

South Australia

Child Sex Offenders Registration (Public Register) Amendment Act 2024

An Act to amend the *Child Sex Offenders Registration Act 2006*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Child Sex Offenders Registration (Public Register) Amendment Act 2024*.

2—Commencement

This Act comes into operation on a day to be fixed by proclamation.

Part 2—Amendment of *Child Sex Offenders Registration Act 2006*

3—Amendment of section 4—Interpretation

Section 4(1), definition of *foreign registrable offence*—delete "that is not a registrable offence under this Act but" and substitute:

, committed against a child,

4—Amendment of section 7—Who is a foreign registrable offender?

Section 7(a)—delete "of a prescribed class"

5—Insertion of sections 66EA to 66ED

Before section 66F insert:

66EA—Delegation by Commissioner

Despite section 19 of the *Police Act 1998*, the Commissioner must not delegate a function or power under this Part except to a Deputy Commissioner or Assistant Commissioner of Police.

66EB—Commissioner not required to publish or provide information

Nothing in this Part requires the Commissioner to publish or provide information about any registrable offender or other person.

66EC—Restriction on publication or provision of information about protected witnesses

Nothing in this Part requires or authorises the Commissioner to publish or provide information about a person to whom Part 3 Division 9 applies.

66ED—Restriction on publication or provision of information about children in care

Nothing in this Part requires the Commissioner to publish or provide information if to do so may identify, directly or indirectly, a child or young person who is under the guardianship or in the custody of the Chief Executive under the *Children and Young People (Safety) Act 2017*.

6—Insertion of sections 66FA and 66FB

After section 66F insert:

66FA—Commissioner may provide person with image of certain registrable offenders

- (1) This section applies to a registrable offender, other than a registrable offender who is a child, where—
 - (a) after becoming a registrable offender the registrable offender commits and is found guilty of a further—
 - (i) class 1 offence; or
 - (ii) class 2 offence; or
 - (iii) other sexual offence committed against a child; or
 - (b) the registrable offender—
 - (i) has committed and been found guilty of a prescribed offence; and
 - (ii) is subject to an extended supervision order under the *Criminal Law (High Risk Offenders) Act 2015*,
but does not apply to a registrable offender if a court has ordered that the registrable offender's image is not to be distributed; or
 - (c) the Commissioner is satisfied that the registrable offender poses a risk to the lives or sexual safety of one or more persons, or persons generally.
- (2) A person may, in accordance with the regulations, apply to the Commissioner for information in relation to certain registrable offenders who reside in their locality.
- (3) The application must—
 - (a) be made in a manner and form determined by the Commissioner; and
 - (b) be accompanied by the prescribed fee.
- (4) The applicant must provide, in support of the application, such evidence as may reasonably be required by the Commissioner.
- (5) If the Commissioner approves the application, the Commissioner may, subject to this section, provide the applicant with images of registrable offenders who reside in their locality (whether obtained under this section or otherwise).
- (6) If the Commissioner proposes to provide an image or images of a registrable offender to whom subsection (1)(b) applies, the Commissioner must give written notice of the application to the Chief Executive.

- (7) In determining whether to provide an image of a registrable offender under subsection (5) the Commissioner—
- (a) must have regard to whether the provision of the image is reasonably likely to identify a victim of the registrable offender; and
 - (b) may have regard to any matter the Commissioner considers relevant.
- (8) In determining whether a registrable offender poses a risk to the lives or sexual safety of one or more persons or persons generally for the purposes of subsection (1)(c), the Commissioner may take into account the following:
- (a) any medical, psychiatric, psychological or other assessment relating to the registrable offender;
 - (b) any information indicating whether or not the registrable offender is likely to commit a prescribed offence in the future;
 - (c) whether or not there is any pattern of offending behaviour on the part of the registrable offender;
 - (d) the registrable offender's antecedents and the seriousness of their total criminal record;
 - (e) the registrable offender's age and the age of any victims of any offences by the registrable offender at the time those offences were committed;
 - (f) the difference in age between the registrable offender and any victims of those offences;
 - (g) any other matter the Commissioner considers relevant.
- (9) The Commissioner may, by notice in writing, direct a registrable offender to whom this section applies to attend a specified police station within a specified period for the purpose of being photographed for the purposes of this section.
- (10) A police officer may take, or may cause to be taken, photographs of a registrable offender attending a police station under subsection (9) and may for that purpose give directions to the registrable offender.
- (11) A registrable offender must not fail to comply with a direction under this section without a reasonable excuse.

Maximum penalty: \$10 000 or imprisonment for 2 years.

- (12) Except as may be required by the regulations, the Commissioner is not required to provide procedural fairness in exercising their power under subsection (5).
- (13) In this section—

Chief Executive means the Chief Executive of the administrative unit of the Public Service that is responsible for assisting a Minister in the administration of the *Correctional Services Act 1982*;

locality, of a person, means a description of the general locality, such as the town or suburb, in which the person resides;

prescribed offence means—

- (a) a serious sexual offence within the meaning of the *Criminal Law (High Risk Offenders) Act 2015*; or
- (b) a class 1 offence; or
- (c) a class 2 offence.

66FB—Commissioner may inform child's parent or guardian whether specified person is a registrable offender

- (1) A person may, in accordance with the regulations, apply to the Commissioner to be informed whether or not a person specified in the application (the **specified person**), other than a person who is a child, is a registrable offender.
- (2) The application must—
 - (a) be made in a manner and form approved by the Commissioner; and
 - (b) be accompanied by the prescribed fee.
- (3) The applicant must provide, in support of the application, such evidence as may reasonably be required by the Commissioner.
- (4) If the Commissioner is satisfied that the specified person has regular unsupervised contact with a child of whom the applicant is a parent or guardian, the Commissioner may inform the applicant—
 - (a) whether or not the specified person is a registrable offender; and
 - (b) what the offence or offences were that resulted in the specified person becoming a registrable offender; and
 - (c) any other information the Commissioner thinks relevant.
- (5) In determining whether to inform the applicant the Commissioner—
 - (a) must have regard to whether to do so is reasonably likely to identify a victim of the registrable offender; and
 - (b) may have regard to any matter the Commissioner considers relevant.
- (6) Except as may be required by the regulations, the Commissioner is not required to provide procedural fairness in exercising their power under subsection (4).
- (7) For the purposes of this section, a person has **regular unsupervised contact** with a child if, on at least 3 days (whether consecutive or not) in any period of 12 months—
 - (a) the person has contact with the child consisting of any form of physical contact or close physical proximity to the child; and

- (b) the contact with the child occurs where the person is the only adult present.

7—Amendment of section 66I—Conduct intended to incite animosity towards or harassment of identified offenders and other people

- (1) Section 66I(5), definition of *identified offender*—after "published" insert:
or otherwise provided
- (2) Section 66I(5)—after the definition of *identified offender* insert:
personal details, in relation to a registrable offender, includes a photograph of the offender;

8—Amendment of section 66J—Publication, display and distribution of identifying information

Section 66J(2), definition of *identifying information*—delete the definition and substitute:

identifying information means information that is identifiable as the information published or otherwise provided by the Commissioner under section 66F, 66FA or 66FB;

9—Amendment of section 66M—Power to enter and search premises

- (1) Section 66M, heading—delete "Power to enter and search premises" and substitute:
Powers of entry, search etc
- (2) Section 66M(1)—delete subsection (1) and substitute:
 - (1) A police officer may, for the purpose of ensuring compliance with this Act—
 - (a) enter into, break open and search any premises that the police officer suspects on reasonable grounds are occupied by, or under the care, control or management of a registrable offender; and
 - (b) stop and search a registrable offender, and anything in the possession of or under the control of the registrable offender.
- (3) Section 66M(2)—delete subsection (2) and substitute:
 - (2) The police officer may exercise all or any of the following powers in connection with a search authorised under this section:
 - (a) the officer may break open and search any cupboards, drawers, chests, trunks, boxes, packages or other things, whether fixtures or not, at the premises or in the possession or under the control of the registrable offender;
 - (b) the officer may inspect any computer or device capable of storing electronic data at those premises or in the possession or under the control of the registrable offender;

- (c) the officer may remove from the premises or from the registrable offender any computer or device capable of storing electronic data for the purpose of inspecting the computer or device.
- (4) Section 66M(3)—delete "serious"
- (5) Section 66M(4)—delete "serious"
- (6) Section 66M(5)—after "removed from premises" insert:
or from a registrable offender