

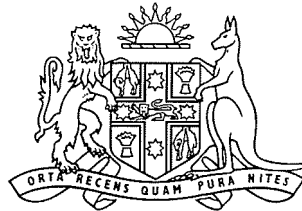


New South Wales

Child Protection Legislation Amendment (Offenders Registration and Prohibition Orders) Act 2013 No 77

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New South Wales

Child Protection Legislation Amendment (Offenders Registration and Prohibition Orders) Act 2013 No 77

Act No 77, 2013

An Act to amend the *Child Protection (Offenders Prohibition Orders) Act 2004* with respect to orders under that Act; to amend the *Child Protection (Offenders Registration) Act 2000* with respect to inspections by police officers of the residential premises of registrable persons; and for other purposes. [Assented to 29 October 2013]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Child Protection Legislation Amendment (Offenders Registration and Prohibition Orders) Act 2013*.

2 Commencement

This Act commences on the date of assent to this Act.

Schedule 1 Amendment of Child Protection (Offenders Prohibition Orders) Act 2004 No 46

[1] Section 8 Conduct that may be subject of orders

Omit section 8 (1) (d). Insert instead:

- (d) being a worker (within the meaning of the *Child Protection (Working with Children) Act 2012*) of a specified kind.

[2] Section 13 Contravention of orders

Omit “100 penalty units or imprisonment for 2 years” from section 13 (1).

Insert instead “500 penalty units or imprisonment for 5 years”.

[3] Section 13 (1A)

Insert after section 13 (1):

- (1A) It is a defence to proceedings for an offence under this section if it is established by or on behalf of the person charged with the offence that, at the time the offence is alleged to have occurred, the person had not received a copy of the prohibition order and was otherwise unaware of the person’s obligations under the order.

[4] Section 16C Local Court may make contact prohibition order

Omit section 16C (1). Insert instead:

- (1) The Local Court may make a contact prohibition order against a registrable person if:
 - (a) it is satisfied that there are sufficient grounds for making the order, or
 - (b) the Commissioner of Police and the registrable person consent to the making of the order.

[5] Section 17

Omit the section. Insert instead:

17 Applications for orders against young registrable persons

The Commissioner of Police may not delegate (under section 31 of the *Police Act 1990*) any of the following functions unless the delegation is made to a police officer, or to police officers of a class, prescribed by the regulations:

- (a) making an application for a prohibition order or contact prohibition order against a young registrable person,
- (b) making an application to vary or revoke a prohibition order or contact prohibition order against a young registrable person.

[6] Section 20 Nature of proceedings for offences

Insert “(except an offence under section 13)” after “this Act”.

[7] Section 20 (2)

Insert at the end of section 20:

- (2) Chapter 5 of the *Criminal Procedure Act 1986* (which relates to the summary disposal of certain indictable offences unless an election is made to proceed on indictment) applies to and in respect of an offence under section 13.

[8] Schedule 2 Savings and transitional provisions

Insert before clause 1:

Part 1 General

[9] Schedule 2, clause 1 (1)

Omit the subclause. Insert instead:

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act or any Act that amends this Act.

[10] Schedule 2, Part 2, heading

Insert after clause 1:

Part 2 Provisions consequent on enactment of this Act

[11] Schedule 2, Part 3, heading

Insert after clause 2:

Part 3 Provisions consequent on enactment of Child Protection Legislation (Registrable Persons) Amendment Act 2009

[12] Schedule 2, Part 4

Insert after clause 3:

Part 4 Provisions consequent on enactment of Child Protection Legislation Amendment (Offenders Registration and Prohibition Orders) Act 2013

4 Definition

In this Part:

amending Act means the *Child Protection Legislation Amendment (Offenders Registration and Prohibition Orders) Act 2013*.

5 Contravention of orders

Section 13, as in force immediately before its amendment by the amending Act, continues to apply in respect of a contravention that occurred before that amendment.

6 Contact prohibition orders

Section 16C (1), as substituted by the amending Act, does not apply in respect of an application that was made before the commencement of that substitution.

7 Applications for orders against young registrable persons

Section 17, as in force immediately before its substitution by the amending Act, continues to apply in respect of an application referred to in that section that was made before that substitution.

Schedule 2 Amendment of Child Protection (Offenders Registration) Act 2000 No 42

[1] Part 3, Division 7A

Insert after Division 7:

Division 7A Entry by police to residential premises

16C Entry by police officers to verify residence

- (1) One or more police officers may, without prior notice, enter and inspect any residential premises of a registrable person for the purpose of verifying any relevant personal information reported by the registrable person under section 9.
Note. Section 201 of the *Law Enforcement (Powers and Responsibilities) Act 2002* applies in respect of any such entry (see, particularly, section 201 (3) (c) of that Act).
- (2) The power of entry and inspection under this section may be exercised in respect of any particular residential premises of a registrable person:
 - (a) twice during the first 12-month period following the making of an initial report by the registrable person under Division 2 (only one of which may be exercised after the period of 28 days following the making of that report), and
 - (b) once during each following 12-month period.
- (3) A power may not be exercised under this section if the relevant reporting period of the registrable person has expired.
- (4) A registrable person must allow a police officer to enter and inspect any residential premises of the registrable person under this section and must co-operate with any such police officer with respect to that entry and inspection.
- (5) For the avoidance of doubt, an obligation imposed on a registrable person under subsection (4) is a reporting obligation of the registrable person.
- (6) A power is not exercisable under this section in respect of any part of residential premises that is occupied exclusively by a person other than the registrable person unless the police officer exercising the power has reasonable grounds for suspecting that the part of the premises is used by the registrable person.
- (7) In this section:
residential premises of a registrable person means premises identified by the registrable person under section 9 (1) (d) as an address at which the registrable person generally resides.

[2] Schedule 2 Savings, transitional and other provisions

Omit clause 1 (1). Insert instead:

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act or any Act that amends this Act.

[3] Schedule 2, Part 9

Insert after Part 8:

Part 9 Provisions consequent on enactment of Child Protection Legislation Amendment (Offenders Registration and Prohibition Orders) Act 2013

21 Entry by police to residential premises

The powers under section 16C may be exercised in respect of residential premises of a registrable person even if the initial report was made by the registrable person before the commencement of that section.

Schedule 3 Amendment of Criminal Procedure Act 1986 No 209

Schedule 1 Indictable offences triable summarily

Insert before clause 23 in Table 2:

22A Child Protection (Offenders Prohibition Orders) Act 2004

An offence under section 13 of the *Child Protection (Offenders Prohibition Orders) Act 2004*.

[Second reading speech made in—
Legislative Assembly on 18 September 2013
Legislative Council on 22 October 2013]