awarded for suspension order application**

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

1 **100 Unsuccessful applicant cannot reapply for 5 years**

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

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

8 **101 Suspension order ceases if offender reoffends**

9 (1) A suspension order made for a registrable offender ceases to have
10 effect if, after the order is made, the offender—

11 (a) is found guilty of a registrable offence; or

12 (b) is made the subject of a child sex offender registration order; or

13 (c) becomes a prescribed corresponding offender.

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

19 (2) A suspension order that has ceased to have effect under
20 subsection (1) is revived if—

21 (a) the finding of guilt because of which the order ceased to have
22 effect is quashed or set aside by a court; or

23 (b) the order ceased to have effect under subsection (1) (b) and the
24 child sex offender registration order is quashed on appeal or
25 the registrable offender's finding of guilt for the offence
26 because of which the child sex offender registration order is
27 made is quashed or set aside by a court.

- 1 (3) For this section, it is irrelevant whether or not a registrable offender
2 may begin, or has begun, an appeal in relation to a finding of guilt
3 or a child sex offender registration order.

4 **102 Application for new suspension order**

- 5 (1) If a suspension order made for a registrable offender ceases to have
6 effect under section 101 (1), the offender may apply for a new order.
- 7 (2) Section 100 (Unsuccessful applicant cannot reapply for 5 years)
8 does not apply to the application.
- 9 (3) If a suspension order made for a registrable offender ceases to have
10 effect under section 101 (1) (b) or (c), and the offender applies for a
11 new suspension order, section 96 (a) (Eligibility for offender to
12 apply for suspension order) applies as if the 15-year period
13 mentioned were a period of 15 years (excluding days in government
14 custody) since the registrable offender last committed a registrable
15 offence or a corresponding registrable offence.

1 **Part 3.7** **Notice of reporting obligations**

2 **103** **What is a *reporting obligations notice*?**

3 In this Act:

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

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

9 **104** **Reporting obligations notice to be given when person
10 becomes registrable offender**

11 (1) An entity prescribed by regulation for this section must give a
12 registrable offender a reporting obligations notice as soon as
13 practicable, but no later than 14 days after the day any of the
14 following events happen:

- 15 (a) the offender is sentenced for a registrable offence;
16 (b) the offender is released from government custody (whether or
17 not the person was in government custody for a registrable
18 offence);
19 (c) the offender enters the ACT, and remains in the ACT for
20 7 days, if the offender has not previously been given notice of
21 the offender's reporting obligations in the ACT;
22 (d) the offender becomes a prescribed corresponding offender, if
23 the offender is in the ACT at the time.

24 (2) An entity is not required to give a reporting obligations notice if the
25 notice has been given by someone else.

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

6 **105 Reporting obligations notice may be given at any time**

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

9 **106 Courts to provide sentencing information to chief police
10 officer**

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

18 **Example for par (c)**

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

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

25 (2) The court must give the chief police officer written notice of the
26 order or sentence as soon as practicable.

27 (3) In this section:

28 *court* does not include a court of a foreign jurisdiction.

Section 107

- 1 **107 Chief police officer must tell offender if reporting period**
2 **changes**
- 3 (1) This section applies to a registrable offender whose reporting period
4 has changed since the offender was last told of the offender's
5 reporting period in the ACT.
- 6 (2) The chief police officer must give written notice to the registrable
7 offender as soon as practicable after the change, and in no case later
8 than the time the offender next reports under this Act.
- 9 **108 Supervising authority to tell chief police officer of certain**
10 **events**
- 11 (1) This section applies if a registrable offender—
- 12 (a) stops being in government custody, irrespective of the reason
13 the offender was in custody; or
- 14 (b) stops being subject to a community service order, irrespective
15 of the reason the offender was subject to the order; or
- 16 (c) stops being subject to a good behaviour bond, irrespective of
17 the reason the offender was subject to the bond; or
- 18 (d) stops being subject to a condition of parole requiring the
19 offender to be subject to supervision, irrespective of the reason
20 the offender was on parole; or
- 21 (e) becomes a registrable offender prescribed by regulation for this
22 section.
- 23 (2) The supervising authority must give written notice of an event
24 mentioned in subsection (1) to the chief police officer as soon as
25 practicable, but no later than 14 days after the day the event
26 happens.
- 27 (3) The notice must include any details prescribed by regulation.

1 (4) In this section:

2 *good behaviour bond* means an order made under the *Crimes*
3 *Act 1900*, section 403 (1) (a) (Conditional release of offenders).

4 **109 Procedural defects do not affect offender's obligations**

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

1 **Part 3.8** **Protected witnesses**

2 **110** **Who is a *protected registrable offender*?**

3 (1) A person is a *protected registrable offender* if the person is—

4 (a) a registrable offender who is—

5 (i) a participant in the witness protection program; or

6 (ii) the subject of a protected registrable offender declaration
7 in force under this part; or

8 (b) a foreign protected witness.

9 (2) In this section:

10 *foreign protected witness* means a person who—

11 (a) is receiving protection under a law of a foreign jurisdiction
12 that—

13 (i) provides for the protection of witnesses; and

14 (ii) is prescribed by regulation for this subsection; or

15 (b) has the same status under a corresponding law as a person
16 mentioned in paragraph (a).

17 **111** **Protected and unprotected registrable offender**
18 **declarations**

19 (1) If a registrable offender is a participant in the witness protection
20 program and stops being a participant in the program, the chief
21 police officer must declare that the offender is either—

22 (a) a protected registrable offender (a *protected registrable*
23 *offender declaration*); or

1 (b) not a protected registrable offender (an *unprotected registrable*
2 *offender declaration*).

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

5 **112 Review of unprotected registrable offender declaration**

6 (1) Within 28 days after the registrable offender is told about the
7 making of an unprotected registrable offender declaration, the
8 offender may apply in writing to the chief police officer for review
9 of the declaration.

10 (2) On receiving an application for a review, the chief police officer
11 must review the declaration, and confirm or reverse it.

12 (3) Before making a decision on the application, the chief police officer
13 must give the registrable offender a reasonable opportunity to state
14 the offender's case.

15 (4) After deciding the application, the chief police officer must give
16 written notice of the decision to the registrable offender.

17 **113 Chief police officer must tell offender about AAT review**

18 (1) If the chief police officer decides to confirm an unprotected
19 registrable offender declaration under section 112 (2), the notice of
20 the decision must comply with the requirements of the code of
21 practice in force under the *Administrative Appeals Tribunal*
22 *Act 1989*, section 25B (1).

23 (2) In particular, the notice must tell the offender—

24 (a) that the offender may apply to the administrative appeals
25 tribunal for review of the decision, and how the application
26 must be made; and

27 (b) about the options available under other territory laws to have
28 the decision reviewed by a court or the ombudsman.

1 **114 AAT review of chief police officer's decision**

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

5 **115 When protected and unprotected registrable offender**
6 **declarations take effect**

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

1 **Part 3.9** **Reasonable steps to comply with**
2 **reporting obligations**

3 **116** **How court decides if person took all reasonable steps to**
4 **comply with reporting obligations**

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

1 **Chapter 4 Child sex offenders register**

2 **117 Establishment of child sex offenders register**

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

-
- 1 **118 Access to child sex offenders register restricted**
- 2 (1) The chief police officer must ensure—
- 3 (a) that the child sex offenders register, or a part of the register, is
- 4 only accessed by people who are authorised by the chief police
- 5 officer or under a regulation; and
- 6 (b) that personal information in the child sex offenders register is
- 7 only disclosed by a person with access to the register, or the
- 8 relevant part of the register—
- 9 (i) for law enforcement functions or activities and then only
- 10 to an entity prescribed by regulation; or
- 11 (ii) as otherwise required or authorised by a regulation or
- 12 under an Act or other law.
- 13 (2) The chief police officer must develop guidelines about access to,
- 14 and disclosure of, personal information in the child sex offenders
- 15 register to ensure that access to the personal information in the
- 16 register is restricted to the greatest extent that is possible without
- 17 interfering with the purpose of this Act.
- 18 (3) For this section, the child sex offenders register includes
- 19 information from a register maintained under a corresponding law
- 20 that is accessible by the chief police officer, whether or not the
- 21 information is physically part of the register.
- 22 (4) This section has effect despite any other Act or law to the contrary.
- 23 **119 Access to information about protected witnesses**
- 24 **restricted**
- 25 (1) The chief police officer must ensure that personal information in the
- 26 child sex offenders register about a protected registrable offender
- 27 cannot be accessed other than by a person authorised by the police
- 28 officer or officer of an approved authority responsible for the
- 29 day-to-day operation of the witness protection program.

1 (2) For this section:
2 *approved authority*—see the *Witness Protection Act 1996*,
3 section 3.

4 **120 Offence—unauthorised person must not access child sex**
5 **offenders register**

6 A person commits an offence if the person—

7 (a) accesses the child sex offenders register; and

8 (b) is not authorised to have access to—

9 (i) the register; or

10 (ii) the part of the register that the person accesses.

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

13 **121 Offence—secrecy**

14 (1) In this section:

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

17 *divulge* includes communicate.

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

20 *produce* includes allow access to.

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

-
- 1 (2) A person to whom this section applies commits an offence if—
- 2 (a) the person—
- 3 (i) makes a record of protected information about someone
- 4 else; and
- 5 (ii) is reckless about whether the information is protected
- 6 information about someone else; or
- 7 (b) the person—
- 8 (i) does something that divulges protected information about
- 9 someone else; and
- 10 (ii) is reckless about whether—
- 11 (A) the information is protected information about
- 12 someone else; and
- 13 (B) doing the thing would result in the information being
- 14 divulged to someone else.
- 15 Maximum penalty: 50 penalty units, imprisonment for 6 months or
- 16 both.
- 17 (3) Subsection (2) does not apply if the record is made, or the
- 18 information is divulged—
- 19 (a) under this Act or another territory law; or
- 20 (b) in relation to the exercise of a function, as a person to whom
- 21 this section applies, under this Act or another territory law.
- 22 (4) Subsection (2) does not apply to the divulging of protected
- 23 information about someone with the person's consent.
- 24 (5) Subsection (2) does not apply if the information is divulged for law
- 25 enforcement functions or activities and then only to an entity
- 26 prescribed by regulation.

1 (6) A person to whom this section applies need not divulge protected
2 information to a court, or produce a document containing protected
3 information to a court, unless it is necessary to do so for this Act or
4 another territory law.

5 **122 Registrable offender may correct child sex offenders**
6 **register**

7 (1) The chief police officer must, if asked by a registrable offender, give
8 the offender a copy of all the reportable information held in the
9 child sex offenders register in relation to the offender.

10 (2) The chief police officer must comply with subsection (1) as soon as
11 practicable, but no later than 14 days after the day the chief police
12 officer was asked.

13 (3) A registrable offender may ask the chief police officer to amend any
14 incorrect reportable information held in the child sex offenders
15 register in relation to the offender.

16 (4) The chief police officer must comply with the request if satisfied
17 that the information is incorrect.

18 (5) In this section:

19 *reportable information* means information that—

20 (a) is given to the chief police officer by, or for, the registrable
21 offender; and

22 (b) the offender is required to report to the chief police officer.

1 **Chapter 5 Registrable offenders**
 2 **prohibited from child-related**
 3 **employment**

4 **123 What is *employment*?**

5 In this chapter:

6 *employment* includes—

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

17 **124 What is *child-related employment*?**

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

Section 124

- 1 (e) attendance centres, institutions or shelters under the *Children*
2 *and Young people Act 1999*;
- 3 (f) refuges or other residential facilities used by children;
- 4 (g) wards of public or private hospitals where children are
5 ordinarily patients;
- 6 (h) clubs, associations or movements (including of a cultural,
7 recreational or sporting nature) with significant child
8 membership or involvement (including involvement of a
9 voluntary nature);
- 10 (i) religious organisations;
- 11 (j) babysitting or childminding services arranged by a commercial
12 agency;
- 13 (k) fostering children;
- 14 (l) providing public or private transport services for the transport
15 of children;
- 16 (m) private tuition services of any kind for children arranged by a
17 commercial agency;
- 18 (n) counselling or other support services for children;
- 19 (o) overnight camps, irrespective of the kind of accommodation or
20 of how many children are involved;
- 21 (p) school-crossing services;
- 22 (q) before and after school care programs;
- 23 (r) school holiday vacation programs;
- 24 (s) work-related training contracts under the *Vocational Education*
25 *and Training Act 2003*;
- 26 (t) anything else prescribed by regulation for this section.

- 1 (2) In this section:
- 2 **contact** means any form of contact between a person and a child,
3 and includes—
- 4 (a) any form of physical contact; and
- 5 (b) any form of oral communication, whether face-to-face or by
6 telephone; and
- 7 (c) any form of written communication, including electronic
8 communication.
- 9 **educational institutions for children** include the following:
- 10 (a) a government school or non-government school under the
11 *Education Act 2004*;
- 12 (b) a registered training organisation, higher education provider or
13 university under the *Tertiary Accreditation and Registration*
14 *Act 2003*.
- 15 **family day care scheme**—see the *Children and Young People*
16 *Act 1999*, section 329.
- 17 **school-crossing services** means services provided by people to
18 assist children to cross roads on their way to or from school.
- 19 **125 When is a person engaged in child-related employment?**
- 20 (1) A person is **engaged** in child-related employment if the person is—
- 21 (a) an officer of a corporation that is engaged in child-related
22 employment; or
- 23 (b) a member of the committee of management of an
24 unincorporated body or association that is engaged in child-
25 related employment; or
- 26 (c) a member of a partnership that is engaged in child-related
27 employment.

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

3 (3) In this section:

4 *officer*—

5 (a) for a corporation within the meaning of the Corporations Act—
6 see the Corporations Act, section 9; and

7 (b) for any other corporation—means a person (by whatever name
8 called) who is concerned, or takes part in, the management of
9 the corporation.

10 **126 Offence—offender must not apply for child-related**
11 **employment**

12 A registrable offender commits an offence if the offender—

13 (a) applies for child-related employment; and

14 (b) is reckless about whether the employment is child-related
15 employment.

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

18 **127 Offence—offender must not engage in child-related**
19 **employment**

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

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

-
- 1 **128** **Offence—person in child-related employment must**
 2 **disclose charges**
- 3 A person commits an offence if the person—
- 4 (a) is engaged in child-related employment; and
- 5 (b) is charged with a registrable offence; and
- 6 (c) does not disclose the charge to the person’s employer within
- 7 7 days after the day the person is charged with the registrable
- 8 offence.
- 9 Maximum penalty: 50 penalty units.
- 10 **129** **Offence—person in child-related employment at**
 11 **commencement of Act must disclose charges**
- 12 (1) A person commits an offence if—
- 13 (a) the person is engaged in child-related employment
- 14 immediately before the commencement of this Act; and
- 15 (b) the person has been charged with a registrable offence; and
- 16 (c) the charge is pending immediately before the commencement
- 17 of this Act; and
- 18 (d) the person does not disclose the charge to the person’s
- 19 employer within 7 days after the day this Act commences.
- 20 Maximum penalty: 50 penalty units.
- 21 (2) This section expires 1 year after the day it commences.
- 22 **130** **Offence—person must disclose charges if applying for**
 23 **child-related employment**
- 24 (1) A person commits an offence if—
- 25 (a) a charge is pending against the person for a registrable offence;
- 26 and
-

- 1 (b) the person applies for child-related employment; and
2 (c) the person does not disclose the charge to the person's
3 prospective employer when making the application.

4 Maximum penalty: 50 penalty units.

5 (2) A person commits an offence if—

- 6 (a) the person has applied for child-related employment; and
7 (b) the person is charged with a registrable offence while the
8 application is still current; and
9 (c) the person does not disclose the charge to the person's
10 prospective employer within 7 days after the day the person is
11 charged with the registrable offence.

12 Maximum penalty: 50 penalty units.

13 **131 Offence—person must disclose charges pending at**
14 **commencement of Act if applying for child-related**
15 **employment**

16 (1) A person commits an offence if—

- 17 (a) the person has, before the commencement of this Act, applied
18 for child-related employment; and
19 (b) the person has been charged with a registrable offence; and
20 (c) the charge is pending immediately before the commencement
21 of this Act; and
22 (d) the application is still current immediately before the
23 commencement of this Act; and

1 (e) the person does not disclose the charge to the person’s
 2 prospective employer within 7 days after the day this Act
 3 commences.

4 Maximum penalty: 50 penalty units.

5 (2) This section expires 1 year after the day it commences.

6 **132 Offence—employer must keep information secret**

7 (1) In this section:

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

10 *divulge* includes communicate.

11 *produce* includes allow access to.

12 *protected information* means information about a person that is
 13 disclosed to an employer because of the person satisfying the
 14 person’s obligations under section 128, section 129, section 130 or
 15 section 131.

16 (2) An employer commits an offence if—

17 (a) the employer—

18 (i) makes a record of protected information about someone
 19 else; and

20 (ii) is reckless about whether the information is protected
 21 information about someone else; or

22 (b) the employer—

23 (i) does something that divulges protected information about
 24 someone else; and

25 (ii) is reckless about whether—

- 1 (A) the information is protected information about
2 someone else; and
- 3 (B) doing the thing would result in the information being
4 divulged to someone else.
- 5 Maximum penalty: 50 penalty units, imprisonment for 6 months or
6 both.
- 7 (3) Subsection (2) does not apply if the record is made, or the
8 information is divulged—
- 9 (a) under this Act or another territory law; or
10 (b) in relation to the exercise of a function as an employer.
- 11 (4) Subsection (2) does not apply to the divulging of protected
12 information about someone with the person's consent.
- 13 (5) Subsection (2) does not apply if the information is divulged for law
14 enforcement functions or activities and then only to an entity
15 prescribed by regulation.
- 16 (6) Subsection (2) does not apply if the information is divulged to a
17 court in a legal proceeding or under an order of a court.
- 18 (7) Subsection (2) does not apply if the information is divulged to a
19 lawyer to obtain legal advice or representation relating to a matter
20 under this Act.

Chapter 6 Miscellaneous

133 Approved forms

- (1) The chief executive may, in writing, 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.

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

6 **136 Evidentiary certificates**

- 7 (1) In a proceeding under this Act, a certificate signed by the chief
8 police officer, or a police officer holding a position designated in
9 writing by the chief police officer for this section, certifying that the
10 child sex offenders register at a particular day contained information
11 stated in the certificate is evidence, and in the absence of evidence
12 to the contrary is proof, of the details stated in the certificate.
- 13 (2) In a proceeding under this Act, a certificate signed by the chief
14 police officer, or a police officer holding a position designated in
15 writing by the chief police officer for this section, certifying that the
16 child sex offenders register indicated that, during a particular period,
17 a stated person failed to provide information as required by this Act
18 is evidence, and in the absence of evidence to the contrary is proof,
19 of the details stated in the certificate.
- 20 (3) For this Act, a certificate that would be evidence under a
21 corresponding law that at a stated time, or during a stated period, a
22 person was required to report to a corresponding registrar under the
23 Act is evidence, and in the absence of evidence to the contrary is
24 proof, of the facts stated in the certificate.

25 **137 Regulation-making power**

- 26 (1) The Executive may make regulations for this Act.
- 27 *Note* A regulation must be notified, and presented to the Legislative
28 Assembly, under the Legislation Act.

-
- 1 (2) A regulation may make provision in relation to the following:
- 2 (a) matters incidental to the making of reports under chapter 3
- 3 (Reporting), including—
- 4 (i) how a report must be made; and
- 5 (ii) the verifying documentation or evidence to be provided in
- 6 support of a report; and
- 7 (iii) requiring that a report contain additional information to
- 8 that required by the chapter;
- 9 (b) the form of, or the information to be included in, a notice or
- 10 other document required to be given to registrable offenders;
- 11 (c) how the child sex offenders register is to be established and
- 12 maintained, including how information is to be entered in the
- 13 register;
- 14 (d) the exchange of information about registrable offenders
- 15 between the chief police officer and corresponding registrars of
- 16 foreign jurisdictions, including arrangements between the
- 17 Territory and foreign jurisdictions for accessing information in
- 18 the child sex offenders register and registers maintained under
- 19 corresponding laws;
- 20 (e) requiring or permitting the chief police officer to remove
- 21 information from the child sex offenders register;
- 22 (f) telling registrable offenders about reporting obligations,
- 23 including the following:
- 24 (i) how the information is to be given to offenders;
- 25 (ii) permitting the person telling an offender to ask the
- 26 offender to acknowledge being given the notice;

- 1 (iii) making special provision for telling offenders who are
2 young people or who have disabilities or other special
3 needs;
- 4 (iv) permitting or requiring an entity to be told about a
5 registrable offender's status as a young person or person
6 who has a disability or other special need, including to
7 facilitate notifying and reporting;
- 8 (v) providing for notice to be given to a carer of, or a person
9 nominated by, a registrable offender who may be unable
10 to understand the offender's reporting obligations or the
11 consequences of failing to comply with the reporting
12 obligations;
- 13 (vi) requiring an offender to be given additional information
14 to that required by this Act;
- 15 (vii) requiring an entity to provide information to offenders
16 about their reporting obligations;
- 17 (viii) requiring an entity to tell the chief police officer—
- 18 (A) that an offender has left the custody or control of the
19 entity; or
- 20 (B) that the entity has given stated information to an
21 offender; or
- 22 (C) that, in the entity's opinion, an offender does or does
23 not have the legal capacity to understand
24 information;
- 25 (ix) requiring an entity to give the chief police officer an
26 acknowledgment by an offender of the receipt of a notice
27 or other information that is held by the entity;
- 28 (g) authorising the chief police officer to give directions about the
29 police stations that are to be used as a place for making reports;

- 1 (h) providing that a police station is not to be used as a place for
2 making reports without the consent of the chief police officer;
- 3 (i) requiring an entity to create records for this Act and to keep the
4 records;
- 5 (j) prescribing a person as a prescribed corresponding offender for
6 this Act;
- 7 (k) declaring that an order (however described) made under a
8 corresponding law is a corresponding child sex offender
9 registration order for this Act.
- 10 (3) A regulation—
- 11 (a) may provide for the exemption of people or things from a
12 provision of a regulation, whether unconditionally or on stated
13 conditions, and either completely or to a stated extent; and
- 14 (b) may create offences and fix maximum penalties of not more
15 than 20 penalty units for the offences.

1 **Chapter 7 Consequential amendments**

2 **138 Legislation amended—sch 3**

3 This Act amends the *Ombudsman Act 1989*.

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>Crimes Act 1914</i> (Cwlth), section 50BA (1)	sexual intercourse with child under 16 outside Australia	
2	<i>Crimes Act 1914</i> (Cwlth), section 50BB (1)	inducing child under 16 to engage in sexual intercourse outside Australia	
3	<i>Crimes Act 1914</i> (Cwlth), section 50DA (1)	benefiting from child sex tourism offence	
4	<i>Crimes Act 1914</i> (Cwlth), section 50DB (1)	encouraging child sex tourism offence	
5	<i>Criminal Code Act 1995</i> (Cwlth) section 270.6 (1)	sexual servitude	the other person (as mentioned in that section) is a child
6	<i>Criminal Code Act 1995</i> (Cwlth) section 270.6 (2)	sexual servitude	the other person (as mentioned in that section) is a child

column 1 item	column 2 offence	column 3 description	column 4 circumstances (if any)
7	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	

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	

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)
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>Crimes Act 1914</i> (Cwlth), section 50BC (1) (a)	sexual conduct involving child under 16 outside Australia	
2	<i>Crimes Act 1914</i> (Cwlth), section 50BC (1) (b)	sexual conduct involving child under 16 outside Australia	
3	<i>Crimes Act 1914</i> (Cwlth), section 50BC (1) (c)	sexual conduct involving child under 16 outside Australia	
4	<i>Crimes Act 1914</i> (Cwlth), section 50BC (1) (d)	sexual conduct involving child under 16 outside Australia	
5	<i>Crimes Act 1914</i> (Cwlth), section 50BC (1) (e)	sexual conduct involving child under 16 outside Australia	
6	<i>Crimes Act 1914</i> (Cwlth), section 50BD (1)	inducing child under 16 to be involved in sexual conduct 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)
7	<i>Crimes Act 1914</i> (Cwlth), section 50BD (2)	inducing child under 16 to be involved in sexual conduct outside Australia	
8	<i>Criminal Code Act 1995</i> (Cwlth) section 270.7 (1) and section 270.8 (1)	deceptive recruiting for sexual services	aggravated offence
9	<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))
10	<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))
11	any offence under a corresponding law that, if it had been committed in the ACT, would have been a class 2 offence		

1

1 **Schedule 3 Ombudsman Act 1989—**
2 **consequential amendments**

3 (see s 138)

4 **[3.1] Section 4**

5 *substitute*

6 **4 Establishment of office of ombudsman**

7 The office of the ombudsman is established.

8 **4A Functions—generally**

9 The functions of the ombudsman are—

- 10 (a) to investigate complaints made under this Act; and
11 (b) to exercise other functions given to the ombudsman under this
12 Act; and
13 (c) to exercise other functions given to the ombudsman under the
14 *Public Interest Disclosure Act 1994*; and
15 (d) to monitor compliance with the *Crimes (Child Sex Offenders)*
16 *Act 2005*, chapter 4 (Child sex offenders register) by the chief
17 police officer and other people authorised by the chief police
18 officer to have access to the child sex offenders register.

19 **[3.2] Section 5 heading**

20 *substitute*

21 **5 Functions—investigating complaints under Act**

1 **[3.3] New division 2.1A**

2 *insert*

3 **Division 2.1A Monitoring police compliance with**
4 **Crimes (Child Sex Offenders) Act**
5 **2005**

6 **17A What is the *child sex offenders register*?**

7 In this Act:

8 *child sex offenders register*—see the *Crimes (Child Sex Offenders)*
9 *Act 2005*, section 117.

10 **17B Police to give ombudsman reasonable assistance**

11 The chief police officer must ensure that police officers and other
12 people authorised by the chief police officer to have access to the
13 child sex offenders register give the ombudsman any assistance that
14 the ombudsman reasonably requires to enable the ombudsman to
15 exercise the ombudsman’s functions in relation to the *Crimes (Child*
16 *Sex Offenders) Act 2005*, chapter 4 (Child sex offenders register).

17 **17C Power to enter police premises**

- 18 (1) The ombudsman or a police officer may, after notifying the chief
19 police officer of the intended entry, enter, at any time, any premises
20 occupied by the Australian Federal Police where the ombudsman
21 reasonably believes there are documents that contain, or relate to,
22 the child sex offenders register or that are relevant to the
23 ombudsman’s functions in relation to the *Crimes (Child Sex*
24 *Offenders) Act 2005*, chapter 4 (Child sex offenders register).
- 25 (2) The ombudsman or a police officer may inspect or copy any
26 document found at any premises entered under this section and do
27 anything that it is necessary or convenient to do to enable an
28 inspection to be carried out under this section.

- 1 **[3.4] New section 20A**
- 2 *insert*
- 3 **20A Reports on police compliance with Crimes (Child Sex**
- 4 **Offenders) Act 2005**
- 5 (1) The ombudsman may, at any time, give the Minister administering
- 6 the *Crimes (Child Sex Offenders) Act 2005* a written report on—
- 7 (a) the results of any inspections carried out under section 17C
- 8 (Power to enter police premises); and
- 9 (b) compliance with the *Crimes (Child Sex Offenders) Act 2005*,
- 10 chapter 4 (Child sex offenders register) in the period to which
- 11 the report relates by the chief police officer and other people
- 12 authorised by the chief police officer to have access to the
- 13 child sex offenders register.
- 14 (2) If the Minister administering the *Crimes (Child Sex Offenders)*
- 15 *Act 2005* asks the ombudsman for a report under this section, the
- 16 ombudsman must give the Minister a report under this section as
- 17 soon as practicable after receiving the request.
- 18 (3) The ombudsman must give a copy of any report under this section to
- 19 the chief police officer.
- 20 **[3.5] Part 2**
- 21 *renumber divisions when Act next republished under Legislation Act*

1 Dictionary

2 (see s 3)

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

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

- 6 • ACT
- 7 • Australia
- 8 • Australian driver licence
- 9 • change
- 10 • chief police officer
- 11 • child
- 12 • entity
- 13 • fail
- 14 • function
- 15 • parent
- 16 • police officer
- 17 • prescribed
- 18 • State.

19 *act* includes omission.

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

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

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

25 *child sex offender registration order*—see section 14.

26 *child sex offenders register*—see section 117.

27 *class 1 offence*—see section 10 (2).

28 *class 2 offence*—see section 10 (3).

- 1 **community service order**—
- 2 (a) see the *Crimes Act 1900*, section 407; and
- 3 (b) see the *Children and Young People Act 1999*, section 106.
- 4 **contact person**—see section 33.
- 5 **corresponding child sex offender registration order** means an order
- 6 (however described)—
- 7 (a) made under a corresponding law; and
- 8 (b) prescribed by regulation for this definition.
- 9 **corresponding law** means a law, or a provision of a law, of a foreign
- 10 jurisdiction that—
- 11 (a) provides for people who have committed particular offences to
- 12 report in that jurisdiction information about themselves and to
- 13 keep that information current for a time; or
- 14 (b) is prescribed by regulation for this definition.
- 15 **corresponding registrable offence** means an offence that is a
- 16 registrable offence for a corresponding law but is not a registrable
- 17 offence under this Act.
- 18 **corresponding registrar**, for a foreign jurisdiction, means the entity
- 19 exercising functions under the corresponding law of the jurisdiction
- 20 that corresponds, or most closely corresponds, to the functions of
- 21 the chief police officer under this Act.
- 22 **court** includes a court (however described) of a foreign jurisdiction.
- 23 **detainee**—
- 24 (a) see the *Remand Centres Act 1976*, section 3; and
- 25 (b) see the *Periodic Detention Act 1995*, section 3 (1).
- 26 *Note* The *Remand Centres Act 1976*, s 15 lists the people who may be
- 27 detained in a remand centre under the Act.
- 28 **disability**—see *Discrimination Act 1991*, section 5AA (1).

- 1 **employment**, for chapter 5 (Registrable offenders prohibited from
2 child-related employment)—see section 123.
- 3 **engaged**, in child-related employment, for chapter 5 (Registrable
4 offenders prohibited from child-related employment)—see
5 section 125.
- 6 **fingerprints** includes fingerscan.
- 7 **fingerscan** means fingerprints taken using a device to obtain a
8 record of the fingerprints.
- 9 **finding of guilt**—see section 7.
- 10 **foreign jurisdiction** means a jurisdiction other than the ACT
11 (including a jurisdiction outside Australia).
- 12 **forensic patient**—see the *Community Advocate Act 1991*, section 3.
- 13 **government custody** means custody, whether in the ACT or
14 elsewhere—
- 15 (a) under a sentence of imprisonment; or
- 16 (b) as a detainee; or
- 17 (c) as a forensic patient; or
- 18 (d) under a corresponding law in the nature of custody mentioned
19 in paragraph (a), (b) or (c), however described.
- 20 **in person**—a person does a thing **in person** at a place only if the
21 person does the thing by personally attending at the place.
- 22 **Examples of things not done in person**
- 23 a person making a report by telephone or email
- 24 *Note* An example is part of the Act, is not exhaustive and may extend, but
25 does not limit, the meaning of the provision in which it appears (see
26 Legislation Act, s 126 and s 132).
- 27 **offender's reporting month**, for a registrable offender—see
28 section 37 (Offence—offender must report annually).

- 1 **parole** means parole under the *Rehabilitation of Offenders (Interim)*
2 *Act 2001*, and includes an equivalent order (however described)
3 made under a foreign law.
- 4 **personal details**, for a registrable offender—see s 59.
- 5 **personal information** means information about an individual whose
6 identity is apparent, or can reasonably be found out, from the
7 information.
- 8 **person with parental responsibility**, for a young person—means a
9 person who has parental responsibility for the young person under
10 the *Children and Young People Act 1999*, section 18.
- 11 **prescribed corresponding offender**—see section 11.
- 12 **protected registrable offender**—see section 110.
- 13 **protected registrable offender declaration**—see section 111 (a).
- 14 **recognised foreign reporting period**, for a prescribed corresponding
15 offender—see section 11.
- 16 **registrable offence**—see section 10.
- 17 **registrable offender**—see section 8 and section 9.
- 18 **reporting obligation**—see section 19.
- 19 **reporting obligations notice**—see section 103.
- 20 **reporting offence**—see section 20.
- 21 **reporting offence provision**—see section 20.
- 22 **reporting period**, for a registrable offender, means the period,
23 worked out under part 3.5 (Reporting period), during which the
24 offender must comply with the offender’s reporting obligations.
- 25 **personal details**, for a registrable offender—see section 59.
- 26 **same incident**—offences arise from the **same incident** only if they
27 are committed within a single period of 24 hours and are committed
28 against the same person.

- 1 **sentence** means—
- 2 (a) when used as a noun—the penalty imposed for an offence; or
- 3 (b) when used as a verb—to impose a penalty for an offence;
- 4 and includes a finding of guilt mentioned in section 7 (1) (c) or (e).
- 5 **supervising authority**, for a person, means the entity declared by
- 6 regulation to be the person’s supervising authority.
- 7 **suspension order**—see section 96.
- 8 **travel details**, for travel by a registrable offender—see
- 9 section 42 (c).
- 10 **unprotected registrable offender declaration**—see section 111 (b).
- 11 **witness protection program**—see the *Witness Protection Act 1996*,
- 12 section 3.
- 13 **young person**—means a person who is not yet an adult.

Endnotes

- 1 **Presentation speech**
Presentation speech made in the Legislative Assembly on 2005.
- 2 **Notification**
Notified under the Legislation Act on 2005.
- 3 **Republications of amended laws**
For the latest republication of amended laws, see www.legislation.act.gov.au.
-