

Offender Reporting

Important amendments to the *Child Protection (Offender Reporting) Act 2004* commenced in September 2014¹. It was a welcome simplification of the previous legislative regime. This article provides a brief summary of the changes and an overview of the legislation.

Who has to report?

If your client has been convicted of certain types of offences against a child or children, whether under State or Federal legislation, and they are sentenced to a term of imprisonment or a period of supervision in the community, they will be required to report to the police periodically for a lengthy period of time.

The recent amendments have thankfully removed the confusing table which placed offences in different classes, depending on their seriousness. Instead, there is now one schedule that lists all reportable offences. If your client has been convicted of any charge listed in the schedule, and they have been sentenced to a term of imprisonment or a period of supervision, they will automatically be required to report.

In addition, if a person is convicted under a foreign jurisdiction, including interstate, of a charge similar to one listed in the schedule, reporting obligations will also be imposed should the convicted person reside in Queensland.

How long for?

- (a) If an offender has been found guilty of one or more reportable offences occurring out of the same incident, reporting obligations are for 5 years; or
- (b) If an offender has been found guilty of a reportable offence and after being given notice of reporting obligations has committed and is found guilty of a further offence, reporting obligations are for 10 years; or
- (c) If an offender has been found guilty of a reportable offence and after being given notice of reporting obligations has committed and is found guilty of more than one offence, reporting obligations may be imposed for the remainder of their life.²

Practitioners should bear in mind that a single offence includes multiple offences which arise out of the same incident.

These are significantly shorter time periods than those imposed by the previous regime which required reporting periods of 7 years and 14 years respectively.

How often?

With the recent amendments, the number of times offenders must report each year has increased from annually to every three months³. Usually this will be required in February, May, August and November of each year. So, for example, if your client is convicted of a reportable offence in January, they will be required to make their initial report within 7 days and then report again in February but not again until May. Online reporting is now available making the process less onerous on your client.

Practitioners should be mindful that the Police Commissioner has the power to impose additional reporting obligations on convicted offenders who are considered a significant risk to children.

¹ *Child Protection (Offender Reporting) and Other Legislation Amendment Act 2014*

² s36 of the Act

³ s17 of the Act

When to make an initial report?

Once receiving written notice, an offender must make their initial report immediately. The initial report is required to be in person, and can usually be done by attending at their local police station. However, if it is not reasonably practicable to complete the initial report at that time due to prior commitments such as a medical appointment, job interview etc, the offender will be given 7 days from receiving written notice to make an initial report.

Where written notice of reporting obligations has not been received by the offender, the offender is still required to make an initial report within 7 days of the offender's court sentence for a reportable offence. It is therefore crucial to inform your client of their obligations to make an initial report prior to the conclusion of their sentence.⁴

If the offender intends to leave Queensland then the offender must make their initial report prior to departure.

Should an offender be sentenced to a term of imprisonment, certain details can be given by Corrective Services to the Police Commissioner which will be considered an initial report⁵. However, upon an offender being released back into the community, they must attend a police station to report within 7 days.

What details are required to be reported?

Schedule 2 of the Act sets out the details which are required to be reported including personal details, residence address, employment, passport numbers etc. The recent amendments have increased the requirements to include online account details such as usernames and passwords for email accounts and social networking sites such as Facebook, Tumblr and Instagram.

Also, if an offender is to leave Queensland for more than 7 days, they must report their circumstances to police. This is changed from the previous requirements which only required offenders to report if they were to be absent for 14 days or more.

DNA samples may also now be required to be provided to police, if requested.

Reportable Contact

There is now provision for offenders to report particular interactions with a child within 24 hours⁶. Certain interactions such as physical contact, communicating either in writing or orally or supervising a child may be considered reportable contact. The test is whether the contact is incidental to the offender's daily life or not. For instance, it would not usually be considered reportable contact if an offender purchases an item from a store where the shop attendant is a child. However, if the offender regularly attends at the shop, knows the child's name and engages with them regularly, this may then result in contact which is required to be reported.

What happens if they don't report?

⁴ Although, under s50(4) *"It is a defence to proceedings for an offence of failing to comply with a reporting obligation if it is established ... that, at the time the offence is alleged to have occurred, the person has not received notice, and was otherwise unaware, of the obligation."*

⁵ s15 of the Act

⁶ s9A of the Act

Failing to comply with reporting obligations carries a maximum penalty of 300 penalty units⁷ or 5 years imprisonment, unless the offender has a reasonable excuse⁸.

What constitutes a reasonable excuse will depend on the circumstances of each case but will take into account matters such as age, mental capacity, or whether the reportable offender was made aware of their obligations.⁹

Importantly, practitioners should know that there are no time limits for prosecutions under this Act and proceedings can be brought at any time¹⁰.

Suspension of reporting requirements

If an offender is in custody, their reporting period will be suspended and will not commence until after they are released back into the community. Accordingly, those who are currently serving a custodial period are not required to report. As stated above however, once released, an offender will have 7 days to attend at a police station to report.

In addition, the Police Commissioner may grant a suspension of reporting requirements for an offender in circumstances such as:

- (a) The offender is unable to report due to a significant physical or cognitive impairment;
or
- (b) The offender was a child when the offence that makes them a reportable offender was committed¹¹.

Summary

The Act is far more comprehensible as a result of these recent amendments and for reportable offenders, even though there have been some additions in reporting obligations, with online reporting now available, the process of reporting has become far less burdensome.

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⁷ Current penalty unit value is \$113.85 - s2B *Penalties and Sentences Regulation 2005*

⁸ S50(1) of the Act

⁹ s50 of the Act

¹⁰ s52 of the Act

¹¹ s34 of the Act