



New South Wales

Child Protection (Offenders Registration) Amendment Bill 2024

Explanatory note

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

Overview of Bill

The object of this Bill is to make miscellaneous amendments to the *Child Protection (Offenders Registration) Act 2000* (*the Act*) following a review of the Act, including in relation to the following—

- (a) the offences under New South Wales and Commonwealth legislation that, if committed by a person, make the person a registrable person with reporting obligations under the Act (*registrable offences*),
- (b) the requirement for a court to make an order that a person is a registrable person when sentencing the person for a registrable offence in certain circumstances (a *registrable person order*),
- (c) the reporting obligations for registrable persons, including the period during which the obligations apply and the information that must be reported,
- (d) the application of the Act to a person in New South Wales who may be a registrable person in another Australian jurisdiction or another country.

The Bill also makes a consequential amendment to the *Crimes (Sentencing Procedure) Act 1999*.

Outline of provisions

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.

Schedule 1 Amendment of Child Protection (Offenders Registration) Act 2000 No 42

Registrable offences

Schedule 1[5] inserts proposed sections 2D–2I. Proposed section 2D sets out the offences that are Class 1 and Class 2 offences, which are registrable offences for the purposes of the Act. **Schedule 1[59]** inserts proposed Schedules 1A and 1B, which specify certain criminal offences that are Class 1 and Class 2 offences. Proposed sections 2E and 2F provide for when similar offences and offences arising from the same incident may be treated as a single offence.

Schedule 1[14] and [15] make consequential amendments.

Registrable person orders and child protection registration orders

Schedule 1[12] inserts proposed Part 2A, Division 1, which contains the following provisions—

- (a) proposed section 3C that requires a court that sentences a person for a registrable offence to make a registrable person order in certain circumstances,
- (b) proposed section 3CA that provides for the effect on a registrable person order of an appeal against the conviction or sentence for the registrable offence.

Schedule 1[9]–[11] make consequential amendments.

Schedule 1[17] inserts general provisions that apply to both the proposed registrable person orders and the existing child protection registration orders, including the following—

- (a) proposed section 3I that sets out how a reporting period must be calculated,
- (b) proposed section 3J that—
 - (i) requires the court to give a copy of a registrable person order or child protection registration order to the person, the Commissioner of Police and the supervising authority for the registrable person, and
 - (ii) requires the court to give the person a written notice and verbal explanation of the person’s reporting obligations, and
 - (iii) allows regulations to be made about the arrangements for persons who are not physically present in court when a registrable person order or child protection registration order is made,
- (c) proposed section 3K that provides that a person in relation to whom an registrable person order or child protection registration order is made and who has been given a copy of the order and the required written notice is taken to know the following—
 - (i) the person is a registrable person,
 - (ii) the person’s reporting period,
 - (iii) the person’s reporting obligations.

Schedule 1[19] omits provisions no longer required because of proposed section 3J.

Schedule 1[16] requires a child protection registration order to specify the reporting period for the registrable person. **Schedule 1[13]** makes a consequential amendment.

Schedule 1[20], [24], [30], [38] and [41]–[45] make consequential amendments in relation to reporting periods.

Reporting obligations

Schedule 1[59] inserts proposed Schedule 1C, which sets out the information (*relevant personal information*) a registrable person must give the Commissioner of Police in a report (a *personal information report*).

Schedule 1[25]–[29], [31] and [32] set out the circumstances when a registrable person with reporting obligations must give a personal information report to the Commissioner of Police.

Schedule 1[33] inserts provisions about reporting requirements, including the following—

- (a) proposed section 10 that requires a registrable person to give the Commissioner of Police a personal information report each year,

- (b) proposed section 10A that requires a registrable person to report changes in the person's relevant personal information to the Commissioner of Police,
- (c) proposed section 11 that requires a registrable person to report contact with children to the Commissioner of Police.

Schedule 1[48] and [56] make consequential amendments.

Schedule 1[21] and [23] set out when the Commissioner of Police may give a registrable person written notice of a person's reporting obligations and the consequences of failing to comply with the person's reporting obligations.

Schedule 1[46] and [47] make consequential amendments in relation to how reporting periods for registrable persons are extended.

Corresponding registrable persons

Schedule 1[18] inserts proposed Part 2B, which sets out the following—

- (a) when a person is a corresponding registrable person,
- (b) the reporting requirements for a corresponding registrable person,
- (c) the notice required to be given to a corresponding registrable person by the Commissioner of Police.

Schedule 1[8], [22], [50] and [53]–[55] make consequential amendments.

Other amendments

Schedule 1[1] makes consequential amendments to definitions used in the Act.

Schedule 1[5] inserts the following provisions relating to definitions and interpretation—

- (a) proposed section 2G that inserts a definition of *forensic custody*, which is a type of government custody,
- (b) proposed section 2H that inserts a definition of a *relevant vehicle or other transport* for a person, which is required because information about a registrable person's relevant vehicle or other transport is relevant personal information that must be reported,
- (c) proposed section 2I that provides that a person who travels to Norfolk Island travels outside of New South Wales.

Schedule 1[6] amends the definition of *registrable person*.

Schedule 1[37] provides that a registrable person may apply to the Commissioner of Police for approval under the *Criminal Code* of the Commonwealth to travel outside Australia.

Schedule 1[39] and [40] provide that appeals against certain decisions made by the Commissioner of Police in relation to a registrable person who is or has been a participant in a witness protection program under the *Witness Protection Act 1995* must be heard by the Law Enforcement Conduct Commission instead of the Ombudsman, as is currently the case.

Schedule 1[49] updates the requirements for the Civil and Administrative Tribunal to notify the Children's Guardian and the Commissioner of Police about the making of an application to suspend a registrable person's reporting obligations. The amendment also provides that the Commissioner of Police is a party to proceedings and is entitled to make submissions, in addition to the Children's Guardian.

Schedule 1[51] updates an existing power of police officers to enter and inspect a registrable person's residential premises.

Schedule 1[52] updates the defence available to a registrable person for the offence of failing to comply with the person's reporting obligations.

Schedule 1[58] inserts the following provisions—

- (a) proposed section 23 that requires the administration of the Child Protection Register to be audited at least every 2 years,
- (b) proposed section 24 that provides for administrative review by the Civil and Administrative Tribunal of certain decisions under the Act,
- (c) proposed section 25 that requires the Minister for Police and Counter-terrorism to conduct a review of the amendments within 2 years.

Schedule 1 [2]–[4], [7], [34]–[36] and [57] make other minor, miscellaneous and consequential amendments.

Schedule 1 [60] inserts savings and transitional provisions consequent on the enactment of the proposed Act.

Schedule 2 Amendment of Crimes (Sentencing Procedure) Act 1999 No 92

Schedule 2 makes a consequential amendment to the *Crimes (Sentencing Procedure) Act 1999*.