

TASMANIA

**COMMUNITY PROTECTION (OFFENDER
REPORTING) BILL 2005**

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COMMUNITY PROTECTION (OFFENDER REPORTING) BILL 2005

*(Brought in by the Minister for Police and Public Safety, the
Honourable David Edward Llewellyn)*

A BILL FOR

An Act to require certain offenders who commit sexual or certain other serious offences to keep police informed of their whereabouts and other personal details for a period of time (to reduce the likelihood that they will reoffend and to facilitate the investigation of any future offences that they may commit), to enable courts to make orders specifying certain offenders to be reportable offenders, and for related purposes

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY MATTERS

1. Short title

This Act may be cited as the *Community Protection (Offender Reporting) Act 2005*.

2. Commencement

This Act commences on a day to be proclaimed.

3. Interpretation

In this Act, unless the context otherwise requires –

“approved place” means a place approved by the Registrar under section 20;

“authorised person” means a police officer of a class prescribed by the regulations;

“child” means a person who is under 18 years of age;

“Class 1 offence” has the meaning given to that term in section 13;

“Class 2 offence” has the meaning given to that term in section 14;

“Class 3 offence” has the meaning given to that term in section 15;

“Commissioner” means the person holding or acting in the office of Commissioner of Police under the *Police Service Act 2003*;

“community order” means –

(a) a community service order or probation order made under the *Sentencing Act 1997*; or

(b) a community service order or probation order made under the *Youth Justice Act 1997*;

“corresponding Act” means a law of a foreign jurisdiction that –

- (a) provides for people who have committed specified offences to report in that jurisdiction information about themselves and to keep that information current for a specified period; and
- (b) is prescribed by the regulations to be a corresponding Act for the purposes of this Act;

“corresponding offender reporting order”

means an order made under a corresponding Act that falls within a class of orders that are prescribed by the regulations to be corresponding offender reporting orders for the purposes of this Act;

“corresponding registrar” means the person whose functions under a corresponding Act most closely correspond to the functions of the Registrar under this Act;

“corresponding reportable offence” means an offence that is a reportable offence for the purposes of a corresponding Act but is not a reportable offence as referred to in section 12(a), (b) or (c);

“corresponding reportable offender” has the meaning given to that term in section 11;

“court” includes a court (however described) of a foreign jurisdiction;

“detainee” means a person who is subject to a detention order under section 47 of the *Youth Justice Act 1997*;

“existing controlled offender” means a person who, as a result of having been sentenced for a reportable offence, is subject to a community order or parole or is under the supervision of a supervising authority immediately before the commencement of this Act and includes a person who was under similar supervision under the laws of a foreign jurisdiction and a person who was in government custody in respect of a reportable offence at that time;

“foreign jurisdiction” means a jurisdiction other than Tasmania (including jurisdictions outside Australia);

“foreign witness-protection law” means a law of a foreign jurisdiction that provides for the protection of witnesses;

“government custody” means –

- (a) custody as a prisoner or detainee or as a mentally impaired defendant where the order made under Part 4 of the *Criminal Justice (Mental Impairment) Act 1999*, as originally enacted, requires the person to be detained in a special facility or to be kept in government custody; or
- (b) custody under a law of a foreign jurisdiction in the nature of

custody referred to in
paragraph (a);

“offender reporting order” means an order made under section 6, 7 or 9 and includes a corresponding offender reporting order;

“parole” means parole under an order made under the *Corrections Act 1997* and includes parole under an equivalent order made under the laws of a foreign jurisdiction;

“personal details” means the information listed in section 17(1);

“personal information” means information about an individual whose identity is apparent or can reasonably be ascertained from the information;

“prisoner” has the meaning given to that term in the *Corrections Act 1997*;

“public authority” means –

- (a) a State Service Agency; or
- (b) a council; or
- (c) any other body, whether incorporated or not, that is established or continued for a public purpose under a written law and that, under the authority of a written law, performs a statutory function on behalf of the State;

“Register” means the Community Protection Offender Register established under section 43;

“Registrar” means a police officer appointed to that position under section 42;

“reportable offence” has the meaning given to that term in section 12;

“reportable offender” has the meaning given to that term in section 5;

“reporting obligations”, in relation to a reportable offender, means the obligations imposed on him or her by Part 3;

“reporting period” means the period, as determined under Division 5 of Part 3, during which a reportable offender must comply with his or her reporting obligations;

“sentence” includes –

- (a) an exercise of power under section 7 of the *Sentencing Act 1997*; and
- (b) an exercise of power under section 47 of the *Youth Justice Act 1997*; and
- (c) an order made under Part 4 of the *Criminal Justice (Mental Impairment) Act 1999*; and

- (d) anything prescribed by the regulations to be a sentence for the purposes of this definition –

and any sentence or equivalent exercise of power or order under the laws of a foreign jurisdiction;

“supervising authority”, in relation to a class of reportable offenders, means the authority prescribed by the regulations as the supervising authority of that class of reportable offenders;

“young reportable offender” means a reportable offender who is a child.

4. Other reference provisions

- (1) For the purposes of this Act, offences arise from the same incident only if they are committed within a single period of 24 hours and against the same person.
- (2) A reference in this Act to doing a thing **“in person”** is a reference to doing the thing by personal attendance at a place, and it is not sufficient to attend the place by telephone or by any other electronic means.

PART 2 – OFFENDERS TO WHOM ACT APPLIES**5. Reportable offenders**

- (1) A reportable offender is a person –
 - (a) whom a court, on or after the commencement of this Act, sentences for a reportable offence; and
 - (b) in respect of whom the court makes an order under section 6.
- (2) A person is also a reportable offender if the person was sentenced for a reportable offence before the commencement of this Act and is an existing controlled offender in respect of that offence and is made subject to an order under section 9.
- (3) A person is also a reportable offender if the person is subject to an order under section 7.
- (4) A person who is a corresponding reportable offender is also a reportable offender.
- (5) A person ceases to be a reportable offender if –
 - (a) the finding of guilt in respect of the only offence that makes the person a reportable offender for the purposes of this Act is quashed or set aside by a court; or
 - (b) the person is a reportable offender only because he or she is subject to an offender reporting order and that order is quashed on appeal.

- (6) For the purposes of this section, it is irrelevant whether or not a person may lodge, or has lodged, an appeal in respect of a finding of guilt, sentence or offender reporting order.

6. Order requiring registration of offender

- (1) The court is to make an order directing that –
- (a) the Registrar cause the name of a person whom the court sentences for a reportable offence to be placed on the Register; and
 - (b) the person comply with the reporting obligations under this Act –

unless the court is satisfied that the person does not pose a risk of committing a reportable offence in the future.

- (2) The court is to make the order at the time the person is sentenced for the reportable offence.
- (3) For the purposes of subsection (1), it is not necessary that the court be able to identify a risk of offending against a particular person or particular persons or a particular class of persons.

7. Reporting orders for other offences

- (1) If –
- (a) a court sentences a person for an offence that is not a Class 1 offence, Class 2 offence or Class 3 offence; and

- (b) apart from this section, that offence would not result in the person becoming a reportable offender –

the court may make an order directing that –

- (c) the Registrar cause the name of the person to be placed on the Register; and
- (d) the person comply with the reporting obligations under this Act –

if the court is satisfied that the person poses a risk of committing a reportable offence in the future.

- (2) For the purposes of subsection (1), it is not necessary that the court be able to identify a risk of offending against a particular person or particular persons or a particular class of persons.
- (3) The court must make the order at the time the person is sentenced for the offence.
- (4) An application for the imposition of an order under subsection (1) may be made by the prosecution, but an application is not necessary for the court to make the order.
- (5) For the purposes of Division 5 of Part 3, a person subject to an order made under this section in respect of an offence that is not a reportable offence is taken to have been sentenced for a Class 2 offence when the order was made.

8. Commissioner may apply for reporting order

If –

- (a) a person has been sentenced before the commencement of this Act for a Class 1 offence, a Class 2 offence or a Class 3 offence; and
- (b) the person is not and has not been a reportable offender in respect of that offence –

the Commissioner may apply to a magistrate for an order that the person's name be placed on the Register and that the person comply with the reporting obligations under this Act.

9. Magistrate may make reporting order on application from Commissioner

- (1) In relation to an application under section 8, the magistrate may make an order that a person comply with the reporting obligations under this Act if the magistrate is satisfied that the person poses a risk of committing a reportable offence in the future.
- (2) For the purposes of subsection (1), it is not necessary that the magistrate be able to identify a risk of offending against a particular person or particular persons or a particular class of persons.
- (3) For the purposes of Division 5 of Part 3, a person subject to an order made under this section is taken to have been sentenced for a Class 2 offence.

10. Matters to be taken into account

- (1) In deciding whether to make an order under section 6 or 7 in relation to an offence, the court may take into account the following:
 - (a) any evidence given during proceedings for the offence;
 - (b) any document or record (including an electronic document or record) served on the offender by the prosecution;
 - (c) any statement tendered or deposition made, or exhibit tendered, at any proceedings in relation to the offence;
 - (d) any evidence given by a victim or the offender in relation to the making of the order;
 - (e) any pre-sentence report given to the court;
 - (f) any victim impact statement given to the court;
 - (g) any other matter the court considers relevant.
- (2) In deciding whether to make an order under section 9, the magistrate may take into account the following:
 - (a) any evidence given during proceedings in relation to the offence referred to in section 8(a);

- (b) any document or record (including an electronic document or record) served on the offender by the prosecution;
- (c) any statement tendered or deposition made, or exhibit tendered, at any proceedings in relation to the offence referred to in section 8(a);
- (d) any evidence given by a victim or the offender in relation to the making of the order;
- (e) any pre-sentence report given to the court that sentenced the offender for the offence referred to in section 8(a);
- (f) any victim impact statement given to the court that sentenced the offender for the offence referred to in section 8(a);
- (g) any other matter that the magistrate considers relevant.

11. Corresponding reportable offenders

A corresponding reportable offender is a person –

- (a) who had at any time (whether before, on or after the commencement of this Act) been in a foreign jurisdiction and at that time had been required to report to the corresponding registrar in that jurisdiction; and
- (b) who would, if he or she were currently in that foreign jurisdiction, be required to

report to the corresponding registrar in that jurisdiction for a longer period than he or she would be required to report under this Act.

12. Reportable offences

A reportable offence is –

- (a) a Class 1 offence; or
- (b) a Class 2 offence; or
- (c) a Class 3 offence; or
- (d) an offence that results in the making of an offender reporting order.

13. Class 1 offences

A Class 1 offence is –

- (a) an offence against a provision listed in Schedule 1; or
- (b) an offence under a law of a foreign jurisdiction the elements of which, if they had occurred in Tasmania, would have constituted an offence of a kind referred to in this section; or
- (c) an offence an element of which is an intention to commit an offence of a kind referred to in this section; or
- (d) an offence of attempting, or of conspiracy or incitement, to commit an

offence of a kind referred to in this section; or

(e) an offence that, at the time it was committed –

(i) was a Class 1 offence for the purposes of this Act; or

(ii) in the case of an offence committed before the commencement of this Act, was an offence of a kind referred to in this section.

14. Class 2 offences

A Class 2 offence is –

(a) an offence against a provision listed in Schedule 2; or

(b) an offence under a law of a foreign jurisdiction the elements of which, if they had occurred in Tasmania, would have constituted an offence of a kind referred to in this section; or

(c) an offence an element of which is an intention to commit an offence of a kind referred to in this section; or

(d) an offence of attempting, or of conspiracy or incitement, to commit an offence of a kind referred to in this section; or

- (e) an offence that, at the time it was committed –
 - (i) was a Class 2 offence for the purposes of this Act; or
 - (ii) in the case of an offence committed before the commencement of this Act, was an offence of a kind referred to in this section.

15. Class 3 offences

A Class 3 offence is –

- (a) an offence against a provision listed in Schedule 3; or
- (b) an offence under a law of a foreign jurisdiction the elements of which, if they had occurred in Tasmania, would have constituted an offence of a kind referred to in this section; or
- (c) an offence an element of which is an intention to commit an offence of a kind referred to in this section; or
- (d) an offence of attempting, or of conspiracy or incitement, to commit an offence of a kind referred to in this section; or
- (e) an offence that, at the time it was committed –

- (i) was a Class 3 offence for the purposes of this Act; or
 - (ii) in the case of an offence committed before the commencement of this Act, was an offence of a kind referred to in this section; or
- (f) an offence against section 158 of the *Criminal Code* if there are reasonable grounds to believe that, in the course of or as part of the events surrounding the commission of that offence, an offence specified in Schedule 1, 2 or 3 was committed by the offender.

PART 3 – REPORTING OBLIGATIONS***Division 1 – Report*****16. Reporting obligations of reportable offenders**

A reportable offender must report to the Registrar or an authorised officer –

- (a) within 7 days of the court making an order under section 6 or 7 or a magistrate making an order under section 9; or
- (b) if the offender is not a corresponding reportable offender and is in government custody, within 7 days after he or she ceases to be in government custody; or
- (c) if the offender is a corresponding reportable offender, within 7 days of arriving in Tasmania if he or she intends to remain in Tasmania for 14 days or more; or
- (d) if the reportable offender intends to leave Tasmania for 7 or more consecutive days, no later than 7 days before leaving Tasmania; or
- (e) if the reportable offender has been absent from Tasmania for any period, within 7 days of entering Tasmania; or
- (f) any changes to his or her personal details within 7 days of the change of those details; or

- (g) any changes to his or her personal details which have occurred whilst absent from Tasmania within 7 days of entering Tasmania.

17. Report by reportable offender of personal details

- (1) The details the reportable offender must report are –

- (a) his or her name, together with any other name by which he or she is, or has previously been, known; and
- (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; and
- (c) his or her date of birth; and
- (d) the address of each of the premises at which he or she generally resides; and
- (e) the names and ages of any children who generally reside in the same premises as that in which he or she generally resides, or with whom he or she has regular unsupervised contact; and
- (f) if he or she is employed –
 - (i) the nature of his or her employment; and
 - (ii) the name of his or her employer (if any); and

- (iii) the address of each of the premises at which he or she is generally employed or, if he or she is not generally employed at any particular premises, the name of each of the localities in which he or she is generally employed; and
- (g) details of his or her affiliation with any club or organisation that has members who are children or that conducts activities in which children participate; and
- (h) the make, model, colour and registration number of any motor vehicle owned by, or generally driven by, him or her; and
- (i) details of any tattoos or permanent distinguishing marks (including details of any tattoo or mark that has been removed) and any surgery or cosmetic procedure which has significantly altered his or her appearance; and
- (j) whether he or she has ever been found guilty in any foreign jurisdiction of a reportable offence or of an offence that required him or her to report to a corresponding registrar or been subject to a corresponding offender reporting order and, if so, where that finding occurred or that order was made; and
- (k) if he or she has been in government custody since he or she was sentenced or released from government custody (as the case may be) in respect of a

reportable offence or corresponding
reportable offence, details of when and
where that government custody occurred.

- (2) For the purposes of this section, a person is taken to be employed if he or she –
- (a) carries out work under a contract of employment; or
 - (b) carries out work as a self-employed person or as a subcontractor; or
 - (c) carries out work as a volunteer for an organisation; or
 - (d) undertakes practical training as part of an educational or vocational course; or
 - (e) carries out work as a minister of religion or in any other capacity for the purposes of a religious organisation.
- (3) For the purposes of this section, a person is taken to be an employer of a reportable offender if the person –
- (a) arranges, in the course of business, for the reportable offender to be employed by another person; or
 - (b) engages the reportable offender under contract to carry out work.

Division 2 – Ongoing reporting obligations**18. Reportable offender to report annually and as required by the Registrar**

- (1) A reportable offender must report to the Registrar and provide his or her personal details to the Registrar each year.
- (2) The reportable offender must report to the Registrar and provide his or her personal details each year during the calendar month in which he or she first reported in accordance with this Act or a corresponding Act or at such other time as directed by the Registrar.

19. Intended absence from Tasmania to be reported

- (1) This section applies to a reportable offender who intends to leave Tasmania for 7 or more consecutive days to travel elsewhere.
- (2) At least 7 days before leaving Tasmania, the reportable offender must report the intended travel to the Registrar and must provide details of –
 - (a) each State, Territory or country to which he or she intends to go while out of Tasmania; and
 - (b) the approximate dates of the periods during which he or she intends to be in each of those States, Territories or countries; and

- (c) each address or location within each State, Territory or country at which he or she intends to reside (to the extent that they are known) and the approximate dates of the periods during which he or she intends to reside at those addresses or locations; and
 - (d) if he or she intends to return to Tasmania, the approximate date on which he or she intends to return; and
 - (e) if he or she does not intend to return to Tasmania, a statement of that intention.
- (3) A reportable offender who is out of Tasmania and decides to change any details given to the Registrar must, as soon as practicable, notify the changed details to the Registrar.
- (4) For the purposes of subsection (3), the reportable offender must make the notification –
 - (a) by facsimile or email sent to the Registrar; or
 - (b) in any other manner permitted by the Registrar.

Division 3 – Provisions applying to all reporting obligations

20. Where reports must be made

- (1) A report under this Part must be made in person by the reportable offender at a place approved (either generally or in a particular case) by the Registrar.

- (2) If a reportable offender is a child, or has a disability or requires an interpreter, any parent, guardian, carer or other person nominated by the reportable offender may accompany the reportable offender when the reportable offender makes his or her report under this Part.
- (3) Only the Registrar or an authorised person may receive a report made under this Part.

21. Power to take photographs, fingerprints, &c.

- (1) The Registrar or an authorised person may take, or may cause to be taken by a person authorised by him or her, the photograph or fingerprints of the reportable offender or may require the reportable offender to expose any part of his or her body to enable that part of the body to be photographed by the Registrar, authorised person or person authorised by the Registrar or authorised person.
- (2) The Registrar or authorised person, on receipt of a report made in person under this Part, may require the reportable offender –
 - (a) to be photographed; and
 - (b) to have his or her fingerprints taken; and
 - (c) to expose any part of his or her body to enable that part of the body to be photographed as provided under subsection (1); and
 - (d) to present for inspection any form of identification or other document, relating to the identity of the reportable offender,

or to verify or support details in the report as specified by the Registrar or authorised person.

- (3) In order to exercise a power under this section, the Registrar or an authorised person may authorise the use of reasonable force to enable the procedures to be carried out.
- (4) The Registrar or an authorised person cannot, under this section, require a reportable offender to expose his or her genitals, the anal area of his or her buttocks or, in the case of a female, her breasts.
- (5) The Registrar or an authorised person on receipt of a report may copy any document presented to the Registrar or authorised person for inspection.
- (6) Before attempting to exercise a power under this section, the Registrar or an authorised person must inform the reportable offender in language likely to be understood by him or her that the fingerprints or photographs will be retained by the Commissioner.

22. Retention of material for certain purposes

The Commissioner may retain for law enforcement, crime prevention or community protection purposes any of the following taken under this Division from, or in relation to, a reportable offender:

- (a) copies of any documents;
- (b) any fingerprints;

- (c) any photographs.

***Division 4 – Suspension and extension of reporting
obligations***

23. Suspension and extension of reporting obligations

- (1) Any obligation imposed on a reportable offender by this Part is suspended for any period during which he or she –
 - (a) is in government custody; or
 - (b) is outside Tasmania, unless he or she is a person to whom Division 9 applies or the obligation is under section 19; or
 - (c) is the subject of an order made under Division 6 (or an equivalent order in a foreign jurisdiction).
- (2) The period for which a reportable offender's reporting obligations continue is extended by any length of time for which those obligations are suspended under subsection (1)(a).

Division 5 – Reporting period

24. Length of reporting period

- (1) A reportable offender must continue to comply with the reporting obligations imposed by this Part for such period not exceeding 8 years as is determined by the court, if he or she has been sentenced for not more than one Class 1 offence.

- (2) A reportable offender must continue to comply with the reporting obligations imposed by this Part for such period not exceeding 15 years as is determined by the court, if he or she –
 - (a) has been sentenced for not more than one Class 2 offence or not more than one Class 3 offence; or
 - (b) has been sentenced for more than one Class 1 offence.
- (3) A reportable offender must continue to comply with the reporting obligations imposed by this Part for the remainder of his or her life or such lesser period as is determined by the court, if he or she is a reportable offender in respect of –
 - (a) an offence under section 158 of the *Criminal Code*; or
 - (b) a Class 3 offence, and he or she then commits and is sentenced for a Class 2 offence or a Class 3 offence.
- (4) A reference in this section to an offence includes an offence committed before the commencement of this Act.

25. Reduced period applies for young reportable offenders

- (1) The reporting periods specified in section 24 do not apply to a person who was a child at the time when he or she committed each relevant offence.
- (2) Instead, a reporting period that is half the reporting period that would otherwise apply to

the person under section 24 (or 7½ years in the case of a reporting period for life) applies to him or her.

26. Reporting period for corresponding reportable offenders

- (1) Despite anything in this Part, a corresponding reportable offender must continue to comply with the reporting obligations imposed by this Part for the longer period (the “**recognised foreign reporting period**”) referred to in section 11(b).
- (2) For the purposes of this section, if a corresponding reportable offender is a corresponding reportable offender under the laws of more than one jurisdiction, the recognised foreign reporting period is the longest period for which he or she would be required to report to the corresponding registrar of a foreign jurisdiction.

Division 6 – Exemption from reporting obligations

27. Application of Division

- (1) Subject to subsection (2), this Division applies to a reportable offender who is required to comply with the reporting obligations imposed by this Part.
- (2) This Division does not apply to a reportable offender who is required to comply with those obligations for the remainder of his or her life as a result of being found guilty of –

- (a) an offence under section 158 of the *Criminal Code*; or
- (b) an offence under a law of a foreign jurisdiction the elements of which, if they had occurred in Tasmania, would have constituted an offence of the kind referred to in paragraph (a).

28. Magistrate may exempt certain reportable offenders

- (1) A reportable offender who is required to comply with the reporting obligations imposed by this Part for the remainder of his or her life may apply to a magistrate for an order suspending his or her reporting obligations if –
 - (a) a period of 15 years has passed (ignoring any period during which the reportable offender was in government custody) since he or she was last sentenced or released from government custody in respect of a reportable offence or a corresponding reportable offence, whichever is later; and
 - (b) he or she did not become the subject of a lifelong reporting period under a corresponding Act while in a foreign jurisdiction before becoming the subject of such a period in Tasmania; and
 - (c) he or she is not on parole in respect of a reportable offence.
- (2) A reportable offender, other than a reportable offender referred to in subsection (1), may apply

to a magistrate for an order suspending his or her reporting obligations if –

- (a) the reportable offender has complied with the reporting obligations imposed on the offender for at least three-quarters of the period for which the offender was required to meet those obligations; and
- (b) he or she is not on parole in respect of a reportable offence.

29. Order for suspension

- (1) On an application under section 28, a magistrate may make an order suspending the reportable offender's reporting obligations.
- (2) A magistrate may make the order only if he or she is satisfied that the reportable offender does not pose a risk of committing a reportable offence in the future.

30. Commissioner and certain chief executive officers entitled to be parties to proceedings

- (1) In this section –

“relevant authority” means –

- (a) the Commissioner; or
- (b) the secretary of the responsible Department in relation to the *Children, Young Persons and Their Families Act 1997*; or

- (c) the secretary of the responsible Department in relation to the *Corrections Act 1997*; or
 - (d) the Director of Public Prosecutions.
- (2) Each relevant authority is entitled to be a party to any proceedings for an order under this Division and may make submissions in opposition to, or in support of, the making of the order.
- (3) As soon as is practicable after receiving an application under this Division, the magistrate must cause the Commissioner to be notified of the application.
- (4) For the purposes of preparing submissions, a relevant authority may, by notice in writing, direct any public authority to provide to the relevant authority, on or before a day specified in the notice, any information held by the public authority that is relevant to an assessment of whether the applicant poses a risk to the lives or the sexual safety of one or more persons, or persons generally.
- (5) A public authority to which a direction under subsection (4) is given is authorised and required to provide to the relevant authority the information sought by the direction.
- (6) A public authority is not required to give information that is subject to legal professional privilege.

31. No costs to be awarded

A magistrate must not award costs in respect of proceedings under this Division.

32. Restriction on right of unsuccessful applicant to reapply for order

A reportable offender in respect of whom a magistrate refuses to make an order under this Division cannot make a further application to the magistrate until 5 years have elapsed from the date of the refusal, unless the magistrate otherwise orders at the time of the refusal.

Division 7 – Offences**33. Failure to comply with reporting obligations**

A reportable offender who, without reasonable excuse, fails to comply with any of his or her reporting obligations commits an offence.

Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 6 months, or both.

34. Providing false or misleading information

A person who, in purported compliance with this Part, provides information that the person knows to be false or misleading in a material particular commits an offence.

Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 6 months, or both.

35. No time-limit for prosecutions

Proceedings for an offence against this Act may be commenced at any time.

Division 8 – Notification of reporting obligations

36. Notice to be given to reportable offender

A court must provide a reportable offender with written notice of –

- (a) his or her reporting obligations; and
- (b) the consequences that may arise if he or she fails to comply with those, or any of those, obligations.

37. Courts to provide details of orders to Commissioner

- (1) In this section –

“**court**” does not include a court of a foreign jurisdiction.

- (2) This section applies if a court –

- (a) makes an order in relation to a person with the effect of making the person a reportable offender for the purposes of this Act; or

- (b) makes an order in relation to a reportable offender with the effect of removing the person from the ambit of this Act.
- (3) The court must provide details of the order to the Commissioner as soon as is practicable after the order is made.

38. Supervising authority to notify Commissioner of certain events

- (1) As soon as is practicable before a reportable offender ceases to be in government custody, the supervising authority must give written notice to the Commissioner of that fact.
- (2) For the purposes of subsection (1), the Commissioner may inform a supervising authority whether or not a person is a reportable offender.

***Division 9 – Modified reporting procedures for participants
in witness protection programs***

39. Term used in this Division

In this Division –

“**witness protection program**” has the meaning given to the term “Tasmanian witness protection program” in section 3 of the *Witness Protection Act 2000*.

40. Who this Division applies to

- (1) This Division applies to a reportable offender who is a participant in a witness protection program.
- (2) This Division also applies to a reportable offender who is receiving protection under a foreign witness protection law 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.

41. Report need not be made in person

It is sufficient compliance with the requirements of this Part –

- (a) if a person to whom this Division applies reports the information he or she is required to report under this Part –
 - (i) to the extent that that information is required by the Commissioner to be reported by the person; and
 - (ii) at the times, and in a manner, authorised by the Commissioner for the purposes of this section; and
- (b) if the acknowledgment of the making of a report is given in a manner approved by the Commissioner.

PART 4 – COMMUNITY PROTECTION OFFENDER REGISTER

42. Registrar

The Commissioner may appoint a police officer to be the Registrar.

43. Requirement to establish and maintain Community Protection Offender Register

- (1) The Commissioner must establish and maintain a Community Protection Offender Register or arrange with another person for the establishment and maintenance of a Community Protection Offender Register on his or her behalf.
- (2) The Register must contain the following information in respect of each reportable offender (to the extent that it is known by the Registrar):
 - (a) the reportable offender's name, address and date of birth;
 - (b) details of each Class 1 offence, Class 2 offence or Class 3 offence of which the reportable offender has been found guilty;
 - (c) details of each offence of which the reportable offender has been sentenced that resulted in the making of an offender reporting order;

- (d) the date on which an order under this Act or the date on which a corresponding offender reporting order was made in respect of the reportable offender;
- (e) the date on which the reportable offender ceased to be in government custody in respect of a reportable offence, or entered or ceased to be in government custody in respect of any other offence during his or her reporting period;
- (f) any information reported in respect of the reportable offender under Part 3;
- (g) any other information that the Registrar considers appropriate to include in the Register.

44. Access to Register to be restricted

- (1) The Register, or any part of the Register, is only to be accessed by a person who is authorised to do so by the Commissioner.
- (2) Personal information in the Register is only to be disclosed by a police officer with access to the Register, or the relevant part of the Register, in circumstances authorised by the Commissioner or as otherwise required or authorised by or under any written or other law.
- (3) Personal information in the Register that is to be disclosed under subsection (2) otherwise than to a police officer or a law enforcement agency may only be disclosed by the Commissioner or the Registrar.

(4) In subsection (3) –

“law enforcement agency” means –

- (a) the Commissioner of the Australian Federal Police; or
 - (b) the Commissioner (however designated) of the police force of another State or a Territory or another country.
- (5) For the purposes of this section, the Register includes any information from any register maintained under a corresponding Act that is accessible by the Commissioner, whether or not that information is contained in the Register.
- (6) This section has effect despite any written or other law to the contrary.

45. Confidentiality

- (1) Except as otherwise provided by this section, a person who has access to any information contained in the Register must not intentionally disclose or cause the disclosure of that information.

Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 2 years, or both.

- (2) A person may only disclose information contained in the Register in one or more of the following cases:
- (a) in the course of the person’s duty;

- (b) for the purposes of the investigation of any offences or other offences generally;
 - (c) as required or authorised by or under this Act or another written law;
 - (d) for the purpose of proceedings for an offence under this Act;
 - (e) with the written authority of the Minister or the person to whom the information relates;
 - (f) in other circumstances prescribed by the regulations.
- (3) The prohibition in subsection (1) extends to the giving of evidence or the production of a book, document or record in civil proceedings in a court or tribunal.

PART 5 – OTHER MATTERS**46. Certain Acts not to apply**

The *Freedom of Information Act 1991* does not apply to any document or information referred to in this Act.

47. Matters not to be heard in public

Proceedings in relation to any matter under this Act must be heard in the absence of the public unless the court otherwise determines.

48. Protection from liability

- (1) An action in tort does not lie against a person for anything that the person has done, in good faith, in the performance or purported performance of a function under this Act.
- (2) The State is relieved of any liability that it might otherwise have had for another person having done anything as described in subsection (1).
- (3) The protection given by this section applies even though the thing done as described in subsection (1) may have been capable of being done whether or not this Act had been enacted.
- (4) In this section, a reference to the doing of anything includes a reference to the omission to do anything.

49. Civil standard of proof

When a court is determining whether it is satisfied as to a matter for the purposes of making an order under this Act, the standard of proof is proof on the balance of probabilities.

50. Certificate concerning evidence

(1) In this section –

“**specified**” means specified in the relevant certificate.

(2) In proceedings under this Act, a certificate signed by the Commissioner certifying that the Register –

(a) at any particular date contained specified information; or

(b) indicated that, during any particular period, a specified person failed to notify information as required by this Act –

is evidence, and in the absence of evidence to the contrary is proof, of the matters stated in the certificate.

(3) For the purposes of this Act, a certificate that would be evidence under a corresponding Act that at a specified time, or during a specified period, a person was required to report to a corresponding registrar under that Act is evidence, and in the absence of evidence to the contrary is proof, of the matters stated in the certificate.

51. Regulations

- (1) The Governor may make regulations for the purposes of this Act.
- (2) The regulations may be made so as to apply differently according to such factors as are specified in the regulations.
- (3) The regulations may authorise any matter to be from time to time determined, applied or regulated by the Commissioner.

52. Minister to review and report on Act

- (1) The Minister must carry out a review of the operation and effectiveness of this Act as soon as is practicable after the fifth anniversary of the commencement of this Act.
- (2) The Minister must prepare a report based on the review and, as soon as is practicable after the report is prepared, must cause it to be laid before each House of Parliament.

53. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Minister for Police and Public Safety; and
- (b) the department responsible to that Minister in relation to the administration

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of this Act is the Department of Police
and Public Safety.

SCHEDULE 1 – CLASS 1 OFFENCES

Section 13

Enactment	Description of offence
<i>Classification (Publications, Films and Computer Games) Enforcement Act 1995</i>	
Section 74A	Possessing, accessing or attempting to access child exploitation material
<i>Criminal Code</i>	
Section 125D(3)	Making a communication with intention of exposing a person under the age of 17 years to indecent material
Section 130C	Possessing child exploitation material
Section 130D	Accessing child exploitation material
Section 137	Charge – Indecency
Section 138	Exhibiting obscene matter
<i>Customs Act 1914 of the Commonwealth</i>	
Section 233BAB	Special offences relating to tier 2 goods (if the offence involves items of child pornography or of child exploitation material)
<i>Police Offences Act 1935</i>	

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Enactment	Description of offence
Section 7A	Loitering near children
Section 8(1A)(a)	Exposing person
Section 35(3)	Assaulting with indecent intent

SCHEDULE 2 – CLASS 2 OFFENCES

Section 14

Enactment	Description of offence
<i>Classification (Publications, Films and Computer Games) Enforcement Act 1995</i>	
Section 72A	Making or reproducing child exploitation material, causing or permitting child exploitation material to be made or being in any way involved in the making or reproduction of child exploitation material
Section 73A	Distributing child exploitation material or facilitating the distribution of child exploitation material
<i>Crimes Act 1914 of the Commonwealth</i>	
Section 50BC	Sexual conduct involving child under 16 years of age
Section 50BD	Inducing child under 16 years of age to be involved in sexual conduct
Section 50DA	Benefiting from offence against Part IIIA
Section 50DB	Encouraging offence against Part IIIA
<i>Criminal Code</i>	

Enactment	Description of offence
Section 124	Sexual intercourse with a young person under the age of 17 years
Section 125	Permitting unlawful sexual intercourse with a young person on premises
Section 125A	Maintaining sexual relationship with young person under the age of 17 years
Section 125B	Indecent act with or directed at young person under the age of 17 years
Section 125C(3)	Procuring indecent act by, or with, young person
Section 126	Sexual intercourse with person with mental impairment
Section 127(1)	Indecent assault
Section 127A(1)	Aggravated sexual assault
Section 130A	Producing child exploitation material
Section 130B(1)	Distributing child exploitation material
Section 133(1)	Incest
Section 139(b)	Interfering (indecently) with human remains

Enactment	Description of offence
Section 169	Administering a drug with intent to facilitate the commission of an offence
Section 186(1)	Forcible abduction
Section 189	Abduction of a young person under the age of 17 years
Section 192(1)	Stalking
<i>Sex Industry Offences Act 2005</i>	
Section 7(1)(a)	Intimidating, assaulting or threatening to assault a sex worker
Section 7(1)(d)	Administering to a sex worker, or causing a sex worker to take, any drug or other substance with the intent to stupefy or overpower that sex worker
Section 7(2)	Intimidating, assaulting or threatening to assault person or threatening to cause person to be deported for purpose of inducing provision or continued provision of – <ul style="list-style-type: none"> (a) sexual services in a sexual services business; or

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Enactment	Description of offence
	(b) fee or reward derived from provision of sexual services in a sexual services business

SCHEDULE 3 – CLASS 3 OFFENCES

Section 15

Enactment	Description of offence
<i>Classification (Publications, Films and Computer Games) Enforcement Act 1995</i>	
Section 73	Procuring, or inviting or attempting to procure, child to be involved in making child exploitation material
<i>Crimes Act 1914 of the Commonwealth</i>	
Section 50BA	Sexual intercourse with a child under 16 years of age
Section 50BB	Inducing child under 16 years of age to engage in sexual intercourse
<i>Criminal Code</i>	
Section 125C(2)	Procuring unlawful sexual intercourse with young person
Section 125D(1)	Communicating with intent to procure a person under the age of 17 years to engage in an unlawful sexual act
Section 127A(1)	Aggravated sexual assault (if the person against whom the offence is committed is a child)

Enactment	Description of offence
Section 130	Involving a person under the age of 18 years in the production of child exploitation material
Section 133(1)	Incest (if the person against whom the offence is committed is a child)
Section 169	Administering a drug with intent to facilitate the commission of an offence (if the person against whom the offence is committed is a child)
Section 185	Rape
Section 191(1)	Abduction of a child
Section 191(2)	Harbouring an abducted child
Section 191A(a)	Kidnapping
Section 192(1)	Stalking (if the person against whom the offence is committed is a child)
<i>Sex Industry Offences Act 2005</i>	
Section 9(1)	Procuring or otherwise causing or permitting a child to provide sexual services in a sexual services business
Section 9(2)	Receiving a fee or reward from sexual services provided by a child in a sexual services business