

South Australia

## **Child Sex Offenders Registration Regulations 2022**

under the *Child Sex Offenders Registration Act 2006*

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### **1—Short title**

These regulations may be cited as the *Child Sex Offenders Registration Regulations 2022*.

### **2—Commencement**

These regulations come into operation on the day on which they are made.

### **3—Interpretation**

In these regulations—

*Act* means the *Child Sex Offenders Registration Act 2006*.

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#### 4—Corresponding child sex offender registration order

For the purposes of the definition of *corresponding child sex offender registration order* in section 4(1) of the Act, each of the following classes of order is a corresponding child sex offender registration order for the purposes of the Act:

- (a) a child sex offender registration order made under the *Crimes (Child Sex Offenders) Act 2005* of the Australian Capital Territory;
- (b) a child protection registration order made under the *Child Protection (Offenders Registration) Act 2000* of New South Wales;
- (c) an offender reporting order made under the *Child Protection (Offender Reporting and Registration) Act 2004* of the Northern Territory;
- (d) an offender reporting order made under the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004* of Queensland;
- (e) an offender reporting order made under the *Community Protection (Offender Reporting) Act 2005* of Tasmania;
- (f) a sex offender registration order made under the *Sex Offenders Registration Act 2004* of Victoria;
- (g) an offender reporting order made under the *Community Protection (Offender Reporting) Act 2004* of Western Australia.

#### 5—Corresponding law

For the purposes of the definition of *corresponding law* in section 4(1) of the Act, each of the following laws is declared to be a corresponding law for the purposes of the Act:

- (a) the *Crimes (Child Sex Offenders) Act 2005* of the Australian Capital Territory;
- (b) the *Child Protection (Offenders Registration) Act 2000* of New South Wales;
- (c) the *Child Protection (Offender Reporting and Registration) Act 2004* of the Northern Territory;
- (d) the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004* of Queensland;
- (e) the *Community Protection (Offender Reporting) Act 2005* of Tasmania;
- (f) the *Sex Offenders Registration Act 2004* of Victoria;
- (g) the *Community Protection (Offender Reporting) Act 2004* of Western Australia.

## 6—Supervising authority

For the purposes of the definition of *supervising authority* in section 4(1) of the Act, the supervising authority referred to in Column 1 of the table below is the supervising authority in relation to an offender who belongs to the class of offender referred to in Column 2 of the table opposite the reference.

<b>Supervising authority</b>	<b>Class of offender</b>
Magistrates Court	A registrable offender who ceases to be in government custody or ceases to be subject to a supervised sentence as a result of an order of the Magistrates Court
District Court	A registrable offender who ceases to be in government custody or ceases to be subject to a supervised sentence as a result of an order of the District Court
Supreme Court	A registrable offender who ceases to be in government custody or ceases to be subject to a supervised sentence as a result of an order of the Supreme Court
The Minister to whom the administration of the <i>Mental Health Act 2009</i> is committed	A registrable offender who is committed to detention under Part 8A of the <i>Criminal Law Consolidation Act 1935</i> , having been released from some other form of government custody
The Minister to whom the administration of the <i>Mental Health Act 2009</i> is committed	A registrable offender who ceases to be committed to detention under Part 8A of the <i>Criminal Law Consolidation Act 1935</i>
The Parole Board of South Australia	A registrable offender who ceases to be subject to a licence under Part 8A of the <i>Criminal Law Consolidation Act 1935</i>
The Parole Board of South Australia	A registrable offender who ceases to be subject to a condition of parole requiring the person to be subject to supervision
The chief executive of the agency principally assisting the Minister to whom the administration of the <i>Correctional Services Act 1982</i> is committed	An adult registrable offender who, except as provided in a preceding provision of this table, ceases to be in government custody, ceases to be subject to a supervised sentence or ceases to be an existing licensee
The chief executive of the agency principally assisting the Minister to whom the administration of the <i>Children and Young People (Safety) Act 2017</i> is committed	A child registrable offender who, except as provided in a preceding provision of this table, ceases to be in government custody, ceases to be subject to a supervised sentence or ceases to be an existing licensee

## 7—Foreign witness protection laws

Each of the following laws is specified as a *foreign witness protection law* for the purposes of section 6(5) and section 54(2) of the Act:

- (a) the *Witness Protection Act 1994* of the Commonwealth;
- (b) the *Witness Protection Act 1996* of the Australian Capital Territory;
- (c) the *Witness Protection Act 1995* of New South Wales;

- (d) the *Witness Protection (Northern Territory) Act 2002* of the Northern Territory;
- (e) the *Witness Protection Act 2000* of Queensland;
- (f) the *Witness Protection Act 2000* of Tasmania;
- (g) the *Witness Protection Act 1991* of Victoria;
- (h) the *Witness Protection (Western Australia) Act 1996* of Western Australia.

### **8—Specified corresponding laws**

Each of the laws declared to be a corresponding law in regulation 5 is specified for the purposes of section 6(5) and section 54(2) of the Act.

### **9—New South Wales registrable offenders**

The date specified for the purposes of section 8 of the Act is 18 October 2007.

### **10—Persons required to report under corresponding law**

For the purposes of section 14(2) of the Act, a person may contact the Commissioner, as required by that subsection, by presenting themselves in person at a police station.

### **11—Change of travel plans while out of South Australia to be given**

For the purposes of section 18(3) of the Act, a registrable offender may make a report under section 18—

- (a) by writing sent by post to the following address:  
ANCOR Section, GPO Box 1539, ADELAIDE SA 5001; or
- (b) by writing transmitted by email to the following email address:  
sapol.ancor@police.sa.gov.au

### **12—Notice given to registrable offender of reporting period**

- (1) In accordance with section 48(3) of the Act, a notice required to be given to a registrable offender under section 48 is not required to specify the registrable offender's reporting period.
- (2) A notice containing a registrable offender's reporting period must be given to the registrable offender at the time the offender reports their personal details to the Commissioner under section 11 of the Act.

### **13—Details of notice by supervising authority to Commissioner under section 51**

A notice required to be given by a supervising authority to the Commissioner under section 51 of the Act must include the following details:

- (a) the name of the registrable offender;
- (b) the relevant event under section 51(1) that gave rise to the requirement for the notice and the date the event occurred or is to occur;
- (c) the name and position of the person providing the notice and any other particulars necessary to identify the person providing the notice;

- (d) the date on which the notice is issued;
- (e) details of the residential address of the registrable offender following the registrable offender's release from custody or the supervision of the supervising authority (if known);
- (f) information held by the supervising authority that classifies a registrable offender as legally incapacitated or describes the registrable offender as having a disability or other special need, or an impaired ability to understand their reporting obligations under the Act.

#### **14—Confidentiality of information**

For the purposes of section 67(1)(a) of the Act, the following information is prescribed:

- (a) the name of the registrable offender;
- (b) the fact that the registrable offender is a registrable offender;
- (c) whether or not the registrable offender is required to comply with the reporting obligations imposed by Part 3 of the Act.

#### **15—Acknowledgement of notices**

If the Commissioner gives a notice to a registrable offender under—

- (a) section 48 of the Act (notice of reporting obligations); or
- (b) section 50 of the Act (notice of change to reporting period); or
- (c) section 52 of the Act (notice given by the Commissioner),

the Commissioner may request the registrable offender to acknowledge receipt of that notice in writing.

#### **16—Notification where registrable offender is a child or has a disability or special need**

- (1) This regulation applies to a registrable offender who—
  - (a) is a child, or is a person who has a disability or other special need; and
  - (b) is unable to understand—
    - (i) their reporting obligations under the Act; or
    - (ii) the consequences of failing to comply with those obligations.
- (2) Subject to subregulation (3), a notice in respect of a registrable offender's reporting obligations that is required to be given by the Commissioner to a registrable offender to whom this regulation applies, may be given to a designated person for the purpose of enabling the designated person to assist the registrable offender to comply with the registrable offender's reporting obligations under the Act.
- (3) A notice may only be given to a designated person under this regulation if the person agrees in writing to assist the registrable offender to comply with the offender's reporting obligations under the Act.

- (4) If the Commissioner gives a notice to a designated person who has agreed to assist a registrable offender under subregulation (3), the Commissioner may request the designated person to acknowledge receipt of that notice in writing.
- (5) If a designated person who has agreed to assist a registrable offender under subregulation (3) no longer wishes, or is no longer able to do so, the designated person must give written notice to the Commissioner as soon as reasonably practicable.
- (6) In this regulation—

***designated person***, in relation to a registrable offender means—

- (a) an adult person nominated by the registrable offender for the purposes of this regulation; or
- (b) if no such person is nominated—an adult person who is a relative, guardian, carer or friend of the registrable offender.

### **17—Disclosure of personal information without authorisation**

For the purposes of Schedule 2 clause 4(h) of the Act, the following types of disclosure of personal information about a registrable offender are permitted:

- (a) disclosure to a corresponding registrar where the registrable offender has, under section 17 of the Act, reported an intention to travel to the State, Territory or country (as the case may be) of the corresponding registrar;
- (b) disclosure to—
  - (i) the Registrar of Births, Deaths and Marriages (including any person acting as Registrar); or
  - (ii) the Deputy Registrar of Births, Deaths and Marriages (including any person acting as Deputy Registrar); or
  - (iii) any other person undertaking functions under the *Births, Deaths and Marriages Registration Act 1996* authorised by a person referred to in subparagraph (i) or (ii),

for purposes related to monitoring compliance with section 66K of the Act;

- (c) disclosure to—
  - (i) the central assessment unit operating under the *Child Safety (Prohibited Persons) Act 2016*; or
  - (ii) an interstate screening agency within the meaning of section 42B of the *Child Safety (Prohibited Persons) Act 2016*; or
  - (iii) the central assessment unit operating under the *Disability Inclusion Act 2018*; or
  - (iv) an interstate screening agency within the meaning of section 18Z of the *Disability Inclusion Act 2018*; or
  - (v) an authorised screening unit within the meaning of the *Disability Services (Assessment of Relevant History) Regulations 2014*,

where the personal information relates to a control order made under Part 5C of the Act.

## **18—Disclosure of personal information with authorisation**

For the purposes of Schedule 2 clause 5(d) of the Act, the following types of disclosure of personal information about a registrable offender are permitted with authorisation:

- (a) disclosure to a police officer of this State or a foreign jurisdiction where the information is reasonably required for the purpose of investigating a suspected offence against a child that is not a registrable offence;
- (b) if the registrable offender is subject to a requirement of the Commissioner to wear or carry a tracking device under section 66N of the Act—disclosure to a person, or person of a class, specified in the authorisation, being a person, or class of person, performing a function or providing a service related to or affected by the wearing or carrying of the tracking device;
- (c) disclosure to a police officer where the personal information—
  - (i) may be relevant to the investigation of, or prosecution of a person for, an offence against a law of the State; or
  - (ii) relates to any other purpose, function or power of South Australia Police under any Act or law.

## **Schedule 1—Savings and transitional provisions (Schedule 1 clause 76 of *Independent Commissioner Against Corruption (CIPIC Recommendations) Amendment Act 2021*)**

### **1—Application of Act to continuing complaints etc.**

The Act as in force before the commencement of Schedule 1 of the *Independent Commissioner Against Corruption (CIPIC Recommendations) Amendment Act 2021* continues to apply in connection with any complaint, report or investigation referred to in clause 70 of that Schedule.

## **Schedule 2—Repeal of *Child Sex Offenders Registration Regulations 2007***

The *Child Sex Offenders Registration Regulations 2007* are repealed.

### **Editorial Note—**

As required by section 10AA(2) of the *Legislative Instruments Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

### **Made by the Governor**

with the advice and consent of the Executive Council  
on 11 August 2022

No 60 of 2022