

First print



New South Wales

Child Protection (Offenders Registration) Bill 2000

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are:

- (a) to require persons who have been found guilty of certain offences against children to keep the Commissioner of Police informed as to where they live and work and as to what motor vehicles they drive, and
- (b) to make consequential amendments to certain Acts.

Outline of provisions

Part 1 Preliminary

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 defines certain words and expressions used in the proposed Act, of which the more significant are *existing controlled person* (describing a class of persons to whom the proposed Act will apply in relation to offences committed before its commencement), *registrable offence* (describing the offences in relation to which the provisions of the proposed Act will apply) and *registrable person* (meaning a person who has received a certain kind of sentence in respect of a registrable offence).

Part 2 Registration of offenders

Division 1 Notices to be given

Clause 4 requires a court to notify a person whom it has sentenced for a registrable offence of the person's reporting obligations under the proposed Act, and of the consequences that may arise if the person fails to comply with those obligations. The clause also requires the court to notify the Commissioner of Police and the appropriate supervising authority of the fact that it has found the person guilty of such an offence.

Clause 5 requires a supervising authority to notify a person who has commenced a supervised sentence (that is, a sentence of imprisonment to be served by way of periodic detention or home detention, a community service order or a good behaviour bond requiring supervision) of the person's reporting obligations under the proposed Act, and of the consequences that may arise if the person fails to comply with those obligations.

Clause 6 requires a supervising authority to notify a person whom it has released from custody of the person's reporting obligations under the proposed Act, and of the consequences that may arise if the person fails to comply with those obligations. The clause also requires the supervising authority to notify the Commissioner of Police of the fact that it has released the person from custody.

Clause 7 enables the Commissioner of Police to notify a registrable person of the person's reporting obligations under the proposed Act, and of the consequences that may arise if the person fails to comply with those obligations, if the Commissioner suspects that the person may not be aware of those matters.

Clause 8 provides that a failure to comply with the requirements of the proposed Division does not affect a registrable person's reporting obligations.

Division 2 Reporting obligations

Clause 9 defines *relevant personal information* to mean information as to a registrable person's name, date of birth, residential address, occupation and place of work, as to the make, model, colour and registration number of any motor vehicle regularly driven by the person and as to the offences by reason of which the person is a registrable person.

Clause 10 requires a registrable person to keep the Commissioner of Police informed as to the relevant personal information that is current in relation to the person.

Clause 11 requires a registrable person to notify the Commissioner of Police of certain intended absences from New South Wales by the person.

Clause 12 requires the giving of relevant personal information to be carried out at a police station, to be acknowledged by a police officer and to be given in person (except in the case of a child or a person with a disability that precludes the information being given in person, in which case it may be given by a parent, guardian or carer of the person).

Clause 13 modifies the procedures set out in clause 12 in relation to all persons who are participants in witness protection programs and to those persons who have been, but are no longer, participants in such programs but whose circumstances the Commissioner of Police believes justify the application of the modified procedures.

Clause 14 prescribes the period for which a registrable person's reporting obligations continue, ranging from 8 years up to life, depending on the nature of the offence and on whether the registrable person is a repeat offender. In the case of offences committed by children, the periods are generally halved.

Clause 15 provides for the suspension and extension of reporting obligations in various circumstances.

Clause 16 enables the Administrative Decisions Tribunal to suspend the reporting obligations of a person whose obligations have continued for at least 15 years and would otherwise continue for life.

Division 3 Offences

Clause 17 makes it an offence for a registrable person to fail to comply with the person's reporting obligations without reasonable excuse. Such an offence is punishable by a penalty of 100 penalty units (\$11,000) or imprisonment for 2 years, or both.

Clause 18 makes it an offence for a person to furnish false or misleading information in purported compliance with the proposed Part. Such an offence is punishable by a penalty of 100 penalty units (\$11,000) or imprisonment for 2 years, or both.

Division 4 Register of Offenders

Clause 19 requires the Commissioner of Police to establish and maintain a Register of Offenders for the purposes of the proposed Part.

Part 3 Miscellaneous

Clause 20 excludes persons engaged in the administration of the proposed Act from personal liability for acts and omissions that are done or omitted in good faith.

Clause 21 provides for offences under the proposed Act, or the regulations under the proposed Act, to be dealt with summarily by a Local Court constituted by a Magistrate sitting alone.

Clause 22 empowers the making of regulations, including regulations creating offences punishable by a penalty of up to 20 penalty units (\$2,200).

Clause 23 is a formal provision that gives effect to Schedule 1 (Amendment of Acts).

Clause 24 is a formal provision that gives effect to Schedule 2 (Savings, transitional and other provisions).

Clause 25 provides for the monitoring by the Ombudsman of the proposed Act, and of any regulations made for the purposes of the proposed Act, and for the preparation by the Ombudsman of a report on the Ombudsman's work and activities under the clause.

Clause 26 provides for the review of the proposed Act to take place as soon as possible after the completion of the Ombudsman's report referred to in clause 25.

Schedule 1 Amendment of Acts

The proposed Schedule makes consequential amendments to the following Acts:

- (a) the *Child Protection (Prohibited Employment) Act 1998 No 147*,
- (b) the *Commission for Children and Young People Act 1998 No 146*.

Schedule 2 Savings, transitional and other provisions

The proposed Schedule contains a single clause that enables regulations of a savings or transitional nature to be made as a consequence of the enactment of the proposed Act.



New South Wales

Child Protection (Offenders Registration) Bill 2000

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New South Wales

Child Protection (Offenders Registration) Bill 2000

No. , 2000

A Bill for

An Act with respect to the registration of certain offenders; and for other purposes.

The Legislature of New South Wales enacts: 1

Part 1 Preliminary 2

1 Name of Act 3

This Act is the *Child Protection (Offenders Registration) Act 2000*. 4

2 Commencement 5

This Act commences on a day or days to be appointed by proclamation. 6
7

3 Definitions 8

(1) In this Act: 9

child means any person who is under the age of 18 years. 10

Class 1 offence means: 11

(a) the offence of murder, where the person murdered is a child, or 12

(b) an offence that involves sexual intercourse with a child, or 13

(c) an offence of attempting, or of conspiracy or incitement, to commit an offence referred to in paragraph (a) or (b), or 14
15

(d) anything done outside New South Wales that, if done in New South Wales, would constitute an offence referred to in paragraph (a)–(c). 16
17
18

Class 2 offence means: 19

(a) an offence that involves an act of indecency against or in respect of a child, being an offence that is punishable by imprisonment for 12 months or more, or 20
21
22

(b) an offence under section 90A of the *Crimes Act 1900*, where the person against whom the offence is committed is a child, except where the person found guilty of the offence was, when the offence was committed or at some earlier time, a parent or carer of the child, or 23
24
25
26
27

(c) an offence under section 91D–91G of the *Crimes Act 1900* (other than an offence committed by a child prostitute), or 28
29

(d) an offence under section 578B or 578C (2A) of the *Crimes Act 1900*, or 30
31

-
- (e) an offence that, at the time it was committed: 1
- (i) was a Class 2 offence for the purposes of this Act, or 2
- (ii) in the case of an offence occurring before the 3
commencement of this section, was an offence of a kind 4
referred to in paragraph (a)–(d), or 5
- (f) an offence of attempting, or of conspiracy or incitement, to 6
commit an offence referred to in paragraph (a)–(e), or 7
- (g) anything done outside New South Wales that, if done in New 8
South Wales, would constitute an offence referred to in 9
paragraph (a)–(f). 10
- community service order** means a community service order under the 11
Crimes (Sentencing Procedure) Act 1999 or a children’s community 12
service order under the *Children (Community Service Orders) Act* 13
1987. 14
- court** includes any Justice exercising functions under the *Justices Act* 15
1902, and also includes a court (however described) of a foreign 16
jurisdiction. 17
- detainee** has the same meaning as it has in the *Children (Detention* 18
Centres) Act 1987. 19
- disability** has the same meaning as it has in the *Anti-Discrimination* 20
Act 1977. 21
- existing controlled person** means a person who, immediately before 22
the commencement of this section: 23
- (a) was serving a term of imprisonment in respect of a registrable 24
offence, including: 25
- (i) a term of imprisonment the subject of a periodic 26
detention order or home detention order, and 27
- (ii) a term of imprisonment in respect of which the person 28
was on release on parole under strict supervision, 29
- whether or not the person had lodged an appeal against the 30
conviction for the offence or the sentence imposed in respect of 31
the offence, or both, but not including a term of imprisonment 32
in respect of which the person was on release on parole 33
otherwise than under strict supervision, or 34
- (b) was a forensic patient in respect of a registrable offence, or 35
- (c) was an existing licensee in respect of a registrable offence, or 36

(d)	was participating in the Pre-Trial Diversion of Offenders Program under the <i>Pre-Trial Diversion of Offenders Act 1985</i> in respect of a registrable offence, or	1 2 3
(e)	was the subject of a community service order in respect of a registrable offence, or	4 5
(f)	was subject to a good behaviour bond in respect of a registrable offence, being a bond under which the person was required to submit to strict supervision,	6 7 8
	whether under the laws of New South Wales or (in whatever terms expressed) under the laws of a foreign jurisdiction.	9 10
	existing licensee means a person who is:	11
(a)	the holder of an existing licence within the meaning of clause 22 of Schedule 2 to the <i>Crimes (Sentencing Procedure) Act 1999</i> , or	12 13 14
(b)	the holder of a licence under section 7 of the <i>Habitual Criminals Act 1957</i> ,	15 16
	being a person who is for the time being required by the conditions of the licence to submit to strict supervision.	17 18
	finding of guilt —see subsection (2).	19
	foreign jurisdiction means a jurisdiction other than New South Wales.	20
	forensic patient means a person who is the subject of an order of detention under section 27 or 39 of the <i>Mental Health (Criminal Procedure) Act 1990</i> .	21 22 23
	good behaviour bond means a good behaviour bond under the <i>Crimes (Sentencing Procedure) Act 1999</i> .	24 25
	government custody means custody as an inmate, detainee or forensic patient.	26 27
	home detention order means a home detention order under the <i>Crimes (Sentencing Procedure) Act 1999</i> .	28 29
	inmate has the same meaning as it has in the <i>Crimes (Administration of Sentences) Act 1999</i> .	30 31
	periodic detention order means a periodic detention order under the <i>Crimes (Sentencing Procedure) Act 1999</i> .	32 33
	Register of Offenders means the Register of Offenders referred to in section 19.	34 35

-
- registrable offence** means a Class 1 offence or Class 2 offence. 1
- registrable person** means a person whom a court has at any time 2
(whether before or after the commencement of this section) found 3
guilty and sentenced in respect of a registrable offence, but does not 4
include: 5
- (a) a person in respect of whom a court has made an order under 6
section 10 of the *Crimes (Sentencing Procedure) Act 1999* or 7
section 33 (1) (a) of the *Children (Criminal Proceedings) Act* 8
1987 in respect of the offence, or 9
- (b) a person on whom a sentence has been imposed in respect of 10
a single Class 2 offence, where the sentence did not include: 11
- (i) a term of imprisonment, including a term of 12
imprisonment the subject of a periodic detention order 13
or home detention order, or 14
- (ii) a community service order, or 15
- (iii) a bond under which the person was required to submit 16
to strict supervision, 17
- where a reference to a single offence includes a reference to 18
more than one offence of the same kind arising from the same 19
incident, or 20
- (c) a person whose conviction or finding of guilt has been quashed 21
or set aside: 22
- (i) as a result of an appeal under the *Criminal Appeal Act* 23
1912 or under Part 5, 5A or 5B of the *Justices Act 1902*, 24
or 25
- (ii) as a result of a review or inquiry under Part 13A of the 26
Crimes Act 1900, or 27
- (d) a child who has been found guilty of: 28
- (i) a single offence involving an act of indecency, or 29
- (ii) a single offence under section 578B or 578C (2A) of the 30
Crimes Act 1900, 31
- where a reference to a single offence includes a reference to 32
more than one offence of the same kind arising from the same 33
incident, or 34
- (e) a person whom a court has found guilty of a registrable offence 35
before the commencement of this section unless the person is 36
an existing controlled person, 37

whether under the laws of New South Wales or (in whatever terms expressed) under the laws of a foreign jurisdiction. 1
2

relevant personal information means information of the kind referred to in section 9 (1). 3
4

reporting obligations, in relation to a registrable person, means the obligations imposed on the person by Division 2 of Part 2. 5
6

sentence includes any order under section 33 (1) of the *Children (Criminal Proceedings) Act 1987* and any undertaking under section 23 of the *Pre-Trial Diversion of Offenders Act 1985*, and includes any sentence or equivalent order or undertaking imposed under the laws of a foreign jurisdiction. 7
8
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11

sexual intercourse has the same meaning as it has in section 61H (1) of the *Crimes Act 1900*. 12
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strict government custody, in relation to a registrable person, means custody as an inmate, detainee or forensic patient, but does not include such custody if the person is regularly permitted to be at large for any period, regardless of its length, whether on leave of absence or otherwise. 14
15
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strict supervision means supervision by: 19

(a) the Commissioner of Corrective Services or an officer employed within the Department of Corrective Services, or 20
21

(b) the Director-General of the Department of Juvenile Justice or an officer employed within that Department, or 22
23

(c) the Director-General of the Department of Health or an officer employed within that Department, 24
25

or supervision by an authority of a foreign jurisdiction in the nature of an authority referred to in paragraph (a)–(c). 26
27

supervising authority, in relation to a registrable person, means an authority prescribed by the regulations as the authority having control of the person. 28
29
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(2) For the purposes of this Act, a reference to a **finding of guilt** in relation to an offence (however expressed) committed by a person is a reference to any of the following: 31
32
33

(a) a court making a formal finding of guilt in relation to the offence, 34
35

(b) a court convicting the person of the offence, where there has been no formal finding of guilt before conviction, 36
37

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- (c) a court accepting a plea of guilty from the person in relation to the offence, 1
2
 - (d) a court accepting an admission of guilt from the person in relation to the offence for the purpose of the offence being taken into account under Division 3 of Part 3 of the *Crimes (Sentencing Procedure) Act 1999*, or under equivalent provisions of the laws of a foreign jurisdiction, 3
4
5
6
7
 - (e) a verdict under section 22 (1) (b), (c) or (d) or section 38 of the *Mental Health (Criminal Procedure) Act 1990*, or under equivalent provisions of the laws of a foreign jurisdiction. 8
9
10

Clause 4 Child Protection (Offenders Registration) Bill 2000

Part 2 Registration of offenders

Division 1 Notices to be given

Part 2 Registration of offenders 1

Division 1 Notices to be given 2

4 Notices to be given when persons sentenced for registrable offences 3

(1) As soon as practicable after a registrable person is sentenced, the sentencing court is to give written notice to the person of: 4

(a) the person's reporting obligations, and 5

(b) the consequences that may arise if the person fails to comply with those obligations. 6

(2) As soon as practicable after a registrable person is sentenced, the sentencing court is to give written notice of that fact to: 7

(a) the Commissioner of Police, and 8

(b) the supervising authority for the person. 9

(3) The regulations may make provision for or with respect to the manner and form in which written notice must be given under this section. 10

(4) In this section, *court* does not include a court of a foreign jurisdiction. 11

5 Notices to be given when registrable person commences supervised sentence 12

(1) As soon as practicable after a registrable person commences a supervised sentence, the supervising authority for the person is to give written notice to the person of: 13

(a) the person's reporting obligations, and 14

(b) the consequences that may arise if the person fails to comply with those obligations. 15

(2) The regulations may make provision for or with respect to the manner and form in which written notice must be given under this section. 16

(3) In this section, *supervised sentence* means: 17

(a) a sentence of imprisonment the subject of a periodic detention order or home detention order, or 18

(b) a community service order, or 19

(c)	a good behaviour bond under which the person is required to submit to strict supervision.	1 2
6	Notices to be given when registrable person ceases to be in custody of supervising authority	3 4
(1)	As soon as practicable after:	5
(a)	a registrable person ceases to be in strict government custody, or	6 7
(b)	a registrable person ceases to be in government custody, the supervising authority for the person is to give written notice of that fact to the Commissioner of Police.	8 9 10
(2)	As soon as practicable after a registrable person ceases to be in government custody, the supervising authority for the person is to give written notice to the person of:	11 12 13
(a)	the person's reporting obligations, and	14
(b)	the consequences that may arise if the person fails to comply with those obligations.	15 16
(3)	The regulations may make provision for or with respect to the manner and form in which written notice must be given under this section.	17 18
7	Notices may be given by Commissioner of Police	19
(1)	The Commissioner of Police may cause written notice to be given to a registrable person of:	20 21
(a)	the person's reporting obligations, and	22
(b)	the consequences that may arise if the person fails to comply with those obligations,	23 24
	if the Commissioner suspects that the person may not have received notice, or may otherwise be unaware, of those obligations.	25 26
(2)	The regulations may make provision for or with respect to the manner and form in which written notice must be given under this section.	27 28
8	Failure to comply with procedural requirements does not affect registrable person's obligations	29 30
	A failure to comply with the requirements of this Division does not affect a registrable person's reporting obligations.	31 32

Division 2 Reporting obligations 1

9 Relevant personal information 2

- (1) Such of the following information as is applicable to a registrable person is *relevant personal information* in relation to the person: 3
- (a) the person's name, together with any other name by which the person is or has previously been known, 4
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6
 - (b) the person's date of birth, 7
 - (c) the address of each of the premises at which the person generally resides or, if the person does not generally reside at any particular premises, the name of each of the localities in which the person can generally be found, 8
9
10
11
 - (d) if the person is employed: 12
 - (i) the nature of the person's employment, and 13
 - (ii) the name of the person's employer (if any), and 14
 - (iii) the address of each of the premises at which the person is generally employed or, if the person is not generally employed at any particular premises, the name of each of the localities in which the person is generally employed, 15
16
17
18
19
 - (e) the make, model, colour and registration number of any motor vehicle owned by, or generally driven by, the person, 20
21
 - (f) the nature of the offences by reason of which the person is a registrable person, including particulars of the court by which the person was found guilty of each such offence and the date of each occasion on which the person was found guilty of such an offence. 22
23
24
25
26
- (2) For the purposes of this section: 27
- (a) a registrable person does not generally reside at any particular premises unless the person resides at those premises for at least 14 days (whether consecutive or not) in any period of 12 months, and 28
29
30
31
 - (b) a registrable person is not generally employed at any particular premises unless the person is employed at those premises for at least 14 days (whether consecutive or not) in any period of 12 months, and 32
33
34
35

- (c) a registrable person does not generally drive a particular motor vehicle unless the person drives that vehicle for at least 14 days (whether consecutive or not) in any period of 12 months. 1
2
3
- (3) In this section, *employer* and *employment* have the same meanings as they have, respectively, in the *Child Protection (Prohibited Employment) Act 1998*. 4
5
6
- 10 Registrable person to notify Commissioner of Police of relevant personal information** 7
8
- (1) A registrable person must notify the Commissioner of Police of the relevant personal information for the person: 9
10
- (a) in the case of a registrable person who becomes an inmate, a detainee or a forensic patient as a consequence of having been found guilty of a registrable offence, within 28 days after the person ceases to be in government custody, or 11
12
13
14
- (b) in the case of a registrable person who is outside New South Wales at the time the person is found guilty of a registrable offence, within 28 days after the person next enters New South Wales, or 15
16
17
18
- (c) in the case of an existing controlled person: 19
- (i) within 90 days after the commencement of this section, 20
or 21
- (ii) if the person was outside New South Wales immediately before that commencement, within 28 days after the person next enters New South Wales, 22
23
24
- whichever is the later, or 25
- (d) in any other case, within 28 days after the person is found guilty by a court of the registrable offence by reason of which the person is a registrable person. 26
27
28
- (2) A registrable person must notify the Commissioner of Police of any change in the relevant personal information for the person within 14 days after that change occurs. 29
30
31
- (3) A registrable person who leaves New South Wales for more than 28 days must notify the Commissioner of Police of the person's return within 14 days after the person next enters New South Wales. 32
33
34
- (4) The regulations may make provision for or with respect to the manner and form in which notice must be given under this section. 35
36

- (5) Subsection (3) does not apply if the person has been absent from New South Wales for 28 days or less and, for the whole of the period of absence, has been in some other State or Territory within Australia. 1
2
3
- 11 Registrable person to notify Commissioner of Police of intended absence from New South Wales** 4
5
- (1) Before leaving New South Wales, a registrable person must notify the Commissioner of Police of that fact. 6
7
- (2) The notice must indicate: 8
- (a) each State, Territory or country to which the person intends to go during the period of absence from New South Wales, and 9
10
- (b) the approximate dates during which the person intends to be in each such State, Territory or country, and 11
12
- (c) if the person intends to return to New South Wales, the approximate date on which the person intends to return. 13
14
- (3) The regulations may make provision for or with respect to the manner and form in which notice must be given under this section. 15
16
- (4) This section does not apply if the person intends to be absent from New South Wales for 28 days or less for the purpose of going only to some other State or Territory within Australia. 17
18
19
- 12 Manner in which relevant personal information to be given** 20
- (1) The information that is required to be given to the Commissioner of Police under this Part is to be given to a police officer: 21
22
- (a) at any police station in the locality in which the registrable person is currently residing, or 23
24
- (b) if a direction is given in accordance with the regulations as to the police station at which the information is to be given, at the police station so directed. 25
26
27
- (2) The giving of the information must be acknowledged by the police officer to whom it is given. 28
29
- (3) The acknowledgment must be in writing and must include: 30
- (a) the name of the police officer to whom the information was given, and 31
32
- (b) the date and time when the information was given. 33

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- | | |
|---|----------------------|
| (4) The regulations may make provision for or with respect to: | 1 |
| (a) the manner and form in which information must be given under this section, and | 2
3 |
| (b) the nature of any verifying documentation to be produced in support of any such information, and | 4
5 |
| (c) the form in which the giving of any such information must be acknowledged. | 6
7 |
| (5) The registrable person must give the information in person, unless: | 8 |
| (a) the registrable person is a child, or | 9 |
| (b) the registrable person has a disability that renders it impracticable for the information to be given in person, | 10
11 |
| in which case it may be given by the registrable person's parent, guardian or carer. | 12
13 |
| (6) When giving information as referred to in subsection (5), the person's parent, guardian or carer must be accompanied by the person, unless the person has a disability that renders it impracticable for the person to accompany the parent, guardian or carer. | 14
15
16
17 |
| (7) When giving information at a police station for the purposes of this section, the person giving the information: | 18
19 |
| (a) is entitled to do so in a place where no members of the public are present, and | 20
21 |
| (b) is entitled to be accompanied by a support person of the person's own choosing. | 22
23 |
| 13 Modified reporting procedures for participants in witness protection programs | 24
25 |
| (1) This section applies to each of the following persons: | 26 |
| (a) any registrable person who is currently a participant in a witness protection program, | 27
28 |
| (b) any registrable person who has been a participant in a witness protection program but in respect of whom an order under this section is yet to be made, | 29
30
31 |
| (c) any registrable person the subject of an order in force under this section declaring that the person is a person to whom this section applies. | 32
33
34 |

- (2) It is sufficient compliance with the requirements of section 12: 1
- (a) if a person to whom this section applies provides the relevant 2
personal information, at the required times, by means of a 3
written document addressed to a police officer authorised by the 4
Commissioner of Police for the purposes of this section, and 5
 - (b) if the acknowledgment of the giving of the information is given 6
verbally. 7
- (3) The Commissioner of Police must make an order declaring that a 8
registrable person who is or has been a participant in a witness 9
protection program either is, or is not, a person to whom this section 10
applies: 11
- (a) when the person ceases to be a participant in the program as a 12
consequence of a request under section 11 (1) of the *Witness* 13
Protection Act 1995, or 14
 - (b) when the Commissioner makes a decision under section 11 (2) 15
of the *Witness Protection Act 1995* that the protection and 16
assistance given to the person under the program be terminated. 17
- (4) On making such an order, the Commissioner of Police must take 18
reasonable steps to notify the person concerned of the terms of the 19
order. 20
- (5) A person who receives such a notification may, within 28 days after 21
receiving it, apply in writing to the Commissioner of Police for a 22
review of the decision. 23
- (6) On receiving an application referred to in subsection (5), the 24
Commissioner of Police: 25
- (a) must review the order, and confirm or reverse it, and 26
 - (b) before making a decision on the matter, must give the applicant 27
a reasonable opportunity to state his or her case, and 28
 - (c) after making a decision on the matter, must given written notice 29
of the decision to the applicant. 30
- (7) If the decision of the Commissioner of Police is to confirm the order, 31
the notice referred to in subsection (6) (c) must inform the applicant of 32
the applicant's rights under subsection (8). 33

- (8) A person who is aggrieved by a decision of the Commissioner of Police in relation to an order under this section may appeal to the Ombudsman against the decision within 3 days after receiving notice of the decision. 1
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- (9) The Ombudsman's decision in respect of the appeal has effect according to its terms. 5
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- (10) An order under this section takes effect: 7
- (a) at the end of 28 days after notice is given to the person concerned as referred to in subsection (4), or 8
9
- (b) if an application referred to in subsection (5) is made before the end of that period, at the end of 3 days after notice is given to the applicant as referred to in subsection (6) (c), or 10
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- (c) if an appeal referred to in subsection (8) is made before the end of that period, on the date on which the Ombudsman determines the appeal. 13
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- (11) In this section, *witness protection program* has the same meaning as it has in the *Witness Protection Act 1995*. 16
17
- 14 Period for which reporting obligations continue** 18
- (1) A registrable person's reporting obligations in respect of a registrable offence begin: 19
20
- (a) when the registrable person is sentenced for the offence, or 21
- (b) when the registrable person ceases to be in government custody in relation to the offence, 22
23
- whichever is the later. 24
- (2) In the case of a registrable person found guilty of a Class 1 offence (the *primary offence*), the registrable person's reporting obligations continue: 25
26
27
- (a) for 10 years: 28
- (i) if the finding of guilt relates to a single Class 1 offence, 29
or 30
- (ii) if the registrable person has at the same time or at any earlier time been found guilty of another Class 1 offence or a Class 2 offence, being an offence arising from the same incident as the primary offence, or 31
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- (b) for 15 years: 1
- (i) if the registrable person has at the same time or at any 2
earlier time been found guilty of a Class 2 offence, 3
where the other offence is not an offence arising from 4
the same incident as the primary offence, or 5
- (ii) if the registrable person has at the same time been found 6
guilty of another Class 1 offence, where the other 7
offence is not an offence arising from the same incident 8
as the primary offence, or 9
- (iii) if the registrable person has at any earlier time been 10
found guilty of another Class 1 offence, where the 11
primary offence was committed before the finding of 12
guilt for the other offence, or 13
- (c) for the rest of the registrable person's life, if the registrable 14
person has at any earlier time been found guilty of another 15
Class 1 offence, where the primary offence was committed after 16
the finding of guilt for the other offence. 17
- (3) In the case of a registrable person found guilty of a Class 2 offence (the 18
primary offence), the registrable person's reporting obligations 19
continue: 20
- (a) for 8 years: 21
- (i) if the finding of guilt relates to a single Class 2 offence, 22
or 23
- (ii) if the registrable person has at the same time or at any 24
earlier time been found guilty of another Class 2 25
offence, being an offence arising from the same incident 26
as the primary offence, or 27
- (b) for 12 years, if the registrable person has at the same time or at 28
any earlier time been found guilty of another Class 2 offence, 29
where the other offence is not an offence arising from the same 30
incident as the primary offence. 31
- (4) A reference in subsection (2) or (3) to another offence extends to an 32
offence committed before the commencement of this section. 33
- (5) Where: 34
- (a) the other offence referred to in subsection (2) (c) was 35
committed before the commencement of this section, and 36
- (b) the registrable person is not an existing controlled person in 37
respect of that other offence, 38

the reference in subsection (2) (c) to the rest of the registrable person's life is to be read instead as a reference to 15 years.	1 2
(6) Despite subsections (2) and (3), a registrable person's reporting obligations continue:	3 4
(a) for half the period calculated in accordance with those provisions, or	5 6
(b) in the case of a registrable person to whom (but for this paragraph) subsection (2) (c) would apply, for seven and a half years,	7 8 9
if the relevant findings of guilt relate to registrable offences committed while the registrable person was a child.	10 11
(7) Despite subsections (2)–(6), the reporting obligations of a registrable person who is on parole, or who is an existing licensee, continue:	12 13
(a) until the end of the period ascertained in accordance with those subsections, or	14 15
(b) until the expiry of the sentence of imprisonment to which the parole or existing licence relates,	16 17
whichever ends later.	18
15 Suspension and extension of reporting obligations	19
(1) A registrable person's reporting obligations are suspended for any period during which:	20 21
(a) the person is in custody, or	22
(b) the person is outside New South Wales, or	23
(c) the person is the subject of an order in force under section 16.	24
(2) The period for which a registrable person's reporting obligations continue is extended by the length of time for which those obligations are suspended from time to time under subsection (1) (a).	25 26 27
16 ADT may exempt persons from compliance with reporting obligations	28
(1) This section applies to a registrable person whose reporting obligations:	29 30
(a) have continued for the prescribed period, and	31
(b) will continue for the rest of the person's life unless an order is made under this section.	32 33

- (2) On the application of a registrable person, the Administrative Decisions Tribunal may make an order suspending the registrable person's reporting obligations. 1
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- (3) The Administrative Decisions Tribunal is not to make an order under this section unless it considers that the person the subject of the proposed order does not pose a risk to the safety of children. 4
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- (4) In deciding whether to make an order under this section, the Administrative Decisions Tribunal is to take the following matters into account: 7
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- (a) the seriousness of the offences as a result of which the person is a registrable person, 10
11
- (b) the period of time since those offences were committed, 12
- (c) the age of the registrable person, the age of the victims of those offences and the difference in age between the registrable person and the victims of those offences, as at the time those offences were committed, 13
14
15
16
- (d) the registrable person's present age, 17
- (e) the registrable person's total criminal record, 18
- (f) any other matter the Tribunal considers appropriate. 19
- (5) If a registrable person who has made an application under this section so requests, the Administrative Decisions Tribunal may suspend the registrable person's reporting obligations pending its determination of the application. 20
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- (6) The Commission for Children and Young People is to be a party to any proceedings for an order under this section. The Commission may make submissions in opposition to, or in support of, the making of the order. 24
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- (7) The Administrative Decisions Tribunal must notify the Commissioner of Police of the terms of any order made under this section. 28
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- (8) The Administrative Decisions Tribunal does not have the power to award costs in respect of proceedings under this section. 30
31
- (9) A party to proceedings under this section may appeal to the Supreme Court, on a question of law, from any decision of the Administrative Decisions Tribunal in the proceedings. 32
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- (10) An applicant in respect of whom the Administrative Decisions Tribunal refuses to make an order under this section is not entitled to make a further application to the Tribunal until 5 years have elapsed from the date of the refusal, unless the Tribunal otherwise orders at the time of the refusal. 1
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- (11) In this section, *prescribed period*, in relation to a registrable person's reporting obligations, means: 6
7
- (a) the period of 15 years from the date on which those obligations commenced, or 8
9
- (b) if that period has been extended as referred to in section 15 (2), that period as so extended. 10
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Division 3 Offences 12

17 Offence of failing to comply with reporting obligations 13

- (1) A registrable person must not fail to comply with any of the person's reporting obligations without reasonable excuse. 14
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- Maximum penalty: 100 penalty units or imprisonment for 2 years, or both. 16
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- (2) In determining whether a registrable person had a reasonable excuse for failing to comply with the person's reporting obligations, the court before which the proceedings are being heard is to have regard to the following matters: 18
19
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- (a) the person's age, 22
- (b) whether the person has a disability that affects the person's ability to understand, or to comply with, those obligations, 23
24
- (c) any matter prescribed by the regulations, 25
- (d) any other matter the court considers appropriate. 26
- (3) It is a defence to proceedings for an offence arising under this section if it is established by or on behalf of the registrable person charged with the offence that, at the time the offence is alleged to have occurred, the person had not received notice, and was otherwise unaware, of the person's reporting obligations. 27
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18 Offence of furnishing false or misleading information	1
A person must not, in purported compliance with this Part, furnish information that the person knows to be false or misleading in a material particular.	2 3 4
Maximum penalty: 100 penalty units or imprisonment for 2 years, or both.	5 6

Division 4 Register of Offenders 7

19 Register of Offenders	8
(1) The Commissioner of Police is to establish and maintain a Register of Offenders.	9 10
(2) The Commissioner of Police is to ensure that the following information is recorded in the Register of Offenders for each person in respect of whom the Commissioner receives a notice under Division 1:	11 12 13
(a) the person's name and other identifying particulars,	14
(b) the date on which the person ceased to be in government custody,	15 16
(c) any relevant personal information provided to the Commissioner in respect of the person,	17 18
(d) details of any proposed absence from New South Wales provided to the Commissioner in respect of the person.	19 20
(3) The Register of Offenders may include such other information as the Commissioner of Police considers appropriate to include in the Register.	21 22 23
(4) The regulations may make provision for or with respect to the manner and form in which the Register of Offenders is to be established and maintained.	24 25 26

Part 3	Miscellaneous	1
20	Exclusion of personal liability	2
	An act or omission that a person does or omits to do in good faith in the administration or execution of this Act does not subject the person personally to any action, liability, claim or demand.	3 4 5
21	Proceedings for offences	6
	Proceedings for an offence against this Act or the regulations are to be disposed of summarily by a Local Court constituted by a Magistrate sitting alone.	7 8 9
22	Regulations	10
	(1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.	11 12 13 14
	(2) A regulation may create an offence punishable by a penalty not exceeding 20 penalty units.	15 16
23	Amendment of Acts	17
	Each Act listed in Schedule 1 is amended as set out in that Schedule.	18
24	Savings, transitional and other provisions	19
	Schedule 2 has effect.	20
25	Monitoring of operation of Act by Ombudsman	21
	(1) For the period of 2 years from the commencement of this section, the Ombudsman is to keep under scrutiny the operation of the provisions of this Act and the regulations.	22 23 24
	(2) For that purpose, the Ombudsman may require any public authority to provide information concerning the authority's participation in the operation of those provisions.	25 26 27
	(3) The Ombudsman must, as soon as practicable after the expiration of the period of 2 years referred to in subsection (1), furnish a report to the Minister of the Ombudsman's work and activities under this section.	28 29 30 31

Clause 26 Child Protection (Offenders Registration) Bill 2000

Part 3 Miscellaneous

26	Review of Act	1
(1)	The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.	2 3 4
(2)	The review is to be undertaken as soon as possible after the Minister receives the Ombudsman's report under section 25.	5 6
(3)	A report on the outcome of the review is to be tabled in each House of Parliament as soon as possible after the review is completed.	7 8

Schedule 1	Amendment of Acts	1
	(Section 23)	2
1.1	Child Protection (Prohibited Employment) Act 1998 No 147	3
[1]	Section 5 Prohibited persons	4
	Insert “, or a person who is a registrable person within the meaning of the <i>Child Protection (Offenders Registration) Act 2000</i> ” after “subsection” in section 5 (1).	5 6 7
[2]	Section 9 IRC and ADT may make declarations concerning prohibited persons	8 9
	Insert after section 9 (5) (a):	10
	(a1) the period of time since those offences were committed,	11
[3]	Section 9 (5) (d1)	12
	Insert after section 9 (5) (d):	13
	(d1) the prohibited person’s present age,	14
1.2	Commission for Children and Young People Act 1998 No 146	15
[1]	Section 14A	16
	Insert after section 14:	17
14A	Powers of Commission for Children and Young People to compel production of information	18 19
	(1) For the purpose of preparing submissions to the Industrial Relations Commission or Administrative Decisions Tribunal under:	20 21 22
	(a) section 9 of the <i>Child Protection (Prohibited Employment) Act 1998</i> , or	23 24

Child Protection (Offenders Registration) Bill 2000

Schedule 1 Amendment of Acts

(b) section 16 of the *Child Protection (Offenders Registration) Act 2000*, 1
2

the Commission for Children and Young People may direct any 3
government agency to provide the Commission with 4
information relevant to an assessment of whether the applicant 5
poses a risk to the safety of children. 6

(2) A government agency to which such a direction is given is by 7
this section authorised and required to provide the Commission 8
for Children and Young People with the information sought by 9
the direction. 10

[2] Section 33 Definitions 11

Insert “and includes the criminal record of a registrable person within the 12
meaning of the *Child Protection (Offenders Registration) Act 2000*, but 13
only in relation to registrable offences within the meaning of that Act.” at 14
the end of the definition of *relevant criminal record* in section 33 (1). 15

Schedule 2	Savings, transitional and other provisions	1
	(Section 24)	2
1	Savings and transitional regulations	3
(1)	The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:	4
	this Act	5
(2)	Such a provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later day.	6
(3)	To the extent to which such a provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:	7
(a)	to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of that publication, or	8
(b)	to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of that publication.	9
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