

# **Child Protection (Child Sex Offender Register) Bill**

Government Bill

## **Explanatory note**

### **General policy statement**

The commission of sexual offences against children is a serious problem in New Zealand, and it causes significant and long-lasting harm to victims, their families, and the community. Information sharing between relevant agencies is recognised as an effective way to minimise the risk of harm from reoffending by known child sex offenders, when complemented by a structured risk management framework.

The Child Protection (Child Sex Offender Register) Bill requires all child sex offenders to register if they were aged 18 years or over when the offence was committed, are convicted of a qualifying offence, and are sentenced to imprisonment, or sentenced to a non-custodial sentence and directed to be registered at the discretion of the sentencing Judge. An offender who has been found guilty of a corresponding offence in a foreign jurisdiction and sentenced to imprisonment or been subject to reporting requirements in that jurisdiction will also be on the register if he or she resides in New Zealand or intends to reside in New Zealand. All registered offenders, when residing in the community, will be required to provide a range of personal information to a central register administered by the New Zealand Police. The registered offender must update the information annually, within 72 hours of any change of details, and at least 48 hours prior to travel. This information will enable the Police and the Department of Corrections to use accurate and up-to-date information to assess and manage the risk to public safety posed by known child sex offenders living in the community.

Authorised staff employed by the Ministry of Social Development and Housing New Zealand Corporation will have limited access to the information on the register and will exchange relevant information in the interest of public safety. Other government agencies will be able to access relevant information on the Register through the existing Police Vetting Service. The Police and the Department of Corrections will be able to inform third parties that a person is on the register where this is considered necessary to protect the safety of at-risk parties.

Offenders sentenced to imprisonment will remain on the register for 8 years, 15 years, or life depending on the qualifying offence committed. Offenders sentenced to a non-custodial sentence who are registered at the discretion of the sentencing Judge will remain on the register for 8 years regardless of the qualifying offence committed. Failure to comply with the reporting obligations will constitute an offence carrying a penalty of a fine of up to \$2,000 or imprisonment for a term not exceeding 1 year, or both.

### **Departmental disclosure statement**

The New Zealand Police are required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2015&no=16>.

### **Regulatory impact statement**

The New Zealand Police produced a regulatory impact statement on 14 June 2014 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of this regulatory impact statement can be found at—

- <http://www.police.govt.nz/new-zealand-police-miscellaneous-reports>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

### **Clause by clause analysis**

*Clause 1* is the Title clause.

*Clause 2* is the commencement clause. It provides for the Bill to come into force on 1 July 2016.

## **Part 1**

### **Preliminary matters**

*Clause 3* states the Bill's purpose, which is to establish a Child Sex Offender Register that will reduce sexual reoffending against child victims, and the risk posed by serious child sex offenders, by providing government agencies with the information that is needed to monitor child sex offenders and by providing the Police with up-to-date information that will assist the Police to more rapidly resolve cases of child sexual offending.

*Clause 4* defines terms used in the Bill.

*Clause 5* states that the Act binds the Crown.

### *Offenders to whom Act applies*

*Clause 6* sets out who is a registrable offender under the Bill. It provides that a registrable offender is a person whom a court has, in respect of a qualifying offence (one of the sexual offences against children specified in the *Schedule*) committed when the person was aged 18 or older, sentenced to imprisonment or sentenced to a non-custodial sentence and made subject to a registration order. The clause also provides that a corresponding registrable offender who resides in New Zealand or enters New Zealand with the intention to reside in New Zealand is a registrable offender. The clause specifies circumstances in which a person will cease to be a registrable offender, including if the finding of guilt in respect of each qualifying offence is quashed or set aside by a court.

*Clause 7* sets out who is a corresponding registrable offender. It provides that a corresponding registrable offender is a person who has been found guilty of a corresponding offence (an offence under the law of a foreign jurisdiction that relates to the same or substantially similar conduct as a qualifying offence) in a foreign jurisdiction and has been sentenced to imprisonment in respect of that offence, or who, as a consequence of the finding of guilt, has been required to report in that jurisdiction to a person or body exercising substantially similar functions to those of the Commissioner of Police (the **Commissioner**) under this Bill (and would, if the person were currently in that jurisdiction, still be required to report that information). The clause also provides that regulations may exclude any person or class of persons from being a corresponding registrable offender.

### *Registration orders*

*Clause 8* empowers any court that finds a person guilty of a qualifying offence and imposes a non-custodial sentence in respect of that offence to make a registration order, ordering that the person be placed on the register and that the person must comply with the reporting obligations of this Bill. The clause also provides that such order may only be made if the court is satisfied that the person poses a risk to the lives or sexual safety of 1 or more children, or of children generally.

## **Part 2**

### **Child Sex Offender Register**

#### Subpart 1—Establishment and administration of register

*Clause 9* requires the Commissioner of Police to establish a register of registrable offenders called the Child Sex Offender Register (the **register**). The clause also sets out the information that must be contained in the register in relation to each registrable offender, including the offender's name and identifying particulars, details of each qualifying offence or corresponding offence of which the offender has been found guilty or with which he or she has been charged, and information reported under *subpart 2 of Part 2* of the Bill.

*Clause 10* provides that the Commissioner is responsible for the administration of the register, and must consult with the chief executive of the Department of Corrections before making significant operational decisions about the way in which the register is administered. The clause also empowers the Commissioner, for the purpose of administering the register, to appoint Police employees or Department of Corrections employees (nominated by the chief executive) to be authorised persons.

## Subpart 2—Reporting obligations

### *Notification of reporting obligations*

*Clause 11* requires the sentencing court, as soon as practicable after a registrable offender if sentenced in New Zealand in respect of a qualifying offence, to give notice of that fact to the Commissioner and the chief executive of the Department of Corrections, and to give written notice to the offender of his or her reporting obligations under this Bill and the penalties that may be imposed for failing to comply with those obligations.

*Clause 12* requires the chief executive of the Department of Corrections, whenever a registrable offender is released from 14 days or more in custody in respect of any offence, to give the offender written notice of his or her reporting obligations under this Bill and the penalties that may be imposed for failing to comply with those obligations.

*Clause 13* enables the Commissioner to give written notice to a registrable offender of his or her reporting obligations under this Bill and the penalties that may be imposed for failing to comply with those obligations, if the Commissioner suspects that the offender may not have received notice or may otherwise be unaware of those obligations and penalties.

*Clause 14* requires the Commissioner to give written notice in accordance with the requirements of *clause 13* to a corresponding registrable offender who enters New Zealand, if the offender has not previously been given such notice.

### *Initial report*

*Clause 15* sets out the relevant personal information that must be reported by a registrable offender. The information includes each name by which the offender is or has been known, the offender's residential address and details of each child who generally resides in the same household as the offender, the offender's employment details, details of any scars, tattoos, or other permanent distinguishing marks the offender has, and the offender's telephone numbers and internet and email details.

*Clause 16* requires a registrable offender to make an initial report to the Commissioner of all relevant personal information within 72 hours of being released from custody in relation to a qualifying offence, or of being made subject to a registration order, or entering New Zealand to reside in New Zealand.

### *Ongoing reporting obligations*

*Clause 17* requires a registrable offender to make periodic reports of the offender's relevant personal information until the end of the offender's reporting period (except when the offender's reporting obligations are suspended).

*Clause 18* provides that periodic reports under *clause 17* must be made in each year during the offender's reporting period. The clause requires a registrable offender to make the report on the date specified by the Commissioner by written notice (being a date at least 12 months after the last periodic report was made) or, if the Commissioner does not specify a date, by the end of the calendar month in which the anniversary of the last periodic report by the offender falls.

*Clause 19* requires a registrable offender to report any changes in relevant personal information to the Commissioner within 72 hours of that change occurring, or within 72 hours of entering and remaining in New Zealand for more than 7 days (if the change occurs while the offender is out of New Zealand), or within 72 hours of being released from 7 or more consecutive days of custody or before leaving New Zealand (if the change occurs while the offender is in custody).

*Clause 20* requires a registrable offender to report to the Commissioner at least 48 hours before travelling if the offender intends to travel away from his or her residential address for more than 48 hours. If the intended travel is within New Zealand, the offender must report details of each address at which the offender intends to stay and the dates on which he or she intends to stay there, whether any child generally resides at any of those addresses, and the offender's intended return date (if applicable). If the intended travel is outside New Zealand, the offender must report his or her intended date of departure, and intended date of return or intention not to return. The clause also makes provision for an offender to give less than 48 hours' notice of travel plans if exceptional circumstances arise making it impracticable for an offender to make the report 48 hours before he or she travels.

*Clause 21* requires a registrable offender to report certain changes in travel plans while away from home or out of New Zealand.

*Clause 22* requires a registrable offender to report his or her return to New Zealand and present his or her passport for inspection and copying. This clause also requires a registrable offender who has reported intended travel outside New Zealand under *clause 20 or 21* to report within 72 hours if he or she decides not to leave.

### *Provisions applying to all reporting obligations*

*Clause 23* sets out where reports are to be made. The clause provides that a report by a registrable offender under this subpart of the Bill must be made at a police station specified by the Commissioner (if applicable), at the offender's residential premises (if directed by the Commissioner), or, if no other direction has been given, at a place approved (either generally or in a particular case) by the Commissioner.

*Clause 24* requires an initial report, periodic report, report of change of address, report relating to a tattoo or permanent distinguishing mark, report of intention to travel

out of New Zealand, and report of return to New Zealand to be made in person. However, a registrable offender may make a report in another manner permitted by the Commissioner or the regulations, either generally or in a particular case. This clause also sets out who is authorised to receive a report, and makes provision for another person to make a report on behalf of an offender if the offender has a disability that makes it impossible or impracticable for him or her to make a report in the manner required.

*Clause 25* entitles a person making a report in person to do so out of the hearing of members of the public and to be accompanied by a support person. This clause also permits a constable receiving a report to arrange for an interpreter to be present when the person is making the report, and prohibits the constable from permitting the interpreter to be present when the person is making the report unless the interpreter has signed an undertaking not to disclose any information derived from the report unless required or authorised under any enactment to do so.

*Clause 26* requires the constable or person receiving a report to give the person who made the report a written acknowledgement of the making of the report.

*Clause 27* requires a person making a report in person to present for inspection the registrable offender's driver licence or other document reasonably required by the constable receiving the report. If the person making the report is not the registrable offender, the person must also present his or her driver licence or other document reasonably required by the constable receiving the report.

*Clause 28* empowers a constable receiving a report in person to take the fingerprints or a fingerscan of the registrable offender if not reasonably satisfied as to the identity of the offender.

*Clause 29* empowers a constable receiving a report in person to take photographs of the registrable offender.

*Clause 30* requires a constable to inform the registrable offender, before exercising a power under *clause 28 or 29*, of the purpose for which fingerprints, a fingerscan, or photographs are to be taken, and that the Commissioner will retain the fingerprints, fingerscan, or photographs.

*Clause 31* empowers the Police to enter, record, and store on a Police information recording system the identifying particulars (fingerprints, fingerscan, photos) of a person and any other information obtained under *subpart 2 of Part 2*.

#### *Modified reporting procedures for protected witnesses*

*Clause 32* enables the Commissioner to modify the reporting requirements and reporting procedures for certain registrable offenders who are or have been participants in a witness protection programme.

### *Reporting period*

*Clause 33* provides that a registrable offender's reporting obligations begin when the offender is sentenced for a qualifying offence or when the offender ceases to be in custody for a qualifying offence, whichever is later.

*Clause 34* sets out the length of reporting periods for registrable offenders, which differ according to the class of qualifying offence for which the offender has been sentenced. An offender sentenced to a term of imprisonment for a class 1 offence is subject to reporting obligations under the Bill for the remainder of his or her life. If sentenced to a term of imprisonment for a class 2 offence, the offender must report for a period of 15 years. If sentenced to a term of imprisonment for a class 3 offence, or sentenced to a non-custodial sentence for a qualifying offence and subject to a registration order, the offender has a reporting period of 8 years.

*Clause 35* suspends a registrable offender's reporting obligations for any period during which the offender is in custody for more than 7 days or is outside New Zealand. This clause also gives the Commissioner the discretion to suspend an offender's reporting obligations if satisfied that the offender does not pose a risk to the lives or sexual safety of a child or children, or of children generally, and that the offender has a terminal illness or significant impairment that makes it difficult or impossible for the offender to fulfil his or her reporting obligations.

*Clause 36* empowers the Commissioner to revoke a suspension granted under *clause 35(2)* if there is a change in any of the grounds on which the suspension was granted.

### *Offences*

*Clause 37* creates an offence of failing to comply with reporting obligations without reasonable excuse. An offender convicted of this offence is liable to imprisonment for up to 1 year, a fine of up to \$2,000, or both.

*Clause 38* creates an offence of knowingly providing false or misleading information. An offender convicted of this offence is liable to imprisonment for up to 2 years, a fine of up to \$4,000, or both.

### Subpart 3—Access to register and information sharing

*Clause 39* restricts access to the register. The clause imposes a duty on the Commissioner to ensure that the register is accessed only by persons authorised by the Commissioner in accordance with guidelines issued by the Commissioner. The clause also requires the Commissioner to issue guidelines to ensure that access to information contained in the register is restricted as far as is reasonably practicable without interfering with the purpose of this Bill, and that the information is used only for the purpose of investigating offences listed in the *Schedule*. However, the guidelines may authorise the use of information contained in the register for a different purpose if an authorised person reasonably believes it is necessary to prevent, detect, investigate, or prosecute a serious offence or to prevent or reduce a threat to public safety, particularly a threat to the life, welfare, or sexual safety of a child or children.

*Clause 40* places tighter restrictions on access to information in the register about an offender who is a protected witness. Such information can only be accessed by a person in accordance with guidelines issued by the Commissioner for that purpose under *clause 39*.

*Clause 41* enables a specified agency to disclose personal information about a registrable offender to another specified agency for the purpose of monitoring the offender's whereabouts, verifying personal information reported by the offender, managing the risk that the offender may commit further sexual offences against children, or managing any risk to public safety. Specified agencies include the Police, Department of Corrections, the Ministry of Social Development, and Housing New Zealand Corporation.

*Clause 42* enables the Commissioner to disclose personal information in the register to a corresponding Registrar in a foreign jurisdiction for the purposes of a corresponding Act.

*Clause 43* permits the Commissioner to disclose personal information in the register to a third party (an affected person) if the Commissioner reasonably believes that the offender poses a threat to the life, welfare, or sexual safety of a particular child or particular children. An **affected person** means a person who is, in relation to the child, a parent or guardian, teacher or caregiver, or someone for the time being responsible for the custody or well-being of the child.

*Clause 44* provides that personal information in the register about an offender may be disclosed under *clauses 41 to 43* even if the identity of the offender is suppressed under the Criminal Procedure Act 2011.

*Clause 45* creates offences of unauthorised disclosure of personal information from the register. A person convicted of an offence under this clause is liable to imprisonment for up to 6 months (if an individual) or a fine of up to \$25,000 (if a body corporate).

*Clause 46* entitles a registrable offender to access all of the reportable information held in the register in relation to the offender, and to request the amendment of any information that is incorrect. This clause requires the Commissioner to provide the information to the offender on request, and to correct information held in the register if satisfied that it is incorrect.

*Clause 47* enables a person to apply to the Commissioner for a review of the decision to place the person on the register, or of the decision about the length of the person's reporting period. The Commissioner is required to give the person a reasonable opportunity to state his or her case, and to confirm, change, or revoke the decision, and give the person notice of the decision and of their right to a copy of the information held in the register about the person.

*Clause 48* provides an exclusion of liability for an act or omission done in good faith in the administration or execution of, or in accordance with, this Bill.



### Part 3

#### Miscellaneous matters

*Clause 49* empowers the Governor-General, by Order in Council, to make regulations for specified purposes.

*Clause 50* empowers the Governor-General, by Order in Council made on the recommendation of the Minister of Police, to amend the lists of qualifying offences in the Schedule. An Order in Council made under this clause is a legislative instrument and a disallowable instrument, and expires unless confirmed by Parliament by a specified date.

#### *Transitional provisions*

*Clause 51* applies the Bill to registrable offenders who, on the commencement date, are serving a sentence of imprisonment for a qualifying offence or are subject to an extended supervision order following that sentence.

#### *Consequential amendments to Corrections Act 2004*

*Clauses 52 to 54* make consequential amendments to the Corrections Act 2004.

#### *Consequential amendment to Criminal Procedure Act 2011*

*Clause 55* makes a consequential amendment to the Criminal Procedure Act 2011.



*Hon Anne Tolley*

## **Child Protection (Child Sex Offender Register) Bill**

Government Bill

### **Contents**

		Page
1	Title	3
2	Commencement	3
<b>Part 1</b>		
<b>Preliminary matters</b>		
3	Purpose	3
4	Interpretation	4
5	Act binds the Crown	5
<i>Offenders to whom Act applies</i>		
6	Who is a registrable offender?	5
7	Who is a corresponding registrable offender?	6
<i>Registration orders</i>		
8	Court may make registration order	6
<b>Part 2</b>		
<b>Child Sex Offender Register</b>		
Subpart 1—Establishment and administration of register		
9	Child Sex Offender Register established	6
10	Administration of register	7
Subpart 2—Reporting obligations		
<i>Notification of reporting obligations</i>		
11	Notices to be given when registrable offender sentenced	7
12	Notices to be given when registrable offender ceases to be in custody	8
13	Notices may be given by Commissioner	8

**Child Protection (Child Sex Offender Register) Bill**

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14	Notices to be given to corresponding registrable offenders who enter New Zealand	8
	<i>Initial report</i>	
15	Relevant personal information to be reported	8
16	When initial report must be made	10
	<i>Ongoing reporting obligations</i>	
17	Requirement to make periodic reports	10
18	When periodic reports must be made	11
19	Requirement to report changes to relevant personal information	11
20	Travel plans to be reported	12
21	Change of travel plans while away from home or out of New Zealand to be given	12
22	Requirement to report return to New Zealand or decision not to leave	13
	<i>Provisions applying to all reporting obligations</i>	
23	Where report is to be made	13
24	How report is to be made	14
25	Right to privacy and support when reporting	15
26	Receipt of information to be acknowledged	15
27	Additional matters to be provided	16
28	Power to take fingerprints or fingerscan	17
29	Power to take photographs	17
30	Constable must inform offender before exercising power	17
31	Identifying particulars and other information may be stored by Police	17
	<i>Modified reporting procedures for protected witnesses</i>	
32	Modified reporting procedures for protected witnesses	17
	<i>Reporting period</i>	
33	When reporting obligations begin	19
34	Length of reporting period	19
35	Suspension of reporting obligations	19
36	Revocation of suspension	20
	<i>Offences</i>	
37	Offence of failing to comply with reporting obligations	20
38	Offence of providing false or misleading information	20
	Subpart 3—Access to register and information sharing	
39	Access to register to be restricted	21
40	Restriction on who may access information on protected witness	21
41	Information sharing between government agencies in interest of public safety	22

42	Disclosure of information to corresponding Registrar	22
43	Disclosure of information to affected person where threat to child safety or welfare	22
44	Disclosure where identity suppressed	23
45	Confidentiality	23
46	Registrable offender's rights in relation to register	23
47	Review about entry on register	24
48	Exclusion of liability	25

**Part 3**  
**Micellaneous matters**

*Regulations*

49	Regulations	25
50	Power to amend Schedule by Order in Council	25

*Transitional provisions*

51	Retrospective application	26
	<i>Consequential amendments to Corrections Act 2004</i>	
52	Corrections Act 2004 amended	27
53	Section 182A amended (Information sharing about child sex offenders)	27
54	Section 182B amended (Definition of child sex offender)	27
	<i>Consequential amendment to Criminal Procedure Act 2011</i>	
55	Criminal Procedure Act 2011 amended	27

**Schedule**  
**Qualifying offences**

**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Child Protection (Child Sex Offender Register) Act **2015**.

**2 Commencement**

This Act comes into force on **1 July 2016**.

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**Part 1**  
**Preliminary matters**

**3 Purpose**

The purpose of this Act is to establish a Child Sex Offender Register that will reduce sexual reoffending against child victims, and the risk posed by serious child sex offenders, by—

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- (a) providing government agencies with the information needed to monitor child sex offenders in the community, including after the completion of the sentence; and
- (b) providing up-to-date information that assists the Police to more rapidly resolve cases of child sexual offending. 5

#### 4 Interpretation

In this Act, unless the context otherwise requires,—

**affected person** has the meaning given in **section 43(3)**

**authorised person** means a person appointed by the Commissioner under **section 10(3)** 10

**child** means a person under the age of 16 years

**class 1 offence, class 2 offence, and class 3 offence** have the meanings given to them in the **Schedule**

**Commissioner** means the Commissioner of Police

**constable** has the meaning given in section 4 of the Policing Act 2008 15

**corresponding Act** means a law of a foreign jurisdiction—

- (a) that provides for people who have been sentenced by a court for specified offences to report in that jurisdiction information about themselves and to keep that information current for a specified period; and

- (b) that regulations state is a corresponding Act for the purposes of this Act 20

**corresponding offence** means an offence under the law of a foreign jurisdiction that relates to the same or substantially similar conduct as a qualifying offence

**corresponding registrable offender** has the meaning given in **section 7**

**corresponding Registrar** means the person whose functions under a corresponding Act most closely correspond to the functions of the Commissioner under this Act 25

**custody**, in relation to a registrable offender, means—

- (a) the lawful custody of the Police or of the Department of Corrections;
- (b) subject to detention in a hospital under section 45 or 46 of the Mental Health (Compulsory Assessment and Treatment) Act 1992 or under section 34(1)(a)(i) of the Criminal Procedure (Mentally Impaired Persons) Act 2003 30

**initial report** means a report made, or required to be made, by a registrable offender under **section 16** 35

**IP address** means an Internet protocol address

**Minister** means the Minister of Police

**Police** means the New Zealand Police

**qualifying offence** means a class 1 offence, a class 2 offence, or a class 3 offence

**register** means the Child Sex Offender Register established under **section 9(1)**

**registrable offender** has the meaning given in **section 6** 5

**registration order** means an order imposed by a court under **section 8**

**relevant personal information** means the information specified in **section 15**

**reporting obligations**, in relation to a registrable offender, means the obligations imposed on the person by **subpart 2 of Part 2** 10

**reporting period** means the period, as determined under **sections 33 to 35**, during which a registrable offender must comply with the offender's reporting obligations

**specified agency** has the meaning given in **section 42(2)**

**telecommunications service** has the meaning given in section 5 of the Telecommunications Act 2001. 15

## 5 Act binds the Crown

This Act binds the Crown.

### *Offenders to whom Act applies*

## 6 Who is a registrable offender? 20

(1) A **registrable offender** is a person whom a court has, in respect of a qualifying offence,—

(a) sentenced to imprisonment; or

(b) sentenced to a non-custodial sentence and made subject to a registration order. 25

(2) A person who is a corresponding registrable offender and who resides in New Zealand or enters New Zealand with the intention to reside in New Zealand is also a registrable offender.

(3) However, a person is not a registrable offender if, at the time the person committed the qualifying offence, the person had not attained the age of 18 years. 30

(4) A person ceases to be a registrable offender if—

(a) the finding of guilt in respect of each qualifying offence that makes him or her a registrable offender for the purposes of this Act is quashed or set aside by a court; or

(b) the sentence in respect of that offence is reduced or altered so that he or she would not have fallen within the definition of registrable offender in **subsection (1)** had the amended sentence been the original sentence. 35

- (5) For the purposes of this section, it is irrelevant whether a person may lodge, or has lodged, an appeal in respect of a finding of guilt or in respect of a sentence.

Compare: Child Protection (Offenders Registration) Act 2000 ss 3A(1), (4), 3B (NSW); Sex Offenders Registration Act 2004 s 6(1), (2), (6), (7) (Vic)

## 7 Who is a corresponding registrable offender? 5

- (1) A **corresponding registrable offender** is a person who has been found guilty of a corresponding offence in a foreign jurisdiction and,—
- (a) in respect of that offence, has been sentenced to imprisonment; or
  - (b) as a consequence, has been required to report in that jurisdiction information about himself or herself to a person or body exercising functions substantially similar to those of the Commissioner under this Act, and to keep that information current for a particular period (and would, if the person were currently in that jurisdiction, still be required to report that information). 10
- (2) The regulations may exclude any person or class of persons from being a corresponding registrable offender. 15

Compare: Child Protection (Offenders Registration) Act 2000 s 19BB(1), (4) (NSW)

### *Registration orders*

## 8 Court may make registration order

- (1) If a court finds a person guilty of a qualifying offence and imposes a non-custodial sentence in respect of that offence, the court may order that the person must be placed on the register and must comply with the reporting obligations of this Act. 20
- (2) A court may make an order under this section (a **registration order**) only if the court is satisfied that the person poses a risk to the lives or sexual safety of 1 or more children, or of children generally. 25

Compare: Child Protection (Offenders Registration) Act 2000 s 3D(1), (2) (NSW)

## Part 2

### Child Sex Offender Register

#### Subpart 1—Establishment and administration of register 30

## 9 Child Sex Offender Register established

- (1) The Commissioner must establish a register of registrable offenders called the Child Sex Offender Register.
- (2) The register must contain the following information in relation to each registrable offender (to the extent that it is known by the Commissioner): 35
- (a) the registrable offender's name and other identifying particulars:



- (b) details of each qualifying offence or corresponding offence of which the registrable offender has been found guilty or with which he or she has been charged:
- (c) the date on which the registrable offender was sentenced for any qualifying offence: 5
- (d) the date on which the registrable offender ceased to be in custody in respect of a qualifying offence, or entered or ceased to be in custody in respect of any offence during his or her reporting period:
- (e) any information reported in respect of the registrable offender under **subpart 2** of this Part: 10
- (f) any information provided to the Commissioner in respect of the registrable offender under this Part.

Compare: Child Protection (Offenders Registration) Act 2000 s 19 (NSW); Child Sex Offenders Registration Act 2006 s 60 (SA)

## **10 Administration of register** 15

- (1) The Commissioner is responsible for the administration of the register.
- (2) Before making significant operational decisions about the way in which the register is administered, the Commissioner must consult with the chief executive of the Department of Corrections.
- (3) For the purpose of administering the register, the Commissioner may appoint any of the following to be authorised persons: 20
  - (a) 1 or more Police employees (within the meaning of section 4 of the Policing Act 2008):
  - (b) 1 or more employees of the Department of Corrections nominated by the chief executive of the Department. 25

### Subpart 2—Reporting obligations

#### *Notification of reporting obligations*

## **11 Notices to be given when registrable offender sentenced**

- (1) This section applies only in relation to registrable offenders sentenced in New Zealand for a qualifying offence. 30
- (2) As soon as practicable after a registrable offender is sentenced, the sentencing court must give written notice to the offender of—
  - (a) the offender’s reporting obligations; and
  - (b) the penalties for failing to comply with those obligations.
- (3) As soon as practicable after a registrable offender is sentenced, the sentencing court must give written notice of that fact to— 35
  - (a) the Commissioner; and

(b) the chief executive of the Department of Corrections.

Compare: Child Protection (Offenders Registration) Act 2000 s 4(1), (2) (NSW)

## 12 Notices to be given when registrable offender ceases to be in custody

As soon as practicable before or after a registrable offender who has been in custody for 14 or more consecutive days ceases to be in custody, whether in respect of a qualifying offence or otherwise, the chief executive of the Department of Corrections must give written notice to the offender of— 5

- (a) the offender's reporting obligations; and
- (b) the penalties for failing to comply with those obligations.

Compare: Child Protection (Offenders Registration) Act 2000 s 6(2) (NSW) 10

## 13 Notices may be given by Commissioner

The Commissioner may, if he or she suspects that a registrable offender may not have received notice, or may otherwise be unaware, of the offender's reporting obligations, cause written notice to be given to the offender of—

- (a) the offender's reporting obligations; and 15
- (b) the penalties for failing to comply with those obligations.

Compare: Child Protection (Offenders Registration) Act 2000 s 7(1) (NSW)

## 14 Notices to be given to corresponding registrable offenders who enter New Zealand

(1) This section applies to a corresponding registrable offender who enters New Zealand, if the offender has not previously been given notice of the offender's reporting obligations in New Zealand. 20

(2) The Commissioner must, as soon as practicable after becoming aware that the offender has entered New Zealand, cause written notice to be given to the offender in accordance with the requirements of **section 13**. 25

Compare: Child Protection (Offenders Registration) Act 2000 s 7A (NSW)

### *Initial report*

## 15 Relevant personal information to be reported

(1) For the purposes of this Act, the **relevant personal information** to be reported by a registrable offender consists of the following information: 30

- (a) his or her name, together with any other name by which he or she is, or has previously been, known:
- (b) in respect of each name other than his or her current name, the period during which he or she was known by that other name:
- (c) his or her date of birth: 35

- 
- (d) the address of each of the premises at which he or she generally resides or, if he or she does not generally reside at any particular premises, the name of each of the localities in which he or she can generally be found:
- (e) the name and date of birth of each child who generally resides in the same household as that in which the offender generally resides: 5
- (f) in respect of each child who generally resides in the same household as that in which the offender generally resides, the name of the principal caregiver:
- (g) his or her postal address for service of notices and documents under this Act: 10
- (h) if he or she is working,—
- (i) the nature of the work; and
- (ii) the name of his or her employer (if any); and
- (iii) the address of each of the premises at which the offender generally works or, if he or she does not generally work at any particular premises, the name of each of the localities at which he or she generally works: 15
- (i) details of his or her affiliation with any club or organisation that has a child membership or child participation in its activities, including any online club or organisation: 20
- (j) the make, model, colour, and registration number of any motor vehicle owned by, or generally driven by, the offender:
- (k) details of any tattoos, scars, or permanent distinguishing marks that he or she has (including details of any tattoo or mark that has been removed):
- (l) if, at the time of making an initial report, he or she has 1 or more valid passports, the passport number, place of issue, and date of expiry of each passport: 25
- (m) details of any telecommunications service used, or intended to be used, by the offender, including—
- (i) the name of any landline or mobile telephone service provider used, or intended to be used, by the offender; and 30
- (ii) any phone numbers used, or intended to be used, by the offender:
- (n) details of any Internet service provider (including login details, user name, and password) used, or intended to be used, by the offender:
- (o) details of any online accounts and online aliases used, or intended to be used, by the offender: 35
- (p) details of any email addresses used, or intended to be used, by the offender.
- (2) For the purposes of this section,—

- (a) a registrable offender does not generally reside at any particular premises unless he or she resides at those premises for at least 2 days (whether consecutive or not) in any period of 12 months; and
- (b) a child does not generally reside in the same household as a registrable offender unless they reside together in that household for at least 2 days (whether consecutive or not) in any period of 12 months; and 5
- (c) a registrable offender does not generally work at any particular premises unless he or she works at those premises for at least 14 days (whether consecutive or not) in any period of 12 months; and
- (d) a registrable offender does not generally drive a particular motor vehicle unless the person drives that vehicle on at least 14 days (whether consecutive or not) in any period of 12 months. 10

Compare: Child Protection (Offenders Registration) Act 2000 s 9(1) (NSW); Child Sex Offenders Registration Act 2006 s 13(1), (2) (SA)

## 16 When initial report must be made 15

A registrable offender must make an initial report to the Commissioner of all relevant personal information within 72 hours of—

- (a) being released from custody in relation to a qualifying offence; or
- (b) being made subject to a registration order; or
- (c) in the case of a corresponding registrable offender,— 20
  - (i) entering New Zealand from a foreign jurisdiction to reside in New Zealand (if a New Zealand or Australian citizen or holder of a resident's visa); or
  - (ii) demonstrating an intention to reside in New Zealand by applying for a resident's visa after entering New Zealand from a foreign jurisdiction. 25

### *Ongoing reporting obligations*

## 17 Requirement to make periodic reports

- (1) A registrable offender must periodically make reports (each a **periodic report**) of the offender's relevant personal information to the Commissioner until the offender's reporting period ends. 30
- (2) However, a registrable offender whose reporting obligations are suspended under **section 35** is not required to make periodic reports while the suspension is in force.
- (3) A periodic report includes a report that simply confirms that the registrable offender's relevant personal information stated in the last report previously made by the offender— 35
  - (a) is correct; and

- (b) has not changed since the offender made the last report.
- (4) If the registrable offender has been in custody since he or she last reported his or her relevant personal information under this section, the details he or she must report include details of when and where that custody occurred.
- Compare: Child Protection (Offender Reporting) Act 2004 s 18 (Qld); Child Sex Offenders Registration Act 2006 s 15(3) (SA) 5

### 18 When periodic reports must be made

- (1) A registrable offender must make a periodic report in each year during the reporting period, starting in the first year after the offender makes his or her initial report. 10
- (2) The registrable offender must make the report—
- (a) on the date specified by the Commissioner by notice in writing to the registrable offender, being a date that is—
- (i) at least 1 month after the date on which the notice was given; and
- (ii) at least 12 months after the date of the last periodic report by the offender under this Act (if any); or 15
- (b) if no such date is specified by the Commissioner, by the end of the calendar month in which the anniversary of the date of the last periodic report by the offender under this Act or a corresponding law falls.
- Compare: Child Protection (Offender Reporting) Act 2004 s 19(1), (2) (Qld); Child Sex Offenders Registration Act 2006 s 15(1), (2) (SA) 20

### 19 Requirement to report changes to relevant personal information

- (1) A registrable offender must report to the Commissioner any change in his or her relevant personal information within 72 hours after that change occurs.
- (2) For the purposes of **subsection (1)**, 25
- (a) a change occurs in the premises or household where the registrable offender or a child generally resides only on expiry of the relevant 2-day period referred to in **section 15(2)(a) or (b)**, as the case may be; and
- (b) a change occurs in the premises where the registrable offender generally works, or the motor vehicle that he or she generally drives, only on expiry of the relevant 14-day period referred to in **section 15(2)(c) or (d)**, as the case may be. 30
- (3) If the relevant personal information of a registrable offender (other than one to whom **section 32** applies) changes while he or she is not in New Zealand, he or she must report the change to the Commissioner within 72 hours after entering and remaining within New Zealand for 7 or more consecutive days, not counting any days spent in custody. 35
- (4) A registrable offender who is in custody for 7 or more consecutive days must report his or her relevant personal information to the Commissioner on whichever of the following first occurs: 40

- (a) within 72 hours after the registrable offender ceases to be in custody; or
- (b) before the registrable offender leaves New Zealand.

Compare: Child Sex Offenders Registration Act 2006 s 16(1)–(4) (SA)

## 20 Travel plans to be reported

- (1) **Subsection (2)** applies if a registrable offender intends to travel away from his or her registered residential address, within New Zealand, for more than 48 hours. 5
- (2) At least 48 hours before travelling, the registrable offender must report the intended travel to the Commissioner and must provide the following details:
- (a) each address at which the offender intends to stay: 10
  - (b) the dates on which the offender intends to stay at each of those addresses:
  - (c) whether any child generally resides at any of those addresses:
  - (d) if the offender intends to return to his or her registered residential address, the date on which he or she intends to return. 15
- (3) **Subsection (4)** applies if a registrable offender intends to travel out of New Zealand for more than 48 hours.
- (4) At least 48 hours before travelling, the registrable offender must report the intended travel to the Commissioner and must provide the following details:
- (a) the date on which the offender intends to travel out of New Zealand: 20
  - (b) if the offender intends to return to New Zealand, the date on which the offender intends to return:
  - (c) if the offender does not intend to return to New Zealand, a statement of that intention.
- (5) If exceptional circumstances arise making it impracticable for a registrable offender to whom **subsection (2) or (4)** applies to make the report 48 hours before he or she travels, it is sufficient compliance with **subsection (2) or (4)** if the offender reports the required information to the Commissioner—
- (a) as soon as practicable in the circumstances; and
  - (b) before travelling. 30

Compare: Child Sex Offenders Registration Act 2006 s 17 (SA)

## 21 Change of travel plans while away from home or out of New Zealand to be given

- (1) This section applies if a registrable offender who has travelled away from his or her registered residential address decides— 35
- (a) to extend a stay elsewhere in New Zealand beyond 13 days; or
  - (b) to change any details given to the Commissioner under **section 20(2) or (4)**.

- (2) As soon as practicable after making the decision, the registrable offender must,—
- (a) if **subsection (1)(a)** applies, report the details required under **section 20(2)** to the Commissioner (including those details as they relate to the travel that has already been completed); or 5
  - (b) if **subsection (1)(b)** applies, report the changed details to the Commissioner.
- (3) The registrable offender must make the report—
- (a) by writing sent by post or transmitted electronically to the Commissioner or to any other address permitted by the regulations; or 10
  - (b) in any other manner permitted by the regulations.
- Compare: Child Sex Offenders Registration Act 2006 s 18 (SA)

## 22 Requirement to report return to New Zealand or decision not to leave

- (1) This section applies if a registrable offender is required under **section 20** to report that he or she intend to leave New Zealand. 15
- (2) If the registrable offender leaves New Zealand, he or she must, within 72 hours after entering and remaining in New Zealand for 7 consecutive days (not counting any days spent in custody),—
- (a) report his or her return to the Commissioner; and
  - (b) present his or her passport for inspection and copying. 20
- (3) If the registrable offender decides not to leave New Zealand, he or she must report his or her change of intention within 72 hours after deciding not to leave.
- Compare: Child Sex Offenders Registration Act 2006 s 19 (SA)

### *Provisions applying to all reporting obligations*

- ## 23 Where report is to be made 25
- (1) A report by a registrable offender under this subpart must be made,—
- (a) if the Commissioner gives the offender a direction that the report is to be made at a specified police station, at that police station; or
  - (b) if the relevant personal information last reported by the offender indicates an address for premises at which he or she generally resides and the Commissioner gives the offender a direction that the report is to be made at those premises, at those premises; or 30
  - (c) if no direction is given under **paragraph (a) or (b)**, at a place approved (either generally or in a particular case) by the Commissioner.
- (2) A direction by the Commissioner under **subsection (1)(a) or (b)**— 35
- (a) must be given in writing in accordance with any requirements prescribed by the regulations; and

- (b) may be varied or revoked at any time by further notice in writing given to the registrable offender by the Commissioner.
- (3) This section does not apply if, under **section 24(2)**, a report is permitted to be made in a way that is inconsistent with this section.  
Compare: Child Sex Offenders Registration Act 2006 s 21 (SA) 5
- 24 How report is to be made**
- (1) A registrable offender must attend in person to make the following reports under this subpart:
- (a) a report required by **section 16** (initial report):
  - (b) a report required by **section 17** (periodic report): 10
  - (c) a report of a change of address of the premises at which he or she generally resides or, if he or she does not generally reside at any particular premises, of the localities in which he or she can generally be found:
  - (d) a report of the acquisition of, removal of, or change to any tattoo or permanent distinguishing mark: 15
  - (e) a report required by **section 20(4)**:
  - (f) a report required by **section 22(2)**.
- (2) However, a registrable offender may, with the approval of the Commissioner, make any other report required under this subpart in a manner permitted by the Commissioner or by the regulations, either generally or in a particular case (including by email or other form of electronic transmission). 20
- (3) If a report under this subpart—
- (a) is a report referred to in **subsection (1)(a), (b), (e), or (f)**, only a constable may receive it:
  - (b) is a report referred to in **subsection (1)(c) or (d)** and is made in person, only a constable or an authorised person may receive it: 25
  - (c) is not made in person but is made in accordance with **subsection (2)**, only a constable or an authorised person may receive it.
- (4) If a registrable offender has a disability that makes it impossible or impracticable for him or her to make a report in the manner required, the registrable offender will be taken to make the report if a parent, guardian, carer, or other adult person nominated by the offender and approved by the Commissioner makes the report (so far as is reasonably possible) on the offender's behalf. 30
- (5) A report made on the offender's behalf under **subsection (4)** must be made—
- (a) by both the registrable offender and the person reporting on his or her behalf attending in person; or 35



- (b) in another manner permitted by the Commissioner or by the regulations, either generally or in a particular case (including by email or other form of electronic transmission).

Compare: Child Sex Offenders Registration Act 2006 s 22 (SA)

## **25 Right to privacy and support when reporting** 5

- (1) A person making a report under this subpart by attending in person at a police station or other place approved by the Commissioner—
- (a) is entitled to make the report out of the hearing of members of the public; and
- (b) is entitled to be accompanied by a support person of his or her own choosing. 10
- (2) A constable receiving the report—
- (a) may arrange for an interpreter to be present when a person is making a report under this subpart; and
- (b) must not allow an interpreter to be present when a person is making a report under this subpart unless the interpreter has signed an undertaking not to disclose any information derived from the report unless required or authorised by or under any enactment to do so. 15

Compare: Child Sex Offenders Registration Act 2006 s 23 (SA)

## **26 Receipt of information to be acknowledged** 20

- (1) As soon as practicable after receiving a report under this subpart, the constable or authorised person receiving the report must acknowledge the making of the report.
- (2) The acknowledgement must be in writing, must be given to the person who made the report, and must include— 25
- (a) the name and signature of the constable or authorised person who received the report; and
- (b) the date and time when, and the place where, the report was received; and
- (c) a copy of the information that was reported; and 30
- (d) a copy of the record of any agreement made under **subsection (4)**.
- (3) If a report is not made in person, the authorised person who received the report must, as soon as practicable,—
- (a) give the person making the report a unique reference number; and
- (b) record that number on the relevant registrable offender's file and on the acknowledgement. 35

- (4) The Commissioner may make an agreement with the registrable offender as to the manner in which any reference number or acknowledgement required to be given by this section may be given.
- (5) The Commissioner must ensure—
- (a) that there is a method of recording an agreement made under **subsection (4)**; and 5
  - (b) that, except with the written consent of the registrable offender, any reference number or acknowledgement required to be given by this section is given in accordance with the agreement while the agreement remains in force. 10
- (6) The Commissioner must ensure that a copy of every acknowledgement is retained.
- (7) In this section, **signature** includes an email signature or other form of electronic signature.
- Compare: Child Protection (Offenders Registration) Act 2000 s 12C (NSW); Child Sex Offenders Registration Act 2006 s 24 (SA) 15
- 27 Additional matters to be provided**
- (1) If a report is required to be made by attending in person, the person making the report must also—
- (a) present for inspection the registrable offender’s driver licence (if any) or any other form of identification or other document reasonably required by the constable receiving the report to verify or support details in the report; and 20
  - (b) if not the registrable offender, present for inspection his or her driver licence (if any) or other form of identification reasonably required by the constable receiving the report. 25
- (2) The constable receiving the report may waive any requirements of **subsection (1)** if the constable is otherwise satisfied as to the identity of the person making the report.
- (3) If a report is required to be made by attending in person, the person making the report must also present for inspection the registrable offender’s current passport (if any). 30
- (4) The constable receiving the report may copy any document presented to the police officer for inspection under **subsection (1) or (3)**.
- (5) If a report is made otherwise than in person, the regulations— 35
- (a) may specify the circumstances in which—
    - (i) information will be required concerning the identity of the registrable offender and the identity of the person making the report; or
    - (ii) a document will be required verifying or supporting details in the report; and 40

(b) may specify the manner in which that information or document is to be provided; and

(c) may not require an original document to be provided.

Compare: Child Sex Offenders Registration Act 2006 s 25 (SA)

## **28 Power to take fingerprints or fingerscan** 5

A constable receiving a report made in person under this subpart may take, or may cause to be taken by a person authorised by the constable, the fingerprints or a fingerscan of the registrable offender if not reasonably satisfied as to the identity of the registrable offender after the constable has examined all the material relating to identity provided or presented to him or her by, or on behalf of, the registrable offender. 10

Compare: Child Sex Offenders Registration Act 2006 s 26(1) (SA)

## **29 Power to take photographs**

A constable receiving a report made in person under this subpart may take, or may cause to be taken by a person authorised by the constable, photographs of the registrable offender. 15

Compare: Child Sex Offenders Registration Act 2006 s 27(1) (SA)

## **30 Constable must inform offender before exercising power**

Before attempting to exercise a power under **section 28 or 29**, the constable must inform the registrable offender in language likely to be understood by him or her— 20

(a) of the purpose for which the power is to be exercised; and

(b) that the Commissioner will retain the fingerprints, fingerscan, or photographs (as the case may be).

Compare: Child Sex Offenders Registration Act 2006 s 28(1) (SA) 25

## **31 Identifying particulars and other information may be stored by Police**

(1) Any identifying particulars of a person and any other information obtained by the Police under this subpart may be entered, recorded, and stored on a Police information recording system.

(2) Information recorded on any Police information recording system is not information held in the register for the purposes of this Act. 30

### *Modified reporting procedures for protected witnesses*

## **32 Modified reporting procedures for protected witnesses**

(1) This section applies to each of the following persons:

(a) any registrable offender who is currently a participant in a witness protection programme: 35

- (b) any registrable offender who has been a participant in a witness protection programme but in respect of whom an order under this section is yet to be made:
- (c) any registrable offender who is the subject of an order in force under this section declaring that the offender is a person to whom this section applies. 5
- (2) This section (except **subsections (4) to (7)**) also applies to a registrable offender who is receiving protection under a foreign witness protection law or foreign witness protection scheme specified by the regulations for the purposes of this subsection, or who has the same status as such a person under an order made under a corresponding Act specified by the regulations for the purposes of this subsection. 10
- (3) It is sufficient compliance with the requirements of this Part—
- (a) if a person to whom this section applies provides information required by the Commissioner, at the times and in the manner authorised by the Commissioner for the purposes of this section; and 15
- (b) if the acknowledgement of the giving of the information is given in a manner approved by the Commissioner; and
- (c) if copies of relevant documents, rather than originals, are provided.
- (4) The Commissioner must make an order declaring that a registrable offender who is or has been a participant in a witness protection programme either is, or is not, a person to whom this section applies— 20
- (a) when the person voluntarily ceases to be a participant in the programme; or
- (b) when the Commissioner makes a decision that the protection and assistance given to the person be terminated. 25
- (5) On making such an order, the Commissioner must take reasonable steps to notify the person concerned of the terms of the order.
- (6) A person who receives such a notification may, within 14 days after receiving it, apply in writing to the Commissioner for a review of the decision. 30
- (7) On receiving an application referred to in **subsection (6)**, the Commissioner—
- (a) must review the order, and confirm or reverse it; and
- (b) before making a decision on the matter, must give the applicant a reasonable opportunity to state his or her case; and 35
- (c) after making a decision on the matter, must given written notice of the decision to the applicant.

Compare: Child Protection (Offenders Registration) Act 2000 s 13(1)-(6) (NSW)

*Reporting period***33 When reporting obligations begin**

For the purposes of this subpart, a registrable offender's reporting obligations begin on the later of the following events:

- (a) when the person is sentenced for a qualifying offence: 5
- (b) when the person ceases to be in custody in relation to a qualifying offence.

Compare: Child Protection (Offenders Registration) Act 2000 s 14 (NSW); Sex Offenders Registration Act 2004 s 33 (Vic)

**34 Length of reporting period** 10

A registrable offender must continue to comply with the reporting obligations imposed by this subpart for—

- (a) the remainder of the offender's life, if the offender has been sentenced to a term of imprisonment for a class 1 offence; or
- (b) 15 years, if the offender has been sentenced to a term of imprisonment for a class 2 offence; or 15
- (c) 8 years, if the offender has been sentenced to a term of imprisonment for a class 3 offence; or
- (d) 8 years, if the offender has been sentenced to a non-custodial sentence for a qualifying offence and is subject to a registration order. 20

Compare: Child Protection (Offenders Registration) Act 2000 s 14A(1) (NSW); Sex Offenders Registration Act 2004 s 34(1) (Vic)

**35 Suspension of reporting obligations**

- (1) A registrable offender's reporting obligations are suspended for any period during which— 25
  - (a) he or she is in custody for more than 7 days; or
  - (b) he or she is outside New Zealand, unless he or she is a person to whom **section 32** applies or the obligation is under **section 21**; or
  - (c) the Commissioner has suspended the offender's reporting obligations under **subsection (2)**. 30
- (2) The Commissioner may, on his or her own initiative or on the application of the offender, suspend the reporting obligations of a registrable offender if the Commissioner is satisfied, on reasonable grounds,—
  - (a) that the offender does not pose a risk to the lives or sexual safety of a child or children, or of children generally; and 35
  - (b) that the offender has a terminal illness or a significant cognitive or physical impairment that makes it difficult or impossible for the offender to fulfil his or her reporting obligations.

- (3) The Commissioner must, as soon as is reasonably practicable, give the registrable offender written notice of a decision made under **subsection (2)**—
- (a) to suspend the offender’s reporting obligations; or
  - (b) to deny an application to suspend the offender’s reporting obligations.
- (4) A suspension granted under **subsection (2)** takes effect when the Commissioner gives the notice to the registrable offender. 5
- (5) Any period during which a registrable offender’s reporting obligations are suspended under **subsection (1)** is not to be taken into account for the purpose of calculating when the offender’s reporting period ends. 10
- Compare: Child Protection (Offender Reporting) Act 2004 ss 67C, 67D(1), (5), (6), (7) (Qld); Child Sex Offenders Registration Act 2006 s 32 (SA)

### 36 Revocation of suspension

- (1) The Commissioner may at any time revoke a suspension granted under **section 35(2)** if the Commissioner believes, on reasonable grounds,—
- (a) that the registrable offender poses, or may pose, a risk to the lives or sexual safety of a child or children, or of children generally; or 15
  - (b) that the offender no longer has an illness or impairment that makes it difficult or impossible for the offender to fulfil his or her reporting obligations.
- (2) If the Commissioner revokes a suspension, he or she must give the registrable offender written notice of the revocation as soon as is reasonably practicable. 20
- (3) The revocation takes effect when the Commissioner gives the notice to the registrable offender.
- Compare: Child Protection (Offender Reporting) Act 2004 s 67F (Qld)

### *Offences* 25

### 37 Offence of failing to comply with reporting obligations

- (1) A registrable offender commits an offence if the offender fails to comply with any of his or her reporting obligations without reasonable excuse.
- (2) An offender who is convicted of an offence under this section is liable to imprisonment for a term not exceeding 1 year, or a fine not exceeding \$2,000, or both. 30
- Compare: Child Protection (Offenders Registration) Act 2000 s 17(1) (NSW); Sex Offenders Registration Act 2004 s 46(1) (Vic); Child Protection (Offender Reporting) Act 2004 s 50(1) (Qld); Child Sex Offenders Registration Act 2006 s 44(1) (SA)

### 38 Offence of providing false or misleading information 35

- (1) A registrable offender commits an offence if the offender, in purported compliance with this subpart, provides information that the offender knows to be false or misleading in a material particular.

- (2) An offender who is convicted of an offence under this section is liable to imprisonment for a term not exceeding 2 years, or a fine not exceeding \$4,000, or both.

Compare: Child Protection (Offenders Registration) Act 2000 s 18 (NSW); Sex Offenders Registration Act 2004 s 47 (Vic); Child Protection (Offender Reporting) Act 2004 s 51(1) (Qld); Child Sex Offenders Registration Act 2006 s 45(1) (SA)

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### Subpart 3—Access to register and information sharing

#### 39 Access to register to be restricted

- (1) The Commissioner must ensure that the register, or any part of the register, is only accessed by a person, or a class of persons, that is authorised to do so by the Commissioner in accordance with guidelines issued in accordance with this section. 10

- (2) The Commissioner must issue guidelines in relation to access to the register to ensure that—

(a) information contained on the register is used only for the purpose of investigating offences listed in the **Schedule** and resolving cases of child sex offending; and 15

(b) access to information contained in the register is available to enable the monitoring of child sex offenders in the community, including after completion of their sentence or order. 20

- (3) Despite **subsection (2)**, the guidelines may authorise the use of information contained in the register for a purpose other than the purpose for which the information was obtained if an authorised person reasonably believes such use is necessary to—

(a) prevent, detect, investigate, or prosecute an imprisonable offence; or 25

(b) prevent or reduce a threat to public safety, particularly a threat to the life, welfare, or sexual safety of a child or children.

- (4) For the purposes of this section, the register includes any information from any register maintained under a corresponding law that is accessible by the Commissioner, regardless of whether that information is physically part of the register. 30

- (5) This section has effect despite any other enactment or law to the contrary.

Compare: Sex Offenders Registration Act 2004 s 63(1)–(4) (Vic); Child Protection (Offender Reporting) Act 2004 s 69 (Qld); Child Sex Offenders Registration Act 2006 s 61 (SA)

#### 40 Restriction on who may access information on protected witness 35

The Commissioner must ensure that any information in the register about a person to whom **section 32** applies, whose identity is apparent or can reasonably be ascertained from that information, can only be accessed in accordance with guidelines issued by the Commissioner for that purpose under **section 39**.

Compare: Child Protection (Offenders Registration) Act 2000 s 19A (NSW) 40

- 41 Information sharing between government agencies in interest of public safety**
- (1) A specified agency may disclose personal information in the register to another specified agency for any of the following purposes:
- (a) monitoring the whereabouts of the offender: 5
  - (b) verifying personal information reported by the offender:
  - (c) managing the risk that the offender may commit further sexual offences against children:
  - (d) managing any risk to public safety.
- (2) In this section, **specified agency** means— 10
- (a) the Police:
  - (b) the Department of Corrections:
  - (c) the Ministry of Social Development:
  - (d) Housing New Zealand Corporation:
  - (e) any public sector agency (as that term is defined in section 2 of the Privacy Act 1993) that the Minister, after consultation with the Privacy Commissioner, identifies as a specified agency by notice in the *Gazette*. 15
- (3) Nothing in this section limits or affects—
- (a) the ability of an agency to access law enforcement information in accordance with section 111 of the Privacy Act 1993; or 20
  - (b) the ability of an agency to disclose personal information about a child sex offender in accordance with section 182A of the Corrections Act 2004.
- Compare: 2004 No 50 ss 182A(3)(b), 182C; 2014 No 40 s 5(1)
- 42 Disclosure of information to corresponding Registrar** 25
- The Commissioner may disclose personal information in the register to a corresponding Registrar for the purposes of a corresponding Act.
- Compare: Child Protection (Offender Reporting) Act 2004 s 71 (Qld)
- 43 Disclosure of information to affected person where threat to child safety or welfare** 30
- (1) The Commissioner may disclose personal information in the register to an affected person if the Commissioner believes on reasonable grounds that the registrable offender poses a threat to the life, welfare, or sexual safety of a particular child or particular children.
- (2) The Commissioner may authorise a specified agency to disclose personal information in the register to an affected person if the Commissioner believes on reasonable grounds that the registrable offender poses a threat to the life, welfare, or sexual safety of a particular child or particular children. 35



- (3) In this section, **affected person** means a person who is, in relation to a child referred to in **subsection (1) or (2)**,—
- (a) a parent or guardian of the child; or
  - (b) a teacher or regular caregiver of the child; or
  - (c) for the time being, responsible for the custody or well-being of the child. 5
- 44 Disclosure where identity suppressed**
- Personal information in the register may be disclosed under **sections 41 to 43** even if the identity of the registrable offender is subject to a suppression order under section 200 of the Criminal Procedure Act 2011 or has been automatically suppressed under section 201 of that Act. 10
- 45 Confidentiality**
- (1) A person authorised to have access to the register or any part of the register must not disclose any personal information in the register, unless the person is—
- (a) authorised by the Commissioner to disclose the information; or 15
  - (b) otherwise permitted or required, under any enactment or other law, to disclose the information.
- (2) A person to whom personal information about a registered offender is disclosed under this subpart must not disclose that information to any other person unless that disclosure is— 20
- (a) made with the consent of the Commissioner given (either generally or in a particular case) for the purposes of ensuring the safety or protection of a child or of children generally; or
  - (b) otherwise permitted or required under any enactment or other law.
- (3) A person who contravenes **subsection (1)** or who without reasonable excuse contravenes **subsection (2)** commits an offence and is liable on conviction to,— 25
- (a) in the case of an individual, imprisonment for a term not exceeding 6 months; and
  - (b) in the case of a body corporate, a fine not exceeding \$25,000. 30
- Compare: Child Protection (Offenders Registration) Act 2000 s 21E(d) (NSW); Child Protection (Offender Reporting) Act 2004 s 70(1) (Qld)
- 46 Registrable offender's rights in relation to register**
- (1) If asked, in writing, to do so by a registrable offender, the Commissioner must provide the registrable offender with all of the reportable information that is held in the register in relation to the registrable offender. 35
- (2) The Commissioner must comply with **subsection (1)** as soon as practicable after being asked to do so.

- (3) A registrable offender may make a written request to the Commissioner to amend any reportable information held in the register in relation to the registrable offender that is incorrect (and the Commissioner must, if satisfied that it is incorrect, amend the information).
- (4) The Commissioner must take reasonable steps to notify the registrable offender as to whether the Commissioner will comply with a request under **subsection (3)**. 5
- Compare: Child Protection (Offenders Registration) Act 2000 s 19B(1)–(4) (NSW); Sex Offenders Registration Act 2004 s 66(1)–(4) (Vic); Child Protection (Offender Reporting) Act 2004 s 73(1)–(4) (Qld); Child Sex Offenders Registration Act 2006 s 63(1)–(4) (SA) 10
- 47 Review about entry on register**
- (1) This section applies if a person believes that —
- (a) the person has been placed on the register in error; or
- (b) an error has been made in working out the length of the person’s reporting period. 15
- (2) The person may apply in writing to the Commissioner to review the following:
- (a) the decision to place the person on the register; or
- (b) the decision about the length of the person’s reporting period.
- (3) The application must be made within 28 days after the person is given notice of his or her reporting obligations under **section 11, 12, 13, or 14**. 20
- (4) The person’s reporting obligations are not suspended because the person made the application.
- (5) On receiving an application for a review, the Commissioner must—
- (a) give the person a reasonable opportunity to state his or her case before making a decision on the matter; and 25
- (b) if the application relates to a decision to place the person on the register, review the decision to place the person on the register and confirm or revoke it; and
- (c) if the application relates to a decision about the length of the person’s reporting period, review the decision and confirm or change it; and 30
- (d) give the person written notice of—
- (i) the decision; and
- (ii) the person’s right under **section 46** to a copy of all reportable information that is held in the register in relation to the person.
- (6) If the Commissioner revokes a decision to place a person on the register, the Commissioner must ensure that the person’s relevant personal information is removed from the register, and any copies of documents, fingerprints, finger-scans, or photographs taken from the person under this Act are not kept. 35

- (7) If the Commissioner changes a decision about the length of a person's reporting period, the Commissioner must ensure that the entry for the reporting period on the register is corrected.

Compare: Child Protection (Offender Reporting) Act 2004 s 74 (Qld)

**48 Exclusion of liability** 5

An act or omission that a person does or omits to do in good faith in the administration or execution of, or in accordance with, this Act does not subject the person personally to any action, liability, claim, or demand.

Compare: Sex Offenders Registration Act 2004 s 71 (Vic)

**Part 3** 10  
**Micellaneous matters**

*Regulations*

**49 Regulations**

The Governor-General may, by Order in Council, make regulations for any of the following purposes: 15

- (a) prescribing certain laws of foreign jurisdictions to be corresponding Acts for the purposes of this Act:
- (b) excluding any person or class of persons from being a registrable offender:
- (c) prescribing details relating to the administration of the register: 20
- (d) specifying, if a report is made otherwise than in person under **section 24(2) or (5)(b)**,—
  - (i) the circumstances in which information will be required concerning the identity of the registrable offender and the identity of the person making the report, or a document will be required verifying or supporting details in the report; and 25
  - (ii) the manner in which that information or document is to be provided:
- (e) providing for any other matters contemplated by this Act, necessary for its administration, or necessary for giving it full effect. 30

**50 Power to amend Schedule by Order in Council**

- (1) The Governor-General may, by Order in the Council made on the recommendation of the Minister, amend the lists of qualifying offences set out in the Schedule.
- (2) An Order in Council made under **subsection (1)** is a legislative instrument and a disallowable instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act. 35

- (3) An Order in Council made under **subsection (1)**,—
- (a) if made on or before 30 June in any year, expires on the close of 30 June in the following year unless it is expressly confirmed by an Act of Parliament passed before that date; and
- (b) if made on or after 1 July in any year, expires on the close of 31 December in the following year unless it is expressly confirmed by an Act of Parliament passed before that date. 5
- (4) The expiry of an Order in Council made under **subsection (1)** does not affect the validity of any act done pursuant to, or in accordance with, the Order in Council before the Order in Council expires. 10

*Transitional provisions*

**51 Retrospective application**

- (1) This Act applies to registrable offenders who, on the date this Act comes into force, are, in respect of a qualifying offence,—
- (a) serving the sentence that was imposed for that offence; or 15
- (b) subject to an extended supervision order following that sentence.
- (2) As soon as practicable after this Act comes into force, the Commissioner must give written notice to every registrable offender referred to in **subsection (1)(b)** of—
- (a) the offender's reporting obligations; and 20
- (b) the penalties for failing to comply with those obligations.
- (3) A registrable offender referred to in **subsection (1)(b)** must make an initial report to the Commissioner of all relevant personal information within 72 hours of receiving notice under **subsection (2)**, or within such longer period as may be specified in the notice. 25
- (4) Despite **section 33**, in the case of a registrable offender referred to in **subsection (1)(b)**,—
- (a) the offender's reporting obligations begin when the offender receives notice under **subsection (2)**; and
- (b) for the purpose of calculating the length of the reporting period, the offender's reporting period is taken to have begun on the later of the following events: 30
- (i) when the person was sentenced for a qualifying offence;
- (ii) when the person ceased to be in custody in relation to a qualifying offence. 35
- (5) For the purposes of **subsection (1)(a)**, a person who is released from custody on conditions or on parole is still serving the sentence that was imposed for the qualifying offence.

*Consequential amendments to Corrections Act 2004***52 Corrections Act 2004 amended**

**Sections 53 and 54** amend the Corrections Act 2004.

**53 Section 182A amended (Information sharing about child sex offenders)**

In section 182A(3)(a), replace “or conditions of an extended supervision order” with “conditions of an extended supervision order, restrictions related to a public protection order under the Public Safety (Public Protection Orders) Act 2014, or requirements of a protective supervision order under the Public Safety (Public Protection Orders) Act 2014”. 5

**54 Section 182B amended (Definition of child sex offender)**

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Replace section 182B(1)(a) with:

- (a) has been convicted of a qualifying offence as defined in **section 4** of the **Child Protection (Child Sex Offender Register) Act 2015**; and

*Consequential amendment to Criminal Procedure Act 2011***55 Criminal Procedure Act 2011 amended**

15

(1) This section amends the Criminal Procedure Act 2011.

(2) After section 209(2)(b), insert:

- (ba) any specified agency, corresponding Registrar, corresponding overseas agency, or affected person within the meaning of the **Child Protection (Child Sex Offender Register) Act 2015** in accordance with **section 41 to 43** of that Act; or 20

## Schedule

### Qualifying offences

s 4

- 1 **Class 1 offence** means an offence against any of the following provisions of the Crimes Act 1961: 5
- (a) section 128B(1) (sexual violation), if the victim is under 16:
  - (b) section 129(1) (attempted sexual violation), if the victim is under 16:
  - (c) section 129(2) (assault with intent to commit sexual violation), if the victim is under 16:
  - (d) section 129A(1) (sexual connection with consent induced by threat), if the victim is under 16: 10
  - (e) section 130(2) (incest), if the victim is under 16:
  - (f) section 131(1) (sexual connection with a dependent family member), if the victim is under 16:
  - (g) section 131(2) (attempted sexual connection with a dependent family member), if the victim is under 16: 15
  - (h) section 132(1) (sexual connection with child under 12):
  - (i) section 132(2) (attempted sexual connection with a child under 12):
  - (j) section 134(1) (sexual connection with a young person under 16):
  - (k) section 134(2) (attempted sexual connection with a young person under 16): 20
  - (l) section 138(1) (exploitative sexual connection with person with significant impairment), if the victim is under 16:
  - (m) section 138(2) (attempted exploitative connection with person with significant impairment), if the victim is under 16: 25
  - (n) section 142 (anal intercourse) (repealed), if the victim is under 16:
  - (o) section 144A(1), (2), and (3) (sexual conduct with child or young person outside New Zealand).
- 2 **Class 2 offence** means an offence against or under any of the following provisions of the Crimes Act 1961: 30
- (a) section 98AA(1)(d)(i), (e)(i), (f)(i), and (g)(i) (dealing in people under 18 for sexual exploitation), if the victim is under 16:
  - (b) section 129A(2) (indecent act with consent induced by threat), if the victim is under 16:
  - (c) section 131(3) (indecent act on a dependent family member), if the victim is under 16: 35
  - (d) section 132(3) (indecent act on child under 12):

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- (e) section 133(1) (indecenty with a girl under 12) (repealed):
- (f) section 134(3) (indecent act on young person under 16):
- (g) section 136 (conspiracy to induce sexual intercourse), if the victim is under 16 (repealed):
- (h) section 137 (inducing sexual intercourse under pretence of marriage), if the victim is under 16 (repealed): 5
- (i) section 138(4) (exploitative indecent act on person with significant impairment), if the victim is under 16:
- (j) section 139(1) (indecent act between woman and girl) (repealed):
- (k) section 140(1) (indecenty with boy under 12) (repealed): 10
- (l) section 140A(1) (indecenty with boy between 12 and 16) (repealed).
- 3 **Class 3 offence** means an offence against any of the following provisions of the Crimes Act 1961:
- (a) section 131B(1) (meeting young person following sexual grooming):
- (b) section 135 (indecent assault), if the victim is under 16: 15
- (c) section 141(1) (indecent assault on man or boy) (repealed):
- (d) section 144C(1) (organising or promoting child sex tours):
- (e) section 208 (abduction for purposes of marriage or sexual connection), if the victim is under 16 and the offender had the intention to have sexual connection. 20