

Child Protection (Offender Reporting) and Other Legislation Amendment Bill 2016

Explanatory Notes

Short title

The short title of the Bill is the Child Protection (Offender Reporting) and Other Legislation Amendment Bill 2016

Policy objectives and the reasons for them

Queensland separates its offender reporting legislation into two distinct but intrinsically linked Acts. The *Child Protection (Offender Reporting) Act 2004* (CPORA) places reporting obligations on offenders, who commit sexual or particular other serious offences against children. These reportable offenders are required to report their personal details and whereabouts for a period of time after their release from government detention (reportable offenders). The *Child Protection (Offender Prohibition Order) Act 2008* (CPOPOA) provides for the protection of the lives and sexual safety of children by regulating the day to day conduct of relevant sexual offenders through the issue of Offender Prohibition Orders (OPOs). Relevant sexual offenders are reportable offenders, previous reportable offenders and offenders who would have been reportable offenders had their sentences not been completed prior to the introduction of the offender reporting legislation.

Both the CPORA and the CPOPOA form part of a nationally consistent suite of legislative and policy responses, aimed at managing the activities of offenders (reportable offenders) who have been convicted of child sex offences, or other particular serious offences against children, to reduce the likelihood that those offenders will re-offend.

The Child Protection (Offender Reporting) and Other Legislation Amendment Bill 2016 (the Bill) gives effect to the recommendations made by the Crime and Corruption Commission (CCC) 2013, through a statutory review of the operation of the CPOPOA. Other amendments contained in the Bill streamline the administration of the offender reporting legislation and enhance the current protections for children.

In this regard, the Bill amalgamates the CPOPOA into the CPORA by creating a new part 3A. This amalgamation will integrate the processes and prohibitions associated with OPOs with the monitoring process use by police to manage reportable offenders under the CPORA.

Additional amendments to the offender reporting legislation allow reportable offenders to be managed holistically. These amendments include streamlining, simplifying and strengthening OPO processes in accordance with the recommendations made by the CCC. This will be achieved by aligning terminology, clarifying the civil aspects of the OPO process and allowing an OPO application to be heard concurrent with any associated criminal proceedings. Furthermore, civil court processes will prohibit a self-represented offender from cross-examining a child witness or a person who was a child when the alleged offence occurred.

The court will have the capacity to make any OPO with the consent of a relevant sexual offender. However, where the interests of justice are not satisfied, the court will be required to conduct a hearing on the OPO application.

Conversely, where the court does consider that it is in the interests of justice to make the OPO without a hearing, the court will be armed with a wider range of criteria to determine whether the relevant sexual offender is able to consent to the order, for example, whether the offender has a cognitive disability, a mental illness or an addiction or other illness which impedes the person capacity to consent.

An application for an OPO can only be made to a court when a relevant sexual offender has engaged in concerning conduct. In making an OPO, the court must have regard to the nature *and* pattern of conduct recently engaged in by a relevant sexual offender. The Bill amends the parameters of 'concerning conduct' to ensure that police can better identify when conduct is concerning and remove the reliance on 'recent conduct' to more appropriately align with the actual risk the offender poses to the lives and sexual safety of children in the community.

The Bill introduces an extended information sharing framework designed to allow government and non-government agencies to give and receive information relative to a reportable offender. The exchange of pertinent offender information will reduce some of the impost on those departments who are responsible for the management of reportable offenders in the community.

The new framework also protects the information, such as the name of the respondent or the victim, associated with the OPO process by increasing the maximum penalty where information is released for the purposes of harassing or intimidating a respondent from two years imprisonment to up to 300 penalty units or five years imprisonment.

Extended protection from liability provisions protect members of the community who provide information about a reportable offender to the police commissioner from civil, criminal and administrative liability where the information is given honestly.

The Bill also amends the penalty provision associated with failing to comply with an OPO commensurate with penalties under the CPORA. Accordingly all offences associated with reporting and compliance under the amalgamated legislation will be crimes carrying a maximum penalty of 300 penalty units or five years imprisonment.

The parameters of who will be considered a reportable offender have been extended to include anyone who intends or attempts to commit a reportable offence against a child and does not come under the auspices of the offender reporting legislation simply because the indictment does not reflect the reportable offence, or the attempted offence does not amount to an offence on the statute books or the offender pleads guilty to a lesser charge. This is an important child protection mechanism which strengthens the capacity for the criminal justice system to respond to child sex offending.

The Bill significantly reduces the current timeframes for reporting travel into and out of Queensland. These timeframes have been reduced from seven days to 48 hours. This will reduce the opportunity for reportable offenders to travel outside of Queensland for short periods of time undetected. Reportable offenders will also be required to report the details of any children they are travelling with or any children they intend or expect to have reportable contact with while travelling.

The Bill will also clarify that reportable contact with a child extends outside of Queensland. Reportable contact can occur when a reportable offender visits another jurisdiction or when the offender engages with a child from another jurisdiction online. The amendment recognises that sexual offending against children is evolving alongside the development of information technology systems.

Reportable offenders will be required to report when their personal particulars cease and with respect to reportable offenders who are subject to an order under the *Dangerous Prisoners (Sexual Offenders) Act 2003* (DPSOA) to make an initial report.

The amendments also clarify that those reportable offenders who are also subject to an OPO will be required to report to police until all of the processes under the amalgamated legislation have ended. The amendment recognises that these particular offenders, by virtue of an OPO, pose an immediate risk to the lives or sexual safety of children.

The Bill allows reporting obligations to be suspended where a reportable offenders has a significant mental illness. The suspension will only operate where the illness is significant and

prevents the offender from meeting their reporting obligations. The reportable offender must not pose a risk to the lives or sexual safety of children.

The Bill introduces new powers which will allow police to require access information to electronic devices or to information which is able to be accessed through electronic devices, in circumstances where there is a reasonable suspicion that the reportable offender has committed an offence under the offender reporting legislation and to allow police to inspect electronic devices in the possession of those reportable offenders who pose the greatest risk of re-offending. These new powers will allow police to intervene prior to the commission of an offence and to disrupt the offending cycle.

Other powers allow police to take fingerprints to enrol a reportable offender in an automated reporting system and take photographs of any information which is required to be reported under schedule 2 of the offender reporting legislation. Photographs of a reportable offender will also be able to be taken at a location other than at a police station, allowing police to structure the operational component of their compliance management functions more efficiently.

A number of amendments streamline the administration of the offender reporting legislation. The Bill removes the obligation for receipts to contain the name and signature of a person who takes a report from a reportable offender and allowing the police commissioner to determine what information will be entered on the component parts of the child protection register, including the National Child Offender System (NCOS). The Bill will also remove the obligation for the police commissioner to provide a notice of the length of an offender's reporting obligations after each report is made and allow a notice of a change in reporting obligations to be given as soon as practicable after the change occurs.

Reportable offenders who are not able to act on their own behalf will be able to authorise another person to receive and review information which is held on the NCOS and/or their status as a reportable offender.

The length of an assumed identity held by a QPS civilian staff member has been increased to align with those held by police officers undertaking the same role.

Achievement of policy objectives

The policy objectives are achieved by amending the CPORA and the *Police Powers and Responsibilities Act 2000* (PPRA) to give effect to the recommendations made by the CCC through a review of the CPOPOA and streamlining the administration of the offender reporting legislation to provide a cohesive and holistic response to the management of reportable offenders in the community.

Amendments to the CPORA

Making an initial report – section 4 CPORA

Reportable offenders who are subject to an order under the DPSOA are suspended from their reporting obligations under the CPORA while a DPSOA order is in effect. An initial report provides police with vital information about a reportable offender, for example, tattoos and other distinguishing marks, children the reportable offender is likely to have reportable contact with upon their release, passwords to social networking sites, the make, model and registration of any vehicles the offender owns or drives or other relevant details. While a reportable offender can change those details during the suspended period without advising the police, the information obtained during an initial report provides a vital starting point for police investigating an offence against a child.

The Bill amends section 4 of the CPORA to require these reportable offenders to make an initial report prior to the operation of the suspension period. The amendment aligns with other suspension provisions under the offender reporting legislation.

Offences which contain a reportable offence as a factual element – section 5 CPORA

Currently the CPORA only allows an indicted offence under schedule 1 of to be considered a reportable offence. For example, a person who has been charged with entering a dwelling and committing rape will ordinarily be indicted and convicted for both offences under sections 419(4) (Burglary) and 349 (Rape) of the Criminal Code and will be considered a reportable offender under the CPORA. However, where the offence is not particularised and the person is only convicted for the offence of enter and commit an indictable offence (rape) under section 419(4), the offender will not be captured under the CPORA.

Similarly, a person who is charged with entering a dwelling with the intent to commit rape under section 419(1) may only be indicted on a charge of entering a dwelling with intent to commit an indictable offence. The intent to commit rape, while a component of the facts, is not a standalone offence and is therefore absorbed into the indictment under section 419.

Pleas to lesser charges may also impact on the manner in which an indictment is considered by the court. For example, on 14 May 2016, a person was charged with an offence under sections 210(1)(f) (Indecent treatment of a child under 16 years – take photograph etc.) and 228D (Possessing child exploitation material) of the Criminal Code. The person pled guilty to a lesser charge which is not a reportable offence.

The Bill addresses this by amending section 5 of the offender reporting legislation to include a person who has been found guilty of an offence, which is not a reportable offence, where the court declares that it is satisfied the facts and circumstances surrounding the offence constitute elements of a reportable offence. The amendment recognises the importance of identifying and monitoring any person who is found guilty of committing, attempting to commit or intending to commit a sexual or other particular serious offence against a child.

Specify that where the offender's reporting obligations are due to cease before the end of an OPO, these obligations continue to apply for the duration of the OPO – section 8 CPORA (Recommendation 3 – CCC report)

In some circumstances, a period of reporting for an existing reportable offender will end prior to the conclusion of an OPO. The CCC report highlighted that neither the CPORA nor the CPOPOA specifies whether an existing reportable offender is required to continue to report until the OPO ends, or when all reporting obligations under the CPORA end.

An amendment to section 8 clarifies that a period of reporting ends when all processes under the offender reporting legislation have concluded, including an OPO. The resultant impact of the amendment may see some reportable offenders reporting for longer.

Reportable contact outside of Queensland – section 9A CPORA

Section 9A of the CPORA requires a reportable offender to report any 'reportable contact'. However, it does not state whether the contact includes contact with a child outside of Queensland.

Emerging technology has increased the rate at which people connect online through social media. The global network has reduced the distance between people and countries resulting in greater opportunities for reportable offenders to connect with children outside of Queensland.

The Bill amends section 9A to make it clear that reportable contact with a child occurs in Queensland or elsewhere. Reportable contact must be reported within 24 hours of the contact occurring and includes physical contact, any communications that occur orally, in person, by telephone, on the internet or in writing. Reportable contact does not include incidental contact with a child.

Reporting a cessation of personal particulars – section 19A CPORA

With the exception of a residential address, there is no requirement for reportable offenders to report the cessation of their personal particulars. For example, when a reportable offender sells a vehicle and purchases another vehicle, he or she is only required to report the acquisition, not the sale. Retaining inaccurate information about a reportable offender on the NCOS has the potential to hamper police investigations and may also result in a reportable offender coming to the attention of police unnecessarily.

Reporting travel into and outside of Queensland – sections 19A, 20 and 23 CPORA

The Bill amends sections 19A, 20 and 23 to reduce the timeframes associated with reporting travel into and outside of Queensland from seven days to 48 hours. Despite a significant reduction in reporting timeframes in 2014, some offenders continue to circumvent the seven day reporting period by delaying a report of any changes until seven days after they have entered and remained in Queensland for seven days; or by returning to Queensland for less than seven days; or cycling periods of travel into and out of Queensland for up to six days.

Sections 20 and 23 of the CPORA have also been amended to require reportable offenders to provide the details of any children they intend to travel with or any children they intend to have contact with during a period of travel. The amendment reduces the opportunity for reportable offenders to either meet children interstate or take children interstate for the purposes of committing sexual or particular other serious offences against those children. The amendment does not remove the obligation for a reportable offender to report any 'reportable contact' while traveling within 24 hours after the contact occurs. Reports of this information can be made by telephone or online.

Receipt of information to be acknowledged – section 28 CPORA

The Bill amends section 28 of the CPORA by removing the administrative impost associated with including the signature and name of the receiving officer on the receipt of a report made by a reportable offender. The amendment also recognises advancing technology in offender reporting which removes the requirement for a person to take a report.

There are approximately 3000 reportable offenders in Queensland. Each reportable offender is required to report a minimum of four times in each year. This does not include reports of travel or changes to the personal details which are required to be reported under schedule 2 of the offender reporting legislation. Continuing to require a name and signature to be included on each of these reports reduces the capabilities of the QPS Child Protection Offender Registry (the Registry).

The receipt will retain all other information that is required to be provided. The amendment has no impact on reportable offenders.

Power to take fingerprints – section 30 CPORA

The Bill extends the parameters of section 30 of the CPORA to allow a police officer to take fingerprints from a reportable offender when he or she makes an initial report for the purposes of enrolling a reportable offender in an automated electronic reporting device. Automated reporting devices provide flexible reporting processes for reportable offenders and reduce the impost on the QPS by approximately 79% when compared to reporting in person. The fingerprints taken for this purpose form part of the logon to prevent unauthorised access to the automated reporting device and to verify the user and link the user to the correct information.

The fingerprint information taken for the purposes of enrolling in and using reporting devices is not new. All reportable offenders are required to provide their fingerprints as a consequence of the offences that they have committed. Fingerprint information is held on the National Automated Fingerprint Identifications System (NAFIS). Information uploaded on the automated electronic devices is not used for any other purpose.

Power to take photographs – section 31 CPORA

Section 31 of the CPORA is amended to allow a police officer to photograph a reportable offender at a time and location, other than when making a report in person at a police station and to photograph anything that is required to be reported under schedule 2 of the CPORA. The amendments allow police to structure the operational component of their compliance management functions in a more effective manner and provides police with a clear visual record of information which is required to be reported, including the intricacies of that information.

Provide police with the power to require a person to provide access information for seized or detained computers or electronic equipment; and make the penalty for failure to comply with a direction to provide access information equivalent to the penalty for failure to comply with an OPO, or treat refusal as failure to comply with an OPO – new section 51B CPORA (Recommendation 13 – CCC report).

Section 51B is a new provision which requires a reportable offender to provide access information to a storage device or information which can be accessed through a storage device in circumstances where police have a responsible suspicion that an offence has been committed under the amalgamated legislation. The requirement to provide access information under section 51B excludes the application of the privilege against self-incrimination on the grounds that giving the access information might tend to incriminate the person. Section 51B allows the answer given as a consequence of the requirement to be admissible as evidence, as well as any evidence obtained as a result of compliance with the requirement to provide access information.

Section 51B includes an offence provision where a reportable offender fails to comply with the requirement to provide access information will be liable to a maximum penalty of 300 penalty units or five years imprisonment. This is consistent with other offences under the CPORA and the proposed penalty increases for offences under the CPOPOA.

Excluding the application of the privilege against self-incrimination is similar to section 465AA(6) of the *Crimes Act 1958* (Vic) and section 197 of the *Crime and Corruption Act 2001* and is consistent with the findings of the Organised Crime Commission of Inquiry, which advocates the Victorian legislation as a good template for change.

The new access requirement is supported by safeguards which, in so far as possible, protect the rights of reportable offenders. In this regard, the requirement to provide access information will be limited to those police officers who are responsible for the management of reportable offenders in the community or have been authorised by the police commissioner to exercise those powers.

A police officer who requires access information from a person, will be required to make a post approval application to a magistrate. Furthermore, the details of the search will be recorded in the register of enforcement Acts under Chapter 21, Part 2, Division 3 of the PPRA. A reportable offender will not commit an offence for failing to provide access information in circumstances where a post approval order is not granted by a Magistrate.

Notices given to reportable offender – sections 54 and 56 CPORA

The Bill amends section 54 of the CPORA by removing the obligation on the police commissioner to provide each reportable offender with a notice stating the length of his or her reporting period on each occasion the offender verifies or changes his or her personal details. Rather, the police commissioner will give a reportable offender a notice containing his or her reporting obligations when an initial report is made.

The amendment minimises the risk of inaccurate information being provided to a reportable offender. The amendment does not remove the obligation on the police commissioner to advise a reportable offender when a period of reporting changes.

Section 56 has been amended to allow the police commissioner to give a reportable offender a notice of a change of reporting period as soon as practicable after the change occurs. Currently notices are required to be provided under section 56 prior to the next mandated report. While section 55 of the CPORA requires a court to provide the police commissioner with the details of any order or sentence which is imposed on a reportable offender as soon as practicable after the sentence or order is made, the information may not be received by the QPS in a manner which allows section 56 to be complied with. For example, the information may be received a few days prior to the reportable offender's next mandated report and the Registry may not have time to prepare and personally serve the notice on the offender prior to the next reporting date. This is exacerbated if the reportable offender does not have a fixed address or is travelling outside of Queensland.

Suspension of reporting obligations for significant mental illness – sections 67A, 67C, 67E, 67F and schedule 5 CPORA

An amendment to sections 67A, 67C, 67E, 67F and schedule 5 of the CPORA allows the current suspension provisions to apply to a reportable offender who has a significant mental illness and is not able to comply with his or her reporting obligations as a consequence of the mental illness. The extended provisions are able to be revoked by the police commissioner in circumstances where it is evident that the offender poses a risk to the lives or sexual safety of children and/or is capable of complying his or her reporting obligations.

Information held on the child protection register – section 68 CPORA

The Bill amends section 68 of the CPORA by removing the obligation for the police commissioner to include the information under section 68(2). Section 68 of the CPORA requires the police commissioner to enter certain information on the child protection register, regardless of its relevance, the business practices of other jurisdictions or any decisions made about the register at a national level.

All information about every reportable offender in Queensland is held on the Queensland Police Records and Information Exchange (QPRIME) component of the child protection register. The information entered on the NCOS is the information required under section 68 of the CPORA. While it could be construed that the police commissioner is only required to ensure that the information required to be entered on the register is held on one of the component parts, the nature of the provision is to establish and maintain a national repository of information.

Section 68 commenced in 2005. Technology, information sharing and the concept of what comprises a child protection register has changed over time. In Queensland, QPRIME is the main repository of information. Some of this information is also held on the NCOS. Information which is not on the NCOS is able to be given to or received by another jurisdiction when a request is made or a reportable offender relocates.

Reportable offender's rights in relation to register and review an entry on register – sections 73 and 74 CPORA

Sections 73 and 74 of the CPORA are amended to allow a person to act on behalf of a reportable offender in relation to obtaining a copy of the information held on the NCOS, seeking an amendment of any reportable information that is incorrect, and/or seeking a review of an entry on the child protection register. The authority for a person to act on behalf of the reportable offender must be in writing to the police commissioner.

Prohibit a self-represented offender from cross-examining (in person) a child witness in any proceeding – new section 77B CPORA (Recommendation 17 – CCC Report)

A new section 77B prevents a self-represented offender from cross-examining a child witness or a person who was a child when an alleged offence occurred during a civil proceeding under the offender reporting legislation. The amendment cites section 21O of the *Evidence Act 1977* as applying in these circumstances. Section 21O currently only applies to proceedings for an

indictable offence. A self-represented offender will be able to seek legal representation for the purposes of cross-examination and the court will provide adequate time for this to occur.

Amendments to the CPOPOA

Relocate the provisions of the CPOPOA into the CPORA and repeal the CPOPOA (Recommendation 1 – CCC Report)

The Bill relocates the provisions of the CPOPOA into the CPORA to remove the inconsistencies which have occurred as a consequence of separate regulatory regimes. The CPOPOA will be repealed upon the commencement of the amalgamated legislation. The provisions of the CPOPOA are re-numbered under the CPORA.

Clarify the definition of concerning conduct – section 6 CPOPOA (Recommendation 2 – CCC report)

Section 6 of the CPOPOA is renumbered to section 13A of the CPORA and amended to clarify that concerning conduct is conduct *which may constitute a criminal offence and may be a single act*. The Bill also replaces the word ‘and’ with the word ‘or’, as it applies a dual limb which requires the court to be satisfied that, having regard to the nature **and** pattern of conduct recently engaged in the offender poses a risk to the lives and sexual safety of children and an OPO will reduce the risk.

The Bill also replaces all references to the *lives or sexual safety of children* with the *lives or sexual safety of one or more children, or of children generally* and replacing the reference to *risk of committing a reportable offence against a child* in section 42 with *risk to the lives or sexual safety of one or more children, or of children generally* to create consistency and adequately reflect the nature of the offender reporting legislation.

Remove ‘recent’ as it applies to concerning conduct – sections 6 and 9 CPOPOA

Section 6 (13A) of the CPOPOA sets the parameters for making an application for an OPO. In part, the application requires the police commissioner to believe on reasonable grounds that the person is a relevant sexual offender and has recently engaged in concerning conduct. Similarly, section 9 (13D) of the CPOPOA requires a court to be satisfied on the balance of probabilities, that having regard to the nature and pattern of conduct recently engaged in, the respondent poses an unacceptable risk to the lives or sexual safety of children.

The Bill removes the obligation on the police commissioner to consider the timing of the conduct and relocates the application of that requirement to section 9, which requires the court to consider the timing of the conduct which is the subject of the OPO.

Application of unacceptable risk

Queensland is the only Australian jurisdiction which requires that the conduct exhibited by an offender poses an unacceptable risk to children. The CCC report noted that the term ‘unacceptable risk’ is a common threshold in Queensland supported by substantial case law.

While it is recognised by the courts that any risk to the lives or sexual safety of children is unacceptable, the purpose of the amalgamated legislation includes a statement which embodies this community expectation.

Clarify the ambiguities about OPOs made by consent – section 21 CPOPOA (Recommendation 16 – CCC Report)

Section 21 of the CPOPOA is renumbered as section 13P and amended to clarify the extent to which an OPO can be made by consent. In this regard, the Bill allows an OPO, a temporary OPO and a variation of an OPO to be made with the consent of an adult respondent.

Section 21 has also been amended to require a magistrate or a court to consider the provisions of sections 8 (13C) and 9 (13D) in circumstances where it is considered that it is not in the interests of justice to conduct a hearing for an OPO. Sections 8 and 9 of the CPOPOA set out

the key criteria to determine whether a respondent is a relevant sexual offender, whose conduct poses a risk to the lives and sexual safety of children. Sections 8 and 9 also consider the nature and scope of the respondent's previous offending behaviour, the effect of the order in comparison with the level of risk posed by the respondent; or the extent to which the application will impact on the respondent's circumstances.

The Bill also extends the information a court can consider under section 21(4), when it is not in the interests to conduct a hearing for an application for an OPO. The additional information includes whether the offender has a cognitive disability or a significant mental illness that requires ongoing treatment by a psychiatrist, or an alcohol or drug addiction that impairs the respondent's decision-making ability or has caused the respondent to be hospitalised.

When it is in the interests to conduct a hearing, a magistrate or court must conduct a hearing to consider the facts of the application.

Align the offence provision with the penalty for failing to comply with CPORA reporting obligations – 38 CPOPOA (Recommendation 14 – CCC Report)

Section 38 of the CPOPOA has been renumbered as section 51A of the CPORA and the penalty provision has been increased to align with the penalty provisions for similar offences under the CPORA. In this regard, a reportable offender who fails to comply with a condition of an OPO commits a crime and will be liable to a penalty of up to 300 penalty units or five years imprisonment.

The offence will be able to be heard summarily at the election of the prosecution.

Improve information sharing between the QPS and relevant agencies, and between the QPS and members of the public - sections 41 - 44, 47 and 48 CPOPOA (Recommendation 11 – CCC Report)

The Bill renumbers sections 41 – 44, 47 and 48 of the CPOPOA as sections 51C, 74D, 74E, 74F, 74I and 74J respectively and amends those provisions to address the risks associated with limited information sharing and protection from liability provisions. In particular section 41 (51C) is amended by increasing the penalty associated with releasing protected information for the purposes of harassing or intimidating a respondent to a OPO application to 300 penalty units or five years imprisonment.

The amendments also allow the police commissioner to give information to and receive information from government and non-government agencies (sections 42 and 43). A non-government agency includes an agency which is fully or partially funded by the Commonwealth or any State Government. Section 42 (74D) has been extended to apply to information under the CPORA.

An amendment to section 44 (74F) allows non-government agencies to give information about a reportable offender to a third party funded by the agency.

Section 47 (74I) is extended to allow the police commissioner to give information about a reportable offender to any person to the extent considered necessary and appropriate to reduce the risk to the lives or sexual safety of one or more children or of children generally.

Section 48 (74J) extends the protection from liability provisions to any person who honestly gives the police commissioner information about a reportable offender. The amendment closes a gap in the legislation which did not protect members of the community from liability for any information they gave about a reportable offender.

Clarify the civil application process, standard of proof and rules of evidence, and allow concurrent hearings - section 39, 40 and 50 CPOPOA (Recommendation 15 – CCC report)

The Bill renumbers sections 39, 40 and 50 of the *Child Protection (Offender Prohibition Order) Act 2008* as sections 77D, 77E and 77C respectively and inserts sections 77A, 77B and 77F.

These provisions clarify the civil application process associated with the making of an offender prohibition order.

The new provisions also allow criminal offences arising out of the conduct on which an application for an offender prohibition order is based to be dealt with concurrent to the application for an offender probation order.

Section 50 of the CPOPOA clarifies that the provisions of the *Uniform Civil Procedures Rules 1999* (UCPR) apply to all OPO processes with the exception of a temporary OPO and the prosecution of an offence. The UCPR sets out the processes for all civil proceedings, including the rules of evidence. Section 50 has also been amended to state that the standard of proof for all applications and orders is the balance of probabilities and that an application under the CPOPOA may be filed, heard and decided concurrently with related criminal proceedings, and the extent that evidence about the civil proceedings can be used, so as not to disadvantage the offender in related criminal proceedings.

Prohibiting the cross-examination of child witnesses by unrepresented respondents – new section 77B (Recommendation 17 – CCC report).

The Bill inserts a new provision to prohibit an unrepresented respondent cross-examining a protected witness. A protected witness is a child under 16 or a person who was a child under 16 when the concerning conduct which is the subject of an application for an offender prohibition order occurred.

Section 77B mirrors the protections which are afforded to child witnesses under section 21O of the *Evidence Act 1977* and ensures that protected witnesses are not disadvantaged or further victimised when giving evidence in court.

In the interests of justice, respondents have been provided with an opportunity to obtain legal representation for the purposes of cross-examining the protected witness.

Amendments to the PPRA.

Power to inspect – section 21B PPRA

The Bill introduces section 21B of the PPRA to allow a police officer to inspect any device which is capable of storing or accessing information in the possession of a reportable offender who:

- has been released from government detention or sentenced to a supervision order in the preceding three months; or
- has been convicted of a prescribed internet offence (up to a maximum of 4 inspections in a twelve month period); or
- has been assessed as posing an increased risk of re-offending.

This cohort of offenders represent the greatest risk of sexually re-offending against children. QCS has provided data showing that approximately 40% of reportable offenders released from detention, re-offended within the first three months of their release. Furthermore, information held on the National Child Offender System indicates that over 30% of reportable offenders in 2015/16 were convicted of internet based offences against children. Internet based offences include, using the internet to procure a child under 16 years, using a carriage service for sexual activity with a person under 16, possessing, controlling, producing, supplying or obtaining child pornography material for use through a carriage service, etc. A number of these offenders were also convicted of contact offences simultaneous to the internet offences.

Offenders who have been assessed as posing an increased risk of offending are assessed through the use of an empirically validated risk assessment tool. Empirically validated tools are used by all policing and corrections jurisdictions to determine the level of risk an offender has at a particular time, based on changes in circumstances, such as job loss, death of a family member, homelessness, social isolation and/or the uptake of precursor behaviours such as alcohol or drugs.

Computers have opened a new sphere of high-tech crimes where information communication technology equipment and or data are the object for the offending or a tool for the commission of an offence. The Royal Commission into Institutional Responses to Child Sexual Abuse has conservatively estimated the cost of child abuse and child trauma on the Australian community at \$6.8 billion per annum. Prevention, disruption and early intervention are key strategies to reduce the social costs to victims and offenders.

The purpose of inspecting devices is to identify online activity which has or may lead to offending behaviours such as accessing child related websites, searching for and viewing images of children and researching or accessing groups who endorse child exploitation including child exploitation material. The provision aims at ensuring that a reportable offender is not at risk of, or committing, further reportable offences against children.

Inspection of a device involves attaching a commercially available software program to the device. The software scans the device and produces a report advising police of websites and social media sites accessed, browser searches undertaken, any instant messaging services used, chat rooms accessed, an account of image files on the computer, and identifies any software or hardware linked to the device.

The software used by the QPS also has the capacity to identify the presence of child exploitation material. This functionality cannot be removed from the software and it is not intended to limit any police powers where something on the device may be evidence of an offence. In this regard, any offences identified as a consequence of the inspection may result in enforcement action.

Conversely, where information on the device indicates an offender is at risk of committing a reportable offence through the presence of precursor activities, for example accessing child specific websites, police will refer the offender to an appropriate support service to address the behaviours which may lead to offending.

The QPS employs a case management approach to offender management and monitoring. Each officer who is responsible for the management of reportable offenders in the community is a highly trained detective. These detectives are skilled at building rapport with reportable offenders which allows them to gauge their risk level at any given time. This is an important strategy which supports a preventative approach as opposed to an enforcement approach.

The new inspection power includes significant protective mechanisms to ensure that the rights of reportable offenders are not unduly abrogated. In this regard, an inspection for internet based offenders is limited to four times in a twelve month period. Any further inspection would require approval from a magistrate and must be based on increased risk. All inspections based on increased risk are required to be approved by a magistrate.

An inspection order will be in place, rather than a search warrant, for the purpose of authorising an inspection of a device for the purposes of the offender reporting legislation. Unlike a traditional search warrant, the inspection order will only allow police to inspect devices which can access the internet or access information through the internet or store information and police will not be required to particularise the information or data subject to the order.

Each inspection will be required to be entered on the register of enforcement acts and a report will be tabled in Parliament each year detailing the number of inspections undertaken and any action taken by police as a consequence of those inspections.

Another safeguard is the capacity for a reportable offender who is of the opinion that the repeated use of the inspection process constitutes an abuse of power, are able to make a formal complaint to the CCC or to the Ethical Standards Command of the QPS. The police commissioner has made it clear that any abuse of any power by a police officer will not be tolerated.

The new provision aligns with narrative supporting recommendation 13 of the CCC report and supports contemporary policing strategies to prevent and disrupt crime rather than simply

respond after a crime has been committed. In particular, the CCC concluded that while breaches which occur in public places can be readily dealt with by police using their existing powers to search, detain and arrest, it is possible and very likely that offenders will engage in prohibited conduct inside their homes and the existing police powers to monitor compliance inside the home are limited.

Assumed identities – sections 284 and 285 PPRA

Sections 284 and 285 of the PPRA are amended to allow the period of authority for an 'authorised civilian', which is a member of the QPS to align with the period of authority for an 'authorised officer', which remains in force until varied or cancelled. The amendment is administrative and removes the requirement for QPS staff members to re-apply for an assumed identity every three months.

Alternative ways of achieving policy objectives

The policy objectives cannot be achieved without legislative amendment.

Estimated cost for government implementation

The costs of implementing the proposed amendments will be met within existing budgets.

Consistency with fundamental legislative principles

The Legislative Standards Act 1992 (LSA) requires that during the development of legislation, sufficient regard is to be given to the fundamental legislative principles. Section 4 of the LSA requires legislation to have sufficient regard to the rights and liberties of individuals and the institution of Parliament.

Whether the legislation has sufficient regard to the rights and liberties of individuals—s 4(2)(a) LSA:

A number of the legislative amendments impose obligations and/or impinge on the rights and liberties of offenders who are required to report under the Child Protection (Offender Prohibition Order) Act 2008 (CPOPOA) and the Child Protection (Offender Reporting) Act 2004 (CPORA) for a period of time after their sentence; or after their release from government detention; or because their behaviour poses an unacceptable risk to the lives or sexual safety of one or more children or of children generally.

Those amendments include:

- requiring a reportable offender who is subject to an order under the DPSOA to make an initial report (section 4 CPORA);
- extending the parameters of who will be considered a reportable offender (section 5 CPORA);
- requiring a reportable offender to continue to report until all processes which make that person a reportable offender have finished (section 8 CPORA);
- clarifying that reportable contact with a child includes contact that occurs outside of Queensland (section 9A CPORA);
- reporting the cessation of all personal details which are required to be reported under schedule 2 of the CPORA (section 19A CPORA);
- requiring a reportable offender to report an extended stay outside of Queensland within 48 hours of making the decision (section 20 CPORA);
- requiring a reportable offender to provide details of any children the offender intends to travel with or with whom the offender expects to have contact with while outside of Queensland (sections 20 and 23 CPORA);
- requiring a reportable offender to report any change of travel while outside of Queensland beyond 48 hours (section 21 CPORA);
- requiring a reportable offender to report a return to Queensland within 48 hours (section 22 CPORA);

- allowing police to take fingerprints for the purpose of enrolling a reportable offender in an automated electronic reporting device (section 30 CPORA);
- reducing the number of times a reportable offender will receive a report on the length of his or her report period (section 54 CPORA);
- reducing the threshold of what a court can consider when making an offender prohibition order (OPO) to include the nature or pattern of conduct (section 8 CPOPOA);
- extending the parameters regarding the risk an offender poses to children to include children generally (sections 8, 14 and 42 CPOPOA);
- removing the threshold of recent as it applies to concerning conduct (section 6 CPOPOA);
- extending information sharing to other government and non-government entities and members of the community (sections 41 – 44 and 47 CPOPOA);
- extending the protection from liability provisions under the new legislation to include any person or agency who honestly gives information about a reportable offender (section 48 CPOPOA);
- elevating the offence for failing to comply with an OPO from a simple offence with a maximum penalty of two years imprisonment, to an indictable offence with a maximum penalty of 300 penalty units or 5 years imprisonment (section 38 CPOPOA); and
- prohibiting a self-represented offender from cross-examining a child witness during any proceeding under the amalgamated legislation (new section 77B).

Requiring a reportable offender who is subject to an order under the DPSOA to make an initial report.

DPSOA offenders present the greatest risk to the community and are subject to the most stringent monitoring by Queensland Corrective Services. Reportable offenders who are subject to a DPSOA order are suspended from any reporting obligations under the CPORA for the length of the order. This includes an initial report of their personal details.

An amendment to section 4 of the CPORA will require a reportable offender who is subject to a DPSOA order to make an initial report prior to a suspension under section 4 being effected. This imposes an obligation on these offenders to provide their personal particulars to police within seven days of their release from government detention.

An initial report provides police with vital information about a reportable offender, for example, tattoos and other distinguishing marks, children the offender is likely to have reportable contact with upon his or her release, email addresses, telephone numbers, passwords to social networking sites, the make and model of any vehicles the offender owns or drives etc. While there is capacity for the offender to change those details during the suspended period without advising the police, the information obtained during an initial report, particularly in relation to tattoos or other distinguishing body marks, provides a vital starting point during any police investigation regarding the commission of a reportable offence.

Due to the nature of the offences committed by DPSOA reportable offenders and the risk they present to children in the community, by virtue of their DPSOA status, it is vital that information is available to police to facilitate the investigation and prosecution of any future offences that they may commit.

The amendment mirrors other suspension mechanisms under the CPORA. For example, a reportable offender who is suspended on the basis of a significant cognitive impairment must have made an initial report to the police prior to the suspension being invoked.

Extending the offences which make a person a reportable offender

An amendment to section 5 of the CPORA will extend the definition of a reportable offender. Under the current provision a person is considered a reportable offender if they are sentenced for a reportable offence or if they are an existing reportable offender, or a corresponding reportable offender or subject to an offender reporting order. The amendment to section 5 will extend the provision to include a person who has been sentenced for an offence, which is not

a reportable offence, but the court is satisfied that the facts and circumstances of the offence have elements of a reportable offence (based on the sentencing court being satisfied that the 'factual element' was a reportable offence).

In this regard, a person who is found guilty of an offence (for example, of entering a dwelling with the intent to commit rape under section 419(1) of the Criminal Code) under the new legislation will be considered a reportable offender despite there being no standalone offence for intent to commit rape. Similarly, a person who is found guilty of an offence of grievous bodily harm which is sexually motivated will be considered a reportable offender regardless of whether the sexual component of the offence amounts to a prescribed offence as per Schedule 1 of the CPORA.

While the amendment lowers the threshold regarding who will be considered to be a reportable offender, it is an important protection for children in the community. Offenders who have previously avoided registration on the National Child Protection Register (NCOS) simply because of the way in which charges are indicted for the court or because he or she has pleaded guilty to a lesser charge may be considered a reportable offender under the CPORA. In particular, a person may become a reportable offender based on the sentencing court finding, on the balance of probabilities that the factual element amounted to a reportable offence.

While it is not the intention of the offender reporting legislation to impose an additional penalty on the reportable offender, the legislation does require a reportable offender, to be monitored for a period of time to reduce the likelihood that they will re-offend. The amendment recognises the purposes of the Act and it is a further protective mechanism for children in the community. The amendment does not affect an offender's right to review an entry on the child protection register under section 74 of the CPORA.

Requiring a reportable offender to continue to report until all processes which make that person a reportable offender have finished

An amendment to section 8 of the CPORA will clarify that a reportable offender must continue to report to police until all processes which make the person a reportable offender have ended, including the reporting obligations attached to an OPO. While this amendment has the capacity to extend a period of reporting for a reportable offender for up to five years, it is limited to those reportable offenders who are subject to an OPO because a court considers that the nature and/or pattern of conduct exhibited by the offender poses an unacceptable risk to the lives or sexual safety of one or more children or of children generally.

It is the purpose of the offender reporting legislation to provide, in part, for the protection of the lives or sexual safety of children. This is achieved in a number of ways, including:

- requiring an offender to keep police informed of his or her whereabouts and other personal details for a period of time after his or her release from government detention; and
- prohibiting particular sexual offenders from engaging in conduct which poses a risk to the lives or sexual safety of one or more children or of children generally.

The amendment aligns with that purpose.

Clarifying that reportable contact includes contact which occurs outside of Queensland

An amendment to section 9A of the CPORA will clarify that reportable contact extends to contact which occurs outside of Queensland. Reportable contact with a child includes any physical contact and any communication which occurs orally or in writing. However, it does not include contact which occurs incidentally during the normal course of living, for example, being served by a child at a restaurant or supermarket. Reportable contact must be reported within 24 hours after the contact occurs.

The amendment places an obligation on reportable offenders to advise the police of any reportable contact he or she has with a child outside of Queensland, within 24 hours after the contact occurs. It is acknowledged that 24 hours to report contact with a child places a

significant obligation on reportable offenders. However, reports can be made almost instantaneously by telephone, online via the Queensland Police Service (QPS) Website, or by facsimile. A reportable offender will not commit an offence for failing to report contact with a child where there is a reasonable excuse.

It is not the intention of this amendment to impose an untenable obligation on reportable offenders. Rather, the amendment aims to improve community safety by restricting the opportunity for reportable offenders to travel interstate for the purposes of making contact with children undetected.

Reporting the cessation of all personal details which are required to be reported under schedule 2 of the CPORA

Schedule 2 of the CPORA provides a list of the personal details which are required to be provided to police as part of the offender's reporting obligations. While there is a requirement for these details to be updated, there is no requirement, with the exception of general residence, to advise when these details are no longer relevant to the offender.

The current manner in which an offender's details are reported and retained has resulted in an accumulation of inaccurate information about the offender on the NCOS. Inaccurate information not only hampers police investigations, it may also result in a reportable offender coming to the attention of police unnecessarily.

An amendment to section 19A of the CPORA will place an obligation on a reportable offender to report when any of his or her personal details are no longer current. The effect of the amendment on reportable offenders is not significant. Reportable offenders are able to make changes to their personal details at any time. These changes can be made by telephone, email, online, mail or facsimile. There is no obligation for a reportable offender to attend a police station or provide immediate evidence to support the change.

Requiring a reportable offender to provide details of any children the offender intends to travel with or with whom the offender intends to have contact with while outside of Queensland

An amendment to sections 20 and 23 of the CPORA imposes an obligation on reportable offenders to provide police with the details of any children the reportable offender intends to travel with, regardless of whether the details of those children have been reported as part of the offender's mandated reporting obligations. And further, for the purpose of section 20, the details of any children with whom the offender expects to have contact with outside of Queensland.

It is important that police are aware of when reportable offenders are travelling with children and who those children are. Unreported contact with children is contrary to the purpose of the CPORA and it places children at risk. Reportable offenders are aware that there is no requirement to report the details of children they are travelling with or having contact with while they are outside of Queensland. This provides an opportunity for reportable offenders to either meet children interstate for the purposes of committing contact offences, to take children interstate for the purpose of committing contact offences or for the purposes of permitting others to commit contact offences against the child.

This amendment complements amendments to section 9A of the CPORA, which will require a reportable offender to report any contact he or she has with a child outside of Queensland within 24 hours after the contact occurs.

Requiring a reportable offender to report a return to Queensland within 48 hours

An amendment to sections 20(1), 21(1), 21(2), 22(2) and 23(4) of the CPORA will impose an obligation on a reportable offender to report:

- a change of travel or a decision to extend travel whilst out of Queensland;
- a change of personal details after an absence from Queensland;
- a period of travel out of Queensland; and
- a return to Queensland after a period of travel;

within 48 hours after the change occurs.

The current timeframes provide reportable offenders with up to 14 days to advise police of any travel plans or changes which occur during a period of travel. This is considerable given that a report can be made by telephone, online or by email.

While it is acknowledged that 48 hours presents a significant reduction in reporting timeframes, it is considered necessary to appropriately monitor those reportable offenders who are circumventing their reporting obligations by:

- delaying the report of any changes to their personal details until seven days after they have entered and remained in Queensland for seven days; returning to Queensland for less than seven days; or
- cycling periods of travel into and out of Queensland up to six days.

Reducing the timeframes associated with reporting travel into and out of Queensland is about risk minimisation. It is the purpose of the CPORA that reportable offenders keep police informed of their whereabouts to reduce the likelihood of re-offending. Continual monitoring forms part of that risk minimisation process.

Reportable offenders who are legitimately unable to report will be able to take advantage of the reasonable excuse provision which exists under section 50 of the CPORA. This important safeguard will continue to operate under the new legislation.

Allow police to take fingerprints for the purpose of enrolling a reportable offender in an automated reporting system

An amendment to section 30 will allow police to take fingerprints for the purposes of enrolling a reportable offender in an automated electronic reporting device, for example an automated kiosk. The amendment imposes an obligation on reportable offenders to provide identifying particulars outside of the current parameters of the CPORA (where identity is in doubt) and the Police Powers and Responsibilities Act 2000 (PPRA) (commission of an indictable offence).

An automated reporting device is a standalone product that is not linked to an external database. In this regard all information must be manually inputted, including fingerprints and photographs. The device can only be accessed with a particular offender's fingerprint. This not only ensures the security and privacy of the reportable offender's information, it prevents another person reporting on the offender's behalf.

The information which is required to be inputted into an automated electronic reporting device is not new information. All reportable offenders are required to provide their fingerprints as a consequence of the offences they have committed. This information is held on the National Automated Fingerprint Identifications System (NAFIS).

Automated electronic reporting devices will provide reportable offenders with an additional reporting option in the future upon establishment of the automated reporting system.

Reducing the number of times a reportable offender will receive a report on the length of his or her report period

There are approximately 3000 reportable offenders in Queensland. Each offender is required to report to the police a minimum of four times in each year. Further reports are required when any changes are made to the offender's personal details, for example, residence, mobile phone number, passwords to social networking sites etc. A person who takes a report from a reportable offender must acknowledge that report in a written notice. The notice must contain the length of the offender's reporting period.

Requiring the QPS to continue to provide information about the length of an offender's reporting period on each occasion a report is made creates an untenable impost on the Child Protection Offender Reporting Registry. Furthermore, it creates a risk of inaccurate information being provided to an offender about the length of his or her reporting period.

An amendment to section 54 of the CPORA will remove the requirement on the QPS to provide each offender with a notice detailing the length of his or her reporting period when a report of personal details is made to the police commissioner. While the amendment has the capacity to impinge on a reportable offender's right to information about his or her reporting period, the information will continue to be provided in the following circumstances:

- the reportable offender is sentenced for a reportable offence or made subject to an offender reporting order;
- the reportable offender is released from government detention;
- the offender enters Queensland and has not previously been given a notice of his or her reporting obligations;
- the offender becomes a corresponding reportable offender in Queensland;
- the length of the offender's original reporting period has changed.

Reducing the threshold of what a court must consider when making an OPO to include the nature or pattern of conduct

An amendment to section 8 of the CPOPOA will reduce the threshold of what a court may consider when determining an application for an OPO. Replacing the word 'and' with the word 'or' as it applies to the nature and pattern of conduct which is recently engaged in by a relevant sexual offender or a reportable offender, may result in a greater number of OPOs being applied to reportable offenders or relevant sexual offenders.

An OPO is only brought to a court when there is a reasonable belief, on the balance of probabilities, that an offender is engaging in conduct which poses an unacceptable risk to the lives or sexual safety of children. In making an OPO, the court allows an additional layer of protection to be applied to children in the community by prohibiting a reportable offender or a relevant sexual offender from engaging in a particular activity or attending a particular place, for example, using the internet or attending a local park. These prohibitions target precursor behaviour and are aimed at reducing the likelihood that a reportable offender or relevant sexual offender will engage in contact offences against children.

Extending the parameters regarding the risk an offender poses to children to include children generally

Replacing the term lives or sexual safety of children with lives or sexual safety of one or more children or of children generally will assist police applying for and prosecuting an OPO in the courts. This will impact on reportable offenders and relevant sexual offenders who engage in concerning conduct.

An OPO is intended to restrict the conduct of a reportable offender or relevant sexual offender, where that conduct poses an unacceptable risk to the lives or sexual safety of children. Concerning conduct by a reportable offender or relevant sexual offender can be a precursor to a contact offence against a child. In this regard, it is considered that the lives and sexual safety of children outweigh the rights of those offenders who continue to engage in conduct which places that safety at risk.

Removing the threshold of recent as it applies to 'recent concerning conduct'

The amendment abrogates the rights of relevant sexual offenders by removing the reliance on 'recent' as it applies to concerning conduct. This is despite the CCC's determination, that 'recent' was an important safeguard, based on the potential impact an OPO represented to the movements and activities of a particular offender. The amendment takes into account a number of issues raised by the QPS to a Joint Working Group (JWG) established under recommendation 9 of the CCC report.

In particular, the QPS attested that while information about concerning conduct is received from a number of sources including people who have directly witnessed or heard of the behaviour, for example members of the public, child safety officers, school teachers or other police officers, it is not systematically recorded. The information must be verified and an

appropriate course of action determined. This may include an OPO, or enforcement action where the conduct constitutes an offence under the offender reporting legislation.

To determine the veracity of information about concerning conduct, police must review information held on the Queensland Police Records and Information Management Exchange (QPRIME), including street checks, QPS offence histories, Queensland Corrective Services (QCS) case conference summaries and contact summaries and QCS incident reports. This process impacts on the time frames associated with making an application for an OPO.

To ensure that the timing of the conduct retains some relevance to the application for an OPO, an amendment to section 9 (13D) of the CPOPOA, will require a court to consider when the conduct subject to the proposed prohibition order happened, prior to making an OPO.

Extending information sharing to other government and non-government entities and members of the community

The amendments which extend the current information sharing provisions to allow the police commissioner to require information from any government or non-government entity and to give information to those entities and members of the community, could be seen as abrogating a reportable offender's right to privacy. However, in addressing concerns raised by the CCC in its report on the operation of the CPOPOA, the amendment was mindful of who could give and receive information about a reportable offender.

Accordingly, the information which is given to a government or non-government entity is limited to the offender's name and date of birth, the term of any order, any conduct prohibited and anything considered reasonable necessary to allow the entity to identify the offender to ensure the safety of children in the care of the entity or the offender. To protect this rights of reportable offenders, any person who administers the offender reporting legislation will be liable to a penalty of up to 300 penalty units or five years imprisonment in circumstances where information about an offender who is a respondent to an OPO process is given to another person for the purposes of intimidating or harassing the respondent. This increase is consistent with other offence provisions under the offender reporting legislation and acts as a safeguard against vigilante style behaviour.

Protection from liability

Extending the application of section 48 of the CPOPOA and section 75 of the CPORA to protect a person from civil, criminal and administrative liability where the person honestly provides information about a reportable offender or relevant sexual offender without malice, will impinge on the rights of reportable offenders and relevant sexual offenders.

Some offenders attempt to circumvent their obligations under the offender reporting legislation by establishing alternate residences or engaging in prohibited activities in an alternate location. This type of subversive behaviour may indicate that the offender intends to engage or is engaging with children. It is vital that this information is directed to those best placed to act upon it. The receipt of timely information about an offender has the capacity to prevent the commission of further offences against children, particularly where the information indicates the offender is acting contrary to an OPO under the CPOPOA or reporting obligations under the CPORA.

A person who provides false or misleading information will commit an offence and be liable to a maximum penalty of up to 300 penalty units or five years imprisonment. This is commensurate with other offences under the offender reporting legislation and aims to deter people providing information about a reportable offender that is untrue for vexatious purposes.

Elevating the offence for failing to comply with an OPO from a simple offence with a maximum penalty of two years imprisonment to an indictable offence with a maximum penalty of 300 penalty units or 5 years imprisonment

The amendment will increase the maximum penalty for a breach of an OPO from two years imprisonment to five years imprisonment or 300 penalty units. The offence will also be elevated from a simple offence to an indictable offence and will be a crime.

While this has the capacity to impose a greater penalty on those reportable offenders who fail to comply with the conditions of an OPO, it addresses a disparity in the offender reporting legislation, which has long imposed a lesser penalty in circumstances where an offender demonstrates an ongoing and unacceptable risk to the lives and sexual safety of children.

The amendment will be balanced by allowing a breach of an OPO to be dealt with summarily at the election of the prosecution. Additionally, reportable offenders who are legitimately unable to report will be able to take advantage of the reasonable excuse provision which exists under section 38 of the CPOPOA. This important safeguard will continue to operate under the new legislation.

Prohibiting a self-represented offender from cross-examining a protected witness during any proceeding under the amalgamated legislation

A new provision to prohibit a self-represented respondent from cross-examining a protected witness during a proceeding under the amalgamated legislation creates an obligation on relevant sexual offenders and/or reportable offenders to obtain appropriate legal representation or abstain from cross-examination. A protected witness will be a person under the age of 16 years or a person who was under the age of 16 years when the conduct which has given rise to the proceeding occurred. The new provision will not prevent the offender from representing himself or herself during the remainder of the proceedings.

To safeguard the rights of reportable offenders or relevant sexual offenders during a proceeding for an OPO, the new provision will allow the offender to obtain legal representation for the purposes of cross-examination. If suitable representation cannot be arranged by the offender, a court will arrange for Legal Aid to represent the offender during the cross-examination. A reasonable amount of time will be provided to allow the offender to arrange for legal representation.

The 2010 Australian Law Reform Commission report on family violence found that personal cross-examination of child witness had a negative impact on the nature and quality of the evidence received by the court. This is likely to be amplified in those cases where the respondent and the child have or have had an intimate or family relationships. In this regard, allowing respondents to cross-examine child witnesses has limited benefit to the proceedings.

Whether the legislation confers power to enter premises, and search for or seize documents of other property, only with a warrant issued by a judge or other judicial officer—s4(3)(e) LSA:

The inspection provision under section 21B of the Police Powers and Responsibilities Act 2000 (PPRA) allows police to inspect any device which stores or is capable of accessing information which is in the possession of a reportable offender, in certain circumstances. This power builds on the current authority under section 21A of the PPRA which allows police to enter the premises of a reportable offender to verify the details which are required to be reported under the offender reporting legislation.

The inspection provision is limited to those reportable offenders who:

- have been released from government detention or sentenced to a supervision order in the preceding three months;
- have been found guilty of a prescribed internet offence (up to a maximum of 4 inspections in a twelve month period); or
- have been assessed as posing an increased risk of re-offending.

This cohort of offenders represent the greatest risk of sexually re-offending against children. QCS has advised that approximately 40% of reportable offenders re-offend within the first three months of release from government detention. Furthermore, information held on the National Child Offender System (NCOS) indicates that over 30% of reportable offenders who were convicted and entered onto the child protection register in 2015/16 were convicted of internet based offences against children, including, making, possessing and distributing child exploitation material and using the internet to procure a child under 16 years. A number of these offenders were also convicted of contact offences simultaneous to the internet offences.

Offenders who have an increased risk of offending are assessed through the use of an empirically validated risk assessment tool. Empirically validated tools are used by all policing and corrections jurisdictions to determine the level of risk an offender has a particular time, based on changes in circumstances, such as job loss, death of a family member, homelessness, social isolation and/or the uptake of precursor offending behaviours such as alcohol or drugs.

The software used by the QPS has the capacity to identify the presence of child exploitation material. In addition to this functionality, the software can identify websites and social media sites accessed, browser searches undertaken, any instant messaging services used, chat rooms accessed, an account of image files on the computer, and identifies any software or hardware linked to the device.

The software is a comprehensive tool. The purpose of its use in this context is to identify online activity which has or may lead to offending behaviours such as accessing child related websites, searching for and viewing images of children, and researching and/or accessing groups who endorse child exploitation including child exploitation material. The provision also aims at ensuring that a reportable offender is not at risk of, or committing further reportable offences against children.

The new inspection power includes significant protective mechanisms to ensure that the rights of reportable offenders are not unduly abrogated. In this regard, an inspection for internet based offenders is limited to four times in a twelve month period. Any further inspection would require approval by a magistrate and must be based on increase risk. All inspections based on increased risk are required to be approved by a magistrate. An inspection order will be in place, rather than a search warrant, for the purpose of authorising an inspection of a device for the purposes of the offender reporting legislation. Unlike a traditional search warrant, the inspection order will only allow police to inspect devices which can access the internet or access information through the internet or store information and police will not be required to particularise the information or data subject to the order.

There is no capacity for police to seize or remove a device unless there is a reasonable suspicion that an offence has been committed. Any subsequent enforcement action which is taken by police will be subject to judicial oversight. Each inspection will be required to be entered on the register of enforcement acts and a report will be tabled in Parliament each year detailing the number of inspections undertaken and any action taken by police as a consequence of those inspections.

A further safeguard is the capacity for any reportable offender, who is of the opinion that the repeated use of the inspection process constitutes an abuse of power, are able to make a formal complaint to the CCC or to the Ethical Standard Command of the QPS. The police commissioner has made it clear, that any abuse of any power by any police officer will not be tolerated.

As at June 2015, there were approximately 1,004,805 children in Queensland under the age of 16 years. One in every five of these 1,004,805 children are at risk of becoming victims of sexual offending. Of these one in five children, only one in five will report their sexual assault to the police and only one in five of those investigations will result in a prosecution. The rights

of children must at some point be made a priority over the rights of those people who have been convicted of a sexual or particular other serious offence against children.

The power to inspect devices aligns with the purposes of the child protection legislation and also supports contemporary policing strategies aimed at disrupting and preventing crime, rather than police reacting to crime that has already been committed. Prevention, disruption and early intervention are key strategies to reducing the social and economic costs to victims, offenders and the community.

Whether the legislation provides appropriate protection against self-incrimination—s4(3)(f) LSA:

New powers allow police to require a reportable offender to provide access information to any device or to any information which can be accessed through the device, such as a cloud storage device. The extent of the new requirement is limited to those circumstances where police reasonably suspect that a reportable offender has committed an offence under the offender reporting legislation, for example, failed to provide information that is required to be reported.

The requirement to provide access information will specifically exclude the privilege against self-incrimination. This is similar to section 465AA(6) of the Crimes Act 1958 (Vic) and section 197 of the Crime and Corruption Act 2001 and consistent with the recommendations made by the Organised Crime Commission of Inquiry, which advocates the Victorian legislation as a good template for change. A person who fails to comply with a direction to provide access information will be liable to a maximum penalty of 300 penalty units or five years imprisonment.

The new requirement for access information is not dissimilar to section 154 of the PPRA, which allows a magistrate or a judge to order a person in possession of access information for a storage device to give that information to a police officer who is in possession of a warrant issued under Chapter 7 of the PPRA. However, the Queensland Organised Crime Commission of Inquiry highlighted the insufficiency of section 154 to address non-compliance with an order to provide access information. In particular, the Commission of Inquiry noted that the power (to require access information) provided by section 154 of the PPRA, combined with the offence provision in section 205 of the Criminal Code, provides insufficient disincentive to offenders who have more to lose by complying. For example, an offence under section 228B (Making child exploitation material) of the Criminal Code carries a maximum penalty of 14 years imprisonment.

To safeguard the rights of individuals, a police officer who requires a person to provide access information will be required to apply to a magistrate in writing for an order approving the requirement for access information. This will be similar to the post-search approval order required to validate the search and seizure powers under section 161 of the PPRA. A person will not commit an offence for failing to provide access information in circumstances where an approval for the requirement is not granted by a magistrate.

The amendment aims to assist police keep pace with the ever evolving range of internet based sexual offences against children, including the possession or distribution of child exploitation material, the production of child exploitation material, online grooming and solicitation of children, including cybersex, and conspiring with others to commit these types of offences and/or to carry on a business which involves these types of offences. Research has clearly identified a relationship between internet based sex offending and contact sex offending. It is not possible for the police to properly assess and manage the risks posed by reportable offenders without the legislative authority to access information which is stored on devices. Access to electronic devices will assist forensic examiners inspecting devices to decode any encrypted information which might not otherwise be accessed.

Consultation

Consultation on the Bill was undertaken with government agencies and the following non-government stakeholders:

- Bravehearts;
- Aboriginal and Torres Strait Islander Legal Service (Qld) Ltd;
- Queensland Aboriginal and Torres Strait Islander Child Protection Peak Ltd;
- Office of the Public Guardian;
- Protect All Children Today;
- Queensland Law Society;
- The Bar Association of Queensland; and
- Office of the Information Commissioner.

Consistency with legislation of other jurisdictions

The Bill is generally consistent with other Australian jurisdictions. A number of the amendments proposed in the Bill deviate from the previously endorsed National Model Laws. However, in recent times, all Australian jurisdictions have in some way diverged from the original national framework to ensure that individual child sex offender registration schemes remain contemporary.

Divergence from the national framework was noted by the Australian New Zealand Policing Advisory Agencies (ANZPAA) in September 2012. It was recognised that at a national level the emphasis has remained on jurisdictional consistency. In this regard, the amendments proposed in the Bill align, where possible, with proposed or enacted legislation in other Australian jurisdictions and takes into account the 2011 review of the Victorian offender reporting legislation by the Victorian Law Reform Commission.

Notes on provisions

Part 1 Preliminary

Clause 1 Short title

Clause 1 inserts a short title for the Act. The short title is cited as the *Child Protection (Offender Reporting) and Other Legislation Amendment Act 2016*.

Clause 2 Commencement

Clause 2 states that provisions of the *Child Protection (Offender Reporting) and Other Legislation Amendment Act 2016* commence on 1 July 2017.

Part 2 Amendment of Child Protection (Offender Reporting) Act 2004

Clause 3 Act amended

Clause 3 states that Part 2 amends the *Child Protection (Offender Reporting) Act 2004*.

Clause 4 Amendment of s 1 (Short title)

Clause 4 inserts a new short title for the *Child Protection (Offender Reporting) Act 2004* to reflect the inclusion of the *Child Protection (Offender Prohibition Order) Act 2008*. The new short title is the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*.

Clause 5 Amendment of s 3 (Purpose of this Act)

Clause 5 amends the title of the section 3 to 'purposes of this Act'. The amendment reflects that there is more than one purpose for the *Child Protection Offender Reporting and Offender Prohibition Order) Act 2004*.

Clause 5 amends section 3(1) of the *Child Protection (Offender Reporting) Act 2004* to state that Parliament recognises that any risk to the lives or sexual safety of one or more children or of children generally, is unacceptable.

Clause 5 inserts section 3(1A) which states that the purposes of the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004* are to provide for the protection of children and their sexual safety and to require particular offenders who commit sexual, or particular other serious offences against children to keep police informed of their whereabouts and other particulars for a period of time to reduce the likelihood of re-offending and to facilitate the investigation and prosecution of any future offences.

Clause 5 amends section 3(2) of the *Child Protection (Offender Reporting) Act 2004* to include the purposes of the *Child Protection (Offender Prohibition Order) Act 2008* which provide for the making of an offender prohibition order.

Clause 6 Amendment of s 4 (Relationship between this Act and Dangerous Prisoners (Sexual Offenders) Act 2003)

Clause 6 amends section 4(2) of the *Child Protection (Offender Reporting) Act 2004* to require a reportable offender who is subject to an order under the *Dangerous Prisoners (Sexual Offenders) Act 2003* to make an initial report.

Clause 7 Amendment of s 5 (Reportable offender defined)

Clause 7 amends the definition of a reportable offender in section 5 of the *Child Protection (Offender Reporting) Act 2004* to include a person who is sentenced for an offence that is not a reportable offence but the sentencing court is satisfied the facts and circumstances surrounding the offence constitute elements of a reportable offence.

Clause 7 inserts section 5(1)(aa) after section 5(1)(a) to include a person who is sentenced for an offence that is not a reportable offence but the sentencing court is satisfied the facts and circumstances surrounding the offence constitute elements of a reportable offence.

Clause 7 amends section 5(1)(e) to state that a reportable offender is a person who is subject to an offender prohibition order.

Clause 7 amends section 5(2) by removing the word 'merely' and replacing it with 'only' to align with modern drafting practices and contemporary language.

Clause 7 inserts section 5 (5A) which applies to section 5(1aa) where a court has found a person guilty of an offence, other than a reportable offence, the court may declare that it is satisfied the facts and circumstances surrounding the offence, constitute elements of a reportable offence.

Clause 8 Amendment of s 8 (When a person stops being a reportable offender)

Clause 8 amends section 8(d) *Child Protection (Offender Reporting) Act 2004* to state that a person stops being a reportable offender at the end of all reporting requirements of an offender reporting order, or offender prohibition order, to which the person is subject.

Clause 9 Amendment of s 9A (Reportable contact defined)

Clause 9 amends section 9A(4) of the *Child Protection (Offender Reporting) Act 2004* to clarify that reportable contact with a child occurs in Queensland or elsewhere.

Clause 10 Insertion of new s 10B (When a person poses a risk to children)

Clause 10 inserts section 10B (When a person poses a risk to children) to clarify the parameters of the new *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*. A person will be considered as posing a risk to the lives or sexual safety of one or more children or of children generally, if there is a risk that the person will engage in conduct that may constitute a reportable offence against or in relation to a child or children.

Clause 11 Insertion of new Part 3A

Part 3A Offender prohibition orders

Division 1 Offender prohibition orders

Subdivision 1 Prohibition Orders

Clause 11 inserts Part 3A into the *Child Protection (Offender Reporting) Act 2004* which includes the provisions of the *Child Protection (Offender Prohibition Order) Act 2008*.

Clause 11 inserts Part 3A, Division 1 Offender prohibition orders into the *Child Protection (Offender Reporting) Act 2004* which includes provisions about the making of offender prohibition orders.

Clause 11 inserts Subdivision 1 Prohibition orders in the *Child Protection (Offender Reporting) Act 2004* which provides for the making of offender prohibition orders.

Clause 11 omits section 5 of the *Child Protection (Offender Prohibition Order) Act 2008* which provides an explanation of references to offender prohibition orders and relocates the terms *temporary order* and *final order* into Division 1, Subdivision 2 Temporary Orders. The term *offender prohibition order* has been relocated to schedule 5 (Dictionary).

Clause 11 inserts section 6 of the *Child Protection (Offender Prohibition Order) Act 2008* into the *Child Protection (Offender Reporting) Act 2004* and renumbers section 6 as section 13A. Section 13A allows the police commissioner to make an application for an offender prohibition order and sets out the information which is required to be included in that application.

Clause 11 renumbers section 6(1)(b) as 13A(1)(b) and removes the word 'recently' as it applies to engaging in concerning conduct.

Clause 11 renumbers section 6(3) as section 13A(3) and amends the definition of concerning conduct to state that concerning conduct is an act or omission or a course of conduct, the nature or pattern of which poses a risk to the lives or sexual safety of 1 or more children, or of children generally.

Clause 11 renumbers section 6(3) as section 13A(3) and amends section 13A(3) to state that concerning conduct includes conduct that constitutes an offence and is a single act or omission.

Clause 11 inserts section 7 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 7 as section 13B.

Clause 11 renumbers section 7(1) as section 13B(1) and replaces a reference to section 6 with section 13A(1).

Clause 11 renumbers section 7(3) as section 13B(3) and amends the note in section 13B(3) by replacing the reference to section 57 to section 13ZL.

Clause 11 inserts section 8 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 8 as section 13C.

Clause 11 renumbers section 8(1) as section 13C(1) and amends section 13C(1) by replacing the reference to section 9 with section 13D.

Clause 11 renumbers section 8(1)(b)(i) as section 13C(1)(b)(i) and replaces the words 'poses an unacceptable risk to the lives or sexual safety of children' with 'poses an unacceptable risk to the lives or sexual safety of 1 or more children, or of children generally'.

Clause 11 renumbers 8(2)(a) as section 13C(2)(a) and replaces the reference to section 10 with section 13E.

Clause 11 renumbers section 8(4) as section 13C(4) and replaces the reference to section 7(3) with section 13B(3).

Clause 11 inserts section 9 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 9 as section 13D.

Clause 11 renumbers section 9(1) as section 13D(1) and replaces the reference to 8 (1) with section 13C.

Clause 11 inserts a new section 13D(1)(a) which requires a court to consider when the conduct that is the subject of proposed prohibition order happened.

Clause 11 renumbers 13D1(a) - 3D(1)(i) 13D(1)(b) – 13D(1)(j).

Clause 11 inserts section 10 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 10 as section 13E.

Clause 11 renumbers section 10(1) as section 13E(1) and replaces the reference to section 8(1) with section 13C(1) and (2).

Clause 11 inserts section 11 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 11 as section 13F.

Clause 11 inserts section 12 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 12 as section 13G.

Subdivision 2 Temporary orders

Clause 11 inserts Part 3A, Subdivision 2 into the *Child Protection (Offender Reporting) Act 2004*.

Clause 11 inserts section 13 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 13 as section 13H.

Clause 11 amends the reference to section 8(1) in the definition of final order under section 13H to section 13C(1).

Clause 11 inserts section 14 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 14 as section 13I.

Clause 11 renumbers section 14(1)(a) as section 13I(1)(a) and replaces the reference to section 6 with section 13A(1).

Clause 11 renumbers section 14(2)(a) as section 13I(2)(a) and replaces the reference to section 6 with section 13A(2).

Clause 11 inserts section 15 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 15 as section 13J.

Clause 11 renumbers section 15(1) as section 13J(1) and replaces the reference to section 8 with section 13C(1).

Clause 11 renumbers section 15(2)(a) as section 13J(2)(a) and replaces the reference to section 8(1)(b)(ii) with section 13C(1)(b)(ii).

Clause 11 renumbers section 15(2)(c) as section 13J(2)(c) and replaces the reference to sections 8, 9 and 10 with section 13C(2), (4) and (5) and sections 13D and 13E.

Clause 11 renumbers section 15(6) of the *Child Protection (Offender Prohibition Order) Act 2008* as section 13J(6) and replaces the reference to section 7(i) with section 13B(1).

Clause 11 inserts section 16 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 16 as section 13K.

Clause 11 renumbers section 16(2)(a) as section 13K(2)(a) and replaces the reference to section 8 with section 13C(1).

Clause 11 renumbers section 16(3)(a) as section 13K(3)(a) and replaces the reference to section 8(1)(b)(ii) with section 13C(1)(b)(ii).

Clause 11 renumbers section 16(3)(c) as section 13K(3)(c) and replaces the reference to sections 8(2)(4) and (5), 9 and 10 with section 13C(2), (4) and (5) and sections 13D and 13E.

Clause 11 renumbers section 16(5) as section 13K(5) and replaces the reference to section 7(3) with section 13B(3).

Clause 11 inserts section 17 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 17 as section 13L.

Clause 11 renumbers section 17 as section 13L and replaces the reference to section 11 with section 13F and in section 13L(b) with a reference to section 13J.

Clause 11 inserts section 18 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 18 as section 13M.

Clause 11 renumbers section 18(1)(b) as section 13M(1)(b) and replaces the reference to section 24(2) with section 13S(2).

Clause 11 amends section 13M(2)(a) by replacing the references to section 15 and 15(5) with sections 13J and 13J(5).

Clause 11 renumbers section 18(2)(b) as section 13M(2)(b) and replaces the reference to section 19 with section 13N.

Clause 11 renumbers section 18(2)(f) as section 13M(2)(f) and replaces the reference to section 22 with section 13Q.

Clause 11 renumbers section 18(3)(b) as section 13M(3)(a) and replaces the reference to section 19 with section 13N as it applies to the definition of prescribed period.

Clause 11 inserts section 19 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 19 as section 13N.

Clause 11 renumbers section 19(3) as section 13N(3) and replaces the reference to section 7 with section 13B(3).

Subdivision 3 Other provisions about offender prohibition orders

Clause 11 inserts Part 3A, Subdivision 3 which details other provisions about offender prohibition orders.

Clause 11 inserts section 20 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 20 as section 13O.

Clause 11 inserts section 21 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 21 as section 13P.

Clause 11 renumbers section 21(1) as section 13P(1) to allow an offender prohibition order under part 3A to be made with the consent of an adult respondent.

Clause 11 renumbers section 21(3) as section 13P(3) and replaces the references to sections 8 and 9 of the *Child Protection (Offender Prohibition Order) Act 2008* with sections 13C(1) and 13E.

Clause 11 amends section 13P(3) to require a court to conduct a hearing where it is in the interests of justice to do so.

Clause 11 renumbers section 21(4) as section 13P(4) and amends section 13P(4) to include additional information a court may have regards to if it is not in the interests of justice to conduct a hearing under section 13P(3).

Clause 11 amends section 13P(4)(b)(i) to require a court to consider whether a respondent has a cognitive disability.

Clause 11 amends section 13P(4)(b)(ii) and (iii) to require a court to consider whether a respondent has significant mental illness that requires ongoing treatment by a psychiatrist; or has an alcohol or drug addiction that impairs the respondent's decision-making ability or has caused the respondent to be hospitalised.

Clause 11 renumbers section 21(5) as section 13P(5) and amends section 13P(5) by replacing the references to sections 8, 15 or 16 with sections 13C, 13J, 13K and 13Q.

Clause 11 inserts section 22 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 22 as section 13Q.

Clause 11 renumbers section 22(4) as section 13Q(4) and amends section 13Q(4)(a) by replacing the reference to sections 8 and 9 with sections 13C and 13D.

Clause 11 renumbers section 22(5) as 13Q(5) and amends section 13Q(5)(b) by replacing the reference to section 24(2) with section 13S(2).

Clause 11 inserts section 23 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 13R.

Clause 11 inserts section 24 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 24 as section 13S.

Clause 11 renumbers section 24(2) as section 13S(2) and amends the note in section 13S(4) by replacing the reference to section 54 with section 13ZL.

Clause 11 inserts section 25 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 25 as section 13T.

Clause 11 renumbers section 25(1)(b)(ii) as section 13T(1)(b)(ii) and amends section 13T(1)(b)(ii) by replacing the reference to section 16 with section 13K.

Clause 11 renumbers section 25(4)(a) and (b) as section 13T(4)(a) and (b) and amends section 13T(4)(a) and (b) by replacing the references to sections 15(3) to (7) with sections 13J(3) to (7) and sections 16(4) and (5) with sections 13K(4) and (5).

Clause 11 inserts section 26 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 26 as section 13U.

Clause 11 renumbers section 26(1)(b) as section 13U(1)(b) and amends section 13U(1)(b) by replacing the reference to section 25(6) with section 13T(6).

Clause 11 renumbers section 26(2)(a) as section 13U(2)(a) and amends section 13U(2)(a) by replacing the reference to section 15(5) with section 13J(5).

Clause 11 renumbers section 26(2)(b) as section 13U(2)(b) and amends section 13U(2)(b) by replacing the reference to section 27 with section 13V.

Clause 11 amends section 26(2)(f) with section 13U(2)(f) and replaces the reference to section 28 with section 13W.

Clause 11 renumbers section 26(3)(b) as section 13U(3)(a) and amends section 13U(3)(a) definition of prescribed period by replacing the reference to section 27 with section 13V.

Clause 11 inserts section 27 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 27 as 13V.

Clause 11 amends section 13V by replacing the reference to section 19 with section 13N.

Clause 11 inserts section 28 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 28 as 13W.

Clause 11 inserts section 29 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 29 as 13X.

Division 2 Corresponding order

Clause 11 inserts Part 3A, Division 2 about corresponding offender prohibition orders.

Clause 11 inserts section 30 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 30 as 13Y.

Clause 11 inserts section 31 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 31 as 13Z.

Clause 11 renumbers section 31(7) as section 13Z(7) and amends section 13Z(7) by replacing the reference to section 20 with section 13O.

Clause 11 renumbers section 31(9) as section 13Z(9) and amends section 13Z(9) by replacing the references to sections 8 and 9 with sections 13C and 13D.

Clause 11 inserts section 32 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 32 as section 13ZA.

Clause 11 renumbers section 32(3) as section 13ZA(3) and amends the note in section 13ZA(3) by replacing the reference to section 33(1)(a) with section 13ZB(1)(a).

Clause 11 inserts 33 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 33 as section 13ZB.

Clause 11 renumbers section 33(3) as section 13ZB(3) amends and section 13ZB(3) by replacing the reference to section 31(8) with section 13Z(8).

Clause 11 inserts 34 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 34 as section 13ZC.

Clause 11 renumbers section 34(2)(a) as section 13ZC(2)(a) and amends section 13ZC(2)(a) by replacing the reference to sections 8 and 9 with sections 13C and 13D.

Clause 11 renumbers section 34(3) as section 13ZC(3) and amends section 13ZC(3) by replacing the reference to section 22(2), (3) and (5) with section 13Q(2), (3) and (5).

Clause 11 inserts 35 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 35 as section 13ZD.

Clause 11 renumbers section 35(2)(a) as section 13ZD(2)(a) and amends section 13ZD(2)(a) by replacing the reference to sections 8 and 9 with sections 13C and 13D.

Clause 11 renumbers sections 35(3) as section 13ZD(3) and amends section 13ZD(3) by replacing the reference to section 22(2) and (3) with section 13Q(2) and (3).

Division 3 Reportable offender obligations

Clause 11 inserts Part 3A, Division 3 which details the reporting obligations under the *Child Protection (Offender Reporting) Act 2004* for those offenders who are subject to an offender prohibition order.

Clause 11 inserts section 36 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 36 as section 13ZE.

Clause 11 inserts section 37 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 37 as section 13ZF.

Division 4 Appeals

Clause 11 inserts Part 3A, Division 4 which sets out the appeals process for an offender prohibition order.

Clause 11 inserts section 52 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 52 as section 13ZG.

Clause 11 inserts section 53 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 53 as section 13ZH.

Clause 11 inserts section 54 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 54 as section 13ZI.

Clause 11 amends section 13ZI(1) by replacing the reference to section 53 with section 13ZH.

Clause 11 amends section 13ZI by applying the *Uniform Civil Procedures Rules 1999* to appeal processes for an offender prohibition order.

Clause 11 inserts section 55 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 55 as 13ZJ.

Clause 11 inserts section 56 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 56 as 13ZK.

Division 5 Miscellaneous

Clause 11 inserts Part 3A, Division 6 which includes service of documents, the application of filing fees and the approval of forms relevant to an offender prohibition order.

Clause 11 inserts section 57 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 57 as 13ZL.

Clause 11 inserts section 58 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 58 as 13ZM.

Clause 11 inserts section 59 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 59 as 13ZN.

Clause 12 Amendment of s 19A (Reporting changes in personal details)

Clause 12 amends section 19A(2) of the *Child Protection (Offender Reporting) Act 2004* by removing the reference to 'within 7 days after entering and remaining in Queensland for 7 or more consecutive days' as it applies to reporting a change in personal details which occurs while the reportable offender is outside of Queensland, and replacing it with '48 hours after entering and remaining in Queensland'.

Clause 12 inserts a definition of change for the purposes of section 19A(2) - **change**, in relation to a reportable offender's personal details, includes the end of the personal details applying to the offender.

Clause 13 Amendment of s 20 (Intended absence from Queensland to be reported)

Clause 13 amends section 20(1)(a) of the *Child Protection (Offender Reporting) Act 2004* by removing the reference to 'intends to leave Queensland for 7 or more consecutive days' and replaces it with 'intends to leave Queensland for 48 or more consecutive hours to travel elsewhere in Australia'.

Clause 13 inserts a note into section 20(1)(a) *Child Protection (Offender Reporting) Act 2004* to state that section 23 applies if a reportable offender intends to leave Queensland to travel elsewhere in Australia on an average of at least once a month (irrespective of the length of the absence).

Clause 13 amends section 20(2) *Child Protection (Offender Reporting) Act 2004* by inserting subsection (aa) which requires a reportable offender to report the details of any children the reportable offender intends to leave Queensland with or intends to have reportable contact with while outside of Queensland.

Clause 14 Amendment of s 21 (Change of travel plans while out of Queensland to be given)

Clause 14 amends section 21(1)(a) and 21(2) *Child Protection (Offender Reporting) Act 2004* by removing the reference to 7 days as it applies to a reportable offender's decision to extend a stay outside of Queensland. Clause 13 requires a reportable offender to report a stay outside of Queensland beyond 48 hours within 48 hours of making the decision.

Clause 15 Amendment of s 22 (Reportable offender to report return to Queensland or decision not to leave)

Clause 15 amends section 22(2) of the *Child Protection (Offender Reporting) Act 2004* by removing the words '7 days after entering and remaining in Queensland for 7 or more consecutive days' as they apply to a reportable offender's return to Queensland and replaces them with '48 hours'.

Clause 15 amends section 22(4) of the *Child Protection (Offender Reporting) Act 2004* by removing the words '7 days' as they apply to a requirement for a reportable offender to report decision not to leave Queensland and replaces them with '48 hours'.

Clause 16 Amendment of s 23 (Report of other absences from Queensland)

Clause 16 amends the heading in section 23 of *Child Protection (Offender Reporting) Act 2004* from 'other' to 'recurring' as it applies to frequently occurring travel outside of Queensland.

Clause 16 amends section 23(2)(b) of the *Child Protection (Offender Reporting) Act 2004* to require a reportable offender to report any travel with a child.

Clause 16 inserts a note into section 23(3) to state that a reportable offender is not required to make another report under section 23 unless the information that is required to be reported under subsection (2) changes.

Clause 16 amends section 23(4)(a)(i) by removing the reference to '7 days' as it applies to a change that happens outside of Queensland and replacing it with '48 hours'.

Clause 16 amends section 23(4)(b) by inserting 'travel with a child' as it applies to travel outside of Queensland.

Clause 17 Amendment of s 28 (Receipt of information to be acknowledged)

Clause 17 amends section 28 of the *Child Protection (Offender Reporting) Act 2004* by removing subsection (2)(c)(i) which requires a receipt given to a reportable offender at the conclusion of a report to include the name and signature of the receiving officer.

Clause 18 Amendment of s 30 (Power to take fingerprints)

Clause 18 amends section 30 of the *Child Protection (Offender Reporting) Act 2004* by replacing subsection (1) and inserting subsection (1)(a) to allow a police officer to take fingerprints from a reportable offender when an initial report is made.

Clause 18 relocates section 30(1) of the *Child Protection (Offender Reporting) Act 2004* to section 30(1)(b).

Clause 19 Amendment of s 31 (Power to take photographs)

Clause 19 amends section 31 of the *Child Protection (Offender Reporting) Act 2004* by removing the words 'receiving a report made in person under this part may require the reportable offender' and replacing them with the words 'may require a reportable offender' as it applies to taking photographs of a reportable offender.

Clause 19 inserts a new subsection (3) into section 31 of the *Child Protection (Offender Reporting) Act 2004* which states that 'a police officer may photograph any documents or other information that a reportable offender is required to report under this part'.

Clause 19 inserts an example into section 31(3) to state that a police officer may photograph a car that a reportable offender has reported as just having been bought by the reportable offender.

Clause 20 Amendment of s 35 (When reporting obligations begin)

Clause 20 amends section 35(1)(b)(ii) of the *Child Protection (Offender Reporting) Act 2004* to state that an offender's reporting obligations commence when an offender prohibition order is imposed on a reportable offender.

Clause 21 Amendment of s 36 (Length of reporting period)

Clause 21 removes section 36(4)(b) of the *Child Protection (Offender Reporting) Act 2004*. This is an administrative amendment which removes a superfluous provision.

Clause 22 Insertion of new ss 51A to 51C

Clauses 22 inserts new sections 51A to 51C into the *Child Protection (Offender Reporting) Act 2004*. Sections 51A to 51C include sections 38 and 41 of the *Child Protection (Offender Prohibition Order) Act 2008* and a new provision to require access information.

Clause 22 inserts section 38 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 38 as section 51A.

Clause 22 renumbers section 38(1) as section 51A(1) and amends section 51A(1) by increasing the penalty for failing to comply with an offender prohibition order to a maximum penalty of 300 penalty units or 5 years imprisonment.

Clause 22 renumbers section 38(2) as 51A(3).

Clause 22 inserts a new 51A(2) which states that an offence against section 51A(1) is a crime.

Clause 22 renumbers section 38(3) as 51A(4) and amends section 51A(4) by increasing the penalty for failing to comply with a registered corresponding order to a maximum penalty of 300 penalty units or 5 years imprisonment.

Clause 22 inserts a new section 51A(5) which states that an offence against section 51A(4) is a crime.

Clause 22 renumbers section 38(4) as section 51A(6).

Clause 22 renumbers section 38(5) as section 51A(7) and amends the reference to (4)(c) in section 51A(7) to 6(c) to align with the changes in numbering.

Clause 22 inserts a new section 51B to require a reportable offender to provide access information to a storage device in the possession of the reportable offender.

Clause 22 inserts section 51B(1) to state that this section applies if an authorised police officer suspects, on reasonable grounds, that a reportable offender has committed an offence against the Child Protection (Offender Reporting) and Other Legislation Amendment Act.

Clause 22 inserts section 51B(2) to state that the authorised police officer may require the reportable offender to give a police officer access to a storage device that is in the offender's possession; or to which the offender has access; or give a police officer access information, and any other information or help, necessary for the officer to gain access to information stored on the device; or allow a police officer to use the access information to gain access to the information stored on the device; or examine the information stored on the device, including by running a software program on the device, to find out whether the information may be relevant evidence; or make a copy of information stored on the device that may be relevant evidence, including by using another storage device; or convert information stored on the device that may be relevant evidence into documentary form, or another form, that enables the information to be understood by a person.

Clause 22 inserts section 51B(3) to state that a reportable offender must comply with the requirement unless the reportable offender has a reasonable excuse and that the maximum penalty for failing to comply with a requirement for access information is 300 penalty units or 5 years imprisonment.

Clause 22 inserts section 51B(4) to state that an offence under section 51B(3) is a crime.

Clause 22 inserts section 51B(5) to state that it is not a reasonable excuse to fail to comply with the requirement that complying might tend to incriminate the reportable offender or expose the offender to a penalty.

Clause 22 inserts section 51B(6) applies sections 160, 161 to 163 of the *Police Powers and Responsibilities Act 2000* to a police officer exercising powers under section 51B.

Clause 22 inserts section 51B(7) to state that the reportable offender does not commit an offence unless a magistrate has made a post-search approval order under the *Police Powers and Responsibilities Act 2000*.

Clause 22 inserts section 51B(8) to state that the police officer must inform the reportable offender, in a way that is reasonable in the circumstances, that the offender must comply with the requirement even though complying might tend to incriminate the offender or expose the offender to a penalty.

Clause 22 inserts section 51B(9) to state that if a court convicts a reportable offender of an offence against subsection (3), the court may, as well as imposing a penalty for the offence, order the offender to comply with the requirement.

Clause 22 inserts section 51B(10) which defines terms used in section 51B. For section 51B **access information** means information that is necessary for a person to access and read and is information that is stored electronically on a storage device; or may be accessed through a storage device.

authorised police officer means a police officer authorised in writing by the police commissioner to exercise a power under this Act.

relevant evidence means evidence of the commission of a reportable offence; or an offence against this Act.

storage device means a device on which information may be stored electronically (like a smart phone, for example); or through which information may be accessed (from the cloud, for example).

stored, in relation to information, means the information is stored on, or accessible through, a storage device.

Clause 22 rennumbers section 41 of the *Child Protection (Offender Prohibition Order) Act 2008* and inserts section 41 as section 51C.

Clause 22 rennumbers section 41(1) as section 51C(1) and amends section 51C(1) by limiting the application of section 51C to part 3A of the Child Protection (Offender Reporting) and Other Legislation Amendment Act.

Clause 22 rennumbers section 41(2) as section 51C(2) and amends (a), (b), (c), (e) and (i) to limit the application of section 51C(2)(a) (b), (c), (e) and (i) to part 3A of the Child Protection (Offender Reporting) and Other Legislation Amendment Act. Section 51C(2) provides exemptions to the disclosure of information under section 51C(1).

Clause 22 rennumbers section 41(3) as section 51C(3) and amends the maximum penalty associated with the disclosure of protection information with the intention to incite anyone to intimidate or harass a respondent. The maximum penalty under section 53C is 300 penalty units or 5 years imprisonment.

Clause 22 inserts a new 51C(4) which states that an offence under section 53C(3) is a crime.

Clause 22 rennumbers section 41(4) as section 51C(5) and amends the definition of **proceeding** to limit its application to part 3A of the Child Protection (Offender Reporting) and Other Legislation Amendment Act.

Clause 23 Amendment of s 52A (Proceedings for an indictable offence)

Clause 24 amends section 52A(1) of the *Child Protection (Offender Reporting) Act 2004* by removing the word 'or' before 51(1) and inserting 51A(1) or (4), 51B(3) or 51C(3).

Clause 24 Amendment of s 52B (Limitation on who may summarily hear a proceeding for an indictable offence and the level of penalty)

Clause 24 amends section 52B(1) of the *Child Protection (Offender Reporting) Act 2004* by removing the word 'or' before 51(1) and inserting 51A(1) or (4), 51B(3) or 51C(3).

Clause 25 Amendment of s 54 (Notice to be given to reportable offender)

Clause 25 amends section 54(2)(a)(ii) of the *Child Protection (Offender Reporting) Act 2004* by inserting the words 'or offender prohibition order' after 'offender reporting order'.

Clause 26 Amendment of s 56 (Notice to be given when reporting period changes)

Clause 26 amends section 56(2) of the *Child Protection (Offender Reporting) Act 2004* by removing the words 'but no later than the time that the offender next reports under this Act'.

Clause 27 Amendment of s 67A (Application of this division)

Clause 27 amends section 67A of the *Child Protection (Offender Reporting) Act 2004* by inserting a new (c) has a mental illness.

Clause 28 Amendment of s 67C (Suspension of reporting obligations of reportable offender on police commissioner's own initiative)

Clause 28 amends section 67C(1)(a) of the *Child Protection (Offender Reporting) Act 2004* by replacing the word 'children' as it applies to the risk posed to the lives and sexual safety of children with the words '1 or more children, or of children generally'.

Clause 28 amends section 67C(1) of the *Child Protection (Offender Reporting) Act 2004* by inserting a new (c) which states that if the reportable offender has a mental illness, the illness is a significant illness.

Clause 29 Amendment of s 67D (Reportable offenders may apply for suspension of reporting obligations)

Clause 29 amends section 67D(5)(a) of the *Child Protection (Offender Reporting) Act 2004* by replacing the word 'children' as it applies to the risk posed to the lives and sexual safety of children with the words '1 or more children, or of children generally'.

Clause 29 amends section 67D(5) of the *Child Protection (Offender Reporting) Act 2004* by inserting a new (c) which states that if the reportable offender has a mental illness, the illness is a significant illness.

Clause 30 Amendment of s 67F (Revocation of suspension)

Clause 30 amends section 67F(1)(a) of the *Child Protection (Offender Reporting) Act 2004* by replacing the word 'children' as it applies to the risk posed to the lives and sexual safety of children with the words '1 or more children, or of children generally'.

Clause 30 amends section 67F(1) of the *Child Protection (Offender Reporting) Act 2004* by inserting a new (c) which states that if the reportable offender has a mental illness, the illness is not or is no longer a significant illness.

Clause 31 Amendment of s 68 (Child protection register)

Clause 31 amends section 68(2) of the *Child Protection (Offender Reporting) Act 2004* by replacing the word 'must' with 'may' as it applies to information which is on the child protection register.

Clause 31 amends section 68(3)(d) of the *Child Protection (Offender Reporting) Act 2004* by replacing the words 'the CrimTrac Agency established under the *Public Service Act 1999* (Cwlth), section 65' with 'the Australian Criminal Intelligence Commission'.

Clause 32 Amendment of s 73 (Reportable offender's rights in relation to register)

Clause 32 amends section 73(1) and (3) of the *Child Protection (Offender Reporting) Act 2004* by inserting the words 'or a person authorised in writing by the reportable offender' after the words 'reportable offender' as they apply to a reportable offender's rights to obtain a copy of information held on the child protection register.

Clause 33 Amendment of s 74 (Review about entry on register)

Clause 33 amends section 74(2) and 74(5)(d) of the *Child Protection (Offender Reporting) Act 2004* by inserting the words 'or a person authorised in writing by the person' after the word 'person' as it applies to a reportable offender's right to review an entry on the child protection register.

Clause 34 Insertion of new ss 74C–74J

Clause 34 inserts new sections 74C – 74J into the *Child Protection (Offender Reporting) Act 2004* to require a review of the Child Protection (Offender Reporting) and Other Legislation Amendment Act, provide for the sharing of information between the police commissioner, government and non-government entities and protect people from liability for giving information honestly to the police commissioner.

Clause 34 inserts section 60 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 60 as section 74C. Section 74C requires the Crime and Corruption Commission to commence a review of the Act after five years of operation and give a copy of the report to the Speaker for tabling in the Legislative Assembly.

Clause 34 inserts section 42 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 42 as section 74D.

Clause 34 renumbers section 42(1) *Child Protection (Offender Prohibition Order) Act 2008* as section 74D(1) and extends the application of section 74D to the Child Protection (Offender Reporting) and Other Legislation Act and to government and non-government entities. Government and non-government entity is defined in schedule 5 (Dictionary).

Clause 34 amends section 74D(1) by replacing the words 'prescribed entity' with 'entity' as it applies to giving relevant information to the police commissioner.

Clause 34 amends section 74D(1) by replacing (a) and (b) with a new (a) – (e) about the purposes for giving relevant information under section 74D(1). The new (a) – (e) applies to

- (a) deciding whether an application for an order should be made; or
- (b) the making of an order; or
- (c) amending or revoking an order; or
- (d) serving an application or order; or
- (e) investigating an alleged breach or a breach of an order.

Clause 34 renumbers section 42(3) as section 74D(3) and removes the word 'government' as it applies to authorising an entity, despite any other Act, to provide information to the police commissioner.

Clause 34 renumbers section 42(4) as section 74D(4) and removes the word 'government' as it applies to the giving of information which is subject to legal professional privilege.

Clause 34 renumbers section 42(5) as section 74D(5) and clarifies that 'entity' includes a government entity.

Clause 34 inserts section 43 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 43 as section 74E.

Clause 34 renumbers section 43(1) of the *Child Protection (Offender Prohibition Order) Act 2008* as section 74E(1) and amends section 74E(1) to extend its application beyond the *Child Protection (Offender Prohibition Order) Act 2008* to include the *Child Protection (Offender Reporting) Act 2004*.

Clause 34 amends section 74E(1) by replacing the words 'prescribed entity' with 'entity' as it applies to receiving information about a reportable offender from the police commissioner.

Clause 34 amends section 74E(1)(d) by replacing the words 'prescribed entity' with the word 'entity' as it applies to receiving information from the police commissioner about a reportable offender.

Clause 34 amends section 74E(1)(d)(ii) by replacing the word 'respondent' with the word 'offender'.

Clause 34 renumbers section 43(2) of the *Child Protection (Offender Prohibition Order) Act 2008* as section 74E(2) and amends section 74E(2) by dividing the information contained in (2) into 2(a) and 2(b).

Clause 34 renumbers section 43(3) of the *Child Protection (Offender Prohibition Order) Act 2008* as section 74E(3) and amends section 74E(3) to state that section 74E does not apply to chief executive of the department in which the *Hospital and Health Boards Act 2011* is administered or a Hospital and Health Service under that Act.

Clause 34 inserts section 74E(4) which states that for the purposes of section 74E, **entity** includes a government entity and **order** includes a registered corresponding order.

Clause 34 inserts section 44 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 44 as section 74F.

Clause 34 renumbers section 44(1) of the *Child Protection (Offender Prohibition Order) Act 2008* as section 74F(1) and amends section 74F(1) by replacing the reference to section 43(1) with section 74E(1).

Clause 34 renumbers section 44(3) of the *Child Protection (Offender Prohibition Order) Act 2008* as section 74F(3) and amends section 74F(3)(b) by replacing the reference to section 43(2) with section 74F(2).

Clause 34 renumbers section 44(4) of the *Child Protection (Offender Prohibition Order) Act 2008* as section 74F(4) and amends section 74F(4) by replacing the reference to section 43(4) with section 74F(4). Clause 34 renumbers section 44(5) of the *Child Protection (Offender Prohibition Order) Act 2008* as section 74F(5) and amends section 74F(5) by replacing the reference to section 41 with section 51C.

Clause 34 renumbers section 44(6) of the *Child Protection (Offender Prohibition Order) Act 2008* as section 74F(6) and removes 74F(6)(b) as it applies to the chief executive (communities) for the *Youth Justice Act 1992* and relocates it section 74F(6)(c).

Clause 34 renumbers section 44(6)(c) of the *Child Protection (Offender Prohibition Order) Act 2008* as section 74F(6)(b). Clause 34 renumbers section 44(6)(d) of the *Child Protection (Offender Prohibition Order) Act 2008* as section 74F(6)(c) and amends section 74F(6)(c) by inserting *Youth Justice Act 1992* which was located in 44(6)(b) and removing the reference to the chief executive (communities) and replacing the words 'employment screening' with the word 'justice' as it applies to the chief executive under the *Working with Children Act*.

Clause 34 inserts section 45 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 45 as section 74G.

Clause 34 renumbers section 45(1) of the *Child Protection (Offender Prohibition Order) Act 2008* as section 74G(1) and amends section 74G(1) by replacing the reference to section 10(2) with 13E(2) as it applies to the giving of information to the chief executive (communities).

Clause 34 inserts section 46 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 46 as section 74H.

Clause 34 renumbers section 46(1) to section 74H(1) and replaces the reference to sections 42 to 45 with sections 74D to 74G.

Clause 34 inserts section 47 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 47 as section 74I and extends the application of section 74I by allowing the police commissioner to give information about a reportable offender to any person, where the police commissioner reasonably considered it is necessary and appropriate to reduce the risk to the lives or sexual safety of one or more children, or of children generally.

Clause 34 renumbers section 47(a) as 74I(a) and amends section 74I(a) by inserting guardian after parent.

Clause 34 inserts section 48 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 48 as section 74J.

Clause 34 renumbers section 48(1) as section 74J(1) and replaces the words 'with this Part' with the words 'under this Act' as it applies to giving information about a reportable offender.

Clause 35 Amendment of s 77 (Evidentiary provisions)

Clause 35 amends section 77(1) of the *Child Protection (Offender Reporting) Act 2004* by omitting the words 'in a complaint' as they apply to a proceeding under the *Child Protection (Offender Reporting) and Other Legislation Amendment Act*.

Clause 35 inserts a new subsection (3)(a)-(d) which states that in a proceeding under *Child Protection (Offender Reporting) and Other Legislation Amendment Act*, (a) a statement that a stated person was served with a copy of a stated offender prohibition order, stated

corresponding order or stated registered corresponding order by a stated process server on a stated date; or (b) a stated process server was authorised to serve a stated corresponding order; or (c) the respondent for an offender prohibition order or corresponding order was present in court when the order was made; or (d) the respondent for a registered corresponding order was present in court when the order was registered, is evidence of those matters.

Clause 35 inserts a new subsection (4) which states that in a proceeding under the Child Protection (Offender Reporting) and Other Legislation Amendment Act, an affidavit by a stated process server stating the date, time and way the process server served a stated offender prohibition order on a stated person is evidence of stated matters.

Clause 35 inserts a new subsection (5) which states that if a defendant intends to challenge a matter stated in any of the following paragraphs at a hearing in a proceeding for an offence against this part, the defendant must give written notice of the challenge to the prosecution at least 3 business days before the day fixed for the hearing (a) a statement mentioned in subsection (1) or (b) an affidavit mentioned in subsection (2).

Clause 35 inserts a new subsection (6) which defines the following terms for section 77:

court, in relation to the making of a corresponding order, means any court or judicial officer of another jurisdiction that made the corresponding order.

process server means—

- (a) a police officer; or
- (b) in relation to a registered corresponding order, (i) a member of the police force of the jurisdiction where the corresponding order was made or (ii) another person authorised under the law of that jurisdiction to serve the corresponding order.

Clause 36 Insertion of new ss 77A–77F

Clause 36 inserts sections 39, 40 and 50 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers those sections as sections 77D, 77E and 77C respectively. New sections 77A, 77B and 77F are also inserted by clause 37.

Clause 36 inserts section 77A which details how legal proceedings under part 3A will be conducted.

Clause 36 inserts a new 77A (1) which allows an application under part 3A to be considered even if the person named in the application has been charged with an offence arising out of the conduct on which the application is based.

Clause 36 inserts a new 77A (2) which provides for the application of the Uniform Civil Procedure Rules 1999 in a proceeding under part 3A, other than a proceeding for a temporary order; or an offence against part 3A.

Clause 36 inserts a new 77A (3) which states that a question of fact in a proceeding under part 3A, other than a proceeding for an offence under part 3, is to be decided on the balance of probabilities.

Clause 36 inserts a new section 77B, which applies part 2, division 6 of the *Evidence Act 1977* to a person who is charged with a reportable offence or is a respondent in a proceeding under the Child Protection (Offender Reporting) and Other Legislation Amendment Act.

Clause 36 inserts the following definition for protected witness in section 77B(3):

protected witness means—

- (a) a child under the age of 16; or
- (b) a person who was a child under the age of 16 when the accused is alleged to have committed the reportable offence.

Clause 36 inserts section 50 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 50 as section 77C.

Clause 36 renumbers section 50(1) as section 77C(1) and applies section 77C(1) to a proceeding under Part 3A for the purposes of proving that an offender prohibition order or another order made under part 3A, or a corresponding order, or the registration of a corresponding order under part 3A.

Clause 36 inserts section 50(1)(a) – (c) of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 50(1) (a) – (c) as section 77C(1)(a) – (c).

Clause 36 amends section 77C(1) by applying section 53 of the *Evidence Act 1977* (relevant provision) to a proceeding under part 3A.

Clause 36 amends section 77C(1)(a) by applying section 53 of the *Evidence Act 1977* (relevant provision) to another order made under part 3A.

Clause 36 amends section 77C(1)(c) by applying section 53 of the *Evidence Act 1977* (relevant provision) to the registration of corresponding order under part 3A.

Clause 36 inserts section 50(2)(a) and (b) of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 50(2)(a) and (b) as section 77C(2)(a) and (b).

Clause 36 inserts section 50(3)(a) and (b) of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 50(3)(a) and (b) as section 77C(3)(a) and (b).

Clause 36 inserts section 50(4) of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 50(4) as section 77C(4).

Clause 36 inserts section 39 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 39 as section 77D.

Clause 36 inserts section 40 of the *Child Protection (Offender Prohibition Order) Act 2008* and renumbers section 40 as section 77E and amends section 77E by replacing the reference to section 38(1) or (3) with section 51A(1) or (3).

Clause 36 inserts new section 77F which allows the civil application for an offender prohibition order to be dealt with by a court concurrent to any criminal proceedings arising out of conduct on which the application is based.

Clause 36 inserts 77F(1) which provides that an application under this Act may be made and dealt with by a court even if the respondent has been charged with an offence arising out of conduct on which the application is based.

Clause 36 inserts 77F(2) which specifies admissible information in the trial of a person for an offence arising from conduct on which an application for an offender prohibition order is based. Section 77F(2)(a) allows the existence of an application for an offender prohibition order to be admitted. Section 77F(b) allows the existence of any proceeding relating the application for an offender prohibition order to be admitted. Section 77F(c) allows the making of, or refusal to make, any order relating to the application for an offender prohibition order to be admitted. Section 77F(d) allows the making of, or refusal to make, any variation of any order to the application to be admitted. 77F(e) the fact that evidence of a particular nature or content was given in any proceeding relating to the application.

Clause 36 inserts 77F(3) to remove any doubt that an application, proceeding or order under this Act in relation to the conduct of a person does not affect any proceeding for an offence arising out of the same conduct or the civil liability of the person who is the subject of the application for an offender prohibition order.

Clause 36 inserts 77F(4) to allow a person to be punished for the criminal offence arising from conduct which has resulted in the making of an offender prohibition order.

Clause 37 Insertion of pt 7, div 5 (Transitional provisions)

Division 5 Transitional provisions for Child Protection (Offender Reporting) and Other Legislation Amendment Act 2016

Clause 37 inserts transitional provisions for the Child Protection (Offender Reporting) and Other Legislation Amendment Act.

Clause 37 inserts a section 89 which provides that a reference in an Act or other document refers to the *Child Protection (Offender Prohibition Order) Act 2008* it taken to be a reference to the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*.

Clause 37 inserts section 90 which provides that a document that had effect prior to the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004* continues to have effect according to its terms and conditions.

Clause 37 inserts a subsection (5) into section 90 which states that a document includes: **document** includes—

- (a) an offender prohibition order or any other order; and
- (b) a direction; and
- (c) a delegation; and
- (d) a notice.

Clause 37 inserts section 91 which requires the police commissioner to give a written notice to those reportable offenders who have not provided fingerprints during an initial report, to provide their fingerprints during the next mandated report.

Clause 38 Amendment of sch 3 (When reportable offender must make initial report)

Clause 38 amends schedule 3 of the *Child Protection (Offender Reporting) Act 2004* by inserting a reference to state that a person who is a reportable offender because of an offender prohibition order must make an initial report within 7 days after the prohibition order is made.

Clause 39 Amendment of sch 5 (Dictionary)

Clause 39 inserts definitions from the *Child Protection (Offender Prohibition Order) Act 2008* into schedule 5.

Clause 39 inserts the definition of **adult respondent** which means a respondent who is not a child respondent.

Clause 39 inserts the definition of **appeal court** which has the meaning under part 8, section 52 and amends the definition by replacing the references to 'part 8' and 'section 52' with for 'part 3A division 4' and '13ZG'.

Clause 39 inserts the definition of **appearance notice** which means for a proceeding for an offender prohibition order, means a notice in the approved form stating the following in relation to the order—

- (a) that an application for the order will be made against the respondent;
- (b) when and where the application is to be heard;
- (c) that the respondent is required to appear at the hearing to be heard on the application;
- (d) that the court may make the order in the respondent's absence if the respondent fails to appear at the hearing;
- (e) that on the making of the order—
 - (i) the respondent becomes a reportable offender; and
 - (ii) the respondent is prohibited from applying for a prescribed notice or exemption notice; and
 - (iii) any positive notice, positive notice blue card or positive exemption notice held by the respondent is—
 - (A) if the order is a temporary order—suspended; or
 - (B) if the order is a final order—cancelled;

- (f) that the order may be registered in a jurisdiction other than Queensland, including a jurisdiction outside Australia, if a law of the other jurisdiction provides for the registration.

Clause 39 amends the definition of **appearance notice** by removing the reference to 'Offender Reporting Act' in (e)(i).

Clause 39 inserts the definition of **application documents** which means for an order, the meaning under section 7(3) and amends the definition by replacing the reference to section 7(3) with section 13B(3).

Clause 39 inserts the definition of **approved form** which means a form approved under section 59 and amends to the definition by replacing the reference to section 59 and replacing it with section 13ZN.

Clause 39 inserts a definition of **Australian Criminal Intelligence Commission** to mean the Australian Criminal Intelligence Commission established under the *Australian Crime Commission Act 2002* (Cwlth).

Clause 39 inserts the definition of **chief executive (child safety)** which means the chief executive of the department in which the *Child Protection Act 1999* is administered.

Clause 39 inserts the definition of **chief executive (communities)** which means the chief executive of the department in which the *Youth Justice Act 1992* is administered.

Clause 39 inserts the definition of **chief executive (corrective services)** which means the chief executive of the department in which the *Corrective Services Act 2006* is administered.

Clause 39 inserts the definition of **chief executive (education)** which means the chief executive of the department in which the *Education (General Provisions) Act 2006* is administered.

Clause 39 inserts the definition of **chief executive (employment screening)** and replaces the definition with **chief executive (justice)** which means the chief executive of the department in which the *Attorney-General Act 1999* is administered.

Clause 39 inserts the definition for **child respondent** which means

- (a) for a temporary order—a respondent who is a child when the application for the temporary order is made; or
- (b) for a corresponding order or registered corresponding order—a respondent who is a child when the corresponding order is registered under this Act; or
- (c) otherwise—a respondent who is a child when the application for the offender prohibition order is made.

Clause 39 inserts a definition for **committed against a child** to include committed in relation to a child.

Clause 39 inserts a definition for **conduct** which includes an act, omission and course of conduct.

Clause 39 inserts the definition for **conviction** which includes a finding of guilt, and the acceptance of a plea of guilty, by a court, whether or not a conviction is recorded.

Clause 39 inserts the definition for **corresponding order** which means an order made under a law or jurisdiction other than Queensland, including a jurisdiction outside Australia that closely corresponds to an offender prohibition order.

Clause 39 inserts the definition for **court** which means

- (a) for an offender prohibition order for a child respondent—the Childrens Court constituted by a Childrens Court magistrate; or
- (b) for any other offender prohibition order—a Magistrates Court, other than a Magistrates Court constituted by justices who are not magistrates; or
- (c) otherwise includes a court of a foreign jurisdiction however described.

Clause 39 inserts the definition of **disqualification order** which has the meaning under section 25(2) and amends the definition by replacing the reference to section 25(2) with section 13T(2).

Clause 39 inserts the definition for **exemption notice** which means an exemption notice under the Working with Children Act.

Clause 39 inserts the definition of **final order** which has the meaning under section 13 and amends the definition by replacing the reference to section 13 with section 13H.

Clause 39 extends the definition of **government detention** under schedule 5 of the *Child Protection (Offender Reporting) Act 2004* to include detention under the *Mental Health Act 2000* or detention under the *Migration Act 1958* (Cwlth).

Clause 39 inserts the definition of **lawyer** which means an Australian lawyer within the meaning of the *Legal Profession Act 2007* who, under that Act, may engage in legal practice in this State.

Clause 39 inserts the definition of **magistrate** which for a child respondent, means a Childrens Court magistrate.

Clause 39 inserts the definition of **offender prohibition order** and amends the definition to state that an offender prohibition order means a prohibition order or a temporary prohibition order.

Clause 39 inserts the definition of **parent** of a person which means a parent or guardian of the person and includes—

- (a) for an Aboriginal person—a person who, under Aboriginal tradition, is regarded as a parent of the person; or
- (b) for a Torres Strait Islander person—a person who, under Island custom, is regarded as a parent of the person;

but does not include an approved carer of the person under the Child Protection Act 1999.

Clause 39 inserts the definition **positive exemption notice** which means a positive exemption notice under the Working with Children Act.

Clause 39 inserts the definition for **positive notice** which means a positive notice under the Working with Children Act.

Clause 39 inserts the definition for **positive notice blue card** which means a positive notice blue card under the Working with Children Act.

Clause 39 inserts the definition for **prescribed notice** means a prescribed notice under the Working with Children Act.

Clause 39 inserts a definition for **prohibition order** which means an order under section 13A(1).

Clause 39 inserts the definition of **registered corresponding order** which means a corresponding order registered under section 31 and amends the definition by replacing the reference to section 31 with section 13Z.

Clause 39 inserts the definition of **registrar** which has the meaning under part 3, section 30 and amends the definition by replacing the reference to part 3, section 30, with part 3A section 13Y.

Clause 39 inserts the definition of **relevant decision** which has the meaning under part 8, section 52 and amends the definition by replacing the reference to part 8, section 52, with part 3A, division 4, section 13ZG.

Clause 39 inserts the definition of **relevant order** which has the meaning under part 8, section 52 and amends the definition by replacing the reference to part 8, section 52, with part 3A, division 4, section 13ZG.

Clause 39 inserts the definition of **relevant sexual offender** which means a following person who is not subject to a supervision order or interim supervision order under the Dangerous Prisoners (Sexual Offenders) Act 2003 or a forensic order—

- (a) a person who is a reportable offender;
 - (b) a person who would be a reportable offender if the person's sentence for a reportable offence had not ended before the commencement of section 5;
 - (c) a person who would be a reportable offender if all the reporting periods under the Offender Reporting Act for the person had not ended, as mentioned in section 8(d);
- and amends the definition by replacing the reference to the 'Offender Reporting Act' in (c).

Clause 39 inserts a definition for **repealed Act** to mean the Act referred to in section 89.

Clause 39 inserts the definition of **respondent** to mean for a proposed offender prohibition order—

- (a) the person who is the respondent to the application for the proposed offender prohibition order; or
- (b) for an offender prohibition order—the person against whom the offender prohibition order is made; or
- (c) for a corresponding order or a registered corresponding order—the person against whom the corresponding order is made.

Clause 39 inserts the definition for **section 54 notice** which has the meaning under section 23(4) and amends the definition by replacing the reference to section 23(4) with section 13R(4).

Clause 39 inserts the definition of **significant mental illness**, for a reportable offender means a mental illness that—

- (a) seriously impedes the offender's ability to comply with the offender's reporting obligations under part 4; or
- (b) makes the offender incapable of complying with the offender's reporting obligations under part 4.

Clause 39 inserts the definition for **temporary order** which has the meaning under section 13 and amends the definition by replacing the reference to section 13 with section 13J or 13K.

Part 3 Amendment of Police Powers and Responsibilities Act 2000

Clause 40 Act amended

Clause 40 amends the *Police Powers and Responsibilities Act 2000*.

Clause 41 Amendment of s 21A (Power to enter for Child Protection (Offender Reporting) Act 2004)

Clause 41 replaces the reference to the *Child Protection (Offender Reporting) Act 2004* with the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*.

Clause 42 Insertion of new s 21B Power to inspect devices for the Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004

Clause 42 inserts section 21B of the *Police Powers and Responsibilities Act 2000* to allow a police officer to inspect an electronic device which is capable of accessing or storing information.

Clause 42 inserts section 21B(1) which applies section 21B to particular reportable offenders. Those reportable offenders are offenders who -

- (a) have been released from government detention or sentenced to a supervision order in the preceding three months; or
- (b) have been convicted of a prescribed internet offence; or
- (c) are the subject of a device inspection order made by a magistrate.

Clause 42 inserts section 21B(2) which states that an inspection under section 21B(1)(b) cannot be undertaken if at least four inspections have been carried out in relation to a particular reportable offender in the previous 12 months.

Clause 42 inserts section 21B(3) which allows a police officer to apply to a magistrate for a device inspection order subsection (1)(a) or 1(b) to inspect any storage device in the possession of a reportable offender.

Clause 42 inserts section 21B(4) which allows a magistrate to make a device inspection order if the magistrate is satisfied there is an elevated risk the reportable offender will engage in conduct that may constitute a reportable offence against or in relation to a child.

Clause 42 inserts section 21B(5) to clarify that an inspection of one or more storage devices counts as one inspection.

Clause 42 inserts section 21B(6) which defines the following terms of that section:

device inspection order for a reportable offender means an order authorising a police officer on a stated day or one day during a stated period to inspect any storage devices in the possession of the reportable offender.

inspect, a device, includes inspect the device using software.

government detention see the Offender Reporting Act, schedule 5.

Offender Reporting Act means the *Child Protections (Offender Reporting and Offender Prohibition Order) Act 2004*.

prescribed internet offence means an offence against—

- (a) the Criminal Code, section 218A;
- (b) any of the following provisions of the Criminal Code (Cwlth)—
 - section 474.19
 - section 474.20
 - section 474.22
 - section 474.23
 - section 474.25A
 - section 474.26
 - section 474.27
 - section 474.27A; or
- (c) an offence under a law of a foreign jurisdiction that, if it had been committed in Queensland, would have constituted an offence of a kind mentioned in (a) and (b).

prescribed offence see the Offender Reporting Act, schedule 5.

reportable offence see the Offender Reporting Act, schedule 5.

reportable offender see the Offender Reporting Act, schedule 5.

storage device means a device—

- (a) on which information may be stored electronically, including, for example, a smart phone; or
- (b) through which information may be accessed, including, for example from the cloud.

supervision order see the Offender Reporting Act, schedule 5.

Clause 43 Amendment of s 284 (Form of authority)

Clause 43 amends section 284 of the *Police Powers and Responsibilities Act 2000* by removing subsection (2)(h)(iii) as it applies to the form of authority which limits the term of an assumed identity for an authorised civilian to three months.

Clause 44 Amendment of s 285 (Period of authority)

Clause 44 amends section 285 of the *Police Powers and Responsibilities Act 2000* by amending subsection (1) to include an authorised civilian and removing subsection (2) as it applies to a stated period under section 284(2)(h)(iii).

Clause 45 Amendment of s 488A (taking DNA sample from reportable offender for Child Protection (Offender Reporting) Act 2004)

Clause 45 amends section 488A heading by removing the reference to the *Child Protection (Reporting) Act 2004* and replacing with *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*.

Clause 45 amends section 488A(b) by removing the reference to the *Child Protection (Reporting) Act 2004* and replacing with *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*.

Clause 46 Insertion of new s 808A Annual report about use of device inspection powers

Clause 46 inserts section 808A of the *Police Powers Responsibilities Act 2000*.

Clause 46 inserts subsection (1) of section 808A which requires the police commissioner to prepare and give the Minister a report about the use of powers under section 21B during the financial year.

Clause 46 inserts subsection (2) of section 808A which details what a report mentioned in subsection must contain. The details which must be reported are for each reportable offender:

- (a) the number of inspections carried out under section 21B; and
- (b) for each inspection—
 - (i) whether it was carried out under section 21B(1)(a), (b) or (c); and
 - (ii) the date and time it was carried out; and
 - (iii) the action taken in relation to the reportable offender as a result of the inspection.

Clause 46 inserts subsection (3) of section 808A, which states that for subsection 2(a) each occasion on which a police officer inspects one or more storage devices counts as one inspection.

Clause 46 inserts subsection (4) of section 808A which provides that identifying information must not be included in the report to the Minister.

Clause 46 inserts subsection (5) of section 808A which requires the Minister to table a copy of the report in the Legislative Assembly within 14 days of receiving the report.

Clause 47 sch 3 (Relevant offences for chapter 13 disclosure of information provisions)

Clause 47 amends Schedule 3, item 1 heading by removing the reference to the *Child Protection (Reporting) Act 2004* and replacing with *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*.

Clause 48 Amendment to sch 6 (Dictionary)

Clause 48 amends Schedule 6 definition by removing the reference to the *Child Protection (Reporting) Act 2004* and replacing with *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*.

Part 4 Repeal

Clause 49 Repeal

Clause 49 repeals the *Child Protection (Offender Prohibition Order) Act 2008*, No. 17.

Part 5 Amendment of other Acts

Clause 50 Acts amended

Clause 50 inserts schedule 1 which amends other Acts as a consequence of the commencement of the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*.

Schedule 1 Amendment of other Acts

Clause 50 amends the following Acts:

Adoption Act 2009

1 Section 121(3)(b)(i), the reference to '*Child Protection (Offender Prohibition Order) Act 2008*' is replaced with the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*.

2 Schedule 3, definition *disqualification order*, paragraph (b), the reference to the '*Child Protection (Offender Prohibition Order) Act 2008*, section 25' is replaced with the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*, section 13T.

3 Schedule 3, definition *offender prohibition order*, the reference to the '*Child Protection (Offender Prohibition Order) Act 2008*' is replaced with the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*.

Child Protection Act 1999

1 Schedule 3, definition *criminal history*, the reference to the '*Child Protection (Offender Prohibition Order) Act 2008*' is replaced with the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*.

Disability Services Act 2006

1 Section 117(8)(d), the reference to the 'CPOPOA' is replaced with offender prohibition.

2 Schedule 8, definition *CPOPOA disqualification order* is removed.

3 Schedule 8, definition *disqualification order*, paragraph (b), 'CPOPOA' is replaced with offender prohibition.

4 Schedule 8, definition *final offender prohibition order*, '*Child Protection (Offender Prohibition Order) Act 2008*' is replaced with *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*.

5 Schedule 8, definition *offender prohibition order*, '*Child Protection (Offender Prohibition Order) Act 2008*' is replaced with *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*.

6 Schedule 8 insert *offender prohibition disqualification order* means a disqualification order made under the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*, section 13T.

7 Schedule 8, definition *police information*, paragraph (c)(iii), 'CPOPOA' is replaced with offender prohibition.

8 Schedule 8, definition *relevant disqualified person*, paragraph (b)(iii), 'CPOPOA' is replaced with offender prohibition.

9 Schedule 8, definition *temporary offender prohibition order*, '*Child Protection (Offender Prohibition Order) Act 2008*' is replaced with *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*.

Education (Queensland College of Teachers) Act 2005

1 Each of the following sections is amended by omitting 'CPOPOA' and inserting 'offender prohibition':

- section 15(6A)(c) and (6B);
- section 69(3)(c) and (4);
- section 75(1)(iv) and (3)(c)(iii) and (d).

2 Schedule 3, definition *CPOPOA disqualification order* is removed.

3 Schedule 3, definition *final offender prohibition order*, '*Child Protection (Offender Prohibition Order) Act 2008*' is replaced with *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*.

4 Schedule 3, definition *offender prohibition order*, '*Child Protection (Offender Prohibition Order) Act 2008*' is replaced with *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*.

5 Schedule 3 inserts *offender prohibition disqualification order* means a disqualification order made under the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*, section 13T.

6 Schedule 3, definition *temporary offender prohibition order*, '*Child Protection (Offender Prohibition Order) Act 2008*' is replaced with *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*.

7 Schedule 3, definition *CPOPOA disqualification order* is omitted.

8 Schedule 3, definition *final offender prohibition order*, '*Child Protection (Offender Prohibition Order) Act 2008*' is replaced with *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*.

9 Schedule 3, inserts *offender prohibition disqualification order* means a disqualification order made under the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*, section 13T.

10 Schedule 3, definition *offender prohibition order*, '*Child Protection (Offender Prohibition Order) Act 2008*' is replaced with *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*.

11 Schedule 3, definition *offender reporting obligations*, '*Child Protection (Offender Reporting) Act 2004*' is replaced with *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*.

12 Schedule 3, definition *police information*, paragraph (b)(iii), 'a *CPOPOA*' is replaced with an offender prohibition.

13 Schedule 3, definition *relevant excluded person*, paragraph (c), 'a *CPOPOA*' is replaced with an offender prohibition.

14 Schedule 3, definition *temporary offender prohibition order*, '*Child Protection (Offender Prohibition Order) Act 2008*' is replaced with *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*.

Mental Health Act 2000

1 Section 205(1)(f), the reference to '*Child Protection (Offender Reporting) Act 2004*' is replaced with *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*.

Right to Information Act 2009

1 Section 12(1), 6th and 7th dot points is replaced with:

- *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*, section 51C and 70.

Working with Children (Risk Management and Screening) Act 2000

1 Section 314(d), 'CPOPOA' is replaced with offender reporting.

2 Section 341(1)(b) is removed.

3 Schedule 7, definition *CPOPOA disqualification order* is removed.

4 Schedule 7, definition *disqualification order*, paragraph (b), 'CPOPOA' is replaced with offender reporting.

5 Schedule 7, definition *final offender prohibition order*, 'Offender Prohibition Order Act' is replaced with Offender Reporting Act.

6 Schedule 7, definition *offender prohibition order*, 'Offender Prohibition Order Act' is replaced with Offender Reporting Act.

7 Schedule 7, definition *Offender Prohibition Order Act* is removed.

8 Schedule 7 inserts the following definition, *offender prohibition disqualification order* means a disqualification order made under the Offender Reporting Act, section 13T.

9 Schedule 7, definition *temporary offender prohibition order*, 'Offender Prohibition Order Act' is replaced with Offender Reporting Act.