



New South Wales

Child Protection (Offenders Registration) Amendment Regulation 2005

under the

Child Protection (Offenders Registration) Act 2000

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Child Protection (Offenders Registration) Act 2000*.

CARL SCULLY, M.P.,
Minister for Police

Explanatory note

The object of this Regulation is to amend the *Child Protection (Offenders Registration) Regulation 2001* in connection with the amendments to the *Child Protection (Offenders Registration) Act 2000* made by the *Child Protection (Offenders Registration) Amendment Act 2004*.

This Regulation is made under the *Child Protection (Offenders Registration) Act 2000*, including section 22 (the general power to make regulations) and sections 3, 3A, 3C, 11B, 12A, 13 and 19.

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Clause 1 Child Protection (Offenders Registration) Amendment Regulation 2005

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under the

Child Protection (Offenders Registration) Act 2000

1 Name of Regulation

This Regulation is the *Child Protection (Offenders Registration) Amendment Regulation 2005*.

2 Commencement

This Regulation commences on 30 September 2005.

3 Amendment of Child Protection (Offenders Registration) Regulation 2001

The *Child Protection (Offenders Registration) Regulation 2001* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Clause 3)

[1] Clause 3 Definitions

Omit “or 7” from the definition of *statutory notice* in clause 3 (1).

Insert instead “, 7 or 7B”.

[2] Clause 3 (2)

Omit the subclause.

[3] Clauses 4A, 4B and 4C

Insert after clause 4:

4A Definition of “Class 2 offence”

Pursuant to paragraph (k) of the definition of *Class 2 offence* in section 3 (1) of the Act, the following offences are stated to be Class 2 offences:

- (a) an offence against section 271.4 of the *Criminal Code Act 1995* of the Commonwealth,
- (b) an offence against section 271.7 of the *Criminal Code Act 1995* of the Commonwealth,
- (c) an offence against section 474.26 of the *Criminal Code Act 1995* of the Commonwealth,
- (d) an offence against section 474.27 of the *Criminal Code Act 1995* of the Commonwealth.

4B Definition of “corresponding Act”

Pursuant to paragraph (b) of the definition of *corresponding Act* in section 3 (1) of the Act, the following Acts are stated to be corresponding Acts:

- (a) the *Child Protection (Offender Reporting) Act 2004* of Queensland,
- (b) the *Child Protection (Offender Reporting and Registration) Act 2004* of the Northern Territory,
- (c) the *Community Protection (Offender Reporting) Act 2004* of Western Australia,
- (d) the *Sex Offenders Registration Act 2004* of Victoria.

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Schedule 1 Amendments

4C Definition of “corresponding child protection registration order”

Pursuant to the definition of *corresponding child protection registration order* in section 3 (1) of the Act, the following orders are stated to be corresponding child protection registration orders:

- (a) orders under section 13 of the *Child Protection (Offender Reporting) Act 2004* of Queensland,
- (b) orders under section 13 of the *Child Protection (Offender Reporting and Registration) Act 2004* of the Northern Territory,
- (c) orders under section 13 of the *Community Protection (Offender Reporting) Act 2004* of Western Australia,
- (d) orders under section 11 of the *Sex Offenders Registration Act 2004* of Victoria.

[4] Clauses 5A and 5B

Insert after clause 5:

5A Foreign witness protection laws

For the purposes of sections 3A (3) and 13 (1A) of the Act, the following foreign witness protection laws are specified:

- (a) the *Witness Protection Act 1994* of the Commonwealth,
- (b) the *Witness Protection Act 1996* of the Australian Capital Territory,
- (c) the *Witness Protection (Northern Territory) Act* of the Northern Territory,
- (d) the *Witness Protection Act 2000* of Queensland,
- (e) the *Witness Protection Act 1996* of South Australia,
- (f) the *Witness Protection Act 2000* of Tasmania,
- (g) the *Witness Protection Act 1991* of Victoria,
- (h) the *Witness Protection (Western Australia) Act 1996* of Western Australia.

5B Corresponding registrable persons

For the purposes of section 3C (c) of the Act, the following classes of persons are prescribed as corresponding registrable persons for the purposes of the Act:

- (a) persons who are *reportable offenders* within the meaning of the *Child Protection (Offender Reporting) Act 2004* of Queensland,

- (b) persons who are *reportable offenders* within the meaning of the *Child Protection (Offender Reporting and Registration) Act 2004* of the Northern Territory,
- (c) persons who are *reportable offenders* within the meaning of the *Community Protection (Offender Reporting) Act 2004* of Western Australia, other than those who are reportable offenders merely because they have been sentenced by a court for a class 3 offence within the meaning of that Act,
- (d) persons who are *registrable offenders* within the meaning of the *Sex Offenders Registration Act 2004* of Victoria, other than those who are registrable offenders merely because they have been sentenced by a court for a class 3 or class 4 offence within the meaning of that Act.

[5] Clause 7 Exercise of sentencing court's functions by the Commissioner of Police

Insert "9 or" after "section" in clause 7 (1) (b).

[6] Clause 10 Contents of written notices

Insert after clause 10 (1):

- (1A) Each statutory notice must also contain a statement reminding the registrable person of his or her reporting period and specifying the date on which the reporting period ends.

[7] Section 10A

Insert after section 10:

10A Change of travel plans while out of New South Wales

For the purposes of section 11B of the Act, a report made by a registrable person under that section may be sent by post to such person as the Commissioner of Police may from time to time notify to the registrable person as the person to whom such a report should be sent.

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[8] Clause 14

Omit the clause. Insert instead:

14 Manner in which registrable person may report

- (1) For the purposes of section 12A (2) of the Act, a report referred to in that subsection that is required to be made by a registrable person may be made by telephone to the Crime Manager for the Local Area Command within which the registrable person resides.
- (2) The report:
 - (a) may be made by the registrable person, or
 - (b) may be made, on the registrable person's behalf, by the registrable person's supervisor.
- (3) A supervisor may not make a report on a registrable person's behalf unless the registrable person has presented for the supervisor's inspection the documents that he or she would have had to present under section 12D of the Act had he or she made the report to a police officer in person.
- (4) In this clause:

Crime Manager, in relation to a Local Area Command, means the police officer for the time being appointed by the Commissioner of Police to the position of Crime Manager for that Command, and includes any police officer acting in that position.

Local Area Command means an area designated by the Commissioner of Police as a Local Area Command.

supervisor, in relation to a registrable person, means the person from the person's supervising authority who is appointed for the time being to supervise the registrable person.

[9] Clause 15 Verifying documentation to be provided by parents, guardians, carers and nominees

Omit "12 (5)" from clause 15 (1). Insert instead "12A (4) or (5)".

[10] Clause 16

Omit the clause.

[11] Clause 17

Omit the clause.

[12] Clause 18

Omit the clause. Insert instead:

18 Child Protection Register

For the purposes of section 19 (2) (i) of the Act, the following information is prescribed as information that the Register is to contain in respect of a registrable person:

- (a) the date of each occasion on which the registrable person has asked for the accuracy of his or her reporting period, as specified in the Register, to be checked,
- (b) the date of each occasion on which the registrable person has been notified of the results of any such check.

19 Transitional provisions concerning existing registrable persons

- (1) Without limiting clause 10, the first statutory notice under section 7B of the Act in respect of a person who was a registrable person immediately before the commencement of the 2004 amending Act must contain the following information:
 - (a) the nature of the additional relevant personal information, within the meaning of the 2004 savings and transitional provisions, that must be provided to the Commissioner of Police pursuant to those provisions,
 - (b) the nature of the registrable person's reporting obligations, as applying under Part 3 of the Act following its amendment by the 2004 amending Act, including the fact that he or she is required to report annually,
 - (c) any extension of the period of the registrable person's reporting obligations under subclause (2).
- (2) The reporting period for any registrable person whose reporting obligations commenced on or after 1 October 2004 is to be calculated in accordance with Division 6 of Part 3 of the Act, as inserted by the 2004 amending Act.

Note. Pursuant to the 2004 savings and transitional provisions, the reporting period for any person whose reporting obligations commenced before 1 October 2004 remain as they were before the commencement of the 2004 amending Act.

- (3) In this clause:

the 2004 amending Act means the *Child Protection (Offenders Registration Amendment Act 2004*.

the 2004 savings and transitional provisions means the provisions of Schedule 2 to the Act that are consequent on the enactment of the 2004 amending Act.